STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Supreme Court County

Perry H. Gravely, Circuit Court Judge

MICHAEL LEE ROBINSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001773

BRIEF OF PETITIONER

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ISSUE PRESENTED

Did plea counsel's ineffective assistance render Petitioner's guilty plea involuntary where plea counsel advised Petitioner to accept an offer to enter a guilty plea and be sentenced under the law in existence at the time of the commission of the alleged crime, which provided for a maximum sentence of thirty years, rather than risk losing at trial where the state would seek a sentence under the amended law that provided for a mandatory minimum sentence of twenty-five years and a maximum sentence of life imprisonment, which would have violated the ex post facto clauses of the state and federal constitutions?

STATEMENT

On February 19, 2013, a Greenville County grand jury indicted Petitioner for criminal sexual conduct with a minor in the first degree (2013-GS-23-666). App. 70-71. On October 9, 2013, Petitioner entered a guilty plea to the charge before the Honorable Edward W. Miller. App. 1. Chris Hodge represented the state, and Jake Erwin represented Petitioner. App. 1. Judge Miller sentenced Petitioner to twenty-five years' imprisonment. App. 11, line 10; App. 72. Petitioner did not file a direct appeal. App. 14; App. 25; App. 64.

On July 8, 2014, Petitioner filed an application for post-conviction relief (PCR). App. 13-24. The matter proceeded to an evidentiary hearing on June 16, 2015 before the Honorable Perry H. Gravely. App. 30. Karen Ratigan represented the state, and Caroline Horlbeck represented Petitioner. App. 31. At the conclusion of the hearing, Judge Gravely issued an oral ruling: "I believe based on the testimony that the court determines - - I don't feel like the Petitioner has met his burden under the PCR standard and I'm going to deny the petition. The matter is dismissed." App. 60, lines 13-18. A formal order denying relief was filed on July 20, 2015. App. 63-69.

Petitioner served his notice of appeal on August 20, 2015. On January 19, 2016, Petitioner filed a petition for writ of certiorari. On May 2, 2016, the state filed its return. On April 13, 2017, this Court granted certiorari. This brief follows.

ARGUMENT

Plea counsel's ineffective assistance rendered Petitioner's guilty plea involuntary where plea counsel advised Petitioner to accept an offer to enter a guilty plea and be sentenced under the law in existence at the time of the commission of the alleged crime, which provided for a maximum sentence of thirty years, rather than risk losing at trial where the state would seek a sentence under the amended law that provided for a mandatory minimum sentence of twenty-five years and a maximum sentence of life imprisonment, which would have violated the *ex post facto* clauses of the state and federal constitutions.

Relevant facts

Guilty plea proceeding

Petitioner entered a guilty plea to one count of criminal sexual conduct with a minor (CSCM) in the first degree with no sentencing recommendation. App. 4, lines 1-5; App. 8, lines 9-10. The state agreed to dismiss five other indictments. App. 8, lines 11-12. During the guilty plea proceeding, the judge informed Petitioner that he faced a sentence between twenty-five years and life imprisonment for the offense of CSCM in the first degree. App. 4, line 22 – App. 5, line 2. The solicitor corrected the judge, "Your Honor, this was pre the law changes back in '98 and 2000. The sentence was zero to thirty years." App. 5, lines 8-9. Thereafter, the judge responded, "Thirty years, okay." App. 5, line 8. The judge never ensured Petitioner understood the correct sentencing range. At the conclusion of the guilty plea proceeding, the judge sentenced Petitioner to twenty-five years' imprisonment. App. 11, line 10.

PCR hearing

At the PCR hearing, Petitioner testified that he entered a guilty plea because plea counsel informed him that he "could get life" imprisonment if he went to trial, but that if he pled guilty,

he would likely receive a sentence between "three to seven years." App. 36, line 23 – App. 37, line 20; App. 47, lines 3-7. Although plea counsel never promised that Petitioner would receive a particular sentence, plea counsel advised Petitioner "there was a good judge" on the bench who was "real lenient" and it was best for Petitioner to enter a guilty plea rather than risk a life sentence after a trial. App. 37, lines 6-12; App. 39, lines 4-12; App. 48, lines 17-22. Petitioner explained his reasoning for entering the guilty plea: "And three to seven sounded better than life." App. 37, lines 19-20; App. 40, lines 6-7; App. 40, lines 18-20. Plea counsel told Petitioner, "You don't want to go away for the life [*sic*], three to seven sounds better." App. 41, lines 6-8. Petitioner understood from plea counsel that he faced a life sentence if the state "proceeded on the new law." App. 41, lines 12-17. However, in exchange for his guilty plea, the "state agreed to go under the old law." App. 41, lines 18-23

Petitioner made clear that he would have gone to trial if he had known prior to his guilty plea what he knew at his PCR. App. 39, lines 13-16. He explained that he entered the guilty plea because he feared a life sentence. App. 40, lines 18-20; App. 41, lines 9-11.

Plea counsel testified that Petitioner always denied his guilt to the charges and wanted a trial. App. 52, lines 1-3. It was only after Petitioner was unable to pay for home monitoring services while on bond and had to be jailed that Petitioner decided to enter a guilty plea. According to plea counsel, Petitioner "started to have a little more of a realistic idea of - - of the way - - of the way things were going to go, starting looking at his situation and starting considering pleading a little more." App. 53, line 17 – App. 54, line 2.

Plea counsel explained the state's offer as follows: "Basically, it was that they were going to dismiss all of the charges except for one CSC with a Minor First. And that they were going to let [Petitioner] plea and be sentenced under the old version of the law, which has a

sentencing range of zero to thirty. And they indicated that if they were to go to trial they were going to pursue the new version of the law which has a mandatory minimum of twenty five up to life." App. 54, line 23 – App. 55, line 10. Based upon this information, plea counsel recommended Petitioner enter a guilty plea "straight up zero to thirty." App. 55, lines 10-16.

Order denying relief

In the order denying relief, the PCR judge quoted the allegations from Petitioner's PCR application. App. 64. One of the grounds for relief was that trial counsel coerced Petitioner into pleading guilty "'by placing fear into [Petitioner] of the harsh sentencing threat [Petitioner] faced by going to trial in complete disregard of the circumstances and [Petitioner] not wanting to plea." App. 64. The order also recounted plea counsel testifying that the state "made a recommendation to dismiss all the charges but one of the counts of first-degree CSC with a minor if [Petitioner] pled guilty under the old version of the law that was 0-30 years." App. 66. Additionally, the PCR judge recounted Petitioner's testimony that "he felt pressured to plead guilty because plea counsel told him he faced a life sentence." App. 65.

The PCR court found Petitioner "failed to meet his burden of proving plea counsel either misadvised him about the sentence he would receive or pressured him into pleading guilty." App. 67. Additionally, the PCR court found plea counsel's testimony "credible." App. 67. The court found Petitioner failed to demonstrate plea counsel coerced him or pressured him to plead guilty. App. 67. Critically important to the matter before this Court, the PCR court stated, "While [Petitioner] may have felt unsettled when plea counsel advised he was facing a life sentence, this was an accurate statement of the law." App. 67.

Discussion

Error preservation

In its return to the petition for writ of certiorari, the state claimed the issue presented was not preserved for appellate review. Ret. 5-6. In fact, the entirety of the state's argument was the issue was not preserved for review. Ret. 5-6. The state *never* addressed the merits of Petitioner's claim. Ret. 5-6. According to the state, the issue was not preserved for appellate review "because it was not properly raised to the PCR judge and ruled upon in the order of dismissal." Ret. 5. Specifically, the state claimed "[t]he allegation of an ex post facto issue was not addressed in the PCR judge's order of dismissal." Ret. 5. To the contrary, Petitioner's issue on appeal is preserved for review as it appeared in the order of dismissal.

In Hyman v. State, 278 S.C. 501, 502, 299 S.E.2d 330, 331 (1983), this Court held a PCR application's claim that trial counsel was ineffective for failing to object that the sentences violated the Eighth Amendment "was not raised in her application or at the hearing and [was] not properly before" the Court. In other words, in order of an issue to be preserved for appeal, it must appear in the PCR order adjudicating the claims.

Turning first to the claims in his application, Petitioner alleged "counsel was clearly ineffective under the 5th, 6th, and 14th amendments for coercing [Petitioner] into an unknowingly, unintelligently, and involuntary guilty plea due to counsel's poor performance in failing to investigate the charged crimes, which violated [Petitioner's] due process of law." In support of this claim, Petitioner stated "counsel clearly coerced, influenced [Petitioner] into pleading guilty

by placing fear into [Petitioner] of harsh sentencing threat [Petitioner] faced by going to trial in complete disregard of the circumstances and [Petitioner] not wanting to plea." App. 23-24.[1]

In the order denying relief, the PCR judge included a section in which he quoted the claims for relief in Petitioner's PCR application. App. 64. According to the order, one of Petitioner's claims was that trial counsel coerced Petitioner into pleading guilty "'by placing fear into [Petitioner] of the harsh sentencing threat [Petitioner] faced by going to trial in complete disregard of the circumstances and [Petitioner] not wanting to plea." App. 64. The PCR judge clearly recognized that Petitioner was challenging his guilty plea based upon the erroneous sentencing advice from plea counsel – that Petitioner faced a particularly harsh sentence of life imprisonment if he went to trial.

The order also summarized plea counsel's testimony. Finding plea counsel credible, the PCR court found several aspects of plea counsel's testimony particularly relevant to resolution of the dispute. Specifically, the PCR court noted plea counsel testifying that the state "made a recommendation to dismiss all the charges but one of the counts of first-degree CSC with a minor if [Petitioner] pled guilty under the old version of the law that was 0-30 years." App. 66. The order drew directly from the testimony presented at the hearing during which plea counsel explained the state's guilty plea offer: "Basically, it was that they were going to dismiss all of the charges except for one CSC with a Minor First. And that they were going to let [Petitioner] plea and be sentenced under the old version of the law, which has a sentencing range of zero to thirty. And they indicated that if they were to go to trial they were going to pursue the new version of the law which has a mandatory minimum of twenty five up to life." App. 54, line 23 – App. 55,

[1] Importantly, this claim was separate and distinct from his claim that plea counsel was ineffective for "failing to keep the agreed [upon] sentence of three (3) to seven (7) years [Petitioner] would get if [Petitioner] ple[d] guilty." App. 24.

line 10. Additionally, the PCR judge pointed to Petitioner's testimony that "he felt pressured to plead guilty because plea counsel told him he faced a life sentence." App. 65.

Ultimately, the PCR court found Petitioner "failed to meet his burden of proving plea counsel either misadvised him about the sentence he would receive or pressured him into pleading guilty." App. 67. The court found Petitioner failed to demonstrate plea counsel coerced him or pressured him to plead guilty. App. 67. Showing the PCR court recognized the issue presented, the PCR court stated, "While [Petitioner] may have felt unsettled when plea counsel advised he was facing a life sentence, this was an accurate statement of the law." App. 67.

Thus, the issue presented on appeal is preserved for review because it appeared in the order.

Ineffective assistance of counsel

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. Petitioner must prove that counsel's performance was deficient and fell below reasonable professional norms; and there is a reasonable probability that, but for counsel's unprofessional errors, the result would have been different. Cherry v. State, 300 S.C. 115, 117-118, 386 S.E.2d 624, 625 (1989). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997). In order to show ineffective assistance of counsel as a ground for relief, Petitioner 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 v. Washington, 466 U.S. 668, 686 (1984); see also Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The proper measure of

performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-688.

In the context of a guilty plea, a petitioner must show that counsel was ineffective and that there is a reasonable probability but for counsel's errors, he would not have pled guilty. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Jackson v. State, 342 S.C. 95, 97, 535 S.E.2d 926, 927 (2000); Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000); Wolfe v. State, 326 S.C. 158, 164, 485 S.E.2d 367, 370 (1997); Rayford v. State, 314 S.C. 46, 48, 443 S.E.2d 805, 806 (1994). Due process of law requires that before a guilty plea can be entered voluntarily and intelligently, a defendant must be advised of his privilege against compulsory self-incrimination, the right to trial by jury, and the right to confront one's accusers. Boykin v. Alabama, 395 U.S. 238, 243-244 (1969); see also Burnett v. State, 352 S.C. 589, 591, 576 S.E.2d 144, 145 (2003). The record must show with certainty that the plea is "an intentional relinquishment or abandonment of a known right or privilege." State v. Patterson, 278 S.C. 319, 322, 295 S.E.2d 264, 265 (1982) overruled on other grounds State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991). Judges are required to give the defendant an explanation of the defendant's waiver of his constitutional rights and a realistic picture of all sentencing possibilities. State v. Armstrong, 263 S.C. 594, 598, 211 S.E.2d 889, 891 (1975).

In order for a defendant to knowingly and voluntarily plead guilty, the defendant must have a full understanding of the consequences of the plea. Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991)(citing State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980)). The judge must question the defendant about the possible punishment that could be imposed. Id. at 434-435. This Court has held that a defendant must "be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999)(citing Dover v. State,

304 S.C. 433, 405 S.E.2d 391 (1991); State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980)). A guilty plea is rendered involuntary, unknowing, and unintelligent when a defendant pleads guilty to a crime without knowing the direct consequences of the guilty plea. Hazel, 275 SC at 394, 271 S.E.2d at 603.

Ex Post Facto Clause

The United States Constitution provides that "No Bill of Attainder or ex post facto Law shall be passed." U.S. Const. art. I, § 9. Further, the Constitution declares that "No State shall ... pass any Bill of Attainder, ex post facto Law." U.S. Const. art. I, § 10. Additionally, the South Carolina Constitution echoes the federal constitution by providing that "[n]o ... ex post facto law ... shall be passed." S.C. Const. art. I, § 4.

"The Framers considered ex post facto laws to be contrary to the first principles of the social compact and to every principle of sound legislation." Peugh v. United States, 133 S.Ct. 2072, 2084 (2013)(internal citation omitted). "The Clause ensures that individuals have fair warning of applicable laws and guards against vindictive legislative action." Id. at 2085; see also Weaver v. Graham, 450 U.S. 24, 28-29 (1981). "[T]he Clause also safeguards 'a fundamental fairness interest ... in having the government abide by the rules of law it establishes to govern the circumstances under which it can deprive a person of his or her liberty or life.'" Peugh, 133 S.Ct. at 2084 (quoting Carmell v. Texas, 529 U.S. 513, 531 (2000)).

An ex post facto violation occurs when a change in the law retroactively alters the definition of a crime or increases the punishment for a crime." Jernigan v. State, 340 S.C. 256, 261, 531 S.E.2d 507, 509 (2000). According to the United States Supreme Court an ex post facto law is one that makes an action criminal which was innocent when done, aggravates a crime greater than it was when committed, inflicts a greater punishment than when committed, or alters the legal rules in a

way other than the law required at the time of the commission of the offense. Calder v. Bull, 3 U.S. (3 Dall.) 386, 390 (1798); see also Peugh, 133 S.Ct. at 2078; Garner v. Jones, 529 U.S. 244, 253 (2000)(holding that the fact that the sentencing authority exercises some measure of discretion will not defeat an ex post facto claim). Put simply, the ex post facto prohibition "forbids the imposition of punishment more severe than the punishment assigned by law when the act occurred." Weaver, 450 U.S. at 30; see also State v. Dabney, 301 S.C. 271, 273, 391 S.E.2d 563, 564 (1990)("A law which imposes additional punishment to that prescribed at the time of the offense was committed is prohibited under the ex post facto clauses of the United States and South Carolina Constitution's). Thus, in order to avoid a violation the ex post facto clause, "a convicted criminal receives the punishment in effect at the time he is sentenced, *unless* it is greater than the punishment provided for when the offense was committed." State v. Varner, 310 S.C. 264, 265, 423 S.E.2d 133, 133 (1992)(emphasis added).

Errors in sentencing advice

This Court has held errors in sentencing advice entitle defendants to relief. In Ray v. State, 303 S.C. 374, 376, 401 S.E.2d 151, 152-153 (1991), this Court held a defendant's guilty plea was not intelligently and voluntarily made in light of erroneous advice given by counsel. Defense counsel advised the defendant that he would be sentenced to life without parole if he were convicted of both armed robbery counts, which was in error. Id. at 375, 401 S.E.2d at 152. The truth was that if he were convicted "he *may* face a sentence of seventy-five years without parole, but could face a sentence as short as ten years." Id. at 376, 401 S.E.2d at 152-153 (emphasis in original). This Court found trial counsel's incorrect advice was not within the range of competence demanded of attorneys in criminal cases. Id. at 376, 401 S.E.2d at 152. This Court further found that the defendant suffered prejudice where he testified he would not have pled guilty absent the erroneous

advice, the real distinction between the penalty he faced and the advice given, and his steadfast maintenance of his innocence. Id. at 376, 401 S.E.2d at 153.

Similarly, this Court held a defendant was entitled to a new trial based upon erroneous sentencing advice of defense counsel in Alexander v. State, 303 S.C. 539, 402 S.E.2d 484 (1991). According to the testimony presented during the post-conviction relief hearing, defense counsel advised the defendant that he faced one hundred years on the four indictments. However, this Court determined the defendant actually faced a seven to twenty-five year sentence on one count and a twenty-five year sentence on the other count as the indictments contained overlapping and greater and lesser charges. Id. at 542-543, 402 S.E.2d at 485. Due to this erroneous advice, this Court concluded that counsel provided deficient advice, satisfying the first prong of the test. Turning to the second prong, this Court concluded the defendant suffered prejudice in light of his testimony that he would not have entered a guilty plea if defense counsel had not misinformed him. Id. at 543, 402 S.E.2d at 485-486.

In Hinson v. State, 297 S.C. 456, 377 S.E.2d 338 (1989), this Court granted the defendant post-conviction relief where defense counsel provided incorrect advice concerning parole eligibility. Defense counsel advised the defendant that he would be eligible for parole after service of ten years if he pled guilty to common law murder. Id. at 457, 377 S.E.2d at 339. Defense counsel explained to the defendant that statutory murder permitted parole after twenty years, but common law murder permitted parole after ten years. Id. As a result of this erroneous advice, the defendant entered a guilty plea. Id. at 457-458, 377 S.E.2d at 339. This Court held counsel's advice was erroneous and fell below the level of competence expected of attorneys in criminal cases because there was no distinction between statutory and common law murder. Id. at 458, 377 S.E.2d at 339.

Moving to the second prong, this Court concluded Hinson suffered prejudice where the he testified his plea was induced by the erroneous advice, and defense counsel admitted he could not recall the advice given, but the co-defendant's counsel recalled the erroneous advice. Id. In Hinson, the evidence was "uncontroverted that Hinson entered his plea in expectation of receiving the lesser period for parole eligibility." Hinson, 297 S.C. at 458, 377 S.E.2d at 339.

Petitioner was indicted in 2013. At that time, the CSCM statute had been amended in 2012 to increase the penalty for a violation. The statute provided that a person convicted of CSCM in the first degree faced a mandatory minimum sentence of twenty-five years and a maximum sentence of life imprisonment. S.C. Code Ann. § 16-3-655(D)(1)(Supp. 2013). However, the alleged crime for which Petitioner had been charged occurred between July 1, 1998 and July 31, 2000. Between 1998 and 2000, CSCM in the first degree was "a Class A felony carrying an imprisonment term of not more than thirty years." Cohen v. State, 354 S.C. 563, 567, 582 S.E.2d 403, 405 (2003)(citing S.C. Code Ann. §16-1-90(A) & §16-1-20(A)(1)), overruled on other grounds by State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005).[2] Thus, the statute as amended in 2012 was *not* applicable to Petitioner. In fact, any attempt to charge Petitioner under the statute as amended in

[2]Section 16-3-655(A)(1) defined CSCM in the first degree, but did not provide a punishment. S.C. Code Ann. § 16-3-655(A)(1)(1985). Thus, the statutory provisions concerning felonies would control. Additionally, section 16-3-652(2) provided a punishment for criminal sexual conduct in the first degree. The punishment statute provided that that CSCM in the first degree was "a felony punishable by imprisonment for not more than thirty years, according to the discretion of the court." S.C. Code Ann. § 16-3-652 (2) (1985). S.C. Code Ann. §16-3-652(2). In 1991, the South Carolina Court of Appeals found "it was the clear intent of the legislature that the definitional sections of 16-3-655(2) and (3) [CSCM in the second degree] should be read in conjunction with the punishment provided by § 16-3-653(2)," which provided the punishment for criminal sexual conduct in the second degree. State v. Outlaw, 304 S.C. 347, 350, 404 S.E.2d 516, 518 (Ct. App. 1991) overruled on other grounds State v. Outlaw, 307 S.C. 177, 414 S.E.2d 147 (1992). Thus, a court may have determined that even if the statutory sections concerning felonies did not control, then the statutory scheme governing sex crimes would control. Using either analysis results in the same conclusion – CSCM in the first degree carried a sentence of up to thirty years' imprisonment.

2012 and sentence him pursuant to that statute would violate the ex post facto clauses of the United States Constitution and the South Carolina Constitution.

Petitioner's guilty plea was unknowing and unintelligent because he relied on the erroneous advice of his attorney. "The longstanding test for determining the validity of a guilty plea is whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." Hill v. Lockhart, 474 U.S. 52, 56 (1985). "Defendants have a Sixth Amendment right to counsel, a right that extends to the plea-bargaining process." Lafler v. Cooper, 132 S.Ct. 1376, 1384 (2012). "Before deciding whether to plead guilty, a defendant is entitled to the effective assistance of competent counsel." Padilla v. Kentucky, 130 S.Ct. 1473, 1480-81 (2010)(internal quotations omitted). The Supreme Court has "never applied a distinction between direct and collateral consequences to define the scope of constitutionally 'reasonable professional assistance' required under Strickland." Id. at 1481 (quoting Strickland v. Washington, 466 U.S. 668, 689 (1984).

Plea counsel admitted during the PCR hearing that he advised Petitioner to enter a guilty plea because the state had agreed to pursue sentencing under the "old law," which would expose Petitioner to a lesser sentence, rather than the "new law," which would expose Petitioner to a greater sentence. Plea counsel's advice was flawed because the state *could not* seek the greater sentence as such would violate the state and federal constitutions. This legal error permeated the PCR court's analysis as well. The PCR court's determination relied upon its erroneous determination that Petitioner was "facing a life sentence." See App. 67. Without question, plea counsel's advice, which was based entirely upon his mistake of law, fell below reasonable professional norms resulting in deficient performance and the entering of an unknowing and involuntary guilty plea by Petitioner.

There is a reasonable probability that Petitioner would not have pled guilty had counsel not provided erroneous advice concerning the length of time Petitioner would be required to serve in light of Petitioner's testimony that he would not have entered the guilty plea and the significant difference between what plea counsel warned was a possible sentence – life imprisonment – and what the law actually would permit – thirty years. This Court has held that a "defendant's undisputed testimony that he would not have pled guilty but for trial counsel's advice is sufficient to prove that defendant would not have pled guilty." Smith v. State, 369 S.C. 135, 631 S.E.2d 260 (2006) (citing Jackson v. State, 342 S.C. 95, 97-98, 535 S.E.2d 926, 927 (2000); Alexander v. State, 303 S.C. 539, 543, 402 S.E.2d 484, 485-86 (1991)).

CONCLUSION

Petitioner respectfully requests this Court reverse the PCR court, find trial counsel provided ineffective assistance, and order a new trial.

Susan B. Hackett
Appellate Defender

ATTORNEY FOR PETITIONER

This 21st day of April, 2017.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

Perry H. Gravely, Circuit Court Judge

MICHAEL LEE ROBINSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Brief of Petitioner 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 Brief of Petitioner have been served on Michael Lee Robinson, #357385, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 21st day of April, 2017.

Susan B. Hackett
Susan B. Hackett
Appellate Defender
ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me
this 21st day of April, 2017.

_____ (L.S)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.