

The Supreme Court of South Carolina

Louis Michael Winkler, Jr., Respondent,

v.

State of South Carolina, Petitioner.

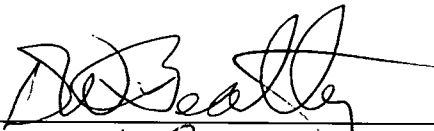
Appellate Case No. 2014-000904

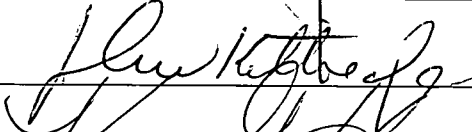
ORDER


Louis Michael Winkler filed a Petition for Rehearing and, in the event this Court denied the Petition for Rehearing, a Motion to Stay Issuance of Remittitur. After careful consideration of the Petition for Rehearing, the Court is unable to discover that any material fact or principle of law has been either "overlooked or misapprehended by the court." Rule 221, SCACR. Thus, there is no basis for granting a rehearing. Winkler argues this Court created a bright line rule "that counsel would be ineffective only if counsel fails to lodge an objection in response to an identical factual scenario presented and ruled upon in controlling precedent." This Court has created no such bright line rule, and Winkler's argument relies on precedent from a concurring opinion of Justice Stevens in *Williams v. Taylor*, 529 U.S. 362, 382 (2000), which was not discussing the Constitutional requirement of effective assistance of counsel specifically.¹ The petition for rehearing is denied.

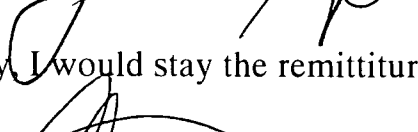
The Motion to Stay Issuance of Remittitur is also denied.

¹ See 529 U.S. at 367 n.*. The *Williams* majority does discuss the Constitutional requirement of effective assistance of counsel specifically at other points. In *Williams*, the Supreme Court of the United States found the state supreme court's denial of the defendant's ineffective assistance of counsel claim was an unreasonable application of established law because the state supreme court found it was required to make a "separate inquiry into fundamental fairness even when" the defendant was "able to show that his lawyer was ineffective and that his ineffectiveness probably affected the outcome of the proceeding." 529 U.S. at 393. Here, we imposed no such additional burden on Winkler.

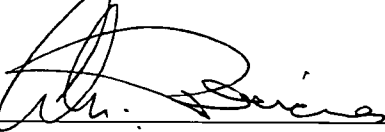

_____ C.J.


_____ J.


_____ J.


_____ J.

I would grant rehearing. Additionally, I would stay the remittitur.


_____ A.J.

Columbia, South Carolina

February 9, 2017

cc:

- Emily C. Paavola, Esquire
- Alphonso Simon, Jr., Esquire
- Alan McCrory Wilson, Esquire
- John R. Mills, Esquire
- Melanie Huggins-Ward
- The Honorable Benjamin H. Culbertson