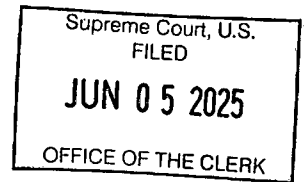


24-7524 ORIGINAL

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

MARK ALLEN BROWN — PETITIONER
(Your Name)

vs.

STATE OF SOUTH CAROLINA RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF SOUTH CAROLINA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Mark Allen Brown, SCDC#101054

(Your Name)

Allendale Corr. Inst. F2-A39
1057 Revolutionary Trail

(Address)

Fairfax, SC 29827

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

DID THE SOUTH CAROLINA SUPREME COURT
ERR IN DECLINING TO ENTERTAIN BROWN'S
PETITION FOR WRIT OF HABEAS CORPUS IN
THE COURT'S ORIGINAL JURISDICTION
WHERE BROWN WAS DENIED THE EFFECTIVE
ASSISTANCE OF PLEA COUNSEL AND THE DUE
PROCESS OF LAW?

LIST OF PARTIES

[] 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:

Hon. Alan M. Wilson, Attorney General for
South Carolina

RELATED CASES

State v. Mark Allen Brown, unpublished Opinion No.
2008-UP-364

Mark Allen Brown v. State, 2008-CP-08-2466 (PCR)

Mark Allen Brown v. State, order of S.C. Supreme Court
denying petition for writ of certiorari

Mark Allen Brown v. State, 2013-CP-08-1784 (PCR)

Mark Allen Brown v. State, 2021-CP-08-00908 (PCR)

Order declining to entertain petition for writ of habeas
corpus in the original jurisdiction of the S.C. Supreme
Court

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	12
CONCLUSION.....	22

INDEX TO APPENDICES

APPENDIX A Order declining to entertain petition for habeas corpus in the original jurisdiction of S.C. Supreme Court, 3/15/2025

APPENDIX B State v. Mark Allen Brown, Unpublished Opinion No. 2008-UP-364 - appeal dismissed

APPENDIX C Order of Dismissal of PCR 2008-CP-08-2466 filed June 18th, 2009 Brown v. State

APPENDIX D Mark Allen Brown, Order of S.C. Supreme Court denying petition for writ of certiorari dated 11/17/2010

APPENDIX E Mark Allen Brown, v. State, Conditional Order of Dismissal, 2013-CP-08-1784, filed 10/30/2014 (P.C.R.)

APPENDIX F Mark Allen Brown v. State, Conditional Order of Dismissal, 2021-CP-08-00908 filed 6/7/2024 (P.C.R.)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Anders v. California, 386 U.S. 738 (1967)	4
Anderson v. State, 535 S.E.2d 649 (2000)	20
Ard v. Catoe, 642 S.E.2d 590 (2007)	15, 19
Cobbs v. State, 408 S.E.2d 223 (1991)	15
Dupree v. State, 408 S.E.2d 215 (1991)	15
Hill v. Lockhart, 474 U.S. 52 (1985)	15, 20, 21
Jackson v. Denno, 378 U.S. 368 (1964)	14, 15
Jackson v. State, 535 S.E.2d 926 (2000)	21
Johnson v. State, 364 S.E.2d 201 (1988)	5

continued page v

STATUTES AND RULES

Section 16-3-85 of the South Carolina Code (2000) (HCA statute) states in pertinent part:

(A) A person is guilty of homicide by child abuse if the person:

(1) causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life.

S.C. Code Ann. §16-3-85.

16

continued page v

OTHER

40 C.J.S. Homicide §42

16

TABLE OF AUTHORITIES CITED

PAGE NUMBER

McKnight v. State, 661 S.E.2d 354 (2008)	16
McMann v. Richardson, 397 U.S. 759 (1970)	20
North Carolina v. Alford, 400 U.S. 25 (1970)	21
Pittman v. State, 524 S.E.2d 623 (1997)	18
Price v. State, 248 S.W.3d 462 (Ark. 2008)	16
Ramirez v. State, 795 S.E.2d 841 (2017)	14
Rayford v. State, 443 S.E.2d 805 (1994)	20
Rolen v. State, 683 S.E.2d 471 (2009)	18
Shirley v. State, 411 S.E.2d 215 (1991)	15
Rompilla v. Beard, 545 U.S. 374 (2005)	21
State v. Brown, Op. No. 2008-UP-364	4
State v. Jarrell, 564 S.E.2d 362 (Ct.App. 2002)	16
State v. McKnight, 661 S.E.2d 354	20
State v. Reyes, No. 36136-1-11, 2008 WL 4355376 (Wash. Ct. 2008)	17
Strickland v. Washington, 466 U.S. 668 (1984)	19, 20, 21
Von Dohlen v. State, 602 S.E.2d 938 (2004)	14
Wiggins v. Smith, 539 U.S. 510 (2003)	21
Williams v. Taylor, 529 U.S. 420 (2000)	21
Wolf v. State, 485 S.E.2d 367 (1997)	21

STATUTES AND RULES

§17-27-45(a) S.C. Code (1995)	7
§44-23-410(d) S.C. Code (2006)	7
§44-23-430 S.C. Code (2006)	7

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 _____ to the petition and is

- ☐ 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 _____ to the petition and is

- ☐ 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 A to the petition and is

- ☐ reported at South Carolina Supreme Court; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the _____ court appears at Appendix 10 to the petition and is

- ☐ reported at _____; 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 _____.

☐ 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: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

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 March 25, 2025
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the Fifth Amendment to the Constitution of the United States, and provides in pertinent part:

"No person... shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law..."

The Sixth Amendment to the Constitution of the United States, provides in pertinent part:

"In all criminal prosecutions, the accused shall enjoy the right... to have the assistance of counsel for his defense."

The Fourteenth Amendment to the Constitution of the United States, provides in pertinent part:

"... Nor shall any State deprive any person of life, liberty, or property, without due process of law..."

STATEMENT OF THE CASE

Mark Allen Brown was indicted and pled guilty to homicide by child abuse. Brown was sentenced to life without parole (LWOP), pursuant to the Two Strikes law, Section 17-25-45 of the South Carolina Code of Laws Ann, due to an armed robbery conviction on March 31st, 1980.

Brown timely filed a notice of appeal. An appeal was perfected in the form of an Anderson v. California, 386 U.S. 738 (1967) brief. The South Carolina Court of Appeals dismissed the appeal. State v. Brown, Op. No. 2008-UP-364 (S.C. Ct. App. July 11, 2008).

On August 29, 2008, Brown filed a pro se application for post-conviction relief (2008-CP-08-2466), raising the following issue: Whether the plea judge erred in accepting guilty plea to homicide by child abuse because Applicant did not admit to showing an extreme indifference to human life when he accidentally hurt his child.

On March 30, 2009, Brown filed an amendment to his APCR alleging the following: (1) Due process violation: Applicant was denied his right to effective representation during arrest, conviction and

sentencing. (2) Ineffective assistance of counsel; (a) counsel failed to prepare and present a defense; (b) counsel failed to investigate critical exculpatory evidence before advising Applicant to plead guilty; (c) counsel failed to advise Applicant on the elements of the charges, rendering his plea not knowing or intelligent; (d) Counsel failed to challenge the enhancement of Applicant's charge and sentence.

On May 26, 2009, Brown's APCR hearing was held and denied and dismissed with prejudice on June 18, 2009.

Brown timely appealed. The South Carolina Supreme Court denied the Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988) petition for writ of certiorari on November 17, 2010.

On August 7, 2013, Brown filed a second APCR (2013-CP-08-1784) alleging he was being held unlawfully for the following reasons: (1) Involuntary guilty plea; (2) Ineffective Assistance of counsel: counsel "failed to inform me of the plea offer with less than life without the possibility of parole."

On September 20, 2013, Brown filed a pro se notice and motion to withdraw guilty plea. On January 10, 2014, Brown filed an amended application adding the following: (1) ineffective assistance of counsel: counsel failed to file a motion to suppress statements.

On April 14, 2014, Brown filed another amended application, included the following grounds for relief: (1) involuntary guilty plea; (2) due process violation-Sixth Amendment: Applicant's plea to "armed robbery is unconstitutional to use as a sentence enhancement to the charge of homicide by child abuse because Applicant did not have an attorney during the guilty plea of armed robbery."

On October 28, 2014, the court issued a conditional order of dismissal. Brown filed an objection to the conditional order of dismissal, on November 17, 2014. On June 16, 2015, the court issued the final order of dismissal. (Lost or destroyed during institutional lockdown).

On April 26, 2021, Brown filed a third pro se APCR alleging the following (2021-CP-08-00908): (1) involuntary guilty plea was not knowingly and intelligent choice; based on my mental health defi-

ciencies, nor did the court have subject matter to accept my plea, due to a court order under 44-53-410(c); (2) ineffective assistance of counsel: (a) plea was involuntarily made procedural hearing that was ordered under due process of 44-23-430, 44-23-410(d)

(b) Trial court abuse[d] its discretion factually and legally for accepting the petitioner's incompetency plea under the court order procedural hearing of 44-23-410(d); which the petitioner will demonstrate in each below raised that such claim is not successive nor procedural barred under the PCR filing exception procedural safeguard rule of due diligence of actual discovery of such facts under 17-27-45(c); as a matter of law outlined in the below claims;

(3) Newly discovered evidence: "on June 20, 2020, [Applicant's] guilty plea was made involuntarily not a knowing and intelligent choice, based on the petitioner's mental health incompetency.

on May 24, 2024, the court granted Brown twenty days from the date of service of the "conditional order of dismissal" upon him to show cause why the order should not become final.

On June 11, 2024, filed his opposition to the conditional order of dismissal, raising the following reason why his APCR should not be dismissed:

1) That petitioner had and has an extensive mental health his of erratic behavior dating back to his childhood that included physical abuse, several assault and anxiety disorders. And some of the medications prescribed by a clinical psychologist such as Depacote, Stratera and Zoloft.

2) Being prescribed Thorazine by county detention physician to sedate petitioner or calm him down while he awaited trial. 3) Berkeley County Detention Center stopping petitioner's medication

causing petitioner to suffer severe withdrawal symptoms. 4) That the plea court was aware of petitioner's mental health issues and ordered a competency evaluation. 5) Petitioner continued mental health treatment and counseling throughout his incarceration where he has also been prescribed the medication "Remeron."

6) Due to the side effects of the prescribed medications' he could not assist his plea counsel and PCR counsel.

On May 23, 2024, the Court signed a conditional order of dismissal and filed with the Berkeley

County Clerk of Court on June 7, 2024 and gave Brown twenty (20) days to submit a response. Brown submitted his objections to the conditional order of dismissal on June 4, 2024. The court issued another conditional order of dismissal on October 5, 2024.

The mental health issues were not raised at the plea hearing were inadequately raised at the PCA evidentiary hearing.

RELEVANT FACTS

Brown met Ebony Michelle Palmer in 2003 and began living together in 2004. Ms. Palmer had two children, the victim and minor. After some time together, Brown learned Ms. Palmer had lost custody of the children twice before meeting. Brown did not think much of it at first but did notice Ms. Palmer disciplined the children excessively. Brown and Ms. Palmer had several arguments due her excessively spanking and beating the children. Brown did not agree with the spanking and beating the children as Brown's father physically and emotionally abused to the point of being institutionalized numerous times by the age of

nine in the State of New Jersey.

On February 15th, 2005, Brown left work at 4:00 A.M. at the Berkeley Hotel and Breakfast in Moncks Corner. Brown worked until 1:00 P.M. A co-worker, Mr. Michael Wiggins took Brown to the Volvo Shop in Charleston to pick-up my car as repairs were complete. Mr. Wiggins provided an affidavit attesting to that fact. Brown headed back home to Moncks Corner around 4:15 P.M. and arrived at 5:00 P.M. As was customary, neither Ms. Palmer nor the boys met Brown at the door. Searching the apartment, Brown found Ms. Palmer, in the bedroom, lying on the bed crying with the victim lying approximately three feet away. Upon inquiring what was wrong? As I approached the bed, Brown again asked, what's wrong?, when I noticed the victim wasn't moving. Ms. Palmer would not allow the victim's brother into the bedroom. Ms. Palmer then called her parents to come get the brother to spend the night with them. Ms. Palmer wanted to go to the store and came back with a cigar so that she could smoke marijuana.

Ms. Palmer begin crying again, saying that

she could not go to jail. She was pregnant. Brown then told Ms. Palmer, we have to get victim to the hospital. She refused to hold the victim, Brown held the victim, on the way to Trident Medical Center in Moncks Corner, while Ms. Palmer drove.

While at Trident, Brown told the doctors and nurses, what Ms. Palmer told him, "that victim fell out of a chair he was sitting in and hit his head on an aquarium, was unconscious and having seizures," without telling them Ms. Palmer had told Brown that.

Brown turned himself in on February 25th, 2005, and was questioned by the police for over seven hours and made a second statement. Ms. Palmer was arrested that on the same charge.

Ms. Palmer's words confused and dazed Brown when on February 15th, 2005, she told Brown, "If I go to jail, you will never see your baby alive. I will make them fight me and I will have a miscarriage." Ms. Palmer kept saying, "What about the baby, what about the baby?"

REASONS FOR GRANTING THE PETITION

The South Carolina Supreme Court erred in declining to entertain Brown's petition for writ of habeas corpus in the court's original jurisdiction where Brown was denied the effective assistance of plea counsel and the due process of law.

Did Brown's plea counsel render ineffective assistance of counsel where she advised Brown to plead guilty to homicide by child abuse without conducting any investigation of facts and circumstances of the case.

Specifically, plea counsel was ineffective for failing to investigate Brown's life long mental and emotional problems and failing to subpoena Brown's mental health and school records from the State of New Jersey as well as Berkeley County Detention Center's and South Carolina Department of Corrections mental health records and South Carolina school records.

Had plea counsel, Ms. Kennedy, investigated and obtained Brown's mental health and school records from the States of New Jersey and South Carolina, it would have been discovered that Brown had a life long history and well documented history of mental and emotional problems, was in and out of

State mental institutions from the age of six to approximately eleven; had post-traumatic stress disorder due to his abusive childhood inflicted by his father, who continuously beat him, cursed him, had depression, and other mental problems. The New Jersey records would have revealed Brown's mental problems and low intelligence. South Carolina school and mental health records along with Berkeley County Detention Center and South Carolina Department of Corrections mental records would have revealed mental and emotional problems and low intelligence, as well as sexual abuse while in Florence Boy's Home in Florence, South Carolina, and serious head injury before the age of eleven.

Brown was prescribed various medications, such as Depakote, Zoloft, Zeprex, Prozac, Straltera, Valium, Remeron, Meloxicam, Promethazine, Cephalexin, for over a year prior to his plea. While housed in the Berkeley County Detention Center, Brown was prescribed large doses of Thorazine but abruptly taken off the Thorazine two days prior to his plea.

Brown was denied due process and an additional competency evaluation due to counsel ineffective assistance in failing to obtain and

review Brown's mental health and school records from New Jersey and South Carolina. Ramirez v. State, 795 S.E.2d 841 (2017); Von Dohlen v. State, 602 S.E.2d 738 (2004), and prejudiced Brown by coercing him to enter a plea of guilty. Had Petitioner had his mental health and school records he would have insisted on going to trial, as the records would have revealed Brown's serious mental and emotional problems as well as his low I.Q. and inability to understand the crucial elements as the plea court explained to him.

Did plea counsel render ineffective assistance in failing to investigate Brown's potentially involuntary statements and advise Brown of his right to challenge statements through a Jackson v. Denno [378 U.S. 368 (1964)] hearing.

Brown was unaware that he had the right to challenge the evidence against him, including any statements made by him, he would not have entered a guilty plea but would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985). Brown contends that plea counsel's failure to inform him must be voluntary and must undergo the scrutiny of a Jackson v.

Denno hearing prior to telling Brown to plead guilty to homicide by child abuse was ineffective. Shirley v. State, 411 S.E.2d 215 (1991).

Failure to investigate possible defenses constitutes ineffective assistance of counsel. Cobbs v. State, 408 S.E.2d 223, 225 (1991). In particular, the South Carolina Supreme Court found that neglecting the investigation of a potentially involuntary statement is the ineffective assistance of counsel. Dupree v. State, 408 S.E.2d 215, 216 (1991). A criminal defense attorney has a duty to perform a reasonable investigation. Ard v. Catoe, 642 S.E.2d at 597. "[W]hile the scope of a reason investigation depends upon a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case." *Id.* at 642 S.E.2d at 597 (internal quotes and citations omitted).

Did plea counsel render ineffective assistance in failing to inform Brown of and explain "extreme indifference to human life," and failed to object to the plea court drilling Brown in regards to "extreme indifference to human life, and failing to move to withdraw guilty plea when Brown insisted that he did not commit the

homicide.

Section 16-3-85(A)(1) S.C. Code (2015) states:

A person is guilty of homicide by child abuse if the person... causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life."

Section 16-3-85(A)(1) S.C. Code (2015).

For purposes of this statute, the South Carolina Supreme Court have previously defined "extreme indifference" as "a mental state akin to intent characterized by a deliberate act culminating in death."

McKnight v. State, 661 S.E.2d 354, 361 (2008) (quoting State v. Jarrell, 564 S.E.2d 362, 367 (Ct. App. 2002)).

Although the State is not required to prove that the Petitioner acted with intent to kill the victim, "extreme indifference" contemplates a showing of "actions that evidence a mental state on the part of the accused in some life-threatening activity against the victim. Price v. State, 248 S.W.3d 462, 466 (Ark. 2008); see 40 C.J.S. Homicide §42 ("while intent may not be necessary under provisions [requiring depraved or extreme indifference to human life], something more than mere recklessness is comprehended, and

a gross deviation from a reasonable standard of care may not be sufficient.") Accordingly, the State must submit evidence that defendant consciously engaged in a life-threatening act with indifference as to whether victim lived or died to establish the requisite mental. State v. Reyes, No. 36136-1-11, 2008WL 4355376, at 6 (Wash. Ct. 2008) (holding that under the homicide by child abuse statute, to prove a defendant acted with extreme indifference, the State must show the defendant simply did not care whether the victim lived or died.

Plea counsel failed to object when the plea court discussed:

Court: Do you understand what it means to show an extreme indifference to human life?

Brown: I think it means -- I'm asking, do it mean that I had no regard?

Court: In -- now, see this is where -- nobody is going to suggest that you didn't care for the child. But, in doing what you did, you showed an extreme indifference to the life of that child.

Brown: Advised the plea court that he did not know to shake the child violently, he didn't know that it was going to have this type of effect on the victim.

App. 31-34

Plea counsel tells the court she did not advise Brown of the way she should regarding the extreme to human life. App. 31, Lines 17-25.

Petitioner did not fully understand the crucial elements of homicide by child abuse. Pittman v. State, 524 S.E.2d 623 (1999).

Plea counsel was ineffective for failing to move to withdraw Brown's guilty plea when Brown informed the plea court he did not know what extreme indifference to human life meant, as well as he did not think he showed deliberate indifference to human life because he did not know what he was doing was going to cause what it caused victim. App. 32-34. Rolen v. State, 683 S.E.2d 471 (2009).

Plea counsel rendered ineffective assistance for failing to investigate Ebony Michelle Palmer for the abuse of the victim and his brother and abusing illicit drugs.

Prior to meeting Ms. Palmer and unknown to Brown at the time, Ms. Palmer had lost custody of her children [the victim and his brother on two separate occasions for abusing the children and using illicit drugs, by the South Carolina Department of Social Services in Berkeley County.

Brown is factually and legally innocent of homicide by child abuse. Had Brown had the afore-mentioned facts he would have never pled guilty but insisted on a jury trial

While Brown did plead guilty and tell the plea judge that he was satisfied with plea counsel's services, he lacked sufficient information to make an informed decision to plead guilty to homicide by child abuse due to counsel's failure to conduct an investigation into the facts and circumstances of the case. Failed to explain to Brown the crucial element of homicide by child abuse - "extreme indifference to human life," failure to investigate Brown's statements and advise Brown of his right to challenge his statements prior to entering plea, failing to investigate and obtain Brown's mental health and school records and failing to investigate Mrs. Palmer's abuse of her children and losing custody of them.

Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Strickland v. Washington, 466 U.S. 668, 691 (1984); And v. Catoe, 642 S.E.2d 590, 360 (2007). Counsel also has a duty to "discover all reasonably available mitigation evidence

introduced by the State," State v. McKnight, 661 S.E.2d 354, 360 (2008). Further, counsel's conversations with the defendant may be critical to a proper assessment of counsel's investigation decisions." Strickland, 466 U.S. at 691.

A criminal defendant is entitled to effective assistance of counsel under the Sixth Amendment to the United States Constitution. Strickland, 466 U.S. at 685-86; McMann v. Richardson, 397 U.S. 759, 770-71 n. 14 (1970). In the context of a guilty plea, a court will conduct a two-prong test when determining whether defense counsel's assistance was ineffective. Hill v. Lockhart, 474 U.S. 52, 58 (1985) (citing Strickland, 466 U.S. at 688).

First, an applicant must show that counsel's performance was deficient. Hill, 474 U.S. at 58-59. Whether counsel was "deficient" turns on whether the guilty plea was voluntary, knowing, and intelligent. Anderson v. State, 535 S.E.2d 649, 651 (2000); Rayford v. State, 443 S.E.2d 805, 806 (1994). See Hill, 474 U.S. at 56 (1985) ("The longstanding test for determining the validity of a guilty plea is 'whether the plea represents a voluntary and intelligent choice among the alternative courses of action to the defendant.'")

(quoting North Carolina v. Alford, 400 U.S. 25, 31 (1970).

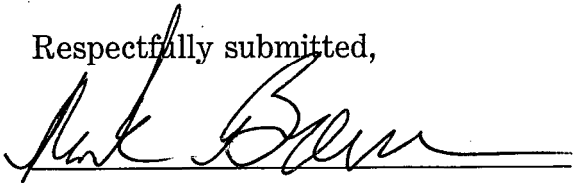
Second, the applicant must show that he was prejudiced by counsel's deficient performance during the guilty plea process. Hill, 474 U.S. at 59. Specifically, the applicant must show that there is a reasonable probability that "but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial." Jackson v. State, 535 S.E.2d 926, 927 (2000); Wolfe v. State, 485 S.E.2d 367, 370 (1997).

Brown believes that the South Carolina Courts opinions conflict with Wiggins v. Smith, 539 U.S. 510; Rompilla v. Beard, 545 U.S. 374 (2005); Williams v. Taylor, 529 U.S. 420 (2000); Strickland v. Washington, 466 U.S. 356 (1984) and Hill v. Lockhart, 474 U.S. 52 (1985).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark B. Green", is written over a horizontal line.

Date: JUNE 4-2025