

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

—————  
Certiorari to Lexington County

Honorable Daniel McLeod Coble, Circuit Court Judge  
—————

JAMES LEE MCCOY, II,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001130  
—————

JOHNSON PETITION FOR WRIT OF CERTIORARI  
—————

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Appellate Defender

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ATTORNEY FOR PETITIONER

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**Jan 23 2026**

S.C. SUPREME COURT

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**ISSUE PRESENTED**

Did the post-conviction relief court err ruling Petitioner's guilty plea was voluntary where Petitioner testified he was coerced by defense counsel to plead guilty and where state's exhibit 1, letter from defense counsel, indicated Petitioner wanted to go forward with a trial the day prior to his guilty plea hearing?

## STATEMENT OF THE CASE

In January 2020, a Lexington County grand jury indicted Petitioner for armed robbery and carjacking. App. 152-153; 155-156. On February 12, 2020, Petitioner pled guilty to attempted armed robbery and carjacking before the Honorable William P. Keesely. App. 1-30. Jake Moore represented Petitioner. App. 1. Rhonda Patterson prosecuted for the state. App. 1.

Judge Keesely sentenced petitioner to concurrent terms of fifteen years' imprisonment. App. 30, ll. 4-5; 154; 157. On February 17, 2020, defense counsel made a motion to reconsider Petitioner's sentence, requesting the court reevaluate mitigation presented during the guilty plea hearing. App. 32. Three years later, the court denied Petitioner's motion to reconsider his sentence. App. 33.

Petitioner filed an application for post-conviction relief (PCR). App. 34-48. On March 4, 2025, an evidentiary hearing was held before the Honorable Daniel Coble. App. 63-100. Ashley McMahan represented Petitioner. App. 63. Donald Zelenka was present on behalf of the state. App. 63.

On May 5, 2025, Judge Coble signed an order denying PCR. App. 106-151. The PCR court found Petitioner's allegation that his guilty plea was involuntary where defense counsel coerced him to plead guilty was without merit. App. 132. The PCR court found credible counsel's testimony that Petitioner never communicated to him he wanted a trial. App. 136. The court further found Petitioner failed to show his guilty plea was coerced by counsel's advice and that the record reflected Petitioner entered his guilty plea knowingly and voluntarily. App. 136. Lastly, the court found Petitioner did not show but for counsel's errors he would have gone to trial and not pleaded guilty. App. 137.

This petition follows.

## ARGUMENT

The post-conviction relief court erred ruling Petitioner's guilty plea was voluntary where Petitioner testified he was coerced by defense counsel to plead guilty and where state's exhibit 1, letter from defense counsel, indicated Petitioner wanted to go forward with a trial the day prior to his guilty plea hearing.

### **Relevant facts**

At Petitioner's guilty plea hearing the state alleged the following facts. On May 5, 2019, Petitioner forced his way in the hotel room of Angel Valdes and robbed her at gun point stealing cash. App. 7, l. 18—8, l. 9. Subsequently, Petitioner approached James Peters at a gas station and at gun point demanded Peters get out of his vehicle. App. 8, l. 24—9, l. 8. Petitioner was detained and taken to the hospital for medical observation because he was on drugs. App. 10, ll. 10-22. In exchange for Petitioner's guilty plea to attempted armed robbery and carjacking the state dismissed charges of kidnapping, two counts of possession of a weapon during the commission of a violent crime, and assault and battery first degree. App. 10, l. 23—11, l. 6.

During the guilty plea Petitioner answered “[n]o, sir,” when the court asked if he was threatened or coerced to plead guilty. App. 12, ll. 10-13. Petitioner admitted guilt to the charges and the court accepted his guilty plea as “free, knowing, voluntary, and intelligent.” App. 17, ll. 6-13.

Prior to sentencing, defense counsel put the following on the record, “[t]here is a substantial factual basis for the plea to carjacking. I will say that we do dispute - - we agree that we said what the state alleges we said. We do dispute there was a gun used in the carjacking.” App. 28, ll. 19-23.

At the evidentiary hearing for PCR, Petitioner testified, “I wanted a trial [the] whole

time.” App. 70, l. 8. Petitioner first saw the indictments in his case on the same day he was convinced to take a guilty plea. App. 82, ll. 19-25. During their final meeting defense counsel insisted they were going to court. App. 80, ll. 17-21. On that day Petitioner was persuaded that, if he pled guilty, he would likely receive probation and go home so he changed his mind at the last minute and pled guilty. App. 83, ll. 2-8. Petitioner testified that, had he seen all the discovery in his case, he would have gone to trial and not taken the guilty plea. App. 75, ll. 7-10.

Regarding Petitioner’s decision to plead guilty, defense counsel testified that it was upsetting to find out that Petitioner wanted a trial “because obviously I have failed the man in a certain degree.” App. 88, ll. 6-8. He went on to say Petitioner never expressed to him that he wanted to go to trial. App. 88, ll. 8-10. During counsel’s testimony state’s exhibit 1, letter, was admitted and a portion of it was read into the record. 91, l. 7-11. The letter was dated February 11, 2020, from defense counsel to Petitioner. App. 102-103. The bottom portion of the letter was not read into the record and indicated Petitioner did not want to plead guilty but wanted to go to trial. State’s exhibit 1, letter; App. 102.

## **Discussion**

Petitioner’s guilty plea was not entered voluntarily where he testified he was coerced and where the state’s own evidence, exhibit 1, letter from counsel to Petitioner, demonstrated that Petitioner wanted to go forward with trial.

“A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial.” *Rolen v. State*, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009).

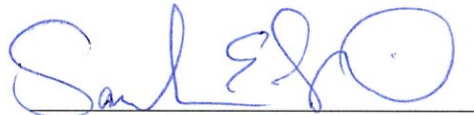
“In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing.” *Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007). “Specifically, the voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone but is determined from both the record made at the time of the entry of the guilty plea, and also from the record of the PCR hearing.” *Roddy v. State*, 339 S.C. 29, 33, 528 S.E.2d 418, 420 (2000). “The longstanding test for determining the validity of a guilty plea is ‘whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.’” *Hill v. Lockhart*, 474 U.S. 52, (1985) (quoting *North Carolina v. Alford*, 400 U.S. 25 (1970)).

The PCR court found credible and persuasive defense counsel’s testimony that “[Petitioner] never communicated to [him] that he wanted a trial.” App. 136. However, the letter sent by counsel to Petitioner the day before he ultimately pled guilty does not support counsel’s testimony. The letter, dated February 11, 2020, was written to document the in-person conversation they had the prior day. The letter reads, “I have gone over with you the dangers of trial. I have gone over our strengths and weaknesses. **Today, you seemed fairly certain you did not want to take advantage of the plea offer.**” App. 102 emphasis added.

This letter and Petitioner’s testimony both indicate Petitioner strongly wished to go to trial. However, Petitioner was convinced by counsel that he would receive a probationary sentence and was thus coerced to plead guilty. But for counsel’s advice Petitioner would have proceeded to trial.

**CONCLUSION**

By reason of the foregoing argument, a writ of certiorari should be issued to allow full briefing on this issue.



Sarah E. Shipe  
Appellate Defender

ATTORNEY FOR PETITIONER

This 23rd day of January, 2026.

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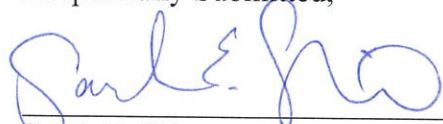
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PETITION TO BE RELIEVED AS COUNSEL  
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Counsel for James Lee McCoy states:

1. She is 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 before Judge Daniel McLeod Coble, which was held on March 4, 2025, 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 James Lee McCoy.

Respectfully Submitted,



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Sarah E. Shipe  
Appellate Defender

ATTORNEY FOR PETITIONER

This 23rd day of January, 2026.

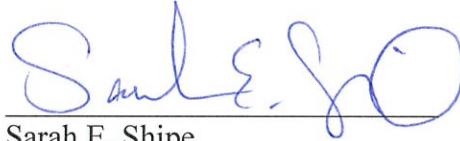
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CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

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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