

Date: 12/24/2024

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DEC 30 2024  
SC Court of Appeals

South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

Re: South Carolina v. Kwame McKnight  
Appellate Case No. 2024-002040

To: The South Carolina Court of Appeals,

Subject: Appeal Regarding Prosecutorial Misconduct, Ineffective Assistance of Counsel, and  
Misclassification of Charges in case No. 2023-GS-32-02942, 2023-GS-32-02939, 2023-GS-32-  
02937, 2023-GS-32-02938

I, Kwame McKnight, am writing to appeal my conviction in the case of The State of South Carolina v.  
Kwame McKnight; Case Number 2023-GS-32-02942, 2023-GS-32-02939, 2023-GS-32-02937,  
2023-GS-32-02938 based on the grounds of Prosecutorial Misconduct by Deputy Solicitor Suzanne  
Mayes, Ineffective Assistance of Counsel provided by my defense attorneys, Rose Mary Parham and  
Shipp Daniel, and Misclassification of Charges in my case.

I am writing to formally appeal my plea conviction in the above-referenced case. I believe that my plea  
was influenced by prosecutorial misconduct, which violated my right to a fair trial and due process  
under the Fourteenth Amendment. I believe that my attorneys did not act in my best interest and  
failed to provide effective assistance, and violated my Sixth Amendment right to effective legal representa-  
tion, which significantly impacted the outcome of my case. I believe that the plea was not appropriate  
given the circumstances of my case, which should have been considered as a domestic dispute rather  
than attempted murder. I respectfully request that the court reconsider my conviction based on the  
following grounds:

Prosecutorial Misconduct: The prosecutor presented false evidence during the plea hearing, which  
significantly influenced my decision to accept the plea. This misconduct undermined the integrity of  
the judicial process and violated my constitutional rights. The prosecutor presented false and misleading  
evidence to the Honorable Walton McLeod and another judge who was shadowing him on the bench. This  
included body camera videos, photographs, and a body silhouette depicting 8 gunshot wounds to Britney  
Robinson, which I had never seen prior to the plea hearing on 11/12/2024. The prosecutor reported Britney  
Robinson was shot 7 times in her right upper torso and 1 time in her right buttock. Britney reported she  
only had 1 entry wound to her right shoulder and not seven. The prosecutor made false state-  
ments without evidence to support a new narrative of the case, charging me with more offenses  
than warranted. This misconduct violated my right to a fair trial and due process under the  
Fourteenth Amendment.

The Prosecutor violated my civil rights by presenting false evidence in my plea hearing:  
1. Fourteenth Amendment: The Fourteenth Amendment protects against being subjected to criminal charges  
based on false evidence that was deliberately fabricated by the government. This is fundamental due process  
right (*Devereaux v. Abbey*, 263 F.3d 107, 1074-75 [9th Cir. 2001] [en banc]). At 1076, can raise the  
inference that the investigator has an "unlawful motivation" to frame an innocent person.  
2. Brady v. Maryland: In this landmark case, the Supreme Court ruled that the government has a duty to disclose

favorable to the accused violated due process, regardless of the prosecution's good or bad faith. This includes both direct evidence and impeachment evidence that is favorable to the defendant.

3. Napue v. Illinois: The Supreme Court reiterated that a conviction obtained through the use of false testimony known to be such by representatives of the State, is a denial of due process. The State must correct false evidence when it appears.

4. Spencer v. Krause: In this case, the Ninth Circuit held that deliberate fabrication of evidence by a State official violates the Fourteenth Amendment. The court emphasized that deliberate fabrication can be established by direct or circumstantial evidence.

I believe my civil rights were violated due to the presentation of false evidence, 42 U.S.C. 1983. In South Carolina, presenting false evidence by a prosecutor is considered prosecutorial misconduct and is prohibited by law. Specifically, South Carolina Code Section 23-23-150 outlines various forms of misconduct, including making false, misleading, incomplete, deceitful, or incorrect statements to any court of competent jurisdiction. This applies to all stages of the legal process, including plea hearings.

Additionally, the ethical standards for prosecutors, as outlined by the American Bar Association and other legal bodies, prohibit the presentation of false evidence. Violations can result in disciplinary actions against the prosecutor and can be grounds for overturning a conviction or plea agreement (Spencer v. Krause).

South Carolina Law: Judges must ensure that all evidence presented in court is truthful and accurate. If false evidence is discovered, it can be considered prosecutorial misconduct, which can lead to a reversal of the judgement. The South Carolina Code of Judicial Conduct requires judges to uphold the integrity and independence of the judiciary and to avoid impropriety and the appearance of impropriety in all activities.

Federal Rules of Evidence: Rule 103 of the Federal Rules of Evidence allows a party to claim error in a ruling to admit or exclude evidence if the error affects a substantial right of the party. This rule helps ensure that false evidence does not influence the outcome of a trial.

Ineffective Assistance of Counsel: My attorneys failed to adequately investigate the facts of my case and did not review the discovery evidence before advising me to enter an Alford Plea. They failed to explain the Alford Plea, calling it a "Mercy of the Court" plea, and did not inform me of the potential consequences, including the possibility of a stiffer sentence than a guilty plea. They pressured me to accept the plea by stating that I would receive 60 years due to unfairly high sentencing in Lexington County. This lack of preparation and failure to provide competent legal advice significantly impacted my decision to accept the plea. My attorneys believed I was guilty and did not work to find legal arguments and mitigating factors to present to the court. They failed to investigate the facts of my case, review discovery evidence, and provide competent legal advice. My attorneys did not act in my best interest by neglecting to explore all possible defenses and mitigating factors. They did not adequately communicate with me or consider my perspective, leading to a plea agreement that was not in line with the true nature of the incident. My attorneys failed to prepare a defense in my case, did not investigate leads, and did not interview any witnesses. They did not request or review CSI digital photographs, videos, or body camera footage from the crime scene on 5/11/2022 and 5/12/2022. This lack of preparation and advocacy deprived me of a fair plea process.

Failure to Provide Discovery Evidence: My attorneys did not provide me with or allow me to review copies of all discovery evidence, including videos, body camera footage, digital photographs, medical reports (victims), ballistics report, and DNA evidence. They failed to submit a motion to compel evidence from the solicitor's office, despite my repeated requests.

Pressure to Accept Plea: On 9/16/2024, I was scheduled for a jury trial and ready to go to court. My attorney, Shipp Daniel (last time seeing me knowing) visited me for the first time to tell me my only option was to take a plea. Despite my insistence on a jury trial and my need to see the discovery on 11/12/2024 before the plea hearing, he only showed me a partial forensic ballistics report (page 1)

and claimed he had internet issues and could not show me anything else. I was not given enough time to consider the plea offer and was pressured to accept it against my wishes.

New Evidence: On 11/14/2022, I learned from my sisters that the Sled Forensic Ballistics report did include a 9mm projectile found at the crime scene on 5/11/2022, which did not belong to either of my registered firearms. This evidence supported my claim that there was another shooter at the scene. My attorneys failed to investigate this lead and did not provide me with this crucial information.

Misclassification of Charges: The charges against me were misclassified, and my attorneys did not challenge this misclassification. The incident should have been considered as a domestic dispute rather than attempted murder, which led to an unjust plea agreement and an inappropriate sentence.

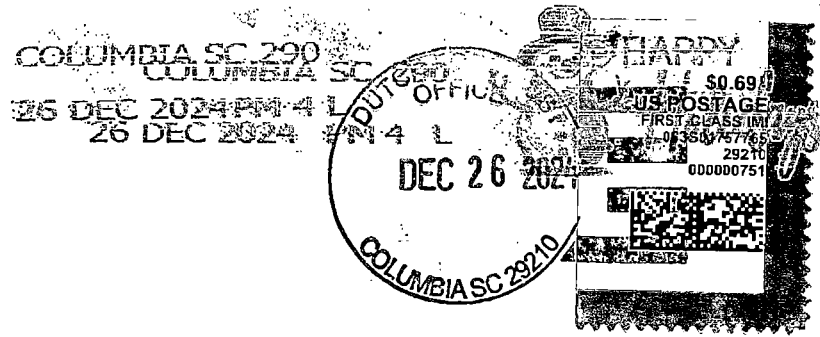
Given these grounds, I believe that my plea conviction should be overturned, and I should be granted a new trial where the true nature of the incident can be properly considered. I am confident that a fair and thorough review of my case will demonstrate that the plea was not entered voluntarily or knowingly, and that my rights were violated during the process.

Thank you for your attention to this matter. I look forward to your prompt response and the opportunity to present my case in a fair and just manner.

Sincerely,

Kimene McEnight  
12/24/2024

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