

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Sumter County

R. Knox McMahon, Circuit Court Judge  
\_\_\_\_\_

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S.C. Supreme Court

RANDY YONSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002653  
\_\_\_\_\_

PETITION FOR WRIT OF CERTIORARI  
\_\_\_\_\_

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## INDEX

INDEX.....	1
ISSUES PRESENTED.....	2
STATEMENT OF THE CASE.....	3
ARGUMENTS .....	5
CONCLUSION .....	20

## **ISSUES PRESENTED**

### **I.**

Whether Petitioner's Sixth Amendment rights were violated when counsel failed to competently advocate the defense of accident during Petitioner's trial by not presenting to the jury or seeking a jury instruction that the defense of accident could be claimed by an individual who could not lawfully carry a weapon?

### **II.**

Whether Petitioner's Sixth Amendment rights were violated when counsel refused to allow Petitioner access to his discovery materials, including the police dash-camera video of the incident and related law enforcement investigative documents, solely on grounds of cost as this refusal deprived Petitioner of the ability to participate in his own defense and to assess the merits of the State's plea offer?

## STATEMENT OF THE CASE

### Indictment

On January 4, 2007, Petitioner was indicted by the Sumter County Grand Jury for two counts of unlawful carry of a pistol; two counts of possession of a stolen pistol; one count possession of a pistol by person under the age of twenty-one; one count of possession of a pistol by person convicted of a crime of violence; two counts of assault and battery within intent to kill (ABWIK); one count of possession of a firearm during the commission of a crime of violence; two counts of assaulting a law enforcement officer while resisting arrest; one count of resisting arrest with a deadly weapon; and one count of possession of cocaine. App. 601 – App. 604.

### Trial and Direct Appeal

On January 16, 2007, Petitioner proceeded to trial before the Honorable Clifton Newman and a jury. App. 1. Petitioner was represented by T.D. Williams and the State was represented by Assistant Solicitor William Conner. Prior to trial, the indictments for two counts of possession of a stolen pistol and for possession of cocaine were dismissed. App. 20, ll. 10 – App. 21, ll. 2.

The jury convicted Petitioner on all eleven remaining counts. App. 375, ll. 3 – App. 376, ll. 11. Petitioner was sentenced to a total of thirty-five years imprisonment. App. 397, ll. 9 – App. 399, ll. 23.

Petitioner appealed to the South Carolina Court of Appeals and his sentence was affirmed in part and reversed in part. *State v. Randy Yonson*, Op. No. 2010-UP-408 (S.C. Ct. App. filed September 16, 2010). Petitioner's conviction for possession of a pistol by a person under the age of twenty-one was overturned on constitutional grounds. *Id.*

PCR and Evidentiary Hearing

On December 29, 2010, Petitioner filed an application for post-conviction relief (PCR) alleging, inter alia, that counsel was ineffective for failing to meet with Petitioner, failing to provide Petitioner with discovery materials, and failing to prepare for trial,. App. 401-408. The State filed a Return on June 17, 2011. App. 409 – App. 414.

An evidentiary hearing was held on October 4, 2013 before the Honorable R. Knox McMahon. App. 415. – App. 560. Petitioner was represented by Bradley M. Kirkland and the State was represented by Assistant Attorney General Daniel Gourley. Judge McMahon denied Petitioner’s application by a written order filed on November 26, 2013.

This petition follows.

## ARGUMENT

### I

**Petitioner's Sixth Amendment rights were violated when counsel failed to competently advocate the defense of accident during Petitioner's trial by not presenting to the jury or seeking a jury instruction that the defense of accident could be claimed by an individual who could not lawfully carry a weapon.**

#### **Relevant Facts**

On September 11, 2005, Sumter County Sheriff's Deputies Erin Boland and James Williams responded to a suspicious person call at the Frenz Club. App. 130, ll. 9 – App. 131, ll. 3. As the officers arrived, a fight erupted between several females in the club's parking lot. App. 131, ll. 6-15. The club's manager approached the officers and identified Petitioner as the individual they were concerned about. *Id.* They told the officers that they believed Petitioner was armed. *Id.*

The officers approached Petitioner as he was attempting to get into his car and requested to speak with him. App. 285, ll. 8 – App. 287, ll. 23. Petitioner explained to the officers that he was going home and continued towards his car. *Id.* Williams and Boland then reached to restrain Petitioner. *Id.*

The officers knocked Petitioner to the ground. *Id.* While the officers attempted to handcuff Petitioner, a pistol located in Petitioner's back pocket discharged. App. 132, ll. 2-21. Williams was grazed in the arm and a shot lodged in Boland's arm striking below his bullet proof vest. App. 56, ll. 9-14; App. 62, ll. 2-19.

Boland responded by shooting Petitioner three times: once in the back, once in the left leg, and once in the buttocks. App. 479, ll. 16 – App. 480, ll. 5. Boland and Petitioner were taken by helicopter to a hospital in Columbia. App. 57, ll. 19-25.

### Pre-Trial Investigation and Plea Negotiations

Counsel was appointed to represent Petitioner through a contract which counsel had with the Sumter County Public Defender's Office, where counsel sought business by taking criminal appointments. App. 516, ll. 18-23; App. 542, ll. 4-20. Counsel met with Petitioner once prior to trial. App. 501, ll. 18-21. During their meeting, Petitioner and counsel reviewed portions of the video tape recovered from Boland's patrol car. App. 436, ll. 6 – App. 437, ll. 14.

Petitioner requested a copy of his discovery file so that he could continue to assist in his defense. App. 441, ll. 4 – App. 442, ll. 23. Counsel refused, explaining that he had been appointed to represent Petitioner not to be a "copy shop" and that he could not afford to make Petitioner a copy of his file. *Id.*

Counsel claimed that the Sumter County Public Defender's Office does not make copies for contract attorneys and that counsel would not spend his money on copies for Petitioner. App. 450, ll. 21 – App. 455, ll. 20. Petitioner later motioned for counsel to be dismissed, but his motion was denied. *Id.* Of note, in opposing Petitioner's request to relieve him, counsel told the court that he had met with Petitioner twice for extended periods of time. This was later revealed to be untrue, jail records indicate that Petitioner met once with counsel for approximately two hours. App. 458, ll. 8-22.

The State offered to allow Petitioner to plead guilty to all of the charges in exchange for a twenty-five year sentence, which counsel advised him to accept. App. 447, ll. 12-18. Petitioner declined to plead as he had not had a chance to review his case. *Id.*

### Stipulation to Petitioner's Criminal Record

On the day of trial, the State sought a stipulation as to Petitioner's prior record with the goal of demonstrating that Petitioner could not legally possess a pistol. App. 319, ll. 15 – App. 320, ll. 24. Defense counsel agreed to stipulate that “[Petitioner] was prohibited from possession of a gun because of his conviction for a prior crime of violence.” App. 26, ll. 5-9.

For unknown reasons, counsel failed to request either a stipulation or a jury instruction explaining that Petitioner's unlawful possession of a firearm did not preclude the jury from finding the defense of accident excused the shooting because the State still had to prove beyond reasonable doubt that Petitioner's unlawful act was the proximate cause of shooting.

### Jackson v. Denno Hearing

On the day of trial, the State requested a *Jackson v. Denno*<sup>1</sup> hearing to determine the admissibility of statements made by Petitioner during an interrogation by SLED agents four days after the shooting. *Id.* at ll. 11-15. The interrogation took place in the intensive care wing of the hospital and while Petitioner was on a self-administered morphine drip and several other pain medications. App. 27, ll. 14 – App. 28, ll. 6; App. 464, ll. 10-16.

At the hearing, SLED agents claimed that they were told by the head nurse that Petitioner was not receiving any medications that would affect his judgment or ability to speak with them. App. 28, ll. 6 – App. 30, ll. 14. The SLED agents also averred that Petitioner was responsive to their questions and that they had no reason to believe Petitioner was under the influence of any drugs that would affect his decision making process. *Id.*

During the interview, the SLED agents alleged that Petitioner admitted to carrying two pistols on the night of the shooting and claimed that the one in his back pocket had gone off

accidentally. App. 30, ll. 20 – App. 31, ll. 22. Petitioner was not called to testify at the hearing, nor was the head nurse that the agents claimed to have spoken with. The trial court determined that Petitioner’s statement was voluntarily made and thus admissible. App. 41, ll. 5-7.

### Trial

At trial, Williams and Boland testified on their version of the events. The SLED agents also testified about their interview of Petitioner. App. 157, ll. 7 – App. 167, ll. 10. Counsel did not make a contemporaneous objection to the SLED agents’ testimony regarding Petitioner’s statement. The State introduced a SLED ballistics report through the testimony of the lab technician. App. 221, ll. 2 – App. 225, ll. 14. The report revealed that Petitioner’s gun fired at most two shots; as opposed to the three shots allegedly heard by Williams and Boland. App. 473, ll. 4 – App. 474, ll. 19.

Petitioner testified at trial, consistent with the facts detailed above, that he was leaving the night club when the officers approached him. App. 284, ll. 1 – App. 298, ll. 25. Petitioner stated that he did not hear the officers request his identification and did not realize they were behind him until they grabbed him and pushed him to the ground. *Id.*

Petitioner testified that his gun discharged while he was on his stomach and that Boland shot him in the back. *Id.* Petitioner said that the entire event was an accident. On cross-examination, Petitioner admitted that he was under twenty-one years old and was violating probation by carrying the pistols, at the time of the shooting. *Id.*

In closing arguments, the State stressed that Petitioner was not entitled to the defense of accident because of his prior criminal record and because he was resisting arrest at the time of

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<sup>1</sup> 378 U.S. 368 (1964).

the shooting. App. 341, ll. 7 – App. 345, ll. 19. The trial did not charge the jurors on the defense of accident independently. App. 380, ll. 5-14.

Instead, the Court mentioned the word accident when discussing the concepts of intent and inferred malice. App. 364, ll. 2 – App. 373, ll. 20. Trial counsel did not object and did not request a charge that Petitioner could still prevail on the defense of accident if the jury believed Petitioner was acting lawfully at the time of the shooting – i.e. Petitioner was not resisting arrest.

### Direct Appeal

The Court of Appeals affirmed Petitioner’s conviction in part and reversed it in part. The court reversed Petitioner’s conviction for possession of a pistol by a person under the age of twenty-one on the grounds that, pursuant to *State v. Bolin*, 378 S.C. 96, 100, 662 S.E.2d 38, 40 (2008), a conviction for this offense violated Art, XVII, Sec. 14 of the South Carolina Constitution. *State v. Randy Yonson*, Op. No. 2010-UP-408 (S.C. Ct. App. filed September 16, 2010).

The court affirmed the remaining convictions. App. 457, ll. 1-11. The court also determined that the admissibility of Petitioner’s statement to the SLED agents was not preserved for appellate review as counsel did not make a contemporaneous objection. App. 547, ll. 1 – App. 552, ll. 13.

### PCR and Evidentiary Hearing

At the evidentiary hearing, Petitioner attested to his frustration with counsel. Petitioner recalled his efforts to have a new attorney appointed because counsel refused to provide Petitioner with a copy of his discovery and because Petitioner believed that counsel did not have his “best interests at heart.” App. 441, ll. 15 – App. 449, ll. 11. Petitioner highlighted counsel’s failure to effectively argue for suppression of the statement made to the SLED agents or to even

preserve the admissibility issue for appellate review. App. 462, ll. 18 – App. 465, ll. 22. Petitioner also stated that counsel only visited him once prior to trial. App. 435, ll. 11-18.

Counsel testified at the evidentiary hearing. Counsel admitted he refused to make copies of Petitioner’s discovery because he did not want to pay for them. App. 528, ll. 10-24. Counsel stated that at the time of Petitioner’s case, the Public Defender’s Office did not have funds in their budget for making copies of cases that were appointed to their contract lawyers. App. 541, ll. 16-23. He opposed making copies for Petitioner of Petitioner’s discovery solely on the grounds of cost. *Id.*

With respect to challenging the admissibility of Petitioner’s statement to SLED, counsel alleged that the statement actually comported with his trial strategy. App. 530, ll. 4-25. Counsel also acknowledged that his decision to present a defense of accident was untenable as Petitioner could not demonstrate that he was acting lawfully at the time of the shooting. App. 520, ll. 20-24. Counsel nevertheless proceeded on that strategy and had even agreed to stipulate that Petitioner’s criminal record made it unlawful for him to carry a pistol.

#### Order of Dismissal

In denying Petitioner relief, the PCR court held that Petitioner had failed to show that counsel was ineffective for presenting a defense of accident. App. 590 – App. 591. The court also concluded that counsel made a reasonable strategic decision in not challenging the admissibility of Petitioner’s statement to the SLED agents as it supported counsel’s defense of accident. App. 591 – App. 594.

The court noted that Petitioner had failed to present evidence that counsel’s refusal to provide him with copies of his discovery materials – dash-camera video footage of the incident, police reports, a SLED ballistics report – prejudiced him and that the allegations regarding

counsel's failure to conduct an investigation were speculative. App. 591. Finally, the court held that counsel was not ineffective for presenting the defense of accident or when cross-examining the two sheriff's deputies. App. 593 – App. 594.

## **Discussion**

Counsel was ineffective for failing to competently advocate the defense of accident at every opportunity during trial; notably failing to secure a jury instruction that the defense of accident could be claimed by an individual who could not lawfully carry a weapon. *See Strickland v. Washington*, 466 U.S. 668, 687-88 (1984).

The Sixth Amendment guarantees “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense.” U.S. Const. amend. VI. The United States Supreme Court established the constitutional right to *effective* assistance of counsel in *Powell v. Alabama*, 287 U.S. 45 (1932). To establish ineffective assistance of counsel, the Petitioner must satisfy a two-prong test set forth in *Strickland*. “First, a defendant must show that counsel's performance was deficient. Under this prong, [t]he proper measure of attorney performance remains simply reasonableness under prevailing professional norms.” *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989) (internal citations omitted). *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (quoting *Strickland*, 466 U.S. at 692).

The second prong of the *Strickland* test requires a showing that the deficient performance of counsel prejudiced the petitioner to the extent that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Id.* at 117-118, 386 S.E.2d at 625. Specifically, “[a] reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” *Johnson v. State*, 325 S.C. 182, 186, 480 S.E.2d 733,

735 (1997) (citing *Strickland*, 466 U.S. at 694); see also *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625.

## Deficient Performance

Counsel's failure to present to the jury or to request a jury charge explaining that the defense of accident could be claimed by an individual who could not lawfully carry a weapon; was deficient and an objectively unreasonable trial strategy. *Strickland*, 466 U.S. at 692.

Although trial counsel has the authority to make certain tactical decisions involving trial strategy without the defendant's consent,<sup>2</sup> trial counsel's professed strategy was invalid under an objective standard of reasonableness. See *Roseboro v. State*, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995) (finding "counsel must articulate a valid reason for employing a certain strategy to avoid a finding of ineffectiveness"); see also *Lounds v. State*, 380 S.C. 454, 460, 670 S.E.2d 646, 649 (2008) (finding that it "was not objectively reasonable given the defense theory of the case" for counsel not to call witnesses that were critical to his client's defense); see also *Ard v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007) (criminal defense attorney has a duty to undertake a reasonable investigation).

Strategic choices made by counsel after incomplete investigations are reasonable "only to the extent that reasonable professional judgment supports the limitations on the investigation." See *Von Dohlen v. State*, 360 S.C. 598, 607, 602 S.E.2d 738, 743 (2004) (quoting *Wiggins v. Smith*, 539 U.S. 510, 533, 123 S.Ct. 2527, 156 L.Ed.2d 471 (2003)). Without sufficiently advising or consulting with Petitioner about the case, counsel adopted the defense of accident. For a shooting or homicide to be excusable on the grounds of accident, it must be shown the killing or shooting was (1)

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<sup>2</sup> Cf. *Sexton v. French*, 163 F.3d 874, 885 (4th Cir. 1988) ("Decisions that may be made without the defendant's consent "primarily involve trial strategy and tactics, such as "what evidence should be introduced, what stipulations should be made, what objections should be raised, and what pre-trial motions should be filed." (internal quotation and citation omitted)).

unintentional, **(2) the defendant was acting lawfully**, and (3) due care was exercised in the handling of the weapon. *State v. Burris*, 334 S.C. 256, 259, 513 S.E.2d 104, 106 (1999) (*emphasis added*).

Evidence presented at the trial indicated that Petitioner's gun accidentally discharged when he was seized by police. App. 470, ll. 8-24. Moreover, there was conflicting testimony as to whether Petitioner was resisting arrest at the time. The State, with counsels' consent, entered a stipulation into the record that Petitioner could not legally possess a pistol. App. 319, ll. 15 – App. 320, ll. 24. However, counsel did not request a corresponding stipulation or a jury instruction explaining that Petitioner's unlawful possession of a pistol did not prevent the jury from finding the defense of accident excused the shooting. Instead, the jury was only given charges on inferred malice, intent, and willfulness. App. 362, ll. 9 – App. 364, ll. 22; App. 371, ll. 13-20.

Counsel was deficient in pursuing a defense of accident without arguing, or requesting a jury charge explaining, that the defense of accident could be claimed by an individual who could not lawfully carry a weapon. *McKnight*, 378 S.C. at 46, 661 S.E.2d at 360 (finding trial counsel failed “to discover all reasonably available mitigation evidence and reasonable available evidence tending to rebut any aggravating evidence introduced by the State”); *see also Ard*, 372 S.C. 318, 642 S.E.2d 590.

Accordingly, the PCR court erred in finding that trial counsel was not deficient when he utilized an objectively unreasonable trial strategy. Trial counsel's performance was not reasonable “under prevailing professional norms” as counsel failed to provide Petitioner with failed to competently present an adversarial defense at Petitioner's trial which resulted in Petitioner being convicted on all indictments. *See Strickland*, 466 U.S. at 687-88; *Cherry*, 300 S.C. 115, 386 S.E.2d 624.

## Prejudice

The United States Supreme Court has held that “prejudice is presumed” when defense counsel “entirely fails to subject the prosecution’s case to meaningful adversarial testing.” *United States v. Cronin*, 466 U.S. 648, 659 (1984); *See Nance v. Ozmint*, 367 S.C. 547, 548-52, 626 S.E.2d 878, 878-80 (2006) (holding that “pre-se prejudice occurs if there has been a constructive denial of counsel,” which arises when defense counsel’s deficient performance constitutes “a classic example of a complete breakdown in the adversarial process”); *see also Green v. State*, 351 S.C. 184, 196, 569 S.E.2d 318, 324 (2002) (holding that although an applicant “must ordinarily show actual prejudice, he may be relieved of that burden if counsel’s ineffectiveness is so pervasive as to render a particularized prejudice inquiry unnecessary”).

Here, trial counsel “abandoned his role as defense counsel” and “as an adversary to the prosecution” by failing to competently advocate the defense of accident. Counsel failed to subject the State’s case “to meaningful adversarial testing,” which is tantamount to deficient legal representation where prejudice is presumed. *Nance*, 367 S.C. at 557-58, 626 S.E.2d at 883; *See Jones v. Barnes*, 463 U.S. 745, 758 (1983) (holding that to satisfy the Constitution, defense counsel must function as an advocate for the defendant, as opposed to a friend of the court); *see also Herring v. New York*, 422 U.S. 853, 862 (provides that “[t]he very premise of our adversary system of criminal justice is that partisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free”).

However, even if trial counsel’s deficient performance does not amount to *per se* prejudice, Petitioner was actually prejudiced because trial counsel’s deficient performance “so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” *Butler*, 286 S.C. at 442, 334 S.E.2d at 814 (quoting *Strickland*, 466 U.S. at 692).

Therefore, the PCR court erred in finding trial counsel provided effective assistance of counsel because “there is a reasonable probability that, but for [trial] counsel’s unprofessional errors, the result of the proceeding would have been different.” App. 580 – App. 596; *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625 (internal citations omitted); *See Strickland*, 466 U.S. 668.

## II.

**Petitioner's Sixth Amendment rights were violated when counsel refused to allow Petitioner access to his discovery materials, including the police dash-camera video of the incident and related law enforcement investigative documents, solely on grounds of cost as this refusal deprived Petitioner of the ability to participate in his own defense and to assess the merits of the State's plea offer.**

### **Discussion**

#### Deficient Performance

Counsel freely admitted that he refused to provide Petitioner with copies of his discovery; not out of any strategic concerns for jailhouse informants, but simply to save money on his voluntary contract with the Public Defender's Office. App. 441, ll. 4 – App. 442, ll. 23; S.C. Code Ann. § 17-3-50(b) (2007); SCACR 602(c); *see Roseboro*, 317 S.C. at 294, 454 S.E.2d at 313 (counsel must articulate a valid reason for employing a certain strategy to avoid a finding of ineffectiveness, and where counsel articulates a strategy, it is measured under an objective standard of reasonableness”).

Counsel did not attempt to request additional funds from the Office of Indigent Defense for copies. App. 451, ll. 5-21. Despite claiming at trial that he met with Petitioner twice, counsel reluctantly conceded at the PCR hearing that he only met with Petitioner once prior to trial. App. 535, ll. 19 – App. 538, ll. 22. Counsel's deficient performance rendered Petitioner unable to accurately access the State's plea offer and unable to meaningfully participate in his own defense because he simply did not know enough about the State's case against him. App. 447, ll. 2-21; *See Lafler v. Cooper*, 566 U.S. \_\_\_\_, 132 S.Ct. 1376 (2012) (holding the Sixth Amendment right to effective assistance of counsel extends to situations where “inadequate assistance of counsel caused non-acceptance of a plea and further proceedings led to a less favorable outcome”); *see also*

*Missouri v. Frye*, 566 U.S. \_\_\_\_, 132 S.Ct. 1399 (2012) (holding the Sixth Amendment right to effective assistance of counsel extends to the consideration of plea offers that lapse or are rejected, and reaffirming *Hill v. Lockhart*, 474 U.S. 52 (1985) (applying the ineffective assistance of counsel standard set forth in *Strickland v. Washington*, 466 U.S. 668 (1984) to guilty pleas).

Counsel’s letter advising him to accept the plea was not an effective substitute for counsel’s advice and consultation. App. 523, ll. 4 – App. 525, ll. 22. As the *Lafler* Court noted, “The fact that respondent is guilty does not mean he was not entitled by the Sixth Amendment to effective assistance or that he suffered no prejudice from his attorney’s deficient performance during plea bargaining.” 132 S.Ct. at 1388; *see also Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709 (1969) (finding a guilty plea is voluntarily and knowingly entered into when the accused has a full understanding of the charges against him). Counsel’s representation was deficient because he denied Petitioner access to discovery materials that would have allowed Petitioner to participate in his own defense simply so counsel could save money on his contract appointments.

The PCR court erred in finding that trial counsel acted reasonably in refusing to provide Petitioner with discovery materials because trial counsel’s performance was not reasonable “under prevailing professional norms.” App. 591; *See Strickland*, 466 U.S. at 687-88; *Cherry*, 300 S.C. 115, 386 S.E.2d 624.

### Prejudice


Petitioner was prejudiced by counsel’s refusal to provide copies of discovery materials; this represented an abandonment of his role as defense counsel and served to poison his relationship with Petitioner. *See Barnes*, 463 U.S. at 758. Counsel’s refusal also precluded Petitioner from adequately accessing the strengths and weaknesses of his case when evaluating the State’s plea offer. App. 447, ll. 2-21.

There is a reasonable probability that but for counsel's deficient performance, Petitioner could have accurately accessed the merits of the State's plea offer or, at a minimum, insured that the defense of accident was competently put before the jury. Therefore, the PCR court erred in finding trial counsel provided effective assistance of counsel because "there is a reasonable probability that, but for [trial] counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625 (internal citations omitted); *See Strickland*, 466 U.S. 668.

**CONCLUSION**

Based on the foregoing reasons, Randy Yonson's petition for writ of certiorari should be granted to allow full briefing on the issue.

Respectfully submitted,



John H. Strom  
Appellate Defender

ATTORNEY FOR PETITIONER

This 27th day of February, 2015.

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Sumter County  
R. Knox McMahon, Circuit Court Judge

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RANDY YONSON,

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STATE OF SOUTH CAROLINA,

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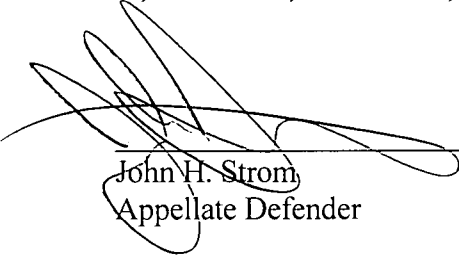
APPELLATE CASE NO. 2013-002653

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CERTIFICATE OF SERVICE

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I certify that a true copy of the petition for writ of certiorari and a copy of the appendix in this case have been served on Daniel Gourley, Esquire, Office of the Attorney General, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 27th day of February, 2015.

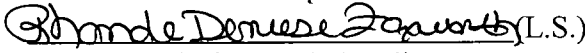


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John H. Strom  
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 27th day  
of February, 2015.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: October 17, 2021.