

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Richland County

Honorable Deadra L. Jefferson, Circuit Court Judge  
—————

DESMOND CROMER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001698  
—————

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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**Mar 04 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 Desmond Cromer pled guilty to voluntary manslaughter, attempted armed robbery, malicious injury (to jail facility), contraband possession, and two counts of attempted murder during the January 2021 term of the Richland County General Sessions Court before Judge George M. McFadden. Petitioner was sentenced to imprisonment for an aggregate period of twenty-five years. App. 1-51. Attorneys Rhodes Bailey and Lauren Young represented petitioner at the guilty plea proceeding, and Assistant Solicitor Anna R. Browder appeared on behalf of the state. Petitioner did not appeal his guilty pleas or sentences.

On December 2, 2021, petitioner filed a PCR application with the Richland County Office of the Clerk of Court. App. 53-59. The respondent filed a Return dated February 7, 2022. App. 60-71.

A PCR hearing in the case was convened on July 18, 2023, at the Richland County Courthouse before Judge Deadra L. Jefferson. App. 72-120. Petitioner was present at the PCR hearing and represented by Attorney Michael H. Lifsey, and Assistant Attorney General D. Russell Barlow, II, appeared on behalf of the state.

On October 17, 2023, Judge Jefferson issued an Order of Dismissal therein denying petitioner's allegations of ineffective assistance of counsel in the case. App. 122-147. Petitioner appealed Judge Jefferson'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 of the case. In one incident that occurred on January 25, 2018, petitioner allegedly fired gunshots at a cab driver. In another incident that occurred on February 25, 2018, it was alleged that petitioner fired gunshots at two youths during a dispute regarding the sale of a PlayStation. One youth died after being shot, and the other survived a gunshot wound. App. 10, l. 3 – p. 14, l. 23.

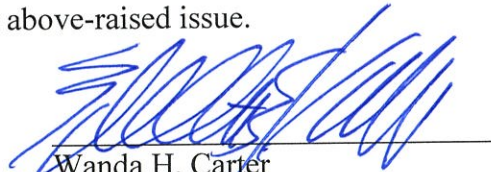
During the PCR hearing held in the case, petitioner testified that he wanted a jury trial, but that trial counsel informed him that the sentencing exposure was two-to-thirty years, and that he would receive a sentence of fifteen years if he pled guilty to the offenses charged against him. Nonetheless, the pleas resulted in petitioner's receipt of an aggregate twenty-five year prison sentence. Petitioner stated that he would have opted for a jury trial and not pled guilty to the charges had he known that he would have not received the fifteen-year sentence promised to him. App. 77, l. 8 – p. 79, l. 8; App. 80, lines 13-19; App. 81, l. 10 – p. 82, l. 21; App. 82, lines 3-21; App. 91 lines 6-8; App. 93, lines 8-11.

Trial counsel testified at the hearing and explained that since the solicitor agreed not to ask for a thirty-year sentence, then he requested a sentence of fifteen or twenty years, and advised petitioner that he would probably get a fifteen year sentence in the case. App. 106, lines 9-19; App. 109, l. 22- p. 10, l. 5. Note that counsel admitted that petitioner had low intellectual functioning and may have misunderstood his advice. App. 107, lines 2-9; App. 108, l. 20 – p. 109, l. 17.

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 fact that the fifteen-year sentence was not guaranteed to him. 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 have exercised his right to a jury trial 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 4th day of March, 2024.

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PETITION TO BE RELIEVED AS COUNSEL  
\_\_\_\_\_

Counsel for Desmond Cromer 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 Deadra L. Jefferson, which was held on July 18, 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 Desmond Cromer.

Respectfully Submitted,

  
\_\_\_\_\_  
Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 4th day of March, 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 4th day of March, 2024.