

STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

**S.C. Supreme Court**

Frank W. Addy, Jr., Circuit Court Judge

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Appellate Case No. 2014-001261  
Lower Court Case No. 2006-CP-32-3862

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TERRANCE V. SMITH, #292962,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

### **I.**

Whether there is any probative evidence to support the PCR court's conclusion that defense counsel was not ineffective for failing to cross-examine a cooperating co-defendant regarding the potential minimum and maximum sentences that she faced for the charges that she pleaded guilty to and for the charges that were to be dismissed?

### **II.**

Whether there is any probative evidence to support the PCR court's conclusion that the Petitioner failed to show that the State committed a due process violation in not disclosing the true nature of the plea agreement it had made with the cooperating co-defendant?

### **III.**

Whether there is any probative evidence to support the PCR court's conclusion that defense counsel was not ineffective for failing to request a charge on self-defense?

## STATEMENT OF THE CASE

The Petitioner, Terrance V. Smith, was indicted in Lexington County for murder, first degree burglary, assault and battery with intent to kill, attempted armed robbery, criminal conspiracy, possession of a firearm during the commission of a violent crime, and ill treatment of an animal. On April 28-May 2, 2003, the Petitioner proceeded to a joint trial on these charges with his co-defendant Ivan Collins. The Petitioner was represented at this proceeding by Jonathan R. Hendrix, Esquire. At the conclusion of the trial, the Petitioner was found not guilty on the ill treatment of an animal charge and guilty on the remaining charges.<sup>1</sup> The Honorable Marc H. Westbrook, presiding circuit judge, sentenced the Petitioner to life without parole pursuant to S.C. Code Ann. § 17-25-45.

The Petitioner timely appealed his convictions and sentences to the South Carolina Court of Appeals. Mary P. Miles, Esquire, represented the Petitioner on appeal. In an unpublished opinion filed November 30, 2005, the Court of Appeals affirmed the Petitioner's convictions and sentences. State v. Smith, 2005-UP-600 (S.C. Ct. App. filed Nov. 30, 2005). The remittitur was issued on December 16, 2005.

On October 31, 2006, the Petitioner filed an Application for Post-Conviction Relief with the Lexington County Clerk of Court. The State served its Return on December 15, 2010. An evidentiary hearing into the matter was convened on April 15-16, 2003, before the Honorable Frank W. Addy, Jr., presiding circuit judge. The Petitioner was represented at this proceeding by Tara Dawn Shurling, Esquire. On April 2, 2014, the PCR court filed an Order of Dismissal which denied relief on all of the Petitioner's claims. On April 24, 2014, the Petitioner filed a

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<sup>1</sup> Collins was convicted of all charges.

Rule 59(e), SCRCP, motion to alter or amend the judgment.<sup>2</sup> On May 12, 2014, the PCR court filed an order modifying its order of dismissal, but did not change its decision to deny relief to the Petitioner. The Petitioner timely filed a notice of appeal from these orders with this Court.

Notice of appeal was timely served and filed. The Petitioner now seeks a writ of certiorari.

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<sup>2</sup> The Rule 59(e) motion was timely made. According to the representation made by the Petitioner's attorney in the motion, she did not receive the order of dismissal until April 9, 2014. See App. p. 1410. Pursuant to Rule 59(e), she then had ten days to serve her motion. Since April 19 was a Saturday, this gave her until April 21 to serve the motion. See Rule 6(a), SCRCP. The motion was served on that date. See App. p. 1415.

## STATEMENT OF FACTS

The charges in this case arose out of a shooting at an apartment complex in West Columbia on August 3, 2001. According to the State's theory of the case, the Petitioner's co-defendant Ivan Collins and Collins' girlfriend Wykiesha Williams developed a plan to rob Charles Penny, a small-time drug dealer, at his apartment in West Columbia. Williams was to enter the apartment to determine whether or not Penny had marijuana inside the apartment. If he had marijuana, then Williams was to give Collins a signal to enter the apartment to effectuate the robbery. See App. p. 455, line 25-p. 456, line 25.

On the night of the incident, several individuals were present in Penny's apartment smoking marijuana and drinking various alcoholic beverages: Penny; Penny's next-door neighbor Franklin Hook; murder victim and Hook's brother-in-law Sidney Muller; ABWIK victim John Hayward; and a friend of Penny's named Ronnie Rogers. According to the State's witnesses, Williams entered the apartment late in the evening and stayed for a short period of time until she received a phone call. After completing the phone call, Williams hurriedly exited the apartment and two armed individuals stormed the apartment's front door. One individual, identified by Penny and Hayward as the Petitioner, entered the apartment and began rummaging through the pockets of the occupants. The other individual, identified by Hayward as Collins, stood in the doorway firing warning shots. Hayward then engaged the Petitioner in a struggle and was shot.<sup>3</sup> Additionally, Muller was shot at some point in time during the altercation.<sup>4</sup> The Petitioner and Collins then fled the scene. While fleeing, Collins shot Penny's dog. See App. p. 247, line 8-p. 260, line 11 (Hook); p. 293, line 2-p. 299, line 13 (Penny); p. 366, line 5-p. 371, line 8 (Hayward); p. 457, line 3-p. 468, line 7 (Williams).

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<sup>3</sup> The shooting injury left Hayward paralyzed and wheelchair-bound. See App. p. 371, line 24-p. 372, line 25.

<sup>4</sup> Dr. John Carter, who performed the autopsy on Muller, testified at trial that Muller was struck by a bullet that severed an artery in his abdomen and Muller died minutes later. App. p. 690, line 17-p. 691, line 8.

Although the Petitioner did not present any evidence at trial, Collins took the stand in his defense. Collins testified that he had not planned to rob Penny and that he only went over to Penny's apartment that night because Williams wanted to go there. Williams then entered the apartment while Collins and the Petitioner waited outside. After several minutes passed, Collins and the Petitioner went to the apartment to see what had happened and Williams ran out of the apartment. Someone then threw something at the Petitioner and the Petitioner was tackled by one of the occupants of the apartment. Collins then saw Penny with a gun and Collins pulled out his gun and opened fire. Collins and the Petitioner then fled the scene with Williams. See App. p. 733, line 4-p. 738, line 16.

## ARGUMENT

### **Standard of Review**

The Sixth and Fourteenth Amendments to the United States Constitution guarantee every criminal defendant the right to the effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984). In order to prove a claim of ineffective assistance of trial counsel, the moving party must show that defense counsel (1) failed to provide him with reasonable professional assistance of counsel under the prevailing standards for attorneys representing clients in criminal matters; and (2) that he was prejudiced by the errors and omissions of counsel such that he was deprived of a fair trial. Id. In other words, the Petitioner must show that but for counsel's errors and omissions, there is a reasonable probability that the result at trial would have been different. Id.

The Fifth and Fourteenth Amendments to the United States Constitution require that the prosecution disclose favorable exculpatory or impeachment evidence to the defense. Brady v. Maryland, 373 U.S. 83 (1963). "An individual asserting a Brady violation must demonstrate that evidence: (1) favorable to the accused; (2) in the possession of or known by the prosecution; (3) was suppressed by the State; and (4) was material to the accused's guilt or innocence or was impeaching." Riddle v. Ozmint, 369 S.C. 39, 44, 631 S.E.2d 70, 73 (2006). "If a Brady violation is found to have occurred, PCR must be granted." Id.

On appeal, a PCR court's findings will be upheld if there is any evidence of probative value supporting them. Cherry v. State, 300 S.C. 155, 386 S.E.2d 624 (1989). If no probative evidence is found, the reviewing court will reverse the lower court's findings. Pierce v. State, 338 S.C. 139, 526 S.E.2d 222 (2000).

- I. **The PCR court erred in concluding that defense counsel was not ineffective for failing to question a cooperating co-defendant regarding the potential minimum and maximum sentences that she faced for her charges.**
- II. **The PCR court erred in concluding that the prosecution did not commit a Brady violation for failing to disclose the true nature of the cooperating co-defendant's plea agreement with the State.**

A. How the Issues Arose Below

Wykiesha Williams was one of the State's primary witnesses against the Petitioner. Like the Petitioner and Collins, Williams was charged with murder, attempted armed robbery, first degree burglary, and criminal conspiracy in connection with this offense. At trial, she testified that she pleaded guilty to first degree burglary, attempted armed robbery, and criminal conspiracy prior to trial. App. p. 445, line 13-p. 446, line 4. Regarding the sentences for the offenses that she pleaded guilty to, Williams testified that she could receive up to a life sentence for burglary, fifteen years' imprisonment for attempted armed robbery, and five years' imprisonment for criminal conspiracy. App. p. 446, line 22-p. 447, line 7. The prosecutor then engaged her in the following discussion regarding the disposition of the other charges that had been pending against her:

Q. Are you aware that the State originally had you charged with murder?

A. Yes, sir.

Q. Are you aware that there was [sic] some additional attempted armed robberies against you from this same incident regarding other individuals in the house?

A. Yes, sir.

Q. *And those charges have been dismissed, have they not?*

A. *Yes, sir.*

App. p. 458, lines 6-15 (emphasis added). In actuality, however, Williams' charges *had not* been dismissed; instead, they remained pending until after the trial. Moreover, defense counsel did not ask Williams about the potential mandatory minimum sentence that Williams faced for first degree burglary, nor did defense counsel ask Williams about the potential maximum and mandatory minimum sentences that she faced for murder.<sup>5</sup> Ultimately, Williams received a time served sentence for each of her charges, including first degree burglary.<sup>6</sup> See App. pp. 1332-1340.

In the Petitioner's amended PCR application, he alleged that defense counsel was ineffective for failing to cross-examine Williams about "charges that were dismissed as part of her plea agreement with the State and the minimum and maximum penalties she would have faced for those offenses." App. p. 1053. The Petitioner also alleged that trial counsel was ineffective for failing to cross-examine Williams about "the least sentence she could hope to get for the offense of first degree burglary." App. p. 1053. At the PCR hearing, defense counsel testified that he did not consider questioning Williams on the minimum penalty she could receive for first degree burglary. App. p. 1072, line 18-p. 1073, line 2. He also testified that he did not have any strategic reason for failing to question Williams on the maximum or minimum penalties for murder. App. p. 1075, lines 6-23.

While the Petitioner initially pursued a claim of ineffective assistance of counsel regarding the status of Williams' murder charge at the time of trial, this claim became a Brady allegation following the testimony of the prosecutor Charles Dayton Riddle, III:

Q. What do you ask Wakeisha [sic] Williams?

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<sup>5</sup> Neither the State nor counsel for Collins asked these questions either.

<sup>6</sup> The suspension of the mandatory minimum fifteen year sentence for first degree burglary sentence was an illegal sentence. See State v. Jacobs, 393 S.C. 584, 713 S.E.2d 621 (2011) (holding that the mandatory minimum sentence for first degree burglary cannot be suspended).

A. The question on line 13?

Q. Yes.

A. “Those charges have been dismissed, have they not?”

Q. To which she responds?

A. “Yes, sir.”

Q. And those charges in fact had not been dismissed as of –

A. I had not signed the paperwork.

Q. Well, okay, which begs another question. *If Wakeisha [sic] Williams had gotten up in that trial and testified materially differently from what you expected her to say, would you have not pressed that murder indictment on Monday?*

A. No.

App. p. 1279, lines 10-25 (emphasis added); see also App. p. 1263, line 18-p. 1264, line 19. At the conclusion of the PCR hearing, PCR counsel explicitly argued that the State’s failure to explain the true nature of Williams’ plea agreement to the jury constituted a Brady violation. See App. p. 1306, line 17-p. 1308, line 23.

The PCR court denied relief on the ineffective assistance of counsel claim, concluding that the Petitioner could not meet either prong of the Strickland test. App. pp. 1396-1398. The PCR court also denied relief on the Brady claim and found that “Applicant has failed to show any basis to believe that there were negotiations between Williams and the prosecution other than what was presented at trial.” App. p. 1398. The Petitioner then filed a Rule 59(e), SCRC, motion, arguing, in part, that the PCR court failed to sufficiently rule on the Petitioner’s claims regarding the status of the murder charge at the time of trial and the possible sentences that Williams faced. See App. pp. 1411-1412. The PCR court denied relief on this motion as well. App. pp. 1417-1418.

## B. Discussion

The Petitioner respectfully contends that the PCR court's rulings on the claims pertaining to Williams are devoid of any probative evidence and warrant further review by this Court. The Petitioner will first address his ineffective assistance of counsel claim before turning to his Brady claim.

### *1. Defense Counsel Was Ineffective for Failing to Cross-Examine Williams Regarding Her Mandatory Minimum and Possible Maximum Sentences*

It is well-established, and was well-established at the time of the Petitioner's trial, that the Sixth Amendment's Confrontation Clause requires that criminal defendants be permitted to cross-examine testifying cooperating co-defendants about the possible minimum and maximum sentences they faced for their original charges, for any dismissed charges, and for any charges that they have already plead guilty to. See State v. Brown, 303 S.C. 169, 399 S.E.2d 593 (1991); State v. Mizzell, 349 S.C. 326, 563 S.E.2d 315 (2002); State v. Gracely, 399 S.C. 363, 731 S.E.2d 880 (2012). "The fact that a cooperating witness avoided a *mandatory minimum* sentence is critical information that a defendant must be allowed to present to the jury." Gracely, 399 S.C. at 374-375, 731 S.E.2d at 886 (emphasis in original).

The Petitioner respectfully submits that defense counsel's cross-examination of Williams was clearly deficient. Pursuant to Brown and Mizzell, defense counsel had the authority to question Williams regarding the maximum and minimum penalties that she faced on all of her charges. Due to defense counsel's failure to cross-examine Williams regarding the potential sentences for the charges that she had pleaded guilty to and that were to be dismissed pursuant to her plea agreement, however, the jury did not hear that Williams was facing a sentence of thirty years' imprisonment to life for a conviction for murder and that she could receive a sentence of fifteen years for her cooperation. Additionally, given the fact that Williams' attorney had told

her that she could receive a sentence of zero years' imprisonment for first degree burglary, see App. p. 1126, line 23-p. 1127, line 2, Williams may very well have testified that she avoided a mandatory minimum sentence altogether by cooperating against the Petitioner. This testimony would have been truthful, inasmuch as she ultimately received a time served sentence for first degree burglary. See App. pp. 1332-1340. This testimony would have been significant evidence of bias that the jury needed to hear in order to make a full evaluation of Williams' credibility. Consequently, the PCR court's conclusion that defense counsel's "vigorous cross-examination" of Williams was constitutionally sufficient lacks any probative evidence and should be reversed by this Court.

Moreover, there is a reasonable likelihood that the result of the Petitioner's trial would have been different had the evidence of bias been introduced. Williams was the individual who tied the case together for the State. Without her testimony, there would have been no evidence of motive or reasoning for the attack on Penny's apartment. Her credibility was paramount, and had the jury heard that she was having a mandatory minimum thirty year sentence reduced all the way to a potential time served sentence due to her cooperation, it is extremely likely that the jury would have discredited her testimony altogether.

Additionally, the testimony of all of the eyewitnesses against the Petitioner was suspect. Both Penny and Hayward had been smoking marijuana and drinking alcoholic beverages for a significant period of time prior to the incident, casting serious doubt on their identifications of the Petitioner. Hayward, in particular, admitted that his testimony about identifying the Petitioner at trial was different than the testimony given at the *in camera* hearing to suppress his identification of the Petitioner. See App. p. 382, line 22-p. 384, line 10. Furthermore, Williams gave at least four different statements to the police. See App. p. 480, line 5-p. 511, line 15.

Finally, Ronnie Rogers, who did not testify at trial, identified two individuals out of the photo line-ups he was given that were not the Petitioner or Collins. See App. p. 618, line 23-p. 620, line 1. Given the significant evidence against the reliability of the identifications of the Petitioner, there is a reasonable likelihood that the jury would have acquitted the Petitioner had the evidence of Williams' bias been admitted. Accordingly, the PCR court's summary finding that "the result of the trial would most likely remain the same" had the evidence of bias been admitted lacks any probative evidence and should be reversed. App. p. 1398. The Petitioner respectfully requests that this Court grant certiorari to review this issue further.

2. *The State Committed a Brady Violation by Failing to Disclose the Full Plea Agreement with Williams*

It is a due process violation for the State to fail to disclose the terms of a plea agreement with a cooperating witness. Giglio v. United States, 405 U.S. 150 (1972). Here, it is clear that the prosecutor misled the jury, and the defense, as to the true nature of his agreement with Williams. The prosecutor explicitly asked Williams a leading question where he stated, with his authority as the prosecutor behind it, that her other charges, including murder, "have been dismissed, have they not?" App. p. 448, lines 13-14. Based on this question, and her affirmative response, there would have been no reason for anyone to suspect that those charges were still pending or that she could face prosecution for those charges in the future. However, in truth, the prosecutor was still holding on to those charges and would have prosecuted Williams had she not testified consistently with what he believed the truth to be. See App. p. 1279, lines 10-25. This means that not only were her charges still pending, but that they would still be prosecuted if she failed to testify favorable to the State. The true plea agreement was a significant deviation from the plea agreement that Williams testified existed, and the State's failure to disclose the plea agreement is a clear due process violation. See United States v. Morris, 498 F.3d 634 (7th Cir.

2007) (finding prosecutorial misconduct in a prosecutor's assertion that a cooperating co-defendant would receive a mandatory ten-year sentence when the prosecutor knew that the co-defendant could receive a lesser sentence). Therefore, the PCR court's conclusion that the Petitioner failed to show "that there were negotiations between Williams and the prosecution other than what was presented at trial" is unmistakably erroneous. App. p. 1398. Indeed, it is difficult to envision a scenario where starker evidence of a material difference in a plea agreement could be provided to a PCR court, inasmuch as the evidence in this case came straight from the prosecutor.

Turning to Brady's materiality prong, the Petitioner must show that there is a "reasonable probability that the result of the proceeding would have been different had the evidence been disclosed to the defense." Porter v. State, 368 S.C. 378, 384, 629 S.E.2d 353, 356 (2006). The Petitioner submits that the inquiry here is largely the same as for the impeachment issue discussed immediately above. The testimony putting the Petitioner at the scene was highly suspect and Williams' credibility was of the utmost importance at trial. Had the jury heard that Williams would have been prosecuted for murder if she didn't testify to what the prosecutor wanted her to testify to, there is a reasonable probability that they would have discounted her testimony altogether and acquitted the Petitioner. See Campbell v. Reed, 594 F.2d 4, 7-8 (4th Cir. 1979) ("[A] tentative promise of leniency might be interpreted by a witness as contingent upon the nature of testimony. Thus, there would be a greater incentive for the witness to try to make his testimony pleasing to the prosecutor.") This would have been particularly true had defense counsel performed in a constitutionally sufficient manner and conveyed to the jury that Williams would have gone from an at-worst fifteen-year mandatory minimum sentence and at-best no-minimum penalty to a mandatory minimum thirty years' imprisonment for murder if she

was not cooperative at trial. Consequently, the Petitioner respectfully submits that he has demonstrated that the PCR court's determinations on the Brady claim were not supported by any probative evidence. The Petitioner requests that this Court grant certiorari to review this issue in greater detail.

**III. The PCR court erred in concluding that defense counsel was not ineffective for failing to request that the jury be charged on self-defense.**

A. How the Issue Arose Below

At trial, the Petitioner's co-defendant Collins testified that the only reason he went up to Penny's apartment was to check on Williams after she had been gone for several minutes. Williams then came running out of the apartment and someone attacked the Petitioner. Collins then saw Penny pointing a firearm at him, so he pulled out his gun and opened fire on Penny. See App. p. 733, line 4-p. 738, line 16. Neither Collins' attorney nor the Petitioner's attorney requested that the jury be charged on self-defense based on Collins' testimony. On appeal, the Petitioner attempted to argue that self-defense should have been charged, but the Court of Appeals held that the issue was "not preserved for appellate review, for no such request was made in the trial court." App. p. 991.

In the Petitioner's amended application for Post-Conviction Relief, he alleged that defense counsel "was ineffective for failing to request a jury instruction on the law of self-defense." App. p. 1054. Defense counsel testified that he believed that self-defense was appropriate based on Collins' testimony. App. p. 1159, lines 16-23; see also p. 1214, line 2-p. 1215, line 4. He further testified that he could not "recall now why one of us or both of us didn't ask for a charge of self-defense based solely on Ivan Collins' testimony." App. p. 1216, lines 12-15.

The PCR court denied relief on this claim, concluding that

Counsel testified that he was focused on a defense that Applicant was not there and was misidentified. However, Collins, who testified against his attorney's advice, certainly undermined this defense. Collins' testimony would support self-defense... but that was Collins' defense, not Applicant's. Applicant's defense under those facts would be mere presence. This Court notes that the trial

court gave an instruction on mere presence. Accordingly, Applicant was not prejudiced by the failure to instruct the jury on self-defense ... and counsel's performance was not deficient. This allegation is denied.

App. 1405. The Petitioner now contends that the PCR court's rulings were erroneous.

#### B. Discussion

The Petitioner respectfully submits that the inquiry for this issue is relatively straightforward. The PCR court concluded that self-defense should have been charged had it been requested. See App. p. 1405 ("Collins' testimony would support self-defense.") That finding was not challenged by the State and is the law of the case. See Caprood v. State, 338 S.C. 103, 112, 525 S.E.2d 514, 518 (2000).

Since a charge on self-defense was warranted, the PCR court's ruling can only be upheld if there was no reason for defense counsel to have requested the charge. Here, it is unmistakable that defense counsel should have made such a request. Self-defense is a defense that requires the State to *disprove* the defense beyond a reasonable doubt. See State v. Burkhart, 350 S.C. 252, 565 S.E.2d 298 (2002); State v. Wiggins, 330 S.C. 538, 500 S.E.2d 489 (1998). Consequently, the existence of the defense would have made it more difficult for the State to obtain convictions for the murder and ABWIK charges, at the very least, due to the burden the State would have had to bear to both disprove self-defense *and* prove the elements of those offenses beyond a reasonable doubt.

Moreover, the crux of the PCR court's ruling is that since Collins was the one who testified that he acted in self-defense, the defense was largely irrelevant as to the Petitioner. That misses the point, however, of the State's case. The Petitioner was prosecuted under an accomplice liability theory. If Collins is to be believed, and he acted in self-defense, then the defense was equally applicable to the Petitioner as he could not have acted as an accomplice to

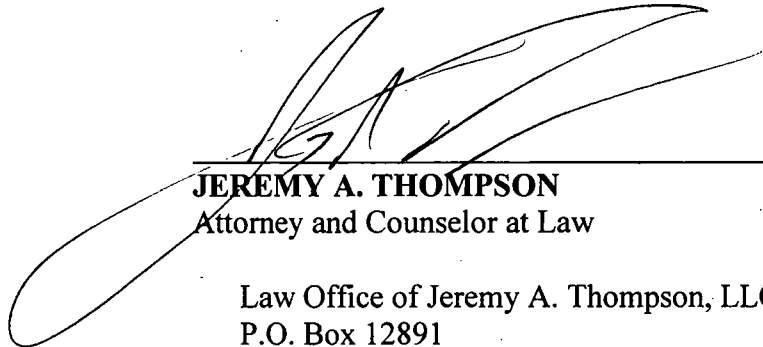
someone that did nothing wrong. Accordingly, since Collins' defense would have supported an acquittal for the Petitioner as well, defense counsel's failure to request a charge on self-defense was deficient. This is particularly true given the state of the case after Collins testified, as the PCR court recognized, that the Petitioner's primary defense of misidentification was largely gutted by Collins' testimony.

For largely the same reasons, defense counsel's deficient performance prejudiced the Petitioner. Given all of the inconsistencies in the accounts and identifications made by the State's witnesses, there is a reasonable likelihood that the jury would have acquitted the Petitioner and Collins of some, if not all, of the charges against them had they been instructed that they had to acquit the defendants unless they found that the State had disproven the defense beyond a reasonable doubt. The Petitioner respectfully submits that a favorable resolution of this claim should result in all of his charges being vacated, inasmuch as it is difficult to see a scenario where the jury acquits him of murder but convicts him of attempted armed robbery or first degree burglary. Consequently, the Petitioner contends that he has demonstrated that the PCR court's rulings on this issue were unsupported by any probative evidence. The Petitioner respectfully requests that this Court grant certiorari to review this issue in greater detail.

CONCLUSION

For the reasons stated, the Petitioner asks this Court to grant the petition and to allow full briefing on these issues.

Respectfully submitted,



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**ATTORNEY FOR PETITIONER.**

This 5<sup>th</sup> day of November, 2014.

STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas  
Frank W. Addy, Jr., Circuit Court Judge

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Appellate Case No. 2014-001261  
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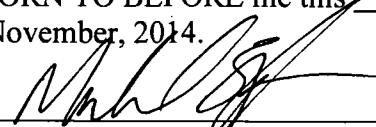
**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that one copy of the Petition for Writ of Certiorari and one copy of the Appendix in the above-entitled case have been served upon opposing counsel, David A. Spencer, Assistant Attorney General, Office of the Attorney General, P.O. Box 11549, Columbia, SC 29211, via hand-delivery, this 5<sup>th</sup> day of November, 2014.

  
\_\_\_\_\_  
**JEREMY A. THOMPSON**  
ATTORNEY FOR THE PETITIONER

SWORN TO BEFORE me this 5<sup>th</sup> day  
of November, 2014.

  
\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina

My Commission Expires: 7/10/2022