

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Aiken County

Honorable Edgar W. Dickson, Circuit Court Judge

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WILLIAM H. BLAKE

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-000708

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REPLY TO RETURN TO PETITION FOR WRIT OF CERTIORARI

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**QUESTION PRESENTED**

Did the PCR judge err in finding that the Alford pleas were entered knowingly and voluntarily when plea counsel failed to obtain and review with Petitioner all of the discovery in the manslaughter case, including witness statements that contradicted the inculpatory statements given by a co-defendant?

## ARGUMENT

**The PCR judge erred in finding that the Alford pleas were entered knowingly and voluntarily when plea counsel failed to obtain and review with Petitioner all of the discovery in the manslaughter case, including witness statements that contradicted the inculpatory statements given by a co-defendant.**

The State was about to call Petitioner's armed robbery case to trial just prior to Petitioner entering the Alford pleas to the armed robbery charge set for trial and a separate voluntary manslaughter charge. (App. p. 112, lines 12-14). The voluntary manslaughter indictment had not been presented to the grand jury and Petitioner waived grand jury presentment on that indictment. (App. p. 3, lines 7-9; p. 41). During the PCR hearing plea counsel admitted that his investigation on the murder/manslaughter case was not complete when Petitioner entered the pleas to armed robbery and voluntary manslaughter. (App. p. 114, line 24 – p. 115, lines 1-5). Plea counsel testified that he advised Petitioner that the investigation on the murder/manslaughter case was not complete. (App. p. 115, lines 6-12).

A General Sessions Packet for a death investigation on May 23, 2011, was marked as Applicant's #2 during the PCR hearing. (App. p. 127, line 14 – p. 128, lines 1-7; pp. 174-189). The packet is date stamped by the Solicitor's Office, October 31, 2011. Petitioner entered his Alford pleas earlier on October 24, 2011. The packet contained reference to statements made by Kathleen Yonce and Michael Gay that on the night of the shooting they saw a white car speed off. (App. p. 178). The report included a statement from Gay that he saw two black males speed walking away. (App. p. 178). The report also included a reference to a text message received by David Watson from Chastity Aspinwall indicating that she shot somebody. (App. p. 179).

In June of 2011, officers investigated the armed robbery of Joseph Holland. Holland advised the officers that Petitioner and Christopher Isom robbed him. (App. p. 20, lines 7-21).

Christopher Isom cooperated with the police, implicating himself and Petitioner in both the armed robbery and the death investigation from May. (App. p. 21, line 23 – p. 22, 23, lines 1-17). According to Isom, he and Petitioner drove to the scene of the May shooting in Petitioner’s girlfriend’s car. (App. p. 23, lines 1-13). During the PCR hearing, however, Petitioner testified that his girlfriend drove a burgundy car, not a white car as witnesses Gay and Yonce told the police they saw leaving. (App. p. 103, lines 12-20). Additionally, Petitioner testified at the PCR hearing that Isom was white, not black. (App. pp. 84-85).

Respondent writes, “Petitioner failed to provide any additional evidence that could have been obtained if he did not plead on October 24, 2011, nor has Petitioner shown that he would have proceeded to trial but for the advice of his counsel.” (Return p. 17). Petitioner provided the discovery packet that could have been obtained if he had not pled on October 24, 2011. There is a reasonable probability that if Petitioner had known about the statements from Gay and Yonce, he would not have pled guilty.

In Gaines v. State, 335 S.C. 376, 517 S.E.2d 439 (1999), the South Carolina Supreme Court noted that, “The United States Supreme Court held in Alford that an accused may consent voluntarily, knowingly, and understandingly to the imposition of a prison sentence although unwilling to admit culpability, or even if the guilty plea contains a protestation of innocence, when the accused intelligently concludes that his interests require a guilty plea and the evidence strongly supports his guilt of the offense charged.” Gaines at fn. 1.

Petitioner could not have intelligently concluded that his interests required a plea when he was not aware of the witness statements that could have contradicted the inculpatory statement given by co-defendant Isom. The Alford pleas in the present case were not made knowingly and intelligently. The convictions should be reversed.

**CONCLUSION**

Based on the above arguments, this Court should grant the petition for writ of certiorari to allow further briefing on the issues.

  
Kathrine H. Hudgins  
Appellate Defender

ATTORNEY FOR PETITIONER

This 2<sup>nd</sup> day of May, 2022.