

STATE OF SOUTH CAROLINA
In the Supreme Court

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SC SUPREME COURT

CERTIORARI TO ORANGEBURG COUNTY
Court of Common Pleas
Edgar W. Dickson, Circuit Court Judge

Appellate Case No. 2015-000147

EZEKIEL HAYNES, SCDC No. 00309200

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

The post-conviction relief court properly limited Petitioner from raising any claims pertaining to his competency and mental capacity on his second re-opened post-conviction relief action where those issues were fully addressed in his first post-conviction relief action and the subsequent appeal of that initial action. Furthermore, the post-conviction relief court addressed the merits of and properly denied relief on all of Petitioner's allegations, including those pertaining to his competency and mental capacity, in its order of dismissal.

STATEMENT OF THE CASE

On December 8, 2004, the body of fourteen-year-old Shanta Davis was discovered in a pond in Elloree, South Carolina, approximately three miles from her home. (App. 12). Davis had lacerations on her head and face and a broken jaw, and a subsequent autopsy revealed Davis was strangled to death with the cord from a Venetian blind. (App. 12). The Orangeburg County Sheriff's Department immediately began investigating the case and contacted Davis's neighbors and friends. (App. 12). Law enforcement spoke with a number of Davis's friends, including Davis's best friend who informed investigators Davis planned to hang out with Petitioner Ezekiel Haynes¹, who was her cousin, around 11:00 p.m. that evening. (App. 13, 17). Davis's neighbors told investigators Petitioner's vehicle was parked outside Davis's home around 11:30 p.m. the evening before the grisly discovery of her body. (App. 12). That same day, law enforcement interviewed Petitioner, who denied being with Davis on December 7, 2004. (App. 13).

The following day, December 9, 2004, law enforcement responded to a call at an abandoned trailer across the street from Petitioner's trailer in Elloree. (App. 13). Inside the trailer, police found copious amounts of blood—later determined to be Davis's—as well as an earring matching the one earring she had on when her body was discovered in the pond. (App. 13). Law enforcement also discovered footprints in Davis's blood that matched Petitioner's shoes, as well as other inculpatory evidence linking Petitioner to Davis's murder. (App. 13). The Orangeburg County Sheriff's Office arrested Petitioner for Davis's murder. (App. 13).

The next day, December 10 2004, Petitioner gave a statement to law enforcement admitting to murdering Davis. (App. 13-14). Petitioner told law enforcement he used a tire jack

¹ Petitioner's name appears spelled "Ezekial Haynes" in many of the records from below located in the Appendix, as well as in the South Carolina Department of Corrections database. As Petitioner spelled his first name with an "e" in his Petition for a Writ of Certiorari, the State will use this spelling for purposes of this post-conviction relief appeal.

to strike Davis across her face, breaking her jaw. (App. 14). After the blow to her head, Petitioner used the cord from Venetian blinds to strangle Davis to death. (App. 14).

The Orangeburg County Grand Jury indicted Petitioner for Davis's murder during its March 2005 term. (App. 397-98). Margaret E. Hinds, Esquire, of the Orangeburg County Public Defender's Office represented Petitioner. (App. 1, 4-5, 9-10). On May 17, 2005, Petitioner appeared before the Honorable Perry M. Buckner and pled guilty to Davis's murder. (App. 1-30). During his plea colloquy with the court, Petitioner denied any mental health issues, told the court he understood all of his conversations with counsel, and affirmed he understood what he was doing by entering his guilty plea. (App. 1-30). Judge Buckner sentenced Petitioner to forty years imprisonment pursuant to a negotiated plea cap between Petitioner and the State. (App. 2, 27).

Petitioner filed a direct appeal, but elected to withdraw it on April 25, 2006. An Order of Dismissal and Remittitur were issued on May 23, 2006.

Petitioner, with the assistance of attorney Glenn Walters, Sr., filed his first post-conviction relief application on April 20, 2006 (C.A. No. 2006-CP-38-00462), setting forth the following grounds for relief:

1. Ineffective assistance of counsel;
 - a. "Counsel failed to investigate case to prepare a defense for Petitioner."
 - b. "Counsel was ineffective by the violations she committed in accordance of Professional Conduct Rules, Counsel showed more interest to intimidated Petitioner to pled guilty to Murder charge."
 - c. "Plea Counsel failed to file pre-trial motions to have standing issues of the Murder Indictment, Rule 5 motion and waivers to be evaluated by trial court."
 - d. "Plea Counsel failed to examine statements, police investigated reports and failed to receive reports of pending investigation reports of case."
2. Prosecutorial and Judicial Misconduct; and
3. Involuntary guilty plea.

(App. 31-39). The State filed its Return on September 21, 2006, requesting an evidentiary hearing. (App. 40-45).

On May 19, 2008, an evidentiary hearing was convened at the Orangeburg County Courthouse before the Honorable James C. Williams, Jr. (App. 47-99). Petitioner was present and represented by counsel Walters. The State was represented by Assistant Attorney General Lance Boozer. During the evidentiary hearing, Petitioner testified on his own behalf and presented testimony from his mother, Betty Haynes and his brother Nathaniel Haynes, Jr. (App. 5-80). The State presented testimony from plea counsel Hinds. (App. 81-88). The vast majority of testimony from Petitioner, his mother, and his brother focused on Petitioner's allegedly diminished mental capacity and competency, particularly after a serious car accident when he was sixteen years old. (App. 5-80). Hind's testimony also focused on Petitioner's cognitive abilities. (App. 81-88). Hinds testified she never had any reason to doubt Petitioner's competency. (App. 81-88). Hinds described Petitioner as articulate, attentive, and engaged during their eighteen meetings. (App. 82-84). Hinds also testified she had Petitioner take two polygraph tests and both indicated deception regarding Davis's death. (App. 85-86). When asked on cross-examination, Hinds testified Petitioner appeared "much slower [during the evidentiary hearing]" than when she represented him. (App. 88). After all testimony was taken, Petitioner's counsel argued Petitioner should be granted post-conviction relief based on his lack of competency and diminished mental state. (App. 88-93, 95-97). At the conclusion of the hearing, the post-conviction relief court took the matter under advisement. (App. 98).

Thereafter, prior to the entry of a written Order of Dismissal, Petitioner submitted a *pro se* "Motion to Alter/Amend *pro se* Rule 59(e) SCRPC and Motion to Reconsider, *pro se* applicable S.C. Court Rules" on May 27, 2008, arguing counsel Walters was "neglectful" for failing to fully litigate all his post-conviction relief issues, including:

1. Appeal rights violated;

2. Due process mental evaluation deprived;
3. No investigators, no procuring SLED records;
4. No pre-trial motion filed suppression of evidence include reports, results, see shoe impressions; and
5. See extrinsic fraud upon the Court by the procedures of law violated by the Solicitor in case matters State v Haynes.

(App. 100-02). By written Order dated and filed October 29, 2008², Judge Williams denied and dismissed the application in full, including claims surrounding Petitioner's competency. (App. 109-15). On November 4, 2008, the State filed a Return to Petitioner's *pro se* 59(e) Motion. (App. 103-05). By written Order dated March 4, 2009, Judge Williams dismissed Petitioner's still-pending motion to reconsider. (App. 106-07).

Petitioner appealed the denial of his first post-conviction relief application and submitted a Petition for Writ of Certiorari on August 17, 2009. (App. 116-123). Petitioner's issue presented to this Court regarding his alleged lack of competency and mental capacity and sought for this Court to withdraw his guilty plea. (App. 116-123). The State filed its Return to this Petition on November 19, 2009. (App. 124-134). The South Carolina Supreme Court denied the Petition on June 10, 2010. (App. 135). The Remittitur was sent on June 29, 2010.

Thereafter, on July 13, 2010, Petitioner filed a second application for post-conviction relief (C.A. No. 2010-CP-38-1000), alleging:

1. Judicial Misconduct;
 - a. "The S.C. Supreme Court in the cert for PCR case No. 2006-CP-38-462 engaged in acts of judicial fraud and an abuse of discretion failed to stay the cert pending removing the case, including this case, is petitioned to be removed to the California District Court under 3:08-CU-10-1105-MMC. A Writ of Mandamus for this is pending in the 9th Circuit under 10-71855."
2. "Fifth, Sixth, and Fourteenth Amendment Violation."
3. "Due Process."
4. "Subject Matter Jurisdiction."

² The Orangeburg County Clerk of Court's stamp on the Order of Dismissal improperly reflects that the order was filed in 1998. The correct year of filing is 2008.

5. “Ineffective Counsel.”

(App. 136-41). The Orangeburg County Clerk of Court did not forward the application to the State until December 3, 2010. (App. 153). On May 17, 2011, the State made its Return and Motion to Dismiss, seeking summary dismissal of the application as successive to his prior post-conviction relief application and filed beyond the statute of limitations. (App. 153-58). On June 6, 2011, the lower court signed a Conditional Order of Dismissal, provisionally dismissing the application but allowing Petitioner twenty days from the date of service to object to the application’s dismissal. (App. 160-64). This Conditional Order of Dismissal was filed on June 16, 2011 and Petitioner was personally served on September 13, 2011. (App. 160-64, 166). After receiving no reply from Petitioner, the lower court signed a Final Order of Dismissal on December 20, 2011; this Final Order of Dismissal was filed on January 9, 2012. (App. 166-67).

On January 31, 2012, despite receiving the filed Final Order of Dismissal, Petitioner, through retained counsel Tara D. Shurling, filed a Reply to the Conditional Order of Dismissal. (App. 168-175). This Reply, like much of Petitioner’s previous allegations, once again focused on his allegedly diminished mental capacity and competency. On February 2, 2012, Petitioner, through his counsel, filed a “Motion to Reconsider/Alter/Amend Final Order Pursuant to Rule 59(e) SCRCF”; in this Motion, Petitioner asked this Court to allow him to proceed to a full merits hearing on his successive application, or in the alternative, re-open his first post-conviction relief action (C.A. No. 2006-CP-38-0462) and allow Petitioner to present testimony and evidence regarding the allegations he raised in his *pro se* 59(e), SCRCF, motion. (App. 178-79). The State made its Return to this motion on August 17, 2012, requesting that the motion be summarily denied and dismissed. (App. 181-87).

A hearing on this Motion was convened on August 20, 2012, at the Orangeburg County Courthouse before the Honorable Edgar W. Dickson. (App. (196-225). Following this hearing, the lower court granted Petitioner's motion and re-opened his initial post-conviction relief action, docket number 2006-CP-38-0462.³ (App. 226-235). In this Order, the lower court granted Petitioner thirty days to file an amended application, but specifically ruled Petitioner could not raise any issues pertaining to his mental competency or any other issue presented in his initial action, finding that these issues were fully addressed and ruled upon in Petitioner's initial post-conviction relief hearing. (App. 226-235). An Order to this effect was signed March 12, 2013. (App. 226-235).

Petitioner filed an amended application on September 3, 2013, alleging:

1. Plea counsel was ineffective for neglecting to introduce evidence during Petitioner's sentencing proceeding concerning the Petitioner's medical history;
2. Plea counsel was ineffective for failing to clarify the Petitioner's mental health history for the sentencing judge when the Petitioner answered the Court's inquiry concerning whether he had a history of mental illness negatively;
3. Plea counsel was ineffective for failing to refute statements made by the prosecutor concerning footwear impressions found at the scene;
4. Plea counsel was ineffective for failing to adequately investigate the circumstances under which Petitioner's statement was given and failing to discuss potential grounds for challenging its admissibility;
5. Plea counsel was ineffective for failing to adequately investigate the degree to which the Petitioner's memory defects and impaired cognitive abilities may have impacted his ability to make a knowing and voluntary statement;
6. Plea counsel was ineffective for failing to advise Petitioner of the procedures that could be employed during a jury trial to challenge the reliability and admissibility of his pre-trial statement;
7. Plea counsel was ineffective for failing to adequately explain to Petitioner that substantive errors of law made during a jury trial could be appealed to a high court if convicted;

³ At the beginning of the evidentiary hearing on February 20, 2014, the lower court consolidated two post-conviction relief actions (C.A. No. 2006-CP-38-0462 and 2010-CP-38-1000), with the surviving case number 2006-CP-38-0462.

8. Plea counsel was ineffective for failing to explain to Petitioner that a challenge to the admissibility of his statement would have to be evaluated by both the trial judge and jury if challenged in a jury trial;
9. Plea counsel was ineffective for failing to advise Petitioner of the ways in which he might challenge his statement to law enforcement based on his medical history;
10. Plea counsel was ineffective for allowing Petitioner to plead guilty without first exploring the possibility that Petitioner's mental deficits had been capitalized by law enforcement to obtain a false confession;
11. Plea counsel was ineffective for allowing Petitioner to plead guilty without adequately advising him of the limited forensic value of the footwear impressions being asserted by the State as evidence of his guilt;
12. Plea counsel was ineffective for allowing Petitioner to make the decision to waive his right to trial by jury without first adequately explaining all forensic evidence and how such evidence could be challenged during a jury trial;
13. Plea counsel was ineffective for failing to adequately advise Petitioner of the fact that an adverse ruling on the admissibility of his statement could be appealed to a high court in the event he was convicted by a jury;
14. Plea counsel was ineffective for failing to petition the court for funding for an independent forensic expert to review the DNA evidence;
15. Plea counsel was ineffective for misleading Petitioner of the evidentiary value of the forensic evidence related to his shoes;
16. Plea counsel was ineffective for failing to investigate the possible application of the a lesser included offense to the facts in Petitioner's case;
17. Plea counsel was ineffective for failing to advise Petitioner on the law of lesser included offenses and possible application to his case; and
18. Plea counsel was ineffective for failing to petition the court for funding to hire an expert witness on false confessions.

(App. 236-39).

A hearing on these allegations was convened on February 20, 2014, at the Calhoun County Courthouse. (App. 242-355). Petitioner was present and represented by Tara D. Shurling, Esquire. The State was represented by Assistant Attorney General Megan Harrigan Jameson of the South Carolina Attorney General's Office. At the beginning of the hearing, the State renewed its objections to the lower court's ruling on Petitioner's 59(e), SCRCF, reopening Petitioner's original 2006 post-conviction relief action. After listening to argument and reply, the lower court

denied the State's motion. Additionally, the State moved to dismiss allegations 1, 2, 5, 9, and 10 of Petitioner's amended application, as in direct violation of this Court's oral and written ruling that this Court would not address any issues regarding Counsel's representation in regards to Petitioner's mental health, competency, or state of mind based on the court's previous ruling that it was satisfied with the original post-conviction relief court's rulings as to plea counsel's investigation into Petitioner's mental health history and any decisions made in reference to his mental health or competency. The lower court took the State's motion under advisement, but allowed Petitioner to delve into these issues at the evidentiary hearing. Petitioner testified on his own behalf and presented testimony from his mother, Betty Haynes, and plea counsel. At the conclusion of the hearing, the lower court took the matter under advisement. (App. 352-53).

After a review of all materials and testimony presented, the lower court denied and dismissed Petitioner's amended application by written order signed November 5, 2014, and filed on November 14, 2014. (App. 356-375). In its Order, the lower court granted the State's motion to dismiss the allegations pertaining to Petitioner's mental capacity or competency, finding them to be in violation of its prior ruling. However, because those allegations were fully presented and litigated at the evidentiary hearing, the lower court addressed and denied each allegation in its Order of Dismissal. Thereafter, Petitioner filed a "Motion to Reconsider/Alter/Amend Final Order Pursuant to Rule 59(E) SCRCF" on December 11, 2014. The State filed its Return to this motion on December 16, 2014. (App. 382-88). The lower court issued an order denying this motion on December 30, 2014; this order was filed January 2, 2015. (App. 390-95).

Petitioner filed a Notice of Appeal on January 22, 2015. Petitioner filed a Petition for Writ of Certiorari and Appendix on November 20, 2015. This Return follows.

STANDARD OF REVIEW

The post-conviction relief court's findings of fact and conclusions of law are afforded great deference on appellate review. Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). The proper standard of review of a post-conviction relief decision is whether “*any* evidence of probative value” exists to sustain the lower court's findings. Cherry v. State, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989) (emphasis added). The reviewing court will affirm if there is any evidence to support the post-conviction relief court's findings. Moore v. State, 399 S.C. 641, 646, 732 S.E.2d 871, 873 (2012). The reviewing court will reverse the post-conviction relief court's findings if controlled by an error of law. Suber v. State, 371 S.C. 554, 558-59, 640 S.E.2d 884, 886 (2007).

An applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, he or she 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 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813. The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. An applicant must overcome this presumption in order to receive relief. Cherry, 300 S.C. 115, 386 S.E.2d 624.

Reviewing courts apply a two-pronged test in evaluating allegations of ineffective assistance of counsel and both prongs must be established by an applicant to receive relief. Strickland, 466 U.S. 668. First, an applicant must prove 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, 466 U.S. 668. Second, counsel's deficient performance must have prejudiced the applicant 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 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).

"A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of a plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial." Holden v. State, 393 S.C. 565, 572, 713 S.E.2d 611, 615 (2011), citing Rolen v. State, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009).

Additionally, successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a “sufficient reason” why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that “could not have been raised . . . in the previous application.” Id., 305 S.C. at 450, 409 S.E.2d at 394. If an applicant could have raised these allegations in a previous application, then he or she may not raise those grounds in successive applications. Id. An applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

ARGUMENT

The post-conviction relief court properly limited Petitioner from raising any claims pertaining to his competency and mental capacity on his second re-opened post-conviction relief action where those issues were fully addressed in his first post-conviction relief action and the subsequent appeal of that initial action. Furthermore, the post-conviction relief court addressed the merits of and properly denied relief on all of Petitioner's allegations, including those pertaining to his competency and mental capacity, in its order of dismissal.

Petitioner alleges the post-conviction relief court improperly limited his ability to raise allegations pertaining to his competency and mental health in his second re-opened post-conviction relief action, thereby "effectively depriving Petitioner 'his one full bite at the apple.'" (PWC 13). However, Petitioner's arguments fail for two reasons. First, the post-conviction relief court properly limited Petitioner from raising these issues, as they were raised and ruled upon by Judge Williams during Petitioner's initial post-conviction action. Second, although the post-conviction relief court ruled Petitioner's allegations pertaining to his competency and mental health were barred by its order reopening his post-conviction relief action, the court fully addressed the merits of those allegations in its order of dismissal. Accordingly, Petitioner was fully litigated issues surrounding his alleged lack of mental capacity and has simply failed to meet his burden of proof.

The post-conviction relief court's limitation barring Petitioner from asserting allegations pertaining to his competency and mental capacity in his re-opened action was proper, as these issues were sufficiently addressed by Judge Williams following Petitioner's initial post-conviction relief hearing in 2008. The vast majority of the testimony at this 2008 hearing centered on Petitioner's competency and mental capacity, including the testimony from Petitioner, his mother, and plea counsel, all of whom testified again at the hearing for his re-opened action in 2014. (App. 47-99). Additionally, Petitioner presented his brother, who also

testified about Petitioner's competency and mental health. (App. 81-88). Furthermore, Petitioner's initial post-conviction relief counsel, Glenn Walters, Sr., made an argument to the court that focused solely on Petitioner's alleged lack of competency and mental capacity. (App. 88-93, 95-96). Walters argued, "[t]he only issues before the court is, was [plea] counsel given notice of this condition and exactly what was going on with this young man, and did counsel act responsibly after being given notice?" (App. 95). In his Order of Dismissal, Judge Williams denied and dismissed Petitioner's allegations pertaining to his competency and mental health. (App. 109-115). Notably, Judge Williams also found "every aspect of [Petitioner]'s testimony . . . was not credible." (App. 111-12). Judge Williams further found "[Petitioner]'s testimony and the [Petitioner]'s family member' testimony not credible." (App. 113). Judge Williams denied and dismissed Petitioner's claims regarding his competency and mental capacity in full. (App. 109-115). Thereafter, Petitioner, with the assistance of appellate counsel Elizabeth Franklin-Best, filed a petition for writ of certiorari to this Court seeking review of Judge Williams' order. (App. 116-23). The sole focus of this petition was Petitioner's competency and mental capacity. Petitioner's assertions currently that he was denied his "full bite of the apple" to adjudicate the claims of his competency and mental capacity are a gross mischaracterization of the record.

In its order re-opening his initial post-conviction relief action, the lower court expressly ruled Petitioner was barred from raising any allegations pertaining to his competency and mental capacity, finding Judge Williams fully address those issues and plea counsel's investigation into those issues, in his order of dismissal. (App. 226-35). The only narrow exception to this ruling was the lower court's allowance of Petitioner to raise new allegations "addressing how evidence of his mental health history might have been used to rebut or otherwise explain evidence offered

against him if he had gone to trial.”⁴ (App. 234). These findings are supported by ample evidence of probative value and should be affirmed. See Cherry, 300 S.C. at 119, 386 S.E.2d at 626.

Additionally, despite its ruling that Petitioner’s allegations pertaining to his competency and mental health were barred by its order reopening his post-conviction relief action, the post-conviction relief court fully addressed the merits of those allegations in its order of dismissal. See App. 356-95 (“At this time, this Court grants Respondent’s motion to dismiss these allegations, finding them to be in violation of this Court’s prior ruling. However, as these allegations were discussed at the evidentiary hearing, this Court will address the merits of each allegation below.”). The lower court’s order of dismissal then addresses each of the new allegations Petitioner raised in his amended application for relief (App. 236-38), including those pertaining to his competency and mental capacity. Simply put, the post-conviction relief court already addressed all the issues of which Petitioner now takes umbrage on this appeal.

Based on the foregoing, the post-conviction relief court properly limited Petitioner from raising any claims pertaining to his competency and mental capacity on his second re-opened post-conviction relief action where those issues were fully addressed in his first post-conviction relief action and the subsequent appeal of that initial action. Furthermore, the post-conviction relief court addressed the merits of and properly denied relief on all of Petitioner’s allegations, including those pertaining to his competency and mental capacity, in its order of dismissal. These findings are supported by ample evidence of probative value and should be affirmed. See Cherry, 300 S.C. at 119, 386 S.E.2d at 626.

⁴ Throughout his petition, Petitioner attempts to enlarge this extremely narrow exception provided by the court to cover all the new allegations raised by Petitioner. These allegations were raised in violation of this order, as the post-conviction relief court properly determined.

CONCLUSION

For the foregoing reasons, this Court should deny this Petition for a Writ of Certiorari. Should this Court grant the petition, the State seeks permission to more fully brief the issues herein.

Respectfully submitted,

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March 7, 2016

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SC SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

CERTIORARI TO ORANGEBURG COUNTY
Court of Common Pleas
Edgar W. Dickson, Circuit Court Judge

Appellate Case No. 2015-000147

EZEKIEL HAYNES, SCDC No. 00309200

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.


PROOF OF SERVICE

I, Megan Harrigan Jameson, certify that I have served the within **Return to Petition for Writ of Certiorari** on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

John H. Strom, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.

This 7th day of March, 2016.


MEGAN HARRIGAN JAMESON
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MAR 7 2016

SC SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

March 7, 2016

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

Re: Ezekiel Haynes v. State of South Carolina
Appellate Case No. 2015-00147

Dear Mr. Shearouse:

I am enclosing the original and six copies of the Return to Petition for Writ of Certiorari in the above case.

Sincerely,

Megan Harrigan Jameson
Assistant Attorney General
S.C. Bar No. 100108

MHJ
Enclosures

cc: John H. Strom, Esquire
Trisha Allen, Victim Services