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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Saluda County

Honorable David P Caraker, Jr, Circuit Court Judge

ROBERT GOODWIN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001125

JOHNSON PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

Did the post-conviction relief court err by finding trial counsel was not ineffective when counsel failed to notify Petitioner's family, including his mother and brother, of the date of Petitioner's guilty plea, so Petitioner's family could speak in mitigation during the sentencing proceeding since there is a reasonable probability Petitioner would have received a lesser sentence if Petitioner's mother and brother would have spoken and asked for leniency?

STATEMENT OF THE CASE

Abin Lee Lowman, Petitioner's nephew, schemed to rob Danny and Linda Tidwell, who owned several jewelry stores in South Carolina, including one in downtown Johnston. Lowman allegedly recruited Petitioner, James Wilson, and Joshua Darien, who all lived in Maryland, to help with the robbery.¹ The four sat outside the jewelry store in Johnston and followed the Tidwells home to learn where they lived. They supposedly tracked the Tidwells' movements and attempted to learn their routine for roughly a week. On March 5, 2017, the four drove to Spartanburg to purchase a pistol. On March 6, 2017, they bought ammunition and dark clothing from Walmart. Finally, on March 7, 2017, Lowman and Petitioner allegedly dropped Wilson and Darien off in the wooded area behind the Tidwells' home while the Tidwells were still at work. Wilson and Darien approached the home and pried open a window. They then retreated to the woods and waited until nightfall. At some point, Petitioner allegedly joined Wilson and Darien. The state claimed Petitioner stole a .380 pistol from the Tidwells' GMC Yukon parked outside the residence. App. 8, l. 1 – 12, l. 2.

During the early morning hours of March 8, 2017, after Mr. and Mrs. Tidwell had turned off the lights and gone to bed, Petitioner, Wilson, and Darien allegedly entered the Tidwells' home through the window they had previously pried open. The three screamed ATF and got the Tidwells out of bed. They separated Mr. and Mrs. Tidwell and tied them up with tie strips. They allegedly stole four thousand dollars in cash and well over one hundred thousand dollars' worth of jewelry from the house. They also obtained the keys to the jewelry store in Johnston. Lowman, who was waiting on the Tidwells' back porch, took the keys and drove to the jewelry

¹ Lowman is the son of Petitioner's older half-sister. App. 72, l. 10; App. 77, ll. 18-19. Even though Petitioner is Lowman's uncle, Lowman is roughly ten years older than Petitioner. At the time of the crime, Lowman was about thirty-eight years old, Petitioner was about twenty-eight years old, Wilson was twenty-two years old, and Darien was eighteen years old. App. 12, ll. 2-8.

store. However, he was apprehended by police before he was able to enter the store. Meanwhile, Petitioner, Wilson, and Darien allegedly stole the Tidwells' GMC Yukon and drove to Aiken. The three eventually split up and made their way back to Maryland before they were ultimately arrested. App. 11, l. 11 – 18, l. 19.

Wilson and Darien cooperated with law enforcement and testified against Lowman at his jury trial. Lowman was convicted and sentenced to life without parole. App. 8, ll. 1-6; App. 18, l. 21 – 19, l. 10.

A Saluda County grand jury indicted Petitioner on October 31, 2017, for first degree burglary, criminal conspiracy, impersonating a law enforcement officer, grand larceny, armed robbery, and two counts of kidnapping. App. 117-130. The state served Petitioner with notice of its intent to seek a sentence of life without parole pursuant to S.C. Code Ann. § 17-25-45. On August 8, 2018, Petitioner pled guilty before the Honorable Eugene C. Griffith, Jr., to first degree burglary, criminal conspiracy, armed robbery, and two counts of kidnapping. App. 1. In exchange for Petitioner's guilty plea, the state withdrew the notice of its intent to seek a sentence of life without parole and dismissed the indictments for impersonating a law enforcement officer and grand larceny. Circuit Solicitor Rick Hubbard represented the state. Andrew Farley represented Petitioner. App. 1. Judge Griffith sentenced Petitioner to forty-five years for burglary, thirty years for armed robbery and each count of kidnapping, and five years for conspiracy. All sentences were ordered to be served concurrently. App. 31, ll. 4-11.

On December 17, 2018, Petitioner filed an application for post-conviction relief (PCR). App. 33-39. The state filed a return to this application dated February 26, 2019. App. 40-47. With the assistance of counsel, Petitioner filed an amended application on February 23, 2024, raising the claim argued in this petition. App. 48-49. An evidentiary hearing was held on August

27, 2024, before the Honorable David P. Caraker, Jr. App. 50. Senior Deputy Attorney General Donald Zelenka represented the state. Ashley McMahan represented Petitioner. App. 51.

Petitioner testified at the hearing that he only met with trial counsel twice, first at the courthouse before his bond hearing and then again at the courthouse before his guilty plea. Each meeting only lasted about five to ten minutes. Petitioner explained that he did not speak with trial counsel “enough to even consider going to trial with him.” Petitioner did not know trial counsel and trial counsel did not know Petitioner. Petitioner “felt forced” to plead guilty because counsel never came up with “a game plan for trial.” App. 56, l. 14 – 60, l. 12.

Petitioner testified that trial counsel did not notify Petitioner’s family about his guilty plea. Nobody contacted Petitioner’s family on his behalf before the plea. His family did not learn that Petitioner had pled guilty until after the fact. App. 60, l. 13 – 61, l. 1.

Michelle Hinton, Petitioner’s mother, testified that she was not notified about Petitioner’s guilty plea. If she would have known about the plea, she would have come to court and spoken on Petitioner’s behalf. Hinton testified that she would have told the sentencing court that Petitioner was “raised in a good Christian family” and that he was not a “problem child.” Petitioner was “loving and caring” and always helped with “snow removal” and mowing the lawn. Before his arrest, Petitioner worked for UPS “so he was doing things with his life.” Hinton explained that Abin Lowman, Petitioner’s nephew, “has been trouble throughout his life” and she tried to warn Petitioner to stay away from Lowman. She suggested that it was Lowman’s negative influence that led Petitioner to commit this crime because Petitioner “would’ve never done anything like this.” App. 71, l. 23 – 75, l. 3.

Antonio Goodwin, Petitioner’s older brother, testified that he was not notified of the date of Petitioner’s guilty plea. If Goodwin had been aware of the plea, he would have come to court

and spoken on Petitioner's behalf. Goodwin would have told the sentencing court that Petitioner is "a very, very good person" and "very intelligent." He would have explained that their mother raised them to be good people, but that their father was not involved in their lives and was not around to teach them "what a man was supposed to be, to teach us to provide, to teach us what we were supposed to do as young men." Like his mother, Goodwin suggested that it was Lowman's negative influence that led Petitioner to commit this crime because Lowman was "problematic" and "a very negative person." Lastly, Goodwin would have told the sentencing court that Petitioner was a "very loving person" with a "good heart" and asked the court to "be lenient on him." App. 75, l. 24 – 79, l. 20.

Andrew Farley, Petitioner's trial counsel, testified that he was appointed to represent Petitioner pursuant to Rule 608, SCACR, on August 10, 2017. However, Farley did not meet with Petitioner until March 9, 2018, because Petitioner was in federal custody in Anderson, not Saluda County where the state charges originated. During this March meeting, Farley reviewed the discovery materials with Petitioner and discussed the strength of the state's evidence against him. Farley met with Petitioner again on July 25, 2018, after Petitioner's codefendant, Abin Lowman, had been convicted and sentenced to life without parole. By this point, Petitioner had been served with notice of the state's intent to seek a sentence of life without parole pursuant to the recidivist statute. Farley told Petitioner that James Wilson and Joshua Darien, Petitioner's other codefendants, had testified against Lowman, as well as the Tidwells, whose testimony Farley understood was "very compelling." Farley advised Petitioner during this July meeting that if he went to trial, it was "highly likely" Petitioner would also be convicted and sentenced to life without parole like Lowman. Because of this reality, Farley negotiated with the solicitor and convinced the solicitor to withdraw the state's notice of intent to seek a sentence of life without

parole if Petitioner waived his right to a jury trial and pled guilty. Pursuant to this plea bargain, Petitioner would “plead straight up to some of, but not all of, the charges.” Farley maintained that, after he relayed all this information to Petitioner, Petitioner decided he wanted to plead guilty. On August 8, 2018, the day Petitioner pled guilty, Farley met with Petitioner and Petitioner confirmed he still wished to plead guilty and signed the sentence sheets. App. 81, l. 4 – 86, l. 22.

Farley admitted that he did not make any attempt to contact Petitioner’s family to notify them of the date of Petitioner’s guilty plea. He knew Petitioner’s family lived in Maryland, but he made no effort to have them present for the plea to present evidence in mitigation during sentencing. Instead, Farley was solely focused on “trying to get the life in prison without parole off the table.” He could not recall whether Petitioner expressed any expectation that his family would be present for the plea. App. 87, l. 23 – 88, l. 12.

By order filed April 25, 2025, the PCR court denied Petitioner relief. The court found Petitioner failed to prove trial counsel was deficient for not securing his family’s presence at the guilty plea proceeding so his family could speak on Petitioner’s behalf in mitigation. Despite this finding, the court acknowledged that counsel admitted he made no attempt to have Petitioner’s family present during the hearing. “Assuming arguendo that counsel was deficient,” the court concluded Petitioner failed to prove prejudice. The court found given “the facts of the crime,” including Petitioner’s specific involvement in the planning process and his purchase of a weapon, the “added testimony from the family does not undermine confidence in the sentence” Petitioner received. App. 112-115.

Because Petitioner’s Sixth and Fourteenth Amendment rights to the effective assistance of counsel were violated by trial counsel’s failure to notify Petitioner’s family of the date of his

guilty plea proceeding so his mother and brother could speak on his behalf in mitigation during sentencing, this petition for writ of certiorari follows.

ARGUMENT

The post-conviction relief court erred by finding trial counsel was not ineffective when counsel failed to notify Petitioner's family, including his mother and brother, of the date of Petitioner's guilty plea, so Petitioner's family could speak in mitigation during the sentencing proceeding since there is a reasonable probability Petitioner would have received a lesser sentence if Petitioner's mother and brother would have spoken and asked for leniency.

Trial counsel was ineffective for failing to notify Petitioner's family of the date of Petitioner's guilty plea so Petitioner family could be present during the proceeding and speak in mitigation on Petitioner's behalf during sentencing. Petitioner was prejudiced by counsel's deficient performance because there is a reasonable probability Petitioner would have received a lesser sentence if his mother and brother would have spoken on his behalf and asked for leniency.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to the effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984). In order to show ineffective assistance of counsel as a ground for relief, Petitioner must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Id. at 686; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-688.

The United States Supreme Court has established a two pronged test to evaluate allegations of ineffective assistance of counsel. In the context of a guilty plea, a petitioner must show that counsel's performance was deficient, and "there is a reasonable probability that, but for

counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); See Jackson v. State, 342 S.C. 95, 97, 535 S.E.2d 926, 927 (2000); Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000); Wolfe v. State, 326 S.C. 158, 164, 485 S.E.2d 367, 370 (1997); Rayford v. State, 314 S.C. 46, 48, 443 S.E.2d 805, 806 (1994). This Court has held that a "defendant's undisputed testimony that he would not have pled guilty but for trial counsel's advice is sufficient to prove that defendant would not have pled guilty." Smith v. State, 369 S.C. 135, 631 S.E.2d 260 (2006) (citing Jackson v. State, 342 S.C. 95, 97-98, 535 S.E.2d 926, 927 (2000)); Alexander v. State, 303 S.C. 539, 543, 402 S.E.2d 484, 485-86 (1991)).

In Glover v. United States, 531 U.S. 198 (2001), the United States Supreme Court applied the Strickland analysis to a noncapital sentencing proceeding. Glover presented the question of whether a "showing of prejudice, in the context of a claim for ineffective assistance of counsel, requires a significant increase in a term of imprisonment." Id. at 204. The claim in Glover arose from noncapital proceedings governed by the federal sentencing guidelines. Id. at 200. The Supreme Court reversed the Seventh Circuit for "supplanting the Strickland analysis" in such a context. Id. at 203. The Court noted that the "ultimate merits of Glover's claim" would turn on the elements from Strickland: "the question of deficient performance" and the "prejudice flowing from the asserted error in sentencing." Id. at 204.

Subsequently, in Lafler v. Cooper, 566 U.S. 156 (2012), the United States Supreme Court reaffirmed its holding in Glover that the Strickland analysis applies to noncapital sentencing proceedings. In Lafler, the Court stated that prior precedent, including Glover, "established that there exists a right to counsel during sentencing in both noncapital and capital cases" and "even though sentencing does not concern the defendant's guilt or innocence, ineffective assistance of

counsel during a sentencing hearing can result in Strickland prejudice because ‘any amount of [additional] jail time has Sixth Amendment significance.’ Id. at 165 (quoting Glover, 531 U.S. at 203) (alteration in original) (additional citations omitted).

In this case, trial counsel was deficient for failing to secure the presence of Petitioner’s family at his guilty plea proceeding. If counsel would have notified Petitioner’s mother and older brother of the date of the plea, the two would have come to court and spoken on Petitioner’s behalf.


Petitioner was prejudiced by counsel’s deficient performance because there is a reasonable probability Petitioner would have received a lesser sentence if the sentencing court had heard from Petitioner’s mother and brother in mitigation. The two told the PCR court how Petitioner was a good person and how he was negatively influenced by his older nephew Lowman. They suggested that Petitioner would not have committed this crime but for Lowman’s influence. Petitioner’s brother also would have asked the sentencing court for leniency on Petitioner’s behalf. There is a strong likelihood the sentencing court would have sentenced Petitioner to a shorter period of incarceration if it had heard from these family members.

Respectfully, this Court should hold the PCR court erred by finding trial counsel was not ineffective, reverse Petitioner’s sentence, and remand for resentencing.

CONCLUSION

Based on the foregoing argument, Petitioner respectfully requests this Court grant the petition for writ of certiorari and order further briefing on the issue presented. Petitioner ultimately requests this Court reverse his sentence and remand for resentencing.

Respectfully submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 2nd day of January, 2026.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Robert Goodwin states:

1. She is an 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, which was held on August 27, 2024, before the Honorable David P Caraker, Jr., 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 Robert Goodwin.

Respectfully Submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 2nd day of January, 2026.

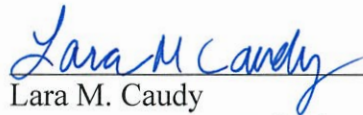
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S.C. SUPREME COURT

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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