

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Sumter County

Honorable DeAndrea G. Benjamin, Circuit Court Judge

JASON D. COMPTON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000844

JOHNSON PETITION FOR WRIT OF CERTIORARI

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ATTORNEY FOR PETITIONER

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ISSUE PRESENTED

The PCR judge erred in denying PCR relief on petitioner's allegation that his guilty pleas were given involuntarily because he was threatened and coerced into pleading guilty to the state's charges filed against him.

STATEMENT

Petitioner Jason D. Compton pled guilty to three counts of murder, two counts of attempted murder, two counts of kidnapping, first degree burglary, first degree arson, and third degree arson during the September 2015 term of the Sumter County General Sessions Court before Judge Maite Murphy. Petitioner was sentenced to imprisonment for consecutive life terms on each count of murder, and fifteen years on his third degree arson conviction, and thirty-year terms on the remaining convictions. App. 1-36. Lir Patrick Derieg represented petitioner at the plea proceeding and Assistant Solicitor Bronwyn McElveen appeared on behalf of the state.

On September 12, 2016, petitioner filed a PCR application with the Sumter County General Sessions Court. App. 38-44. The respondent filed a return dated February 6, 2018, requesting that a PCR hearing be held in response to petitioner's PCR action filed in the case. App. 45-51.

A PCR hearing was convened on March 27, 2018, at the Sumter County Courthouse before Judge Deandrea G. Benjamin. App. 53-92. Petitioner was present at the hearing and represented by Timothy L. Griffith, and Assistant Attorney General Julie Coleman appeared on behalf of the state.

On April 19, 2018, Judge Benjamin issued an Order of Dismissal in the case. App. 94-104. Petitioner appealed Judge Benjamin's Order of Dismissal. This brief follows.

ARGUMENT

The PCR judge erred in denying PCR relief on petitioner's allegation that his guilty pleas were given involuntarily because he was threatened and coerced into pleading guilty to the state's charges filed against him.

During the plea proceeding, the solicitor apprised the trial judge of the facts of the case. Apparently, petitioner broke into the Hall residence and set a fire inside, which resulted in the death of Mr. and Mrs. Hall, both of whom were there, and petitioner struck Edward Hall and pushed him while inside the house before the fire during an attempt to take items from inside; and also, petitioner struck Ms. Hafling, and her mother Tracy (who died), and another female in separate incidents, and he burned his girlfriend's trailer. App. 11, l. 22-p. 18, l. 8.

During the PCR hearing, petitioner testified that he pled guilty because trial counsel told him that "if [he] didn't plead guilty [then] they would kill [him]," and that "[he] didn't want to die," and that he was not guilty, but he pled guilty under threat of the death penalty. App. 59, l. 9-10; App. 61, l. 1-8. Petitioner testified that trial counsel had him "scared [he] was going to die" and that "they" would kill him. App. 63, l. 14-p. 64, l. 8.

Trial counsel testified at the PCR hearing and explained that the death penalty was not an option because of petitioner's mental health issues. App. 74, l. 6- p. 76, l. 4. The PCR judge ruled that petitioner pled guilty freely and voluntarily. App. 94-103.

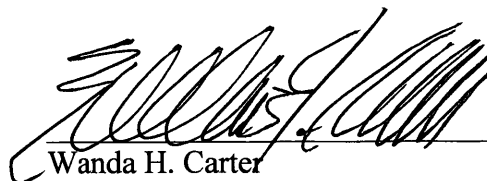
The question to be answered in resolving a complaint of claimed coercion in pleading guilty is whether under all of the facts and circumstances one's guilty plea was voluntarily and understandingly entered. State v. Smith, 255 S.C. 417, 179 S.E.2d 210 (1971), citing to Sweet v. State, 255 S.C. 293, 178 S.E.2d 657 (1971). Even though a guilty plea may not be held invalid if the defendant was motivated to plead in order to receive a lesser penalty; nonetheless, the long

standing test for determining the validity of a guilty plea is whether the plea is a voluntary plea among alternate courses of action open to the defendant because some circumstances indeed present intrinsically coercive situations. Gustine v. State, 325 S.C. 123, 480 S.E.2d 444 (1997), citing to Hill v. Lockhart, 474 U.S. 52 (1985) and Brady v. United States, 397 U.S. 742 (1970). Therefore, “the better approach is to determine on a case-by-case basis whether a defendant knowingly and voluntarily enter[ed] a plea of guilty.” See Gustine v. State, *supra*.

In the case at bar, petitioner felt coerced by counsel into pleading guilty to the charges to avoid the death penalty. Per these circumstances in the instant case, petitioner did not plead guilty voluntarily. Additionally, note that it appeared that counsel’s assistance was also coercive in effect, which in turn violated petitioner’s right to effective assistance of legal counsel guaranteed under the Sixth Amendment to the United States Constitution in a plea case (See Hill v. Lockhart, 484 U.S. 52 (1985)), particularly since petitioner would rather have opted for a jury trial in the case but for the coercion.

CONCLUSION

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



Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 28th day of December, 2018.

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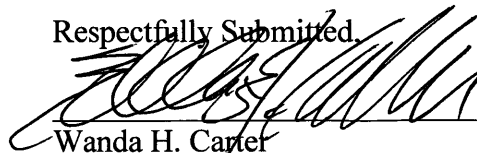
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jason Dustin Compton 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 post-conviction relief hearing before Judge DeAndrea G. Benjamin, which was held on March 27, 2018, 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 Jason Dustin Compton.

Respectfully Submitted,

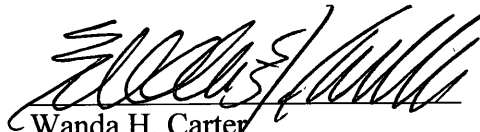


Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR PETITIONER

This 28th day of December, 2018.

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."



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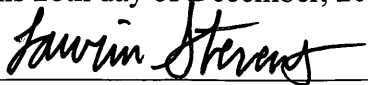
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CERTIFICATE OF SERVICE
—————

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 Megan Harrigan Jameson, 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 Jason Dustin Compton, #331364, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 28th day of December, 2018.



Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me
this 28th day of December, 2018.

 (L.S)
Notary Public for South Carolina
My Commission Expires: July 5, 2027.