

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Jocelyn J. Newman, Circuit Court Judge

CHARLES O. JAMES, III,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-000714

JOHNSON PETITION FOR WRIT OF CERTIORARI

JESSICA M. SAXON
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

RECEIVED

Oct 02 2026

S.C. SUPREME COURT

INDEX

INDEX	i
ISSUE PRESENTED	1
STATEMENT	2
ARGUMENT	
Petitioner’s guilty plea was unknowingly and involuntarily entered where Petitioner did not have adequate time to review his discovery as it was only provided to him on the day that he pled guilty.	4
CONCLUSION	6
PETITION TO BE RELIEVED AS COUNSEL	7

ISSUE PRESENTED

Whether Petitioner's guilty plea was unknowingly and involuntarily entered where Petitioner did not have adequate time to review his discovery as it was only provided to him on the day that he pled guilty?

STATEMENT OF THE CASE

Petitioner was indicted by a Charleston County grand jury for two counts of criminal sexual conduct with a minor, second degree. On November 21, 2024, Petitioner appeared with counsel Amanda H. Monaco to enter a plea to one count of criminal sexual conduct with a minor, second degree, for a negotiated range of eight-to-twelve-years' incarceration. App. 1-4; App. 57-58. The state was represented by Lauren M. Frierson. The Honorable Jennifer B. McCoy presided. App. 1-2.

The incident giving rise to the plea occurred on November 25, 2022. Minor had recently moved into a new foster home and was taking a walk when Petitioner, a stranger, called out to her. Petitioner approached her then began to grab at minor and kiss her neck. When she attempted to walk away, he pulled into a storage room and sexually assaulted her. App. 6, l. 20 – 7, l. 7. Minor provided a physical description of her assailant which was consistent with Petitioner. DNA evidence was collected from the scene, and a CODIS hit returned Petitioner as a suspect. A confirmatory swab was collected, and the results indicated it was more likely to be Petitioner than it was other individuals. Tr. 7, l. 8 – 8, l. 1. The plea court sentenced Petitioner to ten (10) years' incarceration. Tr. 14, ll. 17-23.

Petitioner did not file a direct appeal. On January 14, 2025, Petitioner filed the present PCR application. App. 17-23. The state filed a return on September 15, 2025. App. 27-31. An evidentiary hearing was convened before the Honorable Jocelyn Newman on January 22, 2026. The state was represented by Kylee M. Kanealey; Petitioner was represented by Denise Grainger Swope. App. 32. At the hearing, Petitioner offered testimony solely on the issue of whether he received and reviewed his discovery prior to pleading. App. 35, ll. 22-24.

Petitioner explained that he did not review his discovery until the day he arrived at court to enter the plea. He acknowledged he spent time with his attorney reviewing the discovery the day he pled, but he stated that it was not enough time, and he did not have a full understanding of the evidence against him. Petitioner explained he felt cornered at the plea and had “no other choice but to take” the plea offer, even though he had asked for a continuance. App. 36, l. 2 – 37, l. 6. He informed the PCR court that he had a learning disability, ADHD, and a fifth grade reading level for which he was accommodated. App. 37, ll. 4-22.

Plea counsel testified that she did not meet with Petitioner in person prior to the plea date because he was housed in the Department of Corrections. However, they had three lengthy attorney-client phone calls during that time, wherein they discussed the discovery, the case, and what would occur at trial. Counsel testified that she was aware that Petitioner requested his discovery, and she mailed it to SCDC, but he had not received it. She confirmed that the day Petitioner was brought to court, he “was put on the spot” because the solicitor was requiring him to enter a plea that day or be placed on the trial docket. App. 40, l. 9 – 41, l. 23. However, she acknowledged that the solicitor and the court allowed her and Petitioner time to review the discovery and discuss everything again prior to Petitioner entering the guilty plea. App. 41, ll. 19-25.

The PCR court denied Petitioner’s application from the bench in an oral ruling. App. 45, l. 21- 47, l. 9. A written order of dismissal was filed on February 18, 2026, finding Petitioner had failed to show and constitutional violations entitling him to relief. App. 50-56.

ARGUMENT

Petitioner's guilty plea was unknowingly and involuntarily entered where Petitioner did not have adequate time to review his discovery as it was only provided to him on the day that he pled guilty.

In PCR proceedings, the applicant has the burden of establishing his entitlement to relief. Palacio v. State, 333 S.C. 506, 511, 511 S.E.2d 62, 65 (1999) *citing* Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Pursuant to Strickland v. Washington, 466 U.S. 668 (1984), the appellate court applies a two-pronged test when considering a claim of ineffective assistance of counsel: (1) the applicant must show his counsel's performance fell below an objective standard of reasonableness; and (2) but for counsel's error, there is a reasonable probability the result at trial would have been different. Palacio, 333 at 511, 511 S.E.2d at 65 *citing* Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998). A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial. Id.

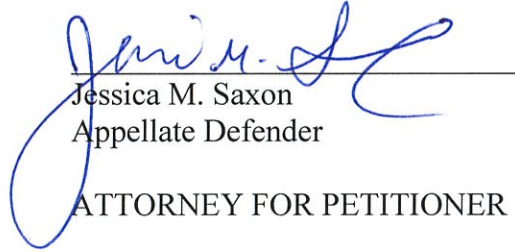
“The longstanding test for determining the validity of a guilty plea is whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” Hill v. Lockhart, 474 U.S. 52, 56 (1985). An applicant may attack the voluntary, knowing, and intelligent character of a guilty plea entered on the advice of counsel by demonstrating that counsel's representation was below an objective standard of reasonableness. Porter v. State, 368 S.C. 378, 383-84, 629 S.E.2d 353, 356 (2006); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). The “prejudice,” requirement focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process. Hill, 474 U.S. at 59 (1985). In other words, the applicant must prove prejudice by showing that, but for counsel's inadequacy, there is a reasonable probability he would not have pled guilty and,

instead, would have insisted on going to trial. Suber v. State, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007). In reviewing the PCR court's decision, this Court is concerned only with whether there is any evidence of probative value to support the decision. Cherry v. State, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989).

Petitioner met with plea counsel in person one time, a few hours before he entered a guilty plea. It was at that point that he was able to review the evidence in the case against him. While counsel testified that she had three hours-long telephone calls with Petitioner, Petitioner did not have any of the evidence before him during the conversations. Given his learning disability, his capacity to understand the evidence, defenses, and possible outcomes during telephone conversations was low. Counsel offered no reason for failing to go visit Petitioner in person with his discovery materials prior to his plea. Petitioner, as counsel testified, found himself in a tough spot on the day of the plea – despite not having had time to review his discovery, he was faced with having to enter a plea or risk a substantially greater sentence at trial. The way counsel handled the disclosure of discovery to Petitioner rendered his guilty plea unknowing and involuntary because Petitioner was denied adequate time to review the discovery, to ask questions of counsel, to gather evidence in his defense, and make fully informed decisions about how to proceed in this case.

CONCLUSION

Petitioner respectfully requests that this Court grant the petition for writ of certiorari to allow full briefing of this issue.



Jessica M. Saxon
Appellate Defender
ATTORNEY FOR PETITIONER

This 2nd day of October, 2026.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Jocelyn J. Newman, Circuit Court Judge

CHARLES O. JAMES, III,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

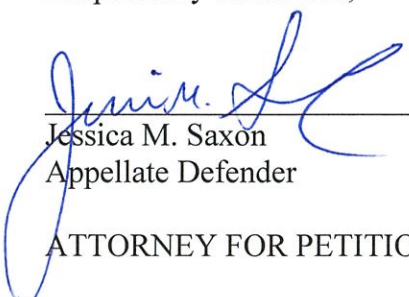
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Charles Otis James, III 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 Jocelyn Newman, which was held on January 22, 2026, 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 Otis James, III.

Respectfully Submitted,



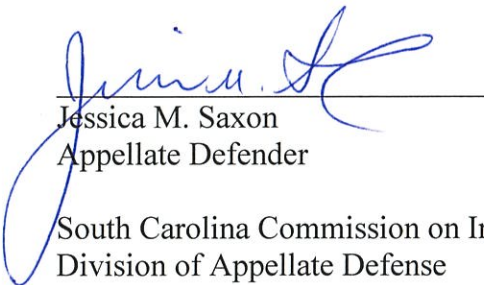
Jessica M. Saxon
Appellate Defender

ATTORNEY FOR PETITIONER

This 2nd day of October, 2026.

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."



Jessica M. Saxon
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

This 2nd day of October, 2026.