

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Colleton County

Honorable Frank R. Addy, Circuit Court Judge

RICHARD CAMPODONICO,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001228

PETITION FOR WRIT OF CERTIORARI

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S.C. SUPREME COURT

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ISSUE PRESENTED

1. Under the reasoning of *State v. Plumer*, 439 S.C. 346, 887 S.E.2d 134 (2023), can a PCR applicant on appeal challenge his facially illegal sentence to possession of a weapon during the commission of a violent crime without raising the issue below?

STATEMENT

On October 10, 2022, before Judge Carmen Mullen, Petitioner Richard Campodonico pled guilty to several charges arising out of Colleton and Charleston Counties. App. 1, 25:7-19. He was represented by Lyndsay Luthringer on the Charleston County charge, and Dave Mathews represented him on the Colleton County charges. App. 1. Tameaka Leggette represented the state. App. 1. From Charleston County, Petitioner pled guilty to first-degree burglary, and the plea court imposed a negotiated sentence of life without parole. App. 4:14-19, 31:5-9. From Colleton County, he received two life sentences for murder and first-degree burglary, a thirty-year sentence for armed robbery, and a five-year sentence for possessing a weapon during the commission of a violent crime. App. 31:10-24. All of the sentences run concurrently. App. 31:24-25. Petitioner did not appeal.

Petitioner filed an application for post-conviction relief. App. 1. In it he sought a belated appeal, asserted his indictments were invalid and the plea court lacked subject matter jurisdiction, and that plea counsel were ineffective by failing to negotiate and investigate properly. App. 57-59,64. The state, represented by Danielle Dixon, filed a return on September 25, 2024. App. 63, 67. Petitioner filed an amended application on April 3, 2025. App. 69. In it he alleged trial counsel was ineffective for several reasons and that the plea was invalid for several reasons. App. 69.

Judge Addy held an evidentiary hearing on the application on April 15, 2025. App. 72. Petitioner was represented by Chelsey Marto, and Kylee Kanealey represented the state. App. 72. Ultimately, Judge Addy issued a Form 4 order denying the application. App. 102-03. In the order the PCR court noted,

Although not raised at the hearing or in his Application, the Court notes that Mr. Campodonico received a 5 year concurrent

sentence on the weapons charge while also receiving life on the murder conviction. Under 16-23-490(A), if a life sentence is imposed, the 5 year sentence should not be imposed on the weapons offense. This Court will leave to the appellate courts as to how to address this issue since it was not raised at the hearing.

App. 103.

This petition for a writ of certiorari follows.

ARGUMENT

I. Petitioner's sentence for possession of a weapon during the commission of a violent crime should be vacated because it is manifestly unlawful.

The PCR court correctly determined Petitioner's five-year sentence for the weapons charge is unlawful. Subsection 16-23-490(A) of the South Carolina Code imposes an additional five-year term for anyone who possesses a firearm during the commission of a violent crime. It also expressly provides the additional sentence "does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime." S.C. Code Ann. § 16-23-490. Here, Petitioner was charged under section 16-23-490 for possession of a firearm "during the commission of a violent crime, to wit: murder" App. 47. Because he received a life sentence on the murder charge, the additional five-year sentence for the weapons charge is illegal under the statute.


In *State v. Plumer*, 439 S.C. 346, 887 S.E.2d 134 (2023), the Court held a defendant can challenge his sentence under subsection 16-23-490(A) on direct appeal even if he did not challenge it below, assuming the state concedes to its illegality. 439 S.C. at 350-51, 887 S.E.2d at 137. "[W]hen a trial court imposes what the State concedes is an illegal sentence, the appellate court may correct that sentence on direct appeal or remand the issue to the trial court even if the defendant did not object to the sentence at trial and even if there is no real threat of incarceration beyond the limits of a legal sentence." *Plumer*, 439 S.C. at 351, 887 S.E.2d at 137.

Of course, *Plumer* considered the issue on direct appeal, while here the sentencing issue was not raised below in the PCR application or at the hearing, except by the court in its order denying relief. This distinction should not matter. The Court's rationale in *Plumer* was that "it is inefficient and a waste of judicial resources to delay the inevitable by requiring the appellant to file a post-conviction relief action *or petition for a writ of habeas corpus*." *Id.* (emphasis

added). The same rationale should extend here. Petitioner's additional sentence is indisputably unlawful. It is a waste of resources to require him to seek habeas relief—as the Court in *Plumer* recognized—before his sentence will be set aside.

CONCLUSION

Based on the foregoing, Petitioner requests this Court vacate his sentence under subsection 16-23-490(A).



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ATTORNEY FOR PETITIONER

This 7th day of January, 2026.