

RECEIVED

Mar 23 2026

STATE OF SOUTH CAROLINA

S.C. SUPREME COURT

IN THE SUPREME COURT

Certiorari to Aiken County

Honorable Debra R. McCaslin, Circuit Court Judge

JASPER JEFFERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001626

JOHNSON PETITION FOR WRIT OF CERTIORARI

JOANNA K. DELANY
Appellate Defender

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

ATTORNEY FOR PETITIONER

INDEX

INDEX i

ISSUE PRESENTED.....1

STATEMENT2

ARGUMENT5

CONCLUSION.....8

PETITION TO BE RELIEVED AS COUNSEL9

ISSUE PRESENTED

Whether the court erred in denying post-conviction relief where counsel's failure to proceed on a motion to suppress effectively coerced Petitioner into pleading guilty, where law enforcement improperly prolonged the traffic stop to perform a dog sniff absent reasonable suspicion, since counsel's deficient performance resulted in Petitioner's entry of pleas that were not knowingly, intelligently, and voluntarily tendered?

STATEMENT

Procedural history

During the October term of 2016, an Aiken County Grand Jury indicted Jasper Jefferson, Petitioner, for possession with intent to distribute heroin (2016-GS-020-2090); trafficking methamphetamine, four hundred grams or more (2016-GS-020-2091); possession with intent to distribute cocaine (2016-GS-020-2092); and unlawful conduct towards a child (2016-GS-020-2093). App. 35 – 36; App. 41 – 42; App. 47 – 48; App. 53 – 54.

On September 12, 2022, Petitioner appeared before the Honorable William P. Keesley for a guilty plea hearing App. 1. Petitioner was represented by Jerry Screen, Sr. Elizabeth Young prosecuted the case. App. 2. Petitioner pleaded guilty to the following offenses: possession with intent to distribute heroin, second offense; trafficking methamphetamine, 28 – 100 grams, second offense; possession with intent to distribute cocaine, third offense; and unlawful neglect of a child. App. 4, l. 4 – 5, l. 8. The parties had negotiated a sentence of seven years for each offense, with sentences to run concurrently. App. 8, l. 24 – 9, l. 4. Additional charges were dismissed by nolle prosequi as part of the plea negotiations.¹ The court accepted Petitioner's pleas and sentenced him to a seven-year term of imprisonment for each offense, with sentences to run concurrently. App. 14, ll. 7-11; App. 16, l. 20 – 17, l. 2.

On or about February 26, 2024, Petitioner filed an application for post-conviction relief (PCR). App. 19 – 54. On or about July 25, 2024, the State made its return and motion to dismiss. App. 55 – 68. On or about June 12, 2025, Petitioner served an amended application. App. 69 – 71. On June 10, 2025, a hearing was held on the matter before the Honorable Debra

¹ According to the solicitor, the State was dismissing charges stemming from a June 2022 rearrest wherein Petitioner was “driving the wrong way in this highway and appeared to be under the influence as well as possessing what appear[ed] to be cocaine.” App. 8, ll. 19-23.

R. McCaslin. Chelsey Marto represented Petitioner. Zachary Jones appeared on behalf of the State. App. 72. On or about August 11, 2025, the PCR court issued an order of dismissal. App. 110 – 121.

Relevant facts

Petitioner’s charges stemmed from an April 21, 2016, traffic stop wherein his wife was pulled over for speeding by Officer Bozark. Petitioner was in the passenger’s seat and his child was also in the car. Another officer, Officer Puckett, arrived and Bozark asked him to run his police dog due to Petitioner’s wife acting nervous once she was out of the car. After the vehicle was already being searched, Petitioner also appeared nervous. Law enforcement found on the passenger floorboard a UPS mailer with Petitioner’s name on it that contained methamphetamines, cocaine, and heroin. App. 7, l. 3 – 8, l. 18; App. 103; App. 9, ll. 5-8.

At the time of Petitioner’s plea, counsel was in possession of a motion to suppress. He used the motion as a negotiating chip with the solicitor in arriving at the seven-year negotiated plea deal. The motion relied on the improper extension of the traffic stop to do the dog sniff and the destruction of Bozark’s dashboard camera footage. App. 102 – 109; App. 93, l. 3 – 94, l. 16; App. 96, l. 21 – 97, l. 18. However, counsel never tried to move forward with the motion and have it heard.

At the PCR hearing, Petitioner testified he wanted counsel to challenge the search. Petitioner noted the traffic ticket was written at 1:27 p.m. but the K-9 deputy’s dashboard camera did not start recording until approximately 3:00 or 3:30 p.m. Petitioner testified he felt forced into taking the plea bargain. App. 77, ll. 8-14; App. 80, l. 5 – 86, l. 2. Defense counsel claimed the decision to plead guilty was Petitioner’s, but he firmly recommended Petitioner plead guilty, telling Petitioner that if they lost the motion to suppress Petitioner would be “on a bobsled to

hell.” Defense counsel further claimed he found no evidence law enforcement unduly delayed the stop, and he implied the drug dog was immediately or quickly at the scene. App. 94, ll. 1-16; App. 96, l. 3 – 97, l. 6.

The order of dismissal addressed Petitioner’s claim regarding counsel’s failure to proceed on the motion to suppress. The order stated the court found counsel “did not coerce or threaten Applicant to take the plea deal,” and counsel’s performance was reasonable and not deficient. App. 118. The order further found no prejudice. “[T]his Court finds there is not a reasonable probability that, but for counsel’s alleged errors, he would not have pleaded guilty and would have insisted on going to trial.” App. 118. “Applicant knew that he could have been facing 25 years had he proceeded to trial. Judge Keesley found that he entered the plea knowingly, voluntarily, and intelligently.” App. 118.

This petition for writ of certiorari follows.

ARGUMENT

The court erred in denying post-conviction relief where counsel's failure to proceed on a motion to suppress effectively coerced Petitioner into pleading guilty, where law enforcement improperly prolonged the traffic stop to perform a dog sniff absent reasonable suspicion, since counsel's deficient performance resulted in Petitioner's entry of pleas that were not knowingly, intelligently, and voluntarily tendered.

The Sixth Amendment to the United States Constitution guarantees an accused the right to effective assistance of counsel. U.S. CONST. amend. VI; *Strickland v. Washington*, 466 U.S. 668, 686 (1984). A defendant is entitled to the effective assistance of competent counsel before deciding whether to plead guilty. *Padilla v. Kentucky*, 559 U.S. 356, 364 (2010). The decision to plead guilty must be a voluntary and intelligent choice among the alternative courses of action open to the defendant. *Hill v. Lockhart*, 474 U.S. 52, 56 (1985). "Prior to trial an accused is entitled to rely upon his counsel to make an independent examination of the facts, circumstances, pleadings and laws involved and then to offer his informed opinion as to what plea should be entered." *Von Moltke v. Gillies*, 332 U.S. 708, 721 (1948).

"In order to establish a claim of ineffective assistance of counsel, a PCR applicant must prove: (1) counsel failed to render reasonably effective assistance under prevailing professional norms; and (2) counsel's deficient performance prejudiced the applicant's case." *McKnight v. State*, 378 S.C. 33, 40, 661 S.E.2d 354, 357 (2008) (citing *Strickland*, 466 U.S. at 687). "[T]he two-part *Strickland v. Washington* test applies to challenges to guilty pleas based on ineffective assistance of counsel." *Hill*, 474 U.S. at 58. To establish prejudice when challenging a guilty plea, a PCR applicant must prove "there is a reasonable probability that, but for, counsel's errors, the defendant would not have pled guilty, but would have gone to trial." *Harden v. State*, 360

S.C. 405, 408, 602 S.E.2d 48, 49 (2004). “The crux of the inquiry is whether counsel’s ineffective performance affected the outcome of the plea process, not whether the defendant would have been successful had he gone to trial.” *Frierson v. State*, 423 S.C. 257, 262, 815 S.E.2d 433, 436 (2018). However, where a PCR applicant claims ineffective assistance of counsel based on counsel’s failure to challenge a search and seizure where the applicant pleaded guilty, and where the solicitor’s rendition of facts at the plea show no constitutional error, this Court has held that the applicant must show that “had his trial attorney challenged the frisk, there is a reasonable probability that she would have prevailed in a suppression hearing.” *Rollison v. State*, 346 S.C. 506, 509-10, 552 S.E.2d 290, 292 (2001).

A traffic stop is a seizure under the Fourth Amendment. *Whren v. United States*, 517 U.S. 806, 809-10 (1996). A passenger has standing to challenge the traffic stop, his own seizure, and evidence derived from that seizure. *Brendlin v. California*, 551 U.S. 249, 257 (2007). A dog sniff conducted during a lawful traffic stop does not violate the Fourth Amendment’s proscription of unreasonable seizures. *Illinois v. Caballes*, 543 U.S. 405, 410 (2005). However, “a police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution’s shield against unreasonable seizures. A seizure justified only by a police-observed traffic violation, therefore, becomes unlawful if it is prolonged beyond the time reasonably required to complete the mission of issuing a ticket for the violation.” *Rodriguez v. United States*, 575 U.S. 348, 350–51 (2015). To conduct unrelated checks during an otherwise unlawful stop, in a way that prolongs the stop, requires reasonable suspicion. *Id.*, 575 U.S. at 355.

Evidence that is obtained from an unlawful search or seizure is to be excluded as “fruit of the poisonous tree.” *Wong Sun v. United States*, 371 U.S. 471, 488 (1963). *See also Terry v.*

Ohio, 392 U.S. at 29 (“evidence may not be introduced if it was discovered by means of a seizure and search which were not reasonably related in scope to the justification for their initiation”); *Mapp v. Ohio*, 367 U.S. 643, 655 (1961) (“evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a state court”); *State v. Khingratsaiphon*, 352 S.C. 62, 69, 572 S.E.2d 456, 459 (2002) (“Evidence seized in violation of the Fourth Amendment must be excluded from trial.”).

Counsel’s never-argued suppression motion correctly cited and applied the law to the facts of this case. App. 102 – 109. Law enforcement unnecessarily prolonged the traffic stop—which was to write a speeding ticket—turning it into an hours-long search. The dog sniff was thus an unlawful seizure. Law enforcement did not have reasonable suspicion to prolong the stop. Although Petitioner’s wife appeared nervous this was only after she had been ordered out of the car; anyone might be nervous in those circumstances. *Rodriguez v. United States*, 575 U.S. at 350–55. Had counsel correctly pursued the motion, the evidence would have been suppressed. *Wong Sun v. United States*, 371 U.S. at 488. Petitioner’s pleas were effectively coerced by counsel’s failure to follow through with the suppression motion, upon which he would have prevailed had it been heard. Petitioner’s pleas were not a voluntary and intelligent choice among the alternative courses of action open to the defendant. *Hill v. Lockhart*, 474 U.S. at 56. Petitioner relied on counsel’s incorrect advice he should take the plea offer. *Von Moltke v. Gillies*, 332 U.S. at 721.

The Sixth Amendment to the United States Constitution guarantees an accused the right to effective assistance of counsel. Petitioner did not receive effective assistance here, and he has demonstrated prejudice. This Court should grant the petition for writ of certiorari. U.S. Const. amend. VI; *Strickland v. Washington*, 466 U.S. at 686.

CONCLUSION

Based on the foregoing argument, Petitioner respectfully requests this Court grant the petition for writ of certiorari and allow full briefing on this issue.



Joanna K. Delany
Appellate Defender

ATTORNEY FOR PETITIONER

This 23rd day of March, 2026.

RECEIVED

Mar 23 2026

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Aiken County

Honorable Debra R. McCaslin, Circuit Court Judge

JASPER JEFFERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jasper Jefferson 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 Debra R. McCaslin, which was held on June 10, 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 Jasper Jefferson.

Respectfully Submitted,


Joanna K. Delany
Appellate Defender

ATTORNEY FOR PETITIONER

This 23rd day of March, 2026.

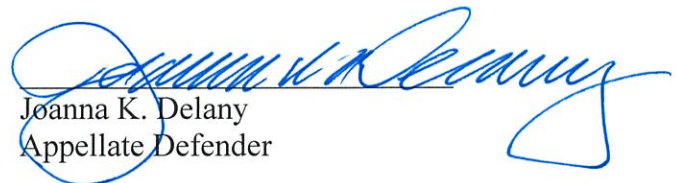
RECEIVED

Mar 23 2026

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."



Joanna K. Delany
Appellate Defender

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

ATTORNEY FOR PETITIONER

This 23rd day of March, 2026.