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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO SPARTANBURG COUNTY
Court of Common Pleas

The Honorable R. Scott Sprouse, Circuit Court Judge

Appellate Case No. 2016-001686

Kevin C. Casey, ...Petitioner,

v.

State of South Carolina, ...Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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ATTORNEYS FOR RESPONDENT

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QUESTIONS PRESENTED

I. Should this Court deny review because the PCR court did not err in allowing Petitioner to proceed *pro se* at his evidentiary hearing where Petitioner was appointed a lawyer, moved to relieve his court appointed lawyer, was admonished on the record that he would not be allowed to have another court appointed lawyer, reasserted his desire to have his court appointed lawyer relieved, and did not object until after the PCR court relieved his court appointed lawyer?

II. Should this Court deny review because it was well within the PCR court's discretion to deny fifth Petitioner's request for a continuance where Petitioner had already received four continuances and no other evidence could have been produced or any other points raised if more time was given?

STATEMENT OF THE CASE

Respondent adopts and incorporates herein Petitioner's statement of the case.

STANDARD OF REVIEW

On review of a PCR court's resolution of procedural questions arising under the Post-Conviction Procedure Act or South Carolina Rules of Civil Procedure, an abuse of discretion standard of review is applied. Mangal v. State, __ S.C. __ (S.C. S. Ct. Op. No. 27726) (filed July 19, 2017) (citing Winkler v. State, 418 S.C. 643, 663, 795 S.E.2d 686, 697 (2016) (applying an abuse of discretion standard to the trial court's decision on a motion for a continuance); Sweet v. State, 255 S.C. 293, 296, 178 S.E.2d 657, 658 (1971) (same)); State v. Sims, 304 S.C. 409, 405 S.E.2d 377) (applying an abuse of discretion standard to trial judge's decision to discharge court appointed counsel).

ARGUMENTS

I. This Court should deny review because the PCR court did not err in allowing Petitioner to proceed *pro se* at his evidentiary hearing where Petitioner was appointed a lawyer, moved to relieve his court appointed lawyer, was admonished on the record that he would not be allowed to have another court-appointed lawyer, reasserted his desire to have his court-appointed lawyer relieved, and did not object until after the PCR court relieved his court-appointed lawyer.

The PCR court did not err in allowing Petitioner to proceed *pro se* at his PCR hearing. There is no constitutional right to counsel in a post-conviction relief action. Pennsylvania v. Finey, 481 U.S. 551, 556-57 (1987); Richardson v. State, 377 S.C. 103, 105-06, 659 S.E.2d 493, 494-95 (2008) ("[T]here is no constitutional obligation to appoint counsel in a PCR matter in South Carolina."). However, "[a]n indigent applicant who is granted a [post-conviction relief] hearing has a statutory right to be represented by a court-appointed attorney," Al-Shabazz v. State, 338 S.C. 354, 364, 527 S.E.2d 742, 747 (2000) (citations omitted). "When a PCR application is not dismissed *before* a hearing is held, the PCR judge must appoint counsel or obtain a knowing and intelligent waiver of that right by the applicant." Whitehead v. State, 310 S.C. 532, 535, 426 S.E.2d 315, 317 (1992). (Emphasis in original).

Nevertheless, "a PCR applicant is not entitled to appointed counsel of choice." Richardson, 377 S.C. at 106. Though he "*may* have the right to reject or discharge court-appointed counsel and proceed *pro se* or retain his own counsel, he does not have the right, without a showing of satisfactory cause to refuse or dismiss the counsel appointed and have other counsel appointed." Id. (citing State v. Jones, 270 S.C. 587, 243 S.E.2d 461 (1978)). (Emphasis in original).

Petitioner relies on Whitehead v. State, 310 S.C. 532, 426 S.E.2d 315 (1992), to support his argument that the PCR court erred in allowing him to proceed *pro se*. This case is

distinguishable from Whitehead. In Whitehead, the petitioner filed a second, successive PCR application, a petition for *habeas corpus* and a motion for appointed counsel. At a hearing on his *habeas corpus* petition, the judge consolidated the PCR application with the *habeas corpus* petition. Regarding the motion for appointment of counsel, the PCR judge noted the appointment of counsel for indigent defendants in successive PCR actions is discretionary, and therefore, declined to appoint counsel. The petitioner then proceeded *pro se* on his claims. On appeal, this Court reversed the PCR court and remanded the matter for a new hearing, holding,

> [a] PCR judge must appoint counsel **or** obtain a knowing and intelligent waiver of that right by the applicant. To establish a valid waiver of the right to counsel, the PCR applicant must be made aware of the right to counsel and the dangers of self-representation. See e.g., Prince v. State, 301 S.C. 422, 392 S.E.2d 462 (199).

Id. at 535. (Emphasis added).

Here, unlike the petitioner in Whitehead, Petitioner **was** appointed an attorney – he simply decided the attorney did not suit his preferences. Leah B. Moody, Esquire, was appointed as counsel for Petitioner at the outset of his PCR action. Therefore, the PCR court fulfilled its duty under Whitehead, that it "appoint counsel **or** obtain a knowing and intelligent waiver of" the right to counsel. Id. (Emphasis added). Petitioner was not denied the right to counsel. It was Petitioner, and only Petitioner, who insisted to have his counsel removed from the case, knowing he would not be afforded another appointed attorney.

On the date that his evidentiary hearing was scheduled for the second time[1], Petitioner asked the court to relieve his appointed counsel because she had failed to subpoena certain witnesses (Donald Moore, Cassandra Casey, and Teresa Pickens) and a toxicology report of one of the victims and failed to maintain contact. (App. p. 71, l. 20 – p. 72, l. 16). In response,

[1] A hearing had previously been scheduled for April 10, 2014, at which time Petitioner received a continuance. (App. p. 71, ll. 23-25).

Moody explained she contacted Cassandra Casey[2] who was also Petitioner's daughter, spoke to her for an hour, and the daughter refused to provide an address in order to subpoena her to testify. (App. p. 74, ll. 14-21). Moody explained Cassandra was hesitant about testifying and Moody believed having Cassandra testify would not "bode well" for Petitioner. (App. p. 75, ll. 2-7). Moody requested Teresa Pickens's address, who was Cassandra's aunt, from Cassandra, but Cassandra also refused to provide her with Teresa's address. (App. p. 74, ll. 22-24). Moody then requested Cassandra to ask Pickens to call her, but Moody never received a call from Pickens. (App. p. 74, l. 24 – p. 75, l. 1). Moody had in fact subpoenaed Donald Moore, one of the three witnesses Petitioner requested, and Moore was present in the courtroom. (App. p. 75, l. 8). However, Moody did not believe Moore could help substantiate any of Petitioner's PCR claims. (App. p. 75, ll.8-14).

Petitioner failed to make a showing of satisfactory cause to refuse or dismiss his appointed lawyer and therefore the PCR court was not required to appoint him new counsel. Richardson, 377 S.C. at 106. And the court admonished Petitioner of this. The court informed him if Petitioner did not have a rational basis to dismiss his lawyer, he would not be appointed a second attorney. (App. p. 71, ll. 3-9). The court further informed Petitioner: "I've not yet heard anything that I would say was deficient in what she has done. So I've not a mind to appoint another attorney for you if that is – this attorney is dismissed at this point in time." (App. p. 79, ll. 4-8). Then, the court asked him how he wished to proceed and if he still wanted to dismiss his attorney. (App. p. 79, ll. 9-12). Petitioner answered, "Yes, sir." (App. p. 79, l. 13). Again, the court warned Petitioner it was "not going to appoint **another** attorney," to which Petitioner responded, "I understand." (App. p. 79, ll. 14-16). (Emphasis added). The court asked Petitioner again if he understood. Petitioner again indicated he understood. (App. p. 79, ll. 17-18). The

[2] Hereinafter, Respondent refers to Cassandra by first name to avoid confusion between Cassandra and Petitioner.

court then granted Petitioner's motion and relieved Moody. The court instructed Moody to "advise him as to what he might need to do to subpoena witnesses and things of that nature so that he will be prepared for the hearing."[3] (App. p. 80, ll. 6-9). The court also issued a written order to that effect, which was filed November 24, 2014. (App. pp. 89-90).

It was not until after the hearing and the court's ruling that Petitioner began objecting to the court's ruling. Prior to the entry of the court's written order relieving Moody[4], Petitioner filed a document captioned, "Applicant's object to the Honorable Roger L. Couch (PCR judge) ruling/order to dismiss PCR counsel and failure to appoint new PCR counsel," in which he claims Judge Couch failed to appoint new PCR counsel "pursuant to the South Carolina Post-Conviction Relief Act, Article I § 3 (Due Process of Law); the United States Constitution Fourteenth Amendment (Due Process Clause); and Case v. Nebraska, 381 U.S. 346 (1965) and its progeny." (App. p. 84). This is clearly an attempt by Petitioner to manipulate the court in a way that allows him the benefit of that to which he is not entitled – to pick and choose his appointed counsel. Richardson, 377 S.C. at 106.

Even if a valid waiver of counsel was required in addition to the appointment of counsel in this case, Petitioner had sufficient background and was apprised of his rights by another source. In the absence of a specific inquiry by the trial judge addressing the right to PCR counsel and the disadvantages of proceeding *pro se*, this Court looks to the record to determine whether petitioner had sufficient background or was apprised of his rights by some other source. Prince v. State, 301 S.C. 422, 424, 392 S.E.2d 462, 463 (1990) (citing Wroten v. State, 301 S.C. 293, 391 S.E.2d 575 (1990)). While a specific inquiry by the trial judge expressly addressing the

[3] Moody did exactly as instructed and provided Petitioner with a detailed list of instructions of how to subpoena witnesses. (App. p. 112).

[4] Although Judge Couch's written order relieving Moody and granting a continuance incorrectly states Petitioner moved for a "continuance to secure retained counsel," the effect of the order was the same – that Petitioner would not be appointed another attorney.

disadvantages of a *pro se* defense is preferred, the ultimate test is not the trial judge's advice but rather the defendant's understanding. Wroten at 294 (citing Fitzpatrick v. Wainwright, 800 F.2d 1057 (11th Cir.1986). Both Prince and Wroten involved the waiver of a criminal defendant's constitutional right to counsel and thus distinguishable from Petitioner's waiver of his statutory right to PCR counsel. However, this Court cited to Prince in the proposition put forth in Whitehead, that "to establish a valid waiver of the right to counsel, the PCR applicant must be made aware of the right to counsel and the dangers of self-representation." Whitehead, 310 S.C. at 535. Therefore, to the extent Whitehead can be interpreted as extending Faretta v. California[5] to PCR actions, Petitioner waived his right to counsel based on his background and knowledge and having been apprised of his right to counsel by another source.

The record demonstrates Petitioner was forty-two at the time of his hearing to relieve Moody and he had a G.E.D. (App. p. 6, ll. 15-20; App. p. 25, l. 9). The record is rife with demonstrations of Petitioner's ability to read, write, cite case law, and make cogent legal arguments. Petitioner's *pro se* PCR application contains a well-written ten page attachment. (App. p. 42-51). Petitioner, acting *pro se*, also supplemented his application with additional allegations of prosecutorial misconduct and after-discovered evidence. (App. p. 53-57). In Petitioner's *pro se* objection to Judge Couch relieving Moody, he requested the appointment of a second PCR attorney, citing to "the South Carolina Post-Conviction Relief Act, Article I § 3 (Due Process of Law); the United States Constitution Fourteenth Amendment (Due Process Clause); and Case v. Nebraska, 381 U.S. 346 (1965) and its progeny." (App. p. 84). Petitioner also filed another *pro se* motion for appointment of counsel on April 21, 2015 in which he specifically stated, "Now comes Applicant (Kevin C. Casey) requesting appointment of counsel in the above case **pursuant to the South Carolina Post Conviction Act.**" (App. p. 125)

[5] 422 U.S. 806 (1975).

(Emphasis added). On February 13, 2015, Petitioner filed another *pro se* amendment to his application in which Petitioner cites to the state and federal constitutions, various case law, and four attachments in support of his allegations. (App. pp. 95-98). On March 16, 2015, Petitioner filed another *pro se* motion for continuance with supporting documents. (App. pp. 99-112). Petitioner, acting *pro se*, filed a number of other various letters and motions. (App. p. 91; p. 93; p. 113; p. 127; Supp. App. p. 13; p. 25).

Additionally, following the PCR hearing, Judge Sprouse allowed each party ten days to supplement the record. (App. p. 159, ll. 22-24). Petitioner submitted an eight-page hand-written proposed order granting PCR with the affidavit of the witness, Pickens, attached. (Supp. App. pp. 27-36). A thorough review of each and every document submitted by Petitioner, demonstrates Petitioner had sufficient background, education, and knowledge to understand the consequences of proceeding *pro se*. Petitioner's reference to the "Post-Conviction Relief Act" and the due process clauses of our state and federal constitutions demonstrates his knowledge of the right to counsel in PCR actions.

The record also demonstrates Petitioner had familiarity with the criminal justice system and understanding of his rights based on his lengthy prior record that includes **six** DUI convictions.[6] (App. p. 16, ll. 6-21). This Court held in State v. Roberson, 382 S.C. 185, 675 S.E.2d 732 (2009), that a waiver of the right to counsel can be inferred from a defendant's actions. (citing State v. Cain, 277 S.C. 210, 284 S.E.2d 779 (1981). In Roberson, the appellant waived his Sixth Amendment right to counsel when he disregarded the instructions of the court and inexcusably failed to appear for trial. Id. This Court, in finding Roberson waived by

[6] At the time of Petitioner's pleas, he only had two prior DUI *convictions*. However, at the time of the instant DUI incidents, in which he killed two people and seriously injured a third, he was out on bond for his third DUI. He pleaded guilty to the third DUI in Union County on April 12, 2012, two months after he pleaded to the instant three DUIs. In total, Petitioner has six DUI convictions.

conduct, considered in its analysis the fact that Roberson's criminal history showed a familiarity with the court system. Id. at 188.

Similar to Roberson, Petitioner has six prior DUI convictions at the time he asked the PCR court to relieve Moody. In light of his age, educational background, his criminal history and, the litany of well-written motions, letter, and pleadings filed by Petitioner, a waiver colloquy between Petitioner and the PCR court on the record was unnecessary to find Petitioner waived his statutory right to PCR counsel.

Respondent submits that by having the opportunity to work with his court-appointed lawyer, his adamant request to relieve his court-appointed lawyer, the PCR court's ample warnings that he would not be appointed a second attorney but must proceed *pro se,* indicating twice that he understood he would not be allowed to receive a second court-appointed lawyer, his failure object to the removal of his court-appointed lawyer until **after** the PCR court delivered to him what he requested, or otherwise indicate he did not wish to proceed *pro se* during his hearing on his motion to relieve counsel, Petitioner waived his statutory right to PCR counsel. Additionally, Petitioner never attempted to withdraw his motion to relieve his court-appointed lawyer after being admonished he would not receive another lawyer. Accordingly, the PCR court did not err when it refused to appoint another lawyer, as it had warned Petitioner previously, and allowed Petitioner to proceed *pro se* at his PCR hearing.

II. This Court should deny review because it was well within the PCR court's discretion to deny Petitioner's fifth request for a continuance where Petitioner had already received four continuances and no other evidence could have been produced or any other points raised if more time was given.

The PCR court did not err in denying Petitioner's fifth request for a continuance. "It is well settled in South Carolina, as well as in most other jurisdictions, that the "trial court's denial

of a motion for continuance 'will not be disturbed absent a clear abuse of discretion.'" State v. McKennedy, 348 S.C. 270, 280, 559 S.E.2d 850, 855 (2002) (citing State v. Williams, 321 S.C. 455, 459, 469 S.E.2d 49, 51 (1996)). "In fact, reversals of a continuance are as 'rare as the proverbial hens' teeth.'" Id. (citing Williams 321 S.C. at 459). Where there is no showing that any other evidence could have been produced or any other points raised if more time was given, this Court has repeatedly upheld denials of requests for continuances. Id.

Petitioner's fifth[7] and final motion for a continuance was made on the basis that he was unable to subpoena witnesses or a toxicology report of the surviving victim. (App. p. 128). A hearing was held before Judge Sprouse on June 12, 2015. Judge Sprouse inquired into the order relieving Moody. Petitioner denied understanding he would have to proceed *pro se* until after he received Judge Couch's order relieving Moody.[8] (App. p. 134, ll. 12-18). Petitioner explained to Judge Sprouse that in a prior hearing Judge Couch offered to help subpoena his witnesses and the toxicology report, but had not received such help. (App. p. 133, ll. 12-17). In that prior hearing on March 26, 2015, Judge Couch told Petitioner **he** would assist in issuing subpoenas for Petitioner and asked that he provide the names and addresses of the witnesses to the "State's attorney['s]" office. (App. p. 119, l. 24 –121, l. 5).[9] However, Petitioner is mistaken in his assertion that Judge Couch instructed "AAG White" to assist Casey in subpoenaing his witnesses. (PWC p. 15, 17). Four days after the March 2015 hearing before Judge Couch, Petitioner sent a letter to Judge Couch with the information the judge had requested. (Supp.

[7] Petitioner received four prior continuances, all regarding the same issues of wanting certain witnesses subpoenaed and wanting a second appointed lawyer. However, only two written orders of continuance were issued. (App. p. 71, l. 23 – p. 72, l. 12; App. p. 89; App. p. 92; p. 116, ll. 7-9; p. 122, l. 24 – p. 123, l. 13).

[8] As discussed in section I above, Judge Couch admonished Petitioner that he would not be appointed another lawyer and Petitioner indicated twice that he understood, **prior** to Judge Couch granting his motion to relieve his court appointed laywer.

[9] Later, Judge Couch switches from the singular form of the first person, "I," to the plural form, "we." To the extent Petitioner implies that "we" meant the judge and the AAG, AAG White understandably did not interpret it that way. Rather, she more appropriately understood it to mean the judge and his staff or possibly the Clerk's office. Judges and AAGs are not a team and play very distinct and separate roles in PCR.

App. p. 25). Petitioner served the Office of the Attorney General with this letter to Judge Couch. (Supp. App. p. 26). Not only did Judge Couch not instruct "AAG White" to assist in subpoenaing Petitioner's witnesses, but she would have no reason to believe the letter **to Judge Couch** was directed to her for purposes of assisting in the issuance of subpoenas.

At the June 2015 hearing, Judge Sprouse asked Petitioner who he wanted subpoenaed, to which Petitioner responded, "Teresa Pickens, Donald Moore. I was going to subpoena the toxicology report, if possible." (App. p. 137, ll. 16-20). Interestingly, Petitioner did not mention his daughter, Cassandra, who Moody previously stated during the September 2014 hearing that she spoke to at length and who refused to provide her address because she did not want to get involved. (App. pp. 74-75). When asked for what purpose Petitioner wanted the witnesses subpoenaed and what knowledge they possessed that would help him, Petitioner simply replied, "On the affidavits, to let them corroborate their statements to be true." (App. p. 137, ll. 21-25). Petitioner provided no other information to the court as to how the witnesses could help Petitioner substantiate his claims. Petitioner then informed the judge he had affidavits from the witnesses. (App. p. 138, ll. 1-3). Judge Sprouse denied Petitioner's motion for continuance and allowed him ten days to supplement the record with the witnesses' affidavits. (App. p. 138, l. 21 – p. 139, l. 2).

Petitioner then proceeded on his allegations, claiming prosecutorial misconduct in that the Solicitor had some confusion during the recitation of facts as to which victim was driving the motorcycle Petitioner hit with his vehicle. (App. p. 140).[10] Petitioner continued presenting Exhibits A-K which were various documents from discovery, all of which were reviewed by plea counsel with Petitioner prior to his guilty plea, indicating the surviving victim was the driver of

[10] This confusion was addressed on the record during Petitioner's guilty plea and includes a couple bench conferences with Petitioner's plea counsel. (App. p. 10, ll. 17-18; p. 21, l. 16 – p. 22, l. 19).

the motorcycle and that he had been drinking also. (App. p. 142-143). Moore, who Petitioner wanted to subpoena, was one of the state's witnesses. (App. p. 11, ll. 16-19). Petitioner stated Moore was a first responder to the scene, but could not have known who the driver of the motorcycle was. (App. p. 144, l. 23 – p. 145, l. 2). Petitioner's contention was because the driver of the motorcycle could possibly have been drinking, he could have been the cause of the accident – despite the fact that Petitioner's blood alcohol level was 0.21, he was driving 91 mph in a 45 mph zone at 12:13 a.m., struck a motorcycle from behind, killing two people and seriously injuring a third person, and admitted to driving under the influence. (App. pp. 10-13). At the PCR hearing, Petitioner admitted he was at fault, but qualified his fault as only partial. (App. p. 146, ll. 11-13). Under oath at his guilty plea proceeding, Petitioner agreed that the facts as recited on the record by the Solicitor were substantially correct. (App. p. 10, l. 3 – p. 13, l. 18). He also stated he was in fact guilty of both charges of felony DUI resulting in death and felony DUI resulting in great bodily harm. (App. p. 15, ll. 8-14).

At the PCR hearing, Petitioner further testified his plea counsel misadvised him that he would receive a ten year sentence. (App. p. 143, l. 21 – p. 144, l. 2). Petitioner wanted to subpoena his aunt, Pickens, because he alleged she had spoken to his plea counsel who also "told her the ten-year sentence as well." (App. p. 144, ll. 10-15).[11] However, Petitioner admitted that no one ever mentioned a ten year negotiated sentence during his guilty plea and the plea judge informed him of the possible sentences he faced by entering his plea. (App. p. 147, l. 15 – p. 148, l. 15). Plea counsel testified there was never a ten year offer extended and Petitioner never cross examined him on this point. (App. p. 151, ll. 8-12). Petitioner did extensively cross-examine him on the possibility that the driver of the motorcycle had been drinking. (App. p.

[11] Although not admitted during the PCR hearing, Petitioner supplemented the record with Pickens's affidavit as an attachment to his proposed order granting PCR submitted to Judge Sprouse. (Supp. App. p. 35).

155, l. 2 p. 158, l. 20). Ultimately, plea counsel testified that the fact the driver of the motorcycle may or may not have been driving was not a defense to Petitioner's felony DUI. (App. p. 157, ll. 5-15).

It is clear from Petitioner's allegations and evidence presented in the PCR hearing, that no other evidence to substantiate Petitioner's claims could have been produced or no other points made, had a continuance been granted. McKennedy, 348 S.C. at 280. Petitioner wanted Moore, a first responder to the scene, subpoenaed to testify, but Petitioner admitted they could never actually know who the driver of the motorcycle was. Even if Petitioner could prove the driver was drinking, all of the evidence presented to support that theory was information provided in discovery and reviewed with Petitioner **prior to his guilty plea**, where he waived any challenges to the evidence against him. Petitioner's belief that had the driver of the motorcycle been drinking, he would have been the "proximate cause" (App. p. 158, l. 17) of the accident and therefore Petitioner would have had a defense for trial is misplaced. No amount of witnesses or toxicology reports could have substantiated Petitioner's claim that counsel was ineffective or that his plea was the product of ill-advice from plea counsel.

Likewise, Pickens, a biased family member, could not have substantiated Petitioner's claim that counsel promised him a ten year sentence. Regardless, her unauthenticated affidavit, stating exactly what Petitioner claimed she would testify to, was allowed to be supplemented into the record, over the State's objections. (App. p. 138, l. 13 – p. 139, l. 2; Supp. App. p. 35). Plea counsel testified there was no ten year offer discussed and the record corroborates plea counsel's testimony.

It was well within the PCR court's discretion to deny Petitioner's motion for a continuance. For the foregoing reasons, the PCR court did not abuse its discretion in denying

Petitioner's motion for a continuance, where the record shows Petitioner could not have produced any more evidence helpful to his case or made any additional points.

CONCLUSION

For the foregoing reasons, this Court should deny the Petitioner's Petition for Writ of Certiorari. However, if this Court grants certiorari, Respondent requests the opportunity to fully brief the issue discussed above.

Respectfully submitted,

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By: 
ATTORNEYS FOR RESPONDENT

August 31, 2017.

STATE OF SOUTH CAROLINA
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CERTIORARI TO SPARTANBURG COUNTY
Court of Common Pleas

The Honorable R. Scott Sprouse, Circuit Court Judge

Appellate Case No. 2016-001686

Kevin C. Casey, ...Petitioner,

v.

State of South Carolina, ...Respondent..

CERTIFICATE OF SERVICE

I, Valerie Garcia Giovanoli, certify that I have today served the within **Return to Petition for Writ of Certiorari** upon Appellant by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Laura R. Baer, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia South Carolina 29211-1589

I further certify that all parties required by Rule to be served have been served. This 31st day of August, 2017.

Valerie Garcia Giovanoli
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ATTORNEY FOR RESPONDENT

ALAN WILSON
ATTORNEY GENERAL

August 31, 2017

The Honorable Daniel E. Shearouse
Clerk of Court — SC Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: **Kevin Casey v. State of South Carolina**
Appellate Case No. 2016-001686
Lower Court Case No. 2012-CP-42-4389

Dear Mr. Shearouse:

Enclosed for filing please find an original and six (6) copies of the **Return to Petition for Writ of Certiorari** in the above-captioned case. If there are any questions or comments, please do not hesitate to contact me at any time.

Sincerely,

Valerie Garcia Giovanoli
Assistant Attorney General
SC Bar #102524

VGG/lm
Enclosures

cc: Laura R. Baer, Esquire
Victim Advocacy Division (without enclosure)