

The South Carolina Court of Appeals

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SC Court of Appeals

State of South Carolina)
South Carolina Court of Appeals)
Gregory D. Daniels # 297949)
Appellant)
V)
State of South Carolina)

South Carolina Court of
Appeals

Appellate Case # 2021-001298

Initials, Brief and Designation
of the Matter

Comes now through this court the Appellant respectfully
proceeding pro se the request the entry for a New Judgment
pessuant the ruling of a motion filed with the court of common
pleas Twelfth Judicial Circuit. Motion for a New Trial
of which was dismissed by the Honorable Judge D. Craig
Brown. On October 27th 2021. (Civil case Action # 2013-CP-
2102807 Appellant Case # 2015-00 2033).

Procedural History

(1) Appellant was convicted of Murder and Possession of a weapon charge during violent crime on or about April, 14, 2010.

(2) The South Carolina Supreme Court, in opinion number 27180 Filed October 10, 2012. Affirmed Appellants Conviction.

(3) Appellant filed an action for Post Conviction relief on February 1, 2013.

(4) Post Conviction was Denied by order dated June 8, 2015 by the Honorable D. Craig Brown.

(5) Appellants Rule 59(c) motion was denied by order dated August 5, 2015 by Honorable Judge D. Craig Brown.

(6) Petition for Writ of Certiorari was denied by the South Carolina Court of Appeals by order dated August 14, 2018

(7) Appellant filed a motion for a new trial with the Florence County Clerks of Courts office on or about September 10, 2021 The procedural history

in this case important in deciding this motion.

(8) The bases of the Appellants motion for a new trial ~~filed on~~ of about September 10, 2021 are as follows.

I. Discovery of the Failure to disclose the proffer agreement of the states lay witness Andrea Bradley.

II. Prosecutorial Misconduct by failing to press investigators on this case to give all exculpatory evidence to the defense.

III. Improper Arguments made by prosecution.

IV. Asserting Facts not into evidence.

V. False Evidence hearsay statements lies from witnesses or false testimony

VI. Original motion for the Appellant was the Rule 29(b) Newly discovered Evidence of Appellants trial lawyer suffering from a serious illness and the capability to practice Criminal justice in the legal field.

Support OF the Facts

(1.) Discovery of the failure to disclose the proffer agreement of the States lay witness Andrea Bradley.

Under the Rules of Court and the Constitution of the United States Everyone facing trial is entitled to a fair and impartial hearing or trial. Under the Constitution of the United States Anyone facing trial must be presented with all discovery evidence to be presented before a jury of 12 not to exclude any exculpatory evidence that may result in favor of the defense. However in the Appellants trial Appellant was denied the right of all Brady info here when it's clearly on the record by the Bench at the Appellants trial and Post Conviction hearing that this portion of discovery Evidence was not given to the Appellant and his defense lawyer until the 4th day and almost final day of the Appellants trial. Submitted into evidence as Plaintiffs Exhibit 20 the Copy of the Proffer Agreement dated Received by the Public Defenders Office April 14th, 2010 four days into the Appellants trial. Appellant ask the Courts permission to have this exhibit marked as exhibit #1 for evidence to show facts of when the proffer was

given to the Defense/ Appellant. Appellant would like to bring to the Courts discretion of these other factors that support the arguments that the State was allowed time to disclose this evidence that was already known by lead Investigators handling the Appellants case due to the way prosecution and investigators lated for two years. The Appellant was being detained from September. 10, 2008 until the date of his trial April 10th, 2010. During this time the Appellant had no knowledge of witness Andrea Bradley and his then girlfriend/ mother of his kids being witnesses to his case for the state. In which the Appellant feels that was a point in trial where his ability to make a decision to refrain from trial and ask for a no contest plea due to the circumstances of testimony coming from a state and Federal Informant whom the State and Government look at it as a way to do a good deed for the state to but with the proffer that's signed with the Government only to receive leniency for his cooperation to a supposed confession made by the Appellant while in the house of the informant

However this witness gave not one, not two, not three, but there's four, statements given to the investigators in this case only to reveal that the testimony and the statements show inconsistencies. Appellant hates to sound like someone who's trying to question the bench or try the Court's patience however in order to establish the burden the evidence at hand has to be viewed in light of law and the Constitution of the United States. Appellant attempted to have the statements of this witness submitted to the record to show and establish the burden of the credibility of an informant. However the lower Court and this Court seem to see harmless error. Appellant has yet been found here with himself stuck with trying hard to convince this Court that this evidence is important to show that there were 2 other State / Federal informants whom were willing to give their testimony as to what rumors they've heard about the case but no one could say that they knew for sure. Here's the important fact involving this issue. The Appellant was in the Florence County Detention Center for almost two years during both the years of 2008-2009 this lay witness nor his girlfriend / mother of two didn't come forward with any information on this case

Lead investigator Tim Compton admits to making prosecution Mr. John Deperinger aware of the fact that he spoke with Andree Bradley and to knowledge of Mr. Bradley signing a proffer from which this information came from Bradleys attorney. This occurred during the testimony of both Mr. Tim Compton and Mr. Deperinger during Post conviction hearing. Review of both testimonies will help establish his burden of proof. Showing that both the lead investigator and prosecution withheld the facts that there lay witness had a proffer agreement and a possible chance the Federal government would give him leniency for his testimony. This therefore brings the Appellant to ask of this Court to not ignore the clear and convincing evidence that the State had knowledge of the proffer agreement before the defendants trial and timely enough matter to disclose to the Appellant and his Attorney at trial.

(2) Prosecutorial misconduct by failing to press investigators on this case to give all exculpatory evidence to the defense.

Under the Constitution of the ~~United~~ States all discovery and Brady material is supposed to be disclosed to the defense before anyone stands trial. All motion of discovery material containing evidence against any Defendant shall be disclosed to the defense all exculpatory evidence should be turned over to the prosecution from investigators involved in this case. Failure to do so may result to prosecutorial misconduct / Brady violation.

(1) During Appellant's time being detained in the custody of the Florence County Detention Center Investigators failed to provide both the prosecution and the Defense a copy of all discovery evidence to include to proffer Agreement of key witness Andrea Bradley.

(2) During Appellant's Post-Conviction hearing the lead investigator admits to have spoken to Andrea Bradley's attorney and to the knowledge about the proffer agreement and also the admittance of knowledge of the possibility of the witness receiving leniency for his cooperation with the States investigation.

However in February of 2010 this lay witness Andrea Bradley comes forward with his information dealing with the murder of the victim Corey Byrd and some alleged confession between the Appellant and himself months before the murder occurred and admittance to committing murder while in the presence of his then girlfriend/mother of his two children with no evidence to support this other than the admittance of learning of the events through Andrea Bradley telling her. This witness testified to a phone call during the early morning hours from the Appellant but phone records show no such phone call. Appellant ask this court to ~~take~~ ~~into~~ ~~consideration~~ that whenever ~~prosecute~~ or Government decides to charge anyone with a crime it must ~~prove~~ the elements of the crime to a jury. According to testimony given at post conviction hearing by the alleged person whom hired the Appellant to commit this crime whom gave testimony that ~~he~~ was asked about this case by investigators and to his then Attorney Mr. Johnny Ethridge set up an interview between himself and investigators concerning this case only to reveal Mr. Bostic saying that he had no involvement in this case or knowledge of any payment to the Appellant for this hit for hire. See testimony from post conviction hearing Garry Bostic and Johnny Ethridge

② Improper Closing Arguments made by prosecution

Transcripts from trial pages # 568-570 He had to do the job Garry Bostic had already paid him \$500 He was out of money that's what Andrea Bradley told you. when he followed Corey Byrd from that house around 4:30, 4:45 when Corey Byrd is walking to meet Mesha Brown. it all adds up. He killed a man and walked off Malboro street and got into a van with Garry Bostic. The man who wants Corey Byrd dead. paid for it to be done and who paid Gregory Daniels \$500 already probably told him the job needed to be done if you want the rest of the money. But you are firmly convinced beyond a reasonable doubt. He did it. there is no other answer in this case (Please find him Guilty). Also facts that show that the charge of the Appellate as written in the warrants are possession of a weapon during commission of a violent crime/Murder. Question to the Courts is if I'm standing trial for Murder and your case law states that It's the states burden to prove guilt beyond a reasonable doubt.

In the Appellant's case there's plenty of doubt. In fact there was so much doubt that the State presented two theories the Charge on the Indictment and presented a different theory of Hit for Hire before the jurors. Which created doubt before the jury to which a question was asked and couldn't be answered and was a crucial question to support the theory of the Appellant not being in the area when the victim and a testifying witness left the party / cookout. It may seem irrelevant to the courts to however on the record you can find that there's no alibi for Appellant even in the States theory to the Appellant writing a States witness to create false alibi in all reality the letters stated in redacted areas that the Appellant was only addressing matters brought to his attention by other inmates coming fresh off the streets. (See testimony of Shavonne Gas, Gabriel Peterson, and Ryan Evens. from the Trial of Appellant.)

Asserting Facts not into Evidence

(4) Appellant is charged with Murder.

Hit for Hire is the evidence that was presented to the jury. Informant Andrea Bradley told Investigators that Garry Bostic paid the Appellant \$500 before the murder and \$500 after. There is no evidence to support or prove a payment to the Appellant. From Garry Bostic a person from which the State saw and still sees no reason to charge with anything involving this case as the facts in record.

(1) To support the Facts not into Evidence prosecution in Appellant's case pursued with two theories in the trial of the Appellant. Testimony from Garry Bostic at (PER) Post-Conviction Relief hearing along with the sworn Affidavit in which was given by Garry Bostic to the investigator hired by Appellant in which the Appellant would ask of this Court to allow as Exhibit #3 to establish and prove his Burden to this Court.

(5) The Appellant feels that his conviction was unconstitutional due to the charge to the jurors being Murder but the theory of this crime was Hit for Hire.

(1) To show support for the Evidence on this matter in conclusion the only person convicted and serving time for this crime is the Appellant. The Prosecution and both investigators in this case quote under the Oath on record that there was not enough evidence to bring charges against Mr. Bostic. But prosecution stated that the evidence that was being presented was enough to prove that the Appellant was the shooter. Lead investigator states that he felt that he didn't have enough evidence to charge or to speak with Garry Bostic. However the testimony of an informant Andrea Bradley to the admittance to committing this crime along with the testimony of the mother of two of his children / girlfriend at the time backing his testimony of hearing the Appellant say he did it only to say in her testimony that she heard about everything from Andrea Bradley. Case law of both State and Federal States that Hit for Hire charges both the person whom committed the Hit for Hire and the person whom hires a person to commit a Hit for Hire both are entitled to imprisonment. See Case laws that the Appellant has submitted to support facts. Also Closing Arguments by the Bench Honorable Judge Thomas Russo to the only reason seen for this occurring is Hit for Hire. See Closing Comments by Judge Russo from trial.

Conclusion to this issue is there was a total of 3 Federal informants from the Government that were all in the Florence County Detention Center. (1) Reginald Coleman whom gave the first statement about the rumor of the streets that Garry Bostic and his lil Brother AKA. lil Body had put a hit out on the victim for a drug deal of fake drugs. (2) Ventrez Shantay Davis also gave a statement that rumors were that G-man did the hit for Garry Bostic. (3) Andrea Bradley gave four different statements to investigators and all gave different versions of the events that were supposedly leading up to what happened and what lead to the supposedly admittance to the committing of this crime along with the theory of hit for hire. Leads to inconsistent testimony and statements which gives reasonable doubt to the credibility of this lay witness / Informant. The prosecution in the Appellants trial stated that the main foccuss was to Convict the Appellant with the evidence he had and that there was no evidence to prove that Garry Bostic had any involvement in this crime.

V False testimony hearsay statements lies from State witnesses or false testimony

- (1) Tiesha Brown - whereabouts when shots fired Alibi during crime
- (2) Brittany Fludd - Time left party and whom left with them
- (3) Andrea Bradley - Testimony as to the admittance to committing the crime statements given to investigators
- (4) Jasmine Barrett - Testimony as not being in the room with the Appellant and witness Andrea Bradley
- (5) Gabriel Peterson - Testimony to seeing the Appellant before leaving the party/cookout with Ryan Evans
- (6) Ryan Evans - Testimony to not seeing the Appellant in the area when leaving the residence of the party/cookout
See the testimony - from trial and statements given to investigators.

VI Original Motion Filed Rule 29(b) Newly discovered Evidence of the Appellants trial lawyer suffering from a serious illness such as cancer and the capability to still practice Criminal law. Attached marked as exhibit #2 is the original motion filed with the twelfth circuit court. The Honorable Judge D. Craig Brown made the decision to dismiss the motion due to a timely filing on the matters, under Newly Discovered Evidence. (1) Ruling on motion is not correct under this rule 29(b). (2) Appellant would like to bring to this Courts discretion the fact of his case being a first case ~~to~~ having to come before the Courts dealing with a deceased Counsel. Therefore there's no case law to support any ruling as to Counsel not being available to discuss what matters Appellant has brought to the Courts eyes or light. As to ineffective Assistance of Counsel Allegations. However with all due respect to the Bench as to the reputation of it's Colleges and forefathers. However the Constitution

States that all defendants in order to establish proper law and to uphold the Constitution of the United States there has to be some type of rules dealing with these circumstances. In which it's required to meet the Strickland vs Washington Standard. I understand the reputation at the Bar and to uphold the respect for a fellow Brother or Colleague of the Judicial System however the Strickland Standard requires to show what your Attorney didn't do to satisfy the burden in the trial Court basically trial strategy as to why Counsel did do this or didn't do this. Reputational testimony from anyone whom only worked with Counsel in his career not on the Appellants Case. No knowledge of what was discussed between the Appellant and his Counsel during meetings. No one can speak for what was gone over between the Counsel from trial and the Appellant but the two through Client lawyer Contract.

Table of Authorities

Hiott v State 381, S.C. 622, 674 S.E. 2d 491 (2009)

Ingle v. State 348 S.C. 467, 470, 560, S.E. 2d. 401,
402 (2002)

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Roseboro, supra.

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Daniels, 401 S.C. 251, 266, 737, S.E. 2d. 473, 478.

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(1961) 5 Wigmore on Evidence § 1361 (3rd. ed. 1940)

Bannister v State, 333 S.C. 298, 509 S.E. 2d.

807 (1999)

Pauling v. State, 331 S.C. 606, 503 S.E. 2d 468 (1988)

Glover v State 318 S.C. 496, 458 S.E. 2d 538, (1995)

Constitutional Provisions

U.S. Const. amend XIV

U.S. Const. amend IV

U.S. Const. amend VI

Berger v. United States

295 U.S. 78, 88, 55 S.Ct. 629

633 (1935)

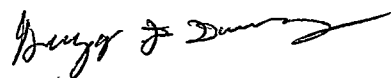
Conclusion

Appellant respectfully comes before this court asking for relief on the above matter asking the Court to consider the facts into evidence and all exhibits being submitted to establish the Burden of Proof required. Therefore the Appellant ask of this Court to review the evidence and reverse the decision from the lower Courts in this case, and the granting of a new trial on the evidence that shows that the trial of the Appellant was not fair and impartial and how the Appellant was denied ~~Due~~ process, Prosecution Misconduct occurred during the admittance from both Lead Investigator and Prosecution Mr. Timothy Wade Compton and Mr. John Teeltinger from the State.

This Day of February
9th, 2023

Respectfully Submitted

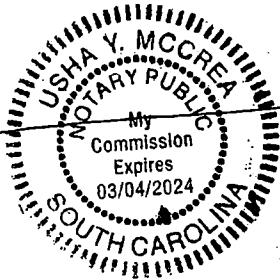
Gregory D. Daniels #297449



Certificate of Notary

I Usha Y. McCrea Notary Public do hereby
Certify that Gregory D. Daniels whose acknowledgment
is being taken personally appeared before me on
this day and acknowledged the due execution of
the foregoing instrument witness my hand and
Official Seal day of February 18th 2023.

My Commission expires



Usha Y. McCrea
Signature of Notary

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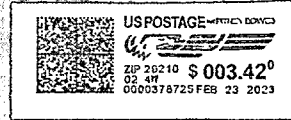
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F2-B-2247

Lee Correctional Institution

970 Wisbeck Hwy

Bishopville SC 29010



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P.O. Box 11629

Columbia, South Carolina

29211

