



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499

April 14, 2020

Mr. LaParis Flowers, #375098  
Lee Correctional Institution  
990 Wisacky Highway  
Bishopville, SC 29010

RE: The State v. LaParis S. Flowers  
Appellate Case No. 2018-000099

**RECEIVED**

APR 15 2020

SC Court of Appeals

Dear Mr. Flowers:

This responds to your recent letter to Chief Justice Beatty. Please be advised that Chief Justice Beatty cannot consider this ex parte communication about this appeal that is pending before the South Carolina Court of Appeals.

If you would like to file a complaint of ethical misconduct by your counsel, you will need to file that complain directly with the Office of Disciplinary Counsel. I have enclosed information on how to file a complaint.

Sincerely,

Daniel E. Shearouse

cc: The Honorable Jenny Abbott Kitchings (with copy of letter)  
Taylor Davis Gilliam, Esquire (with copy of letter)  
Melody Jane Brown, esquire (with copy of letter)

**RECEIVED**

APR 06 2020

S.C. SUPREME COURT

To Whom it may concern:

This is a formal complaint on South Carolina Indigent Defense attorney Taylor Gilliam. Appellate counsel has rendered constitutionally deficient performance by failing to raise issues that are clearly stronger than those presented. Effective assistance of appellate counsel does not require the presentation of all issues on appeal that may have merit. Indeed, winnowing out weaker arguments on appeal and focusing on those more likely to prevail is hallmark of effective appellate advocacy.

Here defendant is clearly prejudiced by appellate counsel conduct in choosing to focus on weaker arguments in direct appeal, while failing to raise the "inference of malice" argument that was nearly certain, based on Supreme Court new precedent existing at this time. Defendant appellate counsel failure to raise the "inference of malice" argument is a violation of defendant's Sixth Amendment right to effective assistance of counsel. An arguable issue in the unusual sense used in *Anders* that is an issue arguably supporting the appeal even though the appeal is wholly frivolous, does not warrants a merits brief from an appellate counsel, but arguable in the more normal sense being non-frivolous warrants a merits brief.

Appellate counsel maintains to believe that Defendant trial counsel should have renewed motions after trial court gave erroneous charge instructions.

I disagree. Because the trial court had already ruled on the issue, it was not necessary for trial counsel to renew his objection. See *State v McDaniel*, 320 SC 33, 37, 462 SE 2d 882, 884 (Ct App 1995). So long as the judge had an opportunity to rule on the issue and did so, it was not incumbent upon defense counsel to harass the judge by parading the issue before him again. See also *State v Johnson*, 333 SC at 62, 508 SE 2d 29 (November 9, 1998). In that determination the South Carolina Supreme Court has determined that the charge that malice can be inferred by the use of a deadly weapon shall not be used in a criminal proceeding at all in any such applicable case.

I ask that this matter be looked into.