

June 2, 2014

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To the Chief Judge and Judges of the Court of Appeals,

This letter is in reference to Donald Scott Jones.
PCR Case 2012CP1100111 ABWIK
PCR Case 2012CP1100574 ABWIK / CSC 1st Degree

JUN 09 2014

S.C. SUPREME COURT

I have sent these notes and thoughts on my brother's cases to try and stir some doubt on the processes that put Donald Scott Jones in prison for Life without parole. My brother was described as having a long criminal record in some statements but his record before these incidents was not of a violent nature.

I believe the system is generally not fair when a person must use a public defender in Cherokee County, Gaffney, SC. *Money and resources* are factors in how well a person is represented and the facts don't necessarily play as big a part as the presentation to the jury. Was the public defender allowed the same funds and resource allocation as the prosecution? Did he have the same number of persons working with or for him to create an effective case in support of Scott? If not then an unbalance appears to be intended and the outcome tends to lean in favour of the prosecution. At both trials Scott had one attorney versus the two prosecuting attorneys. The public defender was on his own and had to work twice as hard especially during the trial. He had to handle examinations as well as other duties causing mental strain. The prosecutors had a team enabling less stress and allowing a handoff of duties. While one was examining the other was taking notes preparing for the next steps. The public defender did not have this luxury.

I believe prosecutors will try cases even when evidence may not support the charges. If transcripts of the trials are read this becomes evident. It is well known deals are sometimes made using the fear of bringing charges against persons so they will make statements in support of the prosecution. I also call attention to the patronizing way prosecutors questioned Scott. At this point Scott is still an innocent man to the charges and he should be treated with some dignity and respect. Defendants in these situations are citizens that have been charged. Treating them in this manner allows the jury to start forming an opinion not in favour of the individual. There are tactics used during examination that are intended to sway a juror's mind but prosecutors should be held accountable for not staying with a pure evidence presentation. Prosecutors are to convict the truly guilty, not anybody that gets in their sights. They should be straight up in their actions and honest when it comes to presenting facts. They are trying to take the bad guys off the streets not put citizens through hell to prove their

innocence. I believe some current and past prosecutors in Cherokee County have gotten away with misconduct that has allowed the Justice System to place persons in prison or general detention that otherwise shouldn't be there, my brother being one. I believe my brother was convicted at both trials due to general misconduct of the prosecutors and their desire to get a guilty verdict regardless of the actual facts. These actions are not in support of a legal system.

I reference the PCR cases because I understand after they are initially dismissed they go to the State Court of Appeals. I also understand that the process at this point does not go back to the trial but is based off presentations at the PCR hearings. Flaws that allowed guilty verdicts in both cases have been ignored or overlooked throughout the process and I truly believe a review would bring about a change, this why I also have included notes on actions previous to the PCR's. Both dismissed for reasons on actions my brother requested to be carried out but were not.

PCR Case 2012CP1100111 ABWIK

- Initially charged with ABHAN & Armed Robbery.
- Armed Robbery charge dropped when another admitted to robbery.
- 3 years later just before the trial Scott's charges were upgraded to ABWIK with no new evidence. If the evidence supported it, why was he not initially charged with ABWIK, it was thought he had robbed the man? With armed robbery gone they had to upgrade.
- The upgrade was made after the incidents of PCR Case 2012CP1100574 occurred and charges made and a trial was scheduled. It appears the upgrade was intended to provide a third or at least a 2nd strike pending the success of the 2nd trial.
- All three persons testified against Scott but he had no reason to just get up and beat a man he didn't know with a stick and *walk* out the front door. This doesn't *sound right* or like Scott.
- The girl admitted to robbing the man not that Scott beat him so she could.
- Obviously a deal was made with the three to testify against Scott. They were all drinking and doing drugs and wouldn't want to get into trouble. The girl even admitted to me after the PCR hearing that Scott may have heard something that made him think she was in trouble. She said at one point during the hearing she did not want to get into trouble if she said something different than at the trial. She was never put on the stand at the PCR but was present. This was one of the determining statements the PCR judge stated in his dismissal letter to Scott.
- Why didn't the supposed victim come to the PCR hearing? Wouldn't he want to make sure Scott paid for what he'd done? Was it because he didn't tell the truth at the trial?

- The prosecutors did not dig into the actual events that occurred in the house during Scott's examination. They centered questions on actions that made Scott appear to have suspicious intentions. These actions did not confirm he did as charged but put the thought in the minds of the jurors. It appears they did not fully support that Kay was telling the truth. Shouldn't the public defender have made objections? They did let Kay Spencer tell her version of the story practically uninterrupted to paint a clear image of Scott.
- The fact that Scott had been convicted of a felony charge previously was mentioned in front of the jury, shouldn't this been objected to, it allowed the jury to form an unfavourable opinion of him? Should the prosecution been *allowed* to do this? Kay's extensive sexual history or her mental issues were not allowed.
- The prosecutors used statements from recordings of Scott's phone calls from the detention center. Is this truly fair? Shouldn't he have been informed that any calls would have been recorded? Were detained persons made acceptably aware that phone calls are being recorded at that time? He is still an innocent man at this point. Shouldn't he be treated as a citizen who has privacy rights?
- During initial discussions at the trial the judge would not omit the use of the statement Scott said, "I hope the bitch is dead." The judge stated this showed Scott's state of mind. Yet no evidence was introduced or allowed that showed Kay's state of mind or her documented mental disability/issues.
- Scott's initial trial appeal on Kay's propensity to anger was dismissed. His PCR judge stated medical records of Kay's mental state would have been beneficial. Many inconsistencies exist.
- Was there any part of the investigation that at least looked into Scott's statement that Kay *came at him* with the knife? It was very one sided.
- Kay stated she was stabbed. Why wasn't more concentration made to finding a knife? This was not dug into enough. The knife would have been key evidence as to whose hand it was last in but this crucial piece is missing.
- During the trial Mrs. Whelchel testified as to Kay's explosive anger but was not allowed to in front of the jury. Would this have made a difference? It appears the PCR judge thought so by stating Scott should have introduced Kay's medical records in his PCR reply. Who is at fault, the trial judge for not allowing or the public defender for not properly preparing the case?
- The SANE nurse gave testimony on the details of her examination to put in mind what Kay had to go through. The results of the evidence she gathered did not support rape but that sex had occurred. Scott also wanted to pull medical records of when Kay was first admitted to the hospital which may reveal she was not in the shape described. Again the prosecution wanted to sway the jury based off mental images instead of facts.
- The large amount of blood on clothing and various areas and objects were passed off as Kay's. In reality it was most likely Scott's but DNA tests were not carried out on all objects and areas. The prosecutors continuously promoted the idea that Scott used the power cords and the glass of soapy water but no proof was found he actually handled these. The jury kept these images in mind.
- No finger prints were taken at the scene because it was stated that they knew who was there during the incident. It appears the investigators were very incompetent at knowing procedure and

the importance of evidence. This is a person's life on the line and could have changed the outcome. A lot of processes that were not carried out right could have made a difference.

- Kay states she was wearing a bra when stabbed. There is a hole in the shirt but would there have been one in the bra? It was never checked to see if the bra would have been penetrated. It was never showed that any blood was on the bra. There would have been if she was wearing one at the time. Photos need to be re-examined and if they support Scott and why didn't his public defender work this more?

- Kay told two different versions of when Scott came inside her house to Mrs. Whelchel. First she said he went to get a glass of water and later stated he went to the bathroom instead. She also stated in one account he came in calm. In another he came in upset.

- What was Scott's motive to come in rape and try to kill her? A psychiatrist could have determined this is not Scott's nature. If he wanted her dead he could have killed her easily at any time during the *supposed* blackouts in her statement.

- It was stated Scott 'snapped' the cord on her neck. What exactly does that mean? Why didn't the public defender dig more on that? If he wanted to kill her wouldn't he have wrapped it around her neck?

- If he handled her after being cut wouldn't there be bloody finger marks and hand prints on her, on clothing, or other objects? She stated Scott tried to strangle her after she cut his hand. Wouldn't she have blood on her face and neck? Did photographs or witnesses support this? Should the defender have been more aggressive in this area?

- Why wasn't Kay at the PCR hearing? Wouldn't she want to do everything possible to keep him from getting off the charges, she went through with the trial? Or was it just the prosecutors wanting a guilty verdict on the record? Was she afraid if the truth came out she would be charged?

My brother was not the most upstanding citizen but he is not the violent monster portrayed by the prosecutors and the witnesses under their responsibility. His whole family will stand behind that. And responsibility is a key word. People's actions can get them in situations that can be turned against them. Prosecutors are to protect the public by putting bad guys away not adding feathers to their hats by getting convictions. I believe there's not much relief for a person who is charged with a serious crime. There are victim's resources. There's not much on the behalf of someone who may be innocent and the process didn't see it that way. Resources should be dedicated to finding the absolute truth, not just convicting the charged. The process is run by people and people have agendas and faults that sometimes don't allow what's right to happen. Should there be more transparency or citizens groups that review cases at different levels as a backup to promote a fair and balanced system? If a person is sentenced to life don't we want to be absolutely sure?

Thank you greatly for your time.

Sincerely,

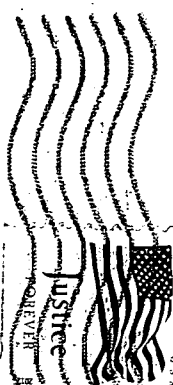


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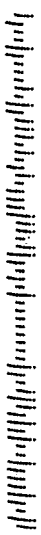
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