STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

On Petition for a Writ of Certiorari to Greenwood County
Court of Common Pleas

The Honorable J. Mark Hayes, II, Post-Conviction Relief Judge
The Honorable Edward W. Miller, Trial Judge

Appellate Case No. 2018-001116

JAMAL HAKEEM, ...Petitioner,

v.

STATE OF SOUTH CAROLINA, ...Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

ALAN WILSON
Attorney General

MICHAEL J. NEUBAUER
Assistant Attorney General
SC Bar No. 104450

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

ISSUE PRESENTED ON CERTIORARI

Petitioner's Statement of Issue Presented

Whether trial counsel was ineffective in failing to file a motion to reconsider Petitioner's sentence after the trial judge communicated a plea offer to Petitioner and in failing to put this communication by the trial judge on the record when the trial judge imposed a sentence ten years harsher than its previously communicated fifteen-year offer?

Respondent's Counterstatement of Issue Presented

Did the post-conviction relief court correctly find Petitioner failed to establish any constitutional ineffectiveness of trial counsel for failing to file a motion to reconsider his sentence and for failing to put a purported communication by the trial judge regarding a fifteen year plea offer on the record, where the record does not support Petitioner's assertions that the trial judge presented a plea offer during jury deliberations and trial counsel acted reasonably during jury deliberations and sentencing?

STATEMENT OF THE CASE

In June 2015, a Greenwood County Grand Jury indicted Petitioner for armed robbery (2015-GS-24-855) and possession of a weapon during the commission of a violent crime (2015-GS-24-856). Geddes Anderson, Esquire, represented Petitioner. Assistant Solicitor Yates Brown of the Eighth Circuit Solicitor's Office prosecuted the case.

On July 13-14, 2015, Petitioner proceeded to a jury trial before the Honorable Edward Miller. The jury convicted Petitioner as indicted on both offenses. Judge Miller sentenced to imprisonment for twenty-five years for armed robbery and five years for possession of a weapon during the commission of a violent crime. Both sentences were to run concurrently.

After the trial, Petitioner filed a timely notice of appeal. He was represented on appeal by Appellate Defender Kathrine Hudgins of the South Carolina Commission on Indigent Defense-Office of Appellate Defense, who filed an Anders[1] brief and petition to be relieved as counsel. On February 8, 2017, the South Carolina Court of Appeals dismissed the appeal. State v. Jamal Hakeem, Op. No. 2017-UP-074 (Ct. App. filed February 8, 2017). The Remittitur was sent on February 24, 2017.

On May 16, 2017, Petitioner filed an application for post-conviction relief (PCR) asserting various claims of ineffective assistance of counsel.

Petitioner filed an amended post-conviction relief application through his attorney, Ashley A. McMahan, Esquire, on February 20, 2018, wherein Petitioner added the following allegations:

1. "Newly Discovered Evidence"
    a. "Greenwood officer Strickland has since been arrested and indicted for Misconduct in Office. A defendant requesting a new trial based on after discovered evidence must show that the evidence:
    (1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been

[1] Anders v. California, 386 U.S. 738 (1967).

> discovered before the trial; (4) Is material to the issue of guilt or innocence; and (5) Is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983).
> Officer Strickland resigned as part of an ongoing SLED prove in late October 2015. He pled guilty in December 2017 to Misconduct in Office. The veracity of the statements made by Officer Strickland regarding the search warrant process has come into question since his arrest and conviction and the interests of justice would require that the Petitioner's conviction be vacated accordingly. *See attachment.*[2]"

Petitioner provided additional information on the following allegations from his initial Post-Conviction Relief application:

> 10 & 11 (g): See State v. Hart, 403 SE2d 144, 304 SC 99, (SC Ct. App. 1991)
>
> 10 & 11 (I): Counsel did not move to request a reconsideration of the sentence. Judge punished the Petitioner in sentencing because the Petitioner exercised his right to a trial. See Castro v. State, 417 SC 77, 789 SE2d 44 (2016).

Respondent filed its return on October 2, 2017, requesting an evidentiary hearing. On February 27, 2018, an evidentiary hearing convened at the Greenwood County Courthouse before the Honorable J. Mark Hayes, II.

By order filed on May 7, 2018, Judge Hayes denied and dismissed the application. Specifically, Judge Hayes found Petitioner failed to establish counsel was ineffective for failing to object to the introduction of the hooded jacket by the State, failed to establish counsel failed to object to the search being illegal, failed to establish counsel failed to raise issues of police intimidation of his wife, Bird Hakeem, failed to establish counsel failed to object to Officer

---

[2] Petitioner attached a news article detailing Brandon Strickland's guilty plea to misconduct in office, and his sentence of one year probation as a result of this misconduct.
Strickland pleads to misconduct in office, sentenced to 1 year probation. Index Journal http://www.indexjournal.com/news/crime/strickland-pleads-to-misconduct-in-office-sentenced-to-year-probation/article_0efe01d3-3ab6-5d26-8515-f8dcd57588ba.html (last visited Feb. 14, 2018).

Strickland not being at the trial, failed to establish counsel failed to object to the search of the Petitioner's cell phone when he was arrested, failed to establish counsel failed to raise issues of conflicting testimony concerning when Ms. Hakeem gave consent to search, failed to establish counsel failed to object to Ms. Smith's testimony, failed to establish counsel failed to question the solicitor about his meeting with Petitioner's counsel, failed to establish counsel failed to challenge Ms. Smith's identification of Petitioner, failed to establish counsel failed to file a motion to reconsider, and failed established counsel failed to raise the issue of the trial judge approaching Petitioner and his counsel during jury deliberations with a fifteen year plea offer.

Petitioner timely filed a notice of appeal challenging the denial of relief. Appellate Defender Susan Hackett of the of the South Carolina Commission on Indigent Defense-Office of Appellate Defense filed a Johnson[3] Petition for Writ of Certiorari and Appendix on Petitioner's behalf and petitioned to be relieved as counsel. Petitioner filed a *pro se* Response to Johnson Petition on June 14, 2019. Thereafter, the Supreme Court transferred the case to this Court pursuant to Rule 243(l), SCACR. This Court denied Petitioner's request to be relieved as counsel and instructed a new certiorari petition to be filed raising the following question:

Whether trial counsel was ineffective in failing to file a motion to reconsider Petitioner's sentence after the trial judge communicated a plea offer to Petitioner and in failing to put this communication by the trial judge on the record when the trial judge imposed a sentence ten years harsher than its previously communicated fifteen-year offer?

Petitioner then retained Tommy A. Thomas, Esquire, as appellate counsel, who filed a new petition for writ of certiorari on his behalf.

---

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

STATEMENT OF THE FACTS

On April 11, 2013, an individual, armed with a pistol, and wearing a hooded sweatshirt and shades, robbed the Shell Station in Greenwood. App. p. 78, l. 3- p. 80 l. 3. The clerk working at the Shell Station at the time of the robbery testified that the robber walked in, took a beer from the back cooler, placed it on the counter and asked for three packs of Newport cigarettes. App. p. 104, l 20- p. 105, l. 24. The clerk testified she turned to get the cigarettes and asked the man for his date of birth. App. p. 105, l. 3-13. The clerk testified the robber gave a specific date of birth. App. p. 105, l. 8-9. The clerk testified when she turned around, the robber pointed a gun at her and asked for all of the money from the register. App. p. 105, l. 1-20. The clerk immediately called 911 after the robber left the store. App. p. 107, l. 22- p. 108, l. 23. The entire encounter was captured on surveillance footage. App. p. 99 l. 9- p. 100, l. 24.

Investigator Whitfield Brooks with the Greenwood County Sheriff's Office responded to the call, and when he arrived on the scene the clerk handed him a printed receipt where she had entered the full date of birth, including the year, given by the robber. App. p. 134, l. 22- p. 135, l. 6. Investigator Brooks then conducted a search of available men with this particular birthday on RMS, the Greenwood Police's local database and Petitioner was identified. App. p. 37, l. 22- p. 38, l. 9. Investigator Brooks received a six-pack photographic lineup, compiled by SLED, with Petitioner's photograph and five other individuals, which was presented to the store clerk. The clerk identified Petitioner as the robber. App. p. 75, l. 2-25.

After the clerk identified Petitioner, law enforcement officers from the Greenwood County Sheriff's Office went to Petitioner's house where they spoke with his wife. App. p. 140, l. 1-25. Petitioner's wife reported that he was not home, but she called and asked him to return to the residence. When Petitioner returned home in his truck, he was arrested. App. p. 142, l. 15-21.

Officers photographed a pack of Newport cigarettes in the center console of Petitioner's truck. App. p. 143, l. 19-25.

After Petitioner's arrest, officers returned to the Hakeem house and obtained consent to search from Petitioner's wife. App. p. 146, l. 2-10. The consent to search was introduced, over objection, as State's Exhibit #1. App. p. 123, l. 1- p. 124, l. 4. Pursuant to the consent to search, officers found a hooded plain sweatshirt, consistent with what the robber was wearing, with two packs of Newport cigarettes in the pocket, a pair of jeans and a white T-shirt. App. p. 147, l. 20- p. 149, l. 1-24.

STANDARD OF REVIEW

The standard of review for post-conviction relief matters depends on the specific issues before the appellate court. Smalls v. State, 422 S.C. 174, 810 S.E.2d 836, 839 (2018). When reviewing factual findings, the appellate courts defer to the post-conviction relief court's factual findings and will uphold them if there is probative evidence in the record to support them. Buckson v. State, 423 S.C. 313, 320, 815 S.E.2d 436, 440 (2018); Smalls, 422 S.C. at 180-81, 810 S.E.2d at 839-40 (citing Sellner v. State, 416 S.C. 606, 610, 787 S.E.2d 525, 527 (2016); Jordan v. State, 406 S.C. 443, 448, 752 S.E.2d 538, 540 (2013)). However, pure questions of law will be reviewed de novo without deference to the lower court. Smalls, 422 S.C. at 180-81, 810 S.E.2d at 839-40. Appellate courts will reverse the decision of the post-conviction relief court when it is controlled by an error of law. Goins v. State, 397 S.C. 568, 573, 726 S.E.2d 1, 3 (2012).

ARGUMENT

The post-conviction relief court correctly found Petitioner failed to establish any constitutional ineffectiveness of trial counsel for failing to file a motion to reconsider his sentence and for failing to put a purported communication by the trial judge regarding a fifteen year plea offer on the record because the record does not support Petitioner's assertions that the trial judge presented a plea offer during jury deliberations and counsel acted reasonably during jury deliberations and sentencing.

On appeal, Petitioner asserts the post-conviction relief court erred by finding Petitioner's counsel was not constitutionally ineffective for failing to file a motion to reconsider Petitioner's sentence after the trial judge purportedly communicated a plea offer to Petitioner and in failing to put this communication by the trial judge on the record when the trial judge imposed a sentence ten years harsher than its previously communicated fifteen-year offer. Petitioner argues he was prejudiced by Counsel's failure to file a motion to reconsider because he received a sentence ten years harsher than the plea offer. However, the post-conviction relief court properly considered the record in its entirety, listened to the evidence and arguments presented, and determined Petitioner did not meet his burden of establishing counsel was constitutionally ineffective. These findings are supported by probative evidence and not premised on any errors of law, and accordingly, this Court should deny certiorari.

Petitioner, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Petitioner has the burden of proving the allegations in his post-conviction relief action, and when alleging that trial counsel was constitutionally ineffective, he must prove "counsel's conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result." Strickland, 466 U.S. at 686.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Petitioner must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id., at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). Petitioner must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Petitioner such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

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. 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. 668.

Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief Petitioner to prove "counsel made errors so serious that counsel was not functioning as the

'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 697. Therefore, the function of the post-conviction relief court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney." Id. at 690.

In the present case, Petitioner failed to meet his burden of proving Counsel was ineffective for failing to file a motion to reconsider after applicant was sentenced to twenty five years in prison. The record simply does not support Petitioner's assertion that the trial judge offered Petitioner a fifteen-year plea during jury deliberations. Additionally, Petitioner's assertion he was punished for proceeding to trial rather than accepting this plea offer is also not supported by the record.

At his evidentiary hearing, Petitioner testified during jury deliberations he went into a back room with his wife, and Counsel. Petitioner testified during this period of time, the trial judge came into the room and offered Petitioner a fifteen-year sentence if Petitioner plead guilty. App. p. 282, l. 9-23. Petitioner testified the solicitor was not in the room when the trial judge offered Petitioner this plea deal. App. p. 282, l. 24-25. Petitioner testified he declined the plea offer, and awaited the verdict. App. p. 283, l. 3-13. Petitioner was sentenced to twenty five years after the jury returned a guilty verdict. App. p. 283, l. 12-15. Petitioner testified he felt punished for proceeding to trial, because he received a sentence ten years greater than the plea offer Petitioner rejected. App. p. 283, l. 16-25. Petitioner further testified he believes the plea offer he rejected during jury deliberations affected the sentence he received after being convicted. App. p. 292, l. 5-8.

Petitioner's wife, Bird Hakeem, testified when the jury left the court room to begin deliberations, Counsel was asked to approach the bench. App. p. 293, l. 10-12. Mrs. Hakeem testified after this bench meeting, Counsel went back to a conference room with Mrs. Hakeem,

and Petitioner, to discuss a possible plea deal. App. p. 293, l. 12-14. Mrs. Hakeem further testified during this conference, the trial judge put his head inside the door and said "Yay or nay?" App. p. 293, l. 14-16. On, cross-examination, Mrs. Hakeem indicated she did not remember the trial judge verbally offering Petitioner a fifteen-year sentence. App. p. 294, l. 16- p. 295, l. 3.Mrs. Hakeem testified the judge left after this comment, and she does not remember if anyone responded to the judge's question. App. p. 293, l. 17-22. Mrs. Hakeem testified Petitioner refused to accept a plea deal during jury deliberations. App. p. 294, l. 3-11.

Counsel testified he was still trying to negotiate a plea with the solicitor when the jury began deliberations. App. p. 298, l. 19-24. Counsel testified he recalled the trial judge coming to the door of the back room during jury deliberations, however the trial judge did not come into the room. App. p. 298, l. 14-16. Counsel testified he did not recall the terms of the plea that was discussed during jury deliberations. App. p. 302, l. 3-7. Counsel testified he does not remember what the trial judge said when Counsel spoke with him during jury deliberations. Additionally, Counsel testified he cannot recall what the trial judge said when he came to the door, however Counsel does recall the interaction being rather quick, and the trial judge did not enter the room. Counsel further testified that during the jury's deliberations he was still attempting to convince Petitioner to plea instead of awaiting a verdict. App. p. 302, l. 7-21.

In Medlin v. State, the South Carolina Supreme Court stated "that a trial judge may participate in the plea bargaining process if he follows guidelines to minimize the fear of coercion." Medlin v. State, 276 S.C. 540, 541, 280 S.E.2d 648, 648 (1981). "Where the parties have neither advised the judge of a plea agreement nor requested to meet for plea discussion purposes, the judge may inquire of the parties whether disposition without trial has been explored and may allow an adjournment to enable plea discussions to occur." Id. Though a judge may participate in the plea

bargaining process, one of the guidelines referenced establishes the proper procedure for recording these discussion.

> All discussions at which the judge is present relating to plea agreements should be recorded verbatim and preserved, except that for good cause the judge may order the transcript of proceedings to be sealed. Such discussions should be held in open court unless good cause is present for the proceedings to be held in chambers. Except as otherwise provided in this standard, the judge should never through word or demeanor, either directly or indirectly, communicate to the defendant or defense counsel that a plea agreement should be accepted or that a guilty plea should be entered.

Harden v. State, 276 S.C. 249, 255, 277 S.E.2d 692, 694–95 (1981).

Petitioner's argument that the PCR court erred by finding Counsel was not constitutionally ineffective for failing to put communication by the trial judge on the record when the trial judge imposed a sentence ten years harsher than its previously communicated fifteen-year plea offer is without merit. Counsel was not ineffective for failing to put the communication from the trial judge on the record, where Petitioner has failed to present any evidence to corroborate his allegation that the trial judge offered Petitioner a fifteen-year plea deal during jury deliberations. Instead, the record, and the testimony from Petitioner's evidentiary hearing indicate the trial judge merely inquired about the likelihood of resolving this case before the jury completed their deliberations.

The testimony from Petitioner's wife, and Counsel, do not support Petitioner's allegation that the trial judge offered Petitioner a fifteen-year plea deal during the jury deliberations. Petitioner's wife, and Counsel, were both involved in the discussions that occurred during the deliberations, and neither has testified that the trial judge entered the room to convey a plea offer to Petitioner. Instead, it appears the trial judge briefly spoke with Petitioner and Counsel to inquire if they would be pleading guilty, as this would have an impact on the courts schedule. Petitioner has failed to provide any evidence, outside of his own self-serving testimony, to support his allegation that the trial judge presented him with a plea offer during jury deliberations.

Additionally, Petitioner has failed to establish any grounds for a motion to reconsider based on the brief interaction the trial judge had with Petitioner and Counsel. Petitioner has failed to prove how the outcome of his case was affected by Counsel failing to file a motion to reconsider. Petitioner has merely stated he feels he should have the benefit of a plea offer he rejected.

> The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion. A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed.

State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008) (internal citations omitted) "When a trial judge considers the fact that the defendant exercised his or her constitutional right to a jury trial as a factor in sentencing the defendant, it is an abuse of discretion." Castro v. State, 417 S.C. 77, 83, 789 S.E.2d 44, 47 (2016)

Counsel testified he did not believe the trial judge would have modified Petitioner's sentence if Counsel filed a motion to reconsider after sentencing. Despite Counsel testifying he thought Petitioner's sentence was a little bit excessive, Counsel testified there was no new information for Counsel to present to the court in support of a motion to reconsider. App. p. 299, l. 3-9; App. p. 303, l. 8-13.

Though Counsel could have argued Petitioner was being punished with more jail time for failing to accept a plea offer of fifteen-years, there is nothing on the record at Petitioner's sentencing to indicate the trial judge punished Petitioner for refusing to accept a plea offer. Petitioner has not provided any evidence to support his allegation that he was punished for refusing a plea offer, other than his own self-serving testimony. Petitioner was given opportunities to plea to a lesser sentence before, and during his trial, however Petitioner was adamant about his innocence, and declined all plea offers. App. p. 296, l. 14-23; App. p. 298, l. 18-9.

Petitioner testified he felt the trial judge was punishing him for going to trial. Petitioner further testified he felt he should have received the fifteen-year sentence he was offered for a plea, even though he rejected the plea and was found guilty. App. p. 283, l. 14-25 However, Petitioner did not provide any additional information to Counsel, or at his evidentiary hearing, that could have been used to support a motion to reconsider. The record does not establish the trial court punished Petitioner for proceeding to trial rather than accepting a plea offer from the State.

Petitioner has compared his case to Castro v. State, 417 S.C. 77, 789 S.E.2d 44 (2016). However, Respondent asserts the sentencing colloquy in this case is significantly different than the sentencing colloquy in Castro. In Castro, at sentencing, the trial judge stated "You are different from these other defendants in that they have cooperated and they have acknowledged their responsibility for the crimes that they have committed... this is, as I said, an extremely serious offense. The state has had to take you to trial on a case where there was overwhelming evidence of your guilt." This differs drastically from Petitioner's sentencing, where the trial judge made no comments regarding Petitioner proceeding to trial, or Petitioner not admitting his guilt. The trial judge stated "You have 10 days from today to file a notice of appeal. You're 49-years-old. I'm going to sentence you to twenty five years and five years. Good luck." App. p. 230, l. 3-6. There is nothing on the record to demonstrate the trial judge considered the fact the defendant exercised his constitutional right to a jury trial as a factor in sentencing Petitioner.

Petitioner has not shown how he was prejudiced by proceeding to trial instead of accepting a plea, instead Petitioner argues he should have received the fifteen-year sentence he was offered during plea negotiation, despite the fact he rejected this offer and chose to await a verdict from the jury. Petitioner made the decision to forgo a plea offer, and await a verdict from the jury, and risk a greater possible sentence if he was convicted. Petitioner now argues he was punished by the

Court because he decided to decline the fifteen-year plea offer, and as a result of this decision he received a greater sentence after he was convicted.

As discussed above, Petitioner alleges the trial judge offered him a fifteen-year plea during jury deliberations, but the record does not support this assertion. Counsel testified he was trying to convince Petitioner to accept a plea before, and during his trial. Additionally, both Petitioner's wife and his attorney have testified the trial judge did not offer Petitioner a fifteen-year sentence during jury deliberations, instead they testified the trial judge merely asked if Petitioner was going to plead guilty. Petitioner has failed to show Counsel was ineffective for failing to file a motion to reconsider. Petitioner has not presented any evidence which could have been used to support a motion to reconsider his sentence. The record does not show that the trial judge made any comments indicating he considered Petitioner's decision to proceed to trial as a factor in sentencing. Petitioner has merely argued that he should have received the same fifteen-year sentence he was offered to plead guilty. Petitioner has failed to show his counsel was deficient, or how his counsel's performance prejudiced him. The post-conviction relief court properly denied relief and this Court should deny certiorari.

CONCLUSION

For the foregoing reasons, this Court should deny this certiorari and affirm the decision of the PCR court. Should this Court grant certiorari, Respondent seeks permission to more fully brief the issues herein.

Respectfully submitted,

ALAN WILSON
Attorney General

MICHAEL NEUBAUER
Assistant Attorney General

SC Bar No. 104450

By: _____
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-4113

April 23, 2021

RECEIVED
Apr 23 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

On Petition for a Writ of Certiorari to Greenwood County
Court of Common Pleas

The Honorable J. Mark Hayes, II, Post-Conviction Relief Judge
The Honorable Edward W. Miller, Trial Judge

Appellate Case No. 2018-001116

JAMAL HAKEEM,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

PROOF OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Return to Petition for Writ of Certiorari has been served upon opposing counsel by sending to opposing counsel's primary e-mail address as listed in the Attorney Information System (AIS):

Tommy A. Thomas, Esquire
thomaslaw@me.com

This 23rd day of April, 2021.

MICHAEL J. NEUBAUER
Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
michaelneubaer@scag.gov

RECEIVED
Apr 23 2021
SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

April 23, 2021

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211
(By Electronic Filing Only)

Re: Jamal Hakeem v. State of South Carolina
Appellate Case No. 2018-001116

Dear Ms. Kitchings:

Enclosed please find a copy of the Return to Petition for Writ of Certiorari for filing in the above-referenced post-conviction relief appeal. By copy of this letter, I am serving opposing counsel with this Return.

Sincerely,

Michael J. Neubauer
Assistant Attorney General
SC Bar No. 104450

MJN/ks
Enclosures

cc: Tommy A. Thomas, Esquire *(By Email Only)*