

STATE OF SOUTH CAROLINA, IN THE COURT OF COMMON PLEAS

2010-CP-27-0414

ABRAHAM KELTY, #321472

APPLICANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

RECEIVED

MAR 12 2014

S.C. SUPREME COURT

I ABRAHAM KELTY WOULD LIKE TO SUBMIT THE FOLLOWING, IN RESPONSE TO SUPREME COURT OF SOUTH CAROLINA LETTER DATED FEBRUARY, 4 2014. APPELLATE CASE NO. 2012-001113

LEAMON V. STATE, 363 SC, 432, 434, 611 SE 2d 494, 495 (2005) PCR Judge must ASSUME FACTS PRESENTED BY THE APPLICANT ARE TRUE AND VIEW THOSE FACTS IN THE LIGHT MOST FAVORABLE TO THE APPLICANT.

PG. 15 LINES 22-25 MR. RUFFALO STATES I WAS ON ZOLOFT FOR A WEEK OR TWO. My V. A. MEDICAL RECORDS SHOULD SHOW I GOT ON ZOLOFT SOMETIME DURING 2002 AND WAS STILL ON IT AT THE TIME OF MY ARREST.

PG. 16 LINES 12-22 MR RUFFALO STATES THERE WAS VERY LITTLE HE HAD TO DEFEND ME WITH AT A TRIAL. THE TAPE THAT HE SPOKE OF SHOWING ME ROBBING THE STORE, ACTUALLY IT SHOWS ME GOING INTO THE STORE BUYING SOME BAND-AID, THEN PAYING FOR THE BAND-AID, WITH BOTH OF MY HANDS BEING IN FULL VIEW OF THE CAMERA. GETTING MY CHANGE PICKING UP THE ITEM AND LEAVING THE STORE. THERE WAS NEVER A GUN SHOWN IN THE VIDEO, NO SCARED CLERK, IT APPEARS WE WERE TALKING THE WHOLE TIME.

THE CLERK STATEMENT SAYS I HAD A GUN. THE CLERK ALSO STATED I STOOD ABOUT 5'10" OR TALLER. CAPT. WHITE THE ARRESTING OFFICER (WHO WAS FORCED TO RESIGNED BEFORE MY PLEA WAS ENTERED) MADE A STATEMENT AT THE PRELIMINARY HEARING THERE WAS NO GUN, SHOWN IN THE VIDEO. IF YOU CHECK THE VIDEO YOU WILL SEE THAT I AM TELLING THE TRUTH. NONE OF MY LAWYERS HAVE BEEN WILLING TO GET ME A COPY OF THAT VIDEO FOR THE EVENT THAT TOOK PLACE DECEMBER 27, 2005. MR. RUFFALO IS LYING AND MAKING THINGS UP AS HE GOES ALONG.

THE SIX YEARS DEAL MR. RUFFALO SPOKE OF IS ALIE HE MADE UP. I WAS ALWAYS ASKING COUNSEL TO GET ME PROBATION, BECAUSE IT WAS MY FIRST OFFENSE BASED ON MY RECORD AND MILITARY HISTORY. THIS WAS ALL BEFORE I WAS FINALLY ALLOWED TO SEE THE STORE VIDEO TAPE, ABOUT TWO WEEKS BEFORE I WAS FORCED TO TAKE THE PLEA. WHY DIDN'T COUNSEL TAKE ME BACK BEFORE JUDGE MULLEN. COUNSEL FORCED/TRICKED ME TO TAKE FIFTEEN YEARS PLEA. I THOUGHT IT WAS A TEN YEARS PLEA. COUNSEL TOLD ME THAT LYING AND SAYING I DID IT WAS JUST A FORMALITY. HE SAID THE JUDGE ALREADY HEARD ME SAY I CAN'T REMEMBER THE INCIDENT. SO HE UNDERSTANDS THAT MY SAYING I DID IT IS JUST A FORMALITY TO GET THE PLEA ON RECORD. SC DC RECORDS SHOWS I WAS NOT TAKING MY ZOLOFT MEDICATION ON APRIL 2, 2007. MR. RUFFALO WAS AWARE OF THIS. MR. RUFFALO'S AGENDA WAS NOT TO HELP ME. HIS INTENTIONS WERE TO MAKE SURE I PLEAD

TO ARMED-ROBBERY. PG. 6 LINES 1-6 MR. RUFFALO STATES I WAS MAKING VOLUNTARY TWITCHING MOVEMENT TO CONVINCE JUDGE MULLEN THAT I WAS SUFFERING FROM A MENTAL ILLNESS. WHY IS THERE NO INDICATION OF THIS EPISODE IN THE TRANSCRIPT. AGAIN THIS IS ANOTHER ONE OF MR RUFFALO'S LIES TO DEFRAUD THE COURT.

My CONSTITUTIONAL RIGHTS WERE VIOLATED IN A NUMBER OF WAYS, INCLUDING, BUT NOT LIMITED TO MY SIX AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF TRIAL COUNSEL AND MY FOURTEENTH AMENDMENT RIGHT TO DUE PROCESS OF LAW THAT IS PROTECTED UNDER THE FEDERAL CONSTITUTION. BY THIS I AM ENTITLED TO THE REQUESTED RELIEF SOUGHT.

MR. RUFFALO'S INEFFECTIVE PERFORMANCE WAS DEFICIENT BECAUSE HE SHOULD HAVE REQUESTED TO ENFORCE THE TEN YEARS PLEA THAT WAS PRESENTED BEFORE JUDGE MULLEN. I DID NOT REALIZED I WAS PLEADING TO ARMED-ROBBERY. HAD I KNOWN THERE IS A REASONABLE PROBABILITY THAT I WOULD HAVE GONE TO TRIAL AND THE OUTCOME WOULD HAVE BEEN DIFFERENT. I HAVE SHOWN THAT MR. RUFFALO'S PERFORMANCE WAS DEFICIENT AND THAT IT WAS PREJUDICE, ACCORDING TO STRICKLAND V. WASHINGTON. I DID NOT REALIZED THAT MR. RUFFALO'S INSTRUCTIONS FOR ME WERE MISLEADING. I HAVE COPIES OF LETTERS I WROTE TO THE LAWYERS DISCIPLINARY COUNSEL COMPLAINING

ABOUT MR. RUFFALO'S EFFORTS TO COERSE ME.

S.C. RULES OF COURT - RULE (407), 1.2 (A)(D)

- d. A LAWYER SHALL NOT COUNSEL A CLIENT TO ENGAGE, OR ASSIST A CLIENT, IN CONDUCT THAT THE LAWYER KNOWS IS CRIMINAL OR FRAUDULENT, BUT A LAWYER MAY DISCUSS THE LEGAL CONSEQUENCES OF ANY PROPOSED COURSE OF CONDUCT WITH A CLIENT AND MAY COUNSEL OR ASSIST A CLIENT TO MAKE A GOOD FAITH EFFORT TO DETERMINE THE VALIDITY, SCOPE, MEANING OR APPLICATION OF THE LAW.

I PLEAD GUILTY TO ARMED ROBBERY ONLY BECAUSE MR. RUFFALO COERSED ME INTO DOING IT. I PLEAD GUILTY AND SAID I DID IT BECAUSE I FELT I HAD NO OTHER CHOICE. JUDGE KING DID NOT REMOVE MR. RUFFALO AS MY COUNSEL. I FELT HOPELESS AND TRAPPED. MR. RUFFALO KEPT REPEATING THAT I WOULD GET UP TO 35 YEARS IF I DID NOT TAKE THE PLEA. THE FRAUD ON THE COURT IS WHAT MR. RUFFALO HAS DONE TO ME. I WANTED TO GO TO TRIAL, BUT MR. RUFFALO SAID I WOULD NOT WIN. I ASKED MR. RUFFALO OVER AND OVER IF THERE WAS ANYTHING ELSE HE COULD DO FOR ME. WAS THERE ANY OTHER PLEAS. HE SAID NO EACH TIME. THE PLEA OFFER THAT THE SOLICITOR'S OFFICE HAD OFFER WAS MY BEST DEAL. I NOW MUST ASKED WHY DID NOT MR. RUFFALO ARGUE FOR ME: THE 'M'NAGHTEN INSANITY

DEFENSE, THE GBMI, THE GBMI DUE TO ALCOHOL
DEPENDENCE AND DEPRESSIVE DISORDER DEFENSE,
UNDER STATE V. HARTFIELD (SUPRA) 300 SC 469, 388
SE 2d 802 (1990), OR S.C. CODE SECTION 17-24-10(A)
AND 17-24-20(A). MY VETERANS RECORDS SHOW THAT
I SUFFER FROM DEPRESSIVE DEPRESSION AND ALCOHOL
DEPENDENCE. IT ALREADY SHOWS THAT I HEAR VOICES.
MR. RUFFALO IS NOT A TRAINED PROFESSIONAL SO WHY
DIDN'T HE HAVE ME EVALUATED. ON APRIL 2, 2007
MR. RUFFALO STATED HE RULED OUT GBMI DEFENSE,
BECAUSE OF SOME QUESTIONS OF MY ABILITY TO REMEMBER
THE EVENTS (ON PAGE 12 LINES 20-23 AND PAGE 13 LINES
1-5) WHAT WAS HE REFERRING TO "MY ABILITY TO REMEMBER
THE EVENTS? WHY DIDN'T HE BRING ME BACK BEFORE
JUDGE MULLEN DURING THE WEEK OF FEB. 12, 2007? WHY
DIDN'T MR. RUFFALO RESCHEDULE ME WITH JUDGE
MULLEN AT A LATER DATE? PG. 9 LINES 5-7 JUDGE
MULLEN STATES: IF Y'ALL CAN GET THIS RESOLVED AND
WANT TO BRING IT BACK IN FRONT OF ME THIS WEEK OR
ANY OTHER TIME, I'M HAPPY TO ACCOMMODATE Y'ALL.
WHY TAKE ME BEFORE JUDGE KING WHEN JUDGE MULLEN
IS ALREADY FAMILIAR WITH MY CASE?

CAPT. WHITE WAS THE ARRESTING OFFICER HE TOOK THE
STATEMENT OF MRS. SONYA JENKINS, THE CLERK AT THE STORE
THAT WAS REPORTED ROBBED. CAPT. WHITE WAS FORCED TO
RESIGNED PRIOR TO MY COURT DATE. HE WAS NO LONGER A
PART OF THE HARDEEVILLE POLICE DEPT. CAPT. WHITE

ALSO WAS THE BROTHER-IN-LAW OF MRS. SONYA JENKINS, THE STORE CLERK. CAPT. WHITE STATED AT THE PRELIMINARY HEARING THERE WAS NO GUN SHOWN IN THE STORE VIDEO AT THE TIME OF THE ROBBERY. ON THE DAY OF APRIL 2, 2007, OFFICER MIDDLETON STATED THAT AFTER I PICKED UP SOME BAND-AID I CAME BACK AND PRESENTED A 25 CAL. PISTOL AND TOOK THE MONEY, PG. 38 LINES 2-7. THE VIDEO DOES NOT SHOW ME EVER PULLING OUT A GUN. THERE IS NEVER A GUN SHOWN IN THE VIDEO. THE VIDEO NEVER SHOWS ME FORCING THE CLERK TO GIVE ME ANY MONEY, OR TAKING ANY MONEY OUT OF THE REGISTER AS STATED BY OFFICER MIDDLETON OF THE HARDEEVILLE POLICE DEPT. I'M SAYING ALL OF THIS TO SAY WHY COULD NOT MR. RUFFALO TAKE THIS CASE TO TRIAL. SOMEONE IS LYING AND THERE IS REASONABLE DOUBT. MR. RUFFALO ALLOWED HIS PERSONAL FEELINGS TO GET IN THE WAY OF HIS PROFESSIONAL DUTIES AS AN OFFICER OF THE COURT. I HAD FILED A COMPLAINT AGAINST MR. RUFFALO WITH THE DISCIPLINARY COUNSEL AND HE TOOK IT PERSONAL. HE WOULD NOT REMOVE HIMSELF AS MY COUNSEL BECAUSE HE WANTED TO MAKE ME PAY. HE SABOTAGE MY CASE INTENTIONALLY.

PAGE 4 LINES 2-8 IN THESE LINES I IDENTIFY THAT I WAS STILL TAKING MY MEDICATION FOR DEPRESSION. PER THE EXCHANGE OF INFORMATION BETWEEN JUDGE MULLEN AND ME. NOW ON APRIL 2, 2007 WHEN I WAS IN FRONT OF JUDGE KING I HAD ALREADY STOPPED TAKING THE MEDICATION FOR DEPRESSION. I HAD ALREADY TOLD

MR. RUFFALO THIS. HE TOLD ME I COULD NOT USE THIS AS AN EXCUSE TO CLAIM THAT I WAS MENTALLY ILL. I TOLD HIM I STOPPED TAKING THE MEDICATIONS BECAUSE THE SIDE EFFECTS WERE TOO MUCH FOR ME. I SAID MY TREATMENT IS IN MY V.A. MEDICAL RECORDS. V.A. HAS DOCUMENTED THAT I HEAR VOICES AND SUFFER FROM DEPRESSION.

MR. RUFFALO'S INEFFECTIVE PERFORMANCE WAS DEFICIENT BECAUSE HE SHOULD HAVE REQUESTED TO ENFORCE THE TEN YEARS PLEA, THAT WAS PRESENTED BEFORE JUDGE MULLEN. IN BOAN V. STATE (OPINION No. 26832, JULY 12, 2010), THE SOUTH CAROLINA SUPREME COURT REVERSED THE PCR JUDGE'S DENIAL OF RELIEF, MR. RUFFALO'S DEFICIENT PERFORMANCE IN FAILING TO MAKE A MOTION FOR THE TEN YEARS PLEA WITH A CAP FOR STRONG ARMED ROBBERY PREJUDICED ME AND THUS WAS INEFFECTIVE ASSISTANCE, AS THERE WAS A REASONABLE PROBABILITY I WOULD NOT HAVE BEEN SENTENCED TO FIFTEEN YEARS FOR ARMED ROBBERY, IF MR. RUFFALO HAD BROUGHT THIS AGREEMENT TO JUDGE KING'S ATTENTION. ON APRIL 26, 2007 MR RUFFALO NOW ASKS TO BE RELIEVED AS MY COUNSEL. PG. 52 LINES 19-25 + PG 53 LINES 1-2.

IN POSTCONVICTION RELIEF PROCEEDINGS, THE BURDEN OF PROOF IS ON THE APPLICANT TO PROVE THE ALLEGATIONS IN HIS APPLICATION.

MR PINCKNEY HAD DRAWN UP A REQUEST TO BE REMOVED AS MY COUNSEL FOR MY PCR HEARING. I WAS FINE WITH THIS, BUT HE CAME TO ME AGAIN ON THE MORNING OF THE HEARING AND STATED HE WANTED TO FINISH WHAT HE HAD STARTED. I TOLD MR. PINCKNEY THAT AS LONG AS I GOT A CHANCE TO BRING FORTH MY ARGUMENTS AND HAVE THE QUESTIONS ASKED THAT I HAD BROUGHT TO ASK MR. RUFFALO IT WOULD BE ALRIGHT. HE AGREED TO ASK MR. RUFFALO THE QUESTIONS I HAD WRITTEN DOWN AND TO CALL ME TO THE STAND TO BRING FORTH MY ARGUMENTS. MR. PINCKNEY LIED TO ME. WHAT WAS HIS TRUE REASON FOR NOT ALLOWING ME TO BRING FORTH MY ARGUMENTS? WHY WAS IT SO IMPORTANT FOR HIM TO CALL MR. RUFFALO AS A WITNESS, WHEN THE STATE OBVIOUSLY WOULD HAVE DONE IT? I ASKED THE QUESTION WAS MR PINCKNEY APPOINTED TO HELP ME WITH MY CASE, OR WAS HE THERE TO BLOCK ME FROM EVER TAKING THE STAND TO BRING FORTH MY ARGUMENTS. THE TRANSCRIPTS SHOWS WHERE I ASKED THE JUDGE TO BE HEARD, ONCE I REALIZED WHAT MR. PINCKNEY HAD DONE TO ME, BUT THE JUDGE DENIED ME THE CHANCE TO SPEAK. I HAVE FILED A COMPLAINT WITH THE DISCIPLINARY COUNSEL AGAINST MR. PINCKNEY. I HAVE NOT HEARD ANYTHING IT'S BEEN OVER THREE MONTHS. IF A LAWYER OR A JUDGE CAN JUST BLOCK YOU AND DENY

YOU YOUR RIGHTS AS AN AMERICAN CITIZEN AND AS AN
AMERICAN DISABLED VETERAN WHERE IS THE TRUE
JUSTICE THAT WE AS AMERICANS PRIDE OURSELVES IN.
WHAT ABOUT THE BRAVE VETERANS WHO GAVE UP
THEIR LIVES TO DEFEND THIS GREAT JUSTICE SYSTEM
OF OURS. AMERICA HAS A JUSTICE SYSTEM THAT IS VERY
STRONG AND UNIQUE, BUT WHEN TWO LAWYERS LIKE
MR. PINCKNEY AND MR. BUFFALO ARE ALLOWED TO PLAY
WITH IT AS THEY SEE FIT, THEN I ASK MYSELF IS THIS
FAIR OR IS THIS JUSTICE. I GAVE MY COUNTRY SIXTEEN
YEARS OF DUTY AND I'M PROUD OF EVERYDAY OF IT. I
AM NOT PROUD OF THE WAY MR. PINCKNEY AND MR. BUFFALO
HAS PLAYED WITH OUR JUSTICE SYSTEM. THE SIXTH
AMENDMENT GUARANTEES A DEFENDANT THE RIGHT
TO EFFECTIVE ASSISTANCE OF COUNSEL. I AM
ASKING FOR WHAT I AGREED TO WITH THE STATE
TEN YEARS WITH A CAP FOR STRONG ARMED ROBBERY.

ABRAHAM KELTY
Abraham Kelly

ATTN:

COPIY TO

1 OF 5

CLERK OF COURT FOR RIDGELAND/COLUMBIA

FAX 843-726-7782 (R)

803-734-1499 (C)

2-15-07

To whom it may concern:

I am asking for a motion of dismissal of all criminal charges against me. I am being detained at Jasper County Detention Center, in Ridgeland, SC. I'm charged with armed robbery, failure to stop for a blue light, and possession of a weapon to commit a crime. I went before this general session for a plea, and I told the judge that the charges against me. I can't remember what happen. I was on several medications at the time for depression and other ailments. This was told to my court appointed attorney Mr Dudley Ruffalo, and he told the solicitor's office this also. Both of their response was that if I wanted the plea I would have to go before the judge and hid this fact. When I explained to the judge my condition she withdrew my plea. I've been in this jail since 16 Feb 06. I've asked repeatedly to be seen and evaluated by a doctor by the medical staff and the Asst. Director here, but I was denied. I asked the public defender Mr Plexico while he was my lawyer numerous times, but he refused. He said I was only playing crazy, and he was going to let me sit and rot in jail, until I decide to tell him the truth. I requested that he be removed as my lawyer during Oct 2006 general session and the judge granted my request. He also told the public defender's office and the solicitor's office that I was to receive all copies of the motion of discovery evidence and I was to either review the

2-15-07

tape, or receive photo copies of the video tape of the robbery. I still have not seen this tape. I was told I would view it on the day of giving my plea at the courthouse but Mr. Ruffalo and the solicitor's office again refused. I have not receive a copy of the preliminary transcript, Capt. White the arresting officer made a statement "there was no gun see in the video". Why I'm being charged with armed robbery? I would like to file a motion to have all charges dropped against me, because I did not receive good counseling by the lawyers appointed for me. Also I felt that I was being pressured to take the plea by the solicitor's office and my defense attorney. Even though they were made aware of my mental state of mind. There is no law library here for me to do research and I'm filing Pro Se. I am also including a copy of a complaint I filed against Mr. Plexico dated 14 Jan 2007, with the SC Commission on Lawyers Conduct.

ABRAHAM KELTY #12260
Abraham Kelly

Copies in HCLU

Southern Center for human rights
National Ass. of Criminal Def. Attys

3-19-07

To whom it may concern:

I am an inmate at Jasper County Detention Center in Ridgeland, SC. I am charged with Armed robbery, possession of a firearm to commit a crime, and failure to stop to a blue light. I had my public defender removed from my case in October 2006, because he refused to tell me what evidence the solicitor's office had against me. Also prior to my arrest I was being treated by the V.A. for depression, and he said he would seek treatment for me, but he later refused. I don't remember the robbery that I'm being charged for. I was appointed a court attorney in December 2006 to this date he has not taken my claim of not remembering serious. He has been trying to pressure me into a plea. He has repeated the statement to me "this is Jasper County, they will give you a fair trial and roast you". He has threaten to refuse me a medical evaluation, and he said he would inform the judge that in his professional years of experience he feels that I am aware of everything going on around me, and there is no question of my mental abilities, if I don't take the solicitor's office plea. This has been his position thru 16 March 2007, which was roll-call for April's general session. Can you please advise or assist me in my legal matters

ABRAHAM KELTY #12260

23 Mar 07

To whom it may concern:

I know that you are looking into a complaint I made against my attorney Mr. Dudley Ruffalo. On March 16, 2007 during roll-call here in Ridgeland, SC, Mr. Ruffalo told me that if I did not take the plea the solicitor's office was giving me he would refuse to have my mental condition evaluated. He would also inform the judge that in his years of experience, it's his personal belief that I am fully able to stand trial without being evaluated. He then told me again to take the plea, because this is Jasper County. They will give me a fair trial and then they will roast me. It is my personal belief that Mr. Ruffalo is not going to try to give me a fair legal defense. He just sent me the paper to sign to request that the V.A. release my medical records yesterday. I am being treated for depression.

ABRAHAM KELTY #12260

3-29-07

Mrs. Susan M. Johnston

P.O. Box 12159

Columbia, SC 29211

Mrs. Johnston

The complaint in this letter is against my court appointed attorney Mr. Dudley Ruffalo. Case Bland v. California Dept. of Corrections, 20 F. 3D 1469 (9th Cir. 1994). Mr. Ruffalo sent to me a copy of "Rule 5" it did not contain a listing of the video tape of the supposed robbery Mr. Ruffalo and I saw on 16 March 2007, nor any preliminary or grand jury statements of witnesses. I've asked Mr. Ruffalo to file for a speedy trial he has refused. He has made threat of not presenting a strong enough case for my defense. He is using coercion to try to manipulate me into a plea. Cite case Pate v. Robinson 383 U.S. 375 15 S. Ct. 815, 86 S. Ct. 836 (1966), and Tiller v. Esposito, 911 F2D 575 (11th Cir 1990). I have explained to Mr. Ruffalo since he took my case in January 2007 of my mental defect he has ignored it until this past week he sent me a letter to consent to the release of my mental records from the VA. Court term starts on 2 April 2007!

ABRAHAM KELTY #12260

321472

TCI TB297B

P. O. Box 252

Dunbarville, SC 29162

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Mr. David Sheen
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Supreme Court of South Carolina
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