

TITLE PAGE

(6-17-2026)

§46:4. Petition For Writ of Certiorari (From Court Form 17, SCACR)

The State of South Carolina
In The Supreme Court

RECEIVED

JUL 02 2026

S.C. SUPREME COURT

Appeal From Berkeley County
Court of Common Pleas

Judge R. Kirk Griffin, Circuit Court Judge

Case Number: 2020-CP-08-01349

Appellate Case No. 2024-001521

Name of Respondent

Taylor Smith, Assistant Deputy Attorney General;
Danielle Dixon, Esquire; D. Russell Barlow, II

Mr. Emory W. Roberts Jr.

Petition For Writ of Certiorari
Mr. Emory W. Roberts Jr.

Attorney For Petitioner, Pro se
Perry Correctional Institution
430 OAKLAWN Rd.

Pelzer S.C. 29669

INDEX (Table of Authorities) (5th SUPREME COURT Pages)

Brady v. Maryland, 373 U.S. 83 (1963).

Evans v. State, 363 S.C. 495, 611 S.E. 2d 510 (2005).

Facetta v. California, 422 U.S. 806, 840 (1974).

Hunt v. Mitchell, 261 F.3d 575, 583 (6th Cir. 2001).

United States v. Baldi, 195 F.2d 815 (C.A.3), cert. denied 345 U.S. 104, reh. denied 345 U.S. 946.

United States v. Williamson, 183 F.3d 458, 463-64 (5th Cir. 1999).

Williams, 529 U.S. 393.

Crawford v. Washington

Strickland v. Washington

State v. Orr, 304 S.C. 185, 403 S.E. 2d 623 (1991).

United States v. Agurs, 427 U.S. 97, 112 (1976).

Montgomery v. Louisiana, 577 U.S. 190.

State v. Edwards, 68 S.C. 318, 322, 47 S.E. 395 (1904).

State v. Sanders, 251 S.C. 431, 438, 163 S.E. 2d 220, 224 (1968).

State v. Simpson, 425 S.C. 522.

State v. Proctor, 348 S.C. 322, 559 S.E. 2d 318 (Ct. App. 2001).

U.S. v. Ruiz, 536 U.S. 622, 628 (2002).

Giglio v. U.S., 405 U.S. 150, 154 (1972).

State v. Durant, 430 S.C. 98.

United States v. Bagley, 473 U.S. at 678.

Kyles v. Whitley, 514 U.S. 419, 434 U.S. (1995).

Holmes v. South Carolina, 547 U.S. 319, 324 (2006).

Dennis v. United States, 384 U.S. 855 (1966).

Rovano v. United States, 353 U.S. 53 (1957).

Butler v. Maroney, 319 F.2d 622, 627 (3rd Cir. 1963).

State v. McNinch, 12 S.C. 89.

United States V. Gonzalez-Lopez, 548 U.S. 140, 149, n.4,
126 S.Ct. 2557, 165 L.Ed. 2d 409.

State V. Hester, 37 S.C. 145, 134 S.E. 885.

State V. Murphy, 48 S.Ct. 1, 25 S.E. 43.

Melendez-Diaz V. Massachusetts.

Bullcoming V. New Mexico, 564 U.S. 647 (2011).

Kimmelman, 477 U.S., at 393.

Ray V. Ray, 374 S.C. 79 (2007).

Chewning V. Ford Motor Co., 354 S.C. 72 (2003)

In re Richland County Magistrates Court, 389 S.C. 408.

Yarbrough V. East Wake First Charter School.

U.S. V. Hogan, 712 F.2d 757, 761-62 (2d Cir. 1983).

State V. Knuckles, 348 S.C. 593.

Ortega V. Duncan, 333 F.3d 102, 108-09 (2d Cir. 2003).

State V. Baker, 411 S.C. 583.

Gray V. Mississippi, 481 U.S. 648, 668 (1987).

Chapman V. California, 386 U.S. 18, 23 (1967).

Weiss V. United States, 510 U.S. 163, 178 (1994).

In re Murchison, 349 U.S. 133, 136 (1955).

Hamdi, 542 U.S. at 533.

Marshall V. Jerico, Inc., 446 U.S. 238, 242 (1980).

State V. Pace, (S.C. 1994) 316 S.C. 71, 447 S.E. 2d 186.

Stroble V. California, 343 U.S. 181, 198.

Griffin V. United States, 336 U.S. 704, 708-709.

Blackburn V. Alabama, 361 U.S. 199, 206.

State V. Oates, 421 S.C. 1, 803 S.E. 2d 911.

United States V. Chikvashvili, 859 F.3d 285.

Roddy V. State, 339 S.C. 29, 34, 528 S.E. 2d 418, 421 (2000)

Westberry V. Gislaved Gummi AB, 178 F.3d 287, 261
(4th Cir. 1999)

STATUTES

S.C. Code Ann. § 14-7-1720(A)(5)

S.C. Code Ann. § 14-7-1700

Rule 5, SCRCrimP

S.C. Code Ann. § 14-7-1770(C)

Code 1976, § 14-7-1140

Art. 1, § 11 (State Const.)

Art. 5, § 22 (State Const.)

Art. 1, § 3 (State Const.)

Rule 6, SCRCrim.P.

S.C. Const. Art. 1, § 14

Art. 1, Section 18, of 1895

Section 17-506 of the 1952 Code of Laws of South Carolina

CONST. AMEND.

U.S. Const. Amend. 14.

U.S. Const. Amend. 6.

U.S. Const. Amend. 4. _____

Exhibits

"[I]n the event of conflict between the bare allegations of the complaint and any exhibit attached [to the complaint] ... the exhibit prevails". Fayetteville Investors V. Commercial Builders, Inc., 936 F.2d 1465 (4th Cir. 1991).

Exhibit A-2 (Trial Tr. Page 15)(Lines 5-9)
Exhibit B-2 (Trial Tr. Page 19)(Lines 8-16)
Exhibit C-2 (Trial Tr. Page 29)(Lines 6-25)
Exhibit D-2 (Trial Tr. Page 73)(Lines 3-6; 22-25)
Exhibit D-3 (Trial Tr. Page 74)(Lines 3-25)
Exhibit D-4 (Trial Tr. Page 75)(Lines 1-5)
Exhibit E-1 (Trial Tr. Page 85)(Lines 5-7)
Exhibit E-2 (R. Brady Vannoy, Esquire correspondence (March 7, 2017))
Exhibit F-1 (Public Index Print-Out)(June 9, 2016)
Exhibit F-2 (Trial Tr. Page 703)(Lines 6-12)
Exhibit G-2 (Trial Tr. Page 710)(Lines 13-23)
Exhibit H-1 (Cristina Bases letter dated June 9, 2016)
Exhibit H-2 (Trial Tr. Page 713)(Lines 7-12)
Exhibit I-1 (Unsigned warrant/unfinished Paper)
Exhibit I-2 (Trial Tr. Page 675)(Lines 5-18)
Exhibit J-1 (Indictment Page 2)
Exhibit J-2 (Trial Tr. Page 660)(Lines 21-24)
Exhibit K-1 (Mary P. Brown corr. dated Jan 31, 2018)
Exhibit K-2 (Trial Tr. Page 659)(Lines 18-24)
Exhibit L (Trial Tr. Page 658)(Lines 11-15)
Exhibit M (Trial Tr. Page 837)(Lines 8-21)
Exhibit N (Trial Tr. Page 737)(Lines 1-9)
Exhibit O (Trial Tr. Page 736)(Lines 1-25)
Exhibit P (Motion to suppress hearing)(Lines 7-10)
Exhibit P-2 (Court Admin. corr. dated 9-17-2018)
Exhibit Z (Classification displaying incorrect sentence start date)
Exhibit Z-2 (Page 8, PCR Order)
Exhibit Z-3 (Protective Order dated 9-15-2016)

Affidavit from Justin Hunter 12-30-25 (Regarding Exhibit P-2)

Questions Presented To The Court (9 Pages)

States Return Filed Feb. 4, 2021

PCR Application (Initial) (Dated 7-2-2020)

Subsequent PCR Application (Dated 5-13-2021)

States Return dated 8-5-2020

Order of Dismissal dated 8-29-2024

Indictment # 2016-GS-47-02

Sentencing Sheets Filed July 28, 2017

Brief : Abuse of Discretion

Brief : Abuse of Discretion

Addendum/Supplement To Appeal Received by S.C. 3-20-26

Petition For Writ Of Certiorari dated Feb. 27, 2024

§ 41:1. Notice of Appeal dated 9-10-2024

Post-Conviction relief hearing transcript dated 4-18-23

Index

Exhibits A-11; B-12; C-13; D-14 (Corr. Court Admin. dated 10/16/17; 10/23/17; 10/31/17; 11/6/17)

"[I]n the event of conflict between the bare allegations of the complaint and any exhibit attached [to the complaint] ... the exhibit prevails". Fayetteville Investors V. Commercial Builders, Inc., 936 F.2d 1465 (4th Cir. 1991), See, Exhibits P-2, A-2, A-11, B-12, C-13, D-14; as direct evidence of the usurpation of the State Grand Jury's Independent role; as well as suppression of this exculpatory evidence (Exhibits A-2, B-2, E-1) (Emphasis).

JUL 02 2026

S.C. SUPREME COURT

Appellate Case No. 2024-001521

(1 of 9)

Questions Presented To Appellate Court (9 Total)

- 1.) Whether Mr. Roberts suffered prejudice to his Sixth Amendment right to "effective assistance of counsel" and his Fourteenth Amendment right to "mount or prepare a defense," as well as "present a [complete defense] to the jury" under the standard of Bagley, 473 U.S. at 683, when trial counsel [repeatedly] failed to object to [the denial] of state grand jury "impanelment documents"? (Tr. July 24-28, 2017, page 15, lines 5-9; page 19, lines 8-16; page 85, lines 5-7). (See Evans v. State, 363 S.C. 495).
- 2.) Whether Mr. Roberts suffered prejudice to his Sixth Amendment right to "effective assistance of counsel," under the standard of Williams, 529 U.S. at 393, when trial counsel's "ineffectiveness [did] deprive the defendant of a substantive right (Preparation of a defense) or procedural right (§ 14-7-1720(A) and (D), and Rule 5, SCRCP), to which the law entitles him"? (Tr. July 24-28, 2017, page 15, lines 5-9; page 19, lines 8-16; page 85, lines 5-7).
- 3.) Whether Mr. Roberts suffered prejudice to his Sixth Amendment right to "effective assistance of counsel," under the standard of Williams, 529 U.S. at 393, when counsel failed to [object] to the infringement of Mr. Roberts [right] under the South Carolina State Constitution pursuant to Art. I, § 11 and Art. V, § 22, to challenge whether he was indicted by a legally established and constituted grand jury"? And whether under the standard of Strickland, 466 U.S. 668, counsel failed to advocate defendant's [cause]?
- 4.) Whether Mr. Roberts suffered prejudice to his Sixth Amendment right to a [fair trial], when counsel's errors were so serious as to deprive defendant a [fair trial], a trial whose result is reliable?

5.) Whether Mr. Roberts suffered prejudice to his Sixth Amendment right to "effective assistance of counsel," under the standard of United States v. Williamson, 183 F.3d 458, 463-64 (5th Cir. 1999), when counsel failed to object and cite directly controlling precedent regarding: A.) his right to mount or prepare a defense; B.) his right to present a complete defense to the jury (Holmes v. South Carolina, 547 U.S. 319, 126 S.Ct. 1727, 164 L.Ed. 2d 503); C.) and prosecutor's failed obligations under Brady v. Maryland, that trial counsel failed to [object] too? (Tr. July 24-28, 2017, Page 15, lines 5-9; page 19, lines 8-16; Page 73, lines 3-6; Page 85, lines 5-7) (Emphasis).

6.) Whether Mr. Roberts suffered prejudice to his Sixth and Fourteenth Amendment rights to "effective assistance of counsel" and "due process of law," under the standard of Crawford v. Washington, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed. 2d, when "law enforcement lab report read into record by Agent Justin Wingo," establishing illegal nature of substances defendant "allegedly" possessed, prepared pursuant to police investigation and admitted to establish element of charged crimes, was "testimonial hearsay" subject to the Confrontation Clause, even though report was admitted at trial under the business record exception to the hearsay rule? (Tr. July 24-28, 2017, page 703, lines 6-12; page 710, lines 15-23; page 713, lines 4-12).

7.) Whether the erroneous introduction of the [lab reports], in violation of the Confrontation Clause, call into question the result of all Mr. Roberts drug convictions, under the standard of Crawford v. Washington, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed. 2d - and whether introduction of out-of-court statements regarding lab reports violated Mr. Roberts Sixth Amendment right to a [fair trial] and his Fourteenth Amendment right to due process of law?

8.) Whether prejudice is presumed to Mr. Roberts Sixth Amendment right to "effective assistance of counsel," under the standard of Hunt V. Mitchell, 261 F.3d 575, 583 (6th Cir. 2001), when counsel [was not] afforded discovery in the form of the "state grand jury impanelment documents" before voir dire? (Emphasis).

9.) Whether Mr. Roberts suffered prejudice to his Sixth Amendment right to "effective assistance of counsel," under the standard of Strickland, 466 U.S. 668, when "counsel failed to [advocate] defendants [cause]" regarding obtaining the "impanelment documents" in order to "mount or prepare a defense" as a substantial right; and obtain the "impanelment documents" as a procedural right, pursuant to the 14th Amend. due process of law and section 14-7-1720(A) and (D) and Rule 5, SCRCP; and Mr. Roberts right under South Carolina State Constitution, pursuant to Art. I. § 11 and Art. V. § 22? (Emphasis).

10.) Whether Mr. Roberts suffered prejudice to his Fourteenth Amendment right to due process of law and his Sixth Amendment right to present a full and complete defense to the jury when prosecutors suppressed exculpatory evidence (impanelment documents or lack of) relevant to guilt or punishment, under the standard of Brady?

11.) Whether Mr. Roberts suffered prejudice to his Sixth Amendment right to "effective assistance of counsel," under the standard of Hart V. Gomez, 174 F.3d 1067, 1073 (9th Cir. 1999), when trial counsel "deliberately failed" and "refused" to introduce exculpatory records (Court Admin. corr. dated 11-6-17) into evidence? (Tr. July 24-28, 2017, page 17, lines 20-25) (Emphasis)

12.) Whether the PCR court has failed to analyze the prejudice that Mr. Roberts has suffered to his right to Due Process of Law by the infringement of his right to an impartial adjudicator, when trial judge: ...

... A.) infringed Mr. Roberts substantial right to mount or prepare a defense; B.) infringed his procedural right of due process to obtain "impendment documents" pursuant to § 14-7-1720(A) and (D) and Rule 5, SCRPC; and C.) infringed his right under South Carolina State Constitution pursuant to Art. I, § 11 and Art. V, § 22 to challenge whether he was indicted by a legally established and constituted grand jury before the jury renders a verdict, and whether it constitutes structural error?

13.) Whether the PCR court failed to analyze the prejudice that Mr. Roberts suffered to his Sixth Amendment right to "self-representation", under the standard of McKASKLE V. Wiggins, 465 U.S. 168, 174 (1984), and whether denial of this right constitute "structural error"?

14.) Whether Mr. Roberts has suffered prejudice to his 14th Amend. right to "Notice" and his 6th Amend. right to be informed of the nature and cause of accusation against him, when in "light" of Court Administration's correspondence to Mr. Roberts informing him that "no court reporter was assigned to record grand jury proceedings, and therefore, no transcript is available?"

15.) Whether Mr. Roberts suffered prejudice to his Fourth Amendment right, which protects against unreasonable searches or [seizures], under the standards of United States V. Robb, 141 F.2d 45 (3 Cir.); Wrightson V. United States, 222 F.2d 556 (DC Cir.) cf; Carroll V. United States, 267 U.S. 132, when his unlawful detention and imprisonment was secured or accomplished by means of "A letter" typed by Christina Bass of SLED (Enclosed), and whether counsel is ineffective for not protecting/defending this [right]?

16.) Whether under the standard of United States V. Wills, 234 F.3d 174, are Agent Justin Wing, Christina Bass, and Corporal Frederick Samuels guilty of Kidnapping pursuant to S.C. Code Ann. § 16-3-910, when Mr. Roberts was [unlawfully seized] and [unlawfully imprisoned] via means of "a typed letter" dated June 9, 2016 by Christina Bass (Enclosed), at the direction of Agent Justin Wingo and accomplished by Corporal Frederick Samuels?

17.) Whether trial counsel's "ineffectiveness" resulted in a breakdown of the [Adversarial] process "that rendered the resulting verdict unreliable when counsel "labored under a conflict of interest" that affected his performance by collaborating with the prosecution... by failing to : ... A.) object to prosecutions failed obligations under Brady (Tr. July 24-28, 2017, page 15, lines 5-9; page 19, lines 8-16; page 85, lines 5-7); B.) object to the erroneous "rulings" denying defendant his substantial right to mount or prepare a defense; C.) object to the infringement of his procedural right pursuant to § 14-7-1720(A) and (D) and Rule 5, SCRCP; and D.) object to the infringement of defendant's right under South Carolina State Constitution pursuant to Art. -1, § 11 and Art. V, § 22 (Tr. July 24-28, 2017, page 15, lines 5-9; page 73, lines 3-6; page 85, lines 5-7) (Emphasis)?

18.) Whether counsel [entirely] failed to subject prosecutions case to meaningful Adversarial testing when : A.) counsel "stipulated" to the "chain of custody", thereby infringing defendant's right to [confront] the witnesses against him, which was tantamount to a guilty plea; B.) counsel failed to object to Agent Justin Wingo "testimonial lab reports" and out-of-court statements that he read into the record in violation of the Sixth Amendment Confrontation Clause under the standard

(6 of 9)

of Crawford v. Washington, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d (Tr. July 24-28, 2017, page 703, lines 6-12; page 710, lines 15-23; page 713, lines 4-12); C.) counsel failed to object and cite controlling precedent regarding "testimonial hearsay" (lab reports) and out-of-court statements by unavailable lab technicians read into the record by officer Misael Vasquez (Tr. July 24-28, 2017, page 658, lines 11-15; Page 659, lines 20-24; Page 660, lines 21-25; Page 675, lines 9-12; Page 675, lines 16-18), in violation of the standard set out in Crawford v. Washington, 541 U.S. 36; D.) counsel failed to object to Mr. Roberts being[denied] his right to "mount or prepare a defense" and his procedural right pursuant to § 14-7-1720 (A) and (D) and Rule 5, SCRCP when he was denied the "state grand jury impanelment documents" (Tr. July 24-28, 2017, page 15, lines 5-9; page 19, lines 8-16; Page 73, lines 3-6; Page 85, lines 5-7); E.) counsel failed to object to defendant's right to challenge whether he was indicted by a legally established and constituted grand jury pursuant to Art. I, § 11 and Art. V, § 22, before the jury rendered a verdict (Tr. July 24-28, 2017, page 15, lines 5-9; page 19, lines 8-16; page 73, lines 3-6; Page 85, lines 5-7); and F.) counsel failed to object to prosecution's failed obligations under Brady when defendant was denied "Alleged" "impanelment documents" for impeachment purposes/and to show that [no] state grand jury convened (Emphasis) as evidenced by Court Administration, Court Reporter Manager, Desiree Allen.

19.) Whether Mr. Roberts suffered prejudice to his 14th Amend. right to "Notice" and his 6th Amend. right to be informed of the nature and cause of accusation against him? (See Court Admin. corr. dated 11-6-17 and supporting exhibits)

20.) Whether the drug quantity that triggers the mandatory minimum for a drug conspiracy, like the drug quantity that triggers the statutory maximum, foreseeable to the defendant, i.e., the individualized quantity, must be found by a jury beyond a reasonable doubt, under the standard of Alleyne?

21.) Whether State has met its burden of production on the element of whether defendant "Purchased, OR Brought Into This State" alleged trafficking amounts of heroin, under the Winship standard of "proof of a criminal charge beyond a reasonable doubt? ... and whether trial counsel was constitutionally ineffective for not holding the State to its burden under Winship? (Tr. July 19, 2017, page 93, lines 9-10) (Emphasis).

22.) Whether State has met its burden of production on the essential element of trafficking heroin in regards to the "Actual Amount of Heroin", under the standard of Winship, and whether trial counsel was constitutionally ineffective for not holding the State to its burden?

(Tr. July 24-28, 2017, Page 736, lines 17-22; Page 737, lines 1-9).

23.) Whether, as an example, "States Exhibit 47," that was said to [contain] heroin "And" methamphetamine, with a [combined] weight of 1.28 grams, prove that State "did not" meet its burden of production on "actual amounts of heroin", but only [weighed] a sample that [contained] heroin? ... and whether under the Winship standard whether State has met its burden? ... and whether trial counsel is constitutionally ineffective for not holding the State to its burden? (Tr. July 24-28, 2017, page 861, lines 14-25; Page 862, lines 1-2) (Strong Emphasis).

24.) Whether relief should be granted for insufficient evidence because Mr. Roberts showed that no rational trier of fact, viewing evidence in light most favorable to prosecution, could have found the essential elements of the crime beyond a reasonable doubt?

(Purchased, OR Brought Into State; Actual Amount of heroin)

"The State was confident in how much a sample "weighed," but [never] offered testimony regarding "actual amount of heroin". (Tr. July 24-28, 2017, page 837, lines 1-25 (Very Strong Emphasis).

25.) Whether trial judge committed "extrinsic fraud" when she induced Mr. Roberts "not to present his case" and "deprived him of the opportunity to be heard" on issue regarding the "alleged" state grand jury impanelment documents? (Tr. July 24-28, 2017, page 15, lines 5-9; page 19, lines 8-16; Page 73, lines 3-6; page 85, lines 5-7) (Emphasis).

26.) Whether "erroneous rulings" by trial judge relating to "impanelment documents" and their "non-disclosure" constitute a "fraudulent concealment"?

27.) Whether Mr. Roberts is entitled to relief from judgment for extrinsic fraud on theory that by reason of the fraud it prevented him from fully exhibiting and trying his case, there never has been a real contest before the court of the "subject matter of the action"? (Tr. July 24-28, 2017, p. 15, lines 5-9; p. 19, lines 8-16; p. 73, lines 3-6; p. 85, lines 5-7).

28.) Whether Mr. Roberts was deprived of sufficiently specific information to "prepare a defense" and to be protected against double jeopardy? (See Court Administration correspondence dated 11-6-17) (Emphasis).

(9 of 9)

29.) Whether Mr. Roberts suffered prejudice to his Sixth Amendment right to Self-Representation and due process of law, under the standard of State V. Fuller, 337 S.C. 236, when trial judge's "failure to conduct hearing on defendant's request to represent himself, made on morning of trial, was reversible error"; and whether "failure to [conduct hearing] precluded both Full Assessment of purpose behind defendant's request and determination of what effect granting request would have had on proceedings?"

30.) Whether Mr. Roberts suffered prejudice to his Sixth Amendment right to Self-Representation and due process of law, when trial judge "failed to engage in the proper colloquy regarding defendant's invocation of self-representation?"

31.) Whether Exhibit Z-3 (Protective Order to disclose State Grand Jury "impanelment documents"); and trial judge's subsequent ruling denying disclosure of "alleged" impanelment documents at trial (Tr. July 24-28, 2017, Page 15, lines 5-9; Page 19, lines 8-16), establish a due process violation or that, in fact, that the "alleged documents" did not legally exist?

32.) Whether Mr. Roberts suffered prejudice to his due process of law, under the standard of Smith V. Cain, 565 U.S. 73 (2012), when failure to disclose material evidence until post-conviction was found to undermine confidence in the outcome of the trial - regarding the alleged "impanelment documents" (albeit manufactured sham documents)?