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Mar 14 2025

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County

Honorable Grace Gilchrist Knie, Circuit Court Judge

REYNOLDO PIMIENTA,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001256

JOHNSON PETITION FOR WRIT OF CERTIORARI

Wanda H. Carter
Deputy Chief 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

Trial counsel erred in failing to fully explain sentencing consequences to petitioner before the guilty plea proceeding was held in the case.

STATEMENT

Petitioner Reynoldo R. Pimienta pled guilty to assault and battery with intent to kill and possession of a weapon during the commission of a violent crime during the December 2019 term of the Greenville County General Sessions Court before Judge Perry H. Gravely. Petitioner was sentenced to an aggregate twenty-two-year prison term. William E. Grove represented petitioner at the guilty plea proceeding, and Assistant Solicitor W. Ryan Holloway prosecuted the case. App. 1-22. Petitioner did not appeal his convictions and sentences.

On April 19, 2021, petitioner filed a PCR application with the Greenville County Office of the Clerk of Court. App. 23-31. The respondent filed a return dated August 17, 2021, requesting that an evidentiary hearing be held in response to petitioner's PCR action. App. 32-40.

Two PCR hearings were held in the case. One hearing was held on September 18, 2023, at the Greenville County Courthouse, and another hearing was held on March 12, 2024, at the Spartanburg County Courthouse. App. 41-160; App. 210-250. Judge Grace G. Knie presided over both PCR hearings. Attorney John W. Harte represented petitioner at both PCR hearings, and Assistant Attorney General Julianna Battenfield appeared on behalf of the state at the hearings.

On July 16, 2024, Judge Knie signed an Order of Dismissal, which was filed on August 1, 2024, therein denying PCR relief to petitioner. App. 285-305. Petitioner appealed Judge Knie's Order of Dismissal. This petition for writ of certiorari follows.

ARGUMENT

Trial counsel erred in failing to fully explain sentencing consequences to petitioner before the guilty plea proceeding was held in the case.

Petitioner was accused of firing gunshots into a vehicle driven by a female with whom he lived with for a brief period of time. App. 7, l. 21 – p. 8, l. 19.

The testimony from the PCR hearing revealed that trial counsel did not fully explain sentencing consequences to petitioner. Petitioner testified at the PCR hearing and explained that he was led to believe that he was set to receive a sixteen-year-or-seventeen-year sentence in exchange for his guilty pleas, but that he learned shortly before the plea proceeding commenced that he would receive an additional five years prison time added to his sentence. App. 69, l. 21 – p. 70, l. 2; App. 75, l. 21 – p. 76, l. 13.

Petitioner stated that he wanted to plead guilty, but that he did not accept the prison terms attached therein. App. 79, l. 17 – p. 80, l. 2. Petitioner believed that his sentence would total seventeen years, and that he was not warned that the weapon charge carried a five-year prison term that could possibly run consecutively as part of his sentence. App. 87, l. 12 – p. 88, l. 6.

Trial counsel testified at the PCR hearing and explained that he asked for a sentence of between twelve-to fifteen years to be imposed in the case. App. 148, lines 1-6.

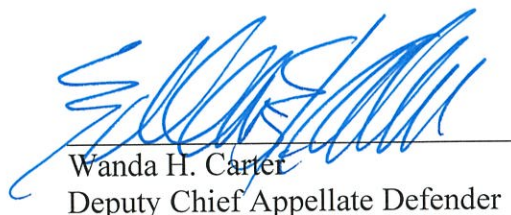
Note the following allegation raised in petitioner's PCR application regarding the sentencing issue in the case:

Petitioner was told until 3 minutes before the trial, that the state was going to request 22 years...(consecutive..for possession of a firearm). That was not what they had talked about...[Petitioner] was not given time to understand the change in recommendation or to change his plea. App. 26.

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 given involuntarily because of his belief that the total prison term would have been less than the twenty-two-year sentence handed down in the case. Counsel's error in failing to fully and properly advise petitioner regarding sentencing consequences (to the extent that receipt of a greater prison term was likely) constituted deficient legal representation in violation of the Sixth Amendment, (See Hill v. Lockhart, 474 U.S.52 (1985), which in turn meant that petitioner would likely have pled not guilty and considered a trial but for the misadvice.

CONCLUSION

Based on the foregoing argument, counsel for petitioner would request that this Court grant this petition and allow full briefing on the above-raised issue.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 14th day of March, 2025.

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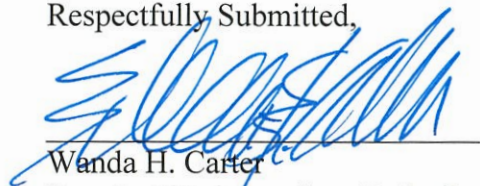
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Reynoldo Pimienta 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 hearings before Judge Grace Gilchrist Knie, which were held on September 18, 2023, and March 12, 2024, 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 Reynoldo Pimienta.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 14th day of March, 2025.

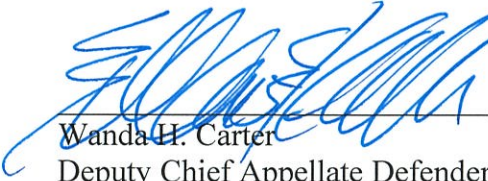
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CERTIFICATE OF COUNSEL

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 14th day of March, 2025.