RECEIVED

Nov 29 2021

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to Greenville County

The Honorable Robin B. Stilwell, Plea Judge
The Honorable R. Scott Sprouse, PCR Judge

Appellate Case No. 2021-000416

SETH FLEURY,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

ALAN WILSON
Attorney General

TAYLOR ZANE SMITH
Assistant Attorney General
S.C. Bar No. 103282

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-0904

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

STATEMENT OF ISSUES ON CERTIORARI.....2

STATEMENT OF THE CASE.....3

STATEMENT OF FACTS.....6

STANDARD OF REVIEW.....8

ARGUMENT.....9

CONCLUSION.....13

STATEMENT OF ISSUES ON CERTIORARI

PETITIONER'S ISSUE PRESENTED

Whether trial counsel was constitutionally ineffective when he recommended Petitioner enter an open plea where the assistant solicitor, law enforcement, and the victim were demanding a high sentence and where trial counsel advised Petitioner that he would get either house arrest or a one to two year prison sentence, where the circumstances did not support such an assertion.

RESPONDENT'S COUNTERSTATEMENT OF ISSUE

Did the PCR court correctly deny Petitioner's application for post-conviction relief when Petitioner failed to prove that plea counsel gave deficient advice about the maximum potential punishment that Petitioner could face if he pleaded guilty, failed to prove that there was any deficiency in plea counsel's advice that the sentence that would be imposed should Petitioner plead guilty likely would not be more than a few years' imprisonment, and failed to prove that he would have proceeded to trial but for the alleged deficient advice from plea counsel?

STATEMENT OF THE CASE

Seth Fleury ("Petitioner") is presently incarcerated in the South Carolina Department of Corrections. During its April of 2018 term, the Greenville County Grand Jury indicted him for assault and battery of a high and aggravated nature (2018-GS-23-2557). On October 18, 2018, Petitioner appeared before the Honorable Robin B. Stilwell ("plea court") and pleaded guilty as indicted. Charles Ashton Bondurant ("plea counsel"), Esquire, represented Petitioner at that guilty plea hearing. Assistant Solicitor Elizabeth Morrow Gary of the Thirteenth Circuit Solicitor's Office represented the State at the guilty plea hearing. The plea court sentenced Petitioner to imprisonment for twelve years with credit for time served, and issued a permanent restraining order. On November 8, 2018, plea counsel filed a motion to reconsider, and the plea court denied the motion in an order filed on November 14, 2018. Petitioner did not appeal his conviction or sentence.

On June 25, 2019, Petitioner filed an application for post-conviction relief, through counsel, arguing that he was entitled to relief upon multiple grounds, which were: (1) plea counsel was constitutionally ineffective for advising Petitioner that, if Petitioner pleaded guilty, the worst possible outcome that Petitioner could expect would be for him to be sentenced to imprisonment for two or three years and that plea counsel had spoken with other judges and attorneys who all believed that Petitioner's sentence would not include time in prison, and that Petitioner based his decision to plead guilty upon this advice; (2) plea counsel was constitutionally ineffective for not moving for the reconsideration of the sentence; (3) plea counsel was constitutionally ineffective for not bringing to the plea court's attention that the victim's statements during the guilty plea hearing that she was beaten daily were false; (4) plea counsel was constitutionally ineffective for

not advising Petitioner of all plea offers extended to him by the State; (5) plea counsel was constitutionally ineffective for failing to offer in mitigation that the relationship between the victim and Petitioner was toxic and that the victim was angry that Petitioner was leaving to join the United States Navy; (6) plea counsel was constitutionally ineffective for not properly preparing Petitioner for the guilty plea hearing, a fact which was made worse by the presence of many in the courtroom and Petitioner's nervousness; (7) plea counsel was friends with the victim on Facebook and "liked" a post of hers that contained photographs; (8) Petitioner's decision to plead guilty was affected by his being on antidepressants at the time and his inability to process the drama that the victim created; (9) Petitioner did not knowingly and voluntarily waive his right to direct appellate review of his conviction and sentence and was told by plea counsel after the guilty plea hearing not to worry because plea counsel would appeal; and (10) the plea court did not let everyone speak on Petitioner's behalf who wanted to do so at the guilty plea hearing. Respondent filed its return to the application on February 10, 2020.

On March 5, 2021, the parties appeared before the Honorable R. Scott Sprouse ("PCR court") for an evidentiary hearing in this matter. Tommy Arthur Thomas, Esquire, represented Petitioner, and the undersigned represented Respondent. At that hearing, Petitioner raised the additional claims that: (1) Petitioner did not knowingly and voluntarily plead guilty because he did not intend to bite off the victim's lip and (2) one of the law enforcement investigators posted supportive comments on the victim's Facebook page. On April 8, 2021, the PCR court issued an order finding that Petitioner had failed to prove that he was entitled to post-conviction relief with regard to the claims he raised, and that Petitioner had abandoned other claims by presenting no evidence or argument in support of them. App. 209-39. With respect to Petitioner's claim that plea

counsel was constitutionally ineffective for advising Petitioner that the worst possible outcome that Petitioner could expect if he pleaded guilty was for two to three years in prison, the PCR court found, among other things: that Petitioner failed to prove that there was any deficiency in plea counsel's advice about the maximum penalty to which Petitioner could be exposed if he pleaded guilty; that Petitioner's testimony that he affirmed to the plea court that he understood the maximum possible penalty that could be imposed only because plea counsel told him to do so was not credible; that any deficiency in plea counsel's advice to Petitioner about the maximum penalty to which Petitioner would be exposed if he pleaded guilty was cured by the plea court's colloquy; that Petitioner failed to prove that plea counsel's advice to Petitioner that Petitioner would be imprisoned for three years at the most if he pleaded guilty was deficient; and that Petitioner failed to prove that he would have proceeded to trial instead of pleading guilty but for plea counsel's allegedly deficient advice about the maximum penalty that could be imposed. App. 209-16.

This appeal follows.

STATEMENT OF FACTS

At the guilty plea hearing, the assistant solicitor presented the following recitation of facts that the prosecution would seek to prove if Petitioner proceeded to trial:

> [Petitioner] and . . . [the victim], were in a romantic relationship for about 11 months prior to this incident. [The victim] was 18, [Petitioner] was 22. Their relationship was rocky. [Petitioner] was controlling, jealous and isolated [the victim] from family and friends. There were previous incidents of violence that went unreported. [The victim] ended the relationship and [Petitioner] did not accept that the relationship was over. His actions led [the victim] to putting him on trespass notice from her home.
>
> ...
>
> [The victim] agreed to meet [Petitioner] one last time on October 21st, 2017 in the parking lot of Cotton Mill Place condos in Simpsonville which is here in Greenville County. They arrived in separate cars and [the victim] got into [Petitioner's] car to talk. [Petitioner] had flowers and two cards for [her] with a message indicating he had not accepted that she had ended the relationship. [Petitioner] wanted [her] to leave town with him and she refused, telling him they would never be a couple again.
>
> [Petitioner] became angry and threw the flowers at the victim. She was scared and got into her own car to drive away. [Petitioner] approached her driver's side door screaming, No, No. He leaned into the door and tried to kiss [the victim] who said, No and pulled her head away. When she did, [Petitioner] bit down on [her] bottom lip and tore her bottom lip off. Biting all the way through flesh, muscle and tissue.
>
> He then grabbed her out of the car by her hair, threw her onto the ground and left the scene. He never called for medical help for her.

App. 8-9. The assistant solicitor went on at the guilty plea hearing to provide details about: the extent of the victim's injuries and ongoing medical treatment; Petitioner's statement to police in which he blamed the victim for pulling away from his kiss; Petitioner's making light of the victim's injury on a recorded jail phone call by saying that the victim did not have much of a bottom lip anyway; and the anticipated testimony from the victim's plastic surgeon that the force needed to cause the injury would have been like the force exerted by a pit bull's bite, that the extent of the

victim's injury could not have been caused by the victim's pulling away from Petitioner's kiss, and that it was his opinion to a reasonable degree of medical certainty that the force needed to cause the victim's injury could not have been exerted unintentionally. App. 9-11.

STANDARD OF REVIEW

The standard of review for post-conviction relief matters depends on the specific issues before the appellate court. Smalls v. State, 422 S.C. 174, 180, 810 S.E.2d 836, 839 (2018). When reviewing factual findings, the appellate courts defer to the PCR court's factual findings and will uphold them if there is probative evidence in the record to support them. Buckson v. State, 423 S.C. 313, 320, 815 S.E.2d 436, 440 (2018); Smalls, at 180-81, 810 S.E.2d at 839-40 (citing Sellner v. State, 416 S.C. 606, 610, 787 S.E.2d 525, 527 (2016); Jordan v. State, 406 S.C. 443, 448, 752 S.E.2d 538, 540 (2013)). The PCR court's findings regarding prejudice are based on a thorough review of the record as a whole, and, accordingly, are inherently fact-based and must be afforded deference by a reviewing appellate court. See Briggs v. State, 421 S.C. 316, 334, 806 S.E.2d 713, 723 (2017) ("The PCR court found the case 'came down to the victim's believability and credibility.' The PCR court found the most damaging testimony to Briggs . . . was not reliable because [the witnesses'] 'credibility is highly suspect.' Finally, the PCR court found 'there is a reasonable probability that the result of the Applicant's trial would have been different' if Singleton had not allowed Arroyo-Staggs to improperly bolster the victim. Giving to the factual findings by the PCR court the deference we are required by law to give, we affirm the court's finding that Briggs proved prejudice, satisfying the second prong Strickland."). However, pure questions of law will be reviewed de novo without deference to the lower court. Smalls, at 180-81, 810 S.E.2d at 839-40. Appellate courts will reverse the decision of the PCR court when it is controlled by an error of law. Goins v. State, 397 S.C. 568, 573, 726 S.E.2d 1, 3 (2012).

ARGUMENT

The PCR court correctly denied Petitioner's application for post-conviction relief because Petitioner failed to prove that plea counsel gave deficient advice about the maximum potential punishment that Petitioner could face if he pleaded guilty, failed to prove that there was any deficiency in plea counsel's advice that the sentence that would be imposed should Petitioner plead guilty likely would not be more than a few years' imprisonment, and failed to prove that he would have proceeded to trial but for the alleged deficient advice from plea counsel.

Petitioner argues that plea counsel's advice to him that Petitioner would not be imprisoned for more than a few years if he pleaded guilty was unreasonable under the circumstances, and that Petitioner would have proceeded to trial instead of pleading guilty if he had known that he would be imprisoned for twelve years. Petition for Writ of Certiorari at 9-10. The PCR court was right to deny Petitioner's application for post-conviction relief because Petitioner failed to prove that there was any deficiency in plea counsel's advice about the maximum penalty to which Petitioner could be exposed if he pleaded guilty, any deficiency in plea counsel's advice would have been cured by the plea court's colloquy with Petitioner, and Petitioner has failed to prove that he would have proceeded to trial but for the alleged deficiency in plea counsel's representation.

Petitioner, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Petitioner has the burden of proving the allegations in his post-conviction relief action, and when alleging that counsel was constitutionally ineffective, he must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result." Strickland, at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Petitioner must prove that counsel's performance was deficient. Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625

(1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, at 117, 386 S.E.2d at 625 (quoting Strickland, at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). Petitioner must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Petitioner such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to plea counsel, Petitioner must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing: (1) counsel was deficient and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). The "prejudice prong ordinarily requires more than simply a defendant's assertion that but for counsel's deficient performance he would not have pled but would have gone to trial." Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 595 (2009). "Courts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies. Judges should instead look to contemporaneous evidence to

substantiate a defendant's expressed preferences." Lee v. U.S., 137 S.Ct. 1958, 1967 (2017) (italics in original).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, at 670. Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 697. Therefore, the function of the post-conviction relief court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney. Id. at 690.

"A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (S.C. Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 74 (1977)). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see Jamison v. State, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of

a guilty plea and the finality that generally attaches to a guilty plea"). The South Carolina Supreme Court has instructed that:

> The longstanding test for determining the validity of a guilty plea is whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him.

State v. Inman, 395 S.C. 539, 556, 720 S.E.2d 31, 40 (2011) (internal quotations and citations omitted). "[A] guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison, at 468, 765 S.E.2d at 129 (citations omitted).

The PCR court correctly found that Petitioner failed to prove that there was any deficiency in plea counsel's advice about the maximum penalty to which Petitioner could be exposed if he pleaded guilty.[1] Plea counsel testified before the PCR court that it is his personal practice never to tell a criminal defense client whether to plead guilty or go to trial; instead, he tells his clients about the strength of their cases, the applicability of any defenses, and about his experiences in front of juries and at guilty plea hearings. App. 132. The assistant solicitor and plea counsel agreed that Petitioner would plead guilty in an open plea deal, with the State asking for whatever sentence it

[1] Petitioner writes that the PCR court found that Petitioner "failed to prove that trial counsel was constitutionally ineffective for advising [Petitioner] that the worst possible outcome of a plea would be a sentence of two to three years . . . ." Petitioner for Writ of Certiorari at 7. Petitioner misstates the PCR court's finding. The PCR court, when it used that language, was stating Petitioner's PCR claim *as Petitioner presented it.* The PCR court found credible plea counsel's testimony "that he informed [Petitioner] of the sentencing range for the underlying charge and, though [plea counsel] told [Petitioner] that his professional opinion was that [Petitioner] would likely receive a maximum sentence of imprisonment for three years, [plea counsel] told [Petitioner] that the sentence actually imposed would be left to Judge Stilwell's discretion . . . ." App. 212. Plea counsel testified that he makes it clear to his clients that a judge does not have to follow a sentencing recommendation. App. 136-37. Plea counsel testified that he explained to Petitioner that Judge Stilwell would not be bound by the sentencing requests from either party, and that Petitioner gave him no reason to think that he did not understand that explanation. App. 140-41.

wanted and plea counsel asking for something lower. App. 139-40. Plea counsel testified that he discussed the potential sentencing range with Petitioner (and Petitioner's family members) and that Petitioner gave him no reason to believe that Petitioner did not understand that he could not be sentenced to twenty years' imprisonment if he pleaded guilty. App. 129-30, 138. Petitioner affirmed to Judge Stilwell that he understood that he could receive up to twenty years in prison for the offense of assault and battery of a high and aggravated nature. App. 5. Petitioner affirmed to Judge Stilwell that no one had forced him to plead guilty. App. 6. Petitioner affirmed to Judge Stilwell that no one had promised him anything in exchange for the entry of his guilty plea other than a potential sentencing recommendation. App. 6. Petitioner, without credibility, as the PCR court noted, tried to disavow before the PCR court some of those affirmations that he made at the guilty plea hearing. App. 99-104, 212.[2] Even still, Petitioner admitted before the PCR court that plea counsel had informed him that he could be sentenced to prison for up to twenty years and that Judge Stilwell could impose whatever sentence Judge Stilwell wanted to impose. App. 99-103. This contradicts Petitioner's assertion before this Court now that he "did not understand that he was exposed to a twenty-year sentence . . . ." Petition for Writ of Certiorari at 5.

The PCR court correctly found that Petitioner failed to prove that there was any deficiency in plea counsel's advice that the sentence that would be imposed should Petitioner plead guilty

[2] Petitioner testified before the PCR court that he lied under oath in response to some questions from Judge Stilwell at the guilty plea hearing. App. 107. Petitioner has, therefore, seriously impugned his own credibility. Either Petitioner was lying in that testimony before the PCR court, which is the more likely of the two scenarios, or he admittedly lied under oath a few years ago at his guilty plea hearing, surely because petitioner thought that he would gain some benefit by doing so. At any rate, the PCR court found that Petitioner's testimony that he made false affirmations to Judge Stilwell at the guilty plea hearing only because plea counsel told him to do so was not credible. App. 212, 222. Petitioner does not challenge that credibility finding in his petition for a writ of certiorari.

likely would not be more than a few years' imprisonment. App. 214. Plea counsel, who had been representing criminal defendants for approximately four years at the time of Petitioner's guilty plea hearing, and had worked as a prosecutor for seven years before that, was flabbergasted when the assistant solicitor extended a plea offer of fifteen years to Petitioner. App. 124, 134. Based on his experience in criminal cases, plea counsel felt that the assistant solicitor's offer was too high, so he elicited opinions on the offer from three other lawyers: two criminal defense lawyers who previously worked as prosecutors and one lawyer who was working as a prosecutor at the time of plea counsel's consultation with him or her. App. 135-36. Like plea counsel, none of those lawyers thought that Petitioner would be sentenced to "more than a couple of years" in prison if Petitioner pleaded guilty. App. 136-37. Plea counsel reasoned that, since he had frequently been disappointed when he had worked as a prosecutor that people who "were multiple repeat offenders, [who] had terrible criminal histories that created havoc in the [lives] of their spouses or children" received sentences that were "way, way less than 12 years or 15 years," then it was likely that Petitioner would not receive more than a few years in prison at the most. App. 137. App. 129-30, 138. Plea counsel informed Petitioner of the things that plea counsel had taken into consideration when formulating his opinion that Petitioner likely would not spend more than a few years in prison. App. 138-39. Plea counsel even shared with Petitioner's mother information about sentences imposed in other criminal cases that he took into consideration when formulating his opinion, similar to the information contained in an email admitted into evidence before the PCR court. App. 191. The PCR court instructed that "[a] defense attorney's advice about the likelihood of an event is not rendered deficient merely because the event did not come to pass; what matters is the reasonableness of the advice." App. 214-15. This Court should affirm that finding because, "even

if there is reason to think that counsel's conduct was far from exemplary, a court still may not grant relief if the record does not reveal that counsel took an approach that no competent lawyer would have chosen." Dunn v. Reeves, 141 S. Ct. 2405 (2021).

Even if plea counsel had misadvised Petitioner about the maximum potential sentence that Petitioner would face if he pleaded guilty, that misadvice would have been cured by Judge Stilwell's colloquy with Petitioner at the guilty plea hearing, as the PCR court correctly found. App. 213. A colloquy with a guilty plea court can cure an alleged deficiency in advice given to a defendant by his lawyer. Holden v. State, 393 S.C. 565, 575, 713 S.E.2d 611, 616 (2011) (citations omitted) (concluding that any alleged deficiency in plea counsel's advice to Holden was cured by the plea court's colloquy), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

The PCR court also found that Petitioner failed to prove that he would have proceeded to trial but for plea counsel's alleged misadvice about the likelihood of Petitioner's receiving a lenient sentence. App. 215. Petitioner testified that he would have hired a lawyer other than plea counsel and proceeded to trial if he had known that he would receive so great a sentence. App. 98. The PCR court, however, found that the better evidence demonstrated that Petitioner was considering entering a guilty plea instead of going to trial from early in the representation. App. 216. Plea counsel testified that Petitioner never told plea counsel that he was giving serious consideration to taking the case to trial. App. 137. In fact, Petitioner told plea counsel that he had been angry with the victim in the parking lot that day and that he had intended to bite the victim. App. 132-33. At the hearing before the PCR court, Petitioner gave conflicting and mealy-mouthed testimony about whether he intended to bite the victim. For example, Petitioner testified, "I did not intentionally

meant [sic] to bite [the victim's] lip to the point where it came off. I never meant to, intentionally meant to, bite her lip. I was trying to kiss her and then the kiss went totally wrong." App. 104. When asked if it was entirely an accident that his teeth touched the victim's lip at all, Petitioner answered, "It was entirely an accident of the removal of her lip. But yeah, I never intended to bite down on her lip or use my teeth or anything like that." App. 104. Petitioner testified that the "incident happened" whenever he tried to "grab [the victim's] lips" and she jerked away from him. App. 104-05. Petitioner admitted that he "did mean to grab her lips with [his] teeth . . . ." App. 105. Petitioner, when explaining again his version of events, testified, "And when I went in I tried to grab her teeth – I mean, grab her lip and pull her towards me and that's when she jerked back. So I did not intend to bite her lip." App. 111. Petitioner failed to prove that there "is a reasonable probability that but for counsel's errors, [he] would not have pleaded guilty and would have insisted on going to trial. Roscoe, at 20, 546 S.E.2d at 419.

CONCLUSION

In conclusion, Petitioner pleaded guilty with the knowledge of the potential sentences he could face if he pleaded guilty and with knowledge of plea counsel's advice about the outcomes that plea counsel thought most likely, advice that was reasonable and considered. Petitioner did not get the sentence that he hoped for, but he did get a sentence that he knew was possible. That is not a basis upon which his guilty plea should be disturbed. See Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 371 (1997) ("Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made."). This Court should deny the petition for a writ of certiorari.

Respectfully submitted,

ALAN WILSON
Attorney General

TAYLOR ZANE SMITH
Assistant Attorney General
S.C. Bar No. 103282

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

By: s/Taylor Zane Smith
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

November 29, 2021