

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

Apr 07 2021

S.C. SUPREME COURT

—————
Certiorari to Spartanburg County

Honorable G. Thomas Cooper, Circuit Court Judge
—————

MONQUEZ J. YOUNG,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2020-001053
—————

JOHNSON 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

INDEX

INDEX i

ISSUE PRESENTED 1

STATEMENT 2

ARGUMENT

Trial counsel erred in failing to conduct appropriate investigations
into matters of defense on petitioner’s behalf 3

CONCLUSION 4

PETITION TO BE RELIEVED AS COUNSEL 5

ISSUE PRESENTED

Trial counsel erred in failing to conduct appropriate investigations into matters of defense on petitioner's behalf.

STATEMENT

Petitioner Monquez J. Young pled guilty to attempted murder, possession of a weapon during the commission of a crime, use of a firearm while under the influence, throwing bodily fluids, and discharging a firearm at or into a dwelling during the March 2018 term of the Spartanburg County General Sessions Court before Judge J. Derham Cole. Petitioner was sentenced to an aggregate thirty-year prison term, suspended upon a sentence of fifteen years. Petitioner was represented at the plea proceeding by Charles William Snyder and James A. Cheek, and Assistant Solicitor Spencer Holloran Smith appeared on behalf of the state. App. 1-34. Petitioner did not enjoy the benefit of a direct appeal in the case.

Petitioner filed a PCR application with the Spartanburg County Office of the Clerk of Court on September 4, 2018. App. 36-43. The respondent filed a return dated August 8, 2019, requesting that a PCR hearing be held in the case App. 44-53.

A PCR hearing was convened on October 11, 2019, at the Spartanburg County Courthouse before Judge G. Thomas Cooper, Junior. Petitioner was present at the hearing and represented by Rodney W. Richey, Esquire, and Assistant Attorney General Jacob A. Isenberg appeared on behalf of the state. App. 54-78. On May 11, 2020, Judge Cooper issued an Order of Dismissal in the case. App. 80-96.

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

ARGUMENT

Trial counsel erred in failing to conduct appropriate investigations into matters of defense on petitioner's behalf.

At trial, the solicitor apprised the plea judge of the facts of the case. Apparently, petitioner fired a gunshot into the arm of the dweller of a certain apartment located in Spartanburg County on June 30, 2017. App. 19, l. 7 – p. 21, l. 9.

During the PCR hearing held in the case, petitioner testified that there was a scuffle and the gun went off, which meant there was a possibility of certain defenses and negotiations on the charges that could have been developed if counsels had thoroughly investigated his case, Also, petitioner alleged that counsels failed to show him the discovery materials in the case. App. 59, l. 13 – p. 61, l.22; App. 63, l. 17- p. 64, l. 22. Petitioner added that counsels in effect coerced a plea by threatening him with a thirty-year sentence in the event of a trial if he did not take the plea and the fifteen-year sentence offered. App. 65, lines 4-18.

Trial counsels testified at the PCR hearing and stated that they reviewed the discovery materials with petitioner and looked into the facts and evidence from the case. App. 67, l. 5 – p. 68, l.1; App. 70. 1 – p. 71, l.22. Tr. 75, lines 8-23.

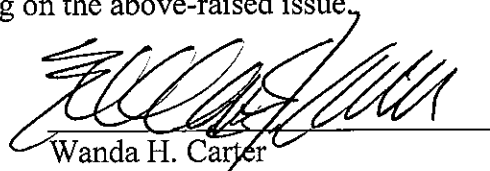
Counsel has a duty to conduct investigations into a defendant's case. Strickland v. Washington, 466 U.S. 668 (1984). In Kolle v. State, 386 S.C. 578; 690 S.E.2d 73 (2010), the Court held that the outcome of the suppression hearing in the case would have had a different outcome if counsel had obtained pertinent discovery materials and obtained all investigative reports and affidavits in order to present a valid case on the issue of whether exigent circumstances justified the officers' forced entry into the defendant's apartment. In Hill v. Lockhart, 474 U.S. 52 (1985), the Court held as follows:

In many guilty plea cases, the “prejudice” inquiry will closely resemble the inquiry engaged in by courts reviewing ineffective-assistance challenges to convictions obtained through a trial. For example, where the alleged error of counsel is a **failure** to **investigate** or discover potentially exculpatory evidence, the determination whether the error “prejudiced” the defendant by causing him to plead guilty rather than go to trial will depend on the likelihood that **discovery** of the evidence would have led counsel to change his recommendation as to the plea. This assessment, in turn, will depend in large part on a prediction whether the evidence likely would have changed the outcome of a trial. Similarly, where the alleged error of counsel is a failure to advise the defendant of a potential affirmative defense to the crime charged, the resolution of the “prejudice” inquiry will depend largely on whether the affirmative defense likely would have succeeded at trial.

Likewise, in the case at bar, counsels’ error in failing to conduct adequate investigations in the case in order to ascertain whether a struggle over the gun that discharged as a result would have led to viable defenses and in failing to thoroughly review discovery materials in support of the same meant that there was a reasonable probability that the outcome of petitioner’s case would have been different but for counsels’ ineffective representation in this regard. Therefore, counsels’ deficient representation in petitioner’s case violated the Sixth Amendment guarantee of competent counsel in criminal cases.

CONCLUSION

Based on the foregoing argument, counsel for petitioner would request that this Court grant petitioner’s petition and allow full briefing on the above-raised issue.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 7th day of April, 2021.

RECEIVED

Apr 07 2021

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable G. Thomas Cooper, Circuit Court Judge

MONQUEZ J. YOUNG,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

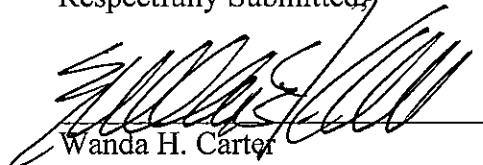
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Monquez Young 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 G. Thomas Cooper, which was held on October 11, 2019, 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 Monquez Young.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 7th day of April, 2021.

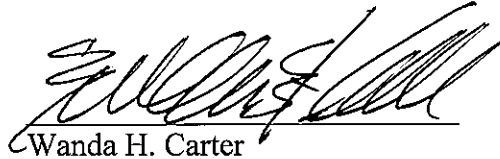
RECEIVED

Apr 07 2021

CERTIFICATE OF COUNSEL

S.C. SUPREME COURT

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."



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

This 7th day of April, 2021.