

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Dillon County

Roger E. Henderson, Circuit Court Judge

S.C. SUPREME COURT

LORENZO JERMAINE INMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001113

JOHNSON PETITION FOR WRIT OF CERTIORARI

Wanda H. Carter
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ATTORNEY FOR PETITIONER

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ISSUE PRESENTED

Did trial counsel erred in conceding guilt on petitioner's behalf at trial by calling Henry Bridges, who previously pled guilty to the same charges filed against petitioner, as a defense witness to prove the defense theory that petitioner was guilty only of accessory after the fact to murder because an accessory charge was not requested or given to the jury, and because the solicitor's cross examination of defense witness Bridges was used successfully by the state to prove the state's theory of accomplice liability via Bridges' admissions regarding petitioner's role in the events, which in turn strengthened the case for the state rather than the defense.

STATEMENT

Petitioner Lorenzo Jermaine Inman was convicted of murder, kidnapping, armed robbery, first degree burglary, conspiracy, grand larceny, possession of a weapon during the commission of a violent crime, and failure to stop for a blue light during the November 2010 term of the Dillon County General Sessions Court before Judge Thomas A. Russo. App. 1-474. Michael Stephens, Esquire, and Emily Crayton, Esquire, represented petitioner at trial and Assistant Solicitors Kenard E. Redmond and Shipp Daniel appeared on behalf of the state. Petitioner was sentenced to life imprisonment without parole for his murder and burglary convictions, five years on the weapon and conspiracy convictions, three years for the failure to stop conviction, and thirty years for the kidnapping and armed robbery convictions and ten years for the grand larceny convictions. Kathrine H. Hudgins of Appellate Defense represented petitioner on direct appeal.¹

On November 19, 2014, petitioner filed a PCR application with the Dillon County Office of the Clerk of Court. App. 489-499. The Respondent filed a return on September 14, 2015, requesting that a hearing be held in the matter. App. 500-505. A PCR hearing was convened on January 13, 2016, at the Dillon County Courthouse before Judge Roger E. Henderson. App. 506-602. Petitioner was present at the hearing and represented by Lance S. Boozer, and Assistant Attorney General Jessica E. Kinard appeared on behalf of the state.

On April 17, 2017, Judge Henderson issued an Order of Dismissal in the case therein denying petitioner's allegations of ineffective assistance of trial counsel. App. 603-613.

Petitioner appealed. This petition follows.

¹ On appeal, petitioner's sentence for kidnapping was vacated per 16-3-910. See State v. Inman, Unpublished Op. No. 2014-UP-197 (S.C. Ct. App. filed May 21, 2014). App. 476-488.

ARGUMENT

Trial counsel erred in conceding guilt on petitioner's behalf at trial by calling Henry Bridges, who previously pled guilty to the same charges filed against petitioner, as a defense witness to prove the defense theory that petitioner was guilty only of accessory after the fact to murder because an accessory charge was not requested or given to the jury, and because the solicitor's cross examination of defense witness Bridges was used successfully by the state to prove the state's theory of accomplice liability via Bridges' admissions regarding petitioner's role in the events, which in turn strengthened the case for the state rather than the defense.

Although petitioner did not testify at trial; nonetheless, the state introduced into evidence the statement petitioner gave to police. In the statement, petitioner told police that Damian Inman and John Harry Bridges approached him on the day in question and that Bridges, who was holding a gun, stated he wanted to rob Mary Stutts, and that it was Bridges who rang the doorbell to Stutts house and then put a gun to her (Stutt's) face when she answered the door, and that Bridges then went in the house and found the keys to Stutt's car, which they all got into and drove off after Bridges put Stutt's in the trunk of the car. Petitioner added that he drove the car until Bridges told him to stop and then Bridges got out and shot Stutts. Petitioner explained that he "pleaded with Bridges to save the woman" while they were at Stutt's house and was satisfied when Bridges promised no harm would come to Stutt. Tr. 165, l. 3 – p. 168, l. 16.

All three men (petitioner, Damian Inman and John Henry Bridges) were charged with multiple offenses emanating from the Stutts murder under the state's theory of accomplice liability. The trial judge gave the jury instructions on accomplice liability. App. 436, l. 22 – 439, l. 23

Damian Inman was called as a defense witness, but he invoked the Fifth Amendment at petitioner's trial and gave no testimony. App. 345. The only other evidence against petitioner in the case was the testimony of jail cell pod mate Eddy Boone, who was housed with petitioner at the detention center. Boone stated that petitioner admitted to him (Boone) that he (petitioner) killed someone and that when "the woman" opened her house door, his brother Daniel Inman put a gun in her face and asked for money and then he (Damian) went in the house looking for money, and that they put her in the trunk of her car and drove around, and that Damian shot her, but that he (petitioner) was going to "put it all on Bridges" and say Bridges did it. App. 288, l. 2 – 293, l. 1.

Thereafter, during the case for the defense, petitioner's trial counsel called Bridges as a witness. Bridges testified on behalf of the defense and explained that he (Bridges) did not shoot Stutts and that the gun alleged to have been the murder weapon was not his gun, and that it was Damian who shot Stutts. App. 368-372. However, on cross examination of Bridges, the solicitor brought out unfavorable information about petitioner's role in the events via Bridges' testimony. For example, on cross examination Bridges stated that he, Damian, and petitioner were involved in the murder, kidnapping, and burglary in the case. App. 372, l. 25 – p. 373, l. 3. Also on cross examination, Bridges stated that Damian wanted to rob Stutts and petitioner wanted to shoot Stutts, but Damian had the gun, and that Damian shot Stutts. App. 375, l. 3 – p. 381, l. 18. Furthermore, Bridges stated plainly and in no uncertain terms on cross examination that they all three acted together in the events surrounding the Stutts murder. App. 385, l. 3-16. Moreover, defense witness Shaquille Crawley stated as a defense witness stated that Bridges said he (Bridges) shot Stutts. App. 389, l. 3 – p. 390, l. 2.

During the PCR hearing, petitioner complained that trial counsel conceded his guilt by putting his co-defendant (Bridges) on the stand. App. 515, l. 19-23. Petitioner stated that he did not know that trial counsel intended to call Bridges as a defense witness. App. 518, l. 3-10; App. 524, lines 15-21. Petitioner stated that he was innocent of the charges. Petitioner testified in effect that Bridges' testimony on cross examination that Damian shot Stutts and that all three of them were in effect partners in crime "hurt" his defense of innocence and supported the state's accomplice liability theory. App. 526, l. 15 – p. 527, l. 5. Also, petitioner complained that trial counsel conceded his guilt on armed robbery to the jury during opening arguments in the case. App. 522, l. 20 – p. 523, l. 6. App. 112, l. 17-22. Petitioner stated that he was not charged with accessory and that his lawyers did not alert him to this defense strategy. App. 523, lines 11-24. Also, note the following additional concessions made by defense counsel at opening argument: "[the defense has] stipulated that petitioner made a statement...that this is the gun and that [these] are the bullets that killed Ms. Stutts...[and to] the ballistic reports and fingerprint reports. App. 110, lines 1- 8.

Trial counsel Crayton testified that the accessory theory was used by the defense in order to mitigate the state's accomplice liability theory, and that the case was in effect complicated because Bridges claimed Damian shot Stutts but petitioner claimed Bridges shot Stutts. App. 537, l. 18 – p. 538, l. 18. Note the defense's opening remarks:

"It was [petitioner's] understanding that they were going to ride and get her car (and) that...[petitioner] was in for the armed robbery...[petitioner's] guilty of that... [but petitioner] wasn't in for [the kidnapping and murder]...[petitioner is guilty of being an accessory after the fact of murder and kidnapping because he didn't know the [murder and kidnapping] would happen. App. 522, l. 2-22; App. 112, l. 17 – p. 113, l. 9.

Trial counsel Crayton testified at the PCR hearing regarding the accessory theory as follows:

Q. Would you agree with me that there was never a charge or he was not charged with being an accessory after the fact to murder.

A. I don't think he was ever charged with any sort of accessory.

Q. Would you also agree with me that no request was made to the judge to have the jury to be allowed to consider that as maybe a lesser [offense]?

A. Yes.

Q. So the jury had no way to consider or find that [petitioner] was guilty of accessory after the fact.

A. No, they could not. App. 548, l. 16 – p. 549, l. 4.

Trial counsel Stephens testified that when he stated at opening that “[petitioner] said he didn't know that murder was going to happen” and that consequently, “[petitioner] was guilty of [accessory after the fact],” the defense plan was to keep petitioner from being found guilty of murder and kidnapping and that Damian was the shooter. App. 566, l. 11 - p. 567, l. 20; App. 571, l. 6-10. Counsel Stephens admitted that Bridges, who was called by the defense, stated that they (Bridges and petitioner and Damian) were involved in all the charges connected to the Stutts murder, including the murder itself. App. 572, l. 11 – p. 573, l. 6. Counsel Stephens admitted error in his answer to the following question:

Q. Since you initially [told] the jury that [petitioner was] guilty of armed robbery but didn't pull the trigger, and then the first witness that is called on behalf of the defense was Bridges who was a co-defendant who denie[d] being the shooter, but he's got the same exact charges as [petitioner] and testified that that's who he's pleading guilty and he understood the hand of one; hand of all coupled with the judge's charge to the jury, wouldn't it have been almost impossible for the jury to find [petitioner] not guilty of murder if [you're] basically conceding all of that.

A. It would have been if I hadn't conceded that, it would have still been impossible to find him not-guilty of the murder with all the other evidence...I was trying to give the jury something to find a reasonable doubt. App. 580, l. 17 – p. 581, l. 11.

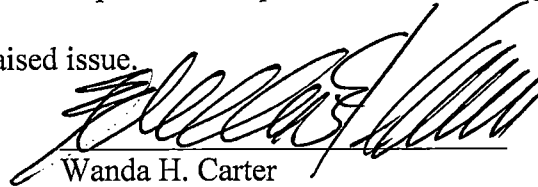
The PCR judge ruled that counsel's guilt concessions "rather than hindering the defensive efforts" they in turn "benefitted" petitioner's case and thus no deficient legal representation resulted. App. 608-609.

The prosecution must prove every element of the offense charged beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307 (1979). Here, the defense's move to call Bridges as a defense witness served only to concede guilt on petitioner's behalf as this corroborated the state's accomplice liability theory and reduced any chance of reasonable doubt findings by the jury. In State v. Stroman, 281 S.C. 508, 316 S.E.2d 395 (1984) the Court held that corroborative testimony is testimony that tends to strengthen, confirm, or make more certain the testimony of another witness (i.e. Boone in this case). Bridges' testimony did not even support the accessory defense theory of the case.

In other words, the accessory attempt did not prove to support the mitigating theory (App. 590, l. 15-17) as Bridges' testimony nullified such a theory because his (Bridges') testimony proved accomplice liability and again, reduced any chance of reasonable doubt findings by the jury. Counsel's errors as outlined above constituted deficient legal representation and but for the errors outlined above, a reasonable probability exists that the outcome of the trial would have been different because other than petitioner's statement and the incredible testimony of the jail house snitch, there was no overwhelming evidence of guilt against petitioner. Counsel's representation in this case constituted deficient representation in violation of the Sixth Amendment and Strickland v. Washington, 466 U.S. 668 (1984).

CONCLUSION

Based on the foregoing argument, counsel for petitioner requests that this Court grant the petition and allow full briefing on the above-raised issue.

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', written over a horizontal line.

Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 18th day of December, 2017.

STATE OF SOUTH CAROLINA

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Lorenzo Jermaine Inman states that:

1. She is Deputy Chief 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 Roger E. Henderson, which was held on March 23, 2016 (telephone deposition), and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), briefed an arguable legal issue which arose during the post-conviction relief process.

Therefore, counsel requests that the Court relieve her as counsel for Lorenzo Jermaine Inman.

Respectfully Submitted,



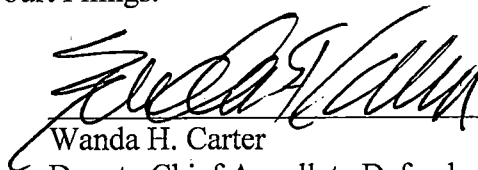
Wanda H. Carter

Deputy Chief Appellate Defender
ATTORNEY FOR PETITIONER

This 18th day of December, 2017.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of her ability this Johnson Petition for Writ of Certiorari complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

A handwritten signature in black ink, appearing to read "Wanda H. Carter", is written over a horizontal line.

Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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ATTORNEY FOR PETITIONER

This 18th day of December, 2017.

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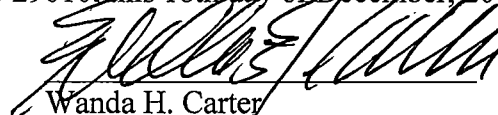
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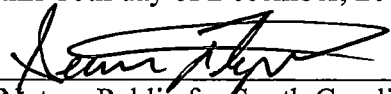
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CERTIFICATE OF SERVICE
—————

The undersigned hereby certifies that a true copy of the Johnson Petition for Writ of Certiorari and a copy of the Appendix in the above referenced case has been served upon Johnny Ellis James, Jr., Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Johnson Petition for Writ of Certiorari and a copy of the Appendix have been served on Lorenzo Jermaine Inman, #343510, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 18th day of December, 2017.



Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me
this 18th day of December, 2017.

 (L.S)
Notary Public for South Carolina
My Commission Expires: 10/30/2022.