

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

**Oct 03 2025**

S.C. SUPREME COURT

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Certiorari to Aiken County

Honorable Kristi F. Curtis, Circuit Court Judge  
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JOHN GREEN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000245  
\_\_\_\_\_

JOHNSON PETITION FOR WRIT OF CERTIORARI  
\_\_\_\_\_

DAVID ALEXANDER  
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ATTORNEY FOR PETITIONER

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**ISSUE PRESENTED**

Did the PCR court err in finding that plea counsel adequately reviewed discovery with petitioner so that he could make a knowing and voluntary waiver of his right to a jury trial?

## STATEMENT

On December 7, 2020, petitioner John Green pled guilty in Aiken County to attempted murder before the Honorable Clifton Newman. App. 1. Ashley A. Hammack represented the State and M. Chace Hawk represented petitioner. App. 1. On December 11, 2020, Judge Newman held a sentencing hearing. App. 16. Judge Newman sentenced petitioner to twelve years' imprisonment. App. 32.

On April 5, 2021, petitioner filed a PCR application. App. 34. On January 30, 2024, the Honorable Kristi F. Curtis held a hearing. App. 53. Kimberly Yancey-Brooks represented petitioner. App. 53. Cruise Mitchell represented the State. App. 53. On January 13, 2025, Judge Curtis denied petitioner's PCR. App. 94. This petition follows.

## ARGUMENT

The PCR court erred in finding that plea counsel adequately reviewed discovery with petitioner so that he could make a knowing and voluntary waiver of his right to a jury trial.

Petitioner testified at the PCR hearing that plea counsel never went over discovery with him. App. 66. Plea counsel never discussed any potential defenses with him. App. 66. Petitioner said that plea counsel only said he was going to make certain petitioner would “get some time.” App. 66. Petitioner also testified that, “The judge made me plead guilty.” App. 67.

The PCR court credited plea counsel’s testimony that he reviewed the discovery with petitioner. App. 103. Plea counsel testified that he explained what he called “the damning evidence” contained within the discovery. App. 82. However, his testimony could be interpreted as showing that petitioner failed to understand these discussions because petitioner continued to press grievances concerning his family history instead of responding to what plea counsel was telling him. App. 82-83. Plea counsel had petitioner evaluated for competency. App. 83.

Petitioner’s failure to understand the evidence against him meant that his plea could not be knowing and voluntary. “Defendants have a Sixth Amendment right to counsel, a right that extends to the plea-bargaining process.” Lafler v. Cooper, 566 U.S. 156, 162 (2012). “Before deciding whether to plead guilty, a defendant is entitled to the effective assistance of competent counsel.” Padilla v. Kentucky, 559 U.S. 356, 364 (2010) (internal quotations omitted). Plea counsel has a duty to conduct an independent investigation. Wiggins v. Smith, 539 U.S. 510, 521-22 (2003).

“An accused is entitled to counsel’s considered and reasonable judgment.” Simuel v. State, 432 S.C. 150, 154, 850 S.E.2d 642, 644 (Ct. App. 2020). Counsel must conduct a reasonable investigation before making strategic judgments about the course of the litigation. Wiggins v.

Smith, 539 U.S. 510, 522-23 (2003). The reviewing court conducts an objective review of counsel's performance measured against prevailing professional norms. Id.

The prejudice component in a guilty plea is whether petitioner would have reasonably chosen to go to trial, not whether he would have been convicted. Smith v. State, 369 S.C. 135, 631 S.E.2d 135 (2006). A defendant's testimony that he would have gone to trial can suffice to prove prejudice in a guilty plea PCR. See id. The PCR court questioned petitioner about his desire for a new trial. App. 56-58. The judge was concerned that petitioner received a twelve year sentence and could face substantially more time if his PCR was granted. App. 56-58. Petitioner was adamant that he wanted to go forward and get a new trial. App. 56-58.

Petitioner wanted a new trial. He testified that plea counsel never explained the evidence against him. Without this knowledge, his guilty plea cannot be valid. This Court should grant the writ, reverse petitioner's conviction, and remand for a new trial.

**CONCLUSION**

For the foregoing reasons, this Court should reverse petitioner's conviction and remand for a new trial.



David Alexander  
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR PETITIONER

This 3rd day of October, 2025.

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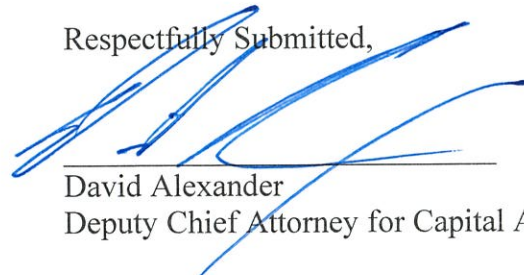
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PETITION TO BE RELIEVED AS COUNSEL  
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Counsel for John Green states:

1. He is Deputy Chief Attorney for Capital Appeals for the South Carolina Office of Appellate Defense, and was appointed to represent petitioner.
2. He has reviewed the record of petitioner's post-conviction relief hearing before Judge Kristi F. Curtis, which was held on January 30, 2024, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He 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 him as counsel for John Green.

Respectfully Submitted,



\_\_\_\_\_  
David Alexander  
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR PETITIONER

This 3rd day of October, 2025.

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CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

The undersigned certifies that to the best of his 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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