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Supreme Court of South Carolina

S.C. SUPREME COURT

Petitioner, pro-se
Richard D. Waldrup #360887

vs.

State of South Carolina
County of Cherokee

P.C.R.

pro-se response

I Richard D. Waldrup (petitioner, pro-se) respectfully request the courts to take into consideration the following issues I have repeatedly ask to be brought fourth to show and prove my innocence as well as I was deprived my constitutional right to a fair and impartial trial.

As evidence will show prosecution, Defense Attorney, Arresting officer were all bias towards defendant (applicant).

Applicant request a new impartial trial, reversal of conviction, or vacate sentence.

Applicant respectfully submits all of the foregoing.

Respectfully, Richard D. Waldrup #360887

Prosecutor misconduct

1) Abuse of discretion occurs when the Trial Court "prosecutor" either lack of evidentiary support or are controlled by error of law.

2) Disclose evidence favorable to the accused, that if suppressed would deprive the defendant a fair trial.

3) Court "prosecutor" can not bolster or vouch for witness testimony "yet" prosecutor not only did this but withheld evidence supporting defendant's theory that he was beaten and raped, the victim.

4) Witness credibility (not submitting violent background), Abuse of discretion - procedural errors.

5) Evidence withheld by government (prosecution) is material as would require reversal of conviction, there "is" reasonable probability that had evidence been disclosed to Jurors result of proceedings would have been different!

6) Under Brady - To disclose evidence favorable to defendant is applicable even though there has been no request by defendant (which they were many).
U.S. Const. Amend. 5, 14

7) To succeed on Brady claim (favorable evidence, either exculpatory or impeaching) was willfully or inadvertently suppressed by court (prosecution) or (attorney), because such evidence was material (material) was prejudiced.

8) Defendant (applicant) was deprived his constitutional rights to a fair impartial trial.

Defense Attorney misconduct

Counsel was deficient in the following reasons.

1) Counsel failed by not questioning defendant's brother, and presenting him on the stand to prove in fact why defendant (petitioner) was in fact at said residence.

2) Counsel never done investigation as for checking with Tony Young to prove he did in fact live at the residence in question with friends 10 years ago, last time I seen him.

3) Counsel never presented to jurors criminal background reports concerning states (prosecution) & (two) main witnesses to show their credibility. (Rule 609)

4) Counsel never presented to jurors officers car/body cam video to prove what defendant (petitioner) said from very beginning (he was beat & robbed - they were no sign of entry, also the saw in question was inside the room, behind the door under trash). No way defendant was coming out of door with it. All this could have been proven if attorney would have shown jurors arresting officers body cam video.

5) Attorney Failed to Authenticate the 911 call to prove that defendant was in fact the victim even after defendant repeatedly requested.

6) Attorney did not object or move to reconsider the sentence or claim any sort of "trial tax" violation.

7) Attorney Failed by not rebutting officer's testimony where he stated he did not charge defendant with larceny concerning the first degree Burglary, but yet the officer charged defendant with 3 different driving offenses even though defendant was not where near his car when officers arrived and the plaintiff had defendant's car keys & wallet.

8) P.C.R. Attorney did not file a motion to alter or Amend under Rule 59(e), S.C.R.C.P.

Applicant was prejudiced by counsel's errors or omissions

Circumstantial Evidence

1) A conviction upon circumstantial evidence alone is not to be sustained unless the circumstances are inconsistent with any reasonable hypothesis of innocence.

2) Due process clause protects an accused against conviction except upon "proof" beyond a reasonable doubt of "every fact" necessary to constitute the crime with which he is charged.

3) The critical point in this boundary is the existence of "Non-Existence" of a reasonable doubt as to guilt.

4) Arresting officer stated on the stand they were no finger prints, no sign of entry (forced or other wise) nothing except the 2 (two) witnesses, who the defendant (petitioner) stated to arresting officer from the very beginning that he was assaulted and robbed by states 2 witnesses. Officers car/body cam video would have shown jurors this was stated repeatedly by defendant (petitioner).

5) As well as states 2 witnesses had long criminal records (including, Assault & battery High & Aggravated) Domestic Violence, Robbery, etc.)

6) Even though defendant requested many times that this and other stuff be brought fourth to the Jurors attention Attorney never did!

please look at states witnesses Criminal History ...

7) A.) Determination of the credibility of witness

Rule 609

B.) The weighing of the Evidence

C.) The drawing of 'justifiable' inferences of fact, from "proven facts".

8) The evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of Justice.