

# The South Carolina Court of Appeals

David Scott Mooney, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-000052

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## ORDER

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Counsel has submitted a petition pursuant to *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 210 (1988), and a motion to be relieved as counsel. We deny the motion to be relieved as counsel and direct the parties to address the following questions and any other questions of arguable merit:

Did the PCR court err in dismissing Petitioner's claim that plea counsel was ineffective in failing to obtain the report of the drug analysis conducted by the State Law Enforcement Division (SLED) and present to the plea court as mitigation evidence that the amount SLED verified as drugs differed from the amount the State represented to the plea court as having been confiscated from Petitioner's home?

Did the PCR court err in rejecting Petitioner's claim that, but for plea counsel's failure to obtain a copy of the SLED drug analysis and address the discrepancies in the weight of active drugs found, he would not have pled guilty because the analysis would have shown law enforcement confiscated no drugs from his residence?

Petitioner shall serve and file a petition on this question within thirty days of the date of this order. Thereafter, Respondent shall have thirty days to serve and file its return.

*J. A. King*

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FOR THE COURT

Columbia, South Carolina

cc:

Janell Gregory, Esquire

Jessica M Saxon, Esquire

David Scott Mooney, 186128

**FILED**

Oct. 29, 2019