

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Florence County

Honorable Debra R. McCaslin, Circuit Court Judge
—————

ANTHONY M. HUDSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001687
—————

JOHNSON PETITION FOR WRIT OF CERTIORARI
—————

Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR PETITIONER

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Feb 08 2024

S.C. SUPREME COURT

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ISSUE PRESENTED

Trial counsel erred in failing to fully advise petitioner with respect to the sentencing consequences of his guilty pleas.

STATEMENT

Petitioner Anthony Hudson pled guilty to voluntary manslaughter and attempted armed robbery during the August 2019 term of the Florence County General Sessions Court before Judge D. Craig Brown, who sentenced him to imprisonment for a period of twenty-eight years. App. 18-49. Matthew Swilley, Esquire, represented petitioner at the guilty plea proceeding, and Assistant Solicitor Ryan White appeared on behalf of the state. A Motion to Reconsider Sentencing was filed on September 4, 2019, and denied by Order dated November 22, 2021. App. 50-51. Petitioner did not appeal his guilty pleas and/or sentences.

On April 7, 2022, petitioner filed a PCR application with the Florence County Office of the Clerk of Court. App.52-58. The respondent filed a Return and Motion for Definite Statement dated October 3, 2022. App.59-63. The Motion was granted by Order dated October 17, 2022. App. 65-68. On March 28, 2023, petitioner filed a Federal Habeas Corpus Petition at the Florence County Federal Courthouse. An Order of Merger was filed in the case on April 17, 2023.

A PCR hearing in the case was convened on June 13, 2023, at the Florence County Courthouse before Judge Debra R. McCaslin. App.92-139. Petitioner was present at the PCR hearing and represented by Attorney Steven W. Fowler, and Assistant Attorney General Russell Barlow appeared on behalf of the state. On October 9, 2023, Judge McCaslin issued an Order of Dismissal therein denying petitioner's allegations of ineffective assistance of trial counsel in the case. App. 142-167.

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

ARGUMENT

Trial counsel erred in failing to fully advise petitioner with respect to the sentencing consequences of his guilty pleas.

At the plea proceeding, the solicitor apprised the plea judge of the facts in the case. On the evening of December 24, 2017, a gun holding masked man stood outside of a trailer that belonged to brothers Johnny and Amo Cameron. When Johnny Cameron opened the door, a struggle between the two men ensued, and then gunshots were fired. Johnny Cameron was wounded and died at the scene. An investigation into the case revealed that petitioner, Charlie Robertson, Carl McDowell, Justin Pringle (gunman), and Curtis Nelson were all riding inside the vehicle that arrived at the Cameron trailer before the events in question unfolded. Tr. 11, l.19 - p.16, l.20. Subsequently, petitioner was arrested in connection with this incident.

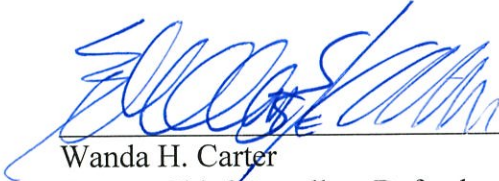
During the PCR hearing held in the case, petitioner testified that he desired a jury trial so that he could testify and tell his side of the story, but that trial counsel instructed his family members to talk to him and encourage him to accept a plea deal that would result in the receipt of a ten-year sentence in exchange for his pleas. App. 110, l. 3 – p. 115, l. 20. Note that petitioner received a twenty-eight-year sentence in the case. See also applicant’s exhibit #1 (letter) wherein trial counsel wrote to petitioner and expressed remorse over the plea judge’s lengthy sentence handed down in the case. App. 141.

Trial counsel testified at the PCR hearing and stated that he never made a promise that a ten-year sentence would be guaranteed, but rather advised that he anticipated that petitioner would serve a ten-year sentence in the end. Trial counsel admitted that he was “flabbergasted” when Judge Brown sentenced petitioner to a twenty-eight-year prison sentence. App. 129, l. 15 – p. 130, l. 19. A resentencing motion was filed and denied. App. 50-51.

As a rule, a guilty plea is voluntarily and knowingly entered only if the defendant has full understanding of the sentencing consequences of his plea(s). 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 attached sentencing consequences. Counsel’s error in failing to fully advise petitioner properly regarding sentencing consequences 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 in the case.

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 8th day of February, 2024.

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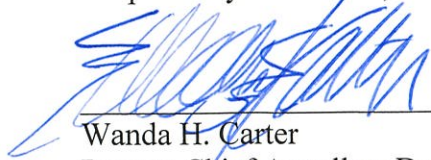
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Anthony M. Hudson states:

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 Debra R. McCaslin, which was held on June 13, 2023, 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 Anthony M. Hudson.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 8th day of February, 2024.

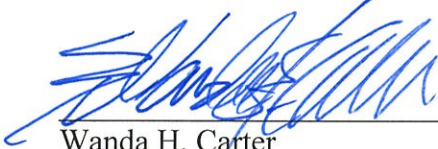
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CERTIFICATE OF COUNSEL

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 8th day of February, 2024.