STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Honorable R. Knox McMahon, Circuit Court Judge

CAMERON HAMMONDS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001810

PETITION FOR WRIT OF CERTIORARI

JOHN H. STROM
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

INDEX

ISSUE PRESENTED

The PCR court erred in finding that trial counsel, retained on the eve of trial, was sufficiently prepared for Petitioner's trial where counsel undertook an objectively unreasonable trial strategy based on self-defense when the evidence in Petitioner's case did not support a self-defense claim and where counsel also failed to request a lesser-included jury charge of voluntary manslaughter despite the evidence in Petitioner's case supporting such a charge.

STATEMENT

Indictment and Trial

On November 21, 2007, Petitioner was indicted by the Greenville County Grand Jury for murder and possession of a weapon during the commission of a violent crime for the fatal shooting of Lee Kanard. App. 396 – 397.

On December 1, 2009, Petitioner proceeded to trial on April 1, 2009. E.P. "Bill" Godfrey represented Petitioner. Assistant Solicitors George Campbell and Sylvia Harrison represented the State. App. 1 – 244. The basic facts of Petitioner's case were not in dispute.

At around 2:00 a.m. on June 20, 2007, Petitioner awoke to his step-brother, Tyrone Woods, knocking on his door. Woods was badly beaten and had his car stolen. Petitioner called the police and Woods was taken to the hospital. App. 164, l. 15 – 167, l. 13.

Petitioner and his friend, Stefan Brewster, then drove in Brewster's car to see Woods at the hospital. On their way to the hospital, Petitioner spotted Woods' car abandoned on the side of the road. The car had been ransacked. Petitioner called police to let them know he had located the car. *Id.*

As Petitioner and Brewster were waiting on the police to arrive, Petitioner noticed a beige car with a temporary license plate and distinctive damage to the front passenger door drive past them. App. 168, l. 20 – 170, l. 21. This occurred around 4:45 – 5:00 a.m.

After a cursory inspection, police released the car to Petitioner. Petitioner drove the car to his house. As he was parking the car in the driveway, he again saw the beige car. This time the car slowly drove past Petitioner's house. While Petitioner did not recognize the driver, he did recall that the car was regularly parked around his neighborhood. *Id.*

Before taking a nap, Petitioner called into work and asked for the day off because of the family crisis. *Id.* Petitioner woke-up later that morning and walked to Woods' house before eating lunch at home. After lunch, Petitioner decided to walk to Brewster's grandmother's house. Brewster, Petitioner, and their friends regularly hung out there.

During his walk to Brewster's grandmother's house, Petitioner passed two men standing in the front yard and front of porch of a residence he was passing. App. 173, l. 3 – 181, l. 13. Petitioner thought that he recognized the man standing in the yard as one of the men in the beige car. Petitioner aske the two men. "[w]hy y'all rob my little brother?" *Id.* The man in yard was Lee Kanard. Kanard responded "[f]uck your little brother, he know how I get down." *Id.*

As Petitioner continued to ask why the men had beaten his stepbrother and stolen his car, Kanard continued to insult him and his brother. Eventually, the man on the porch pulled out a shotgun. Kanard also tried to pull a handgun out of his waistband, but he fumbled with it. Petitioner wrestled Kanard's handgun away from him and pulled out his own gun that he carried for protection. App. 173, l. 3 – 181, l. 13.

Petitioner then shot at Kanard with both guns as he ran out of the yard. *Id.* Kanard was shot nine times, with most bullet wounds being located on his left side. App. 141, l. 2 – 145, l. 18. Petitioner stated that he dropped both guns as he was running away. Police were unable to locate either of the guns.

Through interviewing witnesses at the crime scene detectives identified Brewster as a person of interest. In his first statement to police, Brewster claimed that he and Petitioner were together for most of the day of the shooting. According to police, Brewster identified Petitioner as the shooter. App. 62, ll. 3-21

At trial, Brewster recanted his earlier statements to police. Brewster testified that he spoke with police because his car was identified as being in the area at the time of the shooting. Brewster explained that he was driving his car in his neighborhood, near the shooting, when he heard gunshots. Not knowing where the shots were coming from, Brewster inadvertently drove past the incident scene only minutes after the shooting had occurred. Based on local news reports, Brewster found out that someone recognized his car and reported him to the police. Brewster contacted the police in order to clear his name. App. 98, l. 12 – 105, l. 13.

In response, the police threatened to charge Brewster with murder unless he identified the shooter, therefore he identified Petitioner. "I was figuring if I tell them what they wanted to hear, I could get them off my back." App. 105, ll. 9-11. The State became so frustrated that Brewster's testimony did not conform to their theory of the case that they moved successfully to have him treated as a hostile witness.

The only other witness to the shooting was Kelvin Harris, a recovering drug addict with a lengthy criminal record, who claimed he was sitting on his front porch when the shooting occurred. Harris' house is located diagonally across the street from the house where Kanard was shot. App. 110, l. 16 – 117, l. 18.

Harris averred that he saw Brewster's car drive up the street towards Kanard's house. Brewster and Harris are cousins. *Id.* Kanard saw Petitioner get out of the car and walk across Kanard's yard. Kanard and Petitioner exchanged words, but Harris could not determine what they were. App. 115, ll. 6-24.

Harris claimed that, as Kanard was walking towards his house, Petitioner began shooting him. Harris conceded that he could not see whether there was anyone on the front porch of Kanard's house from his vantage point. Harris recollected that he never saw Kanard pull out a

gun. *Id.* At trial, the State admitted that an individual named Tabius Dowels was on the front porch at the time of the shooting. Dowels had been charged with misprision of a felony arising out of this incident and the State did not call him at trial. App. 200, ll. 3-19.

On cross-examination Harris admitted that he initially told police that he did not see anything. Harris stated that he did not call the police after the shooting. Harris further admitted that he went as far as to tell the local news that he had not seen the shooting. He claimed that he came forward the day after the shooting because his boss urged him too. App. 128, l. 3 – 129, l. 14.

Curiously, Harris also testified that a second car pulled up during Petitioner's discussion with Kanard. A man that Harris recognized as Woods stepped out of the second car, a burgundy impala, holding a shotgun. Harris recalled that Woods had his car stolen the night before. Harris stated that Woods did not fire his shotgun. App. 126, l, 1 – 128, l. 20; App. 133, l. 3 – 135, l. 8.

No other witness stated that a second car or Wood were present at the time of the shooting. Even the investigating detectives declined to adopt Harris' allegation of Woods involvement. Woods did not testify at trial.

At the close of State's evidence, Petitioner requested and received a jury instruction on self-defense. App. 195 l. 20 – 209, l. 11. The court noted that it did not – personally – believe that Petitioner was without fault in bringing on the difficulty. *Id.* Likewise, the court expressed skepticism about whether or not Kanard had a gun and believed that – even if Kanard had a gun – he was likely acting lawfully in defense of his himself and his home. *Id.*

Petitioner did not request any lesser included offenses. At the request of defense counsel, the court did not give a *Belcher* charge stating that malice may be inferred from the use of a

deadly weapon. App. 195 l. 20 – 209, l. 11. The court also refused to instruct jurors that Petitioner may act lawfully in self-defense despite unlawfully carrying a pistol. *Id.*

Jurors found Petitioner guilty as charged. The trial court sentenced Petitioner to life imprisonment with a consecutive fire year term for possession of a weapon during the commission of a violent crime. App. 242, ll. 2-5

Direct Appeal

On direct appeal, Petitioner challenged the trial court's refusal to charge the jury that Petitioner could have lawfully acted in self-defense, despite being unlawfully armed. App. 244 – 258. Assistant Appellate Defender LaNelle Durant represented Petitioner. Assistant Attorney General Alphonso Simon, Jr., represented the State. App. 259 – 283. The Court of Appeals affirmed Petitioner's convictions in an unpublished opinion filed on July 18, 2012. App. 284 – 285. This Court declined to grant certiorari on March 19, 2014. App. 286 - 321.

PCR Application and Evidentiary Hearing

On May 29, 2014, Petitioner filed an application for post-conviction relief alleging that trial counsel was ineffective. App. 322 – 344. The State filed a return on October 21, 2014. App. 345 – 349.

On April 19, 2016, an evidentiary hearing was held before the Honorable R. Knox McMahon. Brian Johnson represented Petitioner. Assistant Attorney General Patrick Schmeckpeper represented the State. Petitioner's trial counsel Bill Godfrey was unable to testify due to health problems. Petitioner testified, as did Assistant Solicitors Sylvia Harrison and George Campbell. App. 350 – 384.

Petitioner testified that trial counsel was privately retained on the eve of trial. Counsel had been appointed to represent Petitioner as a public defender. However, counsel left the public

defender's office while Petitioner's case awaited trial. Petitioner and his replacement public defender did not get along. Petitioner then retained counsel a week before trial. App. 361, l. 22 – 362, l. 21.

Counsel and Petitioner only met once. Counsel appeared to be singularly focused on Petitioner's self-defense claim. App. 357, l. 12 – 360, l. 7. Petitioner stated that this focus was misplaced and that counsel was not prepared to counter the State's allegation that Petitioner had forfeited the right to self-defense by walking into Kanard's yard prior to the fatal encounter. *Id.* Petitioner felt that counsel's erroneous focus on self-defense reflected his lack of preparation for trial. *Id.* Petitioner believed that counsel should have requested a continuance since he had been privately retained on the eve of trial. *Id.*

Petitioner further explained that counsel convinced him to stand trial and to claim self-defense. Petitioner noted that – while he believed – he acted in self-defense, under the law of self-defense, he was unlikely to prevail because of the facts of the case. App. 365, l. 7 – 367, l. 20. Petitioner's chances of acquittal were further reduced when counsel was unable to convince the trial court to instruct jurors that Petitioner could act lawfully in self-defense despite unlawfully carrying a gun.

Assistant Solicitor Sylvia Harrison testified that defense counsel "really stressed the self-defense. . . . [H]e really did push the self-defense aspect, and that's why he got the charge from Judge Miller." App. 372, l. 22 – 373, l. 2. Assistant Solicitor George Campbell recalled that defense counsel "reappeared" in the case in the fall of 2009. Petitioner stood trial in November, 2009. App. 377, ll. 6-22.

In closing arguments, PCR counsel emphasized the limited amount of time that defense counsel had to become reacquainted with the case when he was privately retained. PCR counsel

argued that defense counsel's assessment of Petitioner's case as a matter of self-defense was legally incorrect and not an objectively reasonable strategy. Kanard was standing in his front yard when he was fatally shot and Petitioner had initiated the conversation that led to Kanard's death. App. 380, ll. 1 -24. PCR counsel argued that, under the facts, a self-defense claim was simply not viable.

The State countered that any claim defense counsel was unprepared was "speculative" because Petitioner was physically with counsel all the time to witness any preparation. App. 381, ll. 6-23. Further, the State posited that any claim of ineffective assistance of counsel stemming from counsel's decision to pursue self-defense, was improper because Petitioner received a jury charge on self-defense. *Id.*

Order of Dismissal

On August 5, 2016, the PCR court issued a written order of dismissal denying Petitioner's application. App. 385 – 395.

The court concluded that Petitioner failed to demonstrate that defense counsel was unprepared for trial. App. 387 – 388. The court stated that Petitioner "could not competently speculate as to the extent of counsel's preparations." Moreover, even if counsel and Petitioner only met once, "brevity of time spend in consultation with [Petitioner], without more, does not establish that trial counsel was ineffective. *Id.*

The court further ruled that defense counsel was not ineffective for arguing self-defense. Adopting the State's reasoning, the court noted that Petitioner had received a self-defense jury instruction at his trial and, therefore, counsel could not have been ineffective for pursuing such a strategy. App. 388 – 390.

The court further found that defense counsel's advice on the likelihood of a self-defense claim succeeding was not "objectively unreasonable." According to the PCR court, Petitioner also failed to prove that he was prejudiced by either counsel's lack of preparation or counsel's decision to solely focus on self-defense. App. 391 – 392.

ARGUMENT

The PCR court erred in finding that trial counsel, retained on the eve of trial, was sufficiently prepared for Petitioner's trial where counsel undertook an objectively unreasonable trial strategy based on self-defense when the evidence in Petitioner's case did not support a self-defense claim and where counsel also failed to request a lesser-included jury charge of voluntary manslaughter despite the evidence in Petitioner's case supporting such a charge.

Defense counsel was retained by Petitioner on the eve of trial. App. 377, ll. 6-22. Counsel had previously represented Petitioner as a public defender, but had been relieved of his appointment when he left the public defender's office. A year and a half later, in an atmosphere of mounting frustration and distrust between Petitioner and his second public defender, Petitioner retained defense counsel. App. 357, l. 12 – 360, l. 7.

Counsel centered his trial strategy on self-defense. This strategy required Petitioner to testify. Accordingly, Petitioner had to admit that he regularly illegally carried a pistol. To prevail on a claim of self-defense, counsel would also have had to convince jurors that Petitioner was not at fault in bringing on the difficulty that led to Kanard's shooting. This would be despite Petitioner being in Karnard's front yard at the time of the fatal incident.

Counsel further had to convince jurors that Kanard or Bowles, the man on the porch, was armed at the time of the difficulty. No guns were ever recovered. Bowles did not testify at trial. Kanard was shot nine times. Under these circumstances, self-defense was not an objectively reasonable trial strategy. At a minimum it was not objectively reasonable for trial counsel to exclusively rely on self-defense as a theory.

Had counsel had more time to prepare for trial, counsel would have likely realized that a complete self-defense claim was likely non-viable. Counsel should have sought, in addition to the self-defense charge, a charge on the lesser included offense of voluntary manslaughter. Had

counsel done so there was a reasonable probability that the result of Petitioner's trial would have been different.

Ineffective Assistance of Counsel

In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." *Frasier v. State*, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland*, 466 U.S. at 692; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Bulter*, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. *Cherry v. State,* 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." *Id.* at 117, 386 S.E.2d at 625 (citing *Strickland*, 466 U.S. 668). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 117-118, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." *Johnson v. State*, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing *Strickland*, 466 U.S. 694); *see also Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625.

Deficient Performance

In this case, trial counsel's performance was deficient, as it fell below an objective standard of reasonableness. *See Strickland*, 466 U.S. at 687-88. Defense counsel, retained on the eve of trial, elected to undertake an objectively unreasonable trial strategy centered solely on a non-viable claim of self-defense. *See McKnight*, 378 S.C. at 46, 661 S.E.2d at 360 (finding trial counsel failed "to discover all reasonably available mitigation evidence and reasonable available evidence tending to rebut any aggravating evidence introduced by the State"); *see also Ard*, 372 S.C. 318, 642 S.E.2d 590.

The State is required to disprove the elements of self-defense beyond a reasonable doubt. *State v. Wiggins*, 330 S.C. 538, 500 S.E.2d 489 (1998). A person is justified using deadly force in self-defense when:

> (1) The defendant was without fault in bringing on the difficulty;
>
> (2) The defendant ... actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger;
>
> (3) If the defense is based upon the defendant's actual belief of imminent danger, a reasonable prudent man of ordinary firmness and courage would have entertained the same belief ...; and
>
> (4) The defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance.

State v. Dickey, 394 S.C. 491, 716 S.E.2d 97 (2011). However, an individual who provokes or initiates an assault may not assert self-defense. *State v. Bryant*, 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999).

"Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense as a

justification or excuse for a homicide." *Id.* Concomitantly, a person has the right to act on appearances, even if the person's belief is ultimately mistaken. *State v. Fuller,* 297 S.C. 440, 443–44, 377 S.E.2d 328, 331 (1989).

Therefore, "[o]nce the right to fire in self-defense arises, a defendant is not required to wait until his adversary is on equal terms or until he has fired or aimed his weapon in order to act." *State v. Starnes,* 340 S.C. 312, 322, 531 S.E.2d 907, 913 (2000) (*citing State v. Hendrix,* 270 S.C. 653, 244 S.E.2d 503 (1978)). "[W]ords accompanied by hostile acts may, depending on the circumstances, establish a plea of self-defense." *Fuller,* 297 S.C. at 444, 377 S.E.2d at 331 (1989) (*quoting State v. Harvey,* 220 S.C. 506, 68 S.E.2d 409 (1951)).

Petitioner testified that defense counsel was utterly convinced that his case was a self-defense case App. 377, ll. 6-22; *see also* App. 372, l. 22 – 373, l. 2. Counsel clearly focused on the portions of the self-defense doctrine allowing Petitioner to fire as many times as necessary to end the threat and on Petitioner's right to be wrong when acting on appearances. *Id.*

However, in order to conclude that self-defense was a valid trial strategy, counsel had to ignore: that the deceased was shot while standing in his own front yard arguing with Petitioner; that the only evidence that the deceased had a gun came from Petitioner; and that the only other eyewitness to the fatal incident was charged with misprision of a felony and unlikely to testify. *See Solomon v. State,* 347 S.C. 635, 557 S.E.2d 666 (2001) (court considers reasonableness of trial strategy on case-by-case basis); *see also Roseboro v. State*, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995) (finding counsel must articulate valid reason for employing a certain strategy to avoid a finding of ineffectiveness, and where counsel articulates a strategy, it is measured under an objective standard of reasonableness").

Petitioner's testimony – as developed by counsel's examination - elicited the distinct impression that Petitioner and Woods had had prior difficulties with Kanard and Bowles. App. 168, l. 20 – 181, l. 13. It also strongly suggested that Petitioner armed himself in anticipation of a conflict, even if Petitioner was not seeking revenge for his brother's beating. *Id.*; *see also McKnight v. State*, 378 S.C. 33, 661 S.E.2d 354 (2008) (holding that counsel was ineffective for calling an expert witness that undermined the defense's theory of the case).

Petitioner, by his own testimony, failed to meet the elements of self-defense. It was objectively unreasonable for counsel to make self-defense the centerpiece of the defense. *See Ingle v. State*, 348 S.C. 467, 560 S.E.2d 401 (2002) (holding that counsel was ineffective for eliciting damaging corroborating testimony and that stated trial strategy was not reasonable).

Prejudice

Rather than focusing exclusively on self-defense, defense counsel should have been focusing on mitigating or reducing Petitioner's murder charge. Petitioner's case was obviously one of imperfect self-defense and the evidence presented at trial supported a jury instruction on voluntary manslaughter. *State v. Gilliam*, 296 S.C. 395, 373 S.E.2d 596 (1988) (holding that defendant was entitled to instruction on voluntary manslaughter, in homicide prosecution, as defendant's testimony that victim threatened him and then fired at him would support finding of sufficient legal provocation and heat of passion).

The law to be charged must be determined from the evidence presented at trial. *State v. Knoten,* 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001). A trial court commits reversible error if it fails to give a requested charge on an issue raised by the evidence. *State v. Hill,* 315 S.C. 260, 262, 433 S.E.2d 848, 849 (1993).

In determining whether the evidence requires a charge on a lesser included offense, the

court views the facts in a light most favorable to the defendant. *See Knoten,* 347 S.C. at 302, 555 S.E.2d at 394 (provides that a court must view the facts in the light most favorable to a defendant when determining whether evidence required a charge on the lesser included offense of involuntary manslaughter alongside the charge of murder) (*emphasis added*).

"Importantly, our courts have long emphasized that to warrant a court's eliminating the offense of manslaughter, it should very clearly appear that there is no evidence whatsoever tending to reduce the crime from murder to manslaughter." *State v. Brayboy*, 387 S.C. 174, 180, 691 S.E.2d 482, 486 (Ct. App. 2010); *see State v. Cole,* 338 S.C. 97, 101, 525 S.E.2d 511, 513 (2000); *State v. Burriss,* 334 S.C. 256, 265, 513 S.E.2d 104, 109 (1999); *Casey v. State,* 305 S.C. 445, 447, 409 S.E.2d 391, 392 (1991). A request to charge a lesser included offense is properly refused only when there is no evidence that the defendant committed the lesser rather than the greater offense. *Casey v. State*, 305 S.C.445, 409 S.E.2d 391 (1991) (*emphasis added*).

Voluntary manslaughter is the unlawful killing of another without malice and the offense is a lesser included offense of murder. S.C. Code Ann. § 16-3-50; *State v. Williams*, 399 S.C. 281, 731 S.E.2d 338 (Ct. App. 2012). The offense has also been defined as "the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation." *Cole,* 338 S.C. at 101, 525 S.E.2d at 513.

"Both heat of passion and sufficient legal provocation must be present at the time of the killing." *Id.* The sudden heat of passion "need not dethrone reason entirely or shut out knowledge and volition, but it must be such as would naturally disturb the sway of reason and render the mind of an ordinary person incapable of cool reflection and produce what may be called an uncontrollable impulse to do violence." *Id.* at 101–02, 525 S.E.2d at 513 (citing *State v. Byrd,* 323 S.C. 319, 474 S.E.2d 430 (1996)).

This Court has held that the proper moment for analyzing whether a defendant's activity was lawful for purposes of charging voluntary manslaughter is at the time of the killing. *State v. Burriss*, 334 S.C. 256, 265, 513 S.E.2d 104, 109 (1999). The South Carolina Supreme Court also noted in *Burriss* that there is a difference between being lawfully *armed* in self-defense and *acting* in self-defense. *Id.* at 265, 513 S.E.2d at 109, n. 10

In Petitioner's case, the evidence strongly suggested that Petitioner – at the moment of the shooting – had confronted Bowles and Kanard about them having beaten Petitoner's step-brother and stolen his car. App. 173, l. 3 – 181, l. 13. Bowles and Kanard responded by threatening Petitioner's brother and pointing their guns at Petitioner. *Id.* When Kanard fumbled with his gun, Petitioner grabbed the gun, pulled out his own gun, and began firing as he ran out of the yard. *Id.*

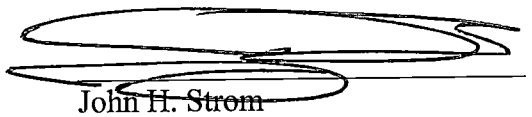
Consequently, Petitioner was lawfully armed at the time of the shooting, but likely brought on the difficulty by confronting Kanard and Bowles at Kanard's house. The threat to Petitioner's life and his brother's made him worried for his safety and reasonably so. Thus there was sufficient to receive a jury instruction on voluntary manslaughter.

Counsel's inadequate preparation and objectively unreasonable focus on self-defense robbed Petitioner of his right to a charge on the lesser included offense of voluntary manslaughter. The evidence presented at trial more accurately reflected the offense of voluntary manslaughter than it did either self-defense or murder. *Burriss*, 334 S.C. at 265, 513 S.E.2d at 109 ("To warrant the court in eliminating the offense of manslaughter it should very clearly appear that there is ***no evidence whatsoever*** tending to reduce the crime from murder to manslaughter.") (*emphasis in original*) (*internal quotations omitted*).

Accordingly, there is a reasonable probability that but for defense counsel's inadequate preparation and objectively unreasonable focus on self-defense to the exclusion of other mitigating factors, Petitioner would have been convicted of voluntary manslaughter had it been charged by the trial court. *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. In short, defense counsel's deficient performance prejudiced Petitioner such that it "undermin[ed] confidence in the outcome of [his] trial." *See Strickland*, 466 U.S. at 694; *see also Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625.

CONCLUSION

Based on the foregoing reasons, Petitioner Cameron Hammond's petition for writ of certiorari should be granted to allow full briefing on the issue.



John H. Strom
Appellate Defender

ATTORNEY FOR PETITIONER

This 6th day of April, 2017.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Honorable R. Knox McMahon, Circuit Court Judge

CAMERON HAMMONDS,

PETITIONER

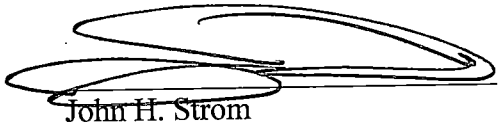
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

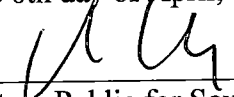
The undersigned hereby certifies that a true copy of the Petition for Writ of Certiorari and a copy of the Appendix in the above referenced case has been served upon DeShawn H. Mitchell, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Petition for Writ of Certiorari and a copy of the Appendix have been served on Cameron Hammonds, #338191, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 6th day of April, 2017.



John H. Strom
Appellate Defender

ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me this 6th day of April, 2017.



_____ (L.S)
Notary Public for South Carolina
My Commission Expires: 5/12/2025