

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**  
**Mar 02 2026**  
S.C. SUPREME COURT

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Certiorari to Laurens County

Honorable J. Derham Cole, Circuit Court Judge

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PAMELA MICHELLE TACKETT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001274

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JOHNSON PETITION FOR WRIT OF CERTIORARI

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DAVID ALEXANDER  
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR PETITIONER

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**ISSUE PRESENTED**

Did trial counsel provide constitutionally ineffective assistance by failing to explain the advantages of pleading guilty and failing to pursue a plea offer from the State?

## STATEMENT

Petitioner Pamela Tackett was indicted in Laurens County for felony DUI with death resulting, felony DUI with great bodily injury, and child endangerment. App. 842. Petitioner's first trial resulted in a hung jury. App. 820. Petitioner's second trial began on July 15, 2019, before the Honorable Roger L. Couch and a jury. App. 1. O. Warren Mowry, Jr. and R. Knox McMahon represented the State. App. 1. David Stoddard represented petitioner. App. 1. The jury convicted petitioner. App. 763. Judge Couch sentenced petitioner to seven years' imprisonment for child endangerment and felony DUI with great bodily injury and fifteen years' imprisonment for felony DUI with death resulting. App. 780. Judge Couch ordered the sentences to run concurrently. App. 780. The court also imposed fines totaling \$15,000.00. App. 763. The Court of Appeals affirmed petitioner's convictions on March 2, 2022. App. 843. State v. Tackett, Op. No. 2022-UP-084 (S.C. Ct. App. filed Mar. 2, 2022).

On April 18, 2022, petitioner filed a PCR application which was amended on August 22, 2024, by counsel. App. 792. App. 809. On August 19, 2024, the Honorable J. Derham Cole held a hearing on petitioner's application. App. 811. Ashley A. McMahan represented petitioner and Zachary Jones represented the State. App. 811. On June 10, 2025, Judge Cole denied relief. App. 842. This petition follows.

## ARGUMENT

Trial counsel provided constitutionally ineffective assistance by failing to explain the advantages of pleading guilty and failing to pursue a plea offer from the State.

Petitioner was involved in a tragic automobile accident on Interstate 385 in Laurens County on March 28, 2018, in which one worker for a fence company was seriously injured and another worker was killed. App. 370-71. App. 149-50. Petitioner was taking prescription medications as directed by her physician. App. 555-59. She took Klonopin, Wellbutrin, and Effexor in the mornings for depression and anxiety. App. 555-59. In the evenings, she took Gabapentin and Geodon. App. 555-59. She had been on these medications for years and had no problems driving during this time. App. 555-59. Petitioner also suffered from migraines and smoked marijuana at night for relief. App. 555-59.

The State had three witnesses who gave statements on video. App. 838-39. Trial counsel testified at the PCR hearing that he did not get these videos “until pretty late before the trial.” App. 838-39. All three testified as the State’s first witnesses at the trial and trial counsel felt their testimony was “pretty devastating.” App. 828.

Diane Conte, a state employee traveling northbound on I-385, observed petitioner’s vehicle traveling at variable speeds, swerving across both lanes of travel. App. 67-72. Conte testified that the vehicle’s erratic driving forced her to pull onto the shoulder to avoid a collision. App. 71-72. She saw petitioner’s car hit the workers who were in the median. App. 74. Ireneusz Glodz, a tourist from Chicago traveling with his wife, witnessed petitioner’s vehicle tailgating, rapidly changing speeds, and weaving between lanes. App. 89-91. He also saw the crash. App. 91. Another witness saw the crash from the opposite direction and saw one of the

workers fly through the air after being hit in the crash. App. 108-12. She stopped and rendered aid. App. 112.

Trial counsel said there were no serious considerations of pleading guilty before the trial App. 828-31. He believed petitioner had a viable defense because the prescription medications were within therapeutic levels. App. 828-31. He advised petitioner not to plead guilty. App. 828. The first plea offer received from the State was during the trial after the testimony of the three disinterested witnesses. App. 828-31. The State offered a plea with a recommendation of eighteen years after the trial judge said in chambers he did not “see how a jury could find her not guilty. App. 829. App. 831.

Petitioner testified at PCR that no plea was offered to her knowledge. App. 817. Trial counsel had no discussion with her about trying to get an offer from the State. App. 817. He did not explain the different types of pleas available that could have been pursued. App. 817-18. App. 820. The PCR court found petitioner testified inconsistently and that she suffered no prejudice because her sentence was less than the eighteen years offered by the State. App. 846-47.

The PCR court erred in denying relief because trial counsel performed deficiently by not pursuing a plea deal until after the State’s strongest witnesses had already testified. “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). Counsel has a duty to conduct an independent investigation. Wiggins v. Smith, 539 U.S. 510, 521-22 (2003).

Trial counsel here admitted that he did not get the video statements of the three independent witnesses until right before trial. Had he gotten them earlier and reviewed them, he would have been able to accurately assess the strength of the State's case. He could have advised petitioner that the testimony of three motorists with no connection to either the State or the workers would be highly credible before a jury. The PCR court erred in assessing prejudice based on the sentence petitioner received versus what could have been accomplished by a thorough review of the evidence long before trial.

After the motorists testified, the State had zero incentive to make a reasonable offer. It had prepared the case and the evidence had already gone very well. The time to pursue plea negotiations was well before the State's witnesses hammered petitioner's defense at trial. Petitioner could not have made a knowing and voluntary decision between trial and a plea because of this failure. This Court should grant certiorari and reverse.

**CONCLUSION**

For the foregoing reasons, this Court should grant certiorari and reverse the decision of the PCR court.



David Alexander  
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR PETITIONER

This 2nd day of March, 2026.

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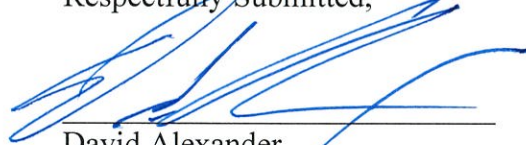
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PETITION TO BE RELIEVED AS COUNSEL  
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Counsel for Pamela Michelle Tackett states:

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 J. Derham Cole, which was held on August 19, 2024, 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 Pamela Michelle Tackett.

Respectfully Submitted,



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David Alexander  
Deputy Chief Attorney for Capital Appeals

ATTORNEY FOR PETITIONER

This 2nd day of March, 2026.

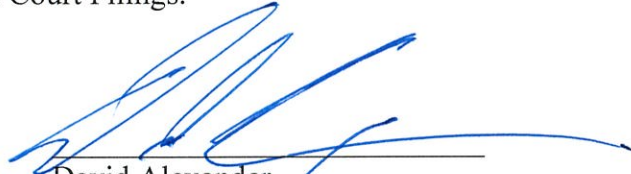
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CERTIFICATE OF COUNSEL

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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