

State Aug. 28. 2013 1:54PM
County of Williamsburg

Dexter B. Lawrence
318821

Applicant,
V.

State of South Carolina
Respondent.

No. 0110 P. 2/11
IN The Court of Common Pleas
for The Third Judicial Circuit

2013-CP-45-297

The Responds TO The Conditional
Order of Dismissal

FILED

8/21/13

Williamsburg County
Clerk of Court
Kingstree SC

The matter comes before this court by way of an application for post-conviction relief filed June 20, 2013. In it's Respond's, to the Conditional order of Dismissal the applicant requested that application be granted for relief.

Procedural History

Before this court are the records of the Williamsburg County Clerk of Court regarding the subject convictions, applicant's records from the South Carolina Department of Corrections, appellate records, and records from applicant's previous application for post-conviction relief. The records before this court reflect that the applicant is presently confined in the South Carolina Department of Corrections pursuant to order of commitment of the Williamsburg County Clerk of Court. The applicant was true bill indicted during the January 2008 term of the Williamsburg County Grand Jury for assault and battery with the intent to kill, carjacking, armed robbery, possession of a

With prejudice. A timely Notice of appeal was filed. In
 written order, date July 30, 2012, the South Carolina
 Supreme Court denied the petition for writ of Certiorari.
 The Remittitur was issued on August 17, 2012.

Petitioner filed a ~~Petition~~ for writ of Habeas Corpus
 with the United States, with the United States District
 Court in the District of South Carolina date October, 25
 2012 (00. NO. 5:12-3054-TMC-KOW). The Habeas Corpus
 is still currently pending.

In his current second application for post-conviction
 relief the applicant alleges that he is being held in
 custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.

In his sworn affidavit applicant stated that he
 received information that revealed to him that his
 trial counsel Verdell Barr and the assistant
 solicitor Kimberly V. Barr was the solicitor prosec-
 uting the case against and she represented the
 State of South Carolina on the other hand her
 relative Verdell Barr was appointed to represent
 the applicant.

Applicant therefore, alleges a property ~~and~~ liberty interest in Rule 71.1 (d), SCRCP of its mandated entitlements and due process protection of these entitlements - guaranteed by S.C. Const. ~~Art I, §§~~ and the fourteenth amendment of the United States Constitution. Rule 71.1 (d), SCRCP mandates that PCR Counsel investigate and raise all available ground of relief, and being petitioner's PCR Counsel failed to do so, petitioner was denied due process of law. "See Rule 71.1 (d) SCRCP Counsel is to ensure that all available ground for relief are included in PCR application). Edwards v. State, OP. NO 99-MO-033 (Filed March 22, 1999).

Therefore, petitioner is entitled to again raise any available ground of ineffective assistance of trial and direct appeal counsel, by through and under claim of ineffective PCR - PCR - appeal counsel and denial of due process of law.

Ineffective assistance of trial counsel

The applicant was denied effective assistance of counsel in violation of South amendment to the United States Constitution and Article 1, Section 14 of the South Carolina Constitution. My defense attorney failed to conscientiously discharge his professional responsibilities while he was handling my case; he failed to give me his complete loyalty; he did not have my best interest in mind while he was supposed to be investigating and preparing my case; he did not discuss the evidence that the prosecution planned to introduce into evidence against me related to one another; he never explained to me or discussed with me any

If applicant plea counsel would have investigated the assault and battery with intent to kill again there was no evidence against applicant all the rest of applicant charges were dismissed. This prejudice the applicant because if plea counsel would have investigated applicant would have went to trial in charge's case would have been dismissed.

PCR Counsel ineffective assistance at PCR hearing

At PCR hearing applicant counsel was ineffective for failing to file a rule 59(E) motion when judge did not rule on all issues at hearing in on the dismissed order. Applicant was denied the right to argue his bond ground for relief at the PCR hearing this violated applicant due process.

Plea Counsel was ineffective for failing to investigate Circuit Court Jurisdiction

Applicant plea counsel was ineffective for failing to investigate the circuit court jurisdiction evidence reveals that dates on the true billed indictment against applicant violates the S.C. statutory provisions of § 14-9-170. and failed to confer jurisdiction to trial court to hear applicant cases or pronounce judgement there upon because each indictment operated as a

In ~~acknowledging~~ the fact that South Carolina afforded its citizens the process of being held to answer for a crime upon ~~a~~ presentment of an indictment by ~~a~~ grand jury pursuant to the S.C. CONST ART I § 11 we ~~are~~ forced to look at the ~~law~~ of this State that governs such procedure.

Furthermore, it ~~has~~ been held that if applicant's conviction is not based on ~~lawfully~~ sworn-indictment, which is tantamount to aggravated kidnapping. It is ~~a~~ bar to all prosecution, in accordance to the Constitution of the United State. Hamilton v. McColter, 772 F.2d 171 (5th Cir 1985)

Involuntary Guilty Plea

Applicant guilty plea was not involuntary because applicant stated the whole time he was coerced by counsel was telling him what to say. Applicant never want to plea guilty but counsel forced him to do so by telling him alot of witnesses are willing to testify if he go to trial. Applicant counsel lied to him forcing to plea guilty this prejudice applicant because if counsel did not lie to applicant about the witnesses he would have went to trial.

