

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RONALD GROOMS,

APPELLANT

APPELLATE CASE NO. 2012-212683

ANDERS BRIEF OF APPELLANT

ROBERT M. PACHAK
Appellate Defender

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Division of Appellate Defense
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ATTORNEY FOR APPELLANT

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SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

Whether appellant's guilty plea complied with the mandates set forth in Boykin v. Alabama?

STATEMENT OF THE CASE

On May 14, 2012, appellant appeared before the Honorable Doyet A. Early, III, in Aiken County and pled guilty to voluntary manslaughter, burglary in the second degree, and kidnapping. Respective sentences of twenty-two (22) years; fifteen (15) years, and twenty-two (22) years were imposed. Margaret C. Tribert, Esquire, was plea counsel. Elizabeth B. Young, Esquire, was the assistant solicitor.

On May 23, 2012, appellant filed motions to reconsider the sentences and to withdraw the guilty plea. A hearing was held on the motions on June 11, 2012. On July 30, 2012, Judge Early issued an order denying the motions to reconsider the sentence and/or withdraw the guilty plea.

This appeal follows.

ARGUMENT

Appellant's guilty plea failed to comply with the mandates set forth in Boykin v. Alabama.

Due process of law requires that before a guilty plea can be entered voluntarily and intelligently, a defendant must be advised of his privilege against compulsory self-incrimination, the right to trial by jury, and the right to confront one's accusers. A valid waiver of these rights cannot be presumed from a silent record. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969). In State v. Armstrong, 263 S.C. 594, 211 S.E.2d 889 (1975), this Court held that the "essence" of Boykin, was to make the requirements of Rule 11 of the Federal Rules of Criminal Procedure applicable to the states. In State v. Patterson, 278 S.C. 319, 295 S.E.2d 264 (1982), this Court held that for there to be a valid waiver under the due process clause of the three constitutional rights listed in Boykin, the record must clearly establish it.

In Boykin, supra, the U.S. Supreme Court held that trial courts were mandated to use the utmost solicitude when canvassing a guilty plea to insure that the plea was given freely and voluntarily with a full knowledge of the circumstances surrounding the plea and the attendant waiver of rights occurring with the guilty plea. This is because the difference "between a valid guilty plea and an invalid guilty plea lies in the knowing and voluntary nature of the plea." Berry V. State, 381 S.C. 630, 635, 675 S.E.2d 425, 427 (2009). The Boykin court went on to note that "a plea of guilty is more than an admission of conduct; it is a conviction. Ignorance, incomprehension, coercion, terror, inducements, subtle or blatant threats might be a perfect cover-up of unconstitutionality." 395 U.S. at 242-243, 89 S.Ct. at 1712.

The colloquy between the court and appellant in this case establishes that appellant's guilty plea was not knowing and voluntary.

THE COURT: Are you pleading guilty to that because you are, in fact, guilty?

DEFENDANT: No, sir.

THE COURT: Sir?

THE DEFENDANT: No, sir.

THE COURT: You're not guilty?

THE DEFENDANT: No, sir.

THE COURT: Sir?

THE DEFENDANT: No, sir.

THE COURT: I thought you said you were earlier. Did you participate in it?

THE DEFENDANT: Yes, sir.

THE COURT: I didn't say you pulled the trigger, but, you know, the hand of one is the hand of all; so were you a participant in the robbery and –

THE DEFENDANT: No, sir.

THE COURT: Sir?

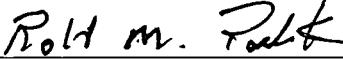
THE DEFENDANT: I wasn't a participant in the robbery. I was just in the vehicle.

(Plea Tr. p. 20, line 11 – p. 21, line 4).

CONCLUSION

Because appellant's guilty plea was not entered knowingly and voluntarily, it should be vacated.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 15th day of March, 2013.

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IN THE COURT OF APPEALS

Appeal from Aiken County
Doyet A. Early, III, Circuit Court Judge

THE STATE,

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APPELLATE CASE NO. 2012-212683

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Ronald Grooms states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Doyet A. Early, III, which was held on May 14, 2012, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He 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, he asks the Court to relieve him as counsel for Ronald Grooms.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

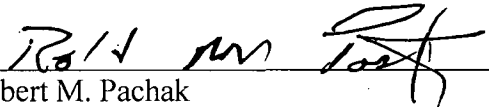
ATTORNEY FOR APPELLANT

This 15th day of March, 2013.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 15, 2013



Robert M. Pachak
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Attorney for Appellant

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THE STATE,

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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) Plea Transcript (May 14, 2012)
- (3) Motions to reduce sentences and withdraw plea
- (4) Motion Hearing Transcript (June 11, 2012)
- (5) Order Denying Motions (July 30, 2012)

I certify that this designation contains no matter which is irrelevant to this appeal.

March 15th, 2013



Robert M. Pachak
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Attorney for Appellant

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Appeal from Aiken County
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THE STATE,

RESPONDENT,

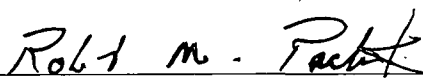
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RONALD GROOMS,

APPELLANT

CERTIFICATE OF SERVICE

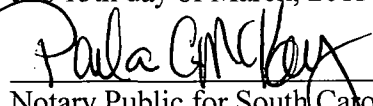
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, SC; and a true copy of the Anders Brief of Appellant and Designation of Matter, and Record on Appeal, have been served on Ronald Grooms, #350871 at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 15th day of March, 2013.



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 15th day of March, 2013.



Notary Public for South Carolina (L.S.)
My Commission Expires: July 24, 2022.