

STATE OF SOUTH CAROLINA
In The Supreme Court

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MAR 27 2017

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable L. Casey Manning, Circuit Court Judge

Appellate Case No. 2016-000415

CLINTON FOLKES, 216506,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

REPLY TO STATE'S RETURN TO PETITION FOR WRIT OF CERTIORARI

TARA DAWN SHURLING
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ATTORNEY FOR PETITIONER.

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Petitioner would offer the following in Reply to certain points made by Respondent in the State's Return. With regard to all other issues, Petitioner relies on the arguments and authorities presented in his Petition for Writ of Certiorari previously filed with this Honorable Court.

ARGUMENT

X.

With regard to this argument, Respondent asserts that this claim was not raised in either Petitioner's Application for Post-Conviction Relief or his Amended Application before the lower court. Additionally Respondent argues that the PCR Court did not rule on this claim, and that Petitioner did not file a Rule 59(e), Motion to Alter or Amend, SCRCP, asking the PCR Court to rule on this issue. Petitioner respectfully submits that Respondent's position concerning the preservation of this issue below is without merit. In his Amended Application for Post-Conviction Relief, Petitioner alleged in his Allegation Number 4 that Trial Counsel was ineffective for failing to advise the Applicant of his right to put up a defense regardless of whether he himself testified to at trial. App. p. 768, Item 4. The PCR Court ruled on this allegation in the Order of Dismissal issued in this case. App. pp. 833-834.

While the verbiage of Allegation No. 4, from the Amended Application for Post-Conviction Relief, is different from the caption to Argument Ten, the fundamental issue addressed therein is the same one advanced in the lower court as Allegation No.4. Both address the failure of Trial Counsel to advise Petitioner of his right to be fully heard in his defense. As worded in Allegation No. 4, Trial Counsel neglected to be certain that Petitioner understood that he had the right to present a defense, i.e. to be fully heard in his defense, even if he did not testify at trial.

CONCLUSION

Petitioner has no further Reply to the Respondent's Return. With regard to the merits of the Arguments raised in his petition, Petitioner relies upon the arguments and authorities advanced by him in his Petition for Writ of Certiorari.

Respectfully submitted,


TARA DAWN SHURLING
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ATTORNEY FOR PETITIONER

This 23rd day of March, 2017.

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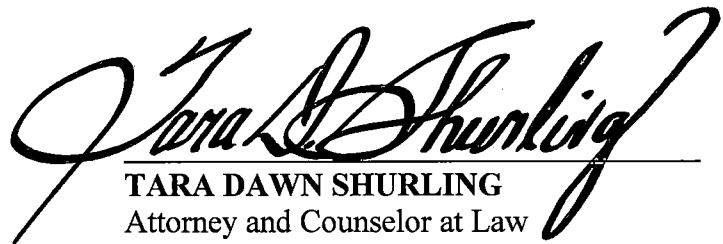
STATE OF SOUTH CAROLINA,

RESPONDENT.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Reply to the State's Return to the Petition for Writ of Certiorari in the above-entitled case has been served upon opposing counsel this the 23rd day of March, 2017 by mailing one (1) copy in a stamped envelope properly addressed to:

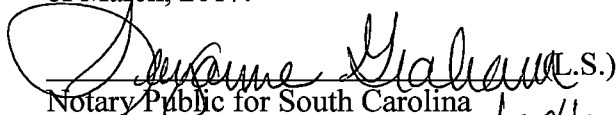
Megan H. Jameson
Assistant Attorney General
Office of the Attorney General
P. O. Box 11549
Columbia, SC 29211



TARA DAWN SHURLING
Attorney and Counselor at Law
S.C. Bar No. 5099

ATTORNEY FOR PETITIONER.

SWORN TO BEFORE me this 23rd day
of March, 2017.



(L.S.)
Notary Public for South Carolina

My Commission Expires: 2/28/24

LAW OFFICE OF



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MAR 27 2017

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March 23, 2017

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

Re: Clinton Folkes, #216506 v. State of South Carolina;
Appellate Case No.: 2016-000415.

Dear Mr. Shearouse:

Enclosed for filing please find the original and six copies of my Reply to the State's Return to the Petition for Writ of Certiorari and Certificate of Service in the above-captioned case. I have also enclosed two (2) extra copies of the Reply and the Certificate of Service and would appreciate having them clocked and returned in the enclosed self-addressed envelope. Thank you for your assistance in this matter. I remain,

Sincerely yours,

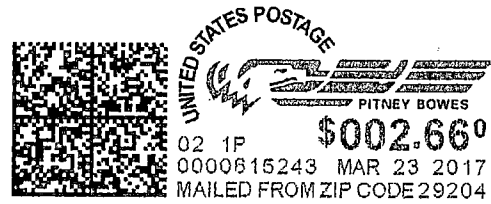
A large, stylized handwritten signature in black ink that reads "Tara Dawn Shurling". The signature is written in a cursive, flowing style with a large initial 'T' and 'S'.

Tara Dawn Shurling
Attorney and Counselor at Law

TDS/sg

Enclosures

cc: Megan H. Jameson, Assistant Attorney General (w/enclosures)
Clinton Folkes, #216506 (w/enclosures)



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The Honorable Daniel E. Shearouse
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