

The state of South Carolina
In The Supreme Court

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Appeal From Lexington County
Court of Common Pleas

NOV 30 2016

S.C. SUPREME COURT

Honorable Williams P Keesley Circuit Court Judge

Opinion No. 2016 S.C. Ct. APP Filed NOV 9 2016

James Chester Williams 282929 Petitioner
V.
The state of South Carolina Respondent

Petitioner For writ of Certiorari

James Chester Williams 282929
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Kershaw South Carolina
Petitioner Pro Se

Other Counsel of Record
J Walter Whitmire assistant
Attorney General Po Box 11549
Attorney For Respondent

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

James C. Williams, Appellant.

Appellate Case No. 2013-001849

Appeal From Lexington County
William P. Keesley, Circuit Court Judge

Unpublished Opinion No. 2016-UP-458
Submitted September 1, 2016 – Filed November 9, 2016

AFFIRMED

James C. Williams, pro se.

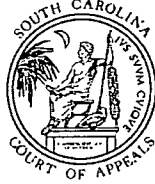
Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Donald J. Zelenka, and
Assistant Attorney General J. Anthony Mabry, all of
Columbia; and Solicitor Donald V. Myers, of Lexington,
for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *See* Rule 29(b), SCRCrimP ("A motion for a new trial based on after-discovered evidence must be made within one (1) year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of reasonable diligence."); *Jamison v. State*, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014) ("[W]hen [an appellant] seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only where the applicant presents evidence showing that (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the 'interest of justice' requires the applicant's guilty plea to be vacated."); *State v. Irvin*, 270 S.C. 539, 545, 243 S.E.2d 195, 197-98 (1978) ("The granting of a new trial because of after-discovered evidence is not favored, and [the appellate court] will sustain the [trial] court's denial of such a motion unless there appears an abuse of discretion.").

AFFIRMED.¹

LOCKEMY, C.J., and SHORT and MCDONALD, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

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November 09, 2016

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Re: The State v. James C. Williams
Appellate Case No. 2013-001849

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

~~Tommy Abbot~~ Kitchings 

CLERK

cc: Alan McCrory Wilson, Esquire
Donald V. Myers, Esquire
The Honorable William P. Keesley

James C Williams
Petitioner

In The SUPreme Court
S.C. Code ANN 17-27-100
Motion before Court
To Rule on all ISSUES
Presented To The Court

State of south carolina
Respondent

UPublished No: 2016 -UP-
458

S.C. Code ANN 17-27-100 Final Judgment entered
This Chapter may be Reviewed by a writ
Certiorari as Provided by The South Carolina
Appellant Court Rules S.C. Code ANN 17-27-80
The Court shall make specific Finding
of Fact and state EXPRESSLY Finding its
Conclusion of law relation to each issue
Presented Smith v Padula 44 F. SUPP2d 531(2000)
The Failure of this order to ~~comply~~ Comply
with the mandates of S.C. Code ANN 17-27-80
in that Specific Finding of Fact and Con-
clusions of law are to be made on each
ISSUES Frustrates The mandates of both
17-27-90 and 17-27-100 This is a direct

Violation of Petitioner Right under
S.C. Code Ann 17-27-100 Article (3)
Section (16) as well as his Right to
equal Protection and due Process
of law Proscribed by The 14th amendment
So because Petitioner complaining
about The denial of his Procedural
Right under S.C Code Ann 17-27-80-90-100

James C Williams

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November 24, 2016

The state of south carolina
in the SUPREME COURT

APPEAL From Lexington County
COURT OF COMMON PLEAS

Honorable Williams P Kelley Circuit Judge
Case NO 2013-00 1849

James Chester Williams 282929 - - - - - Petitioner
v.
State of South Carolina - - - - - Respondent

Petitioner writ of Certiorari

Petitioner Prose

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TABLE OF AUTHORITIES

BOYKIN V ALABAMA 395 US 238 89 SCT 1709 (1969) 5.6

PITTMAN V. STATE 337 SC 597 524 S.F. 2d 630 (1999) 6

STAT OF ISSUE ON APPEALS

Whether the court error by Not Informed,

Petitioner of his Right against self-incrimination

Statement of Case

Petitioner was indicted at The January 2000 Term of The Lexington Court Grand Jury For murder indictment 2000 - GS-32689 and Possess of a weapon during the Commission of a violent Crime indictment 2000 GS 32688 Petitioner was Represented by William Gorski on March 21, 2000 The ~~the~~ Petitioner Guilty to murder The Possession of a weapon during a violent Crime Charge was dismissed in exchange for Petitioner Guilty The Honorable Mark H Westbrook sentenced The Petitioner to Confinement For Period of thirty (30) Year with The South Carolina Department of Corrections The Petitioner appeal and was represented on appeal Robert M Dudek after a review Pursant to under California 386 US 738 (1967) The South Carolina Court of appeal dismissed The appeal State v. Williams No 03 UP 329 decided May 15, 2003 Remittitur was issued on June 17, 2003 Petitioner 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 odeguate Investigation of The Fact of This case on June 27, 2005 an evidentiary hearing was held before The Honorable James W Johnson was Represented by Robert N boarda Respondent was PePresented by Sabring C Todd The attorney General of Fice Petitioner Testified in his own behalf and he called William FGorski on August 1, 2005 Judge Johnson issued an order denying and dismissing The application ~~at~~ This appeal Follows

Argument

The Court error for not informed petitioner of his three constitutional rights he is waiving. The accused must be aware of 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. Petitioner'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 petitioner told the court he was never advised of his privilege against self-incrimination. Petitioner's guilty plea was involuntary and not knowingly and intelligently made in constitutional sense because the court never advised petitioner 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.P.P. 41-46 (line 1-25). Please see the Transcript of the Guilty Plea R.P.P. 60-71 (line 1-25).

Discussion

Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1769 (1969). In Boykin, the United States Supreme Court held before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Specifically, the accused must be aware

OF The Privilege Against self-incrimination The Right To a Jury trial and The Right to Confront one accusers
Id ~~moreover~~ moreover a criminal defendant entering a Guilty Plea must be aware of The Nature and crucial element of The offence 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 Petitioner between court and Petitioner Counsel or both

Conclusion

Therefore For The foregoing Reason Petitioner Guilty Plea should be vacated due to The Constitutional error That were made in his case

Respectfull Submitted

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November 24, 2016

The state of South Carolina
In The Supreme Court

Appeal From Lexington
Court of General Session

Honorable William P Keeley Circuit Court Judge

Case No: 2013-001849

James Chester Williams 282929 --- Petitioner
State of South Carolina --- v. --- Respondent

Certificate of Petitioner

November 24, 2016

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Certificate of Service

I James C Williams 282929 do hereby Certify
That on This 24 day of November 2016 i did deposit
in The United State Mail at The Kershaw Corr-Inst
mail room one (1) original and one (1) True Copy
of my Petition For writ certiorari To The below listed
Individual at their last known address as
Follows

Hon Daniel E Shearouse Clerk
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Post Office Box 11330
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29211-1330

J. Walter Whitmire Assista
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Respectfully Submitted

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November 24, 2016