



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

November 23, 2015

**RECEIVED**

JAN 08 2016

Mr. Jeffrey Lee Moore, #263267  
Allendale Correctional Institution  
PO Box 1151, Hwy. 47  
Fairfax, SC 29827

**S.C. SUPREME COURT**

Dear Mr. Moore:

I received your letter dated November 12, 2015. I am sorry you are having trouble reaching me by phone. It sounds like the name on the recording does not match the name we have on file for you. You will need to change your recording at the Department of Corrections in order for our system to accept your collect phone calls.

I have not yet started working on your case. I am in the process of compiling the documents to be included in your appendix, including the PCR transcript. I normally send my clients a copy of the appendix at the same time I send them a copy of the petition for writ of certiorari. I do not send a copy of the PCR transcript separate from the appendix.

If there are certain issues from your PCR hearing that you feel strongly about, I suggest that you write to me outlining those issues. When I am working on your case I can review your issues and consider them when deciding what issues should be included in the petition. I hope this addresses your concerns.

Sincerely,

Kathrine H. Hudgins  
Appellate Defender

KHH/sdd

12/29/15

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

CERTIORARI to Allendale County  
Donald B. Hocker, Circuit Court Judge

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JAN 08 2016

JEFFERY MOORE

PETITIONER

V.

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

RESPONDENT

APPELLANT CASE NO. 2015-000889  
PETITION FOR WRIT CERTIORARI

JEFFERY MOORE #268264  
PETITIONER

ALLENDALE C.I #26-07  
P.O. BOX 1151, HWY, 47  
FAIRFAX, S.C. 29824

## ISSUE'S PRESENTED

- 1) Did the PCR Judge ERR in refusing to find that the guilty Plea was rendered involuntary by the fact that the Petitioner did not have a copy of his discovery and was unaware of a prior contradictory statement made by the state's witness that would have been favorable in his case if he had to trail.
  
- 2) Did the PCR Judge ERR in refusing to grant Petitioner a new trail when Trial Attorney Janna Nelson stated during cross-examination by Mr. Carson Henderson at the PCR hearing that Petitioner's case was Political motivated and that the former solicitor was running for re-election, in which event the Petitioner would not have been pressured to plead.

## STATEMENT

ON MAY 4, 2012, THE GREENWOOD COUNTY GRAND JURY INDICTED PETITIONER JEFFERY MOORE ON FIRST DEGREE BURGLARY, INDICTMENT # 2012-GS-40-0880.

ON MAY 14, 2012 MOORE APPEARED BEFORE THE HONORABLE J. CORDELL MADDOX AND MOVED FOR A CONTINUANCE AND A MOTION TO RELIEVE COURT APPOINTED COUNSEL AND HIRE PRIVATE COUNSEL.

APP. PP. 3-13), JANNIA NELSON REPRESENTED MR. MOORE AND ANDREW HODGES PROSECUTED THE CASE.

JUDGE MADDOX DENIED THE MOTION.

ON MAY 15, 2012 MOORE APPEARED BEFORE JUDGE MADDOX AND PLED GUILTY TO FIRST DEGREE BURGLARY. AFTER THE GUILTY PLEA WERE ENTERED MR. MOORE

RECEIVED AN SUPPLEMENTARY REPORT FROM JANNIA NELSON. IN THAT SUPPLEMENTARY REPORT MR.

MOORE LEARNED FOR THE FIRST TIME THAT THE STATE WITNESS HAD GIVEN THE POLICE TWO CONFLICTING STATEMENTS THAT IF MR. MOORE WOULD HAVE HAD KNOWLEDGE, WOULD HAVE CHANGED THE OUTCOME OF THIS CASE.

ON MAY 16, 2012 THE DAY AFTER MOORE

THE SUPPLEMENTARY REPORT HE MOVED TO WITHDRAW HIS GUILTY PLEA BASED ON HIS LACK OF KNOWLEDGE ABOUT THE STATE'S WITNESS CONFLICTING STATEMENTS AND HIS COUNSEL NEGLIGENCE IN PRESENTING HIM WITH THE SUPPLEMENTARY REPORT BEFORE ACCEPTING THE PLEA OFFER.

## ARGUMENT

The PCR Judge ERRED IN refusing to find that the guilty plea was rendered INVOLUNTARY by the fact that Mr. Moore was not issued a copy of his Brady Motion until after his plea and had no knowledge of the state's witness conflicting statements against him. App. pp. 63-67).

During the PCR hearing Moore testified that prior to entering his guilty plea Janna Nelson failed to provide him with a copy of his motion of discovery and therefore Moore had no knowledge of conflicting statements made by the state's witness against him. App. p. 84, line 19 - p. 85, 86, lines 1-3).

Mr. Moore's position that he was UNAWARE of the witness conflicting statement is supported by his motion to withdraw the guilty plea before sentencing. (App. pp. 22-25).

In the order of dismissal the PCR Judge wrote, "Counsel testified that she did, review all of the discovery responses with Applicant and found no conflicting statements. HOWEVER Counsel confirmed,

at the time that Mr. Moore moved to withdraw the Guilty Plea and at the PCR Hearing that the state's witness gave conflicting statements. p. 84, 19-23).

Plea counsel was ineffective in failing to provide Mr. Moore with a copy of his Brady material which would have given him the opportunity to make an intelligent decision as to plead Guilty or go to trial.

Mr. Moore testified that if he had known about the conflicting statements he would have gone to trial which would unmistakably have changed the outcome of this case.

Counsel's representation in failing to provide Mr. Moore with a copy of his discovery falls below an objective standard of reasonableness. Without having his own copy of the discovery material, the Plea does not represent a voluntary and intelligent choice among the alternative courses of action for Mr. Moore. Mr. Moore was prejudiced by the deficient performance. There is a reasonable probability that, but for counsel's error, Mr. Moore would not have pled guilty, but would have insisted on going to trial.

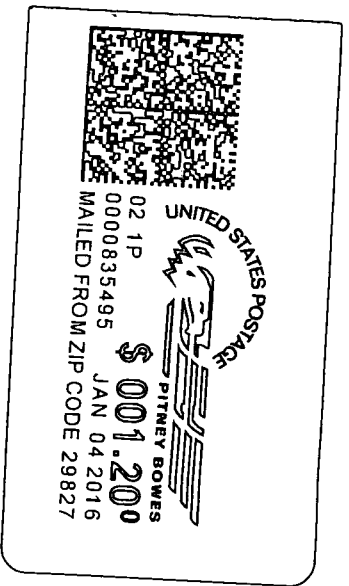
CONCLUSION

Based on the Argument, the Petition for writ of certiorari should be granted to allow further briefing on this issue.

December, 28, 2015

Respectfully submitted,  
Jeffrey Moore #268264  
Petitioner

MR. JEFFERY MOORE #268267  
AILENDALE C.I. F2B-07  
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THE SUPREME COURT OF SOUTH CAROLINA

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