

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
The Honorable J. Derham Cole, Circuit Court Judge

Case No. Appellate Case No. 2013-001772

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JUL 07 2014

S.C. SUPREME COURT

ISIAIAH WALKER, 322149,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

REPLY TO STATE'S RETURN TO PETITION FOR WRIT OF CERTIORARI

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ATTORNEY FOR PETITIONER.

INDEX

INDEX1
REPLY TO RETURN REGARDING QUESTIONS PRESENTED NO. 2 AND 3.....2
CONCLUSION.....4

ARGUMENT

Petitioner makes the following Reply to Respondent's Return addressing Petitioner's Questions Presented No. 2 and 3 as found in Respondent's Return at Section II, pages 6 through 9. With regard to all other arguments presented in the Petition for Writ of Certiorari, Petitioner would stand on the arguments and authorities presented therein.

Section II **Amanda Murphy**

Respondent suggests that this witness contradicted herself in her PCR hearing testimony when she asserted that she was never questioned by the police about the threats she allegedly wrote on a bathroom wall. Return, p. 7. In her PCR testimony, when this witness was specifically asked if she was interviewed by the police, that question was not framed with specific reference to the graffiti incident. Her response indicated that the police did come talk to her, but that she felt they didn't really listen to her because she was being supportive of Petitioner. App. p. 844. Contrary to the inference invited by Respondent, these two portions of her testimony are not inconsistent with each other. Since the State's theory of the case was that the Victim was murdered for "messaging with Amanda", it is only logical that law enforcement would have interviewed her at some point in their investigation of this homicide. The fact that they did talk to her does not mean they questioned her about the statement supposedly written by her on a bathroom wall.

Trial Counsel's failure to call Murphy as a witness for the defense is rooted in his claim that he was afraid of using her as a witness for the defense. The record before the Court establishes that if he had taken a closer look at the lack of evidence concerning the graffiti incident, and if he had interviewed her, he would have known his fears were unfounded.

Petitioner submits that where jealousy over Murphy was the motive put forth by the prosecution for the Victim's murder, Trial Counsel's failure to call this witness to contradict the assertion that the Victim had any sort of interaction, much less a romantic involvement, with Murphy was highly prejudicial to Petitioner. The lower court erred in denying relief on this ground.

Cynthia Thacker

Respondent correctly notes that the Order of Dismissal found Ms. Thacker's PCR testimony to lack credibility in light of her criminal record and the fact that she admitted "the people in the trailer were all smoking weed." Return, pg. 9. This analysis of the issue, however, fails to factor in another crucial and obvious point. Gentry, according to Thacker's PCR testimony, was among the people who were "all smoking weed." He also admitted being a drug dealer in his trial testimony. App. P. 530, l. 21- p. 531, l. 3. He acknowledged a criminal record in his trial testimony which included a drug conviction and an unlawful weapon charge. App. p. 555, ll. 5-18. Significantly, his testimony, unlike that Thacker could have presented, was self-serving. Given these facts, there is no basis for the assumption that the jury would not have found this witness credible as compared to Gentry. Where her testimony would have contradicted Gentry's testimony on crucial points, Trial Counsel was ineffective for failing to present her testimony at trial. Petitioner respectfully asserts that he should have been granted relief on this ground.

CONCLUSION

Based upon the reasons and authorities set forth in his Petition for Writ of Certiorari, as well as those presented herein, the Petitioner asks that the Writ be issued and that the Petitioner be afforded the opportunity to submit a full appellate briefing on the issues summarized in the Petition and Reply filed in this PCR appeal. Alternatively, he would ask that this Honorable Court dispense with further briefing and grant him a new trial.

Respectfully submitted,


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ATTORNEY FOR PETITIONER

This 2nd day of July, 2014.

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The Honorable J. Derham Cole, Circuit Court Judge

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ISAIAH WALKER, 322149,

PETITIONER,

v.

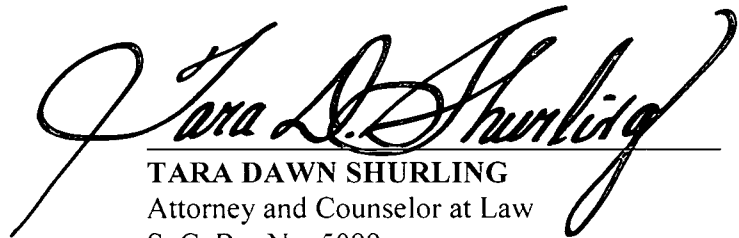
THE STATE,

RESPONDENT.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Reply to State's Return to Petition for Writ of Certiorari in the above-entitled case has been served upon opposing counsel, Suzanne H. White, Assistant Attorney General, this 2nd day of July, 2014, by mailing one (1) copy in a stamped envelope properly addressed to:

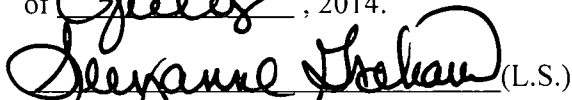
Suzanne H. White, Assistant Attorney General
Office of the Attorney General
P. O. Box 11549
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ATTORNEY FOR PETITIONER.

SWORN TO BEFORE me this 2nd day
of July, 2014.


(L.S.)
Notary Public for South Carolina
My Commission Expires: 2/28/23

LAW OFFICE OF



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July 2, 2014

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

RE: Isaiah Walker, 322149 v. State of South Carolina
Appellate Case No. 2013-001772

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S.C. SUPREME COURT

Dear Mr. Shearouse:

Enclosed for filing please find the original and six copies of the Reply to State's Return to Petition for Writ of Certiorari and my Certificate of Service in the above-captioned case. I would appreciate your clocking and returning the extra two (2) copies of the Reply in the envelope provided. Thank you for your assistance in this matter. I remain,

Sincerely yours,

A handwritten signature in black ink that reads "Tara Dawn Shurling". The signature is fluid and cursive.

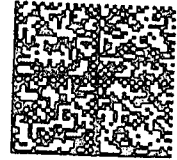
Tara Dawn Shurling
Attorney and Counselor at Law

TDS/sm

Enclosures

cc: Suzanne H. White, Assistant Attorney General (w/enclosures)
Isaiah Walker, 322149 (w/enclosures)
Elizabeth Walker (w/enclosures)

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