

ment of mental illness. By doing so, they can simultaneously advocate for the protection, treatment, and empowerment of their patients.

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Evidentiary Requirements for Applicants Seeking Postconviction Relief on Mental Health Bases

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Applicant's Testimony that His Guilty Plea Was Rendered Involuntary due to Medications Given While in Jail is Insufficient Basis Alone for Court to Grant Relief

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In *Garren v. State*, 813 S.E.2d 704 (S.C. 2018), the state appealed the postconviction relief (PCR) court's decision granting Mr. Garren relief. The South Carolina Supreme Court considered whether it was an error for the defendant's counsel to fail to seek a competency evaluation and whether the defendant's guilty plea was rendered involuntary because of the medications he purportedly took.

Facts of the Case

In June 2012, the Pickens County Sheriff's Office responded to a call from neighbors involving Brandon Garren and his live-in girlfriend (the victim). The neighbors reported that they heard the victim screaming and observed her wandering in the yard. The victim reported to police that Mr. Garren held her against her will for a week, threatened to kill her, and beat her repeatedly. Her injuries were extensive, and she required treatment in an intensive care unit.

Mr. Garren faced several charges from this incident. Following plea counsel's negotiations with the

state, the most serious charges were dismissed and he pleaded guilty to criminal domestic violence of a high and aggravated nature and assault and battery of a high and aggravated nature. During the plea proceedings, plea counsel told the judge that Mr. Garren and the victim had abused prescription medications at the time of the incident; plea counsel also reported that Mr. Garren suffered from various physical health problems and "obviously ha[d] some mental problems" (*Garren*, p 707).

Mr. Garren informed the plea judge that he understood the charges to which he was pleading guilty, the constitutional rights that he was waiving, and the possible sentences that he could receive. He informed the judge that he was "most satisfied" with plea counsel's services and that he was not under the influence of any drugs or alcohol at the time of his plea.

Despite plea counsel's request for a lenient sentence, the court sentenced Mr. Garren to concurrent prison terms of 15 years for assault and battery of a high and aggravated nature and 10 years for criminal domestic violence of a high and aggravated nature. Mr. Garren did not file a direct appeal. Instead, he filed a PCR application alleging that plea counsel was ineffective for failing to request a mental health evaluation and because his ability to understand the plea proceedings was impaired by medications that he was given at the jail, rendering his guilty plea involuntary.

At the PCR hearing, plea counsel testified that, at the time of the plea, there was no indication that Mr. Garren was suffering from mental health concerns that necessitated further evaluation. In addition, plea counsel testified that Mr. Garren gave no indication that he had any difficulty understanding the plea proceedings.

At the PCR hearing, Mr. Garren testified that he was unhappy with the length of his sentence. He reported that he was unsure if he had explicitly requested a competency evaluation but thought that his mother had made such a request; his mother did not testify at the PCR hearing. Mr. Garren offered no evidence of what he expected a mental health evaluation would show, had one been ordered. He testified that he did not understand or have any recollection of the plea proceedings because of medications that he had received at the county jail. Although his PCR application identified his medical records as further support for his claim, he did not offer into evidence his medical records or other collateral information documenting that he took medication on the day of the plea or identifying the type of medication,

dosage, or potential “mind-altering effects” of the medication(s) that he claimed rendered him incompetent to enter a guilty plea.

This testimony was the only evidence Mr. Garren offered in support of his claim that his plea was affected by medications. Mr. Garren offered no testimony or other evidence indicating that he would not have entered a guilty plea but for the influence of medications. He did not call an expert witness to explain to the court how medication(s) affected his thinking and behavior.

The PCR court granted relief. It concluded that plea counsel was ineffective for not requesting a competency evaluation before Mr. Garren pleaded guilty; it also concluded that his guilty plea was involuntary due to the influence of medications that affected his ability to understand the plea proceedings. The South Carolina Supreme Court granted the state’s petition to review the PCR court’s decision.

Ruling and Reasoning

The South Carolina Supreme Court stated that there was no evidence in the record to support the PCR court’s findings. It reversed the PCR court’s findings and reinstated Mr. Garren’s convictions and sentences.

The court relied on a two-prong test outlined in *Strickland v. Washington*, 466 U.S. 668 (1984) to evaluate claims of ineffective assistance of counsel. First, “a PCR applicant must show that his counsel’s performance was deficient such that it falls below an objective standard of reasonableness” (*Suber v. State*, 640 S.E.2d 884 (S.C. 2007), p 886, citing *Strickland*, p 687). Second, “an applicant must show there is a reasonable probability, but for the counsel’s unprofessional errors, the result of the proceeding would have been different” (*Suber*, p 886, citing *Strickland*, p 687). *Strickland* requires that the applicant must show both deficient performance and prejudice.

Regarding the deficiency prong, the court stated that there was no evidence in the record that plea counsel’s failure to seek a competency evaluation fell below an objective standard of reasonableness (i.e., below reasonable professional norms). Plea counsel testified that, based on his interactions with Mr. Garren, a competency evaluation was not necessary; that counsel believed he was competent at the time of plea; and that, in hindsight, counsel continued to believe that he was competent during the plea proceedings. The court stated that the PCR court erred in finding counsel was deficient.

Regarding the prejudice prong, the court stated that Mr. Garren did not present evidence to demonstrate a reasonable probability that he would have been found incompetent to enter a guilty plea had a competency evaluation been conducted. Without any proof that Mr. Garren experienced identifiable mental health problems that undermined his competency, the court stated that any claim of prejudice was “purely speculative.” As such, there was no evidence to support the PCR court’s prejudice finding.

To claim that his guilty plea was involuntary due to the influence of medication, a PCR applicant must show that, at the time the plea was made, his mental faculties were impaired by medication(s) such that he did not understand and appreciate the charges against him, his constitutional rights, and the consequences of his plea (*Garren*, p 712, citing *United States v. Truglio*, 493 F.2d 574 (4th Cir. 1974), p 578).

The court stated that there was nothing in the record, other than his own testimony, to suggest that Mr. Garren was under the influence of medications or other substances that affected his mental faculties at the time of his guilty plea. When he gave his plea, Mr. Garren testified that he was not under the influence of alcohol or drugs; plea counsel testified that Mr. Garren appeared to understand the proceedings and never indicated that he did not understand the proceedings. Aside from his own testimony, Mr. Garren did not provide evidence to show that his ability to understand the plea proceedings was diminished by “the mind-altering effects of one or more specific medications” (*Garren*, p 713). As such, Mr. Garren failed to meet his burden of proof that his plea was invalid.

Discussion

There were several considerations in this case that are of importance to mental health providers. In its ruling, the court indicated that failing to request a competency evaluation does not equate to evidence of ineffective assistance of counsel without specific evidence of the defendant’s potential incompetency. The court also implied that the mere history of mental health problems, which was never objectively confirmed in this case, does not automatically warrant an evaluation for competency to stand trial. The court indicated there must be evidence in the record of identifiable men-

tal health problems that could potentially interfere with a defendant's competency to plead guilty. Should the court have affirmed the PCR court's decision, there would have likely been a substantial increase in competency to stand trial evaluation requests. This would tax available resources, overburden forensic evaluators, and delay legal proceedings.

By reversing the PCR court's findings, the court closed the door to convicted inmates seeking post-conviction relief on the mere fact that they were taking medication at the time of their plea and to those who make uncorroborated claims that taking such medication affected their ability to enter a valid plea. The court implied that convicted inmates' testimony alone during PCR hearings was an insufficient basis on which to grant relief; it stated that they have to provide evidence that the medications affected their ability to understand the plea proceedings.

The court did not specifically delineate the evidence that is required. Medical records documenting mental health concerns at the time of plea, medication(s) prescribed, and adverse effects from the medications on their mental faculties could provide such evidence. Another source of such evidence could be the use of expert testimony at the PCR hearing. An expert could testify about legitimate mental health problems, any mind-altering effects of medications, and the impact of these factors on an individual's competency to enter a plea.

Testimony of Counsel Required for Applicants Seeking Postconviction Relief

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U.S. Supreme Court Denies Writ of Certiorari to an Applicant Who Was Denied Postconviction Relief in Case Where Counsel Did Not Hire Mental Health Expert

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In *Reeves v. Alabama*, 138 S.Ct. 22 (2017), Matthew Reeves petitioned the U.S. Supreme Court for a writ of *certiorari* on claims of ineffective assistance of counsel for failure to hire a mental health expert. The petition for writ was denied. Justice Sotomayor, along with Justices Ginsburg and Kagan, wrote a dissent to the denial of *certiorari*, which is presented here.

Facts of the Case

Matthew Reeves was charged with capital murder for the 1996 killing and robbery of Willie Johnson. Mr. Reeves was 18 years old at the time of the crime. Prior to trial, his attorneys (Blanchard McLeod, Jr., and Marvin Wiggins) filed a motion requesting the trial court appoint and approve funding to pay for Dr. John Goff, a clinical neuropsychologist, to "evaluate, test, and interview" Mr. Reeves (*Reeves*, p 23).

The trial court denied the motion. Mr. Reeves' counsel were granted a re-hearing. His attorneys explained that they needed the expertise of a clinical neuropsychologist or "a person of like standing and expertise" (*Reeves*, p 23) to review "hundreds of pages" of mental health data, evaluate Mr. Reeves for mental illness or intellectual disability, and present this information to the jury during the sentencing phase. After reconsidering, the trial court granted the funding and appointment requests.

Before trial, Mr. McLeod withdrew as counsel and was replaced by Thomas Goggans. Mr. Wiggins remained as counsel, and he and Mr. Goggans represented Mr. Reeves at trial. Despite receiving funding and an appointment order from the court, Mr. Reeves' trial counsel never hired Dr. Goff or another expert to evaluate Mr. Reeves. The trial commenced, and the jury convicted Mr. Reeves of capital murder.

During the sentencing phase, Mr. Reeves called three mitigation witnesses: Dr. Kathleen Ronan (a court-appointed clinical psychologist), the detective in charge of the murder investigation, and Mr. Reeves' mother. Dr. Ronan evaluated Mr. Reeves for competency to stand trial and his mental state at the time of the offense (i.e., trial phase evaluations). She met with trial counsel for the first time shortly before she testified; she informed Mr. Reeves' attorneys