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S.C. Supreme Court

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO SPARTANBURG COUNTY
Court of Common Pleas

The Honorable J. Derham Cole, Circuit Court Judge

Appellate Case No. 2013-001772

Isaiah Walker, Petitioner,

v.

State of South Carolina, Respondent.

**RETURN TO PETITION FOR
WRIT OF CERTIORARI**

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QUESTION PRESENTED

Did the PCR Court properly hold that Counsel was not ineffective for failing to object to Officer Kellet's testimony regarding the latent print match?

Did the PCR Court properly hold that Counsel was not ineffective for failing to call witnesses Amanda Murphy, Cynthia Thacker, and Kenneth Scott, when the testimony presented at the PCR hearing by each failed to establish that it would have affected the outcome of the trial?

Did the PCR Court properly hold that Counsel was not ineffective in his discussions and advice to Petitioner regarding Petitioner's right to testify?

Did the PCR Court properly hold that Counsel was not ineffective in his discussions regarding plea offers with Petitioner?

Did the PCR Court properly hold that Counsel was not ineffective for failing to cross-examine Brent Gentry regarding pending charges he faced at the time of his testimony at trial?

STATEMENT OF THE CASE

The Petitioner is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Petitioner at the February 2007 term of General Sessions for murder (07-GS-42-0625). Mr. Rodney W. Richey, Esquire, represented the Petitioner on the charge. On May 31, 2007, the Petitioner was convicted of this charge by a jury. The Honorable Roger L. Couch sentenced the Petitioner to confinement for life.

A timely Notice of Appeal was filed and an Anders brief was filed on Petitioner's behalf. The South Carolina Court of Appeals affirmed Petitioner's conviction and sentence. State v. Walker, Op. No. 2010-UP-114 (filed February 11, 2010). The Remittitur was returned on March 4, 2010.

The Petitioner subsequently filed a PCR application on October 6, 2010. The Respondent made its Return on or about April 27, 2011. An evidentiary hearing into the matter was convened on September 6, 2012, at the Spartanburg County Courthouse. The Petitioner was present and represented by Tara D. Shurling, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent. Following the hearing, the Honorable J. Derham Cole denied the PCR application by written Order dated July 10, 2013.

A timely Notice of Appeal was filed on Petitioner's behalf and a Petition for Writ of Certiorari was submitted. This Return to the Petition for Writ of Certiorari 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 judge's findings. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). In a post-conviction relief proceeding, the Petitioner bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

ARGUMENT

I. The PCR Court properly held that Counsel was not ineffective for failing to object to Officer Kellett’s testimony regarding the latent print match.

Petitioner alleged that Counsel should have objected to a portion of the testimony of Captain Jackie Kellett¹, witness for the State, as hearsay. At trial, Captain Kellett was qualified as an expert in latent fingerprint identification. (App. p. 445). Captain Kellett, when testifying about her conclusion regarding the match of a latent palm print to Petitioner versus other known prints, indicated in her last statement on direct examination, that the conclusion “had been verified by a second latent print examiner in [her] office.” (App. p. 460). Following her direct examination, Counsel cross-examined Kellett about her analysis process and how her analysis was affected by knowing the name of the Petitioner and his status as a suspect, as well as how it was affected by the bloody print. (App. p. 460-8). After reviewing the testimony of Kellett, Counsel testified that he did not know why he did not object to that statement by Captain Kellett. (App. p. 800). However, he testified that there was never a dispute as to whose print it was, although he acknowledged that a bloody print in the car was one of the strongest pieces of evidence against his client and he should have objected to the statement. (App. p. 800-1).

¹ PCR transcript references the witness as Jackie Collett.

In a post-conviction relief proceeding, the Petitioner bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged 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, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 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. The courts presume that Counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Petitioner must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of Counsel. First, the Petitioner must prove that Counsel's performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” Cherry, 300 S.C. 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.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The PCR Court found that the brief statement had no effect on the outcome of the trial, based upon the other evidence and testimony offered. (App. p. 915). Although Counsel may have been deficient in his failure to object to this statement, the Court found that the Petitioner suffered no prejudice as a result of the alleged deficiency. (App. p. 915). The record supports the finding that Petitioner failed to demonstrate the outcome of the trial would have changed had

an objection to that statement been made. The PCR Court had probative evidence to support its decision that the Petitioner failed to meet his burden of proof as to the allegation that Counsel was ineffective as to this issue.

II. The PCR Court properly held that Counsel was not ineffective for failing to call witnesses Amanda Murphy, Cynthia Thacker, and Kenneth Scott, when the testimony presented at the PCR hearing by each failed to establish that it would have affected the outcome of the trial.

The Petitioner alleged that Counsel was ineffective for his failure to call several witnesses at trial; including, Amanda Murphy, Cynthia Thacker, and Kenneth Scott. Counsel testified that his investigator attempted to interview various witnesses provided by the Petitioner, but the majority of those people were not cooperative. (App. p. 798). Furthermore, near the close of trial, Counsel acknowledged that the court asked the Petitioner about the fact that Counsel did not intend to call additional witnesses on his behalf and the Petitioner acknowledged that he knew that and was in agreement with that decision. (App. p. 829-30). The Petitioner testified that he had told Counsel about all of the people in Ms. Thacker's trailer and gave him the names and numbers of other witnesses. (App. p. 877-8). A Petitioner must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998).

Amanda Murphy

Counsel testified that he was aware of the Petitioner's girlfriend, Amanda Murphy, as a potential witness; however, testified that he did not interview her. (App. p. 794). Counsel testified that based on discovery materials, Counsel determined that Amanda would not be a good witness for the defense. (App. p. 794). Counsel explained further that an issue had

occurred prior to trial where Amanda was accused of threatening a girl at Spartanburg Tech by saying she would “pull an Isaiah on her.” (App. p. 795). Counsel testified that Amanda had supposedly written these threats on the walls also at school. Counsel testified that he did not want to risk bringing that issue or statement anywhere in the case and further testified that it was not an isolated statement or individual. (App. p. 795). Counsel acknowledged sending a letter to the Petitioner, in which he requested that Petitioner not be in contact with Amanda because of the statements she was alleged to have made. (App. p. 815). Petitioner introduced the letter as Petitioner’s Exhibit #3. (App. p. 819). Finally, Counsel testified that he did not believe that Amanda offered anything of value to the case, but had the potential to hurt Petitioner’s case. (App. p. 820).

Amanda testified that at the time of the shooting, she and the Petitioner had been dating approximately eight months. (App. p. 842). Amanda acknowledged that she had previously been arrested for simple possession, but the charge was dropped. Amanda’s SLED record was introduced as Petitioner’s Exhibit #5. (App. p. 843). Amanda testified at the hearing that she was never interviewed by either Counsel or anyone from his office prior to Petitioner’s trial. (App. p. 842). Amanda, when asked about the altercation with someone at school, testified that she could not even tell the name now, but then testified regarding the graffiti, that “[she] had no idea that any of that happened or [] had no idea that [she] did that.” (App. p. 843). Amanda also testified that she was never questioned by law enforcement about any statement or threats, but then testified that law enforcement did come to question her in Myrtle Beach, but claimed they did not listen because she was trying to support the Petitioner. (App. p. 844). Amanda further testified that she had never met the victim in this case, nor had she ever had any conversations with him on the phone. (App. p. 844). However, she did testify that she went to school with the

victim's brother. (App. p. 845).

The Petitioner testified that he talked with Counsel about his relationship with Amanda. Petitioner also testified that Counsel asked him if there was anything between the victim and Amanda and Petitioner testified that he was not aware of anything. (App. p. 877). Petitioner also testified that he made sure Counsel had Amanda's contact information. (App. p. 877-8).

The PCR found Counsel's testimony to be more credible than Ms. Murphy's testimony. (App. p. 913). The Court found that the testimony offered by Ms. Murphy was inconsistent and would not have affected the outcome of the trial. (App. p. 913). Ms. Murphy could only claim that she did not know nor did she have any interactions with the victim, but then also testified that she was aware that she went to school with the victim's brother. (App. p. 913).

Our courts are understandably wary of second-guessing defense counsel's trial tactics. Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). *See also* Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). The PCR found that Counsel had a legitimate reason for not calling Ms. Murphy as a witness and recommending that his client refrain from communicating with her based on the allegations raised during her altercation with a girl at school. (App. p. 913). Although the Petitioner offered Ms. Murphy's testimony at the hearing, the PCR Court properly found that he suffered no prejudice from Counsel's strategic decision to not call her. (App. p. 913).

Cynthia Thacker

Cynthia Thacker testified that she has known the Petitioner since he was a child, but she also knows him from the Petitioner visiting her trailer. (App. p. 855). Ms. Thacker testified that

on the day the victim was killed, the Petitioner, along with Sheryl Miller, Brent Gentry, and herself, were at the trailer, along with “Laddie,” who owned the trailer². (App. p. 855). Ms. Thacker testified that Jeffery (“the victim”) arrived first, with Petitioner and Gentry coming several hours later. (App. p. 856). Then Ms. Thacker testified that the Petitioner and Gentry left with the victim leaving soon after talking with Chavez Miller. (App. p. 856-7). Ms. Thacker denied that the Petitioner ever stepped outside of the trailer to use the phone. (App. p. 857; 860). Ms. Thacker testified that she would have been willing to testify on behalf of the Petitioner, had she been asked by Counsel. (App. p. 857).

As it relates to Ms. Thacker, the PCR Court found her testimony to lack credibility. (App. p. 914). In addition to her criminal charges, testimony presented by the Petitioner indicated that the people in the trailer were all smoking weed, which could call into question her ability to accurately recall the events six years earlier. (App. p. 914).

Kenneth Foster Scott³

Kenneth Scott testified that he was 57, but knew the Petitioner from the neighborhood. (App. p. 848-9). Mr. Scott testified that he had no criminal convictions, but did have various traffic violations and a failure to pay child support. (App. p. 849-50). Mr. Scott’s SLED report was entered into evidence as Petitioner’s Exhibit #6. (App. p. 850). Mr. Scott testified that he knows Mr. Raymond Annus and has seen Mr. Annus trade his prescription medicine for crack cocaine numerous times. (App. p. 851). Mr. Scott testified that he had never seen Mr. Annus complete any transactions with Brent Gentry or Chavez Miller, but he was able to testify that he had seen Mr. Annus trade with the victim several times. (App. p. 851-2). Mr. Scott testified that

² This Court notes that the transcript reflects that Ms. Thacker originally said “Sheryl” Miller, but when asked by PCR Counsel if she said “Chavez” Miller, she agreed. (PCR p. 82). The name “Sheryl” Miller as a witness was also later testified to by Petitioner’s mother, Elizabeth Walker. (PCR P. 117).

³ PCR Counsel refers to the witness as Mr. Foster.

he would have been willing to speak with Counsel or his investigator, or testify at trial about the relationship between Mr. Annus and the victim. (App. p. 852).

As it relates to Mr. Scott, the PCR Court did not find his testimony credible. (App. p. 913). The fact that out of the three names mentioned, Mr. Scott only testified that he knew Mr. Annus traded pills for drugs with the victim, rather than any of the others draws the credibility of his testimony into question, especially when the testimony was already presented that all of the names mentioned dealt in drugs. (App. p. 913). The testimony offered simply maligned the victim's character rather than offer any substantive support for the defense. While it is possible that Counsel could have asked Mr. Annus about his drug trading, testimony was already presented to indicate that Mr. Annus smoked marijuana and had purchased it on occasion. Therefore, the PCR Court found no prejudice in Counsel's failure to call Mr. Scott in an attempt to either malign the victim's character or in an attempt to attack the credibility of Mr. Annus. (App. p. 913).

This Court is well aware of the established case law that an Petitioner must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). However, the Court found that the testimony offered by each of the witnesses was not sufficient to establish prejudice from their failure to testify at the trial.

The PCR Court had probative evidence to support its decision that the Petitioner failed to meet his burden of proof as to the allegation that Counsel was ineffective as to this issue.

II. The PCR Court properly held that Counsel was not ineffective in his discussions and advice to Petitioner regarding Petitioner's right to testify.

Counsel testified that he did discuss with Petitioner his right to testify, but the Petitioner indicated to Counsel that he did not want to testify. (App. p. 786). Counsel also testified that he talked with the Petitioner about the fact that his testimony could be valuable, but also that his testimony did not reconcile with the evidence and could present a problem. (App. p. 787). Counsel testified that the story the Petitioner told him involved Brent Gentry ("co-defendant") wearing Petitioner's clothes and shooting the victim, but then Petitioner going on his own to dispose the body. Further, Petitioner indicated that he was afraid of Gentry, but later spent all day with Gentry. Counsel testified that this story did not appear to make sense. (App. p. 787-8). Additionally, Counsel testified that there were some issues regarding whether or not the victim may have shot a gun based upon a shell that was found on the driveway, but then the victim had no gunshot residue on his hands. (App. p. 788).

Counsel also testified that at the time of the decision regarding the Petitioner testifying, he talked with him some about being able to have the last argument, if no evidence was put up by the defense. (App. p. 787; 791-2). Counsel testified that it was never the strategy to not present any evidence in order to have last argument, but the witnesses they had available to testify were risky and Counsel did not believe they would have been beneficial to the case. (App. p. 792).

The Petitioner testified that he never discussed with Counsel the fact of whether or not they could still put up evidence or witnesses for the defense even if the Petitioner did not testify. (App. p. 878). Petitioner testified that Counsel advised against Petitioner taking the stand in his own defense because of the risks of questions the State could ask. (App. p. 873-4). However, Petitioner acknowledged that at the time of trial, when he informed the court that he agreed that

he did not want to testify, he was just putting his trust in Counsel and “rolled with it, with the flow.” (App. p. 883).

The PCR Court found Counsel’s testimony on this issue to be more credible than Petitioner’s testimony. (App. p. 919). The Court was not convinced that the Petitioner wanted to testify on his behalf at trial or that Counsel never discussed with him the options of calling other witnesses, because that information is directly refuted by the record. (App. p. 919-920). It is clear that the Petitioner was aware of his right to testify and the PCR Court found that he chose to not testify on his own accord, after discussing the options with Counsel. (App. p. 920). Additionally, the Court, after reviewing the testimony provided by the Petitioner at the hearing, found his explanation of the events of that day to lack credibility and to be rather unbelievable. In particular, the Petitioner’s claims that Mr. Gentry was wearing Petitioner’s clothes, but picked up the Petitioner at the pond and then later returned to the pond where the car was to try and disposed of the clothes, Petitioner’s failure to explain the lack of blood in the Cadillac, and his description of how he disposed of his own clothes. (App. p. 920). The Court correctly found no deficiency and no prejudice as a result of any actions of Counsel. Furthermore, the Court found that Counsel did not offer incorrect advice to the Petitioner regarding his right to testify or whether or not he should testify based upon the testimony presented at the hearing. (App. p. 920).

The PCR Court had probative evidence to support its decision that the Petitioner failed to meet his burden of proof as to the allegation that Counsel was ineffective as to this issue.

IV. The PCR Court properly held that Counsel was not ineffective in his discussions regarding plea offers with Petitioner.

Petitioner alleged that Counsel was ineffective for failing to convey and discuss plea offers with him prior to and during the trial. Counsel testified that prior to trial, the State had

offered to reduce the charge to voluntary manslaughter and then sometime subsequent to that offer, the State made an offer of nineteen years. (App. p. 780). However, Counsel testified that he could only find a letter in his file regarding the offer reducing the charge to voluntary. (App. p. 780). Counsel testified that prior to trial he did convey the offers to his client, but Petitioner rejected the offers. (App. p. 780-1). Counsel also testified that following the presentation of the State's case, upon Counsel's request, the State indicated that they would be willing to talk with the victim's family and consider sixteen years if the Petitioner would commit to that at the time. (App. p. 781; 783). Counsel testified that he shared that information with the Petitioner and the Petitioner did not want to commit to accepting a sixteen year offer. (App. p. 784-5). Counsel testified that the reasons the Petitioner gave for not accepting any of the offers was that he did not shoot the victim and was not guilty of anything other than disposing of the body, but that Brent Gentry was the one who shot the victim. (App. p. 785-6).

The Petitioner testified that Counsel only relayed an offer of thirty years to him prior to trial and at first testified that he supposed it was for murder, but then stated that it was for manslaughter. (App. p. 875). The Petitioner testified that Counsel never came to him before trial with a nineteen year offer or during trial with the possibility of sixteen years. (App. p. 876). Petitioner testified that he would have "probably" sought the sixteen year possible deal had he known about it during trial. (App. p. 876).

A defense attorney has the duty to communicate formal offers from the prosecution that may be favorable to the client. Missouri v. Frye, 132 S. Ct. 1399, 1408, 182 L. Ed. 2d 379 (2012). The South Carolina Supreme Court has held that a case-by-case approach is appropriate for assessing "whether but for counsel's deficient performance a defendant would have accepted the State's proposed plea bargain and that he would have benefited from the offer." Davie v.

State, 381 S.C. 601, 613, 675 S.E.2d 416, 422 (2009). In order to demonstrate prejudice in a situation where defendant proceeded to trial and rejected a plea offer, “a defendant must show that but for the ineffective advice of counsel there is a reasonable probability that the plea offer would have been presented to the court (*i.e.*, that the defendant would have accepted the plea and the prosecution would not have withdrawn it in light of intervening circumstances), that the court would have accepted its terms, and that the conviction or sentence, or both, under the offer's terms would have been less severe than under the judgment and sentence that in fact were imposed.” Lafler v. Cooper, 132 S. Ct. 1376, 1385, 182 L. Ed. 2d 398 (2012)

The PCR Court found Counsel's testimony as to the plea offers and the Petitioner's subsequent rejection of the offers to be credible. (App. p. 922). The PCR Court did not find Petitioner's testimony credible that he would have accepted a lesser-offer had he known about it based upon his continued insistence as to his innocence of shooting the victim and only being involved in disposing of the body. (App. p. 922). This Court finds that the Petitioner failed to offer credible testimony that Counsel failed to convey these plea offers to him. Furthermore, the Petitioner specifically testified that between the option of finishing the trial or accepting a sixteen year offer, he “probably,” would have taken the sixteen years instead of face a possible life sentence. The PCR Court found that the Petitioner failed to offer sufficient evidence that even if there was a plea offer that Counsel had failed to convey, that he would have accepted the offer. (App. p. 922).

Respondent submits that there was clear evidence of probative value in the record to support the PCR judge's findings. Respondent submits that Petitioner has failed to meet his burden of proof as to this argument.

IV. The PCR Court properly held that Counsel was not ineffective for failing to cross-examine Brent Gentry regarding pending charges he faced at the time of his testimony at trial.

Petitioner alleged that Counsel was ineffective for failing to properly cross examine Brent Gentry regarding criminal charges during trial. Counsel testified that his main trial strategy was to throw the blame on Gentry, but there was no real evidence that Gentry was present at the house or actually shot the victim. (App. p. 824). Counsel testified, as the transcript reflected, that he asked Gentry questions about the fact that he was in jail at the time of the trial and had been out on bond, but had done something to have that bond revoked. (App. p. 809). Counsel also asked Gentry about potential animosity between himself and the victim, had Gentry admit that he carried a gun sometimes because of drug involvement, and that he occasionally sold drugs. (App. p. 824-5). Counsel further testified that he was able to get Gentry to say that he was hoping for his murder charge to be dismissed, even though he claimed nothing had been promised by the State. (App. p. 809). Counsel also testified that he cross-examined Gentry regarding his testimony that when he showed up at Petitioner's home, he saw no blood or evidence of the shooting, when the police found a great deal of blood and shell casings. (App. p. 832).

Counsel acknowledged receiving a copy of Gentry's SLED record in discovery, but did not recall why he did not ask additional questions as to what charge specifically caused Gentry's bond to be revoked. (App. p. 809-810). Petitioner's Counsel introduced Gentry's SLED record as Petitioner's Exhibit #2. (App. p. 813). Further, Counsel testified that although he did not, it would have been proper cross examination for him to ask Gentry about the pending murder charge, as well as the probation revocation proceeding for a four year drug charge that was pending as possible motive for his testimony. (App. p. 810-11).

Counsel testified that he did not further cross-examine Gentry on his relationship with the Petitioner, because although Gentry testified that he had seen the victim only a few times, but knew the Petitioner for about ten years, the fact that Gentry had known the Petitioner was about ten years was not disputed. Rather, Counsel testified that the Petitioner knew Gentry and knew his reputations and had even had some dealings with him, but did not consider Gentry a close friend. (App. p. 838-9).

Regarding Counsel's cross-examination of Mr. Gentry, the PCR Court found no deficiency. (App. p. 917). The PCR Court noted that although Counsel failed to ask Mr. Gentry about a potential four year probation revocation he faced, Counsel did raise the question as to the murder charge that Mr. Gentry faced, which was much more significant and had much more bearing on any motivation to testify. (App. p. 917). Furthermore, Counsel was able to bring out Mr. Gentry's drug sales, gun possession, and other prior convictions. (App. p. 917). Additionally, Counsel cross-examined Gentry on the fact that the victim and the Petitioner had a friendly relationship and there had been no animosity.

The nature and scope of cross-examination is inherently a matter of trial tactics. United States v. Nersesian, 824 F.2d 1294, 1321 (2nd Cir. 1987). "[A] defendant has a 'burden of supplying sufficiently precise information,' of the evidence that would have been obtained had his counsel undertaken the desired investigation and of showing 'whether such information . . . would have produced a different result.'" United States v. Rodriguez, 53 F.3d 1439, 1449 (7th Cir. 1995).

Accordingly, the PCR Court found that Petitioner had not shown that a different approach to cross-examination of Gentry would have been beneficial to the defense. (App. p. 918). The Petitioner did not present any testimony showing Gentry's answers at trial would have been

different. Moreover, the Court found that the information presented by the Petitioner was not sufficient to have altered the outcome of Petitioner's trial had it been presented. (App. p. 918).

Respondent submits that there was clear evidence of probative value in the record to support the PCR judge's findings. Respondent submits that Petitioner has failed to meet his burden of proof as to this argument.

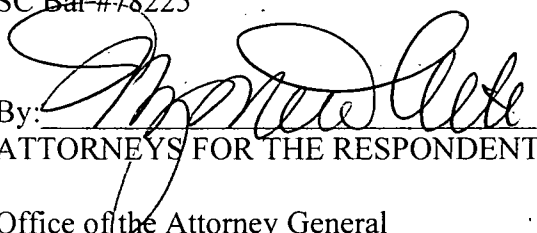
CONCLUSION

For the reasons stated above, this Court should deny the Petition for Writ of Certiorari and affirm the PCR Court's ruling. Should this Court grant Certiorari, the Respondent requests permission under the rules to brief the issues discussed above fully.

Respectfully submitted,

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June 23, 2014

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO SPARTANBURG COUNTY
Court of Common Pleas

The Honorable J. Derham Cole, Circuit Court Judge

Circuit Case No.: 2010-CP-42-5368
Appellate Case No.: 2013-001722

ISALAH WALKER,

Petitioner,


v.

STATE OF SOUTH CAROLINA,

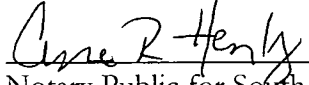
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Return to the Petition for Writ of Certiorari was served upon Petitioner by depositing the same in the United States mail, postage prepaid, addressed to his attorney of record, Tara D. Shurling, Esquire, 3614 Landmark Drive, Suite D, Columbia, South Carolina, 29204, on this the 23rd day of June, 2014.


Anne A. Mueller
Legal Assistant for Respondent

SWORN to before me this
23rd day of June, 2014.


_____(L.S.)
Notary Public for South Carolina.
My Commission Expires: 7/18/2017



ALAN WILSON
ATTORNEY GENERAL

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June 23, 2014

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JUN 23 2014

S.C. Supreme Court

Via Hand Delivery

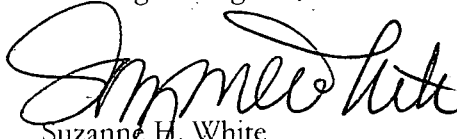
Honorable Daniel E. Shearouse
Clerk of the Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RE: Isaiah Walker v. State of South Carolina
Circuit Court Case No: 2010-CP-42-5368
Appellate Case No.: 2013-001772

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Return to Petition for Writ of Certiorari in the above matter for filing in your office. By copy of this letter I am serving opposing counsel with this return today.

With highest regards,


Suzanne H. White
Assistant Deputy Attorney General

SHW/aam
Enclosures

cc: Tara D. Shurling, Esquire (w/enclosure)