ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Kershaw County

Clifton Newman, Circuit Court Judge

WILLIAM LARRY CHILDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213543

PETITION FOR WRIT OF CERTIORARI

DAVID ALEXANDER
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INDEX

ISSUES PRESENTED

1.

Whether trial counsel rendered ineffective assistance in violation of petitioner's Sixth Amendment rights by representing petitioner despite a conflict of interest, against petitioner's wishes, failing to fully and timely raise these issues to the trial judge?

2.

Whether trial counsel rendered ineffective assistance in violation of Petitioner's Sixth Amendment rights by failing to have evidence obtained from an illegal search suppressed?

3.

Whether trial counsel rendered ineffective assistance in violation of Petitioner's Sixth Amendment rights by failing to prevent him from undermining his own credibility with the jury when he testified that he told the police that he needed to stop talking and get a lawyer?

STATEMENT

Petitioner was indicted by a Kershaw County Grand Jury for murder, assault with intent to kill, and discharging a firearm into a building. App. 51, l. 17 – 52, l. 7. On September 18-20, 2001, petitioner was tried before the Honorable J. Ernest Kinard, Jr. and a jury. App. 1. R. Knox McMahon and John P. Meadors represented the State. App. 1. W. Glenn Rogers, Jr. represented petitioner. App. 1. The jury convicted petitioner on all charges. App. 719, l. 24 – 720, l. 21. Judge Kinard sentenced petitioner to life imprisonment for murder and concurrent terms of ten years' imprisonment on the other two charges. App. 726, l. 13 – 727, l. 5.

Petitioner's conviction was affirmed in part and reversed in part by the Court of Appeals. App. 728. State v. Childers, 358 S.C. 614, 595 S.E.2d 872 (Ct. App. 2004). The Supreme Court granted certiorari and, reversing the Court of Appeals in part, affirmed petitioner's conviction. App. 733. State v. Childers, 373 S.C. 367, 645 S.E.2d 233 (2007). On November 13, 2007, the United States Supreme Court denied certiorari. App. 756.

On October 14, 2008, petitioner filed a PCR application. App. 741. On April 16, 2010, a hearing was held before the Honorable Clifton Newman. App. 841. Brian Petrano represented the State. App. 841. Jeff Bloom represented petitioner. App. 841. On August 15, 2011, Judge Newman denied petitioner's application. App. 962. On September 1, 2011, petitioner filed a motion to alter or amend the judgment. App. 981. On June 1, 2012, Judge Newman held a hearing on petitioner's motion. App. 1006. On December 3, 2012, Judge Newman denied the motion. App. 1057. This petition follows.

ARGUMENT

After opening statements and testimony from six of the State's witnesses—including all of the fact witnesses—the jury sent out a most unusual question. App. 327, ll. 7 – 10. A juror asked, "Did the defendant plead guilty or not guilty? Did I miss this or will it come later?" App. 327, ll. 7 – 10. The jury likely had no idea that the defendant, William L. Childers ("Childers") pled not guilty because trial counsel had not prepared for trial and had no idea of the theory of his case. After jury selection, he claimed that "just today" Childers told him that he acted in self-defense. App. 100, ll. 13 – 20. Trial counsel admitted to the court that "up to this point we haven't really had a theory of defense." App. 101, ll. 4 – 7. Trial counsel failed to mention anything regarding self-defense during his three-page opening statement. App. 123, l. 13 – 126, l. 21. Trial counsel went ahead with his representation of Childers despite not knowing anything about Childers' defense and over Childers' objection because Childers perceived a conflict of interest. Trial counsel previously prosecuted Childers and also previously represented the victim's brother—the State's first non-police witness in the trial. App. 93, l. 20 – 97, l. 24.

1.

Trial counsel rendered ineffective assistance in violation of petitioner's Sixth Amendment rights by representing petitioner despite a conflict of interest, against petitioner's wishes, and failing to fully and timely raise these issues to the trial judge.

Relevant Facts

Childers' Testimony

Childers testified in his own defense. He was engaged to Tammy Munn ("Munn"). App. 514, ll. 9 – 11. They lived together. App. 514, ll. 16 – 19. They had a disagreement and she moved to her mother's house. App. 515, l. 15 – 517, l. 13. Childers moved in with a friend. App. 516, ll. 4

– 7. Childers and Munn still talked and visited. App. 517, l. 14 – 518, l. 18. Munn gave Childers hope they would reconcile. App. 526, ll. 1 – 5.

On a Saturday night in October, Childers went to a turkey shoot. App. 529, ll. 7 – 11. He left early because he had a confrontation with Munn. App. 529, ll. 14 – 16. He also had a confrontation with Darrell Dowey. App. 529, ll. 12 – 16. Dowey was Munn's sister's ex-husband. App. 293, l. 23 – 291, l. 11. Mary White ("White") was Munn's sister and Dowey's ex-wife.

Childers went to several other places and then, at approximately 3:30 AM on Sunday morning, went to Munn's mother's house. App. 531, ll. 16 – 21. He saw Munn, White, and Dowey standing outside talking. App. 533, ll. 19 – 23. Childers wanted to talk with Munn because of their earlier disagreement and he wanted "to clear that up." App. 534, ll. one – 7. Childers waited to see if they would go inside and smoked a cigarette. App. 533, l. 22 – 535, l. 4.

Childers had walked to the house and carried a .38 pistol in his pocket because he was worried about dogs. App. 537, ll. 8 – 18. Childers then approached the group. App. 537, ll. 19 – 21. He described what happened next:

> [White] saw me first and she took off running. [Dowey] said something and shot at me. I shot back. I took the gun out and shot back and run in front of the house back toward where– the woods, and I was shooting back behind me. The door opened and I shot at the door and I ducked down behind the porch and unloaded my gun and looked to see if I seen [Dowey] any more, and I didn't see him, so I run to the next house over and stayed there and heard the truck, I heard them get in the truck, so I reloaded my gun because I thought maybe they would come around the road where I was going to have to go.

App. 538, ll. 2 – 15. Childers did not approach the house with the gun in his hand. App. 537, ll. 19 – 21. He only took it out of his pocket after Dowey fired at him. App. 537, l. 22 – 538, l. 16. He testified the only reason he fired was "because I was shot at." App. 542, ll. 18 – 19. Childers

denied being at the residence prior to approaching the group and being shot at by Dowey. App. 568, l. 11 – 569, l. 3.

Testimony from Munn's Family

Munn's family's version of events differed greatly from Childers' testimony. Tim Staples ("Staples") was Munn's younger brother. App. 175, ll. 2 – 3. Staples arrived at his mother's house at approximately 2:50 AM. App. 176, ll. 11 – 18. He claimed he heard footsteps in the woods. App. 177, ll. 14 – 23. He looked near a school bus parked in their yard and claimed he saw Childers. App. 178, l. 5 – 179, l. 15. He called 911. App. 180, ll. 8 – 10. The sheriff's deputy was dispatched, but found nothing. App. 181, l. 13 – 182, l. 5. Staples went to bed. App. 182, ll. 1 – 2.

White, Munn's sister, agreed they had seen Childers at a turkey shoot that evening. App. 246, ll. 2 – 7. When she, Dowey, and Munn returned home from the turkey shoot, they saw Staples in the yard talking with 911 on the telephone. App. 253, ll. 12 – 17. White also claimed that she saw Childers. App. 254, ll. 12 – 21. White, Dowey, and Munn stayed in the yard after the deputy left. App. 262, ll. 4 – 5. They were "standing there talking, letting [Munn] vent." App. 264, ll. 4 – 7. White and Dowey claimed that Childers suddenly appeared and shot Munn in the head. App. 265, ll. 2 – 7. App. 310, ll. 4 – 5. White ran towards the house and claimed that Childers fired at her twice. App. 266, ll. 11 – 23. Dowey ran to his truck to get his gun. App. 312, ll. 4 – 13. Childers walked toward the woods and Dowey gave chase in his truck. App. 313, l. 11 – 315, l. 10. Dowey did not find him. App. 315, ll. 11 – 12.

How the Conflict of Interest Arose at Trial

Before the trial started, the trial court conducted a Blair hearing. App. 8, ll. 7 – 10. The State called Doctor Jeffrey Musick. App. 9, ll. 8 – 12. Musick met with Childers three times during the month of August 2001. App. 16, ll. 5 – 12. Rogers did not attend Childers' first meeting with

Musick. App. 16, l. 18 – 17, l. 8. After being advised of his rights, Childers told the doctors he did not want to continue without his lawyer. App. 18, ll. 3 – 10. The evaluation was terminated at that point. App. 18, ll. 9 – 10. Rogers attended the rescheduled evaluation, but left the room after Childers had been advised of his rights. App. 19, l. 25 – 20, l. 9. App. 23, ll. 3 – 10. Rogers waited outside the interview room because "it was his preference to do so" and not because he was excluded by the doctors. App. 23, ll. 3 – 13. Childers told the doctors that he did not know Rogers "very well at that point in time." App. 24, l. 25 – 25, l. 7. Childers was uncertain whether the State was seeking the death penalty. App. 27, ll. 7 – 21.

Rogers assumed the contract to be the Kershaw County public defender on July 1, 2001. App. 887, l. 21 – 888, l. 18. He inherited "hundreds" of cases and "probably had 40 clients in the detention center all of which were coming to court in July, August and September." App. 888, ll. 2 – 13. After jury selection, Rogers told the trial judge, "[U]p to the days leading today's date of trial, I have been pretty much consumed with other matters. I don't know that Mr. Childers is comfortable that we have spent enough time together." App. 90, l. 23 – 91, l. 2. Contradicting himself, Rogers then told the court that he was "intimately familiar with [Childers'] file in the discovery package." App. 91, ll. 3 – 6. He then moved "to have the trial postponed." Tr. 91, ll. 7 – 10. After prompting from the trial judge, he told the court that Childers had disclosed something to him during the lunch recess that could be a possible defense. App. 92, l. 19 – 93, l. 10.

Rogers then informed the court that he prosecuted Childers in 1991. App. 93, l. 22 – 94, l. 16. Rogers also told the court that he had "previously done some work" for the victim's family. App. 94, ll. 17 – 22. Rogers said this work was "primarily in regards to Tim Staples." App. 94, l. 17 – 22. The trial court told Childers that he needed to have raised any problems he had with Rogers' representation "prior to now really since you've known it, but if you have a problem with it,

you need to tell us now." App. 95, ll. 3 – 10. After a pause, Rogers replied for Childers that he did "not feel comfortable at this point with my previous relationship with the State and as a prosecutor against him." App. 95, ll. 12 – 15.

The trial court asked Childers why he was uncomfortable. App. 95, l. 16 – 17. Childers replied that the only previous time he had seen Rogers was when he was told he was going to be evaluated. App. 95, ll. 18 – 22. He told the trial court that he did not "feel like that I've had adequate counsel, and I would like to fire Mr. Rogers." App. 96, ll. 1 – 3. Childers also told the court that he wanted Rogers removed because of the prior prosecution. App. 96, l. 16 – 17. The court replied, "But he told you that before?" App. 96, ll. 18 – 19. Childers told the trial judge, "He told me that – I didn't know what to – I'm not comfortable with anything right now." App. 96, ll. 20 – 22. The trial judge told him that he understood, but the jury had already been selected. App. 96, ll. 23 – 25. Childers told the trial judge that he "said something about this before we picked the jury." App. 97, ll. 5 – 6. The trial judge ruled that it was "not a built-in conflict." App. 97, ll. 7 – 11. He refused to relieve Rogers. App. 97, ll. 21 – 24.

The trial judge's ruling was contested on appeal. App. 730 – 31. The Court of Appeals held there was no "showing of any competing loyalties or actual conflict." App. 731. The Court of Appeals also held that Childers had not shown prejudice. App. 731. Finally, the Court of Appeals ruled that the issue of whether Rogers should have been relieved because of his prior representation of Staples was not preserved for appeal. App. 731. The Supreme Court upheld both rulings by the Court of Appeals. App. 735, 740.

The Testimony at the PCR Hearing

At PCR, Childers testified that Rogers never asked him his version of events prior to trial. App. 851, ll. 10 – 14. Childers asked Rogers "how I went about getting another lawyer and he told

me I have to go before the judge." App. 851, ll. 19 – 24. Childers said he wanted another lawyer because of Rogers' prior prosecution of him, his work for the victim's family, and his understanding that Rogers "was locked up twice with me for reason like drinking. . . . " App. 852, ll. 1 – 18. Rogers never arranged for Childers to tell the court these concerns prior to trial. App. 853, ll. 2 – 5. It was not until the first day of the trial the Childers had an opportunity to voice his concerns about the conflict of interest to the trial judge. App. 853, ll. 12 – 16.

At the PCR hearing, Rogers refused to go into the details of his representation of Staples. App. 884, l. 22 – 885, l. 10. Rogers stated that "it involved the representation of a juvenile of a confidential matter. I'd rather not go into it." App. 885, ll. 2 – 4. Rogers claimed that he told Childers about this but that "no one seemed to have a problem with it at the time." App. 885, ll. 8 – 10. On cross-examination, Rogers stated that he "did not go into specifics" because he felt it was privileged information. App. 901, ll. 20 – 24.

Staples attended the PCR hearing. App. 982, l. 1. When asked by the court whether the prior matter was privileged, Staples replied, "I think it should remain confidential. It had nothing to do with what happened." App. 982, ll. 8 – 11. Rogers agreed that he failed to get a specific ruling from the trial judge regarding the conflict issue with Staples. App. 905, ll. 11 – 14. Rogers also agreed that his duty of loyalty to Staples as a prior client was in effect during Childers' trial. App. 97, ll. 3 – 7.

The PCR Court's Ruling

The PCR court ruled that Rogers' prior representation was not a "de facto conflict of interest and denial of due process." App. 976. The PCR court also held that Childers suffered "not a hint of prejudice" because—using a very odd choice of words—"trial counsel operated with **impartiality.**"

App. 977 n.15. The PCR court also stated that the Court of Appeals addressed the merits of this conflict claim, which is clearly erroneous. App. 977.

Discussion

The PCR court's ruling on this ground is erroneous in several respects. First, a defendant's attorney is not supposed to act with "impartiality." An attorney is duty-bound to be partial to his client and "zealously" assert his client's position. S.C. R. Prof. Conduct Preamble. The very idea that trial counsel would need to act with impartiality when cross-examining an adverse witness flies in the face of our adversarial system.

Trial counsel admitted that his duty of loyalty and confidentiality to Staples existed during his representation of Childers. App. 97, ll. 3 – 7. He was correct. S.C. R. Prof. Conduct 1.9, 1.6. It is undisputed that Staples was a key witness in Childers' trial and provided highly prejudicial "stalking" evidence that was used to discredit Childers' testimony regarding self-defense. Childers' interests were materially adverse to Staples' interests. S.C. R. Prof. Conduct 1.9(a). An attorney shall not represent a client if "there is a significant risk that the representation . . . will be materially limited by the lawyer's responsibilities to . . . a former client." S.C. R. Prof. Conduct 1.7(a)(2). Childers testified he objected to the conflict and he certainly never gave written consent. The PCR court erred in finding that no conflict of interest existed.

"The interests of the other client and the defendant are sufficiently adverse if it is shown that the attorney owes a duty to the defendant to take some action that could be detrimental to his other client" Lomax v. State, 379 S.C. 93, 101, 665 S.E.2d 164, 168 (2008). A defendant does not need to show prejudice if there is an actual conflict of interest. Id. See also, Duncan v. State, 281 S.C. 435, 438, 315 S.E.2d 809, 811 (1984) (quoting Zuck v. Alabama, 588 F.2d 436, 439 (5th Cir. 1979)).

In State v. Gregory, 364 S.C. 150, 612 S.E.2d 449 (2005), this Court found counsel, who was representing the defendant on criminal sexual conduct with a minor charges, had a conflict because he represented an assistant solicitor in her divorce action; the assistant solicitor had initially prosecuted the case even though by the time of trial, the solicitor had been replaced. Still, this Court found:

> The question in this case is whether defense counsel owed duties to a party whose interests were adverse to Gregory. Under this Court's holding in Duncan[281 S.C. at 438, 315 S.E.2d at 811 (1984)], and the case cited therein, Zuck v. Alabama, we find that he did. In Zuck v. Alabama, the Fifth Circuit Court of Appeals held that where the law firm retained to represent the defendant in a murder trial also represented the state prosecutor in an unrelated civil trial, there was an actual conflict of interest, and the conflict rendered the trial fundamentally unfair. The court noted that "the basis of these decisions is our belief that the sixth amendment requires that **a defendant may not be represented by counsel who might be tempted to dampen the ardor of his defense in order to placate his other client. . . . This possibility is sufficient to constitute an actual conflict as a matter of law.**" 588 F.2d at 440 (emphasis in original).

Where an actual conflict is shown, the aggrieved party "need not demonstrate prejudice in order to obtain relief." Cuyler v. Sullivan, 446 U.S. 335, 349-50 (1980); Holloway v. Arkansas, 435 U.S. 475, 487-91 (1978).

As shown by trial counsel's testimony at the PCR hearing and by Staples' continued assertion of his right to confidentiality and loyalty from Rogers, a direct conflict of interest existed. As in Gregory, the temptation to please Staples instead of Childers existed. Rogers downplayed his prior representation of Staples and, as held by this Court, failed to preserve the issue by failing to obtain a ruling. This, by itself, constitutes deficient performance. Because a

direct conflict of interest existed, the PCR court erred in conducting a prejudice inquiry. No prejudice inquiry is necessary and this Court must reverse.

2.

Trial counsel rendered ineffective assistance in violation of Petitioner's Sixth Amendment rights by failing to have evidence obtained from an illegal search suppressed.

Relevant Facts

At trial, the State bolstered the testimony from by Staples that Childers was "stalking" Munn and had been at the residence prior to the fatal encounter with evidence of boot prints. The State's first witness, who responded to Staples' 911 call, testified he saw "boot tracks" and a cigarette butt. App. 141, ll. 14 – 22. Officer David Thomley ("Thomley") testified that he seized hiking boots from Childers' feet. App. 412, ll. 8 – 13. On cross-examination, Thomley admitted that he went to Childers' home and removed items without a search warrant. App. 414, l. 15 – 415. l. 10. Officer Eric Tisdale admitted they searched Childers' home without consent, without a warrant, and seized items. App. 440, l. 17 – 441, l. 2. The solicitor later conceded that the boots were seized from the residence. App. 498, ll. 4 – 20.

Earlier in the trial, and without objection, the State admitted photographs of boot prints found near the school bus. App. 337, ll. 12 – 21. Despite the boots not being in evidence, and without being qualified as an expert, Officer Kirk Corley ("Corley") testified that the prints found looked similar to the boots. App. 349, l. 20 – 350, l. 3.

Discussion

Trial counsel made no motion to suppress the illegally seized boots. Searches without a warrant are *per se* unreasonable under the Fourth Amendment unless some exception applies. Katz v. United States, 389 U.S. 347, 357 (1967). The police admitted they did not have a

warrant. They did not have consent. No evidence was presented that would satisfy an exception to the warrant requirement. Therefore, had trial counsel made a motion to suppress this evidence, it would have been successful. Trial counsel's failure to suppress the boots constituted deficient performance. Sikes v. State, 323 S.C. 28, 448 S.E.2d 560 (1994). In Sikes, trial counsel was held ineffective for failing to raise a meritorious Fourth Amendment issue. Id. at 32, 448 S.E.2d at 563.

This deficiency prejudiced Childers. The boots were used to corroborate Staples' and White's testimony that they saw Childers lurking near the school bus earlier in the evening. The State did not present any evidence that either SLED or a forensic lab analyzed the boots and compared them to the prints at the scene, yet Officer Corley was allowed to testify that the prints were similar. This tied Childers to the scene earlier in the evening and discredited his testimony that the only trip he made to the residence was when Dowey fired at him. Without the State's ability to discuss the boots, Childers' testimony regarding self-defense would have been more credible and there is a reasonable probability that the result would have been different. Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989).

3.

Trial counsel rendered ineffective assistance in violation of Petitioner's Sixth Amendment rights by failing to prevent him from undermining his own credibility with the jury when he testified that he told the police that he needed to stop talking and get a lawyer.

Trial counsel's failure to prepare resulted in his own client commenting on his post-arrest silence and request for an attorney. During direct-examination, Childers described turning himself in to the police. App. 548, l. 22 – 549, l. 18. Childers was taken to the sheriff's department. App.

550, ll. 21 – 24. Trial counsel asked "What transpired once you got to the sheriff's department?" App. 550, l. 25 – 551, l. 1.

Childers responded with a long narrative. App. 551, l. 2 – 552, l. 2. He described the police reading him his rights. App. 551, l. 2 – 552, l. 2. He said the police asked him what happened and he "told him up to a point." App. 551, ll. 15 – 18. After being told his charges, Childers then told the jury, "And I told them that I didn't think that I needed to talk any more, I needed a lawyer and that I could not afford one." App. 551, l. 21 – 552, l. 2.

The State may not comment on a defendant's exercise of his constitutional rights. McFadden v. State, 342 S.C. 637, 640-41, 539 S.E.2d 391, 393 (2000). Comments on post-arrest silence violate the rule of Doyle v. Ohio, 426 U.S. 610 (1976). In McFadden, this Court held trial counsel's failure to object to a single Doyle violation prejudiced the defendant. McFadden at 640-41, 539 S.E.2d at 641-42. The Court emphasized that the defendant's story "was not totally implausible, and the evidence of guilt was not overwhelming." Id.

Trial counsel failed to prevent a Doyle violation by his own client. Rogers admitted he had not visited with Childers enough to prepare for the trial. App. 887, l. 21 – 888, l. 21. He admitted he did not know Childers' version of events until after the trial began. App. 889, l. 14 – 890, l. 16. Rogers said, "I wasn't satisfied with the amount of time I had." App. 890, ll. 14 – 16.

Trial counsel admitted that juries will infer that a defendant has something to hide when they tell the police they wish to stop answering questions and ask for an attorney. App. 916, ll. 13 – 25. He also admitted that Childers' credibility was "crucial." App. 917, ll. 1 – 10. Childers testified that at no point did Rogers instruct him that he should not volunteer that he had exercised his constitutional rights. App. 860, l. 25 – 862, l. 1.

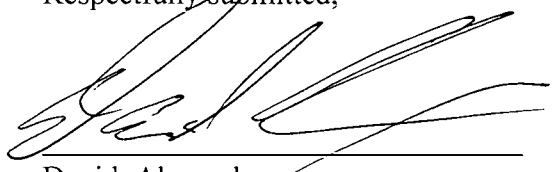
The PCR court failed to address this important issue in its order. App. 962-80. PCR counsel pointed out this failing of the order of dismissal in a Rule 59(e) motion. App. 991; 996-97. The PCR court summarily denied the Rule 59(e) motion. App. 1057. As such, this Court should apply a *de novo* standard of review to this claim.

From the evidence presented, it is clear that trial counsel failed to prepare Childers to testify. He did not prevent Childers from making this crucial error on the witness stand. The strict prohibition of Doyle violations by the State should apply in this case, where the error occurred because of trial counsel's ineffectiveness. The analysis from McFadden, when trial counsel's error is substituted for the failure to object to the State's wrongdoing, applies to this case. Therefore, this Court should reverse and grant Childers a new trial.

CONCLUSION

For the foregoing reasons, the Court should grant the petition, order further briefing, with the ultimate relief of a new trial for petitioner.

Respectfully submitted,



David Alexander
Appellate Defender

ATTORNEY FOR PETITIONER

This 12th day of March, 2014.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Kershaw County
Clifton Newman, Circuit Court Judge

WILLIAM LARRY CHILDERS,

PETITIONER,

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RESPONDENT

APPELLATE CASE NO. 2012-213543

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 by mailing copies in envelopes properly addressed with postage prepaid to Megan Harrigan, Esquire at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and also to Mr. William Larry Childers #278419 Lieber Correctional Institution PO Box 205 Ridgeville, SC 29472 this 12th day of March, 2014.

David Alexander
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 12th day
of March, 2014.

_____(L.S.)
Notary Public for South Carolina
My Commission Expires: August 21, 2023.

STATE OF SOUTH CAROLINA
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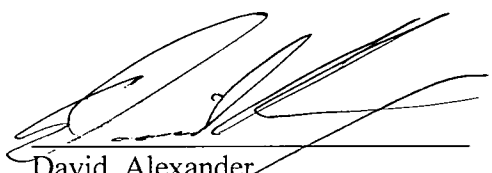
CERTIFICATE OF SERVICE

I certify that a true copy of the petition for writ of certiorari in this case has been served by mailing the original and seven (7) copies in envelopes properly addressed with postage prepaid to Honorable Daniel E. Shearouse Clerk, South Carolina Supreme Court Post Office Box 11330 this 12th day of March, 2014.



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ATTORNEY FOR PETITIONER

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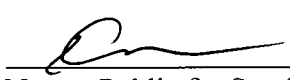
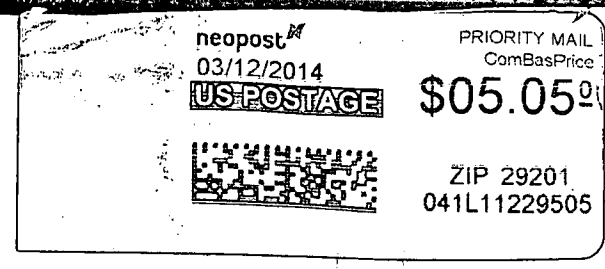
of March, 2014.



(L.S.)
Notary Public for South Carolina
My Commission Expires: August 21, 2023.



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