

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**RECEIVED**

MAY - 8 2014

Appeal from Beaufort County  
The Honorable Perry M. Buckner, Circuit Court Judge

**S.C. Supreme Court**

Appellate Case No. 2013-0001313

NATICIA LAURENT,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

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**RETURN TO PETITION FOR WRIT OF CERTIORARI**

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Attorney General

ASHLEIGH R. WILSON  
Assistant Attorney General

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ATTORNEYS FOR RESPONDENT

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## **QUESTION PRESENTED**

Did the lower court properly deny the Petitioner's request for continuance when counsel for the Petitioner reviewed the case material, spoke with the Petitioner about the materials, and failed to show any prejudice would result if the continuance request was denied by the Court?

## **STATEMENT OF THE CASE**

For purposes of this Return, the Respondent adopts the Petitioner's statement.

## ARGUMENT

**The lower court did not abuse its discretion when denying Petitioner's request for continuance of her post-conviction relief hearing when the Petitioner failed to show any prejudice would result if the request was denied or that any additional evidence would have been produced had the request for continuance been granted.**

The Petitioner asserts the post-conviction relief court erred by refusing to grant the Petitioner's request for a continuance of her post-conviction relief hearing at the start of the hearing. The trial court's denial of a motion for a continuance will not be disturbed on appeal absent a clear abuse of discretion. State v. McMillian, 349 S.C. 17, 21, 561 S.E.2d 602, 604 (2002). Reversals of refusal of a continuance are about as rare as the proverbial hens' teeth. State v. Lytchfield, 230 S.C. 405, 95 S.E.2d 857 (1957). Where there is no showing that any other evidence on behalf of the appellant could have been produced, or that any other points could have been raised had more time been granted for the purpose of preparing the case for trial, the denial of a motion for continuance is not an abuse of discretion. State v. Squires, 248 S.C. 239, 149 S.E.2d 601 (1966).

The Petitioner's evidentiary hearing was held on April 4, 2013 at the Beaufort County Courthouse. At the start of the Petitioner's post-conviction relief hearing, counsel for the Petitioner requested a continuance of the hearing until the next term of PCR hearings. (App. 35:15-17). The basis of the request for continuance asserted by counsel for the Petitioner was that he had not had "sufficient time to completely educate and discuss the matter" with the Petitioner. (App. 35:19-22). Counsel for the Petitioner told the Court he had been appointed to represent the Petitioner on September 11, 2013- almost five months prior to the hearing. (App. 35:23-24, 36:5-8). Counsel testified he received the Petitioner's case material, reviewed the material and her guilty plea transcript, prepared information to send to the Petitioner, and educated the Petitioner about the case. (App. 37:3-9). The Respondent objected to the

Petitioner's request for continuance. (App. 38:10-16). The lower court denied the Petitioner's request for continuance and held the Petitioner had not shown any sufficient legal prejudice that would require delay of the hearing. (App. 39:38:25-39:4). After denying the Petitioner's request for continuance, the Court gave counsel a few minutes to speak with the Petitioner before the start of the hearing. (App. 39:5-19).

The Respondent submits the lower court did not abuse its discretion by denying the Petitioner's request for continuance. The Petitioner failed to show any prejudice would result if the Court denied her request for continuance. The record reflects the only basis for counsel's request for continuance was because he needed additional time to speak with the Petitioner. (App. 35:19-22). The Respondent told the Court the contents of the State's file in the matter were provided to the Petitioner when the Respondent's Return was filed on February 20, 2013- over a month prior to the hearing. (App. 36:24-37:1). Counsel's representations to the Court indicated he had spoken with the Petitioner prior to the hearing, reviewed the Petitioner's file, read her guilty plea transcript, and was essentially ready to present the Petitioner's case to the Court. (App. 37:3-9). The lack of prejudice to the Petitioner was further evidenced by counsel's ability to adequately question the Petitioner and defense counsel during the hearing after the Court denied the Petitioner's request for continuance. (App. 42:1-44:10, 46:14-47:1, 48:6-54:17, 62:15-63:21). Counsel made no argument to the Court to show how additional time to speak with the Petitioner would have had any possible effect on the Petitioner's post-conviction relief proceeding.

The Petitioner also failed to show that any other evidence could have been produced, or any other points could have been raised had more time been granted for the purposes of preparing for the post-conviction relief hearing. The counsel for the Petitioner did not claim

additional time was needed to investigate any allegations raised by the Petitioner or that additional time was needed to locate any witnesses the Petitioner wished to call at the evidentiary hearing. The Petitioner now asserts on appeal that “a continuance would have allowed PCR counsel to explore the various statements of Petitioner referenced by plea counsel during the plea” and “a continuance would have allowed PCR counsel to learn the identity of the medical expert referenced by plea counsel during the plea and perhaps frame an ineffective assistance of counsel claim based on the failure to pursue an accident defense.” (Pet. For Cert. p.7). However, at the evidentiary hearing, the Petitioner did not assert any of the theories presented on appeal to the post-conviction relief court as a basis for the Petitioner’s request for continuance. This Court should not consider an argument in support of prejudice that was not presented for consideration to the lower court.

The Petitioner also relies on State v. Tanner in support of her argument. 299 S.C. 459, 385 S.E.2d 832 (1989). The Respondent submits this case be distinguished from Tanner and should not be considered dispositive by this Court. In Tanner, the Supreme Court held it was reversible error for the trial court to deny the defendant a continuance so that he could adequately ascertain evidentiary value of blood, skin, and hair samples taken from a vehicle after an accident. Id. at 463. The Court’s ruling was based on the defendant’s argument that an analysis of the samples was critical to his defense.

Unlike in Tanner, the Petitioner’s request for continuance was not supported by any showing that additional evidence would have been produced had the Petitioner been given additional time to speak with counsel. Further, the Petitioner did not represent to the Court that a continuance was needed to seek additional evidence or that any critical evidence would have been produced. The Respondent submits the lower court did not abuse its discretion in denying

the Petitioner's request for continuance and the Petitioner has presented no evidence to show prejudice resulted from the Court's denial.

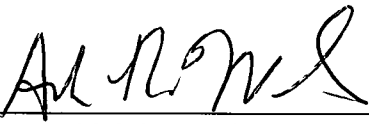
**CONCLUSION**

For all the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

Respectfully submitted,

ALAN WILSON  
Attorney General

ASHLEIGH R. WILSON  
Assistant Attorney General

BY:   
Ashleigh R. Wilson

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ATTORNEYS FOR RESPONDENT

May 8, 2014

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

Appeal From Beaufort County  
The Honorable Perry M. Buckner, Circuit Court Judge

NATICIA LAURENT

Petitioner,

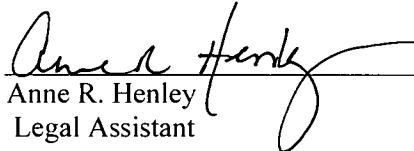
v.

STATE OF SOUTH CAROLINA,

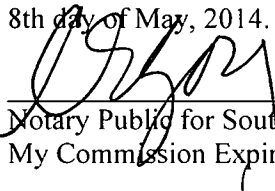
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Respondent's Return to Petition for Writ of Certiorari To The SC Supreme Court has been served upon opposing counsel, Kathrine Hudgins, this 8<sup>th</sup> day of May 2014.

  
Anne R. Henley  
Legal Assistant

SWORN to before me this  
8th day of May, 2014.

  
Notary Public for South Carolina  
My Commission Expires: 10/28/2014

(L.S.)



ALAN WILSON  
ATTORNEY GENERAL

May 8, 2014

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MAY - 8 2014

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

S.C. Supreme Court

RE: Naticia Laurent v. State of South Carolina  
Appellate Case No. 2013-0001313

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Return to Petition for Writ of Certiorari to the South Carolina Supreme Court in the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this Return to Petition for Writ of Certiorari.

With highest regards,

Ashleigh R. Wilson  
Assistant Attorney General

ARW/arh  
Enclosures

cc: Kathrine Hudgins, Esquire