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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Honorable Walton J. McLeod, IV, Circuit Court Judge

TIMIYA RASHAD MASSEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-001040

PETITION FOR WRIT OF CERTIORARI

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Trial counsel erred in dissuading petitioner from testifying at trial in the case because the deceased's death occurred during a shoot- out where multiple gunshots were fired from multiple people, and where there was insufficient evidence offered to prove that petitioner, who was neither masked nor armed nor identified as the one who fired the fatal shot was guilty as charged	3
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ISSUE PRESENTED

Trial counsel erred in dissuading petitioner from testifying at trial in the case because the deceased's death occurred during a shoot-out where multiple gunshots were fired from multiple people, and where there was insufficient evidence offered to prove that petitioner, who was neither masked nor armed nor identified as the one who fired the fatal shot was guilty as charged.

STATEMENT

Petitioner was convicted of murder, attempted murder, first degree burglary, kidnapping, possession of a weapon during the commission of a violent crime, and two counts of attempted armed robbery during a jury trial held at the November 2017 term of the Greenville County General Sessions Court before Judge Stilwell. Petitioner received a forty-year prison sentence. App. 1-459. Petitioner appealed, but his conviction and sentences were affirmed. See State v. Massey, Unpublished Opinion No. 2020-UP-020 (S.C. Ct. App. Filed January 29, 2020). The Supreme Court denied the petition for writ of certiorari on May 7, 2021.

On May 3, 2022, petitioner filed a PCR application with the Greenville County Office of the Clerk of Court. App. 461-468. The Respondent filed a timely Return, and on February 5, 2026, a PCR hearing was held at the Greenville County Courthouse before Judge Walton J. McLeod, IV. Petitioner was present at the hearing and represented by Isaac I. Johnson, Jr., and Assistant Attorney General Kylee Kanealey appeared on behalf of the state. App. 469-474; App. 476-544.

On March 24, 2026, Judge McLeod signed an Order of Dismissal therein denying post-conviction relief to petitioner. App. 547-559. Petitioner appealed. This petition follows.

ARGUMENT

Trial counsel erred in dissuading petitioner from testifying at trial in the case because the deceased's death occurred during a shoot-out where multiple gunshots were fired from multiple people, and where there was insufficient evidence offered to prove that petitioner, who was neither masked nor armed nor identified as the one who fired the fatal shot was guilty as charged.

On September 30, 2015, several masked who were armed arrived at a building complex in question and thereafter, multiple men entered an apartment where Haskell Nutridge and his brother Anthony Nutridge resided therein. According to the state's theory of the case, the men involved were driver Cornelius, Nyerere Williams, Terry Harris, and petitioner, and that the goal was to obtain marijuana from inside the apartment.

Haskell Nutridge testified that he and his brother Anthony Nutridge were in their apartment on the day in question when a knock at the door was heard. When the door was opened, the men entered asking for [marijuana]. Nutridge stated that he retrieved his gun and started shooting, and that one of the men standing over his brother started shooting also. Ultimately, the shooting stopped and his brother, who was injured by gunfire, subsequently died. Tr. 294, 1.4-p. 305, 1.15.

Terry Harris testified at trial and stated that he and the three men with him on that date were present at the scene, and that petitioner pointed a gun at a Nutridge's brother while asking for the dope, and that Nutridge then started firing gunshots at them. Tr. 316, 1.2-p. 329, 1.12.

Nyevere Williams testified that he did not see anyone get hit during the melee. App. 339, 1. 23 – p. 347, 1. 17.

Petitioner did not testify at trial.

The record indicates that Haskell Nutridge did not see or identify who shot his brother. Nutridge saw masked men only. Also, the solicitor testified at the PCR hearing that there was no definitive identification made or uncovered as to which male fired the fatal gunshot at Anthony Nutridge. App. 536, l.20 - p. 538, l.12. See the solicitor's closing arguments on the same regarding the matter of the shooter who fired the fatal shot. Tr. 398, lines 21-25; Tr. 406, lines 4-7. It is entirely possible that Haskell Nutridge's gunfire might have struck and killed Anthony Nutridge. The gunman who shot Anthony Nutridge was never identified in the case.

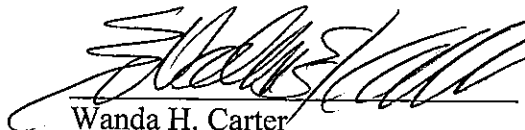
During the PCR hearing, petitioner testified that he wanted to testify in his defense at trial, but that trial counsel advised that his testimony was not necessary because the state had the burden of proof in the case. Nonetheless, petitioner stated that the outcome of the case would have been different had he testified on his behalf at trial because he would have explained that he was not in the apartment during the shoot-out, and that Terry Harris and Nyerere Williams pulled guns out on him, and fought and shot him outside the apartment building on that date. Petitioner stated that he was unmasked and unarmed when this incident occurred; and that because he did not testify at trial, he was unable to present his defense in the case and highlight lies told by state's witnesses. App. 487, lines 7-21; App. 489, l. 25 – p. 500, l.2; App. 513, lines 10-14; App. 529, lines 5-16.

The right to testify on one's behalf at a criminal trial is guaranteed by the Fifth, Sixth, and Fourteenth Amendments. State v. Riviera, 402 SC 225, 741 S.E.2d 694 (2013) citing to Rock v. Arkansas, 49 34, 544 (1987). Clearly, informing petitioner of the requirement of the state's burden to prove its case constituted incompetent advice by trial counsel given to petitioner as a reason why he need not testify in his defense at trial. The issue of whether petitioner should testify or not testify at trial required a more in-depth analysis that would have included an

assessment of the testimony of the state's witnesses and the state's evidence presented in comparison to the case for the defense. Here, in light of the fact that there were multiple shooters inside the apartment when the deceased was fatally shot, and where the shooters who were masked and armed were not credible witnesses who testified for the state in order to receive reduced sentences, and where petitioner was neither masked, nor armed, and nor inside the apartment where the shooting took place, and where no one could ascertain which male fired the fatal shot in the case, and where the fatal shot at issue might have come from the deceased's brother, who was armed and firing gunshots at the scene, all lended credence to petitioner's claim that he wanted to testify, (but was prohibited from testifying based on counsel's misadvice regarding the matter¹), and that the outcome of his trial would have been different had he testified at trial. Therefore, trial counsel erred in dissuading petitioner not to testify at trial in violation of the Sixth Amendment and Strickland v. Washington, 466 U.S. 668 (1984).

CONCLUSION

Based on the foregoing argument, counsel for petitioner would request that this Court grant the petition and allow full briefing on the above raised issue.


Wanda H. Carter
Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 16th day of September, 2026.

¹ Trial counsel is deceased.