

Terrence Bradshaw #320361
Applicant

- VS -

The State of South Carolina
Respondent

RECEIVED

The Applicant now files A Cover
Sheet, In Relation to the case

No: 2015-CP-45-279 3th Circuit

Sumter County Judges final
order of Dismissel In Regards

JAN 08 2016
S.C. SUPREME COURT

To A notice of Appeal under
the SC Rules of Court 243.

The Applicant present that And Accuse has Been
prejudiced, By the District Attorney for failing to
provide the PCR Judge with the Applicants Admission
to the facts of his guilty plea and preliminary
hearing transcrip. The District Attorney Show's
Biased and have Sabatoge the Applicants Case
By failing to Communicate and disclosing the
Applicant Exhibit for the Judge's Review, In The
Applicants objection to the District Attorney
Conditional order of Dismissel. Please See 9-22-15
Exhibit A, In Relation's to Applicant's Affidavit.

The Applicant Declares under The 5th the 6th And
14th Amendment that, the Applicant has A right to
present any conclusions And facts for his defence.
It is the duty of the case, to explore all avenues
of the merits and to Acknowledge the Penalty's
with in the Circumstances of the Person's
Conviction.

Pg #1 / Please Read Next Page

The Applicant asserts that his transcript provides the indication, on how each specific fact applies to the knowledge in the prior event, and the District Attorney has only provide the PCR Judge with the misinform information. By not providing the Applicant's mitigating evidence with PCR Judge in behalf of the Applicant's transcript.

The Applicant claims that when a Presiding Judge has there appropriate time to review a claim, that he or she will be inform with the nature of a crime, and to each critical element from the offense in the case. Relating to trials or to court guilty plea cases, the court will consider the Applicant's entire record, by concluding the information from the Applicant's court record, when the Applicant is presenting evidence for the relief by 17-27-80 for specific finding and conclusions to a unresolved particular issue.

See Harres - vs - Leeke 282 SC 131 318 Se 2d 36d (1984) and Pittman - vs - State 337 SC 597 (1999) 524 Se 2d 623. The court specify by indication that a transcript of a trial or a guilty plea can only speaks for itself. Furthermore it has also have indicated that there is nothing ^(that) ~~(can)~~ be use or said to discredit a transcript under the court's oath or without this testimony being place under a penalty or by perjury of the court.

(Pg#2)

Terrence Bradshaw #320341
Applicant

- vs -

The state of South Carolina
Respondent

The Applicant file's A Affidavit
motion to his Current ON going Case
Docket file NO: 2015-CP-45-279

In Relations to Case Docket No: 2015-
CP-45-279, This is Applicant Exhibit A
of 9-22-15/ In Relations of Applicants
Cover Sheet to his notice of Appeal
SC Rules of Court 243(K)

I Terrence Bradshaw #320341, Hereby Clarified The Current
Documentation's which is A Complete Copy from his guilty
Plea Docket No: 05-GS-45-181 which in All IS (#30 pg's) Along
with his Brief ~~Book~~ for petitioner's objection in the Conditional
order of Dismissal ~~is~~ Total of (#10 pg's) Along with Applicant
mental Health Document's And his ~~guilty plea~~ ~~Transcript~~ #30
Preliminary Hearing Transcript (#16 pg's) In All, This Include
Exhibit A-B-C which is All of Above. Applicant witness
A Kershaw In Station mail Room personal Deposit #2 legal
~~envelop~~ envelop in the mail Box (1-of which) was mail too
williamsburg County clerk of Court, And (1-of which) was
mail too the South Carolina office of Attorney General.

This Statement IS True to the Best of the Applicant Ability.

Sgx Terrence Bradshaw

Terrence Bradshaw 9/22/2015

The Sworn To And Subscribed Before me This 22nd Day of
September, 2015.

Catherine A. Amos

Notary Public

My Commission Expires December 22, 2018

My Commission Expires

337 S.C. 597 (1999)

524 S.E.2d 623

Timothy James PITTMAN, Respondent,

v.

STATE of South Carolina, Petitioner.

No. 25025.

Supreme Court of South Carolina.

Submitted October 20, 1999.

Decided December 6, 1999.

598 *598 Attorney General Charles M. Condon, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Teresa A. Knox, and Assistant Attorney General J. Benjamin Aplin, all of Columbia, for petitioner.

Assistant Appellate Defender Melody J. Brown, of South Carolina Office of Appellate Defense, of Columbia, for respondent.

TOAL, Justice:

The State appeals the post-conviction relief ("PCR") court's order granting Timothy Pittman ("Pittman") a new trial. We affirm.

599 *599 Pittman was indicted for assault and battery with intent to kill ("ABIK"), possession of a gun during the commission of a violent crime, armed robbery, and criminal conspiracy. Pittman pled guilty as charged to all indicted offenses. The trial court sentenced Pittman to confinement for a cumulative period of twenty years. Pittman then filed a PCR application. He alleged that an involuntary guilty plea and ineffective assistance of counsel rendered his custody unlawful.

Entering a guilty plea results in a waiver of several constitutional rights, therefore the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently by defendants. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). The United States Supreme Court has held that before a court can accept a guilty plea, a defendant must be advised of the constitutional rights he or she is waiving. *Id.* Specifically, a defendant must be aware of the privilege against self incrimination, the right to a jury trial, and the right to confront one's accusers. This Court considered the requirements of a voluntary and knowing guilty plea in State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980) and Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In addition to the requirements of *Boykin*, a 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 rights being waived. *Id.*

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the PCR hearing. Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984). However, in this case, the transcript of Pittman's guilty plea on its face provides enough evidence to hold Pittman's plea was not voluntary or knowing. A defendant's knowing and voluntary waiver of the constitutional rights which accompany a guilty plea "may be accomplished by colloquy between the Court and the defendant, between the Court and defendant's counsel, or both." State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993).

600 Although the trial court is not required to direct defendants attention to each right and obtain a separate *600 waiver, the record should indicate the defendant was fully aware of the consequences of his guilty plea. State v. Lambert, 266 S.C. 574, 225 S.E.2d 340 (1976). In Pittman's case, the trial judge did not affirmatively ask him for an admission of guilt. The transcript also indicates the trial judge did not advise Pittman of the crucial elements of the charged offenses. Furthermore, the court's failure to inform Pittman that the armed robbery charge carried a mandatory minimum sentence of ten years, seven without the possibility of parole, renders the plea involuntary. See 22 C.J.S. *Criminal Law* § 404 (1989)

("prior to accepting a plea of guilty ... the court is required to advise accused of the range of punishment attached to the offense charged such as ... the minimum sentence."). This case is similar to *Hazel, supra*, where we found a defendant's plea involuntary since she was never informed of the mandatory minimum sentence required by her guilty plea. See also *Brown v. State*, 306 S.C. 381, 412 S.E.2d 399 (1991) (holding a judge's misinformation to defendant about required time in jail before parole eligibility invalidated voluntary nature of guilty plea). In the current case, the judge informed Pittman of the maximum sentences which could be imposed, but the mandatory minimum was only mentioned in passing by the prosecutor near the end of the hearing.^[1]

601 In addition, Pittman did not fully understand the nature of the constitutional rights being waived. Pittman's testimony at the PCR hearing was uncontradicted in that he met with his attorney only twice for approximately twenty minutes each. See *Dover*, 304 S.C. at 435, 405 S.E.2d at 392 ("It was never established the [defendant] understood the severity of the crimes or the sentences they carried ... the record reveals that [defendant] only spoke with his court appointed attorney three times for a total amount of less than 30 minutes."). Pittman's attorney had little recollection of the exact nature of matters discussed during meetings with the Defendant. Although Pittman signed a "checklist for guilty plea," the date on this document is one month prior to the court appearance *601 and entrance of the guilty plea. The list does not include the crimes Pittman was charged, the elements of the charged crimes, or a statement about mandatory minimum penalties. Furthermore, these defects were not cured by information provided at the guilt plea proceeding. See *Moorehead v. State*, 329 S.C. 329, 496 S.E.2d 415 (1998); *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997).

The transcript of the guilty plea in this case speaks for itself. The trial judge did not ask Pittman if he was guilty of the charged offenses. The court failed to inform Pittman of the mandatory minimum sentence carried by the armed robbery charge. In addition, the trial court's lack of questions to ensure Pittman's understanding of the consequences of his plea, coupled with the trial court and attorney's failure to explain the elements charged, further indicates Pittman's plea was not voluntary, intelligent, and knowing.

Conclusion

The PCR court's order granting Pittman a new trial is affirmed.

FINNEY, C.J., MOORE, WALLER and BURNETT, JJ., concur.

[1] The solicitor stated, during his statement to the judge concerning events surrounding the incident, "I would like to remind the court that as to the armed robbery, your honor, there is a minimum of ten years, seven of which must be served without parole."

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