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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Thomas William McGee, III, Circuit Court Judge

AARON J. WHITE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-001434

JOHNSON PETITION FOR WRIT OF CERTIORARI

Lara M. Caudy
Senior 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

Whether Petitioner's guilty plea was knowingly, intelligently, and voluntarily made where he only pled guilty because trial counsel told him he had no other viable option and promised Petitioner that he would be sentenced to less than life without parole if he pled guilty?

STATEMENT OF THE CASE

On the morning of February 23, 2018, Michael Cooke and his adult son, Bryan Cooke, were doing plumbing work on a house being renovated as part of a program to provide housing to wounded veterans. The two volunteered to replace a sink and toilet in a bathroom in the home. Shortly before eleven o'clock, Petitioner and his friend, Da'Quintez Gadsden, were walking to Greg Mathis Charter High School, where they were enrolled. According to Gadsden, as they were walking, Petitioner showed Gadsden a .40 caliber handgun and asked him if he wanted to rob someone. Gadsden agreed. The two walked into a neighborhood across the street from their school. They happened to see the Cookes at the house being renovated. The front door was open. According to the state, Petitioner, who was the only person armed, went into the house first, followed by Gadsden. They confronted Bryan Cooke, who was standing in the doorway to the bathroom. Petitioner allegedly presented the gun and demanded money. Bryan "put his hands in the air and asked him not to shoot, but for some reason, he shot." After being shot, Bryan ran out of the house. Petitioner then confronted Michael Cooke, who was in the bathroom, and demanded money from him. Michael explained that he had no money, but for whatever reason, Petitioner allegedly shot him three times. Petitioner and Gadsden then fled the house. App. 14, l. 10 – 16, l. 2.

Bryan Cooke made it to the street where he collapsed and died of his injuries before emergency medical services arrived. He had been shot in the side. The bullet traveled through both his lungs and exited out his other side. Michael Cooke was able to crawl outside to the front yard and call 911. He was transported to the hospital and ultimately survived his severe injuries. App. 16, ll. 3-11.

The investigation ended quickly. Investigators went to the nearby charter school and learned that Petitioner and Gadsden "showed up late to school, right after the shooting had occurred, and both appeared to be sweating." When questioned, both Petitioner and Gadsden "confessed." Petitioner supposedly admitted that he had brought the gun, that he was the only person armed, and that he shot both Bryan and Michael Cooke. App. 16, l. 12 – 17, l. 1.

Defense counsel later explained that "this was an idea that he [Petitioner] cooked up in this confused state of mind on the fly because he had this .40 caliber pistol and thought that he could get some quick money. And when he confronted these brave and good men, he panicked because they gestured, they moved in a way that frightened him, and he fired." App. 43, ll. 12-17. Petitioner was only eighteen years old at the time and had no prior record. App. 17, l. 2.

A Charleston County grand jury indicted Petitioner on June 4, 2018, for murder, attempted murder, attempted armed robbery, second degree burglary, and possession of a weapon during the commission of a violent crime. App. 101-104. Petitioner pled guilty as indicted on November 13, 2019, before the Honorable R. Markley Dennis, Jr. App. 1. Assistant Solicitor Bruce Durant represented the state. Ashley Pennington represented Petitioner. App. 1.

Petitioner was sentenced to life without parole for murder, thirty years for attempted murder, twenty years for attempted armed robbery, fifteen years for second degree burglary, and five years for the weapons offense. All sentences were ordered to be served concurrently. App. 51, ll. 18-24.

On November 22, 2019, Petitioner filed a motion to reconsider sentence. The state filed a response to the motion to reconsider on December 4, 2019. Petitioner filed an amended motion to reconsider on April 10, 2020. A hearing was held on Petitioner's motion on June 11, 2021. At the conclusion of the hearing, Judge Dennis amended Petitioner's sentence for murder from

life without parole to thirty years. However, he ordered this thirty year sentence be served consecutively to the thirty year sentence for attempted murder. App. 107-108.

On August 13, 2021, Petitioner filed an application for post-conviction relief (PCR). App. 54-60. The state filed a return to this application on December 6, 2021. App. 61-71. An evidentiary hearing was held on April 14, 2026, before the Honorable Thomas MeGee. Assistant Attorney General Kylee Kanealey represented the state. Denise Swope represented Petitioner. App. 72.

Petitioner testified during the evidentiary hearing that he did not want to plead guilty. He explained that he felt pressured to plead guilty after trial counsel told him it was "an open and closed case" because Petitioner confessed and his codefendant was willing to testify against Petitioner if he went to trial. Petitioner felt trial counsel was unwilling "to seek out any other option" other than for Petitioner to plead guilty. He further testified that counsel told him if he pled guilty, he would not be sentenced to life without parole and Petitioner was "running from the possibility of facing the rest of [his] life in prison." App. 77, l. 3 – 78, l. 21.

Ashley Pennington, Petitioner's trial counsel, testified that about eight to ten months before Petitioner pled guilty, he was strongly considering going to trial. However, Pennington sent Petitioner "loads of documents" and continued to have conversations with him about the evidence. "Based on the evidence in the case, [Pennington] could not see a way that the jury could ever acquit" Petitioner. He explained that Petitioner "had been unusually open and frank with the detective who interviewed him on the day of his arrest." Over the course of numerous months, Petitioner ultimately decided to plead guilty. Pennington explained that about five days before Petitioner pled guilty, he met with his mother and family, and "at that time there was no hesitancy expressed about the wisdom of going forward with the plea." According to

Pennington, Petitioner knew there was no "viable option" of going to trial. Given this reality, Pennington "evaluated the possible judges that [Petitioner] could appear in front of" and believed Judge Dennis would be the most lenient. He believed that Petitioner "would receive substantially less than an active life sentence." When Petitioner was sentenced to life without parole, Pennington filed a motion to reconsider and Judge Dennis ultimately reduced Petitioner's sentence to thirty years for murder, which Petitioner must serve day for day, and thirty years consecutive, which Petitioner must serve 85% of before being eligible for community supervision. App. 82, l. 10 – 85, l. 18.

By order filed May 15, 2026, the PCR court denied Petitioner relief. App. 91-100. The court found Petitioner freely, knowingly, and voluntarily pled guilty. App. 99. The court emphasized trial counsel's testimony that he had multiple conversations with Petitioner concerning the advantages and disadvantages of pleading guilty, the elements of the offenses and the potential sentence each carried, as well as the state's evidence against Petitioner. App. 99. The court asserted that Petitioner did not specify what "faulty advice" counsel gave. Accordingly, the court concluded Petitioner failed to prove any deficient performance on counsel's part or prejudice. App. 99.

Because Petitioner's guilty plea was not knowingly, intelligently, and voluntarily made due to trial counsel's deficient performance, this petition for writ of certiorari follows.

ARGUMENT

Petitioner's guilty plea was not knowingly, intelligently, and voluntarily made where he only pled guilty because trial counsel told him he had no other viable option and promised Petitioner that he would be sentenced to less than life without parole if he pled guilty.

Petitioner's guilty plea was not knowingly, intelligently, and voluntarily made where he only pled guilty because trial counsel told him that he had no other viable option and promised him that he would be sentenced to less than life without parole if he pled guilty. Petitioner was prejudiced because he would not have pled guilty if trial counsel had been willing to seek alternative options and had not promised Petitioner he would be sentenced to less than life if he pled guilty.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to the effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984). In order to show ineffective assistance of counsel as a ground for relief, Petitioner must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Id. at 686; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-688.

The United States Supreme Court has established a two pronged test to evaluate allegations of ineffective assistance of counsel. In the context of a guilty plea, a petitioner must show that counsel's performance was deficient, and "there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); See Jackson v. State, 342 S.C. 95, 97, 535 S.E.2d 926, 927 (2000); Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000); Wolfe v. State, 326

S.C. 158, 164, 485 S.E.2d 367, 370 (1997); Rayford v. State, 314 S.C. 46, 48, 443 S.E.2d 805, 806 (1994). This Court has held that a "defendant's undisputed testimony that he would not have pled guilty but for trial counsel's advice is sufficient to prove that defendant would not have pled guilty." Smith v. State, 369 S.C. 135, 631 S.E.2d 260 (2006) (citing Jackson v. State, 342 S.C. 95, 97-98, 535 S.E.2d 926, 927 (2000)); Alexander v. State, 303 S.C. 539, 543, 402 S.E.2d 484, 485-86 (1991)).

The difference "between a valid guilty plea and an invalid guilty plea lies in the knowing and voluntary nature of the plea." Berry v. State, 381 S.C. 630, 635, 675 S.E.2d 425, 427 (2009). "The longstanding test for determining the validity of a 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) (internal quotations omitted) (applying the two part test for claims of ineffective assistance of counsel in Strickland v. Washington, 466 U.S. 668 (1984), to claims of the same against plea counsel).

"The right to counsel plays a crucial role in the adversarial system embodied in the Sixth Amendment, since access to counsel's skill and knowledge is necessary to accord defendants the 'ample opportunity to meet the case of the prosecution' to which they are entitled." Strickland, 466 U.S. at 685 (quoting Adams v. United States ex. rel. McCann, 317 U.S. 269, 275-276 (1942)). A guilty plea that was "entered by one fully aware of the direct consequences . . . must stand *unless* induced by . . . misrepresentation (including unfulfilled or unfulfillable promises) . . . " Brady v. United States, 397 U.S. 742, 755 (1970) (emphasis added) (quoting Shelton v. United States, 246 F.2d 571, 572 n.2 (5th Cir. 1957) (reversed on other grounds, 356 U.S. 26 (1958)). Accordingly, counsel provides ineffective assistance in the adversarial system when he induces the defendant to plead guilty.

In this case, Petitioner was induced into pleading guilty by trial counsel's statement that Petitioner had no other viable option but to plead guilty and counsel's promise that Petitioner would be sentenced to less than life without parole. Petitioner was prejudiced by counsel's deficient performance because he would not have pled guilty if trial counsel had been willing to seek alternative options and had not promised Petitioner he would be sentenced to less than life if he pled guilty.

As a result of the invalid plea and the resulting prejudice, Petitioner's convictions should be reversed and he should be granted a new trial.

CONCLUSION

Based on the foregoing argument, Petitioner respectfully requests this Court grant the petition for writ of certiorari and permit full briefing on the issue presented. Petitioner ultimately requests this Court reverse his convictions and sentence and remand for a new trial.

Respectfully submitted,

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 28th day of October, 2026.

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RESPONDENT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Aaron White states:

1. She is an 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, which was held on April 14, 2026, before the Honorable Thomas William McGee, III, 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 Aaron White.

Respectfully Submitted,

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR PETITIONER

This 28th day of October, 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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Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
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ATTORNEY FOR PETITIONER

This 28th day of October, 2026.