

The Supreme Court of South Carolina  
1231 Gervais Street  
Columbia, South Carolina 29201

**RECEIVED**  
OCT 07 2019  
S.C. SUPREME COURT

October 4, 2019

Reference: Tyler Elkins, 370294  
Broad River Correctional Institution  
4460 Broad River Road  
Columbia, South Carolina 29210

Tyler Elkins v. State  
Appellate Case No. 2018-002184

To whom this may concern:

I am submitting a Johnson pro se response for my appeal, humbly seeking a reduction in my initial sentence that was given due to coercion, unfairly sentencing (compared to codefendants), and false promises of leniency for full cooperation.

Thank you for your consideration,

Tyler Elkins



## STATEMENT

During the October 2015 term, the Newberry Grand Jury indicted Tyler Elkins for murder, two counts of attempted murder, armed robbery, possession of a weapon during the commission of a violent crime, and burglary in the first degree. App. 130-141.

On October 31, 2016, Tyler Elkins pled guilty to voluntary manslaughter before the Honorable L. Casey Manning. App. 1, A. Bea Hightower was present as counsel and C. Dale Scott was present for the state.

Judge Manning accepted the guilty plea. And, sentenced Tyler Elkins, pursuant to the negotiated sentence, to twenty-five years imprisonment. App. 44, 1. 22-45, 1. 8.

On March 1, 2018, a post-conviction relief (PCR) application was filed. App. 47-53. The state filed its return on July 21, 2017. App. 54-60. On September 27, 2017, an amended PCR application was filed alleging attorney provided, "ineffective assistance during plea bargain negotiations." App. 61-62.

A PCR hearing was held on June 22, 2018 before the Honorable Mark Hayes. App. 63. Ashley McMahan was Tyler Elkins legal counsel. Julie A. Coleman represented the state.

In an order filed on October 29m, 2018, Judge Hayes denied the relief. App. 117-129. Judge Hayes stated that Tyler Elkins did not provide "valid reasons" why his statements made during the plea colloquy should not be conclusive. App. 126-127.

## ARGUMENT

The PCR court erred in finding I knowingly, voluntarily, and intelligently pled guilty when plea counsel pressured me into pleading guilty by failing to procure a reasonable plea agreement during negotiations with the state where my codefendants all received significantly lesser prison sentences and all started with the same charges that I had.

## Relevant Facts

The state alleged these facts: On July 29, 2015, my three codefendants and I killed Ronnion Barron, the decedent, during the commission of a burglary of the decedent's home. App. 34, 1. 14-36, 1. 23; App. 130-141. Codefendant Keon Kelly killed the decedent. App. 34, 1. 14-36, 1. 23. I, Tyler Elkins allegedly shot into the home but did not hit anyone. (Keon Kelly committed suicide while law enforcement tried to arrest him. App. 83, 11. 10-21.

A separate car arrived during the incident with two passengers inside and Keon Kelly attacked them too. I, Tyler Elkins allegedly shot at the car as the car fled. The fleeing passengers called law enforcement and later, an arrest was made.

While in custody, I made inculpatory statements to police and admitted my involvement in the incident. App. 42, 11. 6-13. I was fully cooperative with investigators. App. 89, 1. 11-01. 1. 14. However, I was not willing to testify against my codefendant, Satterwhite because I feared for my safety in prison. App. 91, 1. 15-93, 1.8.

At the PCR hearing, I testified that I was the only one of the codefendants to be charged with murder. App. 74, 1. 22-75, 1.7. I stated that I felt like plea counsel forced me into pleading guilty. App. 79, 11. 4-15. I believe that plea counsel should have helped me prepare for trial or work harder for a better plea deal, rather than rushing me into a guilty plea.

I, Tyler Elkins sentence was "a whole decade more" than what the codefendants received. App. 75, 1. 24-76, 1.5. I testified that I wanted plea counsel to work to get a plea agreement for me like my codefendants plea agreements because we were all a part of the same incident.

Ms. Hightower testified that there were no other plea offers given by the state. App. 89, 1. 21-93, 1.8. She noted that I would not testify against codefendant Satterwhite for fear of my safety while incarcerated. App. 91, 1. 15-93, 1.8. Ms. Hightower also noted that once Satterwhite pled guilty, the best offer the state would give was a "cap of twenty-five years imprisonment."

The PCR court found that I, “failed to prove I was coerced into pleading guilty and would have gone to trial otherwise.” App. 127. Judge Hayes stated, “it was clearly my decision to plead guilty based on the high likelihood he would receive a life sentence if convicted at trial.” App. 126.

## Discussion

I pled guilty involuntarily because I was pressured to plead guilty when Ms. Hightower failed to procure a reasonable plea agreement for me, where my co-defendants all received substantially lighter sentences. App. 79, 11, 4-15; App. 75, 1, 24-76, 1, 5. The Newberry Solicitor was pressuring me to testify against my co-defendant. I refused to testify because I knew what would happen once in place at SCDC. (See attached email from Ms. Hightower indicating the Assistant Solicitor Scott and his other assistant stating if I did not testify they would not offer any reduction in sentence below a cap of 25 years.) It should be noted, before Satterwhites court date, I agreed to testify and the Solicitors office indicated it was too late.

“Guilty pleas are no more foolproof than full trials to the court or jury. Therefore, we take precautions against unsound results.” Brady v. United States, 397 U.S. 742, 758 (1970). “It is elementary that in order for a defendant to knowingly and voluntarily plead guilty he must have a full understanding of the consequences of his plea. State v. Hazel, 275 S.C. 392, 394, 271 S.E.2d 602, 603 (1980). 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 evidence presented at the PCR hearing can refute the answers given at the plea colloquy. Roddy v. State, 339 S.C. 29, 33, 528 S.E. 2d 418, 420 (2000). A voluntary guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea, and also from the record of the PCR hearing.

In State v Hazel, the Court held that Hazel’s plea was involuntary where she was provided incorrect sentencing advice by her plea counsel. Hazel, at 393-94, 271 S.E.2d at 603. Prior to the plea hearing, plea counsel told Petitioner that the judge “could” impose

a life sentence. It was only until after Hazel's guilty plea what accepted that she found out the sentence of life in prison was mandatory and that the judge had no discretion to impose a lesser sentence. Therefore, this Court vacated Hazel's guilty plea because it was entered, "in ignorance of its direct consequence." *Id.* At 394, 271 S.E.2d at 603.


In this case, the record does not reflect that I, Tyler Elkins, freely and intelligently waived constitutional trial rights because of being pressured into pleading guilty by plea counsel. App. 79, 11. 4-15. I was the only one of the codefendants to be charged with murder and plea counsel failed to correct that discrepancy

"Keon Kelly, the trigger man in the shooting death of Ronnion Barron of Little Mountain, took his own life following a length standoff with law enforcement in Columbia on Aug. 6, 2015." (Staff Report. "3 Plead Guilty in Murder". *The Newberry Observer*. Nov. 2016). I, Tyler Elkins was not the trigger man. "Manning sentenced Elkins (me) to 25 years in prison, Satterwhite to 15 years in prison, and Dreher to 10 years in prison." (Staff Report. "3 Plead Guilty in Murder". *The Newberry Observer*. Nov. 2016). **And, although I cooperated 100% with investigators as requested during the entire process, when Circuit Judge Casey Manning handed down sentences I received the lengthiest based on Assistant Solicitor Scotts recommendation that I did not want to testify.**

I, Tyler Elkins would like to mercifully ask for leniency regarding my sentence. I do not deny my role in the incident that took place, I am only pleading for a lesser sentence equivalent to my codefendants.

Thank you for your consideration.

Tyler Elkins



## Kim Elkins

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**From:** Bea Hightower [bea@aikenandhightower.com]  
**Sent:** Friday, June 10, 2016 11:24 AM  
**To:** Kim Elkins  
**Cc:** 'Arthur Aiken'; 'Alicia Parler'  
**Subject:** Update

Charles Verner – the Public Defender from Newberry called me back. He represents Satterwhite. The Solicitor is focused on Satterwhite's case first because he has the weakest case against that defendant because he has not made an incriminating statement. However, the Public Defender and I agree that there is not a "defense" for Satterwhite. He was clearly present and aiding in the robbery turned murder. I say that to say this: it is unlikely that Satterwhite would risk a plea of not guilty and have a jury trial. BUT, Mr. Verner is meeting with the client's family next week to discuss the case against Satterwhite. They will discuss the possibility of a plea. The Solicitor has offered a plea to voluntary manslaughter (NOT Murder) for an agreed upon 15 year sentence. Satterwhite's attorney says he'll call me and let me know what they decide. If it is a yes - then I will attempt to negotiate the best plea offer for Tyler – given the fact that he would have fully cooperated with the prosecution of Satterwhite. Any plea for Tyler will obviously involve a reduction in the murder charge – that much is clear.

I also spoke with the Attorney for the juvenile co-defendant. That attorney informed me that the juvenile's bond was revoked. Apparently he posted on facebook picture(s) of himself holding a gun - which is a clear violation of his bond. So juvenile is now housed in jail pending the trial of this case. Overall, our strategy remains the same. . . to work with the Solicitor's office as much as we are able to (without actually endangering Tyler's situation as an incarcerated individual). It is clear to us that Tyler gave a statement only after the juvenile implicated all of the co-defendants in the robbery/murder. Tyler really had no other choice but to cooperate and cooperate he did. He should be given credit for that and I'll again push the Solicitor on this issue – hard.

## Kim Elkins

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**From:** Bea Hightower <bea@aikenandhightower.com>  
**Sent:** Monday, September 23, 2019 9:17 AM  
**To:** Kim Elkins; art@aikenandhightower.com  
**Subject:** RE: Tyler Elkins

This is an EXTERNAL email. Please do not click on a link or open any attachments unless you are confident it is from a trusted source.

Dear Ms. Elkins,

Thank you for the email. I would need to pull Tyler's closed file and research this request. I have court most of this week, but can endeavor to get this done. However, I do not specifically recall an email, but I can discuss this with Tyler's appellate attorney. I do know that on at least two occasions, Assistant Solicitor Scott and his other assistant stated that unless Tyler agreed to cooperate to testify against Satterwhite, then they were not going to offer him any reduction in the sentence below a cap of 25 years. Please give me Tyler's attorney name and I'll call him/her.

Thank you,  
Bea Hightower

**From:** Kim Elkins <Kim.Elkins@prismahealth.org>  
**Sent:** Monday, September 23, 2019 9:05 AM  
**To:** Bea Hightower <bea@aikenandhightower.com>; art@aikenandhightower.com  
**Subject:** Tyler Elkins

Good morning. Hope you are both well. I need your help. I've attached a copy of an email that was going back and forth just before Tyler was sentenced on Satterwhite's court date. I'm looking for the conversation between you and the solicitor when he was implying Tyler would be sorry if he didn't agree to testify against Satterwhite. We need this for his Johnson brief to supreme court to help prove he was not treated fairly with sentencing. Can you help me?

Thank you in advance.

Kim Elkins

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# The Supreme Court of South Carolina

Tyler Elkins, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-002184

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## ORDER

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The request for an extension to serve and file the ~~Johnson *pro se* response is granted and extended until October 08, 2019.~~ Pursuant to the order of the Supreme Court of South Carolina dated March 18, 2009 ([www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01)), any further extension request must be based on a showing of good cause.

FOR THE COURT

BY Grenda J. Shealy  
Chief Deputy CLERK

Columbia, South Carolina  
September 20, 2019

cc:

Janell H Gregory, Esquire  
Victor R Seeger, Esquire  
Tyler Elkins, 370294

The Supreme Court of South Carolina  
Attn: Ashley Thompson  
1231 Gervais Street  
Columbia, SC 29201

September 20, 2019

Reference: Tyler Elkins v. State  
Appellate Case No. 2018-002184

Ms. Thompson,

We are working on Tyler's Johnson pro se response and due to delay in additional documents to be received we are requesting an extension of 15 days to submit his response.

If you have any questions, please do not hesitate to contact me at 803-727-0074.

Thank you,

A handwritten signature in cursive script that reads "Kim Elkins". The signature is written in black ink and is positioned to the right of the typed name "Kim Elkins".

Kim Elkins

803-727-0074

UNITED MAIL

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