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November 5, 2015

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

RE: Russel W. Rice, Jr. v. The State
Appellate Case No. 2014-002602

Dear Mr. Shearouse:

During this morning's oral argument in the above case, the question was posed to me if trial counsel had cross-examined the State's firearms expert well enough that he did not need to hire an independent investigator. I do not think that trial counsel cross-examined the State's expert well enough. A review of the cross-examination only shows that the expert did admit that firing a bullet from a rifle was the best way of drawing a match to a bullet (App. p. 396, lines 4-7), but he never backed off his testimony that the bullets he studied were fired from the rifle found in petitioner's vehicle. (App. p. 389, lines 2-17; app. p. 389, line 20-p. 390, line 9) The expert who gave the deposition for the PCR hearing contradicted the testimony of the State's expert. (App. p. 674, line 13-p. 677, line 16) In addition, trial counsel admitted at the PCR hearing that this expert's testimony would have been beneficial. (App p. 657, lines 17-24)

The State just had a theory in this case and used their expert to try to fit his results to the State's theory.

Respectfully,

Robert M. Pachak
Appellate Defender

RMP/css

Cc: Karen Ratigan, Esquire
Walt Whitmire, Esquire

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