

IN THE SUPREME COURT
of

SOUTH CAROLINA

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S.C. SUPREME COURT

CASE No. 2024-001948

LORENZO B. YOUNG
PETITIONER

v.

STATE of SOUTH CAROLINA

RESPONDENT

PRO SE, RESPONSE
AND OBJECTIONS TO
APPOINTED COUNSEL'S
MOTION TO BE RE-
LIEVED / JOHNSON
PETITION.

Introduction.

I LORENZO BERNARD YOUNG,
RESPECTFULLY submit this PROSE
RESPONSE AND OBJECTIONS to
the JOHNSON PETITION filed by former
POST-CONVICTION-RELIEF APPELLATE COUNSEL.

I STRONGLY DISAGREE with former
COUNSEL'S ASSERTION that my
APPEAL lacks MERIT.

THE CONVICTION IN MY CASE WAS OBTAINED UNDER CIRCUMSTANCES THAT VIOLATED MY CONSTITUTIONAL RIGHTS AT MULTIPLE LEVELS, AND MY POST-CONVICTION-RELIEF HEARING WAS FUNDAMENTALLY UNFAIR.

ACCORDING TO THIS CASE, THE SOUTH CAROLINA COURT OF APPEALS RECOGNIZED THAT THE TRIAL JUDGE ERRED BY ADMITTING A NON-TESTIFYING CO-DEFENDANT'S STATEMENT IMPLICATING ME.

DESPITE THIS ERROR THE COURT UPHOLD MY CONVICTION CLAIMING THERE WAS "OVERWHELMING EVIDENCE".

THIS ASSERTION IS ABSOLUTELY FALSE. THE EVIDENCE PRESENTED WAS CIRCUMSTANTIAL AND INCONSISTENT, INCONSISTENT AS OF HAVING THIS CASE TO BE UNABLE TO SETTLE ON

just one explanation of events that supposedly really happened in this case, as well as, not being able to raise any facts of the matter of real guilt, and in some instances outright false.

No witness in this case directly observed me committing the crime or any crime, and in this case a "Kelly Alibi" witnesses were ignored.

The cumulative effect of the trial errors are Prosecutorial misconduct, Ineffective Assistance of Counsel and PCR deficiency denied me a fair trial and violated my rights under the Fifth, sixth and Fourteenth Amendments to the U.S. Constitution, as well as, the South Carolina Constitution Article 1, §3, 14, 22.

Arguments due to Allegations
of
INEFFECTIVE ASSISTANCE of COUNSEL.

INEFFECTIVE ASSISTANCE of COUNSEL
Sixth Amendment - STRICKLAND v.
WASHINGTON 466 U.S. 668 (1984)

My trial counsel's REPRESENTATION
was constitutionally deficient
in multiple ways. Each of
which individually and cumulative-
ly prejudice my defense.

FAILURE TO INVESTIGATE ALIBI WITNESSES.

In July of 2013, After my ARREST I was Appointed my first Attorney Courtney Gibbs of the public defender office. I provided her with (3) NAMES AND LOCATIONS of Alibi witnesses who would and could testify that I left with a female at different intervals directly contradicting the states time line.

At the time Attorney Gibbs stated that she did not have a motion of discovery, but she will definitely look into my Alibi defense and retain a private investigator to investigate.

Six months later I was introduced to Attorney Mr. Keyzton. who informed me that he was my NEW Attorney and that Attorney Courtney Gibbs would no longer be handling my case, because it was now transferred to him.

At that time in January of 2014, I immediately informed Attorney Keyzton that I told Attorney Gibbs about my Alibi defense AND SHE AGREED STATING THAT SHE WOULD CHECK INTO IT AND COULD HE FOLLOW UP WITH THE PROGRESS AND A INDIVIDUAL INVESTIGATION OF HIS OWN. HE STATED THAT HE WILL.

Months passed by AND ON SEPTEMBER OF 2014, I MET WITH ATTORNEY KEYZTON AGAIN INSTRUCTING HIM TO LOOK INTO AND INVESTIGATE MY ALIBI WITNESSES. HOWEVER, ATTORNEY KEYZTON BEGAN INFORMING ME ON HIS STRATEGY THAT HE HAD PLAN TO GO ALONG WITH IN MY DEFENSE, WHICH WAS, NO DEFENSE AT ALL. ONLY TO CHALLENGE THE STATES EVIDENCE WITH CROSS EXAMINATION AT TRIAL. ATTORNEY KEYZTON ALSO ADMITTED THIS IN HIS TESTIMONY AT THE POST-CONVICTION-RELIEF HEARING.

CONTRARY to the United States Supreme Court case Wiggins v. Smith 539 US 510 (2003) MAKING it CLEAR to ATTORNEYS that STRATEGY must COME AFTER the INVESTIGATION, NOT INSTEAD of it.

ATTORNEY KRYZTON testified AT the P.C.R HEARING that HE WAS FULLY AWARE OF ATTORNEY Gibbs hiring A PRIVATE INVESTIGATOR to INVESTIGATE into my Alibi defense. HE SAID ON P.C.R HEARING HE GOT INVESTIGATIVE RETURNS FROM THE INVESTIGATOR ATTORNEY Gibbs hired IN 2014 OF October. HE STATED ON P.C.R HEARING THAT ATTORNEY Gibbs hired THE INVESTIGATOR to LOOK INTO my Alibi.

ATTORNEY KRYZTON ALSO testified THAT HE HAD RECEIVED ATTORNEY Gibbs NOTES. HAD HE TOOK THE TIME TO REVIEW THOSE NOTES HE WOULD HAVE KNOWN IN WHICH DIRECTION TO MAKE FOLLOW UPS, WHO TO CONTACT AS FOR WITNESSES AND TO WHAT EXTENT DID THE PRIVATE INVESTIGATOR, INVESTIGATE.

Ineffective Assistance of Counsel.

Failure to investigate and call Alibi witness.

This error shows counsel performance was deficient under Strickland v. Washington, when trial counsel abandoned a viable defense without first investigating that defense.

Trial counsel admitted at the PCR hearing that he did not pursue alibi because of states cell phone tower ping theory. He felt that "theory" was stronger than my "facts".

QUESTION PRESENTED

Did the circuit court err in holding that Appellant trial counsel was not ineffective in failing to investigate and present alibi witnesses?

Argument

Trial counsel was ineffective which prejudice me in that counsel admitted at the PCR evidentiary hearing the reasons he didn't contact any of my alibi witnesses was solely because of the states cell tower ping information

However, a cell phone tower is not an exact location, cell towers can cover a radius of one to ten miles in any direction.

Attorney Keyzton had a legal duty to consult with experts about cell phone tower data.

INSTEAD HE ABANDONED this duty due to his lack of understanding cell phone data.

Attorney Keyzton's explanation was simply, "I didn't use it (the Alibi witness defense) because the cell phone data didn't match," but this should not have been enough to justify Attorney Keyzton's decision.

He did not properly investigate or hire an expert to gather information about cell phone tower data, before abandoning the Alibi witness defense.

FAILURE TO INVESTIGATE OR OBTAIN A RELIABLE UNDERSTANDING OF HOW A CELL PHONE TOWER OPERATES.

Attorney Keyzton says that he neglected my alibi defense because it could supposedly be contradicted by cell phone tower data allegedly placing me on the scene of the crime.

Facts is, however, a cell phone tower does not give a specific location data, only a general area location.

Furthermore, my alibi witnesses live within this general area. Which would have explained why my cell phone was pinged in this nearby area. Again if Attorney Keyzton had done any substantial investigations he would have had no legal reasons to neglect my alibi defense.

In simple terms the victim cell phone could ping from a tower and Appellant could be as many as 10 miles away and his cell phone could also ping from the same tower.

Any competent counsel knows the importance of the investigating and had counsel investigated the cell tower ping information he would have discovered it did not disprove Appellants Alibi as he assumed.

Furthermore, had counsel investigated the cell tower information also known as (CSLI) cell site location information, he would have discovered while (CSLI) does not show exactly where someone's cell phone was

WAS AT DURING SPECIFIC TIME
IT CAN SHOW WHERE THE CELL
PHONE WAS NOT. SIMPLE TERMS IF A
PERSON SAYS THEY WERE IN A
SPECIFIC LOCATION AT A SPECIFIC
TIME THEN THEIR CELL PHONE WILL
PING OFF TOWERS IN THAT GENERAL
LOCATION; BUT IF THEY WERE NOT
IN THAT LOCATION AT THE SPECIFIC
TIME THERE WILL BE NO PINGS.

THEREFORE, TRIAL COUNSEL
PERFORMANCE WAS DEFICIENT IN
NOT ONLY FAILING TO INVESTIGATE THE
(CSLI) WHICH WOULD HAVE ESTABLISHED
APPELLANT WAS IN FACT IN A
GENERAL LOCATION, AND NOT THE
SCENE OF THE CRIME.

A DEFENSE BASED ON THE physical impossibility of a defendant's guilt by placing the defendant in a location other than the scene of the crime at the relevant time.

TRIAL COUNSEL BASED HIS decision not to investigate APPELLANT'S DEFENSE of alibi on his misunderstanding of prosecution supposed evidence which courts have stated is not objectively REASONABLE for TRIAL COUNSEL to base their trial strategy on unfounded assumptions of what might happen at trial, SEE ROSEBORO V. STATE 317 SC 292 (1995).

NONE OF ATTORNEY KRIZTONS DECISIONS WERE REASONABLE UNDER THE CIRCUMSTANCES.

THIS ERROR ALONG WITH THE OTHERS ALL STRONGLY SUPPORT AND SUGGEST MERITORIOUS ISSUES DESERVING THE ATTENTION OF BOTH THIS COURT AND A COMPETENT ATTORNEY REPRESENTATION.

FAILING TO INVESTIGATE OR CALL ANY OF THE ALIBI WITNESSES TO TESTIFY DURING TRIAL, WAS A VERY UNPROFESSIONAL DECISION AND PREJUDICE, BECAUSE THOSE ALIBI WITNESSES TESTIMONY, ALONG WITH AN EXPERT CELL PHONE TOWER DATA ANALYST, WOULD HAVE PROVED THAT I AM INNOCENT.

Counsel's failure to further investigate has prejudiced me depriving me of the only defense that would have created reasonable doubt.

The jury would have learned key witnesses was lying, DNA was non-probative and that all physical evidence was circumstantial.

Multiple alibi witnesses were available and were never interviewed or subpoenaed despite being mentioned in police interviews and testimony of alleged co-defendant at trial.

FURTHERMORE Alibi witnesses had just contacted me concerning the Alibi. Stating that they would be present and willing to testify at my EVIDENTIARY HEARING; but WAS NEVER CONTACTED EVEN though the Locations were giving to all Attorneys involved Mrs. Gibbs, Mr. Keyzton and PCR Counsel.

I Attempted to fire the PCR lawyer for not calling my Alibi witnesses to testify during the hearing, EVEN AFTER I told the Attorney to do so, thereby, becoming ineffective himself.

DUE TO THESE REASONS
OF INEFFECTIVE ASSISTANCE OF
COUNSEL. PCR COURT CONCLUSION
ON EVIDENCE WAS OVERWHELMING
IS THEREFORE CLEARLY ERRONEOUS.
THE SUPPOSED STRENGTH OF
THE STATES CASE EXISTED ONLY
BECAUSE DEFENSE LAWYER
FAILED TO EXPOSE WEAKNESSES.

I AM RESPECTFULLY ASKING
FOR AN EXTENSION OF TIME 45
DAYS TO PRESENT ALIBI WITNESSES
SWORN AFFIDAVITS, FOR THE PURPOSE
OF ME PRESENTING THEM AT THIS
HEARING.

THESE AFFIDAVITS AND STATE-
MENTS OF ALIBI WITNESSES ARE
ESSENTIAL TO MY CASE.

TITLE § 17-23-60. Which reads
in pertinent part EVERY PERSON
ACCUSED shall at his TRIAL be
Allowed to be heard by Counsel,
may defend himself AND HAVE
A Right to produce WITNESSES
AND PROOFS in his favor AND to
MEET the WITNESSES produced
Against him FACE TO FACE.

Testimony from PCR transcript pg. 2036 states Attorney Keyzton got the case in 2014.

Testimony from PCR transcript pg. 2035 states Attorney Keyzton saying anything Attorney Gibbs had would've come to him.

Instead, however, Attorney Keyzton makes a contradictory statement allegedly hearing it from me September 2014 weeks before trial.

Attorney Keyzton's testimony at P.C.R. suggests lack of investigation or memory, not a reasoned strategic choice.

After a reasonable investigation or at least an informed understanding of the facts.

Attorney Keyzton's failure to investigate and present these witnesses deprived me of my constitutional rights to present a complete defense violating sixth and fourteenth Amendments, citing as authority, Chambers v. Mississippi, 410 U.S. 284 (1973).

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