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Sep 25 2026

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. SUPREME COURT

Certiorari to Beaufort County

G.D. Morgan, Jr., Circuit Court Judge

DELMAR R. SANDERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-001146

JOHNSON PETITION FOR WRIT OF CERTIORARI

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STATEMENT

On April 7, 2022, a Beaufort County grand jury indicted Petitioner for murder, attempted murder, and possession of a weapon during the commission of a violent crime. App. 958-963. On April 21, 2022, Judge Edward Miller presided over a pretrial hearing on Petitioner's motion for immunity under the Protection of Persons and Property Act¹ and denied the motion. App. 1; App. 123, l. 18. On August 22-25, Petitioner's case was tried before Judge Heath P. Taylor and a jury. App. 126; App. 713. Mary Jones and Samantha Molina represented the State, and Seth Paulk represented Petitioner. App. 1.

Trial

At trial, the State alleged Petitioner murdered Deonne McLendon and attempted to murder Rhonda Randall during a July 2021 roadside incident. App. 245-247. Petitioner contended he shot both McLendon and Randall in self-defense. App. 545; App. 558-568. The State relied upon eyewitness testimony from Randall to establish criminal intent regarding both offenses. Randall stated that just before the incident, she and McLendon were unarmed passengers in Petitioner's vehicle. App. 289, ll. 9-24. According to Randall, Petitioner was "driving crazy" and appeared "high and paranoid," so McLendon persuaded him to pull over and switch drivers. App. 288 l. 7 – 289 l. 25. As Randall and McLendon exited the vehicle, Petitioner abruptly shot them both and drove away. App. 289, l. 25 – 291, l. 11. Randall called 911; additional testimony showed that EMS responders treated both Randall and McLendon for gunshot wounds, and McLendon died at the scene. App. 270, l. 7 – 271, l. 24; App. 292, ll. 10-11. On cross-examination, Randall's testimony was heavily impeached with evidence of her (1) history of drug addiction, including a cocaine "binge" overlapping the shooting; (2) additional illegal activity the day of the shooting;

¹ S.C. Code Ann. § 16-11-450 (2015).

and (3) prior inconsistent statements regarding events of the shooting. App. 295-301; App. 303-334.

During the defense's case-in-chief, Petitioner testified that on the night of the shooting, he was out driving with McLendon and they both used cocaine. Petitioner eventually drove McLendon to a hotel where they met up with Randall. McLendon and Randall then insisted on riding along with Petitioner to visit an ATM, causing him to feel threatened. App. 527, ll. 14-16; App. 537, l. 22 – 538, l. 3; App. 544, l. 2 – 545, l. 13. Petitioner stated that en route to the ATM, he heard a strange thud in the vehicle and saw McLendon and Randall trying to “discreetly” pass a concealed item between them. Those observations indicated to Petitioner that he was being “ambush[ed],” so he pulled over. App. 551, l. 9 – 554, l. 21. Upon stopping, Petitioner observed a gun in McLendon's lap and McLendon told him to switch drivers. After both men stepped out of the vehicle, Petitioner “snatched” the gun and McLendon began “screaming” before “vigorously” coming towards Petitioner. App. 556, ll. 1-16; App. 562, ll. 1-17; App. 564, ll. 1-2. Fearing for his life, Petitioner fired two shots at McLendon—both aimed conservatively, outside center mass—before McLendon “r[a]n away,” leading Petitioner to believe McLendon was unhurt. App. 563, l. 16 – 564, l. 11. Petitioner then told Randall to exit the vehicle, but she refused and instead reached into her purse. In turn, Petitioner fired an initial “warning shot” before firing a second shot “at [Rhonda Randall] to get [her] out of the car.” He explained he immediately drove away from the scene in a panic but turned himself in to law enforcement the following morning. App. 566 l. 8 – 570, l. 4.

Later, an expert in forensic toxicology opined that McLendon had used cocaine “within at least three to five hours” before the shooting. App. 632; App. 648. Rhonda Randall's ex-husband

testified that Randall had once “attacked” him. He also stated that she had a reputation in the community for lying and other behaviors associated with drug addiction. App. 656-658.

Before the close of evidence, the trial court granted Petitioner’s motions to include jury charges on voluntary manslaughter and self-defense in addition to the indicted offenses. App. 723, l. 17 – 724, l. 5. Ultimately, the jury acquitted Petitioner of murder and attempted murder. However, despite the evidence undermining Randall’s credibility, the jury convicted Petitioner of voluntary manslaughter and the weapon offense.² App. 867, ll. 9 – 24. During sentencing, Petitioner’s mother and sister gave statements detailing Petitioner’s good character. App. 886-890. Petitioner provided a statement emphasizing that he considered McLendon “family” but “had to protect [him]self.” App. 891, ll. 14-23. The trial court remarked that “something funky was going on” at the time of the shooting “and nobody’s told the truth about that yet. And maybe that would have changed things, if we knew.” App. 894, l. 17 – 895, l. 1. It then sentenced Petitioner to consecutive terms of thirty years’ imprisonment for voluntary manslaughter and five years’ imprisonment for the weapon offense. App. 895, ll. 2-9. Petitioner’s direct appeal was dismissed by the Court of Appeals in 2024. App. 904-905.

Post-conviction relief proceedings

On January 14, 2025, Petitioner filed an initial application for post-conviction relief alleging grounds for trial counsel’s ineffectiveness. App. 897. On August 29, 2025, the State filed a return. App. 904. On January 7, 2026, counsel for Petitioner filed an amended PCR application alleging additional grounds for ineffectiveness including that trial counsel failed to present mitigating evidence during sentencing. App. 909-910. On the same day, Judge G.D. Morgan, Jr.

² During jury deliberations, upon the jury’s request, the trial court re-charged the jury on murder, voluntary manslaughter, and self-defense. App. 860-865.

presided over an evidentiary hearing on Petitioner's amended application. App. 911. Chelsey Marto represented Petitioner, and Kylee Kanealey represented the State. App. 911. On May 8, 2026, Judge Morgan filed an order denying Petitioner's application. App. 945-946. This petition follows.

ARGUMENT

The PCR court erred in finding trial counsel was not ineffective for failing to present mitigating evidence to the trial court.

Introduction

The PCR court's finding against trial counsel's ineffectiveness on this issue is unsupported by the facts in Petitioner's case or the evidence before the PCR court. At the PCR hearing, Petitioner presented testimony from his uncle, Herbert Glaze, who stated he had asked to speak at Petitioner's sentencing but did not receive an opportunity. App. 931, ll. 23-25. Glaze testified that Petitioner called him while driving away from the scene, still afraid and by then uncertain of his surroundings. App. 932, ll. 17-25. He explained Petitioner was already amenable to turning himself in during the call. App. 933, ll. 1-6. Additionally, Glaze indicated Petitioner would do the right thing and maintain his composure during a conflict; the altercation with McLendon was simply beyond his control. App. 933, l. 12 – 934, l. 23. Regarding mitigation efforts, trial counsel testified that Petitioner's mother and sister addressed the trial court on Petitioner's behalf, and he had discussed with Petitioner whether Petitioner wanted to speak at sentencing. App. 938, ll. 5-10. On cross-examination, trial counsel acknowledged there were "several people" Petitioner wanted him to call and that "there was a lot of additional evidence that we gathered." App. 940, ll. 13-15. Despite Glaze's testimony, the PCR court found trial counsel's testimony on this issue was credible *and* that Petitioner had failed to identify "what more he wished [trial] counsel had presented in mitigation." App. 955-956. Consequently, it determined Petitioner failed to prove either deficiency or prejudice. App. 956.

Discussion

Trial counsel was ineffective for failing to present Glaze's mitigation testimony because the testimony would have favorably impacted Petitioner's sentence. The appellate court will uphold the PCR court's factual findings "if there is evidence in the record to support them." Smalls v. State, 422 S.C. 174, 180, 810 S.E.2d 836, 839 (2018). It reviews questions of law "de novo, with no deference" to the PCR court. Id. at 180-181, 810 S.E.2d at 839. "The Sixth Amendment of the United States Constitution guarantees a criminal defendant the right to effective assistance of counsel." Rivers v. State, 446 S.C. 1, 10, 916 S.E.2d 335, 340 (2025). In order to establish a claim for ineffectiveness of trial counsel, a PCR applicant must show (1) "counsel's representation fell below an objective standard of reasonableness" under prevailing professional norms, and was thus deficient; and (2) counsel's deficiency prejudiced the applicant's case such that but for the deficiency, there exists a reasonable probability the outcome of trial would have been different. Strickland v. Washington, 466 U.S. 668, 687-88, 690, 694 (1984). "A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence." McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008).

The PCR court erroneously found Petitioner had not shown trial counsel was ineffective for failing to present mitigating evidence. First, Petitioner clearly identified the mitigating evidence at issue by calling Glaze to provide live, in-person testimony at the PCR hearing. See Tappeiner v. State, 416 S.C. 239, 248, 785 S.E.2d 471, 476 (2016) (indicating allegations alone do not warrant relief but must be shown by a preponderance of the evidence). In finding Petitioner failed to identify the evidence, the PCR court entirely disregarded the fact of Glaze's testimony.

Second, Glaze's testimony carried significant weight in sentencing because it reinforced Petitioner's assertion that he shot McLendon in response to a deadly threat—not under any

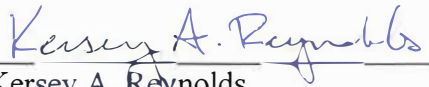
circumstances proscribed by statute. Moreover, unlike the testimony from Petitioner's mother and sister, Glaze's testimony provided insight into Petitioner's frame of mind immediately after the shooting. At the PCR hearing, Glaze stated he had affirmatively requested to speak at Petitioner's sentencing. However, trial counsel did not identify any reasonable explanation for withholding Glaze's favorable testimony during sentencing. App. 931, ll. 23-25; App. 938, ll. 5-10. Therefore, trial counsel's omission of Glaze's testimony was deficient. See Strickland, 466 U.S. at 687-88 (identifying deficiency where counsel's representation falls "below an objective standard of reasonableness"); McKnight, 378 S.C. at 46 ("A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence.").

Third, Glaze's testimony would likely have tipped the scales to a lesser sentence. Throughout trial, Petitioner consistently maintained he shot McLendon in self-defense and exercised restraint in firing. Expert opinion showed McLendon had cocaine in his system at the time he posed a deadly threat to Petitioner. The only evidence of criminal intent came from Randall's testimony, which was so unreliable that—despite uncontroverted evidence of her gunshot wound—the jury declined to convict Petitioner of her attempted murder. After receiving the verdict, the trial court went so far as to recognize that the State's case failed to shed light on "something funky" underlying the incident, and that some clarification of what really happened perhaps "would have changed things" for Petitioner. App. 894, ll. 17-25. Given such circumstances, Glaze's testimony indicating Petitioner was motivated by fear instead of criminal intent weighed heavily in favor of mitigation. For that reason, there exists a reasonable probability that Petitioner would have received a lesser sentence but for trial counsel's failure to present Glaze's testimony. See Strickland, 466 U.S. at 690-94 (identifying prejudice where but for counsel's deficiency, a different trial outcome was reasonably probable). Therefore, trial counsel's

failure to submit Glaze's testimony during sentencing caused prejudice against Petitioner. Accordingly, evidence before the PCR court showed trial counsel's ineffective mitigation effort warrants a new trial to allow Petitioner to receive effective assistance of counsel.

CONCLUSION

Based upon the foregoing, Petitioner respectfully requests that this court reverse his conviction and remand his case for a new trial.


Kersey A. Reynolds
Appellate Defender

ATTORNEY FOR PETITIONER

This 25th day of September, 2026.

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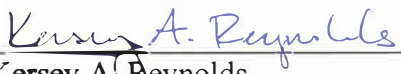
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Delmar Racory Sanders states:

1. She is an 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 G.D. Morgan, Jr., which was held on Jan. 7, 2026, 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 Delmar Racory Sanders.

Respectfully Submitted,


Kersey A. Reynolds
Appellate Defender

ATTORNEY FOR PETITIONER

This 25th day of September, 2026.

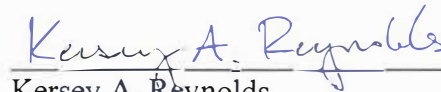
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CERTIFICATE OF COUNSEL

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 25th day of September, 2026.