

STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
The Honorable J. Ernest Kinard, Jr., Circuit Court Judge

OCT 08 2014

**S.C. SUPREME COURT**

Appellate Case No. 2013-001269

DAYDRIAN ROUSE, 342518,

PETITIONER,

v.

THE STATE OF SOUTH CAROLINA,

RESPONDENT.

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**REPLY TO RETURN TO PETITION  
FOR WRIT OF CERTIORARI**

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**ATTORNEY FOR PETITIONER.**

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## **ARGUMENT**

Petitioner relies upon the arguments and authorities advanced in his Petition for Writ of Certiorari in support of all his allegations. In Reply to the State's Return he would advance the following points concerning Respondent's arguments III and VI.

### **SECTION III**

While Defense Counsel asserted that the discovery materials were reviewed with Petitioner, in his testimony at the evidentiary hearing, he admitted that he did not discuss the methods he could utilize to cross-examine witnesses concerning their potential bias and prejudice against Petitioner. App. p. 157, l. 9- p. 158, l. 17. Petitioner asserted in his Post-Conviction Relief testimony that he had not been given the opportunity to review all the discovery materials in advance of his Court date. He said he now knew there were things he never saw before his plea because he has since had the chance to see the additional materials he did not know about prior to his plea. App. p. 194, l. 7- p. 195, l. 12 and App. p. 222, l. 21- p. 228, l. 7. Absent adequate advice from Defense Counsel on this crucial issue, there is no way the Petitioner, who was very young and had no prior criminal record, could be expected to know how the discovery materials could be used to impeach the credibility of the State's witnesses. App. p. 203, ll. 16-25. Likewise, simply advising Petitioner that the State's witnesses could be cross-examined was no substitute for informing Petitioner of the allowable scope of cross-examination and the proper methods that could be employed to challenge the credibility of witnesses for the prosecution.

### **SECTION VI**


The Respondent argues that Petitioner can not prevail on this issue because he did not expressly testify that he would not have pleaded had he been aware that he could challenge the State's introduction of his text message communications with his brother if he went to trial. The State's position overlooks the fact that Petitioner did expressly acknowledge that PCR Counsel had raised the allegations he wished to have presented on his behalf during the evidentiary hearing. App. p. 208, ll. 11-17. He further acknowledged that the real question was whether the

allegations raised would have made a difference in whether or not he pleaded guilty or went to trial. App. p. 208, l. 23- p. 209, l. 11. Thus, Petitioner's testimony evidences his understanding of his burden of proof, and his intent to assert that each of the issues addressed in his PCR action would have made "a difference in whether or not [he] pleaded guilty or went to trial." App. p. 209, ll. 5-7. Defense Counsel admitted in his PCR testimony that he never discussed with Petitioner any strategies for challenging the admissibility of these communications if this case went to trial. App. p. 138, l. 18- p. 139, l. 8.

### CONCLUSION

Based upon the reasons and authorities set forth in his Petition for Writ of Certiorari, as well as 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 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 6<sup>th</sup> day of October, 2014.

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DAYDRIAN ROUSE, 342518,

PETITIONER,

v.

THE STATE OF SOUTH CAROLINA,

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, J. Clayton Mitchell, Assistant Attorney General, this 6<sup>th</sup> day of October, 2014, by mailing one (1) copy in a stamped envelope properly addressed to:

J. Clayton Mitchell, Assistant Attorney General  
Office of the Attorney General  
P. O. Box 11549  
Columbia, SC 29211



TARA DAWN SHURLING  
Attorney and Counselor at Law  
S. C. Bar No. 5099

ATTORNEY FOR PETITIONER.

SWORN TO BEFORE me this 6<sup>th</sup> day  
of October, 2014.

Sharon H. McCollister (L.S.)

Notary Public for South Carolina

My Commission Expires: Jan. 16, 2017

LAW OFFICE OF



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October 6, 2014

**RECEIVED**

OCT 08 2014

**S.C. SUPREME COURT**

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

RE: Daydrian Rouse, 342518 v. State of South Carolina;  
Appellate Case No. 2013-001269

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 cursive script that reads "Tara Dawn Shurling".

Tara Dawn Shurling  
Attorney and Counselor at Law

TDS/sm  
Enclosures

cc: J. Clayton Mitchell, Assistant Attorney General (w/enclosures)  
Daydrian Rouse, 342518 (w/ enclosures via U.S. Mail)  
Ernest and Betty Rouse (w/ enclosures via U.S. Mail)