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SC Court of Appeals

IN THE COURT OF Appeals of South Carolina
Appellate Case No. 2025-001289

Jamel D. Williams
Petitioner,
V.
State of South Cardina,
Respondent

On Write of certiorari
from Allendale County

Lower Court No.
2022-CP-03-00057

MOTION FOR LEAVE TO FILE FINAL SUPPLEMENTAL NOTICE AND FINAL SUPPLEMENTAL NOTICE SUPPORT OF PRO SE JOHNSON RESPONSE

MOTION FOR LEAVE

Petitioner Jamel D. Williams, Proceeding Pro se, respectfully moves pursuant to Rule 240, SCACR, For leave to file this final Supplemental notice before disposition of the Pending Johnson Petition. This Filing does not replace, withdraw, narrow, or abandon either of Petitioner's Previously filed Pro Se Johnson responses. It is offered only to clarify a legal issue already presented and to direct the court to the governing Constitutional and South Carolina authorities.

Petitioner respectfully submits that that Consideration will assist the Court because the PCR Court's order address counsel's decision not to request a pretrial statutory-

immunity determination as both a ~~separately~~ reasonable strategic choice and a waiver by Petitioner, and separately found no prejudice because Petitioner later presented self-defense to the Jury. The issue clarified below is whether those conclusions were reached under the correct Strickland and South Carolina statutory-immunity framework.

MEMORANDUM IN SUPPORT AND FINAL ~~SUPPLEMENTAL~~ SUPPLEMENTAL NOTICE

I. Narrow Question Presented

Whether the PCR Court Properly applied Strickland v. Washington when it found trial counsel's decision not to request a Pretrial immunity determination to be reasonable strategy and found no prejudice largely because petitioner later presented self-defense at trial and was convicted, were South Carolina law treats statutory immunity as a distinct pretrial determination by the circuit Judge under a Preponderance-of-the-evidence standard.

II. Statutory Immunity Is a Distinct Pretrial Protection

Under State v. Duncan, 392 S.C. 404, 410-11, 709 S.E.2d 662, (2011). Section 16-11-450(A) is not merely an affirmative defense for the Jury.

It provides a procedure for determining immunity before trial and, when established, shields the accused from trial itself. The immunity determination is made under a preponderance-of-the-evidence standard.

South Carolina also makes clear that conflicting evidence does not automatically defeat immunity. State v. Cervantes-Pavon, 426 S.C. 442, 451, 827 S.E.2d 564, 569 (2019), holds that the circuit court must sit as factfinders, weigh the evidence, and reach a conclusion under the Act.

State v. Andrew, 427 S.C. 178, 181, 830 S.E.2d 12, 13 (2019), likewise explain that the relevant inquiry is whether the accused proved entitlement to immunity by a preponderance of the evidence.

State v. Glenn, 429 S.C. 108, 123, 838 S.E.2d 491, 499 (2019), further emphasizes the need for specific findings on the governing elements.

III. WAIVER DOES NOT END THE STRICKLAND INQUIRY

Petitioner maintains that he did not personally and knowingly waive the opportunity to seek statutory immunity. Petitioner also recognizes that counsel's may make strategic decisions in conducting a defense. The absence of a personal waiver, standing alone, therefore does not decide the

Constitutional claims. The controlling question remains whether Counsel's advice and resulting strategic decision satisfied the Sixth Amendment standard in Strickland v. Washington, 466 U.S. 668, 687-88 (1984): Whether Counsel's performance fell below an objective standard of reasonableness.

Accordingly, even accepting the PCR Court's factual finding that Petitioner agree not to pursue the hearing after receiving Counsel's advice, that finding does not by itself resolve whether the advice was objectively reasonable in light of the distinct Protection South Carolina law ~~attacks~~ attacks to statutory immunity. Labeling a decision "strategy" does not eliminate the constitutional inquiry into whether that strategy reflected reasonable professional judgement under the circumsances.

IV. THE PCR COURT'S PREJUDICE ANALYSIS WARRANTS REVIEW

The second Strickland Prong asks whether there is a reasonable probability that, but for counsel's deficient performance, the result of the relevant proceeding would have been different. Strickland, 466 U.S at 694. Here, the omitted proceeding was the Pretrial Statutory-immunity determination.

The PCR Court reasoned that petitioner did not demonstrate Prejudice because he later presented the same self-defense theory at trial and the Jury convicted him. Respectfully, a later Jury verdict does not itself supply the separate pretrial determination that never occurred. Duncan treats immunity as a pretrial Protection from Prosecution cervantes-Pavon further recognizes that an immunity ruling is based on the evidence Presented at the immunity ~~ruling~~ hearing, while a Jury's verdict rest on the evidence Presented at trial the two records may differ materially.

Thus, the Prejudice inquiry is not whether this Court Should now disregard the Jury's verdict or itself decide that Petitioner was entitled to immunity. The narrower question is whether, had Counsel requested the Statutory Procedure, there is a reasonable probability the Circuit Judge-sitting as factfinder and applying the PrePonderance Standard-would have reached a different result in the omitted immunity Proceeding.

V. THE ADVERSE FACTS CITED BY THE PCR COURT DO NOT REPLACE THE REQUIRED INQUIRY

The PCR Court cited trial evidence that the Victim pleaded before being shot, testimony that another witness did not observe a firearm before the Shooting, and Petitioner's initial statement following the incident Petitioner does not ask

this court through this notice to reweigh those facts or to decide immunity on the existing paper record. Those facts may bear on the immunity analysis. But under Cervantes-Pavon and Andrews, the existence of conflicting or unfavorable evidence does not automatically determine immunity. The Circuit Judge at an immunity hearing would have been required to weigh the entire evidentiary presentation under the statutory standard.

This distinction keeps the issue focused. Petitioner is not asking the Court to retry the criminal case, resolve every factual dispute, or hold that immunity necessarily would have been granted. He ask only that the PCR court's findings on strategy, waiver, and prejudice be reviewed under the correct Strickland framework and the distinct pretrial-immunity procedure established by South Carolina law.

VI. PREVIOUSLY RAISED ISSUES ARE EXPRESSLY PRESERVED

Nothing in this supplemental notice withdraws, replaces, narrows, or abandon any issue previously presented in Petitioner's Pro Se Johnson responses, Petitioner espressly maintains his lesser-included voluntary-manslaughter-instruction claim and every other properly preserved PCR issue already submitted to the Court.

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that the Court grant leave to accept this final supplemental notice, consider it together with the previously filed Johnson Petition, Petitioner's Pro se responses, and the existing PCR Record, and grant Certiorari or such other relief as the Court deems appropriate.

Respectfully Submitted,
Jamel D. Williams, 348445
Petitioner, Pro, se
Lieber Corr. Inst.
P.O. Box 205
Ridgeville SC 29472

Jamel Williams

Date: 10-19-2020

CERTIFICATE OF SERVICE

I certify that on Oct 19, 2026, I deposited a true and correct copy of the foregoing Motion for leave to file final Supplemental Notice and Final Supplemental Notice in the institution's internal mail System.

Jamel Williams

Date: 10-19-2026

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