STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Cherokee County
Honorable Robin B. Stilwell, Circuit Court Judge

ALONZO COLUMBUS JETER, III,

PETITIONER,

V

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2017-001777

PETITION FOR WRIT OF CERTIORARI

Alonzo Columbus Jeter, III
PETITIONER / *Pro Se*

~~Perry Correctional Institution~~
~~430 Oaklawn Road~~
~~Pelzer, South Carolina 29669~~
Tyger River Correctional Institution
200 Prison Road
Enoree, SC 29335

INDEX

ISSUES PRESENTED

Did the PCR Court err in denying post-conviction relief to Petitioner when plea counsel failed to have Petitioner's mental competency examined and allowed Petitioner to enter in a guilty plea while under duress?

Did the PCR Court err in finding that Plea Counsel was not ineffective for failing to provide adequate advice concerning proximity within one-half mile of a park/school?

Did the PCR Court err in not finding Plea Counsel ineffective for failing to challenge the improper enhancement of Petitioner's 2015 methamphetamine convictions based on a prior possession of crack cocaine conviction from 2004 and a possession of marijuana conviction from 2013?

Did the PCR Court err in denying Petitioner's Motion for Discovery which would have provided the PCR Court and Petitioner with facts and evidence of Petitioner's PCR claims?

Did the PCR Court err in granting the State's Motion to Reopen the Record, thereby prejudicing Petitioner and violating Petitioner's 14th Amendment Due Process Rights?

STATEMENT

On April 10, 2014, Petitioner Jeter was a passenger in a car driven by Kimberly McSwain in Cherokee County. Ms. McSwain was stopped for not wearing a seat belt. Ms. McSwain consented to a search of the vehicle. A bag of methamphetamine was found in the vehicle. Jeter as an occupant was searched incident to arrest. A bag of marijuana was found in his sock, and he was charged with possession of marijuana second offense. App. p. 15, lines 11 – App. p. 16, line 3; App. p. 23, lines 23-25.

On January 12, 2015, and "undercover operative" with the Sheriff's Office in Cherokee County purchased methamphetamine from Petitioner Jeter. The incident was caught on audio and video. App. p. 16, lines 4-10. Again, on January 14, 2015, the "undercover operative" purchased a larger amount of methamphetamine – an "eight ball" - from Petitioner Jeter. Again, the transaction was caught on audio and video. App. p. 16, lines 11-21.

The undercover sought to purchase a larger amount from Petitioner Jeter whick occurred on January 15, 2015. The undercover met with Jeter and purchased 10.4 grams of methamphetamine. The incident again was caught on audio and video. App. p. 16, lines 22 – App. p. 17, line 9.

On July 16, 2015, Petitoner Jeter appeared before the Honorable Lee S. Alford and entered guilty pleas to six charges. These charges were: distribution of methamphetamine third offense; distribution of

methamphetamine third offense; distribution of methamphetamine within proximity of a playground or school; distribution of methamphetamine within proximity of a playground or school; trafficking in methamphetamine between ten to twenty-eight grams third offense; and possession of marijuana second offense. App. 4, lines 4 – App. p. 5 line 6.

Jeter waived presentment to the grand jury on all but the possession of marijuana. App. p. 4, lines 1-5; App. p. 7, lines 10 – App. p. 8, line 10. Jeter was represented by Christopher Kennedy, and the state was represented by Cliff Sams. App. 1

The state told the court that these were negotiated pleas for a guilty plea to the lesser included charge of second offense, and a recommendation for concurrent sentences of fifteen years. App. p. 4, lines 6 – App. p. 5, line 18. The judge accepted the negotiated pleas and sentences. App. p. 8, lines 17 – App. p. 15, line 10. The state told the court again that Petitioner Jeter had prior convictions that, "could have given rise to a third, an enhanced third offense, and these have been knocked down to a second." App. p. 20 lines 8-12.

The state then named Jeter's prior convictions which would enhance his charges to a third offense. These were: a conviction in 2005 of possessio0n of either methamphetamine or crack cocaine; and a 2013 conviction of a controlled substance second offense. The judge said he thought there were two possessions of crack offenses. The solicitor replied that he "misspoke." He said: " I believe it was one." App. 20, lines 20 – App. p. 21, line 25.

The judge sentenced Jeter to a total incarceration of fifteen years with all charges running concurrent. The sentences were: fifteen years on each of the distribution of methamphetamine as second offenses; fifteen years on the trafficking methamphetamine as a second offense; ten years on each of the proximity charges; and a sentence of time served or a "determinate term" on the possession of marijuana. App. p. 22, lines 20 – App. p. 24, line 16.

Jeter did not appeal his guilty plea, convictions nor sentences. App. 175.

On April 28, 2016, Petitioner Jeter filed an application for post-conviction relief (PCR). The state filed a return on November 15, 2016. An evidentiary hearing was held on March 20, 2017 before the Honorable Robin B. Stilwell. Petitioner Jeter was represented by Steven D. Epps, and the state was represented by Julie Coleman. App. p. 48. Jeter testified at the PCR hearing that he did plead guilty in October 2004 to a cocaine base charge which for enhancement purposes ended in October 2014. That charge was past the ten year time period for a charge to be used for enhancement of a later charge. Jeter agreed that when the solicitoy r said at his guilty plea in July 2015 that Jeter had pled guilty to that cocaine base (crack) charge in July 2005. that that statement was incorrect. Therefore, it could not be used to enhance his 2015 charges. App. p. 58, lines 17 – App. p. 59, line 25.

Next, Jeter testified that the August 2013 charge which the state also tried to use for enhancement was a guilty plea to possession of marijuana second offense. His PCR attorney stated that marijuana could not be used to

enhance his later charges. However, Jeter said that the court used that 2013 marijuana conviction to enhance his 2015 charges. App. p. 59, lines 25 - App. p. 62, line 3.

Jeter testified that if he had known then what he knew at his PCR hearing about the underlying charges that would have enhanced his sentences, he would have gone to trial instead of taking a guilty plea. App. p. 67, lines 16-21. Petitioner Jeter asked the PCR court to grant his PCR so he could return to his original position and have a trial. App. p. 69, lines 4-10.

Plea counsel testified that he had reviewed the video and could see Jeter's face in two screen shots. He believed that the state had accurate charges against Jeter. However, he did believe that charging him with third offense in the first warrant was not "accurate." Counsel believed that the state had enough to convict Jeter if he went to trial. App. p. 84, lines 3-25. Counsel testified that his understanding from the state was "that they were going to try the cases individually" which subjected Jeter to a "significant" amount of more time. If he were convicted with consecutive sentences, he probably would have been "subject" to a life without parole (LWOP) sentence. App. p. 90, lines 8 – App. p. 91, line 4.

The judge said he was prepared to deny the PCR application on the first two charges because whether they were treated as first or second offenses, Jeter was sentenced to fifteen years which was within the "allowable penalty for a distribution first offense." The judge found there was not ineffective assistance of counsel in those two offenses. He continued to

find that even if there had been ineffective assistance of counsel, there was no prejudice to Jeter because he was sentenced in accordance with a first offense. App. p. 113, lines 1-11.

The judge took the decision on the remaining offenses under advisement. He explained that on the trafficking and two proximity charges, Jeter was sentenced as a second and was sentenced more than he would have been on a first offense. App. p. 113, lines 11 – App. p. 114, line 22.

On May 1, 2017, the state filed a motion to reopen the record and memorandum in support of denying the post-conviction relief. App. p. 152 - App. p.154. Petitioner objected to the motion to reopen the record. App. p. 174. A second hearing was held on June 30, 2017 before the Honorable Robin B. Stilwell. Again, Petitioner Jeter was represented by Steven D. Epps, and the state was represented by Julie Coleman. App. p. 120.

At the hearing, the state presented documents, including the sentencing sheets and two indictments, for two convictions for possession of crack first offense that Jeter pled guilty to in October 2004. App. p. 156 - App. p. 173. The state argued that they found these two convictions that they were not aware of at the first PCR hearing. App. p. 121, lines 15-24. The judge took judicial notice of Jeter's two 2004 convictions. App. p. 132, lines 13-15.

PCR counsel argued initially a due process violation of the rights of Jeter for the state to reopen the record. Then counsel argued that at the first

hearing, the evidence was that Jeter had only one prior conviction for possession of crack in 2004.1 Counsel argued that the "enhancement statute provided that a first violation will inly serve to enhance when it is faced with another conviction within a ten year period." App. p. 124, lines 1-15.

Counsel continued to argue that if Jeter had only that one 2004 conviction, then none of his 2015 charges could have been second offenses as they were all "temporally connected and there was not ten year prior charge that could enhance." App. p. 124, lines 16-23. Counsel then argued that reopening the record to allow this other 2004 offense was prejudicial to Jeter. Second, counsel argued that under the enhancement statute, the 2015 charges should be viewed as a first violation. App. p. 124, lines 21 – App. p. 125 line 22.

Petitioner Jeter testified at this second hearing that the two 2004 possession crack charges were supposed to be merged into one conviction. He agreed that he signed the sentencing sheets for both and that both were for possession of crack first offense. That was the agreement and the reason he signed the plea. App. p. 128, lines 23 - App. p. 130, line 5. Jeter pointed out that his criminal record had only one charge for possession of cocaine (crack). He also claimed that his NCIC - SLED criminal history report only showed one conviction in 2004. App. p. 130, lines 1 – App. p. 131, line 5.

The state argued that their opinion was that one of the two 2004 convictions served as a second offense which would be used to enhance his

2015 charges. Because he pled to second offenses, he could not show any prejudice. App. p. 135, lines 1-17.

The judge questioned if Subsection 4 of S.C. Code Ann. Section 44-53-470, which said "convicted of a second or subsequent violation of a controlled substance" was a simply adjective describing the number of convictions. The judge determined that it was a matter of "numerical characterization." The judge thought that was the "simple interpretation" of the statute and the way he had seen it customarily interpreted. App. p. 136, lines 21 – App. p. 139, line 24.

The judge stated that under his reading of the statute, if a person has a second violation for a drug offense at any time of his life, a subsequent offense would be a third offense. The judge then stated that the only "real room" for disagreement was how to define a second or subsequent offense. He said that "most courts have interpreted that as the numerical number and not the precise charges of which one is convicted." Therefore, he told Jeter that he had two prior convictions so it would not matter if it was ten years or not. "It would only matter whether there were two and it happened in your lifetime." App. p. 146, lines 1 – App. p. 147, line 24.

On July 24, 2017, Judge Stilwell issued an Order denying Petitioer Jeter's PCR application and dismissing it with prejudice. App. p. 174 – App. p. 188. The judge found that plea counsel was not ineffective for failing to challenge the improper enhancement of Jeter's 2015 charges to a third offense although he pled guilty to a second offense. The judge found the two 2004 convictions for possession of crack cocaine first offense were two seperate and distinct convictions because they were several months apart.

Therefore, the judge ruled that one of them was a second or subsequent offense which was allowed under the enhancement statute S.C. Code Ann. Section 44-53-470(A)(4). According to the judge, the statue provided that if "the offender had at any time been convicted of a second violation of a controlled substance other than marijuana, it was considered a second offense." App. p. 185.

The judge explained in his Order that the solicitor at the 2015 guilty plea did use the wrong prior conviction to enhance the 2015 charges. The 2013 offense the solicitor used was for marijuana which could not be used to enhance under the statute. The judge found that Petitioner Jeter was not prejudiced by plea counsel's failure to challenge the enhancement convictions because Jeter did have the proper prior convictions to enhance his charges to "at least" a second offense. The judge denied this allegation and dismissed it with prejudice. App. p. 185 - App. p. 186.

Petioner Jeter timely filed a motion for reconsideration pursuant to Rule 59, SCRCP. App. p. 193 – App. p. 208. The PCR judge denied the motion on August 14, 2017. App. p. 209. Petitioner Jeter's PCR attorney filed a notice of appeal. This petition follows.

ARGUMENTS

The PCR Court erred in denying post-conviction relief to Petitioner when Plea Counsel failed to have Petitioner's mental competency examined and allowed Petitioner to enter in a guilty plea while under duress.

Petitioner testified that he couldn't think enough to help his plea counsel out with the case. App.p.67, lines 6-15. Petitioner also testified that he could not get himself together, and because of that, he didn't get a chance to tell plea counsel everything that happened. App.p.68, lines 1-3. Petitioner testified that he could not think enough to tell plea counsel that the conviction from 8/15/2013, which the State erroneously used to enhance his current charges, was a marijuana conviction and that it could not be used as an enhancer. Drope v Missouri, 420 U.S. 162, 95 Sct. 896 (1975) - A person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense may not be subjected to trial.

When asked about why he did not tell his plea counsel about how he didn't have any prior offenses or convictions for hard drugs, the Petitioner stated, "I couldn't think." App.p.75, lines 1-3. Petitioner testified that he couldn't get himself together and the only thing that he was able to tell his plea counsel was that, "they had jumped on me" in jail. App.p.74, lines 9-16.

Pleas counsel testified that, "he is right, he did tell me that he was having issues in the detention center". App.p.87, lines 11-13. Pleas counsel also testified that, "he did tell me that he was stressed out about being at the detention center, and that he wanted to get out of the detention center, he's having issues with people there, he did say that he wasn't able to get all of the medication that he needed to take there". App.p.88, lines 8-15.

Plea counsel testified that the reason that the Petitioner wanted to plead guilty was to, "go down to whatever correctional institution they were going to send him to, because he thought he could get them, the medications that he thought he needed and he could get out of the environment he was in with these people threatening him and being violent towards him". App.p.100, line 22 – App.p.101, line 11. Blackledge v Allison, 431 U.S. 63, 97 Sct 1621 (1977) A defendant's representations to the Court of his guilt are conclusive unless specific evidence is produced to show that the plea was brought about by misunderstanding, duress, or misrepresentations by others.

Plea counsel testified that the detention center was "overcrowded" which he agreed would be an "understatement" and that Petitioner "did tell me that he couldn't get all of his medication that he thought he needed and was having some issues with some other people that were in there. App.p.100, lines 11-20. Plea counsel testified, "I do seem to recall the day of the plea that he had a welt or something from where he had been in a fight or gotten jumped or something like that". App.p.100, lines 18-20.

Plea counsel testified that Petitioner was never evaluated for mental competency and that he "saw some mental health records". App.p.88, lines 1-5. Plea counsel also testified that he had some of the Petitioner's mental

health records and that he "actually gave them back to the Petitioner's girlfriend after the plea". App.p.88, lines 1-4. PCR Judge Robin B. Stilwell stated that, "the Petitioner had the opportunity to take the stand and give evidence regarding a lack of capacity and a lack of his ability to assist in his defense" also that "there were mental health records which were within his control which he could have presented". Petitioner contends that he did provide plea counsel with the few records that he had and plea counsel failed to make plea Judge Alford aware that the Petitioner had mental health issues. App.p.111, lines 24 – App.p.112, line 13. See also App.p.93, lines 17-22. Judge Alford also never questioned Petitioner regarding any mental health issues or mental health medications during the guilty plea proceedings and plea colloquy. The Petitioner was also never asked if anyone had threatened him, etc. Burket v Angelone, 208 F3d 172 (2000) - Not every manifestation of mental illness demonstrates incompetence to stand trial; rather, the evidence must indicate a present inability to assist counsel or understand the charges.

Plea Counsel knew that Petitioner's mental health competency was an issue of concern. Petitioner's providing of Plea Counsel with the mental health records that he had was Petitioner's attempt at getting Plea Counsel to understand that there was mental problems and that he needed help. Petitioner told Plea Counsel that he was not receiving his medication. Plea Counsel never investigated into Petitioner's mental health issues to see what medications Petitioner needed. App.p.88, lines 12-15. Nor did Plea Counsel speak with the medical or mental health staff at the Cherokee County Detention Center, where the Petitioner was being held, about the Petitioner's mental health issues and needs. It must be noted that Plea Counsel is not a mental health professional and he therefore should not have made the sole decision regarding the competency of Petitioner.

Plea Counsel stated that he was frustrated at the Petitioner, the solicitor's office and about the case in general. App.p.101, lines 17 – App.p.102, line 9. Plea Counsel didn't bother about taking a serious look into Petitioner's mental state due to Plea Counsel's frustration. Plea Counsel simply just wanted to get the case over with.

It was poor professional judgment on plea counsel's behalf to advise and allow Petitioner to plead guilty even though Petitioner displayed mental health issues and signs of duress. The test for competency is the same whether a defendant pleads guilty or goes to trial – namely, whether the defendant has the present ability to consult with his attorney with a reasonable degree of rational understanding and the requirement that the defendant have a rational as well as a factual understanding of the proceedings against him. Garren v State, 813 SE2d 704 (2018).

Due process prohibits the conviction of an incompetent defendant, and this right may not be waived by a guilty plea. Lee v State, 396 S.C. 314, 721 SE2D 442 (2011). Dusky v United States, 362 U.S. 402, 80 S.ct 788, (1960) - Test of defendant's competency to stand trial is whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding.

When establishing Strickland prejudice in the context of plea counsel's failure to request a mental competency evaluation, the post-conviction relief

applicant need only show a reasonable probability that he was incompetent at the time of the plea. Strickland v Washington, 466 U.S. 668, 104 S.Ct. 2052; U.S. Const. Amend. 6.

When a post-conviction relief applicant raises issues of competency in the context of a plea proceeding, the two-prong Strickland analysis still applies; however, because of the nature of the claim, proof of deficiency of counsel in intertwined with prejudice. U.S. Const. Amend. 6. Ramirez v State, 419 S.C. 14, 795 SE2d 841 (2017)

For purposes of establishing an ineffective assistance of counsel claim, a "reasonable probability" is a probability sufficient to undermine confidence in the outcome. U.S. Const. Amend 6. Strickland v Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984)

The PCR Court erred in finding that Plea Counsel was not ineffective for failing to provide adequate advice concerning proximity within one-half mile of a park/school.

The Petitioner was charged with distributing methamphetamine within one-half mile of Macedonia Baptist Church playground. App.p.221. In S.C. Code Ann. 44-53-445, in which Petitioner was charged, churches nor basketball goals that are at and owned by a church are not encompassed in this statute. Daycare centers, which also have playgrounds or parks, are not encompassed in this statute. Brown v State, 343 S.C. 342, 540 SE2d 846 (2001), where daycares where ruled out by applying the principle of "Expressio unius est exclusion alterius" which means to express or include one thing implies the exclusion of another.

The ruling in Brown would mean **all** daycare owned property. State v Green, 350 S.C. 580, 567 SE2d 505 (2002), where "grounds" means all school-owned property contiguous to or surrounding the school's physical plant. The basketball goal is owned by Macedonia Baptist Church and is on the church's property and grounds. App.p.221. Church "grounds" is all church-owned property contiguous to or surrounding the church's physical plant. Just as the daycare's playground in Brown is not encompassed in the proximity statute, the basketball goal which is owned by and located at the church and on church grounds is not encompassed in the proximity statute.

As noted in Brown, if the legislature intended for churches to be encompassed in the scope of the proximity statute it would have been specifically stated so. Again, the church and basketball goal located at the church would be ruled out by applying the principle of "Expressio unius est exclusion alterius" as it is applied in Brown.

Petitioner testified that there was not a playground, but instead a basketball goal that was owned by the church and which was on the church's property. App.p.64, lines 17 – App.p.65, line 7. The basketball goal isn't a playground or a park.

Petitioner testified that he didn't mention that the church's basketball goal wasn't near a school to plea counsel, because he didn't know the law concerning the proximity charges and the he "trusted that plea counsel knew the law on everything". App.p.64, lines 17 – App.p.65, line 11. Also, plea counsel had the warrants and indictments which stated proximity of Macedonia Church playground not a school's playground. App.p.221. Petitioner also testified that he didn't have a law book in jail and that that's what he had an attorney for, was that the attorney should know the laws concerning his charges. App.p.143, lines 12-19.

Plea counsel testified that he believes that, "a church under the statute complies with the half-mile". App.p.85, lines 12-14. Plea counsel also testified that as part of his investigation, he went to the church playground in question and verified that it was within a half-mile. App.p.179. However, it must be noted that Plea Counsel had testified earlier that he, "knew nothing about the church". App.p.85, lines 12-13. Smith v State, 369 SC 135, 138, 631 SE2d 260, 261 (2006); Hill v Lockhart, 474 US. 52, 106 Sct. 366 (1985) - The applicant must show that there is a reasonable probability that but for counsel's errors, he would not have pled guilty and would have insisted on going to trial.

There was only a basketball goal located on the churches property. No signs indicating that this was a park or playground. No signs giving it a name if it was a park or playground. No trash cans. No lights. No parking space other than the church's own parking lot for church services. If Plea Counsel had truly went to the church "playground" in question, he would have known this and would have been able to plainly see that there would be not any way that a person would know just by looking at this basketball that it would be considered a "public park or playground". This is essential because S.C. Code Ann. 44-53-445(B)(1) specifies that a person must "know" that it is a public park or playground. Again, there were no signs, etc. at or near this basketball goal that would give any indication of a public park or playground.

Plea counsel testified that he believes that, "a church under the statute complies with the half-mile". App.p.85, lines 12-14. This further demonstrates Plea Counsel's ineffectiveness and incompetence regarding the statute's scope in regards of churches. Pleas Counsel's unfamiliarity with the statute itself, the cases of Cutner v State, 580 SE2d 120 (2003), Brown v State, 343 S.C. 342, 540 SE2d 846 (2001) and the definition of "grounds" as discussed in State v Green, 350 S.C. 580, 567 SE2d 505 (2002) all rendered him ineffective due to his incompetence regarding this matter. Petitioner was prejudiced as he was advised to plead guilty to these 2 (two) charges, which resulted in 2 (two) "serious" strikes in regards of S.C. Code Ann. 17-25-54.

PCR Counsel testified that basketball goals at a church, they don't fit in that statute, (S.C. Code Ann. 44-53-445), and there's actually a case. Cutner v State, 580 SE2d 120 (2003). App.p.104, lines 18 – App.p.105, line 15. Strickland v Washington, 466 US. 668, 104 Sct 2052 (1984) - Defendant must show that counsel's performance was deficient and performance prejudiced defendant.

The sentencing judge, the Honorable Lee Alford, stated that the Petitioner has, "had the representation of a competent attorney whom the

Petitioner says he is satisfied". App.p.17, lines 15-19. However, Petitioner would like to bring to the Court's attention that this was never asked by Plea Judge Alford. App.p.141, lines 19 – App.p.142, line 8.

The Petitioner avers that although the Petitioner's sentence would not be reduced through the Court's finding that plea counsel was ineffective for recommending that he plead guilty to the 2 (two) charges of proximity within one-half of a mile of a school; the Petitioner emphasizes that prejudice still does indeed exist in that these convictions are classified as "serious" offenses in regards of S.C. Code Ann. 17-25-45. Therefore, these convictions add 2 (two) additional "serious" strikes to his criminal history record. The Petitioner contends that because of this, there is indeed prejudice.

The PCR Court erred in not finding Plea Counsel ineffective for failing to challenge the improper enhancement of Petitioner's 2015 methamphetamine convictions based on a prior possession of crack cocaine conviction from 2004 and a possession of marijuana conviction from 2013.

Petitioner contends that plea counsel was ineffective for failing to challenge the solicitor's using a possession of marijuana second offense conviction from 2013 to enhance his current charges. He also emphasizes that when the solicitor stated the Petitioner had a 2005 conviction for possession of crack, even this was outside of the 10 year scope and could not be used in accordance with S.C. Code Ann. 44-53-470(3). App.p.20, lines 5 – App.p.21, line 25.

Rollison V State, 346 S.C. 506, 552 SE2D 290 (2001) – If the judge is misinformed, it is up to the defendant's counsel to correct his information. If counsel fails to correct the judge's perception, his representation has fallen below the objective standard of reasonableness.

If Plea Counsel would have had investigated into the Petitioner's prior convictions then he would have been able to correct the solicitor's error in using a possession of marijuana conviction from 2013 to enhance his current convictions. Plea Counsel would have also been able to correct the solicitor's misstatement that the Petitioner had a 2005 conviction for possession of crack. If Plea Counsel would have really been knowledgeable of the Petitioner's priors, when correcting the solicitor's misinformation to the judge Plea Counsel would have then been able to specify and make clear that the Petitioner's charges would not be able to be enhanced to 3rd offenses. This in-turn would have *at most* led to a discussion and argument of whether the Petitioner's 1st offense conviction(s) from 2004 could be used to enhance his current convictions. Strickland v Washington, 466 US. 668, 104 Sct 2052 (1984) Defendant must show that counsel's performance was deficient and performance prejudiced defendant

Plea Counsel's failure to investigate into the Petitioner's prior convictions greatly prejudiced the Petitioner in these regards. Petitioner understood his 1st offense conviction(s) from 2004 to be merged as only one

conviction. The solicitor could plainly see this as well. App.p.20, lines 5 – App.p.21, line 25. Therefore, the proper time to argue this **was not** at the plea proceedings, as the PCR Judge Stilwell continually suggested to Petitioner (App.p.148, lines 1-2; App.p.140 lines 6 – App.p.141, line 7; App.p.138, lines 3-7) because at the time Petitioner entered his guilty plea both the solicitor, Petitioner and the Court understood it to be only 1 conviction for crack cocaine.

This again demonstrates prejudice because if Plea Counsel would have investigated, he would have found that Petitioner's 2013 conviction was a marijuana conviction and therefore he would have been able to advice the solicitor and Plea Judge Alford that the 2013 conviction could not be used to enhance Petitioner's current charges. Therefore, as the solicitor could see that Petitioner's 2004 conviction was only a 1st offense conviction, and it had been beyond the 10 year window in regards of the enhancement statute; the Petitioner would have been sentenced at that time to 1st offense convictions.

To further show and prove Plea Counsel's inadequate representation, ineffectiveness, and deficiency the Petitioner would direct the Court's attention to Plea Counsel's entire testimony at the 1st PCR hearing held on March 20, 2017 in which Plea Counsel was present and did testify. It must be noted that Plea Counsel even further demonstrated his deficiency as he never testified at this PCR hearing that he knew of any other prior convictions for hard drugs that could have been used to enhance Petitioner's current convictions to 3rd offense convictions. There Plea Counsel further displayed his failure to investigate.

In negotiating a plea agreement or "deal" for the Petitioner, Plea Counsel would have been effective in these regards if he had truly investigated into the Petitioner's prior criminal record and history. During this plea bargaining stage, which was a critical stage in the Petitioner's proceeding, if Plea Counsel had truly known what conviction(s) could and could not be used the plea bargaining and negotiations would have been different, which in turn would have made the outcome of the total trial, plea, or negotiations different. Again, Plea Counsel was indeed ineffective in these regards. Strickland v Washington, 466 U.S. 668, 104 Sct. 2052 (1984) Defendant must show that the deficient performance prejudiced the defense.

Using this opportunity to show the solicitor that the only conviction(s) that could be used to enhance the Petitioner's current charges would have been only convictions that were over 10 years old, this would have demonstrated to the solicitor that the Petitioner remained trouble free from hard drugs for quite awhile and this would have further the mitigation and resulted in a more favorable plea bargain and agreement. Plea Counsel allowed the solicitor to to think that the Petitioner had recently been convicted, as recent as 2013 for hard drugs.

Petitioner was prejudiced as he was not allowed to argue against the conviction(s) that now the PCR Court Judge Stilwell and the State would now

use to *correct* the error of using the wrong conviction to enhance the Petitioner's current convictions.

Petitioner also testified that, "I thought that Plea Counsel had investigated in regards of my prior convictions. When he said that the State could use my marijuana conviction from 2013, I trusted and believed him as my attorney, that he knew what he was talking about". App.p.141, lines 9 – App.p.142, line 13. See also App.p.142, lines 19-23. Petitioner testified that he pled guilty because, "basically they were saying that I got a deal because it was supposed to been a third offense, lesser included to second, but that's not true". App.p.72, lines 5-15. Petitioner testified that actually, "it would have been a first offense because there was no prior since the 2004 conviction".

Strickland v Washington, 466 US. 668, 104 Sct. 2052 (1984) - Defendant must show that counsel's performance was deficient requiring showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed defendant by the Sixth Amendment.

Petitioner would show the Court that there is a difference between ***violation*** and ***offense*** in the wording of the recidivist/enhancement statute, S.C. Code Ann. 44-53-470. Petitioner avers that he had a prior violation(s) that were considered first offense. Petitioner contends that his current charges are third *violations* but only second *offenses* because he has never been convicted of a second offense. He contends that the understanding between the 2004 sentencing judge, solicitor and his 2004 plea attorney was that he would plea to the first offense of possession of crack cocaine and it would merge as one offense.

In the PCR Court's Order of Dismissal, the Order states that, "there is no prejudice because Petitioner did have prior convictions to properly enhance his current charges to at least a second offense". The Petitioner avers that if he would have plead to these current charges "straight up" as he should have be allowed to do, and the plea would not have been a negotiated plea, he would have been able to submit mitigation materials, evidence, testimony from family, friends, and church members, etc. There was in-fact prejudice from the pleas. Petitioner also adds that if he was entering into a guilty plea for first offenses, these charges would not result in "strikes" on his criminal background record in reference of the S.C. Code Ann. 17-25-45, the 3-Strike Rule.

PCR Judge Robin B. Stilwell continually stated that, "that would be an interesting argument at the time of the plea". App.p.138, lines 5-7. In reference of the ambiguity of the statute 44-53-470(4), of what actually is a second or subsequent offense; the PCR Judge Stilwell states, "it's interesting. I really do think that it's interesting. But I also do think that it's an issue that should have been raised at the time of trial". App.p.139, lines 1-4.

Petitioner emphasizes and would show the Court that the 2004 conviction(s) was not an issue at the time the Petitioner pled guilty. So there was no need to argue it as the solicitor could plainly see that there was only one (1) prior conviction on Petitioner's record, and therefore he looked to the

2013 conviction as it was numbered *second* offense. App.p.20, lines 5 – App.p.21, line 25.

Now, allowing this charge to be used to *correct* the error of the solicitor's using the wrong charge to enhance the Petitioner's current convictions surely prejudices him in that he was not given the opportunity to argue this and present this issue to the solicitor, Plea Judge, nor his plea attorney. Again, at the time of the plea, whether or not 1st offense violations would cause this 3rd violation to be considered 2nd or 3rd offense was not an issue at that time. It is a violation of the Petitioner's due process rights that the PCR Judge Stilwell would allow the prior conviction(s) to be used as a means to *correct* the error.

The solicitor also chose to say that the first conviction was in 2005 in order to say that the 2005 conviction (which there was no such conviction) fell within the 10 year window. Even looking at that conviction (if there was such a conviction at that time) closely, that conviction would not have been within the 10 year window either. App.p.102, lines 25 – App.p.103, line 3.

Again, the PCR Judge Stilwell states in reference to whether a first offense plus another first offense and the whether or not the next offense should be considered a third offense, "how you interpret that would be a question at the time of the plea". Petitioner again emphasizes that the argument was not necessary at the time of the guilty plea, because the 2004 conviction(s) were not used to enhance his current convictions. App.p.148, lines 1-2.

App.p. 138, lines 10-14

Assistant Attorney General, Julie A. Coleman whom represented the State at the PCR hearing, stated and emphasized that there was, "no case law on that". Petitioner claimed that pursuant to the Rule of Lenity, that novel question should be ruled in the Petitioner's favor. The Rule of Lenity applies when a criminal statute is ambiguous and requires any doubt about a statute's scope be resolved in the Petitioner's favor. State v Miles, 421 S.C. 154, 805 SE2d 204 (2017). Petitioner also emphasized that the recidivist/enhancement statute S.C. Code Ann. 44-53-470, should be ruled as unconstitutional and therefore void due to its vagueness. App.p.148, lines 3-24.

Notice the question and scenario that the Petitioner presented to the PCR Judge Stilwell: According to S.C. Code Ann. 44-53-470; if a person is convicted of a 1st *offense* drug charge (other than marijuana) and then 11 years later, the person gets another conviction for drugs other than marijuana – this person would have to be convicted of another 1st *offense* because it was past the 10 year window. Then if the person gets convicted the very next year for drugs other than marijuana after he has been convicted these 2 (two) prior times, even though they were both considered 1st *offenses*, what *offense* would this person be convicted of? The PCR Judge Stilwell answers that the person would be convicted of 3rd *offense*. App.p.146, lines 1-

13. There you can clearly see that the statute is ambiguous. Again, this should be ruled in the Petitioner's favor pursuant to the Rule of Lenity.

In this question and scenario the offender had 2 (two) 1st *offense violations* and upon his 3rd conviction it would have resulted in a 3rd *violation* but he could and should only be convicted of 2nd *offense*. As in this question and scenario presented by the Petitioner, the Petitioner would show the court that even if the State and PCR Judge Stilwell were to choose to unmerge Petitioner's prior 2004 convictions which were pled to at that time as 1st *offenses* as part of a plea agreement, Petitioner's current conviction is a 3rd *violation* but only 2nd *offenses*. An *offense* should not be skipped. The Petitioner should not be charged and convicted with a 3rd *offense* conviction when he has never been convicted of a 2nd *offense*. To rule any other way would frustrate and violate the 2004 plea agreement between the Petitioner and State.

It must be noted that no where in the enhancement statute, S.C. Code Ann. 44-53-470, does it state nor make an offender aware that an offense can be skipped or bypassed. Notice also the true purpose and intent of S.C. Code Ann. 44-53-470. Its title is, 'Second or subsequent *offense* defined'. The statute's overall purpose is to define what constitutes a second or subsequent offense. Taking a closer look at this statute as a whole and in its entirety, the Court will discover that there is difference in *violation* and *offense* in regards of this statute and its application.

As Petitioner attempted to explain this to the PCR Court, PCR Judge Stilwell stated that the Petitioner was reading paragraph 3 of the statute and that Petitioner should instead be reading paragraph 4 of that statute. App.p.144, lines 12-15; App.p.146, lines 1-13. However, to fully understand and know that there indeed is a difference between *violation* and *offense*, the statute must be reads as a whole.

State v Thomas, 372 S.C. 466, 642 SE2D 724 (2007) – Statutes must be read as a whole, and sections which are part of the same general statutory scheme must be construed together and each one given effect, if reasonable.

Creech v South Carolina Public Service Authority, 200 S.C. 127, 20 SE2D 645 (1942) – In ascertaining the intent of the legislature, a court should not focus on any single section or provision but should consider the language of the statute as a whole.

DeLoach v Scheper, 188 S.C. 21, 198 SE2d 409 (1938) – The meaning of a statute is not to be deemed to depend upon a single part or an isolated sentence.

The Court's attention should be directed to the careful wording of the statute. 'Second or subsequent offense defined'. (A) An offense is considered a second or subsequent offense if:

1) for an *offense*,... within the previous five years of a first *violation.*
2) for an *offense*,... has at anytime been convicted of a first, second, or subsequent *violation.*
3) for an *offense*,... has been convicted within the previous ten years of a first *violation.*
4) for an *offense*,... has at any time been convicted of a second or subsequent *violation*.

Unmerging Petitioner's 2004 convictions which were deemed to be 1st offense results in 2 (two) prior violations of 1st offense. Petitioner's current conviction must be treated as a 2nd *offense* even though they are 3rd *violations*.

Curtis v State, 345 S.C. 557, 549 SE2D 591 (2001) – A possible constitutional construction of a statute must prevail over an unconstitutional interpretation.

Construing this statute any other way both frustrates and violates the Petitioner's 2004 plea agreement and also removes the "fair notice" that is required by the 14th Amendment of the United States Constitution. Construing this statute any other way also would cause the statute to be unconstitutionally void for vagueness.

State v Neuman, 384 S.C. 395, 683 SE2D 268 (2009) – The void-for-vagueness doctrine rests on the constitutional principle that procedural due process requires fair notice and proper standards for adjudication. U.S.C.A. Const. Amend. 14

State v Neuman, 384 S.C. 395, 683 SE2D 268 (2009) – The constitutional standard for vagueness is whether the law gives fair notice to those persons to whom the law applies.

This statute is indeed ambiguous and the ambiguity must be resolved in Petitioner's favor.

Berry v State, 381 S.C. 630, 675 SE2D 425 (2009) – In construing a criminal statute, courts are guided by the Rule of Lenity - the principle that any ambiguity must be resolved in favor of the accused.

Bryant v State, 384 S.C. 525, 683 SE2D 280 (2009) – When a genuine ambiguity exists as a result of the proposed application of a penal statute to a given situation, the Rule of Lenity requires that the doubt must be resolved in the defendant's favor.

U.S. v Castleman, 134 S.ct 1405 (2014) – A court's construction of a criminal statute must be guided by the need for fair warning; but the Rule of Lenity only applies if, after considering text, structure, history, and purpose,

there remains a grievous ambiguity or uncertainty in the statute, such that the court must simply guess as to what Congress intended.

State v Sullivan, 362 S.C. 373, 608 SE2D 422 (2005) – Regarding a claim that a statute is unconstitutionally vague, the due process standard is whether a statute either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application. U.S.C.A. Const. Amend 14; Const. Art. 1 §3 The Petitioner would also show the Court that as Assistant Attorney General, Julie A. Coleman whom represented the State at the PCR hearing, stated, South Carolina has no case law on this matter that would refute the Petitioner's claims. App.p.138, lines 10-14. Petitioner would direct the Court's attention to the Supreme Court of Nevada as they have discussed this matter in depth. See Perry v State, 106 Nev. 436, 794 p.2d 723 (1990) and State v Smith, 105 Nev. 293, 774 p.2d 1037 (1989) – where the Supreme Court of Nevada concluded that a second DUI conviction obtained pursuant to a guilty plea entered under an agreement specifically permitting the defendant to enter a plea of guilty to first offense DUI could not be used to enhance a third DUI offense to a felony, because doing to would violate the agreement under which the guilty plea was entered and would frustrate the reasonable expectations of the parties. In Perry, as defendant pleaded guilty to a first offense DUI when he was charged for what was actually his second offense, that second offense was required to be treated as first offense DUI for all purposes.

In contrast, see Grover v State, 109 Nev. 1019, 862 p.2d 421 (1993); where Grover was convicted of a 1st offense in 1985 and then convicted of another 1st offense in 1990. The conviction of 1st offense in 1990 was an error because the state failed to discover Grover's 1985 conviction, therefore Grover was barred from receiving the special conditions mentioned in State v Smith and Perry v State. Allowing the Petitioner to plea to 2 (two) 1st offense violations in the same day was no mistake nor had the state overlooked the first 1st offense.

The Petitioner pled guilty to 1st offense. Enhancing Petitioner's current convictions to 3rd offenses would violate the agreement under which the guilty plea was entered and would frustrate the reasonable expectations of the parties. Petitioner's 2004 guilty plea was entered into under an agreement specifically permitting the Petitioner to enter a plea of guilty to 1st offense. The conviction(s) were to merge as a 1st offense conviction. It creates a due process violation to use the same conviction(s) to enhance Petitioner's current convictions to 3rd offenses. Again, Petitioner's current convictions would be at most only 2nd *offenses* but 3rd *violations*.

Berry v State, 381 S.C. 630, 675 SE2D 425 (2009) – In construing a criminal statute, courts are guided by the Rule of Lenity – the principle that any ambiguity must be resolved in the favor of the accused.

The PCR Court erred in denying Petitioner's Motion for Discovery which would have provided the PCR Court and Petitioner with facts and evidence of Petitioner's PCR claims.

Petitioner emphasizes that the PCR Court's failure to grant his submitted Motion for Discovery greatly prejudiced him. He contends that this denial ultimately resulted in a denial of his entire action for post-conviction relief. In a PCR action challenging a plea proceeding on the basis of incompetency, the petitioner bears the burden of proof and is required to show by a preponderance of the evidence he was incompetent at the time of his plea. Garren v State, 813 SE2D 704 (2018).

PCR Counsel stated that the Petitioner was requesting mental health and disciplinary records from the Cherokee County Detention Center (as asked for in the motion for discovery), "to corroborate his mental condition at the time of the underlying guilty plea". However, when PCR Counsel was asked by PCR Judge Stilwell whether the discovery sought was in relation of the underlying mental health evaluation at the time of the plea, Plea Counsel erroneously replied that it wasn't. App.p.53, lines 6-20. Although this erroneous answer by PCR Counsel may have aided in the denial of the discovery motion in regards of mental health corroboration materials, it can not be said that it was based totally on this erroneous answer. Petitioner and Plea Counsel, through their testimony, made it plain that something was wrong with the Petitioner's thinking at the time of the plea and the PCR Judge Stilwell should have looked to the mental health records for verification. Petitioner emphasizes that this denial prevented him from being able to carry the burden of proof and show the PCR Court that he was indeed incompetent at the time of his guilty plea.

Due to the denial of Petitioner's motion for discovery, it is stated in the PCR Court's Order of Dismissal that, "Petitioner did not present any testimony from a mental evaluator or introduce any mental health records or evaluation reports proving that he was incompetent". App.p.186-187. Petitioner avers that these records were held at the Cherokee County Detention Center and were requested by him in the Motion for Discovery. These records would have given the PCR Court a better picture of Petitioner's competency claims and would have shown that he was being assaulted and neglected in receiving his proper mental health medications.

In denying Petitioner's motion for discovery, PCR Judge Stilwell erroneously denied the discovery based on, "those discovery requests go not to whether or not there was ineffective assistance of counsel, they go to the weight, sufficiency of evidence, that was an issue which clearly in the plea was waived". App.p.111, lines 18-23.

Due process prohibits the conviction of an incompetent defendant, and this right may not be waived by a guilty plea. Lee v State, 396 S.C. 314, 721 SE2D 442 (2011).

Petitioner submits that his discovery requests does in-fact go and would show and prove ineffective assistance of Plea Counsel. The disciplinary and mental health records if received from the Cherokee County Detention Center where the Petitioner was being held would have provided the Court with reports and professional diagnosis and information concerning the Petitioner's state of mind at the time of the guilty plea.

Petitioner also would show the court that the denial of this discovery prevented Petitioner from proving in other ways and areas that Plea Counsel was ineffective in that he did not investigate such as the drug analysis, etc.

The PCR Court erred in granting the State's Motion to Reopen the Record, thereby prejudicing Petitioner and violating Petitioner's 14th Amendment Due Process Rights.

Petitioner was prejudiced as the PCR Court granted the State's Motion to Reopen the Record because the prior convictions that were added to the record where never brought up by the solicitor at Petitioner's guilty plea.

The PCR Judge Stilwell continually stated in reference to whether a first offense plus another first offense and then whether or not the next offense should be considered a third offense, "how you interpret that would be a question at the time of the plea". App.p.148, lines 1-2. Petitioner again emphasizes that the argument was not necessary at the time of the plea because the 2004 conviction(s) were not used to enhance his current convictions. Therefore, Petitioner never had the opportunity to argue this and to introduce the conviction(s) at this time would violate the Petitioner's due process rights.

Again, PCR Judge Stilwell states concerning the Petitioner's merged conviction from 2004, "If you believed that at the time of the plea, then that means you are in a position to challenge it at that time". App.p.140 lines 6 – App.p.141, line 7.

The PCR Judge Stilwell's granting of the Motion to Reopen the PCR record to allow prior convictions in which were not presented at the initial PCR evidentiary hearing nor had the solicitor presented at Petitioner's guilty plea phase, violated Petitioner's due process rights because the State had already had its opportunity to present evidence and did not at the time. App.p.124, lines 1-8. It prejudiced the Petitioner for the record to be reopened to allow another conviction to be viewed as evidence. App.p.124, lines 23 – App.p.125, line 1. Again, Petitioner had not been given the opportunity to challenge this at the guilty phase and this therefore creates a due process violation.

PCR Judge Stilwell ruled that there was no prejudice because the Petitioner was sentenced within the statutory sentencing scheme of first offense distributions. However, there is indeed prejudice because if the 2

(two) distributions were treated as 1st offenses instead of 2nd offenses, these 2 (two) convictions would not result in 2 (two) "serious" strikes in regards of S.C. Code Ann. 17-25-45; the 3-Strike Rule, as 3 (three) "serious" strikes result in a Life Without Parole (LWOP) sentence.

PCR Judge Stilwell states in reference of the ambiguous wording of the statute, S.C. Code Ann. 44-53-470, "I understand exactly what you're saying. And I don't necessarily know that I disagree with you. I think that would be an interesting argument at the time of the plea." App.p.138, lines 3-7. Also, PCR Counsel stated that, "the statute's wording is a little interesting and difficult" "because is talks about for an offense". App.p.136, line 4.

PCR Judge Stilwell also abused his discretion in granting the reopening of the record as he did not take judicial notice of the Petitioner's criminal history reports from the Cherokee County Sheriff's Office and the South Carolina Law Enforcement Division (SLED) once the record was reopened. PCR Judge Stilwell based his decision to allow the record to be reopened upon the Petitioner's introducing criminal history reports from the Cherokee County Sheriff's Office and the South Carolina Law Enforcement Division (SLED), however PCR Judge Stilwell never even considered the records. He never even looked at them before making his decision before denying Petitioner's action for post-conviction relief based on the submitted records from the State at the reopening of the record.

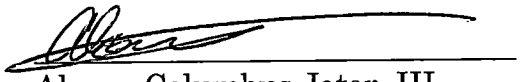
Petitioner testified that, "I got one of these on one date and one on another", speaking in reference of the criminal background reports from Cherokee County Sheriff's Department. Petitioner received one background record on 11/13/2013 and another one on 11/18/2013, and both criminal background reports, as well as the South Carolina Law Enforcement Division (SLED) NCIC report reflect the 2004 plea agreement that the conviction would merge as one conviction. App.p.129, lines 17-23 – App.p.131, line 6. See also App.p.156 and App.p.157.

Petitioner was indeed prejudiced as this conviction(s) was allowed into the record as a means to *correct* the solicitor and Plea Counsel's errors in using the wrong convictions to enhance Petitioner's current convictions. There has not been an opportunity for Petitioner to argue and challenge the use of the particular prior at the time of the guilty plea a furthermore during plea negotiations. If the PCR Judge Stilwell, agrees and found that it was "interesting" and "difficult" then surely the solicitor would have found the same and this would have resulted in other plea negotiations and in turn the outcome of the proceeding would have been different. Brown v La France Industries, a Div. of Riegel Textile Corp., 286 S.C. 319, 333 S.E.2d 348 (1985) - Allowing party to reopen case will not be reversed unless opposing party was prejudiced thereby. Branco v South Carolina Dept. of Transp., 377 S.C. 124, 659 S.E.2d 167 (2008) - The decision whether to reopen a record for additional evidence is within the trial court's sound discretion and will not be disturbed on appeal absent an abuse of that discretion. Solicitor could clearly see that it was one offense. 23 App.p.20, lines 5 - App.p.21, line 25.

CONCLUSION

Based on the above, certiorari should be granted, Petitioner's convictions and sentences reversed, and the case remanded.

Respectfully Submitted,



Alonzo Columbus Jeter, III

PETITIONER / Pro Se

This 25 day of October, 2018.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Cherokee County
Honorable Robin B. Stilwell, Circuit Court Judge

ALONZO COLUMBUS JETER, III,

PETITIONER,

V

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2017-001777

CERTIFICATE OF SERVICE

I, Alonzo C. Jeter, III, hereby certify that I have mailed the original *'Petition for Writ of Certiorari'* and *'Certificate of Service'* to Appellate Defender, LaNelle Cantey DuRant of South Carolina Commission on Indigent Defense by depositing the same in the United States Mail, postage prepaid, by and through the interagency mailroom at ~~Perry~~ Tyger River Correctional Institution this 25 day of October 2018, addressed to LaNelle Cantey DuRant, S.C. Commission on Indigent Defense, Division of Appellate Defense, Post Office Box 11589, Columbia, South Carolina 29211-1589.

Alonzo Columbus Jeter, III
PETITIONER / *Pro Se*

~~Perry~~ Correctional Institution
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~~Pelzer~~, South ~~Carolina~~ 29669
Tyger River Correctional Institution
7200 Prison Road
Enoree, SC 29335

SWORN and Subscribed before me
this 25th day of October, 2018
Notary Public for South Carolina
My Commission Expires: Dec. 10, 20

This 25 day of October, 2018

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Cherokee County
Honorable Robin B. Stilwell, Circuit Court Judge

ALONZO COLUMBUS JETER, III,

PETITIONER,

V

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2017-001777

CERTIFICATE OF SERVICE

I, Alonzo C. Jeter, III, hereby certify that I have served a true copy of the *'Petition for Writ of Certiorari'* upon the State of South Carolina – Julie A Coleman, *Esq.*, by depositing the same in the United States Mail, postage prepaid, by and through the interagency mailroom at Perry Correctional Institution this 25 day of October 2018, addressed to: Julie A. Coleman, *Esq.*, Assistant Attorney General, Office of the Attorney General, Post Office Box 11549, Columbia, South Carolina 29211.

Alonzo Columbus Jeter, III
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Tyger River Correctional Institution
200 Prison Road
Enoree, SC 29335

SWORN and Subscribed before me
this ____ day of October, 2018

Notary Public for South Carolina
My Commission Expires: _____

This 25 day of October, 2018

October 25, 2018

Alonzo Columbus Jeter, III
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The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RE: Alonzo C. Jeter, III, v State; App. Case No.: 2017-001777

Dear Mr. Shearouse:

For filing in the above referenced PCR appeal, please find enclosed the original and 6 (six) true copies of the *'Petition For Writ Of Certiorari'* and *'Certificate Of Service'*.

Please also find 1 (one) true copy of the *'Petition For Writ Of Certiorari'* and *'Certificate Of Service'* along with a self-addressed stamped envelope. Please return to me filed stamped copies of these said documents by way of the provided self-addressed stamped envelope.

Thank you for your assistance in this matter.

Sincerely,

Alonzo C. Jeter, III

PETITIONER / *Pro Se*

Cc: Julie A. Coleman, *Esq.*, Assistant Attorney General
FILE