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S.C. SUPREME COURT

JOSHUA MONROE #344735

McCI F-4 A-side
386 Redemption Way
McCormick, South Carolina 29899

June 9, 2014

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

**RE: Pro-se Johnson Petition for Writ of Certiorari
Joshua Monroe, #344735 v. State of South Carolina
Appellate Case No.: 2014-000342**

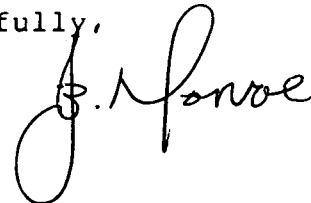
Dear Mr. Shearouse:

Enclosed for filing is the Pro-se Johnson petition for Writ of Certiorari in reference to the above entitled matter.

Please return to me a clock-stamped copy of the enclosed petition at your earliest convenience.

Thank you for your attention and assistance in this very important matter.

Respectfully,



Enclosure(s)

cc: Personal file

Original

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Dorchester County

Diane Schafer Goodstein, Circuit Court Judge

JOSHUA MONROE,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO.: 2014-000342

Pro-se JOHNSON PETITION FOR WRIT OF CERTIORARI

JOSHUA MONROE #344735
McCI F-4 A-side
386 Redemption Way
McCormick, SC 29899

PETITIONER, pro-se

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ISSUE PRESENTED

WAS POST-CONVICTION RELIEF COUNSEL CONSTITUTIONALLY DEFICIENT AND DENIED THE PETITIONER DUE PROCESS OF LAW?

STATEMENT

The "Statement" of this case as stated by Appellate Defender Robert M. Pachak on page 3 of the Johnson Petition for Writ of Certiorari is accurate, therefore, the Petitioner will not restate it here and now submits the following petition.

**POST-CONVICTION RELIEF COUNSEL WAS CONSTITUTIONALLY DEFICIENT
AND DENIED THE PETITIONER DUE PROCESS OF LAW.**

Petitioner was represented at his post-conviction relief hearing by Attorney Charles T. Brooks, III, the Petitioner contends that Mr. Brooks failed to render effective assistance of counsel.

Even though he questioned Attorney Michael Dupree concerning his involvement in the Petitioner's case, Mr. Brooks never investigated the circumstances surrounding the involuntary "statement" made by the Petitioner to the Dorchester County detectives on the advise of Mr. Dupree. Mr. Brooks never investigated why the detectives continued to question the Petitioner after he had advised them that he wanted to talk to his attorney. This was prejudicial because the Assistant Attorney General made a big deal about the statement. See App.. p. 53-56.

Mr. Brooks never saw a copy of the "statement", nor did plea hearing counsel, Ms. Suggs.

In Martinez v. Ryan, 132 S.Ct. 1309 (2012), the United States Supreme Court ruled that "where, under state law, ineffective assistance of trial counsel claims must be raised in an initial review collateral proceeding, a procedural default will not bar a federal habeas court from hearing those claims if, in the initial review collateral proceeding, there was no counsel or counsel in that proceeding was ineffective".

Here, where the initial review collateral proceeding is the first designated proceeding for a prisoner to raise the ineffective assistance claim, the collateral proceeding is the equivalent of a prisoner's direct appeal as to that claim because the state habeas court decides the claim's merits, no other court has addressed the claim, and defendants "are generally ill equipped to represent themselves" where they have no brief from counsel and no court opinion addressing their claim. Halbert v. Michigan, 545 U.S. 605.

In the instant case, the Petitioner contends that, this Court should rule PCR counsel ineffective and remand this case back to the lower court for a new PCR hearing because the PCR Court failed to address the issue concerning the statement.

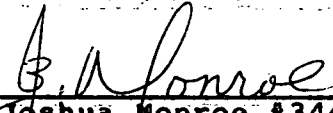
Mr. Brooks also knew that the Petitioner had an alibi, this issue was also not addressed by the PCR court in its Order of Dismissal. Had the Petitioner gone to trial, Ms. Suggs could have requested a charge on alibi, and the trial court would have been required to give the requested charge because "the law to be charged is determined from evidence presented at trial". State v. Cole, 338 S.C. 97, 525 S.E.2d 511 (2000).

CONCLUSION

In light of the foregoing, Mr. Brooks failed to file a SCRPC, Rule 59(e) motion requesting the PCR court to address the issues raised here pursuant S.C. Code Ann. §17-27-80, therefore, this Court should find Mr. Brooks ineffective and remand this case for another PCR hearing requiring all issues raised at the hearing be addressed in any order issued by the court.

This 9th day of June, 2014

Respectfully submitted,



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The Honorable Daniel E. Shearouse
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South Carolina Supreme Court
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Department of Corrections has
received this item. Therefore the
agent does not assume the
responsibility for its contents.

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