

The state of South Carolina
In the Court of Appeal

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SC Court of Appeals

APPEAL From Lexington County
Court of General session

Honorable William P. Keeley Circuit Judge

Case No: 2013-001849

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

Final Brief of Appellant

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STATE OF ISSUE ON APPEAL

Whether The Court error by Not Informed
Appellant 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-GS-32-689 and Possession of a Weapon during the Commission of a Violent Crime Indictment 2000-GS-32-688 Appellant was Represented by William F Gorski Esq on March 26, 2002 The Appellant Pled Guilty To murder. The Possession of a weapon during a Violent Crime charge was dismissed in exchange For Appellant Guilty Plea. The Honorable Mark Westbrook sentenced The Appellant To confinement For a Period of Thirty (30) Year with The South Carolina Department of Corrections. The Appellant appealed and was Represented on appeal by Robert M Dudek After a Review Pursuant To Anders v Cali/Fornia 386 U.S 738 (1967) The South Carolina Court of Appeals dismissed The Appeal State v. Williams O.P. NO: 03 UP-329 (decided) May 15, 2003 Remittitur was Issued on June, 17 2003 Appellant Then Filed a Post-Conviction Relief Application on May 21, 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. Appellant was Represented by Robert N boorda Esq Respondent was Represented by Sabrina C Todd 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 This Appeal Follows

ARGUMENT

The court error for not informing Appellant of his Three Constitutional Rights he is waiving. The accused 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 Appellant's Fourteenth Amendment Right of the Constitutional 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 according to Boykin v. Alabama (Right) he was never advised of his Privilege against Self-Incrimination. Appellant's Guilty Plea was involuntary and not knowingly and intelligently made in constitutional sense because the court never advised Appellant of his Privilege against Self-Incrimination, The Right to a Jury Trial and The Right to Confront one's accusers. Please see Transcript of Record R. PP. 41-46 line 1-25. Please see 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 States Supreme Court held before a court can accept a Guilty Plea a criminal defendant 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 S.E 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 be accomplished by colloquy
Between Court and appellant Between
Court and appellant counsel or both

Conclusion

Therefore For The Foregoing Reason appellant
Guilty Plea should be Vacated due To the Constitutional
error That were made in his case

RespectFull submitted

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This 6 day of November

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

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JAMES CHESTER WILLIAMS 282929 APPELLANT
THE STATE OF SOUTH CAROLINA, v. RESPONDENT

CERTIFICATE OF APPELLANT

THE UNDERSIGNED CERTIFIES THAT THIS FINAL BRIEF
COMPLIES WITH RULE 211(b) SCACR

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THIS 6 DAY OF NOVEMBER 2015