

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Oconee County

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OCT 14 2016

Edgar W. Dickson; R. Lawton McIntosh, Circuit Court Judges S.C. SUPREME COURT

TYSON T. WATT,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000082

ANDERS BRIEF OF APPELLANT
PURSUANT TO WHITE V. STATE

WANDA H. CARTER
Deputy Chief Appellate Defender

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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The plea judge erred in failing to advise appellant of the sentencing consequence of his pleas.

STATEMENT OF THE CASE

Petitioner Tyson T. Watt pled guilty to assault and battery of a high and aggravated nature and possession of a weapon during the commission of a violent crime during the October, 2012 term of the Oconee General Sessions Court before Judge R. Lawton McIntosh. Petitioner was sentenced him to imprisonment for a period of twenty years, suspended upon the service of fifteen years and five years probation on the assault conviction, and five years on the weapon conviction. Scott D. Robinson represented petitioner at the plea proceeding, and Assistant Solicitor Lindsey Satterfield Simmons appeared on behalf of the state. App. 1 – 110. Petitioner did not enjoy the benefit of a direct appeal of his convictions and sentences.

Petitioner filed a PCR application on December 20, 2012, with the Oconee County Office of the Clerk of Court. App. 112 – 121.

The respondent filed a return dated January 6, 2014, requesting that a PCR hearing be held in the case. App. 122 – 128.

A PCR hearing was held on July 28, 2014, at the Oconee County Courthouse before Judge Edgar W. Dickson. App. 130 – 176. Petitioner was present at the hearing and represented by Hugh Welborn and Assistant Attorney General John W. Whitmire appeared on behalf of the state.

On December 7, 2015, Judge Dickson issued an Order of Dismissal denying the allegations of ineffective assistance of counsel submitted in the case. App. 178 – 188.

Petitioner appealed Judge Dickson's Order of Dismissal. This petition follows.

ARGUMENT

The plea judge erred in failing to advise appellant of the sentencing consequences of his guilty pleas.

During the plea colloquy, an explanation of the ramifications of parole was the only sentencing aspect addressed by the plea judge. App. 97, l. 2 – 11. The plea judge only asked counsel if he (counsel) had “explained...the time he could get with regard to these charges,” and counsel responded in the affirmative. App. 99, lines 11 -13. However, nothing in the plea proceeding indicates that appellant was advised of the time penalties attached to the charges. Thus, the record is devoid of any explanation of sentencing consequences in the case.

Before a defendant can plead guilty, he must have a full understanding of the sentencing consequences of his plea. Simpson v. State, 317 S.C. 506, 455 S.E.2d 175 (1995); Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999); Hinson v. State, 297 S.C. 456, 377 S.E.2d 338 (1989); State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980). Since appellant was not apprised of the sentencing consequences attached to his pleas, his convictions cannot stand.

CONCLUSION

Based on the foregoing argument, appellant’s convictions and sentences should be reversed and his case remanded to the lower court for a new proceeding.


Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of October, 2016.

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Appeal from Oconee County

Honorable Edgar W. Dickson, Circuit Court Judge

TYSON T. WATT,

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V.

STATE OF SOUTH CAROLINA,

RESPONDENT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Tyson T. Watt states that:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Edgar W. Dickson, which was held on October 16, 2012, (guilty plea proceeding), 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 Tyson T. Watt.

Respectfully Submitted,


Wanda H. Carter

Deputy Chief Appellate Defender
ATTORNEY FOR APPELLANT

This 14th day of October, 2016.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Honorable Edgar W. Dickson, Circuit Court Judge

TYSON T. WATT,

APPELLANT,

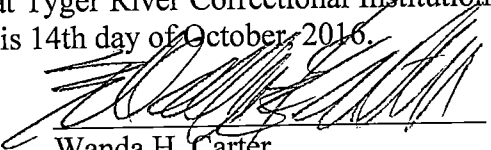
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Anders Brief of Appellant pursuant to White v. State in the above referenced case has been served upon Johanna C. Valenzuela, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter have been served on Tyson T. Watt, 352812, at Tyger River Correctional Institution, 200 Prison Road, Upper Yard, Enoree, SC 29335-9308, this 14th day of October, 2016.


Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 14th day of October, 2016.

 (L.S)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.