

**RECEIVED**

**Mar 10 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

CERTIORARI TO CHEROKEE COUNTY  
Court Of Common Pleas

The Honorable Robin B. Stilwell, Circuit Court Judge

---

Appellate Case No.: 2017-001777

Alonzo Jeter,

Petitioner,

v.

State of South Carolina,

Respondent.

---

**RETURN TO PETITION FOR REHEARING**

---

On February 15, 2023, this Court filed an unpublished opinion affirming the post-conviction relief court's finding that Counsel was not ineffective for failing to provide adequate advice regarding the sale of a controlled substance within one-half mile of a playground. Petitioner filed a petition for rehearing on February 27, 2023, and the Court directed Respondent to file a return to the petition within ten days on March 1, 2023. Rehearing should be denied for the following reasons:

1. Petitioner claims that the Court failed to address whether basketball courts on church property are classified "public playgrounds." Petitioner claims church property is not private property. Even if Petitioner's presumptions about the park definition were true, he

must establish prejudice, which he has not done. This defense was waived by entering an otherwise free, voluntary, and knowing plea that was entered to avoid a mandatory minimum sentence of twenty-five years and a possible LWOP sentence. Petitioner's contention that he would have risked this ring hallow. *See e.g. Stalk v. State*, 383 S.C. 559, 563, 681 S.E.2d 592, 595 (2009)(finding that the "prejudice prong ordinarily requires more than simply a defendant's bare assertion that but for counsel's deficient performance he would not have pled but would have gone to trial"). Thus, the petition for rehearing should be denied on this ground.

2. Petitioner claims that the Court fails to clarify that the terms "public" and "knowing" were not included in the indictment. Petitioner claims it was not a valid waiver of presentment of the indictment because these words were not encompassed. Respondent contends that the indictment was sufficient. It properly put Petitioner on notice, regardless of terminology. *State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005) *citing State v. Wilkes*, 353 S.C. 462, 465, 578 S.E.2d 717, 19 (2003)(Sufficiency of indictment is found when the offense is stated with enough specificity that the court knows what judgement to announce and the defendant knows what he has to answer to and whether he can plead acquittal or conviction upon it and whether it apprises defendant of offense that is intended to be charged). Further, the Court correctly concluded that presentment was waived by Petitioner. Accordingly, the petition for rehearing should be denied.
3. Petitioner claims that the charges were the result of one singular transaction. He claims that because he had one prior and this offense, he was not LWOP eligible. Counsel erroneously told him he was LWOP eligible, which coerced him into pleading. This Court correctly recognized that Petitioner was facing a possible LWOP sentence.

Petitioner's plea was rooted in three separate instances, which could have been tried separately if he did not plead. *Bryant v. State*, 384 S.C. 525, 534, 683 S.E.2d 280, 284-85 (2009)(disposing of multiple offenses in a single adjudication avoids separate enhancement of each offense, even if they could be used for enhancement purposes if disposed of in separate proceedings). The Court correctly declined to find Counsel unreasonable. The petition for rehearing should be denied on this ground.

4. Petitioner claims he is entitled to relief under *United States v. Cronin*, 466 U.S. 648 (1984). “[T]he right to the effective assistance of counsel is recognized not for its own sake, but because of the effect it has in the ability of the accused to receive a fair trial.” *United States v. Cronin*, 466 U.S. 648, 658 (1984). Further, “[a]bsent some effect of challenged conduct on the reliability of the trial process, the Sixth Amendment guarantee is generally not implicated.” *Id.* The burden of proof still remains on Petitioner to demonstrate a constitutional violation, though there are “circumstances that are so likely to prejudice the accused that the cost of litigating their effect in a particular case is unjustified.” *Id.* Among these are “if the accused is denied counsel at a critical stage of his trial”, “if counsel entirely fails to subject the prosecution’s case to meaningful adversarial testing”, and circumstances in which “although counsel is available to assist the accused during a trial, the likelihood that any lawyer, even a fully competent one, could provide effective assistance is so small that a presumption of prejudice is appropriate without inquiry into the actual conduct of the trial.” *Id.* at 659-60.

Respondent contends that Petitioner was never constructively denied assistance of Counsel and, accordingly, *Cronin* is not applicable to this case. Specifically, failure to investigate is not a *Cronin* issue. Petitioner was required to establish he was prejudiced

by Counsel's behavior. This Court correctly concluded he did not meet his burden of proof in establishing deficiency or prejudice. The petition for rehearing should be denied on this ground.

5. Petitioner asks this Court to treat his case as precedent and clarify the confusion regarding the Court telling him that all charges adjudicated in the same plea counts as one strike. Respondent leaves this at the Court's discretion.
6. Petitioner claims Counsel acted independently of Petitioner's wishes in securing a global plea offer. Respondent contends that this allegation is patently without merit. Petitioner is not entitled to a plea offer of his choice. *Reed v. Becka*, 333 S.C. 676, 684, 511 S.E.2d 396, 400-01 (Ct. App. 1999). (citing *State v. Easler*, 322 S.C. 333, 471 S.E.2d 745 (Ct. App. 1996), *aff'd as modified*, 327 S.C. 121, 489 S.E.2d 617 (1997)) (finding that defendants are not entitled to a plea bargain and prosecutors may pursue a case to trial, or they may plea bargain it down to a lesser offense, or they can simply decide not to prosecute the offense in its entirety). The petition for rehearing should be denied on this ground.
7. Petitioner restates that absent Counsel's advice he would not have pled to all charges. Respondent contends that the Court correctly determined that Petitioner has not met his burden of proof concerning this allegation. Petitioner has not presented any new information that should cause the Court to change their analysis on this issue.

## CONCLUSION

For all the foregoing reasons, it is respectfully submitted that Petitioner has failed to show any error in the Court's opinion. The petition for rehearing should be denied.

Respectfully submitted,

ALAN WILSON  
Attorney General

CHELSEY F. MARTO  
Assistant Attorney General  
S.C. Bar # 104191

P.O. Box 11549  
Columbia, S.C. 29211  
(803) 734-3737

By: /s Chelsey F. Marto  
ATTORNEYS FOR RESPONDENT

March 10, 2023

**RECEIVED**

**Mar 10 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

Appeal from Cherokee  
The Honorable Robin B. Stilwell, Circuit Court Judge

---

Circuit Court Case No: 2016-CP-11-0293  
Appellate Case No.: 2017-001777

---

Alonzo C. Jeter, III

Petitioner,

v.

STATE OF SOUTH CAROLINA,

---

Respondent.

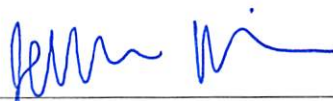
**CERTIFICATE OF SERVICE**

---

The undersigned hereby certifies that a true copy of the Return to Petition for Rehearing has been served upon the applicant by mailing a copy in the United States mail, postage prepaid, addressed to:

**Mr. Alonzo C. Jeter, III**  
**(5CB-0022-A)**  
**Manning Correctional Institution**  
**502 Beckman Road**  
**Columbia, SC 29203**

This 10<sup>th</sup> day of March 2023.

  
\_\_\_\_\_  
Jordan Hickman  
Legal Assistant



**RECEIVED**

**Mar 10 2023**

**SC Court of Appeals**

ALAN WILSON  
ATTORNEY GENERAL

March 10, 2023

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211  
(by email only – [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org))

RE: Alonzo C. Jeter, III v. State of South Carolina  
Circuit Court Case No: 2016-CP-11-0293  
Appellate Case No.: 2017-001777

Dear Ms. Kitchings:

Enclosed please find a copy of the Return to Petition for Rehearing in the above matter for filing in your office. By copy of this letter I am serving opposing counsel with this return today.

Sincerely,

/s Chelsey F. Marto  
Chelsey F. Marto  
Assistant Attorney General

CFM/jbh  
Enclosures

cc: Mr. Alonzo C. Jeter, III