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Jun 10 2026
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Oconee County

Honorable Jane H Merrill, Circuit Court Judge

RALPH JAKE GOSS, JR.,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002332

JOHNSON PETITION FOR WRIT OF CERTIORARI

SARAH E. SHIPE
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 post-conviction relief court err finding defense counsel was not ineffective, where counsel failed to review pertinent discovery and explain that petitioner would have to be on the sex offender registry for life, rendering his guilty plea invalid?

STATEMENT

On June 12, 2023, an Oconee County grand jury indicted petitioner for assault with intent to commit criminal sexual conduct (CSC). App. 107-108. On December 14, 2023, petitioner pled guilty before the Honorable J. Cordell Maddox. App. 1-19. Amanda Surles represented petitioner. App. 2. Jason Alderman prosecuted for the state. App. 2. Judge Maddox sentenced petitioner to thirty years', suspended to fifteen years' imprisonment with five years' probation. App. 18, ll. 19-21.

Thereafter, petitioner filed an application for post-conviction relief (PCR). App. 21-39; 48-49. On September 10, 2025, an evidentiary hearing was held before the Honorable Jane H. Merrill. App. 51-89. Susannah Ross represented petitioner. App. 51. Ryan Kowalski appeared on behalf of the state. App. 51.

On October 17, 2025, Judge Merrill signed an order denying PCR. App. 91-105. The PCR court found defense counsel was not deficient because counsel credibly testified that she did advise petitioner regarding the registry. Additionally, the court found that registering as a sex offender is a collateral consequence thus, defense counsel was not deficient regardless of whether petitioner was informed that he would have to register as a sex offender. App. 101-102. The court found that, although counsel admitted she did not show petitioner the video footage, petitioner failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgement in making all significant decisions in his case." App. 104. The court found that petitioner failed to show what evidence or defenses would have been discovered had counsel further reviewed discovery with him. App. 104. Finally, the court found petitioner entered his guilty plea voluntarily, intelligently, and knowingly. App. 100.

This petition follows.

ARGUMENT

The post-conviction relief court erred finding defense counsel was not ineffective where, counsel failed to review pertinent discovery and explain that petitioner would have to be on the sex offender registry for life rendering, his guilty plea invalid.

Relevant facts

During petitioner's guilty plea hearing the state alleged that on March 12, 2023, petitioner grabbed a woman, with what appeared to be a knife, and "made his intentions clear." The woman escaped his grasp by slipping out of her hoodie and running away. App. 11, l. 17—12, l. 9.

When the plea court asked if petitioner was guilty petitioner answered, "I don't think, but, yes, sir. App. 10, ll. 3-4. He later said, "I feel that it'll be best." App. 10, ll. 16-17. Later the plea court asked, "So you heard the facts, you admit to that?" Petitioner answered, "Yes, sir. But can I - -." Defense counsel responded, "While we agree to the facts, it - - Mr. Goss believes that his intent was different than what was presented, which is why we talked about an *Alford*[1] plea. But from what our conversations have been, we do admit to those facts, yes." App. 14, ll. 12-21.

Later petitioner addressed the court and said, "I made a bad decision. I wasn't really trying to hurt nobody, I just - - and I never said that verbally to nobody . . . I wanted money." App. 17, ll. 10-14. Regardless, the plea court accepted petitioner's guilty plea finding it was "freely and voluntarily made based upon the advice of counsel." App. 11, ll. 6-13.

At his evidentiary hearing petitioner again insisted his intention was not CSC but was burglary. App. 57, ll. 19-24; 60, ll. 6-9. Petitioner testified that he felt coerced into pleading

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1 *North Carolina v. Alford*, 400 U.S. 25 (1970).

guilty and just said what he was told to say to the plea court. App. 58, ll. 11-14; 66, ll. 10-15. Petitioner said he was never shown the video of the incident. App. 59, ll. 3-6. He stated he was not told by defense counsel that he would be on the sex offender registry. App. 61, ll. 11-24. He contended that if he had known he would have proceeded to trial. Petitioner went on to say he was not aware of the consequences of this guilty plea and that he was told it was an "open plea" but he did not know what that meant. App. 61, l. 20—62, l. 11; 64, ll. 16-23.

Defense counsel contended she reviewed discovery with petitioner on three separate occasions. Counsel asserted the "biggest thing" the state had was a video of the incident. App. 69, l. 24—70, l. 16. However, she later admitted petitioner did not get to see the video. App. 77, l. 10. Defense counsel maintained that she and petitioner discussed the likelihood that he would be put on the sex offender registry. App. 73, ll. 8-13.

Discussion

The PCR court erred finding petitioner's guilty plea was voluntary and knowing where petitioner pled guilty without the benefit of having reviewed the most critical piece of discovery and without the knowledge he would be placed on the sex offender registry for the remainder of his life.

It is evident from both the plea hearing and the evidentiary hearing petitioner struggled mightily with the decision to plead guilty even going so far as to deny his guilt of the accused crime during the plea hearing. Petitioner testified he did not intend to commit CSC. Without the benefit of reviewing the video of the incident petitioner could not have made a voluntary guilty plea. Petitioner did not have information that would have been crucial to his determination whether to continue to trial. The video did not have sound and the state had only the alleged victim's word regarding what petitioner said to her. Furthermore, what he said to her was not

stated at the guilty plea hearing. The state only suggested that petitioner "made his intention's clear." Counsel was deficient for failing to make arrangements to review the main piece of discovery in petitioner's case.

Entering a guilty plea results in a waiver of several constitutional rights, therefore the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently by defendants. *Boykin v. Alabama*, 395 U.S. 238 (1969). The United States Supreme Court has held that before a court can accept a guilty plea, a defendant must be advised of the constitutional rights they are waiving. *Id.* Specifically, a defendant must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers.

In addition to the requirements of *Boykin*, a defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived. *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). "Any defects in the information conveyed by defense counsel can be cured by information provided at the guilty plea proceeding. *Rollinson v. State*, 346 S.C. 506, 513, 552 S.E.2d 290, 293 (2001) (citing *Moorehead v. State*, 329 S.C. 329, 496 S.E.2d 415, (1998)). "The knowing and voluntary nature of the plea 'may be accomplished by colloquy between the Court and the defendant, between the Court and defendant's counsel or both.'" *Id.* (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

Counsel was deficient for failing to discuss with petitioner that he would be placed on the sex offender registry for life. This deficiency was not cured by the colloquy with the plea court where this consequence was never mentioned during the guilty plea hearing.

"An ineffective assistance claim has two components: A petitioner must show that counsel's performance was deficient, and that the deficiency prejudiced the defense." *Wiggins v. Smith*, 539 U.S. 510, 521, 123 S.Ct. 2527, 156 L.Ed.2d 471 (2003). The two-part test also "applies to challenges to guilty pleas based on ineffective assistance of counsel." *Hill v. Lockhart*, 474 U.S. 52, 58 (1985). "A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of a plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial." *Holden v. State*, 393 S.C. 565, 572, 713 S.E.2d 611, 615 (2011) (quoting *Rolen v. State*, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009)).

In addressing the adequacy of a PCR applicant's guilty plea, it is proper to consider both the guilty plea transcript and the evidence presented at the PCR hearing. *Id.* at 573, 713 S.E.2d at 615 (citing *Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007)). "[T]here is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011). *Sellner v. State*, 416 S.C. 606, 610–11, 787 S.E.2d 525, 527 (2016)

The PCR court erred finding counsel was not deficient for failing to review critical discovery and for failing to discuss the sex offender registry with petitioner. Petitioner testified he pled guilty without having seen the video in his case. Counsel's testimony corroborated petitioner's testimony on this point. Defense counsel explained that at the time the county jail did not have a means for her to show the video to petitioner and that she instead explained what was on the video to petitioner. App. 77, ll. 10-18.

The PCR court erred finding petitioner was not prejudiced by this deficiency where but for counsel's deficiency he would not have pled guilty and instead gone to trial. Petitioner testified if he had seen discovery and understood the consequences of pleading guilty to assault with attempt to commit CSC, he would have continued to trial instead of taking a guilty plea. App. 61, l. 11—62, l. 11.

CONCLUSION

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

Sarah E. Shipe
Appellate Defender

ATTORNEY FOR PETITIONER

This 10th day of June, 2026.

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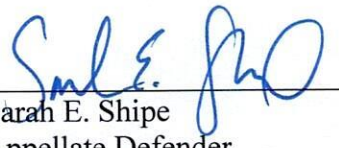
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Ralph Goss 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 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 Ralph Goss.

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR PETITIONER

This 10th day of June, 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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This 10th day of June, 2026.