

STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

JUL 09 2018

CERTIORARI TO EDGEFIELD COUNTY
Court of Common Pleas
Eugene C. Griffith, Jr. Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2017-001397

K. C. LANGFORD,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

ALAN WILSON
Attorney General

KELLY OPPENHEIMER
S.C. Bar No. 103245
Assistant Attorney General

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3305

ATTORNEYS FOR RESPONDENT

INDEX

ISSUE PRESENTED..... ii

STATEMENT OF THE CASE.....1

STANDARD OF REVIEW7

ARGUMENT10

Probative evidence supports the post-conviction relief court’s finding Petitioner failed to establish trial counsel was ineffective for failing to investigate an alibi defense, because the alleged alibi was not supported by credible evidence, trial counsel knew the two alleged alibi witnesses would be lying as to Petitioner’s whereabouts, and the alibi was imperfect.10

CONCLUSION.....16

ISSUE PRESENTED

Does probative evidence support the post-conviction relief court's finding Petitioner failed to establish trial counsel was ineffective for failing to conduct a sufficient investigation into Petitioner's alleged alibi, namely two alleged alibi witnesses, because the alleged alibi was not supported by credible evidence, when trial counsel knew the alibi witnesses would be lying as to Petitioner's whereabouts, and the alibi was imperfect?

STATEMENT OF THE CASE

Summary of Procedural History

During its December 2008 term, the Edgefield County Grand Jury indicted Petitioner for criminal conspiracy (2008-GS-19-673). Subsequently, during its May 2010 term, the Edgefield County Grand Jury indicted Petitioner for first-degree burglary (2010-GS-19-272), armed robbery (2010-GS-19-273), and kidnapping (2010-GS-19-278). App. 855-66. Mark R. Calhoun, Sr., Esquire, represented Petitioner on these charges. Assistant Solicitor Ervin J. Maye, formerly of the Eleventh Circuit Solicitor's Office, prosecuted the case. On September 7-9, 2010¹, Petitioner proceeded to trial before the Honorable William P. Keesley and a jury. App. 1. Following deliberations, the jury convicted Petitioner as indicted for all charges. App. 540-41. Judge Keesley sentenced Petitioner to a term of imprisonment of twenty years for kidnapping, twenty years for first-degree burglary, twenty years for armed robbery, and five years for criminal conspiracy. App. 565, 857, 860, 863, 866. The sentences were to be served concurrently. App. 565, 857, 860, 863, 866.

Applicant filed a timely Notice of Appeal, and an appeal was perfected on his behalf by Elizabeth A. Franklin-Best, Esquire. On appeal, Petitioner raised the following issue:

Did the trial court judge err when he did not dismiss [Petitioner's] case in May 2010 when [Petitioner] motioned for dismissal for violating his right to a speedy trial, and when the state sought a continuance of that trial so it could further pressure a formerly cooperating co-defendant, who elected to assert his right to remain silent under the 5th Amendment of the federal Constitutional, into testifying for the state at the subsequent trial?

Supp. App. 5. Following briefing, the South Carolina Court of Appeals issued an order certifying the case to this Court pursuant to Rule 204(b), SCACR. Following further briefing

¹ The first page of the trial transcript indicates the trial was held on January 23, 2011. *See* App. 17. However, this is merely a Scrivener's error.

and oral argument, this Court affirmed Petitioner's convictions and sentences. *State v. Langford*, 400 S.C. 421, 735 S.E.2d 471 (2012). *See* App. 766-85. Thereafter, Petitioner petitioned for rehearing, which was denied by written Order dated December 20, 2012. App. 786-87. The remittitur was issued on December 20, 2012. App. 789. Petitioner then petitioned to the United States Supreme Court for a writ of certiorari. By written Order dated October 7, 2013, the United States Supreme Court denied the petition for writ of certiorari.

Thereafter, Petitioner filed an application for post-conviction relief on January 3, 2014. *See* App. 568-607. Respondent filed its Return on March 19, 2015. App. 609-15. Thereafter, through his counsel, Petitioner amended his application on January 26, 2017, to include the following ground for relief: “[Petitioner] alleges that that [sic] the trial counsel failed to investigate two potential alibi witnesses, Veronica and Vanessa Phillips.” App. 608.

An evidentiary hearing into the matter was convened on February 1, 2017, in the Lexington County Court of Common Pleas, before the Honorable Eugene C. Griffith, Jr. App. 616. Petitioner was present at the hearing and represented by Charles T. Brooks, III, Esquire. At the hearing, Petitioner, Veronica Phillips, Vanessa Phillips, trial counsel, and Assistant Solicitor Maye testified. App. 617. On June 15, 2017, Judge Griffith issued a written order denying relief, finding counsel provided effective assistance in this case. App. 753-65.

On June 20, 2017, Petitioner filed a Notice of Appeal, appealing the post-conviction relief court's denial of his application for post-conviction relief. Petitioner filed his Petition for Writ of Certiorari on February 22, 2018. This Return follows.

Summary of Facts Adduced at Trial

The victims in this case were the husband, wife, and son, who ran a Chinese Restaurant, along with the son's wife. App. 203, 216, 232. While they toiled away in their restaurant, Bryan Phillips and Alvin Phillips watched and plotted robbing the victims of their hard-earned cash for their own easy profit. App. 242-46. Petitioner jumped at the opportunity to join this venture. App. 248. They robbed the victims outside the restaurant and grabbed a bag of cash from the victims' house. App. 205-07, 210, 213, 218-19, 224, 233, 250-53. The three Chinese-speaking victims likely seemed perfect prey because they knew virtually no English. App. 214, 219, 222, 321.

Alvin Phillips testified he lived with his sister, Veronica Phillips, and her children about a minute away from the restaurant. He was finishing eleventh grade at Strom Thurmond High School. Alvin and his cousin, co-defendant Bryan Phillips, both noticed that the "Chinese people"² never seemed to go to the bank when they closed the restaurant, but rather always brought a black bag with them to their nearby home instead. So, Alvin and Bryan deduced that the Chinese people were bringing their cash home from the restaurant. They made plans to rob the Chinese people. Bryan called Alvin one night, August 14, 2008. Alvin got his gun and ski mask. Bryan brought his own ski mask and met Alvin. Veronica is mother to Petitioner's child. Petitioner arrived at the house and Alvin and Bryan told him what they were planning. Petitioner wanted to join in, so Petitioner went into the house to grab a blue shirt to tie around his head as a mask. App. 239-48.

² This is the term Alvin used to describe the victims.

They went to the Chinese restaurant as the family closed their restaurant. Alvin pointed a gun at the husband outside the restaurant. The robbers kept demanding money, but could not understand the husband. They demanded money from the son when he came out of the house, but the robbers could not understand him either. Bryan hit one of the victims over the head with his fist. Petitioner ran into the house and came back out with a bag of money. They fled and later divided the money amongst themselves, and Alvin got about \$800. Then, Alvin and Petitioner got in the car with Veronica, who was leaving to pick up Alvin's mother, Vanessa Phillips, and take her to work. They were stopped by an officer who asked to see Veronica's and Petitioner's identification. The officer let them go afterwards. Petitioner stayed at Alvin's house that night. App. 251-58.

Alvin testified he was telling the truth and denied he was telling the story the solicitor wanted. App. 292. Of course, the truth was not what Petitioner wanted. He brought two statements claiming Petitioner and Bryan were not involved and wanted Alvin to sign them so Petitioner and Bryan would not get in trouble. Petitioner told Alvin if he signed those statements, nobody would get in trouble. Alvin admitted this did not turn out to be good advice. But, Alvin admitted Petitioner and Bryan were his friends. He never wanted them to get in trouble. It was not easy for Alvin to testify against them. He admitted he wished the whole thing would go away for all of them. The statements he signed for Petitioner were false. In contrast, he testified the truth was Petitioner and Bryan were with him for the robbery and further, that the prosecution and law enforcement never asked Alvin to say anything but the truth. App. 296-99. On re-cross examination, Alvin agreed he did not want to sign the statements and was forced to sign them. App. 301, lines 18-22.

Deputy Zach Strom stopped Veronica's vehicle, and he corroborated Alvin's account of the traffic stop. He was responding to a bulletin about a larceny at the restaurant which described the suspects as three black males with no other details. The stop was about fifteen minutes after the bulletin and was near where the robbery occurred. App. 308-13.

Bryan called Investigator Roosevelt Young as a defense witness. Investigator Young received the tip that broke the case. Joseph Patrick Stevens, an acquaintance of Investigator Young's, provided the tip. Investigator Young knew Stevens' family and had known Stevens for a long time. On direct examination, Investigator Young described Stevens as a good citizen. Stevens had a bench warrant served on him and called Investigator Young for information. During the conversation, he indicated Alvin, Bryan, and Petitioner committed the robbery. Young thought Stevens was related to one or more of the co-defendants. App. 368-92, 397, 400-01. Young testified he had no influence over the disposition of Stevens' warrant. App. 396. Furthermore, the record does not indicate Stevens was seeking assistance with his bench warrant or charge in exchange for the information he gave.

Young also testified he had Alvin moved from the Edgefield detention center to the Saluda detention center because he was concerned Alvin was being intimidated and influenced into not testifying against his co-defendants. App. 403.

Law enforcement first brought Veronica to the station because her name was one of the names Stevens provided Young. App. 397. Then, Alvin came to the station. App. 398-99. Because Alvin knew Young, he was more comfortable with Young. Alvin confessed to Young, implicated himself completely in the robbery, and admitted he was the gunman. He also implicated Bryan and Petitioner. He did not attempt to minimize his involvement. App. 399-

401. The information Alvin gave was exactly the same information Stevens previously told Young. App. 400.

The three victims testified at trial through an interpreter. The father, Ji, testified that he, his wife, and their son left the restaurant at about 10:30 p.m. The others went ahead of him. He was then confronted by three black men, one pointing a gun at him. He was hit in the head and was “pressed” down on the ground. His son, Li Guan, came out of the house. He was also “pressed” down. The robbers took Ji’s wallet containing his license, credit card, and \$300 cash. One of the robbers went into the house and took a bag of money. The robbers ran away. App. 202-10.

Li Guan, the son, testified through the interpreter that the bag had \$3,000 in it. At gun point, he was made to kneel on the ground and forced to tell the robbers the bag of money was in the house. App. 216-19. One of the robbers then went into the house to get the bag. After the robbers took the bag, the men ran away and Li Guan called 911. App. 219-20.

Li Ai, Ji’s wife and Li Guan’s mother, testified through the interpreter a black guy with his face covered ran into the house and took the money bag. Li Guan then called 911. App. 230-37.

STANDARD OF REVIEW

The standard of review in post-conviction relief cases depends on the specific issue before the reviewing court. It will defer to a post-conviction relief court's findings of fact and will uphold them if there is evidence in the record to support them; but will review questions of law *de novo*, with no deference to trial courts. *Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018).

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRPC; *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. 441, 334 S.E.2d 813. 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). An applicant must overcome this presumption in order to receive relief. *Cherry*, 300 S.C. 115, 386 S.E.2d 624. 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. In assessing counsel's

performance, counsel's decisions must be evaluated at the time in which they were made and "every effort [must] be made to eliminate the distorting effects of hindsight." *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 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.

Moreover, *Strickland* does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, *Strickland* requires the post-conviction relief applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *Id.* at 697. Therefore, the function of the post-conviction relief court is to determine if "in light of all the circumstances,

the identified acts or omissions were outside *the wide range* of professional competent assistance” required of a criminal defense attorney.” *Id.* at 690 (emphasis added).

ARGUMENT

There is evidence of probative value to support the post-conviction relief court's finding Petitioner failed to establish trial counsel was ineffective for failing to investigate an alibi defense, namely two alleged alibi witnesses, when the alleged alibi was not supported by credible evidence, trial counsel knew the alleged alibi witnesses would be lying as to Petitioner's whereabouts, and was an imperfect alibi.

Petitioner asserts the post-conviction relief court erred in finding trial counsel was not ineffective for failing to investigate two alleged alibi witness, Veronica and Vanessa Phillips. Furthermore, Petitioner contends trial counsel was required to ask Petitioner for the information to investigate, rather than relying on Petitioner for any investigative information. In denying Petitioner's allegation his trial counsel was ineffective for failing to investigate these alleged alibi witnesses, the post-conviction relief court found an alibi charge was not supported by credible evidence. The post-conviction relief court further found trial counsel's testimony with respect to the alibi issue was credible, whereas Veronica and Vanessa Phillips's testimony was not credible. This ruling is supported by the record.

“Although counsel should conduct a reasonable investigation into potential defenses, *Strickland* does not impose a constitutional requirement that counsel uncover every scrap of evidence that could conceivably help their client.” *Tucker v. Ozmint*, 350 F.3d 433, 442 (4th Cir. 2003) (quoting *Green v. French*, 143 F.3d 865, 892 (4th Cir. 1998)). “In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments.” *Wiggins v. Smith*, 539 U.S. 510, 521-22 (2003).

Encompassed in counsel's duty to investigate is the duty to investigate alibi witnesses **identified by a defendant**. *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014) (citing *Grooms v. Solem*, 923 F.3d 88, 90 (8th Cir. 1991)) (emphasis added). "Failure to make some effort to contact them to ascertain whether their testimony would aid the defense is unreasonable." *Id.* However, when the testimony presented at the evidentiary hearing from purported alibi witnesses do not establish an alibi defense, no prejudice can result from the alleged deficiency. *See Glover v. State*, 318 S.C. 496, 458 S.E.2d 538 (1995) (holding trial counsel's failure to contact alleged alibi witnesses did not result in prejudice when the testimony these alibi witnesses presented did not establish an alibi defense). Moreover, questions concerning the weight and believability of alibi witnesses is solely within the province of the post-conviction relief court. *Walker*, 407 S.C. at 407, 756 S.E.2d at 147.

At the evidentiary hearing, Veronica Phillips testified no one ever asked her about Petitioner's whereabouts on the day of these crimes, and she never spoke with trial counsel. App. 691, 703. Similarly, Vanessa Phillips also testified no one ever asked her about Petitioner's whereabouts. App. 712, 714. Trial counsel, however, testified Petitioner never gave him any information to investigate, and neither Vanessa nor Veronica or any other of Petitioner's family members contacted him prior to trial. App. 717, 718, 728-29, 732. He explained:

[Petitioner] essentially didn't give me any defense to hand my hat on. The allegation is that he was with two family members at the time of the robbery. That was not brought up until about two weeks before the trial and when it was brought to my attention, it was essentially presented to me, hey, **I have got a couple of relatives who are willing to testify that I was with them but it wasn't true** and I told [Petitioner] that it would be a bad idea to put a young girl that's the mother of his child or a relative up on the stand to commit perjury and that the Solicitor would probably chew her up and it would make [Petitioner] look a lot more bad than good and when I explained that to him, he dropped it.

App. 717 (emphasis added). Trial counsel further testified he believed this purported alibi would be false based on the fact Petitioner had never previously told him he was not present at the crime scene nor that he was with anybody at the time of these crimes. App. 730-31. He elaborated Petitioner did not give him the names of these individuals. App. 728, 733. **He further elaborated Petitioner never stated he was actually with these individuals and made it clear any alibi these alleged alibi witnesses would testify to would be a lie.** App. 717, 730. Based on the testimony presented at the evidentiary hearing, the post-conviction relief court found trial counsel's testimony was credible, whereas Veronica and Vanessa Phillips' testimony was not credible. App. 757.

For the months leading up to trial, Petitioner never gave trial counsel any leads to investigate. It was not until the ninth hour Petitioner informed trial counsel there were two individuals who would testify to his whereabouts at the time of these crimes. However, Petitioner never provided trial counsel with any identifying information for these individuals, making any investigation into them impossible. Furthermore, Petitioner made it clear to trial counsel any alibi to which these individuals would testify would be a lie. Accordingly, there is evidence in the record to support the post-conviction relief court's finding the alleged alibi was not supported by credible evidence.

"A lawyer shall not knowingly offer evidence that the lawyer knows to be false." Rule 407, SCACR, Rules of Prof. Conduct, Rule 3.3(a)(3). Furthermore, "a lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the law reasonably believes is false." *Id.* In addition, trial counsel must be given leeway to make reasonable strategic decisions. Indeed, "no particular set of detailed rules for counsel's conduct

can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant.” *Strickland*, 466 U.S. at 689. Moreover, “representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another.” *Id.* at 693. Where counsel articulates a valid strategic reason for his action or inaction, counsel’s performance should not be found ineffective. *Roseboro v. State*, 317 S.C. 292, 454 S.E.2d 312 (1996); *Underwood v. State*, 309 S.C. 560, 425 S.E.2d 20 (1992); *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992). “Courts must be wary of second guessing counsel’s trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel.” *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992). In fact, *Strickland* requires extreme deference to counsel’s strategic judgments that are adequately investigated. Indeed, *Strickland* proscribes “strategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable. . . .” *Strickland*, 466 U.S. at 690-91.

As aforementioned, trial counsel knew the testimony any alibi witnesses would have presented at trial would have been false. Based on this, trial counsel explained to Petitioner it would be a bad idea to put the mother of his child and a relative on the stand to commit perjury. Trial counsel clearly made a strategic decision not to present these alleged alibi witnesses at trial, as he knew any alibi they presented would have been a lie.

Additionally, through an alibi, an accused attempts “to show that because he was not at the scene of the crime at the time of its commission, having been at another place at the time, he could not have committed the crime.” *State v. Robbins*, 275 S.C. 373, 375, 271 S.E.2d 319, 320

(1980) (quoting 21 Am. Jur. 2d Criminal Law § 136)). To do so, the accused must show “he was at a place so distant that his participation in the crime was impossible.” *Id.* Furthermore, the alibi must account for the entire time during which these crimes were committed. *Id.* “Since an alibi derives its potency as a defense from the fact that it involves the physical impossibility of the accused’s guilt, a purported alibi which leaves it possible for the accused to be the guilty person is no alibi at all.” *Glover*, 318 S.C. at 498, 458 S.E.2d 540 (citing *Robbins*, 275 S.C. 373, 271 S.E.2d 319).

Here, Petitioner testified he informed trial counsel he was at Veronica Phillips’ house on the day of the robbery. App. 651-52. Her residence was a short distance from the crime scene, approximately one-eighth of a mile. App. 654, 683. Petitioner elaborated he was at their home all day, but was in and out of the house from the porch to the living room, monitoring his twenty-month-old son, who was outside playing with two other children. App. 653, 682. He further testified his twenty-month-old son was outside playing at approximately 10:45 in the evening. App. 682. Similarly, Veronica Phillips testified Petitioner was at home with her all day, and they fell asleep on the couch together until it was time to take her mother, Vanessa Phillips, to work at approximately eleven o’clock in the evening. App. 690, 693-94, 701-02. Veronica also testified it would have been impossible for Petitioner to have left the apartment without her knowing. App. 694. However, the statement Veronica provided to law enforcement told a different tale. In that statement, Veronica stated as she was leaving to take her mother to work, approximately 10:45 in the evening, Petitioner and Alvin came into her house. App. 752. Vanessa Phillips testified similarly. App. 710-11.

The above testimony does not establish an alibi. In particular, the location at which Petitioner alleges to have been during the commission of this crime is a short distance from the crime scene. In fact, due to the proximity of the two locations, it is entirely conceivable Petitioner could have committed these crimes and returned to the apartment in time to take Vanessa to work with Veronica. Furthermore, Petitioner and Veronica gave differing accounts of Petitioner's day. Notably, Petitioner testified he was outside with his twenty-month-old son at approximately 10:45 in the evening, whereas Veronica testified the two were asleep on the couch. Additionally, no one could verify if Petitioner was, in fact, outside with his young son at the time these crimes were committed. Moreover, Veronica's statement to law enforcement contradicts her testimony at the evidentiary hearing, specifically Petitioner did not arrive at her home until 10:45 in the evening. Accordingly, the testimony presented at the evidentiary hearing merely presents an imperfect alibi.

In conclusion, there is probative value in the record to support the post-conviction relief court's finding trial counsel was not ineffective for failing to investigate Veronica and Vanessa Phillips as alibi witnesses, because trial counsel was not told about the alleged alibi until the last minute, was told the purported alibi would be false, and was not an alibi at all.

CONCLUSION

For the foregoing reasons, this Court should deny this Petition for a Writ of Certiorari. Should this Court grant the petition, Respondent seeks permission to more fully brief the issues herein.

Respectfully submitted,

ALAN WILSON
Attorney General

KELLY OPPENHEIMER
S.C. Bar No. 103245
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

July 9, 2018.

STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

JUL 09 2018

CERTIORARI TO EDGEFIELD COUNTY
Court of Common Pleas
Eugene C. Griffith, Jr., Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2017-001397

K.C. LANGFORD,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

PROOF OF SERVICE

I, Kelly Oppenheimer, 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:

LaNelle C. DuRant, Esquire
South Carolina Commission on Indigent Defense—Office of Appellate Defense,
Post Office Box 11433
Columbia, South Carolina 29211-1433

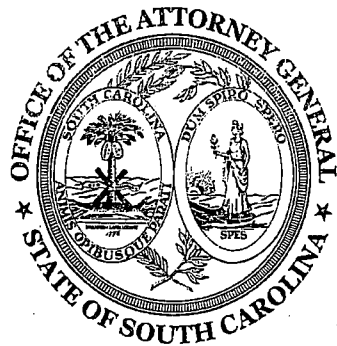
I further certify that all parties required by Rule to be served have been served.

This 9th day of July, 2018.



KELLY OPPENHEIMER

Assistant Attorney General
S.C. Bar No. 103245
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737



ALAN WILSON
ATTORNEY GENERAL

July 9, 2018

RECEIVED

JUL 09 2018

S.C. SUPREME COURT

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

Re: K.C. Langford v. State of South Carolina
Appellate Case No. 2017-001397
Lower Court Case No. 2014-CP-19-0002

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Return to Petition for Writ of Certiorari. By copy of this letter we are serving opposing counsel today.

Sincerely,

Kelly Oppenheimer
Assistant Attorney General
S.C Bar Number. 103245

KO/ch
Enclosures

cc: LaNelle C. Durant, Esquire (2 copies)