ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Sumter County

Honorable Howard P. King, Circuit Court Judge

CASEY STUCKEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-001737

PETITION FOR WRIT OF CERTIORARI

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ISSUES PRESENTED

I.

Whether the judge erred when he applied the wrong test to dismiss Petitioner's post-conviction relief based on after-discovered recantation evidence, since applying the Hayden standard was legally erroneous?

II.

Whether, if he applied the correct test, the judge erred when he dismissed Petitioner's post-conviction relief based on presentation of newly discovered evidence because of the statutory limitations, the prohibition against successive applications, and the newly discovered evidence being merely impeaching or cumulative?

STATEMENT OF FACTS

A Sumter County Grand Jury indicted Petitioner for Assault and Battery with Intent to Kill (ABWIK), Possession of Weapon During Violent Crime(PWDVC), Lynching in the Second Degree, Kidnapping, Accessory Before the Fact of Assault and Battery With Intent to Kill, and Accessory After the Fact of Assault and Battery With Intent to Kill in April 2001. App. 412-410.

Petitioner was tried before the Honorable Thomas W. Cooper, Jr., and a jury on November 10, 2003. William H. Conner Jr., represented the state and Lauren B. Ferrari represented Petitioner. App. 1.

The jury returned with guilty verdicts on lynching in the second degree and kidnapping. App. 228. Pursuant to S.C. Code Ann. § 17-25-45, based on a prior conviction of voluntary manslaughter, Judge Cooper sentenced Petitioner to life in prison without the possibility of parole for the kidnapping charge and a sentence of twenty years for lynching in the second degree. App. 240-241.

In State v. Stuckey, Op. No. 2005-UP-180 (S.C. Ct. App. Filed March 10, 2005), the South Carolina Court of Appeals affirmed Petitioner's convictions. App. 312. Petitioner filed a post-conviction relief application that alleged ineffective assistance of trial and appellate council on April 15, 2005. App. 247-255. The state filed a return on October 3, 2005. App. 255-258.

On April 7, 2006, before the Honorable Howard P. King, Petitioner's post-conviction hearing was held. App. 260. Charles Brooks III represented Petitioner and Teri Salane represented the state. Id. Judge King denied relief with prejudice on May 22, 2006. App. 311-317. On appeal a Johnson[1] petition was filed on March 27, 2007, but that too was unsuccessful. App. 319-328.

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[1] Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988)

Donnell Robinson's trial testimony was the sole evidence the state presented that alleged Petitioner presence at the scene of the crime and that Petitioner participated in the crime. App. 134, l. 1-148, l. 15. On November 20, 2012, Donnell Robinson recanted his trial testimony in a signed a typed statement witnessed by a notary public. App. 348. In that statement Mr. Robinson declared that Petitioner was not the person who, "shot, kidnapped or beat me up. I am coming forth because he was falsely accused mistakenly of crimes he didn't commit," and that Donald Bush was the perpetrator of the crimes against him. Id.

On November 20, 2013, Petitioner mailed a *pro se* motion for a new trial to the Sumter County Clerk of Court on the basis of newly discovered evidence pursuant to Rule 29(b), SCRCrimP. App. 350-360. The clerk stamped the motion as "recorded" on November 22, 2013, but the state was never served with it. App. 336.

On July 1, 2016, Petitioner filed a motion post-conviction relief based on newly discovered evidence pursuant to §17-27-20(4). App. 329-334. Petitioner's counsel, Eleanor Cleary, filed a memoranda in support of his post-conviction relief application. App. 335-375. The state filed its return and motion to dismiss on May 9, 2017. App. 377-386.

Chief Administrative Judge R. Ferrell Cothran Jr., filed a Conditional Order of Dismissal on May 24, 2017[2]. App. 388-397. Judge Cothran dismissed the application because it: violated the statute of limitations for after-discovered evidence, was a successive application, presented evidence that could have been discovered earlier with due diligence, and was based on evidence that was merely impeaching or cumulative. App. 388-397. Petitioner's counsel, filed a reply to the conditional order of dismissal. App. 398-404. A Final Order of Dismissal was filed by Judge

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2 The Conditional Order of Dismissal copied the state's return and motion to dismiss with only minimal, clerical changes.

Cothran on July 14, 2017. App. 406-407. Judge Cothran found that Petitioner did not put forth a sufficient reason as to why the Conditional Order of Dismissal should not be final. Id.

This Petition follows.

ARGUMENT

I.

The judge erred when he applied the wrong test to dismiss Petitioner's post-conviction relief based on after-discovered recantation evidence, since applying the Hayden standard was legally erroneous.

The United States v. Wallace, 582 F.2d 863 (4th Cir. 1976), Test

In U.S. v. Lofton, the district court convicted Lofton of possession of a firearm on lands owned or administered by the National Park Service. United States v. Lofton, 233 F.3d 313, 314 (4th Cir. 2000). Lofton argued that the park needed to provide notice of the firearm prohibition inside the park. Id. at 315. The park manager testified that there were signs providing notice on the bulletin board and boundary signs on the park's perimeter. Id. After his conviction, Lofton's attorney sent an investigator to the park and found no such signs had ever been posted. Id. Lofton filed a motion for new trial based on newly discovered evidence, but the motion was dismissed because the evidence could have been discovered before trial with due diligence. Id.

The fourth circuit affirmed the denial of Lofton's motion for a new trial, but it drew a distinction between after-discovered evidence that contradicted a witness's testimony and after-discovered evidence of a witness's recantation of their own testimony. Id. at 318. "In this case, the park manager **did not recant** her trial testimony, Lofton **merely presented evidence**, obtained well after the trial, **that contradicted the manager's trial testimony**." Id. (emphasis added)

The judge erroneously applied the Hayden standard to Petitioner's post-conviction relief application. App. 394. Whereas in Lofton, the fourth circuit stated that the Wallace test should be used if a motion for a new trial is based on **after-discovered recantation of trial testimony**. "A motion should be granted if: (1) the court is reasonably satisfied that the trial testimony given by

a material witness was false; (2) the jury might have reached a different conclusion without the false evidence; and (3) the party seeking the new trial... was unable to meet it... until after trial." Id. (citing United States v. Wallace, 528 F.2d 863, 866 (4th Cir. 1976)).

The similarities in Petitioner's case to United States v. Wallace, 582 F.2d 863 (4th Cir. 1976) are striking. In Wallace, the recantation evidence came from, "the essential government witness." Id. at 865. Wallace's brother testified at trial that Wallace indicated to him knowledge of the gun in the back of the car and Wallace was convicted of possessing a sawed-off shotgun. Id. After trial, the witness gave an affidavit that his original testimony was false. Id.

The fourth circuit court applied the aforementioned three prong test and had, "no doubt," the jury might have found the defendant not guilty, but remanded the case to determine if the testimony given at trial was false and if the defendant learned of its falsity after trial. Id. at 866.

In the instant case, Petitioner's after-discovered recantation evidence came from, "the essential government witness," Donnell Robinson. His testimony was the sole evidence the state had that alleged Petitioner committed a crime or even that Petitioner was in the vicinity at the time the crime was committed.

Therefore, the judge should have used the Wallace test because it pertains specifically to *after-discovered recantation evidence*, rather than the Hayden test which is for general after-discovered evidence.

II.

If the judge applied the correct test, the judge erred when he dismissed Petitioner's post-conviction relief based on presentation of newly discovered evidence because of the statutory limitations, the prohibition against successive applications, and the newly discovered evidence being merely impeaching or cumulative.

Rule 29(b) of the Rules of Criminal Procedure controls motions for a new trial based on after-discovered evidence:

> **A motion for a new trial based on after-discovered evidence must be made within one (1) year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of reasonable diligence.** A motion for a new trial based on after-discovered evidence may not be made while the case is on appeal unless the appellate court, upon motion, has suspended the appeal and granted leave to make the motion. Leave of the appellate court is not required if no appeal has been taken or if the appeal has been finally decided in the appellate court. SCRCrimP 29. (emphasis added)

In Hayden v. State, 278 S.C. 610, 299 S.E.2d 854 (1983), Hayden was convicted of possession of cocaine with intent to distribute and sentenced to ten years' imprisonment. Id. at 611, 299 S.E.2d at 855. Hayden contended a SLED informant, a SLED agent, and a drug dealer named Leonard Horger set him up. Id. at 612, 299 S.E.2d at 856. At his post-conviction relief hearing Leonard Horger testified that he helped SLED set up Hayden and that SLED planted the drugs. Id. at 612, 299 S.E.2d at 855.

The Court applied the following test: "A party requesting a new trial based on after-discovered evidence must show that the evidence: (1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and, (5) Is not merely cumulative or impeaching." Id. at 611, 299 S.E.2d at 855 (citing State v.

Caskey, et. al., 273 S.C. 325, 256 S.E.2d 737 (1979)). The Court affirmed Hayden's conviction and held that the after-discovered evidence could have been brought at an earlier proceeding with due diligence because Leonard Horger could have been subpoenaed to testify. Id. at 612, 299 S.E.2d at 856.

When the judge dismissed Petitioner's post-conviction relief application, he ruled that Petitioner's motion for a new trial based on after-discovered evidence failed multiple prongs of the Hayden test. That was an error.

Statute of Limitations

Applying the one year statute of limitations to his post-conviction relief application based on newly discovered evidence was an error for several reasons.

The United States Supreme Court has stated, "we have never held *pro se* prisoners to the standards of counseled litigants." Gonzalez v. Crosby, 545 U.S. 524, 544, 125 S. Ct. 2641, 2655 (2005) (See, Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594 (1972)). The Court also decided that all formalities, save failure to state a claim, should be relaxed when applied to *pro se* litigants. "As the Court unanimously held in Haines v. Kerner, a *pro se* complaint, "however inartfully pleaded," must be held to 'less stringent standards than formal pleadings drafted by lawyers' and can only be dismissed for failure to state a claim if it appears." Estelle v. Gamble, 429 U.S. 97, 106, 97 S. Ct. 285, 292 (1976).

The court's strict application of the statute of limitations to deny him relief was an error. Petitioner made a good faith effort to file a timely motion for a new trial on November 20, 2013, but failed to serve the state. At the time he was a *pro se* litigant and did not know he was required to do more than file the motion with the court. Petitioner argues he should not have been held to the same standard as a counselled litigant.

Petitioner argues the application of the statute of limitations in this case goes against it's the purpose. "Time bars are useful administrative tools, not inflexible bars that prevent correction of error and shield injustice." Matter of Seats, 537 F.2d 1176, 1179 (4th Cir. 1976). "'The purpose of the statute of limitations is to relieve the courts of the burden of trying stale claims,' when a litigant has slept on their rights." Stokes-Craven Holding Corp v. Robinson, 416 S.C. 517, 526, 787 S.E.2d 485, 490 (2016).

Petitioner has not slept on his rights. Petitioner made a good faith attempt to make a timely filing when he mailed the clerk of court a *pro se* motion for a new trial based on after-discovered evidence on November 20, 2013, within the statutory timeframe. Applying the statute of limitations because a *pro se* litigant made a procedural error would not relieve the court of the burden of trying stale claims and would only act as a bar to a *pro se* litigant who did not know he was making an error. Therefore, applying the statute of limitations in this case would not serve its administrative function, but rather bar correction of an error made by a *pro se* litigant and shield injustice.

That applying the statute of limitations was an error because Petitioner argues his innocence. The United States Supreme Court has held that, "actual innocence, if proved, serves as a gateway through which a petitioner may pass whether the impediment is a procedural bar, as it was in Schlup,[3] and House,[4] or, as in this case, expiration of the statute of limitations." McQuiggin v. Perkins, 569 U.S. 383, 387, 133 S. Ct. 1924, 1928 (2013). While those cases dealt with federal

[3] Schlup v. Delo, 513 U.S. 298, 115 S.Ct. 851 (1995), "the focus on actual innocence means that a court is not bound by the admissibility rules would govern at trial, but may consider the probative force of relevant evidence." Id. at 299, 115 S.Ct. at 855.

[4] House v. Bell, 547 U.S. 518, 126 S.Ct. 2064 (2006), "[i]n certain exceptional cases involving a compelling claim of actual innocence, however, the state procedural default rule is not a bar to a federal habeas corpus petition."

habeas corpus relief, the Court has held, that a procedural default based on a failure to timely file for post-conviction relief in state court could be excused if the failure to consider the claims will result in a, "fundamental miscarriage of justice." Coleman v. Thompson, 501 U.S. 722, 750, 111 S.Ct. 2546, 2565 (1991).

The dismissal based on Petitioner's failure to serve the state with his timely November 20, 2013 motion for a new trial based on after-discovered evidence while *pro se*, is a miscarriage of justice. Petitioner's after-discovered evidence voided Donnell Robinson's testimony, the only evidence the state put forth that alleged Petitioner committed a crime. Without Donnell Robinson's testimony no reasonable juror would have found Petitioner guilty. Thus, denial of relief for the failure to meet the statute of limitations was an error because it barred Petitioner from arguing his innocence.

Due Diligence

The judge erred when he dismissed Petitioner's application because the newly discovered evidence could have been discovered before trial with the exercise of due diligence. App. 395.

In State v. Spann, 334 S.C. 618, 513 S.E.2d 98 (1999), Spann appealed the denial of his motion for a new trial based upon after-discovered evidence. Id. at 619, 513 S.E.2d at 99. At the evidentiary hearing, the circuit court applied the Hayden standard. The court held that the expert evidence presented failed the due diligence prong of the test, and that his lay testimony was merely impeaching and simply not credible. Id. at 620, 513 S.E.2d at 99. Our Supreme Court disagreed with and reversed the ruling as it related to the expert testimony. Id. The Court did not reach the other issues because reversal on the expert testimony entitled appellant to a new trial. Id.

Spann, a black man, was convicted of the 1981 sexual assault, robbery, and murder of Ms. Melva Neill, as well as the burglary of her home. Id. at 619, 513 S.E.2d at 99. However the murders

of Mary Ring and Bessie Alexander were committed within a twelve mile radius in late 1981 as well. Id. at 620, 513 S.E.2d at 99. The murder of Ms. Alexander happened two months after Spann was convicted. Id.

All three of the murders had similarities. The victims were heavy-set, single white women. All of whom had been beaten about the face and head, sexually assaulted, and strangled. Two of the three victims had been placed in partially filled bathtubs, but Ms. Alexander, whose bathtub was not accessible from inside of her home, was drenched in various liquids on her dining room floor. Id.

Spann brought multiple experts to testify that the sexual assaults and murders were likely part of a string of related murders. Id. at 621, 513 S.E. 2d at 100. Spann's forensic pathologist testified all three victims were strangled in a, "unique way," which him to believe that one person was responsible "for all three murders." Id. Spann's forensic psychiatrist testified that the three murders were likely committed by a single individual, a sexual sadistic murderer, and that almost all sexual sadistic killers are white males. Id. The expert in crime scene analysis and criminal personality profiling testified that the murderer was likely a white male in his mid-20's to mid-30's, who was single or had a dysfunctional marriage, who had bizarre fantasies, and a history of child abuse. Id. Spann, a black man with no history of mental illness, did not fit the profile. Id.

The circuit court judge found the expert testimony raised a reasonable inference of Spann's innocence, but rejected the testimony as grounds for granting a new trial because the evidence could have been discovered at trial with the exercise of due diligence. Id. Our Supreme Court thought that was a bar too high and, held, "In order for the attorneys to have pursued these types of experts they would have needed to recognize the similarities between the crimes, similarities not apparent at the time even to the experts (i.e. law enforcement investigators and the pathologist) involved in all three cases. Id. at 621-622, 513 S.E.2d at 100.

Since Donnell Robinson testified at trial, his recantation could not have been discovered before the trial with due diligence. The Hayden standard's bar of due diligence does not stand that tall. Therefore, no amount of due diligence before trial would have brought forth the after-discovered recantation by Donnell Robinson.

Cumulative or Merely Impeaching

The newly discovered evidence is not cumulative as the judge ruled. App. 395. Black's Law Dictionary defines cumulative evidence as, "additional evidence that supports a fact established by the existing evidence." C*umulative evidence,* Black's Law Dictionary (10th ed. 2014), available at Westlaw BLACKS. In other words, evidence that is cumulative is repetitive.

In State v. Fowler, 264 S.C. 149, 213 S.E.2d 447 (1975), Fowler was convicted of armed robbery of a mini-mart in Greenville County. Id. at 151, 213 S.E.2d at 448. The prosecution's main witness was the cashier at the store. Id. at 152, 213 S.E.2d at 449. She testified that she identified Fowler in a group of photographs presented by officers, in a one-on-one interview through a one-way mirror, and from a second view of the photographs. Id. She also positively identified Fowler again at the preliminary hearing and at trial as the one who committed the robbery. Id.

Fowler made a motion for new trial based on after-discovered evidence, which was denied, and appealed the denial. Id. at 151-152, 213 S.E.2d at 449. Fowler's after-discovered evidence was from a police officer who was not present at trial, but testified at the motion hearing that the witness **was unable to identify appellant** as her assailant from the first view of the photographs. Id. at 153, 213 S.E.2d at 449. Our Supreme Court held that the testimony:

> "**related solely to the credibility of the initial** photographic **identification** of (Fowler) by the prosecuting witness. Of course the effect of that testimony must be viewed and assessed in the light of its sufficiency to support the motion for a new trial on the ground of after-discovered evidence. **The credibility of the identification by the prosecuting witness was in sharp issue at the trial.**" Id. (emphasis added)

Since the credibility of the witness was extensively discussed at trial, the newly-discovered testimony was cumulative and impeaching. Id.

In Petitioner's case Donnell Robinson's testimony was not, "at sharp issue." Robinson's testimony went **entirely unrefuted at trial**, nor was an alibi defense presented. Therefore, since the recantation of Donnell Robinson's testimony does not support any fact already established by existing evidence, Petitioner's newly discovered evidence is not cumulative.

The newly discovered evidence is not merely impeaching as the judge ruled. App. 395. A witness recanting their own statement is not impeaching evidence, it is withdrawal of evidence. *Recant,* Black's Law Dictionary (10th ed. 2014), available at Westlaw BLACKS. If a recantation was considered impeachment of one's own testimony, which is what the state argues, all recantations would be subject to dismissal under the Hayden standard. Federal and South Carolina court jurisprudence indicate the state's definition is incorrect.

In U.S. v. Provost, the Eighth Circuit applied the same test used in Hayden in a criminal sexual conduct case. U.S. v. Provost, 969 F.2d 617, 620 (1992). The court found there was evidence that the victim was pressured by her mother to recant her testimony against Provost, her step-brother, and denied Provost's motion for a new trial. Id. at 621. The pressure from the victim's mother made the victim's recantation so incredible that the court denied Provost's motion because the newly discovered evidence would probably not produce an acquittal on retrial. Id.

At the evidentiary hearing, the court relied on the presumption of skepticism about recantations in child sex abuse cases, where recantation is a recurring phenomenon, and about recantation being fairly common when family members are involved. Id. However, the court did not hold the recantation by the victim as impeaching evidence because a recantation of a victim's own testimony is by definition not impeachment.

Petitioner recognizes the inherent skepticism about recantations in trials of all types. However, Petitioner's trial is not of a type that usually sees recantations by the victim. Moreover, there was no possibility of family pressure given that Petitioner and Donnell Robinson are not related. In spite of both of those skepticism-mitigating factors in regards to Petitioner's recantation evidence, his case was summarily dismissed. While Provost, whose recantation evidence had skepticism-enhancing factors, was granted an evidentiary hearing.

Our Supreme Court has held, "when it is made clear by after-discovered evidence that a witness was mistaken in giving the only or controlling testimony to a material fact... a new trial should be given." State v. Pittman, 137 S.C. 75, 134 S.E. 514, 518 (1926) (citing Turner v. So. Ry. Co., 121 S.C. 159, 113 S.E. 360(1922))

In Petitioner's case the only evidence that tended to show Petitioner committed a crime, or that he was even in the vicinity of the scene of the crime, was the testimony of Donnell Robinson. The after-discovered evidence is the recantation of that testimony. Meaning Petitioner's after-discovered evidence qualifies as evidence from a witness giving the only or controlling testimony to a material fact in Petitioner's case and he should be given a new trial.

Therefore, the newly discovered evidence was not "merely impeaching," and the judge erred when he dismissed Petitioner's application for post-conviction relief for not satisfying the Hayden standard.

Successive Applications

The judge erred when he ruled that Petitioner's application for post-conviction relief was successive. App. 393. Section 17-27-90 of the South Carolina Code states:

> All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application. **Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived** in the proceeding that resulted in the offense or sentence or in any other

> proceeding the applicant has taken to secure relief, **may not be the basis for a subsequent application** unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application. (emphasis added)

The statute prohibits successive post-conviction relief motions unless there is a sufficient reason the new grounds for relief were not properly raised in the previous motion. Alice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new reason for relief raised in a subsequent post-conviction relief application is limited to those **that could not have been raised earlier**. Id. at 450, 409 S.E.2d at 394. The new grounds on which he his post-conviction relief application could not have been brought earlier because the evidence did not exist at the time of his trial, nor at his prior post-conviction relief motion.

In McCoy v. State, 401 S.C. 363, 737 S.E.2d 623 (2013), McCoy was indicted for first-degree burglary, and assault and battery with intent to kill. Id. at 366, 737 S.E.2d at 625. Defense counsel requested the trial judge ask potential jurors if they were related by blood or marriage to any person employed in the Seventh Circuit Solicitor's Office. Id. Several potential jurors responded affirmatively; however, one juror who ultimately served on the final jury panel, did not respond or disclose that her cousin was married to the Seventh Circuit Solicitor. At trial McCoy was convicted on both offenses in June of 2005. Id.

Following the dismissal of his direct appeal and his first post-conviction relief application, McCoy reviewed a fellow inmate's case in November of 2009 and discovered the inmate's trial took place the day after McCoy's. Id. at 367, 737 S.E.2d at 625. During *voir dire* for the fellow inmate's trial, the same juror who served in McCoy's trial, advised the court that her cousin was married to the Seventh Circuit Solicitor. Id. The post-conviction relief judge granted the state's motion for summary dismissal, finding among other reasons, that McCoy's application was successive because the evidence could have been raised earlier. Id. at 368, 737 S.E.2d at 626. Our

Supreme Court held that the post-conviction relief application was not successive because the juror's misconduct was not discovered until after his first application was dismissed. Id. at 370, 737 S.E.2d at 627.

Donnell Robinson's recantation of his trial testimony did not become apparent to Petitioner until November 20, 2012. App. 356. By that time Petitioner's trial and appeals were all already concluded. Prior to Petitioner's November 2013 motion for new trial, presentation of Donnell Robinson's recantation was impossible. Therefore, Petitioner's post-conviction relief application was not successive because Petitioner has shown a sufficient reason why the recantation evidence was not presented at any earlier hearing.

CONCLUSION

For the foregoing reasons, Petitioner requests that the Court grant his petition for writ of certiorari to allow full briefing on the newly discovered evidence.

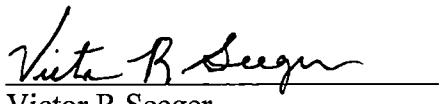
Victor R Seeger
Appellate Defender

ATTORNEY FOR PETITIONER

This 1st day of December, 2017.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of his ability this Petition for Writ of Certiorari complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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ATTORNEY FOR PETITIONER

This 1st day of December, 2017.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Sumter County

Honorable Howard P. King, Circuit Court Judge

CASEY STUCKEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Petition for Writ of Certiorari and a copy of the Appendix in the above referenced case has been served on Assistant Attorney General Julie Coleman, Esquire at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 ; and a copy of the Petition for Writ of Certiorari and a copy of the Appendix have been served on Casey Stuckey, at Lee Correctional Institution, 990 Wisacky Hwy, Bishopville, SC 29010, this 1st day of December, 2017.

Victor R Seeger
Appellate Defender
ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me
this 1st day of December, 2017.

_____ (L.S)
Notary Public for South Carolina
My Commission Expires: July 3, 2023