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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Lancaster County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

JOHN M. GHENT, JR.,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000932

PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

Trial counsel erred in failing to investigate into and present evidence at trial in support of a mental illness defense in the case.

STATEMENT

Petitioner John M. Ghent was convicted of murder and possession of a firearm or knife during the commission of a violent crime during the March 2016 term of the Lancaster County General Sessions Court before Judge Brian M. Gibbons, and was sentenced to imprisonment for a period of fifty nine years. App.1-519. Michael C. Watkins, Esquire, represented petitioner at trial, and Assistant Solicitors Lisa Collins and Randy Newman appeared on behalf of the state. Petitioner appealed his convictions and sentences, but his case was affirmed. See. State v. Ghent, Op. No. 2019-UP-272 (S.C.Ct. App. filed July 24, 2019).

On May 8, 2020, petitioner filed a PCR application with the Lancaster County Office of the Clerk of Court. App. 520-529. An amended PCR application was filed on August 21, 2023. The respondent filed a Return dated November 19, 2020. App. 530-541.

A PCR hearing in the case was convened on February 23, 2024, at Lancaster County Courthouse before Judge Patrick C. Fant, III. App. 542-594. Petitioner was present at the hearing and represented by Attorney Ola Johnson, and Assistant Attorney General Russell Barlow appeared on behalf of the state.

On April 23, 2025, Judge Fant signed an Order of Dismissal therein denying petitioner's allegations of ineffective assistance of counsel in the case. App. 596-636. Petitioner appealed Judge Fant's Order of Dismissal. This petition follows.

ARGUMENT

Trial counsel erred in failing to investigate into and present evidence at trial in support of a mental illness defense in the case.

Petitioner was convicted of the murder of his wife. Petitioner testified at trial and explained that his marriage was not going well and that his wife planned to leave him. Petitioner stated that on the morning of the incident, he reacted to his wife's announcement to end the marriage by picking up a knife in an attempt to cut himself because he promised to kill himself if his wife decided to exit the marriage as he did not want to live without her. Petitioner admitted that he had previously been thinking of killing himself and at some point prior to this event had actually placed a 9-millimeter gun to his head and pulled the trigger, which in turn led to the removal of all guns from the house. The events that led to petitioner's wife's death unfolded after petitioner moved the knife toward his wrist. Petitioner's wife responded by grabbing and pulling his arm and the knife; and thereafter, when "he was trying to get his hand away from her and his hand just slipped...arm just slipped out of her hand and went straight into her chest." Next, petitioner stated that he found and swallowed a lot of hypertension pills and tried again to cut his wrist. App. 398, l. 22 - p. 405, l. 21. Petitioner was seen by emergency room officials shortly after these events and the records showed that his blood pressure was 70/50, and that there were indications of wounds to his wrists. App, 133, l.18- p. 134, l. 25; App. 136, lines 20-25.

On appeal, there was a challenge to the trial judge's jury instructions that evidence of a suicide attempt was probative of the defendant's consciousness of guilt. The case was affirmed on appeal. See State v. Ghent, Op.No. 2019-UP-272 (S.C. Ct. App. Filed July 24, 2019).

In petitioner's PCR application, petitioner alleged in effect that counsel erred in failing to investigate into and present evidence of a mental illness defense in the case. App. 527-529.

During the PCR hearing held in the case, petitioner testified that counsel failed to address at trial the issues regarding his mental health because he had been seeing mental health professionals for five or ten years before the incident in question occurred, and because he had been suffering previously from substance abuse problems as well. Additionally, petitioner stated trial counsel did not request a mental competency analysis to be performed on him prior to trial. App. 550, l. 15 – p. 551, l. 4. Also, at the PCR hearing, petitioner reiterated that he previously planned to kill himself. App. 551, lines 10-11. Petitioner stated that counsel did not investigate into or raise questions with respect to his mental health treatment he received at Three Rivers and the Catawba Center or secure any other mental health records on his behalf. App. 553, l. 25 – p. 554, l. 9. Petitioner stated that he suffered from depression and substance abuse after his parents and grandparents passed away, and that he was not competent to stand trial. App. 559, lines 7-24. Petitioner stated that he also was seen by a counselor during his pretrial detention. App. 561, lines 4-19. In addition, petitioner testified that he was transported to Three Rivers Mental Hospital in Columbia, South Carolina, after he placed a gun to his head and tried to burn down his home, all of which happened before the incident in question. App. 564, l. 24 – p. 565, l. 10.

Trial counsel testified at the PCR hearing and explained that he had no reason to doubt petitioner's competency because he (petitioner) appeared oriented as to time and place, and that the case did not rise to the level of a mental health defense case or a lack of criminal responsibility case. App. 573, l. 6 - p. 575, l.9.

Due process prohibits the conviction of one who is mentally incompetent. Jeter v. State, 308 S.C. 230, 417 S.E.2d 594 (1992). Additionally, 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 evident 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.

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 the psychiatrist who testified at trial and explained all of 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 to testify at the penalty phase in order to preclude a death sentence. 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 show 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.

Clearly, in the case at bar, counsel's failure to secure a mental evaluation of petitioner (at the very least) as an investigation into the viability of a mental illness defense, which obviously existed in the case, and/or whether petitioner was competent to stand trial, constituted deficient legal representation. Hill v. Lockhart, 474 U.S. 52 (1985). Prejudice existed as a result.

In State v. Hartsfield, 300 S.C. 469, 383 S.E.2d 802 (1990), the Court addressed the insanity defense and GBMI under S.C. Code. Ann. 17-24-10 & 20 below:

It is a defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong. This section codified the common-law defense of insanity. State v. Grimes, 292 S.C. 204, 355 S.E.2d 538 (1987).

A defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong as defined in Section 17-24-10 (A), but because of mental disease or defect he lacked sufficient to conform his conduct to the requirements of the law.

In the case at bar, counsel failed to schedule a competency examination for petitioner. Furthermore, counsel failed to interview the mental health experts who treated petitioner during his confinements at various mental health facilities and obtain those mental health records in order to perfect a mental illness defense. The issue of the impact of petitioner's mental health as it related to the case via a mental health defense, and/or whether petitioner was mentally competent to stand trial and/or assist in his defense did not receive legal investigation by counsel in the case. Counsel's failure to do so constituted error and thus deficient legal representation. Note that petitioner not only possessed suicidal ideations, but attempted to carry out several suicide attempts prior to the incident in question and during the incident in question as well. It was beyond obvious that petitioner was suffering from some form of mental illness (depression was mentioned) that warranted further investigation regarding his mental health.

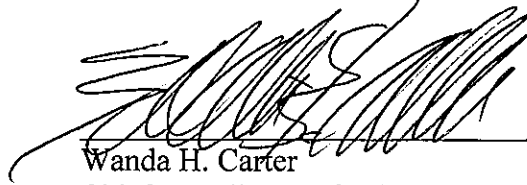
Counsel has a duty to make reasonable investigations into cases. Walker v. State, 407 S.C. 400, 756 S.E.2d 144 (2014) and Bagwell v. State, 410 S.C. 259, 763 S.E.2d 630 (2014), citing to Strickland v. Washington, 466 U.S. 668 (1984). In Walker, the Court held that trial counsel erred

in failing to investigate into and interview the defendant's girlfriend who would have been an alibi witness in the case. Walker was convicted of first degree criminal sexual conduct at his trial. In Bagwell, trial counsel was found ineffective in failing to investigate into forensic DNA evidence in order to prove that none of the blood found at the crime scene matched Bagwell's DNA. Bagwell was convicted of burglary at his trial. See Dover v. State, 337 S.C. 298, 523 S.E.2d 459 (2000), where trial counsel erred in failing to investigate into the existence of hospitalization records establishing the victim's commitments for depression, substance abuse, and suicide threats that would have supported the defendant's defense that the victim committed suicide on the night the state alleged he killed the victim. See also Cobbs v. State, 305 S.C. 299, 408 S.E.2d 223 (1991), where trial counsel was found ineffective in failing to uncover the fact that the prosecutrix no longer desired to prosecute the defendant on the two-year-old forgery charges levied against him. Compare Pauling v. State, 331 S.C. 606, 503 S.E.2d 468 (1998), where the Court held that counsel was ineffective in failing to call a triage nurse who would have testified that the prosecutrix denied that penetration occurred in the state's criminal sexual conduct case where the only evidence of sexual battery was the prosecutrix's accusation, and where the doctor's testimony was that the prosecutrix had no pelvic lesions, cuts, or tears. Additionally, in Council v. State, 380 S.C. 159, 670 S.E.2d 356 (2009), the Court found that trial counsel was ineffective in failing to adequately investigate and present mitigating evidence (defendant's mental incompetence) during the penalty phase of the trial.

In the case at bar, the PCR judge erred in ruling that trial counsel did not render ineffective legal assistance by failing to investigate into and present evidence at trial in support of a mental illness defense in the case.

CONCLUSION

Based in the argument above, counsel for petitioner would request that this Court grant the petition and allow full briefing on the above-raised issue,

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', is written over a horizontal line.

Wanda H. Carter
Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 14th day of November, 2025.