

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Lower court case No. 2013-CP-46-02984

JAMAR L. BELK
petitioner

Appellate case No.

V.

2014 - 001067

STATE OF SOUTH CAROLINA
respondent

petition for rehearing

petitioner, moves this honorable court for a
rehearing pursuant to S.C.A.C.R. Rule 240 (i) and (j).

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S.C. Supreme Court

Standard of Review

The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal. S.C.A. C.R. Rule 240 (i).

Except where these rules require the concurrence of two or more members of an appellate court. An individual Judge or Justice may grant or deny any motion or petition on behalf of the court. Any review of an order issued by an individual Judge or Justice shall be by petition for rehearing. S.C.A.C.R. Rule 240 (J).

Argument

The court has overlooked or misrepresented petitioner's issued. The court denied petitioner's petition.

petitioner was informed by his mother after his p.c.r. hearing that his co-defendant was represented by the same attorney, at different times. This was the first time the petitioner knew of this conflict. An affidavit from petitioner's mother is a part of the petition filed.

The record of the p.c.r. hearing evidences that the issues that were raised or concerned the petitioner and the fact that his co-defendant had made conflicting statements, and these statements went to the heart of petitioner's guilt or innocence. Counsel was attempting to shield petitioner's co-defendant by not asking or going into the facts concerning statements by petitioner's co-defendant. There exist a conflict because counsel is representing two co-defendants at different times who are charged in the same offense. Petitioner was harmed when counsel failed to address issues of petitioner's co-defendants conflicting statements. Had this conflict not existed, the issues and concerns that surround petitioner's co-defendants conflicting statements would have been addressed and ruled on.

The court has overlooked petitioner's right to a direct appeal and trial counsel duty to inform petitioner of this right. And to file the direct appeal. There are issues that concern the indictments, petitioner Speedy trial motion and defective arrest warrants that could have been raised.

The court has overlooked or misrepresented petitioner's right to effective assistance of counsel, and counsel duty to investigate.

The court cited in *walker v. State* 756 SE 2d 144. "One component of that duty is to investigate alibi witness identified by the defendant, and failure to make some effort to contact them to ascertain whether their testimony would aid defense is unreasonable."

Counsel failure to interview petitioner's alibi witness, investigate exculpatory evidence, or prepare petitioner case for trial prejudiced petitioner as a element of ineffective assistance of counsel. Alibi witness testimony and the exculpatory evidence reasonably could have resulted in different outcome at trial, since testimony would show petitioner was not at the crime scene.

Counsel's failure to ~~to~~ adequately investigate alibi witness and exculpatory evidence was unreasonable under prevailing professional norms, and therefore was deficient performance as an element of a claim of ineffective assistance of counsel.

Conclusion

petitioner request that this court will order
a rehearing on the issues raised in his petition.

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Appellate case No. 2014-001067

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JAMAR L. BELK
petitioner

V.

STATE OF SOUTH CAROLINA
respondents

petitioner Jamar L. Belk #353088 declares under the penalty of perjury that he mailed a copy of his petition for rehearing to the parties listed below by placing in the U.S. mail addressed as below.

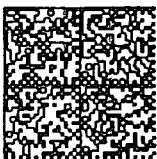
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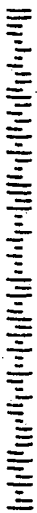
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