STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Honorable G. Edward Welmaker, Circuit Court Judge

RUBEN RAMIREZ,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002063

BRIEF OF PETITIONER

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR PETITIONER

INDEX

[1] In Webb v. State, 381 S.C. 237, 314 S.E.2d 839 (1984), the Court held that any evidence of probative value to support the PCR judge's findings is sufficient to uphold those findings on appeal.

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

ISSUE PRESENTED

The Court of Appeals erred in upholding the PCR judge's ruling under the "any evidence"[1] standard by finding that petitioner was not prejudiced by trial counsel's ineffectiveness in his mishandling of the matter of petitioner's mental incompetency prior to the plea proceeding because the state's incomplete mental examination, which had no IQ listed and no diagnosis appearing under AXIS categories I, II, and III, and the PCR testimony and evidence did not satisfy the "any evidence" test to affirm on appeal, particularly in light of the subsequent independent mental examination and prior psychological examination results presented before the close of the PCR action that contained overwhelming probative evidence establishing without a doubt that petitioner was incompetent to stand trial.

---

[1] In Webb v. State, 381 S.C. 237, 314 S.E.2d 839 (1984), the Court held that any evidence of probative value to support the PCR judge's findings is sufficient to uphold those findings on appeal.

STATEMENT

Petitioner Ruben Ramirez pled guilty but mentally ill to assault and battery with intent to kill, kidnapping, first degree burglary, first degree criminal sexual conduct, and lewd act upon a child during the November 2008 term of the Greenville County General Sessions Court before Judge Edward Miller. Petitioner received concurrent twenty-year prison sentences for all of his convictions, save his lewd act conviction for which Judge Miller imposed a consecutive fifteen-year sentence, suspended upon five years probation. Petitioner did not enjoy the benefit of a direct appeal in the case. Monti Desai represented petitioner at the plea proceeding.

On November 2, 2009, petitioner filed a PCR application with the Greenville Office of the Clerk of Court. App. 27-34. The respondent filed a return dated April 7, 2010, requesting that a hearing be held in response to petitioner's PCR action. A PCR hearing was convened on May 9, 2011, at the Greenville County Courthouse before Judge G. Edward Welmaker. Petitioner did not appear at the PCR hearing, but was represented at that hearing by Matt Kappel.

On May 23, 2011, PCR counsel filed a motion to hold the record open to allow a new competency evaluation. On July 27, 2011, Judge Welmaker issued an Order of Dismissal therein denying petitioner's allegations of ineffective assistance of trial counsel in the case. On August 11, 2011, PCR counsel filed a Rule 59(e), SCRCP, motion in the case. Thereafter, the respondent filed a return to the Rule 59(e), SCRCP, motion. On November 22, 2011, Judge Welmaker issued an Order denying the Rule 59(e), SCRCP, motion, but granted petitioner's request for a belated direct appeal.

Petitioner appealed Judge Welmaker's Orders, and per Orders dated June 25, 2014, and April 15, 2015, respectively, requiring briefs to be filed by petitioner and respondent, the same were

timely submitted to the Court of Appeals. On July 29, 2015, the Court of Appeals issued an opinion affirming the PCR judge's ruling in the case. See Ramirez v. State, Opinion No. 5337 (S.C. Ct. App. July 29, 2015). App 1-21. A petition for rehearing was filed by petitioner on August 13, 2015, and denied by the Court of Appeals on September 3, 2015. App. 22-31. This petition appealing the Court of Appeals' decision follows.

ARGUMENT

The Court of Appeals erred in upholding the PCR judge's ruling under the "any evidence"[2] standard by finding that petitioner was not prejudiced by trial counsel's ineffectiveness in his mishandling the matter of petitioner's mental incompetency prior to the plea proceeding because the state's incomplete mental examination, which had no IQ listed and no diagnosis appearing under AXIS categories I, II, and III, and the PCR testimony and evidence did not satisfy the "any evidence" test to affirm on appeal, particularly in light of the subsequent independent mental examination and prior psychological examination results presented before the close of the PCR action that contained overwhelming evidence establishing without a doubt that petitioner was incompetent to stand trial.

Petitioner pled guilty but mentally ill to assault and battery with intent to kill, kidnapping, first degree burglary, first degree criminal sexual conduct, and lewd act upon a child. The solicitor summarized the facts of the case at the plea proceeding. According to the state's version of the case, petitioner knocked on the door of the prosecutrix's residence, forced his way through the door

---

2 In Webb v. State, 381 S.C. 237, 314 S.E.2d 839 (1984), the Court held that any evidence of probative value to support the PCR judge's findings is sufficient to uphold those findings on appeal.

when it was opened, took the prosecutrix to the woods nearby, beat her, took off her underwear, rubbed his penis on her vagina, and touched her breasts. App. 12, l. 18 – p. 14, l. 9.

Petitioner received a state mental evaluation from a state doctor and an independent psychological evaluation scheduled by trial counsel. The state's forensic psychiatrist found that petitioner was competent to stand trial. App. 83-85. Subsequently, at the behest of trial counsel, an independent psychological examination was conducted by Stephen M. Gedo, Jr., PH.D, who found that petitioner had no psychosis, but suffered from severe mental retardation, intellectual impairment, ADHD, and possessed the intellectual functioning of a 4-to-7-year old child. App. 86-90. However, Gedo failed to make a finding regarding petitioner's mental competency to stand trial and trial counsel did not request an independent competency finding.

Petitioner was not present at the PCR hearing, but petitioner's trial counsel was present at the PCR hearing and testified during the hearing. The chief issue raised at the PCR hearing was whether counsel erred in failing to have an independent mental re-evaluation performed on petitioner solely on the question of whether he was mentally competent to stand trial. No independent mental examination of petitioner was ever arranged by trial counsel. Counsel only obtained a psychological/mental illness examination by dr. Gedo prior to the plea proceeding. Note that Dr. Gedo made no independent finding as to whether petitioner was mentally competent to stand trial. Trial counsel in effect admitted at the PCR hearing that he erred in failing to have petitioner examined independently and solely on the question of mental competency in order to have challenged the state's medical doctor's finding that he (petitioner) was mentally competent to stand trial. App. 47, lines 6-15; App. 50, lines 1-8; App. 55, l. 18-p. 57, l. 7.

Counsel admitted his error via his testimony at the PCR hearing as follows:

> PCR Counsel: Now, once again, having looked at Dr. Gedo's report, looking at the DSM, looking at his IQ, looking at his global assessment and then revisiting the competency exam, would it not seem to be prudent to have potentially reevaluated his competency?
>
> Trial Counsel: I think you can say that.
>
> PCR Counsel: The question is would you say that?
>
> Trial Counsel: Uh, probably.

App. 65, l. 21-p. 66, l. 3.

At the close of the PCR hearing testimony on May 9, 2011, PCR counsel implored the PCR judge to hold the record open to obtain an independent mental competency evaluation of petitioner (App. 74, l. 25 – p. 81, l. 7), which trial counsel failed to do, but the PCR judge denied PCR counsel's request.

Then, 14 days later on May 23, 2011, PCR counsel filed a motion to hold the record open in order to obtain an independent mental competency evaluation of petitioner (Supp App 1-3), which had already been scheduled to take place on May 31, 2011, but the PCR judge denied the motion to hold the open the record.[3] App. 132-133. Nonetheless, an independent mental competency

---

3 The Motion to Hold the Record Open and Allow Submission of a New Competency Evaluation was denied by the PCR judge in the order of dismissal signed on July 27, 2011, based on the following rationale: Two (2) weeks after the PCR hearing in this case (and while the matter was still under advisement), counsel for the Applicant filed a Motion to Hold the Record Open and Allow Submission of a New Competency Evaluation. That Motion is denied. A full PCR hearing was held on any and all issues the Applicant wished to litigate. The Applicant was notified of the date of the PCR hearing approximately one (1) month in advance and was on notice to present any and all pertinent evidence to this Court during this hearing. Given that the PCR hearing took place eighteen (18) months after the PCR application was filed, there was ample time for evidence to be obtained for submission at that hearing. As such, allowing the record to remain open for the submission of a competency evaluation, especially since this issue

evaluation was conducted on petitioner on May 31, 2011, and according to the Rule 59(e) motion (See Supp App.), a copy of the May 31, 2011 evaluation results, which found petitioner mentally incompetent in 2008 when the plea was taken and in 2011, were available on June 10, 2011, for the PCR judge's perusal. Unfortunately, however, on July 27, 2011, the PCR judge signed an order of dismissal (written) sans a review of the results of the May 31, 2011 mental evaluation report available on June 10, 2011, and found that trial counsel was not ineffective in failing to have secured an independent mental competency evaluation of petitioner in the case. App. 116-118.

In response to the Order of Dismissal filed by the PCR judge on July 27, 2011, PCR counsel filed a timely Rule 59(e), SCRCP, motion on August 11, 2011, revealing that on May 31, 2011, which was 22 days after the PCR hearing was held, and 8 days after the motion to hold the record open was filed, and 57 days **before** the PCR judge signed the Order of Dismissal in the case, petitioner was independently evaluated for mental competency by Dr. Thomas Martin, who subsequently diagnosed petitioner as mentally incompetent in 2008 and 2011. Note that the Dr. Martin's evaluation and his results were submitted before the close of the PCR action in petitioner's case and available for review by the PCR judge before signing the the July 27, 2011 Order of Dismissal in the case. Dr. Martin's report included the following findings:

> Dr. Martin issued his report on June 10, 2011 and concluded that the Plaintiff is not competent to stand trial today and would not have been competent to stand trial on November 3, 2008. In

---

was known to the Applicant and was, in fact, the sole issue argued at the hearing-would give the Applicant a second opportunity to marshal facts and evidence to support his position. This Court finds this would be [not one as granted but] a second "bite at the apple" and contrary to the position expressed by the South Carolina Supreme Court. See, e.g., Odom v. State, 337 S.C. 256, 523 S.E. 2d 753 (1999). App. 114-120.

> essence, the Dr. Martin stated that the Plaintiff suffers from "severe mental retardation with coexistence maladaptive social and language skills." These disabilities would have been equal present in the Plaintiff at the time of the incident as well as Plaintiff's court date in 2008 because there is "no medical or psychiatric treatment for severe mental retardation." Dr. Martin further concluded that "in light of [Ruben's] history and current presentation it remains unclear...how [he] was ever found 'competent to stand trial.'"

App. 124, paragraph 6; Supp. App. 4-7.

Despite the findings of petitioner's mental incompetency by Dr. Martin, which were represented in the Rule 59(e), SCRCP, motion filed on August 11, 2011, the PCR judge ruled by Order dated November 22, 2011, (App. 132-133), that his Order of Dismissal signed on July 27, 2011, would not be amended and that the PCR case would not be re-opened to determine what bearing Dr. Martin's evaluation and his findings regarding petitioner's mental incompetency had on the case. App. 132-133. Petitioner pled GBMI to the state's charges.

The issue in the instant PCR appeal on petitioner's behalf was that although plea counsel correctly secured an **independent psychological examination** for petitioner, he was nonetheless ineffective in his legal representation because he failed to obtain an **independent mental competency evaluation** before the plea proceeding; and that had counsel scheduled petitioner to be re-evaluated for his mental competency, then sufficient evidence would have proved that petitioner was incompetent to plead guilty as charged.

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL WAS ESTABLISHED ON APPEAL

On appeal, the Court of Appeals found that counsel's review of the psychological report "at a minimum.....should have led [counsel] to seek an independent [mental] competency evaluation" of

petitioner in order to have him re-evaluated on the question of his mental competency. The Court of Appeals held as follows:

> The PCR court concluded [petitioner] did not prove plea counsel was deficient because plea counsel "provided credible testimony about this decision-making process," "sought an independent psychological evaluation, did not have trouble communicating with [petitioner], and made the strategic choice to pursue a plea of [GBMI]. ...
> We [at Court of Appeals] find the evidence in the appendix does not support the PCR court's findings on this issue.
>
> In *Jeter* and *Lee*, our appellate courts determined the applicant's attorneys were not deficient for failing to obtain competency evaluations for their clients because the attorneys had no indication of the applicant's mental limitations. In contrast, here, based its conclusion of the facts that plea counsel...acknowledged he was aware of [petitioner] mental limitations, which is why he hired Dr. Gedo to perform a psychological evaluation...[whereinafter petitioner] earned [petitioner's] IQ score of 31 to 44. Therefore, unlike *Jeter* and *Lee*, here, plea counsel was aware of [petitioner's] mental limitations before the plea hearing. As a result, the PCR court's finding plea counsel was not deficient because he "did not have trouble communicating with [petitioner]" is unsupported by the evidence.

PREJUDICE PER COUNSEL'S ERROR WAS ESTABLISHED ON APPEAL

The PCR judge concluded that petitioner did not prove he was prejudiced by plea counsel's alleged deficient performance because he did not establish that there was a reasonable probability he was incompetent at the time of his guilty pleas. To the contrary, the Court of Appeals held that:

> In reaching this conclusion, the PCR court relied upon the [state] evaluation, "the [psychologist's report]...and plea counsel's testimony regarding [petitioner's] ability to communicate and understand the proceedings"...[but] [a]lthough we [the Court of Appeals] acknowledge [petitioner] failed to challenge the [state] evaluation by introducing an independent competency evaluation at the PCR hearing, we [the Court of Appeals] are troubled by many aspects of the [state] evaluation in light of the [psychological] report and plea counsel's testimony.

> For example, the [state] evaluation relied on [petitioner's] self-reporting to determine he was in regular eighth grade classes; had normal memory, attention, and concentration; and achieved As and Bs in his DJJ classes. The evaluation also did not include [petitioner's] IQ score. **Conversely,** the [psychological] report relied on psychological testing, [petitioner's] medical records, and interviews with [petitioner's] family members in determining [petitioner] was mentally retarded from birth and did no begin speaking until age seven; was previously diagnosed with ADHD; was placed in special education classes, which he passed [via] failing grades; was "limited across the entire range of cognitive functioning"; had an IQ between 31 and 44, which [was]..."severe mental retardation"; the intellectual functioning of a 4-to-7-year-old child; and was "likely to be highly malleable" and "strongly influenced by those around him."
>
> **Based on the disparate findings of the [state] evaluation and [psychological]report combined with plea counsel's testimony, we believe there was at least a reasonable probability [petitioner] was incompetent at the time of the plea.**
>
> However, although we may have decided this issue differently, we are constrained by our standard of review to affirm the PCR court's finding Ramirez did no prove he was prejudiced by plea counsel's performance. We find evidence of probative value (the state evaluation) supports the PCR court's finding, and further, PCR counsel failed to introduce an independent competency evaluation during the PCR hearing. See *id.* at 320, 721 S.E.2d at 446 ("Any evidence of probative value to support the PCR Court's factual findings is sufficient to uphold those findings on appeal.").

The Court of Appeals' finding of "any evidence of probative value" to affirm the PCR judge's Order of Dismissal was erroneous because this "any evidence" cited by the Court of Appeals was an incomplete mental evaluation that lacked "probative" evidentiary value, particularly in light of the overwhelming and valuable probative evidence presented at the PCR level establishing petitioner's mental incompetence via a subsequent independent mental examination report and the

psychological examination report. An evidentiary analysis of the four categories that comprised petitioner's case follows:

1.) The State's Mental Competency Evaluation Results;

2.) The Defense's Psychological Examination Results;

3.) Plea Counsel's Testimony; and

4.) The Independent Mental Evaluation Received At The PCR Level.

1 **The State's Mental Competency Evaluation Results**

In the Court of Appeals' analysis, it was noted that although the state doctor's report found petitioner had no psychiatric issues and that he was competent to stand trial (the state doctor cited to good grades in basic school subjects for eighth grade, and found that his memory and orientation were normal, and he understood the charges and the nature and meaning of courtroom terminology); nonetheless, the same state evaluation had a **no IQ** score listed and "**no diagnoses**" listed under each AXIS entry. The state evaluation's AXIS entries follow:

AXIS I: No Diagnosis

AXIS II: No Diagnosis

AXIS III: No Diagnosis

2 **The Defense's Psychological Examination Results**

The Court of Appeals ruled that "the psychologist report combined with plea counsel's testimony, [established its belief that] there was at least a reasonable probability [that] petitioner was incompetent at the time of his pleas." The psychologist who examined petitioner found that petitioner's IQ was between 31 and 44; and that he was intellectually impaired (on the level of a 4-to-7-year old), developmentally delayed, and suffered from ADHD. Additionally, the psychologist

found that petitioner was confused easily, simplistic in thought, and had mental limitations listed as diagnoses on all five AXIS entries per the examination. See the following:

> AXIS I: [ADHD], Combined Type. R/0 Adjustment Disorder with Mixed Disturbance of Emotions & Conduct.
>
> AXIS II: Severe Mental Retardation.
>
> AXIS III: None known.
>
> AXIS IV: Problems related to social environment[,] educational problems, problems with access to health care services.
>
> AXIS V: Present Level: 35 [5] Highest in Past Year: 35

3 **Plea Counsel's PCR Testimony**

The Court of Appeals found believable plea counsel's testimony, which was in effect that the reason he obtained a psychological evaluation for petitioner in the first place was because he had trouble communicating with petitioner, and knew something was in effect wrong with petitioner, and decided the petitioner did not understand what was going on. However, counsel's response to the psychologist who found petitioner mentally retarded was to seek a GBMI plea rather than have petitioner re-evaluated via an independent mental competency examination. The fact that the psychologist did not recommend a re-evaluation on mental competency should not have been controlling in plea counsel's representation. Plea counsel's reliance on the psychologist's report and

his failure to have petitioner re-evaluated independently on the competency question constituted ineffective assistance of counsel.

4 **Independent Mental Competency Evaluation Submitted at PCR Stage**

Dr. Martin's examination of petitioner for mental competency at the PCR stage was the independent mental competency re-evaluation that plea counsel should have obtained. Dr. Martin found that petitioner was severely mentally retarded with maladaptive social and language skills and was incompetent to stand trial. Dr. Martin found petitioner to be "child-like" and "immature," and added that petitioner's mental incompetence should have been apparent in effect when he was examined in 2008 and that it [was] unclear as to "how [petitioner] was ever found competent to stand trial." Dr. Martin's Independent mental evaluation yielded the following AXIS diagnoses:

> AXIS I: ADHD, by history
>
> AXIS II: Mental Retardation, Full Scale [IQ]:31-57, with significant documented deficiencies in adaptive social behavior.
>
> AXIS III: No Major Medical Illness
>
> AXIS IV: Psychosocial Stressors: Incarceration, legal issues, and separation from his family
>
> AXIS V: [GAF-rating:] 45

ANALYSIS

As a rule, counsel has a duty to conduct adequate and appropriate investigations in a case. Strickland v. Washington, 466 U.S. 668 (1984). Also, with respect to cases where mental issues abound, counsel has a duty to investigate, prepare, and present evidence of mental illness on behalf of the defense. See Williams v. Taylor, 120 S.Ct. 1495 (2000), where the counsel was found ineffective in failing to present mitigating evidence of the defendant's mental retardation and mental impairments during the sentencing phase of his death penalty trial, and that the absence of this evidence prejudiced his sentencing phase defense in the case. See also Wiggins v. Smith, 539 U.S. 510 (2003), where trial counsel was found ineffective in failing to expand the investigation into the defendant's background with enough sufficiency to learn of the defendant's diminished mental capacity and his impaired mental and psychological state, and that prejudice resulted because this was not presented at his death trial sentencing phase of the case. Compare Rompilla v. Beard, 545 U.S. 374 (2005), where the Court held that trial counsel erred in failing to investigate into the defendant's prior conviction file in order to uncover his mental health issues for presentation at sentencing.

Our state courts have ruled similarly in cases where counsels were found ineffective in failing to develop mental illness defenses. For example, in Von Dohlen v. State, 360 S.C. 598, 601 S.E.2d 738 (2005), the Court found that counsel was ineffective in failing to provide the psychiatrist who testified at trial with all the defendant's extensive medical records and information so that the defendant's true mental diagnosis of major episodes of depression with severe symptoms of anxiety and psychosis could have been presented during the penalty phase of the case. Moreover, in Nance v. Frederick, 358 S.C. 480, 596 S.E.2d 62 (2005), the Court reversed because trial counsel pursued a

guilty but mentally ill verdict, but omitted his expert's qualifications and failed to provide the jury with any insight into petitioner's mental illness. Furthermore, in Nance v Ozmint, 367 S.C. 547, 557 S.E.2d 883 (2006), the Court found that trial counsel erred in failing to investigate into and present evidence of the defendant's mitigating social history documents outlining his troubled childhood and mental illness. Additionally, in Council v. State, 380 S.C.159, 670 S.E.2d 356 (2009), trial counsel was found ineffective in failing to investigate into and present mitigating evidence of petitioner's mental illness at the time of the crime, his frontal lobe brain dysfunction, and yearly decline in cognitive functioning, borderline IQ and schizophrenia, and that it was error not to present this at the sentencing hearing. Finally, in Rosemond v. Catoe, 383 S.C. 320, 680 S.E.2d 5 (2009), the Court held that trial counsel's error in failing to present evidence of the defendant's mental illness was deficient and that such deficient performance was prejudicial to the case (resentencing hearing ordered).

In the case at bar, counsel violated petitioner's Sixth Amendment right to effective assistance of counsel with respect to his guilty plea case because trial counsel failed to develop evidentiary proof via an independent mental examination that petitioner was incompetent to stand trial, and petitioner was prejudiced as a result because he entered a plea at a plea proceeding held in the case. See Hill v. Lockhart, 484 U.S. 50 (1985).

SUMMARY

In Webb v. State, 281 S.C. 237, 314 S.E.2d 839 (1984), the Court held that the scope of review on PCR appellate review is whether there is "any evidence of probative value to support the [PCR judge's ruling]." This Court of Appeals erred in using the state's incomplete mental evaluation that found petitioner was competent to stand trial, and parts of plea counsel's conflicting

PCR testimony, which included his justification (no suggestion by the psychologist) for failing to independently re-evaluate petitioner, and PCR counsel's "failure to introduce an independent competency evaluation during the PCR hearing" as "any evidence of probative value" in support of its affirmance of the PCR judge's denial of relief to petitioner, particularly since the Court of Appeals found plea counsel ineffective and the probability of prejudice. The Court of Appeals' "any evidence" list lacked probative value in light of the overwhelming "**probative**" evidence to the contrary, i.e., the majority of plea counsel's testimony that included his doubts about petitioner's mental competence and the admission that he erred in failing to re-evaluate petitioner independently on the issue of mental competency, and the existence of a psychologist's report finding petitioner severely mentally retarded and a medical doctor's mental evaluation report finding petitioner severely mentally retarded submitted to the PCR judge before the PCR judge's Order of Dismissal was handed down. Therefore, the Court of Appeals' affirmance of the PCR judge's Order of Dismissal constituted a "gross miscarriage of justice" [4]against petitioner and a holding that clearly resulted in "a denial of fundamental fairness shocking to the universal sense of justice."[5] Due process prohibits the conviction of a person who is mentally incompetent. Jeter v. State, 308 S.C. 230, 417 S.E.2d 594 (1992). Trial counsel erred in allowing petitioner, who was mentally incompetent to stand trial, to enter his pleas at the plea proceeding.

---

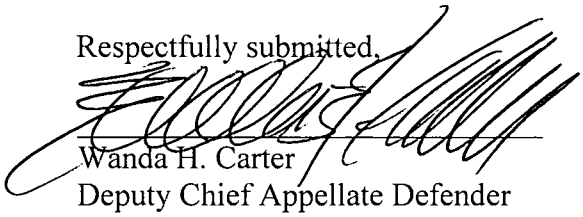
4 Alice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991)

5 Butler v. State, 302 S.C. 466, 397 S.E.2d 87 (1990)

CONCLUSION

Based on the foregoing argument, counsel for petitioner requests that this Court reverse the decision of the Court of Appeals and grant post-conviction relief to petitioner on the above raised issue.

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 18th day of July, 2016

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

Honorable G. Edward Welmaker, Circuit Court Judge

RUBEN RAMIREZ,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Brief of Petitioner in the above referenced case has been served upon Karen Ratigan, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Brief of Petitioner have been served on Ruben Ramirez, 331556 at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC, 29010, this 18th day of July, 2016.

Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me
this 18th day of July, 2016.

_____(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.