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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

CERTIORARI TO SUMTER COUNTY
Court of Common Pleas
The Honorable Grace Gilchrist Knie, Circuit Court Judge

Appellate Case No. 2025-001011

CHARLES SPENCER ANDERSON,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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I. The PCR court properly found Petitioner's guilty plea was entered voluntarily, knowingly, and intelligently because the record reflects:

a. Petitioner never alleged he was not advised of the crucial elements of the offenses he was charged with; thus, this issue is unpreserved for appellate review. Nonetheless Petitioner has failed to prove he is entitled to relief as there is no evidence in the record he was not advised of the elements of the offenses, nor is there any evidence he would have proceeded to a jury trial had he been properly advised of the elements.

b. Petitioner clearly waived presentment of the indictment to a grand jury both orally at his guilty plea hearing and by written waiver in the form of his signature on the indictment and sentencing sheet.

c. Petitioner was not misadvised regarding the sentence he faced on his pending charges.

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PETITIONER'S STATEMENT OF ISSUES PRESENTED

I. The PCR court erred in denying relief where the record reflects Petitioner's guilty plea was not voluntarily, knowingly, and intelligently entered.

RESPONDENT'S STATEMENT OF ISSUES PRESENTED

I. The PCR court properly found Petitioner's guilty plea was entered voluntarily, knowingly, and intelligently because the record reflects:

a. Petitioner never alleged he was not advised of the crucial elements of the offenses he was charged with; thus, this issue is unpreserved for appellate review. Nonetheless Petitioner has failed to prove he is entitled to relief as there is no evidence in the record he was not advised of the elements of the offenses, nor is there any evidence he would have proceeded to a jury trial had he been properly advised of the elements.

b. Petitioner waived presentment of the indictment to a grand jury both orally at his guilty plea hearing and by written waiver in the form of his signature on the indictment and sentencing sheet.

c. Petitioner was not misadvised regarding the sentence he faced on his pending charges.

STATEMENT OF THE CASE

Petitioner is presently confined in the South Carolina Department of Corrections as a result of guilty pleas to several indictments arising from multiple incidents in Sumter, South Carolina. On April 20, 2018, Petitioner committed an armed robbery of Frederick's Citgo gas station in Sumter. The store clerk identified Petitioner from a photographic lineup and noted that Petitioner was a frequent customer of the store. (App. pp. 69–70). As a result of this, the Sumter County Grand Jury indicted Petitioner during its September 2018 term for armed robbery (2018-GS-43-0890 Ct. 1) and possession of a weapon during the commission of a violent crime (2018-GS-43-0890 Ct. 2). Petitioner was arrested and subsequently released on bond.

Thereafter, on May 3, 2019, while he was out on bond, Petitioner committed another armed robbery of an Auto Zone store in Sumter where he used to be employed. According to the victims, Petitioner entered the store without anything concealing his identity and they were immediately able to identify Petitioner as the robber. During the commission of this armed robbery, Petitioner forced an employee to zip-tie another employee to restrain her, and then Petitioner held a revolver to the head of an employee and pulled the trigger of the firearm. (App. pp. 70–72). As a result of this, the Sumter County Grand Jury indicted Petitioner during its August 2019 term for armed robbery (2019-GS-43-0810 Ct. 1), attempted murder (2019-GS-43-0810 Ct. 2), and possession of a weapon during the commission of a violent crime (2018-GS-43-0890 Ct. 3).

Petitioner was originally represented by Timothy Murphy and Jason Bridges of the Third Circuit Public Defender's Office, as well as Justin Kata, Esquire, of the private bar. However, after all three attorneys were relieved as counsel for various reasons, and following a colloquy with the court, Petitioner made a knowing, voluntary, and intelligent decision to forgo his right to counsel and proceed *pro se*. Petitioner also evaluated by the Department of Mental Health for competency

and criminal responsibility and found both competent to stand trial and capable of conforming his behavior to the requirements of the law. (App. pp. 66–67).

On September 28, 2020, Petitioner appeared before the Honorable R. Ferrell Cothran, Jr., circuit court judge, for a pre-trial motions hearing. The State was represented by Deputy Solicitor Bronwyn K. McElveen of the Third Circuit Solicitor's Office. At the start of the hearing, Petitioner moved to continue his case, citing an inability to review discovery. (App. p. 8). Assistant Solicitor McElveen informed Judge Cothran that Petitioner's prior attorneys had all been provided with full discovery numerous times and she affirmed that she had delivered discovery to Petitioner personally at the detention center once he elected to proceed *pro se*. (App. pp. 7–8). Petitioner also referenced his desire to pursue motions to suppress all evidence, to dismiss the case, to quash the indictments, and to disqualify the Assistant Solicitor based on a purported conflict of interest stemming from a civil rights complaint Petitioner filed against her. (App. pp. 41–57). Judge Cothran either denied the motion or explained to Petitioner that it was not the proper time to make such a motion and provided him with guidance on the appropriate time to make said motion. (App. pp. 44–45; pp. 52–55; pp. 56–57).

After a break to allow Petitioner to confer with another private attorney he was considering hiring, Petitioner elected to forgo his right to a jury trial and accepted a plea offer from the State for a recommended aggregate sentence not to exceed twenty years of imprisonment for all charges.[1] (App. pp. 60–62). Petitioner waived presentment to the grand jury on his attempted murder indictment at his guilty plea and informed the plea court that he had no issues with the grand jury or the indictment. (App. p. 64). Following a thorough plea colloquy, Petitioner admitted his guilt to the offenses and Judge Cothran accepted his guilty pleas. (App. pp. 62–73). In

1 As part of the plea agreement, the State also dismissed a kidnapping charge related to the 2019 armed robbery.

accordance with the plea agreement, Judge Cothran sentenced Petitioner to twenty years' imprisonment (twenty years of imprisonment for each armed robbery, twenty years of imprisonment for attempted murder, and five years of imprisonment for each possession of a weapon during the commission of a crime of violence). (App. pp. 77–78). Petitioner did not pursue a direct appeal.

Petitioner filed a post-conviction relief application on September 23, 2021. On July 22, 2024, a hearing into the matter was convened before the Honorable Grace Gilchrist Knie at the Sumter County Courthouse. Petitioner was present and represented by Timothy Lee Griffith, Esquire. Assistant Attorney General Travis Cruise Mitchell represented the State. At the evidentiary hearing, testimony was taken from Petitioner, Timothy W. Murphy ("Counsel Murphy"), Jason E. Bridges ("Counsel Bridges"), and Justin M. Kata ("Counsel Kata"). At the conclusion of the hearing, this Court allowed the parties to leave the record open for the testimony of Deputy Solicitor Bronwyn K. McElveen. The parties reconvened on April 2, 2025, at the Spartanburg County Courthouse for the additional testimony. Petitioner was present along with his counsel, Timothy Griffith. Assistant Attorney General Travis Cruise Mitchell again represented the State of South Carolina. Deputy Solicitor Bronwyn K. McElveen was present via Webex. At the hearing, testimony was taken from Deputy Solicitor McElveen and Petitioner. Petitioner placed into evidence three Exhibits.

On May 8, 2025, Judge Knie signed an order of dismissal, denying and dismissing Petitioner's allegations with prejudice. This appeal follows.

STANDARD OF REVIEW

The post-conviction relief court's findings of fact receive great deference during appellate review and will be upheld if "any evidence of probative value" exists in the record to support the lower court's findings. *Sellner v. State*, 416 S.C. 606, 610, 787 S.E.2d 525, 527 (2016). Questions of law are reviewed *de novo*, and appellate courts will reverse the decision of the post-conviction relief court when it is controlled by an error of law. *Id.; Smalls v. State*, 422 S.C. 174, 180-81, 810 S.E.2d 836, 839 (2018).

ARGUMENT

I. The PCR court properly found Petitioner's guilty plea was entered voluntarily, knowingly, and intelligently.

Petitioner alleges the PCR court erred in finding his guilty plea was not voluntarily, knowingly, and intelligently entered, because he was never advised a) of the crucial elements of the offenses that he was charged with, b) that he had a right under due process to have the indictment for which he was on trial, but subsequently pled to, presented to a valid grand jury and c) that he only faced a maximum of 95 years on the 2019 charges that were called for trial.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Petitioner had a full understanding of the consequences of the plea and the charges against him or her. *Dover v. State*, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); *see also Boykin v. Alabama*, 395 U.S. 238, 243 (1969) (Courts must make sure defendants have "a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories."). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. *See Harris v. Leeke*, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984) (finding the voluntariness of a guilty plea "is not determined by an examination of the 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 the record of the post-conviction hearing.").

a) *Petitioner never alleged he was not advised of the crucial elements of the offenses he was charged with; thus, this issue is unpreserved for appellate review. Nonetheless Petitioner has failed to prove he is entitled to relief as there is no evidence in the record he was not advised of the elements of the offenses, nor is there any evidence he would have proceeded to a jury trial had he been properly advised of the elements*

In his petition, Petitioner claims for the first time that he was not advised of the elements of the offenses for which he was charged. As an initial matter, Petitioner never raised this issue in the proceedings below. In South Carolina, issue preservation requirements are a fundamental component of appellate procedure. *Gaddy v. Douglass*, 359 S.C. 329, 350, 597 S.E.2d 12, 23 (Ct. App. 2004). The key purpose of those requirements is "to give the [circuit] court a fair opportunity to rule on the issues, and thus provide [the appellate court] with a platform for meaningful appellate review." *Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.*, 368 S.C. 342, 373, 628 S.E.2d 902, 919 (Ct. App. 2006). Through their enforcement and application, the circuit court is guaranteed a chance "to rule properly after it considered all relevant facts, law, and arguments" so that the appellate court is provided with everything needed to properly review the ruling within the limits of the applicable standard of review. *I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000).

For an issue to be preserved for appellate review pursuant to our issue preservation requirements, the issue must have been: (1) raised to and ruled upon by the circuit court; (2) raised by the appellant; (3) raised in a timely manner; and (4) raised to the circuit court with sufficient specificity. *State v. Rogers*, 361 S.C. 178, 183, 603 S.E.2d 910, 912–13 (Ct. App. 2004). Based on those requirements, an issue cannot ordinarily be raised or considered on appeal unless it was first presented to and ruled upon by the circuit court judge. *State v. Freiburger*, 366 S.C. 125, 135, 620 S.E.2d 737, 742 (2005); *see State v. Patterson*, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) ("Appellant is limited to the grounds raised at trial."). Petitioner never raised this allegation in

either his application for post-conviction relief or at the evidentiary hearing. Therefore, this issue is not preserved for appellate review. *See Hyman v. State*, 278 S.C. 501, 502, 299 S.E.2d 330, 331 (1983) (holding an issue that was not raised in the PCR application or at the PCR hearing is not properly before the appellate court).

Even if this Court were to consider the claim, Petitioner has failed to meet his burden demonstrating he was not advised of the crucial elements of the offense. There is no evidence in the record demonstrating Petitioner was not advised of the elements of the offenses for which he was charged. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his or her application. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Notably, none of Petitioner's three prior Counsels testified at the PCR hearing that they failed to advise him of the elements, and Petitioner himself never testified he was unaware of the elements of the offenses for which he was charged. Therefore, Petitioner has failed to demonstrate his plea was involuntary on this basis.

Moreover, Petitioner has failed to establish prejudice. There is no testimony in the record indicating Petitioner would have insisted on a jury trial had he been advised of the elements of the offenses. *See Holden v. State*, 393 S.C. 565, 713 S.E.2d 611 (2011), *abrogated by Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018) (Finding no prejudice where Applicant never testified she would not have pleaded guilty if plea counsel had properly explained the elements of the offenses.)

b) Petitioner clearly waived presentment of the indictment to a grand jury both orally at his guilty plea hearing and by written waiver in the form of his signature on the indictment and sentencing sheet.

Here, Petitioner waived presentment to the grand jury at his guilty plea and informed the plea court that he had no issues with the grand jury or the indictment. (App. p. 64). Accordingly, the plea court had no obligation to rule on the motion to quash the indictment and properly

proceeded with the guilty plea. *See State v. Tumbleston*, 376 S.C. 90, 654 S.E.2d 849 (Ct. App. 2007) ("A ruling on a timely objection, before the jury is sworn, that an indictment is not sufficient will result in the quashing of the indictment *unless defendant waives presentment to the grand jury and pleads guilty*") (emphasis added).

In addition to his oral waiver, Petitioner executed a written waiver of presentment. He signed the indictment, attesting he waived his right to grand jury presentment, and also signed the sentencing sheet for attempted murder, further confirming the waiver. (App. p. 300; p. 305) *See State v. Smalls*, 364 S.C. 343, 613 S.E.2d 754 (2005) ("Signing a sentencing sheet for a charge to which a defendant has pled guilty constitutes a written waiver of presentment.")

c) Petitioner was not misadvised regarding the sentence he faced on his pending charges.

Petitioner alleges he was misadvised regarding the amount of time he faced on his charges. This is without merit. Petitioner entered a global guilty plea which resolved both his 2018 and 2019 charges. During on-the-record discussions regarding a plea deal, the Solicitor informed Petitioner and the court that Petitioner was facing 130 years on all pending charges. (App. p. 59). Therefore, Petitioner was aware of his potential exposure on all of his pending charges.

At Petitioner's plea, the court correctly informed Petitioner that he faced 65 years' imprisonment for the indictments which he was pleading guilty. (App. p. 64). Additionally, Petitioner affirmed under oath that he was knowingly and voluntarily waiving his right to a jury trial, and that no one had threatened him or made any promises beyond the terms of the plea agreement. (App. p. 65; pp. 67–68). Applicant then freely and voluntarily pleaded guilty to the charges. (App. p. 73). Following the Solicitor's recitation of the facts, Petitioner affirmed those facts to be true and admitted guilt. (App. p. 73). Because a guilty plea is a "solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate's right to contest

the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); *see also Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea"). This Court finds Applicant failed to "present[] [any] valid reasons why he should be allowed to depart from the truth of [the] statements" made during the plea proceeding. *Dalton*, 376 S.C. at 137–38, 654 S.E.at 874; *see Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so), *overruled on other grounds by United States v. Whitley*, 759 F.2d 327 (4th Cir. 1985).

Once again, Petitioner raises an unpreserved issue and claims for the first time that he was not advised that armed robbery carries a 10-year mandatory minimum sentence. Petitioner never raised this allegation in either his application for post-conviction relief or at the evidentiary hearing. Therefore, this issue is not preserved for appellate review. *See Hyman v. State*, 278 S.C. 501, 502, 299 S.E.2d 330, 331 (1983) (holding an issue that was not raised in the PCR application or at the PCR hearing is not properly before the appellate court).

Preservation notwithstanding, this allegation is wholly without merit. Petitioner claims there is nothing in the record indicating that Petitioner was informed armed robbery carried a mandatory minimum of ten years' incarceration. This is false. At the evidentiary hearing, Counsel Timothy Murphy testified to the following:

> Q. You testified that Mr. Anderson was - - indicated he wanted a plea deal for the 2019 case?

> A. Yes. He was - -
>
> Q. So he - -
>
> A. - - he was - -
>
> Q. - - never indicated to you - -
>
> A. - - he was adamant that he wanted to work out something. And now I will say this, his - - his - - I had to explain to him, "Look, you're - - *you know, it's an armed robbery. It's a 10-year mandatory minimum. Okay*?"

(App. p. 185) (emphasis added).

Furthermore, Counsel Jason Bridges testified to the following:

> And he also expressed some interest in - - in a plea offer, similar to what Mr. Murphy said. You know he - - he wanted a nonviolent parole eligible with a particular emphasis on drug treatment for everything. I - - I had preliminary - - I never got an official written offer from Ms. McElveen or anything like that. But I did ask her like if that would be possible. And she said at least for the 2019 case, *he would have to plead to armed robbery as charged, which, of course, that has a mandatory minimum of 10 years.* I think that's what he - - he tried to explain about. But that was not an official plea offer.
>
> ...
>
> No. I - - I told him, what the solicitor told me at best would be an open plea to at least one count of armed robbery. *And the best-case scenario there would be a 10-year sentence based on the mandatory minimum under the law.*

(App. pp. 197–198; p. 200) (emphasis added).

Clearly, despite Petitioner's assertion to the contrary, there is ample evidence in the record demonstrating Petitioner was advised that armed robbery carries a mandatory 10-year minimum sentence. Because Petitioner had a full understanding of the consequences of the plea and the charges against him, his plea was entered knowingly, voluntarily, and intelligently.

CONCLUSION

For the foregoing reasons, Respondent submits this Court should deny the Petition for Writ of Certiorari, as the post-conviction relief court properly determined Petitioner freely, knowingly, and voluntarily pleaded guilty. Should this Court grant certiorari, Respondent requests the opportunity to fully brief the issue raised.

Respectfully Submitted,

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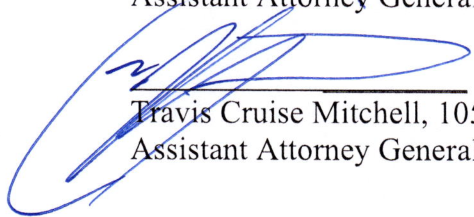

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This 23rd day of March, 2026.