

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Sep 25 2025

S.C. SUPREME COURT

Certiorari to Charleston County

Honorable Michael G. Nettles, Circuit Court Judge

JAMEL RAEKWON BROWN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000438

JOHNSON PETITION FOR WRIT OF CERTIORARI

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INDEX

INDEX i

ISSUE PRESENTED.....1

STATEMENT2

ARGUMENT7

CONCLUSION.....10

PETITION TO BE RELIEVED AS COUNSEL11

ISSUE PRESENTED

Whether the court erred in denying post-conviction relief, where counsel failed to ascertain Petitioner's competency and ensure Petitioner understood the plea offer, since counsel's deficient performance resulted in Petitioner's entry of pleas that were not knowingly, voluntarily, and intelligently entered?

STATEMENT

During the June term of 2021, a Charleston County Grand Jury indicted Jamel Brown, Petitioner, for armed robbery and possession of a weapon during the commission of a violent crime. App. 146 – 149. On September 2, 2022, Petitioner appeared before the Honorable Deadra L. Jefferson for a guilty plea hearing, which was held virtually. Rad Deaton and Peter McCoy represented Petitioner. Tyler Whitaker prosecuted the case. App. 1; App. 7, ll. 19-21. Petitioner entered pleas to attempted armed robbery, reduced from armed robbery, and to the weapons offense, for a negotiated term of eight years. App. 3, l. 3 – 12, l. 11.

The prosecution offered the following facts at the plea hearing: Roy Aytes (Complainant) was a worker renovating the library on North Woodmere Drive. Complainant claimed that on December 30, 2020, a suspect armed with a gun approached him while on a break and demanded his cell phone and wallet. Complainant handed over his phone, and said his wallet was in his Jeep. The suspect took Complainant to the Jeep at gunpoint. Complainant got his wallet out of the Jeep and handed it to the suspect. The suspect ran off towards the woods. Petitioner's SUV was located nearby. Prints taken from the complainant's hard hat and the driver's side door of the vehicle¹ were matched to Petitioner. App. 8, l. 13 – 10, l. 9.

During the plea colloquy, Petitioner responded, "Yes, ma'am," when the judge asked if he was satisfied with his lawyers. However, he also answered, "Yes, ma'am," when asked if he had any complaints about their services. App. 11, ll. 6-13. The court did not inquire into this discrepancy and the colloquy continued.

¹ It is unclear from the plea transcript whether the prints were located on the door of Complainant's Jeep or Petitioner's SUV. Plea counsel, Deaton, testified at the PCR hearing Petitioner's fingerprints were on the hard hat, which was knocked off of Complainant's head during the robbery. He did not recall whether Petitioner's prints were found on Complainant's Jeep. App. 85, ll. 5-18. Deaton also testified Complainant could not pick Petitioner out of a lineup. App. 86, l. 23 – 87, l. 3.

The court sentenced Petitioner to eight years' imprisonment for attempted armed robbery and five years' imprisonment for possession of a weapon during the commission of a violent crime, with sentences to run concurrently. App. 18, ll. 5-10. No direct appeal was taken.

On or about July 13, 2023, Petitioner filed an application for post-conviction relief (PCR). App. 22 – 28. The State made its return on December 6, 2023. App. 29 – 33. On September 11, 2024, a hearing was held on the matter before the Honorable Michael G. Nettles. Christopher Murphy represented Petitioner. Danielle Dixon represented the State. App. 34.

Petitioner testified his guilty pleas were not knowingly, voluntarily, and intelligently entered. Petitioner testified his family retained Rad Deaton to represent him. App. 46, ll. 7-20. Petitioner then hired Peter McCoy¹ for a bond hearing and trial. App. 49, ll. 5-12. Petitioner wanted Mr. Deaton relieved as counsel, but no hearing was held on this matter. App. 49, l. 23 – 50, l. 8. Petitioner was brought over to the courthouse on the day of the plea. He had been offered the negotiated eight-year plea deal. Petitioner stated he told Mr. Deaton: “no,” to the offer. App. 48, l. 19 – 51, l. 21.

Petitioner spoke on the phone the day of his plea with his family, Mr. Deaton, and Mr. McCoy, at the same time. Petitioner told the attorneys he did not want to accept the plea offer since it was for eight years.

“Hey, the paperwork and what you guys verbally are saying are not adding up, You told me this was a five-year plea. You sent me paperwork that says eight years. You said it was just going to be attempted armed robbery. Here comes another charge—a weapons charge saying its not going to impact your sentence.” So when that came, I said, “Hey, I’m not going to do it.”

App. 52, l. 7 – 53, l. 7.

Nevertheless, Petitioner was taken before the judge for a guilty plea. During the colloquy, Petitioner responded to the court that he had complaints about his counsel but the plea

nonetheless went forward. App. 53, ll. 11-25. Petitioner stated he went along with the plea because he was following his attorneys' lead, and due to his mental health problems. Petitioner suffered from post-traumatic stress disorder, bipolar disorder, anxiety and depression. App. 54, l. 8 – 55, l. 20. Petitioner testified counsel misrepresented the plea offer, telling him it was for a five-year term of imprisonment, when it was for an eight-year term of imprisonment. Petitioner also recalled that although the plea deal was only for attempted armed robbery, he was later informed it included a requirement that he plead guilty to the weapons charge as well. App. 56, ll. 1-12. Petitioner reiterated that his pleas were involuntary because counsel told him there was a five-year plea deal, and he entered the plea “based off what my lawyer tells me.” App. 63, ll. 7-15.

Petitioner's father, Jamel Brown, Sr., also testified at the PCR hearing, and he confirmed being on the phone call prior to the plea, in which Petitioner attempted to reject the eight-year plea offer. App. 68, l. 19 – 69, l. 16.

Attorney Rad Deaton also testified at the hearing. According to Deaton, Petitioner had other pending charges. App. 71, l. 17 – 72, l. 14. Deaton claimed the plea offer was for a negotiated eight years with attempted armed robbery as the only charge. Deaton claimed he relayed the offer of eight years to Petitioner verbally and in writing. App. 73, l. 14 – 76, l. 8; App. 133 – 134. Deaton claimed he also relayed to Petitioner verbally and in writing that the State had added a concurrent five years for the weapons charge to the plea offer. App. 76, ll. 9-19; App. 133 – 134. According to Deaton, he advised Petitioner the offer was for eight years and that he would end up serving about five. App. 81, ll. 5-20. Deaton stated he advised Petitioner to take the plea offer. App. 77, ll. 4-16. According to Deaton, Peter McCoy was only retained for a bond hearing. App. 78, ll. 3-25. Bond was denied and the plea offer was set to expire.

App. 78, ll. 13-25. According to Deaton, Petitioner stated he did not want to take the plea offer “right now.” App. 79, ll. 12-18. Deaton claimed he had no concerns about Petitioner’s competency. App. 80, ll. 10-22.

Petitioner was recalled and stated he accepted the five-year plea offer after talking to Peter McCoy, not Mr. Deaton. App. 91, l. 6 – 92, l. 9. Among the exhibits before the PCR court was a list of Petitioner’s mental health medications. App. 135.

In summation, PCR counsel urged the court to grant post-conviction relief, and noted the plea transcript reflected that Petitioner told the plea judge he had complaints about the services of his attorney, but the plea continued anyway. App. 93, l. 15 – 94 l. 5.

On March 3, 2025, the PCR court issued an order of dismissal. App. 139 – 145. The order of dismissal stated the PCR court found Petitioner’s involuntary guilty plea claims were without merit. App. 143 – 145. “This Court finds credible Deaton’s testimony that he explained the plea and did not tell Applicant it would be a five-year sentence. Further, the plea transcript itself supports that Applicant understood the sentence. At the plea hearing, the solicitor explained it was a negotiated sentence of eight years. (Tr. 3).” App. 143. “Applicant told the Court he understood armed robbery carried up to twenty years, his attorneys had explained what a negotiated plea meant, and he understood the weapon charge carried ‘a mandatory five years, none of which can be suspended.’ (Tr. 6-8).” App. 143 – 144. “Applicant likewise told the Court he understood he was waiving constitutional rights by pleading guilty. (Tr. 10-11). Based on the foregoing, this Court finds Applicant knowingly, voluntarily, and freely entered his plea with an understanding of the sentence he faced.” App. 144.

The order further concluded the pleas were not involuntary based on lack of competency to stand trial. App. 144 – 145. “At the PCR hearing, Applicant testified he had post-traumatic

stress disorder (PTSD), depression, high anxiety, and bipolar disorder. Counsel testified Applicant told him about his depression and anxiety, but counsel had no concerns about Applicant's mental competency. This Court finds counsel's foregoing testimony credible. This Court further finds that based on the foregoing credible testimony, counsel was not deficient." App. 144. Applicant has not presented any evidence of mental incompetency and thus failed to show a reasonable probability he was incompetent at the time of his plea." App. 145.

This petition for writ of certiorari follows.

ARGUMENT

The court erred in denying post-conviction relief, where counsel failed to ascertain Petitioner's competency and failed to ensure Petitioner understood the plea offer, since counsel's deficient performance resulted in Petitioner's entry of pleas that were not knowingly, voluntarily, and intelligently entered.

The Sixth Amendment to the United States Constitution guarantees an accused the right to effective assistance of counsel. U.S. CONST. amend. VI; *Strickland v. Washington*, 466 U.S. 668, 687 (1984). The United States Supreme Court has established a two-pronged test to evaluate allegations of ineffective assistance of counsel. A petitioner must prove “that counsel’s performance was deficient” and fell below reasonable professional norms, and the deficient performance prejudiced him. *Id.*

The decision to plead guilty must be a voluntary and intelligent choice among the alternative courses of action open to the defendant. *Hill v. Lockhart*, 474 U.S. 52, 56 (1985). A defendant is entitled to the effective assistance of competent counsel before deciding whether to plead guilty. *Padilla v. Kentucky*, 559 U.S. 356, 364 (2010). “A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of a plea by showing that counsel’s representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel’s errors, the defendant would not have pled guilty, but would have insisted on going to trial.” *Rolen v. State*, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009) (citing *Hill v. Lockhart*, *supra*). “The crux of the inquiry is whether counsel’s ineffective performance affected the outcome of the plea process, not whether the defendant would have been successful had he gone to trial.” *Frierson v. State*, 423 S.C. 257, 262, 815 S.E.2d 433, 436 (2018).

Before a guilty plea may be accepted, it is required “that the defendant understand the nature and crucial elements of the charges, the consequences of the plea, and the constitutional rights he is waiving, and that the record reflect a factual basis for the plea.” *Rollison v. State*, 346 S.C. 506, 511, 552 S.E.2d 290, 292 (2001). “[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” *Anderson v. State*, 342 S.C. 54, 57, 535 S.E.2d 649, 651 (2000) (emphasis removed). “A plea made in ignorance of its direct consequences is entered in ignorance and is invalid.” *Burnett v. State*, 352 S.C. 589, 592, 576 S.E.2d 144, 145 (2003) (citing *State v. Hazel*, 275 S.C. 392, 275 S.E.2d 602 (1980)).

“[I]n proving *Strickland* prejudice within the context of counsel’s failure to fully investigate the petitioner’s mental capacity, the petitioner need only show a reasonable probability that he was either insane at the time the crime was committed or incompetent at the time of the plea.” *Matthews v. State*, 358 S.C. 456, 459, 596 S.E.2d 49, 51 (2004) (citing *Jeter v. State*, 308 S.C. 230, 233, 417 S.E.2d 594, 596) (internal quotations and alterations omitted); *see also Ramirez v. State*, 419 S.C. 14, 22, 795 S.E.2d 841, 845 (2017) (“[o]nce a PCR applicant has established his counsel was deficient in failing to obtain a mental competency evaluation, he is entitled to relief if he demonstrates a reasonable probability that he was incompetent at the time he pled guilty”).

Petitioner testified he had multiple mental illnesses, including bipolar disorder and PTSD, and provided a list of his medications. These were serious mental illnesses. For example, bipolar disorder is classified as a “severe mental illness.” David L. Faigman et al., *Major psychoses—Introduction*, 2 Mod. Sci. Evidence § 8:16 (2020-2021 Edition). “PTSD causes functional impairment or distress in social, occupational and other areas of daily living[.]” §

5:39. Anxiety disorders—Nature of anxiety—Post-traumatic stress disorder, 1 Medical Information System For Lawyers § 5:39 (2d). Nevertheless, counsel did not have Petitioner evaluated for competency to stand trial. Petitioner stated at his plea hearing he had complaints about his counsel, but no investigation or clarification of this matter ensued.

Counsel's advice that Petitioner plead guilty was deficient performance given Petitioner's desire to go to trial and his misunderstanding that he would receive a five-year sentence. Counsel should have made certain before Petitioner appeared in front of the judge that Petitioner understood the plea was for a negotiated eight-year sentence. Counsel also should have moved that Petitioner be evaluated for competency to stand trial. *Strickland*, 466 U.S. at 687. Counsel's deficient performance resulted in Petitioner's entry of pleas that were not knowingly, intelligently, and voluntarily tendered. Petitioner demonstrated a reasonable probability he was not competent given his multiple mental illnesses. The PCR court erred by finding Petitioner's pleas were freely and voluntarily made. Petitioner has established error and prejudice. *Hill v. Lockhart*, 474 U.S. at 56; *Frierson v. State*, 423 S.C. at 262, 815 S.E.2d at 436.

CONCLUSION

Based on the foregoing argument, Petitioner respectfully requests that a writ of certiorari be granted to allow full briefing on this issue.


Joanna K. Delany
Appellate Defender

ATTORNEY FOR PETITIONER

This 25th day of September, 2025.

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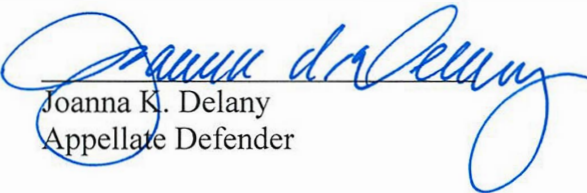
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PETITION TO BE RELIEVED AS COUNSEL
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Counsel for Jamel Raekwon Brown states:

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 Michael G. Nettles, which was held on Sept. 11, 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 Jamel Raekwon Brown.

Respectfully Submitted,


Joanna K. Delany
Appellate Defender

ATTORNEY FOR PETITIONER

This 25th day of September, 2025.

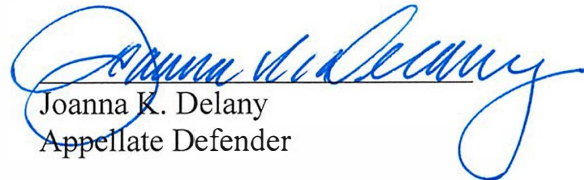
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CERTIFICATE OF COUNSEL

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 25th day of September, 2025.