

RECEIVED

MAY 23 2014

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County
Deadra L. Jefferson, Cir. Ct. Judge

Corey Larkin

Petitioner

VS

State of South Carolina

Respondent

Case No[#] 2013-002254

PETITIONER'S PRO-SE BRIEF

Other counsel of record
HA Gen Ashleigh Wilson
P.O. BOX 11549
Columbia SE 29211

Corey Larkin
#344734/MCC.I./F.4.
386 Redemption Way
McCormick SC 29849

App. Defender for Petitioner
Robert M. Pachak

INDEX

INDEX _____ 1

ISSUE(S) PRESENTED _____ 2

STATEMENT _____ 3

ARGUMENT(S) _____ 4 - 12

CONCLUSION _____ 13

ISSUE PRESENTED

Whether the PCR court erred in finding that counsel was not ineffective in failing to investigate. Where there was a reasonable probability that Petitioner would not have pled guilty and would have insisted on going to trial

STATEMENT

For the record of this brief, the
Petitioner argues and agrees with his
Appellate Defender's statement upon
Johnson petition.

ARGUMENT

The PCR court erred in finding that counsel was not ineffective in failing to investigate where there was a reasonable probability that Petitioner would not have pled guilty and would have insisted on going to trial.

Petitioner in this case testified at the evidentiary hearing that he was trying to tell defense counsel about his statement..... he gave Detective Watson, but she was telling him that she knew.... SEE: App. 2 136 L4 - L10.

That his incriminating statement was not knowingly, intelligently nor voluntarily made

Which she said that she would look into it - that was it SEE App. p 153 L4

- L13

Counsel testified that she did not know the answer to her investigation into the long facts relative to possible strategic defenses in Petitioner's case. Once she went to Petitioner with the offer that took life without parole off the table - she only focused on mitigation that she would present to the judge at his plea. SEE: App. p 168 L6 - L20: Also
See App. p 162 L1 - p 163 - L12: App. p 164 L3
= App. p 165 - L15.

And beyond the mitigation ---- counsel never

discuss possible defenses with Petitioner using
Marijuana laced with ecstasy SEE: App.p 175 L
13 - App.p 176 - L 9 .

Further, Petitioner testified if counsel
had investigated his case and presented him
with a defense strategy, he would not have
pled guilty but gone to trial SEE: App.p 136
L 3 - App.p 137 - L 18; App.p 137 L 13 - L 18
SEE: Hill v Lockhart 106 Sct. 366

Petitioner argues that counsel had a
DUTY to conduct a reasonable invest-
igation - his statement not being knowingly,
intelligently nor voluntarily made SEE:
Miranda v Ariz 384 U.S. 436 Also see
Jackson v Denno 378 U.S. 368 in violation

of the 5th Amend. per U.S. / S.C. Const.;
Ard v Catoe 642 SE2d 590; Pelzer v State
672 SE2d 790; Troedel v Mainwright 667
F. Supp. 1456. Here, counsel had a DUTY
to investigate Petitioner's statement
not being knowingly, intelligently or
voluntarily made - not only upon the
defense of intoxication SEE: App. p 123
L 12 - p 124 - L 23; App. p 136 L 4 - p 137 -
L 18; App. p 153 L 1 - L 24;

Also the fact that Petitioner had told
Detective Alvarez that he did not
want to talk without a lawyer. But the
Det. kept questioning him, two (2)

hours and thirty-four (34) minutes before
Det. read Petitioner his rights SEE:
Exhibit A and Exhibit C.

And, it was two (2) hours and fifty-five
(55) minutes after Petitioner was brought
in for questioning before Petitioner made his
statement SEE: Exhibit C and Exhibit B

But looking at Exhibit A, Exhibit B
and Exhibit C Det. David Watson report

he said that Petitioner was read his rights
on the 3rd of June 2008. The same day Det.
did his report.

But when in fact, the advice of constitutional
rights was dated the 2nd of June 2008 SEE:

Exhibit A and Petitioner's statement was
taken also on the 2nd of June 2008 SEE:

Exhibit B. The Petitioner had told counsel

these facts and that Det. Watson's report was also done on the 2nd of June 2008 **not** the 3rd of June 2008.

And, if one further note, Det. Watson's report states that Petitioner was in. viewed on the 3rd of June 2008.

thus calling into question when was Petitioner read his rights and his statement.

Moreover, Petitioner had told counsel that he was nodding off from the alcohol and the drugs cold - he just wanted to sleep. He just gave his statement to get out of that cold room to get some rest, eat, drink and a cigarette.

SEE: Exhibit C where Det. Watson stated that after completing his statement Petitioner was given the opportunity to have a cigarette.....

after the cigarette, Corporal Hill and FBI Agent questioned Petitioner for over an hour, then, Det. Watson came back in to finish Petitioner's statement, which Petitioner told counsel that took maybe thirty (30) more minutes.

But looking at Petitioner's waiver of rights, it has two (2) witnesses. Although, Petitioner had told counsel it was only Det. Watson in the room.

Although, counsel told Petitioner that she would look into it.

Petitioner argues that the P.C.R court erred in finding that counsel was not ineffective in failing to investigate, where there was a reasonable probability that he would not have plead guilty and would have insisted on going to trial. Petitioner

Further argues that counsel's motion to be relieve as his counsel should be denied. And, ordered to fully brief his issue(s) and or Petitioner's pro-se issue(s) where Petitioner's writ should be granted and his guilty plea should be vacated.

Petitioner further argues that if this court agrees with counsel's motion to be relieve...

Petitioner argues that his claims beyond the intoxication, should be remained back to the P.C.R court, to be fully develop. Because P.C.R counsel violated his DUE PROCESS SEE: Martinez v Ryan 132 S Ct. 1309 by not helping Petitioner to fully develop/bring out the other matters..... SEE: Exhibit A, Exhibit B and Exhibit C - regarding that his statement not being knowingly.

intelligently or voluntarily made. When PCR counsel knew that there was more to Petitioner statement not being knowingly, intelligently or voluntarily made SEE: Exhibit D, Exhibit E and Exhibit F.

Also see; S.C.R. Civil P. Rule 71.1 (d):
19-27-90 and S.C.R. Civil P. Rule 15 (b)

Petitioner argues that it is clear that PCR counsel denied Petitioner due process. Where Petitioner could not have brought his claims without the aid of PCR counsel SEE: S.C.R. Civil P. Rule 11; State v Cabrera Pena 567 SE2d 472; Foster v State 379 SE2d 907; Miller v State 697 SE2d 527 Also see McKaskle v Wiggins 465 U.S. 168

CONCLUSION

Based on the foregoing arguments Petitioner's writ should be granted and his guilty plea should be vacated. And or his case remained back to the PCR court to fully develop his claims. That his statement was not knowingly, intelligently or voluntarily made.

Respectfully Submitted

5, 20, 2014

Cory Larkin

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County
Deadra L. Jefferson, Cir. Ct. Judge

Corey Larkin

Petitioner

vs

State of South Carolina

Respondent

Case # 2013 - 002254

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Petitioner proposes the following be included in the Record
on Appeal

- (1) Advice of constitutional rights - Ex. A - one page
- (2) Defendant's statement - Ex. B - 3 pages
- (3) Det. David D. Watson report - Ex. C - one page
- (4) Petitioner amend PCR issues - Ex. D - 4 pages
- (5) letter from PCR counsel Frank Capretti, dated June 17, 2013 / 2 pgs
- (6) letter from PCR counsel Frank Capretti, dated June 29, 2013 / 1 pg

I certify that this designation contains no matter which is irrelevant
to this appeal

DATE: 5, 20, 2014

s/ Corey Larkin
Petitioner

Ex. A

NORTH CHARLESTON POLICE DEPARTMENT

COMPLAINT # 208024382

ADVICE OF CONSTITUTIONAL RIGHTS

FULL NAME COREY NELSON LARKIN DATE OF BIRTH 11-21-1989
AGE 18 GRADE COMPLETED IN SCHOOL 9 I, COREY NELSON LARKIN
HAVE BEEN ADVISED BY DET DAVID D WATSON

OF THE NORTH CHARLESTON POLICE DEPARTMENT THAT:

- 1) I HAVE THE ABSOLUTE RIGHT TO REMAIN SILENT AND DO NOT HAVE TO ANSWER ANY QUESTIONS OR GIVE A STATEMENT AND THIS FACT CANNOT BE USED AGAINST ME.
- 2) IF I DO ANSWER QUESTIONS OR GIVE A STATEMENT, ANYTHING I SAY CAN AND WILL BE USED AGAINST ME IN A COURT OF LAW.
- 3) I HAVE THE RIGHT TO CONSULT WITH A LAWYER OF MY CHOICE BEFORE I ANSWER QUESTIONS OR GIVE A STATEMENT AND ALSO HAVE HIM PRESENT WHILE I AM BEING QUESTIONED.
- 4) IF I WISH TO TALK TO A LAWYER OR HAVE HIM PRESENT, BUT AM UNABLE TO AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT ME FREE OF CHARGE.
- 5) IF I DECIDE TO ANSWER QUESTIONS OR GIVE A STATEMENT WITHOUT HAVING A LAWYER PRESENT REPRESENTING ME, I HAVE THE ABSOLUTE RIGHT DURING THIS INTERVIEW TO STOP ANSWERING QUESTIONS AND TO REMAIN SILENT.

I FULLY UNDERSTAND EACH OF THESE RIGHTS EXPLAINED TO ME.

WITNESS: [Signature] SIGNATURE: Corey Larkin

WITNESS: [Signature] DATE: 6-2-08 TIME: 6:39 pm

HAVING THESE RIGHTS IN MIND I WISH TO WAIVE THESE RIGHTS AND ANSWER QUESTIONS CONCERNING THE CHARGE OF ATTEMPTED Armed Robbery, Bangladesh Kidnapping. NO THREATS, FORCE OR PROMISES OF ANY KIND HAVE BEEN MADE TO ME BY ANYONE TO CAUSE ME TO WAIVE THESE RIGHTS AND/OR ANSWER QUESTIONS.

WITNESS: [Signature] SIGNATURE: Corey Larkin

WITNESS: [Signature] DATE: 6-2-08 TIME: 6:52 pm

NORTH CHARLESTON POLICE DEPARTMENT

DEFENDANT STATEMENT

Ex. B

STATEMENT OF COREY NELSON LARLIN
 HOME ADDRESS 4412 CINDY LANE HOME PHONE 425-0638
 EMPLOYER UNEMPLOYED BUSINESS ADDRESS _____
 BUS. PHONE _____ OCCUPATION _____

THIS STATEMENT IS GIVEN 06-02-2008 (DATE) AT 06:55 p.m. (TIME)
4900 LA CRESS RD, N. CHARLESTON, SC 29406 (LOCATION)

THIS STATEMENT IS BEING TAKEN BY DET DAVID WATSON WITH MY CONSENT.
 I WAS IN A CAR DRIVING DOWN THE ROAD AND SAW CAR PULL INTO FRANKIE'S FUN PARKS. WE TURN AROUND AND GO BACK INTO THE PARKING LOT OF FRANKIE'S. THE MAINTENANCE MAN ^{WAS} OVER BY THE GOLF CARTS, 2 OF US WALKED UP TO HIM, HE SAYS WHAT DO YOU GUYS. I POINTED MY TASER AT HIM AND WE BOTH SAID, OPEN THE DOOR. THE MAINTENANCE SAID HE DIDN'T HAVE THE KEY. WHEN HE SAID THAT I WALKED TO THE FRONT OF THE BUILDING, THE OTHER GUY STAYED WITH HIM, THEN I HEARD THE ALARM GO OFF. SO I RAN TO THE SUV AND THEN I HEARD THE POLICE CARS COMING.

AT THE APPLEBEE'S NEXT TO FRANKIE'S FUN PARK, WE WERE HIDING IN THE BUSHES, CLOSEST TO FRANKIE'S. WE SAW THE LIGHTS GO OUT THEN THE PEOPLE CAME OUT. WE WALKED OUT THE BUSHES, I TOLD THEM TO GO BACK AND OPEN THE DOOR AND CUT THE ALARM OFF. LETS TO THE SAFE AND OPEN IT WE ALL WENT BACK, I SAID OPEN THE SAFE AND LAY DOWN ON THE FLOOR, THE SAFE WAS OPENED, THE OTHER GUY I WAS WITH TOOK THE MONEY. I WALKED OUT AND WE GOT INTO A CAR IT WAS WAITING FOR US. AND DRIVE OFF AND SPLIT THE MONEY.

AT THE APPLEBEE'S ON RIVERS AVENUE WE WERE HIDING IN THE BACK IN THE BUSHES. THE LIGHTS GO OUT AND 2 PEOPLE CAME WALKING TO THE BACK. I GROBBED THE GUY WHO TRIED TO MOVE AWAY. THE FIRST GUY OUT OF BUSHES GROBBED THE OTHER GUY, WE WALK THEM TO FRONT DOOR, TELLER TO SHUT OFF ALARM, WE GO BACK TO THE SAFE AND

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS: DD D With
DA

SIGNATURE: Corey Larlin

ONE guy opens it, ONE OTHER guy REACH IN AND TOOK THE MONEY, WE QUIT ON THE FLOOR. I TOOK THE GUY CELL PHONE AND THROW IT AWAY, WE ALL LEAVE AND GET IN A CAR AND LEAVE.

AT THE NOISY OYSTER ON RIVERS AVENUE, WE WERE DRIVING BY AND WE SAW THE LIGHT GO OUT AND THE GUYS SAY GO. WE PULL INTO THE PARKING LOT AND HIDE IN THE BUSHES. WE SEE 2 PEOPLE WALK OUT THEY GET TO A CAR. WE ALL WALKED OUT ~~TO~~ TOGETHER. WE ALL SAY TOGETHER DON'T MOVE, I POINT A GUN AT THEM WE ALL SAY GO OPEN THE DOOR, THE GUY SHUT OFF THE ALARM. WE TELL 'EM GO TO THE SAFE, MANAGER SAYS WE GOT CAMERAS. WE ALL WALK TO THE SAFE TOGETHER. ~~THE~~ ^{SAF} THE MANAGER OPENED THE SAFE, I MAKE HIM GET ON HIS KNEES, THE THIRD GUY GETS THE MONEY. ~~MANAGER~~ ^{SAF} ONE OF THE OTHER GUYS WHO WAS STANDING OUTSIDE THE ROOM, I LOOKED DOWN AND SAW 2 MISSING THE FEMALE ONE OF US. I SEE THE GUY ON HER KNEES IN FRONT OF HIM, GIVING HIM A BLOWJOB HE HAD A GUN IN HIS HAND. I SAY WHAT ARE YOU DOING WE DIDN'T COME FOR ALL THIS SHIT. HE MADE HER NURSE HER MOUTH OUT. SHE WAS NOKED AND THE MANAGER WAS NOKED TO AND WE MADE THEM GO INTO FREEZER. I ~~SAF~~ TOLD THEM TO CLOSE THE DOOR, THEY CLOSED IT. THEN WE ALL GO TO THE CAR AND LEAVE AND THEN SPLIT THE MONEY.

WE JUST PULLED UP TO THE CHUCKIE CHESSE, PARKED ON RIGHT SIDE. I GUESS WE GOT THERE TOO LATE BECAUSE THE MANAGER WAS DRIVING OFF, WE FOLLOWED HIM TO HIS HOUSE. HE STILL IN HIS CAR AND ME AND COUSIN JOSH GOT OUT AND ^{WE} RAN UP ON HIM. I TOOK HIM OUT OF THE DRIVERS SEAT AND PUT HIM IN THE BACK SEAT AND SAT WITH HIM. JOSH DROVE AND WE STARTED TO DRIVE BACK TO CHUCKIE CHESSE BUT THE CAR BROKE DOWN. THEN BRIAN PULLED UP AND WE GOT IN THE CAR, DROVE TO CHUCKIE CHESSE AND PARK IN PARKING LOT. WE TOOK MANAGER OUT AND HE TELLS US HE CAN'T OPEN IT UNTIL THE MORNING, ONLY THE ARMOR CAR PEOPLE CAN OPEN IT. I HAD A GUN AND TASSA, ONE IN EACH HAND. I WALKED OUT BY MYSELF,

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS:

De D Witt

WITNESS:

[Signature]

SIGNATURE:

Carey L...

and then Brian and Josh come out and we drive off.

1. Q: Who else was with you at Frank's Fun Park?

Ans: Tone, Brian and Josh.

2. Q: Who was with you at Applebee's on Ashley Pkwy on 19th St.

Ans: Brian and Josh

3. Q: Who was with you at Applebee's on Rivers Avenue?

Ans: Brian and Josh.

4. Q: Who was with you at THE Noisy Oyster on Rivers Avenue?

Ans: Brian and Josh.

5. Q: Which one of you sexually assaulted Female?

Ans: Brian

6. Q: Who was with you at THE Chuckie Cheese on Rivers Avenue?

Ans: Brian and Josh.

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS:

[Signature]

WITNESS:

[Signature]

SIGNATURE:

[Signature: Corey Larkin]

Entered By: DAVID DON WATSON, On 6/3/2008 2:19:27 PM
Edited By: DAVID DON WATSON, On 6/9/2008 5:09:07 PM
Jurisdiction: SC0100800
Case Number: 2008024382
Supplement: No
Source Table: Assignment

Exc

Title:

ON 06-03-2008 AT APPROXIMATELY 04:00 P.M. THE SUSPECT COREY NELSON LARKIN WAS BROUGHT TO THE THIRD FLOOR OF THE DETECTIVE BUREAU, HE WAS PLACED IN ONE OF INTERVIEW ROOMS. AFTER BEING BRIEFED ON THE ARMED ROBBERY OF THE CHUCKIE CHEESE ON RIVERS AVENUE AND HAVING KNOWLEDGE OF OTHER SIMILAR TYPE ROBBERIES IN OUR CITY, SGT REYNOLDS REQUESTED THAT I MAKE CONTACT WITH THE SUSPECT AND OPEN A DIALOG WITH HIM. I ENTERED THE INTERVIEW ROOM AND THE SUSPECT WAS VERY QUIET AND SPOKE IN A LOW TONE OF VOICE. I INTRODUCED MYSELF AND I BEGAN TO ASK HIM ABOUT HIS PERSONAL LIFE, I ALSO ASK ABOUT FRIENDS AND FAMILY. HE WAS VERY RESISTANT TO TALK ABOUT HIS FAMILY. I GOT HIS GENERAL INFORMATION, THE SUSPECT DID NOT HAVE ANY FORM OF IDENTIFICATION ON HIS PERSON. I ASKS WHERE HE HAD BEEN THE NIGHT BEFORE AND WITH WHO, HE STATED THAT HE VISITED HIS EX-GIRLFRIEND WHO LIVED IN WEST ASHLEY AND HER COUSIN JEROME. WHEN ASKS WHERE HE WENT AFTER VISITING HIS EX-GIRLFRIEND I WAS VERY VAGUE AND QUIET. IT WAS AT TIMES HARD TO GET HIM TO ANSWER MY QUESTIONS. HE FINALLY STATED THAT HE CALLED A HOMEBOY BY THE NAME OF BRANDON. HE CAME BY AND PICKED HIM UP AND THEY WENT RIDING AROUND AND HE WAS DRINKING SOME LIQUOR, THIS WAS APPROXIMATELY AT 01:30 A.M. HE THEN STATED THAT BRANDON FINALLY TOOK HIM TO HIS MAMA'S HOUSE NEAR EVANSTON PLAZA AND THAT HE STAYED THE NIGHT THERE.

DURING OUR CONVERSATION THE SUSPECT MENTIONED THAT HE ATTENDED CHURCH AND THAT HE WAS TRYING TO TURN HIS LIFE AROUND THEN I ASK HIM ABOUT TELLING THE TRUTH AND HE SAID THAT THE TRUTH WILL SET YOU FREE. AT THIS POINT I OFFERED HIM SOMETHING TO EAT AND DRINK. I PROVIDED HIM WITH A SOFT DRINK AND DORITOS. AT THIS TIME I PROVIDED HIM WITH HIS ADVICE OF CONSTITUTIONAL RIGHTS, HE READ AND INITIALED EACH SENTENCE AFTER READING IT AND STATED THAT HE UNDERSTOOD THEM. I THEN PROCEEDED TO ASK HIM WHY HE WAS BEING DETAINED. I TOLD HIM THAT WE WERE INVESTIGATING A STRING OF ARMED ROBBERIES IN OUR CITY, INVOLVING SUSPECTS WITH TASERS AND A HANDGUN. WHEN I ASKS HIM IF HE KNEW ANYTHING ABOUT THESE ROBBERIES, HE BECAME VERY QUIET. I REMINDED HIM OF THE COMMENT HE HAD MADE EARLIER ABOUT TELLING THE TRUTH AND IT SETTING YOU FREE. HE DID NOT SPEAK FOR SEVERAL MINUTES JUST REMAINING QUIET. I THEN HINTED THAT AT ONE OF THE ARMED ROBBERIES A FEMALE WAS SEXUALLY ASSAULTED, AND HOW DID HE FEEL ABOUT THAT. HE STATED THAT IT WAS WRONG AND THAT STUFF LIKE THAT SHOULD NOT HAPPEN. I THEN BEGAN TO INFORM HIM OF THE SERIOUSNESS OF THESE CRIMES, AND THAT IT WOULD BE IN HIS BEST INTEREST TO TELL ME WHAT HIS INVOLVEMENT WAS. I TRIED TO TELL HIM THAT HE NEEDED TO WATCH OUT FOR HIMSELF AND THAT IF HE DID NOT WANT TO TELL ON THE OTHERS THAT WAS HIS PREROGATIVE BUT THAT HE HAD TO TELL THE TRUTH ABOUT HIS PARTICIPATION.

THE SUSPECT STATED TO ME THAT HE DID NOT WANT TO NAME ANYONE ELSE, THAT HE ONLY WANTED TO TELL ME WHAT HE DID DURING THOSE ROBBERIES. I THEN ASKS HIM WHICH ONES WAS HE INVOLVED IN. HE SAID ALL'EM. THE SUSPECT THEN BEGAN TO DESCRIBE EACH ROBBERY AND WHAT HIS PART WAS IN EACH ONE. DURING TAKING HIS STATEMENT HE CONTINUALLY REFUSED TO IMPLICATE ANYONE ELSE. WHEN SPECIFICALLY ASKS ABOUT THE INCIDENT AT THE NOISY OYSTER ON RIVERS AVENUE WHERE THE SEXUAL ASSAULT HAD TAKEN PLACE, HE DENIED ANY INVOLVEMENT. IN FACT HE STATED THAT HE WAS VERY UPSET THAT IT OCCURRED. AFTER COMPLETING HIS STATEMENT HE WAS GIVEN THE OPPORTUNITY TO HAVE A CIGARETTE. HE REFUSED TO MAKE ANY FURTHER COMMENTS. AFTER HE WAS GIVEN THE OPPORTUNITY TO SMOKE A CIGARETTE, WHEN HE RETURNED CPL HILL AND A FBI AGENT WENT INTO THE INTERVIEW ROOM AND SPOKE TO THE SUSPECT FOR AN UNKNOWN DURATION OF TIME. WHEN THEY CAME OUT THEY INFORMED THAT I COULD BACK INTO THE INTERVIEW AND FINISH THE SUSPECTS STATEMENT. AT THIS TIME THE ONLY INCIDENT WE HAD NOT DISCUSSED WAS THE CHUCKY CHEESE. THE SUSPECT BEGAN TO TELL ME HIS INVOLVEMENT IN THIS INCIDENT. I THEN ASKS THE SUSPECT SEVERAL QUESTIONS. I ASK HIM WHO WAS ALSO INVOLVED IN THE INCIDENTS WITH HIM AND HE PROVIDED ME WITH THE FOLLOWING INFORMATION. THE APPLE BEES ON ASHLEY PHOSPHATE RD THE SUSPECT HIMSELF, BRIAN AND JOSH. FRANKIE'S FUN PARK THE SUSPECT HIMSELF, TONE, BRIAN AND JOSH. APPLE BEES ON RIVERS AVENUE THE SUSPECT HIMSELF, BRIAN AND JOSH. THE NOISY OYSTER ON RIVERS AVENUE THE SUSPECT HIMSELF, BRIAN AND JOSH. I THEN ASK HIM WHICH ONE OF THEM HAD SEXUALLY ASSAULTED THE FEMALE VICTIM. HE STATED THAT IT WAS BRIAN, THE CHUCK CHEESE ON RIVERS AVENUE IT WAS THE SUSPECT HIMSELF, BRIAN AND JOSH.

Ex. D

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2012-CP-10-633

Corey Larkin, #344734,)
)
Applicant,)
)
VS.)
)
The State of South Carolina,)
)
Respondent.)

NOTICE AND MOTION
TO AMEND P.C.R.
PER. 17-27-90

NOW COMES, the above named Applicant through his undersigned Counsel who moves this Honorable Court in the above entitled matter, to ADD the below grounds and arguments to the grounds and arguments set out in his original Application for P.C.R.

INEFFECTIVE ASSISTANCE OF COUNSEL

Counsel Martha Kent Runney prejudiced me when she did not investigate the fact(s) that my statement "alleged confession" was not voluntarily made.

~~Where I had told the police who questioned me that I did not want to talk without a lawyer, plus I was still intoxicated from alcohol and x, nodding off and cold. I just wanted to be left alone to sleep. But the police kept on questioning me so long about the robbery(ies) and my family and what kind of gang I was in. I just gave him a statement to get out of that cold room and for I could get some rest. The police also said that he would give me a cigarette and something to eat and drink if I told him what he wanted to hear. I said O.K. He gave me a paper to sign. Then he took my statement.~~

~~Although I told Ms. Runney this she told me that she was going to check into it, and talk with a doctor to see what kind of affects the alcohol and X would have on me.~~ But out of thirty-three (33) months that I stayed in the county jail, Counsel came to see me about six (6) times and maybe stayed 15 to 20 minutes each time. She would always tell me that she was still checking with the doctor, but I never heard anymore about the matter. ~~Counsel Runney failed to investigate my statement, not being knowingly, voluntarily and intelligently made. Counsel did not take above matters into consideration, or that I was high on X and alcohol.~~

Most of all, Counsel did not take my constitutional rights into consideration to defend me, when she never talked to me on any kind of defense level, or a forensic toxicologist on my behalf. Counsel further prejudiced me when she did not explain none of the elements of the charges to me. Or show, give or go over my Rule (5) with me. But, misadvised me to plea guilty without understanding of the elements of the charges, and the consequences of my plea. And on the Criminal Sexual Conduct Charge, Counsels did not even have or show the Court the Doctor's Report that could have been helpful upon my defense and/or sentencing. She told me that the best thing for me was to plea guilty or go to trial and get consecutive life sentences.

But once I got my Rule (5) from my prior/first attorney after I went to South Carolina Department of Corrections. Which my attorneys never showed or went over it with me. When I went through my Rule (5) I found out that it was in fact two (2) hours and thirty-four (34) minutes before the police read me my rights, after questioning me

see Exhibit A. And it was two (2) hours and fifty-five (55) minutes after I was brought in for questioning before I made that statement, see Exhibit B. But looking at Exhibit C, Detective David D. Watson's Report, DATE & TIME: When I was brought to the interview room; where Detective Watson noted himself that I was very resistant to talk.

And in this report Detective Watson stated that after completing my statement I was given the opportunity to have a cigarette. . . . after the cigarette, Corpal Hill and FBI Agent questioned me (for over an hour) and Detective Watson came back in to finish my statement. (Which took maybe thirty (30) more minutes?) But looking at my Waiver of Right, it has two (2) witnesses. See Exhibit A. Although, when I was questioned, it was only Detective Watson in the room. See Exhibit C.

But if you look at any other Defendant's statements and waivers of rights, they were read their rights minutes before questioning and their statements.

SUBJECT OF VENUE

Counsel failed to challenge the Court lack of venue over the Dorchester County Charges.

GUILTY PLEA "WAS NOT" VOLUNTARILY NOR INTELLIGENTLY MADE

I pled guilty on Counsel misadvice, and not understanding the elements of the charges or the consequences of my plea. And the fact that I was not aware that my statement could have been attacked on

my involuntariness, intoxication level, age and education level and the fact that I had no experience with the criminal justice system. And if it was not for Counsel errors I would not have pled guilty but would have insisted on going to trial Hill v. Lockhart, 106 S.Ct. 366; Boykin v. Al., 89 S.Ct. 1709.

Date: _____

S/ _____
Counsel For Applicant
Frank Capretti

Ex. E

THE CAPRETTI LAW FIRM, LLC

29 GAMECOCK AVENUE, SUITE 100, CHARLESTON, SC 29407

► **Mr. Corey N. Larkin**

McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Unit F4 Room 126B

Mr. Larkin

I received the documents you mailed, post marked May 30, 2013, which included excerpts from your Rule 5 discovery labeled as Ex A, Ex B, and Ex C. During my review of your case file I gave very careful attention to the timing of events surrounding your detention, notification of Miranda rights, and confession and I covered this topic with you during my visit to McCormick.

Referring to the documents you forwarded, Ex A shows that you were read your rights on 6-2-08 at 6:34pm. Ex B is a written statement signed by you on 6-2-08 at 6:55pm. Ex C is David Watson's report questioning you the next day on 6-3-08 at approximately 4:00pm. This shows that you were first read your rights, then you signed a statement, then you were interviewed. No Miranda violation occurred.

In your pro se 15(b) motion you state that you were "not read my rights until after 2 hours and 34 minutes of questioning. See Ex A ... And It was 2 hours and 55 minutes after I was brought in for questioning before I made this statement. See Ex B." The documents do not support your claim. It appears that you think the Watson questioning (Ex C) occurred on 6-2-08 at 4:00pm, before your Miranda rights were given. The fact is that the Watson questioning occurred on 6-3-08 at 4:00pm, the day after you were read your rights and signed a statement.

It is good to see that you have been actively researching your case, however, the argument you present here is not supported by the facts and, therefore, does not advance your cause.

I will be in touch as necessary regarding the filing of your PCR appeal. Although I will file your appeal, it is most probable that another attorney will be appointed to represent you during the appeal process.

Regards,

A handwritten signature in cursive script that reads "Frank Capretti". The signature is written in black ink and is positioned above a horizontal line.

The Capretti Law Firm, LLC
Frank Capretti, Esq.

17 June 2013

Ex F.

THE CAPRETTI LAW FIRM, LLC

29 GAMECOCK AVENUE, SUITE 100, CHARLESTON, SC 29407

▷ **Mr. Corey N. Larkin**

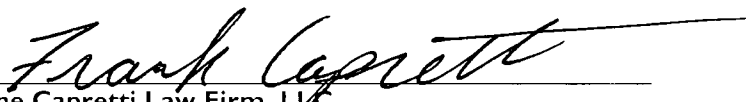
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Unit F4 Room 126B

Mr. Larkin

In your 6/24/13 letter, when referring to the sequence of events leading up to the signed statement, you say "I do believe that you're in error the dates are wrong, everything transpired on 6/2/08 not 6/3/08." However, on page two of your pro se 15(b) motion, in support of the claim that everything occurred on 6/2/08, you state "SEE: Ex. C Detective David D. Watson's report date & time[.]" The date on the document you are calling attention to is 6/3/08, this contradicts your claim that the questioning, transpired on 6/2/08. I cannot file a motion with the Court that contradicts itself.

Regards,


The Capretti Law Firm, LLC
Frank Capretti, Esq.

29 June 2013

CERTIFICATE OF SERVICE

I Corey Larkin certify that I have served my pro-se Brief and Designation of matter upon the below clerk of Court. By placing the above said into the court mail room on this 20 day of May, 14 to be placed in the U.S. mail with postage prepaid.

The Hon. Clerk of Ct.
Supreme Ct. Clerk
Daniel E. Shearouse
P.O. Box 11330
Colo SC 29211

SWORN to before me
this 20 day of May 2014

Franklin
Notary Public

my Commission Expires
12-16-2019

The Hon. Supreme Ct Clerk
Mr Daniel E. Shearouse
P.O. Box 11330

Colg 5C 29211

Date: 5/20/14

RECEIVED

MAY 23 2014

S.C. SUPREME COURT

Dear Mr Shearouse

Please find enclosed for filing my pro-se
brief and designation of matter.

Would you be so kind as to send me back
a filed copy.

Thank you

Sincerely
Cory Larkin

cc: Personal file

Corey Lar kin # 344734 FV4-181
M.E. J.
386 Redemption Way
McCormick, SC 29899



N
B

The Hon Clerk of Ct -
Mr. David E. Stearns
P.O. Box 11330
Columbia SC 29211



UNITED STATES POSTAGE
02 1M
0008007260
MAILED FROM ZIP CODE 29835
PRIMARY BOOKS
\$ 02.030
MAY 20 2014