

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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CERTIORARI SPARTANBURG COUNTY  
ROGER L. COUCH, CIRCUIT COURT JUDGE

CLARENCE MILLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-212783

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PETITIONER'S JOHNSON PETITION REPLY

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**RECEIVED**

JUL 31 2013

S.C. SUPREME COURT

CLARENCE MILLER, SCDC#267397

PETITIONER PRO-SE

BRCI-MOULTRIE #

4460 BROAD RIVER ROAD

COLUMBIA, S.C. 29210

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S.C. SUPREME COURT

## AUGUMENT

THE PCR COURT ERRED IN FAILING TO FIND PLEA COUNSEL INEFFECTIVE FOR NOT INSURING THAT PETITIONER GUILTY PLEA WAS ENTERED FREELY, VOLUNTARILY AND KNOWINGLY, IN THE INSTANT CASE, MILLER AFFIRMATIVE, ON THE RECORD STATEMENT THAT HE HAD TAKEN DRUGS THE DAY OF HIS PLEA HEARING. THIS CALLED INTO QUESTION HIS ABILITY TO MAKE AN INTELLIGENT AND COMPETENT WAIVER OF HIS CONSTITUTIONAL RIGHT BY ENTERING A GUILTY PLEA, HIS UNDERSTANDING OF THE NATURE AND CONSEQUENCE OF HIS PLEA COULD WELL HAVE BEEN UNDERMINED (PAGE 7 LINE 2) MILLER TOLD THE COURT HE WAS PRESCRIBED PSYCHOTIC DRUGS THE MEDICATION EFFECT MILLER'S ABILITY TO THINK. MILLER TOLD THE COURT , HE HEAR WHAT THE JUDGE SAYING BUT! IT SOUND LIKE THE JUDGE WAS ECHOING.

THE SUPREME COURT DETERMINATION OR DETERMINED THAT RULE (11) SERVED (2) PURPOSE THE COURT STATED: RULE (11) IS DISIGNED TO ASSIST THE COURT IN MAKING THE CONSTITUTIONALLY REQUIRED DETERMINATION THAT A DEFENDANT GUILTY PLEA IS TRULY VOLUNTARY. SECOND, THE RULE IS INTENDED TO PRODUCE A COMPLETE RECORD AT THE TIME THE PLEA IS ENTERED OF THE FACTOR RELEVANT TO THEIR VOLUNTARINESS. IN ORDER TO MAKE A KNOWING , VOLUNTARY AND INTELLEAGENT PLEA, A DEFENDANT MUS BE CAPABLE OF UNDERSTANDING THE CONSEQUENCE OF HIS PLEA.

ONCE COURT HAS BEEN INFORMED THAT DEFENDANT HAS RECENTLY UNGESTED DRUGS OR OTHER SUBSTANCES CAPABLE OF IMPARING MILLER ABILITY TO MAKE KNOWING AND INTENTIUONAL WAVIER OF MILLER CONSTITUTIONAL RIGHT. THIS MUST MAKE FUTHER INQUIRY INTO DEFENDANT COMPETENCE TO ENTER PLEA. FED. RULE CR. PROC. RULE 11. MILLER PLEA COUNSEL INFORMED THE COURT THAT MILLER HAD (2) MENTAL EVALUATION AND NO MENTAL DISORDER WAS FOUND. MILLER WAS ON DIFFERENT PSYCHOTIC MEDICATION DURING MILLER PLEA HEARING. MILLER WAS NOT ON THE SAME PSYCHOTIC MEDICATION. DURING HIS MENTAL EVALUATION. THE NEW PSYCHOTIC MEDICATION MILLER WAS ON MADE HIM HEAR ECHO SOUND AND BELL RINGING IN HIS HEAD. MILLER FELT LIKE HE WASN'T COMPREHENDING EVERYTHING. ON PAGE (43) DURING MILLER (PCR) HEARING. THE COURT ASK (LINE 5) WERE YOU TAKING THESE MEDICATION THREE OR FOUR WEEKS BEFORE YOU PLED AND YOU WERE EXAMINED BY DOCTOR DEWITT. I MILLER ANSWERED (YES) MILLER WAS IN ERROR BY ANSWERING (YES). MILLER WAS ON DIFFRENT PSYCHOTIC MEDICATION. DURING HIS PLEA, MILLER WAS NOT ON THE SAME PSYCHOTIC MEDICATION DURING HI'S EVALUATION. THIS IS SHOWN ON EXHIBIT (A).

COND'T PAGE #2

MILLER HAVE WRITTEN SPARTANBURG COUNTY COURT HOUSE CONCERNING THIS ISSUE SEVERAL TIMES. MILLER HAVE SENT CORRESPONDENCE TO ROGER L. COUCH, CIRCUIT COURT JUDGE, THE HONORABLE ROGER L. COUCH, WILL NOT RESPOND BACK TO MILLER. THIS IS EXHIBIT (B) THEIR IS SHOWN A COPY OF THE LETTER. WHERE MILLER CORRESPONDED TO THE CLERK COURT.

MILLER COUNSEL ADMITTED DURING THE (PCR) HEARING, IT WAS NOT NORMAL FOR SOMEONE TO HEAR ECHO SOUND. MILLER COUNSEL WOULD HAVE HAD TO BE DEFICIENT NOT TO NOT NOTICE THAT STATE OF MIND MILLER WAS IN WHEN MILLER SAID HE WAS HEARING ECHOES SOUND. MILLER COUNSEL FAILURE TO ADEQUATELY INVESTIGATE, RESEARCH OR EVALUATE POSSIBLE DEFENSE AND EVIDENCE IN MITIGATION. IF COUNSEL WOULD HAVE DONE SO HE WOULD KNOWN MILLER WAS NOT ON THE SAME MEDICATION, HE WAS EVALUATED ON WITH JOHN H. DEWITT, MD AND FRANK QUINN. PH.D., DURING HIS PLEA, THE DOCTOR CHANGE HIS MEDICATION FROM THE MEDICATION HE WAS EVALUATED ON.

RULE (11) THE DEFENDANT GUILTY PLEA MUST BE SET ASIDE AND HIS CASE REMANDED FOR ANOTHER HEARING AT WHICH HE PLEAD RENEW.

MILLER TRIAL COUNSEL WAS DIFICENT FOR FAILING TO REQUEST TO REQUEST A BLAIR HEARING OR COMPETENCE HEARING. MILLER TRIAL COUNSEL WAS DEFICIENT BECAUSE HE ADMITTED IT WAS STRANGE AND NOT NORMAL FOR SOMEONE TO HEAR ECHO SOUND'S.

MILLER TRIAL COUNSEL ADMITTED THAT HEARING ECHOES INDICATED THAT SOMETHING WAS NOT RIGHT (APP. 139, 11-1- 24) WHEN COURT HAD INFORMATION CONCERNING PETITIONER'S IRRATIONAL BEHAVIOR, INCLUDING SUICIDE ATTEMPT AND HULLUCINATION, PSYCHIOTIC EVALUATION, A LEARNING DISABILITY. MILLER INABILITY ALSO AFFECTED HIM IN ASSISTING TRAIL COUNSEL IN HIS DEFENSE. WITH MILLER INGESTED DRUGS PRIOR TO ENTERING HIS GUILTY PLEA, AND MILLER COMMENT HE'S HEARING ECHOES SOUNDS SUFFERING FROM DELUSION HALLUCINATION AND HEARING IMAGINARY VOICES. MILLER HAS BEEN DIAGNOSED CONSISTENTLY WITH HEVING DEPRESSION DISORDER AND PERSONALITY DISORDER, WITH ALL THESE MENTAL DISORDERS PETITIONER SHOULD HAVE BEEN GIVING A COMPETENCY HEARING.

CITING: LEE V. STATE, 721 S.E. 2D 442

U.S. COLE 813 F. 2D 43 (3RD CIR. 1987)

US V. DOMON, CITE 191-F. 3D 561 (4TH CIR. 1999)

#### CONCLUSION

FOR ALL THE FORGOING REASONS, PETITIONER'S CONVICTION AND SENTENCE SHOULD BE REVERSED.

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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CERTIORARI SPARTANBURG COUNTY  
ROGER L. COUCH, CIRCUIT COURT JUDGE

CLARENCE MILLER,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-212783

---

PETITIONER'S CERTIFICATE OF MAILING

---

I CERTIFY THAT A TRUE COPY OF PETITIONER'S JOHNSON REPLY BRIEF WAS MAILED OF  
THE BELOW LISTED DATED TO THE PERSON LISTED BELOW.

**RECEIVED**

HON. DANIEL E. SHEAROUSE, CLERK COURT

SOUTH CAROLINA SUPREME COURT

JUL 31 2013

P.O. BOX 11330

COLUMBIA, SOUTH CAROLINA 29211

S.C. SUPREME COURT

S/

*Clarence Miller*  
CLARENCE MILLER, #267397

BRCI-MOULTRIE #

4460 BROAD RIVER ROAD

COLUMBIA, S.C. 29210

SWORN TO AND BEFORE ME THIS

*29th* DAY OF *July* 2013

*Susan D. Dyer* (L.S.)

MOTARY PUBLIC FOR S.C.

My Commission Expires

MY COMMISSION EXPIRES: \_\_\_\_\_

March 5, 2018

# EXHIBIT (A)

130

Clarence Miller - Redirect examination  
by Mr. Bland

1 THE COURT: All right. And you started taking these  
2 medications after you were charged in these cases that we're  
3 here on today?

4 WITNESS: Yes.

5 THE COURT: Were you taking these medications three or  
6 four weeks before you pled and you were examined by  
7 Doctor---

8 WITNESS: Smith.

9 THE COURT: No.

10 WITNESS: Oh.

11 THE COURT: DeWitt.

12 WITNESS: Yes, I was taking those medications then.

13 THE COURT: So, you would of been on those medications  
14 when you were evaluated?

15 ~~WITNESS:~~ <sup>Error</sup> WITNESS: Yes, I was on those medications. --Error

16 THE COURT: All right. Thank you.

17 Any follow-up questions---

18 MR. BLAND: No, sir.

19 THE COURT: ---Mr. Bland?

20 MR. BLAND: None.

21 MS. WILSON: No, Your Honor.

22 THE COURT: All right. Sir, you may step down.

23 MR. BLAND: Your Honor, that would be our showing.

24 THE COURT: The State may call witnesses.

25 MS. WILSON: Thank you, Your Honor.

EXHIBIT(B)

The Supreme Court of South Carolina

Re: Clarence Miller v State

Appellate Case No. 2012-212783

Dear Clerk of Court:

I Clarence in sending Exhibit (A) and (B) please inform the court, that I Clarence Miller sent or written Spartanburg County court House concerning this issue about I Miller ever by answer (yes) I Miller was on different psychiatric medication during my evaluation. please have the court Officials or judge to investigate this matter. I Miller sent the Honorable Roger L. Couch, all of the medical record concerning, what kind of psychiatric medication I Miller was on at the time I was evaluated on and what kind of psychiatric medication I was on during the plea, please bring this to the Supreme Court Officials also the Honorable Roger L. Couch ~~never~~ never respond back from any of my letter.

Thank you  
your Truly,

Clarence Miller

267397

EXHIBIT(B)

Date 7-9-13

Clarence Miller, Petitioner

v

State of South Carolina, Respondent

Appellate Case No. 2012-212783

The Honorable Roger Couch

Spartanburg County

Trial Court Case No. 2011CP4201556

Dear the Honorable Hope BLACKLEY, I Miller have written your office several time concern what happen in my PCR hearing. I Miller wrote your office concern a error I made during my PCR hearing.

The Honorable Roger Couch ask me was I on the same medication three or week before I were examine by ~~the~~ Doctor Dewitt. I Miller answer (yes) I Miller error by answer yes.

I've sent judge Couch of letter concern my mistake. I also request, that judge Couch send me back my Original copy of my Mental Health record. THE Honorable Hope BLACKLEY, please send me back

Larwood Scott Miller (#267397)

BRC1-Moultrie 1042

4460 Broad River Road

Columbia, SC 29210



The Supreme Court of South Carolina  
Daniel E. Shearow  
Clerk of Court

P.O. Box 11330  
Columbia, South Carolina

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JUL 29 2013

