STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO LEXINGTON COUNTY
Court of Common Pleas

The Honorable R. Knox McMahon, Trial Judge
The Honorable William P. Keesley, PCR Judge

RECEIVED
JUN 22 2015
S.C. Supreme Court

Appellate Case No. 2014-001320

Scott Parker,...Petitioner,

v.

STATE OF SOUTH CAROLINA,...Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Is the grant of Certiorari necessary to review whether there is any probative evidence to support the PCR Judge's finding that Counsel was not ineffective for failing to object to testimony from the State's expert witness, where such testimony was not objectionable and Petitioner suffered no prejudice from its introduction?

2. Is the grant of Certiorari necessary to review whether there is any probative evidence to support the PCR Judge's finding that Counsel was not ineffective for failing to object to alleged "Golden Rule" –type closing arguments, where the sole statement addressed in the Final Order's "Golden Rule" discussion did not ask the jury to put themselves into anyone else's "shoes," and Petitioner's assertion that other portions of the State's closing constituted impermissible "Golden Rule" –type arguments is not preserved for review?

STATEMENT OF THE CASE

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Lexington County. Petitioner was indicted at the April 2009 term of the Court of General Sessions for Lexington County for criminal sexual conduct with a minor at least 14 years of age but less than 16 (2009-GS-32-00822) and four counts of criminal sexual conduct with a minor 11 to 14 years of age (2009-GS-32-00849, -00850, -00851, and -00852). He was represented by John Wesley Locklair III, Esquire. On October 7, 2010, a jury found Petitioner guilty as indicted. The Honorable R. Knox McMahon sentenced Petitionerto twenty (20) years imprisonment for charges 2009-GS-32-00822, -00849, -00850, and -00851. Those charges were to be served concurrently. Petitioner was sentenced to twenty (20) years imprisonment for -00852. That charge was to be served consecutively.

A notice of appeal was filed on Applicant's behalf and was perfected by Dayne C. Phillips, Esq., of the Office of Appellate Defense. The South Carolina Court of Appeals affirmed Applicant's convictions and sentences in an unpublished opinion. (Op. No. 12-UP-592, filed on October 12, 2012). The Remittitur soon followed.

Petitioner filed an application for post-conviction relief on January 8, 2013. The Respondent made its Return. An evidentiary hearing into the matter was convened on April 15, 2014, at the Lexington County Courthouse. The Petitioner was present at the hearing and represented by Anna R. Good, Esquire. Walt Whitmire, Esquire, of the South Carolina Attorney General's Office represented the Respondent. Petitioner testified on his own behalf at the PCR hearing. Also present and testifying was Petitioner's trial counsel, John Wesley Locklair, III, Esquire. By Order filed June 3, 2014, the Honorable William P. Keesley denied and dismissed the application with prejudice. This discretionary appeal follows.

STANDARD OF REVIEW

The proper standard of review of a post-conviction relief evidentiary hearing is whether "any evidence of probative value" exists to sustain the post-conviction relief court's findings. Cherry v. State, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989). Appellate courts give great deference to the PCR Court's findings of fact and conclusions of law. Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000).

ARGUMENT

I. Ample probative evidence in the record supports the PCR judge's finding that Counsel was not ineffective in failing to object to testimony from the State's expert witness, where such testimony was not objectionable and Petitioner suffered no prejudice from its introduction.

In a post-conviction relief action, the petitioner bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where an application alleges ineffective assistance of counsel as a ground for relief, the petitioner must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

The proper measure of performance is whether the petitioner's attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S.Ct. 2052, 2064. The Petitioner must overcome this presumption in order to receive relief. Cherry, 300 S.C. 115, 386 S.E.2d 624.

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the petitioner must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, *citing* Strickland. Second, counsel's deficient performance must have prejudiced the petitioner such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for

counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Deficient Performance

Petitioner argues Counsel was ineffective in failing to object to expert testimony elicited from Heather Smith (Smith), which he asserts impermissibly bolstered the credibility of the victims' testimony.

Counsel's decision not to object to Smith's expert testimony was professionally reasonable because: the testimony was not objectionable; she did not bolster the victims' testimony; and in executing a proficient cross-examination – pursuant to a valid trial strategy – Counsel opened to the door for admissible testimony on redirect as to whether Smith thought one specific type of behavior would generally indicate a more credible accusation.

Petitioner bases his argument on a number of cases[1] involving experts who have conducted personal interviews with a victim of sex abuse prior to trial, and whose opinions on the credibility of the victim's accusations are then presented (via testimony or written report) to a jury. These decisions, however, are not directly relatable to the present case, which is properly analyzed under State v. Brown, 411 S.C. 332, 768 S.e.2d 246 (Ct. App. 2015). In Brown, the Court of Appeals ruled that testimony from an expert on child sex-abuse, who had not previously met with nor interviewed the victims and did not comment on their believability or the veracity of their accusations, was both legally and factually distinguishable from many of the "forensic interviewer" cases Petitioner currently cites to. 411 S.C. at 344-45, 768 S.E.2d at 252-53. Because the experts were not qualified as forensic interviewers, had not met with the children, and expressed no opinion on the credibility of their allegations or of the children specifically, the Court of Appeals held that the testimony did not constitute impermissible bolstering. Id.

[1] Specifically, State v. Dawkins, 297 S.C. 386, 377 S.E.2d 298 (1989); State v. Dempsy, 340 S.C. 565, 532 S.E.2d 306 (Ct. App. 2000); State v. Jennings, 394 S.C. 473, 716 S.E.2d 91 (2011).

The facts here being nearly the identical, the same analysis applies. First, Smith was not qualified as an expert forensic interviewer, but as an expert in the area of child sexual abuse.[2] App. p. 327, l. 2-6. Smith testified very generally about the characteristics of children and adolescents – focusing in on factors which could make them more vulnerable to abuse. App. p. 327, l. 12 – p. 328, l. 9. She explained different types of disclosure, how children and adolescents typically disclose abuse, as well as general reasons different types of disclosure are made. App. p. 328, l. 13 – p. 330, l. 4. She also testified that while it may be "hard to imagine not reaching out and seeking help immediately," there are several reasons some children do not disclose, including preservation of the relationship with the abuser, fear that the home will be split up, and apprehension of getting into trouble. App. p. 330, l. 6 – p. 331, l. 7. She explained that delayed disclosure is the "typical way sexual abused is talked about," and that the "majority of children . . . disclose later" and "do not disclose right when [the abuse] starts." App. p. 335, l. 8-18. Such information was appropriately given to the jury by an expert in child sex abuse, especially where "the unique and often perplexing behavior exhibited by child sex abuse victims does not fall within the ordinary knowledge of a juror with no prior experience – either directly or indirectly – with sexual abuse." Brown at 342, 768 S.E..2d at 251.

In addition, Smith did not meet with either victim prior to her testimony. App. p. 342, l. 16-20. Nor did she express an opinion or belief regarding the credibility of the victims' allegations, or the credibility of the specific victims in the case.[3] C.f. Dawkins at 393-94, 377 S.E.2d at 302 (finding testimony of psychiatrist who treated child victim of sexual assault was improper because the psychiatrist answered "yes" to solicitor's question regarding whether,

[2] While not specifically raised as an argument, Petitioner also appears to allege that Counsel was deficient in failing to object to qualification of Smith as an expert. Petitioner has presented no evidence that such an attack would have been successful, nor has he even *alleged* that Smith was otherwise unqualified. Respondent therefore submits any claim that Counsel should have objected to Smith's qualification as an expert is entirely without merit, and rests on the relevant findings of fact and conclusions of law in the PCR judge's Order of Dismissal. App. p. 529.

[3] To be sure, Petitioner contends that Smith did, at one point, make a direct comment on the credibility of the victims. Respondent addresses this below.

based on his examination and observations of the victim, he was "of the impression that [the victim's] symptoms [were] genuine"); Dempsey at 571, 532 S.E.2d at 309-10 (finding the "professional treating therapist in [this] child sex abuse case improperly vouched for the victim's credibility by answering affirmatively when asked his opinion as to whether the child's symptoms of sexual abuse were 'genuine'"); Jennings at 480, 716 S.E.2d at 94 (holding a written report prepared by a forensic interviewer regarding her interviews with the victims was inadmissible hearsay and impermissibly vouched for the victims' credibility because the expert concluded the victims "provided a compelling disclosure of abuse").

In addition, Smith's testimony on re-direct – in which she acknowledged that a victim's consistency in making an accusation over a long period of time could be indicative of veracity – was not objectionable because Counsel opened the door to that testimony during his cross-examination of Smith pursuant to a valid trial strategy.

When a party introduces evidence about a particular matter, the other party is entitled to explain it or rebut it, *even if* the latter evidence would have been incompetent or irrelevant had it been offered initially. State v. Beam, 336 S.C. 45, 52, 518 S.E.2d 297, 301 (Ct. App. 1999). Counsel opened the door to Smith's testimony on whether consistency over a long time would indicate credibility when he asked, on cross-examination, whether other circumstances that were present in this case could indicate a false accusation. App. p. 340-342; see State v. White, 361 S.C. 407, 415, 605 S.E.2d 540, 544 (2004) (concluding that defendant opened the door to testimony as to whether expert believed the victim when he cross examined her as to whether she had cases in which she did not believe the victim.); see also State v. Foster, 354 S.C. 614, 582 S.E.2d 426 (2003) (one who opens the door to evidence cannot complain of its admission).

Regardless, the PCR Court made a sound finding that Counsel provided valid reasoning for not objecting to Smith's testimony. Thus, Counsel was not deficient in opening the door

where he did so pursuant to a valid trial strategy. "Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another." Strickland at 691. Therefore, "[j]udicial scrutiny of counsel's performance must be highly deferential." Id. at 689. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992).

Counsel explained during the PCR hearing that he "tried to get out from [Smith] that . . . there could be some inconsistencies in stories, that not everybody always tells the truth." App. p. 482, l. 23 – p. 483, l. 1. Counsel even stated that Smith provided testimony that was actually beneficial to Petitioner's case. App. p. 483, l. 14-16. Specifically, Counsel referenced Smith "talk[ing] about needing to meet with them," as well as "some inconsistencies," among other things. App. p. 483, l. 16-18. Counsel's opinion is that he "got as much beneficial stuff from [Smith] as [he] could without giving her a chance to hurt [Petitioner] too much." App. p. 485, l. 1-10. Unsurprisingly, Petitioner takes issue with this strategy, but the facts support Counsel's assertion that he "got reasons out in front of the jury that would . . . show why [the victims] would be making things up." App. p. 498, l. 12-15.

On cross-examination, Counsel elicited testimony from the State's expert, Smith, that false allegations are typically made in about two to five percent of clients seen at her facilities per year. App. p. 340, l. 17-20. Moreover, Counsel got the Smith to acknowledge, on the record, that in some cases children that had made false allegations in the past have made other

false allegations. App. p. 341, l. 4-13. Smith also conceded that while the percentage of accusations that are false is low, they occur often enough that methods to detect false accusations were a necessary part of her training and she had, in fact, received such training. App. p. 341, l. 14 – p. 342, l. 15. Finally, Counsel succeeded in getting Smith to admit to the jury she had never sat down and interviewed the victims in this case. App. p. 342, l. 16-20.

Counsel consistently pursued this strategy well into closing argument. He told the jury that there were "obviously . . . some discrepancies in [the victims'] testimony." App. p. 363, l. 4-5. He also pointed out during argument that while he was "sure [Smith] is excellent at her job," she never "[sat] down with [the victims] and talk[ed] to them, not even for five minutes before court, not even ten minutes." App. p. 365, l. 13-23.

Because there is probative evidence supporting the PCR Court's finding that Counsel was not deficient in failing to object to Smith's expert testimony on child abuse, certiorari is inappropriate and should be denied.

Prejudice

Petitioner has also failed to meet his burden in proving prejudice as required by Strickland. In order to show prejudice sufficient to satisfy the second prong of Strickland, Petitioner has the burden of showing a reasonable probability that, but for counsel's alleged unprofessional errors, the outcome of the proceeding would have been different. Cherry at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson at 186, 480 S.E.2d at 735.

Here, there is probative evidence supporting the PCR court's finding that Petitioner "failed to prove prejudice in light of his convincing evidence of guilt." Crucially, any impact Smith's testimony had on the victims' credibility was insignificant in light of their already believable testimony and demeanor at trial. According to Counsel, both victims "came across as

really credible." App. p. 481, l. 16. Elaborating, Counsel explained that the victims "had a good presence about them," were "well-spoken young men," and "also had that little bit of emotion playing into it" – all of which led them to "[come] across as very credible witnesses." App. p. 481, l. 16-21.

In addition, there was significant circumstantial evidence presented at trial corroborating the victims' accusations. One witness testified to one of the Minor victims "flip[ing] out on [Petitioner]" and told him not to "ever touch him again." App. p. 185, l. 11 – p. 186, l. 3. The victims' stories were also corroborated, in part, by the hotel records custodian, who presented records indicating that when Petitioner would bring the victims they would frequently get a single bed. App. p. 236, l. 16-20.

Finally, the alleged bolstering in the case – assuming it existed – was negligible. There was only *one statement* – discussed above – from Smith that could arguably be interpreted to address whether the victims' accusations were believable. App. p. 344, l. 9-16. This was only one section of Smith's testimony, and it occurred on re-direct, immediately following her admission that there are a significant number of false sex-abuse accusations. The remainder of Smith's testimony was entirely under Brown. 411 S.C. 332, 768 S.E.2d 246.

The proper analysis can be found in Jackson v. State, 355 S.C. 568, 586 S.E.2d 562 (2003). There, in reversing the Circuit Court's decision to grant post-conviction relief, the South Carolina Supreme Court found that even where counsel was clearly deficient, applicant failed to show prejudice where there was no *reasonable probability* that, had counsel acted appropriately, the outcome of the trial would have been different. Id. In light of the inherent credibility of the victims, corroborating testimony from other witnesses, as well as the fact that the alleged bolstering was negligible, there is no reasonable probability that the outcome of the trial would have been different had Counsel objected.

As there is ample probative evidence in the record supporting the PCR court's finding that Counsel was not ineffective, certiorari would be inappropriate and should be denied.

II. There is ample probative evidence in the record to support the PCR Judge's finding that Counsel was not ineffective in failing to object to alleged "Golden Rule" –type arguments, where the sole statement addressed in the Final Order's "Golden Rule" discussion did not ask the jury to put themselves into anyone else's "shoes," and Petitioner's assertion that other portions of the State's closing constituted impermissible "Golden Rule" –type arguments is not preserved for review.

Deficient Performance

The PCR Court properly held the solicitor's "the Masters Inn" comment[4] was not an inappropriate "Golden Rule" –type argument. App. p. 531. Such a finding needs little evidentiary support where the allegation is, in and of itself, *facially deficient*. While there may be some question as to how far the prohibition on "Golden Rule" argument applies,[5] it certainly does not bar statements – such as this – which do not ask the jury to place themselves in *anyone's* shoes or to view the facts from *anyone else's* perspective. Further, although any number of grounds might exist on which Petitioner could argue Counsel was ineffective in failing to object to the statement (which the State would certainly contest), those grounds were neither raised nor briefed and are therefore not before this Court. See, e.g., State v. Bailey, 298 S.C. 1, 5-6, 377 S.E.2d 581, 584 (1989) (stating a party cannot argue one theory at trial and a different theory on appeal); State v. Prioleau, 345 S.C. 404, 411, 548 S.E.2d 213, 216 (2001) (an objection should be addressed to the trial court in a sufficiently specific manner that brings attention to the exact error).

Unfortunately, Respondent is unable to say with any certainty what the PCR Court would have ruled with regards to the *additional* alleged "Golden Rule" –type arguments Petitioner

[4] In its closing argument, the State pointed out "the Masters Inn will always have a room available with a single bed." App. p. 360, l. 19-21. This was in reference to evidence presented at trial that Petitioner almost always would rent single bed rooms at the Master's Inn when bringing the victims there. App. p. 236, l. 16-20;
[5] Infra, note 7.

raises. This is because the PCR Court did not rule on, nor did it make any findings relating to, the applicability of the "Golden Rule" doctrine to them. This is understandable – the issues that arose at the evidentiary hearing are complex, and Petitioner never explicitly stated which arguments apply to what testimony. And while under the South Carolina Rules there is a procedure for clarifying these types of issues (as well as preserving them for appeal) even *after* an order has been issued that either party finds deficient, see Rule 59(e), SCRCP, that procedure was not followed in this case. The result is that there is no way of knowing whether the PCR Court would have found the additional statements to be "Golden Rule" violations, and the issue *as it differs from* the issues addressed in the PCR Court's ruling is not preserved for review. See I'on, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000) ("If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review.").

That being said, it is more than clear from Petitioner's brief that this new argument is without merit. Regarding the hypothetical question to the jury as to whether going to a single-bed hotel room with someone else's children is something *they* would do, Petitioner appears to simply *decree* such language constitutes a "Golden Rule" –type argument; that Counsel had a duty to object as a result; and that the PCR Court erred in ruling to the contrary. [6] These are mere conclusions, none of which would be sufficient to overcome the burdens required in appealing an order dismissing Petitioner's PCR application. Looking beyond the burdens Petitioner faces, his legal assertions also have the misfortune of being incorrect. Specifically, his interpretation of the above statement as a request of the jurors to place themselves in *his own*

[6] Petitioner also quotes from two other passages in the solicitor's closing arguments, both of which contain the same *facial* deficiency for Petitioner as the first: they do not ask the jury to place themselves in anyone's shoes, or to view the facts from anyone else's perspective. App. p. 360, l. 11 – p 361, l. 3.

shoes[7] is not factually accurate. In reality, the inquiry served to highlight the irregularity of an adult man sharing a single-bed hotel room with two unrelated minor children. The jury was not asked to put themselves in Petitioner's shoes, abandon their impartiality and view the evidence from someone else's viewpoint; but to apply their own common sense and experience to a suspicious and irregular situation.

Prejudice

In any event, even going so far as to *assume* for the sake of argument Counsel exhibited constitutionally deficient performance – and that each issue is properly before this court – Petitioner is unable to meet the second prong of Strickland and show resulting prejudice.

On appeal, the appellate court will view the alleged impropriety of the solicitor's argument in the context of the entire record." Simmons v. State, 331 S.C. 333, 338, 503 S.E.2d 164, 166 (1998). Improper comments do not automatically require reversal if they are not prejudicial to the defendant, and the appellant has the burden of proving he did not receive a fair trial because of the alleged improper argument. Humphries v. State, 351 S.C. 362, 373, 570 S.E.2d 160, 166 (2002). The relevant question is whether the solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process. Id.

Petitioner argues that "[t]he sheer number of objectionable comments made by the State in closing arguments . . . so infected the trial with unfairness as to make the resulting conviction a denial of due process." PWC, p. 21-22.

[7] In fact, it is not entirely clear that a closing argument in a criminal case asking the jury to put themselves in the defendant's shoes can rise to the level of a prohibited "Golden Rule" type argument. See State v. Harris, 382 S.C. 107, 120, 674 S.E.2d 532, 539 (Ct. App. 2009) ("In the criminal arena, such an argument is generally improper because it asks the jurors to place themselves in the victim's place"). On a policy level, the present circumstances fail to raise the same concerns – that the jury will "depart from neutrality" and decide the case on an improper basis – that occur when the "shoes" belong to the victim. See Von Dohlen v. State, 360 S.C. 598, 610, 602 S.E.2d 738, 744 (2004) (*quoting* State v. White, 246 S.C. 502, 506, 144 S.E.2d 481, 482 (1965)). Nevertheless, the question need not be resolved at this juncture because the contested statements fail to rise to the level of prohibited "Golden Rule" arguments under either reading of the law.

This argument is deficient for two reasons. First, Petitioner is *again* simply repeating the statements made by the solicitor and alleging that they require reversal. The PCR Court has already *heard* these statements and allegations and, after hearing supporting testimony from the appropriate witnesses, determined that Petitioner failed to meet his burden in proving that but-for the alleged deficiency by counsel the outcome of the proceeding would have been different. Petitioner neither points to reasons the PCR Court was incorrect, nor does he argue that he actually met his burden. The result is that Respondent has very little it can *respond* to.

In fact, Petitioner only actually argues that two comments were inappropriate, both of which were limited in duration. Neither of these, alone or taken together, so infected the trial with unfairness as to make the resulting conviction a denial of due process, especially in light of the fact that the PCR Court found convincing evidence of guilt. See State v. Smith, 375 S.C. 507, 654 S.E.2d 523 (2007).

As there is ample probative evidence in the record supporting the PCR court's finding that Counsel was not ineffective, certiorari would be inappropriate and should be denied.

[Signature block follows]

CONCLUSION

For the foregoing reasons, Respondent submits this Court should deny the Petition for Writ of Certiorari. However, if this Court grants certiorari, Respondent requests the opportunity to fully brief the issue discussed above.

Respectfully submitted,

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By:____________________
ATTORNEYS FOR RESPONDENT

June 22nd, 2015

STATE OF SOUTH CAROLINA
In The Supreme Court

Certiorari to Lexington County
Court of Common Pleas

The Honorable William P. Keesley, Circuit Court Judge

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v.

THE STATE OF SOUTH CAROLINA, RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of **Return to Petition for Writ of Certiorari**, has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

John H. Strom, Esquire
SC Commission of Indigent Defense
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This 22nd day of June, 2015.

ASHLEY HAWORTH
LEGAL ASSISTANT

ALAN WILSON
ATTORNEY GENERAL

June 22, 2015

RECEIVED
JUN 22 2015
S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: <u>Scott Parker v. State of South Carolina</u>
Lower Court Case No: 2013-CP-32-0099
Appellate Case No. 2014-001320

Dear Mr. Shearouse:

Enclosed for filing are the original and six (6) copies of the **Return to Petition for Writ of Certiorari** in the above-referenced case. By copy of this letter we are serving opposing counsel today.

Sincerely,

Patrick L. Schmeckpeper
Assistant Attorney General
SC Bar No. 102100

PLS/ah
Enclosures

cc: John H. Strom, Esquire (2 copies)
Trisha Allen. Victim Services (1 copy)