

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Edgefield County

Honorable Eugene C. Griffith, Circuit Court Judge

JODY RAY JONES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001394

JOHNSON PETITION FOR WRIT OF CERTIORARI

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Jan 15 2026

S.C. SUPREME COURT

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ISSUE PRESENTED

Whether the PCR court erred as a matter of law in failing to apply the appropriate legal framework to resolve admitted prosecutorial misconduct that impact the free and voluntary nature of a guilty plea?

STATEMENT

Petitioner was indicted by an Edgefield grand jury on March 25, 2015, for the murder of Patricia Love which occurred on January 11, 2015. App. 44-45. Petitioner originally pled guilty to voluntary manslaughter on April 10, 2017, before the Honorable Eugene C. Griffith, Jr., in Lexington County. App. 1. At the plea hearing, Bennett E. Casto appeared on behalf of petitioner and Solicitor Samuel R. Hubbard, III, appeared on behalf of the state. App. 1. The change in venue for the plea was arranged by solicitor Hubbard. App. 42-43. Judge Griffith sentenced petitioner to twenty-two and a half years incarceration. App. 46.

Petitioner filed an application for post-conviction relief on January 21, 2020. App. 47 – 53. Petitioner’s filing was based upon disclosure of misconduct allegations within the 11th Circuit Solicitor’s office by an assistant solicitor within that office, Ervin Maye. App. 78, l. 2 – 79, l. 15. This disclosure was originally made to Robert Madsen of the 11th Circuit Public Defender’s Office by Maye, with Madsen preparing a typed application for PCR which he delivered in person to petitioner to discuss the allegations and the option to file for relief based upon the misconduct. App. 78, l. 2 – 79, l. 15. Maye’s allegations centered on *ex parte* communications with Judge Griffith before the plea hearing and witness intimidation by the 11th Circuit office who took over the case from Maye following Solicitor Hubbard taking office. App. 79, l. 16 – 80, l. 4.

The state moved to dismiss the application based upon the statute of limitations. A hearing on the motion to dismiss was held before the Honorable Donald B. Hocker on August 30, 2021. App. 68. Ashley A. McMahan represented petitioner and both Taylor Z. Smith and Lillian L. Meadows appeared on behalf of the state. App. 68. Prior to this hearing, Mr. Maye passed away. App. 90, ll. 5 – 15. Judge Hocker found the newly discovered allegations of

misconduct justified the delayed filing and ordered an evidentiary hearing into the merits of the allegations. App. 94.

An evidentiary hearing on the allegations of misconduct by the 11th Circuit Solicitor's office was held on April 4, 2023, before the Honorable Kristi Curtis. App. 96. Ms. McMahan continued representation of petitioner and Smith appeared again on behalf of the state. App. 97. Judge Curtis denied relief by written order dated June 27, 2025. App. 155.

During the evidentiary hearing, petitioner called three witnesses who relayed information regarding the handling of petitioner's file and the Maye allegations. Due to Maye's passing, petitioner was unable to provide the PCR court with his direct testimony. However, the state's own witnesses confirmed key aspects of the misconduct allegations, Solicitor Hubbard did arrange the guilty plea specifically before Judge Griffith in an *ex parte* fashion.¹ Following a dispute within the office, Solicitor Hubbard reassigned petitioner's case from Maye's caseload and sent prosecution agents out of state to interview witnesses. 103, l. 1 – 104, l. 24. Following this change and additional investigatory work, the solicitor's office met directly with petitioner and his counsel to present the new witness testimony and put forth the evidence gathered against petitioner. App. 114, l. 9 – 115, l. 15. Just before petitioner's original guilty plea, Solicitor Hubbard terminated Maye from employment. App. 146, ll. 2 – 25.

This petition for certiorari follows.

¹ Solicitor Hubbard testified under oath this contact was limited to verifying Judge Griffith's willingness to hear the guilty plea and scheduling. App. 142 – 143.

ARGUMENT

The PCR court erred as a matter of law in failing to apply the appropriate legal framework to resolve admitted prosecutorial misconduct that impact the free and voluntary nature of a guilty plea.

Allegations from within the solicitor's own office of official misconduct raise significant concerns over the administration of justice. "Deliberate prosecutorial misconduct raises an irrebuttable presumption of prejudice." State v. Quattlebaum, 338 S.C. 441, 448, 527 S.E.2d 105, 109 (2000). In the present matter, the PCR court erred in failing to focus on the impact of the allegations of misconduct of the solicitor's office on the administration of justice. Rather than note the deliberate nature of the alleged misconduct, the PCR court focused on whether the original guilty plea was free and voluntary. App. 171 – 179.

In the unique setting of this case, when an employee of the solicitor's office makes allegations of misconduct that occurred during his employment, such allegations should be deemed as admissions under Rule 801 (d)(2)(D) as a "statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship." During the evidentiary hearing, Solicitor Hubbard acknowledged some of Maye's allegations of misconduct surfaced just as he terminated Maye's employment:

Q. You said that Mr. Ervin -- Mr. Maye had reported you, is that related to Mr. Jones' case?

A. No, it was -- it was another case with Judge Griffith that he said I tried to ex parte him on that too. And interestingly enough, this April 3rd is the day I pull him initially to fire him. You know, this plea goes down April 10th. It was like a week after that, after all of this that Ervin comes into my office and does the taping. And --

Q. It was between the initial attempt at firing and the actual firing?

A. Yes. But it was in April.

Q. I mean there is case law that says that you can't record a conversation (inaudible).

A. Right, that's correct. You have to notice the other --

Q. All parties have to agree (inaudible).

A. Right. And we were convinced he was wearing a wire. He was good friends with some folks in narcotics in Edgefield, that was part of the issue I was having out there. Basically trying to change the regime out there.

They have a new sheriff now. We have a new one in Saluda. I campaigned against the old sheriff. It was about cleaning house.

App. 146, ll. 2 – 25.

In essence, the 11th Circuit Solicitor's office, through its agent Ervin Maye, admitted that it improperly contacted Judge Griffith in an *ex parte* manner related to petitioner's guilty plea and improperly intimidated and threatened witnesses to testify against petitioner:

A. No, [Maye] -- well, he basically said that Solicitor Hubbard had -- had *ex parte*'d with Judge Griffith about -- and that -- it said that he was kind of bragging that he was going to have Mr. Casto bring Mr. Jones to Lexington to plead in front of Judge Griffith, as compared to being in front of, *I think it was Brooks Goldsmith, who Mr. Maye said was one of the easiest sentencing judges in the state, and that he was going to get him to come up to Lexington.*

Other than that, *the witness intimidation*, which he didn't say any particular witnesses or any coercion, he didn't -- he didn't give me any names and I didn't ask.

App. 120, ll. 1 – 12 (emphasis added).

In the case of newly discovered evidence, such as the admission of misconduct by the solicitor's office in the present case, a PCR court should order a new trial from a guilty plea when "(1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea;

and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the “interest of justice” requires the applicant's guilty plea to be vacated.” Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014). Here, there are two acts of prosecutorial misconduct the 11th Circuit has acknowledged through the admission of their agent. A prosecutor may not improperly intimidate or coerce witness testimony. *See State v. Inman*, 395 S.C. 539, 720 S.E.2d 31 (2011). A solicitor is likewise prohibited from *ex parte* communications with a trial judge in order to select his favored judge to hear a guilty plea:

A lawyer shall not:

- (a) seek to influence a judge, juror, member of the jury venire or other official by means prohibited by law;
- (b) communicate *ex parte* with such a person during the proceeding unless authorized to do so by law or court order;

Rule 407, SCACR.

“Prosecutors are ministers of justice and not merely advocates. *See* Rule 3.8, cmt., Rules of Professional Conduct. A prosecutor has special responsibilities to do justice and is held to the highest standards of professional ethics.” State v. Quattlebaum, 338 S.C. 441, 449, 527 S.E.2d 105, 109 (2000). Here, petitioner has established both factors outlined in Jamison that dictate a new trial is warranted. The admissions of misconduct were only discovered by petitioner after the guilty plea had been entered, a fact not in dispute before the PCR court. The admitted allegations of misconduct are of “such a weight and quality that, under the facts and circumstances of [this] particular case, the ‘interest of justice’ requires the applicant's guilty plea to be vacated.” Jamison, 410 S.C. at 470, 765 S.E.2d at 130.

CONCLUSION

Since the PCR court erred in failing to acknowledge the impact of the admission of the solicitor's office, by its agent, of misconduct, this Court should grant review and vacate petitioner's guilty plea and remand this matter for a new trial.



Gary H. Johnson
Appellate Defender
SC Bar #8898

ATTORNEY FOR PETITIONER

This 15th day of January, 2026.

STATE OF SOUTH CAROLINA

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Honorable Eugene C. Griffith, Circuit Court Judge

JODY RAY JONES,

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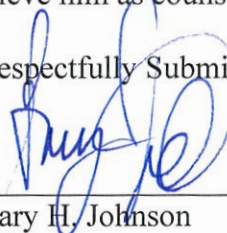
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jody Jones states:

1. He is Appellate Defender 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 , which was held on August 30, 2021, 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 Jody Jones.

Respectfully Submitted,



Gary H. Johnson
Appellate Defender
SC Bar #8898

This 15th day of January, 2026.

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S.C. SUPREME COURT

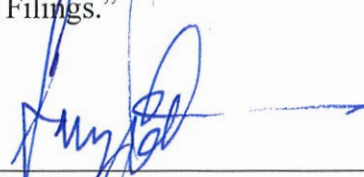
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CERTIFICATE OF COUNSEL

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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