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Aug 08 2025

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Greenville County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

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MARK ANTHONY KEYS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-002124

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JOHNSON PETITION FOR WRIT OF CERTIORARI

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Wanda H. Carter  
Interim Chief Appellate Defender

South Carolina Commission on Indigent Defense  
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ATTORNEY FOR PETITIONER

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**ISSUE PRESENTED**

The PCR court erred in denying petitioner's claim that he did not voluntarily and knowingly waive his right to counsel as he was not advised of the application procedure available to him in order to obtain the assistance of appointed counsel in his case.

## STATEMENT

Petitioner Mark Anthony Keys was tried by jury and found guilty of assault and battery of a high and aggravated nature during the October 2019 term of the Greenville County General Sessions Court before Judge Letitia H. Verdin. Petitioner was sentenced to imprisonment for a period of twelve years. App. 25-319. Petitioner appeared pro se at trial, and Assistant Solicitor Jennifer Tessitore appeared on behalf of the state. Petitioner did not appeal his conviction or sentence.

On September 11, 2020, petitioner filed a PCR application with the Greenville County Office of the Clerk of Court. App.321-350. The respondent filed a Return dated April 13, 2021. App. 351-360.

A PCR hearing was convened on October 10, 2024, at the Greenville County Courthouse before Judge Patrick C. Fant, III. App. 362-413. Petitioner was present at the hearing and represented by Attorney Susannah C. Ross, and Assistant Attorney General Melody Jane Brown appeared on behalf of the state.

On December 3, 2024, Judge Fant issued an Order of Dismissal therein denying petitioner's allegations of ineffective assistance of trial counsel in the case. App.418-425.

Petitioner appealed Judge Fant's Order of Dismissal. This petition follows.

## ARGUMENT

The PCR court erred in denying petitioner's claim that he did not voluntarily and knowingly waive his right to counsel as he was not advised of the application procedure available to him in order to obtain the assistance of appointed counsel in his case.

Petitioner was convicted of assault and battery of a high and aggravated nature that was perpetrated upon a female that was allegedly his girlfriend at the time.

At the PCR hearing held in the case, petitioner claimed that he represented himself at trial after waiving his right to counsel, but that his waiver was not a voluntary and intelligent waiver. Petitioner testified that he found himself in the "midst of having this trial without any assistance or lawyer," and that he realized that [he was] not equipped to defend [himself]," and that he was "at a disadvantage for representing [himself]." App. 368, 1.7 - p. 370, 1.19. Petitioner stated that he believed his case outcome would have been different if a lawyer had been assigned to represent him at trial. App. 371, 1. 18 - p. 371, 1.14. Petitioner also stated that he was never advised of the screening application process that was available to him in order to obtain court appointed counsel to represent him at trial. App. 381, 1.4 - p. 382, 1.18; App. 383, 1.9 - p. 386, 1.7.

During the Faretta<sup>1</sup> pre-trial hearing, petitioner stated in effect that he had no money to hire an attorney. App. 8, 1.15 - p. 9, 1.1. Although the trial judge advised petitioner that he had a right to counsel and that it would be dangerous to proceed without counsel's assistance, there was no specific mention of the application procedure available in order to secure appointed counsel. App. 11, 1.15 - p. 12, 1.1.

Later, immediately prior to trial, the trial judge advised petitioner regarding the right to counsel as follows.

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<sup>1</sup> Faretta v. California, 422 U.S. 806 (1975).

Court: I know that you talked to Judge Cooper earlier this week. He went over your right to have a lawyer with you. I won't go over that with you again because that is on the record and has already been taken care of. App. 28, lines 13-19.

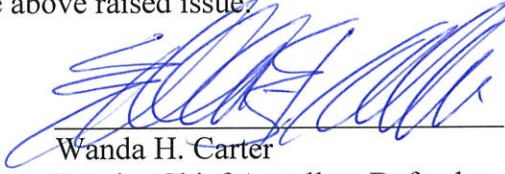
Petitioner appeared pro se at trial and was convicted of assault and battery of a high and aggravated nature. A defendant in a criminal case has the right to the assistance of counsel. Gideon v. Wainwright, 372 U.S. 335 (1963). A defendant may waive his right to counsel if the waiver is deemed voluntarily and intelligently given. Faretta v. California, 422 U.S. 806 (1975). A waiver of a defendant's right to counsel is deemed voluntarily given if he or she was advised of the right to counsel and warned of the dangers of self-representation. See Faretta v. California, supra. A waiver is a voluntary knowing and intentional relinquishment of a known right. Johnson v. Zerbst, 304 U.S. 458 (1938).

In the case at bar, petitioner was not aware of Rule 602, SCACR, which allows for appointed counsel to be assigned to defendants via the submission of an indigency application as part of the screening process designed to offer free legal assistance in criminal cases. Since this procedure was not made known to petitioner, then there was no true and tenable proof to establish that petitioner knowingly and voluntarily waived his right to counsel. As a result, petitioner's conviction was illegally obtained in the case.

The PCR court erred in denying petitioner's claim that he did not voluntarily and knowingly waive his right to counsel when he was not advised of the application procedure available in which to obtain court appointed counsel prior to trial.

**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  
Interim Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 8th day of August, 2025.

Aug 08 2025

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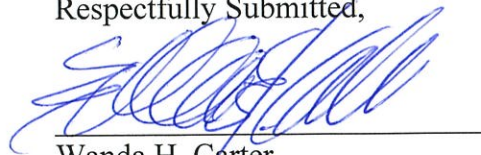
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PETITION TO BE RELIEVED AS COUNSEL  
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Counsel for Mark Anthony Keys states:

1. She is Interim 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 Patrick Cleburne Fant, III, which was held on October 10, 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 Mark Anthony Keys.

Respectfully Submitted,



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Wanda H. Carter  
Interim Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 8th day of August, 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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This 8th day of August, 2025.