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SC SUPREME COURT

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Sumter County

George C. James, Jr., Circuit Court Judge

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MAURICE GLOVER,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001686

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ANDERS BRIEF OF PETITIONER PURSUANT TO WHITE V. STATE

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Appellate Defender

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ATTORNEY FOR PETITIONER

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**TABLE OF AUTHORITIES**

**Cases**

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## STATEMENT OF ISSUE ON APPEAL

Did the plea judge err in accepting Petitioner's guilty plea when Petitioner initially stated that he was not guilty of some of the charges?

## STATEMENT OF THE CASE

In April of 2013, the Sumter County Grand Jury indicted Petitioner Glover for numerous counts of forgery contained in indictments #2012-GS-43-0821(amended)(1 count), 2013-GS-43-0312, (5 counts), 2013-GS-43-0313, (6 counts), 2013-GS-43-0362(2 counts), 2013-GS-43-0363(2 counts), 2013-GS-43-0364(2 counts), 2013-GS-43-0365(8 counts), 2013-GS-43-0366(5 counts), 2013-GS-43-0367(2 counts), 2013-GS-43-0368(1 count) and 2013-GS-43-0464(4 counts). On July 21, 2014, Petitioner appeared before the Honorable R. Ferrell Cothran and pled guilty to thirteen counts of forgery. Harry Devoe represented Petitioner at the plea hearing. Bronwyn McElveen represented the State. Judge Cothran sentenced Petitioner to ten (10) years concurrent for each count. Counsel did not file a notice of intent to appeal.

On October 14, 2014, Petitioner filed an application for post conviction relief. The State filed a return on January 6, 2015. On April 15, 2015, an evidentiary hearing was held before the Honorable George C. James. Lance Boozer represented Petitioner at the PCR hearing. Daniel F. Gourley represented the State. In a written order filed July 9, 2015, Judge James denied relief but found that Petitioner was entitled to a belated appeal pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). A timely notice of intent to appeal was served on August 7, 2015. This appeal and a separately filed petition for writ of certiorari follow.

## ARGUMENT

The plea judge erred in accepting Petitioner's guilty plea when Petitioner initially stated that he was not guilty of some of the charges.

During the guilty plea the judge asked Petitioner if the facts as stated by the prosecution were correct. (App. p. 11, lines 19-20). Petitioner responded, "No, not all of them." (App. p. 11, lines 21-22). Petitioner explained:

Some of those charges, Your Honor, that I've been accused of right now is, a lot of those – like for instance, if you – may I explain if you don't mind, the county account. I'm able to prove in my motion for discovery that two of my, two of the co-defendants the accounts are separate accounts. They don't have the same exact account number, different businesses names on it. Different bank names are on it also. I don't know how they – I never had access to those businesses that I'm being accused of account numbers. That would be so difficult to do. I can't admit to that.

But the reason why I'm pleading guilty, Your Honor, is because I'm not confident in 12. I'm not confident in jury. I'm not confident of placing my life in their hands. What I am confident in, Your Honor, is mercy from you. I'm asking you to please have mercy on me. I understand . . .

(App. p. 11, line 25 – p. 12, lines 1-17). The judge then explained that he could not accept the guilty plea if Petitioner did not admit guilt unless the plea was made pursuant to North Carolina v. Alford 400 U.S. 25 S.Ct. 160, 27 L.Ed.2d 162 (1970). (App. p. 12, line 18 – p. 13, lines 1-21). Petitioner responded, "Can I ask you a question, Your Honor? I accept I'm guilty." The judge then asked, "So you're telling me you're guilty of these charges, you want me to accept your plea?" (App. p. 13, line 24 – p. 14, line 1). Petitioner answered, "Yes, sir." (App. p. 14, line 2).

The judge erred in accepting the guilty plea when Petitioner initially stated that he was not guilty of some of the charges. "A plea of guilty is a confession of guilt, made in a

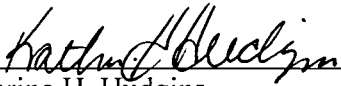
formal manner and has the same effect in law as a verdict of guilty and authorizes the imposition of the punishment prescribed by law.” Sanders v. Leeke, 254 S.C. 444, 447, 175 S.E.2d 796, 797 (1970). Petitioner initially denied guilt.

The judge should have required Petitioner to enter the plea pursuant to Alford. “An Alford plea—a guilty plea accompanied by an assertion of innocence—was held to be a constitutional admission of guilt in North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970). The Alford court reasoned that so long as a factual basis exists for a plea, the Constitution does not bar sentencing a defendant who makes a calculated choice to accept a beneficial plea arrangement rather than face overwhelming evidence of guilt. 400 U.S. at 38, 91 S.Ct. 160.” Zurcher v. Bilton, 379 S.C. 132, 136, 666 S.E.2d 224, 227 (2008). The judge in the present case made no finding that Petitioner believed the plea arrangement was beneficial. The judge made no finding that Petitioner believed that the State would produce overwhelming evidence of guilt. The judge erred in accepting the guilty plea.

**CONCLUSION**

Based on the above argument, Petitioner's convictions and sentences should be reversed and the case remanded for a new trial.

Respectfully submitted,

  
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Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

This 20th day of April, 2016.

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Sumter County  
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MAURICE GLOVER,

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PETITION TO BE RELIEVED AS COUNSEL

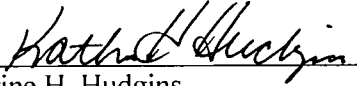
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Counsel for Maurice Glover states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent petitioner.
2. She has reviewed the record of petitioner's trial before Judge George C. James, Jr., which was held on April 13, 2015, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Maurice Glover.

Respectfully submitted,

  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

This 20th day of April, 2016.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from Sumter County

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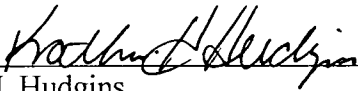
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CERTIFICATE OF SERVICE


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The undersigned attorney hereby certifies that a true copy of the Anders Brief of Petitioner pursuant to White v. State has been served upon Julie Coleman, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Petitioner has been served on Maurice Glover, #302711 at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 20th day of April, 2016.

  
\_\_\_\_\_  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 20th day of April, 2016.

  
\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 3, 2023.