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Sep 12 2025

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. SUPREME COURT

Certiorari to Greenville County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

KELDREKUS TAUQUAN OGLESBY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-002132

JOHNSON PETITION FOR WRIT OF CERTIORARI

JESSICA M. SAXON
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ATTORNEY FOR PETITIONER

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ISSUE PRESENTED

Did the PCR court erred in finding Petitioner's guilty plea was knowingly and voluntarily entered where Petitioner pled because he had been incorrectly advised by counsel that he would receive a life sentence if he proceeded to trial?

STATEMENT OF THE CASE

On May 19, 2017, the homes of Joe Martin and Lori Porter were burglarized. At Martin's home, a brick had been thrown through a glass door, and a Winchester 12-gauge shotgun, along with some coins, was stolen. At Porter's home, a door was forced open and a Sig pistol, a Savage 36 bolt action rifle, ammunition, a TV, and miscellaneous items were taken. Approximately a month later, on June 12, 2017, a chair was thrown through a glass door at the home of Rhonda Watkins. Watkins was home at the time of the incident and hid in a bathroom during the burglary. She called 9-1-1, and the sound of responding sirens sent the intruders running. Police apprehended Anthony Fontalvo and Keldrekus Oglesby (Petitioner) near the residence. Three other individuals were arrested for their roles in the burglaries of the three homes in Greenville County. App. 18, l. 3-App. 19, l. 22.

A Greenville County grand jury indicted Petitioner during the August 2018 term for two counts of burglary first-degree, one count of grand larceny, and one count of burglary second-degree. App. 92-99. On March 27, 2019, Petitioner appeared before the Honorable Letitia H. Verdin, along with other defendants and their respective counsels, to enter guilty pleas to the indicted charges. The state was represented by W. Douglas Richardson. Petitioner was represented by Aaron F. DeBruin. App. 1. During the plea colloquy the following exchange occurred,

THE COURT: Are you happy with what your lawyer has done for you, Mr. Legree.

DEFENDANT LEGREE: Yes, ma'am.

THE COURT: And Mr. Oglesby?

DEFENDANT OGLESBY: No, ma'am.

THE COURT: All right. Let's -- let's step back. I'll let you step back. And we'll -- and let you talk to your lawyer just a little bit more.

DEFENDANT OGLESBY: I'm happy with what he – the plea that we ' re doing - -

THE COURT: Okay. Can you speak up for me? I'm sorry.

DEFENDANT OGLESBY: I'm happy with the plea that we're going through with. I thought you were saying was I happy with the whole thing.

THE COURT: Oh, you're just not happy about the situation. I need to know -- well, let me ask it in a different way. Mr. De Bruin, here, have you had enough time to talk with him about this plea, your lawyer right here?

DEFENDANT OGLESBY: Yes. We talked about it, ma'am.

THE COURT: And -- and are you -- do you feel like he's done -- he's done what you've asked him to do within reason?

DEFENDANT OGLESBY : No .

THE COURT: All right. I'm going to let you step back . Okay.

App. 9, l. 14-10, l. 15.

After speaking with counsel, Petitioner resumed the plea colloquy. Judge Verdin questioned whether Petitioner was sure he wanted to plead guilty, whether he had complaints against anyone from law enforcement, the solicitor's office, or his lawyer, and whether he had been forced or promised anything to plead guilty. Petitioner responded in the negative to all of Judge Verdin's questions stating at one point, "No ma'am. I just didn't want to go to trial, ma'am." App. 15, l. 12-17, l. 18. Petitioner pled guilty and was sentenced to fifteen years on each burglary first charge, ten years on the grand larceny charge, and ten years on the burglary second charge, all sentences to run concurrently. App. 17, ll. 19-21; App. 20, ll. 1-3; App. 23, ll. 21-24.

A direct appeal was not filed. Petitioner filed an application for post-conviction relief on January 28, 2020. App. 26-32. The state filed a return and motion for a more definite statement on May 20, 2022. App. 33-37. By way of written order, the PCR court granted Petitioner a

continuance and granted the state's motion for a more definite statement, ordering Petitioner to file an amended application within ninety days of the order. App. 38-39. PCR Counsel Richard Warder filed an amended application alleging Petitioner's guilty plea was involuntary because it was induced by a threat from counsel that if Petitioner did not plead guilty that day he would receive a life sentence. App. 40-42.

An evidentiary hearing was held before the Honorable Patrick C. Fant, III, on October 10, 2024. The state was represented by Melody J. Brown, Petitioner was represented by Richard Warder. App. 43. Petitioner testified that Counsel DeBruin said he would not be able to help him if he went to trial and that if he went to trial he would receive a life sentence. Petitioner maintained plea counsel told him the only way to avoid a life sentence was to enter a guilty plea, which he did not want to do. App. 50, ll. 11-24. He decided to plead guilty based solely upon the advice that he would get a life sentence if he proceeded to trial. App. 51, ll. 16-19. Petitioner recalled the plea hearing and speaking with plea counsel after stepping down from the plea. He asserted that when they stood down, counsel again told him he would receive a life sentence if he did not enter a guilty plea. App. 51, l. 16-52, l. 17. Petitioner agreed that he entered the plea to avoid getting a life sentence. He maintained counsel told him if he did not enter the plea he would get a life sentence, therefore he felt he had no choice but to plead guilty. App. 56, l. 12-59, l. 12; App. 63, ll. 16-20.

Counsel DeBruin testified that Petitioner understood the plea was straight up, because there were no more offers as the case was coming from the trial docket. He believed there would be a good chance Petitioner would receive the minimum sentence and had explained that to Petitioner. He testified he informed Petitioner that he had never personally seen someone get a life sentence for burglary first-degree. Counsel DeBruin testified that he had informed Petitioner

there was the possibility of the state trying the cases separately to reach the necessary strikes for life without parole. He maintained Petitioner consistently made it clear that he did not want to go to trial. App. 68, l. 3-70, l. 25.

An order of dismissal was filed on December 5, 2024, denying Petitioner's application. On the single issue raised, the PCR court found that Petitioner's testimony regarding being pressured or incorrectly advised was not credible and that his decision to plead guilty a reasonable choice made based on the circumstances of his case, not on any deficiency by counsel. The PCR court further found that the advice plea counsel had given Petitioner was correct: Petitioner could have received a life sentence upon conviction for the burglary charges either because that was what the charge carried or because the state could try the cases separately and pursue life under the recidivist statute. The PCR court found Petitioner's plea knowingly and voluntarily entered based on the plea transcript and the testimony presented at the hearing. App. 82-91.

ARGUMENT

The PCR court erred in finding Petitioner's guilty plea was knowingly and voluntarily entered where Petitioner pled because he had been incorrectly advised by counsel that he would receive a life sentence if he proceeded to trial.

The United States Supreme Court has held that “[g]uilty pleas are no more foolproof than full trials to the court or jury... Accordingly, we take great precautions against unsound results.” Brady v. United States, 397 U.S. 742, 758 (1970). An “unsound result” occurs when a defendant does not knowingly, voluntarily, or intelligently plead guilty. See Boykin v. Alabama, 395 U.S. 238 (1969) (finding a guilty plea is voluntarily and knowingly entered into when the accused has a full understanding of the consequences of his plea and the charges against him); see also Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999) (finding a defendant must understand the sentencing consequences of his plea for it to be considered voluntarily given). Therefore, a trial judge should not accept a guilty plea without an affirmative showing that it was intelligent and voluntary. Boykin v. Alabama, 395 U.S. 238 (1969). Additionally, before a plea can be accepted, a defendant must be aware of the nature and crucial elements of the charges, the consequences of the plea, and the constitutional rights he is waiving. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 651 (2000).

“An ineffective assistance claim has two components: A petitioner must show that counsel's performance was deficient, and that the deficiency prejudiced the defense.” Wiggins v. Smith, 539 U.S. 510, 521 (2003) (citation omitted). “To establish deficient performance, a petitioner must demonstrate that counsel's representation ‘fell below an objective standard of reasonableness.’” Id. (quoting Strickland v. Washington, 466 U.S. 668, (1984)). “[T]o establish prejudice, a defendant must show that there is a reasonable probability that, but for counsel's

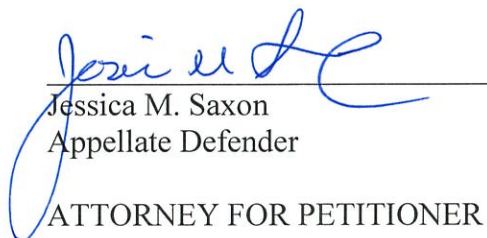
unprofessional errors, the result of the proceeding would have been different.” Id. at 534 (quotations and citation omitted).

An applicant may attack the voluntary, knowing, and intelligent character of a guilty plea entered on the advice of counsel by demonstrating that counsel's representation was below an objective standard of reasonableness. Porter v. State, 368 S.C. 378, 383-84, 629 S.E.2d 353, 356 (2006); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). The “prejudice,” requirement focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process. Hill v. Lockhart, 474 U.S. 52, 59 (1985). In other words, the applicant must prove prejudice by showing that, but for counsel's inadequacy, there is a reasonable probability he would not have pled guilty and, instead, would have insisted on going to trial. Suber v. State, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007).

The testimony from the PCR hearing revealed that the advice of counsel caused Petitioner to believe that he *would* get a life sentence, not merely that he *could* get a life sentence. This distinction is critical because while the advice may have been technically correct, it was not conveyed to Petitioner in a manner that he understood. Petitioner was under the misapprehension that the only way he could avoid a life sentence was through a guilty plea. This was not a correct understanding of his sentencing exposure and resulted from the unclear advice of counsel. It was incumbent upon counsel to ensure that Petitioner had a full understanding of his sentencing possibilities prior to deciding whether to enter a guilty plea. The failure to fulfill that duty was ineffective assistance of counsel.

CONCLUSION

Based on the foregoing argument, Petitioner respectfully requests that this Court grant the petition for writ of certiorari to allow full briefing of the issue.


Jessica M. Saxon
Appellate Defender
ATTORNEY FOR PETITIONER

This 12th day of September, 2025.

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Counsel for Keldrekus Oglesby states:

1. She is 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 Oct. 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 Keldrekus Oglesby.

Respectfully Submitted,



Jessica M. Saxon
Appellate Defender

ATTORNEY FOR PETITIONER

This 12th day of September, 2025.

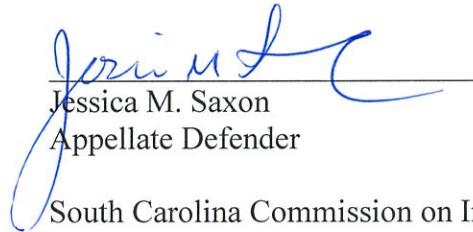
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CERTIFICATE OF COUNSEL

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 12th day of September, 2025.