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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Oconee County

Honorable Jane H Merrill, Circuit Court Judge

CHARLES S. TRAPP, JR.,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002333

JOHNSON PETITION FOR WRIT OF CERTIORARI

KATHRINE H. HUDGINS
Senior 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

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ISSUE PRESENTED

Did the PCR judge err in refusing to find plea counsel ineffective for failing to adequately explain self-defense?

STATEMENT

On March 14, 2022, the Oconee County Grand Jury indicted Petitioner, Charles Stephon Trapp, Jr., for murder and possession of a weapon during the commission of a violent crime, indictment #2022-GS-37-00483. (App. pp. 22-23). On August 20, 2024, Petitioner appeared before the Honorable J. Cordell Maddox, Jr, and pled guilty to the lesser offense of voluntary manslaughter. Joshua Kenderick represented Petitioner at the plea. Blair Stoudemire represented the State. Judge Maddox sentenced Petitioner to thirty (30) years suspended to twenty-two (22) years with five (5) years of probation. (App. p. 24). Petitioner did not appeal his sentence or conviction.

On February 4, 2025, Petitioner filed a *pro se* application for post-conviction relief [PCR]. (App. pp. 27-43). The State filed a return on April 23, 2025. (App. pp. 44-51). Petitioner, with counsel, filed an amended PCR application. (App. pp. 52-53). On September 10, 2025, an evidentiary hearing was held before the Honorable Jane H. Merrill. Susannah C. Ross represented Petitioner at the PCR hearing. Ryan T. Kowalski represented the State. In a written order signed October 27, 2025, Judge Merrill denied relief and dismissed the application. (App. pp. 100-116). A timely notice of intent to appeal was filed on November 19, 2025. This appeal follows.

ARGUMENT

The PCR judge erred in refusing to find plea counsel ineffective for failing to adequately explain self-defense.

The deceased was fatally shot as she sat in a car waiting for her boyfriend, Anthony Seagraves, to buy marijuana from Petitioner at Petitioner's house. (App. p. 7, line 20 – p. 8, lines 1-9). After the exchange, Seagraves felt he had been shorted on the amount of marijuana and punched Petitioner in the face several times. (App. p. 8, lines 9-12). During the plea the prosecutor told the judge that Petitioner then drew a gun, showed it to Seagraves, and shot as Seagraves ran back to the car. (App. p. 8, lines 13-25).

In the *pro se* PCR application Petitioner alleged that, " . . . the record is silent of any testimony of any consultation by counsel, with his client as to any: 1. Possible defense; . . ." (App. p. 31). In the amended PCR application Petitioner alleged, "Due Process violations because the plea was not knowingly and voluntarily made because the Applicant was not adequately advised of the nature of the evidence [against] him and the applicable law in his case causing him to plead guilty when he otherwise would not have." (App. p. 53).

During the PCR hearing Petitioner testified that Seagraves attempted to rob him, flashed a weapon, and Petitioner defended himself. (App. p. 64, lines 13-22; p. 66, lines 2-17). Petitioner testified, "I pled guilty for the simple fact that I didn't know – I didn't know about the rules and the regulations and everything. I didn't know how to fight at trial." (App. p. 67, lines 11-14). Plea counsel testified at the PCR hearing, "And then there was a second statement where I think he was asserting self-defense." (App. p. 87, lines 14-15). When asked what kind of investigation counsel conducted he explained that, "...it seemed to me the question was whether – whether this was a self-defense case as opposed to whether he had actually fired the gun, but that's just what I remember." (App. p. 88, lines 1-5).

Plea counsel confirmed that Seagraves admitted to a robbery and hitting Petitioner. (App. p. 91, lines 14-20). Plea counsel was asked about the defense of habitation and stand your ground. (App. p. 90, lines 2-4). Plea counsel distinguished self-defense and stand your ground. (App. p. 90, lines 22-25). Apparently referring to self-defense, plea counsel testified, "I remember telling him that it was an issue we needed to look into, but I think I probably ultimately told him that because there was a drug deal going on, that there was a case that might make it hard to assert the defense. And my worry was we would not know until the very end of trial whether we were going to be allowed to assert the defense or get a jury instruction, of course." (App. p. 90, lines 11-18).

In the order of dismissal the PCR judge noted, "Plea counsel testified that he discussed self-defense with Applicant on multiple occasions." (App. p. 110). The PCR judge wrote, "This Court finds the record reflects Plea Counsel and the plea court adequately reviewed with Applicant his trial rights, defenses, and nature of the allegations against him. Plea counsel was not deficient, nor did Applicant suffer any prejudice resulting there from. Thus, these allegations must be DENIED and DISMISSED." (App. p. 112). The PCR judge erred.

A criminal defendant is guaranteed the right to effective assistance of counsel under the Sixth Amendment to the United States Constitution. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Courts evaluate allegations of ineffective assistance of counsel using a two-pronged test. Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989) (citing Strickland, 466 U.S. at 668, 104 S.Ct. 2052). First, the applicant must demonstrate counsel's representation was deficient, which is measured by an objective standard of reasonableness. Strickland, 466 U.S. at 687–88, 104 S.Ct. 2052. "Under this prong, '[t]he measure of attorney performance remains simply reasonableness under

prevailing professional norms.'" Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S.Ct. 2052). Second, the applicant must demonstrate he was prejudiced by counsel's performance in such a manner that, but for counsel's error, there is a reasonable probability the result of the proceedings would have been different. Strickland, 466 U.S. at 694, 104 S.Ct. 2052. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id.

The Strickland test operates similarly when an applicant claims counsel was ineffective in the context of a guilty plea. Hill v. Lockhart, 474 U.S. 52, 58, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985). A guilty plea may not be accepted unless it is voluntarily and understandingly made. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). "To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him." Roddy v. State, 339 S.C. 29, 33, 528 S.E.2d 418, 421 (2000). "A defendant's knowing and voluntary waiver of the constitutional rights which accompany a guilty plea 'may be accomplished by colloquy between the Court and the defendant, between the Court and defendant's counsel, or both.' " Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 625 (1999) (quoting State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "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, 474 U.S. at 56, 106 S.Ct. 366 (quoting North Carolina v. Alford, 400 U.S. 25, 31, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970)).

In Frierson v. State, 423 S.C. 257, 262, 815 S.E.2d 433, 436 (2018), the South Carolina Supreme Court wrote:

> In order to establish prejudice when challenging a guilty plea, a defendant 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. Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991). As the United States Supreme Court stated in Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985), "[I]n order to satisfy the 'prejudice' requirement, the defendant must show there is a reasonable probability that, but for counsel's errors, he would not have pled guilty and would have insisted on going to trial."

Plea counsel was ineffective in failing to adequately explain self-defense. In State v. Plumer, 439 S.C. 346, 349–50, 887 S.E.2d 134, 136 (2023)(n. #2 omitted), the South Carolina Supreme Court wrote, "Our holding in State v. Williams, 427 S.C. 246, 830 S.E.2d 904 (2019), is dispositive of the self-defense issue. As we noted in Williams, one of the elements of self-defense is that the defendant must have been without fault in bringing on the difficulty. We held "intentionally bringing a loaded, unlawfully-possessed pistol to an illegal drug transaction is 'calculated to produce a violent occasion[,]' " and a person who does so cannot be without fault in bringing on the difficulty. Id. at 251, 830 S.E.2d at 907."

The present case is factually distinct from Plumer because Petitioner, the seller, was at his house and only showed the weapon after being punched and robbed by Seagraves. In contrast, Plumer took his gun to the drug deal and attempted to rob the seller. In State v. Williams, 427 S.C. 246, 830 S.E.2d 904 (2019), relied upon by the Court in Plumer, Robert Mitchell made plans to buy marijuana from Akim Ladson. Mitchell asked Williams to come with him to the drug deal. "Viewing the evidence in the light most favorable to Williams, Ladson attacked Williams, Williams feared for his safety, and Williams had no opportunity to get away. Williams then shot and killed Ladson." State v. Williams, 427 S.C. 246, 248, 830 S.E.2d 904, 905 (2019).

The Court found that Williams was not entitled to an instruction on self-defense writing, "Under this principle from Bryant, the trial court properly refused to charge self-defense. Williams' act of intentionally bringing a loaded, unlawfully-possessed pistol to an illegal drug

transaction was a "violation of law" that was "reasonably calculated to produce" violence. Id. Williams' act "bars his right to assert self-defense as a[n] ... excuse for a homicide." Id." State v. Williams, 427 S.C. 246, 250–51, 830 S.E.2d 904, 906 (2019). The present case is distinguished because arming yourself at your own house, as Petitioner did, even during the course of a marijuana transaction, arguably is not reasonably calculated to produce violence as was found in Williams.

Additionally, the majority in Williams acknowledged that such a distinction could present itself writing, "In some future case involving facts different from these, perhaps the defendant will convince the trial court he has produced evidence he was not at fault in bringing on the violent occasion." 427 S.C. at 255, 830 S.E.2d at 909. As noted by the dissent in Williams:

> The majority cites this Court's holding in State v. Bryant that a defendant's act "in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense." 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999). As does the majority, I emphasize the portion of our holding in Bryant that self-defense is barred if the defendant's act was reasonably calculated to produce the violent occasion. Here, even the majority acknowledges the evidence indicates the gun was in Williams' back pocket the entire time before Ladson climbed over the front seat and then got on top of and began to choke Williams, who was in the back seat. I respectfully reject the majority's supposition that I rely upon the premise that only one person can be at fault in "bringing on the difficulty" as contemplated in our self-defense law. I do not. I simply conclude there is evidence in this case that Ladson, and Ladson only, produced the violent occasion by attacking Williams, which in turn led to Williams retrieving his gun from his back pocket and firing in self-defense.

427 S.C. at 255–56, 830 S.E.2d at 909.

There is evidence in this case that Seagraves, and Seagraves only, produced the violent occasion by attacking Petitioner, which in turn led to Petitioner firing in self-defense, tragically striking the unintended deceased as she waited for Seagraves in his car.

CONCLUSION

Based on the above argument, this Court should reverse the conviction and remand for a new trial.

Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 31st day of March, 2026.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Charles Trapp states:

1. She is Senior 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 Jane H Merrill, which was held on Sept 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 Charles Trapp.

Respectfully Submitted,

Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 31st day of March, 2026.

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CERTIFICATE OF COUNSEL

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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