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**Dec 17 2025**

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Lexington County

Honorable Daniel McLeod Coble, Circuit Court Judge

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JAMIE S. GADSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000983

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JOHNSON PETITION FOR WRIT OF CERTIORARI

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ATTORNEY FOR PETITIONER

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**ISSUE PRESENTED**

Did multiple attorneys provide ineffective assistance of counsel regarding a favorable plea offer that ultimately was withdrawn by the State, causing petitioner to accept a less favorable offer?

## STATEMENT

Petitioner was indicted in Lexington and Richland counties on drug trafficking charges. App. 120-23. App. 13. Petitioner was originally represented by Stanley Myers on the Lexington charges, but Myers was relieved by Judge Manning. App. 4-5. Jean Popowski then represented petitioner. App. 5. Subsequently, petitioner then retained Brett Perry. App. 1. On August 18, 2022, the Honorable Debra McCaslin held a hearing regarding petitioner's charges. App. 1. Russell Parker represented the State and Brett Perry appeared for petitioner. App. 1. After a recess, petitioner then pled guilty before Judge McCaslin pursuant to a negotiated plea. App. 12-13. Judge McCaslin accepted the plea to trafficking crack cocaine, second offense, with a range of seven to fifteen years. App. 6. Judge McCaslin accepted the plea and sentenced petitioner to seven years' imprisonment. App. 19, 22. The court terminated an outstanding probation and the Richland charges were dismissed as part of the plea. App. 26. App. 17. Petitioner did not file an appeal.

On February 10, 2023, petitioner filed a PCR application and PCR counsel amended the application on February 27, 2025. App. 29. App. 47-49. On March 4, 2025, the Honorable Daniel Coble held a hearing on petitioner's PCR application. App. 50. Ashley A. McMahan represented petitioner and Donald J. Zelenka represented the State. App. 50. On May 14, 2025, Judge Coble denied petitioner's PCR application. App. 93. This petition follows.

## ARGUMENT

Multiple attorneys provided ineffective assistance of counsel regarding a favorable plea offer that ultimately was withdrawn by the State, causing petitioner to accept a less favorable offer.

Petitioner was facing a third-offense trafficking charge, but by October 12, 2021, the solicitor offered petitioner's first attorney, Stanley Myers, a plea of trafficking first offense without recommendation and dismissal of his other charges. App. 49. Solicitor Russell Parker testified at the PCR hearing that on the date of the plea, Myers appeared, but petitioner did not. App. 80. Judge Manning then relieved Myers and Jean Popowski was appointed to represent petitioner. App. 80-81.

Via email, on February 16, 2022, the State extended the same offer to Popowski. App. 49. Petitioner testified at the PCR hearing that he told Popowski that he "wanted to take that deal." App. 58. But Parker testified that petitioner again failed to appear for the plea. App. 81. The State then placed petitioner's case on the trial roster. App. 81. In Lexington, once the solicitor's office places a case on the trial roster, the policy is that all offers are withdrawn and no further offers will be extended. App. 81.

Petitioner testified at the PCR hearing that Popowski told him he needed an attorney to represent him on other charges in Richland County. App. 56. Petitioner hired Brett Perry and Perry assumed representation on both the Lexington and Richland charges. App. 56-57. Perry asked Russell to re-extend the original offer. App. 81. Russell asked a supervisor and the State then made a less generous offer to petitioner. App. 82. The new offer was for trafficking second offense. App. 82.

By this time, petitioner was in the Richland County jail. App. 84. App. 78. Perry testified that “the State simply was not going to restore that original sweetheart deal that he didn’t see fit to take. . . .” App. 64. Perry visited petitioner at the Richland jail. App. 62. The State entered into evidence at the PCR hearing a memorandum Perry prepared and had petitioner initial and sign. App. 90-92. The memorandum is dated July 27, 2022, and petitioner’s initials appear beside a paragraph stating he wished Perry to accept the State’s offer on the second offense trafficking. App. 91. The next paragraph states that the trial would be held August 22, 2022, if petitioner elected not to plead guilty. App. 91. Petitioner also initialed a paragraph stating that the State had withdrawn all previous plea offers. App. 90.

By the time of the plea hearing, things had changed. Perry had filed a motion to be relieved. App. 9. He told the judge—in front of the solicitor—that he could not “see a way to successfully defend that case.” App. 11. He further told Judge McCaslin that his relationship with petitioner had “devolved to the point that he has told me he does not want me representing him. He thinks that I have done a terrible job since I’ve gotten hired. He wants what little bit of money I’ve been paid back.” App. 11. Judge McCaslin told petitioner he was looking at getting a twenty-five year sentence if he went to trial and gave petitioner and his attorney a private place to discuss. App. 11-12.

When the recess ended, Perry told Judge McCaslin, “Mr. Gadson’s not real happy about it, but he is going to take my advice and enter a plea with the offer that’s in front of us, the 7 to 15 sentencing range.” App. 13. Judge McCaslin told petitioner he had made a wise decision and took the plea. App. 13. She sentenced petitioner to seven years’ imprisonment, terminated an existing probation, and the State agreed to dismiss his remaining charges in Lexington and Richland.

Attorneys have a duty to timely convey plea offers to their clients and perform diligently with respect to securing favorable deals offered by the State. See Davie v. State, 381 S.C. 601, 609, 675 S.E.2d 416, 420 (2009). “[W]e believe an adoption of a rule that counsel’s failure to convey a plea offer constitutes deficient performance would be consistent with the majority of other state and federal jurisdictions.” Id.

In Davie, the defendant received a twenty-seven year sentence for trafficking cocaine, third offense. Id. at 605, 675 S.E.2d at 418. Two years after he pled guilty, the defendant discovered the State offered him fifteen years. Id. Plea counsel never communicated that offer to him. Id. Plea counsel testified he did not know about the fifteen-year offer until after it expired because he was in the middle of moving offices. Id. The defendant proved prejudice both by the testimony of the parties that he would have accepted the offer and because of the drastic difference between the length of the sentence he received and the offer. Id. at 614, 675 S.E.2d at 423.

“A criminal defendant is guaranteed the right to effective assistance of counsel under the Sixth Amendment to the United States Constitution.” Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). “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).

Petitioner testified at the PCR hearing that he wanted to accept the State’s original offer. But among the three attorneys who represented petitioner, none could make that happen. The State blamed petitioner for not showing up for the hearings and the PCR court erred in accepting that reasoning. No logical reason existed why petitioner would reject the State’s initial offer only to beg

his last attorney, Perry, to try to get the offer reinstated. Perry testified that by the time he was retained, the State was no longer willing to make the same offer. Petitioner's first attorney, Myers, passed away before the PCR hearing and Popowski did not testify. Therefore, no evidence was presented that the plea offer was properly conveyed to petitioner.

Petitioner can also show prejudice. He testified he wanted to accept the offer to trafficking, first offense. As the PCR court noted, that offense carries a potential sentence of three to ten years. The three year mandatory minimum is less than half what petitioner ended up getting—seven years. The difference in Davie was the same—the ultimate sentence was approximately double the offer that plea counsel failed to convey. In Davie, the remedy was resentencing. Petitioner should receive the same remedy here. This Court should reverse the PCR court and grant petitioner resentencing.

**CONCLUSION**

For the foregoing reasons, the PCR court should be reversed and petitioner granted resentencing.



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David Alexander  
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR PETITIONER

This 17th day of December 2025.

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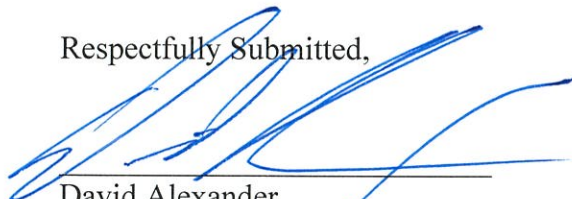
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PETITION TO BE RELIEVED AS COUNSEL  
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Counsel for Jamie Gadson states:

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 Daniel McLeod Coble, which was held on March 4, 2025, 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 Jamie Gadson.

Respectfully Submitted,



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

ATTORNEY FOR PETITIONER

This 17th day of December 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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This 17th day of December 2025.