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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal From Calhoun County
Hon. Edgar W. Dickson, Circuit Court Judge
Appellate Case No. 2022-001440

The State,

Respondent,

v.

Jason Harris Peele,

Petitioner.

**RETURN TO PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS**

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STATEMENT OF QUESTIONS PRESENTED

I. The Court of Appeals properly dismissed Petitioner's appeal because he failed to provide any basis on which an appeal should be allowed to proceed after his guilty plea to voluntary manslaughter.

STATEMENT OF THE CASE

Procedural History

The Calhoun County Grand Jury indicted Petitioner on charges of murder and armed robbery at the November 2021 term. On May 13, 2022, Petitioner pled guilty to charges of armed robbery and the lesser included offense of voluntary manslaughter. He was sentenced to twenty-seven years incarceration on each charge, with the sentences running concurrent.

Petitioner's counsel served and filed the Notice of Appeal with the Court of Appeals on May 16, 2022. At the same time, he filed an Explanation of Appeal indicating he knew of no issue that could be reviewed on appeal. (Explanation of Appeal dated May 16, 2022). On May 26, the Court of Appeals directed the Notice and Explanation be sent to Petitioner. (Court's Letter dated May 26, 2022) Petitioner responded with his own guilty plea explanation. (Petitioner's Letter dated June 10, 2022).

By Order dated June 11, 2022, the South Carolina Court of Appeals dismissed the appeal for failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules. On August 12, 2022, the Court of Appeals forwarded the Order of Dismissal to Petitioner because it inadvertently failed to provide him a copy. Thereafter, the Court of Appeals appears to have construed a letter written July 29, 2022, as a Petition for Rehearing. The Petition for Rehearing was denied September 19, 2022.

On October 10, 2022, Petitioner filed his Petition for Writ of Certiorari. This Return follows.

ARGUMENT

- I. The Court of Appeals properly dismissed Petitioner's appeal because he failed to provide any basis on which an appeal should be allowed to proceed after his guilty plea to voluntary manslaughter.**

The Court of Appeals correctly dismissed Petitioner's appeal because he failed to comply with Rule 203(d)(1)(B)(iv), SCACR. Petitioner raised several claims related to the effectiveness of his counsel and the voluntariness of his plea. He has not provided any basis for finding these claims are preserved for review on direct appeal.

Pursuant to Rule 203:

If the appeal is from a guilty plea, an Alford plea or a plea of nolo contendere, a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal. If the appellant fails to make a sufficient showing, the notice of appeal may be dismissed.

Rule 203(d)(1)(B)(iv), SCACR. In the instant case, neither Petitioner nor his counsel indicated any preserved issues which could be addressed on direct appeal. Counsel specifically explained: "Counsel knows of no issue that can be reviewed on direct appeal." (Explanation of Appeal). In Petitioner's explanation he relied on arguments related to the voluntariness of his plea and ineffective assistance of counsel. In particular, his issues can be summarized as follows:

- 1) Petitioner asserted he was promised leniency for accepting a plea;
- 2) Petitioner asserted he was never informed of the " 'change of venue' rules or rights";
- 3) Petitioner asserted mental health conditions prevented a complete understanding of the proceedings;
- 4) Petitioner asserted the Alford plea was not properly explained;

- 5) Petitioner asserted no objection was made to an allegedly false statement by the solicitor;
- 6) Petitioner asserted important facts were not presented to the court;
- 7) Petitioner asserted the initial officer on the scene had a bias against Petitioner;
- 8) Petitioner asserted he was ready to proceed to trial but did not because of the promise of a lenient sentence;
- 9) Petitioner asserted he was led to believe he could not raise self-defense;
- 10) Petitioner asserted he was told he would get life in prison if he did not accept the deal;
and
- 11) Petitioner asserted he was under stress so he could not understand or comprehend what was occurring.

(Petitioner's Letter dated June 10, 2022). These claims are not proper for consideration on direct appeal because they were never raised to the trial court. The claims, if they can be raised, should be raised and considered in an application for Post-Conviction Relief. See S.C. Code Ann. § 17-27-20 (Supp. 2021).

Additionally, in his Petition for Writ of Certiorari, Petitioner never challenges the dismissal based on a showing of any preserved issues which could have been reviewed on direct appeal. Instead, he again directs the Court to issues properly considered in an application for Post-Conviction Relief. As a result, the Court of Appeals determination can be considered the law of the case. See Smith v. State, 413 S.C. 194, 196, 775 S.E.2d 696, 697 (2015) (explaining an unappealed ruling, whether right or wrong, is the law of the case).

Petitioner never presented the Court of Appeals a sufficient showing of any issues which could be properly raised on direct appeal. As a result, the Court of Appeals properly dismissed his appeal from a guilty plea pursuant to Rule 203(d)(1)(B)(iv). This Court should deny the Petition for Writ of Certiorari.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that this Court should deny the Petition for Writ of Certiorari to the Court of Appeals.

Respectfully submitted,

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