

State of South Carolina
County of Lexington

Nathaniel A. Hunter # 372378
Pro, se Petitioner

v.

The State of South Carolina
Respondent

Supreme Court of
South Carolina

Appellate case No:
2023-001611

Motion for Discovery
and
Funding

This matter comes before the Supreme Court of South Carolina by way of Petitioner Pro, se, Response to Counsel Ashley Memmaham's Johnson Petition. Counsel Memmaham filed a motion for discovery pursuant to S.C. Code ANN. 17-27-150 (A), seeking to obtain a complete copy of the discovery provided by the Solicitor's office to Petitioner trial Counsel.

Specifically, Ms. Memmaham referenced her need to access or obtain copies of the DNA evidence that the State's expert testified about at trial.

For good cause shown, the Court of Common Pleas found that Petitioner shall be allowed to issue written requests and/or issue subpoenas to the appropriate people, offices or agencies for the production of the above materials pursuant to S.C. Code ANN. 17-27-150 (A). Additionally, Ms. Memmaham requested funding to retain the services of an expert on touch DNA.

She indicated she consulted with Dr. Robert Bennett, a forensic scientist in Charleston.

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Dr. Bennett's retainer fee is \$ 2500.. For good cause shown and pursuant to S.C. Code ANN. 17-27-150 (A), the Court of Common Pleas authorized the Commission on Indigent Defense to pay an amount of up to \$7,000 towards the payment of DNA expert costs of Dr. Bennett. Ms. Memahan did not hire Dr. Bennett to testify on Pro SE, Petitioner's behalf in his Post-Conviction -Relief hearing.

Counsel Memahan indicated to Pro SE, Petitioner that she did not hire Dr. Bennett because he would only testify to the same testimony the state's expert testified to. Pro SE, Petitioner consulted with Dr. Bennett and has discovered that Ms. Memahan was dishonest with Pro SE, Petitioner when she told Petitioner what Dr. Bennett, he informed Petitioner's that he is willing to do an affidavit on Petitioner's behalf.

Dr. Bennett indicated that he needs the quantity of Touch-DNA in Item. 3.1 which is the cap inside the bag with hoodie, in order to prepare the affidavit.

The affidavit will be in support of (4) four issues that Pro SE Petitioner is raising in his Pro SE, Response to Ms. Memahan's Johnson petition. Ms. Memahan's failure to offer the testimony of Dr. Bennett was highly prejudicial, based upon the fact that Petitioner's Touch-DNA on the cap was the "key" piece of evidence used to arrest, indict and convict Petitioner.

The Supreme Court of South Carolina has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing.

in order to establish prejudice from the witness failure to testify at trial. Petitioner suffered greatly from Counsel Memorandum failure to offer the expert testimony of Dr. Bennett at Petitioner's PCE hearing.

Pro se, Petitioner is Respectfully Requesting this Court to grant funding for the services of Dr. Bennett affidavit in support of Pro se, Petitioner's meritorious claims that he is raising in his response to Counsel Memorandum Johnson's Petition.

Petitioner has already requested the quantity of DNA in Item 3.1 the cap in the bag with hoodie from Sled, but Sled Refuses to provide Pro se, Petitioner with the evidence.

Pro se, Petitioner Respectfully Requests this Court for Petitioner to be allowed access to obtain the quantity of Touch-DNA in item 3.1 the cap in bag with hoodie.

Petitioner never received this evidence from the prosecution, this evidence was not in Petitioner's discovery prior to Petitioner's trial and Petitioner never reviewed it.

Dr. Bennett indicated that the fee for the affidavit is between \$800-\$1000. To ensure that my Fourteenth Amendment Right to Due Process under the Constitution of the United States is protected I Respectfully Request that this Court grants Pro se, Petitioner's motion for Discovery and Funding.

Lastly, Dr. Robert Bennett's affidavit will be in accordance with the South Carolina Rules of Evidence

Rule 702. Testimony by Experts, stating: "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify there to in the form of an opinion or otherwise."

If counsel memorandum would have offered the testimony of Dr. Robert Bennett on Petitioner's behalf at the PCR hearing there is a reasonable probability petitioner would have been granted relief in his PCR application.

Conclusion

Based on the foregoing PRO SE, Petitioner respectfully request this Court to grant Petitioner's motion for Discovery and Funding.