

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Jul 09 2026

S.C. SUPREME COURT

Certiorari to Greenville County

Honorable B. Alex Hyman, Circuit Court Judge

DAVID R. DOZIER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-000014

JOHNSON PETITION FOR WRIT OF CERTIORARI

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ATTORNEY FOR PETITIONER

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ISSUE PRESENTED

Did the post-conviction relief court err finding defense counsel was not ineffective where they failed to properly advise petitioner regarding his eligibility to be sentenced under the Youthful Offender Act and in failing to request the plea court sentence him pursuant to the Act resulting in an unknowing guilty plea?

STATEMENT

On June 28, 2016, a Greenville County grand jury indicted petitioner for assault and battery, first degree, kidnapping, armed robbery, and possession of a weapon during the commission of a violent crime. App. 152-157. On July 17, 2017, petitioner pleaded guilty without negotiation or recommendation before the Honorable J. Derham Cole. App. 1-33. Lauren Taylor represented petitioner. App. 1. Jennifer Tessitore prosecuted for the state. App. 1.

Judge Cole sentenced petitioner to concurrent terms of fifteen years' imprisonment for armed robbery, five years' imprisonment for possession of a weapon during the commission of a violent crime, ten years' imprisonment for kidnapping, and ten years' imprisonment for assault and battery, first degree. App. 31, ll. 5-24.

Thereafter, petitioner filed an application for post-conviction relief (PCR). App. 34-43. On May 15, 2024, an evidentiary hearing was held before the Honorable B. Alex Hyman. App. 54-133. Scarlet Moore represented petitioner. App. 54. Tommy Evans, Jr., appeared on behalf of the state. App. 54.

On November 24, 2025, Judge Hyman signed an order denying PCR. App. 134-151. In the order the PCR court found petitioner failed to carry their burden of proof to show ineffective assistance of counsel. App. 134. The court found specifically petitioner failed to show defense counsel acted deficiently in failing to request the plea court sentence petitioner under the Youthful Offender Act¹ (the Act). The court further found petitioner did not show any evidence to support their conclusion that defense counsel's request to sentence petitioner under the Act would have changed the outcome of the proceeding.

¹ S.C. Code Ann. § 24-19-10.

ARGUMENT

The post-conviction relief court erred finding defense counsel was not ineffective where they failed to properly advise petitioner regarding his eligibility to be sentenced under the Youthful Offender Act and in failing to request the plea court sentence him pursuant to the Act resulting in an unknowing guilty plea.

Relevant facts

At the guilty plea hearing the state alleged that on January 18, 2016, petitioner and another man entered a gas station and robbed a gas station clerk at gunpoint. The state claimed petitioner, not the other man, held a gun on the clerk and hit the clerk in the head with the gun. App. 19-22. Petitioner was eighteen years old at the time of the incident for which he was charged and convicted. App. 30, ll. 4-5. He was twenty years old at the time of his guilty plea. App. 13, l. 8. Petitioner had no prior criminal record. App. 30, ll. 3-5; ll. 12-13. Petitioner was sentenced to an aggregate term of fifteen years' imprisonment. App. 31, ll. 5-24. The other man, petitioner's co-defendant, pleaded guilty and was given a ten-year sentence. App. 22, ll. 7-8.

At his evidentiary hearing petitioner testified he tried to discuss the Act on multiple occasions with defense counsel, but counsel either disregarded the idea or told him, without explanation, that he was not eligible to be sentenced under the Act. App. 86, ll. 15-19; 88, ll. 1-12; 101, l. 11—102, l. 22.

Defense counsel acknowledged she did not ask the plea court to sentence petitioner under the Act but explained she had discussed it with the solicitor and the solicitor was not amenable. App. 68, ll. 2-7. Defense counsel contended that under the state's theory petitioner was the more culpable party and the co-defendant was not sentenced under the Act. App. 80, ll.

1-8.

Discussion

The Act provides a discretionary sentencing alternative for offenders between the ages of seventeen and twenty-five are sentenced. “Upon conviction of a youthful offender in general sessions court, the sentencing court may: (1) place the youthful offender on probation; (2) sentence the youthful offender to an indeterminate sentence not to exceed six years; or, if the court finds that the offender will not benefit from treatment, (3) sentence the youthful offender ‘under any other applicable penalty provision.’” *United States v. Sitton*, 21 F.4th 873, 875 (4th Cir. 2022) (citing S.C. Code § 24-19-50)).

Here defense counsel was ineffective for failure to discuss the Act with petitioner and for failing to request the plea court sentence petitioner under the Act. Petitioner testified at his evidentiary hearing that he was prejudiced because counsel misadvised him as to his eligibility to be sentenced under the Act.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the 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.” *Rolen v. State*, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009).

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).

Petitioner did not have a full understanding of the consequences of his guilty plea where counsel refused to discuss with him the Act and why he was ineligible to be sentenced under the Act. Furthermore defense counsel failed to request the plea court sentence petitioner pursuant to the Act, a less severe sentencing structure.

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 from the record of the PCR hearing. *Id.*

The test for determining the validity of a guilty plea based upon alleged ineffective assistance of counsel is whether counsel's advice was within the range of competence demanded of attorneys in criminal cases and whether there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty. *Hill v. Lockhart*, 474 U.S. 52 (1985); *Ray v. State*, 303 S.C. 374, 401 S.E.2d 151 (1991). “A defendant who pleads guilty upon the advice of counsel may only attack the voluntary and intelligent character of the guilty plea by showing the advice he received from counsel was not within the range of competence demanded of attorneys in criminal cases.” *Richardson v. State*, 310 S.C. 360, 363, 426 S.E.2d 795, 797 (1993).

Petitioner asserts his defense counsel was ineffective where he was not properly advised regarding his eligibility to be sentenced under The Act and that he thus made an unknowing guilty plea.

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 9th day of July, 2026.

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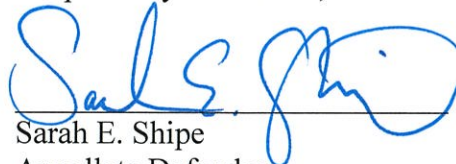
PETITION TO BE RELIEVED AS COUNSEL

Counsel for David Dozier 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 B. Alex Hyman, which was held on , 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 David Dozier.

Respectfully Submitted,


Sarah E. Shipe
Appellate Defender

ATTORNEY FOR PETITIONER

This 9th day of July, 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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This 9th day of July, 2026.