

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Horry County

Honorable William H. Seals, Circuit Court Judge

Keiron K Coleman

Petitioner

State of South Carolina

Respondent

APPELLATE CASE NO 2018-000088

PETITION FOR WRIT OF CERTIORARI

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# ISSUE PRESENTED



Whether petitioner's conviction should be reversed because the courts finding of facts and conclusion of law pursuant to *Sellner v State*, 416 S.C. 606, 610, 787 S.E.2d 525, 527 (2016) (Citing *Jordan v State* 400 S.C. 443, 448, 752 S.E.2d 538, 540 (2013)) Finding of fact. A determination by a judge, jury, or administrative agency of a fact supported by the evidence in the record presented at the trial or hearing. The court failed to apply the proper standard of review when ruling on my allegations.

## STATEMENT

On May 30, 2013, an Horry County grand jury indicted petitioner for first-degree burglary. App 590. On March 12, 2014, petitioner was tried before the Honorable Larry B. Hyman Jr. and a jury. App. 1. George DeBuse, Jr and Nancy R Livesay represented the state. App 2. J. M. Long III represented petitioner App 2. The jury convicted petitioner. App. 437, 448, 1.11 - 449, 1.5. The court of appeals affirmed petitioner's conviction. *State v Coleman* Op. No. 2015-UP-386 (S.C. Ct. App. July 29, 2015). On October 20, 2015, petitioner filed a PC12 application App 453. On September 18, 2017, the Honorable William H. Seals held a hearing App 514. Daniel A. Selwa II represented petitioner App 514. Johnny Ellis James Jr represented the state App 514. On December 6, 2017, judge Seals denied petitioner's application. App 568. This petition follows.

## STANDARD OF REVIEW



The standard of review in PCR cases depends on the specific issue before the court. A PCR court's findings of fact will be upheld if there is evidence in the record to support them.

Sellner v State, 416 S.C. 606, 610, 787 SE2d 525, 527 (2016)

Citing Jordan v. State 406 S.C. 443, 448, 752 SE.2d 538, 540 (2013)

Questions of law are reviewed de novo, with no deference to trial courts.

## ARGUMENT

Petitioner's conviction should be reversed because the court failed to conduct the standard of review in PCR hearing on the specific issue before the court, therefore violating rule 59(c) motion when conducting its finding of facts and conclusion of law. There is evidence that show there was no challenge made against Allegation #07 App 540 - 5

"Counsel failed to object to testimony in violation of Rule 403.

Pursuant to State v Lyle where there's evidence on the record at the PCR hearing that a argument was made App 540-3-25 - 541-1-11. and also from the letters i wrote to the clerk of court requesting a motion for a 59(c) be conducted

App 566 - App 586 - 587 These letters show i attempted to inform the court so i wouldn't lose this issue i have by not

getting it on the record.

The second issue is Allegation #5 Praise of Law enforcement Prosecution in Closing. Applicant testified at the evidentiary hearing that Counsel was ineffectiv<sup>e</sup> due to his Compliments offered in Closing argument regarding "Law enforcement" and the prosecution. The PCR Court added an element to my claim which the record shows dose not exist The PCR Court said that my Allegation that Counsel was ineffectiv<sup>e</sup> due to his Compliments regarding Law enforcement. When in fact the question that was asked was "Q You took issue with him stating that he respected and admired both prosecution prosecutor's correct? App 545-20-21. There is no where in the entire record to support the claim the Court said i suggested. App 545-21-22. (A) Yes, he was praising prosecution, the adversary, in his closing arguments as for as what type of good job that they did, and how they know how to trial cases as to say what for yourself then. If they know how to do all these things and App 545-22-25, and App 546-1-22. Where the allegation claiming his bolstering and vouching for the prosecution ends but theres no mention of any praise of Law enforcement. An improper conclusion can be said was made from the false allegation by the PCR Court "The record shows that Counsel's kind regards for Law enforcement served as preface for his subsequent argument that they were calloused in their investigation. App 578.

The PCR quoted me saying and making a claim that the Court shows no record and then making a conclusion from it and what he quoted me on is the PCR Courts finding of fact which the standard of review rule is "PCR cases depends on the specific issue before the Court. ~~██████████~~ And Allegation #5 praise of Law enforcement and the Court claiming i testified at the evidentiary hearing that Counsel was ineffective due to his compliment regarding Law enforcement and that being used to deny my Allegation is deficiency on the PCR Court and by the Courts error that Allegation should not have been considered in the PCR Courts ruling. My PCR hearing was as bad as my trial I pray the S.C. Supreme Court see's an improper consideration was made on testimony not at the PCR hearing and vacate on the grounds that i did not receive a fair trial by the PCR Court.

Thank you ~~██████████~~ family

Respect to the ~~██████████~~ family