

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Dorchester County

The Honorable Diane S. Goodstein, Circuit Court Judge

CURTIS BRYANT,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

ANDERS BRIEF OF APPELLANT
PURSUANT TO WHITE V. STATE

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether Appellant's guilty plea complied with the mandates set forth in Boykin v.

Alabama?

STATEMENT OF THE CASE

Appellant adopts the statement set forth in the petition for writ of certiorari dealing with the granting of this belated appeal of his guilty plea.

ARGUMENT

Appellant's guilty plea failed to comply with the mandates set forth in Boykin v. Alabama.


Due process of law requires that before a guilty plea can be entered voluntarily and intelligently, a defendant must be advised of his privilege against compulsory self-incrimination, the right to trial by jury, and the right to confront one's accusers. A valid waiver of these rights cannot be presumed from a silent record. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969). In State v. Armstrong, 263 S.C. 594, 211 S.E.2d 889 (1975), this Court held that the "essence" of Boykin, was to make the requirements of Rule 11 of the Federal Rules of Criminal Procedure applicable to the states. In State v. Patterson, 278 S.C. 319, 295 S.E.2d 264 (1982), this Court held that for there to be a valid waiver under the due process clause of the three constitutional rights listed in Boykin, the record must clearly establish it.

In this case the plea court did advise Appellant of his right to a jury trial. (App. p. 13, lines 13-18). The plea court failed, however, to explain to Appellant that he could not be convicted by a jury unless it was by a unanimous verdict.

CONCLUSION

Because Appellant was not adequately advised of the jury trial right he was waiving, his guilty plea should be vacated.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of July, 2011.

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Appeal from Dorchester County

The Honorable Diane S. Goodstein, Circuit Court Judge

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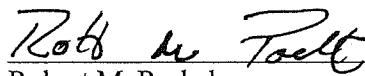
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Curtis Bryant states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent Appellant.
2. He has reviewed the record of Appellant's trial before Judge Diane S. Goodstein, which was held on June 12, 2007, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Curtis Bryant.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of July, 2011.

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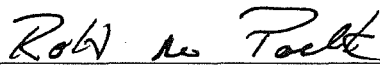
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

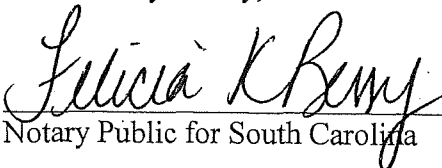
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant pursuant to White v. State in the above referenced case has been served upon Mary S. Williams, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and on Curtis Bryant, #276403 at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472; this 14th day of July, 2011.



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 14th day of July, 2011.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: June 21, 2020.