

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Pickens County
Honorable Daniel D. Hall, Circuit Court
Judge

JOHN ADRIAN ZIEGLAR,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000482

PRO SE RESPONSE

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TABLE OF AUTHORITIES

Cases

United States v. Purcell 667 2d 498

United States v. Thompson 504
F 3d 1203

Martinez v. States 304 S.C. 39 403
S.E. 2d 113

Glover v. State 318 S.C. 496 458
S.E. 2d 538

Constitutional

United States: US 6 ineffective

US 14 due process

South Carolina: Art. I § 3 due

process and ineffective counsel

Rules of Court

SCACR RPC 407 Rule 1.1
Competence

SCACR RPC 407 Rule 1.2
Scope of Representation and
Allocation of Authority Between
Client and Lawyer

SCACR RPC 407 Rule 1.3
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SCACR RPC 407 Rule 1.6
Confidentiality of Information

STATEMENT OF ISSUE(S) ON APPEAL

Whether the PCR court erred by finding counsel delivered effective representation where petitioner told defense counsel that he wanted to appeal his plea, and where defense counsel admitted having the conversation (PCR Hearing Transcript page 103: 3-7) but did not think an appeal would be successful or worthwhile, and failed to appeal.

Whether the PCR court erred by finding counsel delivered effective representation where defense counsel failed to interview potential alibi witness (Page 9 Amended PCR), and make an independent investigation of the facts and circumstances of the case.

ARGUMENT

The PCR court erred by finding Counsel delivered effective representation where petitioner told defense Counsel that he wanted to appeal the plea, and where defense counsel failed to appeal.

The PCR court erred by finding counsel delivered effective representation where defense counsel failed to interview potential alibi witness.

Discussion

Counsel has a duty to interview defendant's potential alibi witness and counsel's failure to interview alibi witness prejudiced defendant. Walker v. State
407 S.C. 400 756 S.E. 2d 144

At a minimum, criminal defense counsel has the duty to interview potential witness(es) and to make an independent investigation of the facts and circumstances of the case. U.S.C.A. Constitution Amendment 6 (Adequacy Of Representation).

Counsel's alleged failure to file notice of appeal depriving defendant of appellate proceeding altogether, is presumably prejudicial. U.S.C.A. Constitution Amendment 6.

Counsel's denial of assistance of counsel altogether, either actually or constructively is presumably prejudicial. U.S.C.A. Constitution Amendment 6

CONCLUSION

By reason of the foregoing arguments, a conviction, overturn and a full revocation of sentence.

10 (N) Applicant's right to effective assistance of counsel as guaranteed by the Sixth Amendment to the United States Constitution and the South Carolina Law was violated as a result of counsel's failure to interview alibi witnesses. Trial counsel is required to interview defendant's potential alibi witness and counsel's failure to interview alibi witness prejudiced defendant. Walker V. State 407 S.C. 400 756 S.E. 2nd 144.

11 (N) Mr. Dejohn never interviewed applicant's potential alibi witness Cindy Tyler to see what her role played in testifying at trial.

10 (O) Applicant's right to effective assistance of counsel as guaranteed by the Sixth Amendment to the United States Constitution and the South Carolina Law was violated as a result of counsel's and solicitor (prosecutor) conversing confidential evidence in case. Rule (407) South Carolina Rules of Professional Conduct: Rule 1.6 Confidentiality of Information (A) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent.

11 (O) When Mr. John Dejohn came to see the applicant in Pickens County Jail to go over subpoenaed evidence, Mr. Dejohn said what the reply was from the solicitor (prosecutor) about the evidence that was returned from the subpoena that we talked about.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

JOHN ADRIAN ZIEGLAR

PETITIONER

v.

STATE OF SOUTH CAROLINA

REPOUNDENT

CERTIFICATE OF SERVICE

I John A. Ziegler # 365214, Appellant has served on this 31st day of December, 2018 one (1) copy of the Appellants Pro Se response has been served upon DeShawn H. Mitchell Esquire, at the Rembert Dennis Building, 1000 Assembly

Street, Room 519, Columbia, SC 29201
to be delivered by the South Carolina Department of Corrections and Interdepartmental / Inter-Agency mail and its services as provided.

this 31ST day of December, 2018

John A. Ziegler
John A. Ziegler

RECEIVED

JAN 04 2019

S.C. SUPREME COURT

John A. Ziegler, # 365214
Allendale Correctional Inst.
P.O. BOX 1151
Fairfax, SC 29827

THE HONORABLE DANIEL SHEAROUSE
CLERK OF COURT
THE SUPREME COURT OF SOUTH CAROLINA
Post Office Box 11330
Columbia, SC 29211

Re: John A. Ziegler v. State of South
Carolina, 2015-CP-39-1575
Appellate Case No. 2018-000482

Dear Honorable Clerk
Please find enclosed for filing my pro
se brief regarding the above referenced case.

The respondent has been served as
affirmed by the enclosed Certificate of Service

RECEIVED

JAN 04 2019

SC Court of Appeals

I am requesting a clock/date stamped copy of the enclosed documents pursuant to SCRE 901 to present as evidence in the event of any future filings and/or Court appearance(s) which may come fourth.

Thank you for your assistance in this matter.

Sincerely,
John A. Ziegler
John A. Ziegler # 365214

John K. Legler, 565214
Allendale Correctional Inst.
P.O. Box 1151, Hwy. 47
Fairfax, SC 29827

Inter-Agency Confidential Legal Mail

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Supreme Court of South Carolina
Daniela E. Sharouse, Clerk Of Court
Post Office Box 11330
Columbia, South Carolina 29211