

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County
Court of Common Pleas
G. Thomas Cooper, Jr., Circuit Court Judge

Circuit Court Case No. 2012-CP-40-01543

Appellate Case No. 2013-001287

RECEIVED
JUN 13 2014
S.C. Supreme Court

RANDY THOMAS,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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ISSUES PRESENTED

1. Is there evidence of probative value to support the post-conviction relief court's determination that Counsel was not ineffective for electing to present evidence of Petitioner's good character during sentencing phase of the trial as mitigation rather than during the guilt phase of the trial as evidence, where Counsel articulated a valid strategic reason for her decision and there is no reasonable likelihood that the result of the trial would have been different but for Counsel's alleged error?
2. Did the post-conviction court rule on the claim of ineffective assistance of counsel for failure to object to hearsay testimony? If so, did the post-conviction relief court properly find that Counsel was not ineffective?
3. Is there evidence of probative value to support the post-conviction relief court's ruling that Counsel was not ineffective for failing to object to the State's argument on evidence of flight, where Counsel articulated a valid trial strategy for not objecting and such an objection would have been overruled by the trial court, therefore having no impact on the outcome of Petitioner's trial?
4. Is there evidence of probative value to support the post-conviction relief court's ruling that Counsel was not ineffective for failing to object to testimony regarding Petitioner's bond hearings, where Counsel was ultimately able to use such testimony to Petitioner's benefit?
5. Is there evidence of probative value to support the post-conviction relief court's determination that Counsel was not ineffective for failing to object to an alleged violation of the trial court's sequestration order, where there is no evidence of probative value that such a violation actually occurred and the testimony in question had no impact on Petitioner's trial?
6. Did the post-conviction court err in refusing to undertake a cumulate error analysis?

STATEMENT OF THE CASE

Petitioner was indicted during the February 2005 term of the Richland County Grand Jury for Criminal Sexual Conduct in the First Degree, Assault and Battery of a High and Aggravated Nature, and two counts of Kidnapping (2005-GS-40-10296 through -10299). The charges stemmed from the sexual and physical assault of Petitioner's ex-girlfriend and the kidnapping of her and her three year old son. He was represented by LaNelle DuRant, Esquire, and Jeanette VanGinhoven, Esquire, both of whom were then employed at the Richland County Public Defender's Office. On February 6, 2006, Petitioner proceeded to jury trial before the Honorable James W. Johnson, Jr., where he was convicted as indicted on all four charges. Judge Johnson sentenced Petitioner to twenty-two years imprisonment for each count of Kidnapping, twenty-two years imprisonment for Criminal Sexual Conduct in the First Degree, and ten years imprisonment for Assault and Battery of a High and Aggravated Nature, with all sentences to be served concurrently.

A notice of appeal was filed and an appeal was perfected on Petitioner's behalf. Chief Appellate Defender Robert Dudek of the South Carolina Office of Appellate Defense represented Petitioner on the appeal. Following the submission of briefs and oral argument, the South Carolina Court of Appeals affirmed Petitioner's convictions and sentences by unpublished opinion. State v. Randy B. Thomas, 2009-UP-437 (Ct. App. filed Sept. 10, 2009). The Court of Appeals also denied Petitioner's subsequent Petition for Rehearing. Thereafter, Petitioner sought certiorari to this Court, which was denied on March 2, 2011. The Remittitur was issued March 7, 2011.

Petitioner filed a timely application for post-conviction relief on February 23, 2012. Respondent filed its Return on July 30, 2012, requesting an evidentiary hearing be held. Petitioner thereafter filed an amended application for post-conviction relief on December 21, 2012. An evidentiary hearing into the matter was convened at the Richland County Courthouse on January 16, 2013, before the Honorable G. Thomas Cooper, Jr. Petitioner was present at the hearing and represented by attorneys Kristy Grafton Goldberg, Esquire; Lisa Armstrong, Esquire; and Jason Peavy, Esquire. Respondent was represented by Assistant Attorney General Robert D. Corney of the South Carolina Attorney General's Office. After the submission of proposed orders from both parties at the request of the court, the court denied and dismissed Petitioner's application with prejudice by Order dated May 6, 2013 and filed May 7, 2013.

Petitioner filed a Notice of Appeal on June 7, 2013. Petitioner thereafter filed a Petition for Writ of Certiorari on February 11, 2014. This Return follows.

STANDARD OF REVIEW

The proper standard of review of a post-conviction relief evidentiary hearing is whether “‘*any evidence*’ of probative value” exists to sustain the post-conviction relief court’s findings. Cherry v. State, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989) (emphasis added). In a post-conviction relief action, the petitioner bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the petitioner must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland. The petitioner must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the petitioner must prove that counsel’s performance was deficient. Under this prong, the court measures an attorney’s performance by its “reasonableness under professional norms.” Id. at 117, 386 S.E.2d at 625, *citing* Strickland. Second, counsel’s deficient performance must have prejudiced the petitioner such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625.

ARGUMENT

- I. There is evidence of probative value to support the post-conviction relief court's determination that Counsel was not ineffective for electing to present evidence of Petitioner's good character during sentencing phase of the trial as mitigation rather than during the guilt phase of the trial as evidence, where Counsel articulated a valid strategic reason for her decision and there is no reasonable likelihood that the result of the trial would have been different but for Counsel's alleged error.**

Petitioner argues the post-conviction relief court erred in determining that Counsel made a strategic decision not to present character witnesses during the guilt phase of Petitioner's trial, but rather, to present such evidence during the sentencing phase as mitigation. He asserts that because Counsel never personally spoke to every potential witness who supplied a letter on Petitioner's behalf, she could not have made such a determination, and if she did, that determination was unreasonable. Petitioner further asserts that he was highly prejudiced by this alleged deficiency, as his credibility was "the seminal issue in the trial," which he characterizes as filled with "scant independently verifiable evidence of [his] guilt." PWC p. 11.

Throughout his petition, Petitioner repetitiously states that the State "was unable to provide any eyewitness testimony [beyond the victim] of the alleged sexual assault," that the "case became one largely of 'he said, she said,'" and that all additional witnesses essentially "parroted" the victim's story. See PWC generally. Despite Petitioner's repeated complaints that the State presented no additional eyewitnesses to the assault during trial, none were necessary. Pursuant to S.C. Code Ann. § 16-3-657, the testimony of a criminal sexual conduct victim need not be corroborated, recognizing the common issue of a lack of independent witnesses in most sexual assault cases and that the perpetrator of a sexual assault should not be rewarded for having the foresight to commit his crimes in private. In the instant case, Petitioner committed the sexual

assault in private with no other witnesses present,¹ and therefore, the State could call no additional witnesses. Petitioner should not be rewarded, nor should the State be penalized, because Petitioner had the prudence to commit sexual assault without an audience.

This Court has consistently held that when “counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010). In its Order of Dismissal, the post-conviction relief court found that Counsel “was able to credibly articulate a valid, reasonable strategic rationale for not calling character witnesses on [Petitioner]’s behalf during the guilt phase of the trial.” App. p. 16. In support of this ruling, the court cited Counsel’s testimony at the post-conviction relief hearing, where Counsel discussed the risks of opening the door with character witnesses, which would allow the State to present rebuttal witnesses to impugn Petitioner’s character. See App. p. 16-19. Counsel specifically testified that there was no possible way to know every detail about her client’s background, which was an obvious “fear when you start thinking about character evidence.” App. p. 19 Ins. 6-7. Counsel’s strategic decision not to call character witnesses based on a fear of opening the door to allow the State to call witnesses of their own to impugn Petitioner’s character is objectionably reasonable, particularly in light of Petitioner’s previous similar assault of the victim, history of mental health concerns, and prior record of drug use. See App. p. 302-314 (generally discussing Petitioner’s prior sexual assault of the victim); p. 1218 (generally discussing Petitioner’s inpatient treatment for mental health concerns); App. p. 1255 (regarding Petitioner’s prior drug conspiracy

¹ The victim’s three year old son was the only other person present when Petitioner entered the home of the victim’s parents. While the minor child was present for a portion of the physical abuse, Petitioner instructed him to stay downstairs and “watch cartoons” during the sexual assault that took place upstairs in the bedroom of victim’s parents. App. p. 467-68.

conviction). As Counsel articulated a valid, objectionably reasonable strategy for not presenting character witnesses during the guilt phase of Petitioner's trial, the post-conviction relief court correctly determined that Counsel's performance was not deficient.

Additionally, the post-conviction relief court correctly discerned that the letters and witnesses presented by Petitioner at the post-conviction relief hearing "did not provide any insight as to [Petitioner]'s character for veracity or truthfulness," but rather, "reflected [Petitioner]'s overall good character or reputation as a role model for young athletes." App. p. 17. The court correctly noted that "those character traits are *not* pertinent character traits of any of the crimes [Petitioner] was charged with, nor do they in any way assist the jury in determining the veracity of [Petitioner]'s testimony." App. p. 17 (emphasis in original). Whether Petitioner is an active participant in the youth athletics community is irrelevant to whether he sexually and physically assaulted his ex-girlfriend and kidnapped her and her toddler son, nor do these character traits reflect Petitioner's veracity and honesty. Petitioner failed to establish any resulting prejudice from the alleged failure to introduce character witnesses when the witnesses' testimony would have been absolutely irrelevant to the charges at hand and had no impact on Petitioner's trial.

Furthermore, there is no realistic likelihood that the outcome of Petitioner's trial would have been different but for Counsel's omission of character witnesses during the guilt portion of his trial, as the beneficial (albeit irrelevant) information they could have provided the jury was already introduced through Petitioner and defense witness James Aakhus. As the Court correctly noted, "testimony was presented to the jury by both James Aakhus and [Petitioner] which referenced [Petitioner]'s prior work history and involvement in the community as a coach and

referee in youth sports.” Therefore, the introduction of testimony from such character witnesses would have merely been cumulative. The post-conviction relief court correctly determined that Petitioner failed to establish that “there is a reasonable likelihood that the outcome at trial would have been different had the character witnesses been presented to the jury.” App. p. 18.

Accordingly, Petitioner failed to establish the requisite prongs of both deficient performance and resulting prejudice as required under Strickland. Therefore, the post-conviction relief court’s finding that Counsel was not ineffective should be affirmed.

II. The post-conviction court did not rule on the claim of ineffective assistance of counsel for failure to object to hearsay testimony. Therefore, this issue is not preserved for appellate review.

Petitioner contends that Counsel was ineffective for failing to object to improper hearsay testimony of various witnesses, which he repeatedly refers to as “parroting” the victim’s testimony. However, Petitioner did not raise this issue in his post-conviction relief application, amended application, or at the evidentiary hearing. At the post-conviction relief evidentiary hearing, there was no testimony whatsoever regarding Counsel’s failure to object to the various witnesses’ testimony of whom he now complains. However, there was very specific testimony presented regarding each of the allegations raised by Petitioner in his application for post-conviction relief. Additionally, the post-conviction relief court’s Order of Dismissal does not address this allegation. Thus, the issue is not preserved for appellate review.

It is well settled that an issue that has not been presented to or ruled upon by the lower court will not be considered on appeal. State v. Gee, 262 S.C. 373, 204 S.E.2d 727 (1974). If an issue is raised but not ruled upon, it is not preserved for appeal. State v. Watts, 321 S.C. 158, 467 S.E.2d 272 (1996). Only a matter that has been ruled on below can be reviewed, otherwise,

the appellate court would be exercising original jurisdiction. Gee, 262 S.C. 373, 204 S.E.2d 727. This also applies to post-conviction relief proceeding. See Burgess v. State, 402 S.C. 92, 738 S.E.2d 264 (Ct. App. 2013) (holding that an issue must be ruled upon by the post-conviction relief court to be preserved for appellate review).

Petitioner has not previously raised this issue and the post-conviction relief court did not rule on this allegation; therefore, it is not preserved for appellate review.

III. There is evidence of probative value to support the post-conviction relief court's ruling that Counsel was not ineffective for failing to object to the State's argument on evidence of flight, where Counsel articulated a valid trial strategy for not objecting and such an objection would have been overruled by the trial court, therefore having no impact on the outcome of Petitioner's trial.

Petitioner argues that the post-conviction relief court erred in its determination that Counsel was not ineffective for failing to object to the State's closing argument comments on Petitioner's flight after the crimes. Specifically, Petitioner asserts that the State's comments during closing were improper because they were in direct violation of the trial court's earlier ruling and there was no requisite showing of a nexus between the flight and the charges. Petitioner argues that because the comments on flight were improper, Counsel was deficient for failing to object to the comments. Petitioner asserts that he was prejudiced by Counsel's failure to object because it "allow[ed] the State to paint [Petitioner] as a fugitive evading the law when the real purpose of being in North Carolina was to seek mental health treatment."² This argument is without merit, as there is evidence of probative value to support the post-conviction relief court's ruling that Counsel articulated a valid trial strategy for not objecting and that such an objection would have had no impact on Petitioner's trial.

² At trial, Petitioner did not want the jury to hear any evidence or testimony relating to Petitioner's mental health treatment. However, Petitioner is now arguing that he was prejudiced by this omission, as it allowed the State to present him as a fugitive rather than someone voluntarily seeking mental health treatment.

At the evidentiary hearing, Counsel testified that she made a motion to suppress any reference to Petitioner's stay in North Carolina so that the jury would not draw negative, prejudicial inferences about his mental health treatment, not to prevent an argument about flight. App. 112-13. She testified that although she was not certain why she did not object to the solicitor's comments on flight during closing arguments, it was likely because "[she] just didn't want to draw attention to it" and that she generally avoids objecting during closing argument because it can have a negative effect on the jury. App. p. 113-14. Furthermore, she testified that Petitioner's speeding off in the car with the victim's minor child immediately after the crimes would also meet the requirements of flight. App. p. 114.

In its Order of Dismissal, the post-conviction relief court determined that the pre-trial discussion and agreement was only in regards to references about mental health treatment, not to restrict argument on Petitioner fleeing the scene after the crimes. This is supported by both the trial record and Counsel's testimony. App. p. 1218; p. 112-13. Additionally, the post-conviction relief court found that the flight argument made by the State was not improper. App. p. 12. Immediately after the crimes, Petitioner sped off in his vehicle, which was testified to by numerous witnesses. The court determined that Petitioner's assertions that he only became aware that he was wanted by South Carolina authorities once he was admitted to the North Carolina hospital were **not credible**. App. p. 13 (emphasis in original). Therefore, since the comments regarding flight were not improper, the post-conviction relief court properly discerned that Counsel was not deficient for failing to object to such comments.

Additionally, the post-conviction relief court found that Counsel articulated a valid trial strategy for not objecting to the State's comments regarding flight, noting that Counsel testified that she did not want to draw attention to the comments or create a negative impression with the jury for objecting during a closing argument. As discussed previously, when trial counsel presents an objectively reasonable and valid trial strategy, he or she will not be deemed deficient. Smith, supra. See Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992) ("Where counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective."). The post-conviction relief court properly determined that Counsel was not deficient in regards to this allegation.

Furthermore, the post-conviction relief court properly determined that Petitioner failed to establish any requisite prejudice from Counsel's alleged deficiency, as an objection would likely have been overruled. As discussed above, the State's comments regarding flight were not improper or objectionable. Furthermore, even if Counsel had objected to the flight comment in regards to his travels to North Carolina, the State still could have properly argued flight in regards to Applicant's high speed flight by vehicle from the scene that was observed by several witnesses. Based on the foregoing, there is evidence of probative value to support the post-conviction relief court's proper determination that Counsel was not ineffective in regards to this allegation.

IV. There is evidence of probative value to support the post-conviction relief court's ruling that Counsel was not ineffective for failing to object to testimony regarding Petitioner's bond hearings, where Counsel was ultimately able to use such testimony to Petitioner's benefit.

Petitioner argues that the post-conviction relief court erred in determining that Counsel was not ineffective for failing to object to the improper testimony of Investigator Godfrey

regarding Petitioner's bond proceedings. Specifically, Petitioner asserts that Godfrey's testimony that Petitioner was initially denied bond after an *ex parte* discussion between the magistrate judge, the victim, and the State was improper and prejudiced him. See App. p. 872-876. Petitioner acknowledges that there is no South Carolina authority to support his proposition that such questioning was improper but asserts that such questioning was improper because it was "unduly prejudicial" to Petitioner and "added to [Petitioner]'s character deficiency." PWC p. 19-20. He then goes on to assert that because Counsel did not have a valid strategy for not objecting, the failure to object was deficient. App. p. 21. This argument is without merit, as there is evidence of probative value to support the post-conviction relief court's determination that Counsel was not ineffective, as the testimony in question ultimately proved beneficial to Petitioner.

In its Order of Dismissal, the post-conviction relief court found that Counsel's performance was objectively reasonable, noting that Godfrey's testimony showed that Petitioner ultimately *was* granted bond and called Godfrey's credibility and character into question as he readily admitted that he had engaged in improper *ex parte* communications with the court while Petitioner was not present. App. p. 19. This is supported by probative evidence from the record. See Testimony of Godfrey, App. p. 872-876. Furthermore, on cross-examination, Counsel highlighted to the jury that another judge ruled that this prior conduct was improper and inappropriate. App. p. 881. Evidence of probative value supports the post-conviction relief court's determination that Counsel's performance was not "objectionably unreasonable" and that she was not deficient in regards to this allegation.

Furthermore, as discussed above, Godfrey's testimony was ultimately beneficial to Petitioner in regards to his bond proceedings, as it showed that Godfrey participated in improper conduct with the victim and that Petitioner was ultimately granted bond. Therefore, Petitioner cannot establish any requisite prejudice from this alleged deficiency. Based on the foregoing, the post-conviction relief court properly determined that Counsel was not ineffective in regards to this allegation and this ruling should be affirmed.

V. There is evidence of probative value to support the post-conviction relief court's determination that Counsel was not ineffective for failing to object to an alleged violation of the trial court's sequestration order, where there is no evidence of probative value that such a violation actually occurred and the testimony in question had no impact on Petitioner's trial.

Petitioner argues that Counsel was ineffective for failing to move for a mistrial based on an alleged violation of the trial court's sequestration order. Specifically, Petitioner contends that the victim contacted James Aakhus, a mutual friend of Petitioner and the victim who testified on Petitioner's behalf, during the trial in an attempt to strengthen her testimony. Petitioner argues that Aakhus admitted to speaking with the victim on Monday night during the trial in direct violation of the court's sequestration order. This is a mischaracterization of the record. During cross-examination, Aakhus is directly asked by the solicitor if he spoke with the victim on Monday night and he replied "I don't recollect." App. p. 899. The remainder of his cross-examination revealed that both Petitioner and the victim had discussed the case and the surrounding circumstances with Aakhus during the pendency of the case; however, Aakhus never stated that he spoke with the victim on Monday night or at any time during the trial when the sequestration order was in effect. App. 899-902.

In its Order of Dismissal, the post-conviction relief court properly determined that Petitioner failed to establish that there had been a violation of the sequestration order, and therefore, Counsel was not deficient for failing to object or move for a mistrial when there is no evidence that a violation occurred. As discussed above, this is supported by the record. The post-conviction relief court properly denied and dismissed this allegation. This Court should affirm the post-conviction relief court's ruling in regards to this allegation.

VI. The post-conviction court did not err in refusing to apply a cumulative error analysis in the present case, as it is not the appropriate standard for ineffective assistance of counsel claims in South Carolina post-conviction relief actions.

Petitioner argues that the post-conviction relief court erred in failing to undertake a cumulative error analysis to determine if the various alleged deficiencies of counsel had a cumulatively prejudicial effect on Petitioner's case, entitling him to relief. In its Order of Dismissal, the post-conviction relief court declined to undergo such an analysis, stating:

As a preliminary note, this Court would note it is an unsettled question in South Carolina at this time whether multiple deficiencies which, standing alone, do not sufficiently satisfy the prejudice requirement of the Strickland v. Washington test for ineffectiveness may be combined to prove resulting "cumulative prejudice." To date, this so-called "cumulative error analysis" has not been recognized as a sufficient legal standard by either the South Carolina Court of Appeals or South Carolina Supreme Court for satisfying the prejudice prong of Strickland v. Washington. See Lorenzen v. State, 376 S.C. 521, 535 n. 3, 657 S.E.2d 771, 779 n. 3 (2008); Green v. State, 351 S.C. 184, 197, 569 S.E.2d 318 (2002); Walker v. State, 397 S.C. 226, 243, 723 S.E.2d 610, 619 (Ct. App. 2012). Accordingly, this Court declines to conduct its analysis under such an unendorsed standard, but rather will adhere to the sanctioned legal standard set forth in Strickland v. Washington. Additionally, as set forth below, this Court finds no instances of deficiency in counsel's performance; therefore, even if cumulative error analysis were proper for evaluating multiple deficiencies, such a standard is inapplicable in this instance.

App. p. 5. This was not an error of law and is supported by current South Carolina case law.

In Green v. State, 351 S.C. 184, 196-97, 569 S.E.2d 318, 324-25 (2002), this Court expressly declined to address whether a post-conviction relief applicant is entitled to relief based upon the supposed cumulative effect of trial counsel's alleged errors. See also Simpson v. Moore, 367 S.C. 587, 604, 627 S.E.2d 701, 710 (2006) (recognizing that “[w]hether several errors, which are independently found not to be prejudicial, may cumulatively warrant relief is an unsettled question in South Carolina” and holding that “[b]ecause the PCR court found that only one of Simpson's allegations had merit, there was no need to conduct a cumulative-error analysis”).

Before an alleged error may be considered as a factor contributing to cumulative prejudice, a court first must find that the alleged error is, in fact, constitutional error. Only then could the cumulative prejudice arising from the error be considered, if at all. To hold otherwise is to conclude that even non-deficient performance might result in reversal of a conviction. Such a conclusion is manifestly contrary to the analysis set forth in Strickland. See 466 U.S. at 687 (“Unless a defendant makes both showings [i.e., deficient performance and prejudice] it cannot be said that the conviction or death sentence resulted from a breakdown in the adversary process that renders the result unreliable”). Even in the absence of a cumulative prejudice analysis, a reviewing court, quite properly, analyzes the same class of errors together, such as the failure to present adequate evidence of mitigation. Yet, it is inappropriate to consider the cumulative prejudice from various alleged errors that are not related, such as the failure to request a jury charge and the failure to introduce certain testimony. This is especially true where, as in this case, counsel's performance was determined not to be deficient on any of the individual claims

that an applicant wishes to aggregate, and there was no prejudice on any ground. To hold otherwise is to conclude that even non-deficient performance under Strickland might result in reversal of a conviction, a conclusion that is manifestly contrary to the analysis set forth in Strickland. See Strickland, 466 U.S. at 687 (“Unless a defendant makes both showings [i.e., both deficient performance and prejudice] it cannot be said that the conviction or death sentence resulted from a breakdown in the adversary process that renders the result unreliable.”) Therefore, the post-conviction relief court properly declined to conduct such an analysis, particularly in light of its determination that nothing in Counsel’s performance was deficient.

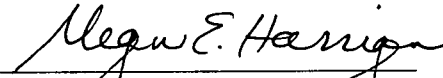
CONCLUSION

For the foregoing reasons, this Petition for Writ of Certiorari should be denied. Should this Court grant the Petition for Writ of Certiorari, Respondent requests permission to more fully brief the issues herein.

Respectfully submitted,

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June 13, 2014.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County
The Honorable G. Thomas Cooper, Jr., Circuit Court Judge
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RANDY THOMAS,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.


PROOF OF SERVICE

I, Megan E. Harrigan, certify that I have served the within **Return to Petition for Writ of Certiorari** on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Matthew A. Abee, Esquire
Nelson Mullins, LLP
1320 Main Street
Columbia, South Carolina 29201

I further certify that all parties required by Rule to be served have been served.

This 13th day of June, 2014.


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ATTORNEY GENERAL

June 13, 2014

RECEIVED
JUN 13 2014
S.C. Supreme Court

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

Re: Randy Thomas v. The State of South Carolina
Appellate Case No. 2013-001287

Dear Mr. Shearouse:

Enclosed for filing are the original and six (6) copies of Respondent's Return to Petition for Writ of Certiorari.

Sincerely,

Megan E. Harrigan
Assistant Attorney General
S.C. Bar No. 100108

MEH/ko
Enclosures

cc: Matthew A. Abee, Esquire
Trisha Allen, Victim's Services