

The Supreme Court of South Carolina  
Daniel E. Shearouse, clerk of court  
P.O. Box 11330  
Columbia, SC 29211

**RECEIVED**

AUG 29 2016

**S.C. SUPREME COURT**

Re: My Case

Dear Clerk of Court

PLEASE find enclosed a true and correct copy of Petitioner's Writ of Certiorari pursuant to Rule 221 (b) of the South Carolina Appellate Court Rules (SCACR). Petitioner submits his petition pursuant to the court of appeals order dated August 10, 2016.

Would you please notify Petitioner when the filing is complete. Thank you and good day.

Sincerely  
Sl. Janet Madduck  
Petitioner

August 21, 2016

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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AUG 29 2016

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Certiorari to Charleston County  
Roger M. Young, Sr. Circuit Court Judge

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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA,

RESPONDENT,

JARRET E. GRADDICK

PETITIONER,

APPELLATE CASE NO.

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PETITION FOR WRIT OF CERTIORARI  
PURSUANT TO RULE 221 (b), SCACR

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JARRET E. GRADDICK

LIEBER CORR. INST.

P.O. BOX 205

RIDGEVILLE, SC 29472

# INDEX

INDEX .....	1
ISSUE PRESENTED .....	2
STATEMENT .....	3
ARGUMENT .....	4
CONCLUSION .....	7

## ISSUE PRESENTED

Whether the Court of Appeal erred in ruling petitioner did not provide a sufficient explanation as required by Rule 203 (d) (i) (B) (iv) of the South Carolina Appellate Court Rules (SCACR)?

## STATEMENT

Sometime during the year of 2012, the Charleston County Grand Jury indicted Petitioner for armed robbery two (2) counts and three counts of Kidnapping. R. 2, 7-9. Indictments 2012-GS-10-02370-02372. ON July 7, 2014, Petitioner proceeded to Alford plea before the Honorable Roger M. Young, Sr., Judge. Attorney Andrew Grimes represented Petitioner. Petitioner Plead to a Alford Plea and Judge Young, Sr. Sentenced Petitioner to twenty (20) years imprisonment concurrent with the 20 year sentence Petitioner was already serving. A timely notice of intent ~~to~~ appeal was filed, unfortunately according to an order filed August 10, 2016 Petitioner failed to provide a sufficient explanation as required by Rule 203 (d)(1)(B)(iv) of the (SCACR). This petition follows:

## ARGUMENT

The Court of Appeal did error in ruling Petitioner did not provide a sufficient explanation as required by Rule 203 (d) (1) (B) (iv) of the South Carolina Appellate Court Rules (SCACR).

### Factual Background

On the afternoon of July, 14, 2014, Petitioner entered into a Alford plea of guilty after being induced by fear and other apparent mental inducements. After being informed by trial counsel Respondent clearly informed the trial court of Petitioner's free will. Thereafter trial counsel did not move the court to quash the indictment thus disarming Petitioner's Sixth Amendment right to a defense and a fair impartial trial by jury. R. 2, 1-17. Thereafter the court impudently told Petitioner that the only way Petitioner was getting out of prison was in a pink box to be buried in. R. 3, 19-23, R. 4, 4-7, 14-16, R. 5, 10-12, R. 6, 7-9.

After finding Petitioner's reasoning good for rejecting Respondent's plea offer the trial court dexterously performed a different administration of mental coercion upon Petitioner's free will knowing that when the decision is made to stand trial, trial counsel must hold Respondent to its heavy burden of proof nevertheless trial counsel failed to object as the mental inducements of the trial court took effect. R. 7, 7-R. 8, 2. It was while under the influence of the trial court that Petitioner spoke with trial counsel and thereafter involuntarily entered into an Alford plea of guilty unknowingly and unintelligently. R. 8, 8-16, R. 9, 4-5, 7-11, 13, R. 10, 3-13, 22-R. 11, 11, R. 15, 5-11. Trial Counsel's failure to move the court to quash the indictment afforded Respondent the opportunity to improperly place the prestige of the United States of America behind the impermissible hearsay of motivated witnesses. R. 18, 14-25. Thereafter Petitioner reasserted the innocence ensconced in Petitioner's free will and that of the prejudicial effective influence of trial counsel and Respondent due to the trial court's bias influence. Thereafter the trial court furtively threaten to charge Petitioner with the prejudicial variance hand of one is the hand of all knowing that Respondent produced

No direct evidence to support their motivated witnesses false testimony, with no objection from trial counsel. R. 20, 9-21.

### The Appeal Court's Ruling

Pursuant to Rule 203 (d) (1) (B) (iv) of the South Carolina Appellate Court Rules (SCACR), the appeal court issued an order of dismissal dated August 10, 2016 in violation of Petitioner's Fifth and Fourteenth Amendments and the error is plain and obvious.

### Discussion

The appeal court erred in finding Petitioner did not provide a sufficient explanation as required by Rule 203 (d) (1) (B) (iv). Respondent did not offer any evidence which supported the allegation of their witnesses version of the armed robbery event. There was no direct evidence which placed Petitioner or Respondent's witnesses at the scene of the crime. The Victims Donald Hair and Kathy McDonald never identified Petitioner or Respondent's three motivated witnesses. The Victims never identified the ethnicity of the culpable party. Respondent's witnesses implicates themselves in a robbery to which Respondent had no clue who actually robbed the business establishment. There was no direct evidence to support Respondent's malicious theory that Petitioner was one of the three that went into the store that had a gun, R. 17, 13-R. 18, 16. The Fifth Amendment protects Petitioner from self incriminating statements such as those supplied by Respondent's motivated witnesses. In failing to move the court to quash the indictment trial counsel failed to exercise "the skill, judgment, and diligence of a reasonably competent defense attorney. Trial Counsel unequivocally denied Petitioner the effective assistance of counsel at a critical stage and the failure effected Petitioner's ability to receive a fair trial under the Sixth Amendment. Trial Counsel's error precluded the developments of true fact resulting in the admission of false ones. Trial Counsel provided no actual assistance for Petitioner's defense. Trial counsel was aware that a defendant is entitled to a direct verdict when the state fails to produce evidence of the offense charge just as the trial court who threatens

Petitioner with death in a pine box. R. 3/9-21, R. 6, 7-10.

The only way you get out of prison is when they take you out in a pine box to bury you. You will spend the rest of your life in jail until you are a very old man and die of old age or you get killed in prison, but going out the way normal people do, that's not going to be an option to you.

The trial court clearly abused its discretion therefore failing to exercise sound discretion. A guilty plea may be invalid if it was induced by threats or misrepresentations. Brady v. U.S., 90 S.Ct. 1463. Agents of the State may not produce a guilty plea by actual or threatened physical harm or by mental coercion overbearing the will of the defendant. U.S. v. A. Const. Amend. 5. Trial counsel's failure to move the court to quash the indictment is actual and substantial prejudice as such respondent clearly ignored the special obligation to avoid improper suggestions and insinuations by providing personal assurances of the witnesses veracity. The police did not have probable cause to seek a warrant for the arrest of petitioner. The three witnesses did not give a statement until after they were arrested. Therefore, trial counsel performed deficiently in failing to move the court to quash the indictment. Strickland v. Washington, 466 U.S. 668 (1984).

Trial counsel's deficient performance severely prejudiced petitioner and counsel's performance was deficient and fell below reasonable professional errors, the result would have been different. Cherry v. State, 300 S.C. 115; 117-118, 386 S.E.2d 624, 625 (1989). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182 480 S.E.2d 733, 735 (1997). The three witnesses for respondent was extremely suspect. U.S. v. Bertko, 728 F.3d 327 (4th Cir. 2013). (Government may not knowingly use false evidence including false testimony, to obtain a faint conviction, regardless of whether the government solicited false testimony it knew or should have known to be false or simply allowed such testimony to pass uncorrected. Riddle v. Ortiz, 631 S.E.2d 70. Had this evidence been suppressed, the outcome of petitioner's Alford plea would have been different.

CONCLUSION

For the foregoing reasons, this court should grant certiorari with the ultimate relief of vacating petitioner's Alford plea conviction and granting him a new trial.

Respectfully Submitted  
s/ Jarrett Graddick

Jarret E. Graddick

Petitioner

August 21, 2016

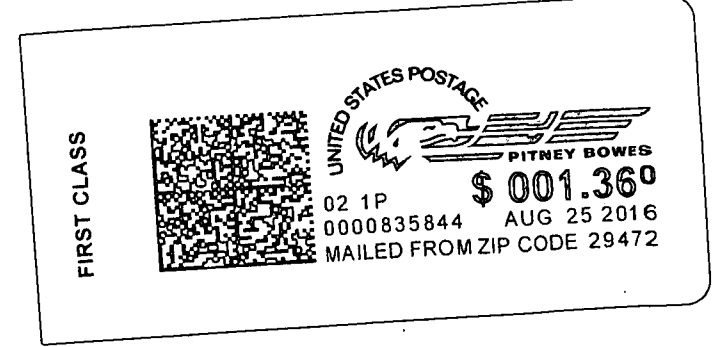
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LIEBER CORRECTIONAL INSTITUTION

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