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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Abbeville County

Honorable J. Derham Cole, Circuit Court Judge

CHARLES TILLMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001443

JOHNSON PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

Whether the court erred in denying post-conviction relief where trial counsel effectively conceded elements of the offense without a valid strategic justification, since counsel's performance was deficient and prejudice should be presumed?

STATEMENT

Procedural history

On October 20, 2017, an Abbeville County Grand Jury indicted Petitioner for murder and possession of a weapon during the commission of a violent crime. App. 848 – 851. Petitioner was tried before the Honorable Frank R. Addy, Jr., and a jury, from January 22 – 26, 2018. Charles Grose represented Petitioner. Yates Brown and Micah Black prosecuted the case. App. 1. Petitioner was convicted as indicted. App. 699, l. 12 – 19. He was sentenced to life without parole for murder. No sentence was imposed for the weapons charge. App. 714, ll. 11-13.

Petitioner's convictions were affirmed on direct appeal. *State v. Tillman*, 433 S.C. 58, 856 S.E.2d 168 (Ct. App. 2021). On or about March 29, 2022, after exhausting his direct appeal remedies, Petitioner filed an application for post-conviction relief (PCR). App. 717 – 724. The State made its return and partial motion to dismiss on July 6, 2022. App. 725 – 734. On or about August 9, 2024, Petitioner filed amendments to his PCR application. App. 735 – 759. On August 22, 2024, a hearing was held on the matter before the Honorable J. Derham Cole, Sr. Scarlett Moore represented Petitioner. Cruise Mitchell represented the State. App. 760. On June 12, 2025, the PCR court issued an order of dismissal. App. 836 – 847.

Relevant facts

First responders were dispatched to a home on Bell Road in Abbeville County at approximately 6:10 p.m. on November 8, 2016, in response to a call about a suicide. When deputies arrived, Petitioner was outside, frantic. Christie Stutler, Decedent, was inside on the bed, unresponsive. Officers saw a gunshot wound to her head when they turned body over. However, no gun was found in the home. App. 140, l. 25 – 141, l. 19; App. 147, l. 5 – 151, l. 11; App. 204, l. 19 – 205, l. 12; App. 224, ll. 9-12; App. 244, ll. 1-5.

Decedent also had a gunshot wound to her right lower leg, multiple bruises and scrapes, and burn injuries, including one characteristic of a cigarette burn, according to the forensic pathologist. App. 292, ll. 1-7. The forensic pathologist estimated the time of death was between 11:00 p.m. on November 7, 2016, and 11:00 a.m. on November 8, 2016. App. 301, ll. 5-20. Petitioner had left for work that morning around 8:30 or 9:00 a.m. on the 8th, was gone all day, and he acted normally on the job site. App. 344, l. 17 – 345, l. 13; App. 592, l. 5 – 594, l. 8.

Several other people lived on the property or were at the property that day in addition to Petitioner and Decedent. App. 147, ll. 12-21; App. 600, ll. 1-23; App. 609, ll. 4-8. Relatedly, drug paraphernalia at the scene suggested someone may have come by to use drugs with Decedent before she died. App. 545, ll. 7-13; App. 389, l. 12 – 390, l. 21. Decedent's toxicology results came back positive for methamphetamines. App. 440, l. 5 – 442, l. 7.

A rifle was located in an old car on the property that was being used for storage. App. 307, l. 19 – 310, l. 17. Forensic analysis of the gun was not conclusive: DNA on the magazine of the gun was a mixture of at least three people, one of whom may have been Petitioner. App. 505, l. 2 – 511, l. 4.

During a pretrial hearing on the admissibility of photographs of the body, defense counsel stated the defense was not contesting the nature of the wounds and could stipulate to them if needed. App. 53, l. 6 – 55, l. 25. The court asked whether the defense intended to stipulate this was a homicide as opposed to a suicide. The court gave counsel a few minutes to speak with Petitioner about this, and counsel subsequently stated: "Yes. We'll stipulate that it's a homicide." App. 75, l. 24 – 77, l. 18. However, the solicitor responded he still intended to show Decedent was beaten and then murdered. App. 77, l. 19 – 79, l. 5. After the jury was sworn, the judge read to the jury the stipulation: "In this case the attorneys for the Defense and the State

have basically stipulated or agree that Christie Lynn Stutler did die as the result of a homicide. A homicide is basically where one individual takes the life of another individual. Okay? So they basically agree that she did pass away by virtue of homicide as opposed to natural causes or some other cause.” App. 126, ll. 12-23. Nevertheless, gruesome photographs of the body were admitted notwithstanding the stipulation, over counsel’s objection. “I mean, that was the stipulation, and I thought that the stipulation was, you know, from the need to have to introduce a lot of this—”. App. 272, l. 10 – 283, l. 5; App. 572, l. 13 – 573, l. 15. The admission of the photographs formed the basis for one of Petitioner’s arguments on direct appeal, as will be discussed below.

At the PCR hearing, Petitioner testified he was concerned that counsel stipulated the case was not a suicide. App. 777, l. 6 – 779, l. 3. Counsel testified he made a strategic decision to stipulate the death was not a suicide because he wanted the jury to focus on identity, and because he was trying to get the judge not to let the State enter evidence disproving suicide, such as autopsy photographs. App. 819, l. 4 – 820, l. 21; App. 832, l. 19 – 833, l. 20.

The order of dismissal addressed the claim that counsel provided ineffective representation by “stipulating the cause of death of victim was a homicide.” App. 844.

Counsel credibly testified that stipulating to homicide as the cause of death did not undermine the defense strategy and, in fact, served a legitimate strategic purpose. This stipulation allowed the defense to prevent the State from presenting potentially prejudicial evidence aimed at disproving suicide. This Court finds this is a valid reason for stipulating to homicide as the cause of death. “[W]hen Counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010). Therefore, this Court finds Counsel was not ineffective for stipulating to homicide as the cause of death.

Applicant has failed to establish Counsel was ineffective or that Applicant was prejudiced by Counsel's assistance in this regard and therefore relief based upon this allegation is denied.

App. 844 – 845.

This petition for writ of certiorari follows.

ARGUMENT

The court erred in denying post-conviction relief where trial counsel effectively conceded elements of the offense without a valid strategic justification, since counsel’s performance was deficient and prejudice should be presumed.

The appellate court defers to a PCR court’s findings of fact and will uphold them if there is evidence in the record to support them. It reviews questions of law de novo, with no deference to trial courts. *Smalls v. State*, 422 S.C. 174, 180–81, 810 S.E.2d 836, 839 (2018).

The Sixth Amendment to the United States Constitution guarantees an accused the right to effective assistance of counsel. U.S. Const. amend. VI; *Strickland v. Washington*, 466 U.S. 668, 686 (1984). The United States Supreme Court has established a two-pronged test to evaluate allegations of ineffective assistance of counsel. First, a petitioner must prove “that counsel’s performance was deficient” and fell below reasonable professional norms. Second, ordinarily, he must also show the deficient performance prejudiced him. *Id.* at 687. “To show prejudice, the applicant must show that, but for counsel’s errors, there is a reasonable probability the result of the trial would have been different.” *Patrick v. State*, 349 S.C. 203, 207, 562 S.E.2d 609, 611 (2002).

The prejudice showing is in most cases a necessary part of a *Strickland* claim. *Weaver v. Massachusetts*, 582 U.S. 286, 300 (2017). However, where counsel fails to provide an adversarial challenge to the prosecution, “counsel’s ineffectiveness is so pervasive as to render a particularized prejudice inquiry unnecessary.” *Nance v. Ozmint*, 367 S.C. 547, 558, 626 S.E.2d 878, 883 (2006). *See Weaver v. Massachusetts*, 582 U.S. at 295–96 (explaining there are three categories of structural error: 1) if the right at issue is not designed to protect the defendant from erroneous conviction but instead protects some other interest; 2) if the effects of the error are

simply too hard to measure; 3) if the error always results in fundamental unfairness). “*Weaver* instructs that if the structural error is one that does not fall into the third category then prejudice will not be presumed.” *Wright v. State*, 446 S.C. 475, 497, 920 S.E.2d 17, 28 (Ct. App. 2025).

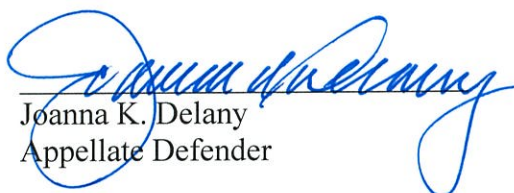
In this case, although counsel claimed he made a strategic decision to concede Decedent’s cause of death was homicide (i.e., she was murdered), this strategy was not valid and was deficient representation. “A blanket statement by counsel at a PCR hearing that he employed ‘strategy’ does not automatically insulate the lawyer from being found ineffective.” *Gilchrist v. State*, 350 S.C. 221, 228, 565 S.E.2d 281, 285 (2002). Where counsel articulates a *valid* reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel. *Stokes v. State*, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992). Counsel claimed he conceded the offense was a homicide to prevent the State from being able to admit gruesome photographs of the decedent’s body. However, the trial court admitted the photographs anyway. On direct appeal, the Court of Appeals concluded the gruesome photographs were properly admitted, explaining that “[e]ven though the manner of death was admitted, the photographs were very relevant to establish what Tillman saw upon arriving at the scene and whether that scene would support his having characterized the incident as a suicide.” *State v. Tillman*, 433 S.C. 58, 65, 856 S.E.2d 168, 172 (Ct. App. 2021). “Additionally, the autopsy photographs were used to show bruising and cigarette burns, which would have been consistent with Tillman and Victim having had physical altercations in the past, something Tillman denied.” *Id.* at 66, 856 S.E.2d at 172. “We conclude the trial court did not abuse its discretion in admitting the disputed photographs as they were relevant to matters in controversy, were highly probative, and were not unduly prejudicial.” *Id.* at 66, 856 S.E.2d at 173. The PCR court’s conclusion that counsel employed valid strategy was error.

“[A] defendant has the right to insist that counsel refrain from admitting guilt[.]” *Mccoey v. Louisiana*, 584 U.S. 414, 417 (2018). The burden of proof on the prosecution extends to every element of the offense charged. *E.g.*, *State v. Liverman*, 398 S.C. 130, 144 n. 7, 727 S.E.2d 422, 429 n. 7 (2012). By conceding the cause of death was a homicide, counsel effectively conceded the elements of murder—the unlawful killing of another with malice. Counsel should have held the State to its burden to prove each and every element of the offense beyond a reasonable doubt. Counsel gave this important right away based on invalid strategy. His performance fell below reasonable professional norms. *Strickland v. Washington*, 466 U.S. at 687.

Prejudice should be presumed. *See Nance v. Ozmint*, 367 S.C. at 558, 626 S.E.2d at 883 (where counsel fails to provide an adversarial challenge to the prosecution, “counsel’s ineffectiveness is so pervasive as to render a particularized prejudice inquiry unnecessary”). The failure to hold the State to its burden of proof, by essentially conceding the elements of the crime, is the type of violation that always leads to a fundamentally unfair trial. *Cf. Sullivan v. Louisiana*, 508 U.S. 275, 281 (1993) (denial of reasonable doubt jury instruction always results in fundamental unfairness). Thus, the PCR court erred in concluding there was no deficiency and no prejudice. *Strickland v. Washington*, 466 U.S. at 687; *Weaver v. Massachusetts*, 582 U.S. at 300.

CONCLUSION

Based on the foregoing argument, Petitioner respectfully requests this Court grant the petition for writ of certiorari and allow full briefing on this issue.



Joanna K. Delany
Appellate Defender

ATTORNEY FOR PETITIONER

This 9th day of March, 2026.

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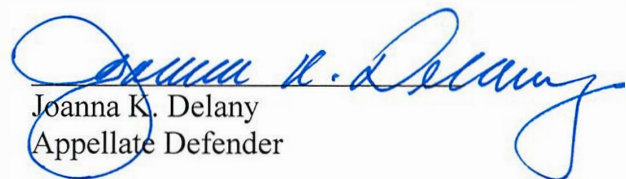
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Charles Tillman states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent petitioner.
2. She has reviewed the record of petitioner's post-conviction relief hearing before Judge J. Derham Cole, which was held on August 22, 2024, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), briefed an arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve her as counsel for Charles Tillman.

Respectfully Submitted,



Joanna K. Delany
Appellate Defender

ATTORNEY FOR PETITIONER

This 9th day of March, 2026.


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CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

The undersigned certifies that to the best of her ability this Johnson Petition for Writ of Certiorari complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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This 9th day of March, 2026.