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S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Alison Renee Lee, Circuit Court Judge

ERIC MANCE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2013-001039

PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

Did trial counsel's failure to investigate, prepare, and pursue a verdict of guilty but mentally ill, which would have ensured psychiatric care to Petitioner while incarcerated, violate Petitioner's right to the effective assistance of counsel pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, in light of the abundant evidence of Petitioner's low intellectual functioning and significant history of mental illness?

STATEMENT

On September 13, 2006, a Richland County grand jury indicted Petitioner for armed robbery (2006 – GS – 40 – 4741), assault and battery with intent to kill (2006 – GS – 40 – 4739), and possession of a pistol by a person convicted of a crime of violence (2006 – GS – 40 – 4738). App. 776 – 777; App. 779 – 780; App. 782 – 783. Petitioner was tried before the Honorable Clifton Newman and a jury during the week of August 25, 2008. Luck Campbell and Daniel Goldberg prosecuted Petitioner. David Tarr represented Petitioner. App. 1. The jury found Petitioner guilty as charged. App. 593, lines 17 – 25. Prior to trial, the prosecution had served its notice of intent to seek life without parole (LWOP). App. 596, lines 11 – 14. Judge Newman sentenced Petitioner to life imprisonment without the possibility of parole for assault and battery with intent to kill (ABWIK) and armed robbery. Additionally, Judge Newman sentenced Petitioner to five years' imprisonment for the pistol charge. App. 606, lines 6 – 24; App. 778; App. 781; App. 784.

Petitioner filed a timely notice of appeal, which was perfected by the filing of a brief pursuant to Anders v. California, 386 U.S. 738 (1967). App. 608 – 618. The Court of Appeals dismissed his appeal on February 11, 2010. App. 619; State v. Mance, Op. No. 2010-UP-120 (S.C. Ct. App. filed Feb. 11, 2010). Remittitur was sent on May 28, 2010. App. 620.

Petitioner filed an application for post-conviction relief (PCR) on February 4, 2011. App. 621 – 627. The matter proceeded to an evidentiary hearing before the Honorable Allison Lee on May 21, 2013. Tara Shurling represented Petitioner, and Rob Corney represented the state. App. 634. By order filed April 29, 2013, Judge Lee denied Petitioner relief from his convictions and sentences. App. 763 – 775.

Petitioner filed a timely notice of appeal. This petition for writ of certiorari follows.

ARGUMENT

In violation of Petitioner's right to the effective assistance of counsel pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, trial counsel failed to investigate, prepare, and pursue a verdict of guilty but mentally ill, which would have ensured psychiatric care to Petitioner while incarcerated, in light of the abundant evidence of Petitioner's low intellectual functioning and significant history of mental illness.

Relevant facts

Facts developed at the trial

During the trial, Judge Newman inquired about Petitioner's competency. App. 143, lines 13 – 15. Trial counsel introduced a letter, which was made a Court's exhibit, from Dr. Donna Schwartz-Watts stating that Petitioner was competent. App. 143, lines 16 – 20; App. 747. Trial counsel informed Judge Newman there was "no issue as to competency." App. 143, line 22. Petitioner was not evaluated regarding criminal responsibility; however, counsel also stipulated that Petitioner was criminally responsible. App. 144, lines 12 – 23; App. 44, lines 9 – 11. Trial counsel stated evidence of Petitioner's mental status would be introduced only as it concerned the voluntariness of Petitioner's statements to police and as to the elements of intent required for the substantive crimes. App. 44, lines 9 – 11.

The prosecution then asked the court to inquire of trial counsel of any intent to seek the defense of GBMI because Dr. Schwartz-Watts alluded to the defense in her evaluation. Trial counsel responded that the defense would not help in this case because "it would not do anything to alleviate the problem of this being a life without parole." According to trial counsel, Petitioner would derive no benefit from a GBMI verdict. As a result, trial counsel was "not exploring that as an option in this case." App. 150, lines 11 – 24. Trial counsel explained that he

understood that Dr. Schwartz-Watts indicated that Petitioner may suffer from mental illness, which would allow him to pursue a GBMI verdict. He further explained that he had not asked Dr. Schwartz-Watts for an opinion as to GBMI. App. 152, lines 8 – 12. At the conclusion, Judge Newman found Petitioner was sane at the time of the alleged offense and competent to stand trial. App. 152, lines 13 – 20.

In his opening statement, trial counsel admitted that Petitioner pulled a gun on Daryl Hawkins and stole his car. He claimed that such conduct was not something that would cross the minds of anyone present in the courtroom, except Petitioner. App. 109, lines 18 – 23. Despite emphasizing to the jury that Petitioner had a gun and used that gun, trial counsel claimed that Petitioner “had no intention of shooting anyone, did not want to shoot anyone, and felt horrible” afterward. App. 110, lines 4 – 10. According to trial counsel, Petitioner was caught in the rain and needed to get home. App. 110, lines 11 – 12; App. 112, lines 14 – 17. Trial counsel asked the jury to hold Petitioner accountable for his conduct but to find he lacked malice, which was required to support a conviction for ABWIK. App. 110, line 20 – App. 111, line 11. Additionally, trial counsel argued Petitioner lacked the intent to permanently depriving Hawkins of his truck, which was a required element of armed robbery. App. 112, lines 18 – 25.

Hawkins, a lawyer, was working late at his office in downtown Columbia on the evening of June 2, 2006. App. 114, line 18 – App. 115, line 13; App. 116, lines 24 – 25. It was raining when he left the office at 9:30 p.m. App. 120, lines 10 – 24. In the parking lot, he saw a man in dark clothes wearing a skull mask approaching him. App. 123, lines 2 – 10. Hawkins stepped into the man knocking the man back a step or two. App. 123, lines 13 – 16. Hawkins then realized the man had a pistol. App. 123, lines 22 – 23. The man started shooting at him. App. 124, lines 8 – 10. Hawkins began throwing items at the man, and then charged him. App. 125,

lines 16 – 22. Hawkins ran toward Sumter Street, screaming for help. App. 125, line 23 – App. 126, line 8. Hawkins looked back and saw the man leaving in Hawkins’ truck. App. 127, lines 2 – 11. Hawkins went to the nearby hospital where he received immediate a treatment. App. 127, line 21 – App. 128, line 11. Hawkins’ car was equipped with OnStar, which the police used to track the vehicle to an isolated area in Gaston. App. 133, lines 11 – 18; App. 160, lines 1-9; App. 213, line 25 – App. 215, line 5; App. 288, line 1 – App. 290, line 14. Police found Hawkins’ truck in a field very near Petitioner’s home. App. 335, lines 23-25.

Petitioner voluntarily appeared at the police station when he learned the police were asking questions about him. Ultimately, he gave a lengthy confession to police admitting his involvement in shooting Hawkins and taking his truck. Petitioner told police that he was caught in the rain near a barbershop and needed a ride home. While he walked through the area, he saw Hawkins standing next to his truck. Petitioner pulled his gun and put on his mask. Hawkins yelled and tried to knock the gun from Petitioner’s hand. Petitioner then shot five times. When Hawkins started running, Petitioner got into the truck and drove home. App. 368, line 17 – App. 369, line 12.

Bullet fragments found at the shooting scene were matched to the revolver found buried at Petitioner’s home. App. 183, lines 2-5; App. 252, line 21 – App. 253, line 12; App. 245, line 15 – App. 255, line 3; App. 316, line 2 – App. 317, line 1; App. 317, line 20 – App. 318, line 24. Police also found a partial box of bullets buried with the revolver that were consistent in construction and appearance with the fired fragments. App. 200, lines 15-20; App. 319, lines 3-14. Along with the bullets and revolver, police found a mask. Testing revealed a swab from the mask contained a mixture of DNA. The profile from the major contributor developed from the

mask was consistent with Petitioner's DNA. App. 200, line 21 – App. 201, line 2; App. 301, line 4- App. 303, line 19.¹

Dr. Tora Brawley, an expert in neuropsychology, testified on behalf of Petitioner. App. 470, lines 14-24. She evaluated Petitioner on June 19, 2007. App. 471, lines 2-4. She found that Petitioner had “significantly compromised brain function” with a full scale IQ of 66. His IQ score placed in him in the extremely low or mental retardation range of functioning. App. 471, lines 16-24. Petitioner suffered from numerous impairments to his cognitive abilities as a result. App. 472, line 6 – App. 473, line 18. Petitioner suffered a head injury when he fell from a porch at two years of age. App. 478, lines 6 – 9. According to Petitioner's history, he had learned to mimic the other children to give the appearance that he understood what was occurring in the classroom. Nevertheless, he was in special education classes throughout his entire schooling. App. 478, line 18 – app. 479, line 19. Dr. Brawley testified that Petitioner's low IQ affected his ability to make decisions and think about consequences. App. 479, line 20 – App. 480, line 1.

On cross-examination, Dr. Brawley made clear that she was not diagnosing Petitioner with mental retardation. She clarified that her testing of his IQ revealed that he had extremely low functioning, which was in the mental retardation range. App. 486, lines 14 – 25; App. 493, lines 3 – 5.² Dr. Brawley explained that an assessment for mental retardation would require looking at an individual's IQ and adaptive functioning prior to the age of eighteen. App. 492, lines 3 –5.

¹ Petitioner directed the police to where he had buried the items. App. 369, lines 16-7.

² During re-direct examination, Dr. Brawley again clarified that Petitioner's IQ fell within the mental retardation range, but in order for a person to be diagnosed with mental retardation, the person's symptoms would have to be onset prior to age eighteen. App. 506, line 21 – App. 507, line 11.

During his closing argument, trial counsel apologized to the jury for repeatedly referring to Petitioner as mental retarded. He candidly informed the jury that he was mistaken in his belief that Dr. Brawley had diagnosed Petitioner as mentally retarded. App. 545, lines 17 – 22. He claimed this was an “innocent mistake” on his part. App. 545, line 23 – App. 546, line 4. Trial counsel then asked the jury to find Petitioner guilty for possessing the pistol. However, trial counsel asked the jury to find Petitioner not guilty of ABWIK because Petitioner lacked malice. App. 546, line 15 – app. 547, line 2. Trial counsel argued that Petitioner shot only in response to Hawkins’ grabbing or hitting the gun or hitting or kicking Petitioner. App. 547, lines 9 – 21. Trial counsel also asked the jury to find Petitioner not guilty of armed robbery because he never intended to steal the car and deprive Hawkins’ permanently of the car. Petitioner only wanted to use the car to get home. Due to his low cognitive functioning, Petitioner thought he would use a gun to take the car. App. 551, lines 7 – 25. Succinctly, trial counsel’s argument was as follows: “He did not intend to hurt somebody. He just wanted a car to get home, but he did hurt somebody and he was scared.” App. 553, lines 11-12.

Facts developed at the PCR hearing

Trial counsel admitted that he obtained Petitioner’s medical and psychiatric records prior to trial because he was concerned about Petitioner’s competency. In fact, he hired Dr. Donna Schwartz-Watts to perform a competency evaluation. App. 640, line 17 – App. 641, line 4. Trial counsel learned that Petitioner had an extensive psychiatric record, including various forms of psychiatric treatment and the taking of various psychotropic drugs, in addition to having a very low IQ. App. 641, lines 14 – 24; App. 646, lines 13 – 19. Trial counsel admitted that he stipulated that Petitioner had the ability to conform his conduct to the requirements of the law although he had requested no evaluation by a psychiatrist or psychologist regarding this matter.

App. 642, line 22 – App. 643, line 3. When asked for the basis of the stipulation, trial counsel stated he “never thought about a GBMI in the case because he was going to get life without parole if he pled guilty.” Counsel declared “if I wasn’t going to plead him guilty, I didn’t care whether he was guilty or mentally ill.” App. 643, lines 4 – 11. Trial counsel reaffirmed that he waived the issue of GBMI because Petitioner would be exposed to LWOP. App. 644, lines 11 – 23.

Counsel admitted that he failed to investigate what potential benefits Petitioner would have received in the Department of Corrections had he been found GBMI. App. 644, line 24 – App. 645, line 12; App. 646, lines 1 – 4. Trial counsel summarized his position as follows: “if they don’t have a policy of letting them go early, then I really don’t care, you know. I was trying to get it where he was able to get out one day. That was my goal, and that’s what he wanted, and that’s what I tried to do. And I did it the only way I knew how.” App. 645, lines 14 – 18. Nevertheless, trial counsel admitted that Petitioner “was looking at life without parole, so if he was found guilty, the only issue that [trial counsel] had the ability to impact was his quality of life in prison.” App. 645, lines 21 – 25.

Counsel claimed that he “would have discussed” with Petitioner that a GBMI verdict would mean Petitioner would never get out of prison, and the discussion ended there. App. 649, lines 14 – 20. On cross-examination, trial counsel claimed that Petitioner’s expressed goal was to receive a sentence that would allow him to get out of prison one day. App. 645, lines 8 – 18. Although trial counsel had never been involved in a GBMI case, he claimed during the PCR hearing that giving the jury another option would be a concern.³ However, he “never considered

³ On re-direct examination, trial counsel claimed that giving the jury the option of GBMI got “into the possibility of a compromise.” App. 666, lines 1-7.

the guilty but mentally ill option” prior to trial. App. 655, lines 15 – 19. He explained GBMI was never considered after realizing that Petitioner would be sentenced LWOP even if the jury found him GBMI. App. 666, lines 11-25. Instead, trial counsel’s strategy was to use Petitioner’s low IQ as mitigation to explain that Petitioner lacked the intent to kill Hawkins. If Petitioner had been found guilty of the lesser-included offense, then he would not have been exposed to LWOP. App. 655, line 25 – App. 656, line 23. Strangely, trial counsel agreed with the proposition of the state that his trial strategy was “essentially arguing GBMI but hoping for the lesser-included offense.” App. 668, lines 9 – 18. Based upon his review of the discovery, trial counsel concluded that the prosecution would not have a difficult time proving Petitioner guilty of the charged offenses. App. 658, lines 13 – 18.⁴ In fact, trial counsel testified that getting a not guilty verdict was “impossible.” App. 668, lines 3-5.

Dr. Schwartz-Watts testified that trial counsel asked her to evaluate Petitioner’s competency to stand trial. App. 676, lines 13 – 16. Although she found Petitioner competent, Dr. Schwartz-Watts indicated to trial counsel that Petitioner had limited intellectual functioning and a psychotic disorder, which was clearly mitigating and may have arisen to a GBMI defense. App. 677, lines 6 – 14; App. 747. Dr. Schwartz-Watts also testified to her familiarity with the Department of Corrections’ treatment of GBMI defendants. Such defendants receive immediate psychological testing, evaluations, and treatment, in sharp contrast to the general population who are incarcerated. App. 682, line 22 – App. 687, line 8.

Petitioner denied that he and trial counsel discussed pursuing a verdict of GBMI. App. 716, lines 18 – 23; App. 718, lines 2 – 13. Petitioner stated that if he had understood the

⁴ Trial counsel testified that there were no plea negotiations in the case and this was not surprising based upon the facts of the case and Petitioner’s prior record. The prosecution “had absolutely no incentive” to negotiate. App. 662, line 14 – App. 663, line 2.

potential benefits of being found GBMI, he would have wanted his trial counsel to pursue that option. App. 718, lines 14 – 24. At the time of his PCR hearing, Petitioner was seeing a mental health counselor and taking medication prescribed by a psychiatrist. App. 722, lines 8 – 25.

Order denying relief

The order denying relief accepted trial counsel's premise that Petitioner's goal was to receive a sentence of less than LWOP and that trial counsel's entire trial strategy was built upon such a goal, despite the overwhelming evidence against Petitioner. The order also accepted trial counsel's premise that his pursuit of a sentence less than LWOP would conflict with a request for a GBMI verdict. Judge Lee's order explained that trial counsel explicitly waived requesting a GBMI verdict, despite the fact that he had not investigated the conditions of confinement for a GBMI inmate, during a pretrial hearing because such a verdict would not prevent Petitioner from receiving a LWOP sentence. The order indicated that trial counsel did not want to present the jury with the option of GBMI because the jury may "settle or compromise" on such a verdict, which would ultimately result in a LWOP sentence.

Ultimately, the PCR court found trial counsel was not ineffective in failing to investigate, prepare, or pursue a GBMI verdict on Petitioner's behalf. App. 769 – 770. Judge Lee found that trial counsel made an objectively reasonable decision to forego any attempt to obtain a GBMI verdict because Petitioner's request was that trial counsel's main focus be to ensure Petitioner did not receive a LWOP sentence, and a GBMI verdict would allow such a sentence. Thus, the PCR court found trial counsel "articulated a valid and reasonable trial strategy in this regard in accordance with [Petitioner]'s explicit, unambiguous desire to avoid a LWOP jail sentence." App. 771. Additionally, the PCR court found trial counsel's decision not to further investigate or

prepare an argument for a GBMI verdict was objectively reasonable based on the information and request supplied to him by Petitioner. App. 771.

Examining the prejudice prong of the analysis, the PCR court held that Petitioner's claim that had he been found GBMI at trial, his quality of life at the Department of Corrections would have been different misinterpreted the prejudice standard used in evaluating claims of ineffective assistance of counsel. App. 771. According to the PCR court, the proper analysis under the prejudice prong was whether there was a reasonable probability of a different result in the proceeding. Because Petitioner failed to convince the PCR court that there was a reasonable probability that had counsel prepared and presented an argument for a verdict of GBMI the jury would have returned such a verdict, the PCR court found no prejudice. App. 772.

Discussion

In order to obtain relief based upon a claim of ineffective assistance of counsel, a defendant must show that counsel's performance was deficient and such deficiency prejudiced the defendant. Strickland v. Washington, 466 U.S. 668, 687 (1984). An attorney whose representation fell below an objective standard of reasonableness provided deficient performance. Id. at 688. An attorney's performance is measured against prevailing professional norms. Id. at 688.

As this Court explained, "criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011). Although attorneys are not required to investigate every conceivable defense no matter how unlikely the effort would be to assist the defendant, the decision not to investigate must be reasonable. Wiggins v. Smith, 539 U.S. 510,

533 (2003)(holding counsel's decision not to extend their investigation fell short of prevailing professional norms in light of their failure to retain a forensic social worker to prepare a social history report, which was standard practice in the state at the time, and their failure to investigate all reasonably available mitigating evidence); see also Von Dohlen v. State, 360 S.C. 598, 605, 602 S.E.2d 738, 742 (2004)(holding trial counsel's investigation concerning Von Dohlen's mental state was not reasonable despite the fact that counsel made "some effort" where the defense psychiatrist testified during post-conviction proceedings that had he been provided with the additional medical and psychiatric records that post-conviction counsel uncovered, he would have testified Von Dohlen suffered from "major depressive episodes with severe symptoms of anxiety and possible prepsychotic features").

If trial counsel articulates a valid reason for employing certain strategy, then the conduct is not ineffective assistance of counsel. Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992). In Stokes, this Court determined trial counsel employed a valid strategy in not calling witnesses that he believed lacked credibility. Id. Similarly, this Court found counsel's trial strategy reasonable in Drayton v. Evatt, 312 S.C. 4, 10-11, 430 S.E.2d 517, 521 (1993) where trial counsel did not present evidence of the defendant's future adaptability because to do so would have allowed the introduction of negative psychiatric and discipline reports. On the other hand, this Court found counsel deficient in Gilchrist v. State, 350 S.C. 221, 228 n.2, 565 S.E.2d 281, 285 n.2 (2002) for failing to object to the state's vouching for the credibility of a witness where counsel stated he decided not to object based upon a strategy, but never articulated that strategy. In Sanchez v. State, 351 S.C. 270, 276, 569 S.E.2d 363, 366 (2002), this Court determined trial counsel's reason for not objecting to an officer's hearsay testimony of the

alleged assault on a child victim, which was that the testimony would help show the allegations were vague, was unreasonable because the hearsay corroborated the victim's testimony.

South Carolina permits a jury to find a defendant guilty but mentally ill. "A defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong ..., but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law." S.C. Code Ann. § 17-24-20(A). The statute places the burden upon the defendant to prove by a preponderance of evidence that when he committed the crime he was mentally ill while recognizing that the prosecution still must prove the defendant guilty of the crime beyond a reasonable doubt. S.C. Code Ann. § 17-24-20(B).

Additionally, South Carolina law provides that if the jury returns a GBMI verdict, the defendant must be sentenced the same as a defendant found guilty. Nevertheless, the statutory provisions require that "the defendant must first be taken to a facility designated by the Department of Corrections for treatment and retained there until in the opinion of the staff at that facility the defendant may safely be moved to the general population of the Department of Corrections to serve the remainder of his sentence." S.C. Code Ann. § 17-24-70. Although a verdict of GBMI does not absolve a defendant of guilt, such a verdict ensures that mentally ill inmates received treatment for their benefit as well as society's benefit while incarcerated. State v. Hornsby, 326 S.C. 121, 126, 484 S.E.2d 869, 872 (1997).

The Supreme Court of Georgia granted post-conviction relief to a defendant whose trial counsel failed to investigate the defendant's prior history of hospitalizations for a mental illness. The attorney knew of his hospitalizations, but completely failed to conduct any investigation concerning the hospitalizations. The court found the attorney's failure to investigate was

unreasonable because it resulted from inattention. Martin v. Barrett, 619 S.E.2d 656, 658 (2005). When counsel learned that his client had a history of psychiatric problems, but failed to adequately investigate that history, counsel failed to provide effective assistance. Id. (citing Brown v. Sternes, 304 F.3d 677, 694 (7th Cir. 2002)). During the post-conviction relief hearing, the defendant presented evidence that he suffered from Bipolar Disorder including psychotic episodes of auditory and visual hallucinations. His expert discussed the defendant's mental state years earlier, and was unable to do so definitively. However, the Georgia Supreme Court found a reasonable probability that under the appropriate legal standards, the defendant "might have been found to be incompetent to stand trial, legally insane at the time of the crimes, or guilty but mentally ill." Id. The burden is to show only a reasonable probability of a different outcome, not that a different outcome would have been more certain or even more likely than not. Id.

Trial counsel's strategy of not pursuing GBMI because it would not afford Petitioner an opportunity for release was flawed and not based upon an adequate investigation. Dr. Schwartz-Watts' letter to trial counsel advised him that Petitioner may be able to pursue a GBMI defense, but trial counsel failed to conduct any investigation whatsoever regarding the ability to present the defense and what advantages or disadvantages it may afford Petitioner. As trial counsel expressed at the PCR hearing, the prosecution had considerable evidence against Petitioner, including a detailed confession that corroborated the statements of others, the weapon used, and DNA. The ability of trial counsel to obtain a not guilty verdict was "impossible," he claimed. Despite recognizing the impossibility of such, trial counsel asked the jury to return a not guilty verdict for the armed robbery charge based upon a lack of intent. The conviction for armed robbery exposed Petitioner to LWOP as well. Trial counsel pursued the flawed, and unreasonable, strategy of seeking a lesser-included offense on the ABWIK charge based upon Petitioner's low intellectual

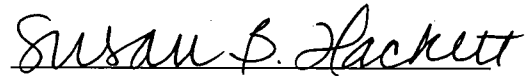
functioning, which trial counsel clearly, and admittedly, did not understand. For some reason, trial counsel believed Dr. Brawley would testify that Petitioner suffered from mental retardation. He had no idea until she actually testified that she was unable to diagnose Petitioner as such because of her area of expertise and the testing she employed. She examined his intellectual functioning only, which is merely a component of a mental retardation diagnosis.

Petitioner suffered prejudice as a result of trial counsel's failure to investigate, prepare, and pursue GBMI because there is a reasonable probability that the jury would have returned a GBMI verdict. Although the benefits Petitioner would have derived from such a verdict are important, the proper analysis is whether there is a reasonable probability that the outcome of the trial would have been different, and Petitioner has satisfied this prong of the analysis as well. Had the jury been made aware of Petitioner's significant mental health history, there is a reasonable probability that the jury would have found Petitioner lacked sufficient capacity to conform his conduct to the requirements of the law despite his ability to distinguish right from wrong or to recognize his act as being wrong.

CONCLUSION

Petitioner respectfully requests this Court reverse the decision of the lower court, reverse his convictions and sentences, and remand for a new trial.

Respectfully submitted,



Susan B. Hackett
Appellate Defender

ATTORNEY FOR PETITIONER

This 3rd day of January, 2014.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Alison Renee Lee, Circuit Court Judge

ERIC MANCE,

PETITIONER,

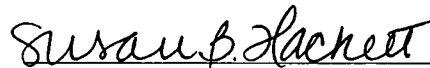
V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

CERTIFICATE OF SERVICE


I certify that a true copy of the petition for writ of certiorari and a copy of the appendix in this case have been served on Megan Harrigan, Esquire at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Eric Mance #200410, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669, this 3rd day of January, 2014.



Susan B. Hackett
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 3rd day
of January, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.