

PETITION FOR A WRIT OF
CERTIORARI TO THE S.C. SUPREME COURT
THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS

Deadra L. Jefferson
Chief Administrative Judge
Fourteenth Judicial Circuit

Appellate case No. 2021-000359; Lower
Court case No. 2019-CP-07-06049
Saul Williams PETITIONER

v.

State of South Carolina Respondent

PETITION FOR A WRIT OF CERTIORARI

Saul Williams
F2-B-
Kirkland Corr. Inst.
4344 Broad River Rd.
Columbia, S.C.
29210

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S.C. SUPREME COURT

statement of case

This matter comes before court by way of an application for post conviction review (PCR) filed by Sam Williams, petitioner on May 6, 2019. Respondents made its return requesting that the application be summarily dismissed for failure to comply with the statute of limitations, because it is impermissibly successive, and barred by res judicata.

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the clerk of court for Beaufort County. Petitioner was indicted at the February 1996 term of the Beaufort County Grand Jury for five counts of armed robbery (1996-GS-07-250, 252, 264, -267 and -269); five counts of possession of a weapon during the commission of a violent crime (1996-CP-07-251, -253, -266, -268, and -270); and assault and battery with intent to kill (ABWTK) (1996-GS-07-847) and possession of a sawed-off shotgun (1996-GS-07-848). Sam Beyer and

QUESTIONS PRESENTED

1. WHETHER OR NOT THE FIRST PCR WAS DISMISSED WITH PREJUDICE?

2. WHETHER OR NOT THE PETITIONER KNOWINGLY AND INTELLIGENTLY PLEAD GUILTY?

Table of Authority

1. pgs 1-5 *Carbajal v. Keefe*, United States District Court, Colorado, June 24, 2014, 51 F. Supp. 3d 1065, 2014 WL 2861756.
2. pgs 6-7 *FN re Williams*, 444 F.3d 233, 236 (4th Cir. 2006).
- 3 pgs 8-10 *Strickland*
4. pgs 11-12 *Alexander v. State*, 402 S.E. 2d 484 (S.C. 1991).
5. pgs 13-18 *Gilbert v. California*, 388 U.S. 263, 272, 87 S.Ct. 1957, 1956, 18 L.Ed. 2d 178 (1967).

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1. Whether or not the first PCR was dismissed with prejudice?

PETITIONER'S 1ST PCR, POST CONVICTION relief was NOT dismissed with prejudice.

Here to with the ^{PCR} was dismissed for failure to file within the ^{time} mandated by the POST-CONVICTION PROCEDURE ACT.

Also on September 27, 1999, an evidentiary hearing was held before the honorable JACKSON V. GREGORY, at which petitioner was present and was represented by Sam Svalina, SR., Esquire. By order dated November 22, 1999, Judge GREGORY denied relief and dismissed the application.

Judge GREGORY did NOT specify denied and dismiss with prejudice on the record nor has any caselaw ever been cited that, denied relief and dismissed the application is a final ruling or a ruling on the merits and even in the 2019-CP-07-1049 order Dedra L. Jefferson, Chief Administrative Judge - Common Pleas Court, Fourteenth Circuit did not cite any caselaw pertaining to this. For the above and below Grant the case and immediately release petitioner from prison.

A dismissal without prejudice

does NOT have preclusive effect because it is NOT a determination upon the merits see Carbajal v. Keefer, United States District Court, D. Colorado, June 24, 2014, 51 F. Supp. 3d 1065, 2014 WL 2861756

The case must be adjudicated on the merits. see ~~Fre~~ Williams, 444 F.3d 233, 236 (4th Cir. 2006).

Judge Tymkovich argued that "[an] adjudication on the merits occurs when the state court resolves the case on substantive grounds, rather than procedural grounds." Wilson, 536 F.3d at 1128 and this case was decided on procedural grounds. The statute of limitation to file has passed.

2. Whether or not the petitioner knowingly and intelligently plead guilty.

The petitioner did not knowingly and intelligently plead guilty. The petitioner has evidence pg 281 of the PCR transcript

counsel Buffalo on direct on PCR transcript pg 281, that I was eligible for parole that petitioner is categorized eligible for parole and this was ineffective counsel and prejudiced petitioner. Petitioner doesn't have parole this is a violation of Strickland and

Alexander V. STATE, 4025 E. 24th (S.C. 1991).
trial counsel found ineffective for advising
client that he would face potential life sentence
if he proceeded to trial when he would have
actually faced a seven to twenty - five
year sentence for the second charge.
based on trial counsel erroneous advice;
defendant pled guilty and also fraud
counsel (E) at trial advised petitioner that
ninety nine years is better than a life sentence
and here I am thinking that I may see
some daylight and the whole while I'm
being frauded by counsel
pled guilty to might is well say life, and
that wasn't a good decision for counsel (E)
at trial to advise me to plead guilty to
years, it's really equivalent to a life
sentence, when the courts can decipher
through and see petitioner was believing
that counsel had a plea bargain going
on or at least something other than
telling me to plead to that much time
99 years and to me it's equivalent to
life petitioner is sick w/ not sugar and
is now under the coronavirus petitioner
just got out of hospital for testing positive
for covid-19. AT TRIAL petitioner was
represented by ATTORNEY S. SAM BAWER,
and RUFFALO. ON PG 281 MR. RUFFALO

admitted that he told me that it's a parole was in the near future and now as if either a competent, unbiased judge would understand this, pg. 286 in part:

And they would sentence him to life without ever any hope of any parole, so we talked to him about that, and I think what you came to was, IF that is what's going to happen let's plead him to something where at least he has the hope of a parole.

Further: if he had gone through with the trial, at least one of them, and if not all of them, he would have been convicted and had no hope of parole, and that the laws would change in near future.

Thus, was fraud and not true that attorney at not knowingly, intelligently guilty plea, attorney Buffalo said it would be parole and this induces me or made me take the deal I thought.

This is petitioner's sentence; on November 18, 1996, petitioner pleaded guilty as indicted. The honorable Thomas W. Cooper, Jr. sentenced him - petitioner to imprisonment for twenty-five years for three counts of armed robbery (96-GS-07-250, and -847), each of these sentences were ordered to run consecutive. Judge Cooper also sentenced petitioner to twenty-four years for another count of armed robbery (96-GS-07-

267). This sentence was also ordered to run consecutive to the sentences he received on the previously mentioned arm robberies. Judge Cooper sentenced petitioner to twenty-five years, each for the two remaining counts of arm robbery, five years for possession of a sawed-off shotgun, and five years on each count of possession of a weapon during the commission of a violent crime, all of which were to run concurrently to his other sentences.

"Sentencing is a critical stage of the criminal proceeding at which the defendant is entitled to the effective assistance of counsel. *Gilbert v. California*, 388 U.S. 263, 272, 87 S.Ct. 1951, 1956, 18 L.Ed.2d 1178 (1967).

Then Attorney Ruffalo stated in years to come they (meaning legislature, courts, etc.) they will cut their time in half. This was ineffective assistance of counsel to state this when this is not a caselaw or law and it prejudice ~~the~~ petitioner to plead guilty and receive a 99 year sentence which is equivalent to life because petitioner could of went to trial if this fraud wouldnt took place.

For the above release prisoner
petitioner from prison immediately
for the above fraud.

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date: 4/14/21

Saul Williams

S | Saul Williams

1 A. Well, it was a little bit of a victory for him. It was
2 apparent he would be convicted to life without parole. It
3 was immediately apparent, and even a criminal attorney with a
4 little bit of experience was going to look down all those cases
5 and say, if they didn't get him on this one, they would get him
6 on the next one.

7 And they would sentence him to life without ever any hope
8 of any parole, so we talked to him about that, and I think
9 what you came to was, if that is what's going to happen, let's
10 plead him to something where at least he has the hope of a
1 parole, because laws are political decisions, and even though
2 this law says he's going to serve eighty-five percent of the
3 time before he can get parole, five years from now some new
4 governor might come in and say, well, all the people sentenced
5 under those, we'll cut their time in half, or they're eligible
6 now, or they can go on work release or half release.

7 Anyone who is experienced in criminal law sees that happen
8 all the time.

9 Q. When did it happen last time?

1 A. It hasn't happened yet in his case in the last two years
2 but at least he's -- now he's categorized that he's eligible
3 parole.

4 If he had gone through with the trial, at least one of
5 them, and if not all of them, he would have been convicted and
6 had no hope of parole.