THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED
FEB 01 2019
S.C. SUPREME COURT

Appeal from Florence County Court of Common Pleas
The Honorable Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2018-001339

Saquawn M. Lacy,..Petitioner,

v.

State of South Carolina,..Respondent.

PETITION FOR WRIT OF CERTIORARI

WILLIAM G. YARBOROUGH III

LAUREN C. HOBBIS

WILLIAM G. YARBOROUGH III, ATTORNEY AT LAW, LLC
522 North Church Street
Greenville, South Carolina 29601
(864) 331-1612

COUNSEL FOR PETITIONER

TABLE OF CONTENTS

Table of Contents...1

Table of Authorities..2-3

Issues Presented for Review...4

Statement of the Case...5-6

Statement of Facts..7-10

Standard of Review...11

Argument

I. THE PCR COURT ERRED IN DENYING RELIEF AND FINDING COUNSEL'S MISADVICE AS TO SENTENCING UNDER THE PLEA AGREEMENT DID NOT RENDER PETITIONER'S GUILTY PLEA NOT KNOWINGLY OR VOLUNTARILY MADE...12-16

Conclusion...17

TABLE OF AUTHORITIES

CASES

Alexander v. State, 303 S.C. 539, 402 S.E.2d 484 (1991)....13

Anderson v. State, 342 S.C. 54, 535 S.E.2d 649 (2000)....11

Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998)....11

Boykin v. Alabama, 395 U.S. 238 (1969)....13

Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989)....11

Craddock v. State, 327 S.C. 303, 491 S.E.2d 251 (1997)....14

Dean v. State, Case No.2012–212092, No. 2015–UP–176 (Ct. App. 2015)....15

Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991)....13

Gustine v. State, 325 S.C. 123, 480 S.E.2d 444 (1997)....12

Hill v. Lockhart, 474 U.S. 52 (1985)....12

Hinson v. State, 297 S.C. 456, 377 S.E.2d 338 (1989)....14

Holden v. State, 393 S.C. 565, 713 S.E.2d 611 (2011)....16

Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000)....15

Jordan v. State, 297 S.C. 52, 374 S.E.2d 683 (1988)....13

Knox v. State, 340 S.C. 81, 530 S.E.2d 887 (2000)....15

Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008)....11

Pierce v. State, 338 S.C. 139, 526 S.E.2d 222 (2000)....11

Simuel v. State, 390 S.C. 267, 701 S.E.2d 738 (2010)....11

Smith v. State, 369 S.C. 135, 631 S.E.2d 260 (2006)....15

State v. Armstrong, 263 S.C. 594, 211 S.E.2d 889 (1975)....12

State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980)....14

State v. Lopez, 352 S.C. 373, 574 S.E.2d 210 (Ct. App. 2002)....13

State v. Nesbitt, 411 S.C. 194, 768 S.E.2d 67 (2015)....................12

State v. Riddle, 278 S.C. 148, 292 S.E.2d 795 (1982)....................14

Strickland v. Washington, 466 U.S. 668 (1985)....................13

Taylor v. State, 404 S.C. 350, 745 S.E.2d 97 (2013)....................13

Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000)....................14

CONSTITUTION SECTIONS

U.S. Const. amend. VI....................13

U.S. Const. amend. XIV....................12

S.C. Const. art. I, § 3....................12

S.C. Const. art. 1, § 14....................13

ISSUES PRESENTED FOR REVIEW

I. WHETHER THE PCR COURT ERRED IN DENYING RELIEF AND FINDING THAT COUNSEL'S MISADVICE AS TO SENTENCING UNDER THE PLEA AGREEMENT DID NOT RENDER PETITIONER'S GUILTY PLEA NOT KNOWINGLY OR VOLUNTARILY MADE.

STATEMENT OF THE CASE

The Florence County grand jury indicted Petitioner Saquawn Lacy for attempted murder in April 2014. App. pp. 105-106. Assistant Solicitor John Jepertinger prosecuted the case. John Etheridge, Esquire first represented Petitioner and B. Scott Suggs, Esquire[1] was later retained and represented Petitioner through plea and sentencing. App. p. 44, ln. 1-6.

On September 8, 2014 before the Honorable Deadra L. Jefferson, Petitioner pleaded guilty to assault and battery of a high and aggravated nature (ABHAN) as per an agreement with the State in which there was ten (10) year sentencing cap. App. pp. 1-4. Petitioner was sentenced to nine (9) years with four (4) days credit for time served. App. p. 23, ln. 7-8; p. 21, ln. 24-25; p. 107. Petitioner did not appeal.

On September 16, 2014, Petitioner filed a motion to reconsider the sentence on the grounds that Petitioner's understanding of the plea negotiation was that it was for a five (5) year sentence; Petitioner's limited comprehension and mental processing skills hindered his ability to fully understand the plea agreement or proceedings, as well as the self-defense issue. App. p. 108. *See infra* pp. 8-9. The motion to reconsider was denied.

On April 6, 2015, Petitioner filed an application for post-conviction relief (APCR) raising numerous grounds for relief. App. pp. 25-31. Respondent, represented by Assistant Attorney General J. Croom Hunter, filed a return to the application on August 18, 2016. App. pp. 33-36. An evidentiary hearing was held on November 15, 2017 before the Honorable Michael G. Nettles. App. p. 37. The undersigned, William G. Yarborough III, Esquire appeared on Petitioner's behalf. Assistant Attorney General Lindsey McCallister appeared for Respondent. Petitioner and Counsel were both present and testified. Petitioner's mother, Sophia Lacy, also testified. The PCR Court

[1] Hereinafter referred to as "Counsel."

denied relief, the final order of dismissal was filed on July 12, 2018. App. pp. 92-104. This appeal follows.

STATEMENT OF THE FACTS

The charges arose on December 18, 2013 at a hole-in-the-wall pool hall owned and operated by Petitioner's brother, John Lacy IV. App. p. 9, ln. 21-24. Jeremiah Park, a family friend of the Lacy family, had been playing pool with John, and they all were celebrating Christmas early that night. App. p. 9, ln. 24 – p. 10, ln. 5; p. 11, ln. 7-10. At some point that night, Park and John argued over a pool game and soon after began fighting. App. p. 10, ln. 8-13; p. 18, ln. 18-25. Park was punching John, and just as he knocked John unconscious, Petitioner fired two bullets, the first missing Park but the second striking him in his hip. App. p. 10, ln. 14-19; p. 18, ln. 18-25. The State alleged that Petitioner then fired a third shot that went through the pool table after Park took cover underneath. App. p. 10, ln. 19-21. Park left the establishment and called paramedics and law enforcement from his cousin's home a few houses away. App. p. 10, ln. 22-24. Park's injuries were life-changing; he required the use of a colostomy bag, had undergone three surgeries by the time of the guilty plea and was expected to need two or three more. App. p. 11, ln. 21-23; p. 15, 11-15, ln. 18-25. Park informed the court at sentencing that he had known Petitioner and his family all his life and their parents had grown up together. App. p. 15, ln. 7-10. Park also stated he never thought about seriously hurting Petitioner. App. p. 15, ln. 10-11. Solicitor Jepertinger noted that he did not think Park and either Lacy brother "had any hard feelings between them before the night of this incident." App. p. 11, ln. 8-10.

Guilty Plea Colloquy

At the plea colloquy, Solicitor Jepertinger stated that there was a negotiated cap of ten (10) years at the start of the proceedings. App. p. 4. Judge Jefferson informed Petitioner that the maximum sentence for the ABHAN charge was twenty (20) years and that he should assume he

was not parole eligible and would serve any sentence received day for day. App. pp. 8-9. Petitioner's plea was accepted without informing him that the judge was not bound to the plea agreement's terms in regard to sentencing and Petitioner was not asked whether he understood the terms of the plea agreement. App. pp. 12-14.

PCR Hearing

Petitioner explained that he had been friends with Park long before that night and the two had made peace since. App. p. 48, 7-14. In response for more details on the events, Petitioner testified Park had "blind sighted" his brother, knocking John out, and was charging at Petitioner with a pool stick in his hand when Petitioner shot him. App. p. 48, ln. 21-24; p. 57, ln. 23 – p. 58, ln. 1. Petitioner also stated that Park had ran around the pool table, not underneath it. App. p. 58, ln. 12-23. Petitioner had felt threatened and scared for his brother and himself. App. p. 48, ln. 17 – p. 49, ln. 2. Petitioner recalled discussing the case with Etheridge, explaining to Etheridge he believed he had a defense to the charge. App. p. 44, ln. 12-20; p. 45, ln. 21-24. Etheridge did not review discovery with him and explained only that he would "'help [Petitioner] out on it.'" App. p. 44, ln. 14-20. Petitioner discussed with Counsel the "self-defense" claim he felt applied to the case. App. p. 46, ln. 5-6. Counsel did not substantially revisit the issue with Petitioner. App. p. 53, ln. 13-19. Petitioner felt as though Counsel did not explore the possibility of any defense enough. App. p. 53, ln. 20-22. Petitioner testified that during a brief meeting between he, Counsel, and Solicitor Jepertinger before the plea hearing, he was told the recommendation from the State at sentencing was going to be at most five (5) years, and that Counsel told him he would get Petitioner the five (5) year sentence cap, perhaps even a sentence under the Youthful Offender Act (YOA). App. p. 46, ln. 9-25; p. 51, ln. 8-16. Petitioner's mother, Sophia Lacy, testified she did not have

personal knowledge of that meeting; but she had met with Counsel after that meeting at which time he informed her that the sentence would be zero (0) to five (5) years. App. p. 47, ln. 4-5; p. 61, ln. 13-24; p. 62, ln. 1-19, ln. 25; p. 63, ln. 1-7; p. 66, ln. 20 – p. 68, ln. 3. Petitioner's mother felt as though her son understood what Counsel had re-relayed to him in her presence about the five (5) years. App. p. 63, ln. 2-7. Petitioner did not know his charge was ineligible for a YOA sentence until PCR Counsel informed him. App. p. 51, ln. 17-24. Notwithstanding YOA, Petitioner believed that the five (5) year recommendation from the State made it a "done deal" notwithstanding the ten (10) year sentencing cap. App. p. 47, ln. 20 – p. 48, ln. 4; p. 54, ln. 16-20. Petitioner testified that he accepted the plea bargain and went forward with pleading guilty because he believed he was going to get five (5) years. App. p. 47, ln. 18-25; p. 48, ln. 3-4; p. 49, ln. 17-18; p. 52, ln. 7-16; p. 59, ln. 22 – p. 60, ln. 1. He was surprised to receive a nine (9) year sentence and explained that he did not feel like he could or was permitted to stop proceedings to inform the court of the five (5) years. App. p. 48, ln. 5-6; p. 49. ln. 17 – p. 50, ln. 8. Petitioner felt intimidated, finding it difficult to speak in court and felt the entire process was rushed. App. p. 50, ln. 5-8; p. 56, ln. 7-9.

Counsel testified he recalled meeting with Petitioner "One, two...at least four times". App. p. 71, ln. 20-24. Counsel did not "recall any negotiations or any comments or writing of five years" or the cap. App. p. 76, ln. 2-5; *see also* App. p. 74, ln. 24 – p. 75, ln. 4. Counsel recalled meeting with his mother before the plea but was unsure as to that specific date. App. p. 75, ln. 13-16. Counsel did recall the meeting about the plea between he, Solicitor Jepertinger, and Petitioner at the courthouse, but stated it took place a few weeks prior to the plea hearing. App. p. 76, ln. 3 – p. 77, ln. 15. As for a YOA sentence, Counsel explained that if the subject came up between he and Petitioner during the course of his representation, he would have told Petitioner that both the

indicted offense of attempted murder and ABHAN do not qualify for a YOA sentence. App. p. 78, ln. 10 – 2 1. Counsel testified that due to the extent of Park's injuries and the original charge being attempted murder, "a negotiated ten was an excellent result." App. p. 76, ln. 3-4.

The PCR Court denied relief on this ground, finding Counsel committed no error that would have rendered Applicant's plea not knowingly or voluntarily entered. App. p. 103. This appeal follows.

STANDARD OF REVIEW

The PCR applicant has the burden of proving the allegations of the PCR petition. *Bannister v. State*, 333 S.C. 298, 302, 509 S.E.2d 807, 809 (1998). Upon review, if no probative evidence exists to support the PCR Court's findings, this Court will reverse. *Pierce v. State*, 338 S.C. 139, 144, 526 S.E.2d 222, 225 (2000) (citing *Holland v. State*, 322 S.C. 111, 470 S.E.2d 378 (1996)); *Cherry v. State*, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989). Great deference is given to a PCR judge's findings on credibility. *Simuel v. State*, 390 S.C. 267, 270, 701 S.E.2d 738, 739 (2010). Questions of law are reviewed de novo. *Lomax v. State*, 379 S.C. 93,101,665 S.E.2d 164, 168 (2008). When determining issues relating to guilty pleas, the Supreme Court will consider the entire record, including the transcript of the guilty plea and the evidence presented at the hearing on an application for postconviction relief. *Anderson v. State*, 342 S.C. 54, 535 S.E.2d 649 (2000).

ARGUMENT

The PCR Court erred in concluding Counsel was not ineffective and finding his performance did not render Petitioner's guilty plea not knowingly or voluntarily entered. Because there is no evidence of probative value to support the PCR Court's findings and the PCR Court's dismissal of the present application is based upon an error of law, Petitioner urges this Honorable Court to reverse the PCR Court's Order of Dismissal, vacate his conviction and sentence, and remand for a new trial.

I. THE PCR COURT ERRED IN DENYING RELIEF AND FINDING COUNSEL'S MISADVICE AS TO SENTENCING UNDER THE PLEA AGREEMENT DID NOT RENDER PETITIONER'S GUILTY PLEA NOT KNOWINGLY OR VOLUNTARILY MADE.

Because a guilty plea is not only an admission to certain conduct but is also a "depriv[ation] of liberty or other constitutionally protected interests", due process protections attach. *State v. Nesbitt*, 411 S.C. 194, 200, 768 S.E.2d 67, 70 (2015) (citing *Mabry v. Johnson*, 467 U.S. 504, 507, (1984); *Boykin v. Alabama*, 395 U.S. 238, 242 (1969)). *See also* U.S. Const. amend. XIV; S.C. Const. art. I, § 3. ("[A]bandonment of these rights cannot be due to ignorance or incomprehension for a plea of guilty is more than an admission of conduct, it is a conviction."). *State v. Armstrong*, 263 S.C. 594, 598 211 S.E.2d 889, 891 (1975). The longstanding test for determining the validity of a guilty plea is "'whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.'" *Hill v. Lockhart*, 474 U.S. 52, 56 (1985) (quoting *North Carolina v. Alford*, 400 U.S. 25, 31 (1970)). *See also Gustine v. State*, 325 S.C. 123, 127-28, 480 S.E.2d 444, 446 (1997). ("[W]aivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences"). To find a guilty plea is voluntarily and knowingly

entered, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Dover v. State*, 304 S.C. 433, 405 S.E.2d 391 (1991). *See also State v. Lopez*, 352 S.C. 373, 378-79, 574 S.E.2d 210, 213 (Ct. App. 2002) ("A guilty plea must be an informed and intelligent decision.") (citing *Boykin*, 395 U.S. at 241-44).

A criminal defendant has the right to the effective assistance of counsel under the Sixth Amendment of the United States Constitution and Article I, Section 14 of the South Carolina State Constitution. U.S. Const. amend. VI; S.C. Const. art. 1, § 14. Relief is warranted for its violation when counsel's performance was deficient and the defendant was prejudiced as a result. *Strickland v. Washington*, 466 U.S. 668, 687 (1985). "In the context of a guilty plea, the deficiency prong inquiry turns on whether the plea was voluntarily, knowingly, and intelligently entered." *Taylor v. State*, 404 S.C. 350, 360, 745 S.E.2d 97, 102 (2013) (citing authority omitted). *See also Alexander v. State,* 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991) ("Simply put, the first inquiry is whether counsel's *advice* was deficient.") (italics added). The prejudice prong is satisfied when but for counsel's errors, the defendant would not have pleaded guilty and instead would have proceeded to trial. *Hill,* 474 U.S. at 56; *Jordan v. State*, 297 S.C. 52, 374 S.E.2d 683 (1988). *See also Alexander*, 303 S.C. at 542, 402 S.E.2d at 485 (holding that the inquiry is not based upon whether the defendant would have been successful had he gone to trial).

Here, the PCR Court erred in denying relief because misadvice as to the negotiated sentence induced Petitioner to plead guilty. Petitioner and his mother testified that Counsel each informed them that the negotiated range was up to five (5) years and that Petitioner was going to receive a five (5) year sentence under the terms of the agreement. Such misadvice as to the negotiated sentence was deficient performance and Petitioner would not have pleaded guilty had

he known he could receive up to ten (10) years under the agreement. South Carolina courts have found that a defendant's misunderstanding such as here regarding his guilty plea or the agreement rendered the defendant's guilty plea not knowingly or voluntarily made and such misadvice to constitute ineffective assistance of counsel. *Thompson v. State,* 340 S.C. 112, 531 S.E.2d 294 (2000); *Alexander*, 303 S.C. at 542-43, 402 S.E.2d at 485-86; *Craddock v. State*, 327 S.C. 303, 491 S.E.2d 251 (1997); *Hinson v. State*, 297 S.C. 456, 377 S.E.2d 338 (1989); *State v. Riddle*, 278 S.C. 148, 151, 292 S.E.2d 795, 796 (1982) (finding the defendant's plea not knowingly entered because he misunderstood the scope of the plea agreement on sentencing) (Ness, J.J. and Harwell, JJ., dissenting); *State v. Hazel*, 275 S.C. 392, 271 S.E.2d 602 (1980). *See also State v. Armstrong*, 263 S.C. at 597, 211 S.E.2d at 890 ("Accuracy is paramount; force, threats, or lack of knowledge and understanding by the accused deprive a guilty plea of validity."). In addition to Petitioner's testimony that he would not have pleaded guilty had he known the agreement was rather for a ten (10) year sentencing cap, Petitioner's persistence and his belief as to the viability of his self-defense claim further demonstrates that he genuinely would have proceeded to trial but for Counsel's misadvice as to the sentencing terms of the agreement.

Nonetheless, the PCR Court found no error on the part of Counsel, finding Petitioner "presented no evidence or valid reasons why he should be allowed to depart from the truth of his statements made at the plea." App. p. 102.[2] There is no evidence of probative value to support the

---

[2] The PCR Court also found that "Applicant confirmed he understood the plea deal was a range of zero to ten years" during the guilty plea proceedings, and concluded "Counsel was not deficient, as he clearly explained all the terms of the agreement to Applicant." App. p. 102-03. There was no testimony at either the PCR or plea proceeding to directly or implicitly support either blanket statement. App. pp. 12-14; *see also supra* p. 8. Moreover, presuming that Petitioner understood the terms of the cap when the guilty plea hearing transcript is silent to his understanding of this term is impermissible. *See geneally Boykin*, 395 U.S. at 241-42 (applying the rule: "Presuming waiver from a silent record is impermissible" to the waiver of constitutional rights at guilty plea proceedings).

PCR Court's findings. Petitioner and his mother testified to the five (5) sentence and cap as per their discussions with Counsel. Counsel testified he could not recall any negotiation or discussion with Petitioner or with his mother about the five (5) year sentence or cap; although he did remember the meetings where Petitioner and his mother stated Counsel had told them about the five (5) years. Counsel's inability to recall does not serve to refute Petitioner and his mother's testimony and the PCR Court made absolutely no findings as to credibility for this ground. *Jackson v. State*, 342 S.C. 95, 97-97, 535 S.E.2d 926, 927 (2000) (reversing because although the PCR judge found petitioner's testimony that he would not have pled had he known the charge was a felony, *there was no evidence contradicting or conflicting with petitioner's testimony* that would support the PCR judge's findings) (italics added); *cf. Smith v. State*, 369 S.C. 135, 138-39, 631 S.E.2d 260, 261-62 (2006) (defendant would have satisfied the burden to prove ineffective assistance of counsel had he sufficiently stated he would not have pleaded guilty but for counsel's misadvice, although he had so alleged in his PCR application, because the State had offered no evidence to the contrary); *see also Id.* ("This Court, in *Jackson* and *Alexander*, held that the undisputed testimony of a PCR applicant is sufficient to warrant relief.") (citing *Jackson v. State,* 342 S.C. 95, 535 S.E.2d 926 (2000); *Alexander v. State*, 303 S.C. 539, 402 S.E.2d 484 (1991)). *See also Dean v. State*, Case No. 2012–212092, No. 2015–UP–176 (Ct. App. 2015); *Knox v. State*, 340 S.C. 81, 530 S.E.2d 887 (2000) ("In this case, counsel testified she never discussed parole with Knox. This testimony is uncontested. Moreover, there is no evidence Knox would not have pled guilty but for counsel's failure to advise him regarding parole"), *overruled on other grounds by State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005). Therefore, Petitioner satisfied his burden to prove deficiency as to the misadvice on the part of Counsel and to prejudice as he testified he

would not have pleaded guilty had he known the agreement set a sentence that was up to ten (10) years rather than five (5) years.

Moreover, although the PCR hearing testimony was summarized initially in the order of dismissal, the PCR Court's reasoning refers to only the plea hearing transcript. App. p. 102. This was an error of law. *Holden v. State*, 393 S.C. 565, 573 713 S.E.2d 611, 615 (2011) ("'In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing'...'Specifically, the voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea, and also from the record of the PCR hearing.'"), *overruled on other grounds by Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018) (quoting *Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007); *Roddy v. State*, 339 S.C. 29, 33, 528 S.E.2d 418, 420-21 (2000)).

CONCLUSION

But for Counsel's misadvice regarding the plea agreement, Petitioner would not have pleaded guilty and instead would have proceeded to trial. Counsel's misadvice as to the sentencing range under the plea agreement was deficient and prejudicial, thereby rendering Petitioner's guilty plea not knowingly, intelligently, or voluntarily made. Petitioner thus requests this Honorable Court to grant certiorari, reverse the PCR Court's order of dismissal, as well as Petitioner's conviction and sentence, and remand for a new trial.

Respectfully submitted,

WILLIAM G. YARBOROUGH III
LAUREN C. HOBBIS

By:
Lauren C. Hobbis
South Carolina Bar #103190

William G. Yarborough III, Attorney at Law, LLC
522 North Church Street Greenville, SC 29601
(864) 331-1612

COUNSEL FOR APPELLANT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED
FEB 01 2019
S.C. SUPREME COURT

Appeal from Florence County Court of Common Pleas
The Honorable Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2018-001339

Saquawn M. Lacy,..Petitioner,

v.

State of South Carolina,...Respondent.

PROOF OF SERVICE

The undersigned hereby certifies that one (1) original petition for writ of certiorari and six (6) true copies, as well as two (2) copies of the appendix were filed with this Court, this day the January 28, 2019, through the United States mail with sufficient postage attached addressed to:

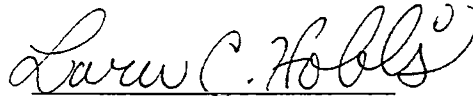
The Honorable Daniel E. Shearouse, Clerk of Court
SC Supreme Court
Post Office Box 11330
Columbia, SC 29211

The undersigned further certifies that one (1) true copy of the petition for writ of certiorari and one (1) true copy of the appendix were served upon the Respondent this day, January 28, 2019, through the United States mail with sufficient postage attached addressed to:

Assistant Attorney General Lindsey Ann McCallister
SC Attorney General's Office
Post Office Box 11549
Columbia, SC 29211

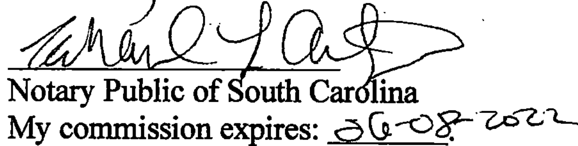
The undersigned further certifies that all parties required to be served pursuant to the appellate court rules have been served.

This 28th day of January, 2019



Lauren C. Hobbis, SC Bar #103190
William G. Yarborough III, Attorney at Law, LLC

Sworn before me this 28th day
of January, 2018



Notary Public of South Carolina
My commission expires: 06-08-2022