

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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May 22 2026

S.C. SUPREME COURT

Certiorari to Darlington County

Honorable The Hon. S. B. Doby, Circuit Court Judge

SAMUEL L. MCNEIL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002250

JOHNSON PETITION FOR WRIT OF CERTIORARI

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The post-conviction relief court erred finding petitioner’s guilty plea was voluntary where defense counsel was ineffective for failure to meet sufficiently with petitioner in order to explain the charges and the process in his case because petitioner was mentally ill and needed additional time and explanation to make a knowing and voluntary guilty plea.4

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ISSUE PRESENTED

Did the post-conviction relief court err finding petitioner's guilty plea was voluntary where defense counsel was ineffective for failure to meet sufficiently with petitioner in order to explain the charges and the process in his case because petitioner was mentally ill and needed additional time and explanation to make a knowing and voluntary guilty plea?

STATEMENT

On July 12, 2018, a Darlington County grand jury indicted petitioner for kidnapping, domestic violence of a high and aggravated nature, two counts of possession of a weapon during the commission of a violent crime, two counts of attempted murder, and assault and battery, second degree. App. 229-242. On June 26, 2023, petitioner's case was called to trial before the Honorable Michael S. Holt. App. 1. Kyle Hobbs represented petitioner. App. 1. Mary Thomas Johnson-Lee prosecuted for the state. App. 1.

After the jury was selected defense counsel informed Judge Holt petitioner would plead guilty but mentally ill (GBMI) pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970) to two counts of attempted murder. App. 41, l. 13—42, l. 25; 53, l. 14—54, l. 5. Judge Holt sentenced petitioner to concurrent terms of seventeen years' imprisonment for each count of attempted murder. App. 84, ll. 16-24.

Thereafter, petitioner filed an application for post-conviction relief (PCR). App. 89-109. On September 2, 2025, an evidentiary hearing was held before the Honorable Bryan Doby. App. 122-200. Steven Fowler represented petitioner. App. 122. Mackinnon Westraad appeared for the state. App. 122.

On October 21, 2025, Judge Doby signed an order denying PCR. App. 201-228. The PCR court found petitioner's allegation that his guilty plea was involuntary was without merit. App. 219. The PCR court found defense counsel credibly testified that he thoroughly discussed the charges and plea offers with petitioner. App. 226. The court found petitioner understood the charges and sentences he faced at the plea hearing and wished to go forward with the guilty plea. App. 210. The court further found petitioner did not prove any prejudice and that any deficiency

in counsel's representation was cured by the colloquy between petitioner and the plea court.
App. 226.

This petition follows.

ARGUMENT

The post-conviction relief court erred finding petitioner's guilty plea was voluntary where defense counsel was ineffective for failure to meet sufficiently with petitioner in order to explain the charges and the process in his case because petitioner was mentally ill and needed additional time and explanation to make a knowing and voluntary guilty plea.

Trial turned guilty plea

After the jury was selected petitioner's attorney informed the court petitioner would plead guilty. App. 41, l. 13. During the day defense counsel and the state came to an agreement that petitioner would plead GBMI pursuant to Section S.C. Code Ann. § 17-24-20(D).¹

Petitioner's mother, Lois McNeil, was called as a witness for the required hearing under the statute. App. 43-51. Ms. McNeil testified petitioner had suffered a past of abuse and trauma which resulted in him having serious mental illness. App. 44-45; 46-48. She testified that his behavior on the day of the incident was aligned with previous instances where he was not well mentally. App. 48, l. 5—50, l. 24. Ms. McNeil stated petitioner was medicated for bipolar disorder and post-traumatic stress disorder (PTSD). App. 51, ll. 3-11.

After the testimony the plea court found petitioner proved by a preponderance of the evidence that when he committed the crime he was mentally ill. App. 52, ll. 5-25.

The court had a discussion with petitioner where the charges and waivers were discussed. App. 55-63. Defense counsel centered mitigation around petitioner's mental health struggles noting he had a decade worth of treatment coming right up to the incident. App. 77-83. Counsel

¹ A court may not accept a plea of guilty but mentally ill unless, after a hearing, the court makes a finding upon the record that the defendant proved by a preponderance of the evidence that when he committed the crime he was mentally ill as provided in Section 17-24-20(A). S.C. Code Ann. § 17-24-20.

stated, “I can tell you that it took me and [petitioner] a while to get on the same page. For me to hear him, for me to understand him, and for him to hear me and understand me.” App. 79, ll. 21-25. The court accepted the guilty plea and sentenced petitioner to two concurrent terms of seventeen years’ imprisonment for two counts of attempted murder.

Evidentiary hearing

Petitioner testified he suffered from schizophrenia, multiple personality disorder, and anger issues. App. 136, ll. 2-4. Throughout his testimony petitioner testified he was confused regarding pleading both GBMI and pursuant to *Alford*. App. 135, ll. 2-23; 136, 16—137, l. 10; 155, l. 18-21; 156, ll. 19-22. He stated, “my attorney, at the time not explaining this stuff to me, I was real confused.” App. 159, ll. 24-25. Petitioner was also confused in general about when counsel represented him and testified, they only met one time prior to the trial turned guilty plea. App. 137, ll. 13—139, l. 12; 139, ll. 15-17; 140, ll. 2-23; 141, ll. 15-20; 142, ll. 14-19.

Defense counsel testified he was appointed to petitioner’s case in March 2022, but did not meet with petitioner until May 25, 2023. App. 173, ll. 16-22. Counsel admitted he only met once in person with petitioner and had one additional conversation on the phone with him prior to the day petitioner’s trial was to begin. App. 173, ll. 19-24. He explained he waited over a year to meet with petitioner because he was not informed until the end of April 2023, that the state intended to prosecute petitioner for these charges. App. 174, ll. 1-15. Counsel said that on the day of the trial turned plea they had an extensive meeting along with his family so that they might reap the benefit of a GBMI designation so that petitioner could receive treatment while incarcerated. App. 182, l. 16—183, l. 12. Counsel testified petitioner understood after their lengthy discussion. App. 183, ll. 22-25.

Discussion

In order for a defendant to knowingly and voluntarily plead guilty, he must have a full understanding of the consequences of the plea. *Dover v. State*, 304 S.C. 433, 405 S.E.2d 391 (1991) (citing *State v. Hazel*, 275 S.C. 392, 271 S.E.2d 602 (1980)). Although the trial court is not required to direct defendant's attention to each right and obtain a separate waiver, the record should indicate the defendant was fully aware of the consequences of the guilty plea. *State v. Lambert*, 266 S.C. 574, 225 S.E.2d 340 (1976). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993).

When determining issues relating to guilty pleas, the appellate court will consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. *Harres v. Leeke*, 282 S.C. 131, 318 S.E.2d 360 (1984). 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. *Id.*

It is true at petitioner's plea hearing the judge conducted a thorough colloquy with petitioner explaining the charges and the sentences and the type of guilty plea. It is also true petitioner told the judge he understood. However, when reviewing the entire record it shows petitioner, due to his documented mental illness, did not understand the terms of pleading both GBMI and pursuant to *Alford*. See *Harres v. Leeke*, 282 S.C. 131, 318 S.E.2d 360 (1984).

Defense counsel testified that petitioner understood after a long conversation. However, he admitted they met only once and spoke on the phone one other time before the day petitioner

ultimately pleaded guilty. Petitioner's mental illness as well the utter lack of advisement from defense counsel prior to his plea played a role in petitioner being very confused about the guilty plea proceedings. Although, the plea transcript alone seemed to reflect a voluntary guilty plea, a review of the entire record reveals petitioner's guilty plea was not voluntarily tendered.

CONCLUSION

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



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR PETITIONER

This 22nd day of May, 2026.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Samuel L. McNeil 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 The Hon. S. B. Doby, which was held on Sept. 2, 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 Samuel L. McNeil.

Respectfully Submitted,



Sarah E. Shipe

Appellate Defender

ATTORNEY FOR PETITIONER

This 22nd day of May, 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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