

STATE OF SOUTH CAROLINA  
In the Supreme Court

---

CERTIORARI TO RICHLAND COUNTY  
Court of Common Pleas  
D. Craig Brown, Circuit Court Judge

---

Appellate Case No. 2016-002496

---

**RECEIVED**

NOV 17 2017

S.C. SUPREME COURT

THOMAS LEWIS BLOODSAW,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

---

**RETURN TO PETITION FOR WRIT OF CERTIORARI**

---

ALAN WILSON  
Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.  
S.C. Bar No. 101260  
Assistant Attorney General

Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3737

ATTORNEYS FOR RESPONDENT

**INDEX**

RESPONDENT’S ISSUES PRESENTED ..... ii

STATEMENT OF THE CASE.....1

STATEMENT OF THE FACTS .....3

STANDARD OF REVIEW .....8

ARGUMENT.....10

    I. THE PCR COURT PROPERLY FOUND COUNSEL’S  
    REPRESENTATION WAS COMPETENT WHERE COUNSEL  
    OBJECTED BEFORE THE STATE COULD COMPLETE ITS  
    INAPPROPRIATE “GOLDEN RULE” REMARK, WHERE THE  
    COURT REPEATEDLY ADMONISHED THE JURY TO  
    CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE  
    THEM, AND WHERE NO EVIDENCE EXISTS ON THE  
    RECORD TO SUPPORT THE GRANT OF A MOTION FOR A  
    MISTRIAL.....10

CONCLUSION.....14

## **RESPONDENT'S ISSUES PRESENTED**

**Is there evidence of probative value to support the PCR Court's ruling that Counsel's objection to the State's "Golden Rule" argument did not constitute ineffective assistance where Counsel's objection interrupted the inappropriate remark, where the Court clearly instructed the jury that the arguments made by Counsel did not constitute evidence, and where no evidence exists on the record to show that a motion for a mistrial would have been granted?**

## STATEMENT OF THE CASE

On September 1, 2011, the Richland County Sheriff's Department sought and obtained an arrest warrant against Petitioner for the crimes of burglary, first degree (I-959437) and larceny, value more than \$1,000 but less than \$5,000 (I-959438). Petitioner was thereafter indicted by the Richland County Grand Jury during the May 2012 term for burglary, first degree (2012-GS-40-01158), and petit larceny, value \$2,000 or less (2012-GS-40-01159). Victor K. Li, Esq. ("Counsel") represented Petitioner on the charges.

Petitioner proceeded to a jury trial before the Honorable R. Knox McMahon from March 11 to March 13, 2013, and was found guilty as indicted. Judge McMahon sentenced Petitioner to incarceration for concurrent terms of 18 years for burglary, first degree, and 30 days for petit larceny.

Petitioner filed a timely notice of appeal and a direct appeal was perfected by Robert M. Dudek, Esq., and Austin H. Crosby, Esq. filing a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals affirmed Petitioner's convictions by unpublished opinion and granted appellate counsels' motion to be relieved. State v. Bloodsaw, Op. No. 2015-UP-002 (S.C. Ct. App. filed January 7, 2015). The Remittitur issued on January 26, 2015.

Petitioner filed his application for post-conviction relief on March 27, 2015 (2015-CP-40-01846). Respondent made its return on or about June 30, 2015. In his application for post-conviction relief, Petitioner alleged:

1. "Ineffective Assistance of Counsel"
  - a. "Failed to object to States closing argument"
  - b. "Failed to move for Direct Verdict for 1<sup>st</sup> degree burglary-closing argument"
2. "Prosecutorial [sic] Misconduct"

Petitioner proceeded to an evidentiary hearing before the Honorable D. Craig Brown on July 14, 2016, at the Richland County Courthouse. Petitioner was present at the hearing and represented by Jonathan D. Waller, Esq. Johnny Ellis James Jr., of the South Carolina Attorney General's Office,<sup>1</sup> represented Respondent. By written order dated September 19, 2016, and filed September 29, 2016, Judge Brown denied and dismissed the application.

---

<sup>1</sup> As an extremely minor correction, Mr. James' (the undersigned) was not an "Assistant Attorney General" at the time of the hearing, as purported in Petitioner's procedural history, but rather served in the capacity of "Staff Attorney."

## STATEMENT OF THE FACTS

On August 24, 2011, Leroy Kelly returned home from his job with the South Carolina Department of Transportation to find the back door to his house was busted open. Appx. 141-42. Afraid the burglar was still inside, Kelly briefly looked inside the home, then called 911 and waited for the police. Appx. 143.

Kelly's house was thoroughly ransacked. He immediately noticed that his computer and a television were missing. Appx. 146-47. Importantly, three guns were also missing. Appx. 149-50. Kelly estimated that "a little over \$5,000" worth of personal possessions had been stolen. Appx. 154. Kelly would testify that he did not know Petitioner and that, to his knowledge, Petitioner had never been in Kelly's house before. Appx. 153-54, 297. The stolen property was never recovered. Appx. 295-96.

Evidence technicians swabbed for fingerprints throughout the house. Police recovered a single print from the top drawer of a filing cabinet in the master bedroom that had been pried open. Appx. 194-96. An additional print was recovered from a box of Winchester ammunition also located in the master bedroom Appx. 197-99. Investigators also took DNA samples from throughout the house and a buccal swab from Kelly, but the lab returned no results. Appx. 198-200, 312-13. The two prints recovered from Kelly's house were entered into the Automated Fingerprint Identification System (AFIS) and compared against 30 possible matching candidates. Appx. 242-45. Investigators identified the prints as Petitioner's and nobody else. Appx. 246-47, 256-57, 275.

Petitioner was arrested on an outstanding warrant arising from an unrelated assault and battery on September 17, 2011. Appx. 302-04. During transport from the detention center to the Sheriff's Office for questioning, Petitioner denied knowledge of any burglary. Appx. 303-06.

Petitioner testified in his own defense at trial. At trial, Petitioner claimed for the first time that he was not the original burglar of the home, but that another individual by the name of Moses McKnight first burgled the residence and thereafter invited Petitioner to follow-up and steal additional items of value. Appx. 362-64. Petitioner testified that by the time he arrived, the back door was open and the house already ransacked most valuables. Appx. 364-65. Petitioner testified bullets were strewn about the home and in a file cabinet he pried open. Appx. 365. During his exploration, Petitioner testified he found and stole only a desktop computer. Appx. 365-66. Petitioner denied stealing any guns, and although he testified that he “wasn’t worried about the bullets,” Petitioner admitted to touching some of the bullets. Appx. 366-67, 371-72. Petitioner testified he subsequently fenced the desktop to Moses. Appx. 367. Petitioner admitted to initially lying to law enforcement. Appx. 370-71.

At the outset of trial, the Court instructed the jury that statements by attorneys did not constitute evidence:

Ladies and gentlemen, what the attorneys tell you during their opening statements is not evidence in the case. It is only their contention as to what the issues are. The evidence in the case is not the opening statements of the attorneys, not the closing arguments by the attorneys. The evidence is not the questions by the attorneys. The questions by the attorneys are the frame work by which the evidence is extracted, the testimony is extracted from the witnesses that are under oath. The attorneys are not under oath. They are officers of the Court, but they are not witnesses providing testimony to the jury or to the Court. That is where the evidence will come from, from those sworn witnesses from the witness stand and/or any exhibits that may be introduced.

Appx. 126. Prior to closing arguments, the Court reminded the jury that the statements by attorneys did not constitute evidence, but were arguments:

Please remember my instructions that what the attorneys say is not evidence in the case, but the closing arguments are different from opening statements. They are true arguments. They may comment and argue [on] the facts, the reasonable

inferences to be [drawn] from the facts and the law and how those facts apply to the law in the case.

Appx. 404.

The parties then launched into closing arguments. Counsel argued the prosecution “failed to show that [Petitioner] took the guns. They have done nothing.” Appx. 406. Counsel aggressively lampshaded the State’s impending criticism of Petitioner’s story:

They’re going to tell you because he knows that this is the only way he’s going to get out of a burglary first, so he came over to you and he made it up. He told you about some guy named Moses. They’re going to shift your attention from the burglary that they have to prove to [Petitioner]. They want you to judge his story now. Okay. But don’t let them do it.

If you catch them trying to do it, you say in the back of your mind prove it. Prove that [Petitioner’s] theory is not true. Proof that what his testimony is – that his testimony is not true. You have done nothing to show that what happened in that house between 7:00 a.m. and 6:30 p.m. And now you want us to – you want us to not believe him. Because that’s all they have. That’s the only shot they have left. Don’t let them shift your focus.

They’re going to tell you that he’s never told his side of the story before. Oh, how convenient. You come to trial and this is the first time we’ve heard this. We live in America. You have a right to not incriminate yourself. You have the right to remain silent. For them to imply differently is just wrong.

They’re going to make up a motive. They’re going to – they’re going to shift your attention to try to judge [Petitioner]. In the back of your head, say to yourself prove it. Prove to us as the jury, prove to us as the jury that their story is correct.

...

Ladies and gentlemen, don’t let them shift your focus. The burden is not on [Petitioner] to prove that Moses took the guns. The burden is not on [Petitioner]. [Petitioner] told you he didn’t know Moses took the guns. He didn’t know what he took. The burden is on the State to show that [Petitioner] did take the gun and they can’t.

Appx. 409-11.

The State opened with a focus on victim impact, ultimately leading to the comments and objection now at issue:

[MS. BODMAN:] His bedroom (indicating), the place where he lays his head down on the bed at night, torn apart. His privacy invaded. Photo after photo after photo. His sense of security being invaded, which is really why there is probably two issues to – or two sides to this gun issue that’s out there. It’s because there are people like the Defendant (indicating) who will come into your home and take

–  
**MR. LI:** Your Honor, I object –

**MS. BODMAN:** -- what they want.

**THE COURT:** Okay.

**MR. LI:** I object to pledging to the passions of the jury.

**THE COURT:** All right.

You can rephrase that, Solicitor.

Thank you, Mr. Li.

Thank you, Solicitor. You may continue.

Appx. 416. The solicitor did not return to the line of argument and Counsel did not seek additional action by the Court. After closing arguments, and a brief recess, Judge McMahon launched into the jury charge, including a third reminder on what to consider in its deliberations:

I remind you that during this trial, you and I have certain duties to perform. As the trial judge, it is my responsibility to preside over the trial and I, also, have the duty to rule on the admissibility of evidence during the trial. You are to consider only the competent evidence before you. You are to consider only the testimony which has been presented from the witness stand and any exhibits which have been made part of the record.

Appx. 434. The jury returned a guilty verdict after about three hours of deliberation. Appx. 445-47. After the jury was excused, Counsel generally renewed all prior motions and objections and motioned for a new trial. Appx. 448-49. Judge McMahon renewed all prior rulings and denied the motion for a new trial. Appx. 449.

At the PCR evidentiary hearing, Petitioner and Counsel gave conflicting testimony as to whether Counsel was made aware of the “Moses” story prior to trial—Petitioner claimed he did not tell Counsel until trial, while Counsel claimed to have investigated the matter and discovered that Moses was deceased. Appx. 503, 507, 510-11. Counsel testified to pursuing, ultimately, a strategy of strictly contesting the accusation that Petitioner stole the guns from Kelly’s home. Appx. 514-15. Petitioner directed Counsel’s attention to the “come into your home” remark and inquired as to Counsel’s reasoning:

**Q:** You objected to the Solicitor’s comments right there. Why did you make that objection?

**A:** Because it was pleading to the passions to the jury, violating the Golden Rule. Margaret had said – the Solicitor had said it’s because of people like the defendant that come into your home and take things, speaking directly to the jury.

**Q:** Okay. After the judge sustained your objection, what was the strategy behind not making a motion for a mistrial or for a curative instruction?

**A:** There was no strategy. I just missed it.

**Q:** Okay. Did you –

**A:** I would have objected – I mean, I should have objected.

**Q:** You did make the objection. You just didn’t make a motion for a mistrial or request a curative instruction?

**A:** That’s right.

**Q:** Okay.

**A:** No strategy behind that.

Appx. 518-19. On cross-examination, Counsel admitted his own closing argument was built around predicting the State would shift attention to Petitioner and “call him a bad person[.]” Appx. 521.

## STANDARD OF REVIEW

The post-conviction relief court's findings of fact and conclusions of law receive great deference during appellate review. Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). The proper standard of review of a post-conviction relief decision is whether "any evidence of probative value" exists to sustain the lower court's findings. Cherry v. State, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989). However, appellate courts will reverse the decision of the post-conviction relief court when it is controlled by an error of law. Goins v. State, 397 S.C. 568, 573, 726 S.E.2d 1, 3 (2012).

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRCPP; Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, he or she 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 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814. The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. "There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or

omission of counsel was unreasonable. Strickland, 466 U.S. at 689. “[E]very effort be made to eliminate the distorting effects of hindsight” and to evaluate counsel’s decisions at the time they were made. Strickland, 466 U.S. at 689. Accordingly, courts must be wary of second-guessing counsel’s tactics. Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

## ARGUMENT

### I. THE PCR COURT PROPERLY FOUND COUNSEL'S REPRESENTATION WAS COMPETENT WHERE COUNSEL OBJECTED BEFORE THE STATE COULD COMPLETE ITS INAPPROPRIATE "GOLDEN RULE" REMARK, WHERE THE COURT REPEATEDLY ADMONISHED THE JURY TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE THEM, AND WHERE NO EVIDENCE EXISTS ON THE RECORD TO SUPPORT THE GRANT OF A MOTION FOR A MISTRIAL

The PCR Court's Order of Dismissal meets the "any evidence" standard because the record shows that Counsel's objection was so swift as to interrupt the State's argument and "Golden Rule" remarks, minimizing any taint of the jury. Whatever lingering prejudice the remarks may have caused were cured by the Court's instructions before and after closing arguments. Furthermore, the evidence at trial conclusively pointed to Petitioner's guilt, such that Petitioner could have suffered no prejudice.

"To prove prejudice resulting from counsel's failure to move for a mistrial, an applicant must demonstrate that, had counsel moved for a mistrial, the trial court's denial of the motion would have amounted to an abuse of discretion." Early v. State, 418 S.C. 255, 792 S.E.2d 226 (2016). "The power of a court to declare a mistrial ought to be used with the greatest caution under urgent circumstances, and for very plain and obvious causes' stated into the record by the trial judge." State v. Stanley, 365 S.C. 24, 34, 615 S.E.2d 455, 460 (Ct. App. 2005) (quoting State v. Simmons, 352 S.C. 345, 354, 573 S.E.2d 856, 862 (Ct. App. 2002)); see also State v. Patterson, 337 S.C. 215, 227, 552 S.E.2d 845, 851 (Ct. App. 1999) ("The granting of a motion for a mistrial is an extreme measure which should be taken only where an incident is so grievous that prejudicial effect can be removed in no other way."). "A mistrial should only be granted when 'absolutely necessary,' and a defendant must show both error and resulting prejudice in order to be entitled to a mistrial." Id. "The less than lucid test is therefore declared to be

whether the mistrial was dictated by manifest necessity or the ends of public justice.” Id.

“Whether a mistrial is manifestly necessary is a fact specific inquiry.” Id.

Inappropriate remarks by the prosecution are curable and do not constitute a *per se* basis for either a mistrial or reversal. See Brown v. State, 383 S.C. 506, 516, 680 S.E.2d 909, 915 (2009) (“Improper comments do not automatically require reversal if they are not prejudicial to the defendant, and the appellant has the burden of proving he did not receive a fair trial because of the alleged improper argument.”); see also Patterson, 337 S.C. at 227, 552 S.E.2d at 850 (“[T]he trial judge should exhaust other methods to cure possible prejudice before aborting a trial. An instruction to disregard objectionable evidence is usually deemed to cure the error in its admission.”) (citations omitted). “The relevant question is whether the solicitor’s comments so infected the trial with unfairness as to make the resulting conviction a denial of due process.” Id. (quoting Humphries v. State, 351 S.C. 362, 373, 570 S.E.2d 160, 166 (2002)). “Generally, a curative instruction is deemed to have cured any alleged error.” Patterson, 337 S.C. at 226, 552 S.E.2d at 850.

The solicitor’s remark that “there are people like the [Petitioner] who will come into your home and take . . .” is undeniably an inappropriate “Golden Rule” argument. However, the trial transcript shows that Counsel very promptly objected so as to interrupt and terminate the charged remark—PCR Counsel admitted as much that “[Counsel] actually did a very good job of catching her mid-sentence.” Appx. 32. The Court immediately sustained the objection and instructed the solicitor to rephrase. To Petitioner’s benefit, the State did not attempt to do so, but abandoned the line of argument entirely. These facts in the record do not demonstrate a deficiency in representation, but show that Counsel was attentive and active in the course of the solicitor’s closing argument, and consist of the “any evidence” necessary to support the circuit

court's finding of no deficiency. The alternative action demanded by Petitioner would have only drawn additional attention to the solicitor's remark.<sup>2</sup>

Counsel's lack of request for a mistrial also did not prejudice Petitioner in any way. As an initial matter, the facts at issue contrast favorably with the already favorable finding in Brown, which found no prejudice even where trial counsel failed to object *at all* to the climactic argument that the jury should "speak up" for a child sex abuse victim—twice. First, as Counsel promptly interrupted the inappropriate remark, there is not clear evidence that the jury actually heard it through. Second, this case was not an emotionally charged trial, as was Brown, but rather the jury had to consider only the cooler question of whether to believe Petitioner's late, self-serving story that a dead man had stolen the guns and only invited Petitioner to further burglarize the home after departing.

To whatever extent the interrupted remark may have conceivably influenced the jury, the Court's instructions cured any prejudice. The Court clearly instructed the jury before closing arguments "that what the attorneys say is not evidence in the case[.]" Appx. 404. After closing

---

<sup>2</sup> Petitioner notes Counsel's testimony that he had no strategic reason for not moving for a mistrial. The circuit court's order did not rely on strategic decision doctrine in reaching its decision. Petitioner appears to be attempting to invert the deference given to trial strategy, as explained, for example, in Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992) ("Where . . . counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel.").

Counsel is *not* required to articulate strategic reasons for every decision challenged in a post-conviction relief hearing, and failure to so articulate does not necessitate a finding of deficiency—notwithstanding the possibility of inferring a strategy from the record, the lack of articulation merely forecloses reliance upon the strategic decision doctrine. See, e.g. Weik v. State, 409 S.C. 214, 761 S.E.2d 757 (2014) (citing Wood v. Allen, 558 U.S. 290 (2010)) (emphasizing the distinction between the issue of whether counsel made a strategic decision in the first place and the issue of whether a strategic decision is a reasonable exercise of professional judgment under Strickland). The Court may, and indeed *must*, use its own good reasoning to determine whether "*in light of all of the circumstances*, the identified acts or omissions were outside the *wide* range of professionally competent assistance." Strickland, 466 U.S. at 690 (emphasis added). While courts reviewing post-conviction relief claims must resist the temptation to excuse errors of counsel by way of speculative strategies not articulated, the courts must still consider the totality of the circumstances to determine whether conduct was deficient to begin with, including the possible negative consequences of actions suggested by applicants to be a necessary part of competent representation. The alternative risks finding counsels ineffective for failing to engage in conduct that would have been affirmatively detrimental to a defendant—to wit: finding ineffectiveness for failing to be ineffective.

arguments, the Court again emphasized the jury was “to consider only the competent evidence before you. You are to consider only the testimony which has been presented from the witness stand and any exhibits which have been made part of the record.” Appx. 434. These instructions together directly address the solicitor’s remark and, as such, the error was cured.

Furthermore, even if the instructions of the court were inadequate to cure, the evidence against Petitioner was so substantial as to render any error harmless. Petitioner’s fingerprints were recovered from within the burglarized home, no evidence of another intruder was found, and Petitioner himself admitted to burglarizing the home. That Petitioner took the stand and spun a uniquely self-serving narrative at the last minute, featuring a then-recently murdered man, in an effort to spare himself the most serious charge does not defeat the fact that the evidence available pointed conclusively to Petitioner’s, and only Petitioner’s, guilt.

Finally, and most simply, the present case does not present the sort of circumstances where a mistrial is “absolutely necessary.” Stanley, 365 S.C. at 34, 615 S.E.2d at 460. The facts in actual dispute were minimal and the analysis necessary to resolve the dispute was of a dispassionate character. There were no gruesome injuries or heart-wrenching testimonies. No evidence exists in the record to show the trial court could have and would have cast aside its duty of extreme caution in granting a mistrial and, as such, Petitioner cannot prove prejudice.

## CONCLUSION

For the foregoing reasons, this Court should deny this Petition for a Writ of Certiorari because substantial evidence exists to support the PCR Court's Order of Dismissal and no evidence exists to support Petitioner's allegations of prejudice. Should this Court grant the petition, the State seeks permission to more fully brief the issues set forth herein.

Respectfully submitted,

ALAN WILSON  
Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.  
S.C. Bar No. 101260  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3737

November 17, 2017

STATE OF SOUTH CAROLINA  
In the Supreme Court

---

CERTIORARI TO RICHLAND COUNTY  
Court of Common Pleas  
D. Craig Brown, Circuit Court Judge

---

Appellate Case No. 2016-002496

---

THOMAS LEWIS BLOODSAW,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

---

**PROOF OF SERVICE**

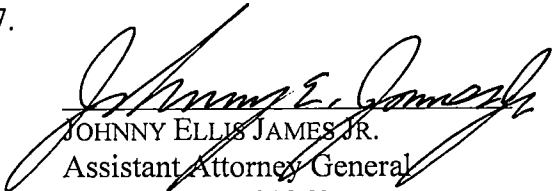
---

I, Johnny Ellis James Jr., certify that I have served the within **Return to Petition for Writ of Certiorari** on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Dudek, Esquire  
South Carolina Commission on Indigent Defense  
P.O. Box 11589  
Columbia, South Carolina 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 17<sup>th</sup> day of November, 2017.

  
JOHNNY ELLIS JAMES JR.  
Assistant Attorney General  
S.C. Bar No. 101260  
Office of Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3727