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S.C. SUPREME COURT
October 5, 2026

Ms. Wanda Carter
Chief Appellate Defender
Post Office Box 11589
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SC Court of Appeals

In re: State v. Antonio R. Lee
Appellate Case No. 2026-001206

Dear Ms. Carter;

Enclosed, please find this response to the State's appeal from the grant of Post-Conviction Relief, ordered on February 26, 2026. And items in which I'm deeply concerned with, that needs addressing in a reply brief from Appellant.

First thing, the PCR Court in granting relief did so under a single claim contained within the PCR application. Which of course, was in our favor. However, in so doing, "the Court failed to resolve all remaining grounds for relief in accordance with §17-27-80's "finding of fact and conclusions of law". See State v. Pruitt, 423 S.E.2d 127 (1992); see also Fishburne, 427 S.C. 505, 832 S.E.2d 584 (S.C. 2019); S.C.R.Civ.P., Rule 52(a) ("In ruling on a PCR Applicationh, the [PCR] court shall make specific findings of fact, and state expressly its conclusion of law, relating to each issue presented"). §17-27-80 (2014).

Therefore, in the event of any type or kind of adverse opinion in the future, we would need to have the remaining issues resolved.

Appearing at pages "503 to 538" in the record before this Court.

Nevertheless, since the PCR Court did grant relief on February 26, 2026. Concluding that "trial counsel was ineffective for failing to object to the trial court's instructions on "inference" of an essential element of the crime charged. It felt it was unnecessary, since relief had been granted, to resolve any other claims.

But, "now comes the State, appealing the PCR Court's decision with the following question which Petitioner here will address":

"Whether the post conviction relief court erred as a matter of law in finding trial court's representation was ineffective for failure to be clairvoyant and anticipate changes in the law, where that finding is expressly contradicted by the precedent set by the South Carolina Supreme Court?"

Captioned here, the Respondent being you and I. Coupled with I am not at all being negative concerning chances of prevailing in the Supreme Court. Yet, I do feel a need to respond addressing the above question in the following fashion.

Griffin v. Kentucky, 479 U.S. 314 (1987)

We both are aware of the conclusion that cases not yet final on appeal may reap the benefit of retroactivity when a new case altering or changing existing law is decided. However, the dispute

here involves; "whether the change between Adams and Stewart, represents 'an old error' rather than 'a new error'". Dealing with "inferring guilt (which lessens the burden of proof", as opposed to "proof beyond a reasonable doubt", as always been the Sixth Amendment requirement under the United States Constitution. See In re Winship, 397 U.S. 358 (1970)("Reasonable-doubt standard of criminal law has constitutional stature, and due process clause protects accused against conviction except upon proof beyond reasonable doubt of every fact necessary to constitute crime with which he is charged").

Thus, the PCR Court correctly determined, "not just based on any 'clairvoyant argument relied on by the State'. But instead, on the overwhelming history under the Constitution, requiring "proof beyond a reasonable doubt", of any fact necessary to constitute the crime with which one is accused. And after Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct. 2348 (2000), such required proof extended to sentencing factors also.

So that the PCR court's conclusion relied on the facts; "the legal principle of 'possession' requires trial courts to instruct juries on 'both elements' from Ellis, Brown, Lane and Hudson, in constructive trafficking cases". Ellis v. State, 263 S.C. 12 (1974); State v. Brown, 267 S.C. 311 (1976); State v. Lane, 271 S.C. 68 (1978); and State v. Hudson, 277 S.C. 200 (1981).

As such, the two "qualifying and essential elements of South Carolina's trafficking statute, as it related to 'constructive possession'". §44-53-370. Is One; "the State must prove beyond a rea-

sonable doubt the defendant had either 'actual physical custody of the drugs, or the right or power to exercise control over the drugs". Hudson, Id. Second, "the State must also prove 'beyond a reasonable doubt', the defendant 'had actual knowledge of the drugs and the intent to control their disposition" or use!

The PCR Court properly determined, in the instant case at bar. That South Carolina Courts in general, "should have never 'extrapolated from Adams, as expounded upon in Stewart, they could instruct juries "infer knowledge or possession when a substance is found on property where the defendant resides".

When using the term; "should have never". Such takes away from the State's dependency word 'clairvoyance', where there's no reliable argument that a lawyer must have special powers to look into the future, for knowledge or science of law he should already possess. Thus, the clairvoyance argument the State relies on has no legal merit.

Moreover, the PCR Court clearly outlined; "Applicant was a transient resident at a home shared with multiple adults, who were apparent users themselves". Indicating, "without proof beyond a reasonable doubt". Who's to say the fact the drugs could belong to another permits an inference of such an important fact?

For these reasons, the Supreme Court must assess the PCR court's findings for "abuse of discretion".

With the South Carolina Supreme Court applying the "abuse of discretion" standard. See Love v. State, 428 S.C. 231, 834 S.E.2d 196 (S.C. 2019). This review depends on the specific issues raised before the court in PCR cases. And the Court defers to a PCR finding of fact and will uphold them if there is any evidence to support the finding in the record. See Sellner v. State, 416 S.C. 606, 787 S.E.2d 525 (2016)(citing Jordan v. State, 406 S.C. 443 (2013)).

The PCR court in the instant case at bar eluded to the specific rights of a criminal defendant at trial, "that should have objected when and where ever a defendant is at risk of being convicted on a lesser burden of 'proof beyond a reasonable doubt'", This in the PCR court's assessment, never depended on subsequent case decisions, in order for a trial attorney to effectively object to "any inferred guilt".

Instead, the PCR court took the common sense approach as opposed to the trial attorney not required to have 'clairvoyance'. First, Petitioner was a transient resident. Second, "others in close proximity had equal access to the substance found". An instruction "to infer possession, rather than proving possession beyond a reasonable doubt". Falls too short of the constitutional demand under existing laws when Petitioner met the trial of his case. See Jones v. U.S., 526 U.S. 227, 119 S. Ct. 1215 (1999)

Under South Carolina law, §44-53-370, there is two types of possessions for controlled substance offenses. "Actual or Constructive". State v. Stewart, 433 S.C. 382 (S.C. 2021). Yet Stewart did not establish in 2021, what constitutes either. Since at least the 1970's, In re Winship, proof beyond reasonable doubt has been mandated by the United States Constitution's due process clause.

Therefore, Ms Carter, leaving nothing to chance dealing with (1) "in the event of an adverse decision, Petitioner is entitled to 'One PCR', which answers all claims raised. And (2), the enclosed argument which discounts the State's suggestion the PCR court's ruling required counsel to have 'clairvoyance', rather than 'intelligence in the science of law'.

For these specific reasons, I would ask that a response be submitted to address the State's writ of Certiorari. Thank you in advance.

Respectfully Requested,

/s/

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cc: S.C. Att. Gen.
filed
10/4/2026

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