

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE SUPREME COURT

Certiorari to Charleston County

William H. Seals, Jr., Circuit Court Judge

RECEIVED

MAR 16 2018

S.C. SUPREME COURT

ARTHUR L. RIVERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002201

JOHNSON PETITION FOR WRIT OF CERTIORARI

Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR PETITIONER

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ISSUE PRESENTED

Did trial counsel render ineffective assistance in derogation of the Sixth and Fourteenth Amendments to the Constitution by failing to communicate adequately with Petitioner regarding the state's plea offer?

STATEMENT

On June 16, 2008, Ryan Blakeley, a deputy for the Charleston County Sheriff, went to the Ardwick Road area on Johns Island to serve a warrant on David Tyrone Robinson. App. 178, l. 6 – App. 179, l. 11. Blakeley claimed that he saw Robinson sitting in a chair by a shed on the corner of Ardwick and Balmoral. App. 179, ll. 12-22. As Blakeley stopped his car, he saw Petitioner walking down Ardwick Road. App. 180, ll. 16-20. Petitioner’s mother had dropped him off in the area so that he could visit with his girlfriend’s grandfather, Herman Walker. App. 375, ll. 6-16; App. 411, ll. 7-17.

Blakeley claimed that when Petitioner saw him, Petitioner was “surprised.” App. 181, ll. 4-11. Blakeley characterized Petitioner’s reaction as “suspicious activity” because “he was surprised, eyes wide open, body language changed.” App. 181, ll. 12-18; App. 224, ll. 16-18. He also claimed Petitioner “made a furtive movement by tossing an item” “on to the ground and continued to walk.” App. 181, ll. 18-20; App. 225, ll. 3-17. This “aroused” Blakeley’s “attention of some type of narcotic activity.” App. 182, ll. 4-7.

Nevertheless, Blakeley continued toward his initial intended target, Robinson. App. 182, ll. 13-15. Blakeley put handcuffs on Robinson and explained he was under arrest for several warrants. App. 183, ll. 1-8; App. 226, l. 23 – App. 227, l. 18.

Petitioner approached the two of them as he was walking toward Walker’s home. App. 183, ll. 15-19; App. 224, ll. 19-24; App. 227, ll. 10-12. When Blakeley requested Petitioner’s identification, Petitioner readily complied. App. 183, ll. 19-21; App. 227, ll. 19-24; App. 378, ll. 14-24. Blakeley conducted “a normal warrants check” on Petitioner’s license, which “came back clear.” App. 183, ll. 21-22; App. 227, l. 25 – App. 228, l. 2; App. 228, ll. 12-13; App. 379, l. 13 – App. 5. Blakeley then asked to search Petitioner’s person for narcotics. App. 183, ll. 23-25;

App. 228, ll. 23-24; App. 380, ll. 6-8. Again, Petitioner readily agreed. App. 184, ll. 1-2; App. 380, ll. 9-10. When the search revealed nothing, Blakeley “went to grab his hand to detain him for littering.” App. 184, ll. 21-23; App. 229, ll. 23-24. However, Petitioner “yanked his hand away” and asked what Blakeley was doing. App. 184, l. 24 – App. 185, l. 1; App. 229, ll. 24-25. Blakeley claimed that Petitioner pulled away a second time and even shoved him in the chest. App. 185, ll. 6-8; App. 230, ll. 1-2. Thereafter, Petitioner ran toward a wood line. App. 185, ll. 12-14; App. 230, ll. 3-4; App. 381, ll. 16-19. Blakeley chased after him. App. 185, ll. 15-16; App. 230, ll. 22-24.

Blakeley armed himself with his Taser and struck Petitioner with it. App. 186, ll. 14-15; App. 230, l. 25 – App. 231, l. 14; App. 383, ll. 5-9. Blakeley claimed “one bar hit, another bar didn’t, but if both probes don’t make contact, it doesn’t work.” App. 186, ll. 15-17; App. 231, ll. 12-21. Nevertheless, “[o]nce the probes [made] contact with him,” Petitioner was knocked to the ground. App. 187, ll. 2-4; App. 231, ll. 22-25; App. 383, ll. 4-14. Blakeley caught up to Petitioner and it got “pretty physical,” thereafter. App. 187, ll. 5-7; App. 232, ll. 7-12; App. 383, ll. 17-25. Blakeley was doing anything he could at that point. App. 187, l. 10. He used his “hands and knees and things of that [nature].” App. 187, ll. 13-15. Blakeley described this as “hard hand control.” App. 188, ll. 21-25. He used “brachial stuns,” “a knee toward the groin.” App. 189, l. 23 – App. 190, l. 2. Blakeley even hit Petitioner with his closed fist “[a] few times.” App. 233, ll. 21-22; App. 235, ll. 24-25.

Petitioner explained that Blakeley hit him in the head, kned him in the groin, and struck his head with his knee. App. 384, ll. 1-14.; App. 388, ll. 1-9 Petitioner denied fighting back, explaining he only tried to stop Blakeley’s vicious assault. App. 384, ll. 22-25.

Blakeley said the two men reached a “stalemate” at one point with both standing. App. 190, ll. 19-21. He described both of them being “so drained and so worn out” at this point. App. 190, ll. 20-22.; App. 234, ll. 1-4. The two were holding on to each other. App. 191, ll. 1-6. “Obviously, up on two feet is not a good way to effectively make an arrest,” therefore, Blakeley attempted to “effect a knee strike to the groin area to knock [Petitioner] to the ground.” App. 191, ll. 9-17; App. 234, ll. 9-11. However, Blakeley claimed, Petitioner moved a certain way that resulted in Blakeley striking Petitioner in the face with his knee instead of Petitioner’s groin. App. 191, ll. 17-19; App. 234, ll. 12-16. Petitioner laid on the ground and the 228-pound Blakeley laid on top of him. App. 186, ll. 18-20; App. 191, ll. 19-20.

Blakeley claimed he eventually placed Petitioner in handcuffs and escorted him to Blakeley’s car. App. 197, ll. 10-19; App. 242, ll. 1-2; App. 387, ll. 2-10; App. 389, ll. 2-9. When other officers arrived, Blakeley directed them to search the area where he claimed he saw Petitioner toss items to the ground. App. 199, ll. 3-13; App. 243, ll. 3-5; App. 288, ll. 16-20; App. 289, ll. 5-9; App. 390, ll. 4-9. One of the officers found a pill bottle covered in duct tape and a white clear plastic bag containing what appeared to be drugs. App. 199, ll. 14-22; App. 200, ll. 2-6; App. 243, ll. 6-25; App. 290, ll. 4-7.¹ Blakeley placed the items on the front passenger seat of his car. App. 200, ll. 21-25.

A short while later, according to Blakeley, Petitioner began knocking with his head or shoulder against the car. App. 204, ll. 1-8; App. 249, ll. 17-20; App. 270, ll. 16-23. Blakeley opened the door and asked Petitioner what he wanted. App. 204, ll. 10-11; App. 270, ll. 24-25. Blakeley claimed Petitioner “was trying to talk to [him] about the incident that occurred,” and as

¹ Testing conducted by SLED on these items revealed a total of 8.23 grams of crack cocaine and 20.38 of powder cocaine. App. 136, ll. 1-24; App. 137, ll. 1-25.

a result, Blakeley advised Petitioner of his Miranda² rights. App. 206, ll. 1-5; App. 250, ll. 5-9; App. 271, ll. 1-15. Blakeley further claimed Petitioner said, “I’m a good person but fucked up today,” and “the coke is mine ... and that crack ... is not mine.” App. 207, ll. 12-20; App. 250, ll. 15-20; App. 273, ll. 9-10. Petitioner fervently denied making any statements to Blakeley. App. 392, l. 2 – App. 393, l. 3.

On October 6, 2008, a Charleston County grand jury indicted Petitioner for trafficking cocaine (2008-GS-10-7788), trafficking cocaine base (2008-GS-10-7795), and assault on a police officer while resisting arrest. App. 654-655; App. 657-658; App. 660-661. The state, represented by Rutledge DuRant and Culver Kidd, called the case to trial before the Honorable Roger M. Young, Sr., and a jury on September 15, 2009. App. 1. James Smiley and Laree Hensley represented Petitioner. App. 1. At the conclusion of the trial, the jury found Petitioner guilty as charged. App. 466, l. 14 – App. 467, l. 15. Judge Young sentenced Petitioner to the mandatory minimum sentence of twenty-five years in prison for trafficking cocaine, to fifteen years in prison for possession of crack, and to ten years in prison for assault while resisting arrest. App. 477, ll. 14-17; App. 656; App. 659; App. 662. He ordered the sentences to be served concurrently. App. 477, ll. 17-18; App. 656; App. 659; App. 662.

Petitioner filed a notice of appeal. Tara Dawn Shurling represented him on appeal. App. 480-495. Petitioner raised three issues: (1) whether the lower court improperly denied the motion for directed verdict on the resisting arrest charge; (2) whether the lower court improperly denied the motion to suppress the statement he made to the arresting officer following his unconstitutional arrest; and (3) whether the lower court improperly failed to grant a directed verdict on the drug charges. App. 480-495. The state, represented by David Spencer, filed its

² Miranda v. Arizona, 384 US. 436 (1966).

responsive brief. App. 496-522. Subsequently, Petitioner filed a reply brief. App. 523-529. On November 7, 2011, the Court of Appeals affirmed Petitioner's convictions and sentences. App. 530-532; State v. Rivers, 2011-UP-495 (S.C. Ct. App. filed Nov. 7, 2011). Concerning the second issue, the Court of Appeals noted that a party may not argue one ground at trial and a different ground on appeal; thus, the Court concluded Petitioner's argument on appeal was not preserved for review. App. 530-532. The Court construed Petitioner's third issue as two issues – suppression of the drugs and a directed verdict motion. App. 530-532. The Court denied relief on this issue explaining that to challenge the admissibility of evidence based on a search and seizure, an individual must move to suppress. App. 530-532. The Court further explained that a motion for directed verdict was not the correct vehicle for a challenge to the admissibility of the drug evidence. App. 530-532. Petitioner filed a petition for rehearing. App. 533-540. On December 19, 2011, the Court of Appeals denied the petition. App. 541-542.

Petitioner then filed a petition for writ of certiorari challenging the decision rendered by the Court of Appeals. App. 543-563. The state responded thereafter. App. 564-589. Petitioner filed a reply to the state's return. App. 590-596. On February 6, 2014, this Court denied the petition. App. 597. Remittitur issued on February 18, 2014.

On February 17, 2015, Petitioner filed an application for post-conviction relief (PCR). App. 599-606. The state filed its return thereafter. App. 606-610. The matter proceeded to an evidentiary hearing on January 9, 2017, before the Honorable William H. Seals, Jr. App. 611. Christopher L. Murphy represented Petitioner, and Alicia A. Olive represented the state. App. 611. By an order filed on September 20, 2017, Judge Seals denied Petitioner relief from his convictions and sentences. App. 640-653. On October 20, 2017, Petitioner served his notice of appeal. This petition for writ of certiorari follows.

ARGUMENT

Trial counsel rendered ineffective assistance in derogation of the Sixth and Fourteenth Amendments to the Constitution by failing to communicate adequately with Petitioner regarding the state's plea offer.

Relevant facts

Trial

Prior to trial, Judge Young informed Petitioner that he was facing a mandatory minimum sentence of twenty-five years in prison based on the charge of trafficking cocaine. App. 14, l. 24 – App. 15, l. 3. Judge Young further explained the sentence was “no parole” and could not be suspended. App. 15, ll. 2-3. Thereafter, Judge Young inquired of the solicitor about a prior plea offer. App. 15, ll. 5-7. The solicitor said the prior offer “was a minimum of five years up to thirty.” App. 15, ll. 8-9. The judge inquired if Petitioner “rejected that offer.” App. 15, ll. 10-12. Petitioner indicated he did. App. 15, l. 13. Trial counsel offered greater explanation of the plea bargaining process:

Mr. Smiley: There is more explanation to that, but yes, sir, he did. He was charged at the time, we believed, with six counts, three counts to an Arthur Lee Rivers, and then three counts that we're in trial on.

We were offered to plead to a set of charges that would have been five to thirty. It turns out the other set of charges were not my client and have since been null prosed.

That came up last week, as we were already on the trial docket at that point in time, but my client had indicated even then that he did not want to plead to this count either, Your Honor, just to let you know.

App. 15, ll. 14-25. Trial counsel further offered that Petitioner rejected “the five to thirty offer,” which was then withdrawn and the case placed on the trial docket. App. 16, ll. 9-11. Additionally, trial counsel noted the solicitor extended a plea offer of “15 years at 85 percent,

negotiated” on the day of trial. App. 16, ll. 11-14. According to trial counsel, Petitioner rejected that offer as well. App. 16, ll. 14-15.

Thereafter, Judge Young inquired of Petitioner personally about his rejection of the fifteen-year plea offer. App. 16, l. 18 – App. 17, l. 2. According to the judge, Petitioner’s sentence “would be a minimum of 25 years, up to 30 years” if he were convicted of trafficking cocaine. App. 16, ll. 18-23. He compared having to serve approximately twenty-one years in prison, if Petitioner were sentenced to twenty-five years imprisonment following a conviction at trial, with having to serve approximately “12 and a half” if Petitioner were to accept the negotiated plea offer. App. 17, ll. 1-7. Petitioner indicated he wanted to proceed to trial, rejecting the plea offer. App. 17, ll. 9-24.

PCR hearing

According to Petitioner, the state offered to recommend a sentence of five years if he entered a guilty plea. App. 617, ll. 3-4. When Petitioner learned that he was going to court, he “thought [he] was pleading to the five years.” App. 617, ll. 12-15; App. 622, ll. 13-15. However, when he arrived at court, he learned he was “there to pick a jury.” App. 617, ll. 15-16; App. 618, ll. 24-25. Petitioner indicated he never rejected the offer for five years and thought he was entering a guilty plea in order to receive a five-year sentence. App. 617, ll. 17-22; App. 622, ll. 19-24; App. 623, ll. 11-13. Petitioner recalled that during the trial, the prosecutor offered a sentence of fifteen years in exchange for a guilty plea. App. 617, ll. 23-24. Petitioner admitted he rejected this offer. App. 622, ll. 16-18; App. 623, ll. 14-15; App. 623, ll. 24-25.

Trial counsel affirmed Petitioner’s testimony that immediately prior to trial, the state extended a plea offer to fifteen years. App. 629, ll. 3-5; App. 633, l. 25. While discussing this offer with Petitioner, trial counsel’s “advice at that point was 15-25, while it’s a ten-year

difference, ... either one would have changed his life forever. So at that point, the idea of going to trial was much more appealing than the 15-year sentence.” App. 634, ll. 4-11.

Trial counsel also indicated the state offered “a five to 30 with a recommendation for the five” in exchange for Petitioner’s guilty plea. App. 629, ll. 6-9. The plea offer for five years was extended “sometime before” trial. App. 632, ll. 4-6. It was trial counsel’s recollection that Petitioner rejected that offer. App. 629, ll. 9-10. According to trial counsel, “[w]e did turn down the five years.” App. 631, ll. 16-17.

Trial counsel indicated that he extended the plea offer to Petitioner and advised “him that innocent people don’t plead guilty.” App. 633, ll. 9-13. Nevertheless, he encouraged Petitioner to consider the offer because going to trial was “very risky.” App. 633, ll. 14-15. Trial counsel explained he felt confident the plea judge would sentence Petitioner to five years, but he could not make that promise to Petitioner because the offer was for a sentence between five and thirty years, with a recommendation from the state for a five-year sentence. App. 633, ll. 18-24.

Order denying relief

In the order denying relief, Judge Seals determined trial counsel “adequately communicated” with Petitioner “regarding plea offers, as well as all other aspects” of the case. App. 651. The PCR judge explained that Petitioner believed he was going to court to plead guilty in exchange for a five year plea offer. App. 651. However, when Petitioner arrived at the courthouse, he realized he was “pick[ing] a jury and begin[ning] his trial.” App. 651. Further, the PCR judge noted that trial counsel indicated the state extended a plea offer for a sentence between five to thirty years with the state recommending a five-year sentence. App. 651. According to counsel, Petitioner “turned down this offer on the record and insisted on going to

trial throughout his representation” of Petitioner. App. 651. Thereafter, Judge Seals denied Petitioner relief on this claim. App. 651.

Discussion

To prove ineffective assistance of counsel, Petitioner must prove counsel’s performance fell below an objective standard of reasonableness, and but for counsel’s errors, there is a reasonable probability that the result would have been different. Strickland v. Washington, 466 U.S. 668 (1984). Thus, a two-pronged test is used in evaluating allegations of ineffective assistance of counsel. Petitioner must prove (1) that counsel’s performance was deficient in that it fell below reasonable professional norms; and (2) there is a reasonable probability that, but for counsel’s unprofessional errors, the result would have been different. Cherry v. State, 300 S.C. 115, 117-118, 386 S.E.2d 624, 625 (1989).

A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997). In order to show ineffective assistance of counsel as a ground for relief, Petitioner 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, 466 U.S. at 686; see also Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-688.

The right to the effective assistance of counsel extends to the plea bargaining process. Lafler v. Cooper, 566 U.S. 156, 162 (2012); Missouri v. Frye, 566 U.S. 134, 144; Padilla v. Kentucky, 559 U.S. 356, 373-374 (2010); Hill v. Lockhart, 474 U.S. 52, 57-59 (1985); Judge v.

State, 321 S.C. 554, 471 S.E.2d 146 (1996), *overruled on other grounds by* Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000).

In Lafler, the defendant initially expressed a willingness to accept a plea offer in court, but later rejected the offer based upon the advice of counsel. 566 U.S. at 161. Thereafter, the defendant was tried, found guilty, and sentenced to substantially more time than the plea offer would have provided. Id. On appeal to the United States Supreme Court, the parties agreed trial counsel's advice with respect to the plea offer constituted deficient performance. Id. at 163. The issue before the Supreme Court was how to apply Strickland's prejudice prong where ineffective assistance resulted in rejection of a plea offer, and yet the defendant was convicted after a trial. Id.

The Court held that in circumstances such as these, a defendant must show that but for the ineffective advice, there is a reasonable probability that the plea offer would have been presented to the court, that the court would have accepted its terms, and that the conviction or sentence, or both, under the offer's terms would have been less severe than under the judgment and sentence that were in fact imposed. Id. at 164.

Turning to the question of an appropriate remedy, the Court considered two scenarios. In the first scenario, where the defendant would have pled to the same charges as the defendant was convicted after trial, the court may conduct an evidentiary hearing to determine whether the defendant has shown a reasonable probability that but for counsel's errors, he would have accepted the plea. If such a showing is made, the court may exercise discretion in determining whether the defendant should receive the term of imprisonment per the offer, the sentence he received at trial, or something in between. Id. at 170-171. In the second scenario in which resentencing alone will not redress the issue, such as when the guilty plea offer was to counts

less serious than the ones for which the defendant was convicted after trial, the proper remedy may be to require the prosecution to extend the offer again. Id. at 171. The judge can then exercise discretion in deciding whether to vacate the conviction from trial and accept the plea or leave the conviction undisturbed. Id.

The Supreme Court analyzed a similar issue in Frye. The issue before the court was whether the constitutional right to effective assistance of counsel extended to negotiations and considerations of plea offers that lapse or are rejected. 566 U.S. at 138. The Court held that defense counsel has a duty to communicate formal offers from the prosecution that may be favorable to the accused. Id. at 145. The Court further held that to show prejudice from counsel's deficient performance where a plea offer has lapsed or been rejected, defendants must demonstrate a reasonable probability they would have accepted the earlier plea offer. Id. at 147. In addition, defendants must show a reasonable probability the plea offer would have been entered without the prosecution canceling it, or the trial court refusing to accept it if they had the authority to exercise that discretion under state law. Id. In short, the defendant must show a reasonable probability that the end result of the criminal process would have been more favorable by reason of a plea to a lesser charge or a sentence of less prison time. Id.

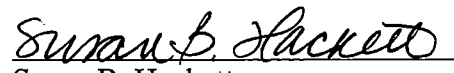
Plea counsel rendered deficient performance by failing to communicate adequately with Petitioner regarding the plea offer extended by the prosecution. The undisputed testimony at the PCR hearing indicated plea counsel received a plea offer from the state and extended that plea offer to Petitioner. However, Petitioner did not understand the terms of the plea offer or what was necessary to accept the plea offer as indicated by the testimony. Petitioner believed he was going to court to enter a guilty plea, but when he arrived, he was surprised to learn that he was going to trial. Trial counsel's advice concerning the fifteen-year plea offer is instructive

regarding his deficient advice to Petitioner regarding the earlier plea offer to a term of years between five and thirty, with a recommendation for five. Trial counsel admitted that he told Petitioner “innocent people don’t plead guilty” when Petitioner was considering the fifteen year offer. It is likely trial counsel advised Petitioner similarly when Petitioner was considering the five-year offer. Such advice is deficient, particularly when trial counsel knew Petitioner was maintaining his innocence as to the drug charges. Trial counsel failed to couple this advice with a realistic understanding of the evidence against Petitioner – the word of a police officer. It was incumbent upon trial counsel to provide Petitioner with realistic expectations of the outcome of a trial where a police officer would swear to a jury that he saw Petitioner throw drugs down, where Petitioner would admit to running from law enforcement, and where Petitioner would admit to engaging in a struggle, no matter how small Petitioner’s part, with a police officer. Trial counsel’s failure to do so was deficient, particularly when coupled with advice regarding innocent people not pleading guilty.

There can be little doubt that a guilty plea with a recommendation by the state to a term of five years in prison was much more favorable than risking a trial where the mandatory minimum sentence if convicted was twenty-five years in prison. Petitioner testified that not only would he have accepted the plea offer, but he believed he had accepted the plea offer. Thus, Petitioner has satisfied the prejudice prong because there is a reasonable probability that but for counsel’s deficient advice, he would have accepted the plea offer.

CONCLUSION

Petitioner respectfully requests this Court grant the petition for writ of certiorari and order full briefing on the issue presented. In the event this Court grants the petition and dispenses with full briefing, Petitioner respectfully requests this Court reverse the decision of the PCR court and order a new trial.


Susan B. Hackett
Appellate Defender

ATTORNEY FOR PETITIONER

This 16th day of March, 2018.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

William H. Seals, Jr., Circuit Court Judge

ARTHUR L. RIVERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Arthur L. Rivers states:

1. She is an Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent Petitioner.
2. She has reviewed the trial transcript dated September 15, 2009, the direct appeal documents, the post-conviction relief documents, and the PCR hearing transcript dated January 9, 2017. After reviewing this information, it is counsel's opinion that the appeal is without legal merit sufficient to warrant a new trial.
3. Pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), she has briefed an arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve her as counsel for Arthur L. Rivers.

Respectfully Submitted,



Susan B. Hackett

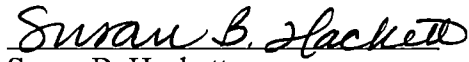
Appellate Defender

ATTORNEY FOR PETITIONER

This 16th day of March, 2018.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of her ability this Johnson 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."



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent
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STATE OF SOUTH CAROLINA,

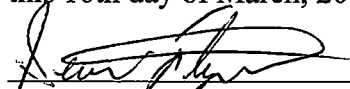
RESPONDENT

—————
CERTIFICATE OF SERVICE
—————

The undersigned hereby certifies that a true copy of the Johnson Petition for Writ of Certiorari and a copy of the Appendix in the above referenced case has been served upon Rasheeda Cleveland, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Johnson Petition for Writ of Certiorari and a copy of the Appendix have been served on Arthur L. Rivers, #254993, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 16th day of March, 2018.

Susan B. Hackett
Susan B. Hackett
Appellate Defender
ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me
this 16th day of March, 2018.

 (L.S)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.