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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Certiorari to Aiken County

Honorable J. Mark Hayes, Circuit Court Judge

WILLIAM R. PEARSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001946

PETITION FOR WRIT OF CERTIORARI

VICTOR R SEEGER
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ISSUE PRESENTED

Whether trial counsel was ineffective for failing to obtain and/or otherwise use law enforcement's dash cam video of Officer Detroit Spire's conversation with Petitioner's son, William James Pearson, Jr., to impeach son's trial testimony implicating Petitioner?

STATEMENT

During the October 2012 term, the Aiken County Grand Jury indicted Petitioner for burglary in the first degree. App. 257 – 258.

On October 15 – 16, 2012, Petitioner proceeded to trial before the Honorable Doyet A. Early III, and a jury. App. 1. Barry Thompson and Andrew Smith represented Petitioner. Id. David Miller and Samuel Grimes represented the state. Id.

After the two-day trial, the jury found Petitioner guilty as indicted. App. 153, ll. 15 – 22. Petitioner was on probation for a prior second-degree burglary from 2009. App. 154, ll. 18 – 19; App. 157, ll. 5 – 18.

Judge Early sentenced Petitioner to fifteen years' imprisonment. App. 162, ll. 19 – 24. Petitioner's probationary sentence of twelve years suspended on four years' imprisonment and four years' probation was revoked and ran concurrent with Petitioner's fifteen-year sentence. Id.

On January 15, 2015, Petitioner filed an application for post-conviction relief (PCR). App. 165 – 179. Petitioner alleged that trial counsel Thompson provided an ineffective investigation into his case for failing to use the dash camera video where Petitioner's co-defendant, and son, James Pearson exonerated Petitioner of guilt to Officer Spires to impeach James' testimony at trial that implicated Petitioner. Id. The state filed its return on February 19, 2015. App. 180 – 183.

On September 18, 2017, Petitioner 's PCR hearing was held before the Honorable J. Mark Hayes II. App. 185. Aimee J. Zmroczek represented Petitioner. Id. Julie P. Coleman represented the state. Id.

In an order filed on February 5, 2018 Judge Hayes denied Petitioner relief. App. 238 – 250. Judge Hayes found that trial counsel was not deficient for failing to investigate and call

witnesses because "trial counsel credibly testified that he fully investigated Applicant's case and hired an investigator to meet with all potential witnesses." App. 244 – 45. Despite Petitioner presenting the dash camera video at his PCR hearing, which he argued trail counsel should have used to impeach James Pearson's testimony, the PCR court determined that Petitioner did not "present any specific evidence that trial counsel failed to investigate that would have affected the outcome of his trial." App. 245.

On July 8, 2019 undersigned counsel filed a petition for writ of certiorari pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 210 (1988). Petitioner filed a pro se response on August 8, 2019 alleging "trial counsel was ineffective for failing to obtain and/or other wise use law enforcement's dash cam video[1] of Officer Detroit Spire's conversation with Petitioner's son, William James Pearson, Jr., to impeach son's trial testimony implicating Petitioner?"

On April 16, 2021, this Court denied undersigned counsel's Johnson petition and ordered briefing on the above issue.

This petition follows.

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[1] Undersigned counsel ordered the PCR exhibits listed in the index on the transcript of the PCR hearing from the Aiken County Clerk of Court's office. The only video exhibit that was provided to undersigned counsel was the interrogation of James Pearson at the police station. Accordingly, undersigned counsel believed that the dashcam video was not presented to the PCR court and filed the Johnson petition on July 8, 2019. After Petitioner filed his pro se response, undersigned counsel became aware that the dash cam video was presented at Petitioner's PCR hearing. However, the clerk of court did not have the exhibit in its possession because PCR counsel took the dash cam video with her after the hearing ended. Upon discovering that the dash cam video was not in the Aiken County Clerk of Court's possession, this Court ordered both undersigned counsel and respondent's counsel to procure the video and transport it to the Court on October 9, 2020. Both undersigned counsel and respondent's counsel reached out to PCR counsel via multiple emails and phone calls, but undersigned counsel did not receive a response until March 28, 2021. On March 28, 2021 PCR counsel provided the missing dash cam video and undersigned counsel promptly delivered it to the Court.

ARGUMENT

Trial counsel was ineffective for failing to obtain and/or otherwise use law enforcement's dash cam video of Officer Detroit Spire's conversation with Petitioner's son, William James Pearson, Jr., to impeach son's trial testimony implicating Petitioner.

Relevant Facts

On May 28, 2012, Petitioner and his son, co-defendant James Pearson, allegedly burglarized a home on Sabra Avenue in Aiken County. App. 48, l. 25 – 50, l. 20.

The same day, Corporal Detroit Spires saw Petitioner and co-defendant James Pearson driving in a Mercury "Cooper" carrying various items. Id. Spires followed the two and watched them pull into their driveway behind their home. App. 51, l. 11 – 23.

Spires testified that he walked behind the house to where the car was parked and saw Petitioner taking a charcoal grill out of the trunk. Id. Spires asked Petitioner and co-defendant James Pearson how they came into possession of the various items in the car. App. 52, l. 3 – 53, l. 8. Allegedly, Petitioner did not respond, and James said they got the items, "from a guy." Id.

James initially brought Spires to the home of the fictious "guy" from whom they purchased the items. App. 53, l. 24 – 54, l. 9.

Petitioner brought a different law enforcement officer, Chief Rushton, to the Sabra address where the alleged burglary occurred. App. 54, l. 16 – 55, l. 21. Rushton called Spires to the Sabra Ave home because he believed a burglary had occurred at that house. Id.

Spires testified that the window of the home was broken, and that Petitioner had a "very thin" cut on his hand. Id.; App. 58, l. 21 – 59, l. 3. However, no fingerprints were taken from the allegedly stolen items or from the home. App. 66, ll. 11 – 20. No blood was taken for testing from the scene or from Petitioner and James either.

During Petitioner's trial, James Pearson, the co-defendant, testified that he and Petitioner committed the burglary. App. 68, ll. 7 – 13. He stated that they drove to the house, took items out and put them in the car. App. 68, l. 21 – 71, l. 9. James admitted that he lied to Spires about buying the charcoal grill from someone. App. 72, l. 18 – 73, l. 4.

On cross-examination trial counsel asked James if he gave a statement to Officer Spires that Petitioner did not have any involvement in the burglary. App. 77, ll. 8 – 18. James equivocated in his answer. Id. James replied that "maybe" he gave a statement[2] to Spires, and when pressed by trial counsel James said he "may have" told Officer Spires that Petitioner was not involved in the burglary. Id.

James was having money problems at the time and was a drug addict. App. 194, ll. 3 – 8. Trial counsel Thompson would later testify at Petitioner's PCR hearing that James Pearson was the, "biggest liar I've ever seen on the witness stand." App. 206, ll. 5 – 17.

The resident of the allegedly burglarized home, Berman, testified that the items found in Petitioner and co-defendant were taken from her home. App. 85, ll. 5 – 22; App. 88, ll. 7 – 18.

Jimmy Sikes testified that he was placed in a holding cell with co-defendant James Pearson. App. 94, l. 7 – 95, l. 2. Sikes stated that James told him that Petitioner, "had nothing to do with [the burglary]." Id. James denied telling Sikes anything about the incident. App.78, l. 18 – 79, l. 10.

Petitioner testified at trial that he and James went to the Sabra Ave property because they were interested in renting it. App. 101, l. 12 – 104, l. 5. James was on the phone with the landlord and got a quote of $960 to move in, while Petitioner went to the back of the house to check the backyard. Id. Upon returning to the front of the house, Petitioner saw a window broken

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[2] The statement James Pearson gave to Officer Spires that Petitioner had no involvement in the burglary was recorded on Spires' dash camera. App. 214, ll. 11 – 20.

and his son leaving the home with a microwave. App. 104, l. 20 – 106, l. 3. James already filled the car with items from inside the home. Id.

After seeing his son taking items from the home, Petitioner panicked. App. 110, l. 6 – 111, l. 14. Petitioner hurried to the car, but James jumped in before Petitioner could leave him there. App. 193, l. 20 – 194, l. 2. Petitioner then drove off, with James and the items from inside the home still in the car. Id.

At the PCR hearing, Petitioner alleged, inter alia, trial counsel provided ineffective assistance of counsel when he failed to impeach James Pearson's testimony with the dash cam video of James telling Officer Spires that Petitioner had "nothing to do" with the burglary. App. 163 – 179. Petitioner testified that he never saw the video before his trial and that trial counsel did not inform Petitioner of the dash cam video's existence until the day before trial. App. 195, ll. 13 – 18.

Trial counsel Thompson also testified at the PCR hearing as well. App. 201, l. 6. He asserted the state's case was much stronger with James' testimony. App. 215, ll. 4 – 23. Trial counsel explained that because the state did not conduct DNA or fingerprint testing in this case, James' testimony was particularly impactful. App. 222, l. 25 – 224, l. 11. He further explained stated that the state's evidence against Petitioner, without James' testimony, would not have been overwhelming. App. 215, l. 24 – 216, l. 1.

PCR counsel pointed out that James told officer Spires "upwards of 25 times" that Petitioner had "nothing to do" with the burglary in the dash cam video. App. 214, ll. 11 – 24. Despite the strong evidentiary value of James' testimony and the dearth of physical evidence, trial counsel admitted that he did not use the dash cam video to impeach James Pearson's testimony. App. 225, l. 1 – 226, l. 1. Furthermore, trial counsel acknowledged that he "had an

opportunity" to impeach James' testimony "for at least the 25 to 30 times" James told Officer Spires that Petitioner had nothing to do with the burglary.

The PCR court found that trial counsel was not deficient because trial counsel conducted a proper investigation and was prepared to try Petitioner's case. App. 238 – 50. Moreover, despite Petitioner presenting the dash cam video at the PCR hearing, the PCR court found that Petitioner "has not presented any specific evidence that Trial Counsel failed to investigate that would have affected the outcome of his trial." App. 244 – 45.

Discussion

Trial counsel provided ineffective assistance of counsel for failing to obtain and/or otherwise use law enforcement's dash cam video of Officer Spire's conversation with Petitioner's son, William James Pearson, Jr., to impeach James' trial testimony that implicated Petitioner. That ineffective assistance prejudiced Petitioner because James' testimony was crucial evidence against Petitioner and there was a reasonable likelihood the outcome of his case would have been different had trial counsel properly impeached James' testimony with the dash cam video.

To establish ineffective assistance of counsel, the Petitioner must satisfy the two-prong test set forth in Strickland v. Washington, 466 U.S. 668 (1984). "First, a defendant must show that counsel's performance was deficient. Under this prong, [t]he proper measure of attorney performance remains simply reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989) (internal citations omitted). "The second prong of the Strickland test requires a showing that the deficient performance prejudiced the defendant to the extent that there is a reasonable probability that, but for counsel's unprofessional errors, the

result of the proceeding would have been different." Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (quoting Strickland, 466 U.S. at 692).

Rule 613(b) of the South Carolina Rules of Evidence controls the admissibility extrinsic evidence of a prior inconsistent statement to impeach a witness' trial testimony. Rule 613(b), SCRE. As an initial matter, under Rule 613(b) the witness must be provided the opportunity to admit, deny, or explain a prior inconsistent statement before the extrinsic evidence can be admitted. Rule 613(b), SCRE; State v. Mcleod, 362 S.C. 73, 80 – 81, 606 S.E.2d 215, 219 (Ct. App. 2004).

Under Rule 613(b), extrinsic evidence of a prior inconsistent statement is admissible when a witness does not admit to making the prior inconsistent statement in their testimony. SCRE 613(b); State v. Stokes, 381 S.C. 390, 398, 673 S.E.2d 434 (2009). However, the extrinsic evidence of the prior inconsistent statement is inadmissible when the witness makes an "unequivocal admission" to making the prior inconsistent statement. State v. Carmack, 388 S.C. 190, 201 – 02, 694 S.E.2d 224, 229 – 30 (Ct. App. 2010). This Court has held that even when a witness testified to making the prior inconsistent statement, *any wavering or equivocations* made during that testimony makes the prior inconsistent statement admissible. Carmack, at 201 – 02, 694 S.E.2d at 229 – 30.

In Carmack, a shooting occurred at a party on a farm in Fairfield County. Carmack, at 195 – 96, 694 S.E.2d at 226 – 27. A stray bullet fired into the farm hit multiple partygoers and Carmack was subsequently arrested. Id.

During trial, Carmack moved to have the state's thirty-four witnesses sequestered; however, the trial court sequestered only the witnesses who had not previously given written statements. Id. One of the unsequestered witnesses was Carmack's brother, who testified an account of the evening differed *slightly* from his prior written statement in that his testimony provided "more detail" than the prior statement. Id. When questioned by the state, Carmack's brother *maintained his prior*

statement was accurate, but admitted some details were left out because he was never asked about those details when he gave the statement. Id. The state then successfully admitted the prior written statement into evidence over Carmack's objection. Id.

On appeal Carmack argued that his brother's prior written statement should not have been admitted under Rule 613(b) SCRE, because he admitted to making the prior statement in his trial testimony. Carmack, at 201, 694 S.E.2d at 229. This Court held that the admission of the prior written statement from Carmack's brother was proper because he did not "unequivocally" admit to writing the prior statement. Id., at 201 – 02, 694 S.E.2d at 229 – 230.

Carmack's brother testified that his written prior statement was accurate, but also stated "certain details were not in his original statement because such details were not inquired into at the time." Id. Accordingly, even when a witness admitted to making a prior inconsistent statement, the extrinsic evidence of the prior inconsistent statement is admissible if the witness' admission at trial differed, even slightly, from the prior statement.

Here, James was given the opportunity to address the prior inconsistent statement but did not unequivocally admit to making it. App. 77, ll. 8 – 18. On cross-examination during trial, trial counsel asked James about the prior inconsistent statement he made to Officer Spires that Petitioner had nothing to do with the burglary. Id. James replied that "maybe" he made that statement and he "may have" told Officer Spires that Petitioner "didn't have anything to do with this." Id. Accordingly, when James was offered the opportunity to address his prior inconsistent statement at trial he did not make an unequivocal admission such that the dash cam video would have been admissible under Rule 613(b) SCRE, had trial counsel moved to admit it to impeach James' trial testimony. Carmack, at 201 – 02, 694 S.E.2d at 229 – 230.

Since the dash cam video would have been admissible at trial, trial counsel's failure to move to admit the video to impeach James' testimony constituted deficient performance under the first prong of the Strickland test. To determine if trial counsel's error prejudiced Petitioner, an examination into whether the error was harmless is necessary. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (quoting Strickland, 466 U.S. at 692).

When determining whether an error regarding any issue of witness credibility was harmless, a reviewing court considers the "importance of the witness's testimony to the prosecution's case, whether the witness's testimony was cumulative, whether other evidence corroborates or contradicts the witness's testimony, the extent of cross-examination otherwise permitted, and the overall strength of the State's case." State v. Fossick, 333 S.C. 66, 70, 508 S.E.2d 32, 34 (1998) (citing Delaware v. Van Arsdall, 106 S.Ct. 1431 (1986)).

In Fossick, the seventeen-year-old victim, Marilee, was murdered and her body discovered in a wooded area of Richland County. Fossick, at 67 – 68, 508 S.E.2d at 32. Marilee worked with Fossick and a coworker named Shane. Id., at 67 – 68, 508 S.E.2d at 33. Shane testified at Fossick's trial that the trio left work shortly after 1:00pm. Id. Shane said he left Marilee in the parking lot with Fossick still there. Id. He also stated that he called Marilee's house later that afternoon and she had not returned home from work. Id.

Prior to trial, Fossick confessed to the murder. Fossick, at 68, 508 S.E.2d at 32. Fossick then led police to the murder weapon. Id.

During his trial, defense counsel questioned Shane about a statement Shane made to an ex-girlfriend. Id., at 68 – 69, 508 S.E.2d at 33. Defense counsel specifically asked if Shane ever got mad at his ex-girlfriend and said "I killed that bitch. I will kill you too." Id. In his testimony at trial, Shane unequivocally denied ever making that statement. Id.

During Fossick's case in chief, defense counsel proffered testimony from another witness, Lee Keeffe who stated he heard Shane tell his ex-girlfriend "I killed that bitch and I'll kill you." Id., at 69, 508 S.E.2d at 33. The state objected on the ground that under Rule 608(b), SCRE, extrinsic evidence is not admissible to attack a witness' credibility. Id. Defense counsel stated that evidence of extrinsic evidence of a prior inconsistent statement was admissible under Rule 613(b), SCRE. Id. The trial court ruled that the evidence was inadmissible under 608(b). Fossick appealed. Id.

On appeal to our Supreme Court, the Court held that the trial judge erred in refusing to admit Shane's prior inconsistent statement under Rule 613(b), SCRE. Id., at 69 – 70, 508 S.E.2d at 33. However, the Court determined that the error by the trial court was harmless because of the overwhelming evidence of Fossick's guilt and the cumulative nature of Shane's direct examination testimony. Id., at 70, 508 S.E.2d at 33 – 34.

Shane's testimony was cumulative because he simply stated that he left Fossick with Marilee after work and Fossick made a statement to police that consisted of the same information. Id. Moreover, Shane's testimony was "relatively unimportant to the State's case which rested on [Fossick's] confession and the fact that he led police to the murder weapon." Id. Accordingly, the Court held the trial court's error in failing to admit Shane's prior inconsistent statement was harmless. Id.

In contrast to Fossick, the decision in Rutland v. State, 415 S.C. 570, 785 S.E.2d 350 (2016), illustrated when a defense counsel's failure to impeach a witness with a prior inconsistent statement was unfairly prejudicial. In Rutland, Rutland was convicted of murder, possession of a firearm during the commission of a violent crime, and pointing a firearm. Rutland, at 572, 785 S.E.2d at 350 – 51. On appeal, our Supreme Court reversed Rutland's convictions because trial counsel provided

ineffective assistance of counsel for failing to impeach the testimony of the state's only eyewitness' prior inconsistent statements. Id.

Rutland was romantically involved with the victim's estranged wife, Peele. Id., at 573, 785 S.E.2d at 351. On the day of the incident, Peele and Rutland drove to "Bow Wow Boutique," a pet grooming business, to inquire about purchasing a vehicle from employee Kestner. Id. The victim subsequently arrived at the Boutique, where he was shot and killed by Rutland. Id. The only individuals in the Boutique at the time of the shooting, in addition to Rutland and the victim, were Peele and Kestner. Id.

Prior to trial, Kestner gave a written statement to police that the victim pulled a gun on Rutland in the Boutique before Rutland killed him. Id. Kestner also gave a statement to a newspaper that "[the victim] said nothing. He pulled his gun out and was fixing to shoot," before Rutland shot him. Id.

At trial, Kestner testified she had a good view of the victim as he walked into the Boutique. Rutland, at 573–74, 785 S.E.2d at 351 (2016). She stated the only thing she saw in the victim's hands was a pack of cigarettes. Id. Kestner testified that as the victim entered the Boutique, Rutland put his own pack of cigarettes in his mouth and reached behind his back, at which point the victim also reached behind his back. Id. Kestner stated she heard two gunshots, and *never saw the victim possess a gun.* Id. She testified that after the victim was shot, she witnessed Rutland holding a handgun, and saw a second handgun lying on the floor. Id. On cross-examination, trial counsel failed to question Kester about her prior inconsistent statements to law enforcement and to the newspaper.

At Rutland's PCR hearing, he argued, inter alia, trial counsel was ineffective for failing to cross-examine Kestner as to her prior inconsistent statements that the victim was armed at the time of the shooting. Id., at 575, 785 S.E.2d at 352.

Trial counsel testified at Rutland's PCR hearing and agreed Kestner's testimony at trial was important as she was the only "disinterested" and "objective" witness to the shooting. Id. Trial counsel testified he was aware of Kestner's prior inconsistent statements and acknowledged they could have been used to impeach her trial testimony. Id. Trial counsel explained he was unable to locate the newspaper article prior to trial and admitted his failure to use the police report was due to an "oversight." Id.

Although Kestner did not testify at the PCR hearing, Rutland produced the signed police statement wherein Kestner stated the victim was armed at the time of the shooting and affidavits by several individuals swearing that Kestner stated to them the victim was armed when he was shot. Id. The PCR court found that Rutland's trial counsel was deficient, but the error did not prejudice him. Id., at 576, 785 S.E.2d at 353.

Our Supreme Court reversed the PCR court's denial of Rutland's PCR application and held "had trial counsel discredited Kestner's testimony by raising the prior inconsistent statements on cross-examination, Kestner's credibility at trial would have suffered." Id., at 577–78, 785 S.E.2d at 353. Rutland admitted to the shooting, but maintained that he was acting in self-defense. Id., Therefore, Kestner was the only "disinterested" and "objective" witness to the incident. Id. As a result, the Court held there was a reasonable probability the outcome of Rutland's trial would have been different had trial counsel impeached Kestner because her prior inconsistent statements demonstrated "all three witnesses to the incident attested at some juncture" that the victim was armed at the time of the shooting. Id., at 578, 785 S.E.2d at 353–54.

In the present case, James Pearson's testimony was not cumulative nor was there overwhelming evidence of guilt such that the failure by trial counsel to properly impeach his testimony with the dash cam video severely impaired Petitioner's defense. Fossick, at 70, 508 S.E.2d at 33 – 34. An examination into the factors for harmlessness[3] regarding whether the erroneous exclusion of extrinsic evidence of a prior inconsistent statement was harmless, showed that trial counsel's failure to properly impeach James Pearson's testimony in this case prejudiced Petitioner. Fossick, at 70, 508 S.E.2d at 34.

James Pearson's testimony was crucial to the state's case. Id.; App. 214, l. 8 – 216, l. 1. Trial counsel recognized the importance of James' testimony when he testified at Petitioner's PCR hearing. App. 214, l. 8 – 216, l. 1. While trial counsel stated Petitioner could have been convicted without James Pearson's testimony, he admitted that without James' testimony the state's evidence against Petitioner was "not overwhelming." Id.

James' testimony was not cumulative as it was the only direct evidence presented that alleged Petitioner participated in the burglary. Fossick, at 70, 508 S.E.2d at 34; App. 68, ll. 7 – 72, l. 9. In this case, there was no confession, no DNA evidence, no fingerprint evidence, and no eye-witness testimony evidence presented to show Petitioner's was guilty of the burglary. Id.

The overall strength of the state's case was not strong without James' testimony. App. 138, ll. 8 – 25; App. 214, l. 8 – 216, l. 1. During the state's closing, the solicitor admitted without James' testimony the state could not prove that Petitioner burglarized the home; the state could only

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[3] While Fossick was a direct appeal case, the factors the Court used for determining whether the wrongful exclusion of the prior inconsistent statement was harmless are instructive here. The factors the Court listed for harmlessness were "[the] importance of the witness's testimony to the prosecution's case, whether the witness's testimony was cumulative, whether other evidence corroborates or contradicts the witness's testimony, the extent of cross-examination otherwise permitted, and the overall strength of the State's case." State v. Fossick, 333 S.C. 66, 70, 508 S.E.2d 32, 34 (1998).

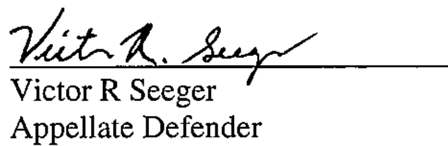
prove that Petitioner aided and abetted James Pearson after the fact. App. 138, ll. 8 – 25. Moreover, James' prior inconsistent statement directly contradicted his trial testimony, such that the dash cam video statement had critical impeachment value for Petitioner's defense. App. 77, ll. 8 – 18; App. 214, ll. 11 – 24.

In this case, James Pearson was given the opportunity to admit his prior inconsistent statement and chose to equivocate rather than admit it. App. 77, ll. 8 – 18. He stated "maybe" he told Officer Spires that Petitioner was not involved in the burglary. Id.; Carmack, at 201 – 02, 694 S.E.2d at 229 – 230. Therefore, trial counsel provided deficient performance because the extrinsic evidence of James' prior inconsistent statement would have been admissible had trial counsel moved to impeach him with it.

Under the factors put forth in Fossick, trial counsel's error was not harmless because trial counsel failed to properly impeach James Pearson's crucial testimony that implicated Petitioner where there was no other direct evidence of Petitioner's guilt. Accordingly, there was a reasonable probability that had trial counsel provided effective assistance of counsel the outcome of Petitioner's trial would have been different such that Petitioner's conviction for burglary in the first degree should be reversed, and a new trial should be granted. Strickland, supra.

CONCLUSION

By reason of the foregoing arguments, Petitioner respectfully requests that this Court grant certiorari to allow for a full briefing on this issue.



Victor R Seeger
Appellate Defender

ATTORNEY FOR PETITIONER

This 24th day of May, 2021.

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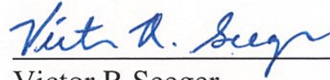
May 24 2021
SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of his ability this Petition for Writ of Certiorari complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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ATTORNEY FOR PETITIONER

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PETITIONER

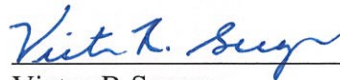
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE 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 Petition for Writ of Certiorari in the above referenced case has been served upon Michael J. Neubauer, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and a copy of the Petition for Writ of Certiorari has been served on William R. Pearson, #336210, at Allendale Correctional Institution, PO Box 1151, Hwy. 47, Fairfax, SC 29827, this 24th day of May, 2021.



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