

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Jul 24 2024**

**S.C. SUPREME COURT**

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Certiorari to Greenville County

Honorable J. Derham Cole, Circuit Court Judge  
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CORINA VERONICA CASTRO,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000285  
—————

JOHNSON PETITION FOR WRIT OF CERTIORARI  
—————

Lara M. Caudy  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
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ATTORNEY FOR PETITIONER

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## **ISSUE PRESENTED**

Whether Petitioner's guilty plea was knowingly, intelligently, and voluntarily made where she only pled guilty due to plea counsel's assurance that she would be sentenced to thirty years imprisonment if she pled guilty instead of proceeding to trial and where Petitioner was actually sentenced to forty-three years imprisonment?

## STATEMENT OF THE CASE

The state alleged that Petitioner was present on March 13, 2019 when her then boyfriend, Adam Byrum, shot into a vehicle occupied by two people, both of whom were severely injured. The state's theory was that Petitioner and Byrum planned to rob the driver of the vehicle but did not know a second individual was also in the car. Four days later, on March 17, 2019, the state claimed Petitioner and Byrum planned to rob another individual they knew. This person was found shot to death in his truck. Byrum was also the shooter in this second event, but Petitioner was allegedly present. App. 10, l. 5 – 13, l. 4.

A Greenville County grand jury indicted Petitioner on July 7, 2020 for murder, two counts of attempted murder, two counts of conspiracy, and three counts of possession of a weapon during the commission of a violent crime. App. 119-128. On March 10, 2021, Petitioner pled guilty to murder and two counts of attempted murder before the Honorable Letitia Verdin. App. 1. Assistant Solicitor Marcus Smith represented the state. App. 1. Kraig Pringle represented Petitioner. App. 1. In exchange for Petitioner's plea, the state dismissed Petitioner's remaining charges. App. 13, ll. 20-23. Judge Verdin sentenced Petitioner to forty-three years imprisonment for murder and thirty years concurrent for each count of attempted murder.

Petitioner did not appeal her convictions or sentence. On October 29, 2021, Petitioner filed an application for post-conviction relief (PCR) raising the claim argued in this petition. App. 30-36. The state filed a return to this application on January 24, 2022. App. 37-46. An evidentiary hearing was convened on July 25, 2023 before the Honorable J. Derham Cole. App. 47. Senior Assistant Deputy Attorney General Melody Brown represented the state. Scarlet Moore represented Petitioner. App. 47.

Petitioner testified at the evidentiary hearing that plea counsel told her she should not go to trial “because it would be a very bad outcome” and she would “probably” be sentenced to life without parole. App. 58, ll. 7-19. Petitioner decided to plead guilty because she believed it was “the only option [she] had” based on counsel’s advice. App. 61, ll. 2-10. On the day she pled guilty, plea counsel told her he would “try to get [her] 30 years.” App. 60, ll. 2-16. Accordingly, Petitioner was shocked when she was sentenced to forty-three years. App. 59, ll. 21-24. She testified that had she been sentenced to thirty years, she would not have sought post-conviction relief. App. 64, ll. 16-21. Petitioner admitted that plea counsel never promised her she would be sentenced to only thirty years and that he did discuss with her the possible sentencing range for murder. App. 65, ll. 2-10.

Kraig Pringle, Petitioner’s plea counsel, testified that the state never offered a sentence recommendation. “It was plead to murder and plead to the [attempted murders] and take your shot.” App. 71, ll. 6-9. Pringle testified that he told Petitioner if she went to trial, there was “a high probability” she would be convicted and, if she were convicted after a trial, it was unlikely she would be sentenced to thirty years, the minimum. Rather, she would likely be sentenced to “something north of 30.” App. 72, ll. 4-12. Pringle denied that he promised Petitioner she would be sentenced to thirty years if she pled guilty. He testified that such a promise “would be beyond irresponsible.” App. 85, ll. 17. He further maintained that he advised Petitioner on the possible sentencing range of murder and told her he would “try to get as close to 30 as I can” if she pled guilty. App. 71, l. 21; App. 85, ll. 15-17.

By order filed January 31, 2024, the PCR court denied Petitioner relief. App. 105-118. The court found Petitioner failed to show counsel was deficient. It concluded that the terms of Petitioner’s plea agreement with the state were “fully set out on the record” during the plea

proceeding and Petitioner's testimony that she was promised a lesser sentence than she received was not credible. App. 113. The court further found Petitioner's hope or expectation that she would receive a lesser sentence does not render her plea invalid. App. 114.

Because Petitioner's guilty plea was not knowingly, intelligently, and voluntarily made since she only pled guilty due to plea counsel's assurance that she would be sentenced to thirty years imprisonment, this petition for writ of certiorari follows.

## ARGUMENT

Petitioner's guilty plea was not knowingly, intelligently, and voluntarily made where she only pled guilty due to plea counsel's assurance that she would be sentenced to thirty years imprisonment if she pled guilty instead of proceeding to trial and where Petitioner was actually sentenced to forty-three years imprisonment.

Petitioner's guilty plea was not knowingly, intelligently, and voluntarily made due to the improper influence of plea counsel's assurance that the judge would sentence Petitioner to thirty years imprisonment, the mandatory minimum, if she pled guilty. Petitioner was prejudiced by plea counsel's deficient performance because Petitioner would not have pled guilty but for counsel's advice that she would be sentenced to thirty years imprisonment.

The difference "between a valid guilty plea and an invalid guilty plea lies in the knowing and voluntary nature of the plea." Berry v. State, 381 S.C. 630, 635, 675 S.E.2d 425, 427 (2009). "The longstanding test for determining the validity of a plea is whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." Hill v. Lockhart, 474 U.S. 52, 56 (1985) (internal quotations omitted) (applying the two part test for claims of ineffective assistance of counsel in Strickland v. Washington, 466 U.S. 668 (1984) to claims of the same against plea counsel).

First, "the voluntariness of the plea depends on whether counsel's advice was within the range of competence demanded of attorneys in criminal cases." Id. On the other hand, the prejudice requirement focuses on whether "there is a reasonable probability that, but for counsel's errors, [the defendant] would not have pleaded guilty and would have insisted on going to trial." Id. at 59. "[T]he voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone, but is determined from both the record made at the

time of the entry of the guilty plea, and also from the record of the PCR hearing.” Holden v. State, 393 S.C. 565, 572-574, 713 S.E.2d 611, 615 (2011) (citing Roddy v. State, 339 S.C. 29, 33, 528 S.E.2d 418, 420 (2000)).

“The right to counsel plays a crucial role in the adversarial system embodied in the Sixth Amendment, since access to counsel’s skill and knowledge is necessary to accord defendants the ‘ample opportunity to meet the case of the prosecution’ to which they are entitled.” Strickland, 466 U.S. at 685 (quoting Adams v. United States ex. rel. McCann, 317 U.S. 269, 275-276 (1942)). Additionally, a guilty plea that was “entered by one fully aware of the direct consequences . . . must stand *unless* induced by . . . misrepresentation (including unfulfilled or unfulfillable promises) . . . ” Brady v. United States, 397 U.S. 742, 755 (1970) (emphasis added) (quoting Shelton v. United States, 246 F.2d 571, 572 n.2 (5th Cir. 1957) (reversed on other grounds, 356 U.S. 26 (1958)). Accordingly, counsel provides ineffective assistance in the adversarial system when he induces the defendant to plead guilty.

In this case, Petitioner was induced into pleading guilty by plea counsel’s assurance that the trial judge would sentence her to thirty years imprisonment if she pled guilty. Petitioner’s testimony was corroborated by plea counsel’s testimony that he told Petitioner he would “try to get as close to 30 as I can” if she pled guilty. This assurance prevented Petitioner’s guilty plea from being knowingly and voluntarily made and, consequently, rendered it invalid. See Berry, 381 S.C. at 635, 675 S.E.2d at 427. A plea is not voluntary when it is induced by misrepresentation including unfulfilled promises. See Brady, 397 U.S. at 755. A reasonably competent criminal defense attorney would not have promised Petitioner that she would be sentenced to the mandatory minimum when there was no sentence recommendation from the state and when it was not a negotiated plea.


Additionally, there is a reasonable probability that but for plea counsel's advice, Petitioner would not have pled guilty and would have insisted on proceeding to trial. Petitioner testified at the evidentiary hearing that she only pled guilty because counsel told her there was "a high probability" she would be convicted if she went to trial and, if she were convicted after a trial, she would likely be sentenced to much longer than thirty years, the mandatory minimum. App. 72, ll. 4-12. Thus, Petitioner was prejudiced by plea counsel's advice, particularly when Petitioner was ultimately sentenced to forty-three years. Lockhart, 474 U.S. at 59. It was only because of counsel's assurance that Petitioner would be sentenced to thirty years that she decided to plead guilty.

As a result of Petitioner's invalid plea and the resulting prejudice, respectfully this Court should reverse Petitioner's convictions and remand for a new trial.

**CONCLUSION**

Petitioner respectfully requests this Court grant the petition for writ of certiorari and order full briefing on the issue presented. Petitioner ultimately requests this Court reverse her convictions and sentence and remand for a new trial.

Respectfully Submitted,



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Lara M. Caudy  
Appellate Defender

ATTORNEY FOR PETITIONER

This 24th day of July, 2024.

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Counsel for Corina Veronica Castro states:

1. She is an 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, which was held on July 25-26, 2023 before the Honorable J. Derham Cole, 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 Corina Veronica Castro.

Respectfully Submitted,

  
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Lara M. Caudy  
Appellate Defender

ATTORNEY FOR PETITIONER

This 24th day of July, 2024.

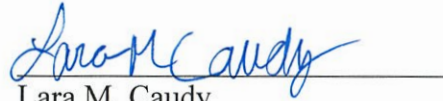
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CERTIFICATE OF COUNSEL

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 24th day of July, 2024.