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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Post Conviction Relief

Honorable Edward W. Miller, Circuit Court Judge

App. Case No. 2022-001244

Rajerick Knight,

Petitioner,

vs.

State of South Carolina,

Respondent.

PETITION FOR REHEARING
AND FOR REHEARING *EN BANC*

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STATEMENT OF THE CASE

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Beaufort County Clerk of Court. During the October 2011 term of the Beaufort County Grand Jury, he was indicted for murder (2011-GS-07-1673) and possession of a weapon during the commission of a violent crime (2011-GS-07-1674). App. pp. 638-654. On November 26, 2012, a trial was conducted in front of the Honorable D. Craig Brown and a jury. App. p. 1. Petitioner was represented by Arie Bax, Esquire, and Naki Bax, Esquire. The State was represented by Duffie Stone, Solicitor, and Sean Thornton, Assistant Solicitor. On November 29, 2015, the jury rendered a guilty verdict, and the Honorable D. Craig Brown sentenced Petitioner to life. App. pp. 622, 636.

A timely notice of appeal was filed and was perfected by Laura R. Baer, Esquire, and Kathleen Fowler Monoc, Esquire. App. p. 655. On April 1, 2015, the South Carolina Court of Appeals affirmed the conviction and sentence. *State v. Knight*, 2015-UP-170 (S.C. Ct. App. filed April 1, 2015). App. p. 720. The Remittitur was issued on April 1, 2015. App. p. 724

On August 3, 2015, an Application for Post Conviction Relief was filed. App. p. 726. The State filed a Return on May 13, 2016. App. p. 733. On January 10, 2018, Tricia A. Blanchette, Esquire, was substituted in as counsel via written Order. On March 16, 2020, Petitioner, through counsel, filed an Amendment to Application for Post Conviction Relief, which provided:

Applicant, through counsel, would move to amend his Application, as addressed below. Additionally, Applicant would ask the Court for the relief in the form of having his conviction and sentences vacated to allow for a new trial and/or whatever relief the Court deems proper. Pursuant to

Rule 15(b), SCRCP, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

In general, Applicant would allege that his rights pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, as well as pursuant to Article I, Section 14 of the South Carolina Constitution, were violated prior to and during his trial. Applicant would further amend his Application for Post-Conviction Relief to contain the following specific allegations of ineffective assistance of counsel:

1. Ineffective assistance of trial counsel for failure to obtain all necessary information to properly strike jurors, which resulted in the seating of jurors with media exposure and the denial of the motion for change of venue.
2. Ineffective assistance of trial counsel for failure to effectively present Applicant's primary defenses, to include failure to effectively utilize a mental health expert in trial and sentencing.
3. Ineffective assistance of trial counsel for failure to object to improper burden shifting statements to the jury by the court and the State's waiver of first closing argument.
4. Ineffective assistance of trial counsel for failure to offer further testimony regarding the 2011 incident to the jury.
5. Ineffective assistance of trial counsel for opening the door to the Solicitor's cross-examination of Applicant regarding a prior shooting incident.
6. Ineffective assistance of trial counsel for failure to request a proper inferred malice instruction and failure to object to the instruction given to the jury.

App. pp. 747-748.

On November 17, 2020, an evidentiary hearing was convened via the Webex Platform in front of the Honorable Edward W. Miller. App. p. 750. Petitioner was present and represented by Tricia A. Blanchette, Esquire. Respondent was represented by Benjamin Limbaugh, Esquire. Petitioner testified and called the following witnesses: Arie Bax, Esquire, Dr. Donna Maddox, and Deshaunaka Allen.¹ Petitioner introduced one

¹ On March 12, 2025, Arie Bax was placed under administrative suspension from the practice of law in South Carolina for failure to pay license fees. As of the date of this filing, his status remains listed as administrative suspension.

exhibit. App. p. 895. The court also had before him a copy of the records stemming from Petitioner's underlying trial and appeal. At the conclusion of the hearing, the court left the record open for Respondent to determine if additional witnesses needed to be called. App. pp. 890-892.

On March 2, 2021, a virtual hearing was conducted via the Webex platform in front of the Honorable Edward W. Miller. App. p. 900. Petitioner was present at Lieber Correctional Institution and was represented virtually by Tricia A. Blanchette, Esquire. Respondent was represented by Benjamin H. Limbaugh, Assistant Attorney General. After hearing from both parties, no additional witnesses were called and the record was closed.

On March 5, 2021, the court notified the parties of his intent to dismiss the application and asked Respondent to submit a proposed Order. On May 21, 2021, Petitioner, through counsel, provided the court a copy of the evidentiary hearing transcript. On July 14, 2021, Respondent submitted a proposed Order.² Upon receipt, Petitioner's counsel asked for the opportunity to address concerns with the proposed Order, and she was given until July 19, 2021 to make an informal response to the court. The informal response was submitted via email on July 19, 2021 and was later addressed via Rule 59, SCRCP, Motion.

On November 16, 2021, the Honorable Edward W. Miller issued an Order of Dismissal, which was filed on November 23, 2021. App. p. 918. On December 16, 2021, Petitioner, through counsel, filed a Motion Pursuant to Rule 59(a) & (e), SCRCP. App. p.

² Via the email submitting the proposed Order, Benjamin Limbaugh, Assistant Attorney General, also notified the Court and opposing counsel that he was leaving the Office of the Attorney General to engage in private practice as of the date of the email.

940. On July 29, 2022, an Order Denying Rule 59 Motion was issued, which was filed on August 1, 2022. App. p. 953.

Petitioner, through counsel, filed a Notice of Appeal. On March 3, 2023, a Petition for Writ of Certiorari and Appendix were filed. The Return was filed on July 3, 2023, and the appeal was transferred to the South Carolina Court of Appeals on August 1, 2023. On June 25, 2026, the South Carolina Court of Appeals issued an Order denying certiorari, from which this Petition for Rehearing and Petition for Rehearing *En Banc* follows.

SUMMARY OF RELEVANT TRIAL TESTIMONY

It is undisputed that Petitioner shot Travis Holmes (victim) in a Subway restaurant on July 26, 2011. At trial, the State called several female eyewitnesses who witnessed Petitioner, in varying parts, come into the restaurant with a female, get food, leave the restaurant, return and shoot victim. App. pp. 173-211. The State also called several eyewitnesses that saw victim come out of the restaurant and collapse and/or saw Petitioner leave in his car. App. pp. 130-138, 148-158. Two of the witnesses testified that they heard no words exchanged between Petitioner and victim. App. p. 180, 203. The State introduced a video recording from the surveillance cameras at the restaurant. App. pp. 161-162.

Shiecarra Smalls, the female with Petitioner in the restaurant, was called by the State to testify regarding her interaction with Petitioner and what she witnessed. App. pp. 212-221. She testified that Petitioner picked her up from work and took her to Subway to get food for them and his girlfriend. App. pp. 213-215. After getting their subs, victim walked into the restaurant and she exchanged words with him as they were leaving, but

she did not hear any words or argument exchanged between Petitioner and victim. App. pp. 216. When they got back to the car, she got in but Petitioner returned to the restaurant. App. pp. 217. A short time later, Petitioner returned and she saw victim run out of the restaurant and fall on the floor. App. pp. 217-218. After driving away, Ms. Smalls heard Petitioner say on the phone that he shot someone. App. p. 218, Ins. 13-17.

The defense proffered the expert testimony of Dr. Thomas Martin, which is discussed at length in the Petition, and the court determined that the testimony regarding Petitioner's state of mind could not be presented to the jury. App. pp. 526-543, 577-580.

Trial counsel argued pre-trial and throughout the trial that he did not have to disclose his defense and what he intended to address regarding the victim's prior history of violence until it became an issue at trial. App. pp. 53-63, 109, 114, 116-123. The court finally agreed that he would rule upon the admissibility of the victim's history when it came up. App. p. 123. A chambers meeting was held, and it was put on the record that the State agreed to the admissibility of testimony regarding an incident in May 2011. App. p. 349. The court also allowed trial counsel to put on the record argument made in chambers regarding incidents in 2008 and 2009 and proffer a law enforcement report. App. pp. 350-367. At the conclusion of the argument and proffer, the court warned trial counsel to not mention the 2008 or 2009 incidents in front of the jury. App. p. 367.

Regarding the 2011 incident, the defense called Sergeant Frasier to testify regarding his investigation of the shooting that took place on May 30, 2011 at the trailer of Lashaunica Allen. App. p. 401. He recalled developing Antwan Robinson as a suspect and finding casing from two different caliber weapons. App. p. 404. He also testified that the victim Lashaunica Allen gave the name Travis Holmes and he informed her there

were two individuals with that name. She stated it was the shorter one – Travis S. Holmes. App. p. 413-414.

Lashaunica Allen took the stand and testified about the shooting incident at her home that resulted in the loss of her unborn baby. App. p. 445. She recalled providing Sergeant Frasier the name of Mr. Robinson and Mr. Holmes and Sergeant Frasier stating that he had heard Mr. Holmes name too. App. pp. 465. She testified that she was giving names as they came up and knew it was Mr. Holmes and Mr. Robinson due to everyone saying it was a white SUV. App. p. 468, 471.

DaQuan Cummings testified that he was Ms. Allen's neighbor and Petitioner was at his trailer when the shooting took place. App. p. 475. He recounted that earlier in the day three cars came in his yard, knocked on his door and the unknown individuals talked about shooting up his house. App. p. 481. He was able to identify the car types. App. p. 483.

Petitioner took the stand in his own defense. While on the stand, he recounted the events that took place in May 2011 and that it was his knowledge that the victim was involved in the shooting. App. p. 497. He testified that he was frightened by the situation at the trailer and it took his sense of security away as he no longer felt safe at home. App. p. 498.

Petitioner recounted the events that occurred on July 26, 2011 and had admitted to shooting victim. App. pp. 499-504. He recalled seeing victim as he was leaving Subway with Ms. Smalls, Ms. Smalls trying to diffuse the tension by saying hello and victim walking past him and saying: "Man, I'm gone kill you boy." App. p. 501, ln. 19 – p. 502,

In. 2. After the shooting, he dropped off Ms. Smalls and traveled to Florida with his girlfriend to keep her safe from retaliation. App. p. 505.

ARGUMENT

Pursuant to Rule 221, SCACR, Petitioner respectfully petitions this Court for rehearing and for rehearing *en banc*. Petitioner would respectfully request that the panel and entire Court review the Petition for Writ of Certiorari (Petition) and the entirety of the arguments contained therein. Petitioner would further request that the panel and the entire Court review the record contained in the filed Appendix.

By way of the Petition, the following arguments were made:

1. The lower court erred by failing to properly address the matters raised in the Rule 59, SCRCR, Motion; therefore, a remand is necessary due to the failure of the court to ensure that specific findings of fact and conclusions of law were entered on each issue raised and that the record before the court and testimony of each witness was properly addressed.
2. The lower court must be reversed since the record establishes that counsel's utilization of a mental health expert and defense strategy involving the same amounted to ineffective assistance that resulted in prejudice.
3. The lower court erred by failing to find ineffective assistance and resulting prejudice from counsel's failure to offer further testimony regarding the 2011 incident to the jury.
4. The lower court erred for failing to find ineffective assistance and resulting prejudice when counsel failed to request a proper inferred malice instruction and failed to object to the instruction given to the jury.

Petitioner submits that this Court has overlooked and/or misapprehended the entirety of his arguments and cannot specify certain portions as the Court did not issue a decision making any form of analysis on the issues raised. Petitioner urges this Court to reconsider the denial of certiorari because the lower court's finding that trial counsel provided effective assistance is not supported by the record or the law; therefore, reversal

is absolutely necessary. *See Webb v. State*, 281 S.C. 237, 314 S.E.2d 839 (1984), *Goins v. State*, 397 S.C. 568, 573, 726 S.E.2d 1, 3 (2012).

As is addressed in the Petition, Petitioner took the stand and offered testimony in support of his allegations at the evidentiary hearing. Petitioner also called Dr. Donna Maddox, Arie Bax, Esquire, and Deshaunaka Allen to testify. Petitioner would urge this Court to review the entire record and find that it supports a granting of relief due to counsel's ineffective assistance that directly impacted the outcome of trial.

Petitioner hereby incorporates the detailed arguments made in the Petition on each of the issues raised. At the evidentiary hearing, Applicant offered ample evidence to support a finding that counsel was ineffective in his handling of the defense as it related to the utilization of mental health expert, his failure to properly address the 2011 incident and his failure to ensure proper instructions were given to the jury. Each of these issues rise to the level of relief needing to be granted, and this case also brings to light a major issue in the court systems of South Carolina - mental health is not being properly addressed and considered for defendants. The record before this Court clearly shows that counsel misadvised, miscalculated and mishandled matters related to Petitioner's mental health and now Petitioner is suffering the result of counsel's clear deficient performance everyday he serves of his life sentence.

After addressing the trial record, the evidentiary hearing testimony of trial counsel, Petitioner and Dr. Donna Maddox, and *McKnight v. State*, 378 S.C. 33, 661 S.E.2d 354 (2008), the Petition contains the following that Petitioner submits this Court must have overlooked or misapprehended in deciding to deny certiorari:

Petitioner submits that *McKnight* is analogous to the instant case, whereby counsel was not prepared to effectively utilize Dr. Martin in a

way that was advantageous to the defense and resulted in Dr. Martin's testimony being utilized to defeat the opportunity for a manslaughter charge and was relied upon by the court in imposing a life sentence.³ As trial counsel testified "having manslaughter on the table was essential." App. p. 825, Ins. 17-19. Not only does the trial record alone establish ineffective assistance and prejudice, but Petitioner also provided the testimony of Dr. Maddox, as detailed above, to establish the same. The Order of Dismissal errantly finds: "Dr. Maddox essentially testified to the same key components as Dr. Martin, with the addition of a PTSD diagnosis." App. p. 930.

As discussed in detail above and as is reflected in her testimony, Dr. Maddox testified that she diagnosed Petitioner with a mental illness that was active at the time of the shooting and resulted in his capacity to conform being diminished. She also explained why she took issue with Dr. Martin's testimony that Petitioner was criminally responsible and did not suffer from diminished capacity. App. pp. 782-784. When asked about the appellate court finding that there was no evidence Petitioner was out of control as a result of his fear or was acting under an uncontrollable impulse to do violence and whether she would have been able to testify that Petitioner was out of control at the time due to his mental illness, she responded: "Yes. I would -- well I would have testified that's why, that his fear was so intense that it impaired his judgment, and he was paranoid, he was scared, and he was going to confront the victim." App. p. 796, In. 22 – p. 797, In. 10. She also testified about how his mental illness would have affected how he presented himself despite not being in control and being in a state of fear. App. pp. 777-778, 780-786.

As addressed with Dr. Maddox, the South Carolina Court of Appeals found no error in the trial court's refusal to charge the jury on voluntary manslaughter. App. p. 721. After a discussion of *State v. Starnes*, 388 S.C. 590, 698 S.E.2d 604 (2010) and Petitioner's testimony⁴, the Court opined: "Though Knight may have very well been fearful and afraid when he initially encountered Victim in the restaurant, he did not act 'under an uncontrollable impulse to do violence' at which time he was incapable of cool reflection as a result of fear,' but acted 'in a deliberate controlled manner' when he returned to the restaurant and shot Victim. *Starnes*, 388 S.C. At 599, 698 S.E.2d at 609." App. pp. 722-723. Petitioner

³ In sentencing Petitioner, the court referenced Dr. Martin's testimony, and he stated that it was important to note for the record: "There was no mental illness. There was no diminished capacity." App. p. 633, In. 22 – p. 634, In. 8. As the record reflects and the Order of Dismissal finds errantly otherwise, the testimony of Dr. Maddox was not "essentially" the same and established that Petitioner has a mental illness and suffered from diminished capacity, which was information that should have been provided to both the Judge and the jury. App. pp. 774, 782-784, 929-930.

⁴ Dr. Maddox also testified about how she could have advised trial counsel about putting Petitioner on the stand and assisted in preparing Petitioner to take the stand. App. pp. 787-788.

submits that the proper utilization of a mental health expert, as demonstrated by the testimony of Dr. Maddox, would have resulted in a different finding by the Court of Appeals.

In sum, the lower court's Order finding counsel's strategy reasonable and no resulting prejudice is not supported by the record and fails to properly address the record and claims as presented via Amendment, at the hearing and via the Rule 59, SCRCRCP, Motion. What is supported by the record is that Petitioner received ineffective assistance in how counsel handled and presented his mental health and that he was prejudiced at both the trial and appellate levels as a result of counsel's ineffective assistance.

Petition for Writ of Certiorari pp. 16-17.

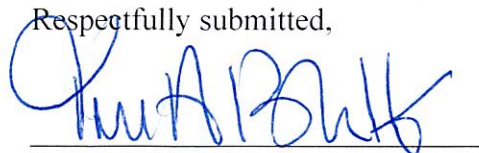
Petitioner asks this Court to not overlook that the record supports a finding of ineffective assistance as the representation offered by Attorney Bax did not meet prevailing professional norms that make the adversarial process work. *See Ard v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007). Therefore, as argued in the Petition, Petitioner urges this Court to find that counsel's representation was ineffective under the analysis set forth in *Strickland v. Washington*, 466 U.S. 668 (1984).

Based upon the foregoing and the entirety of the filed Petition and Appendix, Petitioner would urge this Court rehear and/or reconsider the arguments raised in the Petition, which are supported by the record, and incorporated herein. Petitioner would respectfully ask this Court to allow the arguments to be further addressed by granting certiorari or whatever step this Court deems proper.

CONCLUSION

In consideration of the arguments contained in the Petition and the above stated arguments, Petitioner respectfully requests that the Court conduct a full review of the previously submitted Petition for Writ of Certiorari and Appendix. Petitioner would further urge this Court to reverse the Order filed on June 25, 2026 and allow Petitioner to brief the arguments or reverse the lower court and grant a new trial.

Respectfully submitted,



Tricia A. Blanchette

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ATTORNEY FOR PETITIONER

This 9 day of July 2026.

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Post Conviction Relief

Honorable Edward W. Miller, Circuit Court Judge

App. Case No.: 2022-001244

Rajerick Knight, 353409,

Petitioner,

vs.

State of South Carolina,

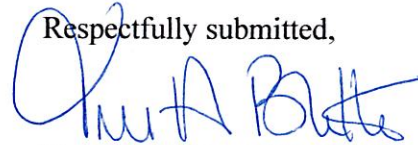
Respondent.

CERTIFICATE OF SERVICE

I, Tricia A. Blanchette, Attorney for Petitioner, hereby certify that I served this 9th day of July 2026 a Petition for Rehearing and Petition for Rehearing *En Banc* on Josh Edwards, Assistant Attorney General, by sending via email pursuant to Rule 262, SCACR, to his following registered email address:

Jedwards@scag.gov

Respectfully submitted,



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July 9, 2026

Knight v. State: App. Case No. 2022-001244

1 message

Tricia Blanchette <blanchettelaw@gmail.com>

To: Josh Edwards <JEdwards@scag.gov>

RECEIVED**Jul 09 2026**

Thu, Jul 9, 2026 at 9:06 AM

SC Court of Appeals

Josh,

For the above referenced PCR appeal, I have attached a copy of the letter and Petition for Rehearing that I am submitting via e-filing this morning. Please let me know if you prefer a mailed copy.

Thanks,

Tricia

--

Tricia Blanchette
Attorney at Law

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TRICIA A. BLANCHETTE

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Jul 09 2026

SC Court of Appeals

July 9, 2026
VIA E-FILING

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29211

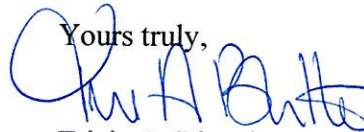
RE: Rajerick Knight v. State; App. Case No. 2022-1244

Dear Ms. Kitchings:

For filing, I have submitted a Petition for Writ of Certiorari and Certificate of Service in the above referenced PCR appeal.

I appreciate your assistance with this matter. Please let me know if anything further is needed.

Yours truly,



Tricia A. Blanchette
Attorney at Law

cc: Josh Edwards, Assistant Attorney General (via email)
Rajerick Knight