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State of South Carolina
IN The Appellate Court

Apr 03 2024

S.C. SUPREME COURT

Appeal From Marlboro County
Court of Common Pleas

Honorable Michael G. Nettles Fourth Circuit Court Judge

Case No. 2022-CP-3400176

George A. Cousins..... Appellant

vs.

State of South Carolina Respondent

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SC Court of Appeals

NOTICE OF APPEAL

March 26, 2024

George Cousins #350976 I INCORRECTLY MAILED my Prima Facie TO THE South Carolina Court of Appeals by mistake ON February 28, 2024 it should of ben mailed TO THE South Carolina Appellate Court for review. Austin v. State 305 S.C. 453, 409 S.E.2d 395 (1991) The S.C. Supreme Court Remanded A For an Evidentiary hearing Austin Appeals do NOT have to be filed within the one year statute of Limitations because they are belated Appeals intended to correct UNJUST Procedural de fects. Noted The Government's contention Fall under the Clear ERROR OF LAW PORTION OF Rule 59(E) Third Prong The Government contends That the court committed A Clear ERROR OF LAW Limiting its CROSS examination of The Defendant. Phillips v. State 281 S.C. 41, 314 S.E.2d 313 (S.C. 1984) The Supreme Court held that Defendant's Failure To sign Waiver of indictment invalidated Guilty Plea AND cases citing Phillips South Carolina Code of Law ANNI: §§ 17-23-130.

Under The Penalty of Perjury That The Foregoing is True And correct.

George Cousins

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Public Defender Plea Counsel Richard Jones did no investigation on the Defendant case. Stuart Axelrod Petitioner's Attorney for his reconsideration hearing also testified at the P.C.R. hearing APP 92.1.8 Axelrod stated that he met with Plea Counsel in the moments before Petitioner's reconsideration hearing APP 94.11.13-15 Axelrod asked Plea Counsel if he had promised petitioner a fifteen year sentence if petitioner pled guilty and Plea Counsel confirmed that he did promise petitioner that yes APP. 94.11.15/17 Axelrod testified his initial though after his conversation with Plea Counsel was [Petitioner] is telling me the truth APP 94.1.18 Axelrod then went into Burch chambers to tell Judge Burch that Plea Counsel promised petitioner would get fifteen years imprisonment if he pled guilty petitioner was induced by misrepresentation and but for that misrepresentation petitioner would not have pled guilty and insisted on going to trial there was a trial for July 9, 2012 in the courthouse but the petitioner did not show up until many months later Aug 30, 2012 when Mr. Cousins would see his Rule 5 discovery for the first time violation from due process violation of 14 Amendment & Fifth Amendment

Under The Penalty of Perjury That The foregoing is True and correct

George Cousins

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S.C. SUPREME COURT

Actual Innocence

Prima Facie

This Court should begin its Analysis of whether to grant relief in this case by reviewing the extraordinary exculpatory evidence that was in Plea Counsel's Possession prior to the Plea hearing. The attorney general provided the discovery materials to the defense.

Exhibit ONE

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory. This is AN examination of two GSR kits submitted in this case First one GSR kit from George A Cousins. Item: 8.1 Right Palm

RESULTS: Round lead particles were found Round lead particles are one of the components of gunshot residue

Item: 8.2 Right back. No indications of gunshot residue

Item: 8.3 Left Palm NO indications of gunshot residue

Item 8.4 Left back NO indications of gunshot residue

Second, ONE GSR kit from Tammy Norris Locklear.

Item: 9.1 Right Palm NO gunshot residue was found.

Item: 9.2 Right back Round lead Particles were found.

Item: 9.3 Left palm NO gunshot residue was found.

Item: 9.4 Left back Round lead particles were found.

Kelly W. HALL, Assistant Attorney General, Argued to the Court: This time a gun was brought into the Argument, and that ^{GUN}

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was used, pointed at the victim, and she was shot in the head your Honor
 App. 27, 11, 2-4 She then stated "what he did was try to cover up this crime.
 He meticulously tried to clean the crime scene."

There are three critically important issues which arise:

One, if petitioner allegedly pointed the gun at the victims head and
 fired the gun. How did the gunshot residue get underneath his hand?

Two, if the victim has gunshot residue on the outside of both hands
 would it be reasonable to believe that she held both hands facing herself in a
 defensive position?

Three, if petitioner actually was meticulously cleaning the entire crime
 scene it would be unreasonable to believe he protected his right palm where
 the GSR was found well after this alleged cleaning?

Exhibit Two

At the PCR hearing, Richard Jones Plea Counsel testified: one of
 the things that Mr. Cousins never did explain to me exactly what happened
 and I'm not sure if he knows. App. 86 11, 21-23

Exhibit Two consists of Mr. Jones notes take November 2, 2011 at the
 Marlboro County Detention Center with George Cousins. It appears Mr.
 Cousins stated: Got to fussing - he went into bedroom walked away, she
 followed him - argued - got crazy - she wanted to get mate pet. He was tired
 Gun on the kitchen table - magazines there also she was getting out
 of control. They struggled she slapped him - she was kicking she
 grabbed the gun, he backed up - she was acting strangely - she cocked the gun -

Both fell together he was trying to get the gun - he got it struggled - it went off. It appears Mr Cousins gave a fully detailed account of what happened and Mr Jones wrote it down. His testimony seems contrary to his notes. Would it be reasonable to infer Ms Locklear held the gun with both hands and Petitioner had his right hand on the weapon when it fired? This is the exact scenario described to Mr Jones in his notes and his Allegation "I'm not sure he [petitioner] knows what happened is clearly false"

Exhibit Three

On July 18, 2010 A Marlboro County 911 CAD Incident Detail was recorded. Original Dispatch Remarks: States him and a female sub was having a minor 1082 Advises female sub grabbed A 1059, He States

he tried to take the 1059 from the female subject. Advises that the 1059 accidentally went off. Advises that female sub has 1 gunshot wound to the head. Again Kelly W. Hall, Assistant Attorney General argued to the court: "The defendant told 911 that he shot her in the head, Told the dispatcher that he shot her in the head, APP. 28, 11, 6-7 Ms. Hall concluded: The defendant chose to point the gun at the victim chose to have a fire arm in the middle of a violate argument. A violate situation [but] he chose to take this gun, point it at the victim's head and shoot her APP. 30, 11 4-6 8-10

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CONCLUSION

The evidence presented by officers of the court, on both sides has no substantial support and clearly fabricated. Both accounts are refuted by the trace evidence reports. Petitioner's alleged pointing and firing a gun is highly improbable when the GSR would find its way between the inside of petitioner's palm and the pistol grip. It would be simply amazing for Mrs Locklear to receive GSR on the outside of both hands without holding the gun itself. The fact that petitioner was sent to prison on any charges for preventing his own fatal injuries is a miscarriage of justice. The Assistant Attorney General should be held accountable to provide the source of the allegations presented to the court prior to the anticipated claims of default in a motion for summary judgment. This court is respectfully requested to hold a hearing on the actual innocence of petitioner where it was impossible to raise a timely challenge in the state courts because of the incomplete records. The petitioner did NOT pull the trigger with an open palm.

b. Ground Two

SUPPORTING FACTS

intentionally cause great bodily harm to petitioner. It is completely unreasonable to give Mr Jones account that petitioner fired the weapons any credibility, due to the fact its impossible to fire a gun and find GSR inside the palm, without a trace on the back of his hand.

b Ground Two

Petitioner's Exhibit #3 A CAD Incident Detail correlates Petitioner's version of the events in MR JONES Notes in Exhibit #1. Original Dispatcher Remarks: states that Him and a female sub was having a MI No B 1082 ADVISES FEMALE SUB GRABBED A 1059, HE STATES HE TRIED TO TAKE THE 1059 FROM THE FEMALE SUBJECT. ADVISES THAT THE 1059 ACCIDENTLY WENT OFF. ADVISES THAT FEMALE SUB HAS 1 GUN SHOT WOUND TO THE HEAD.

The Petitioner has presented a Prima Facie argument which establishes that AN Attorney who has practiced for 41 years in LAW would basically decieve the PCR Court with Testimony he knew to be false. Given the above facts, A Voluntary MANSlaughter. PLEA where the Petitioner made an attempt to defuse a violent situation over marijuana, protecting himself from imminent danger, would be proof that Counsel's Representation Fell below an Objective Standard of Reasonableness, considering the Petitioner did NOT Pull the Trigger, he should never been Charged with anything Prejudice Presumed and immediate ~~at~~ Acquittal should be granted.

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Prima Facieb

Ground Two

Supporting Facts

Have you presented Ground Two in a prior court action or administrative proceeding? The testimony of Richard Jones was elicited through Mr. Lance S. Boozers, Esquire at Petitioners Post-Conviction-Relief hearing. Although Mr. Boozers more than likely did possess Mr. Jones Plea hearing discovery materials the Petitioner asserts it would have been beneficial to impeach Mr. Jones Pre-Trial strategies and expose the fact he made false statements in his representation of the Petitioner. P.C.R. Counsel is not guaranteed to be effective assistance the testimony elicited from Mr. Jones under oath should be challenged because the P.C.R. Court found Mr. Jones testimony was clear, thorough, consistent and credible. In contrast, the court found Petitioners was not credible and entirely self-serving. This court should easily be able to determine and he is actually innocent in this matter and relief should be granted.

I incorrectly mailed my Notice of Appeal to the South Carolina Court of Appeals by mistake it should have been mailed to the South Carolina Appellate Court for review on JAN 22, 24 AS I AM CURRENTLY PRO SE AT THIS TIME MY SINCERE APOLOGY FOR THIS MISHAP AND AT MY P.C.R. HEARING THE HONORABLE JUDGE ROGER E. HENDERSON JULY 2017 MADE NO RULING 203 JUST DENIED ME RELIEF VICTOR R. SEEGER APPELLATE DEFENDER WHO PUT IN MY PETITION. ~~FOR~~ WRIT OF CERTIORARI RESPECTFULLY REQUESTED REVERSE THE CHARGES AGAINST HIM AND REMAND THE CASE FOR A NEW TRIAL Rule 59(f) Rule 59.

UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT
George Cousins

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Apr 03 2024

S.C. SUPREME COURT

June 21, 2011

Mr Rick Jones Esquire
4th Circuit Public Defender Office
300 Russell Street, Suite 113
Darlington SC. 29532

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SC Court of Appeals

RE: State vs. George Cousins

Dear Mr. Jones

Enclosed please find a copy of the 911 call and paperwork for the above referenced case that I spoke with you about on the phone

If any item are missing please let me know. If I do not hear from you immediately I will assume that all discovery was recieved is legible and is intact please feel free to contact me at (803) 734-3685 with any question or concerns

Sincerely

Kelly W. Hall

Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

Telephone (803) 734-3685

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George Cousins #350972

Perry C.I.

430 DAKLAWN Rd

Q4 B-121

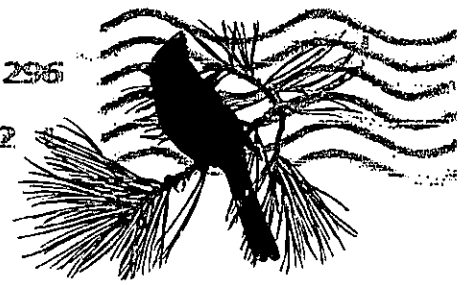
Pelzer, S.C. 29669

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29 MAR 2024 PM 2



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