

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

CERTIORARI TO Aiken COUNTY

HONORABLE J. MARK HAYES, CIRCUIT COURT JUDGE

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S.C. SUPREME COURT

RASHAWN J. ISSAC

PETITIONER,

v

STATE OF SOUTH CAROLINA

RESPONDENT

APPELLATE CASE NO. 2017-003268

PROISE PETITION FOR WRIT OF CERTIORARI

RASHAWN J. ISSAC # 306517

PROISE PETITIONER

MCORMICK C/I F-7-A-

386 REDEMPTION WAY

MCORMICK, SOUTH CAROLINA

29899

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ISSUE PRESENTED

WHETHER PLEA COUNSEL FAILED TO FULLY INFORM PETITIONER OF PLEA CONSEQUENCES...

STATEMENT

THE PETITIONER APPEARED BEFORE THE HONORABLE JAMES R. BARBER III IN AIKEN COUNTY ON DECEMBER 10, 2015 AND PLEAD GUILTY TO FIRST DEGREE BURGLARY, ARMED ROBBERY AND VOLUNTARY MANSLAUGHTER, SENTENCES OF 30 YEARS WERE IMPOSED ON EACH CHARGE. MICHAEL CHESSEN ESQ. WAS PLEA COUNSEL J. WILLIAM WEEKS WAS ASS. SOLICITOR (APP. P. 1-P. 25) PETITIONER FILED AN APPLICATION FOR POST-CONVICTION RELIEF ON NOVEMBER 29, 2016 (APP. P. 2-P. 32) RESPONDENTS FILED A RETURN DATED AUGUST 23, 2017 (APP. P. 33-37) AN EVIDENTIARY HEARING WAS HELD ON SEPTEMBER 28, 2017 BEFORE THE HONORABLE J. MARK HAYES II PETITIONER WAS PRESENT AND WAS REPRESENTED BY ALTHUR K. AIKEN ESQ. RESPONDENT WAS REPRESENTED BY JULIE A. COLEMAN ASST. ATT. GEN. BOTH PETITIONER AND PLEA COUNSEL TESTIFIED AT HEARING. APP. P. (38-P. 63) ON OCTOBER 16, 2017 JUDGE HAYES ISSUED AN ORDER DENYING AND DISMISSING PETITIONER'S APPLICATION FOR POST-CONVICTION RELIEF. (APP. P. 64-P. 71)

ARGUMENT

IN THIS CASE THE PETITIONER GAVE THE FOLLOWING TESTIMONY ABOUT PLEA COUNSEL AT THE EXCIDENTARY HEARING:

Q. NOW LEADING UP TO THE PLEA DID MR. CHESAR EVER PRESENT TO YOU THE OPTION THAT YOU COULD TRY YOUR CASE?

A. NO SIR

Q. OKAY DID MR. CHESAR ADVISE YOU OF THE ADVANTAGES AND DISADVANTAGES OF A PLEA?

A. NO SIR

Q. DID MR. CHESAR ADVISE YOU OF THE DISADVANTAGES AND ADVANTAGES OF A TRIAL?

A. NO SIR

Q. DID MR. CHESAR REVIEW ALL OF THE EVIDENCE WITH YOU?

A. NO SIR

Q. OKAY DID MR. CHESAR EXPLAIN TO YOU WHAT YOU WOULD GET IF YOU PLEAD GUILTY?

A. YES SIR

Q. AND WHAT DID HE TELL YOU?

A. HE TOLD ME THAT WHEN HE CAME TO COURT- DETENTION CENTER ON FRIDAY HE WAS LIKE, I WOULD PLEA TO 35 YEARS AND THEY'LL DROP IT DOWN TO 33 YEARS

Q. WAS THERE ANY DISCUSSION ABOUT PAROLE?

A. YES SIR HE SAID I WAS PAROLE ELIGIBLE. THATS WHY I TOOK THE PLEA.

APP. P. 45 LN 3-23

Q. OKAY, NOW IF YOU HAD UNDERSTOOD, WHEN YOU MADE THE DECISION TO PLEAD GUILTY, THAT YOU WERE NOT ELIGIBLE FOR - FOR PAROLE WOULD YOU HAVE PLEAD GUILTY?

A. NO SIR

Q. IF YOU UNDERSTOOD THAT YOU WERE GOING TO GET A 30 YEAR SENTENCE BEFORE YOU PLEAD GUILTY, WOULD YOU HAVE PLEAD GUILTY?

A. NO SIR

(APP. P. 46 LN 13-19)

THE ABOVE TESTIMONY UNDER NANCE V. OZMIT (367 US 547, 636 S. E. 2d 878) ESTABLISHES THAT THERE HAS BEEN A CONSTRUCTIVE DENIAL OF DUE PROCESS UNDER THE SIXTH AND FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

CONCLUSION

THE PETITIONER'S PLEA SHOULD BE RESPECTFULLY VACATED.

RASHAWN J. ISSAC # 366517

PRO'SE PETITIONER

MS CORMICK 9/2 F-4-A-
386 REDEMPTION WAY
MS CORMICK, SOUTH CAROLINA

29899

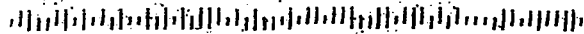
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Lashawn J. Isaac #366517-1-4-267
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