

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Lancaster County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

RONVARUS D. HENDERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000451

PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

Trial counsel erred in failing to schedule a mental evaluation for petitioner prior to the guilty plea proceeding because it appeared as though he was not mentally competent to enter guilty pleas in his case.

STATEMENT

Petitioner Ronvarus D. Henderson pled guilty to possession of a weapon during the commission of a violent crime, failure to stop for a blue light, resisting arrest, possession with intent to distribute a schedule IV drug (2nd offense), trafficking in methamphetamine (2nd offense), and two counts of sale or delivery of a pistol to unlawful persons during the May 2022 term of the Lancaster County General Sessions Court before Judge DeAndrea Benjamin, who sentenced him to twelve-years imprisonment. App. 68-90. Attorney John Freeman represented petitioner at the guilty plea proceeding, and Assistant Solicitors Nicole Workman and Melissa McGinnis appeared on behalf of the state. Petitioner did not appeal his guilty pleas or sentences.

On February 2, 2023, petitioner filed a PCR application with the Lancaster County Office of the Clerk of Court. App. 92-98. The respondent filed a Return dated June 19, 2023. App. 99-110.

A PCR hearing was convened on February 20, 2024, at the York County Courthouse before Judge Patrick Cleburne Fant, III. Petitioner was present at the hearing and represented by Attorney Rodney Richey, and Assistant Attorney General Shayla J. Flores appeared on behalf of the state. App. 111-154.

On November 2, 2024, Judge Fant filed an Order of Dismissal therein denying petitioner's allegations of ineffective assistance of counsel in the case. App. 156-183.

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

ARGUMENT

Trial counsel erred in failing to schedule a mental evaluation for petitioner prior to the guilty plea proceeding because it appeared as though he was not mentally competent to enter guilty pleas in his case.

Petitioner's charges arose from police observations in response to a call regarding a report of gunshots being fired at a particular residence in Lancaster County, South Carolina, on July 25, 2021. There was a melee in progress there and petitioner was present when police arrived at the crime scene. Ultimately, charges were filed against petitioner because drugs were allegedly near him at that time. App. 73, l. 18 – p. 74, l. 17.

During the PCR hearing held in the case, petitioner testified that he informed trial counsel about his mental health issues and how he could not read well. Nonetheless, counsel neither requested nor filed a motion for a mental evaluation on petitioner's behalf. App 122, lines 5-13, App.126, lines 11-25; App. 127, l. 23 – p. 128, l. 6- p.l.8; App. 131, l. 16 – p. 132, l.3.

Sharon Henderson (petitioner's mother) testified at the PCR hearing and explained that petitioner needed a mental evaluation because he did not learn well and was in special education classes while in school. Henderson stated that she informed trial counsel of petitioner's mental deficiencies, but no mental evaluation was scheduled for him. App. 134, l. 10 – p. 135, l. 24; App. 137, l. 23 – p.138, l.4.

Trial counsel testified at the PCR hearing and stated that he believed petitioner was mentally competent, but admitted that he had no discussions with him about mental issues. App. 139, lines 8-15; App. 148, l. 22 – p. 150, l. 14.

Due process prohibits the conviction of one who is mentally incompetent. Jeter v. State, 308 S.C. 230, 417 S.E.2d 594 (1992). Counsel has a duty to conduct adequate and appropriate

investigations in a case. Strickland v. Washington, 466, U.S. 668 (1984). Specifically, with respect to cases where mental issues exist, counsel has a duty to investigate, prepare, and present evidence of mental illness on behalf of the defense. In Ramirez v. State, 419 S.C. 14, 795 S.E.2d 841 (2017), the Court held that when establishing ineffective assistance of counsel in the context of plea counsel's failure to request a mental competency evaluation, the applicant need only show a reasonable probability that he was incompetent at the time of the plea, and once such a reasonable probability has been established then prejudice is also demonstrated. See also Matthews v. State, 358 S.C. 456, 596 S.E.2d 49 (2004). In Ramirez, plea counsel was found ineffective in failing to request an additional competency evaluation for the defendant where he was on notice that the defendant suffered from retardation and had problems interacting with him.

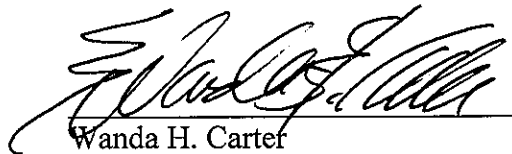
Additionally, compare Von Dohlen v. State, 360 S.C. 598, 601 S.E.2d 738 (2005), where the Court found that counsel was ineffective in failing to present at the penalty phase the same psychiatrist who testified at trial and explained the defendant's extensive medical records and information in support of the defendant's true mental diagnosis of major episodes of depression with severe symptoms of anxiety and psychosis on his behalf. Also, compare Wiggins v. Smith, 539 U.S. 510 (2003), where trial counsel was found ineffective in failing to expand the investigations into the defendant's background with sufficiency in order to learn of the defendant's diminished mental capacity and childhood abuse, rape, and molestation in order to establish his impaired mental and psychological state. Compare further, Davenport v. State, 301 S.C. 39, 389 S.E.2d 649 (1990), where the Court held that counsel was ineffective in failing to develop an insanity defense when the state's psychiatrist diagnosed the defendant as legally insane. Finally, in the federal court cases of People v. Coroma, 80 Cal. App. 3d 684, 145 Cal. Rptr. 899 (1st Dist. 1978); Ramseyer v. Glodgett, 853 F. Supp. 1239 (WD. Wash. 1994), and Hull v. Hyler, 190 F.3d 88 (C.A. 3PA, 1999), the courts

found counsel ineffective in failing to investigate into evidence establishing their clients' mental incompetence.

Clearly, in the case at bar, counsel's failure to obtain a mental evaluation for petitioner in the case constituted deficient legal representation that was below the range of competence demanded of criminal attorneys in violation of the Sixth Amendment. The prejudice that resulted was obvious because petitioner was not competent to plead guilty to the charges filed against him. See Hill v. Lockhart, 484 U.S. 52 (1985), and Ramirez v. State, *supra*, and Matthew v. State, *supra*. But for counsel's error in this regard, a reasonable likelihood exists that the outcome of petitioner's case would have been different.

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 18th day of September, 2025.