

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Mar 21 2025

S.C. SUPREME COURT

—————
Certiorari to Horry County

Honorable William H. Seals, Circuit Court Judge

—————
DARRELL GREEN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001863

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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

The PCR judge erred in denying petitioner's allegation that his Horry County guilty plea was involuntarily given because he was coerced into pleading guilty in the case.

STATEMENT

Petitioner Darrell Green pled guilty to trafficking in cocaine base (first offense) on October 27, 2015, at the Horry County General Sessions Court before Judge Benjamin Culbertson, and was sentenced to imprisonment for a period of eighteen years. Petitioner's sentence was later reduced to a twelve-year prison term. Attorney Jacob Lean Parrott represented petitioner at the plea proceeding, and Assistant Solicitor Thomas Groom Terrell prosecuted the case. App. 1-13. Petitioner did not appeal his conviction and sentence.

On March 30, 2016, petitioner filed a PCR application with the Horry County Office of the Clerk of Court. App. 15-19. The respondent filed a return dated February 17, 2017, requesting that a hearing be held in response to petitioner's PCR action. App. 20-23.

A PCR hearing was convened on October 10, 2019, at the Horry County Courthouse before Judge William H. Seals, Junior. App. 25-67. Petitioner was present at the hearing and represented by James K. Falk, and Assistant Attorney General Johnny E. James appeared on behalf of the state.

On April 23, 2020, Judge Seals signed an Order of Dismissal in the case therein denying post-conviction relief to petitioner. App. 82-92.

Petitioner appealed Judge Seals' Order of Dismissal. This petition follows.

ARGUMENT

The PCR judge erred in denying petitioner's allegation that his Horry County guilty plea was involuntarily given because he was coerced into pleading guilty in the case.

On April 29, 2014, a controlled drug buy was conducted in Horry County where an informant allegedly purchased crack cocaine from petitioner. App. 9, l.23 - p. 10, l.8. This incident occurred before a GPS tracking order was signed (on July 28, 2014) authorizing the placement of such a device on petitioner's vehicle. App. 29, lines 2-8; App. 40, l. 4 - p. 41, l. 12; App. 54, lines 3-25.

During the PCR hearing held in the case, petitioner testified as follows regarding the claim that his Horry County plea was coerced:

Q: So, your attorney at that time alerted you to the plea?

A: Yes.

Q: And at that time, he thought it was a bad offer?

A: Yes. Up until, up until the day of court it was a bad offer. The time that I told you that I met with them the second time, he was like well we're going to go to Florence, me, him, and Axelrod and their other assistant was going to go over there and speak with Mr. Clemmons on the issue of the plea because he was like at my age at the time he felt like you know I would die in prison and that 18 years was too much. So, he went down there and spoke with them and then the day of court [defense counsel] informed me that they tried, and Ed Clemmons just wasn't going to go over his assistant solicitor's head with the plea agreement.

Q: [T]his is slightly tangential, but you touched on your age just now. How old are you?

A: I'm 43 now.

Q: Now when you first learned of the plea offer, did you agree with your attorney that you didn't want the 18 years?

A: Yes. Yes. It's even in my transcript in Florence County where I told the Judge I wasn't satisfied with it. He stated at that time that he was either—I was either going to go with the plea because he had to go with the plea, or we [were] going upstairs and start my trial. App 46, lines 2-25.

Trial counsel testified at the PCR hearing and explained that petitioner was charged in connection with a drug sale that occurred in Horry County on April 29, 2014, which was before the GPS tracking monitor was put into effect. App. 52, l. 3 - p. 53, l. 21. Trial counsel admitted that he believed that the eighteen-year Horry County plea deal was “too much” time, but that it was a dual county plea deal that involved another charge against petitioner from another county, which was Florence County, and that concurrent sentences from both counties had been proposed in the negotiated plea bargain on petitioner's Horry County indictment. App 56, l. 4 - 57, l. 4. Trial counsel testified regarding his advice and assessment of the Horry County plea bargain as follows:

Q. Did you advise your client that he should or should not take the 18-year offer?

A: Well, I think what I told him was that based on my experience was that they were going to hook for life without parole. So that was a decision he wanted to make was whether he wanted to you know roll the dice or take the deal that they offered him, whether he thought it was a great deal or not.

Q: Had he been served any notice of intent to seek life without parole?

A: I don't remember. I know that that was discussed with the folks in Florence. I don't remember, I can't recall about a notice to be honest with you.

Q: And certainly, he was facing a substantial number of charges?

A: More charges and you know a greater amount of maximum exposure than he was going to be pleading to. Yes.

Q: And ultimately if he was taken to trial and convicted of all of those various charges, or even just a number of those various charges, he could have faced a sentence that would have almost certainly exceeded his natural life, correct?

A: Yes.

Q: Were you prepared to take this case to trial?

A: Yes. App. 57, l. 25 – p. 58, l. 25.

The question to be answered in resolving a complaint of claimed coercion in pleading guilty is whether under all of the facts and circumstances one's guilty plea was voluntarily and understandingly entered. State v. Smith, 255 S.C. 417, 179 S.E.2d 210 (1971), citing to Sweet v. State, 255 S.C. 293, 178 S.E.2d 657 (1971). Even though a guilty plea may not be held invalid if the defendant was motivated to plead in order to receive a lesser penalty; nonetheless, the long-standing test for determining the validity of a guilty plea is whether the plea is a voluntary plea among the alternate courses of action open to the defendant because some circumstances indeed present intrinsically coercive situations. Gustine v. State, 325 S.C. 123, 480 S.E.2d 444 (1997), citing to Hill v. Lockhart, 474 U.S. 52 (1985) and Brady v. United States, 397 U.S. 742 (1970). Therefore, "the better approach is to determine on a case-by-case basis whether a defendant knowingly and voluntarily enter[ed] a plea of guilty." See Gustine v. State, *supra*.

In the case at bar, petitioner felt coerced into pleading guilty to the Horry County plea deal because the Horry County plea bargain was bootstrapped to another plea negotiation on a charge from another county (Florence County) as leverage against him. This meant that petitioner was forced to forego a real choice on whether to accept or reject the Horry County plea offer as an independent bargain because it was not separated from the Florence County plea offer. The joinder of the Florence County plea bargain to the Horry County plea offer meant that petitioner's Horry County guilty plea was indeed a coerced plea, particularly where the threat of a sentence of life

without parole (LWOP) was also a factor in the case. Clearly, under the circumstances in the instant case, petitioner's Horry County guilty plea was not given voluntarily under Boykin v. Alabama, 395 U.S. 238 (1969).

CONCLUSION

Based on the foregoing argument, petitioner requests that this Court grant the petition and allow full briefing on the above-raised issue in the case.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 21st day of March, 2025.

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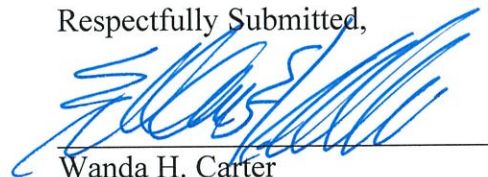
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PETITION TO BE RELIEVED AS COUNSEL
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Counsel for Darrell Green states that:

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 William H. Seals, which was held on October 10, 2019, 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 Darrell Green.

Respectfully Submitted,



—————
Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 21st day of March, 2025.

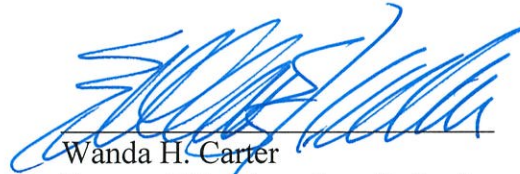
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CERTIFICATE OF COUNSEL

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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