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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Honorable Jocelyn J. Newman, Circuit Court Judge

Case No. 2020 – 000591

DeQuan Vereen..... Petitioner,

v.

The State of South Carolina..... Respondent.

PETITIONER'S *JOHNSON* RESPONSE PETITION FOR WRIT OF CERTIORARI

DeQuan Vereen
Pro-se

Lieber Correctional Institution
136 Wilborn Avenue
Ridgeville, S.C. 29472

THE PETITIONER

TABLE OF CONTENTS

TABLE OF AUTHORITY..... ii

QUESTION PRESENTED.....1

STATEMENT OF CASE.....2

STANDARD OF REVIEW.....3

ARGUMENT

The PCR Judge err in refusing to find that Petitioner's guilty plea was rendered involuntary by the fact that his first appointed public defender who left the public defender office after representing Petitioner for two years and the second public defender was appointed just six months before the State planned to call his case for trial, was effectively abandoned and was induced into accepting a guilty plea due to the abandonment in order to establish cause under *Maples v. Thomas*, 565 U.S. 266, 132 S.Ct. 912 (2012) and *Hill v. Lockhart*, 474 U.S. 52, 106 S.Ct. 366 (1985), for ineffective assistance of counsel. 4

A. Abandonment By Defense Counsel.....4

B. Defense Counsels' Abandonment Induced Petitioner to Pled Guilty.....9

CONCLUSION.....14

TABLE OF AUTHORITY

Cases:

Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).....3

Amco Builders Developers, Inc. v. Team Ace Joint Venture, 469 Mich. 90, 666 N.W.2d 623 (2003).....5

Armstead v. Scott, 37 F.3d 202 (5th Cir. 1994).....9

Blanchard v. Brewer, 429 F.2d 89 (8th Cir. 1970).....7

Burger v. Kemp, 483 U.S. 776, 107 S.Ct. 3114, 97 L.Ed.2d 638 (1987).....10

Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).....11

Commonwealth v. Bennett, 593 Pa. 382, 930 A.2d 1264 (2007).....5, 7

Garren v. State, 423 S.C. 1, 813 S.E.2d 704 (2018).....3

Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985).....1, 4, 9, 10, 13

In re Sanders, 21 Cal. 4th 697, 87 Cal. Rptr.2d 899, 981 P.2d 1038 (1999).....5

Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988).....3, 14

Lockhart v. Fretwell, 506 U.S. 364, 113 S.Ct. 838, 122 L.Ed.2d 180 (1993).....9

Maples v. Thomas, 565 U.S. 266, 132 S.Ct. 912, 181 L.Ed.2d 807 (2012).....*passim*

Michel v. Louisiana, 350 U.S. 91, 76 S.Ct. 158, 100 L.Ed. 83 (1955).....10

Moore v. State, 399 S.C. 641, 732 S.E.2d 871 (2012).....3

Narciso v. State, 397 S.C. 24, 735 S.E.2d 369 (2012).....3

People v. Berger, 9 N.Y.2d 692, 212 N.Y.S.2d 425, 173 N.E.2d 243 (1961).....5

Smith v. State, 357 S.W.3d 322 (2011).....3

State v. DiFrisco, 137 N.J. 434, 645 A.2d 734 (1994).....10

Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).....9, 10, 11

Tollett v. Henderson, 411 U.S. 258, 93 S.Ct. 1602, 36 L.Ed.2d 235 (1973).....9

United States v. Cronic, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed.2d 657 (1984).....5

State Rules:

Rule – 1.1, RPC of Rule – 407, SCACR.....11

Rule – 1.16(b)(1), RPC of Rule – 407, SCACR.....6

Rule – 1.16(c), RPC of Rule – 407, SCACR.....6

Rule – 1.16 (d), RPC of Rule – 407, SCACR.....6

Rule – 1.3 cmt. [4], RPC of Rule – 407, SCACR.....6

Rule – 264(b), SCACR.....5, 6, 13

QUESTION PRESENTED

1. Did the PCR Judge err in refusing to find that Petitioner's guilty plea was rendered involuntary by the fact that his first appointed public defender who left the public defender office after representing Petitioner for two years and the second public defender was appointed just six months before the State planned to call his case for trial, was effectively abandoned and was induced into accepting a guilty plea due to the abandonment in order to establish cause under *Maples v. Thomas*, 565 U.S. 266, 132 S.Ct. 912 (2012) and *Hill v. Lockhart*, 474 U.S. 52, 106 S.Ct. 366 (1985), for ineffective assistance of counsel?

STATEMENT OF CASE

In November of 2012, and September of 2013, Petitioner was arrested and charged with attempted armed robbery, armed robbery, attempted murder, and murder. (Arrest Warrant No.(s): 2012A4010400113, 2012A4010600405, 2013A4010203320, and 2013A4020203321). The Richland County Grand Jury indicted Petitioner, DeQuan Vereen, in August of 2014 for murder, attempted armed robbery, attempted murder, and armed robbery. (See App. pp. 31 – 38)(Indictments No.(s): 2014-GS-40-5488, 5489, 5491, and 5493). Petitioner was appointed Joanna Delany, Esq., of the Richland County Public Defender Office, who would represent Petitioner for two years before "tak[ing] another job." (see App. p. 66, Ln. 14 – 15). And being replaced with Alicia Goode, Esq., to represent Petitioner at his plea hearing on July 30, 2015, appearing before the Honorable Robert E. Hood and pleading guilty to the lesser included offense of voluntary manslaughter, attempted murder, and armed robbery. Daniel Goldberg prosecuted the case. Sentencing was deferred, so that witnesses could be present. On August 4, 2015, Judge Hood, sentenced Petitioner to thirty (30) years on each charge to be served concurrently. (See App. pp. 39 – 41).

A timely notice of intent to appeal was filed. The appeal was dismissed pursuant to Rule – 203(d)(B)(iv), SCACR. On November 3, 2015, while the appeal was still pending, Petitioner filed an application for post-conviction relief (PCR). On November 24, 2015, the Honorable Alison R. Lee dismissed Petitioner's PCR application, without prejudice, pending resolution of the appeal. On April 7, 2016, Petitioner filed a second PCR application. (See App. pp. 42 – 48). The State filed a return on December 9, 2016. On March 29, 2017, an evidentiary hearing was held before the Honorable Jocelyn Newman. David K. Allen, Esq., represented Petitioner at the PCR hearing. Jessica E. Kinard represented the State. In a written order filed March 25, 2020, Judge Newman denied relief and dismissed the application. A timely notice of intent to appeal was filed on April

8, 2020. On December 3, 2020, Kathrine H. Hudgins, Esq., of Commission on Indigent Defense, filed a *Johnson*[1] Petition for Writ of Certiorari along with a Petition to be relieved as counsel, citing that the appeal is without legal merit sufficient to warrant a new trial. Petitioner now files his *Johnson* Response Petition for Writ of Certiorari, which briefs an arguable legal issue that arose during the Post-Conviction Relief hearing.

STANDARD OF REVIEW

On Certiorari in a Post-Conviction Relief (PCR) action, this Court applies an "any evidence" standard of review. Moore v. State, 399 S.C. 641, 646, 732 S.E.2d 871, 873 (2012). Accordingly, the Court will affirm the PCR court's findings if any evidence of probative value exists in the record. Narcos v. State, 397 S.C. 24, 34 – 35, 735 S.E.2d 369, 374 (2012). However, in a PCR action challenging a plea proceeding on the basis of inducement "the Petitioner bears the burden of proof and is required to show by a preponderance of the evidence he was induced at the time of his plea. In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing." See Garren v. State, 423 S.C. 1, 16, 813 S.E.2d 704, 712 (2018) (citation omitted). "The factual findings of the post-conviction court are binding on an Appellant court unless the evidence in the record preponderates against those findings." Smith v. State, 357 S.W.3d 322 (2011).

[1] A petition filed pursuant to Johnson v. State, *Supra*, 294 S.C. 310, 364 S.E.2d 201 (1988), is the post-conviction relief equivalent of a direct appeal filed pursuant to Anders v. California, *analysis*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), under which an appellate court is required to review the entire record, including the complete trial transcript, for any preserved issues with potential merit.

ARGUMENT

I.

THE PCR JUDGE ERR IN REFUSING TO FIND THAT PETITIONER'S GUILTY PLEA WAS RENDERED INVOLUNTARY BY THE FACT THAT HIS FIRST APPOINTED PUBLIC DEFENDER, WHO LEFT THE PUBLIC DEFENDER OFFICE AFTER REPRESENTING PETITIONER FOR TWO YEARS AND THE SECOND PUBLIC DEFENDER WAS APPOINTED JUST SIX MONTHS BEFORE THE STATE PLANNED TO CALL HIS CASE FOR TRIAL, WAS EFFECTIVELY ABANDONED AND WAS INDUCED INTO ACCEPTING A GUILTY PLEA, DUE TO THE ABANDONMENT IN ORDER TO ESTABLISH CAUSE UNDER *MAPLES v. THOMAS*, 565 U.S. 266, 132 S.CT. 912 (2012) AND *HILL v. LOCKHART*, 474 U.S. 52, 106 S.CT. 366 (1985), FOR INEFFECTIVE ASSISTANCE OF COUNSEL

Petitioner was effectively deprived of legal representation due to the combined effect of no fewer than seven unfortunate events: (1) Petitioner's first attorney, Joanna Delaney, Esq., departure from the Richland County Public Defender's Office, who appeared as counsel of record for Petitioner's state criminal proceedings for two years; (2) the acceptance by Joanna Delany, Esq., of new employment that precluded her from continuing to represent Petitioner; (3) her failure to notify Petitioner of her new situation; (4) her failure to withdraw as Petitioner's counsel of record; (5) her apparent failure to discuss Petitioner's case with replacement counsel Alicia Goode, Esq., before her departure, (App. p. 66, Ln. 12 – 18); (6) Petitioner's second attorney, Alicia Goode, Esq., failure to properly investigate Petitioner's case and to prepare a proper defense for trial, did placed Petitioner in a situation that induced him to pled guilty; and (7) Petitioner was effectively abandoned by both Joanna Delany, Esq., and Alicia Goode, Esq., of effective legal representation during his state criminal proceedings.

A. Abandonment By Defense Counsel

Petitioner was entitled to effective assistance of counsel until the termination of his 2014 criminal case. The United States Supreme Court has recognized an "essential difference between a claim of attorney error, however egregious, and a claim that an attorney had essentially abandoned his client," *Maples v.* Thomas, 565 U.S. 266, 282, 132 S.Ct. 912, 181 L.Ed.2d 807

(2012)(internal citations omitted). Federal courts consider a trial "unfair if the accused is denied counsel at a critical stage of his trial," and "[n]o specific showing of prejudice [is] required" to establish a constitutional defect. *United States v. Cronic*, 466 U.S. 648, 659, 104 S.Ct. 2039, 80 L.Ed.2d 657 (1984). The *Maples* court thus characterized an attorney's abandonment of a client as an "extraordinary circumstance beyond [the client's] control" that potentially entitles the client to Post-Conviction Relief. 565 U.S. at 282 – 83, 132 S.Ct. 912. Courts of last resort in other jurisdictions have likewise addressed the issue of abandonment by counsel under varying circumstances, consistently regarding it as grounds for relief. See e.g., *Commonwealth v. Bennett*, 593 Pa. 382, 399, 930 A.2d 1264 (2007)(characterizing abandonment by counsel as a dereliction of "minimum norms" of counsel's performance and the "functional equivalent of having no counsel at all," entitling a Petitioner to remand for hearing of post-conviction relief claim); *Amco Builders & Developers, Inc. v. Team Ace Joint Venture*, 469 Mich. 90, 96, 666 N.W.2d 623 (2003)(holding abandonment by counsel in a civil action to be sufficient ground for setting aside a default or default judgment); *In re Sanders*, 21Cal. 4th 697, 708 – 09, 87 Cal. Rptr.2d 899, 981 P.2d 1038 (1999)(considering abandonment by counsel as good cause for delayed presentation of habeas corpus claims and equating abandonment by counsel with a complete lack of representation); *People v. Berger*, 9 N.Y.2d 692, 693, 212 N.Y.S.2d 425, 173 N.E.2d 243 (1961)(reversing Appellate Division's denial of coram nobis petition and remitting for trial of petitioner's allegation of abandonment by counsel). Abandonment occurs where, "[h]aving severed the principal-agent relationship, an attorney no longer acts, or fails to act, as the client's representative." *Maples*, 565 U.S. at 281.

Under South Carolina Court Rules, withdrawal of counsel in criminal proceedings is governed by Rule – 264(b), SCACR, which states as follows:

> An attorney of record in a matter pending before [a] ... court may not withdraw from representation of his client without justifiable cause, or the consent of his client; and then only after proper written notice to his client, on petition to and by written order of the ... court, and with notice to the adverse party.

Rule – 264(b), SCACR.

Unless the attorney-client relationship is terminated by permission of the tribunal pursuant to this rule, the attorney is obligated to "carry through to conclusion all matters undertaken by the client," the relationship terminating only when the matter has been resolved. Rule – 1.3 cmt. [4], RPC of Rule – 407, SCACR; Rule – 1.16(c), RPC of Rule – 407, SCACR.[2] And even when the relationship is terminated by a court's grant of a motion to withdraw, an attorney is expected to take steps to protect the client's interests, such as giving reasonable notice to the client and allowing time for employment of other counsel. Rule – 1.16(d), RPC of 407, SCACR.

The Rule of Professional conduct provides that a lawyer can withdraw representation if it "can be accomplished without material adverse effect on the interests of the client." Rule – 1.16(b)(1), RPC of Rule – 407, SCACR. The comment to this rule states. "A lawyer may withdraw from representation in some circumstances. The lawyer has the option to withdraw if it can be accomplished without material adverse effect on the client's interests." The comment, also states "[e]ven if the lawyer has been unfairly discharged by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client."

Although this Courts jurisdiction's test for ineffective assistance of counsel is well settled, this Court has not directly addressed the issue of abandonment by counsel. This Court should take note that, when appointed counsel wholly abandons it's professional duties to his or her client for the substantial duration of a critical stage of the proceeding without timely following the

[2] Rule – 1.16(c) states in full: "A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation."

procedural steps to properly withdraw from representation, prejudice is presumed because it is "functional[ly] equivalent [to] having no counsel at all." Bennett, 593 Pa. at 399, 930 A.2d 1264.

As discussed by the Eighth Circuit Court of Appeals, it was held that the "failure by appointed counsel 'to commence the simple steps for appeal is a blatant denial of due process.' " quoting Blanchard v. Brewer, 429 F.2d 89, 90 (8th Cir., 1970). It logically follows that the steps to effectuate an appeal constitute a critical stage in the proceeding during which a defendant is entitled to counsel. An appointed counsel's wrongful abandonment of professional duties to a defendant for the substantial duration of this critical stage would therefore give rise to a presumption of prejudice.

This abandonment that occurred in *Maples*, the United States Supreme Court held that the defendant had been abandoned when his two primary attorneys left their firm without notifying their client or seeking the court's permission to withdraw. Maples, at 283 – 85, 132 S.Ct. 912. The Court concluded, on the basis of agency law, that their agency relationship was severed once the lawyers began new employment. Id. at 284 – 85, 132 S.Ct. 912. The Court also found that although local Alabama counsel remained as attorney of record in the case, he "did not operat[e] as [*Maples's*] agent in any meaningful sense of that word" because he "did not even begin to represent *Maples*," and upon receiving a trial court's order, he did not "contact [co-counsel] to ensure that firm lawyers were taking appropriate action." Id. at 287, 132 S.Ct. 912.

By abandoning their duty of representation, *Maples's* attorney single handedly caused him to miss the deadline for filing his brief, which resulted in the procedural default of all his claims and ended any hope of having his death sentence overturned. The Court found that *Maples* had been "disarmed" by these "uncommon facts" and "extraordinary circumstances," and held that his attorneys' abandonment was cause to ~~excise~~ excuse the default, thereby permitting him to raise claims in

federal court that had otherwise been forfeited when he missed the deadline to file a post-conviction appeal. Id. at 280, 289, 132 S.Ct. 912.

With this overview in mind, this Court should consider Petitioner's claim for relief: that he, like *Maples*, was effectively abandoned by both his court appointed attorneys because his attorney's actions are somewhat analogous to those of the attorneys in *Maples*. There, *Maples's* attorneys never notified him or the court of their departure or even seeked permission from the court to be relieved and no other attorney assumed representation of *Maples's* case — all of the evidence showed that they had ceased their representation and had abandoned his case. Maples, 565 U.S. at 276 – 77, 132 S.Ct. 912. Furthermore, while the State Court in *Maples* refused to reissue it's order denying *Maples* relief, which would have restarted the clock and permitted *Maples* to timely file despite his attorney's abandonment. Maples, 565 U.S. at 277, 132 S.Ct. 912.

Here in Petitioner's case the abandonment of his first attorney, Joanna Delany, Esq., of the Richland County Public Defenders Office, who was appointed by the court, left the Public Defender's Office and began new employment and was replaced with Alicia Goode, Esq., who while representing Petitioner, wholly abandoned her professional duties to investigate law or facts and to prepare a proper defense for Petitioner. (See App. pp. 19 – 20, Ln. 18 – 24, 6 – 7, 15 – 20). Whereas, upon Joanna Delaney's departure to new employment, was done so without notifying Petitioner of her new situation or seeking the court's permission to withdraw. She did not even take the appropriate steps to protect the Petitioner's interests or take the opportunity to go over the case with her replacement counsel, Alicia Goode, about how she was going to defend Petitioner for his trial. Thus, placing Petitioner in a situation of relying on an attorney who was unprepared and not inline with his interests of going to trial. Insomuch as, inducing Petitioner to pled guilty.

(See App. pp. 90, 105, 107, 115, Ln. 13 – 24, 6 -7, 5 – 13, 12 – 19); (also see App. Pp. 117 – 118, Ln. 16 – 25, 1 – 3).

B. Defense Counsels' Abandonment Induced Petitioner to Pled Guilty

The United States Supreme Court has applied the *Strickland*[3] test to challenges of guilty pleas based on ineffective assistance of counsel. See Hill v. Lockhart, 474 S.C. 52, 58, 106 S.Ct. 366, 371, 88 L.Ed.2d 203, 210 (1985). To set aside a guilty plea based on ineffective assistance of counsel, a defendant must show that (i) counsels' assistance was not "within the range of competence demand[] of attorneys in criminal cases," Tollett v. Henderson, 411 U.S. 258, 266, 93 S.Ct. 1602, 1608, 36 L.Ed.2d 235, 243 (1973); and (ii) "that there is a reasonable probability that, but for counsel's errors, [the defendant] would not have pled guilty and would have insisted on going to trial." Hill, *supra*, 474 U.S. at 59, 106 S.Ct. at 370, 88 L.Ed.2d at 210.

In Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985), the United States Supreme Court addressed a claim of ineffective assistance of counsel in the context of a guilty plea and held that the *Strickland* two-prong test applied to challenges to guilty pleas based on ineffective assistance of counsel. Hill, 474 U.S. at 57, 106 S.Ct. at 370, 88 L.Ed.2d at 209. The Court explained that in order to satisfy the "prejudice" requirement, the defendant must show that but for counsel's errors, he would not have plead guilty and would have insisted on going to trial. Id. at 59, 106 S.Ct. at 370, 88 L.Ed.2d at 209; see also Armstead v. Scott, 37 F.3d 202, 210 – 11 (5th Cir., 1994)(applying Lockhart v. Fretwell, *analysis*, 506 U.S. 364, 113 S.Ct. 838, 122 L.Ed.2d 180 (1993), along with the Hill v. Lockhart, *analysis*, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985), holding that a guilty plea was not rendered unreliable or fundamentally unfair when Petitioner claimed that he would not have pleaded guilty absent the misadvice from his counsel

[3] Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).

concerning the benefits of his plea), *cert. denied*, 514 U.S. 1071, 115 S.Ct. 1709, 131 L.Ed.2d 570 (1995). The Supreme Court in *Hill* also explained that in resolving the prejudice prong of the *Strickland* test, the analysis "should be made objectively, without regard for the 'idiosyncrasies of the particular decision-maker.' " Hill, 474 U.S. at 60, 106 S.Ct. at 371, 88 L.Ed.2d at 211 (quoting Strickland, 466 U.S. at 695, 104 S.Ct. at 2068, 80 L.Ed.2d at 693).

"A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from the counsel's perspective at the time. Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action "might be considered sound trial strategy." quoting State v. DiFrisco, 137 N.J. 434, 457, 645 A.2d 734, 746 (1994)(citing Strickland v. Washington, 466 668, 689, 104 S.Ct. 2052, 2065, 80 L.Ed.2d 674, 694 – 95 (1984) (quoting Michel v. Louisiana, 350 U.S. 91, 101, 76 S.Ct. 158, 164, 100 L.Ed. 83, 93 (1955)).

The United States Supreme Court agreed that "[i]n assessing the adequacy of counsel's performance, 'strategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable.' " Burger v. Kemp, *supra*, 483 U.S. 776, 819, 107 S.Ct. 3114, 3138 – 39, 97 L.Ed.2d 638, 673 (1987)(Powell, J., dissenting)(quoting Strickland, *supra*, 466 U.S. at 690, 104 S.Ct. at 2066, 80 L.Ed.2d at 695). But "strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation." Strickland, *supra*, 466 U.S. at 690 – 91, 104 S.Ct. at 2066, 80 L.Ed.2d at 695. Thus, an inadequate investigation of law and fact robs counsel

of a strategic choice of any presumption of competence. "competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." see Rule – 1.1, RPC of Rule – 407, SCACR. With respect to the legal decisions made by defense counsel, Alicia Goode, Esq., failure to investigate and her failure to prepare a proper defense satisfies, that her performance had been deficient, satisfying *Strickland's* first prong, that created a reasonable probability that these deficiencies materially contributed to inducing Petitioner to pled guilty, insomuch as, satisfying *Strickland's* second prong.

Accordingly, applying the *Strickland* test that this Court applies to ineffective assistance claims in *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989), the defendant must show that there is a "reasonable possibility" that but for counsel's errors, he would not have pleaded guilty and would have insisted upon going to trial.

In Petitioner's PCR application he alleged a lack of pretrial investigation, failure to interview witnesses, involuntary guilty plea and alleged that counsel "rendered inadequate advice, a reasonably competent attorney would not have advised me to plead guilty." (App. p. 44). During the PCR hearing Alicia Goode, Esq., testified that Petitioner's case was transferred to her in February of 2015, after Petitioner's first lawyer, Joana Delany, Esq., left the Public Defender Office. (App. p. 62 – 63, Ln. 23 – 25, 1 – 13). The plea took place in July of 2015. Alicia Goode, Esq., admitted that she did not discuss the case with Petitioner's former counsel, Joanna Delany, Esq. (App. p. 66, Ln. 12 – 18). And that she did not hire an investigator, whereas, admitting that an investigator would have been helpful. (App. p. 75, Ln. 15 – 20). She would also testify that she did not prepare a witness list. (App. p. 74, Ln. 18 – 24). It should also be noted that no plea was ever offered or even made while Petitioner was represented by his first attorney, Joanna Delany, Esq. (App. p. 67, Ln. 14 – 19). Notwithstanding, that the State was pushing for a certain trial date

after Petitioner's first attorney was replaced by his second attorney. Whereas, Petitioner's second attorney, Alicia Goode, Esq., "explained to the judge ... that [she] kind of inherited [this case] from somebody that left." (App. p. 68, Ln. 2 – 5).

Petitioner would testified that his first public defender, Joanna Delany, Esq., represented him for two years and that his second public defender, Alicia Goode, Esq., only represented him for five to six months. (App. p. 97, Ln. 1 – 15). And visited him for four or five time, that were not even full blown meeting for [only] brief moments. (App. pp. 97 – 98, Ln. 16 – 25, 1 – 2). Insomuch as, stating to her that he wanted an investigator to find evidence that the deceased had drugs in his system, to determine the validity of the surveillance video from the second incident and to determine that the deceased had tools in his car and that the car was rolling backward at the time of the incident. (App. pp. 105, 120 – 121, Ln. 8 – 14, 18 – 25, 1 – 9); (also see App. p. 105, Ln. 11 – 13).

Also during the PCR hearing Petitioner testified, "I don't feel like as if she was prepared to take on a full defense. Personally, I wasn't even prepared, and seeing a lawyer after having one for two years, almost two years, and seeing one within five months, and with, with four times after that, it's kind of stressful to go to trial, and put my trust in someone like that." (App. p. 104, Ln. 11 – 16). "I feel as if I was forced into a plea." (App. p. 105, Ln. 5 – 6); (also see App. pp. 107, 109, Ln. 7 – 13, 9 – 17). I felt as if my lawyer[] wanted me to take the plea versus them having to do the work of going to trial. (App. p. 120, Ln. 16 – 17). "[F]our to five months was, was not enough for me to build a relationship to have faith with a lawyer to come fight for me in a courtroom for my life. You know, I'm living with that decision everyday. It was not enough time for me to say okay, this what we gonna do, this how we gonna do it, and that we win, we win. If we lose, okay, so we'll be it. That was not enough time for me to make that decision to go forward

[ ] [with Alicia Goode, Esq., as my attorney for trial]." (App. p. 110, Ln. 5 – 12). "I even wrote the courts trying to fire Ms. Goode because I felt as if she was incompetent to [handle] my case. She came and talked to me telling me that she can get fired for that. [...] [T]he representation that I had was not up to par or we didn't have enough time to prepare that - - for the help that I needed." (App. p. 121, Ln. 10 – 18).

The record in this action for post-conviction relief therefore does not support the PCR court's Order of Dismissal that Petitioner's court appointed attorney, Alicia Goode, Esq., "thoroughly investigated and prepared for trial and presented her progress to [Petitioner] over the course of many meetings. [That Petitioner] understood the adversities and options that he faced and made an informed, voluntary decision to plead guilty." (App. p. 130).

Now, contrary to the PCR court's Order of Dismissal, Petitioner has demonstrated that he was abandoned by both court appointed attorneys and that he was prejudiced by "extraordinary circumstances beyond his control." *Maples*, 565 U.S. at 282, 132 S.Ct. 912 (citations omitted). Insomuch as, placing him in a situation that induced him to pled guilty. (See App. pp. 90, 105, 107, 115, Ln. 13 – 24, 6 -7, 5 – 13, 12 – 19); (also see App. pp. 117 – 118, Ln. 16 – 25, 1 – 3). Under the United States Supreme Court's holding in *Maples* and *Hill*, this abandonment constitutes proper cause for his guilty plea to be rendered involuntary by the fact that Petitioner was effectively abandoned by both Joanna Delany, Esq., and Alicia Goode, Esq., his court appointed attorneys during his state criminal proceeding.

Albeit, considering the fact that Petitioner's first attorney, Joanna Delany, Esq., who "had taken another job." (App. p. 66, Ln. 14 – 15), had abandoned Petitioner without proper notice and was not terminated by permission of the courts, pursuant to Rule – 264(b), SCACR. Whereas, his second attorney, Alicia Goode, Esq., did wrongfully abandoned her professional duties to properly

investigate Petitioner's case and prepare a proper defense for trial, did place Petitioner in a situation that induced him to pled guilty, when in fact he was ready and prepared to go to trial with his prior attorney, Joanna Delany, Esq., and would have went to trial, if not for Alicia Goode's abandonment of her professional duties. Petitioner's guilty plea was rendered involuntary by the fact that Petitioner's first appointed public defender, Joanna Delany, Esq., left the Public Defender Office after representing Petitioner for two years and his second public defender, Alicia Goode, Esq., was appointed just six months before the State planned to call the case for trial. Alicia Goode, Esq., was ineffective in failing to properly prepare for trial and to investigate Petitioner's case. There is a reasonable probability that, but for counsel's error, Petitioner would not have pled guilty and would have insisted on going to trial.

CONCLUSION

Based on the above argument, abandonment would constitute cause for relief for ineffective assistance of counsel to render Petitioner's guilty plea involuntary as raised by Petitioner in his *Johnson* Response Petition for Writ of Certiorari. This Court should grant Petitioner's Petition for Writ of Certiorari to allow further briefing on the issue.

WHEREFORE, based on the foregoing arguments and authorities, this Honorable Court is respectfully urged to grant the Petitioner's *Johnson* Response Petition for Writ of Certiorari.

RESPECTFULLY SUBMITTED this 15 day of March, 2021.

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