

RECEIVED

Oct 19 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Frank R. Addy, Jr., Circuit Court Judge

RICHARD CAMPODONICO,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001228

BRIEF OF PETITIONER

GARY H. JOHNSON
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

TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES	ii
ISSUE PRESENTED	1
STATEMENT	2
STANDARD OF REVIEW	4
ARGUMENT	
Petitioner's sentence for possession of a weapon during the commission of a violent crime should be vacated because it is manifestly unlawful, regardless of being raised to and ruled upon by the PCR court.	5
CONCLUSION	7

TABLE OF AUTHORITIES

South Carolina Cases

State v. Davis-Kocsis, 443 S.C. 127, 903 S.E.2d 491 (2024)..... 6

State v. Plumer, 439 S.C. 346, 887 S.E.2d 134 (2023)..... 1, 4, 5, 6

Statutes

S.C. Code Ann. § 16-23-490..... 3, 5

ISSUE PRESENTED

Under the reasoning of State v. Plumer, 439 S.C. 346, 887 S.E.2d 134 (2023), can a PCR applicant on appeal challenge his facially illegal sentence to possession of a weapon during the commission of a violent crime without raising the issue below?

STATEMENT

On October 10, 2022, Petitioner Richard Campodonico pled guilty to several charges arising out of Colleton and Charleston counties before Judge Carmen Mullen. App. 1; 25, ll. 7-19. He was represented by Lyndsay Luthringer on the Charleston County charge; Dave Mathews represented him on the Colleton County charges. App. 1. Tameaka Leggette represented the state. App. 1. From Charleston County, Petitioner pled guilty to first-degree burglary, and the plea court imposed a negotiated sentence of life without parole. App. 4, ll. 14-19; 31, ll. 5-9. From Colleton County, he received two life sentences for murder and first-degree burglary, a thirty-year sentence for armed robbery, and a five-year sentence for possessing a weapon during the commission of a violent crime. App. 31, ll. 10-24. All of the sentences run concurrently. App. 31, ll. 24-25. Petitioner did not appeal.

Petitioner filed an application for post-conviction relief. App. 1. In it, he sought a belated appeal, asserted his indictments were invalid and the plea court lacked subject matter jurisdiction, and that plea counsel were ineffective by failing to negotiate and investigate properly. App. 57-59; 64. On September 25, 2024, the state, represented by Danielle Dixon, filed a return. App. 63; 67. On April 3, 2025, Petitioner filed an amended application. App. 69. In it, he alleged trial counsel was ineffective for several reasons and that the plea was invalid for several reasons. App. 69.

On April 15, 2025, Judge Frank R. Addy, Jr. held an evidentiary hearing on the application. App. 72. Petitioner was represented by Chelsey Marto; Kylee Kanealey represented the state. App. 72. Ultimately, Judge Addy issued a Form 4 order denying the application. App. 102-03. In the order the PCR court noted,

Although not raised at the hearing or in his Application, the Court notes that Mr. Campodonico received a 5 year concurrent sentence

on the weapons charge while also receiving life on the murder conviction. Under 16-23-490(A), if a life sentence is imposed, the 5 year sentence should not be imposed on the weapons offense. This Court will leave to the appellate courts as to how to address this issue since it was not raised at the hearing.

App. 103.

Petitioner sought a writ of certiorari to review the denial of post-conviction relief. This Court granted review on the single issue presented in the petition concerning the concern raised by Judge Addy regarding the sentence imposed under S.C. Code Ann. §16-23-490. This Brief of Petitioner follows.

STANDARD OF REVIEW

The "appellate court may correct that sentence on direct appeal or remand the issue to the trial court even if the defendant did not object to the sentence at trial and even if there is no real threat of incarceration beyond the limits of a legal sentence." State v. Plumer, 439 S.C. 346, 351, 887 S.E.2d 134, 137 (2023).

ARGUMENT

Petitioner's sentence for possession of a weapon during the commission of a violent crime should be vacated because it is manifestly unlawful, regardless of being raised to and ruled upon by the PCR court.

The PCR court correctly determined Petitioner's five-year sentence for the weapons charge is unlawful. Subsection 16-23-490(A) of the South Carolina Code imposes an additional five-year term for anyone who possesses a firearm during the commission of a violent crime. It also expressly provides the additional sentence "does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime." S.C. Code Ann. § 16-23-490. Here, Petitioner was charged under section 16-23-490 for possession of a firearm "during the commission of a violent crime, to wit: murder" App. 47. Because he received a life sentence on the murder charge, the additional five-year sentence for the weapons charge is illegal under the statute.

In State v. Plumer, 439 S.C. 346, 887 S.E.2d 134 (2023), the Court held a defendant can challenge his sentence under § 16-23-490(A) on direct appeal, even if he did not challenge it below, assuming the state concedes to its illegality. 439 S.C. at 350-51, 887 S.E.2d at 137. "[W]hen a trial court imposes what the State concedes is an illegal sentence, the appellate court may correct that sentence on direct appeal or remand the issue to the trial court even if the defendant did not object to the sentence at trial and even if there is no real threat of incarceration beyond the limits of a legal sentence." Plumer, 439 S.C. at 351, 887 S.E.2d at 137.

Of course, Plumer considered the issue on direct appeal, while here, the sentencing issue was not raised below in the PCR application or at the hearing, except by the court in its order denying relief. This distinction should not matter. The Court's rationale in Plumer was that "it is

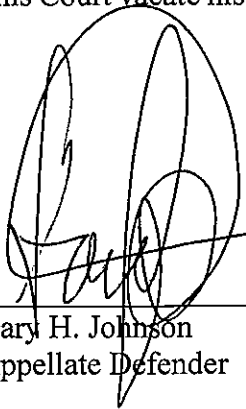
inefficient and a waste of judicial resources to delay the inevitable by requiring the appellant to file a post-conviction relief action or petition for a writ of habeas corpus." Id. The same rationale should extend here. Petitioner's additional sentence is indisputably unlawful. It is a waste of resources to require him to seek habeas relief—as the Court in Plumer recognized—before his sentence will be set aside.

In its return to the petition for certiorari, the state adopted a narrow reading of Plumer by claiming longstanding issue preservation requirements concerning the legality of sentencing still applied. To the contrary, "we reiterate that—going forward—the issue-preservation standard for illegal sentences is the standard set forth in Plumer." State v. Davis-Kocsis, 443 S.C. 127, 135, 903 S.E.2d 491, 495 (2024).

As dictated by Plumer, "it is inefficient and a waste of judicial resources to delay the inevitable by requiring the appellant to file a post-conviction relief action or petition for a writ of habeas corpus." Id., 439 S.C. at 351, 887 S.E.2d at 137. The sentence here is either illegal or proper. If illegal, as dictated by Plumer, it is a waste of judicial resources to not correct the obvious as the matter is brought before the Court, be it on direct appeal or at post-conviction relief. Certainly, if it had been raised before Judge Addy, this Court knows what the result would have been. Undoubtably, this Court would have confirmed Judge Addy's decision to vacate that portion of the sentence. Had Judge Addy refused to vacate and the matter been raised, this Court would have overturned such a decision as mandated by Plumer.

CONCLUSION

Based on the foregoing, Petitioner requests this Court vacate his sentence under subsection 16-23-490(A).



Gary H. Johnson
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330
SC Bar No. 8898

This 19th day of October, 2026.

ATTORNEY FOR PETITIONER