

JUN 12 2014

SC Court of Appeals

State of South Carolina

: In the Court of Appeals :

Argument 3, The Identification ~~is~~ is unreliable because victim-witness viewed suspect when his degree of attention was agitated and only from a moment in the dark with one brief glimpse of suspect neither from the front.*
 See Case Tomlin v. Myers 30 F. 3d. 1235 (1995) *

2, The procedures in which ofc. Officer Dawkins visit to the Hospital room while victim was in critical condition an allowed the wife to identify photo-ray line up after she stated she had seen suspects on the news were a violation of due process.

3, Suggestive identification procedure violated due process because four to six photos did not resemble the defendant. *US v. De Colono, 530 F. 3d. 36, 62 (1st Cir. 2008) *

4, Counsel was ineffective for failing to quash indictment read before the grand jury during argument. see page 8. Line 115 *

5, The testimony of Stephanie Vaughn was bolstered by state prosecution. * On page 12. the solicitor prosecution stated on record that Stephanie Vaughn would be given consideration for her testimony on her pending accessory whether the fact charges. * On page 156 - Stephanie Vaughn perjured during cross examine on line 16-21 *

6, Due process violated when Solicitor knowingly present fake testimony by falsehood pertaining to Stephanie Vaughn on matters related to the witness credibility. Line 16-25, * witness states she saw Justin with a gun then recanted and stated no one had a gun. * witness Jason Tolson pergers during his cross examine recanted his testimony page 235-243.

Arguments:

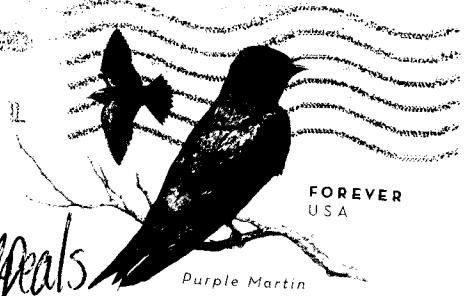
- 7) During cross-examination on witness Stephanie Vaughn admits that she was testifying for concideration in a sentence reduction, on page 168. Line 13-25 and page 169. Line 1.
- 8) Counsel was ineffective not moving to impeach the testimony of Stephanie Vaughn.
- 9) Witness ~~Tolson~~ Tolson's testimony should be impeached. Counsel failed to object to his testimony. page 220. page 234 - Line 5-23, witness committed perjury on direct examination by the state. * Prosecutor staged the testimony to introduce inadmissable evidence.
- 10) Trial court erred by not excluding the testimony of Dr. Charles Marshall expert testimony that had a prejudicial effect on the evidence out weighed its probative impact, which should have been excluded under Rule (605) of the South Carolina Rules of evidence.
- 11) Counsel failed to order an independent psychiatric evaluation.
- 12) In the closing arguement prosecutor expressed personal opinion about the defendant's guilt and credibility. Prosecutor states on page 359. Line 23-24, "Who get's in the driver seat?" "Justin" * page 361. Line 1-2, "He wasn't going to leave Josh there." He couldn't leave a witness." Kill the witness." Page 362. Line 7-13, "Based on what all you have heard they dispenced their own justice that night. An don't be mistaken. They weren't out there like ~~Robinhood~~ Robinhood stealing from the rich giving to the poor. That were robbing the John dealers "cause he had what they wanted." Page 368. Line 1-4, "The puzzle is complete. The hands of one is the hands of all. He is guilty of each and every charge that you have before. That's what the puzzle tells you when you put it together."
- 13) Counsel failed to hire an investigator where as there was a camera erected, but counsel failed to be prompt.
- 14) Counsel was ineffective for not disclosing exculpatory evidence of ~~gang~~ gang literature and affiliation on exhibit.

Respectfully submitted,

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Appellant

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