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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas
Courtney Clyburn Pope, Post-Conviction Relief Court Judge

Case No. 2021-CP-40-5321

William Oliver Aguilar Pineda, SCDC # 384278.....Respondent,

v.

State of South Carolina,Petitioner.

NOTICE OF APPEAL

The State of South Carolina appeals the Honorable Courtney Clyburn Pope’s order granting post-conviction relief filed December 16, 2022. Counsel for Respondent received written notice of the entry of this order on December 16, 2023. A copy of the order granting post-conviction relief is attached hereto.

January 11, 2023

Respectfully submitted,

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 William Oliver Aguilar Pineda,)
 SCDC # 384278,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina.)
 _____)

COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT
 Case No.: 2021-CP-40-5321

2022 DEC 16 AM 9:54
 RICHLAND COUNTY
 FILED

**ORDER GRANTING
 POST- CONVICTION RELIEF**

This matter came before the court for a hearing on September 26, 2022. The Applicant, William Oliver Aguilar Pineda, was represented by Counsel Michael H. Lifsey. The Respondent, State of South Carolina, was represented by Assistant Attorney General Danielle Dixon.

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections. He was indicted by the Richland County Grand Jury in 2017 for the offense of Murder on Indictment 2017-GS-40-4198. On November 5, 2020, Applicant pled guilty before the Honorable DeAndrea G. Benjamin to the lesser-included offense of Voluntary Manslaughter and received a sentence of 23 years. He was represented at his plea by Attorney Megan Eigenbrot of the Richland County Public Defender’s Office. No direct appeal was taken.

Applicant timely commenced this PCR action on October 26, 2021. In that *pro se* filing, Applicant alleged ineffective assistance of counsel, asserting that “if it had not been for counsel erroneous advice to plead guilty, I would of proceeded with trial.” The State filed a Return and Motion for a More Definite Statement dated December 29, 2021. Applicant was appointed

counsel and, through counsel, filed an Amended Application dated June 20, 2022. In that Amended Application, Applicant alleged the following grounds for relief:

1. Ineffective assistance of counsel for
 - (a) Applicant's lawyer advised him to voluntarily submit a DNA sample to the State and to waive his right to a *Schmerber* hearing on this issue. Had Applicant received effective representation of counsel in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
 - (b) Applicant's plea counsel did not meet with Applicant a sufficient number of times prior to his plea, did not fully explain the strengths and weaknesses of the State's case, and did not properly investigate the case. Had plea counsel given effective representation in these regards, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
 - (c) Plea counsel did not give Applicant sufficient notice of the proposed trial date, thereby not giving Applicant a sufficient amount of time to decide whether to plea or go to trial. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
 - (d) Plea counsel improperly advised Applicant to answer the questions of the judge during the plea colloquy in a manner that would allow the judge to accept the plea rather than answer honestly because that would cause the trial judge to reject his plea and that Applicant would be convicted of Murder and receive a life without parole sentence if he proceeded to trial. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
2. The ineffective assistance of counsel as detailed above, rendered Applicant's plea involuntary.

FINDINGS OF FACT

Applicant testified on his own behalf. His recitation of the procedural history of the case was consistent with the history outlined above. Mr. Pineda testified that shortly after his arrest,

the Richland County Public Defender's Office was appointed to represent him. The first lawyer assigned to his case was Megan Eigenbrot. After Attorney Eigenbrot had his case for a period of time, he was informed that she would be handing his case over to Adam Ruffin, another attorney in the Richland County Public Defender's Office because Ms. Eigenbrot's caseload was too high. Mr. Ruffin represented him for several months but eventually left the Public Defender's Office and Mr. Pineda's case was assigned to yet another attorney in the Public Defender's Office, Robert Forney. Mr. Pineda testified that while Mr. Forney represented him for many months, he never contacted him. Eventually, when the State began pushing to resolve the case, Attorney Eigenbrot contacted him and told him that Mr. Forney had a conflict of interest and that she was going to take his case back. Mr. Pineda testified that this repeated switching of attorneys did not lead him to have confidence in his representation. The Court finds his testimony credible in this regard.

Mr. Pineda testified that throughout his representation by the various attorneys with the Public Defender's Office, he always maintained his innocence. The Court finds his testimony credible in this regard.

Mr. Pineda testified that eventually Attorney Eigenbrot told him that the State was offering a plea to Voluntary Manslaughter for 23 years and that Ms. Egenbrot advised him to take this deal. Ms. Eigenbrot indicated that if he went to trial, the State's case was strong, his co-defendants would testify against him, and that he would be convicted of murder and most likely sentenced to life in prison without parole. He testified that he felt pressured by Attorney Eigenbrot to plead guilty and if he had not been so pressured, he would not have pled guilty but would have insisted on having a jury trial. The Court finds his testimony credible in this regard.

When questioned as to why he answered the questions of the plea judge in the manner he did, Mr. Pineda testified that he did so at the instruction of his attorney, Ms. Eigenbrot. He testified that his attorney told him that if he did not answer the judge's questions in a manner that allowed her to accept the plea, he would end up receiving a life sentence after trial. The Court finds his testimony credible in this regard.

Mr. Pineda testified that prior to his guilty plea, he told Attorney Eigenbrot to tell his family that he was innocent of the charge of Voluntary Manslaughter and was only admitting guilt during the plea colloquy because he wanted the judge to accept his plea. This testimony was corroborated by the testimony of his plea counsel Ms. Eigenbrot (see below) and the Court finds his testimony credible in this regard.

Mr. Pineda said he ultimately learned that none of his co-defendants were willing to testify and that the State's case against the other defendants had fallen apart and that charges against them were ultimately either dismissed or pled down to insignificant sentences and that he was the only defendant in this case to receive a lengthy prison sentence. This testimony was corroborated by the testimony of Attorney Eigenbrot (see below) and the Court finds it credible. Mr. Pineda testified that had he known that his co-defendants were not willing to testify, he would never have pled guilty but would have insisted on a jury trial. The Court finds his testimony credible in this regard.

Attorney Megan Eigenbrot testified. She corroborated the testimony of the Applicant in most respects. She confirmed his account of the shifting of his lawyers. She confirmed that she encouraged Mr. Pineda to plea guilty. She confirmed his account that the case against the co-defendants fell apart after Mr. Pineda's plea and that, in retrospect, her advice that co-defendants would testify against him should he go to trial was ultimately incorrect. The Court finds that this

incorrect advice and the pressure to plead guilty that Attorney Eigenbrot placed on Applicant to plead guilty constituted ineffective assistance of counsel and that, but for counsel's errors, Applicant would not have pled guilty.

Ms. Eigenbrot confirmed that Applicant never admitted to her that he was guilty of the crime for which he pled. She specifically corroborated that shortly before his plea, Mr. Pineda asked her to tell his family that the statements he intended to make in admitting guilt during the plea colloquy were not going to be the truth. Despite knowing this, Ms. Eigenbrot did not seek to persuade her client not to offer this false testimony. Instead, she not only allowed the plea to go forward and allowed her client to present testimony to the plea judge that she knew was false, she raised no objection to her client pleading guilty to charges where he maintained his innocence and, in fact, encouraged him to present false testimony to the court.

The Court finds counsel allowing and encouraging Applicant to present testimony that she knew to be false to the plea judge constituted ineffective assistance of counsel and that, but for counsel's error, Applicant would not have pled guilty.

CONCLUSIONS OF LAW

A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel's performance was deficient and (2) there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty. *Johnson v. Catoe*, 336 S.C. 354, 520 S.E.2d 367 (1999); *Wolfe v. State*, 326 S.C. 158 485 S.E.2d 367 (1997); *Satterwhite v. State*, 325 S.C. 254, 481 S.E.2d 709 (1997).

Where there is no evidence contradicting or conflicting with an applicant's testimony that he would not have pled guilty but for counsel's deficient performance, applicant is entitled to relief. *Jackson v. State*, 342 S.C. 95, 535 S.E.2d 926 (2000).

If a lawyer knows that the client intends to testify falsely or wants the lawyer to introduce false evidence, the lawyer should seek to persuade the client that the evidence should not be offered. If the persuasion is ineffective and the lawyer continues to represent the client, the lawyer must refuse to offer the false evidence. If only a portion of the witness's testimony will be false the lawyer may call the witness to testify but may not elicit or otherwise permit the witness to present testimony that the lawyer knows to be false. Comment 6 to Rule 3.3, South Carolina Rules of Professional Conduct, Rule 407, SCACR.

THEREFORE, IT IS ORDERED that Applicant's conviction is vacated and he is remanded to the Court of General Sessions for Richland County for a new trial.

AND IT IS SO ORDERED this 8 day of December, 2022.

Ailan, South Carolina
December 8, 2022

Courtney Clyburn Pope
COURTNEY CLYBURN POPE
Circuit Court Judge