STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED
MAY 03 2019
S.C. SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas
The Honorable Brooks P. Goldsmith, Circuit Court Judge

Appellate Case No. 2018-001735

JOHN EDWARD WASHINGTON, Petitioner,

v.

STATE OF SOUTH CAROLINA, Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

ALAN WILSON
Attorney General

WILLIAM F. SCHUMACHER, IV
S.C. Bar No. 100231
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-0368

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

Page

ISSUES PRESENTED

The post-conviction relief judge properly found plea counsel was not ineffective in failing to utilize mental health experts prior to and during Petitioner's guilty plea

STATEMENT OF THE CASE

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Petitioner was indicted at the March 2014 term of the Court of General Sessions for Richland County for murder (2014-GS-40-00387). Petitioner was represented by Johnathan S. Gasser, Esq. On February 5, 2015, Petitioner pleaded guilty to murder before the Honorable Edgar W. Dickson without negotiations or recommendation. On February 5, 2015, Judge Dickson sentenced Petitioner to forty (40) years imprisonment for murder. Petitioner did not appeal.

On December 3, 2015, Petitioner filed an application for post-conviction relief (PCR), alleging he was being held unlawfully for the following reasons:

1. "Ineffective assistance of plea counsel" and "Involuntary guilty plea"
    a. "Failure to fully address the issue of [Petitioner's competency] prior to, and during the plea proceedings."
    b. "Failure to fully address [Petitioner]'s mental health issues prior to, and during the plea proceedings."
2. "Belated direct appeal"
    a. "Counsel failed to file a direct appeal at [Petitioner]'s request."

Petitioner, by and through PCR counsel Tricia A. Blanchette, Esq., amended his application by filing on March 6, 2018, to allege the following:

1. "Ineffective assistance of counsel that rendered his guilty plea involuntary due to counsel's failure to utilize mental health experts to review records and evaluate [Petitioner] prior to the entry of his guilty plea and to assist in his plea proceeding, specifically, as follows:"
    a. "Failure to utilize mental health experts to assist in plea negotiations."
    b. "Failure to utilize mental health experts to formulate possible defenses and/or in mitigation."
    c. "Failure to utilize mental health experts to ensure that [Petitioner]'s plea was knowingly and voluntarily entered."

On March 22, 2018, an evidentiary hearing was held at the Richland County Courthouse before the Honorable Brooks P. Goldsmith. Tricia Blanchette, Esquire, represented Petitioner; Jessica Kinard, Esquire, represented the State. Petitioner proceeded only on the amended allegations at the evidentiary hearing. Petitioner called Dr. Tora Brawley, Ph.D., Dr. Donna Schwartz Maddox, M.D., Jan Washington Caldwell, and Johnny Gasser, Esquire, as witnesses.

In a written order filed on June 29, 2018, Judge Goldsmith denied relief and dismissed the application. Petitioner filed a motion for reconsideration of the dismissal pursuant to Rule 59(a) & (e) on July 6, 2018. On August 31, 2018, Judge Goldsmith denied the motion. Petitioner filed a timely notice of appeal, then a Petition for Writ of Certiorari and Appendix on January 28, 2019. This Return on behalf of the State now follows.

Plea Hearing

The plea court queried Petitioner as to his mental health, to which Petitioner replied that he was undergoing treatment for depression and taking medication as part of that treatment. The plea court asked if the medication affected Petitioner's ability to understand what he was doing at the proceeding, to which Petitioner replied in the negative. Petitioner affirmed he was thinking clearly and understood exactly what he was doing. Later in the proceeding, Petitioner collapsed during the plea court's examination of him; both the Clerk of Court and plea reported Petitioner had locked his knees. Petitioner recovered and affirmed he understood the allegations in the indictment. Petitioner immediately collapsed a second time and court recessed a few minutes. (App.pp.6–16).

After the recess, the plea court again inquired as to Petitioner's lucidity; Petitioner wrote off the episode as the result of dehydration. The plea court then turned to plea counsel and asked if Petitioner could proceed, to which counsel responded at length:

> MR. GASSER: Since you're – based on your question, we – I thoroughly looked into the idea of competency during the time, particularly since he was in a significant motor vehicle accident after this incident in which he had a closed-head injury. That during my times and meeting with him, I felt that particularly as the weeks went on after this incident that he, he was thinking with clarity. He was extremely lucid. He's an intelligent man. We spent a significant amount of time, as you can imagine, together over the eighteen times that we have met. I met with him again this morning.
>
> I also talked about these issues of competency with his ex-wife, Sheila Washington, who's in the courtroom, and she will be addressing the court shortly, Your Honor. And she has also on a regular basis, two to three times a week, had telephonic communication with Mr. Washington. She is somebody that has known him for, for thirty years. Has also indicated to me that she knows, she knows John. She's had conversations with John. She's talked about a variety of subject matters. She believes John to be lucid, and he understands what he's doing in his decision-making process.

Offered the opportunity to again speak with his client, plea counsel again conferred with Petitioner and thereafter reported to the plea court that he was "satisfied that he knows what he's doing today, what's going on right this – at this moment." Nonetheless, the plea court again asked Petitioner if he was thinking clearly and understood what he was doing, which Petitioner affirmed. The plea court noted Petitioner's age and emphasized that "any sentence you get for this is essentially a life sentence[,]" which Petitioner acknowledged. Petitioner pled guilty and the plea court found the plea freely, voluntarily, and intelligently made. (App.pp.17–21).

In mitigation, plea counsel confirmed the evidence against Petitioner was extremely strong and that Petitioner informed him at every meeting that he was guilty and wished to plead guilty. Plea counsel expressed some reservations about a client pleading straight-up to murder, but explained he "explored all avenues, all potential differences, all the probabilities of a jury trial," and concluded a plea for mercy was the best way forward. Plea counsel cited to

Petitioner's exemplary record of military service before briefly discussing Petitioner's mental health issues discovered during his service:

> Your Honor, the – he was diagnosed. A friend of his, a member of the Guard, Mr. John Edwards, actually noticed some signs, warning signs. Had him go to a physician at Moncrief Army Hospital, and the first documented, preliminary diagnosis of severe depression was on January the 28th. It is in his mental health and medical records that both the state and the defense were able to obtain shortly after this incident.
>
> He was initially put on Wellbutrin, an antidepressant. That was not strong enough. On March the 25th of 2011, they upgraded his medication to Zoloft. So, he had been on Zoloft for a period of eighteen months prior to this, prior to this incident dealing with his severe depressive episodes.

A number of friends, family, and colleagues of Petitioner spoke at length in mitigation. Immediately prior to sentencing, the plea court expressed the hope "that what happened will emphasize the need to address domestic violence and mental-health issues in this state, including, including depression." (App.pp.26–47).

PCR Evidentiary Hearing

At the evidentiary hearing, Petitioner called two doctors who evaluated Petitioner as part of this PCR action: Dr. Tora Brawley and Dr. Donna Maddox. Dr. Brawley, a clinical neuropsychologist in private practice, evaluated Petitioner on May 4, 2017, at the request of Dr. Maddox. Dr. Brawley interviewed Petitioner, who reported memory and concentration issues starting in 2011 during a senior leader course in the military, significant depression since 1998, and three head injuries suffered in 1975, 1984, and 2013. Dr. Brawley also conducted a battery of tests on Petitioner and found that, at the time of the evaluation, Petitioner's IQ was at 74, at the fourth percentile. Dr. Brawley concluded Petitioner suffered from a brain deficiency and recommended a full dementia workup. Dr. Brawley reviewed the results of Petitioner's previous neuropsychological testing conducted at Fort Gordon, Georgia in 2011, and contested its finding

that Petitioner suffered no mental deficits; the doctor argued the military wasn't looking for dementia in their testing, but rather only sought to determine whether Petitioner met retention standards. Dr. Brawley also criticized the report prepared by the South Carolina Department of Mental Health prior to the plea for relying only on interviews in lieu of any formal testing. Dr. Brawley concluded Petitioner's mental deficits at the present were more numerous than at the time of his evaluation in 2011, that Petitioner's condition was degenerative, and that he was declining in cognition. On cross-examination, Dr. Brawley conceded she did not attempt to determine culpability or responsibility at the time of the crime. (App.pp.79–95).

Dr. Maddox, qualified as an expert in forensic psychiatry, reviewed the evaluation by the Department of Mental Health, Petitioner's medical records from Palmetto Richland from the collision and injury after the killing, Petitioner's 2011 records form Moncrief Army Hospital, records of the investigation and plea, Dr. Brawley's report, and the results of an MRI. From her interview with Petitioner, Dr. Maddox reported he still suffered from significant depression, was still remorseful, and had been prescribed Remeron, an antidepressant. Dr. Maddox noted Petitioner had difficulty remembering his history of head injuries and that his present deficits were very apparent. Dr. Maddox found Petitioner could not draw a cube, confabulated words during a Montreal Cognitive Assessment, and exhibited nystagmus consistent with prior head injury. Dr. Maddox opined that both the military and DMH evaluations identified the cognitive deficits, but attributed them to Petitioner's depression. Dr. Maddox asserted Petitioner suffered frontal lobe dysfunction and that she would have been able to testify that Petitioner could not conform his conduct to the requirements of the law due to his dementia. However, Dr. Maddox also conceded there was no question of Petitioner's criminal responsibility—Petitioner, overwhelmed with remorse, attempted to kill himself immediately after killing the victim. Dr.

Maddox affirmed she would have been willing and able to assist plea counsel had she been asked to do so. (App.pp.95–111).

On cross-examination, Dr. Maddox explained Petitioner's condition would have led him to "ruminate" or fixate on a belief and would be unable to properly comprehend changes, such as a change in relationship status. The doctor testified Petitioner's dementia made him aggressive and impulsive inconsistent with his prior personality, but again conceded Petitioner knew right from wrong. Dr. Maddox asserted no difficulty in judging Petitioner's capacity at the time of the killing thanks largely to Petitioner's prior evaluation in 2011 as a point of comparison for his mental faculties. Dr. Maddox concluded the present matter was a case of "guilty, but mentally ill." (App.pp.111–20).

Petitioner's sister, Jan Washington Caldwell, testified to hearing the 911 tape of Petitioner in plea counsel's office, at which time she told plea counsel that the voice was not her brother, in the sense that Petitioner's voice was bizarre. Caldwell recalled the same response when looking at Petitioner's picture. Caldwell testified plea counsel never discussed Petitioner's mental health or mental capacity with her. Caldwell then recalled an instance of Petitioner getting fixated and irrationally upset while installing a rug in their mother's house in or about 2011 to 2012. Caldwell characterized Petitioner as very, very private, and expressed surprise upon finding numerous prescription bottles while cleaning out his home after his incarceration. Caldwell recalled Petitioner was slurring his words during the plea proceeding. On cross-examination, Caldwell admitted that though she had concerns about Petitioner's mental fitness during the plea proceeding, she did not share those concerns with either plea counsel or anybody else in her family. Caldwell additionally testified that she was completely unaware of Petitioner's mental conditions previously. (App.pp.121–36).

Plea counsel testified to 31 years of experience practicing law, overwhelmingly in criminal practice. Though Petitioner wished to plead all along, plea counsel indicated his own initiative to investigate discovery in the case and other records he could obtain. In particular, plea counsel had Petitioner sign a waiver to permit him access to his medical records from Moncrief Army Hospital. Plea counsel considered consulting with a mental health expert, but found the records to be clear as to Petitioner's diagnosis and treatment received. Plea counsel additionally spent considerable time consulting with Petitioner's ex-wife, Sheila Washington, to explore Petitioner's background and health, but learned nothing to lead him to believe expert consultation was necessary. Plea counsel discussed matters both related to and unrelated to the killing in order to confirm Petitioner's understanding of things in light of the treatment indicated in the Moncrief records. Plea counsel affirmed he thoroughly reviewed the medical records and marked up a copy as part of his mitigation notebook. Based on his review of the records, his consultation with Ms. Washington, and his interactions with Petitioner, plea counsel never had reason to believe Petitioner had any mental health problems beyond his diagnosis for depression. (App.pp.137–46).

Plea counsel demurred as to whether Petitioner's present-day diagnosis of dementia would have played a factor in his plea negotiations given the diagnosis was based on testing occurring several years after the plea, let alone the killing and subsequent suicide attempt. Plea counsel noted the M'Naghten standard was a high bar and, based on his investigation and observations, he felt that a plea of guilty-but-mentally-ill was never a realistic option. Instead, plea counsel focused on mitigation, including his mental health records, but focused primarily on his exemplary military record, as he felt that would be most persuasive to Judge Dickson. (App.pp.146–48).

Plea counsel recalled going over the head of the assistant solicitor assigned to the case to negotiate with the elected circuit solicitor in order to try and attain the best deal possible. Plea counsel presented Petitioner's history of depression and treatments to Solicitor Johnson, but noted the concern of the Fifth Circuit Solicitor's Office about setting a precedent that any indication of depression would result in relatively lenient treatment for extremely violent crime. Plea counsel reported the Solicitor considered the mitigation package provided, but the State was unwilling to offer a plea to voluntary manslaughter. Plea counsel described the facts of the case as extremely aggravating and that his realistic best hope was for a sentence in the low-to-mid 30's. Plea counsel recalled getting an assurance from the State that they would not ask for a specific sentence. (App.pp.148–53).

Plea counsel testified all of his meetings with Petitioner were face-to-face, one-on-one, with no phone interviews or meetings separated by barriers, and that all of them were of substantial duration. Plea counsel recalled 18 meetings with Petitioner. Plea counsel again observed and communicated with Petitioner after his fainting episodes during the plea proceeding and was satisfied he was lucid. Plea counsel observed the plea court paid very close attention during the entirety of his extended mitigation efforts. Plea counsel described the question of the present-day diagnosis as "Monday morning quarterbacking" and questioned whether it was realistic to conclude the same conclusions would have been reached had Petitioner been tested between 2013 and 2015. (App.pp.153–59).

On cross-examination, plea counsel denied ever observing anything in Petitioner or in Petitioner's medical history to suggest a cognitive defect or deficiency and that, had he so detected a deficiency, he would have followed up on it. None of the individuals who wrote letters or spoke on Petitioner's behalf in mitigation reported anything to plea counsel to indicate

any concerns about his mental health. Plea counsel recalled the underlying facts of the case: Petitioner drove by the victim's house only to be blown off by the victim, after which Petitioner returned to his own home, retrieved and loaded his gun, drove back to the victim's house, chased her inside her home, kicked her front door down, chased her back into her garage, and shot her dead, with the killing shot captured on the recording of a neighbor's 911 call. Plea counsel again affirmed Petitioner wanted to plea all along and, after investigating the case, plea counsel agreed that there was no defense that he could present at trial. Plea counsel attributed Petitioner's fainting at the plea proceeding to locking his knees while standing. As to the question of pursuing a guilty-but-mentally-ill defense, plea counsel affirmed his focus was on mitigation, not the form of plea that would impact the character of his incarceration. Plea counsel described Petitioner's post-killing head injury as mild beyond the immediate risk of death. (App.pp.159–74).

STANDARD OF REVIEW

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, he or she must prove "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." Butler at 442, 334 S.E.2d 441 (quoting Strickland v. Washington, 466 U.S. 668, 686 (1984)). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Id.

"[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler at 442, 334 S.E.2d 441 (quoting Strickland at 690). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989). "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 an 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; Edwards v. State, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011). "[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this

prong, attorney performance is measured by its "reasonableness under professional norms." Cherry at 117, 386 S.E.2d at 625 (citing Strickland at 688). 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 at 117-18, 386 S.E.2d at 625 (citing Strickland at 694). With respect to guilty plea counsel, an applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Petitioner further claims his plea was not entered knowingly or voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish Petitioner had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243 (1969); Dover v . State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harris v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977). Statements made during a guilty plea should be considered conclusively, unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. See Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975) (overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985)).

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness, and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. See Roscoe v. State, 345 S.C.16, 20, 546 S.E.2d 417, 419 (2001); see also Richardson v. State, 310 S.C. 360, 362 426 S.E.2d 795, 797 (1993). Given an applicant's burden of proof and the analysis to be applied to this claim, an applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

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. Strickland at 696. 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. at 696-97.

A criminal defense attorney has a duty to investigate, but this duty is limited to reasonable investigation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 597 (2007). At a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case. Id., 372 S.C. at 331-32, 642 S.E.2d at 597. Counsel may reasonably rely on his own perceptions in determining what, if any, expert evaluation is necessary and appropriate to the determination and development of defenses. See Jeter v. State, 308 S.C. 230, 233, 417 S.E.2d 594, 596 (1992) (finding counsel reasonably relied on his own perceptions in deciding to not request a mental examination which may have formed the basis of an insanity defense or a determination of incompetency.).

Due process prohibits the conviction of a person who is mentally incompetent, and that right cannot be waived by a guilty plea. Id., 308 S.C. at 232, 417 S.E.2d at 595 (citing Bishop v. U.S., 350 U.S. 961 (1956); Pate v. Robinson, 383 U.S. 375 (1966)). The test of competency to enter a plea is the same as required to stand trial: the accused must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him. Id., 417 S.E.2d at 596 (citing State v. Lambert, 266 S.C. 574, 225 S.E.2d 340 (1976); Carnes v. State, 275 S.C. 353, 271 S.E.2d 121 (1980)). An applicant alleging incompetence in fact must show by a preponderance of the evidence he was incompetent at the time of his plea. Id.

Under South Carolina law, a defendant may be found guilty-but-mentally-ill if he or she, at the time of the commission of the offense, had the capacity to distinguish right from wrong, but because of mental disease or defect lacked sufficient capacity to conform his conduct to the requirements of the law. S.C. Code Ann. § 17-24-20(A). Where a person pleads or is otherwise found guilty-but-mentally-ill, he or she must be sentenced as provided by law for a defendant found guilty, but when committed to incarceration must first be retained at an appropriate facility for treatment until deemed safe for housing in the general population of the Department of Corrections. S.C. Code Ann. § 17-24-70.

ARGUMENT

The post-conviction relief judge properly found plea counsel was not ineffective in failing to utilize mental health experts prior to and during Petitioner's guilty plea.

Petitioner argues the PCR judge erred in finding plea counsel was not ineffective in failing to consult and use mental health experts when preparing for Petitioner's plea hearing. The State disagrees with this allegation of error. The PCR judge properly found Petitioner was competent to plea, knew the difference between right and wrong at the time he committed his crime, and plea counsel properly and reasonably relied on his own judgment in determining the scope of his investigation into Petitioner's health and background.

As noted by the PCR judge, both Dr. Brawley and Dr. Maddox conceded Petitioner knew the difference between right and wrong at the time he killed his victim and that there was no evidence Petitioner was not responsible for his actions at the time of the murder. Petitioner's medical records from 2011 demonstrated that, at that time, there "[n]o global decline in cognition" and "NO evidence that [Petitioner] [was] experiencing significant cognitive defects." Further, both witnesses testified that Petitioner's symptoms in his 2011 evaluation were attributed to his depression, and such symptoms were in fact entirely consistent with such a diagnosis.

During his preparation of Petitioner's case, plea counsel reviewed Petitioner's medical records and found the only mental illness shown within was depression. Plea counsel also communicated with Petitioner's ex-wife, Washington, who failed to provide any information indicating Petitioner suffered from any additional mental deficiencies. Accordingly, plea counsel reasonably determined Petitioner did not suffer from any mental illness other than depression. See Jeter, 308 S.C. at 233, 417 S.E.2d at 596. Further, as noted by plea counsel, a

plea of guilty-but-mentally-ill was not only an unrealistic option, but it would not have impacted the length of Petitioner's sentence. Instead, plea counsel pursued what he believed to be the most effective strategy: focusing on Petitioner's exemplary military record.

Further, Petitioner failed to show he was prejudiced by any alleged deficiency in plea counsel's actions. As noted above, plea counsel contacted the Fifth Circuit Solicitor's Office in an attempt to work out a favorable plea deal, referencing Petitioner's depression and prior history. However, given the severity of Petitioner's crime and the absence of evidence indicating Petitioner was lacked control of his actions, the State was unwilling to allow Petitioner to plead to a lesser charge. Further, as noted above, a plea of guilty-but-mentally-ill would not have impacted the length of Petitioner's sentence. Finally, the evidence presented shows Petitioner was never interested in a trial; he was intensely remorseful of his actions and wished only to plead his guilt.

For these reasons, the PCR judge properly found plea counsel was not deficient, nor was Petitioner prejudiced by any alleged deficiency.

CONCLUSION

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

Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM F. SCHUMACHER, IV
Assistant Attorney General

BY: _____
WILLIAM F. SCHUMACHER, IV
Bar # 100231
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

May 1, 2019.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas
The Honorable Brooks P. Goldsmith, Circuit Court Judge

Appellate Case No. 2018-001735

JOHN EDWARD WASHINGTON,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

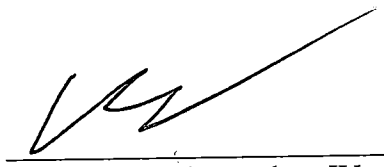
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the **Return to Petition for Writ of Certiorari**, has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

Tricia A. Blanchette, Esquire
Law Office of Tricia A. Blanchette, LLC
Post Office Box 2147
Leesville, South Carolina 29070

This 3rd day of May, 2019



William F. Schumacher, IV
Attorney for Petitioner

ALAN WILSON
ATTORNEY GENERAL

RECEIVED
MAY 03 2019
S.C. SUPREME COURT

May 3, 2019

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

Re: **John Edward Washington v. State of South Carolina**
Appellate Case No. 2018-001735
Lower Court Case No. 2015-CP-40-09245

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Return to Petition for Writ of Certiorari. By copy of this letter we are serving opposing counsel today.

Sincerely,

William F. Schumacher, IV
Assistant Attorney General
SC Bar No. 100231

WFS/can
Enclosures

cc: Tricia A. Blanchette, Esquire (2 copies)