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OCT 27 2023

SC Court of Appeals

State of South Carolina)
 In the Court of Appeals)
)
 Gregory D. Daniels # 297449)
)
 Appellant)
)
 v)
)
 State of South Carolina)
)
 Respondent)

State of South Carolina
 In the Court of Appeals
 Appellate Case # 2021-
 001298
 Response to the states
 Motion to vacate and
 Dismiss

This matter comes before this court by way of appeal filed by the Appellant Gregory D. Daniels # 297449 in response to the respondents motion to vacate and dismiss the Appellants Motion and Initial Brief for grantel of a vacated sentence and grantel of a new trial. As stated in both the Initial Brief and order of grantel filed in this court the Appellant did attempt to hire counsel to represent him on the matter dealing with the proffer Agreement signed by testifying witness Andra Bradley. However the Attorney hired Elizibeth Franklin Best whom decided not to represent the Appellant on the matter due to the fact of finding out that the Appellant did recieve the proffer Agreement at trial. The Appellant was not denying that he recieved the proffer

Agreement it is when the Appellant and Defense Counsel received the copy of this Agreement which was four days into the trial. This Court gave the Appellant 30 days to find Counsel and due to not being able to obtain Counsel the Appellant proceeded to file his Initial Brief pro se. The Appellant met all orders of this Court by meeting all deadlines. However the Appellant continued issues dealing with the proffer Agreement also added the original motion filed with the Court of Common Pleas in which the Appellant attached a copy of this motion dealing with the competency of his trial lawyer, Jack W. Lawson whom passed away 6-9 months following the Appellants trial. Honorable Judge D. Craig Brown Denied this motion reason given is a timely matter of filing Appeal. See copies provided to this Court in the Appellants Initial Brief. The respondents are asking this Court to vacate the order denying the motion for new trial. The Appellants question to this Court is the respondents are stating that the Honorable Judge D. Craig Brown didn't have jurisdiction to rule on this motion. The respondents go as far to stating that the Appellant could have filed his issue with General Sessions Court, or Court of Common Pleas. The respondents even go as far to state that the Appellant is filing a

is filing his Appeal with a Frivolous Claim to this Court. However the Appellant attempted to hire Attorney Elizabeth Franklin Best however by letter and phone call to the Appellant stated that the order denying the motion was correct under Rule 29(k). However the new rules of evidence state that there is no statute of limitation on newly discovered evidence as long as the evidence couldn't have been known or discovered to the Appellant within a year of a judgement made. The Appellant through rule 82(b) dealing with jurisdiction and venue has right to bring to this Courts attention all prejudicial issues that leads up to this point from the Appellants trial, Direct Appeal, Post Conviction Relief, Supreme Court, District Court Federal Habeas, even Court of Appeals. The Appellant only recited these steps to bring to this Courts distraction of the many attempts to show that the conviction of the Appellant is an unjust conviction with many errors made by the decisions not to rule in the favor of the Appellant. Also the many decisions from all courts that fell short of justice for the Appellant. The Appellant finds that the respondents not only are asking this Court to ignore the facts that have been placed before this Court to show the most neglected evidence that would not only show that the trial and post conviction hearing denied

the evidence as shown by Appellant to be evidence to outweigh the prejudicial evidence presented at trial to convict the Appellant. The denial of this impeachment evidence of the trial lawyer whom failed to bring to the Courts distraction. The residing Judge Honorable Judge D. Craig Brown at the Appellants post conviction hearing denied the admittance of the documents presented as exhibits in the Appellants Initial Brief however on record to the Post Conviction Hearing Honorable Judge D. Craig Brown and I quote the words (Under rule 613. Evidence being admissible falling into certain categories. Courts ruling to allegations to witnesses testified inconsistently that Mr. Lawson was ineffective for not pointing out those inconsistencies then the evidence would have been admissible in the certain situation and Honorable D. Craig Brown reply was there's no assertion here that witnesses testified inconsistent with any statements that were given here and Mr Lawson failed to address these inconsistencies which would certainly go into ineffectiveness). However Both Appellant and Counsel for Appellant at PCR Tricia A. Blanchette had indeed quoted on direct that all of these documents were in the files of Mr. Lawson by the state with all of this

to prove the prong of Strickland v Washington to show that
had counsel for Appellant at trial used these documents
the very prejudicial outcome of trial would have been different.
The respondents instead of answering the motion for new trial
and Initial Brief dealing with both the competency of trial
Counsel dealing with Illness of cancer that did in fact effect
the ability to properly argue the Appellants trial before jury.
Also the clear and convincing fact of the Brady Violation for
failure to disclose exculpatory evidence and the proffer Agreement
in discovery to the Appellant at trial. Just like in the rule
59 (s) filed by Attorney for Appellant at Post Conviction hearing
Tricia A. Blanchette Esquire asking Honorable Judge D. Craig Brown to
reconsider the motion or order of dismissal due to the decision
based off of opinion instead of the evidence supplied and
admitted on record of the documents being in the files of
Mr. Lawson and the testimony from the Appellant that Mr.
Lawson didn't review these documents with Appellant nor were
these documents attempted to impeach witnesses testimony. In
closing the Appellant again feels that respondents are attempting
to keep this Court blinded by the overlooking of these documents
to uphold an unconstitutional conviction. The respondents brought

To this Court's attention dealing with a matter of DNA in which the Appellant only stated that it was clear that trial counsel had a strong DNA argument at trial. The respondents states that the Appellant could have raised this issue on PCR however the counsel for the Appellant at PCR stated that she does not like bringing DNA issues to the Court's attention in PCR hearings and the 15 ineffective claims are the best claims. The Appellant did file a claim for DNA with the Innocence Project of South Carolina however Appellant was denied assistance. The Appellant would like for this Court the view on last issue by the respondents. The respondents are asking this Court this Court to vacate the motion of denial that came from the Court of Common Pleas twelfth Circuit Honorable Judge D. Craig Brown stating that due to an untimely matter for the reason of denying the motion for a new trial. Also to dismiss the appeal from the Appellant. The respondents states in the motion to this Court the Initial Brief of Respondents is now due, but ~~nothing~~ the length of this pending matter, Respondents submits that the dispositive question is whether there is viable order to appeal and that such question may be

brought to this Courts attention more quickly by this motion. In response to that dispositive question, Respondents submit that Answer is no. The respondents used S.C Code § 17-27-20(B) while there is a provision for a Constitutional Challenge in PCR other than ineffective assistance claim that is reserved generally for rare instances when issues could not be reviewed. *Fortune v State*, 428, S.C. 545, 549, 837, S.E. 2d, 37, 45 (2019) See also *Al-shabazz v State*, 338, S.C. 354, 363, 527 S.E. 2d. 743, 747, (2000) when assessing the erroneous admission of evidence, a violation of Constitutional right, or other errors in a proceeding, the Applicant generally must frame the issues as Ineffective Assistance Claim. Appellant has been reading over this motion since receiving it by mail. now I stand corrected if this Court feels that the Appellant is wrong. However the respondents stated in this motion as to how the Appellant was attempting to cite the PCR case number this is not to be found true since the respondents want to open this door as to PCR I'm sure that the respondents have had time to since review the Post Conviction Amendment to Application

to verify that there was such an Ineffective Assistance of Counsel claim now is that true if this Court would take the time to view this Amendment to his Application for Post Conviction Claim number (10) Ineffective assistance of trial Counsel or trial Counsel for failure to impeach the states witnesses with contradictory testimony oral, and written statements and other discovery document. Now this is prime example of how the respondents not only have shown here how the appellant should have won his as the judicial system justifies as the (one) bite at the Apple and grant of a new trial or vacated Sentence. (1) There was no Counsel present to state on record what was gone over with the defendant at trial and reason for not impeaching testifying witnesses also trial Strategie for not calling witnesses to testify on the behalf of the Defendant. The Appellant ask of this court not to be blinded to the respondents negligence to the facts and laws and rules of Court to unsatisfy the burden to showing that as they call it frivolous claims of the upholding of an unconstitutional conviction that deprives an innocent man of citizenship. Therefore the Appellant ask

Of this Court to deny the motion of the respondents
and the grant of the appellants order for grant.

Table of Authorities

Unfair prejudice

Brinkley v S.C. Dept of Corr, 285 S.C. 182, 185, 687 S.E. 2d 54, 56
[Ct App 2009]

State v Sledge 428 S.C. 40 832 S.E. 2d 633 403 (2019)

State v Huckabee 419 S.C. 414 798 S.E. 2d 584 403 (2017)

State v Heath 433 S.C. 506 860 S.E. 2d 673 403 (2021)

State v Thompson 420 S.C. 192 802 S.E. 2d 623 403 (2017)

State v Tallent 430 S.C. 438 845 S.E. 2d 568 403 (2020)

State v McGee 408 S.C. 278 758 S.E. 2d 730 403 (2008)

State v Moses 390 S.C. 502, 515, 702, S.E. 2d 395, 402

Ct. App (2010)

Gigilo v United States 405 U.S. 150, 154 (1972)

Brady v Maryland 373, U.S. 83, 87 (1963)

United States v Bagley 473, U.S. 667, 682 (1985)

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Gregory D. Daniels # 297449 ,

Appellant ,

Appellate Case # 2021-

001298

v

State of South Carolina ,

Respondent)

Certificate of Service

I Gregory D. Daniels # 297449, Petitioner proceeding Pro Se

hereby certify that I placed in the mail this day

of October 19, of 2023 a copy of this motion to

Melody S. Brown office of the Attorney General Post office

Box 11549 Columbia, South Carolina 29211

This day of October 19, 2023

Gregory D. Daniels

Gregory D. Daniels # 297449

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Bishopville S.C.

29010

Gregory O. Daniels #297449

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SC Court of Appeals

South Carolina Court of
Appeals

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