

State of South Carolina
South Carolina Court of
Appeals

In the Court of Appeals

Gregory D. Daniels # 297449

Appellate Case # 2021-01298

RECEIVED

Appellant

NOV 09 2023

SC Court of Appeals

v

Motion for New trial and

Aquittal of the charges

State of South Carolina

for wrongful conviction

Respondent

This motion comes before this court by way of Appeal filed by Appellant Gregory D. Daniels #297449 proceeding Pro Se. The Initial Brief from the Appellant was filed on February 9th, 2023. The Appellant followed all orders and did meet all proper deadlines at the request of this court. On January 12, 2023 the Appellant received a letter from this court's Clerk's Office N. Clarie Allen Chief Deputy Clerk as to Attorney hired Elizabeth Franklin West being relieved as Counsel. The Appellant was unable to retain Counsel and decided to proceed Pro Se on this matter.

The Appellant was given 30 days to submit his Initial Brief and Designation of the Appeal would be dismissed. As the Appellant has followed all orders of this Court and has met all deadlines without delay although the circumstances of access to legal material and law library at the Lee Correctional Institution may become or placed on lockdown and limited access to copies even mailroom delays. However the Appellant still has met all deadlines required. Since filing the Initial Brief with this Court and all parties involved there has ~~not~~ been a response filed from the respondents. However on June 1, 2023 the Appellant received letters from Honorable Jenny Abbott, Kitchings Clerk of South Carolina Court of Appeals advising the Appellant that Magen Harrigan Jamison, Esquire has left the South Carolina Attorney General's office and that all future correspondence regarding this matter are ~~to be~~ forwarded to William M. Bitch Jr. Senior Assistant Deputy Attorney General. There was also another letter dated June 1, 2023 addressed to Honorable Jenny A. Kitchings Clerk, South Carolina Court of Appeals. This letter was from Melody J. Brown Senior Assistant Deputy Attorney General. Stating as follows: The Initial Brief of Respondents and Designation of matter are due to be filed and served today June 1, 2023

Undersigned Counsel hereby request a (30) day extension in which to file and serve its Brief. (Due to Counsel's caseload, including addressing Capital matters, Counsel has been unable to complete the Brief). I respectfully request this Court grant an extension until July 3, 2023. Pursuant to the order of the Supreme Court dated March 18, 2019, signed by Catherine Harrison Deputy Clerk. Date filed June 2, 2023 was an order granting the extension.

On July 3, 2023 the Appellant received by mail a letter addressed to the Honorable Jenny A. Mitchings, Clerk of South Carolina Court of Appeals. Again this letter was from Melody J. Brown Senior Assistant Deputy Attorney General stated as follows, The Initial Brief of the Respondents and Designation of matter are due to be served and filed today July 3, 2023 undersigned Counsel hereby request a 30 day extension in which to serve and file its Brief (Due to Counsel's case load, including addressing Capital matters Counsel has been unable to complete the Brief. Along with an order signed by Catherine Harrison Deputy Clerk granting the continuance until September 1, 2023, pursuant the order of Supreme Court of South Carolina dated March 18, 2019, Filed August 3, 2023

On August 2, of 2023 Appellant received a letter from Honorable Jenny A. Kitchings Clerk, South Carolina Court of Appeals in response to the Initial Brief filed by Appellant stated as follows, The Initial Brief of Respondents and Designation of matter in the above Appeal are due to be filed and served today, August 2, 2023. Undersigned Counsel hereby request a 30 day extension in which to serve and file brief. (Due to Counsel has been unable to complete due to caseload, including addressing Capital matters, I respectfully request this Court grant an Extension until September 1, 2023 to serve and file the Initial Brief of respondents and Designation of matter. This letter is signed by Melody J. Brown Senior Assistant Deputy Attorney General. Also Deputy Attorney General Donald J. Zelenka added (In re: Extensions in criminal and Post conviction Relief cases, (S.C. Supt Ct. order dated March, 18, 2019) Davis Adv. Sh No 13 at 11) On September 7, 2023 the Appellant received a motion filed by the respondent for the State of South Carolina by Melody J. Brown for a Fourth Extension on time to file Initial Brief of respondents and Designation of matter. stated as follows, The undersigned Counsel would respectfully request a thirty 30 day extension

in which to serve and file the Initial Brief of Respondent and Designation of matter in the above referenced case. In support of this motion would respectfully show the court the following. Respondent has had a number of state and Federal matters to attend since August 3, 2023. Specifically, Counsel has a full schedule of cases. Listed were several cases and dates of Respondents Attorney having attended the Appellant's work ask of this court to review the copies made for evidence. These dates of the Respondents Attorney are July of 2023 until the months of September 22, 2023 However the Appellant as stated in his motion of opposition that the Respondents Attorney handling this case has known since being handed down this case that this case would take time and would need or should I say would require a substantial amount of time of focus. Dealing with the circumstances of the Appellant proceeding case where Counsel at trial is no longer here and due to the facts of this case of the Appellant proceeding through every Appeal process, Direct Appeal, in which the case was reversed and overturned without notice being given to the Appellant until an oral Argument before the Supreme Court see Daniels v State Direct Appeal

Post Conviction Relief in which requires the lawyers direct testimony as to strategies, and reasons for not following or calling witnesses in discovery Rule 5 motions in which is required to prove the Strickland v Washington prong. Writ of Certiorari in which the decision to deny this motion was based off of opinion testimony not the facts on record with evidence. South Carolina Supreme Court whom found the Overwhelming proof of guilt to be redacted letters that should not have been presented to a jury because this is considered under rules of evidence as partial evidence, tampered with redacted out to present only what the state feels is important or wants a jury to believe or see. The Appellants case has gone through all of these procedures without any testimony from the trial lawyer of which is the only lawyer whom handled the Appellants case. Also the several unconstitutional decisions made by judges residing over Appellants case from trial up to this point. With all of this being stated on record the Appellant has done all in the power that he's allowed under the circumstances to show and establish the burden to all courts. Yet excuse given by the Attorney for the Respondent is due to caseload and other matters pending

In State and Federal Court Counsel has been unable to timely complete the Initial Brief of Respondents. Designation on the matter. This request is made in good faith and not for purposes of delay. Counsel request a thirty (30) day extension of time to file and serve the Initial Brief of respondents. Also to support the findings of good cause the Deputy Attorney General Donald J. Zelenka signed this motion. The Appellant submitted a motion of opposition in reply and feels that this is only cause to show that further delay reveals that the respondents can't find the answer to the original motion filed Rule 29(b) dealing with the illness of cancer competency of the trial lawyer of the Appellant. The Appellant has shown how the illness of cancer has effected the ability at trial to contest the many unfair and unjust decision made by both prosecution and the bench which was very prejudicial to the Appellant. Also the Appellants Original filing to the Supreme Court from Attorney hired Elizabeth Franklin Best was dealing with the issues of the proffer Agreement of lay witness from the state at Appellants trial Andrea Bradley. The Argument to the proffer Agreement signed by this witness with the Government was not given until four (4) days into

the Appellant's trial. This issue was misinterpreted by Attorney Elizabeth Franklin Best as to thinking that the Appellant never received a copy of the proffer. However the Appellant is not disputing the fact of receiving a copy of this proffer Agreement it's when the Appellant and his trial lawyer received this information which was clearly not included in the Rule 51 discovery given to the defense before trial and the admittance by Lead Investigator that was handling the Appellant's case had knowledge of this witness signing a proffer Agreement with the Government and not disclosing this to the Defense lawyer or the prosecutors handling this case which by case law leads to a Brady violation. However the Court's ruling is correct base on the Rule 29 (a) motion but however the Rule 29 (b) motion falls in to totally different rules of evidence. The appellant has also submitted an attached motion to Amend the motion of opposition to the respondents motion for fourth 4th (30) day extension dealing with the Indictment on his case. Reason adding this to the issues as stated being that several cases have been returned to the twelfth circuit dealing with

Faulty Indictments. One issue that was brought to the Courts attention during the PCR hearing by the Appellant's Post Conviction Relief hearing Tricia A. Blanchette, Esquire. Failure to raise a motion to Quash Indictment by trial lawyer. To not waist the Courts time with this issue. This issue may not seem important but it's been known records of PCR hearings dealing with the Florence County twelfth circuit proceeding to trial without Grand jury Indictments. The Appellant would also to have on record that the Pandemic has been declared ever for some time now. Yet there's News worldwide of Covid 19 returning and spreading which now would be even more reason for delay in justice for an unjust conviction for which the Appellant has filed and complied with all necessary motions without delay or excuses. The Appellant ask the court to consider that the respondents delay to finish the Initial Brief and Designation on the matter on all notices to this Court were submitted on the date in which there Initial brief is due by Court orders. The Appellant ask of this Court if the Appellant were to wait until the date of the deadline throughout his Experience with filing motions with Courts appearing process

Knows that a very strict and very stiff rules of court when it comes to meeting deadlines always apply without exceptions. In fact if the Appellant was to attempt to handle his motions in such way that all motions would be denied and dismissed with prejudice. So the question to this court why were the respondents allowed to do this? Appellant feels the Attorney General's office employs several assistants to help with caseloads where this becomes a matter you have the time required to prepare and proceed with the case or cases that are priority. The Appellant has only been able to come up with one case that was totally circumstantial and did end with Direct Verdict. Bilal Harris v State (2009) trial dealing with the murder of a homeless man from Myrtle Beach. Prosecution dropped the charges due to not enough evidence. Also the detective was fined for not providing all of his case information to the attorneys before trial. which is similar to trial of Appellant. where the investigators withhold the facts of knowing that the lay witness Andra Bradley had indeed signed a proffer with the government and the fact that he Andra Bradley was going

to receive leniency for his cooperation with the state. Also at PCR hearing lead Investigator had a paper from the Attorney of Garry Bostic about ~~arranging~~ being set up to speak with Garry Bostic about another violent crime. The paper states a charge ABHAM however during this meeting is when Investigator Compton questioned Garry Bostic about the murder of Corey Byrd. However the state found the testimony of Garry Bostic to be found not credible however the testimony from lawyer of Garry Bostic to be found credible Johnny Ethridge, Esquire. This document was said to be found in the files of the case of the Appellant but has nothing to do with the Appellants case. The state put an assumption. strategic before the PCR court Judge that reason for the Appellants trial lawyer not using Garry Bostic for a witness was as quoted in transcripts from PCR that the state believes that the reason for not calling Garry Bostic as a witness was because of the fact that Garry Bostic had shot Corey Byrd. Again I will say opinion testimony to a strategic reason not to call the person that the states' key witness alleges paid the Appellant to carry out the hit for hire. However the Appellant feels opposite of the states theory that having a jury hear the testimony from Garry

Bostic of not having anything to do with the murder / Hit for Hire would have indeed changed the outcome of the trial of the Appellant. Not only would that have proven the testimony that came from Andrea Bradley to be Frivolous and not true which would also bring us back to the states opening arguments at appellants trial. There is (NO physical Evidence) linking Gregory Daniels to the crime. (NO eyewitnesses). Even the Jackson V Reno hearing where the Appellant didn't know he had the right to speak where lead Investigator Timothy Wade Compton took the stand and used portions of the taped statement where the Defendant Gregory Daniels told and agreed to talk about the Cookout / party and saying I didn't know anything about the murder but I would talk about the cookout. and Lead Investigator Compton agreed to only talking about the cookout however in the trial transcripts on page 45 (lines 1-13) is where the court can find this. The second part of this issue same page 45 (lines 14-16) was not recorded. Also page 46 (lines 12-22) as to what happened at the cookout / party also confirmed the time that Appellant left the cookout / party the testimony by state witness James Black trial transcripts page 237 (lines 19-25) which had to bring some doubt to the jury because the jury had one question while deliberating which was what time was the last time

the Defendant was in the area or gave a cigarette to witness
Shavonne Cass. Of course this question couldn't be answered due to
all witnesses being excused. This information would have proven to
the jury that the Defendant ~~was~~ not lying as lead investigators
alleged about the time leaving the Cookout Party. There is a second
Statement that supposedly took place that was not recorded in which
the Defendant denied ever giving that the court allowed lead investigator
to talk about both during Jackson v Deno hearing also the trial of
Defendant. From both in which the Defendant didn't testify however the
right under Constitution to remain silent also right to testify at
Jackson v Deno hearing also right to protection against self incrimination
meaning using Defendants own words against yourself to force the
Appellant to testify. Also the lead investigator Timothy Wade
Compton brought up the point of Defendant not wanting to take
a polygraph if polygraphs are not admissible in court then why
was this mentioned both in the Jackson v Deno hearing and before
the jury. Moreover the Appellant had over 23 exhibits at post
conviction relief hearing only 9 were admitted the rest were excluded.
which included polygraphs from testifying witnesses and non
testifying witnesses in which included incident reports from
which investigators took from the night of the murder that

Which testified for the state the person whom discovered the body of Corey Byrd first on the scene whose whereabouts become questionable because Tiesha Brown stated that she saw the same SUV on the crime scene described by the victim Corey Byrd also as to seeing a man over the body of Corey Byrd then later saying that Ryan Evens pulled up never got out of his SUV which is totally different in color without any customizations added. Tiesha Browns whereabouts become questionable she's the only person whom hears the gunshot leaves the scene comes back calls police and leaves the scene again. Now in the incident report supplemental report there's a statement given by Tiesha Brown about a threat to herself and Corey Byrd from the father of Brittany Fludd concerning Tiesha Brown cheating on his son with the victim Corey Byrd. Which is another reason why these incident reports are important factors as evidence. These documents will show that there's too many obstacles that point towards missing suspects and information overlooked by Investigators and prosecution. There was a fish fry that the victim Corey Byrd attended also never investigated. There's also the incident report that ended up in the case file of the defendant that was dealing with the involvement of the victim Corey Byrd who had testified against co-defendants in this case where Corey Byrd was a suspect and charged

1 This documentation was in the possession of the state and Defense
The Appellant has just presented to the courts the evidence needed
to satisfy the burden that had all of this documentations been
allowed and presented before a jury that the very prejudicial
Outcome of his trial would have been different. To come to
a close on this issue Mot has been slipped in under Exceptional
Rules. However all appellant courts have been denied. In closing
to this motion for grantel I move to ask that two exhibits
be allowed #1 City of Florence Incident report # 2 2 copies of the
Incident report dealing with the victim Corey Byrd leading to
become a states witness. Also ask of the court to review
the trial transcripts and testimony mentioned in this motion.
Although the Appellant realizes that under certain rules of
Court and Evidence these documents are considered hearsay
however, the Appellant feels that the situation in the incident
report of the City of Florence Police report, where Tiesha
Brown tells investigators what she observed and overheard
in which the Appellant feels started to describe the occurrence
of events by Corey Byrd. Exceptional rule present since impression.

However (1) Prosecution and Lead Investigator mentioned the
Calls between the victim Corey Byrd and Tiesha Brown there is
No phone records from Tiesha Brown to verify that any conversation
between the two took place. When asked about this conversation
by Defense Counsel both witnesses denied this conversation also
Lead Investigator stated he couldn't get anyone to verify the
Conversation, this Incident report that was taken at the
Crime scene from a witness whom was at the Party/cookout.
The Appellant does not deny the fact that the Incident report
is hearsay however this is impeaching evidence in which the
Attorney for the Appellant feels was ineffective for not
attempting to impeach these witnesses about this statement.
Also the Appellant that this Incident Report is an exception
to the hearsay rule under same grounds as the phone call
between Gas and the victim Corey Byrd. Exhibit #1 In order
to establish and prove the burden this Incident report
would have to be reviewed by this Court, The documentation
will not only take the states theory of argument at the
Cookout for reason for the murder of Corey Byrd (Malice) also
show cause for a third party Guilt in which was denied
in post conviction relief hearings. (2) The Incident report involving

the victim Corey Byrd as suspect in the murder of and
Indolman, but later was to turn state and testify against
his co-defendants. The Appellant wrote his Attorney Jack,
W. Lawson through request from jail while placed in maximum
Security unit in the Florence County Detention Center in
Ebensham about one Co-Defendant of Corey Byrd writing a
note to the Appellant stating that he had put a hit out on
the victim Corey Byrd. However this letter never gets mentioned
or is not in the Files of Public Defenders office for Jack
W. Lawson. At the Post Conviction hearing the state presented
the theory that these incident reports appeared in the
Case files of the Appellant due to an Investigator getting
them. This is not the case the Appellant requested that
this lawyer check into the case dealing with Corey Byrd
being involved in this other murder case however a copy was
in the Rule (5) of discovery evidence given by the head
Solicitor Edgar Clements. Speaking on Investigators there is no
billing invoices to show that an investigator was hired,
Frank White was indeed whom the Appellant spoke with
when asking to have Mr. Lawson appointed as this Attorney.
However the state created the theory that the Appellant

Spoke with Mr. Frank White on several occasions this theory is not true. This is another ineffective assistance of counsel claim where no one spoke with Oswald's house, same as Gary Bostic. Now that the Appellant has put before this Court attention of the most crucial exhibits/evidence to this case that would have changed the outcome of trial. Another issue dealing with letters that the state had in their possession years yet not until the day of the testimony of the witness Nyrona Goodman the then girlfriend of the Appellant Gregory Daniels that the state moved to have the letters in as evidence in which Honorable Judge Thomas Russo gave more time to redact those letters and quoted it's not like I'm allowing the state more time due to the facts that it's laxed for two (2) years. These letters were deemed by the Supreme Court to have been one of the factors of overwhelming proof of guilt. However had the defense lawyer for the Appellant notified the Appellant before trial of these letters before trial the Appellant could have given letters written to himself from witness Nyrona Goodman while in the Detention Center also visits from this witness. However this opportunity was not given. which is clear and convincing

Case of ineffectiveness by trial counsel Now I bring to the courts attention one last issue which involves a letter written to the Appellant from a states witness Whom's testimony really was hearsay from the boyfriend Andrea Bradley this witness is Jasmine Barrett. The Appellant dose not deny this letter being hearsay. However the state made it seem like such a bad thing for the Appellant to write letters to a state witness however is there no harm in a state witness writing the Appellant after testifying in Appellants trial? This letter cant be presented as evidence or exhibit due to the fact of the only copy was given to post conviction lawyer Tricia P. Blanchette Esquire so only by testimony of Mrs. Blanchette would this letter be able to be confirmed. This witness stated that she felt doing what she was doing was dangerous meaning testifying. Also stated that she only heard about everything through the boyfriend Andrea Bradley.

- (1) Fair Hearing - *Townsend v. Sam, Sheriff, Et. Al., Peoples v. SEITWENTZ*,
3 Ill 2d. 520, 523, 121 N.E 2d. 758
- (2) Defective Indictments - *Illinois v. Somerville*
- (3) Failure to Investigate - *Wiggins v Smith, Warden*
- (4) Circumstantial Evidence - *Rosinald Lamont Hoopes v State of Texas*
- (5) Informant - *Asiniter v Texas*
- (6) Rule 613
- (7) Rule 607
- (8) Rule 501
- (9) Rule 502

Based on the foregoing, this Court finds and concludes Appellant has established Constitutional violations and deprivations that require this Court to grant the following motion. (1) Counsel at trial for Appellant did suffer from serious illness that affected the capability to make proper objections on arguments that were indeed prejudicial in the trial of Appellant (2) As to Appellant being denied by trial counsel right to a fair and partial hearing as to right to subpoena Garry Bostic as a witness also right to subpoena Dennis Rouse. (3) Charge of Murder but also theories placed before jury of (2) Argument of Cookout/Party and Hit for Hire. Appellant being only person charged - (4) Faulty Indictment Motion to Quash Indictment

It is therefore ordered

(1) That the above motion before this court by Appellant be granted and that the Appellant's conviction be vacated and he be granted a New trial.

(2) That the Appellant be transferred from the custody of the South Carolina Department of Corrections to the custody of Florence County pending the disposition of criminal case with bond proceedings.

And it is ordered this _____ day of _____ 2023

_____ South Carolina

Honorable

South Carolina Court
of Appeals

State of South Carolina)
South Carolina Court of)
Appeals)

Gregory D. Daniels # 297449)
Appellant)

v)

State of South Carolina)
Respondent)

In the Court of Appeals

Appellate Case # 2021-001298

Certificate of Service

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NOV 09 2023

SC Court of Appeals

I, Gregory D. Daniels, hereby certify that the motion to Grant Appellant a New Trial and vacate the sentence of wrongful Conviction and certificate of service has been forwarded to the Respondents via us mail today October, 31st, 2023 addressed to Melody J. Brown at the Attorney General Office P.O. Box 11549 Columbia, South Carolina. Also certify that a copy was sent to the Honorable Jenny Abbott Kitchings Clerk of the South Carolina Court of Appeals

Gregory D. Daniels # 297449

F2 B 2234

Lee Correctional Institution

990 Wisacky Hwy

Bishopville S.C

29010

JMS

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NOV 09 2023

SC Court of Appeals

South Carolina Court of
Appeals

Jenny Abbott Kitchings, Clerk

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29211