

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
VS.
KEVIN CALVIN CHOICE
(LEGAL ENTITY) d/B/A DEFENDANT

1 IN THE COURT OF APPEALS FROM THE SPARTANBURG COUNTY
1 COURT OF GENERAL SESSIONS. IN THE COURT OF COMMON
1 PLEAS FOR THE STATE OF SOUTH CAROLINA COUNTY OF
1 SPARTANBURG SEVENTH JUDICIAL CIRCUIT (CASE NOCS):
1 2020BS4203371, 2020BS4203371A INDICTMENT A/Wth
1 2019A2320501395, 2019A2320501396 DATE OF OFFENSE
10-31-2019

RE: STATE V. KEVIN CHOICE
APPELLATE CASE NO. 2023-000233

NOW COMES PETITIONER PRO-SE, IN LIEU OF COUNSEL, DOES HEREBY
PETITION THIS HONORABLE COURT FOR RELIEF AND FOR GOOD CAUSE.

IN ACCORDANCE WITH AND IN PURSUANT TO SOUTH CAROLINA COURT OF
"COMMON PLEAS" THE STATE OF SOUTH CAROLINA CRIMINAL PROCEDURE,
THE STATE IN THE ABOVE CAPTIONED MATTERS REQUESTS THE DISCLOSURE
OF ALL EVIDENCE BY THE DEFENDANT TO THE STATE THAT IS REQUIRED
BY RULE (5) OF THE RULES OF CRIMINAL PROCEDURE, INCLUDING BUT
NOT LIMITED TO THE FOLLOWING:

- 1.) THAT THE DEFENDANT NOTIFY THE STATE OF AND PERMIT THE STATE TO
INSPECT AND COPY ANY BOOKS, PAPERS, DOCUMENTS, PHOTOGRAPHS, TANGIBLE
OBJECTS OR COPIES OR PORTIONS THEREOF, WHICH ARE WITHIN THE POSSESSION,
CUSTODY OR CONTROL OF THE DEFENDANT, THE DEFENDANT INTENDS TO USE
AS EVIDENCE;
- 2.) THAT THE DEFENDANT NOTIFY THE STATE OF AND PERMIT THE STATE TO
INSPECT AND COPY ANY RESULTS OR REPORTS OF PHYSICAL OR MENTAL
EXAMINATIONS AND OF SCIENTIFIC TESTS OR EXPERIMENTS, DNA
ANALYSIS REQUEST FORMS MADE IN CONNECTION WITH THE PARTICULAR
CASES, OR COPIES THEREOF, WHICH ARE WITHIN THE POSSESSION, CUSTODY
OR CONTROL OF THE DEFENDANT, DEFENDANT'S WITNESSES, OR HIS/HER ATTORNEY
WHICH THE DEFENDANT INTENDS TO USE AS EVIDENCE OR WHEN THE RESULTS
OR REPORTS RELATE TO HIS/HER TESTIMONY;

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3) MR. CHIEF JUSTICE WARREN DELIVERED THE OPINION OF THE COURT.

THE CASES BEFORE US RAISE QUESTIONS WHICH GO TO THE ROOTS OF OUR CONCEPTS OF AMERICAN CRIMINAL JURISPRUDENCE: THE RESTRAINTS SOCIETY MUST OBSERVE CONSISTENT WITH THE FEDERAL CONSTITUTION IN PROSECUTING INDIVIDUALS FOR CRIME. MORE SPECIFICALLY, WE DEAL WITH THE ADMISSIBILITY OF STATEMENTS OBTAINED FROM AN INDIVIDUAL WHO IS SUBJECTED TO CUSTODIAL POLICE INTERROGATION AND THE NECESSITY FOR PROCEDURES WHICH ASSURE THAT THE INDIVIDUAL IS ACCORDED HIS PRIVILEGE UNDER THE FIFTH AMENDMENT TO THE CONSTITUTION NOT TO BE COMPELLED TO INCRIMINATE HIMSELF.

IN ORDER FURTHER TO EXPLORE SOME FACETS OF THE PROBLEMS, THUS EXPOSED, OF APPLYING THE PRIVILEGE AGAINST SELF INCRIMINATION TO IN-CUSTODY INTERROGATION, AND TO GIVE CONCRETE CONSTITUTIONAL GUIDELINES FOR LAW ENFORCEMENT AGENCIES AND COURTS TO FOLLOW. IN SIXTH AMENDMENT

IN ALL CRIMINAL PROSECUTIONS THE ACCUSED SHALL ENJOY RIGHT TO ASSISTANCE OF COUNSEL FOR HIS DEFENSE IS MADE OBLIGATORY ON THE STATES BY THE FOURTEENTH AMENDMENT.

4) ANY AND ALL EVIDENCE IS AVAILABLE FOR VIEWING AT THE ARRESTING AGENCY OR THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

GREER POLICE DEPARTMENT ADVISEMENT OF RIGHTS FORM.

DUE PROCESS VIOLATION THEREOF DEFENDANT WAS NEVER ADVISED OR READ MY MIRANDA RIGHTS. THAT ANY EVIDENCE IS INSUFFICIENT, ANY STATEMENTS GAINED WERE BY ILLEGAL MEANS AND SHOULD'VE BEEN SUPPRESSED.

DUE TO NO REPRESENTATION BY ATTORNEY AT THE TIME OF THE INTERROGATION.

THESE REQUESTS ARE CONTINUING REQUESTS FOR ANY DISCLOSURE AND ANY RELEVANT MATTERS ARISING SUBSEQUENT TO THE DATE HEREOF SHOULD BE REGARDED AS INCLUDED IN THIS REQUEST.

TO ESTABLISH A BRADY DUE PROCESS VIOLATION, AN ACCUSED MUST DEMONSTRATE (1) THE EVIDENCE WAS FAVORABLE TO THE ACCUSED, (2) IT WAS IN THE POSSESSION OF OR KNOWN TO THE PROSECUTION, (3) IT WAS SUPPRESSED BY THE PROSECUTION, AND (4) IT WAS MATERIAL TO GUILT OR PUNISHMENT.

LAW/ANALYSIS

THE DEFENDANT ARGUES THE TRIAL COURT ERRED IN AUTHORIZED TO DO ALL THINGS NECESSARY AND PROPER TO THE PERFORMANCE OF THE FOREGOING AND TO PROMOTE JUSTICE, FAIRNESS, AND ECONOMY, INCLUDING, BUT NOT LIMITED TO THE POWER TO PRESIDE AT THE HEARING; ADMINISTER OATHS OR AFFIRMATIONS; HEAR AND RULE ON OBJECTIONS AND MOTIONS; QUESTION WITNESSES WHEN APPROPRIATE TO MAKE A COMPLETE RECORD; RULE ON THE ADMISSIBILITY OF EVIDENCE, AND STRIKE FROM THE RECORD OBJECTIONABLE EVIDENCE, LIMIT REPETITIVE OR IMMATERIAL ORAL STATEMENTS AND QUESTIONS, AND DETERMINE THE ORDER OF MAKING STATEMENTS AND QUESTIONS. IN GRANTING A NEW TRIAL BECAUSE THERE WAS NO EVIDENCE IN THE RECORD TO SUPPORT THE CONCLUSION THAT THE STATE REACHED A DEAL WITH TESTIFYING CO-DEFENDANT, TRAVIS ONEAL JONES. NEWLY DISCOVERED EVIDENCE THE STATE MADE A PLEA AGREEMENT TO ONE OF THE TESTIFYING CO-DEFENDANTS PRIOR TO MR. CHOICE TRIAL, WHICH WAS NEVER DISCLOSED TO CHOICE AND CONTRADICTS TESTIMONY THE STATE PRESENTED. [7] HE SUPPRESSION BY THE [STATE] OF EVIDENCE FAVORABLE TO AN ACCUSED UPON REQUEST VIOLATES DUE PROCESS WHERE THE EVIDENCE IS MATERIAL EITHER TO GUILT OR PUNISHMENT, IRRESPECTIVE OF THE GOOD FAITH OR BAD FAITH OF THE PROSECUTION."

THEREOF ANY AND ALL EVIDENCE IS AVAILABLE FOR VIEWING AT THE ARCHIVING AGENCY OR THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

FACTS: IT IS MANDATORY TO SUBMIT A LABORATORY ANALYSIS REQUEST FORM. ALL ARTICLES REQUIRING LABORATORY OR FORENSIC PROCESSING.

AGENCY GREER POLICE DEPARTMENT PROPERTY REPORT: STATUS-
GS EVIDENCE CASE NO. GR19-24478 DATE: 12-17-19 ALSO DATE: 02-
21-20 CASE TYPE MURDER SUSPECT CO-DEFENDANT TRAVIS ONEAL
JONES ARREST WARRANT 2019A2320501398 TIME IMPOUNDED 1300hrs.
ITEM # AA QUANTITY (1) BLACK/WHITE/MASK. WHERE PROPERTY WAS
IMPOUNDED (GIVE EXACT LOCATION- ADDRESS) 445 PENNSYLVANIA AVE.
GREER, S.C. 29650 IMPOUNDED OFFICER DETECTIVE BRANDON PRINO
STAR NO. 268 UNIT NO. 509 INVESTIGATING OFFICER/SUBMITTING
OFFICER'S BRANDON PRINO UNIT NO. 509

ALL ITEMS REQUESTED FOR D.N.A. ANALYSIS SUSPECTS VEHICLE:
EVIDENCE "MASK MAY HAVE BEEN WORN BY SUSPECT DURING MURDER."

THEREOF TO ESTABLISH THAT A BRADY VIOLATION UNDERMINES CONVICTION,
CONVICTED DEFENDANT MUST SHOW: (1) EVIDENCE AT ISSUES IS FAVORABLE
TO ACCUSED, EITHER BECAUSE IT IS EXCULPATORY, OR BECAUSE IT
IS IMPEACHING, (2) STATE SUPPRESSED THE EVIDENCE, EITHER
WILLFULLY OR INADVERTENTLY, AND (3) PREJUDICE ENSUED.

CONFORMING TO OR BEING THE STANDARD OF PROOF REQUIRED FOR
SOME CRIMINAL CASES OR MOTIONS.

IN WHICH THE PARTY BEARING THE BURDEN OF PROOF MUST SHOW THAT
THE TRUTH OF THE CLEAR AND CONVINCING ALLEGATIONS IS HIGHLY
PROBABLE PREPONDERANCE OF THE EVIDENCE.

IN WHICH THE PARTY BEARING THE BURDEN OF PROOF MUST PRESENT
EVIDENCE WHICH IS MORE CREDIBLE AND CONVINCING THAN THAT.

PRESENTED BY THE OTHER PARTY OR WHICH SHOWS THAT THE FACT TO BE PROVEN IS MORE PROBABLE THAN NOT, ALSO THE EVIDENCE MEETING THIS STANDARD MUST SHOW BY A PREPONDERANCE OF THE EVIDENCE THAT SHOWS DEFENDANT'S GUILT.

PETITIONER MOVES THE TRIAL COURT FOR A NEW TRIAL BASED ON THE NEWLY DISCOVERED EVIDENCE, CONTENDING THAT THE GOVERNMENT STATE FAILED TO DISCLOSE AN ALLEGED PROMISE OF LENIENCY MADE TO ITS KEY WITNESS IN RETURN FOR HIS TESTIMONY.

THE ASSISTANT WHO TRIED THE CASE WAS AWARE OF THE PROMISE. NEITHER THE ASSISTANT'S LACK OF AUTHORITY NOR HIS FAILURE TO INFORM HIS SUPERIORS AND ASSOCIATES IS CONTROLLING, AND THE PROSECUTION'S DUTY TO PRESENT.

ALL BRADY MATERIAL EVIDENCE TO THE DEFENDANT'S ATTORNEY WAS NOT FULFILLED AND CONSTITUTES A VIOLATION OF DUE PROCESS REQUIRING A NEW TRIAL.

SOUTH CAROLINA COURT OF APPEALS
P.O. BOX 11629
COLUMBIA, SC. 29211

KEVIN CHOICE #247673
KIRKLAND RECEPTION AND
EVALUATION CENTER A2-1
4344 BROAD RIVER ROAD
COLUMBIA, SC. 29210

53BN X Kevin Choice 3-14-2023
PRINT X KEVIN CHOICE 3-14-2023.

"CERTIFICATE OF SERVICE"

I, THE APPELLATE DEFENDANT, KEVIN CHOICE #247673
OF THE ATTACHED DOCUMENT.

ON THIS 14th DAY OF MARCH, 2023

DOES HEREBY I SOLEMNLY SWEAR
UNDER PENALTY OF PERJURY

THAT A TRUE COPY TO MY BEST

INFORMATION, KNOWLEDGE AND (DEPUTY CLERK)

BELIEF WAS SENT TO:

SOUTH CAROLINA COURT OF
APPEALS
P.O. BOX 11629
COLUMBIA, SC. 29211

FROM: KEVIN CHOICE #247673
KIRKLAND RECEPTION AND
EVALUATION CENTER A2-1
4344 BROAD RIVER ROAD
COLUMBIA, SC. 29210

PLEASE SEND ME CLOCK
STAMP COPY FOR MY
RECORDS.

SIGNATURE ON THIS 14th DAY
OF MARCH, 2023

x Kevin Choice 3-14-23

PRINT x KEVIN CHOICE 3-14-23

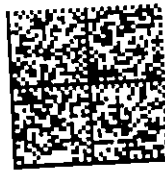
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KEVIN CHOICE #247673 A2-1
KIRKLAND RECEPTION AND EVALUATION
CENTER 4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210

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