

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Dec 07 2022

S.C. SUPREME COURT

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Certiorari to Spartanburg County

Honorable William A. McKinnon, Circuit Court Judge
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JARED CHILDRESS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-001140
—————

JOHNSON PETITION FOR WRIT OF CERTIORARI
—————

Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ISSUE PRESENTED

Trial counsel erred in failing to adequately and fully explain sentencing consequences to petitioner in the case.

STATEMENT OF FACTS

Petitioner Jared Childress pled guilty to trafficking in methamphetamine, failure to stop for a blue light, possession of a stolen vehicle, habitual traffic offender, and habitual traffic offender resulting in death during the April 2021 term of the Spartanburg County General Sessions Court before Judge J. Mark Hayes, II. Petitioner was sentenced to imprisonment for an aggregate thirty-year term. App. 1-43. Petitioner did not appeal his convictions or sentences.

On October 26, 2021, petitioner filed a PCR application with the Spartanburg County Office of the Clerk of Court. App. 53-64. The respondent filed a return dated February 8, 2022. App. 53-64. A PCR hearing was convened on June 6, 2022, at the Spartanburg County Courthouse before Judge William A. McKinnon. Petitioner was present at the hearing and represented by Rodney Richey, and Assistant Attorney General Chelsey Marto appeared on behalf of the state. App. 66-109. On August 1, 2022, Judge McKinnon signed an Order of Dismissal denying and dismissing petitioner's PCR allegations in the case. App. 111-126.

Petitioner appealed. This petition follows.

ARGUMENT

Trial counsel erred in failing to adequately and fully explain sentencing consequences to petitioner in the case.

At the plea proceeding, the solicitor summarized the facts that led to the indictments filed against petitioner in the case. On February 24, 2019, Police Officer Cody Steiner began following a speeding vehicle driven by petitioner on Foster Street in Spartanburg County, and ultimately activated the patrol car blue lights when petitioner failed to stop. Petitioner kept driving until he crashed the vehicle into an 18-wheeler truck. Ciara Bradley, who was a passenger riding in the vehicle with petitioner, died at the crash scene. A search of the vehicle uncovered methamphetamine in a baggy under the seat of the vehicle. Also, it was discovered that the vehicle petitioner was driving at that time was a stolen vehicle. App. 11, 1.3-p. 18, 1.15.

During the PCR hearing held in the case, petitioner testified that he and trial counsel did not speak until twelve hours prior to his guilty plea proceeding, and that counsel advised that he would receive a twenty-year sentence from the plea judge in exchange for his guilty pleas. App. 78, 1.24-p. 80, 1.18. App. 84, 1.16-p. 85, 1.6. App. 90, 1.22-24. However, petitioner received a thirty-year prison sentence instead. Also, petitioner explained that the fifteen-year plea offer submitted initially was conditioned upon him not requesting bail. App. 82, 1.8-p. 83, 1.24.

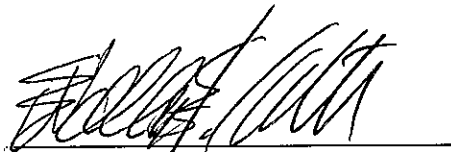
Trial counsel testified at the PCR hearing and stated that he submitted a fifteen-year plea offer in the case, but that the solicitor rejected it. App. 95, 1.2-8. In response, the solicitor offered a plea bargain in the sentencing range between seven to thirty years. Counsel stated that he informed petitioner of the solicitor's offer. App. 95, lines 11-15; App. 99, lines 9-18. Counsel stated that he never promised petitioner that a twenty-year sentence would be issued to him. App. 99, lines 15-18.

Apparently, there was no meeting of the minds between client and counsel regarding

sentencing in petitioner's case. As a rule, a guilty plea is voluntarily and knowingly entered only if the defendant has a full understanding of the consequences of his plea and the charges against him. See Dalton v. State, 376 S.C. 130, 654, S.E.2d 870 (2007), and Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999), citing to Boykin v. Alabama, 395 U.S. 238 (2000). Clearly, in the case at bar, petitioner's guilty pleas were not given voluntarily because he was unaware of the sentencing consequences in the case. Counsel's error in failing to adequately and fully explain sentencing consequences to petitioner constituted deficient legal representation in petitioner's case in violation of the Sixth Amendment (See Hill v. Lockhart, 474 U.S.52 (1985), such that but for counsel's ineffectiveness in this regard, petitioner would not have pled guilty as charged.

CONCLUSION

Based on the foregoing argument, counsel for petitioner would request that this Court grant the petition and allow full briefing on the above-raised issue.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 7th day of December, 2022.

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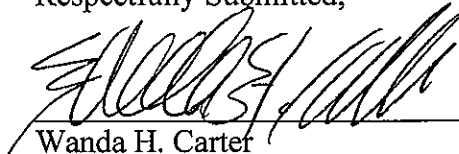
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jared Childress states that:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent petitioner.
2. She has reviewed the record of petitioner's post-conviction relief hearing before Judge William A. McKinnon, which was held on June 6, 2022, and that in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), briefed an arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve her as counsel for Jared Childress.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 7th day of December, 2022.


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CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

The undersigned certifies that to the best of her ability this Johnson 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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This 7th day of December, 2022.