

SUPREME COURT
TO: CHIEF JUSTICE DONALD BEATTY
1231 Bervais St. / BOX 11330
Colg, SC 29211

RECEIVED

APR 29 2022

S.C. SUPREME COURT

FROM: Bennie Mitche II #278318 MacD. C.I. B2
DZA 1516 Old Billiard Rd. Ridgerville, SC 29472

SUBJECT: COMPLAINT AGAINST
CJR JOY E. HOLSTON

DATE: 4.26.22 resubmitted
←

(1) Please be advised, that on Dec 13, 2010
I submitted my challenges to court report Joy
E. Holston, where there was some significant
omissions/inaccuracies from my trial transcript.

Missing: where sol. McDaniel introduce the
victim's girlfriend "Meicy Politrone"
whom was sitting at the state's table.
where the sol. stated, that she was
a none witness, just there for support
had nothing to do w/ the case.

(2) On Dec 30, 2010 CJR Holston only went back
and added the girlfriend name SEE: Ex A1 org.

pg 12)

DATE: 4.26.22

Trial Tr. Ex A² amended Trial Tr.

- (3) Missing: Where my trial counsel greeted Lt. McClurkin on cross, stating that Lt. McClurkin was a good officer.
- (4) On Dec 30, 2010 C/R Holston stated that she do not have the records, and resubmitted only the org. trial tr. pgs SEE: Ex B¹ and Ex. B²
- (5) Although I wrote Ms. Holston informing her there was **still** omissions/inaccuracies in the above matters. She still refused to put all the matters back in my trial tr. SEE: Ex H and Ex. K. letter from C/R Holston dated 1.7.11/2.2.11
- (6) Although. Ms. Holston agreed and told

pg (3)

DATE: 4.26.22

my App. Defender, that she would preserve the tape for any future P.C.R issues SEE: Ex. L

- (7) Although, C/R Holston told my PCR atty per E. mail 10.26.21, that this letter, "Ex. L" is dated 2010 - C/R keep records for five years she will not have anything on this case SEE: Ex 1A
- thus I wasn't able to prove the above said issues at my PCR hearing 10.26.21. (1)

- (8) Please note: Ms. Holston was well aware of my actions, in trying to keep this tape from being destroyed. Where I had filed two (2) cases against her and Desiree R. Allen in Richland Co. upon the above matters (case numbers unknown - but see Richland Ct. records)
- (1) Order dismissing PCR dated 3.4.22 appeal ~~pending~~

DATE: 4.26.22

(9) Therefore I argue that C/R Holston did not follow the laws/procedures set out per SCACR 607(i). Where C/R Holston willfully failed to preserve the tape, after I had challenged the above omissions/inaccuracies of my trial tr.

And, still claimed there was omissions/inaccuracies after her correction of some of the issues.

(10) Moreover where she had agreed to preserve the tape for my PCR issues. Thus I was denied any notice and opportunity to object to her reusing/destroying the tape before any court.

Respectfully submitted
Bernie Mitchell

426-21
Ex. Org. A1

54

1 MR. MCDANIEL: MY NAME IS AUSTIN MCDANIEL, ASSISTANT
2 SOLICITOR FOR THE EIGHTH CIRCUIT, NEWBERRY COUNTY. TO MY
3 RIGHT IS KENN WILTSHIRE. YOU HAVE MET MR. POTTS. ALLISON
4 MOORE IS ALSO EMPLOYED WITH THE NEWBERRY POLICE
5 DEPARTMENT.

6 THE COURT: MR. CHAPLIN.

7 MR. CHAPLIN: GOOD MORNING, MY NAME IS MATTHIAS
8 CHAPLIN AND I AM AN ATTORNEY HERE IN SOUTH CAROLINA.
9 PRACTICE IN COLUMBIA, SOUTH CAROLINA AND ALSO IN
10 WALTERBORO, SOUTH CAROLINA. HERE WITH ME IS BENNIE DARRON
11 MITCHELL. THANK YOU. AND I ALSO SEATED WITH ME IS
12 ELIZABETH COOK WHO HAS ALSO REPRESENTED SOME PEOPLE IN THE
13 STATE OF SOUTH CAROLINA. AND SHE IS NOW WORKING AS AN
14 INVESTIGATOR IN THIS CASE.

15 THE COURT: IS THERE ANYONE WHO IS RELATED BY BLOOD
16 OR MARRIAGE OR KIN TO IN ANY WAY EITHER TO MR. CHAPLIN OR
17 MR. MCDANIEL OR ANY OF THE PEOPLE THAT THEY INTRODUCED.
18 IF SO, PLEASE STAND.

19 (NO RESPONSE.)

20 THE COURT: DOES ANYONE HAVE ANY BUSINESS, SOCIAL OR
21 PERSONAL RELATIONSHIP WITH MR. CHAPLIN OR MR. MCDANIEL OR
22 ANYONE THEY INTRODUCED. IF SO, PLEASE STAND.

23 (NO RESPONSE.)

24 THE COURT: HAS ANYONE EVER BEEN EMPLOYED BY OR HAD A
25 MEMBER OF THEIR IMMEDIATE FAMILY BE EMPLOYED BY MR. CHAPIN

FILED
NEWBERRY COUNTY
2019 MAR 14 PM 10:44
JACOB BOWEN
CLERK OF COURT

4.26.22

Amended To-p

42

Ex A2

54

1 MR. MCDANIEL: MY NAME IS AUSTIN MCDANIEL, ASSISTANT
2 SOLICITOR FOR THE EIGHTH CIRCUIT, NEWBERRY AND LAURENS
3 COUNTY. TO MY RIGHT IS KENN WILTSHIRE AND LIEUTENANT
4 MCCLURKIN, THE INVESTIGATOR IN THE CASE. YOU HAVE MET MR.
5 POTTS. ALSO SEATED HERE IS NEICY POLIFRONE. ALLISON
6 MOORE IS ALSO EMPLOYED WITH THE NEWBERRY POLICE
7 DEPARTMENT.

8 THE COURT: MR. CHAPLIN.

9 MR. CHAPLIN: GOOD MORNING, MY NAME IS MATHIAS
10 CHAPLIN AND I AM AN ATTORNEY HERE IN SOUTH CAROLINA. I
11 PRACTICE IN COLUMBIA, SOUTH CAROLINA AND ALSO IN
12 WALTERBORO, SOUTH CAROLINA. HERE WITH ME IS BENNIE DARRON
13 MITCHELL. THANK YOU. AND I ALSO SEATED WITH ME IS
14 ELIZABETH COOK WHO HAS ALSO REPRESENTED SOME PEOPLE IN THE
15 STATE OF SOUTH CAROLINA. AND SHE IS NOW WORKING AS AN
16 INVESTIGATOR IN THIS CASE.

17 THE COURT: IS THERE ANYONE WHO IS RELATED BY BLOOD
18 OR MARRIAGE OR KIN TO IN ANY WAY EITHER TO MR. CHAPLIN OR
19 MR. MCDANIEL OR ANY OF THE PEOPLE THAT THEY INTRODUCED.
20 IF SO, PLEASE STAND.

21 (NO RESPONSE.)

22 THE COURT: DOES ANYONE HAVE ANY BUSINESS, SOCIAL OR
23 PERSONAL RELATIONSHIP WITH MR. CHAPLIN OR MR. MCDANIEL OR
24 ANYONE THEY INTRODUCED. IF SO, PLEASE STAND.

25 (NO RESPONSE.)

Amended To-p.

1 THE COURT: WE ARE BACK ON THE RECORD OF THE STATE
2 VERSUS BENNIE D. MITCHELL. THE REASON WE ARE GETTING A
3 LATE START THIS MORNING IS ONE OF THE JURORS, SHANI M.
4 SHELLS, JUROR NUMBER 135 HAS NOT REPORTED YET THIS
5 MORNING. WE WERE SUPPOSE TO START COURT AT 9:30, IT IS
6 NOW 10:00 O'CLOCK. WE HAVE TRIED THROUGH THE CLERK TO
7 CONTACT HER HOME WHERE THERE WAS NO ANSWER, CONTACTED HER
8 EMERGENCY CONTACT, IT WAS HER MOTHER AND ARE TRYING TO TRY
9 TO FIND OUT HER WHEREABOUTS. WE ARE GOING TO SUBSTITUTE
10 MS. MAYBIN, THE ALTERNATE JUROR, NUMBER 95 IN PLACE OF MS.
11 SHELLS SO WE CAN GET THE CASE UNDERWAY. ANYTHING ELSE
12 BEFORE WE BRING THE JURY OUT?

13 MR. MCDANIEL: NOT FROM THE STATE, YOUR HONOR

14 MR. CHAPLIN: NOT FROM THE DEFENSE.

15 THE COURT: LIEUTENANT, YOU CAN RESUME THE STAND AND
16 YOU ARE STILL UNDER OATH. BRING THEM IN, PLEASE.

17 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
18 APPROXIMATELY 10:00 A.M.)

19 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, THE
20 REASON IS WE ARE DELAYED THIS MORNING IS THAT ONE OF YOUR
21 FELLOW JURORS HADN'T REPORTED YET AND WE ARE TRYING TO
22 FIND WHERE SHE IS. BUT IN THE MEANTIME MS. MAYBIN, YOU
23 ARE NOW A REGULAR JUROR. WE WILL HAVE THE
24 CROSS-EXAMINATION. MR. CHAPLIN.

25 CROSS-EXAMINATION

FILED
NEWBERRY COUNTY
JUL 14 AM 10 44
JACKIE S. BOWERS
CLERK OF COURT

Ex Org. B2

BY MR. CHAPLIN:

Q OFFICER MCCLURKIN, DO YOU HAVE ANY TRAINING IN THE
USE OF INFRARED ILLUMINATION?

A NO SIR, I DO NOT.

Q SO, YOU DON'T KNOW WHAT INFRARED ILLUMINATION, WHEN
THIS BECOMES VISIBLE TO THE HUMAN EYE?

A NO SIR, I DO NOT.

Q YOU DON'T KNOW THE LEVEL OF INFRARED USED IN THIS
CAMERA, THE DEER CAMERA?

A NO SIR, I DO NOT.

Q DO YOU KNOW WHAT THE EFFECT OF INFRARED ILLUMINATION
HAS ON SKIN TONE?

A NO SIR, I DO NOT.

MR. MCDANIEL: JUDGE, HE HAS ESTABLISHED THAT HE
DOESN'T KNOW THE INFRARED.

MR. CHAPLIN: YOUR HONOR, I WILL MOVE ON.

THE COURT: OKAY.

Q MR. MCCLURKIN, WHEN MR. POTTS CALLED BACK, I THINK ON
THE 30TH AND REPORTED THAT MONEY WAS TAKEN FROM A BOX DID
YOU OR ANYONE ELSE GO BACK TO THE HOME TO INVESTIGATE
THAT?

A NO SIR, WE DID NOT.

Q NO FURTHER QUESTIONS FOR OFFICER MCCLURKIN.

THE COURT: ANY REDIRECT?

MR. MCDANIEL: NONE FROM THE STATE.

FILED
NEWBERRY COUNTY
2019 MAR 14 AM 10:15
JACKIE S. BOWERS
CLERK OF COURT

202611
January 7, 2011

Ex. H

Bennie Mitchell
MC C.I./Unit 3-A-Side 187-13
386 Redemption Way
McCormick, S.C. 29899

The State of South Carolina vs. Bennie Mitchell
Case number -2009-GS-36-37, 38, 39

Dear Mr. Mitchell,

Attached is your letter dated January 4, 2011. I cannot make any changes to what you are asking of your transcript. You have challenged the transcript and I have made the appropriate changes in a letter to you dated December 30th, 2010.

Thank you,



Joy E. Holston
Circuit Court Reporter



4.26.22
February 2, 2011

Ex. K

Bennie Mitchell
MC C.I./Unit 3-A-Side 187-13
386 Redemption Way
McCormick, S.C. 29899

The State of South Carolina vs. Bennie Mitchell
Case number -2009-GS-36-37, 38, 39

Dear Mr. Mitchell,

I have received your letter dated January 14th and your letter dated February 1, 2011. I apologize for any confusion with the issue of your transcript.

Your letter dated January 14th 2011 asked me to further review my records of the court proceedings to make changes. After reviewing my records I do not see any further changes that should be made to your transcript.

Thank you,



Joy E. Holston
Circuit Court Reporter

4.26.11

SCCID

EX L

SOUTH CAROLINA COMMISSION ON INDIgent DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

December 30, 2010

Ms. Joy E. Holston
118 Sandy Beach Drive
Prosperity, SC 29127

Re: Bennie Mitchell

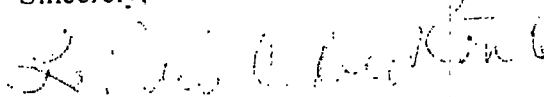
Dear Ms. Holston:

As a follow-up to our telephone conversation today, you were the court reporter for the trial of Mr. Bennie Mitchell on April 19, 2010 before the Honorable D. Garrison Hill in Newberry. I am handling his direct appeal from that trial.

As we discussed today, you agreed to preserve the tapes of Mr. Mitchell's trial for any future post-conviction relief (PCR) issues. As you reported to me, there were a few omissions to the transcript and you will send those corrected pages to Mr. Mitchell and me. Based on what he told me, these could be significant PCR issues.

Thank you for your assistance in this matter.

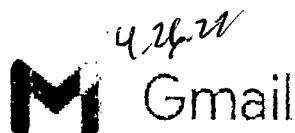
Sincerely,



LaNelle C. Durant
Appellate Defender

LCD:pds

cc: Mr. Bennie Mitchell



Ashley McMahan <ashley@macvance.com>

State v. Bennie Mitchel

5 messages

/A

Ashley McMahan <ashley@mcmahantaylor.com>
To: "Holston, Joy E." <jholston@sccourts.org>

Tue, Oct 26, 2021 at 10:22 AM

Joy-

The trial was on April 19, 2010, in Newberry. At some point LaNelle Durant asked you to preserve the tape of the trial. Do you happen to still have it?

Best regards,

Ashley A. McMahan

Attorney at Law

PO Box 50536
Columbia, SC 29250
803-219-1110

Ashley McMahan <ashley@mcmahantaylor.com>
To: "Holston, Joy E." <jholston@sccourts.org>

Tue, Oct 26, 2021 at 10:48 AM

Here's his motion regarding the transcript and page 7 has Lanelle's letter.

Thanks,
-Ashley

Ashley A. McMahan

Attorney at Law

PO Box 50536
Columbia, SC 29250
803-219-1110

[Quoted text hidden]



2014-03-12 Motion to Reconstruct Trial Transcript.pdf
4706K

Holston, Joy E. <JHolston@sccourts.org>
To: Ashley McMahan <ashley@mcmahantaylor.com>

Tue, Oct 26, 2021 at 11:05 AM

Ashley,
This letter is dated 2010. Court Reporters keep records for five years.
I will not have anything on this case. Thank you,

Joy E. Holston
Court Reporter
Eighth Judicial Circuit