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OFFICE OF
DISCIPLINARY COUNSEL

July 31, 2019

Jenny Abbott Kitchings
Clerk of the Supreme Court
Post Office Box 12159
Columbia, SC. 29211

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SC Court of Appeals

RE: William R. Pearson v. State of South Carolina
Case NO. ~~2019-00111~~
2018-001946

Dear Ms. Kitchings:

Please find enclosed a copy of petitioner's
Memorandum to be included with the Court's decision.

Please send me back confirmation that you have
~~the~~ received the Memorandum. Thank you.

Respectfully Submitted,

William R. Pearson
William R. Pearson
Petitioner

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COMMISSION ON
LAWYER CONDUCT

STATEMENT

Petitioner's case hinged on the credibility of James Pearson's testimony. There was no overwhelming evidence, and no other witnesses or evidence to place William Pearson inside the residence. The son's testimony was crucial to the state's case, because without James Pearson's testimony the jury may have doubt as to the charge of first degree burglary.

Prior to trial and minutes after the burglary James Pearson made a statement which was recorded by the Police car dash cam during the interrogation of Officer Spires is as follows:

"My daddy didn't have nothing to do
with it."
(See (PCR) Tr. Da. 30 lines 13-16)

During trial, James Pearson's testimony changed to the following statement:

"My dad went in and there was some stuff
right there at the front door."
(See Trial Tr. Da. 70 lines 6-10)

Strickland's first prong test in evaluating allegations of ineffective assistance of Counsel. First, the petitioner must prove that counsel's performance was deficient. In this case, failing to introduce into evidence Officer Detroit's police car dash cam for the purpose to impeach James Pearson's testimony, was deficient.

Strickland's second-prong test in evaluating allegations of ineffective assistance of counsel. Counsel's deficient performance must have prejudiced the petitioner such that there was a probability that, but for Counsel's errors, the result of the proceeding would have been different.²³
Strickland v. Washington 466 U.S. 668 (1984)

The petitioner's conviction hinged on the credibility of the State's key witness, and by attacking James Pearson's credibility with the police car dash cam video against his trial testimony would have created doubt in the minds of the jury as to the believability of the witness. This deficiency prejudice the petitioner, because there is a high probability that the result of the proceeding would have been different.

In addition, James Pearson Junior took a plea from the State and received probation for his testimony placing his father (Pearson Sr.) in the house indicating that the State coerced James Pearson to testify. (See Trial Tr. pg. 73 lines 11-14)

ISSUE TWO

II. Petitioner's Exhibit 1 was entered into evidence as the police car dash cam video during petitioner's (PCR) hearing held on September 18, 2017, in front of the Honorable Judge Hayes. In fact, when asked to show the disc to counsel Thompson by counsel Zmroczek (PCR counsel) Mr. Thompson has some doubts as to the disc being the original.

Counsel Zmroczek: I'm going to show you what's been marked as Petitioner's Exhibit 1 and see if you recognize that.

Trial Counsel Thompson: It's marked consistent with the way this would have looked. I don't know -- not being able to look at it right this second, I don't know if it's actually the same thing, but it's marked consistent. (See PCR) Tr. Pg. 28 lines 16-21).

(PCR) Tr. Pg. 28

(PCR) Counsel Zmroczek: Okay. And by that you mean it has your initials on it, right?

(Trial) Counsel Thompson: It -- not by me. Those would have been -- that's consistent with the way that the Solicitor's office sends out discovery material.

Following this testimony (PCR) counsel ask if the State has any objection as to Exhibit 1 is the original disc. State's attorney does not object. If the State would have objected then Mr. Thompson would have been permitted to view the disc during a break, however, that never happened, and so the disc was not authenticated to be the original.

When petitioner's Appellate Defense Attorney receives the case, it was explained by Appellate Attorney Victor Seeger that he had to file the Johnson petition due to the disc he received was not the police car dash cam video purported to be as Exhibit 1. He said he received an interview video of James Pearson, but not the police car video.

Petitioner's case has been prejudiced because the dash cam video from Office Detroit Spires police car never made it to the Appellate Counsel Victor Seeger's hands, so he could brief the issue at hand. No one has contacted the Solicitor's office or the Attorney General to correct the issue or call someone to retrieve the proper disc. Without the proper disc that was entered or not entered into evidence as Petitioner's Exhibit 1, Officer Detroit's dash cam video of James Pearson stating, 25 times, his "daddy had nothing to do with it" petitioner can not properly perfect his appeal.

Note: The petitioner has no control how the evidence is kept or who may make a mistake with entering the evidence that is on record.

CONCLUSION

Therefore, for the foregoing reasons, petitioner respectfully request this court reverse and remand Petitioner's Sentence and Conviction for a New Trial, or in the alternatives reinstate petitioner's Appellate Defense Attorney Victor Seeger and retrieve the Police car dash cam video that was to be entered as exhibit 1 for briefing on the above issue.

Respectfully Submitted,

William R. Pearson
Mr. William R. Pearson #336210
Allendale Correctional Insti.
P.O. Box 1151, Hwy. 47
Fairfax, SC. 29827.

Date: July 31, 2019

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