

STATE OF SOUTH CAROLINA
In the Supreme Court

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CERTIORARI TO YORK COUNTY
Court of Common Pleas
J. Mark Hayes, II, Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2018-000785

MARQUIS JAERIS SANTONI ROBINSON,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

Whether the post-conviction relief court properly denied relief on grounds that Petitioner failed to carry his burden of proving trial counsel was ineffective for failing to present an alibi witness at trial.

STATEMENT OF THE CASE

Marquis Jearies Santoni Robinson (Petitioner) was indicted at the September 15, 2011 term of the grand jury of York County for armed robbery (2011-GS-46-2905), attempted murder (2011-GS-46-2906), criminal conspiracy (2011-GS-46-2907), kidnapping (2011-GS-46-2908), and possession of a firearm during the commission of a violent crime (2011-GS-46-2909). He was represented by Twana N. Burris, Esquire, of the York County Bar. The State was represented by Assistant Solicitor Misti Horton-Shelton of the Sixteenth Circuit Solicitor's Office. (R.p.1). On July 22-25, 2013, Petitioner proceeded to trial by jury before the Honorable John C. Hayes, III, pursuant to which he was found guilty of armed robbery, kidnapping, assault and battery in the second degree as a lesser included offense of attempted murder, criminal conspiracy, and possession of a firearm during the commission of a violent crime. He was sentenced to thirty (30) years' imprisonment for kidnapping, thirty (30) years' concurrent imprisonment for armed robbery, five (5) years' concurrent imprisonment for criminal conspiracy, five (5) years' concurrent imprisonment for possession of a weapon during the commission of a violent crime, and three (3) years' concurrent imprisonment for second degree assault and battery, for an aggregate sentence of thirty (30) years' imprisonment. (App.p.386; p.1196-p.1210; p.1340-p.1354).

Petitioner timely filed a notice of intent to appeal his conviction and sentence and a direct appeal was perfected by Appellate Defender Kathrine H. Hudgins, Esquire, of the South Carolina Commission on Indigent Defense. Petitioner raised the following issue on appeal: "Did the trial judge err in refusing to grant the motion for a mistrial based on the prosecutor's failure to disclose evidence favorable to Appellant and material to his guilt in violation of Appellant's state

and federal constitutional rights to due process?” (App.p.1214-p.1225). The State submitted a brief in response and Petitioner submitted a reply brief. (App.p.1226-p.1257). In an unpublished opinion filed October 14, 2015, the South Carolina Court of Appeals affirmed Petitioner’s convictions and sentence. *State v. Robinson*, Op. No. 2015-UP-486 (S.C. Ct. App. filed October 14, 2015). (App.p.1258-p.1259). The Remittitur was issued on November 4, 2015. (App.p.1260).

On April 13, 2016, Petitioner filed an application for post-conviction relief (PCR) alleging he was being held unlawfully for the following reasons:

1. “4th, 5th, 6th, 8th, 13th, 14th Amendment and violation of due process.”
2. “Violation and fraud upon the court and subject matter jurisdiction.”
3. “Ineffective Assistance of Counsel and violation of Brady law.”

(App.p.1261-p.1267). The State filed its Return on August 5, 2016, requesting an evidentiary hearing be held. (App.p.1266-p.1273).

On January 15, 2018, Petitioner filed an Amendment to his PCR application to include the following allegations:

1. Ineffective Assistance of Counsel as to Twana N. Burris-Alcide, Esquire:
 - a. Failed to call Kayla Higgs as an alibi witness.
 - b. Failed to properly cross-examine Ernest Jordan regarding statements made. Had Mr. Jordan been properly cross examined he would have lost all credibility and the Applicant would have been exonerated at trial.
2. Trial Judge abused discretion when he punished the Applicant for exercising his right to trial by giving Applicant an excessive sentence. See Castro v. State, 417 S.C. 77, 789 S.E.2d 44 (2016).

3. Juror Tamara N. Gary knew trial counsel and failed to disclose that information in voir dire. See State v. Woods, 345 S.C. 583, 550 S.E.2d 282 (2001), “[w]here a juror, without justification, fails to disclose a relationship to a party, it may be inferred, nothing to the contrary appearing, that the juror is not impartial.

(App.p.1274-p.1275).

An evidentiary hearing into the matter was convened on January 29, 2018, at the Moss Justice Center in York, South Carolina, before the Honorable J. Mark Hayes, II. Petitioner was present at the hearing and represented by Ashley A. McMahan, Esquire. The State was represented by Assistant Attorney General Justin Hunter, Esquire, of the South Carolina Office of the Attorney General. At the evidentiary hearing, Petitioner testified on his own behalf. Petitioner’s trial counsel, Twana Burris, Esquire, and Petitioner’s former girlfriend Káyla Higgs also testified.

The PCR court had before it a copy of Petitioner’s records from the York County Clerk of Court, Petitioner’s records from the South Carolina Department of Corrections, the trial transcript, Petitioner’s direct appeal records, the PCR application and amendments, and Respondent’s return. At the conclusion of the evidentiary hearing, the PCR court took the matter under advisement. (App.p.1327). On April 5, 2018, Judge Hayes issued a written order finding counsel provided effective assistance in this case and denying relief. On April 24, 2018, Petitioner filed a Notice of Appeal appealing the PCR court’s denial of his application for PCR. Petitioner filed his Petition for Writ of Certiorari and the Appendix on October 22, 2018. This Return on behalf of the State now follows.

STATEMENT OF FACTS

Trial

On Wednesday evening, June 8, 2011, Earnest Neal Jordan (Jordan) and Jared Crane (Crane) were assaulted, kidnapped, and robbed at gunpoint by Petitioner and his co-defendant, Dantonyo Heath (Heath). At trial, Jordan was called as the first witness for the State. He testified that on June 8, 2011, he and Crane were working late at Jordan's business, Five Star Customs, on Cherry Road in Rock Hill. Crane was about to paint a car, and Jordan was doing administrative work in his office. Crane's wife Amanda was also at the shop but left to get Crane something to eat shortly before the robbery. At approximately 10:00 p.m., while Jordan was in the bathroom, he heard the bay door to the garage slam open. As he came out to investigate, a man with his shirt over his face pointed a gun at Jordan and ordered him back into the bathroom. Jordan identified the man with the gun as Petitioner. He testified he had known Petitioner for four or five years because Petitioner was at the shop almost every other day and sometimes helped work on the cars. (App.p.617, line 9-p.619, line 21; p.624, lines 8-19).

Jordan saw a second intruder duck down behind a Jeep that was in the garage. As the first intruder was pulling him towards the bathroom, Jordan tried to grab the gun and began "tussling" with the man. During the struggle, the gun discharged and Jordan began bleeding from the face, leading him believe he had been shot and might soon be killed. The struggle continued in the bathroom where the intruder started choking Jordan and called for assistance from "Yodi." Before the second intruder could respond, Jordan told the first intruder that he had money in his truck. As Jordan was led out of the bathroom at gunpoint, he saw Crane get "cold cocked" by the second intruder, who surprised Crane by jumping up from behind the vehicle as

Crane came to see what was happening with Jordan. The second intruder kept beating Crane and eventually took Crane to the bathroom and tied him up with speaker wire. Jordan identified the second intruder as Heath. He testified he had seen Heath three or four times before the incident and knew him by the nickname "Yodi." After beating and tying Crane up in the bathroom, Petitioner and Heath started walking Jordan outside to his truck to retrieve the money. When they got outside, they saw Amanda in her car. Heath approached the car to ask for Amanda's cell phone while Petitioner had Jordan get the cash from his truck. Security cameras from the shop recorded the incident from several angles, and those video recordings were introduced into evidence. (App.p.619, line 22-p.643, line 16; State's Exhibits 7, 8, & 9).

After the assault and battery, kidnapping and robbery, Petitioner and Heath got in a nearby vehicle and fled while Jordan went back inside and called 9-1-1. Jordan told the police who were dispatched to the scene that Petitioner and "Yodi" committed the crimes. Jordan later identified Petitioner and Heath in photo line-ups prepared by the police, and subsequently made in-court identifications of both assailants. (App.p.643, line 17-p.655, line 9).

Next, the State called Investigator Tim Buchanan of the York County Sheriff's Department to describe how he processed the crime scene to gather evidence, and collected buccal swabs from Jordan, Crane, and Heath for possible DNA testing. (App.p.752, line 2-p.769, line 19; p.794, line 24-p.800, line 2). Amanda Crane then took the stand. She witnessed the two suspects leading Jordan out of the building when one approached to ask for her cell phone. She went inside to retrieve the phone and discovered her husband, Crane, bleeding from the head as he came out of the bathroom. Amanda made an in-court identification of Heath as

the person who approached her in the parking lot, saying she was sure it was him. (App.p.802, line 23-p.812, line 3).

Next, Jared Crane took the stand and described the crimes from his perspective. He described hearing the rolling garage door come up and seeing Petitioner run by with his shirt pulled-up over part of his face, but assumed it was a joke since Petitioner and Jordan were friends. Crane identified Petitioner in a photo line-up and made an in-court identification. When Crane heard a pop that sounded like a firecracker, he went to see what was going on and was suddenly hit in the back of the head so hard his "bells was ringing." Crane tried to fight back while he was being beaten and choked by the second intruder, but eventually gave up when the man threatened to harm Amanda when she returned. Crane was then taken to the bathroom and tied up with speaker wire. Crane was not able to identify the second intruder. (App.p.825, line 15-p.840, line 12).

The State then called two chain-of-custody witnesses before putting forensic DNA analyst Lilly Gallman of SLED on the stand. She was admitted as an expert in the field of forensic DNA analysis and testified she discovered a mix of DNA samples on a white t-shirt taken from the scene. She determined Crane was a match as the major contributor with a 1 in 11 quadrillion probability of having provided the sample, while Heath could not be excluded as the minor contributor, with a 1 in 111 probability of having been the minor contributor. (App.p.895, line 13-p.913, line 5). Next, Sergeant Tashia Smith of the Rock Hill Police Department testified about her role in responding to the crime scene and helping produce and the photo line-ups. (App.p.944, line 23-p.949, line 16).

Finally, the State called the lead investigator, Detective Cedric Stokes of the Rock Hill Police Department, to the stand. He described responding to the crime scene, talking to the victims, producing and showing the photo line-ups and other aspects of the investigation. (App.p.971, line 22-p.990, line 23). During cross-examination, Petitioner asked what time Detective Stokes was dispatched to the crime scene. In attempting to respond, Detective Stokes began reading from his copy of a "CAD [computer aided dispatch] report" that was in his file. At that point, Petitioner indicated this report had not been turned over in discovery. The jury was excused and Petitioner and his co-defendant moved for a mistrial. The solicitor advised she had not seen Detective Stokes' notes or the CAD report. The court then recessed for approximately ten minutes to allow the parties to review the CAD report. (App.p.1013, line 20-p.1017, line 22). Upon completing their review, both Petitioner and his co-defendant moved for a mistrial alleging the failure to disclose the CAD report violated *Brady v. Maryland*. (App.p.1018, line 20-p.1020, line 20). After hearing arguments from the parties, the trial judge denied the motions for a mistrial. (App.p.1021-p.1025, line 4). The CAD report was marked as Court's exhibit number nine and received into evidence. (App.p.1028, lines 8-14).

Petitioner and his co-defendant proceeded to use the CAD report during their cross-examination of Detective Stokes. Petitioner questioned him about: (1) the reference to "three black males," (2) the comment that the victims were talking to each other instead of the police, and (3) the comment that the suspect was only "possibly" Petitioner. Heath then questioned Detective Stokes about the reference to one of the suspects possibly having a stab wound. (App.p.1029, line 1-p.1034, line 12; p.1059, lines 4-12; p.1061, line 11-p.1062, line 8; p.1070, lines 3-25). Neither Petitioner nor Heath requested a continuance or any additional time to

consider the report or how best to utilize it during trial. They also did not ask to recall any witnesses based on the newly discovered CAD report, in an effort to further explore any alleged inconsistencies.

After the State rested, Petitioner renewed his motion for a mistrial and the trial court denied that motion. (App.p.1078, lines 1-22). During closing arguments, Petitioner and Heath both referenced the CAD report and the alleged inconsistencies with the victims' trial testimony in trying to convince the jury not to convict. (App.p.1113, line 18-p.1114, line 4; p.1015, lines 2-16; p.1120, lines 9-24; p.1147, line 11-p.1148, line 8). During sentencing, Petitioner's girlfriend, Kayla Higgs, was given an opportunity to address the court. She claimed the man in the video was not Petitioner; however, she made no claim that she could have provided an alibi for him during trial. Higgs also did not raise any concerns about trial counsel or Counsel's failure to call Higgs as a witness for the defense. After the verdict Petitioner moved for a judgment notwithstanding the verdict, and that motion was denied. (App.p.1203, lines 11-14).

PCR Hearing

At the June 27, 2017 evidentiary hearing Petitioner presented testimony focusing primarily on his allegation that Counsel was of ineffective for failing to call Kayla Higgs as an alibi witness at trial. (App.p.1280). Petitioner testified Higgs was his alibi witness and was supposed to testify at trial, but Counsel told him there was no need for her to be called to the stand. He said his main defense was mistaken identity because the State could not put him at the crime scene. (App.p.1286-p.1294). Higgs then testified she and Petitioner were together at the time of the incident. She claimed they went through the same routine they did every night, coming home from work, having dinner, bath time for their daughter, and going to bed. Higgs

testified they put their daughter to bed at 8:30, watched TV or hung out until 10 or 10:30, and then went to bed themselves. She said that the night of the incident Petitioner went to bed with her at the same time and was there in the morning when she woke up. Higgs testified she would have heard or noticed if Petitioner got up during the night or got out of bed because she is a light sleeper. She said Counsel told her she did not need to be called as a witness at trial but never explained why despite Higgs telling Counsel all of this information about her routine and being with Petitioner on the night of the incident. (App.p.1294-p.1300).

Counsel testified Higgs was involved with the case from the beginning and was one of the individuals who asked her to talk to Petitioner about representation before Counsel was formally retained. She testified she met with Petitioner many times before trial, went over discovery, interviewed witnesses, and talked about pre-trial motions, plea negotiations, and strategies. Counsel testified Petitioner always insisted he was not involved in the crimes but that neither Petitioner nor Higgs ever mentioned that Higgs was an alibi witness. She explained she knows they did not bring Higgs up as a potential alibi because if they had it would have been her obligation as a defense attorney to investigate the alibi prior to trial. Counsel testified she regularly communicated with Higgs throughout her preparation for trial and that Higgs never asked to be a witness. She acknowledged including Higgs on her witness list but explained she always includes everybody who might be a witness because if she does not, she risks the chance of not being able to call them during trial if the need arose. Counsel insisted however that Higgs never asked to be a witness at trial and simply did not tell her about an alibi. (App.p.1301-p.1309). On cross-examination Counsel acknowledged Higgs told her she and Petitioner had a

child together, but she reiterated that Higgs never told her Petitioner was home during the time of the incident. (App.p.1318-p.1319).

The PCR court took the case under advisement. (App.p.1327). In an Order of Dismissal dated April 5, 2018, and filed April 12, 2018, Judge Hayes denied and dismissed Petitioner's PCR Application with prejudice. The PCR court addressed the individual allegations, finding each to be without merit. Ultimately, the PCR court concluded: "[Petitioner] has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief, and "failed to demonstrate that Counsel's performance was unreasonable under prevailing professional norms." (App.p.1329-p.1339).

STANDARD OF REVIEW

The standard of review in post-conviction relief cases depends on the specific issue before the reviewing court. The appellate court will defer to a post-conviction relief court's findings of fact and will uphold them if there is evidence in the record to support them; but will review questions of law *de novo*, with no deference to trial courts. *Smalls v. State*, 422 S.C. 174, 180-81, 810 S.E.2d 836, 839-40 (2018).

ARGUMENT

The post-conviction relief court properly denied relief on grounds that Petitioner failed to carry his burden of proving trial counsel was ineffective for failing to present an alibi witness at trial.

Petitioner asserts Counsel provided ineffective assistance in derogation of his rights pursuant to the Sixth and Fourteenth Amendments to the United States Constitution by failing to present an alibi witness. (Petition, p.6). Relying primarily on this Court's opinion in *Walker v. State*, 407 S.C. 400, 756 S.E.2d 144 (2014), he claims Counsel's failure to call Higgs as an alibi

witness, despite her presence at trial and her willingness and ability to testify. Petitioner was at home with her and her daughter at the time of the crimes, denied Petitioner an opportunity to defend against the State's "extremely weak case." (Petition, p.10). The State disagrees and submits Petitioner's argument is entirely without merit. The PCR court's ruling is supported by ample probative evidence in the record and therefore, certiorari should be denied.

In a post-conviction relief action, the Applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRPC; *Caprood v. State*, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000); *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). When an Applicant alleges ineffective assistance of counsel as a ground for relief, he or she must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. "There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007). An Applicant must overcome this presumption in order to receive relief. *Cherry*, 300 S.C. 115, 386 S.E.2d 624. Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable. *Strickland*, 466 U.S. at 689. In assessing counsel's performance, counsel's decisions must be evaluated at the time in which they were

made and “every effort [must] be made to eliminate the distorting effects of hindsight.”

Strickland, 466 U.S. at 689. Accordingly, courts must be wary of second-guessing counsel’s tactics. *Whitehead v. State*, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” *Cherry*, 300 S.C. at 117, 385 S.E.2d at 625 (citing *Strickland*). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Strickland*, 466 U.S. 668.

Moreover, *Strickland* does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, *Strickland* requires the post-conviction relief Applicant to prove “counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” *Id.* at 697. Therefore, the function of the post-conviction relief court is to determine if “in light of all the circumstances, the identified acts or omissions were outside *the wide range* of professional competent assistance” required of a criminal defense attorney.” *Id.* at 690 (emphasis added).

Here, the PCR court reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, weighed the testimony accordingly, and made findings of fact based upon the evidence presented. It described the relevant portions of the testimony offered by Petitioner, Higgs, and Counsel and concluded Petitioner had failed to meet his burden of proving Counsel was ineffective for failing to call Higgs as a witness at trial. The PCR court found that although Higgs “appeared credible” at the PCR hearing, Counsel’s testimony was more believable than Higgs’ testimony. It found Counsel provided credible testimony that she met with Higgs often, and was never told of a possible alibi defense involving Ms. Higgs. The PCR court concluded Counsel was not deficient where she never had any indication from Petitioner or Higgs that Higgs could provide alibi testimony for Petitioner. Furthermore, the PCR court found Petitioner failed to meet his burden of proving the outcome of his trial would have been different had Higgs been called to testify. It found a review of the trial transcript indicates that even if Higgs had been called at trial, a strong likelihood exists that she may not have been believed because the evidence Petitioner participated in the crimes was strong. (App.p.1332-p.1334). These findings of fact and conclusions of law are supported by evidence in the record and should result in the denial of certiorari.

Initially, the State notes the PCR court’s finding that Higgs likely would not have been believed at trial comports with its conclusion that Counsel was a more credible witness than Higgs at the PCR hearing. Although the PCR court found Higgs “appeared credible” it did not find that she was credible, instead believing Counsel’s version of events and concluding Higgs never provided information that would have led Counsel to believe she might be able to provide

an alibi at trial. Under South Carolina law, the trial judge is in the best position to make credibility findings, not an appellate court. *See State v. Smith*, 383 S.C. 159, 167-168, 679 S.E.2d 176, 181 (2009) (“Clearly, the trial judge was in the best position to assess the credibility of the witnesses that testified at the hearing on the motion for a new trial.”); *State v. Cutro*, 332 S.C. 100, 117, 504 S.E.2d 324, 332 (1998) (“The trial judge, not this Court, is in the best position to be arbiter of [the witness’] credibility.”); *State v. Tutton*, 354 S.C. 319, 325, 580 S.E.2d 186, 190 (Ct. App. 2003) (“The determination of a witness’s credibility must be left to the trial judge who saw and heard the witness and is therefore in a better position to evaluate his or her veracity.”). The PCR judge was in the best position to weigh Higgs’ credibility and conclude that her claims about being an alibi witness were not believable in light of Counsel’s more credible testimony. Additionally, the credibility finding is supported by Higgs’ utter failure to attempt to tell the trial judge that she could have provided an alibi when she was given the opportunity to speak immediately after the verdict, during Petitioner’s sentencing. Higgs also did not say anything to the trial judge to suggest she had concerns about Counsel’s failure to call her as a witness for the defense. (App.p.1206-p.1207). Given the PCR court’s credibility findings, there is simply no evidence in the record to support the claim that Higgs was a viable, known alibi witness at the time of trial. Thus, the credibility findings alone require affirming the PCR court’s denial of relief.

Additionally, Petitioner’s reliance on *Walker* is misplaced. In *Walker*, as in Petitioner’s case, a purported alibi witness testified at the PCR hearing. As noted by this Court, even though her testimony was not as clear as she could have been, it nevertheless had one viable interpretation to support his alibi defense. Yet in *Walker*, trial counsel admitted her notes

contained the name of the alibi witness as a person to interview but that she never interviewed that person before trial. *Walker*, 407 S.C. at 404, 756 S.E.2d at 146. Counsel also testified her investigator spoke with or tried to speak with the alibi witness but counsel never followed up with her investigator. *Id.* Here, Counsel credibly testified she met repeatedly with Higgs but Higgs never gave her information or any indication she could provide an alibi. Thus, *Walker* is inapposite. Finally, the strong, credible eyewitness identification testimony offered at trial supports the PCR court's conclusion that the outcome of the trial would not have been different even if Higgs had presented her incredible alibi testimony. As Petitioner failed to meet his burden of proof in this PCR action, his application was properly denied and dismissed with prejudice.

CONCLUSION

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

Respectfully submitted,

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
S.C. Bar No. 8729
Senior Assistant Deputy Attorney General

By: 
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February 15, 2019.

STATE OF SOUTH CAROLINA
In the Supreme Court

CERTIORARI TO YORK COUNTY
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J. Mark Hayes, II, Circuit Court Judge

Appellate Case No. 2018-000785

MARQUIS JAERIS SANTONI ROBINSON,

Petitioner,

v.

STATE OF SOUTH CAROLINA,


Respondent.

PROOF OF SERVICE

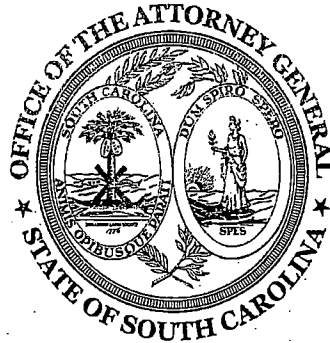
I, J. Benjamin Aplin, certify that I have served the within **Return to Petition for Writ of Certiorari** on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Susan B. Hackett, Appellate Defender
S.C. Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served. This 15th day of February, 2019.



J. BENJAMIN APLIN
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ALAN WILSON
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February 15, 2019

RECEIVED
FEB 15 2019
S.C. SUPREME COURT

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

**RE: Marquis Jaeris Santoni Robinson v. State of South Carolina
Appellate Case No.: 2018-000785**

Dear Mr. Shearouse:

Enclosed please find the original and six copies of the Return to Petition for Writ of Certiorari in the above matter for filing. Please let me know if anything additional is needed.

Sincerely,

J. Benjamin Aplin
Senior Assistant Deputy Attorney General
S.C. Bar # 8729

JBA/jaj
Enclosures

cc: Susan B. Hackett, Esquire
Victim Advocacy Division