

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
RODNEY GALIMORE,)
S.C.D.C. #332336)
APPLICANT,)
V.)
STATE OF SOUTH CAROLINA)
RESPONDENT)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT

Case No.: 2021-CP-07-00139

APPEAL OF FINAL ORDER OF DISMISSAL

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MAR 01 2023

SC Court of Appeals

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JERRI ANN ROSEHEAD
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CLERK OF COURT

This matter comes before the court of Appeals in response to the final order of dismissal. This matter is before the court of appeals because of one reason the P.C.R. court failed to rule on an allegation that was raised at the hearing. See p.c.r. trans.(P-6-line 22-24 P-20-L-8-25 P-21-L-1-25 P-22-L-1-19). Not only was it part of the original allegation but the attorney general Saville objected to it, see trans(P-20-L19-25 P-21 L-1-12) It was the lack of video taping. The reason that was given was the trooper could not be here is because he is working with S.L.E.D. Mr saville states that it is his understanding that the record is being left open for a deposition See trans (P-115 L-18-25 P-116 L-1-7) It was not the applicant who need the deposition the P.C.R. court could have gone from the trial transcript and made a ruling. It was the attorney general who needed the deposition not the applicant. When the attorney general decided not to depose for what ever reason that is what is new to the applicant. under newly discovered evidence that did not exist before P.C.R. and in light of those facts and case law. This court should either grant or send back to P.C.R court for a hearing.

Section 17-27-45 (C) provides that if a P.C.R. applicant discovers material facts not previously presented and heard that require vacation of his conviction or sentence he may file a P.C.R. application. Statute 56-5-2953. clearly states (1) (a) The video recording at the incident site must: (iii) include the arrest of a person for violation of section 56-5-2930 or section 56-5-2933, or a probable cause determination in that the person violated section 56-5-2945, and show the person being advised of his miranda rights.

In Tappeiner V. State 416 S.C. 239. The burden of proof on post conviction review is on the applicant to prove his allegation by a preponderance of the evidence. Based on the fact that the attorney general was to depose the trooper the fact that he did not is what is new to applicant.

In Roberts v. State 418 S.C. 505 "All applicants are entitled to a full and fair opportunity to present claims in one P.C.R. application. Applicant believes that this is nothing more than an attempt to deflect the issue. This problem became apparent because of the A.G. not the applicant. The applicant has to file this appeal because of the attorney general the P.C.R. COURT could have gone off the trial transcript record. The attorney general has created this problem and now the Court has to figure a way to correct this.

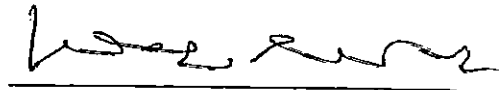
In Tappeniner V. State 416 SC, 239 Ordinary when the post conviction court makes inadequate factual findings, the appellate court will remand the matter to the court for a new hearing. the applicant does not believe the trooper has any evidence for or against applicant. the issue is a due process violation.

The due process violation is not the officer deposition. But the attorney general failure to do the deposition. Which is the new evidence that is before this court. Before the P.C.R. hearing this applicant had no claim against the attorney general for due process violation. The attorney general requested the deposition, (see p.c.r. trans P-6 L-20-24) In Land v. state :247 SC 243 The court has stated that while a second application is not absolutely barred, we would point out for the guidance of the bar and of potential applicants that successive application will not be looked upon with favor unless there is ample reason for permitting a person under sentence to litigate again.

By not deposing the A.G. is barring this applicant from attacking the judgment and sentence. In Blanton v. Stathos :351 S.C. 534 States that procedural due process requires notice, The opportunity to be heard in a meaning full way, And judicial review. The applicant made an allegation at which time the A.G. stated that they need to depose the officer. Because of the §56-5-2953 States that if on reason is given for non compliance the charge of D.U.I. can't stand. See. Town of Mount Plasant V. Roberts 393 SC 332 ("The legislature specifically provided for the dismissal of a D.U.I. charge. Unless the law enforcement agency can justify it's failure to provide a videotape of the D.U.I. arrest.")

("By requiring a law enforcement agency to videotape a D.U.I. arrest, The legislature clearly intended strict compliance with the provisions of section §56-5-2953 and in turn promulgated a sever sanction for noncompliance"). That was the whole reason for the deposition. This applicant believes that the A.G. under stood this and decide not to depose. This applicant would like this court to eather grant or send back to lower court and be heard as it should have been.

RODNEY GALIMORE #332336
MAR/30/2022



FEB/21/2023

Clerk of the Court of Appeals
P.O. Box 11626
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RODNEY GALIMORE #332336

V.

State of South Carolina

Case No.:2021-CP-07-00139

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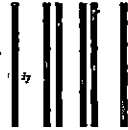
I am enclosing the original and one copy of the final order of Dismissal. And the proof of service in the above referenced Appeal. Please use the self address stamped envelope to return an update of this case.

THANK YOU

RODNEY GALIMORE#332336

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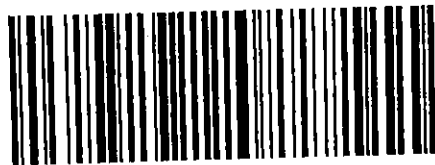
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