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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

James R. Barber, III, Circuit Court Judge

JAYMES M. WOOD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002543

SUPPLEMENTAL APPENDIX

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INDEX

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MEMORANDUM IN SUPPORT OF APPLICATION FOR POST-CONVICTION RELIEF1

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Jaymes M. Woods, #315669,)
)
 Plaintiff,)
)
 v.)
)
 State of South Carolina,)
)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
 Civil Action No: 2012-CP-40-07145

MEMORANDUM IN SUPPORT OF
 APPLICATION FOR
 POST-CONVICTION RELIEF

This Memorandum is submitted in support of the Application for Post-Conviction Relief of Jaymes M. Woods dated October 17, 2012.

The Plaintiff, Jaymes M. Woods, is currently detained at the Kershaw Correctional Institute, 4848 Gold Mine Hwy, Kershaw, South Carolina 29067. Mr. Woods' inmate number is 315669. Mr. Woods was indicted for Criminal Sexual Conduct with a minor, second degree; § 16-3-655 (B)(2) with Indictment No. 2008-66-40-7907. Mr. Woods' case was addressed at a plea proceeding before the Honorable Kenneth G. Goode in the Court of General Sessions of the Fifth Judicial Circuit on December 9, 2008. Mr. Woods pled guilty to the above charge and was sentenced to fifteen (15) years even though his counsel had suggested a sentence of three (3) years and the State had suggested a sentence of at least ten (10) years. Mr. Woods filed a Motion for Reconsideration of his plea proceeding and sentencing with the Court of General Sessions in the Fifth Judicial Circuit. That Motion was denied on December 9, 2009 by the Honorable Alison Renee Lee. Mr. Woods appealed the above plea proceeding and sentencing to the South Carolina Court of Appeals where his appeal was denied on March 5, 2012. Mr. Woods bases this application for post-conviction relief on a denial and violation of his rights under the 6th and 14th Amendments to the United States Constitution.

Mr. Woods has been represented by an attorney at all stages of this matter. His attorney at the

plea proceeding and sentencing and the Motion for Reconsideration was Luke Shealy, Assistant Public Defender, Richland County, Judicial Center, 1701 Main Street, Main Lobby Suite 103, Post Office Box 192, Columbia, South Carolina 29202. Mr. Woods was represented in his appeal of the above matter to the South Carolina Court of Appeals by LaNelle Cantey DuRant, Appellate Defender, 1330 Lady Street, Suite 401, Columbia, SC 29201. Mr. Woods is represented in this Post-Conviction Relief proceeding by Paul B. Rodgers, III, Court Appointed Attorney, P.O. Box 5825, Columbia, SC 29250.

BASIS OF PLAINTIFF'S CLAIM FOR POST-CONVICTION RELIEF

The circumstances and results of the Plaintiff's plea proceeding and sentencing were in violation of his rights under the 6th and 14th Amendments of the United States Constitution. The Plea Court initially erred in accepting Mr. Woods' competence for the plea proceeding and sentencing, and the plea Judge should have voluntarily recused himself from this matter in view of personal circumstances that prevented him from objectively reviewing the Plaintiff's plea and assigning an appropriate sentence for his offense. Further, the Plaintiff was denied effective assistance of counsel in the plea and sentencing proceeding that resulted in the denial of his constitutional rights as set forth in the above provisions of the United States Constitution and the case law of the South Carolina Supreme Court and the United States Supreme Court. See Rogers v. State, 261 S.C. 288, 199 S.E.2d 761 (1973); Gideon v. Wainwright, 372 U.S. 335 (1963).

Regarding the Plaintiff's position that he received ineffective assistance of counsel at his plea proceeding and sentencing in violation of his 6th and 14th Amendments rights, the Plaintiff's counsel at those proceedings effectively acknowledged the above in the record of the Plaintiff's Motion for Consideration dated December 9, 2008. Beginning at page 3, line 13 to page 6, line 11 of the transcript of that proceeding, the Plaintiff's counsel states the following,

Your Honor, what's going on in this case is he received a 15-year sentence on

criminal sexual conduct second degree.

Your Honor, at this time that case was heard, and I believe Assistant Solicitor Fent was filling in for Ms. Good, but the facts of that case were essentially, according to the defense, that Mr. Wood was a friend, acquaintance of the victim.

It was a 14-year-old young woman, and they were all hanging out essentially unsupervised with multiple friends after school.

It was a mutual crush, if you will, that led to him having oral sex performed on him by the – by the young woman.

Obviously, this is – him being 19 at the time, her being 14, that's illegal in our state, Your Honor.

Mr. Wood came before the Court in front of Judge Goode admitting guilt to that, Your Honor. What I brought up at the time is that there was absolutely no incidence of coercion, no violence, no force.

By all witness accounts, this was just kids after school like many are, but it's a crime because of the difference in the age when they're unsupervised.

Your Honor, at the time – one thing I think I'd like to add to the Court, and partly why I'm here, is at that time, it was the day before Judge Goode had heard the case of Felicia Smith, which he was – involving Kendra Smith, who was assaulted by a day care worker and had bleeding on the brain and she received a probationary sentence.

The reason I bring that up, and I think it's important today, is that Judge Goode was roundly attacked by the media, criticized. There's multiple newspapers accounts of this throughout even this year, so much to the effect that Kendra's family comes to court.

They have sponsored Kendra's Law to impose stiffer penalties for this type of offense, and in that crush of media attention, I pled Mr. Wood, the very next case, the very next day, with the very same solicitor.

Your Honor, at that time, you know, the pressure of this caused Judge Goode to be questioned by lawmakers, to question his re-election, and ultimately, in my opinion, I think he retired due to this media crush.

Your Honor, I think at the time of the plea, and I do have a transcript if you'd like me to pass it up. Your Honor, the State asks after their recitation of the facts for a sentence of ten years.

Your Honor, I asked for a sentence of three years considering the facts that I didn't feel were violent or coercive but were illegal due to a difference in age.

At that time, Judge Goode told me that he had a daughter who was violated, and that was a horrible case to him regardless of the facts.

At that time, I think I should have tried to withdraw, but I didn't. Be that as it may, we went forward, and he sentenced James Wood to 15 years – I mean, 15 years, five years even higher than what the State asked for at that time.

Your Honor, he was a young man at that time who had an A.B. H.A.N. on his record and a burglary second on his record.

I think given these specific facts, not being coercive, unsupervised children after school doing what many do but can be illegal if you're 16, Your Honor, I think that it didn't deserve a 15-year sentence.

I hate that it came to this. I think that Judge Goode is human just like everybody else. He's not impervious to the pressures of the outside world.

Unfortunately, that case the day before had massive media attention, and it ultimately led to his retirement. I was just unlucky enough, and Mr. Wood was unlucky enough to be the next case called the following day.

I don't think he deserves 15 years. I would ask you to consider something less, even if it's what the State originally asked for, which is 10 years.

The above evidence from the record clearly establishes the Plaintiff was denied constitutionally required effective assistance of counsel. Where the Plaintiff's plea counsel states, "At that time, I think I should have tried to withdraw, but I didn't," the plea counsel acknowledges an error he was aware of but did not attempt to cure. Further, the Plaintiff's plea counsel provided ineffective assistance of counsel regarding reference to a video of the incident that the Plaintiff's plea counsel had not seen but was discussed at the plea proceeding and sentencing without objection. In addition, the Plaintiff's counsel at the underlying plea proceeding and sentencing advised there had been no efforts at negotiation of a favorable sentence recommendation by the State further demonstrating evidence of ineffective assistance of counsel.

In light of the clear evidence in the record, the Plaintiff did not receive effective assistance of counsel in the plea proceeding resulting in a sentence that was significantly higher than the minimum sentence suggested by the State.

Plaintiff would additionally assert that he was denied constitutionally required due process where the Judge at his plea proceeding engaged in a discussion on the record referencing an incident involving his daughter at an early age at a Girl Scout outing as an example of the violent nature of the defendant's offense. However, the evidence in the record demonstrates the Plaintiff did not engage in a level of aggravation, intimidation, coercion or violence that would warrant a sentence 50% higher than the State's minimum recommendation. Based on the clear evidence in the record, the Plaintiff's counsel at the plea proceeding and sentencing should have initially moved to withdraw the Plaintiff's plea, and if that Motion was denied, he should have moved for the plea Judge to recuse himself. Even though these actions were not taken by the Plaintiff's plea counsel, the plea Judge should have recused himself under the unusual circumstances of this case.

The Plaintiff's counsel at the plea proceeding and sentencing recognized he should have attempted to address the potential adverse effects of the Judge's recent professional and previous personal experiences on the Plaintiff's case, but he made no efforts in that regard. Again, that error of the Plaintiff's counsel at the plea proceeding and sentencing was conceded by him at the Motion for Reconsideration.

In view of the above undisputed evidence/testimony from the Plaintiff's plea proceeding and sentencing and his Motion for Reconsideration, it is clear the Plaintiff was denied constitutionally required due process and effective assistance of counsel that resulted in a sentence 50% higher than the minimum sentence suggested by the State.

For the reasons set forth in his Application for Post-Conviction Relief and this Memorandum

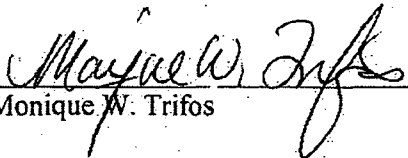
STATE OF SOUTH CAROLINA)
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 Jaymes M. Woods, #315669,)
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 v.)
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IN THE COURT OF GENERAL SESSIONS
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CERTIFICATE OF SERVICE

This is to certify that I am an employee in the firm of Paul B. Rodgers, III, Attorney at Law, attorney for Plaintiff, Jaymes M. Woods; and that I have this day caused to be served upon the person(s) named below Memorandum in Support of Application for Post-Conviction Relief with attached documents by placing a copy of same in the United States mail, with adequate postage thereon, addressed as follows:

Megan E. Harrigan
 Assistant Attorney General
 Post-Conviction Relief Section
 South Carolina Office of the Attorney General
 Rembert Dennis Building
 1000 Assembly Street, Room 519
 Columbia, S.C. 29201


 Monique W. Trifos

Columbia, South Carolina

23rd day of September, 2013.