

No. **19-8808**

**ORIGINAL**

\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
Randolph Ashford

— PETITIONER

(Your Name)

Supreme Court, U.S.  
FILED

**JUN 16 2020**

OFFICE OF THE CLERK

vs.

Michael Stephan "et al"

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO  
UNITED STATES COURT OF APPEALS, FOR THE FOURTH CIRCUIT

\_\_\_\_\_  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Randolph Ashford

\_\_\_\_\_  
(Your Name)

4460 Broad River Rd.

\_\_\_\_\_  
(Address)

Columbia, South Carolina - 29210

\_\_\_\_\_  
(City, State, Zip Code)

N/A

\_\_\_\_\_  
(Phone Number)

## QUESTION(S) PRESENTED

Was the State of South Carolina City of Columbia, violate Ashford 4th, 5th, 6th, and 14th Amendment to the United States Constitutional Rights by Withholding evidence.

Was trial counsel ineffective for failing to object to the solicitors closing arguments, by vouching for the credibility of state's witnessess.

Was trial counsel ineffective for failing to object to crime scene contamination of the crime scene evidence presented at trial and admitted into evidence.

Was trial counsel ineffective for failing to object to the courts jury charge of the weight of the evidence by trial judge.

Was trial counsel ineffective for failing to object to the juror misconduct, stating I've heard all I need to hear during trial

Was trial counsel ineffective for failing to object to inappropriate behavior of individuals in the gallery during trial.

Was trial counsel ineffective for failing to quash the illegal, void indictments prior to trial.

Was trial counsel ineffective for failing to object to the jury viewing the video tape prior statement of the victim during deliberation.

Was trial court in error for refusing to grant a mistrial, due to two separate outbursts made from the state key witness during the trial.

## **LIST OF PARTIES**

[x] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Michael Stephan  
Michael Stephan  
ATTORNEY GENERAL FOR SOUTH CAROLINA

## **RELATED CASES**

### **Brady Violations**

U.S. V. Wolf, 839 F.2d 1387 (10th Cir. 1988 ).

Brady V. Maryland, 373 U.S. 83, 87, 83, S.Ct. 1194, 10 L.ed. 2d. 215 (1963).

U.S. V. Bagley, 473 U.S. 667, 676, 105 S.Ct. 3375, 87 L.ed. 2d. 481, ( 1985 ).

Clark V. State, 315, 315 S.C. 385, 434 S.E. 2d. 266 ( 1983  
and Bagley 473 U.S. at 678, 105 S.Ct. at 3381

State V. Kennerly, 331 S.C. 442, 452, 503 S.E. 2d. 214 220  
(Ct.App.1999).

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### **Lesser Included Offense**

State V. Fields, 356, S.C. 517, 589 S.E. 2d 792 (Ct. App.2003)

State V. Funchess, 267 S.C. 427 229 S.E. 2d 331 (1976).

State V. Smith, 315 S.C. 547, 549, 446 S.E. 2d. 411, 413, (1994).

Moultrie V. State, 354 S.C. 646, 583, S.E. 2d 436 (2003).

Magazine V. State, 361 S.C. 610, 606 S.E. 2d 761, (2004).

Sellers V. State, 362 S.C. 182 607 S.E. 2d. 82 (2005).

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#### Sufficiency of Orders

McCullough V. State, 320 S.C. 270, 464 S.E. 2d. 340 (1995).

McCray V. State, 305 S.C. 329, 408, S.E. 2d 241 (1991).

Pruitt V. State, 310 S.C. 254, 423 S.E. 2d 127 (1992).

Bryson V. State, 328 S.C. 236, 493 S.E. 2d 500 (1997).

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September 16, 2019 ( Letter ) of Supreme Court  
December 10, 2019 (Letter) of Petitioner Ashford  
ORDER of the Supreme Court of South Carolina,  
dated September 30, 2019 ..... 162 K.**

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

781 Fed. Appx. 275 (Mem)

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is Slip Copy WL341718, Slip Copy 2019 WL 2062448,

and 2019 WL 1416874

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix G to the petition and is

☐ reported at 2012-WL 10829707; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the Appeals court appears at Appendix G-K to the petition and is

☐ reported at APPENDIX 80-I, and 161-J Letters; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 25, 2019.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: February 3, 2020 For 10/25/2019, and a copy of the order denying rehearing appears at Appendix D-E.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including July 2, 2020 (date) on March 5, 2020 (date) in Application No. 19 A 970.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 1-3-12 through 11-18-2016.  
A copy of that decision appears at Appendix G, H, I, J.

☒ A timely petition for rehearing was thereafter denied on the following date: See Appendix - F, J, and a copy of the order denying rehearing appears at Appendix F, J.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. — A —.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

**Amendment IV.** The rights of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

**Amendment V.** No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, etc., etc.,.

**Amendment VI.** In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and caused of the accusation; to be confronted with the witness against him to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

**Amendment XIV.** Section I. All person born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No person shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

## THE CONSTITUTION OF THE STATE OF SOUTH CAROLINA

### Article I. Declaration of Rights

**Section 3.** Privileges and Immunities; Due Process; Equal Protection of law.

**Section 22.** Procedure before administrative agencies; judicial review.

**Section 1.** Political power in people

(a) The Supreme Court, a justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a state court only on the grounds that he/she is in custody in violation of the Constitution or laws of the United States.

(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that--

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B) there is an absence of available State corrective process; or

(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

(2) An applicant for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel expressly waives the requirement.

(c) An applicant shall not be deemed to have exhausted the remedies available in the court of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.

(d) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceeding unless the adjudication of the claim--

(1) resulted in a decision that was contrary to, or involved an unreasonable application of clearly establish Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

(2) If the applicant has fail to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that--

(A) the claim relies on--

(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme court, that was previously unavailable; or

(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

(B) the fact underlying the claim would be sufficient to

establish by clear and convincing evidence that but for constitution error, no reasonable fact finder would have found the applicant guilty of the underlying offense.

(f) If the application challenges the sufficiency of the evidence adduced in such State court proceeding to support the State court's determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall direct the state to do so by order directed to an appropriate State official. If the State cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the State court's factual determination.

(g) A copy of the official records of the State court, duly certified by the clerk of such court to be a true and correct copy of a finding, judicial opinion, or other reliable written indicia showing such a factual determination by the State court shall be admissible in the Federal court proceeding.

(h) Except as provided in section 408 of the Controlled Substance Act, in all proceedings brought under this section, and any subsequent proceeding on review, the court may appoint counsel for an applicant who is or become financially unable to afford counsel, except as provided by rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

## STATEMENT OF THE CASE

Mr. Ashford, was unlawfully convicted of (3) Three counts of carjacking (2) Two counts of kidnapping (1) One count of burglary 1st degree (2) Two counts of assault with intent to kill (1) One count of assault and battery with a high and aggravated nature.

The conviction was affirmed on direct appeal No. 2012-035, Submitted January 3, 2012. Decided January 25, 2012. Not WL-10829707, Rule - 215 SCACR, Ashford, then file a State Post-Conviction Relief, and a Access to Justice Post-Conviction DNA Testing Application. Both petitions were denied and the appeals.

Mr. Ashford, then filed a 28 U.S.C. 2254 Habeas Corpus Petition on May 8, 2018. The petition was denied/dimiss. However the State of South Carolina, City of Columbia violated the Constitution of the State of South Carolina, Article I. Declaration of Rights, Section - 3. Privileges and Immunities; Due Process; Equal Protection of Law, Section - 22. Procedures before administrative agencies; Judicial Review. We the people of the United States Constitution, Ashford's 5th, 6th and 14th Amendment of Ashford's rights to a fair trial.

In Reverse, prior to trial the State of South Carolina, City of Columbia, withheld favorable evidence of the accused, that included exculpatory evidence and evidence that impeaches a government witness. See: Volume I of III, App. P. 4, Lines-15-25, App. P. 5. Line - 1-5, Carolyn Gripp, Deputy Public Defender, Attorney for the Defendant, Stated: Another one of his concerns is that the 911 tape that we had requested in the original Rule - 5, We do not have. The reason we don't have that is because the state doesn't have it, Your Honor, not just with Mr. Ashford here, But the problem is that the City of Columbia won't allow us to obtain the 911 tapes on our own. They refuse our subpoenas and they won't let us go get them Via the freedom



of Information Act. Strickler V. Greene, 527 U.S. 263, 281-82 (1999), See also Cone V. Bell, 556 U.S. 449, 469 (2009). U.S. V. Bagley, 473 U.S. 667, 676 (1985)(quoting Brady, 373 U.S. at 87): also Banks V. Thaler, 583 F.3d 295, 311 ( 5th Cir. 2009 )

During the trial, The Court: Any motions ? Ms. Singletary; Yes, Your Honor, At this time the defense would respectfully make a motion for a mistrial base on due process violations and 403, App. P. 1010, Lines - 11-13 through App. P. 1013, Line- 21. Mr. Ashford, testified at the PCR hearing. App. P. 1234 - 1236, Lines - 1-25,. Ashford's, defense counsel testified at the PCR hearing that the trial was prejudicial. App. P. 1343, Lines 10-25, App. P. 1344, Lines 1 - 25, also App. P. 1334, Lines - 21-25,.

During the March 30 through April 3, 2009. Trial of the Petitioner, Randolph Ashford, Trial counsels Deon Oneil and Nicole Singletary, failed to object to the solicitor's closing argument vouching for the credibility of state witnesses. See: Appendix I. Applicant's Trial Brief (g). At the PCR hearing, See: Volume III of III, Page 1304 Lines - 1 - 25, and Petitioner Written Memorandum For Petition For Writ of Certiorari, Argument Page 3. through 6. See: State v. Kelly, 343 S.C. 350, 369, 540 S.E. 2ds 805 (2001), Gilchrist v. State, 350 S.C. 221 565 S.E. 2d 281 (2002) Matthew v. State, 350 S.C. 272, 565, S.E. 2d. 766 (2002).

Trial Counsel fail to object to Crime Scene Contamination See: Appendix I. Applicant's Trial Brief, Page-4 (B) and Page 2 and 3 (E)(2). At the PCR hearing Volume III of III, Page - 1279, Line - 20-25, also see: September 24, 25, and 26, 2008,

Transcript of Record ( Motion ) Page - 29, Line - 22 - 24,  
and the Petitioner Written Memorandum For Petition For Writ  
of Certiorari, Argument Page - 11-13, See: Sikes V. State,  
323 S.C. 28 448 S.E. 2d. 560 ( 1994 ).

( See Related Cases )

Trial counsel fail to object to the Court jury charge  
of the weight of the evidence. See: Appendix - I., Applicant  
Trial Brief, Page - 6 (h). and Appellate Case No. 2015-001268  
Volume II of III, January 5, 2015.

( See Related Cases )

Trail Counsel fail to object to jury misconduct, stating  
I've heard all I need to hear during the trial.

( See Related Cases )

Trial counsel fail to object to inappropriate behavior  
of individuals in the gallery during trial. See: Cronin V.  
U.S. 446 U.S. 648, 104 S.Ct. 2039, 80 L.E. 2d. 657 (1984)

See: Related Cases )

**Trial counsel fail to object to jury viewing of the video tape prior statement of the victim during deliberation.**

**( See Related Cases )**

**Trial Court erred refusing to grant a mistrial, due to two separate outburst made from the state key witness during the trial.**

**Green V. State, 351, S.C. 184, 569, S.E. 2d 318 ( 2002 )**

**( See Related Cases )**

## REASON FOR GRANTING THE PETITION

I. THE FIFTH JUDICIAL CIRCUIT, COURT OF GENERAL SESSIONS INDICTMENT PROCESS VIOLATED THE 14th AMENDMENT TO THE UNITED STATES CONSTITUTION AND ASHFORD'S DUE PROCESS AND WARRANTS THE COURT ATTENTION.

Accordingly, South Carolina Code Ann, Section 14-9-210, requirise strict compliance with its provision and mandates that the grand jury must be impaneled under the jurisdiction of the court of General sessions before lawful return of a true billed indictment can take place.

In this case, See: Appendix F. Bills of Indictments prints that the indictment was return, At a Court of General Sessions that convened on April 18, 2007, and May 23, 2007.

The terms of Court for General Sessions for Richland County are fixed by S.C. Code Ann 14-5-670. See: Volume III of III, Lines - 20 - 25, Page - 1189, Lines - 1 - 6, also Volume III of III, Page - 1170, Lines 1 - 25, Page - 1174 through 1175, Lines - 1 - 25, and Petitioner Written memorandum For Writ of Certiorari, Page - 7 - 9,.

See: Appendix F. The attached Judicial Department Circuit Court Calender, Terms of Circuit and Family Court, Proves beyond doubt that, No Court of General Sessions was convened as falsely printed in the Petitioner's Ashford's indictment's, Nor was the indictments filed with the South Carolina Clerk of Court in Richland County, Pursuant to the South Carolina Rules of Court.

### Rule - 3(c). Action on Warrants

Within ninety (90) days after receipt of an arrest warrant from the Clerk of Court, The solicitor shall take action on the warrant by (1) preparing an indictment for presentment to the grand jury, which indictment shall be filed with the Clerk of Court, assigned a criminal case number, and presented to the grand jury etc etc.

**Therefore, Since no court of General Sessions was convened on the dates of indictments 2007-GS-02000-2003, 2007-GS-40-1938 - 1941, and 2007-GS-40-2048, the indictments was allegedly true billed, the grand jury proceeding would therefore by necessity be held invalid, and its illegally issued indictments null and without legal binding effect.**

Finally, Petitioner, respectfully request this Court to take **Judicial Notice** of the lower Court's judicial misconduct and criminal violations of this case. (See: Appellate Case No. 2015-002509), Volume III of III Appendix Page 1415-1416 Indictment No. 2007-GS-40-2003, The face of the indictment is kidnapping and the body of the indictment is Carjacking. (See: Appellate Case No. 2015-001268 Volume III of III Indictment's, Petitioner, **was not** served with a warrant, nor went to trial for such indictments before these Courts and **yet** these indictments, setforth guilty verdicts, (**fraud**) upon the Courts and a miscarriage of justice.

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## WITNESSES

(S) AL THOMAS - CPD

## ARREST WARRANT NUMBER

K195897

## ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury

Date:

MAY 28 2007

## VERDICT

Foreperson of Petit Jury

Date:

4/3/09

DOCKET NO. 2007-GS-40- 02001

## The State of South Carolina

County of Richland

## COURT OF GENERAL SESSIONS

MAY TERM 2007

42

THE STATE

vs.

RANDOLPH ASHFORD

Indictment for  
CARJACKING

SC Code: 16-3-1075(B)(1)

CDR Code: 2599

Class FEL/C

After being fully advised as to my  
legal rights, I hereby waive presentment  
to the Grand Jury.

Defendant

I  
hereby appear in my own proper person and plead  
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

1416

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STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

INDICTMENT

At a Court of General Sessions, convened on May 23, 2007, the Grand Jurors of  
Richland County present upon their oath:

CARJACKING

That RANDOLPH ASHFORD did in Richland County on or about February 24,  
2007, take or attempt to take a motor vehicle from the victim, Evelin Worthy, by force  
and violence or by intimidation, while the person, Evelin Worthy, is operating the vehicle  
or while the person is in the vehicle. All in violation of § 16-3-1075.

Against the peace and dignity of the State, and contrary to the statute in such  
case made and provided.

Warren B. Giese  
WARREN B. GIESE, SOLICITOR

WITNESSES

(C) AL THOMAS - RCSD

ARREST WARRANT NUMBER

K-195899

ACTION OF GRAND JURY

**TRUE BILL**

*Day, Cheryl*  
Foreperson of Grand Jury

Date

MAY 23 2007

VERDICT

*Guilty*

*Donna [Signature]*  
Foreperson of Petit Jury

Date:

4/13/09

DOCKET NO. 2007-GS-40-02003

**The State of South Carolina**

**County of Richland**

**COURT OF GENERAL SESSIONS**

**MAY TERM 2007**

42

**THE STATE  
vs.**

**RANDOLPH ASHFORD**

**Indictment for**

**KIDNAPPING**

SC Code: 16-3-910  
CDR Code: 0095  
Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY  
OF ORIGINAL FILED  
Jury 12 12 07  
C.C.C. PLS. AND G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA

1012



STATE OF SOUTH CAROLINA )

INDICTMENT

COUNTY OF RICHLAND )

At a Court of General Sessions, convened on May 23, 2007, the Grand Jurors of Richland County present upon their oath:

**CARJACKING**

That RANDOLPH ASHFORD did in Richland County on or about February 24, 2007, take or attempt to take a motor vehicle from the victim, Barry Taylor, by force and violence or by intimidation, while the person, Barry Taylor, is operating the vehicle or while the person is in the vehicle. All in violation of § 16-3-1075.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Warren B. Giese  
WARREN B. GIESE, SOLICITOR

## CONCLUSION

For these reason of questions presented a Writ of Certiorari should be issued to review the judgment and opinion of the Fourth Circuit and Fifth Circuits Constitutional violations by prosecutorial and state government officials, and dismiss this case against Ashford, or grant a new trial.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Randolph Ashford

Date: June 15, 2020