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August 8, 2017

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

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S.C. SUPREME COURT

Re: *Tommy Weathers, Jr. v. State of South Carolina*
Appellate Case No. 2015-00636

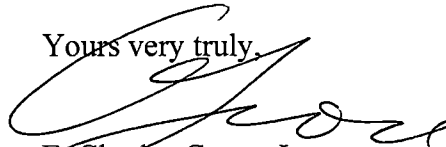
Dear Mr. Shearouse:

Enclosed please find the original and six copies of Mr. Weathers' Petition for Rehearing.

Thank you for your attention to this matter. If you have any questions or require additional information, please do not hesitate to contact me.

With kindest regards, I am

Yours very truly,



E. Charles Grose, Jr.

cc: Judah N. VanSycke, Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM BERKLEY COUNTY

S.C. SUPREME COURT

Eugene C. Griffith, Jr., Circuit Court Judge

Appellate Case Number: 2015-00636

Tommy Weathers, Jr.

Petitioner,

v.

State of South Carolina

Respondent.

Petition for Rehearing

Pursuant to Rule 221, SCACR, the petitioner, Tommie Weathers, Jr., petitions this Court for rehearing because the Court overlooked or misapprehended the following points.

1) The guilty plea record is clear that Mr. Weathers expected the sentencing judge to consider a youthful offender sentence. *See* Cert Petition, Statement of Facts, Section A. The PCR record, likewise, is clear that trial counsel advised Mr. Weathers that a youthful offender sentences was an available sentencing option and that Mr. Weathers relied on this affirmative misadvise. *See* Cert Petition, Statement of Facts, Section C. South Carolina law is as equally clear that Mr. Weathers does not meet the definition of a “youthful offender” and, therefore, is not eligible for a youthful offender sentence. *See* Cert Petition, Arguments, Section I. Tommy Weathers, Jr., accordingly, received ineffective assistance of counsel, in degradation of the Sixth Amendment of the

United States Constitution and Article I, §§ 3 and 14 for the South Carolina Constitution, when his criminal defense counsel induced him to plead guilty to kidnaping, strong arm robbery, and first-degree assault and battery by creating the expectation of a Youthful Offender Act sentence, even though Weathers did not meet the definition of a “youthful offender” because of the resulting conviction for kidnaping. This Court’s failure to correct the error in this case effectively endorses criminal defenses counsel inducing clients to plead guilty through the false hope that the senteing judge will impose an illegal sentence.

2) Tommy Weathers, Jr. received ineffective assistance of counsel, in degradation of the Sixth Amendment of the United States Constitution and Article I, §§ 3 and 14 for the South Carolina Constitution, because his guilty plea counsel failed to advise him that kidnaping is a “no parole” offense that requires service of eighty-five percent of the sentence imposed followed by up to two years in the Community Supervision Program. This Court’s precedent that excuses trial counsel from explaining collateral consequences of a guilty plea is not consistent with United States Supreme Court precedent. *See* Cert Petition, Statement of Facts, Sections A and C; Arguments, Section II.

Conclusion

This Court, therefore, should grant this petition for rehearing, grant the petition for a writ of *certiorari*, and consider the issues.

IT IS SO MOVED.

(signature on next page)

Respectfully submitted,

By 

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

Attorney for Appellant

August 8, 2017
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA
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Tommy Weathers, Jr.

Petitioner,

v.

State of South Carolina

Respondent.

Certificate of Service

I certify that I serve a copy of this petition on the State of South Carolina and prior appointed counsel by placing a copy in the US Mail, postage prepaid, on the date reflected below.

Judah N. VanSycke, Esquire
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211



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August 8, 2017
Greenwood, South Carolina

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