

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Chesterfield County

J. Michael Baxley, Circuit Court Judge

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MAR - 4 2015

S.C. Supreme Court

LENSON CLYBURN, JR.,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2011-197712

AMENDED BRIEF OF PETITIONER

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ISSUES PRESENTED

I

The Probate Court acting as a Drug Court lacked subject matter jurisdiction to impose petitioner's suspended sentence upon his termination from the Drug Court program.

II

The PCR court erred in denying petitioner's allegation that his drug court termination proceeding violated due process because he received no prior notice that such a hearing would be held in his case. Petitioner was taken into custody on August 5, 2009, and his drug court termination hearing was held on August 6, 2009.

III

The PCR judge erred in denying petitioner's allegation that his termination from the drug program was unconstitutional because he was not represented by counsel at the drug court termination hearing and he did not waive his right to counsel at that time.

IV

The PCR court erred in dismissing petitioner's claim that he did not voluntarily and intelligently waive his right to an appeal of the drug court termination proceeding even though he signed an agreement at his guilty plea proceeding pledging not to appeal the drug court termination proceeding because this characterized petitioner's guilty pleas as conditional guilty pleas, which are not acceptable in court.

V

The PCR judge erred in ruling that petitioner could not present his guilty plea proceeding issues (other than the right to appeal his guilty pleas) at the PCR hearing on the ground his PCR action referencing his guilty plea proceeding was allegedly untimely filed because petitioner indeed filed a timely PCR action in reference to his guilty plea proceeding after his guilty plea suspended sentences were imposed at the subsequent drug court termination proceeding.

STATEMENT

Petitioner pled guilty to possession of marijuana with intent to distribute and possession of crack cocaine with intent to distribute during the November 2007 term of the Chesterfield County General Sessions Court before Judge Edward B. Cottingham. Petitioner was sentenced to two seven-year concurrent sentences, suspended upon successful completion of the drug court program. App. 1-15. Patricia Rivers was listed as counsel of record for petitioner at the guilty plea proceeding and Assistant Solicitor Daniel Jones appeared on behalf of the state.

On August 6, 2009, petitioner appeared before Judge Edwin M. Davis at the Chesterfield County Drug Court for a drug court termination hearing. At that time, his guilty plea probation sentence was revoked and his original two concurrent seven-year guilty plea sentences were imposed. App. 17-20. Petitioner's attempt to appeal the drug court termination proceeding failed, and the appeal was dismissed. Assistant Solicitor Adam Ford appeared on behalf of the state, but petitioner was not represented by counsel at the drug court termination hearing proceeding.

On March 29, 2010, petitioner filed a post-conviction relief application with the Chesterfield County Office of the Clerk of Court. App. 22-27.

The respondent filed a return and partial motion to dismiss dated May 14, 2010, conceding that an evidentiary hearing could be held in reference to the drug court termination issues, but contending that the PCR action referencing petitioner's guilty pleas should be dismissed as untimely filed. App. 28-32.

A PCR hearing was convened on June 9, 2011, at the Chesterfield County Courthouse before Judge J. Michael Baxley, who ruled that the PCR hearing issues to be addressed would include the drug court termination issues and whether petitioner was denied his right to a direct appeal of his guilty plea proceeding. Judge Baxley granted the state's motion to bar the remaining

guilty plea proceeding issues from being presented at the PCR hearing. App. 33-94. Petitioner was present at the PCR hearing and represented by Melissa Gay, and Assistant Attorney General Karen C. Ratigan appeared on behalf of the state.

On July 15, 2011, Judge Baxley issued an order of dismissal ruling that no constitutional violations were found in connection with petitioner's drug court termination case and that petitioner was not denied the right to appeal his guilty plea proceeding. App. 96-104. Petitioner appealed Judge Baxley's order of dismissal in the case.

On appeal, a petition for writ of certiorari was filed on petitioner's behalf on March 26, 2012. The respondent filed a return on August 9, 2012. On July 11, 2014, this Court granted petitioner's petition for writ of certiorari and a brief of petitioner was filed on August 11, 2014. On February 4, 2015, this Court ordered the parties to brief an additional issue on the question of subject matter jurisdiction in the case. This amended brief of petitioner follows.

ARGUMENT I

The Probate Court acting as a Drug Court lacked subject matter jurisdiction to impose petitioner's suspended sentence upon his termination from the Drug Court program.

Per this Court's Order dated July 18, 2005, (2005-07-18-03), Judge Edwin M. Davis was assigned to preside over Drug Court for Chesterfield County.¹ However, in the case at bar, Judge Edwin M. Davis sat under authority of a probate court while presiding over petitioner's drug court

¹ IT IS ORDERED that the Honorable Edwin M. Davis, Probate Judge for Chesterfield County, is hereby assigned to preside over the Chesterfield County Adult Drug Court Program. Pursuant to this assignment, Judge Davis may preside over guilty pleas, bond hearings, probation revocations, motions and other proceedings related to the defendant's participating in the Chesterfield County Adult Drug Court Program. Pursuant to this appointment, Judge Davis may impose sanctions for violations of the conditions of the Adult Drug Court Program. Sanctions may include, but are not limited to, public service work, additional treatment, issuance of a bench warrant, or termination of participation in the Adult Drug Court Program.

termination hearing. See R. 17 which reads “a hearing was held in connection with the above entitled cause before Honorable Edwin M. Davis, Judge of the Probate for Chesterfield County, in the main courtroom of the Chesterfield County Courthouse, Chesterfield, South Carolina, commencing at 5: 08 p.m. on Thursday, August 6, 2009.”

Generally, however, a probate court has no jurisdiction over criminal courts. See 27A Am Jur.2d Equity §1177 as follows:

...a civil court has....no equitable jurisdiction, however, to declare the unconstitutionality of criminal statutes that infringe upon personal property rights – such jurisdiction being in criminal courts, which have jurisdiction to declare criminal statutes unconstitutional and void. Where the civil courts lack jurisdiction, the action must be dismissed to protect the jurisdiction of criminal courts.

Our South Carolina Courts have addressed the issue of the jurisdiction of probate courts in Judy v. Judy, 393 S.C. 160, 712 S.E.2d 408 (2011), as follows:

...we have definitely recognized that the probate court is not a constitutional court. See Davis v. Davis, 214 S.C. 247, 52 S.E.2d 192 (1949)(recognizing the probate court has only such jurisdiction as vested in it by the General Assembly); S.C. Const. art. V. § 12 (“Jurisdiction in matters testamentary and of administration....shall be vested as the General Assembly may provide, consistent with the provisions of Section 1 of this article.”) see also Anderson, 299 S.C. at 115, 382 S.E.2d at 900 (“The jurisdiction of a court over the subject matter of a proceeding is determined by the Constitution, the laws of the state, and is fundamental.”) ...

S.C. Code Ann Section 62-1-302 generally defines the probate court’s jurisdiction and provides [as having authority] over: (1) estates of decedents, including the contest of wills, construction of wills, and the determination of heirs and successors of decedents and estates of protected persons.

S.C. Code Ann. § 62-1-302(a)(1)(2009 & Supp.2010)(emphasis added). In conjunction with this code section, the general definitional section in the Probate Court defines “claims” as including “liabilities of the decedent or protected person whether

arising in contract, in tort, or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator....”S.C. Code Ann. § 62-1-201(4)(2009)(emphasis added).

Finally, there is no mechanism to grant drug court jurisdiction to a probate court in a manner similar to which S.C. Code Ann. § 24-21-450 -300 allows for an arrest warrant or a citation to confer jurisdiction on a probation revocation court, or to which S.C. Code Ann. §17-19-10 requires an indictment to invoke subject matter jurisdiction in a General Sessions Court. The Probate Court acting as a Drug Court lacked jurisdiction over petitioner’s Drug Court termination hearing.

ARGUMENT II

The PCR court erred in denying petitioner’s allegation that his drug court termination proceeding violated due process because he received no prior notice that such a hearing would be held in his case. Petitioner was taken into custody on August 5, 2009, and his drug court hearing was held on August 6, 2009.

Petitioner was admitted into the drug court program on November 7, 2007, which was the date on which his guilty plea proceeding was held. App. 3-15; App. 17-20. At the PCR hearing, petitioner testified that he explained to drug court authorities that he had missed some days from the drug program due to his chemo treatments; and that as a result, a drug status report was issued excusing him until his May 2009 graduation date. Also at the PCR hearing, petitioner stated that he was not delinquent on his payments and had completed eighteen months of drug court. App. 81, l. 5 – p. 83, l. 4. Then, on August 5, 2009, petitioner was arrested, and on August 6, 2009, the drug court termination hearing was held. App. 17-20; App. 70, ll. 19-25. Petitioner stated further at the PCR hearing that no warrant was ever taken out on him before his August 5, 2009 arrest, and that he

was never notified by mail or otherwise about a termination hearing date or about a date on which to appear at the office regarding the termination matter. App. 85, ll. 1-7; App. 83, l. 9 – p. 84, l. 21.

Drug court counsel and state attorney Mary Thomas Johnson-Lee testified at the PCR hearing and admitted that no notices whatsoever are sent out to drug court participants to warn them of termination hearing dates set to dismiss them from the drug court program. App. 56, l. 16 – p. 61, l. 6; App. 62, l. 21 – p. 63, l. 5. Also, Drug Court Director Morris Harrington testified at the PCR hearing and admitted that no paperwork is issued to participants of drug court programs regarding their pending terminations and that petitioner would not have received any such notice prior to his drug court termination hearing. App. 67, ll. 3-21; App. 78, ll. 13-17.

The PCR judge ruled that petitioner did not satisfy his burden of proving that there were constitutional violations that occurred in connection with his drug court termination hearing proceeding because he signed a five-page drug court agreement at the guilty plea proceeding. App. 101-103. See exhibit Number 6 at Supp App. pages 6-10. Note that the drug court agreement did not include a paragraph waiving his due process right to notice prior to a termination hearing.

The procedure for terminating a defendant from drug court and imposing the original sentence deprives a defendant of conditional liberty interests and thereby entitles him to due process rights. State v. Perkins, 378 S.C. 57, 661 S.E.2d 366 (2008). Thus, a drug court program participant is entitled to notice and a hearing to determine whether he should be terminated from the program. State v. Perkins, *supra*. Compare also Dangerfield v. State, 376 S.C. 176, 656 S.E.2d 352 (2008). In the case at bar, it is clear that no hearing notice was issued to petitioner prior to his drug court termination hearing. Petitioner stated that he never knew that he was having a termination hearing. App. 85, ll. 1-3. Therefore, petitioner was denied due process with respect to notice of his drug termination hearing. Hence, said termination cannot stand as constitutionally sound.

The PCR court erred in denying petitioner's allegation that his drug court termination proceeding violated due process because he received no prior notice that a drug court termination hearing would be held on his behalf.

ARGUMENT III

The PCR judge erred in denying petitioner's allegation that his termination from the drug program was unconstitutional because he was not represented by counsel at the drug court termination proceeding and he did not waive his right to counsel at that time.

During the PCR hearing, petitioner testified that he was never notified by either the drug court or the solicitor's office that he had a right to counsel at the drug court termination hearing. Petitioner testified that he qualified for a public defender and that he would have asked for one had he known he had a right to an attorney at that time. App. 84, ll. 22-25; App. 85, l. 16 – p. 86, l. 23; App. 89, l. 25 – p. 90, l. 6.

Mary Thomas Johnson-Lee (state attorney and drug court counsel) testified at the PCR hearing that no notification goes out to drug court participants warning them of a pending termination hearing or the right to have counsel present at that hearing, but that counsel can be provided if they qualify for legal assistance. App. 59, l. 20 – p. 60, l. 4; App. 60, l. 25 – p. 61, l. 5; App. 64, ll. 13-23; App. 65, ll. 22-25. Also, note that drug termination candidates are not automatically appointed attorneys when their cases come up for termination hearings; however, petitioner qualified for public defender assistance at his termination hearing. App. 63, ll. 22-23; App. 65, ll. 14-15. Drug Court Director Harrington testified at the PCR hearing and admitted also that no notices are sent out to drug court participants who are about to be terminated about their right to counsel at drug court termination proceedings. App. 67, ll. 14-21; App. 78, ll. 3-17.

Harrington stated that he orally advised petitioner of his right to counsel on the day prior to his drug court termination hearing. App. 75, l. 24 – p. 76, l. 3.

Terminating a defendant from drug court and imposing the original sentence in the case deprives the defendant of conditional liberty interests. State v. Perkins, 378 S.C. 57, 661 S.E.2d 366 (2008). The Sixth Amendment mandates that in all criminal proceedings (where liberty interests are at stake) the accused shall have the right to the assistance of counsel for his defense; and an indigent criminal defendant is entitled to have an attorney appointed by the court to represent him. Gideon v. Wainwright, 372 U.S. 335 (1963); State v. Boykin, 324 S.C. 552, 478 S.E.2d 689 (1996). Also, at revocation hearings, there is a due process right to counsel in existence as well. See Barlet v. State, 288 S.C. 481, 343 S.E.2d 620 (1986); Turner v. State, 384 S.C. 451, 682 S.E.2d 792 (2009). And although a defendant may waive his right to counsel, in order for such a waiver to be valid he must be informed of the dangers and disadvantages of self-representation or the record must indicate that the defendant had sufficient background to understand the disadvantages of self-representation with respect to the waiver. State v. Boykin, *supra*, citing to Faretta v. California, 422 U.S. 806 (1975). See also State v. Thompson, 355 S.C. 255, 584 S.E.2d 131 (2003). Note that the drug court termination proceedings are akin to revocation proceedings because one's suspended sentence is revoked and the original sentence imposed.

In the case at bar, petitioner's drug court termination proceeding was handled sans counsel's assistance and there was no indication that petitioner was advised of his right to counsel at the drug court termination proceeding or that he subsequently waived his right to counsel at that time. App. 17-20. Petitioner was revoked and sentenced sans legal assistance. Petitioner stated that he tried to defend himself at the drug court termination hearing, but that every time he tried to speak he was

“cut short.” App. 85, ll. 1-15. The drug court termination proceeding transcript is devoid of any mention to petitioner of his right to counsel. App 17-20.

The PCR court ruled that petitioner did not meet his burden of proving that there were constitutional violations that occurred at the drug court termination hearing proceeding because he signed a drug court agreement in connection with drug court at the guilty plea proceeding. App. 101 – 103. See exhibit #6 at Supp. App. 6-10.

The PCR judge erred in denying petitioner’s allegation that his termination from the drug program was unconstitutional because he was not represented by counsel at the termination proceeding and did not waive his right to counsel at that time.

ARGUMENT IV

The PCR court erred in dismissing petitioner’s claim that he did not voluntarily and intelligently waive his right to appeal the drug court termination proceeding even though he signed an agreement at his guilty plea proceeding pledging not to appeal the drug court termination proceeding because this characterized petitioner’s guilty pleas as conditional guilty pleas, which are unacceptable in court.

Petitioner attempted to appeal the drug court termination proceeding that revoked his suspended guilty plea sentence and imposed his guilty plea original sentences. However, the Court of Appeals issued an order dismissing petitioner’s pro se attempt to appeal the same as untimely filed. Supp App. 1- 3.

During the PCR hearing, petitioner testified in effect that although at the close of the termination hearing he did not have any idea of how the appellate process worked, he attempted to file an appeal of his drug court termination proceeding, but it was dismissed as untimely filed. App. 87, ll. 3-17.

The PCR judge ruled that petitioner failed to meet his burden of proof with respect to his allegation that he did not voluntarily and intelligently waive his right to an appeal of his termination proceeding. App 103-104.

In the drug court program agreement (Supp App 6-10) that petitioner signed at his guilty plea proceeding, paragraph #4 required petitioner to waive any and all rights to appeal a drug court termination. Supp App. 6. Therefore, petitioner's guilty pleas were conditional guilty pleas in that petitioner was only allowed to have his guilty plea sentences suspended so that he could enter into the drug court program if he waived his right to appeal a drug court termination. Guilty pleas are unconditional and if there is any attempt to attach any condition to the same, the trial judge must direct a plea of not guilty. State v. O'Leary, 302 S.C. 17, 393 S.E.2d 186 (1990), citing to State v. Truesdale, 278 S.C.368, 296 S.E.2d 528 (1982). In O'Leary, the court reversed because the trial judge accepted a guilty plea where the defendant agreed to plead guilty to DUS, but had to waive the right to appeal the constitutionality of the statute regarding notice to drivers whose licenses are suspended.

Trial counsel has a duty to make certain a client is fully aware of the right to appeal and ascertain whether his client desires an appeal, and then file an appeal if the client wishes to appeal. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989); Frasier v. State, 306 S.C. 158, 410 S.E.2d 572 (1991). However, in the case at bar, petitioner was not represented by counsel at his drug court termination proceeding, which meant he did not waive his right to appeal after his drug court termination hearing because he had no counsel to inform him of his appellate rights. In the end, petitioner was denied appellate review of his drug hearing termination proceeding. A defendant is entitled to a direct appeal where there has been no intelligent or voluntary waiver of the right to an appeal made by the defendant. White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). The PCR court

erred in dismissing petitioner's claim that he did not voluntarily and intelligently waive his right to an appeal of the drug court termination proceeding.

ARGUMENT V

The PCR judge erred in ruling that petitioner could not present his guilty plea proceeding issues (other than the right to appeal his guilty pleas) at the PCR hearing on the ground that his PCR action referencing his guilty plea proceeding was allegedly untimely filed because petitioner indeed filed a timely PCR action in reference to his guilty plea proceeding after his suspended guilty plea sentences were imposed at the subsequent drug court termination hearing.

Petitioner filed his PCR action on March 29, 2010. The respondent argued that petitioner pled guilty on November 7, 2007, and should have filed a PCR application by November 7, 2008. In Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996), the court held that those aggrieved by a criminal court ruling have one year after their proceeding is final to file a PCR application. Note however, that petitioner's November 7, 2007, sentences were not active, but rather suspended during completion of the drug court program. This meant that petitioner's active sentence was not imposed or activated until he was terminated from drug court on August 6, 2009, during which time his suspended guilty plea sentences were revoked and his original concurrent two seven-year guilty sentences were imposed. A criminal defendant may not appeal until a sentence has been imposed. State v. Miller, 289 S.C. 426, 346 S.E.2d 705 (1986); Reed v. Becka, 333 S.C. 676, 511 S.E.2d 396 (1999). Petitioner's suspended sentences were terminated and his original sentences were imposed on the date of the drug court termination hearing, which was held on August 6, 2009. This meant that petitioner had one year from August 6, 2009, in which to file his PCR action in the case. Petitioner filed his PCR application on March 29, 2010, which satisfied the one-year statutory limitation requirement.

In accordance with this rationale that petitioner's PCR action was indeed timely filed with respect to his guilty plea proceeding, the following arguments are presented as preserved for appellate PCR review.

A.) Right to Counsel at Guilty Plea Proceeding

The Sixth Amendment mandates that in all criminal proceedings, the accused shall have the right to the assistance of counsel for his defense, and that an indigent criminal defendant is entitled to have an attorney appointed to represent him. Gideon v. Wainwright, 372 U.S. 335 (1963); State v. Boykin, 324 S.C. 552, 478 S.E.2d 689 (1996). Also, at revocation hearings, a due process right to counsel is in existence as well. See Barlet v. State, 288 S.C. 481, 343 S.E.2d 620 (1986); Turner v. State, 384 S.C. 451, 682 S.E.2d 792 (2009). A defendant may waive his right to counsel, but in order for such a waiver to be valid, he must be informed of the dangers and disadvantages of self-representation or the record must indicate that the defendant had sufficient background to understand the same. State v. Boykin, *supra*; Faretta v. California, *supra*; State v. Thompson, *supra*.

The guilty plea attorney who was supposed to have represented petitioner at the guilty plea proceeding testified at the PCR hearing and stated that she (guilty plea attorney) informed the trial judge that she represented petitioner, but later admitted that her (guilty plea attorney's) name did not appear on the sentencing sheets (Supp App. 4-5) from the guilty plea proceeding and that she (guilty plea attorney) was not present at the beginning of the guilty plea proceeding. App. 45, l. 1 – p. 47, l. 20. Note that the drug court plea sheet (Supp App. 16) that was signed at the guilty plea proceeding reflected petitioner's name as appearing pro se. The guilty plea attorney admitted at the PCR hearing she was not present when petitioner signed the drug court plea sheet at the guilty plea proceeding. App. 48, l. 4

– p. 49, l. 14; App. 50, ll. 2-5. The assigned guilty plea attorney agreed when PCR counsel suggested that petitioner apparently independently talked with someone else about signing the drug court plea sheet at the guilty plea proceeding. App. 50, ll. 16-18. The assigned guilty plea attorney explained what happened at the guilty plea proceeding as follows:

They were pleading (at guilty plea proceeding) a group of people at one time. And there was just probably just some confusion, it looks like. And probably they had put him in a group and he didn't let them know he had an attorney. And that's what happened.

App. 49, ll. 19-24.

Petitioner testified at the PCR hearing regarding this issue and explained that the assigned guilty plea attorney never discussed how drug court worked and the requirements of the program during the guilty plea proceeding. App. 80, ll. 9-16; App. 89, ll. 13-18.

The guilty plea attorney that was assigned to represent petitioner at the guilty plea proceeding was in effect non-existent in the case. In Frett v. State, 298 S.C. 54, 378 S.E.2d 249 (1988), the Court held that a prejudice analysis is not necessary when counsel's ineffectiveness is so persuasive that there is a total failure to provide any meaningful adversarial testing or challenge to the state's case. Petitioner was denied the right to counsel at his guilty plea proceeding and he did not waive the right to guilty plea counsel assistance at his guilty plea proceeding.

B.) Right to Appeal Guilty Plea Proceeding

The PCR judge ruled that there was nothing in the record to indicate that [petitioner] reasonably demonstrated to the assigned guilty plea attorney that he was interested in appealing his guilty pleas and that a result, he was not entitled to a belated appeal from the guilty plea proceeding. App 99. Petitioner stated at the PCR hearing that no one told him of

his right to appeal his 2007 guilty plea proceeding. App. 87, ll. 12-17. Since petitioner in effect lacked legal assistance at the guilty plea proceeding, it was not possible for him to have been advised of his right to appeal his guilty pleas. Therefore, petitioner did not waive his right to appeal his guilty pleas. A waiver is the voluntary relinquishment of a known right. Johnson v. Zerbst, 304 U.S. 458 (1938). Petitioner could not have waived a right (right to appeal) that was unknown to him.

C.) Guilty Plea Proceeding Sentencing Consequences

During the PCR proceedings, petitioner stated that his guilty plea attorney at the guilty plea proceeding did not describe drug court to him or explain how drug court operated. App. 80, ll. 8-16. Petitioner stated the following at the PCR hearing regarding his understanding of the drug court agreement that he signed at the guilty plea proceeding in order to be admitted into the drug court program:

Q. Mr. Clyburn, do you remember signing your Exhibit 6, do you remember signing this before you pled guilty?

A. I remember signing it, but I didn't know anything about it. I didn't get a lawyer - - my lawyer wasn't there to go through that with me. I just signed it because the Solicitor talked me into doing that.

Q. Okay. So you read through this and you initialed it and you signed it. But your testimony is that no one ever explained it to you.

A. Right.

App. 88, l. 22 – p. 89, l. 16.

Q. I would like to determine when this document was signed, this document, Exhibit 6, was signed on 11-6-07. Do you agree that was the date that was signed?

A. Yes.

Q. Was your attorney who was appointed to represent you at the time, Ms. Rivers, in the room, or going over any of this with you?

A. She wasn't.

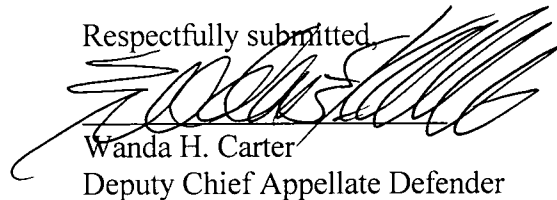
App. 91, ll. 5-12.

A defendant must understand the consequences of his guilty pleas. See the reversal in State v. McGrier, 378 S.C. 320, 663 S.E.2d 15 (2009), where the court held that appellant was unaware at the guilty plea proceeding that the community supervision program could potentially continue into "perpetuity" and that he might have opted not to plead guilty had he known of the same. Here, petitioner's guilty pleas cannot stand because he was not apprised at his guilty plea proceeding of the requirements of the drug court program which he entered.

CONCLUSION

Based on the foregoing arguments, petitioner requests that this Court reverse his termination from the drug court program, or in the alternate grant his right to appeal his drug court termination, and that this court grant a new PCR hearing in order to address all of his PCR issues in the case.

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER.

This 4th day of March, 2015

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Chesterfield County

J. Michael Baxley, Circuit Court Judge

LENSON CLYBURN, JR.,

PETITIONER,

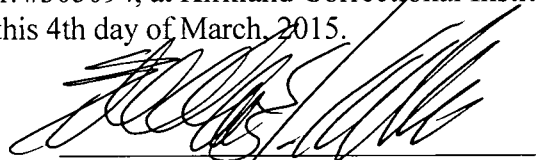
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

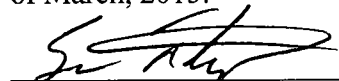
I certify that a true copy of the Amended Brief of Petitioner, in this case has been served on Karen Ratigan, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Lenson Clyburn, Jr. #305094, at Kirkland Correctional Institution 4344 Broad River Road, Columbia, SC 29210, this 4th day of March, 2015.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 4th day
of March, 2015.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Chesterfield County

J. Michael Baxley, Circuit Court Judge

LENSON CLYBURN, JR.,

PETITIONER,

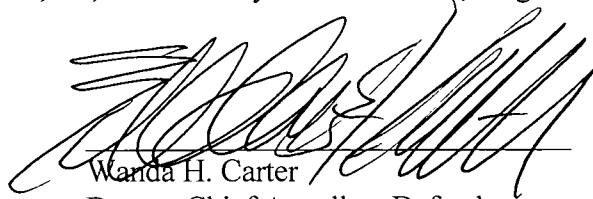
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

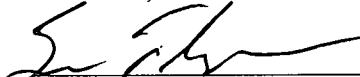
I certify that a true copy of the Amended Brief of Petitioner, in this case has been served on Karen Ratigan, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Lenson Clyburn, Jr., at 317 Boyd Evans Road, Pageland, SC 29728, this 4th day of March, 2015.



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