

The state of south caroline
in the court of appeal

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APPEAL FROM LEXINGTON COUNTY
COURT OF GENERAL SESSIONS

SC Court of Appeals

Honorable Williams P Keeley Circuit Court Judge

CASE NO: 2013-001849

James Chester Williams 282929 APPELLANT
State of South Carolina Respondent

Initial Brief of Appellant

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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

Boykin 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 Appellant of his Right against SELF-Incrimination

STATEMENT OF CASE

Appellant 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. Appellant was represented by William F. Gorski Esq. on March 26, 2002 the Appellant Plead Guilty to murder. The possession of a weapon during a violent crime charge was dismissed in exchange for Appellant Guilty Plea. The Honorable Mark H Westbrook sentenced the Appellant to confinement for a period of thirty (30) years with the South Carolina Department of Corrections the Appellant appealed and was represented on appeal by Robert M. Dudek after a review pursuant to Ander 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 Appellant then filed a Post-Conviction Relief Application on May 21, 2003. In his Application Appellant 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 Appellant was represented by Robert N. Boorda Esq Respondent was represented by Sabrina C. Todd of the Attorney General Office Appellant testified in his own behalf and he called William F. Gorski. On August 1, 2005 Judge Johnson issued an order denying and dismissing the application.

ARGUMENT

The Court error for not informed appellant of his Three Constitution Right he is waiving. The accuser must be aware of the Privilege against SELF-Incrimination The Right to a Jury trial the Right to Confront one accusers these three Constitutional Important Federal Right cannot be Presumed From a silent Record appellant Fourteenth Amendment Right of the Consitution and his Right of due Process were Violated in Boykin v Alabama

Fact

AT The hearing/status Conference For after discovered evidence was held on June 20, 2013. The appellant told The court accordrding to Boykin v Alabama (Right) he was never advised of his Privilege against SELF-Incrimination appellant Guilty Plea was Involuntarity and not knowingly and intelligently made In Constotutional sense because the court never advised appellant of his Privilege aGanist SELF-Incrimination the Right to a Jury Trial and the Right to Confront one accusers Please see The transcript of Record R. PP. 41-46 line 1-25 also Please see the Transcript of the Guilty Plea R. PP. 60-71 line 1-25

Discussion

Boykin v Alabama 395 U.S. 238 89 S.Ct 1709 (1969) In

Boykin The united state supreme court held 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 elements 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 S.E 2d 623 (1999) a Criminal defendant knowing and voluntary Waiver OF Statutory or Constitutional Right in a Guilty must be established by a Complete Record and may be accomplished by colloquy between The Court and Appellant between Court and Appellant Counsel or both

CONCLUSION

Therefore For the Foregoing Reasons Appellant Guilty Plea should be vacated due to the Constitutional error that was made in his case

RespectFull Submitted

James Chester Williams
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Appellant Pro Se

September 14, 2014

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

PROOF OF SERVICE

I certify that I have served the initial brief of Appellant and the Transcript of record and the Guilty Plea Transcript on J. Walter Whitmire by depositing a copy of it in The United States mail Postage Prepaid on September 14, 2014 addressed to J. Walter Whitmire Assistant Attorney General Po Box 11549 Columbia S.C 29211-1549

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SC Court of Appeals

South Carolina Court of Appeals
Jenny Abbott Ketchings
Clerk of Court
PO Box 11629
Columbia SC 29211

Re: State v James C. Williams, Case No. 2013-001849

Dear Clerk:

Thank you for your letter of September 8, 2014. In accordance with your instructions, I have made the required corrections to the title of my Initial Brief, and also included a "designation of matter to be included in the record on appeal", attached to the transcript which I am returning back to you.

If anything further is needed, please do not hesitate to contact me.

Thank you for all your assistance in regard to this matter.

Sincerely,

James C. Williams
James C. Williams, #282929

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SC Court of Appeals

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