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Oct 17 2025

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Sumter County

Honorable William A. McKinnon, Circuit Court Judge

ANTRELL R. FELDER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000243

JOHNSON PETITION FOR WRIT OF CERTIORARI

KATHRINE H. HUDGINS
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ISSUE PRESENTED

Was the guilty plea rendered involuntary by counsel's failure to fully explain that Petitioner may not get credit for the time he served on house arrest?

STATEMENT

In January of 2009, the Sumter County Grand Jury indicted Petitioner, Antrell Rashawn Felder, for murder and possession of a firearm or knife during the commission of a violent crime, indictment #2009-GS-43-0059. (App. pp. 26-27). On November 14, 2011, Petitioner proceeded to jury trial before the Honorable Howard P. King. Shaun Kent and Ray Chandler represented Petitioner at trial. Solicitor Chip Finney and Assistant Solicitor John Meadors prosecuted the case. The jury found Petitioner guilty on both counts. Judge King sentenced Petitioner to forty-two (42) years for murder and five (5) years concurrent for the weapon charge. A timely notice of intent to appeal was filed and the direct appeal perfected. The South Carolina Court of Appeals affirmed the sentence and conviction. State v. Felder, Op. No. 2013-UP-437 (S.C.Ct.App. filed November 27, 2013).

On July 23, 2014, Petitioner filed a timely application for post-conviction relief [PCR]. The State filed a return on September 29, 2014. On March 28, 2017, an evidentiary hearing was held before the Honorable D. Craig Brown. Timothy Griffith represented Petitioner at the PCR hearing. Julie Cole represented the State. In a written order signed May 2, 2017, Judge Brown denied relief and dismissed the application. Petitioner timely appealed the denial of relief in a petition for writ of certiorari filed December 4, 2017. The State filed a return on April 23, 2018. On June 27, 2018, the South Carolina Supreme Court granted the petition for writ of certiorari and ordered further briefing. In an opinion filed on August 7, 2019, the Court reversed the denial of relief and remanded for a new trial. Felder v. State, 427 S.C. 518, 832 S.E.2d 591 (2019).

On February 18, 2020, Petitioner appeared before the Honorable George M. McFaddin, Jr. and pled guilty to voluntary manslaughter. Charlie Johnson, Jr. represented Petitioner at the

plea. John Meadors represented the State. Pursuant to negotiations between Petitioner and the State, Judge McFaddin sentenced Petitioner to twenty-two (22) years and six (6) months. (App. p. 28). The judge noted on the sentencing sheet, "Request for house arrest credit denied." (App. p. 28). Petitioner did not appeal his sentence and conviction.

Instead, Petitioner filed a PCR application dated February 16, 2021, filed February 22, 2021. (App. pp. 29-37). The State filed a return and motion to dismiss on May 17, 2021. (App. pp. 39-45). On January 13, 2025, an evidentiary hearing was held before the Honorable William A. McKinnon. Timothy Griffith represented Petitioner. Cruise Mitchell represented the State. In a written order signed January 23, 2025, Judge McKinnon denied relief and dismissed the application. A timely notice of intent to appeal was filed on February 12, 2025. This appeal follows.

ARGUMENT

The guilty plea was rendered involuntary by counsel's failure to fully explain that Petitioner may not get credit for the time he served on house arrest.

After Petitioner's murder conviction was reversed in post-conviction relief, on remand Petitioner pled guilty to voluntary manslaughter for a negotiated to twenty-two (22) year and six (6) month sentence. In the PCR application Petitioner alleged that plea counsel was ineffective "for failure to object to judge's refusal to accept house arrest as credit towards applicant sentence per South Carolina Codes rules, regulations, and statues per 24-13-40" (App. p. 37). During the PCR hearing Petitioner testified, "When I came back when my case was reversed and remanded and granted a new trial, I hired Mr. Charlie Johnson, and he asked – he waited until after I signed the guilty plea, and then he asked, 'My client want to know' what I'll be getting the house arrest credit. Well, before then, I was manipulated because him and Mr. Meadors told me that I would be getting all the credit, that the judge can't take my time. I thought it was automatic and moves on to the – my credit for the sentence. And it didn't do that." (App. p. 56, lines 9-13). Petitioner testified that if he had known he would not be given credit for time served on house arrest, he would not have accepted the plea agreement. (App. p. 56, lines 14-20).

Plea counsel testified he advised Petitioner that he could not guarantee that the judge would give him credit for time served on house arrest. (App. p. 73, lines 1-25). During the plea counsel asked the judge to give credit for the time served on house arrest. (App. p. 22, lines 12-21). It appears that when plea counsel advised Petitioner he was entitled to all credit for time served, Petitioner believed that included house arrest.

In the order of dismissal the PCR judge wrote, "Clearly, Counsel properly requested the plea judge grant Applicant credit for time he spent on house arrest. The State objected to this

request. After careful consideration, the plea judge respectfully denied this request while giving his reasons. This Court finds Counsel properly moved for Applicant to be given credit for the time spent on house arrest. Therefore, this Court finds counsel was not ineffective in this regard.” (App. p. 90). The PCR judge erred. The guilty plea was rendered involuntary by counsel’s failure to specifically explain that credit for all time served did not include time served on house arrest.

A criminal defendant is guaranteed the right to effective assistance of counsel under the Sixth Amendment to the United States Constitution. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Courts evaluate allegations of ineffective assistance of counsel using a two-pronged test. Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989) (citing Strickland, 466 U.S. at 668, 104 S.Ct. 2052). First, the applicant must demonstrate counsel's representation was deficient, which is measured by an objective standard of reasonableness. Strickland, 466 U.S. at 687–88, 104 S.Ct. 2052. “Under this prong, ‘[t]he measure of attorney performance remains simply reasonableness under prevailing professional norms.’” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S.Ct. 2052). Second, the applicant must demonstrate he was prejudiced by counsel's performance in such a manner that, but for counsel's error, there is a reasonable probability the result of the proceedings would have been different. Strickland, 466 U.S. at 694, 104 S.Ct. 2052. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” Id.

The Strickland test operates similarly when an applicant claims counsel was ineffective in the context of a guilty plea. Hill v. Lockhart, 474 U.S. 52, 58, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985). A guilty plea may not be accepted unless it is voluntarily and understandingly made.

Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). “To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him.” Roddy v. State, 339 S.C. 29, 33, 528 S.E.2d 418, 421 (2000). “A defendant's knowing and voluntary waiver of the constitutional rights which accompany a guilty plea ‘may be accomplished by colloquy between the Court and the defendant, between the Court and defendant's counsel, or both.’ ” Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 625 (1999) (quoting State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). “The longstanding test for determining the validity of a guilty plea is ‘whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.’ ” Hill, 474 U.S. at 56, 106 S.Ct. 366 (quoting North Carolina v. Alford, 400 U.S. 25, 31, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970)).

In Frierson v. State, 423 S.C. 257, 262, 815 S.E.2d 433, 436 (2018), the South Carolina Supreme Court wrote:


In order to establish prejudice when challenging a guilty plea, a defendant must prove “there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have gone to trial.” Harden v. State, 360 S.C. 405, 408, 602 S.E.2d 48, 49 (2004). 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. Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991). As the United States Supreme Court stated in Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985), “[I]n order to satisfy the ‘prejudice’ requirement, the defendant must show there is a reasonable probability that, but for counsel's errors, he would not have pled guilty and would have insisted on going to trial.”

In State v. Higgins, 357 S.C. 382, 593 S.E.2d 180 (Ct. App. 2004), the South Carolina Court of Appeals declined to give credit for time served on monitored house arrest based on a previous version of S.C. Code § 24-13-10, which allowed credit only “for time served in a penal institution.” The holding in Higgins, however, was superseded in 2013 by the current version of the statute, S.C. Code § 24-13-40, which provides, “In every case in computing the time served

by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest.” Pursuant to Higgins, at the time of the first sentencing in November of 2011, Petitioner would not have been entitled to credit for time served on house arrest. At the time of the plea in February of 2020, following reversal and remand, S.C. Code § 24-13-40 provided that credit **may** be given for time spent on monitored house arrest. It was within the judge’s discretion to give Petitioner credit for the time spent on house arrest, as requested. Plea counsel advised Petitioner that he would receive credit for all time served. Plea counsel, however, failed to specifically explain that credit for all time served did not include time served on house arrest. The guilty plea was rendered involuntary by counsel’s failure to specifically explain that credit for all time served did not include time served on house arrest.

CONCLUSION

Based on the above argument, this Court should grant the petition for writ of certiorari to allow further briefing on the issue.


Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 17th day of October, 2025.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Antrell Rashawn Felder states:

1. She is Senior 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 William A. McKinnon, which was held on , 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 Antrell Rashawn Felder.

Respectfully Submitted,



Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 17th day of October, 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 17th day of October, 2025.