

State of south carolina
IN The court of Appeals

RECEIVED

NOV 13 2024

SC Court of Appeals

APPEAL FROM GRANVILLE COUNTY
HONORABLE KRISTI F. CURTIS COURT JUDGE

The State

Respondent

v.

Brian Keith Nesbitt,

Appellant

Appellate case NO. 2023-201831

Pro-se Anders Brief of Appellant

exhibits 4

Brian Keith Nesbitt # 201166

Perry Correctional Institution
430 Oaklawn Road

Pelzer, S.C. 29669

Table of contents i
Table of **Auth**orities ii
Statement of ISSUE on Appeal 1
Statement of the case

Standard of Review 3

ARGUMENT

Appellant was forced to Pro-se representation the mental situation was not sufficient to law, co-counsel did not assist during trial, the Plea was not given knowingly, willingly, or voluntarily in this case, because he was not aware of the Dangers of Pro-se representation or of all the rights he was waiving upon Pleading guilty to the offense and charge against him that co-counsel told him that he would only receive 10 years. And the false statements at the guilty fase that he made.

Statement of Issue on Appeal

Appellant was not sufficiently aware of dangers of self-representation to make informed decision to proceed pro se, where Appellant exhibited little understanding of criminal proceeding.

Evidence at trial proceeding did not show or demonstrate that Petitioner was sufficiently aware of the dangers of self-representation to make an informed decision to proceed or make an informed decision to proceed Pro-se

The witness had made a prior inconsistent statement.

Defendant's waiver of right to counsel at trial was not knowing and voluntary where the Appellant was not warned of the dangers inherent in self-representation and there was no evidence that he was otherwise aware of hazards of proceeding pro-se or the disadvantage of proceeding Pro-se

Indictment of a weapon during the
commission of a violent crime §16-23-490
was dismissed at the beginning of the trial
that should have changed the Charges
Appellant did not receive 18 U.S.C.A.
§3432 indictment and list of Jurors
And witnesses for Appellant in
Capital Case.

This was such an extreme departure
from Professional Standard that
violated due Process.

out of court statement was not admissi-
ble under exception for statements against
penal interest.

This was, unjust, unconstitutional, and
erroneous conviction.

Table of Authorities

Cases

Farett v. California, 422 U.S. 806, 95 S.Ct. 2525

United States v. Sterling, 99 F.4th 783. U.S. Amend 6

United States v. Pemberton, 94. 4th 1130

United States v. Underwood, 88 f, 4th 705

Ramirez v. State 419 S.C. 14

Lee v. State, 396 S.C. 314 U.S.C.A. Const. Amend. 6

Matthews v. State, 358 S.C. 456 U.S.C.A. Const. Amend. 6

State v. White 364 S.C. 143 Code 1976 § 44-23-410

State v. Evans 309 S.C. 471 Code 1976 § 44-23-410

Miranda v. Arizona, 384 U.S.

Caballero v. Miller F. Supp. 3d

Bridwell v. State 413 S.E.2d. 30 (S.C. 1992)

Stevenson v. State, 522 S.E.2d 343..... (S.C. 1999)

Salley v. State 410 S.E.2d. 921 (S.C. 1991)

Prince v. State, 392 S.E.2d. 462..... (S.C. 1990)

Brady v. Maryland.

Simpson v. Moore, 627 S.E.2d. 701 (S.C. 2006)

Watts v. State, 556 S.E.2d 368 (S.C. 2001)

Statement of the case

Compel discovery of Appellant's oral statement that presented knowingly false or mis leading testimony that

with respect to impeaching the testimony. Appellant Brian Keith Nesbitt had a trial during the November/October 13, 2023 Greenville County General Sessions court before Judge Kristi J. Curtis.
Miranda warnings must be given

when the defendant is (1) in custody and (2) being interrogated. Miranda warnings must be given when a suspect is in custody and under interrogation. Defendant during incommunicado interrogation in Police dominated atmosphere without full warning of constitutional rights, were inadmissible having been obtained in violation of Fifth Amendment Privilege against self-incrimination.

Miranda v. Arizona

Appellant was sentenced to imprisonment for a period of twenty-two years.

And the Charge of Indictments and Enabling Appellant to prepare for Trial and call witnesses.

There was no notice of going to trial in this case. motion to Relieve co-counsel at Pre-trial Brady violation and

hearsay testimony inadmissible. trial started on November 13-14 2023 and asserting that he had been denied the effective assistance of counsel in violation of the Sixth Amendment to the United States Constitution made applicable by the States by the Fourteenth. The Supreme Court has held that

where defense counsel in a criminal case labors under an actual conflict of interest a conviction of his client can not stand.
inconsistent statements of witness

And also a Potential ethical Problem and violation of Professional conduct that is a violation of applicable rule of judicial conduct or other law.

establishes substantial grounds for believing that he has been a victim of manifest injustice or miscarriage of justice.

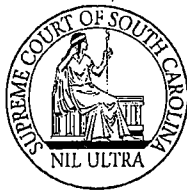
conclusion.....

Appellant Ask that court can be reviewed.....

And ask that this honorable Court of Appeals Please Authenticate these records.

B/ Brink result # 201166

Tamara Conwell 11/6/2024



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

John S. Nichols
Disciplinary Counsel

Carey Taylor Markel
Deputy Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Fax: (803) 734-1964

January 31, 2022

PERSONAL AND CONFIDENTIAL

Brian Keith Nesbitt #076036
Greenville County Detention Center
20 McGee Street
Greenville, SC 29601

Re: Judge: Circuit Court Judge Edward W. Miller
South Carolina Circuit Court, At Large
Matter Number: 22-DE-J-0025

Dear Mr. Nesbitt:

We have received and reviewed your complaint about Circuit Court Judge Edward W. Miller. The authority of this office and the jurisdiction of the Commission on Judicial Conduct concerning complaints against judges are limited to issues of whether a judge has committed misconduct or is incapacitated within the guidelines of the Rules for Judicial Disciplinary Enforcement, Rule 502, SCACR, adopted by the Supreme Court of South Carolina.

These rules do not apply to questions about whether or not the outcome of a case handled by a judge was fair. We do not have authority to intervene in any matter presently pending before a court or to change the outcome of the decision of a court. These are legal matters which must be addressed by you to the court or raised by you on appeal using the appropriate appellate procedures.

In addition, we do not seek to get a judge to do something a person wants done. We cannot give advice about your case or the legal system in general. This is not a place for an individual to seek relief, but a place where institutional values are promoted for the good of everyone who has dealings with our legal system.

Brian Keith Nesbitt
January 31, 2022
Page Two

The information in your complaint involves legal matters that would not constitute misconduct or incapacity under these rules even if true and, as such, are outside the jurisdiction of this office and the Commission on Judicial Conduct. For this reason, your complaint is dismissed pursuant to the provisions of Rule 19(a) of the Rules for Judicial Disciplinary Enforcement.

Sincerely,

Isl Carey Taylor Markel
Carey Taylor Markel

CTM/ags



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

William M. Blich, Jr.
Disciplinary Counsel

Kristina Jones Catoe
Assistant Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Fax: (803) 734-1964

November 7, 2023

PERSONAL & CONFIDENTIAL

Brian Keith Nesbitt #0920
~~Greenville County Detention Center~~
20 McGee Street
Greenville, SC 29601

RE: Lawyer: Rodney Wade Richey, Esquire
File Number: 23-DE-L-1705

Dear Mr. Nesbitt:

We have received your complaint against Rodney Wade Richey, Esquire. We will conduct an investigation into the matters you have reported. You will not necessarily be contacted prior to a decision regarding your complaint; therefore, if you have any additional information or documentation to support your allegations, you should submit it at this time.

The authority of this office and the jurisdiction of the Commission on Lawyer Conduct are limited to issues of whether a lawyer is subject to discipline pursuant to the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR. Where misconduct is found, the disposition might include a confidential letter of caution or admonition, a public reprimand, suspension, or disbarment. If our investigation does not reveal evidence of lawyer misconduct, your complaint will be dismissed.

We take this opportunity to advise you of the limited role of this office and the Commission so that you will be aware that we cannot provide you with legal assistance or advice. You should promptly seek assistance or advice that you might need from legal counsel or other sources. If you do not have an attorney and believe that you need one, you should contact the South Carolina Bar Lawyer Referral Service at 1(800) 868-2284.

You will be notified of the final disposition of your complaint. It is often many months after receipt of a complaint before a final decision is made.

Sincerely,

Kristina Jones Catoe

KJC/clg

RECEIVED

NOV 13 2024

SC Court of Appeals

The State of South Carolina
In the Court of Appeals
Appeal From Greenville County
Court of General Sessions
Honorable, KRISTI F. CURTIS

The State of South Carolina

vs.

Brian Keith Nesbitt,

Respondent,

Appellant.

Affidavit of Service

I Certify that I have served Pro-se Anders
Brief of Appellant in the State of South Carolina
by depositing copy of it in the United States mail
Postage Prepaid, on November 6, 2024 addressed
to, The honorable Jenny Abbott Kitchings
Clerk of Court of Appeals Post Office Box 11629
Columbia SC. 29211

/s/ Brian Keith Nesbitt #20166

Brian Keith Nesbitt #20166

Dated November 6, 2024

Brian Keith Nesbitt #201166
Q3B216 Perry Correctional Institution
430 Oaklawn Road
Pelzer S.C. 29669



US POSTAGE TM PITNEY BOWES



ZIP 29210 \$ 001.25⁰
02 4W
0000378725 NOV. 08. 2024

RECEIVED

NOV 13 2024

SC Court of Appeals

RECEIVED

NOV 06 2024

PCI MAILROOM

The honorable Jenny Abbott
Kitchings,
Clerk of Court
The Court of Appeals
Post office Box 11629
Columbia, SC. 29211

SCDC

NOV 14 2024

COMMISSARY