STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Florence County

Honorable Paul M. Burch, Circuit Court Judge

DOMINIQUE ALEXANDER CASH,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-001820

PETITION FOR WRIT OF CERTIORARI

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INDEX

ISSUES PRESENTED

1.

Whether the court erred in denying Petitioner a belated appeal where counsel failed to timely file and serve notice of appeal after Petitioner received the maximum sentence at trial and continued to protest his innocence at sentencing, where Petitioner testified counsel never asked if he wanted to appeal, and counsel testified he did not remember asking if Petitioner wanted to appeal, and Petitioner attempted to file an appeal pro se?

2.

Whether the court erred in finding trial counsel was not ineffective in failing to present mitigation at sentencing, where counsel did not present mitigation and Petitioner received the maximum sentence, since Petitioner's supportive father and positive academic and employment history could have been brought to the court's attention?

STATEMENT

Petitioner pleaded not guilty to violating S.C. Code Ann. § 16-9-320(B), hereinafter "assault while resisting arrest." App. 6, l. 16 – 7, l. 3. He was tried before the Honorable D. Craig Brown and a jury April 9 – 10, 2013. Wallace H. "Jay" Jordan, Jr., represented Petitioner, and Robert Wells appeared on behalf of the state. App. 1; App. 243.

Petitioner thought he was charged with "[a]ssault by kicking the officer" based on the wording of his arrest warrant, and explained: "I wanted to go to trial because I was trying to prove I never struck the officer nor did I fight the officer." App. 297, ll. 2-22.

The state alleged that Petitioner's cousin, Adrian Boney, and two female acquaintances began cursing at Motel 6 employees in the motel lobby after they became upset over a policy that did not allow them to retrieve their items from a motel room. App. 41, ll. 16-25; App. 146, ll. 14-18. Petitioner was not involved in that disturbance. App. 48, l. 25 – 49, l. 19.

The motel manager called 911, and Deputy Josh Phillips of the Florence County Sherriff's Office responded. App. 56, ll. 7-15. Deputy Phillips said he decided to place Adrian Boney in investigative detention because the two females were "arguing and cussing," and Boney "started yelling and cussing." App. 68, ll. 10-13; App. 69, l. 1 – 70, l. 2.

Petitioner testified that he saw Deputy Phillips take "Adrian out [of] the hotel lobby. The officer knew I was behind him." App. 170, ll. 18-20. Petitioner said he had a close relationship with Adrian Boney and "needed to know" what was going to happen. App. 170, ll. 22-23. When Phillips was about two yards from his patrol car, Petitioner said he asked: "[W]hat's his charge?" App. 171, ll. 18-20. Petitioner testified that Deputy Phillips immediately pushed him, and when he asked what the officer was doing, Phillips pushed him again and started wrestling Petitioner. App. 171, ll. 21-25. Petitioner said Phillips tripped and "pulls me on the ground with him. I try to

get up off the ground; he [is] pulling me on my neck so I'm not able to get up off the ground." App. 172, ll. 7-10.

Petitioner testified he was punched in the face by Deputy Phillips, and put his hands up. App. 172, ll. 12-13. Petitioner said Adrian Boney then began kicking Deputy Phillips. App. 172, ll. 19-22. Petitioner explained that he never struck, hit, or jumped on the deputy. App. 171, ll. 6-13.

Petitioner said that when a second officer arrived, "I wasn't trying to get in handcuffs. I wouldn't put my hands behind my back and that's why I ain't pleading because I ain't did anything to that man." App. 173, ll. 3-6.

Deputy Phillips testified that when he reached the patrol car with Adrian Boney, he felt a tug on his shoulder. App. 70, ll. 10-13. Phillips said that he looked over his shoulder and Petitioner was standing "right on top" of him, and said: "[W]hy the fuck are you putting my brother in your car? Why are you arresting him?" App. 70, l. 24 – 71, l. 3. Deputy Phillips said that he pushed Petitioner and told him to "back up off of me." App. 71, ll. 7-9. Phillips said Petitioner "kind of lunged at me," and Phillips again "said back up and I shoved him back again." App. 71, ll. 9-13. Deputy Phillips said when he pushed Petitioner the second time, Petitioner grabbed his arm, and Phillips struck Petitioner in the face. App. 71, ll. 12-16.

According to Deputy Phillips: "There were bushes behind us. We kind of tripped over the bushes while I was trying to get [Petitioner] on the ground so I could get cuffs on him. We fell. He fell on top of me." App. 71, ll. 20-22. Phillips said that while Petitioner was on top of him, the "two females had run up by that time and Mr. Boney had come around." App. 72, ll. 1-2.

Deputy Phillips said Adrian Boney kicked him in the head, and: "I started getting multiple kicks to the back of my head, multiple kicks to my right side. App. 72, ll. 13-15; App. 72, ll. 20-21. The two females also began kicking Deputy Phillips. App. 57, ll. 10-13. One of the females "was stomping on his head." App. 61, ll. 9-11. Deputy Phillips suffered a concussion and "some issues with [his] back" as a result of being kicked by these third parties. App. 86, l. 20 – 87, l. 5. He also had redness and lacerations on his hands, arms, legs, and head. App. 116, ll. 7-8; App. 118, ll. 20 – 123, l. 1. Deputy Phillips did not allege Petitioner hit or kicked him. There was no evidence that Petitioner encouraged Adrian Boney or the females to kick or injure Deputy Phillips.

Phillips said he tried to get Petitioner off of him, and tried to "keep [his] mike up," but that Petitioner "covered my mike up where I couldn't get out radio contact to other officers responding for back-up." App. 72, l. 22 – 73, l. 2. Phillips said at that point, Lieutenant Wilson Powell pulled up, Phillips kicked Petitioner off of him, and Petitioner put his hands up. App. 73, ll. 3-8. Deputy Phillips said after Lieutenant Powell arrived, Powell "went straight for [Petitioner]," and Phillips got Adrian Boney to the ground. App. 73, ll. 12-14.

Phillips said Lieutenant Powell was "fighting with [Petitioner] on the ground trying to get cuffs on him. [Petitioner] was actually like in the fetal position on the ground." App. 73, ll. 15-22. Deputy Phillips said that at that point Petitioner was "laying face first on the ground in a fetal position keeping his hands underneath him where we weren't able to get his hands out to get handcuffs on him." App. 74, ll. 11-14. Petitioner was told he was being placed under arrest, and according to Deputy Phillips, Phillips and Powell "probably fought with him I'd say at least a minute before we were able to get cuffs on him." App. 74, ll. 19-21. Deputy Phillips did not allege being assaulted, beaten, or wounded while he and Powell arrested Petitioner.

Lieutenant Powell testified that when he arrived, Petitioner was on top of Deputy Phillips and immediately stood and raised his hands in the air. App. 90, ll. 14-16; App. 96, l. 19 – 97, l. 2. Lieutenant Powell said he took Petitioner aside "to secure him, which I had to put him on the ground and I had to wrestle with him because he would not put his hands behind his back." App. 90, ll. 22-25. Powell said there was a "brief struggle" because Petitioner initially did not put his hands behind his back. App. 98, ll. 9-14.

Petitioner, Adrian Boney, and one of the females were indicted together. The indictment alleged they did "knowingly and willfully assault, beat or wound one Deputy Josh Phillips of the Florence County Sheriff's Office, a law enforcement officer of this State, while resisting the efforts of said officer to make a lawful arrest of one or more of them . . ." App. 386 – 387.

At the conclusion of the state's case, trial counsel moved for a directed verdict. App. 127, ll. 3-4. Counsel argued the state had not met its burden of demonstrating that there was "a sufficient case to go to the jury as it pertains to assault and battery on a police officer as to [Petitioner]." App. 127, ll. 4-7. The court denied the motion. App. 127, ll. 21-25.

Based on the evidence presented by the state, Petitioner could have been found guilty of the lesser offense of resisting arrest, but not the greater offense of assault while resisting arrest because the state did not present evidence that Deputy Phillips was injured by Petitioner while resisting arrest. Third parties intervened, kicking and injuring Deputy Phillips. However, there was no testimony Petitioner injured Deputy Phillips or encouraged the third parties.

Trial counsel and the solicitor asked the judge to charge the jury on the lesser offense of resisting arrest. App. 191, l. 12 – 192, l. 12. The judge agreed, and charged the jury on assault while resisting arrest, as well as the lesser offense of resisting arrest. App. 215, l. 15 – 216, l. 16 – 217, l. 6. The jury convicted Petitioner of assault while resisting arrest and the court sentenced

Petitioner to ten years' imprisonment—the maximum sentence allowed by law. App. 229, ll. 2-6; App. 387.

The court gave Petitioner the opportunity to speak at sentencing. App. 234, ll. 1-13. Petitioner steadfastly maintained his innocence to the trial judge, saying: "I never assaulted this officer. I never even attempted to. I had no reason to. I had a job. I wanted to go back to college." App. 234, ll. 19-23. "I didn't do it and . . . if I did do it, I would have took [a] plea." App. 235, ll. 12-13. "I wouldn't have taken this to trial if I was guilty . . ." App. 235, ll. 15-16.

Trial counsel did not file and serve notice of intent to appeal until May 8, 2013. App. 243 – 245. Because Petitioner was convicted on April 10, 2013, the South Carolina Court of Appeals dismissed the appeal for failure to timely serve notice of appeal. App. 250.

Petitioner filed an application for post-conviction relief (PCR) on August 30, 2013. and alleged, inter alia, failure to effectively present mitigating information during sentencing, and failure to file timely notice of appeal pursuant to *White v. State*.[1] App. 283 – 286. A hearing was held before the Honorable Paul Burch on March 17, 2017. App. 287. Kristy Goldberg represented Petitioner and Lindsey McAllister represented the state. App. 287.

Petitioner testified that he did not discuss the possibility of an appeal with trial counsel, and did not know he had the right to appeal until he arrived at the South Carolina Department of Corrections (SCDC). App. 305, l. 25 – 306, l. 11. "No, he never—**we never went over an appeal**, never went over a reconsideration, nothing like that." App. 316, ll. 22-25 (emphasis added).

[1] The state filed a return April 23, 2014. App. 277 – 282. Petitioner filed an amended application for PCR July 12, 2016, and a second amended application for PCR March 10, 2017. App. 283 – 286.

After learning of his right to appeal at SCDC, Petitioner immediately attempted to request an appeal. On April 13, 2013, Petitioner filled out an SCDC "request to staff member" form that said: "I am requesting for an appeal on my charge;" Petitioner also asked for access to the law library. App. 259. Petitioner then wrote a letter to the Florence County Clerk of Court and the Public Defender's Office. App. 246 – 247. The letter stated: "I am requesting for an appeal on my case," and "I plan to make copies of this letter, so there is record I requested for an appeal Tuesday April 16, 2013." App. 246 – 247. Petitioner's letter was received by the Clerk of Court on April 19, 2013, and by the Public Defender's Office[2] on April 25, 2013. App. 246 – 247; App. 259 – 262. Petitioner also corresponded with the Court of Appeals in an attempt to file an appeal. App. 252 – 269.

Wallace H. "Jay" Jordan, Petitioner's trial counsel, said he "typically" "always advise[s] of appeal." App. 340, ll. 1-5. When asked whether he specifically recalled discussing an appeal with Petitioner, trial counsel said that because the jury was out deliberating for "a while,"

> I would've talked to him, okay, here's what we do with the good news, you know, you're not guilty and here's what happens. Here's what we do with the bad news. You have these rights and options at that point and advising him further that we'll probably roll right into sentencing in the event or pretty close to it, in the event you are found guilty. So it was sort of — I do remember sitting, you know, at the table with him while the jury is deliberating advising him, you know, that this is what's coming next, one way or another.

App. 357, l. 17 – 358, l. 10.

PCR counsel asked: "Do you remember speaking with [Petitioner] at all after the verdict and sentencing to say, do you want me to file that notice of appeal that we discussed?" App. 358, ll. 17-19. Trial counsel said: "**I don't remember that. I mean, everything happens pretty quick, you know, right after sentencing.**" App. 358, ll. 20-21 (emphasis added). Trial counsel

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[2] Trial counsel was a part-time Assistant Public Defender in Florence County at the time of the trial. App. 328, l. 22 – 329, l. 1.

noted the sheriff tries to get defendants "out the door" to the detention center rapidly. App. 358, ll. 22-25. Petitioner testified that he could not remember whether he spoke with trial counsel after sentencing. App. 305, ll. 20-24.

PCR counsel argued that Petitioner's behavior showed he did not knowingly and intelligently waive his right to appeal: "[H]e was convicted on the 10th. With six days after that on April 16th, he did the only thing he could do to request an appeal be filed . . ." App. 365, ll. 13-15. That appeal was dismissed. App. 250.

Nevertheless, in its order of dismissal, the PCR court stated that counsel "fully explained [Petitioner's] right to appeal, but [Petitioner] failed to make a timely request, and counsel took appropriate action to file a notice once he realized [Petitioner] wanted him to do so." App. 381. The PCR court said:

> Counsel testified he specifically recalled discussing an appeal with [Petitioner] before the verdict while the jury was deliberating, and Counsel explained to [Petitioner] what would happen in both scenarios, guilty or not guilty. Counsel further testified he most likely did not speak with [Petitioner] after sentencing as [Petitioner] was moved to the holding cell very quickly.

App. 380.

Trial counsel did not present any mitigating information about Petitioner at sentencing, other than to say he took a "small exception" to the solicitor's allegation that Petitioner had absconded parole in North Carolina. Counsel told the court: "I think Your Honor has a good handle on the case." App. 233, l. 17-18. "I would just ask that you employ the most leniency and mercy as you can muster." App. 233, l. 19 – 234, l. 5.

At the PCR hearing, trial counsel said: "We were focused on trying to win the trial not, you know, mitigation for winning if we lost the trial." App. 339, ll. 10-12.

Petitioner was from North Carolina, and remained incarcerated at the county jail while the charge was pending. App. 175, ll. 24-25; App. 293, ll. 6-10. None of his family members or

friends were present during his trial and sentencing. App. 303, ll. 14-19. Petitioner did not know his trial date in advance, and said he asked counsel to notify his family members. App. 304, ll. 1-5. Counsel agreed he did not provide Petitioner with a trial date, merely terms of court. App. 338, ll. 3-17. Counsel did not remember Petitioner asking him to notify his family. App. 339, ll. 13-15.

Petitioner's father testified before the PCR court that he did not know Petitioner had a trial scheduled, was never contacted by trial counsel, and would have attempted to be present and speak on his son's behalf if he had known of the court date. App. 326, ll. 5-14. Petitioner's father said he would have told the court that Petitioner was living with his grandparents, "going to school. Had a job. Had a vehicle. I was proud of him." App. 326, l. 24 – 327, l. 1. Petitioner would have wanted his family to speak during sentencing. App. 304, ll. 9-11.

The PCR court wrote that it "finds [Petitioner's] testimony regarding counsel's ineffectiveness is not credible, while also finding Counsel's testimony is credible. This Court finds Counsel provided effective assistance in this case." App. 381. The court denied Petitioner's application for post-conviction relief. App. 385.

This petition for writ of certiorari follows.

ARGUMENT

1.

The court erred in denying Petitioner a belated appeal where trial counsel failed to timely file and serve notice of appeal after Petitioner received the maximum sentence at a trial and continued to protest his innocence at sentencing, where Petitioner testified counsel never asked if he wanted to appeal, and counsel testified he did not remember asking Petitioner if he wanted to appeal, and Petitioner attempted to file an appeal pro se.

A defendant must knowingly and intelligently waive the right to appeal from his conviction and sentence. *White v. State*, 263 S.C. 110, 118, 208 S.E.2d 35, 39 (1974). "Following a trial, counsel is required to make certain the defendant is made fully aware of the right to appeal. In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure in *Anders v. California*, 386 U.S. 738 (1967)." *Turner v. State*, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). After a client is convicted and sentenced, "[c]ounsel should give the client his professional judgment whether an appeal should be taken and ascertain whether the client wishes to appeal." *Matter of Anonymous Member of the Bar*, 303 S.C. 306, 307, 400 S.E.2d 483, 483 (1991).

While counsel has discretion as to how to pursue a client's objectives, counsel does not have discretion as to whether to pursue a client's objectives. The defendant has the ultimate authority to make certain fundamental decisions regarding his case, including the decision whether to take an appeal. *Jones v. Barnes*, 463 U.S. 745, 751 (1983). Some decisions "are reserved for the client—notably, whether to plead guilty, waive the right to a jury trial, testify in one's own behalf, and forgo an appeal." *McCoy v. Louisiana*, 138 S.Ct. 1500, 1503 (2018).

In *Simuel v. State*, 390 S.C. 267, 270, 701 S.E.2d 738, 739 (2010), this Court found the PCR court erred in denying Simuel a belated appeal pursuant to *White v. State* where there was "no probative evidence that [trial counsel] informed Petitioner of his right to a direct appeal, nor [was] there any evidence that Petitioner waived his right to a direct appeal." In *Simuel*, trial counsel "testified at the PCR hearing that he normally informs his clients of their right to appeal after trials. He did not specifically recall informing Petitioner of his right to appeal, but testified that he probably had that discussion with Petitioner." *Id.* at 269, 701 S.E.2d at 738. Trial counsel also testified Simuel never asked him to appeal. *Id.* at 269, 701 S.E.2d at 739. The PCR court found trial counsel's testimony was credible, Simuel's testimony was not credible, and counsel's testimony showed Simuel never asked counsel to file an appeal. *Id.*

In reversing the decision of the PCR court and granting Simuel a belated appeal, this Court explained: "To waive a direct appeal, a defendant must make a knowing and intelligent decision not to pursue the appeal." (internal quotations omitted) (quoting *Sheppard v. State,* 357 S.C. 646, 651, 594 S.E.2d 462, 465 (2004)). "Even considering the PCR judge's credibility findings, there is no probative evidence that: (1) Petitioner knowingly waived his right to a direct appeal, and (2) [trial counsel] made certain Petitioner was fully aware of his right to appeal." *Id.* at 271, 701 S.E.2d 739-40.

Here, as in *Simuel*, even considering the PCR court's credibility findings, there is no evidence in the record that Petitioner made an intelligent waiver of his right to appeal. Trial counsel and Petitioner both testified they did not remember if they spoke after Petitioner was sentenced. App. 305, ll. 20-24; App. 358, ll. 17-25. Petitioner said trial counsel did not discuss an appeal, and he did not know he had the right to appeal until he arrived at SCDC. App. 305, l. 25 – 306, l. 11; App. 316, ll. 22-25. Trial counsel said that he did not remember whether he asked

Petitioner if he wanted to appeal. App. 358, ll. 17-21. In the absence of ascertaining a knowing and intelligent waiver, counsel was obligated to initiate an appeal or comply with the procedure in *Anders*.

In *Clark v. State*, 396 S.C. 164, 169, 719 S.E.2d 708, 710 (Ct. App. 2011), the South Carolina Court of Appeals determined that the PCR court erred in failing to grant Clark a belated review of his direct appeal issues where "there is evidence trial counsel explained the *appeal process* to Petitioner before the trial started, [but] there is no probative evidence trial counsel informed Petitioner of his *right to appeal* following Petitioner's trial." (emphasis in original). "Explaining an appeal process before a defendant has even gone to trial does not equate to making a convicted client fully aware of his right to appeal that conviction." *Id.*

Critically, although trial counsel remembered sitting next to Petitioner during deliberations and advising him "what's coming next," he did not remember asking Petitioner if he wanted to file an appeal either before or after the verdict. App. 358, ll. 7-21. As in *Clark*, the mere fact that counsel explained the appeal process prior to the verdict did not relieve him of the obligation to file a notice of appeal absent a knowing and intelligent waiver by Petitioner.

Absent Petitioner's waiver of his right to appeal, counsel had to pursue an appeal. Instead, counsel placed the obligation of discovering the appeal process and timely filing and serving notice of appeal on Petitioner. Petitioner's lack of waiver of his right to appeal is evidenced by his futile correspondence with various entities requesting an appeal. App. 252 – 269; App. 372.

The court erred in denying Petitioner a belated appeal. When the PCR court finds that an applicant is not entitled to appellate review pursuant to *White v. State*, the applicant may petition

the South Carolina Supreme Court for a writ of certiorari. *Davis v. State*, 288 S.C. 290, 291, 342 S.E.2d 60 (1986).[3]

[3] "*Davis* promulgates procedural guidelines for review of PCR cases in which a petitioner's knowing and intelligent waiver of the right to direct appeal is at issue. *White* permits consideration of the full trial record on this issue in conjunction with appellate review of the PCR proceeding under an exception to the prohibition against appellate courts considering appeals in the absence of notice of direct appeal given and timely served." *Smith v. State*, 309 S.C. 413, 414-15, 424 S.E.2d 480, 481 (1992).

2.

The court erred in finding trial counsel was not ineffective in failing to present mitigation at sentencing, where counsel did not present mitigation and Petitioner received the maximum sentence, since Petitioner's supportive father and positive academic and employment history could have been brought to the court's attention.

The Sixth Amendment to the United States Constitution guarantees an accused the right to effective assistance of counsel. U.S. CONST. amend. VI; *Strickland v. Washington*, 466 U.S. 668 (1984). To establish a claim of ineffective assistance of trial counsel, a defendant must show that counsel's performance was deficient, and that "the deficient performance prejudiced the defendant to the extent that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry v. State*, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989) (internal quotations omitted) (quoting *Strickland*, 466 U.S. at 687).

"[S]entencing is a critical stage of the criminal proceeding at which [a defendant] is entitled to the effective assistance of counsel." *Gardner v. Florida*, 430 U.S. 349, 358 (1977). The Sixth Amendment provides a right to counsel during sentencing in both noncapital and capital cases. *Lafler v. Cooper*, 566 U.S. 156, 165 (2012). "Even though sentencing does not concern the defendant's guilt or innocence, ineffective assistance of counsel during a sentencing hearing can result in *Strickland* prejudice because any amount of additional jail time has Sixth Amendment significance." *Id.* (internal quotations and alterations omitted) (quoting *Glover v. United States*, 531 U.S. 198, 203 (2001)).

The ABA Criminal Justice Standards, Defense Function standards, pertain to defense counsel's professional obligations at sentencing. While Petitioner recognizes these guidelines are not binding as to the effectiveness of counsel in a PCR claim, they are nonetheless standards.

> Early in the representation, and throughout the pendency of the case, defense counsel should consider potential issues that might affect sentencing. Defense counsel should become familiar with the client's background, applicable sentencing laws and rules, and what options might be available as well as what consequences might arise if the client is convicted.[4]

"Defense counsel should present all arguments or evidence which will assist the court or its agents in reaching a sentencing disposition favorable to the accused."[5]

At the PCR hearing, trial counsel said: "We were focused on trying to win the trial not, you know, mitigation for winning if we lost the trial." App. 339, ll. 10-12. Counsel told the trial court: "I think Your Honor has a good handle on the case," and "I would just ask that you employ the most leniency and mercy as you can muster."[6] App. 233, l. 17-18; App. 234, ll. 3-5.

As recognized by the ABA Defense Function standards, trial counsel has an obligation to be prepared for mitigation in the event the case is lost. Counsel was ineffective because he did not attempt to become familiar with Petitioner's background or present information to the court to try to reach a more favorable disposition for Petitioner.

Petitioner's father was willing to be present and speak on his son's behalf, but did not know the court date. App. 326, ll. 5-14. Petitioner's father said he would have told the court that

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[4] ABA Standards for Criminal Justice: Prosecution and Defense Function § 4-8.3(a) (2015).

[5] ABA Standards for Criminal Justice: Prosecution and Defense Function § 4-8.3(c) (2015).

[6] Counsel took a "small exception" to the state's allegation Petitioner had absconded parole, but otherwise provided no mitigating information to the court.

Petitioner was living with his grandparents, was in school, employed, and "I was proud of him." App. 326, l. 24 – 327, l. 1.

Petitioner submits that trial counsel's failure to present evidence in mitigation was deficient and resulted in prejudice. Had counsel presented evidence in mitigation, such as information that Petitioner was living with his grandparents, gainfully employed, attending school, and had a supportive father, there is a reasonable probability that Petitioner would not have received the maximum amount of imprisonment allowable.

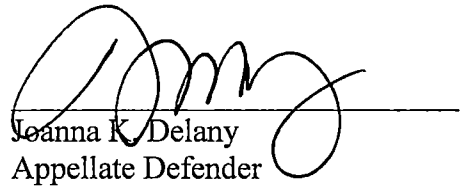
STATEMENT OF ISSUE ON APPEAL

1.

Whether the court erred by refusing to direct a verdict on the greater offense of assault while resisting arrest where there was no evidence Petitioner assaulted the police officer, and any injuries the officer suffered were inflicted by third parties?

CONCLUSION

By reason of the foregoing arguments, Petitioner respectfully requests that a writ of certiorari be granted to allow full briefing on the issues.



Joanna K. Delany
Appellate Defender

ATTORNEY FOR PETITIONER

This 13th day of June, 2018.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Florence County

Honorable Paul M. Burch, Circuit Court Judge

DOMINIQUE ALEXANDER CASH,

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 upon Lindsey McCallister, 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 Dominique Alexander Cash, #354926, at Kershaw Correctional Institution, 4848 Gold Mine Highway, Kershaw, SC 29067-8069, this 13th day of June, 2018.

Joanna K. Delany
Appellate Defender

ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me
this 13th day of June, 2018.

(L.S)
Notary Public for South Carolina
My Commission Expires: May 2, 2027.