

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Nathaniel Teamer, Respondent

v.

State of South Carolina, Petitioner

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MAY 11 2016

S.C. SUPREME COURT

ON WRIT OF CERTIORARI

Appeal from Spartanburg County
Brooks P. Goldsmith, Post-Conviction Relief Judge

Opinion No 27622

Submitted October 15, 2015 - Filed April 13, 2016

Petition for Rehearing

Pursuant to Rule 221 of the South Carolina Rules of Appellate Practice, Nathaniel Teamer, the Respondent above named, hereby Petitions this Court to Rehear this matter based upon the following:

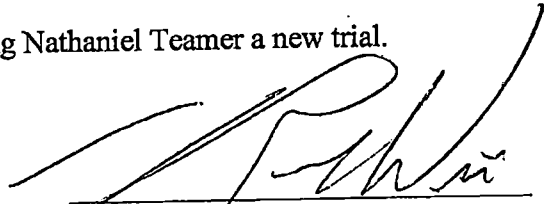
This Court correctly found that trial counsel was ineffective in failing to impeach Erica Gray. This Court erred in failing to find the failure to impeach was not prejudicial. This Court erred in finding that Mr. Teamer was immediately identified at the scene by the occupants of the house. The record in this matter shows that on the night of the incident, none of the occupants of the house identified Mr. Teamer as being the person who broke into their house. As noted in the

Brief of Mr. Teamer in his reply to Writ of Certiorari, "While every witness who was in the house testified at trial they recognized Charlie Teamer, the applicant, as the person who broke into the house, not a single witness gave the police the name 'Charlie Teamer' on the night of the burglary nor did they give the police any indication they knew who had allegedly broken into their home. The person was only described as 'a Black Male wearing all black.' App. at 846." Reply to Cert. Pet. at 5. Thus, the failure to identify someone they had known for years made their credibility very suspect. This Court erred in failing to sustain the credibility decision of the trial that the probative value of the impeachment would likely have affected the outcome. As the post conviction relief Judge noted, Erica Gray was the witness who identified Mr. Teamer's handwriting as well as identifying his voice. App. at 1391. Her credibility was very important to the State's case.

In reviewing the impact of the credibility of the witnesses in this case, this Court failed to note that the jury did not find Ms. Gray credible as to what was allegedly stolen from her as they acquitted Mr. Teamer of robbery for taking her cigarettes. They also acquitted Mr. Teamer of the money allegedly taken from the other witness. As obviously the jury found her testimony was tainted in part, only the slightest additional evidence would have been needed to completely impeach her testimony. The fact that she had a history of giving false testimony to police officers would have been that additional evidence. The record below is not devoid of evidence to support the post conviction relief judge on this issue. Only if the record is devoid of any evidence is there a basis for reversing the decision of the post conviction relief judge. *Tate v. State*, 308 S.C. 163, 417 S.E.2d 553 (1992)

This Court should grant this Petition for Rehearing, re-instate the judgment of the post conviction relief judge, and affirm the decision granting Nathaniel Teamer a new trial.

May 10, 2016



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AFFIDAVIT OF SERVICE

PERSONALLY appeared before me Sandy Traynham who, after being duly sworn, deposes and says that she is the receptionist for C. Rauch Wise, Attorney for the Respondent in the above entitled case. That on May 10, 2016, she did deposit in the United States Mail with proper postage affixed thereto, a copy of the Petition for Rehearing in the above case addressed to Suzanne H. White, Asst Deputy Attorney General Attorney General Office, PO Box 11549, Columbia, SC 29211-1549.

SWORN to and Subscribed

Sandy Traynham

before me this 10 day

of May, 2016.

Brooks P. Goldsmith (L.S.)
Notary Public for South Carolina

My Commission expires: 11/30/22