

Randolph Ashford # 256638  
B.R.C.I. MLT - 2035  
4460 broad River Rd.  
Columbia, South Carolina - 29210

RECEIVED

DEC -5 2016

S.C. SUPREME COURT

November 30, 2016

The Supreme Court of South Carolina  
Daniel E. Shearouse, Clerk of Court  
P.O. Box 11330  
Columbia, South Carolina - 29211

Re: Case No. 2015-002509

Dear Mr. Shearouse:

Enclosed please find the original written memorandum of petitioner in the above noted case for your filing with the court.

Thank you very much.

Sincerely,

  
Randolph Ashford

Enclosures

CC:

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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DEC -5 2016

S.C. SUPREME COURT  
PETITIONER,

RANDOLPH ASHFORD,

v.

STATE OF SOUTH CAROLINA

RESPONDENT,

PETITIONER CASE NO. 2015-002509

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PETITIONER WRITTEN MEMORANDUM  
FOR  
PETITION FOR WRIT OF CERTIORARI

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Randolph Ashford # 256638  
Pro-se Petitioner

B.R.C.I. MLT - 2035  
4460 Broad River Rd.  
Columbia, South Carolina  
29210

Certificate Of Service

RECEIVED

DEC -5 2016

S.C. SUPREME COURT

Re: Appellate Case No. 2015-002509  
Lower Court C/A No. 2012-CP-400-1053

I do hereby certify that I have serve the below listed counsel of record the original Pro-Se Response To Petition for Writ Of Certiorari by placing the same in the United States Mail with sufficient postage affixed thereto, on this 30, day of November 2016. at the institution mail room.

The Supreme Court Of South Carolina  
Daniel E. Shearouse, Clerk of Court  
P.O. Box 11330  
Columbia, South Carolina - 29211

Date: November 30, 2016

s/ *Randolph Ashford*  
Randolph Ashford # 256638

Enclosures

CC:

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Trial counsel erred in failing to object to juror's misconduct.

Trial counsel erred in failing to object to evidence of crime scene contamination.

Overwhelming evidence of judicial prejudice to the petitioner, Randolph Ashford.

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**ISSUES PRESENTED**

Trial counsel erred in failing to object when the solicitor vouched for the credibility of the state's witnesses during closing arguments in the trial.

Trial Counsel erred in failing to quash the indictments of petitioner's case.

Trial counsel erred in failing to object to juror's misconduct.

Trial counsel erred in failing to object to evidence of crime scene contamination.

Overwhelming evidence of judicial prejudice to the petitioner, Randolph Assford.

## STATEMENT

I, Randdolph Ashford, was found guilty during the March/April trial of 2009 term of Richlan County General Session Court before the Honorable G. Thomas Cooper, sentencing petitioner to an aggregate prison term of forty years App. 1130. for 1st. degree burglary two counts kidnapping, two counts assault with intent to kill, three carjacking, and assault and battery of a high and aggravated nature an lesser included offense of first degree criminal conduct. Deon O'Neil and Nicole Singletary represented petitioner at trial, and Assistance Kathryn Luck Campbell and Will Brynt represented the state.

Petitioner, appealed, but sentence affirmed. App. 1133-1145. See State v. Ashford, Unpublished Opinion No. 2012-UP-035 (S.C.Ct. App. January 25, 2012). App.1146-1147. Wanda H. Carter, represented petitioner on direct appeal.

February 6, 2012, petitioner filed a PCR application with the Richland County Clerk of Court. App.1148-1156. Respondents filed a return April 30, 2012 requesting a hearing be held in the case. App.1157-1163.

The hearing was convened on March 31, 2005, at Richland County Courthouse before Judge Brooks P. Goldsmith. App. 1165-1358. petitioner was present at the hearing and represented by David E. Belding. and J.Claton Mitchell appeared on behalf of the state.

November 9, 2015, Judge Goldsmith issued an order of dismissal denying and dismissing petitioner's allegation of the entire PCR application filed in the case App. 1392-1405.

Petitioner appealed Judge Goldsmith's order, because the Honorable Judge L. Casey Manning; by order filed with the Richland County Clerk of Court, March 11, 2013, See: Exhibit's -A., and the South Carolina Court of appeals letter dated October 18, 2016. The case of 2012-CP-40-01053, See also Exhibit's

B.

## ARGUMENT

### Trial counsel erred in failing to object when the solicitor vouched for the credibility of the state's witnesses.

The year of 2009, these matters took place in the trial of Randolph Ashford, on March 30, 2009, through April 3, 2009.

On April 3, 2009, Deputy solicitor, Kathryn Luck Campbell violated petitioner, 4th, 5th, 6th, and 14th Amendment to the United States Constitution, Article - 1, 3, and 14 of the South Carolina Constitution.

Solicitor, Campbell, in her closing arguments vouched for the credibility of state witnesses, Ms. Campbell, stated, " you've heard from Deputy Unger, and Deputy White, and they got up here and was honest with you. App. 1072, 8 - 9,.

Solicitor, Cambell, in her closing argument vouched for the credibility of Richland County Law Enforcement (RCDC) officers, stating: You've heard from Eric Barns, and Investigator Thomas; credibility because either you believe those two men would put their careers on the line to frame this poor man or you believe the defendant. App. 1073, - 2-6,.

Solicitor, Campbell, testified, at the trial of petitioner, stating: Deborah Ann Simmons; she lead her life in her neighborhood where every one was tight. She stayed out of trouble, and she did not ask for this. App. 1047, - 7 - 9, .See: attached phone records, (highlighted). calls from Simmons to Petitioner. INFO, INC. Ivestigations.

Solicitor, Campbell; again testified in her closing argument stating, He made offers to exchange Roberta; because he wanted to kill her, and kill himself, that was his frame of mind no women was going to make hin look bad and not pay for it, and if he couldn't get to Roberta, he had Deborah Ann Simmons, and she would do for know, and he showed her. App. 1075, - 24 - 25, . App. 1076, - 1 - 4, . See: Exhibit D.2,.

Solicitor, Campbell; Stated to the jury. " You've not not seen any video taped dispositions, audio taped dispositions, App. 1024, - 4 - 7,.

Solicitor Luck Campbell; Misconduct, and Presentation of false evidence testimony during the trial. Ms. Campbell, stated to the jury. "... Indirect testimony from which which you can conclude something is, say, where his jacket was found in that bedroom on the end where the bay window was next to the van that's circumstantial evidence that he was in that room. It was his jacket. We can put him there. 1, App. 1040, Lines 6 - 14,

Solicitor, Luck Campbell; Misconduct, and personal opinion during closing argument; Ms. Campbell; stated; to the jury that he got up here and testified trying to put together a scenario where he is just simply misunderstood, a victim of all these horrible people who have intentionally Framed him of these awful crimes, and if you believe that ladies and gentlemen then you should set him free. I beg you. judge their credibility. App. 1071, Lines 9 - 16, . 2

Ms Campbell; closing argument, Why change from his statement he gave back the night this happen? Because that statement was not good enough. He sat for two years. He sat here in this court. App. 1071, 7-9, . (3)

Ms. Campbell; closing argument to the jury. He also indentified, and the actual gun was put into evidence as the gun that was used to rob him. App. 919, 2-7, See Exhibit - C, Exhibit - D. 4, . Exhibit - E, . Mr. Barry Taylor, testimony on direct, And one of them came to my driver's side window, You know what I am saying pulled out a little gun, and was like" Get out of the car. App. 314, 17-18 App. 319, 7-17.

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1 Deputy David Unger, direct by Mr. Bryant; Q. Could you tell where that bullet, from what window, either the bay window or the two windows or the door in the back; could you tell where it was coming from?

A. No sir, I could not. App. 599, 3 - 6, .

2 Deputy David - Cross by Mr. O'Neil; Q. You didn't see

The Kidnapping charges against petitioner emanated from the testimony of Deborah Ann Simmons, and Evelyn Worthy. 4

Petitioner, Ashford, testified that " He did not hold Ms. Simmons against her will, nor did he have sex with her. App. 968, 17 - 25, - 969, 1,. See: Exhibit's - E.

Tammy L. Cook, testified, Yes I asked her ( Simmons ) if she was injured anywhere and she showed me a cut on her finger and there were no injuries other than that. Yes. I asked her if she was injured anywhere and she showed me a cut on her finger. App. 553, 15 - 16,. App. 542, 15 - 16,. See: Exhibit F.

Petitioner, testified, that Deborah Ann Simmons, called (911), she wanted them to leave from around her house. App. 996, 22 - 25,. See Exhibit - D.3, in fact Ms. Simmons had call Ashford's home. See: INFO , INC. Investigations ( Phone Records ) ( Highlited ),.

Olin Kelly, testified, that he was not inside the car with his wife. App. 338, 17 - 25, - 339, 1 - 25,. See: Exhibit - F. and App. 330, 1 - 25 - 331, 1 - 25,.

Gregory Fleming, testified, that, when Ashford went inside he came back out with a elderly lady with a gun pointed to her and the lady was saying, Lord help me. App. 363, 13 - 25,. See: Exhibit - G.

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actually see any body shooting at you did you? (A), I did not. No. sir. App. 605, 5 - 7,.

3  
Ms. Campbell, stated in her closing argument to the jury, And ladies and gentlemen, I submit there is no question about it in this case, that the defendant was fatally bent on mischief and had criminal intent on this day. App. 1045, 4 - 7,. See Exhibit - D.3,.

Evelyn Worthy, testified, that like I said, even though I did not, you know see, He didn't put it in my face or any thing it was in his hand to the side. App. 445, 8 - 10,. App. 438, 22 - 25,. See: Exhibit - H. and Exhibit - D.4,.

Randolph Ashford, testified, that I have. And I did not give them that statement App. 964, 17 - 25, - 965, 1 - 2,. 5

Malachi James, testified, that, And I was looking around. And when I looked back again I see the fellow standing in the front of the car. He waive me down because I thought he was one who had the car. So he said " I am not going to hurt you. App. 447, 22 - 25, - 448, 1,. App. 1387, 3,. See: Exhibit D.- 2,. ( Closed Incident Report ).

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4

The Court: you like that fatally bent on mischief language don't you? App. 1017, 1 - 25, - 1018, 1 - 25,.

5

Malachi James, testified, that don't know where this came from, but I did not tell the officer that. I told them what I just said. App. 450, 1 - 25,.

Trial counsel erred in failing to quash the indictments of petitioner's case.

ARGUMENT

Here petitioner, will show unto the court that the Richland County Court Of General Sessions knowingly employed the use of a unlawful procedure for the return and publication of petitioner's True - Bill indictment's. See: Exhibit — I. South Carolina Rules Of Court, Rule - 3 (c). See: Exhibit - J. April/ May Terms Of Circuit and Family Court, Also April 2009, Texas. See: Exhibit - K. 2007/2008 Orders.

Petitioner, Ashford testified at the hearing held in Richland County March 31, 2015. Your Honor, I filed several motions with the solicitor's office requesting the grand jury impanelment documents.<sup>6</sup> See: Exhibit's-L.

THE COURT: Okay All Right. We'll leave - I'll agree, Then we'll leave the record open to permit the applicant's attorney to submit to the court to file with the court. App. 1180, 11 - 16, - 1181, 1 - 25,, also App. 1184, 10 - 25,.

PCR Counsel, Mr. Belding, stated Mr. Ashford, would like to move to amend his application, App. 1186, 22 - 25, - 1187, 1 - 25,.

THE COURT: All right. I'll allow whatever evidence there is to be presented to day on the indictments and warrants. See: Exhibit's - M,, and N,.

Mr. Belding; hand up the brief ~~that~~ Mr. Mitchell was referring to and also the brief from MR. Ashford about the indictment's issue. App. 1189, 19 - 21, . See: Exhibit's - O. and P,.

6

Mr. Mitchell: stated at the PCR hearing, that I am not aware of any request for grand jury - impanelment documents- App. 1182, 9 - 10,.

PCR Counsel, Mr. Belding, stated to the court on petitioner behalf, that petitioner But Mr. Ashford has done a lot of re- search on it and believes that he has - show the court, from the documents that the indictments were issued not during a term of general sessions court. App. 1174, 22 - 25, - 1176, 1 - 25,.

The statutory provisions contained in section 14 - 9 - 210, provides in pertinent parts that the solicitor of the court shall prepare and through the presiding judge of the court of general sessions submit to the grand jury while in attendance upon the court of general sessions bill of indictments in all caSeS pending in the county court.

Section, 14 - 9 - 210, requires strict compliance with the provision and mandates that the grand jury must be im- paneled under the jurisdiction of the court of general sessions before a lawful return of a true - bill indictment can take place.

A circuit court judge, retains no authority on his own to conduct and oversee grand jury proceedings out-side the bounds of a lawfully convened court of general sessions. See: indict- ment App. 1110 - 1111,. See: 2009 Terms/Calendar

Petitioner, has a constitutional and statutory right to have the indictments issued by a legally constituted grand jury. State V. Means, Op. No. 26105 ( S.C. 495, 611, S.E. 2nd. 298 ( 1974 ); also S.C. Constitution, Article 1 & 3 and Article V, 22; S.C. Code Ann 14 - 9 - 210.

Ashford, contends that trial counsel's ineffectiveness did not provide representation that was within range of compen- tence required by attorneys in criminal cases. See: Butler V. State,

Petitioner, has established that he was not duly and legally convicted, and therefore was convicted, and sentence in violation of the U.S. Constitution of the state of South Carolina. See: sections 17 - 25 - 10,.

ARGUMENT

Trial counsel erred in failing to object to juror's misconduct.

At the hearing held March 31, 2015. Trial counsel Deon O'Neil, testified that he consider the Statement by a juror " I've heard all I need to hear in the presents of other juror's to be juror's misconduct. App. 1289, - 1297, 1 - 25,.

At the hearing, Nicole Singletary, testified, that the statement of a juror like that could be pretty prejudicial to the defendant? App. 1334, 21 - 24,.

At the hearing held March 31, 2015. Trial counsel Nicole Singletary, testified, that there -- people were rolling their eyes, They were snickering. App. 1336, 1 - 25, - 1337, 1 - 25,.  
7,8,.

At the PCR hearing held March 31, 2015. Nicole Singletary testified that she probably should have objected earlier. 9

At the hearing held March 31, 2015. Nicole Singletary, testified, that the trial was prejudicial. App. 1343, 9 - 25, - 1345, 1 - 5, . See: also Exhibit - P., App. 4, 15 - 25, . App. 1383 - 1384, 1 - 25, . also App. 1285, 1 - 25, - 1288, 1 - 25, .

7

THE COURT: Just hold it. Mr. Broome, You all hold it down please. App. 631, 13 - 14, .

8

FOREPERSON: We hanging beef in here this morning or what? App. 823, 12 - 13, .

Petitioner Ashford, testified that Judge Goldsmith; only question one of the black jurors, I mean the other two or three that possibly could have said they had heard all they needed to hear never was question or anything. App. 1229, 11 - 15,, <sup>10</sup> App. 1285, - 1288, 1 - 25,.

Nicole Singletary, stated during the trial, Your Honor, <sup>11</sup> at this time the defense would respectfully make a motion for a mistrial, based on due - process violations, and 403. App. 1010, 11 - 25,. See: Exhibit's - O. and P.

Deon O'Neil, testified, I would look at my list, <sup>12</sup> It have one, two, three, I have three black Females on my circled list. one would be juror No. 286. 1317, 1 - 25,. App. 1319, - 1321- 1 - 25,.

9

THE BAILIFF: She is not feeling well. App. 812, 9 - 25,.

THE BAILIFF: She feels kind of sick. App. 17 - 25,.

10

Judge G. Thomas Cooper, Jury Instruction " direct evidence and circumstantial evidence. Direct evidence and we probably had both in this case. App. 1082, 1 - 6,.

Judge G. Thomas Cooper, Jury Instructions, I am not permitted to indicate to you how I might feel about the facts. App. 1078, 18 - 25, App. 1082, 1 - 6,.

11

THE COURT: you if you feel that sudden urge, if you know what I am talking about, just get up and leave. App. 763, 17 - 19,.

12

Deon O'Neil, testified, on direct examination, when it came to burglary, there was no signs of force entry into the home that would indicate that he actually kicked the door in or went in there with the intent to Commit any sort of crime. App. 1300, 19 - 25, See: Exhibit - H. Exhibit - D.2,.

**ARGUMENT**

**Trial counsel erred in failing to object to evidence of  
crime scene contamination.**

During the trial on March 30, 2009 through April 3, 2009. Investigator Patricia Reed Enzor of the Richland County Sheriff's Department testified on direct examination that the crime scene was secured overnight, and a deputy on the scene so it was secured until the next morning. App. 770, 12-18,.

Then Investigator Enzor, testified, on cross examination, admitted that " she " had in fact on February 24, 2007 released the scene to Mr. Ali Harrison, and he was one of the resident's of that location. App. 786, 23 - 25, - 787, 1 - 2,.

Deborah Ann Simmons, testified, A brown leather jacket with black stuff in the front inside of it.<sup>13</sup> App. 530, 7 - 9, also See: App. 514, 11 - 13, App. 532, 13 - 15,.

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13

Deon O'Neil, testified, probably not at the time of trial. No. Probably when she said it, I probably realized at that point. App. 1299, - 1301, 1 -25,.

14

THE COURT: I understand. The question is based on that statement, would it support a charge of assault and battery of a high and aggravated nature. App. 815, 14 - 19, - 820, 1 -25,.

Petitioner, Ashford; contends that if the trial attorney's Deon O'Neil and Nicole Singletary, had pursued and investigated the DNA testing and gotten a result from the contaminated crime scene of the green jacket, then they (counsel's) would have had something decent to ~~cross~~ examine the state's witnesses about, because the solicitor Kathryn Luck Campbell,; used the jacket to help place me at the crime scenes committing all of the above alleged crimes, so the state obviously thought that this green jacket was an important piece of evidence.

On the other hand having the jacket tested would have open up an area of inquiry that my trial counsel's should have explored in trying to defend me. I went to trial in this case, and there is no reason they wouldn't have obtained and had that jacket tested, if it was important enough for the states to 15 introduce it as evidence, and the solicitor specifically argued to the juror's that this places me in a room of the allege burglary, Kidnapping, Criminal Sexual Conduct 1st degree, and (2) counts of Assault with intent to kill. 16

Solicitor, Campbell; made a real issue about it all the way up through the closing argument, App. 1040, 7 - 11, that this places me at and committing all of these alleged crimes at the scene, so if in fact, I didn't wear that green jacket that would reflect upon the testimony of the state's witnesses, and there was testimony that I fired out a window, black male with a green jacket on, and if no DNA of mine is on the jacket, it would prove that their testimony is false. 17

However, the whole case was tried together, there was one 18 cumulative trial for all of the charges, so all of the testimony went before the jury for all of the charges. See: Exhibit's Q.

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15 States Exhibit's 102 is admitted into evidence. App. 514, 9 - 10,.

16 April 1, 2009, Deon O'Neil; Yeah I have informed Mr. Ashford that any records that we obtained would not be used in our case-- App. 297, 19 - 25,.

In Steve Bagwell V. State of South Carolina, 410 S.C. 259, 763 S.E. 2nd 630, a recent case from the South Carolina Court of Appeals decided August 27, 2014. In this case trial counsel ~~did not~~ request a DNA test on (3) pieces of glass with blood on them that was introduced at trial, and this is a similar situation. It's certainly analogous. In that situation, they have the purported alleged victim said, "This the guy that beat me up," and he was convicted of burglary.

And to buttress that testimony, the state introduced (3) pieces of glass that had blood on them, and the defendant wanted his trial counsel to have that tested for DNA and they didn't ~~do it~~.

They ended up doing it later, and found out that it was not his DNA on the blood on the glass, and on that basis, the judge ruled that trial counsel was ineffective. I think this is by analogy ~~very~~ similar to what you have here.

If in fact, trial counsels O'Neil and Singletary had done what I asked and had a DNA test of the jacket, it would have given them something to talk about at trial that would dispute the identity testimony that was proffered by the Richland County Sheriff's deputy.

They say they saw the guy Mr. Ashford; in the ~~mobile home~~ wearing a green jacket. Well it stands to reason that if I was wearing it there would be ~~some DNA~~ evidence on it.

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17 THE COURT: Well in the event he were convicted he would raise those issues in post conviction relief. But if you say that those are strategic decisions, then the court is unlikely to grant him relief in that regard. App. 299, 21 - 25,.

18 Wednesday April 1, 2009. THE COURT: The case is going forward. Do you understand that? App. 285, 15 - 19,.

THE COURT: We'll you know, this trial hasn't even started; and, App. 305, 10 - 13,.

Overwhelming evidence of judicial prejudice to the  
petitioner, Randolph Ashford.

Petitioner, Ashford was appointed ( 7 ) different public defender's and the appointed counsel's failed to obtain evidence or was hindered from obtaining evidence to defend petitioner. See: Exhibit - R. and App. 1380 - 1381,, App. 290, - 23-25,.

Petitioner, contends that the trial transcripts, and the PCR proceeding is a cascade of errors that has been filed in courts. App. 1183, 12 - 25, - 1184, 1 - 25,.

Petitioner, Ashford, would also point to the Order of Dismissal dated November 9, 2015, by judge, Goldsmith; Page- 2 of 14, 1. Procedural History. Alleging indictment April 2007 GS - 40 - 1939 Assault and battery with intent to kill, and indictment April 2007 - GS - 40 - 1941. Assault and battery with intent to kill. I was not charged or indicted for this offense. Why is it before the court for any review of a court in later proceedings, and to petitioner it's a continuation of judicial prejudice against Mr. Ashford.

Petitioner, points to Page 5 of 14, The court finds this allegation is without merits. In fact, Ashford, did testify, but only because he thought that was the matter of App. 302, 8 - 25, - 158, 1 - 25, . at that time petitioner was under the influence of mental health medication, and that's the reason or some of the reason's the state did not want the Alvin S. Glenn Detention Center CCS Correct Care Solutions to be part of the record, in which Judge Goldsmith, sustains the state's objection to tab 1. See: Exhibit - O. It was a cover up for the judicial prejudice to Mr. Ashford, also it is very clear that Mr. Ashford, had mental health issues on February 24, 2007. App. 1247 - 1250, 1 - 25, . and App. 835, 18 - 19, . App. 859, 9 - 25, - 861, 1 - 25, .

Trial counsel Nicole Singletary, testified, Well, I will tell you that with Mr. Ashford, we kind of had some. like, ups and downs. One day that we would go and talk to him, he would be fine. He would be courteous and everything. And then, other days it would be kind of-- App. 1324, 20 - 25, - 1325, - 1 - 18,. This was supported by App. 1378, South Carolina Department of mental Health Forensic Evaluation Service Page - 7. ( Recommendations: a year and (8) months later after petitioner, was receiving mental health treatment, because if he Ashford, had no mental health issues why recommend he continue to seek treatment. Never the less trial attorney's failed to call Mr. J. Jason Buckland D.O. and Tia Taylor, LISW-CP, as a witness in Ashford's defense.

Petitioner, also points to Page - 6 of 14, Failure to Investigate. The state withheld discovery that the petitioner Ashford, needed for his defense App. 4, 15 - 25,. but none of the attorney's prior to Ms. Carolyn Gripp, specifically Douglas S. Strickler, the chief public defender conducted a investigation as to why the (911) tape was not a part of the defense for Mr. Ashford, who was facing serious charges, nor did the trial counsels call Jennifer Blair at Richland Co. 911, as a witness in Ashford's defense. App. 1380 - 1381,.

Petitioner, Ashford, did in fact testify that the (911) recordings would have cleared him of the crimes charged, and that he was not holding the allege victim hostage at all. App. 1206, 19 - 25, but the court has again presented false and misleading trial testimony/statement's Ashford, at no time made such a statement or testified that ( and that he was infact being held hostage by Simmons ) Petitioner, would ask this court to find that statement in the trial of Ashford, and if so, he would ask the court to sentence him to (20) more years, and if that statement/testimony can not be found that the PCR order claims. Petitioner would ask the court to resentence him at a cap of (20) years.

The court: allege that petitioner failed to produce any evidence and that's a far fetched allegation, simply because Ashford's (7) to (9) appointed attorney's representation fell far below professional norms, not to mention the trial/PCR court's would not allow petitioner evidence to defend himself at trial or the PCR, even if " he " had the evidences. App. 297, 14 - 25,. See: also Exhibit - O. and P. also App. 1249, 24 - 25,.

However, the court claims that it is impossible to judge the merits of these claims from the evidence before the court, and thats very simply. Not to allow the petitioner to submit his evidence as this PCR court done on March 31, 2015. that he did have.

The court finds that petitioner testimony that the (911) call would have bolstered his position to be far fetched and not credible.

Petitioner, claims that those allegations, speculations are without any justification of facts, the (911) tape was not produced as evidence, unless it was only withheld from Ashford, defense as so much other evidence was. As to the phone records, if the call would have further incriminated petitioner in the incident then why the state did not use the phone records in the prosecution of Ashford, instead of using a crime scene contaminated " Photo of a Green jacket ". App. 82, 13 - 25,. App. 249, 12 - 25,. App. 250, 1 - 7,.

Petitioner, also points to page 8 of 14, failure to move for a mistrial,

Ashsford, contends that all of the black jurors should have been questioned Juror No. 286, 208, 199, and 58, but counsel made the decision on his on that nobody else needed be investigated. O'Neil, fail to call Deputy White as a witness to the juror misconduct App. 1281, - 1294, 1 - 25,.

Deon O'neil testified, that he protected me from juror misconduct. App. 1288, 21 - 23, then when asked by PCR counsel

Mr Belding, if someone had said in the middle of the prosecution's case, I've heard all I need to hear in the presents of other jurors, would you consider that to be juror misconduct. Mr. O'Neil who represented the petitioner Ashford, answered I would. App. 1288, 24 - 25, - 1289, 1 - 4,.

Judge, Cooper, selected (3) white jurors to question who had nothing to do with the black juror making that statement, and decline to question the other remaining black juror's nor did he question the Deputy White, as to who had made that commit.

Deon O'Neil, properly made a motion for a mistrial which preserved the issue for appellate review, but appellate counsel Wanda H. Carter, ineffectiveness fail to raise this issue on direct appeal.

Petitioner, Ashford, did in fact allege ineffective assistance of appellate counsel in his PCR application. See: App. 1150, and Exhibit - O. April 6, 2015 letter.

Judge, Cooper, stated that, All right. Ms. Singletary, i did not witness the same behavior that you apparently witness. And I certainly respect your position on that. you are sitting a lot closer to the gallery than I am, and that may have been the reason why you may have overheard somethings that I did not overhear. App. 1012, - 1020, 1 - 25,.

Petitioner, PCR counsel allege counsel were ineffective in failing to highlight inconsistent statements made by crime scene investigator Patricia Reed Enzor. Not the petitioner, Counsel Belding, raise this issue on his own.

Ashford, contends that Investigator Enzor, contaminated the crime scene, by releasing the scene to the brother of the allege victim Deborah Simmons the night of February 24, 2007, and then while under oath, gave false and misleading testimony to the juror's See: Exhibit's - s. by these phone records, it's

believed by petitioner that the brother made lots of calls during that night, and received calls from the Sheriff's Department, and that will probably explain how the green jacket being placed in that room on the bed.

Even though counsel O'Neil, testified that this was another example of a small detail petitioner would get caught up on that was not pertinent to his defense.

Petitioner contends that all avenues of a defense counsel's would not pursue, and the record speaks for it self loud and clear the prejudice I suffered from the start of this case.

Ashford, contends that maybe or maybe not it was direct and circumstantial evidence, and it could have been (78) witness who testified and (220) exhibit's admitted in this case or another, but by way of the United States Constitution, and the State of South Carolina Constitution, and laws of this state, prohibit's any judge to violate a defendants due process rights, and/or the South Carolina Rules of Court, Rule - 501 Code of Judicial Conduct Canon - 1, 2, 3,.

Now, I'll remind you that under our constitution and Code of laws only the jury can make findings of facts in this case.

Judge, Cooper, was not permitted to indicate to the jury how he might feel about the facts in his jury instructions. App. 1078, 18 - 25,.

Petitioner, contends that he has proven the comment affected his right's to a fair trial.

Ashford, explained, what happen at the trial and PCR, and that he specifically remember the day and most of all what took place, even though " he " was suffering from a mental issue on February 24, 2007, but he had no intentions of harming any one at all.

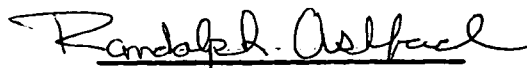
Counsel's errors in failing to object during the trial, during the closing argument's of the solicitor's constituted ineffective assistance of representation in violation of the Sixth Amendment guarantee that a criminal defendant receive competent legal representation during a trial. See: Strickland V. Washington, 466, U.S. 668, 104 S.Ct. 2052 (1994)..

For counsel's errors in these regards, a reasonable probability exists that, but for these errors, the outcome of the would have been different.

### CONCLUSION

Based on the forgoing argument's petitioner prays that this court vacate his sentence as violative of the 4th, 5th, 6th and 14th Amendment of the United States Constitution, and the State of South Carolina Constitution an remand this case (New Trial ) to a general sessions court outside of Richland County court of general sessions.

This 30, day of November, 2016.



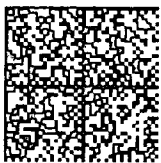
Randolph Ashford # 256638

Pro-Se Petitioner



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