

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Certiorari to Greenwood County

Honorable Thomas A. Russo, Circuit Court Judge

---

TRAVIS SENTELL WILLIAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001115

---

PETITION FOR WRIT OF CERTIORARI

---

WANDA H. CARTER  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR PETITIONER

**ORIGINAL**  
**RECEIVED**  
MAR 04 2020  
S.C. SUPREME COURT

**INDEX**

INDEX ..... i

ISSUE PRESENTED ..... 1

STATEMENT ..... 2

ARGUMENT

Trial counsel erred in failing to file a motion to withdraw  
petitioner’s guilty plea based on the sentence issued by the plea  
judge because counsel failed to fully explain to petitioner all  
possible sentencing consequences in the case. .... 3

CONCLUSION ..... 6

**ISSUE PRESENTED**

Trial counsel erred in failing to file a motion to withdraw petitioner's guilty plea based on the sentence issued by the plea judge because counsel failed to fully explain to petitioner all possible sentencing consequences in the case.

## STATEMENT

Petitioner Travis Sentell Williams pled guilty to domestic violence of a high and aggravated nature during the Greenwood County General Sessions Court before Judge Frank R. Addy and was sentenced to imprisonment for a period of eighteen years.<sup>1</sup> Greenwood Public Defender Janna Nelson represented petitioner at the plea proceeding, and Assistant Solicitor Carson Penney appeared on behalf of the state. App. 1-33. Petitioner did not enjoy the benefit of a direct appeal in the case.

On June 22, 2018, petitioner filed a PCR application with the Greenwood County Office of the Clerk of Court. App. 3, 3-39. The respondent filed a Return dated February 12, 2019, requesting that a hearing be held in the case. App. 40-48. A PCR hearing was held on June 4, 2019, at the Laurens County Courthouse before Judge Thomas A. Russo. App. 50-84. Petitioner was present at the hearing and represented by Ashley L. McMahan, and Assistant Attorney General Janell H. Gregory appeared on behalf of the state.

On June 19, 2019, Judge Russo signed an Order of Dismissal denying petitioner's allegations of ineffective assistance of counsel in the case. App. 87-101.

Petitioner appealed Judge Russo's Order of Dismissal. This petition follows.

---

<sup>1</sup> The remaining charges of attempted murder, resisting arrest, and harassment were dismissed in petitioner's case.

## ARGUMENT

Trial counsel erred in failing to file a motion to withdraw petitioner's guilty plea based on the sentence issued by the plea judge because counsel failed to fully explain to petitioner all possible sentencing consequences in the case.

At the plea proceeding, the solicitor apprised the plea judge of the facts of the case. Apparently, petitioner and his wife were at a motel in Greenwood County when according to the state's version of the facts, petitioner assaulted her and broke her jaw. App. 6, 1.6-p.8, 1.20.

At the PCR hearing, petitioner testified that he pled guilty because trial counsel advised him that she talked to the judge and that he would get a prison term within the range of 5 or 7 up to 15 years as a sentence in the case, and he stated that counsel apologized about the 18-year sentence he received because the judge agreed in effect to a 15-year cap . App. 55, 1.1-p.56, 1.16.

During the PCR hearing, trial counsel testified that after she talked with the trial judge, it was her understanding that the sentence issued would fall between "7 to 15 years." App. 68, 1.16-24. App. 67, 1.25-p. 68, 1.18. Trial counsel stated that she told petitioner the following:

"My prediction for [petitioner] for him was – I think that what I told him was to expect something in the neighborhood of maybe 12 because I thought the judge would, sort of, split the difference, but I also told him that—you know, that—that 15 was a possibility because that was at the outside range of what the judge had said..."  
App. 68, 1.19-25.

Trial counsel admitted that she "rel[ied] heavily on the representation that the judge made to [her]" regarding the 7 to 15 sentencing range. App. 69, 1.1-2. Trial counsel stated that had she known the trial judge would move outside the sentencing range of 7 to 15 years and sentence petitioner to 18 years, then they could have gone to trial and "roll[ed] the dice" because the maximum entered for CDVHAN was twenty years. App. 71, 1.13-p. 72, 1.5. Trial counsel added

that she advised petitioner that he “should expect to get no more than fifteen years,” and that she believed her advice regarding sentencing expectations “influenced his decision to plead guilty.” App. 72, 1.16-21.

After sentencing and the denial of relief on a motion to reconsider sentencing, counsel wrote petitioner a letter admitting that his sentence was in effect a result of her misrepresentation to him at the plea proceeding stage. App. 86.

The relevant excerpt from that letter follows:

In the PCR, you should certainly blame the additional 3 years you got on me since I assured you the maximum would be 15 years based on my conversation with Judge Addy in chambers...If you like, you can also blame me for encouraging you to consider a plea deal when you wanted to go to trial, and wish now that you had gone to trial. App. 86.

The PCR judge ruled that petitioner was advised at the plea regarding the fact that he faced a maximum twenty-year sentence and quoted Wolfe<sup>2</sup> that any possible misconceptions... were cured by the colloquy during the guilty plea hearing.” App. 95-96. Further, the PCR judge quoted the plea judge’s remarks regarding sentencing as follows:

Prior to imposing the sentence, the plea judge stated, “when we met in chambers last month I was not able to give you guys any sort of indication on a number in terms of sentencing—a definitive sentencing thing.” (GP Tr. 27.) Counsel, [Solicitor], and the plea judge then had a sidebar conversation and the plea judge went back on the record to state, “When we spoke at the bench, the attorneys related to me what I had discussed in chambers by way of the sentencing range. The last time that we met about this case in chambers...as I recall it, was that I would really have to just eyeball the situation then make a decision. Hear from everybody, but I was not able to commit to anything definitive in the way of a sentence for [Applicant].” (GP Tr. 28.) The plea judge then, after addressing Victim and Applicant’s extensive criminal history, imposed an eighteen year sentence on Applicant. (GP Tr. 28-31.)

---

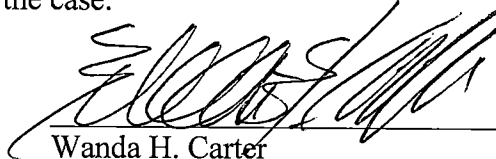
<sup>2</sup> Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997).

On February 15, 2018, Counsel filed a motion to reconsider Applicant's sentence. In that motion Counsel conceded that, although the plea judge provided a range of seven to fifteen years, he told her and [Solicitor] that he would need to "eyeball" the case. In the order denying Applicant's motion, the plea judge stated he "definitely recalls informing all concerned that the Court would have to 'eyeball' the situation and could not firmly commit to any particular sentence. The Court's plea colloquy with [Applicant] was thorough, and [Applicant] indicated that he had sufficient time to decide how he wanted to proceed concerning his charges," App. 97.

In order for a defendant to plead guilty, he must have a full understanding of the sentencing consequences of his plea. Simpson v. State, 317 S.C. 506, 455 S.E.2d 175 (1995); Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999); Hinson v. State, 297 S.C. 456, 377 S.E.2d 338 (1989); State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980). Here, counsel failed to explain to petitioner that conversations with the plea judge did not translate into an automatic confirmed plea bargain for a fifteen-year sentencing cap. Counsel's error violated petitioner's right to competent legal representation at his plea proceeding because petitioner pled guilty without an understanding of the sentencing consequences in his case. A motion to withdraw the guilty plea should have been filed by counsel. Counsel's error in handling this plea matter violated petitioner's right to effective assistance of counsel during the plea process as guaranteed under the Sixth Amendment. See Hill v. Lockhart, 484 U.S. 52 (1985). But for counsel's error in this regard, a reasonable probability exists that petitioner would have pled not guilty and exercised his right to a trial by jury in the case or received a favorable result upon a hearing on a motion to withdraw his guilty plea.

**CONCLUSION**

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

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

ATTORNEY FOR PETITIONER

This 4th day of March, 2020.

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

\_\_\_\_\_

Certiorari to Greenwood County

Honorable Thomas A. Russo, Circuit Court Judge

\_\_\_\_\_

TRAVIS SENTELL WILLIAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

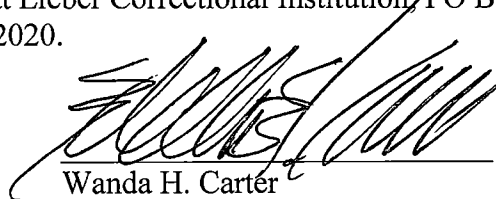
RESPONDENT

\_\_\_\_\_

CERTIFICATE OF SERVICE

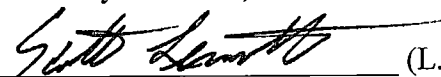
\_\_\_\_\_

The undersigned hereby certifies that a true copy of the Petition for Writ of Certiorari and a copy of the Appendix in the above referenced case has been served upon Janell Gregory, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Petition for Writ of Certiorari and a copy of the Appendix have been served on Travis Sentell Williams, #249923, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 4th day of March, 2020.



Wanda H. Carter  
Deputy Chief Appellate Defender

SUBSCRIBED AND SWORN TO before me    ATTORNEY FOR PETITIONER  
this 4th day of March, 2020.

 (L.S)  
Notary Public for South Carolina  
My Commission Expires: September 27, 2028.