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Dear Justice Pleicones,

Let me start by thanking you for your service panel of the South Carolina Supreme Court. ^{S.C. SUPREME COURT} I have followed your rulings and opinions, especially those in the last (5) years, very closely. You see, I am a completely innocent man (and father) fighting to obtain justice. In my opinion, it's been your stance on balancing the pendulum of justice between the State and Defendants that will leave the Court trending the right way.

I am writing you with one humble request with deep policy implications: that you hear my case, possibly as an Acting Justice, which if heard will set further 'Rule 5' doctrine for years to come. My petition for a writ of certiorari is awaiting in your Court. I cannot believe it mere coincidence, given the recent decision in *Earley v. State*, that similar Rule 5 "violations" by the State be potentially addressed back-to-back. Your dissenting opinion in this case was a strong one: "I am also troubled by the policy implication of the majority's opinion. By deflecting the blame to the defendant for the State's Rule 5 violation, the majority's opinion undermines both the goal of Rule 5 and the role of the State in criminal prosecutions."

As you go on to properly point out, Rule 5 should "ensure that a miscarriage of justice does not occur". Sir - in my case your exact concern and warning to the Court is realized. Similar (but different in the facts) to your closing in *Earley*, the lower courts have seemingly condoned the State's action of withholding critical and potentially exculpatory evidence from the defense until the last minute when introducing the evidence will leave the defense little time to fully and properly →

use it at trial. What separates my case from *Earley* and has the potential to set an even more dangerous precedent giving "free reign" to tactical & willful manipulation of Rule 5, the State knowingly also violated a long-standing *Order* of the Court (implemented by the Honorable Judge Mark Hayes a year before trial) meant to avoid such an unfair manipulation of it's discovery obligations.

One of your revered predecessors, Chief Justice Finney, took a very similar stance as you did in *Earley* and one that would coincide to the very argument in my petition. In *State v. Whipple*, he wrote in his dissent: "That appellant cannot point with any precision to the prejudice he suffered is the inevitable consequence of the insufficient time afforded to him for review of these largely technical documents." What does it say that all these years later both the lower courts as well as the highest court in this state continues to seemingly "condone" such behavior that affronts a fundamental tenet of our country's judicial system? My petition gives the Supreme Court ^{the opportunity} to potentially put a critical halt to this blatant erosion of the rights of a defendant. And potentially a second opportunity, post-*Earley*, for you to further cement the proper direction for the next Court, (while putting a halt to the bleeding of the fundamental rights of a Defendant and providing accountability when a party abuses those rights)

In closing, I realize that even if you are able to personally hear my case you may very well affirm my conviction

and agree with the State. So may the rest of the Court. Even so, lines will be drawn on Rule 5 and any accountability to the in adherence of a Judge's Order and the power that an Order of the Court currently holds. Such fundamental judicial issues carrying potentially tragic miscarriages of justice weigh heavily in the public interest.

If you are even "allowed" to read this letter, thank you in advance for your time and consideration. May you know that the imprisoned have watched and appreciated your fight for fairness and transparency in the adversary system - none more than the truly innocent languishing in this State's prisons.

Sincerely,

Daniel W. Spado

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P.S. In my humble opinion, your strong stances in the Anderson and Stukes rulings were possibly two of the most critical in your tenure. The power in prosecuting potentially innocent individuals based on an allegation with no evidence in child sex abuse cases has been scary the last (10) Years.

I can assure you, from a father on the wrong side of such a prosecution, there is no charge that has placed more innocent persons in Prison than these....

Danny Spade, # 358974
FLB - 1228
990 Wisacky Hwy.
Bishopville, SC 29010

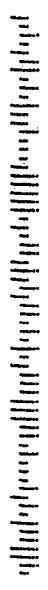
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Chief Justice Costa Pleicones
c/o Kelly Yongue
P.O. Box 1133D
Columbia, SC 29211

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