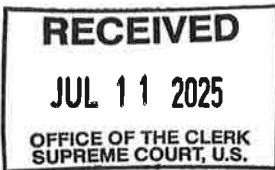


No. 24-6653



SUPREME COURT OF THE UNITED STATES

John Douglas Alexander \_\_\_\_\_ PETITIONER

VS.

Jonathan Nance, Warden \_\_\_\_\_ RESPONDENT

PETITION FOR A REHEARING

COMES, John Alexander, Petitioner above pursuant to the provisions of The United States Supreme Court Rule 44.2 with a Petition For a Rehearing of the Court's Order dated April 28, 2025 and will show:

That on June 17, 2025, the petitioner received a letter from the Honorable Scott S. Harris, Clerk directing him to correct deficiencies and resubmit its original Petition For A rehearing received May 7, 2025 that failed to fully comply with Rule 44 of the Court within 15 days of the date of the letter.

As such, the petitioner respectfully requests that the High Court please consider the following:

GROUNDS

(1) That the Court overlooked or failed to consider the applicable new 14th Amendment precedent the South Carolina Supreme Court set out in Mack v. State, 433 S.C. 267, 858 S.E. 2d 160(2021), which allow the petitioner a belated direct appeal where "counsel's deficient performance barred petitioner a direct review:

(2) That the Court overlooked or failed to consider the applicable new precedent under the 14th Amendment that the South Carolina Supreme Court set out in Belcher v. State, 385 S.C. 597, 685 S.E.2d 802(2009) reversing the petitioner's conviction and overruling precedent that had approved inference or intent to kill from use of a deadly weapon and applying the new rule "to all cases in the pipeline-i.e. the petitioner's case that was pending on direct review and not yet final:

(3) That the Court overlooked or failed to consider the unconstitutional ramifications of the trial court's giving the jury twenty-eight (28) different inferences of "implied malice" in the Malice Charge. See State v. Chatman, 952 F.3d 1211(2020) (the court will not uphold a conviction obtained by noting more than piling inference upon inference." Also see, State v. Peterson, 287 S.C. 244, 335 S.E.2d 800, 802(1985) ("a malice charge which use the term 'implied malice nine times is erroneous and prejudicial."));

(4) That the Court overlooked and failed to consider that implied malice is inconsistent with Assault and battery with intent to kill

( a specific intent crime ) or, that the petitioner ' cannot intend to kill another with implied malice because there is no such offense as an intent to achieve an unintended result. See State v. Williams, 427 S.C. 148,829 S.E. 2d 702(2019); Keys v. State, 104 Nev. 736 P.2d 270(1988); and People v. Visor, 343 N.E. 2d 903(1975)( " one cannot intend to be negligent or attempt to have a general malignant recklessness contemplated by the legal concept ' implied malice '.);

(5) The Court overlooked and failed to consider the long list of federal and state authorities governing, " if there is any evidence of self-defense presented by the petitioner " the charge must be given ". See State v. Burkhart, 565 S.E. 2d 298, and State v. Williams, 427 S.C. 246,830 S.E. 2d 904(2019); and

(6) The Court overlooked and failed to consider that when the Post-Conviction Relief Court denied and deprived the petitioner of the constitutional right on two separate occasions during the hearing to fully present, argue, and defend his Grounds for relief, essentially the Court denied and deprived the petitioner of a full or fair " Bite Of The Apple ".

Pursuant to the United States Constitution Amendment Fourteen..... " nor shall any State deprive the petitioner of life, liberty or property without due process of law, nor deny the petitioner the equal protection of the laws ". Directly connected to the above laws the Supreme Court of South Carolina relied upon the Fourteenth Amendment Due Process Clause of the United States to craft a new remedy akin to Austin v. State, 305 S.C. 453, 409 S.E. 2d 395(1991). See Mack v. State, 433 S.C. 267,'58 S.E. 2d 160(2021).

The petitioner has painstakingly properly and respectfully submitted as well as argued before this Court that as a result of Trial Counsel's deficient performance the petitioner was barred a direct review of two prevailing Grounds presented on direct review.

That recently the Supreme Court of South Carolina under Mack v. State, supra curried the previous bar. Pivoting on the 14th Amend., under Mack, the petitioner is allowed a belated direct review where trial counsel's deficient performance barred his initial direct review.

And, whatmore of Grounds 2 through 6. The Trial and Post-Conviction Relief Transcripts establishes and substantiates:

(1) That the trial court gave the jury a unconstitutional inference of malice from the use of a deadly weapon Malice Charge;

(2) That the trial court gave the jury twenty-eight (28) inferences of implied malice in its Malice Charge;

(3) That the petitioner's conviction for Assault and battery is unconstitutional because he cannot intend to kill another with implied malice because it is impossible for him to achieve an unintended result. Nor, can the petitioner be negligent or have a general malignant recklessness contemplated by implied malice;

- (4) That the trial court denied and deprived the petitioner of four separate requests on the law of self-defense despite the petitioner presenting evidence of self-defense during his Jury Trial;and
- (5) That the Post-Conviction Relief Court prevented and stopped the petitioner on two separate occasions during the hearing from presenting and defending the Grounds raised for relief.

Wherefore, it is prayed that the Honorable Court grant the Petition for rehearing. Grant Writ of Certiorary. And grant any other relief it deem just and proper.

#### CERTIFICATION

I, John Alexander, certify that the above Grounds are limited to intervening circumstances of substantial or controlling effect or to other grounds not previously presented.

likewise, I certify that the Petition For Rehearing is presented in good faith and not for delay.

Dated 6/19/2025.

Respectfully Submitted,

John Alexander

No. 24-6653

SUPREME COURT OF THE UNITED STATES

John Douglas Alexander \_\_\_\_\_ PETITIONER

VS.

Jonathan Nance, Warden \_\_\_\_\_ RESPONDENT

PROOF OF SERVICE

I, John Alexander, certify that on this 19 day of May, 2025  
I sent the Petition For A rehearing United States postal services,  
prepaid, to Mr. Jonathan Nance, Warden. Tyger River Correctional  
Institution, 200 Prison Road, Enoree, South Carolina 29335

Respectfully Submitted

John Alexander

Sworn and Subscribed  
this 19 day of May, 2025

Rebekah E. Jackson  
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires February 26, 2030

