

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari To Orangeburg County

Carmen T. Mullen, Circuit Court Judge

2011-CP-38-1239

Appellate Case No. 2013-000082

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SEP 25 2013

S.C. SUPREME COURT

JOHN STANFORD JOHNSON,

petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

PRO SE PETITION

John S. Johnson, 250659
RCI, SMU-152, POB 2039
Ridgeland, S. C. 29936

Other Counsel of Record:

Megan Harrigan
Ass Attorney General
POBx 11549
Columbia, S. C. 29211

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ISSUE PRESENTED

Was petitioner's guilty pleas involuntarily entered (especially for Dorchester County) where trial Counsel Gay rendered the actual ineffective assistance of counsel?

STATEMENT

Petitioner was arrested in Dorchester in 2008; he was indicted for malicious injury to real property in 2008; evidently, he was release on bond which is how he received another detention in 2010 in Dorchester County and he was indicted for receiving stolen goods greater than \$2000.00. He was subsequently released from Dorchester County Detention Center. Johnson was arrested in Orangeburg County in 2010 wherein he was indicted for burglary first degree and two (2) counts of burglary second degree.

He was unable to get released from Orangeburg County Detention Center. He was able to retain Ms. Melissa Gay for the Dorchester County indictment(s) prior to the Orangeburg County arrest(s). He retained Mr. Charles Williams as counsel for the Orangeburg County indictment and it was on 2-24-11, there were arrangement(s) made whereby petitioner plead guilty to all charge(s) from Dorchester and Orangeburg Counties before Judge Dickson (tr. p. 8 ll. 5-8). He was sentence to ten (10) years terms concurrently and 30 days on the reduced charge of receiving stolen goods.

ARGUMENT(S)

Petitioner's guilty pleas were entered involuntarily (especially for Dorchester County) where criminal defense trial counsel rendered the actual ineffective assistance of counsel.

Petitioner Johnson's guilty plea(s) were entered involuntarily [especially for Dorchester County] where criminal defense counsel (Ms. Gay) rendered the actual ineffective assistance of counsel coercing petitioner to accept offer and failing to pursue criminal direct appeal. There is no indication in the record that a motion for change of venue was made in Dorchester County Court of General Sessions but the criminal trial judge in Orangeburg County stated, "You have the right to have the two Dorchester cases heard in Dorchester County." (App. p. 8, ll. 5-6) after he indicated, "if I accept your plea today and sentence you today you'd have ten days from today's date to file any notice of intent to appeal?" (App. p. 8, ll. 1-3). Petitioner testified at the application for post-conviction relief (APCR) evidentiary hearing, "At the time when I plead to the ten years, Ms. Gay wasn't even in the courtroom." (App. p. 54, ll. 21-22). Which is why petitioner claims the guilty plea(s) were coerced where he stated, "Ain't nothing was negotiated with me." (App. p. 64, ll. 17-18). *Stalk v. State*, 652 S.E.2d 402 (S.C. App. 2007); *State v. Dingle*, 659 S.E.2d 101 (2008); *Palzer v. State*, 672 S.E.2d 790 (S.C. App. 2009); *Kelle v. State*, 690 S.E.2d 73 (2010) and *Holden v. State*, 713 S.E.2d 611 (2011).

Johnson related to the question "Did you ask her, I would like you to appeal these sentences?" (App. p. 56 l. 25 thru p. 67 l. 1). "A. Yes, ma'am." (App. p. 67 l. 2). Of course, Ms. Gay responded to the question "if a client ask you to file an appeal that you do file an appeal?" (App. p. 79 ll. 7-8). "No. I don't have any reason to believe I deviated from that." (App. p. 79 ll. 7-8). He stresses the "plea was never negotiated with" him. (App. 55 l. 23) It follow, he was denied the actual effective assistance of criminal defense counsel.

This 20th day of September 2013.

Respectfully submitted,

/s/ JOHN STANFORD JOHNSON

John Johnson

CONCLUSION

BASED ON THE FOREGOING ARGUMENTS, PETITIONER REQUESTS THAT THIS COURT GRANT THE PETITION AND ALLOW FULL BRIEFING ON THE ISSUE.

CERTIFICATE OF SERVICE

I CERTIFY THAT A COPY OF THE "PRO SE PETITION" HAS BEEN SERVED TO THE SUPREME COURT OF SOUTH CAROLINA THIS DAY, 20TH OF SEPTEMBER 2013.

RESPECTFULLY SUBMITTED,
/s/ JOHN STANFORD JOHNSON
John Johnson

JAMES STANFORD JOHNSON # 250659

P.O.I. | S.M.U. # 152 (EAST WING)

P.O. Box 2039

Wadegeland, S.C. 29936

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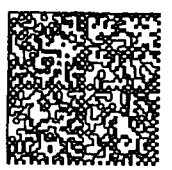
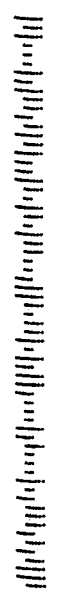
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