

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Richland County

S.C. SUPREME COURT

Honorable D. Craig Brown, Circuit Court Judge

CHRISTOPHER KEITT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-000441

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

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ISSUE PRESENTED

The PCR judge erred in denying petitioner's allegation that his guilty pleas were given involuntarily because he was coerced into pleading guilty as charged in the case.

STATEMENT

Petitioner Christopher Keitt pled guilty to attempted murder, first degree burglary, unlawful carrying of a pistol, possession of a weapon during a violent crime, grand larceny, armed robbery, and discharging a firearm into a dwelling during the July 2016 term of the Richland County General Sessions Court before Judge McMahan, who imposed an aggregate thirty-year sentence. Petitioner was represented in the plea proceeding by Attorneys Rebecca S. Williams and Tracey E. Pinnock, and Assistant Solicitor Meghan Walker appeared on behalf of the state. App. 248-272. Note that petitioner's case began as a jury trial, but ended in a plea proceeding. Petitioner appealed, but the appeal was dismissed per Rule 203(d)(1)(B)(iv), SCACR.

On November 1, 2017, petitioner filed a PCR application with the Richland County Office of the Clerk of Court. App. 274-279. The respondent filed a return dated March 31, 2018. App. 283-287. An amended PCR application was filed on August 5, 2020. App. 289-290.

A PCR hearing was convened on January 25, 2022, before Judge D. Craig Brown. App. 291-366. Petitioner was present at the hearing and represented by Harrison Saunders, Esquire, and Assistant Attorney General Michael D. Davidson appeared on behalf of the state. On February 22, 2022, Judge Brown issued an Order of Dismissal in the case therein denying petitioner's PCR action. App. 368-378.

Petitioner appealed Judge Brown's Order of Dismissal. This petition follows.

ARGUMENT

The PCR judge erred in denying petitioner's allegation that his guilty pleas were given involuntarily because he was coerced into pleading guilty as charged in the case.

The solicitor apprised the plea judge of the facts in the case during the plea proceeding. The state alleged that petitioner, who was in possession of a gun on the morning of May 13, 2015, attempted to steal an unknown male's vehicle in Richland County, and that gunshots were fired minutes later during a struggle that followed when the action proceeded into a nearby home. App. 304, l. 12 – p. 305, l. 10.

During the PCR hearing held in the case, petitioner testified that he pled guilty to a thirty-year plea deal because his trial attorney "scared" him by advising that he could get a one-hundred-year prison sentence if he opted for a trial by jury and was found guilty as charged. App. 309, l.20- p. 314, l.20.

Trial counsel testified at the hearing and explained that she believed petitioner would have received a fifty-year sentence had he been found guilty on the charges per a jury trial. Counsel admitted that defendants usually do not receive consecutive sentences in cases where guilty verdicts on multiple charges occur; and that in petitioner's case an accurate calculation revealed an eighty-five-year sentence as the maximum time of imprisonment petitioner faced in his case. App. 330, l.2 - p. 332, l.8; App. 342, l.12 - p. 344, l.18.

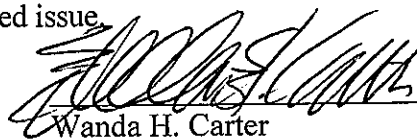
The question to be answered in resolving a complaint of claimed coercion in pleading guilty is whether under all of the facts and circumstances one's guilty plea was voluntarily and understandingly entered. State v. Smith, 255 S.C. 417, 179 S.E.2d 210 (1971), citing to Sweet v. State, 255 S.C. 293, 178 S.E.2d 657 (1971). Even though a guilty plea may not be held invalid if the defendant was motivated to plead in order to receive a lesser penalty; nonetheless, the long

standing test for determining the validity of a guilty plea is whether the plea is a voluntary plea among the alternate courses of action open to the defendant because some circumstances indeed present intrinsically coercive situations. Gustine v. State, 325 S.C. 123, 480 S.E.2d 444 (1997), citing to Hill v. Lockhart, 474 U.S. 52 (1985) and Brady v. United States, 397 U.S. 742 (1970). Therefore, “the better approach is to determine on a case-by-case basis whether a defendant knowingly and voluntarily enter[ed] a plea of guilty.” See Gustine v. State, supra.

In the case at bar, petitioner felt coerced via fear into pleading guilty to the charges based on an exaggerated prediction of his receipt of a one-hundred-year sentence, which was an unlikely sentence in his case, if a jury had found him guilty as charged. Note that petitioner desired a jury trial and that his case actually began as a jury trial before ending midway for petitioner’s guilty plea proceeding. Clearly, under the circumstances in petitioner’s case, it was obvious that he did not plead guilty voluntarily to the charges filed against him. Additionally, the coercive measure counsel used (threat of extreme sentencing) to induce petitioner’s pleas violated petitioner’s right to effective assistance of legal counsel guaranteed under the Sixth Amendment to the United States Constitution. See Hill v. Lockhart, 484 U.S. 52 (1985).

CONCLUSION

Based on the foregoing argument, petitioner’s counsel requests 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 16th day of December, 2022.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Christopher Wilbert Keitt 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 D. Craig Brown, which was held on January 25, 2022, and, 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 Christopher Wilbert Keitt.

Respectfully Submitted,



Wanda H. Carter

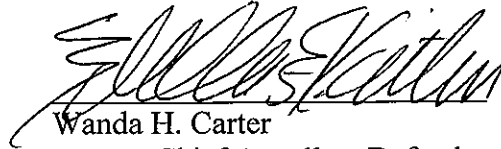
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 16th day of December, 2022.

CERTIFICATE OF COUNSEL

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 16th day of December, 2022.