

State of South Carolina
In the Supreme Court

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S.C. SUPREME COURT

Certiorari to Hampton County
Honorable G.D. Morgan Jr., Circuit Court Judge

Maurice Demon Mitchell,
Petitioner

v.

South Carolina
Respondent

Appellate Case No. 2024-000044

Table of the following cases

U.S. v. Abdi, 142, f.3d. 506

Michigan v. Jackson 475, U.S. 625,

Alvarez v. Gomez, 185, f.3d, 995

Escobedo v. State of Illinois, 678, U.S. 480,

Miranda v. Arizona, 384, U.S. 436

Edwards v. Arizona 384, U.S.

U.S. v. Lozada-Rivera 177 f.3d 98

Statement of the issue

Did trial Judge erred in admitting ~~it~~ evidence a incriminating Custodial statement that was taken under a violation of the constitution Amendment which deprived ~~the~~ defendant of a fair trial...

Argument

Trial Counsel was Ineffective for admitting evidence (Courts Exhibits) that's insufficient to trial courts in a Criminal trial.

The jury found petitioner guilty of the fatal shooting and beating of Eddie Mole on October 28, 2015. Shelleveese and Rodney Stokes lived in the apartment next door to the deceased. (App. p. 34, line 21 - p. 35, lines 1-3; p. 45, lines 1-5). On the day of the Incident the Stokes saw a man with a gun standing over the deceased. (App. p. 35, line 19 - p. 36, lines 1-25; p. 45 lines 16-24). Shelleveese Stokes testified that the man she saw standing the deceased also lived in the apartment complex. (App. p. 36, 6-17). The Stokes called 911 and officers with the Hampton Police Department arrived at the apartment complex. (App. p. 37, lines 13-16; p. 20, lines 15 - p. 21, lines 1-21). Sergeant Rhett Long with the Hampton Police Department saw a suspect run into the woods. (App. p. 56, line 14 - p. 57, lines 1-7). A gun was recovered near the woods. (App. pp. 140-141). The Stokes identified Petitioner as the man they saw standing over the deceased. (App. p. 40, lines 2-21; p. 48, line 6 - p. 49, lines 1-25).

At trial the following evidence was admitted into evidence (App. p. 28-23 lines 24-35. p. 23 lines 1-13) during Neil v. Biggers direct examination with Sgt. Rhett Long. without objections from defense counsel. Courts exhibits 6 (Six), 7 (Seven), 8 (Eight), 9 (Nine). Defense counsel failed to object during Neil v. Biggers Hearing that witness failed to identify defendant in court after the hearing with Solicitor Stone. (App. p. 49 line 24-25 p. 53 - lines 1-20, that defendant didn't have on a red tie in court during Neil v. Biggers. Defense counsel should have pursue the admission of evidence of the photographic lineup against Solicitor Stone that photo-lineup was centered and unduly suggestive. defendant

was prejudiced from trial counsel failure to call for a misidentification ~~and~~ and the deprivation of the assistance of counsel under the six amendment

In this pro-se brief I'm alleging that court exhibits, one, two three, four, five, and the interview tape are taken under constitution violation from a custodial Interrogation, the miranda form, statements, collection of blood form, Oral Collection for DNA, Clothing collection and a photo lineup when witnesses came to identify at a show-up police station which I asked for a attorney and was denied a opportunity to have attorney present, under *Miranda v. Arizona* 384, US 436, 16, LEd, 2d, 694, 86 Sct. (1002), the court deals with the admissibility of statements obtained from an individual who is subject to custodial police interrogation and the necessity for procedures which assure that the individual is accorded his privilege under the fifth amendment to the constitution not to be compelled to incriminate himself. And there holding briefly stated it is this the prosecutor/prosecution may not use statements whether exculpatory or inculpatory, stemming from custodial interrogation and that I have a right to the present of an attorney either retained or appointed, *Miranda v. Arizona* 384 US 436, 16 LEd, 2d 694 86. Sct 1002, and *Alvarez v. Goma* 185 F.3d. 995 (ca 9 1999) alvarez contends that he invoked his right to counsel at the beginning of the recorded interview and that the admission of his recorded statements against him at trial therefore violated his right under *Miranda v. Arizona* 384 US 436 Sct 1002, 16 L.Ed 694, under miranda a person in custody must be informed before interrogation that he has a right to remain silent and to have a lawyer present, If a suspect requests counsel at any time during the interview he is not subject to further questioning until a lawyer has been made available or the suspect himself reinitiate conversation *Davis v. U.S.* 800 F.2d 1528, 1529, consequently the recorded statements taken subsequent to his invocation of his right to counsel should have been suppressed under *Edwards* 451 U.S. 477 101 Sct 1880 and federal courts quoted that the supreme court granted certiorari to consider whether prosecution

use at trial of evidence of petitioner's own incriminating statements
deprived him of any rights secured to him under federal constitutions
five and six for criminal matters, U.S. v. Lozada-Rivera 177 F.3d 98,
Massiah v. U.S. 377, U.S.

Conclusion

The foregoing facts to the above issues that the conviction and sentences should be reversed and remanded for a new trial, simply that the gunshot wound was not the case, but it appeared to be from Solicitor Stone questioning to Dr. Lee Marie Tormos. (App. p. 349-350 lines 22-25 and 1-6 and the Judges comments after the jury Verdict. (App. p. 397 lines 1-4) Stating that I certainly hope you feel better in the future as you think about the process where the Government ^{has} has accused somebody of committing a crime, and in this case, a terrible crime, the worse we have.)

The evidence is insufficient to sustain a conviction for Murder to wit: Shooting and/or striking him with a firearm Indictment 2016GS2500229 that the PCR judge erred in refusing to find trial counsel ineffective for failing to request a hearing and challenge the reliability of the experts opinion that a particular bullet was fired by a particular firearm

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