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S.C. SUPREME COURT

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11/06/23	Joey L Clark 187595 MA-211-B	SC Court of Appeals PO Bx 11629 Columbia Sc 29211	11/13/23	Joey Clark	[Signature]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	

SCDC FORM 10-12 (Revised May 2013)

Date Clark recieved court order

Appellant's exhibit 1



Appellant's

exhibit 2



Appellant's exhibit 3



Appellant's exhibit 4

A copy of Det. Tim Clark holding Joey Clark's leg! With Brahma Boot.
~~Appellant's exhibit 4~~



Appellant's exhibit 5

1 A. Yes, ma'am. The characteristics we were looking for
2 cannot be seen or determined with the naked eye.

3 Q. Were you able to determine if any of those fibers, the
4 different kinds of fibers from strand 1, were consistent
5 with any fibers that were pulled from the Wolverine boots?

6 A. Yes, ma'am, I was. *Could they be consistent with fibers*

7 Q. Okay. Which fibers from the Wolverine boots and which *from*
8 area did you remove the fibers from from the Wolverine boots *any*
9 to compare to that collection? *other*

10 A. May I pull the boot out and show? *boots*

11 Q. Yes, sir, I will do that for you. *could*

12 A. All right. Again, I said I had taken multiple *the*
13 locations from this. I took some from the shoelace. I took
14 some from the stitching that's in here.

15 The area I found that matched with some of this from
16 kind of the inside of the heel portion here. There is a
17 fabric in here. That portion was found to be consistent in
18 those optical and chemical properties with the fibers or
19 some of the fibers I found on that first strand of barbed
20 wire.

21 Q. Okay. Now, is that the blue and black polyester
22 fibers?

23 A. Yes, ma'am.

24 Q. Okay. When you say consistent with, are you able to
25 tell the jury that you can state with one hundred percent

Appellant's exhibit 6

1 accuracy that they came from those boots?

2 A. No, ma'am, these boots are made in large quantities and
3 so I cannot say it's this boot, as opposed to any of the
4 other boots that were made at that time.

5 Q. Okay. So you used the words consistent with?

6 A. Yes, ma'am.

7 Q. Okay. So it's -- is it safe to say that the fibers are
8 not like fingerprints that we just heard about?

9 A. No, ma'am, they are not like fingerprints, where they
10 can be identified individually to a single fiber. These are
11 made in large batches.

12 However, as we start to look at all of those different
13 properties that we discussed, it starts to limit the
14 application where those fibers were being produced or used.

15 Q. Okay. So you were able to pull fibers off of the first
16 strand of barbed wire that you could state are consistent
17 with fibers in the Wolverine boots?

18 A. Yes, ma'am.

19 Q. Explain to the jury, too, as to State's -- or the first
20 strand of barbed wire and the second strand of barbed wire,
21 which are State's 68 and 69, how you found the fibers? Like
22 how many fibers did you locate?

23 A. Okay. As far as the black/blue polyester fibers, there
24 were many, many of those fibers. I did not count them, but
25 they were in clumps. There were large clumps of those. As

Appellant's exhibit 7

1 you have to refer to your notes, please feel free to. There
2 are several things marked here. If you could just explain
3 what you had marked and why?

4 A. Originally I put these out to keep anybody from walking
5 over in this area so we could search it real close and see
6 if we had any shoe prints or anything, tire prints, or
7 anything. And what we did was actually got on our hands and
8 knees and covered this whole area.

9 And here is number 11, this is a casting frame. We
10 casted this print. I'm pretty sure it was 11 that we cast,
11 made a cast of. It was some identifying marks on that shoe
12 print. It was -- I can't remember, like a horseshoe, or
13 something in it, that we could identify.

14 These other shoe prints -- this was another shoe print,
15 this was another shoe print, but these were so vague, there
16 wasn't much there. You couldn't tell size. You couldn't
17 tell the shape. There was no pattern of the shoe in these
18 whatsoever. We cleared them out and inspected them real
19 close to be sure that we couldn't be able to get anything
20 out of the print itself.

21 This one did have some detail of the bottom of the
22 shoe, so went we ahead and cast that shoe print.

23 Q. And were you able to determine who that shoe print
24 belonged to?

25 A. It belonged to the gentleman that got out and looked at

223.

Appellant's exhibit 8

1 was, but there was -- there were samples that the third
2 profile that was found was represented by multiple alleles,
3 correct?

4 A. That's correct, there were samples that had alleles
5 that could not be contributed to the individuals known in
6 this case at between four and six different STR locations.

7 Q. And so as there are more alleles to actually see, but
8 do not belong to Joey or Winter, does that increase the
9 probability that it is not stutter? Does that increase the
10 probability that it is, in fact, a third person?

11 A. Yeah, I would say with the presence of minor types at
12 multiple locations, such as I had with several of the swabs
13 from the prior retrievals, it is known to be at least a
14 third contributor to that mixture.

15 Q. All right. And you have described to the jury what
16 secondary DNA transfer was. If the evidence suggests that
17 the victim and Joey had sex prior to the body being drug on
18 the side of the road, would it, in fact, be possible for
19 Joey's DNA to be transferred to the scene by Winter by means
20 of secondary transfer?

21 A. If there were foreign DNA present on Ms. Wingard from
22 Mr. Clark, it may be possible for it to be transferred to
23 the tree limbs or the briars through secondary transfer.

24 Q. And the probability of that happening depends,
25 obviously, on various circumstances, one of which would have

1
Appellant's exhibit 9

1 you have actually eliminated them, based upon your training
2 and experience and you called them artifacts and marked them
3 off and said "in my experience this doesn't indicate another
4 person. It's just a flaw in the copying procedure."

5 A. That's correct. There were several items in the case
6 where potential types were crossed off and not interpreted
7 because of my interpretation.

8 Q. And so at some point you have to just simply believe in
9 your process and the science and what you have been taught.
10 So if you have not crossed them off as an artifact, you have
11 to accept the possibility that, in fact, based on your
12 training and science, that that is indicative of a third DNA
13 profile, a third person --

14 A. It is --

15 Q. -- is that correct?

16 A. It is indicative of a possible third contributor, yes,
17 sir.

18 Q. Now -- I apologize. I'm referring to my notes. I'm
19 certainly not smart enough to remember all of this.

20 On item 21.1, this is the swab from a briar. Is it
21 correct that most of the actual DNA sample there was from
22 Winter, and that a smaller amount -- maybe 90 percent, or
23 so, was actually from Winter, but the rest was not, is that
24 correct?

25 A. That's correct. The major contributor to the mixture

Appellant's exhibit 10

1 MR. HARBIN: Thank you, Your Honor.

2 CROSS EXAMINATION BY MR. HARBIN:

3 Q. How are you doing today?

4 A. I'm fine, sir. Thank you.

5 Q. I might jump -- start off in the middle and I might
6 work backwards.

7 You went through the latent prints that you were able
8 to pull from the GMC with Ms. Leskanic. And I'm wondering
9 why it wasn't mentioned that there was a latent print pulled
10 from the inside passenger front glass, which would
11 presumably be where all that blood spatter was with all
12 those orange arrows --

13 A. Yes, sir.

14 Q. -- that SLED results that I was given by y'all, or by
15 the State, indicates that it did not belong to either
16 Winter, Joey, or Beverly.

17 A. If I'm correct -- I think I'm correct. That's right,
18 yes.

19 Q. That's right, okay.

20 So we have a fingerprint inside the vehicle right near
21 all of this blood spatter activity that's unidentified, or
22 it's identified as not coming from Joey, the victim Winter,
23 or her mother Beverly Patrick?

24 A. Yes, sir.

25 Q. In addition to that, there is another print found at

pg. 302.

Appellant's exhibit 11

1 the rear quarter panel and I believe the rear passenger's
2 side quarter panel that is also apparently not Winter, not
3 Joey, and apparently there was no conclusion reached as to
4 whether it was Beverly, due to the quality of, I guess,
5 Beverly's comparison sample, is that right?

6 This was item 9, I believe is what it's listed as on
7 the SLED report. I don't know what your number might have
8 been.

9 A. It's a totally different number.

10 Q. And I'm happy to let you glance at the sheet that I'm
11 looking at, if it helps you, but -- you let me know.

12 A. Okay. It would be our number V-6, and you got that
13 listed as partial latent fingerprint from the passenger side
14 door of the front door. It's under V-5.

15 Q. Okay. And I believe we covered that, but then the next
16 question that I had was the print that was the rear -- the
17 passenger rear quarter panel that -- the information I have
18 is from SLED was not identified with Winter, not identified
19 with Joey, and for some reason there was no conclusion as to
20 whether or not it might have belonged to Beverly. And the
21 words they used, and you could tell us what this means, "no
22 conclusion will be rendered due to the quality of item 45."
23 Their item 45 I believe is Beverly's comparison or Beverly's
24 fingerprint standard from Beverly Patrick.

25 So am I correct in saying that that report -- or the

Appellant's exhibit 12

S.C. Court of Appeals
Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, S.C. 29211

11-20-2023

RE: Joey Lynn Clark v. State, Case No. 2018-001627

Dear Clerk,

Enclosed please find 2 copies of my Motion For Reconsideration, One to be filed in the above referenced case, the other to be clocked stamped and returned to me at the address below.

Sincerely,

Joey L. Clark
Joey Lynn Clark
SCDC# 187595
B.R.C.I. Marion-211
4460 Broad River Rd.
Columbia, S.C. 29210

P.S. Certificates
of Service
Included

Appellant's Exhibit 13



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
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November 27, 2023

Joey Lynn Clark, 187595
Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29210

Re: Joey L. Clark v. State
Appellate Case No. 2018-001627

Dear Mr. Clark:

The Court has received your motion for reconsideration. Because you are represented by counsel, no action will be taken on this pro se filing. See *Miller v. State*, 388 S.C. 347, 347, 697 S.E.2d 527, 527 (2010) ("Since there is no right to 'hybrid representation' that is partially pro se and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed pro se by a person represented by counsel are not to be accepted unless submitted by counsel.").

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Harrison, deputy".

CLERK

cc: Kathrine Haggard Hudgins, Esquire
Johnny Ellis James, Jr., Esquire

Appellant's Exhibit 14



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

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Columbia, South Carolina 29211-1589
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

November 28, 2023


Mr. Joey L. Clark, #187595
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Dear Mr. Clark:

Enclosed is a copy of the opinion of the South Carolina Court of Appeals affirming the denial of post-conviction relief. The Court of Appeals agreed with the PCR judge that we failed to prove prejudice from counsel's alleged error in opening the door to the admission of the statements of five jailhouse snitches who did not testify at trial. I was encouraged when the Court of Appeals granted the petition for writ of certiorari and hoped for a better result. After reviewing the unpublished opinion by the Court, with no dissenting opinion and the fact that the Court focused on prejudice rather than deficient performance, I did not file a petition for rehearing and will not file a petition for writ of certiorari with the South Carolina Supreme Court. In my professional opinion the South Carolina Supreme Court would not grant a petition for writ of certiorari to review the opinion by the Court of Appeals. This means that you have now exhausted your state court remedies. Please be advised that our office will be closing your case along with this letter.

There is now a **one-year statute of limitations for filing an application for a writ of habeas corpus in federal court.** However, please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future.** This statute of limitations is strictly enforced. I have enclosed a copy of the pertinent section of that statute for you to review. I am closing your file with this letter. Please understand that it is **your obligation alone** to ensure that a federal habeas application is timely filed if you want to continue challenging your conviction. Feel free to contact me if you have any questions, but writing to me **does not stay** the applicability of the statute of limitations. I do wish you the best in the future.

Sincerely,


Kathrine H. Hudgins
Appellate Defender

KHH/cws

Enclosure: Habeas Corpus Application

Appellant's Exhibit 15

Kathrine H. Hudgins
Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, S.C. 29201

Dec 6 2023

RE: Joey Lynn Clark v. State, Case No.
2018-001627

Dear Ms. Hudgins,

I just wanted you to know that the appeals court dismissed my writ incorrectly. The boots linked to the fiber were not mine, they are a woman's boot that my foot would never fit in. My DNA was testified to being secondary transfer from earlier that day. There is the DNA of unidentified third party present as well as the bloody fingerprints of this unidentified third party present. I realize you messed all these facts but they must be presented to the court of appeals. They incorrectly dismissed my case because the evidence was not presented properly. The fiber could not even be linked to the boot that wasn't mine but could of come from any boot from that company. Can you please help me fix this?

Sincerely
Joey Clark
Joey Clark
sc02 # 187595

Appellant's Exhibit 16

S.C. Court of Appeals
Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, S.C. 29211

12-6-2023

RE: Joey Lynn Clark v. State, Case No.
2018-001627

Dear Clerk,

Enclosed please find my motion for reconsideration, notice that I no longer have an attorney and certificate of service by mail. Please file this with the court and send me a clocked stamped copy. Thank you so much for your time and help.

Sincerely,
Joey Clark
Joey Lynn Clark
SCDC# 187595
BRC.I. Marion-211
4460 Broad River Rd.
Columbia, S.C.

Applicants Exhibit 17



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

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December 13, 2023

Joey Lynn Clark, 187595
Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29210

Re: Joey L. Clark v. State
Appellate Case No. 2018-001627

Dear Mr. Clark:

Your motion for reconsideration was received on December 11, 2023. Your case was remitted to the trial court on November 28, 2023. Accordingly, this Court no longer retains jurisdiction and no action will be taken on this filing.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

cc: Kathrine Haggard Hudgins, Esquire
Johnny Ellis James, Jr., Esquire
Alan McCrory Wilson, Esquire

Appellant's exhibit 18



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

December 14, 2023

Mr. Joey L. Clark, #187595
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Dear Mr. Clark:

I received your letter dated December 6, 2023. In filing the petition for writ of certiorari on your behalf I was limited to those issues included in the order of dismissal from the PCR judge. The issues you raise in your letter with regard to the boots and the DNA were not issues that were raised in PCR. Unfortunately, you have now exhausted your state court remedies.

Sincerely,

Kathrine H. Hudgins
Appellate Defender

KHH/cws

Applicant's Exhibit 19