



- d. Counsel unprepared for trial;
  - e. Counsel “opened the door” to prior bad act evidence;
  - f. Failure to request a jury charge on voluntary manslaughter; and
  - g. Failed to exclude harmful witnesses.
3. Applicant filed a Petition for Writ of Certiorari arguing that counsel was ineffective in failing to request a jury charge on involuntary manslaughter. This issue was not addressed in the trial court’s current order of dismissal and therefore would not be preserved for appeal.
  4. Undersigned counsel was present at the PCR hearing on October 27, 2010. The transcript of the PCR hearing reflects that Petitioner complained of Counsel’s failure to reflect a jury charge on *voluntary* manslaughter. (App. p. 301, line 22 – p. 302, line 7.) According to memory of the case and handwritten notes taken by the undersigned at the hearing, Petitioner actually complained of Counsel’s failure to request a charge on *involuntary* manslaughter. (Attachment A – p. 2, line 3 of handwritten notes.) Undersigned counsel specifically recalls researching the issue of involuntary manslaughter and also tasked another attorney or clerk with research on this issue.
  5. In preparing to respond to the Petition for Certiorari, the undersigned attempted to procure tapes from the hearing to resolve this issue, but tapes have been destroyed. (Attachment B.)
  6. The PCR application contains an allegation that Counsel failed to request a charge on involuntary manslaughter. (App. pp. 277-279.) Further, a charge on voluntary manslaughter was in fact given during the trial, so an allegation raising failure in to request the charge seems illogical. (App. p. 218, line 23 – p. 220, line 22.)

7. Based on the foregoing, it is the undersigned's belief that the PCR court transcript is in error in p. 301, line 22 – p. 302, line 7 and should reflect that Petitioner stated "involuntary manslaughter" and not "voluntary manslaughter."
8. The State filed a Motion to Remand for Motion Pursuant to Rule 60, SCRCP, and Request to Hold in Abeyance in the South Carolina Supreme Court. In an order dated January 6, 2014, the Supreme Court granted this motion. (Attachment C.)

Based on the foregoing, Respondent now moves this Court, pursuant to Rule 60(b)(1), SCRCP, to vacate the final order of dismissal in this case and amend its order to address Applicant's allegation of ineffective assistance of counsel for failure to request a jury charge on involuntary manslaughter.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN RATIGAN  
Assistant Deputy Attorney General

MARY S. WILLIAMS  
Assistant Deputy Attorney General

P.O. Box 11549  
Columbia, S.C. 29211

By:

  
Attorneys for Respondent

January 30, 2014

A

10/27/10

① [redacted] - SCOTT Robinson,  
relieve job

② [redacted] - consent to blood test  
appeal v. Janet

③ [redacted] - w/D  
through inquiry

④ [redacted] w/D  
through inquiry - will be released in 90 days

⑤ [redacted] MTD

⑥ [redacted] wants to win.  
his max out in 2013, he went thru 3 trials,  
if successful he'd face this again

⑦ Raphael Sumant (Judge)

- motion to cont. based on what someone from

at admin to talk @ indict done

- Trial Applicant

- tried to hire private atty

- Grand Jury process - they indicted me right -

there wasn't 65 then

- He opened door ? ?

- I asked him to subpoena people & he said

it only subpoena him (2x)

- Bad acts - opened doors for duty deal evidence.
- Fall object to golden Rule arg. by solicitor.
- Fall request invol. manslaughter.
- Said to hire Chandler, told Mr. Devoe.
- Failed to properly submit & guest/duty to submit.
- Impeachment of witness - I told him the guy had changes, he said he could've gotten - Lansen

- Start dump - I recall  
 - Recall is chg. 222

- 1702 Harry Devoe

approx Sept 05. Trial Mar. 06

pleim hearing - he made statement to Cutler & duty deal

No plea negotiations - he told me Chandler slowed down my seeing him - memo in file & fee & paid to Chandler

Self-defense - the V was approaching, they had a fight @ drug store made it critical - I see it that way -  
 he left

no ? @ gun - V had stick, conflicting instr. Den had stick earlier -

State v Gibson  
 For [unclear]  
 [unclear]

Have walked case you & went off court  
was at listening a self-defense  
charge - v.m. duty of value

SC - 18 years, 15 years w/ PD work

met him <sup>Sept 30</sup> Nov 5 picnic 10/11, go to jail  
a det.

Would expect politician to give us care

He volunteered to, gave him - si -

primary - self defense, social goods

(8)

[redacted]  
- motion to allow counsel - went to subpoena  
w/ witnesses. He talked to Scott Robinson  
Jules says investigator & Robinson say  
witness is of no use. Investigator Benny Webb  
came to see me - all did and type up all  
conversation. He + do investigation

- Brooks is released - you can bring gun  
or go M.D. se

**B**

1

**Mary Williams**

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**From:** Allen, Desiree <[REDACTED]@[REDACTED].org>  
**Sent:** Tuesday, October 22, 2013 9:34 AM  
**To:** Mary Williams  
**Subject:** RE: Raphael Briggs

Yes, the tapes are no longer available 30 days after the transcript is delivered. We adhere strictly to Rule 607 when dealing with CR records. To do otherwise, would create a huge storage issue.

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**From:** Mary Williams [mailto:[REDACTED]@[REDACTED].gov]  
**Sent:** Tuesday, October 22, 2013 9:24 AM  
**To:** Allen, Desiree  
**Subject:** Raphael Briggs

Ms. Allen,

I don't believe we've spoken since I was a law clerk a few years ago, but I am following up on a question I had in the PCR case of Raphael Briggs taken by Dianne Rutledge on October 27, 2010 (case number 2009-CP-14-0023). It is my understanding that the tapes of these hearings may be destroyed after they are transcribed. The reason I am following this up is that I believe there may be an error (see attached) and I think it would be dishonest for me to not bring that to the court's attention in my Return to Petition for Certiorari. Can you tell me if the tapes in this case were destroyed? If not, I would like to try to replay just this portion to see whether I mistook what the Applicant said.

Thank you so much for your time, and I am sorry to trouble you with this.

Best regards,

Mary S. Williams  
Assistant Attorney General  
Post-Conviction Relief and Criminal Appeals  
PO Box 11549  
Columbia, South Carolina 29211-1549  
Telephone: (803) 734 -3737 or (803) 734-3752



ALAN WILSON  
ATTORNEY GENERAL

August 19, 2013

Desiree Allen  
South Carolina Court Administration  
1015 Sumter Street, Suite 200  
Columbia, SC 29201-3739

Re: Ralphael Lamont Briggs #314499 v. State of South Carolina  
Circuit Court Case No. 2009-CP-14-0023 / Appellate Case No. 2012-213670

Dear Ms. Allen,

I am working on the State's Return to Petition for Writ of Certiorari in the above-referenced matter. I also represented the State at the PCR hearing on October 27, 2010. While I was deployed, this office ordered a copy of the hearing transcript which is now part of the appellate record. The transcript was taken by Dianne Rutledge. On p. 7, line 24 - p. 8, line 5 (copy attached), reference is made to defense counsel's failure to request a jury charge on voluntary manslaughter. I recalled the allegation at the hearing to be that counsel failed to request a charge on involuntary manslaughter, and Briggs' written application also alleges failure to request a charge on involuntary manslaughter, making no mention of voluntary manslaughter.

This issue is now central to the appeal. Are the tapes of this hearing still available? If so, would you be able to review them to ensure that the hearing testimony was indeed voluntary, not involuntary, manslaughter?

I thank you in advance for your time and assistance in this matter.

Best regards,

  
Mary S. Williams  
Assistant Attorney General

Enclosure

1 Q What was that last part?

2 A Deflame evidence.

3 Q Okay. And can you elaborate on that?

4 A He -- he -- he opened the doors because he -- he like  
5 -- he's saying that I was drug -- you know, a drug dealer  
6 like this. He sell prior -- you know, he sell -- produce.  
7 So that opened the door for them.

8 Q So what you're saying is you felt that it prejudiced  
9 you by making a reference to drug dealing; is that correct?

10 A Yes, sir.

11 Q Okay. All right. Anything else?

12 A Yes. He -- he -- he -- the trial counsel failed to  
13 object to the state going -- going into argument and laying  
14 aside challenging the deflame, and prejudice and passion of  
15 the jury.

16 Q Okay. You're saying that the solicitor made certain  
17 comments that trial counsel did not object to?

18 A Yes, sir.

19 Q Okay. You felt that prejudiced you in the trial, and  
20 that was improper; is that correct?

21 A Yes, sir.

22 Q All right. Any other issues in regards to Mr. Devoe's  
23 representation?

24 A He failed to request a jury charge of voluntary  
25 manslaughter.

MR. BRIGGS -- Direct by Mr. Brooks

8

- 1 Q In this case you were found guilty of murder?
- 2 A Yes, sir.
- 3 Q Okay. And you felt that he should have asked for a  
4 lesser-included offense of voluntary manslaughter?
- 5 A Yes, sir.
- 6 Q All right. And he didn't do that; is that correct?
- 7 A No, sir.
- 8 Q Now, wasn't there certain things that came up during  
9 the trial in the course of certain conversations you had  
10 with Mr. Devoe that you wanted to tell the Judge about?
- 11 A Yeah. Like, he was like -- the same thing I was  
12 telling you about when he was like when he first came in  
13 here, I was like, he ain't come see me, and I asked him  
14 why. He was like -- the same thing I was saying a few  
15 minutes ago. He was like -- I said you ain't need me  
16 because you had somebody come see you, you know what I'm  
17 saying. So I was like, that ain't got nothing to do with  
18 me. I'm in jail, you know what I'm saying.
- 19 Q How long did you have Mr. Devoe as your attorney  
20 before going to trial?
- 21 A About 5 months; that's all I know. And I seen him  
22 maybe one or two time maybe.
- 23 Q Okay. All right. You had no bond; is that correct?
- 24 A I never went up for bond or nothing.
- 25 Q So from the time you were arrested, until the time you

Ralpheal Lamont Briggs vs. State

C

# The Supreme Court of South Carolina

Raphael Lamont Briggs, Petitioner,

v.

State of South Carolina, Respondent.

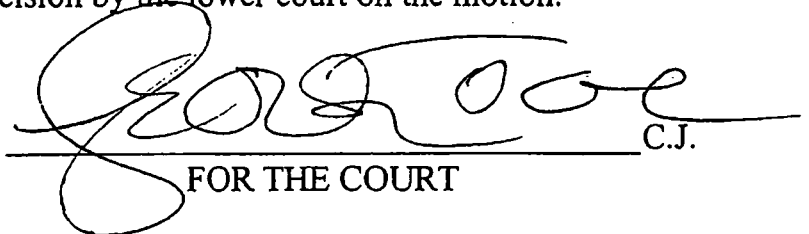
Appellate Case No. 2012-213670

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## ORDER

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This matter is pending before this Court by way of a notice of appeal from the denial of petitioner's application for relief. The State has filed a "Motion to Remand for Motion Pursuant to Rule 60, SCRCP and Request to Hold in Abeyance." Petitioner does not object to the motion. We hereby grant leave for a motion to be made before the lower court pursuant to Rule 60(b), SCRCP. The motion shall be made within thirty days of the date of this order. This matter shall be held in abeyance pending a decision by the lower court on the motion.

  
C.J.  
FOR THE COURT

Columbia, South Carolina

January 6, 2014

cc:

Wanda H. Carter, Esquire

Mary Shannon Williams, Esquire

The Honorable Bertha S. Roberts

The Honorable W. Jeffrey Young

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CLARENDON )  
 )  
 )  
 )  
RALPHAEL LAMONT BRIGGS, 314490, )  
 )  
Applicant, )  
 )  
vs )  
 )  
STATE OF SOUTH CAROLINA, )  
 )  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS

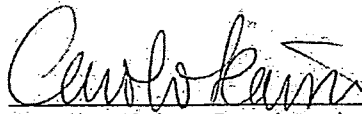
2009-CP-14-0023

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Motion Pursuant to Rule 60, SCRCP** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Charles T. Brooks, III, Esquire**  
**Law Office of Charles T. Brooks, III**  
**309 Broad St.**  
**Sumter, SC 29150**

DATED this 3<sup>rd</sup> day of February, 2014.

  
Caroline Kaiser, Legal Assistant  
For Respondent



ALAN WILSON  
ATTORNEY GENERAL

February 3, 2014

**RECEIVED**

FEB 03 2014

**S.C. Supreme Court**

The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29211

**Re: Raphael Lamont Briggs v. State of South Carolina**  
**Appellate Case No. 2012-213670**  
**Lower Court Case No. 2009-CP-14-0023**

Dear Mr. Shearouse:

Enclosed please find a courtesy copy of the Motion filed pursuant to this Court's order January 6, 2014.

Sincerely,

Mary S. Williams  
Assistant Attorney General  
SC Bar No. 76192

MSW/ck

cc: Wanda H. Carter, Esquire