

STATE OF SOUTH CAROLINA  
In The Supreme Court

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CERTIORARI TO LEXINGTON COUNTY  
Court of Common Pleas

The Honorable Gary E. Clary, Trial Judge  
The Honorable Brian M. Gibbons, Circuit Court Judge

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Appellate Case No. 2016-000885

**RECEIVED**  
MAY 24 2017  
S.C. SUPREME COURT

Willie J. Richardson,.....Respondent,

v.

State of South Carolina,.....Petitioner.

**PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

- I. Whether the post-conviction relief judge erred in finding Respondent satisfied his burden of proving that Counsel was ineffective for failing to interview and call three alibi witnesses.

## STATEMENT

Respondent, Willie J. Richardson, is incarcerated with the South Carolina Department of Corrections pursuant to the Lexington County Clerk of Court's orders of commitment. Respondent was indicted at the March 1998 term of the Lexington County Grand Jury for murder and possession of a firearm during the commission of a violent crime (1998-GS-32-1242). Herverly Young, Esquire, represented Respondent.

On April 13, 2000, Respondent underwent a jury trial before the Honorable Gary Clary pursuant to which he was found guilty. He was sentenced to imprisonment for life for murder and five years for possession of a weapon.

A timely Notice of Appeal was filed on Respondent's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Respondent's conviction and sentence. State v. Richardson, Op. No. 2002-UP-377 (filed May 29, 2002). The Remittitur was issued on July 9, 2002.

### **First PCR Application (2003-CP-32-0927)**

Respondent filed an application for post-conviction relief on March 7, 2003. The State made its return on May 16, 2005. Respondent amended his application on December 2, 2005. An evidentiary hearing was held on December 12, 2005. Respondent was present and represented by George McElveen, Esquire. Sabrina C. Todd, Esquire, represented the State. By Order filed March 3, 2006, the Honorable Clyde N. Davis, Jr., denied and dismissed the application with prejudice.

On or about March 28, 2006, Respondent filed a *pro se* Notice of Appeal. By Order of Dismissal dated June 1, 2006, the Supreme Court of South Carolina dismissed Respondent's

appeal due to failure of Respondent to comply with the filing procedures. The Remittitur was issued on June 29, 2006.

### **Second PCR Application (2006-CP-32-2572)**

Respondent subsequently filed a second PCR application on July 20, 2006. In it, Respondent made several claims of ineffective assistance of counsel and one claim of ineffective assistance of PCR Counsel for failure to file an appeal as requested. The State made its Partial Return and Motion to Dismiss on or about April 4, 2007. An evidentiary hearing was convened on November 20, 2008 on the sole issue of whether or not PCR Counsel failed to file an appeal as requested. Respondent was present at the hearing and represented by Jennifer Locklier, Esquire. Gregory Jones, Esquire, represented the State. By order dated on or about December 5, 2008, the Honorable Thomas Russo denied the PCR application but granted Respondent a belated PCR appeal. However, a belated PCR appeal was never filed on Respondent's behalf.

### **Third PCR Application (2007-CP-32-0838)**

Respondent filed a third PCR application on March 13, 2007. In it Respondent made several claims of ineffective assistance of counsel and one claim of ineffective assistance of PCR Counsel for failure to file an appeal as requested. The State made its Return on or about April 4, 2007. An evidentiary hearing was held on December 2, 2009, at the Lexington County Courthouse. Respondent was present at the hearing and proceeded *pro se*. A. West Lee of the South Carolina Attorney General's Office represented the State. By an order dated April 25, 2010, the Honorable Michael Nettles denied and dismissed the PCR application but granted Respondent a belated PCR appeal.

An appeal was filed and Respondent was represented by Appellate Defender LaNelle Durant. By an order dated January 13, 2012, the South Carolina Supreme Court vacated the

Order of Dismissal signed by Judge Davis in 2003-CP-32-0927 as well as the subsequent orders issued by Judge Russo and Judge Nettles, and remanded for a new hearing on Respondent's first PCR application (2003-CP-32-0927). The remittitur was sent January 30, 2012.

**Remand of 2003-CP-32-0927**

A hearing was held on January 22, 2014, in Lexington County before the Honorable Brian Gibbons. Respondent was present and represented by C. Rauch Wise, Esquire. Assistant Attorney General Mary Williams represented the State. Respondent's trial counsel, Herverly Young, Esquire, testified. Also testifying were Respondent, Ernest Richardson, Greg Huge, and Michelle Richardson. Respondent argued that his trial counsel was ineffective for failing to investigate and call Mr. Richardson, Mr. Huge, and Ms. Richardson as alibi witnesses.

By an order dated November 24, 2014, the Honorable Brian Gibbons granted Respondent's application for post-conviction relief. The State filed a Motion to Alter or Amend the Judgment pursuant to Rule 59(e). By an order dated April 8, 2016 Judge Gibbons denied the State's motion.

The State filed a notice of appeal on April 28, 2016. This Petition follows.

## STANDARD OF REVIEW

When reviewing questions of fact, this Court may affirm the post-conviction relief judge's grant relief only if there is probative evidence to support his findings. Wolfe v. State, 326 S.C. 158, 163, 485 S.E.2d 367, 369 (1997) (citing McCray v. State, 317 S.C. 557, 455 S.E.2d 686 (1995); Cherry v. State, 300 S.C. 115, 386 S.E.2d 624) (1989)). However, the Court must overturn the post-conviction relief judge if there is no probative evidence to support her findings. Jackson v. State, 329 S.C. 345, 348, 495 S.E.2d 768, 769 (1998) (citing Satterwhite v. State, 325 S.C. 254, 481 S.E.2d 709 (1997); Holland v. State, 322 S.C. 111, 470 S.E.2d 378 (1996)). When reviewing questions of law, the Court conducts a *de novo* review, and must reverse the post-conviction relief judge when his decision is controlled by an error of law. Jamison v. State, 410 S.C. 456, 465, 765 S.E.2d 123, 127 (2014) (quoting Jordan v. State, 406 S.C. 443, 752 S.E.2d 538 (2013)).

## ARGUMENT

### **I. The post-conviction relief judge erred in finding Respondent satisfied his burden of proving that Trial Counsel was ineffective for failing to interview and call the alibi witnesses.**

#### Background

Respondent was convicted of murdering Alfred Jones, who was shot three times during a bar fight during the early hours of August 13, 1995. Testimony from the trial revealed that Respondent and his group arrived at the bar between 1:35AM and 2:00AM. App. 187, ll. 16-17. The fight leading up to Respondent killing Mr. Jones occurred between 2:30AM to 2:45AM. Respondent's main defense at trial was an alibi defense, where he asserted that he was not in Lexington County but was at his sister's house for a family get together in Brooklyn, New York to celebrate his brother's (Greg Huge) and sister's (Michelle Richardson) birthdays. App. 440. He testified that Mr. Huge's birthday was on August 14 and Ms. Richardson's birthday was on August 15. He testified that prior to attending the party, he flew to New York on July 20, 1995, to attend a funeral for a close friend. App. 440, ll. 19-21. Respondent testified that on the night of August 12, he arrived at the party at about 9:30PM and stayed until about 2:30AM the morning of August 13. App. 441, ll. 9-13. He further testified that present in New York were his brother's wife, sister, niece, brother, nephew, his children, and his sister's children. App. 443, ll. 9-12.

On cross examination, Respondent could not remember the exact day of the party, testifying that it was either on Friday, August 11, or Saturday, August 12. App. 451, l. 1. He then testified that the party was on Saturday, August 12 because he was notified of the incident on the following day. App. 451, ll. 7-10. Respondent testified that his family called his fiancé, Aletha Gaymon, to notify Respondent that Detective Scottie Frier had called and was looking for him to discuss the incident. App. 451, l. 11 – 452, l. 453, l. 4.

Respondent further testified that his parents traveled to Lexington County a week after the incident to find out what was going on but did not talk to law enforcement to tell them that Respondent was at a birthday party during the incident. App. 455, ll. 16-23. Respondent testified that his parents went to the Sheriff's Department and waited inside to talk to someone. He testified that his father got frustrated and left and law enforcement drew their weapons on him. App. 457, l. 20 – 458, l. 4. He testified that his parents had the opportunity to talk to law enforcement but left after guns were drawn. App. 459, ll. 6-22. Respondent further testified that neither he nor his parents told Detective Frier about the birthday party in New York. App. 470, ll. 15 – 471, l. 17. When asked if any family member who attended the birthday party contacted the Sheriff's Department, FBI, news, or the Solicitor's Office to tell them that Respondent was at the birthday party, Respondent testified that his parents came to Lexington to find out what was going on and "let them know where [Respondent] was at" but did not testify that any family member had told anyone that Respondent was actually at a birthday party during the commission of the crime. App. 463, l. 20 – 464, l. 6. Respondent further testified that he never made an attempt to turn himself in or talk with Detective Frier about the case. App. 475, ll. 3-9.

Respondent's mother, Sally Richardson, testified at trial on Respondent's behalf. She testified that she was at the birthday party all night and saw Respondent arrive around 10:00 PM on August 12 and last saw him around 12:00 to 12:30 AM on August 13. She testified that she never disclosed information concerning Respondent's alibi to anyone from law enforcement because no one asked. App. 480, l. 24 – 481, l. 1.

Respondent's remanded PCR hearing was held on January 22, 2014. His trial counsel, Herverly Young (hereinafter referred to as "Trial Counsel") testified. Trial Counsel testified that from the beginning of his representation, Respondent maintained that he was not in South

Carolina at the time of the murder but was actually in New York. App. 654, l. 24 – 655, l. 5. He testified that Respondent told him that he went to New York for a funeral and then a family birthday party. App. 655, ll. 6-15.

Trial Counsel testified that Respondent and Respondent's mother testified at trial, and he anticipated having Respondent's girlfriend and sister testify as well. App. 656, ll. 14-16. He testified that Respondent's sister was not able to attend the trial because she could not afford to travel. App. 656, ll. 16-19. He testified that he tried to get funds to pay for her travel but there was another issue related to child care that prevented her from attending the trial. App. 656, ll. 20-22. He testified that these particular witnesses were cooperative in talking to him. App. 656, l. 25.

Trial Counsel testified that he was never able to locate Respondent's girlfriend, Aletha Gaymon, because Respondent did not have contact information. App. 657, ll. 4-6. Trial Counsel testified that every time he talked with Respondent about getting in touch with the potential witnesses, Respondent told him to contact his mother to find out how to get in touch with them. App. 667, ll. 14-16. He testified that he also relied on Respondent's mother to give them contact information for Respondent's sister and girlfriend. App. 657, ll. 7-9. Trial Counsel testified that Respondent's sister was "adamant that she wasn't able to come," and added that "no one that was talked to in New York was coming voluntarily." App. 657, ll. 10-14. Trial Counsel testified that he was in contact mostly with Respondent's mother and sister because he was trying to arrange for her transportation. App. 657, ll. 19-23.

Trial Counsel indicated that he had a list of people who would help establish the alibi and he gave it to his private investigator, Dave McDougal, so they could locate as many people as possible. App. 658, ll. 15-21. The State would note that Mr. McDougal passed away a week prior

to the PCR hearing. Trial Counsel testified that Mr. McDougal would give him written reports of the witnesses after he contacted them, however these reports would be in his file that his former office was unable to locate. App. 669, ll. 4-6.

Trial Counsel testified that he could not recall whether they had photographs of the party or whether they were in his possession, but added that Respondent probably did mention them. App. 658, ll. 1-4. At the hearing, Respondent entered exhibits consisting of five pictures that were claimed to be from the party. App. 664, ll. 13-16. Supplemental App. 1-7. Notably, nothing in the photographs confirms what date the photographs were taken in any manner. Supplemental App. 3-7.

Respondent testified at the PCR hearing that his trial date had been moved from April 17, 2000 to April 10, 2000, and as a result only his mother and his younger brother (Ernest Richardson) attended the hearing, and only his mother testified. App. 689, l. 5 – 690, l. 14. When asked about the photographs and if they were available at an earlier date, Respondent simply responded that "no attorney never, ever asked me about no pictures or nothing." App. 705, ll. 2-3.

Respondent's younger brother, Ernest Richardson, testified at the PCR hearing. He testified that he is seventeen years younger than Respondent and attended the trial with his mother. App. 708, ll. 4, 9-16. He testified that he never talked to Trial Counsel. App. 708, ll. 19-20. Ernest was shown the photographs from the party and testified that they were taken in August "of '95 or something like that." App. 710, ll. 1-3. He testified that his mother and Respondent are in the photographs from the party. App. 710, l. 16 – 711, l. 7. Ernest testified that his older brother, Greg Huge, was not in the photographs and he could not remember if he was at the party. App. 711, l. 15. Ernest further testified that he would have brought the photographs to

the trial if someone had told him to bring them. App. 711, l. 24 – 712, l. 1. He testified that he recently found the photos at a scrapbook in a family member's home. App. 715, ll. 15-18. Ernest testified that the time of the party was around midday, and could have lasted to 1:00 AM. App. 715, ll. 23-25.

Respondent's older brother, Greg Huge, testified at the PCR hearing. He testified that he was in New York on August 12 and 13, 1995, to celebrate his and two other family members' birthdays. App. 718, ll. 2-23. He testified that he has no doubt that Respondent was at the party. App. 720, ll. 21-23. He testified that he never talked to Trial Counsel or an investigator about this case and was never notified about a trial date. App. 721, ll. 5-13. Mr. Huge further testified that he arrived at the party at about 3:30 PM, but he was not sure when Respondent arrived. App. 722, ll. 11-16. He testified that he left the party at about 10:30 PM. App. 722, ll. 19-22.

Respondent's sister, Michelle Richardson, testified at the PCR hearing. Ms. Richardson testified that her mother or father told her about coming to Lexington County to testify at Respondent's trial on April 17, 2000. App. 725, l. 21 – 726, l. 1. She also testified that neither Trial Counsel nor an investigator contacted her about her testimony at trial. App. 726, ll. 15-19. Ms. Richardson further testified that she was planning on attending the trial until she learned that it was starting on April 10. App. 726, ll. 9-13. She testified that if she had testified at the trial, she would have testified that her brother was at her house for the birthday party. App. 726, ll. 20-23. Ms. Richardson testified that the photographs depict the party at her house and include Respondent, Ernest, and their mother. App. 727, ll. 7-22. She also testified that the party started at 2:00-3:00PM. App. 732, l. 25 – 733, l. 1.

The PCR Court granted Respondent's PCR application, finding that Trial Counsel was ineffective when he failed to interview two witnesses and failed to give an adequate explanation

why he did not call these witnesses. App. 740. The PCR Court found that there was a reasonable probability that the outcome would have been different had the alibi witnesses been interviewed and called at trial and had the photographs from the PCR hearing been presented as exhibits during the trial. App. 743.

### Analysis

Trial Counsel was not ineffective for failing to interview and call the alibi witnesses at trial because Trial Counsel's performance was not deficient, the witnesses would not have aided in an alibi, and because there was overwhelming evidence of Respondent's guilt.

#### *Trial Counsel's Performance*

Trial Counsel was not deficient in his performance, as he undertook a reasonable investigation given the very limited information that he received from Respondent and his family. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012). Before the trial started, the State asked for clarification on Respondent's notice of alibi. *See* App. 71-72. The only witnesses listed on the notice of alibi were Respondent's mother (Sally Richardson), girlfriend (Aletha Gaymon), and Angela Cole. App. 72, ll. 1-20. This is consistent with Respondent's testimony in the PCR hearing that he only submitted the names of these three alibi witnesses for his trial. App. 697, l. 24 – 699, l. 5. When asked to verify that he did not give any other names of alibi witnesses to the trial court, Respondent was non-responsive, stating "I was dodging at the time." App. 699, ll. 8-13. It is clear from Trial Counsel's testimony that Respondent only informed him of Sally Richardson,

Aletha Gaymon, Angela Cole, and his sister (Michelle Richardson) as potential witnesses. App. 656, ll. 14-16.

Trial Counsel worked closely with his private investigator, Dave McDougal, so they could locate as many people as possible. App. 658, ll. 15-21. Trial Counsel testified that he was never able to locate Respondent's girlfriend, Aletha Gaymon, because Respondent did not have contact information. App. 657, ll. 4-6. Because Respondent did not know how to locate the alibi witnesses, Trial Counsel and his investigator had to work with Sally Richardson. App. 666, ll. 14-16. Trial Counsel also went to great lengths to ensure that Michelle Richardson could attend the trial, even trying to get funds to pay for her airline travel. App. 656, ll. 20-21. Due to no fault of Trial Counsel, it became clear that Michelle Richardson was "adamant" that she would not be able to come to the hearing and no one from New York would come voluntarily. App. 657, l. 11-14.

Regarding the photographs that are alleged to show Respondent at the party, Trial Counsel could not recall, almost fourteen years later, whether they had any photographs. App. 658, ll. 1-4. Given the fact that these photographs were found just prior to the remanded PCR hearing and never mentioned by Respondent in any prior action, it should be clear that neither Respondent nor Trial Counsel knew these existed. Thus it was not unreasonable for Trial Counsel's investigation to lack these photographs.

#### *Alibi Witnesses*

Even if Trial Counsel's performance was deemed deficient, Respondent failed to prove prejudice as these new witnesses would have only provided cumulative testimony and, at best, an imperfect alibi.

It is clear from the testimony at the PCR hearing that no witness added additional information to the defense that was not already brought out by Respondent or Sally Richardson at trial. See *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989) (no prejudice where witness testimony would have been cumulative and would not establish an alibi); *State v. Jackson*, 329 S.C. 345, 350-352; 495 S.E.2d 768, 770-771 (1998) (where same testimony was offered at trial by another witness, applicant failed to show prejudice). Trial Counsel stated the additional witnesses were not particularly cooperative and it is logical to reason that uncooperative witnesses would not have been beneficial to the defense. Regarding the testimony, Sally Richardson testified at trial that she saw Respondent in New York from 10:00PM on August 12 to 12:00 to 12:30AM on August 13. Aside from varying timeframes, which will be explained below, no other new alibi witness could give any additional information aside from the cumulative testimony from various family members that Respondent was in New York at a party the night leading up to the murder. See *People v. Woodard*, 225 Ill. App. 3d 1069, 1075, 589 N.E.2d 924, 928 (Ill. App. Ct. 1992) (finding the exclusion of testimony from an alleged alibi witness resulted in no prejudice to the defendant in light of the fact he and two other witnesses testified about his alleged alibi during trial). As such, Respondent cannot show that he was prejudiced by Trial Counsel's actions.

Additionally, "since an alibi derives its potency as a defense from the fact that it involves the physical impossibility of the accused's guilt, a purported alibi which leaves it possible for the accused to be the guilty person is no alibi at all." *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995). It is clear from the testimony that even if Ernest Richardson, Greg Huger, and Michelle Richardson had testified at trial, their varying testimonies would have been more harmful than helpful to Respondent's alibi and would have left open the possibility that

Respondent could have committed the crime. *United States v. Thomas*, 58 F. App'x 952, 958 (4th Cir. 2003) (unpublished) ("Defense counsel could have reasonably determined that he could not present a viable alibi defense based on discrepancies in testimony concerning the timing of events").

Ernest Richardson claimed that he was at the party, which he testified was "in '95 or something like that." App. 710, ll. 1-3. Ernest did not think his brother Greg was at the party, but could not remember. App. 711, l. 15. He stated that the party was midday and could have lasted to 1:00 AM. App. 715, ll. 23-25. He did not provide any testimony about when Respondent arrived or departed the party, leaving the possibility that Respondent could have committed the crime. Greg Huges testified that he arrived at the party at about 3:30PM and was not sure when Respondent arrived. 722, ll. 11-16. Although Mr. Huges says he has no doubt that Respondent was at the party, he is uncertain of the date when he testifies that Respondent was there "if that's the day the party was." App. 453, ll. 14-19. Mr. Huges left the party at 10:30PM and did not provide any testimony of when Respondent left the party, leaving the possibility that Respondent could have committed the crime. App. 722, ll. 19-22. Michelle Richardson testified that the party started at 2:00-3:00PM. App. 732, l. 25 – 733, l. 1. She did not provide any testimony about when Respondent arrived or departed the party, leaving the possibility that Respondent could have committed the crime.

Given the fact that the testimony comes strictly from family members, in addition to the fact that there are discrepancies in their testimonies of when the party occurred or the times that Respondent arrived to and departed from the party, these witnesses would not have provided an alibi defense. *See Bergman v. Tansy*, 65 F.3d 1372, 1380 (7th Cir. 1995) (concluding trial counsel was not ineffective for failing to call family members who would easily have been

impeached for bias); *McCauley-Bey v. Delo*, 97 F.3d 1104, 1106 (8th Cir. 1996) (finding no prejudice from failure to call three witnesses, and noting that credibility problems of the uncalled witnesses and the witness' close relationship to the defendant along with strong prosecution evidence may undercut the impact of these witnesses); *Romero v. Tansy*, 46 F.3d 1024, 1030 (10th Cir. 1995) (proposed alibi testimony by a defendant's family members is of significantly less exculpatory value than the testimony of an objective witness); *Woods v. Schwartz*, 589 F.3d 368, 377-78 (7th Cir. 2009) (counsel was not ineffective in failing to present defendant's brother as alibi witness, where the brother's alleged alibi testimony was ambiguous and inconclusive). By comparison, Sally Richardson's testimony at the trial was much stronger, placing Respondent at the party between 10:00PM and 12:30AM which would most likely actually exclude Respondent traveling to South Carolina. Since the additional witnesses' testimonies would not have made it physically impossible for Respondent to have committed the crime, Respondent can show no prejudice by Trial Counsel's failure to call them at trial.

Additionally, Ernest Richardson presented the PCR Court with photographs that allegedly show Respondent at this party. Supplemental App. 3-7. As noted by Trial Counsel, while the photos presented appear to show Respondent at a party, the only support for the assertion that they were taken on August 12, 1995, comes from family members. The photographs bear no indicia of time, date, or location, and no one knows who took them. The PCR Court committed clear factual error by concluding that these photographs proved an alibi defense. It was also never mentioned until 2013 that the photographs Respondent now offers to support his alibi were available all along. The photographs were apparently in a family member's scrapbook, but there is no evidence that they were brought to the attention of Counsel or his investigator at any point in time.

Counsel was not ineffective for failing to present these completely unverified photographs at trial as they would in no way establish an alibi. Without any indicia of time, date, location, or photographer, all the photographs show is that Respondent attended a party at some place at some time in his life, undoubtedly leaving the possibility that Respondent could have committed the crime in question.

#### *Overwhelming Evidence of Guilt*

Lastly, Respondent cannot show that he was prejudiced by Trial Counsel's actions because there was overwhelming evidence of his guilt. *See Harris v. State*, 377 S.C. 66, 79-80, 659 S.E.2d 140, 147 (2008) (finding an applicant cannot establish prejudice where there is overwhelming evidence of his guilt); *Franklin v. Catoe*, 346 S.C. 563, 570 n. 3, 552 S.E.2d 718, 722 n. 3 (2001), *cert. denied*, 535 U.S. 1114 (2002) (finding overwhelming evidence of guilt negated any claim that counsel's deficient performance could have reasonably affected the result of defendant's trial); *Geter v. State*, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is overwhelming evidence of guilt).

Respondent arrived to the C&L Social Club in a white Landcruiser. Two club patrons, Alfred Jones and John Bookman, testified at trial that when the fight broke out they heard a woman scream, "Willie, it's not worth it." App. 264, l. 23; 262, l. 7. Several patrons saw Respondent retrieve a gun from the white Landcruiser. The security guard, Kirby Blocker, heard someone call the man with the gun, "Rah." Kirby Blocker identified the shooter "Rah" as Respondent in a photo lineup. App. 308, ll. 12-14. Respondent testified at trial that he goes by the name Raheem. App. 429, l. 24.

Reginald Lucas, who was incarcerated in Virginia with Respondent, recalled Respondent having a tattoo on his arm which read "Raheem." Lucas testified that Respondent confessed to shooting someone during a fight at a nightclub. Lucas testified that Respondent revealed that he had a bogus alibi about being in a funeral in New York, photographs from the day before the funeral with family members, and had a white Landcruiser in his father's name. App. 365-368.

A white Landcruiser with University of South Carolina license plate U6803 was registered on July 27, 1995, just two weeks prior to the shooting, to a Willie J. Richardson on Park Street in Columbia. App. 316-317. The Landcruiser was purchased in New York. Residents of the Park Street address include Respondent's family members. App. 317. Through investigation, officers learned that Respondent may be purchasing a home in Newberry. App. 316. At that location, three days after the shooting, they found the white Landcruiser with tag U6803. App. 316. Law enforcement knew Respondent to be the owner or possessor of the Landcruiser. App. 281. Respondent cant admitted he owned the home where the Landcruiser was found and the keys were in the house. App. 443-444.

Given the totality of the evidence at trial, Respondent cannot show prejudice as there was overwhelming evidence of his guilt.

**CONCLUSION**

For the foregoing reasons, the State respectfully requests this Court grant certiorari to review the post-conviction relief judge's erroneous granting of post-conviction relief.

Respectfully submitted,

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May 24, 2017.

**CONCLUSION**

For the foregoing reasons, the State respectfully requests this Court grant certiorari to review the post-conviction relief judge's erroneous granting of post-conviction relief.

Respectfully submitted,

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APPEAL FROM LEXINGTON COUNTY  
The Honorable Gary E. Clary, Trial Judge  
The Honorable Brian M. Gibbons, Post-Conviction Relief Judge

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Appellate Case No: 2016-000885

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WILLIE J. RICHARDSON,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

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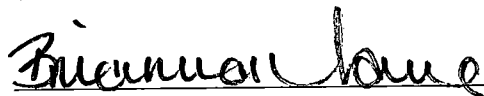
**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that a true copy of the Petition for Writ of Certiorari and Appendix, has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

**C. Rauch Wise, Esquire**  
**305 Main St.**  
**Greenwood, SC 29646**

This 24<sup>th</sup> day of May, 2017.

  
BRIANNA ARNONE  
Legal Assistant for Respondent