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S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI to ORANGEBURG COUNTY

MAITE MURPHY, Circuit Court Judge

JEFFREY N. GRIMES PETITIONER

✓
STATE OF SOUTH CAROLINA, RESPONDENT

APPELLATE CASE No. 2014-002025

PRO SE PETITION FOR WRIT OF CERTIORARI

JEFFREY N. GRIMES
PRO SE - RESPONSE

ARGUMENT

The applicant would move that you grant his petition of writ of certiorari based on the facts and matters of law. I would respectfully ask that you consider the facts and you will clearly see that my petition is with MERIT, DUE TO CONSTITUTIONAL DEPRAVATIONS. With respect to guilty plea counsel, the applicant must show that there is reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. HILL V LOCKART 474 U.S. 52 1985. There is stated several times on the (PCR) court of record that I would had insisted
(1)

ON GOING TO TRIAL, HAD I KNOWN THAT THE STATE WAS GOING TO BREACH THE PLEA AGREEMENT. (Pg 8-Appendix) LINE(5-11). OKAY. Did y'all EVER DISCUSS GOING TO TRIAL ON THE ATTEMPTED MURDER CHARGE? HE DID MENTION THAT, HE DID MENTION IT AT ONE TIME, WAS THAT SOMETHING YOU WANTED TO DO. Absolutely, I WAS GOING TO INSIST ON GOING TO TRIAL IF I KNEW THAT THE STATE WAS NOT GOING TO --- IF THE STATE WAS GOING TO BREACH THE PLEA AGREEMENT. (Pg-11-Appendix)-LINE(2-3). AGAIN, - AND HAD I KNOWN THAT THE STATE WAS NOT GOING TO AGREE TO THAT, I WOULD HAVE INSISTED ON GOING TO TRIAL. (Pg 12-Appendix) LINE (5-9) (2-3) OTHER THAN THAT I WOULD HAVE INSISTED
(2)

ON GOING TO TRIAL. (Pg 25-(APPENDIX-LINE 5-9). WHAT I'M SAYING IS THAT THE STATE SHOULDN'T HAVE BREACHED THE AGREEMENT. THEY AGREED THAT THEY WERE GOING TO GIVE ME A (10) YEAR CAP ON SENTENCING; THAT'S WHAT I'M SAYING. AND HAD I KNOWN THAT THEY WERE GOING TO BREACH THE AGREEMENT. I WOULD HAVE INSISTED ON GOING TO TRIAL. Pg 29 (APPENDIX) LINE (2-5). HE SAID, THIS IS SPECIFICALLY WHAT HE SAID, MARK WISE SAID WE ARE GOING TO GO IN HERE, WE GOING TO PLEAD TO THE ABHAN WITH A (10) YEAR CAP ON SENTENCING. THAT'S THE ONLY REASON WHY I PLEAD GUILTY. (Pg) 40-LINE 16-25 (APPENDIX). DID YOU DISCUSS--- WHAT DID YOU AND MR. GRIMES TALKED ABOUT, WHERE

(3)

did the (10) yrs. come into play with him relying on that? I don't know where the number came from, but I think we had a discussion about whether or not I could get him a (10) year sentence. But does not --- I don't have that note that we --- that he raised that, but I remember that discussion about trying to get a negotiated sentence or a cap on this charge. (Pg 43-Appendix) line (18-20). He could receive up to the full 20 years. No response??

Sixth Amendment

* Right to Speedy Trial, Witnesses, etc.

In all criminal prosecutions, the accused shall
(4)

enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation, to be confronted with the witness against him, to have compulsory process for obtaining witness in his favor, and to have the effective assistance of counsel for his defense. (Pg-19)-Appendix-Line (20-25). Okay. Pg 18 of the plea transcript, your Honor, is exact words from defense counsel. He said: I don't say that obviously to minimize it or mitigate it. Defense counsel failed to mitigate the facts

(5)

of this case, your Honor, and have clearly denied me, the applicant, the right to effective assistance of counsel guaranteed by the Sixth Amendment.

SUPPORT CASE LAWS

* Custodio v State 373 S.C. 644 S.E. 436-2007

COUNSEL INEFFECTIVE FOR FAILING TO WITHDRAW guilty plea ONCE PROSECUTION RENEGED ON PLEA BARGAIN.

HOLDINGS. THE SUPREME COURT, MOORE, J, held that COUNSEL WAS INEFFECTIVE IN FAILING TO HAVE PLEA AGREEMENT BETWEEN THE DEFENDANT AND SOLICITOR'S OFFICE ENFORCED, BASED ON THE DETRIMENTAL RELIANCE EXCEPTION: IN RELIANCE ON AN AGREEMENT OFFERING HIM A FIFTEEN (15) YEAR CAP.

* INITIAL PLEA AGREEMENT ENFORCED.
(6)

TOAL C.J., WALLER, BURNETT, and PLEICONES, CONC.

* FAILURE TO MOVE TO WITHDRAW GUILTY PLEA-
UNKEPT PLEA BARGAINS.

COUNSEL MAY BE INEFFECTIVE FOR FAILURE TO MOVE FOR
WITHDRAWAL OF A GUILTY PLEA WHERE THE GOVERNMENT
FAILS TO FULFILL IT'S PROMISES UNDER THE GUILTY PLEA.
THOMPSON V STATE, 340 S.C. 112, 531 S.E.2d 294 (2000),
JORDON V STATE 297 S.C. 52, 374 S.E.2d 683 (1988).

IN THOMPSON, THE DEFENDANT WAS TOLD THAT THE
SOLICITOR WOULD NOT MAKE A RECOMMENDATION DURING
SENTENCING IF THOMPSON PLED GUILTY TO THE CHARGE
OF MANSLAUGHTER. HOWEVER, THE SOLICITOR REQUESTED
THE MAXIMUM SENTENCE,
(7)

Thompson's guilty plea was set aside, since evidence demonstrated he would not have pled guilty had he known the solicitor would make a recommendation. Similarly in Tordon, the agreement was the solicitor would neither recommend nor oppose a probationary sentence. However, at the plea, the solicitor opposed probation. In order to sustain such a claim, the applicant must show the existence of the agreement, and detrimental reliance by the applicant on the agreement. Reed, *infra*. Reed found that a detrimental reliance exception to this general rule exist. Detrimental reliance may result where the defendant relies on the prosecution's offer by taking a substantial

(8)

RISK, STEP OR ACCEPTING RISK OF AN ADVERSE RESULT,
SUCH AS PERFORMING PART OF THE PLEA BARGAIN. *Id.*, 333
S.C. at 689, 511 S.E. 2d. 403. THOMPSON-TOAL, FINNEY C.J.,
MOORE, WALLER, AND BURNETT, CONC.

IN APPELLATE CASE-NO-2014-002025-GRIMES V STATE,
EVIDENCE HAS CLEARLY SHOWN THE EXISTENCE OF THE
AGREEMENT, THAT AGREEMENT WAS DETRIMENTALLY
RELIED ON, AND THAT I TRUSTED MY ATTORNEY TO UPHOLD
THAT. COUNSEL WAS CLEARLY INEFFECTIVE FOR FAILING
TO WITHDRAW THE GUILTY PLEA AFTER THE AGREED UPON
AGREEMENT WAS NOT HONORED. EVIDENCE CAN AND HAS
CLEARLY SHOWN OF THAT DETRIMENTAL RELIANCE BY THE

FACT OF ME PLEADING GUILTY. THAT'S THE ULTIMATE ACT OF RELYING ON THIS AGREEMENT WAS ACCEPTING THE PLEA. COUNSEL'S CONDUCT WAS DEFICIENT IN FAILING TO PURSUE ENFORCEMENT OF THE AGREEMENT. COUNSEL'S DEFICIENT PERFORMANCE DID IN FACT PREJUDICE THE APPLICANT. THE STATE MAY WITHDRAW A PLEA BARGAIN OFFER BEFORE A DEFENDANT PLEADS GUILTY, PROVIDED THE DEFENDANT HAS NOT DETRIMENTALLY RELIED ON THE OFFER.

INEFFECTIVE FOR FAILURE TO OBJECT

COUNSEL MAY ALSO BE INEFFECTIVE FOR FAILING TO OBJECT. (SEE - Pg 21 - APPENDIX) - LINE (5-12). YOUR HONOR ON PAGE 13 OF THE PLEA TRANSCRIPT, PAGE 12, LET'S START WITH PAGE 12 PLEASE. THERE'S TWO TIMES DURING THE
(10)

PLEA HEARING, ON PAGE 12, THAT THE VICTIM STATED THAT I GET THE MAXIMUM SENTENCE. COUNSEL NEVER OBJECTED TO THAT AND THERE'S IS ONE TIME DURNING THE PLEA HEARING ON PG 13 THAT THE DAUGHTER STATED THAT I GET THE MAXIMUM SENTENCE. THERE IS NOT ONE TIME WHERE DEFENSE COUNSEL OBJECTED TO ME GETTING THE MAXIMUM SENTENCE. COUNSEL'S FAILURE TO OBJECT WAS IN VIOLATION OF THE NEGOTIATED PLEA AGREEMENT, SEE SMITH V STATE, APPELLATE CASE-2010-164866, AND IT'S FROM FEB, 5, 2014. COUNSEL'S FAILURE TO OBJECT TO HIS CLIENT GETTING THE MAXIMUM SENTENCE WITHOUT QUESTION FELLOW BELOW PROFESSIONAL NORMS.

(11)

CLOSING ARGUMENT

IN CLOSING, I RESPECTFULLY ASK THE COURT THAT YOU GRANT MY PETITION FOR WRIT OF CERTIORARI DUE TO CONSTITUTIONAL DEPRAVATIONS. THIS PETITION IS WITH MERIT. COUNSEL ABANDONED HIS ROLE AS A DEFENSE COUNSEL AND IN FACT HELPED BOLSTER THE CASE AGAINST HIS CLIENT. EVIDENCE HAS CLEARLY SHOWN THE PROBABILITY THE DEFENDANT WOULD NOT HAVE PLEADED GUILTY, AND WOULD HAVE INSISTED ON GOING TO TRIAL, HAD HE KNOWN THE STATE WAS GOING TO BREACH THE PLEA AGREEMENT. EVIDENCE HAS CLEARLY SHOWN THE PLEA WAS NOT KNOWINGLY, VOLUNTARILY, INTELLIGENTLY MADE.

THE CONVICTION AND SENTENCE WAS IN VIOLATION OF THE
(12)

Affidvits

CONSTITUTION OF THE UNITED STATES, THE SOUTH
CAROLINA CONSTITUTION, AND SOUTH CAROLINA STATE
LAW. THE EVIDENCE OF MATERIAL FACTS THAT RESPECTFULLY
REQUIRES VACATION OF THE CONVICTION AND SENTENCE
IN THE INTEREST OF THE JUSTICE.

Respectfully submitted

Jeffrey N. Grimes
JEFFREY N. GRIMES
PRO SE

SWORN TO BEFORE ME THIS 6th DAY
OF APRIL, 2015

Lillian B. Glover
Notary Public for South Carolina
My Commission Expires: 03-04-2025

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S.C. Supreme Court

April, 6th, 2015

Dear Clerk,

Enclosed you will find my Pro Se Response to my petition for writ of certiorari. Could you please stamp it and send me a copy.

Sincerely,

Jeffrey M. Grimmett

SCDC# 353213

JEFFREY N. GRIMES-353213

LET-STONO-B-59

P.O. Box 205

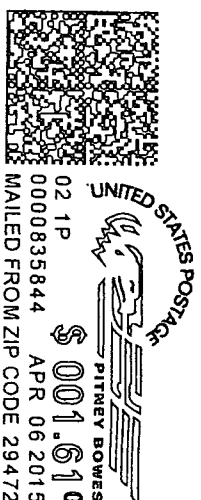
RidgEVILLE, S.C. 29472

CLERK OF S.C. SUPREME COURT

THE HONORABLE DANIEL E. SHEAROUSE

P.O. Box 11330

Columbia, S.C. 29211



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