

The State of South Carolina
in the Court of Appeal

Appeal From Lexington County
Court of General Sessions

Honorable Williams P. Keesley Circuit Court Judge

Case No: 2013-001849

James Chester Williams 282929 Petitioner
State of South Carolina V. Respondent

Initial brief Petition For writ of Certiorari

James Chester Williams 282929
Kershaw Corr-Inst Ma 04
4848 Gold Mine Hwy
Kershaw South Carolina
29067
Petitioner Pro se

Other Counsel of Record
J. Walter Whitmire assistant
Attorney General P.O. Box 11549
Columbia South Carolina 29211-1549
Attorney For Respondent

RECEIVED

AUG 18 2014

SC Court of Appeals

Table of Contents

Table of Contents	1
Table of authorities	2
Statement of issue on appeal	3
Statement of the case	4
ARGUMENT	5
CONCLUSION	6

Table of authorities

Case

Boydin v Alabama 395 U.S. 238, 89 S.Ct. 1709 (1969) _____ 56

Pittman v State 337 S.C. 597, 524 S.E. 2d 623 (1999) _____ 6

Statement of Issue on appeal

Whether the court error for not informed
petitioner his right against self-incrimination

Statement of Case

Petitioner was Indicted at the January, 2000 term of the Lexington County Grand Jury for murder Indictment 2000-65-32-689 and Possession of a Weapon during the Commission of a Violent Crime Indictment 2000-65-32-688. Petitioner was represented by William F. Gorski, on March 21, 2002 the Petitioner Plea Guilty to murder. The Possession of a Weapon during a Violent Crime Charge was dismissed in exchange for Petitioner Guilty Plea. The Honorable Mark H. Westbrook sentenced the Petitioner to Confinement for a period of thirty (30) years with the South Carolina Department of Corrections. The Petitioner appealed and was represented on appeal by Robert M. Dudek. After a review pursuant to Aders v California 386 U.S. 738 (1967) the South Carolina Court of Appeals dismissed the appeal. State v. Williams OP. No. 03-UP-329 (decided May 15, 2003). The remittitur was issued on June 17, 2003. Petitioner then filed a Post-Conviction Relief Application on May 26, 2003 in his application alleges his trial counsel was ineffective by not being prepared for trial due to his failure to do an adequate investigation of the facts of this case. On June 27, 2005 an evidentiary hearing was held before the Honorable James W. Johnson Jr. Petitioner was represented by Robert N. Boarda Esq. Respondent was represented by Sabrina C. Todd of the Attorney General Office. Petitioner testified in his own behalf and he called William F. Gorski on August 4, 2005 Judge Johnson issued an order denying and dismissing the application. Petitioner then filed a Notice of Appeal and a Pro Se Petition for writ of Certiorari. Respondent filed a Return to Petitioner Pro Se Petition for writ of Certiorari. On April 20, 2006 this amended Petition for writ of Certiorari follows

ARGUMENT

The Court error for not informing petitioner of the three constitutional rights he is waiving. The accusers must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. These three constitutional, important federal rights cannot be presumed from a silent record. Petitioner's Fourteenth Amendment right of the Constitution and his right of due process were violated in Boykin v. Alabama.
Fact

At the hearing/status conference was held on June 20, 2013, the petitioner told the court according to Boykin v. Alabama (right) he was never advised of his privilege against self-incrimination. See the transcript of record R-P-45 line 21-25. Petitioner's guilty plea was involuntarily and not knowingly made in a constitutional sense. See transcript of guilty plea R-P-31-41 line 1-25.

Discussion

Boykin v. Alabama 395 U.S. 238, 89 S.Ct. 1709 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the

Constitutional Right he is waiving Id SPECIFICALLY The accused must be aware of the Privilege Against SELF-Incrimination The Right to a Jury Trial and the Right to Confront one accusers Id moreover a Criminal defendant entering a Guilty Plea must be aware of the nature and crucial element of the offense The maximum and any mandatory minimum Penalty and the nature of the constitutional Right being waived Pittman v State 337 S.C. 597, 524 SE 2d 623 (1999) a Criminal defendant knowing and voluntary waiver of statutory or constitutional Right In a Guilty Plea must be established by a complete Record and may accomplished by colloquy between court and Petitioner between Court and Petitioner Counsel or both.

Conclusion

Therefore For the Foregoing Reasons Petitioner Guilty Plea should be vacated.

RespectFull Submitted

James Chester Williams
James Chester Williams 282929
Kershaw Corr-Inst Ma 04
4848 Gold mine Hwy
Kershaw South Carolina 29067
Petitioner Pro se

AUGUST 14, 2014

The state of South Carolina
in the court of appeal

APPEAL FROM Lexington County
COURT OF GENERAL SESSIONS

Honorable William P. Keesley Circuit Court Judge

CASE NO: 2013-001849

James Chester Williams 282929 Petitioner
The State of South Carolina V Respondent

PROOF OF SERVICE

I certify that I have served the initial brief for
Petition writ of certiorari on J. Walter Whitmire
by depositing a copy of it in the United States mail
postage pre paid on August 14, 2014 addressed to
J. Walter Whitmire Assistant Attorney General P.O.
Box 11549 Columbia S.C. 29211-1549

RECEIVED

AUG 18 2014

SC Court of Appeals

James Chester Williams
James Chester Williams 282929
Kershaw Corr-Inst ma 04
4848 Gold mine HWY
Kershaw South Carolina 29067
Petitioner Pro se

AUGUST 14, 2014

James C Williams 282929
Kershaw Corr - Inst ma-04
4848 Gold Mine HWY
Kershaw S.C. 29067

Case No.: 2013 - 001849

South Carolina Court of Appeals
Jenny Abbott Kitching Clerk
Post Office Box 11629
Columbia S.C. 29211

RECEIVED

AUG 18 2014

SC Court of Appeals

Dear Miss Kitching

Enclosed for Filine is the original initial brief petition for writ certiorari in above-referenced matter. Also enclosed a self-addressed stamped envelope which is included for your convenience to returning to me a stamped copy. Thank you for your assistance in this matter.

Sincerely

James C. Williams
James C Williams 282929

James C. Williams #282929
Kershaw Corr-Inst Ma-04
4848 Gold Mine Hwy
Kershaw S.C. 29069

RECEIVED

AUG 18 2014

SC Court of Appeals

South Carolina Court of Appeals
Jenny ABBOTT Kitchings Clerk
Post Office Box 11629
Columbia South Carolina 29211

RECEIVED

AUG 14 2014

KerC
MAILROOM