

To: Daniel Shearouse
P.O. Box 11330
Columbia, SE 29211

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JUL 03 2014

S.C. SUPREME COURT

RE: Lower Case #: 2012-CP-38-00250
Appellate Case #: 2014-000731


Mr. Shearouse:

Please find enclosed for filing is a Pro Se Petition for Rehearing of Writ of Certiorari to the above name case. Also enclosed are the following and ask this court to send me a stamp clock copy for my personal filing because S.C. Dept of Corrections does not allow us to make hand written copies of any material.

1. Certificate of Service of the Pro Se Petition for Rehearing of writ of Certiorari to the Supreme Court of South.
2. Copy of 3 affidavits of witnesses the PCR court overlooked.
3. Copy of 2 Pages of my June 28, 2007 PCR hearing of trial counsel false testimony.

I ask that you promptly file these documents accordingly in your office. I thank you for your time and energy on these matters.

Date: June 27, 2014


Jarvin Klazek #238056
L.C.I. / WE-160
P.O. Box 205
Ridgerville, SE 29472

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO DRANGEBURG COUNTY
COURT OF COMMON PLEAS

LOWER COURT Case No.: 2012CP3800250
APPELLATE Case No.: 2014-000731

JAMIN MAZYCK

PETITIONER

- v -

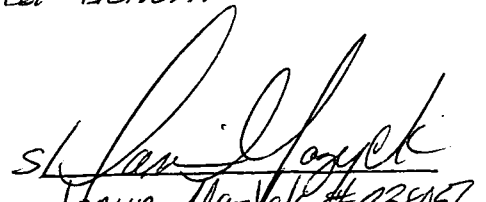
STATE OF SOUTH CAROLINA

RESPONDENT

PRO-SE PETITION FOR REHEARING
OF WRIT OF CERTIORARI

The Petitioner, Jamin Mazyck, #238056 aboved name, respectfully moves this court pursuant to this pro-se petition for rehearing of writ of certiorari brief in reference to the aboved captioned action.

Date: June 27, 2014


Jamin Mazyck #238056
Lieber, Corr. Inst. Wc 160
P.O. Box 205
Lidgeville, SC 29472

Issue Presentation:

1) Did the PCR Judge err in granting the State's Motion for Summary Dismissal when several genuine issues of material fact existed as to whether Petitioner's claims were successive or barred by the Statute of limitations.

A.

Petitioner had adequately presented specific facts demonstrating there existed several genuine issues of material facts that precluded the PCR Court from dismissing his application under S.C. Code Ann. § 17-27-90 and 17-27-45(A).

Petitioner contended that the PCR Judge misconstrued section 17-27-45(A) in finding a PCR application ordinarily must be filed within one year after a conviction or, if a direct appeal is taken, one year after the remittitur is sent to the trial court. It's apparent that the PCR Court overlooked the discovery rule in 17-27-45(C), which allows one year after the discovery of "material facts not previously presented and heard that require [] vacation of the conviction or sentence" to file a PCR application.

Petitioner could not have previously raised these genuine issues of material facts because the Solicitor unlawfully suppressed and withheld material evidence of a knife weapon being recovered from the body of the deceased and material evidence of the toxicology and autopsy reports of the deceased which revealed high levels of drug hallucinogens consumption in his system at the time of his death. In addition, to trial counsel lack of investigation and misadvising "that evidence in his possession showed victim was not intoxicated, nor under the influence of any drugs legal or otherwise. Because of counsel failure to investigate, discover and review the toxicology and autopsy report of the deceased and counsel failure to discover the mitigating evidence of high levels of drug hallucinogens consumption in deceased system at the moment of his death. This evidence were material evidence in mitigation for Petitioner's criminal liability, Punishment, and establishes Petitioner's self-defense claims which renders Petitioner's guilty plea involuntary, unintelligent and unknowing.

2) deceased was not armed with any weapon, so petitioner's potential defense of acting on presence of deceased drawing for a weapon were contradicted because deceased did not have any weapon therefore the deceased could not have motioned to draw weapon as petitioner adamantly told counsel. Counsel affirmatively misadvising petitioner that the deceased did not have a weapon at all, when in fact a knife weapon was documented to have been retrieved from the deceased body. This evidence were evidence that would have mitigated petitioner's criminal liability, Punishment and established petitioner's self-defense claims. This rendered petitioner's Plea involuntarily, unintelligent and unknowing. (3) That there were no witnesses to substantiate petitioner's version of prior difficulties with the deceased. When, in fact petitioner was ~~is~~ completely unaware at the time when he Plead guilty that there were several witnesses who had first hand knowledge of the events leading up to the lawful killing of the deceased. These witnesses personal accounts of the facts corroborated petitioner's account of the facts and substantiated petitioner's claim of self-defense, impacted petitioner's innocence, mitigated petitioner's Punishment and criminal liability. These witnesses spoke with petitioner trial counsel about what they knew and trial counsel neglected to interview these witnesses or investigate their account of the facts, and failed to inform petitioner that there were many witnesses willing to testify and verify petitioner's version of the facts.

The identity and availability of these witnesses have genuine and material facts of petitioner case and did not come to light until after petitioner's Plea and PCR Proceeding had reached completion. The facts known by the witnesses were not previously presented nor heard and entitled petitioner to the benefit of the discovery rule because those facts were not conclusively refuted by the record before the PCR court which questions of facts were raised which required being resolved by a hearing. Delaney v State, 269 S.C. 555, 556, 238 SE2d 679, 679(1977).

The PCR court failed to acknowledge "when considering the state's motion for summary dismissal, where no evidentiary hearing has been held, the PCR Judge must assume facts presented by applicant are true and

view those facts in the light most favorable to the applicant." Leamon v. State, 363 SC 432, 434; 611 SE2d 494, 495 (2005). Furthermore, the PCR court failed to properly apply the standard test governing newly discovered evidence when relief is sought based on evidenced discovered post-trial that is "material" to the accused's "guilt" or "innocence": See, e.g., State v. South, 310 SC 504, 507, 427 SE2d 666, 668 (1993) (noting that to obtain a new trial based on newly discovered evidence, the evidence must be material to the issue of guilt or innocence). (See Attachments 2.)

Petitioner submitted that the new evidence would changed the result of his case because he would not have plead guilty but contended he would have asserted his defense of self-defense. Based on this factual dispute, a hearing were necessary to resolved this critical issue.

B.

Furthermore, Petitioner Presented that he was not seeking more than he was entitled to have as a right. Petitioner's Present PCR application was not "successives" within the Uniform Post-Conviction Procedure Act of South Carolina Code of Law § 17-27-90. Petitioner only instituted a subsequent PCR application also in order to get his "one bite at the apple" to a full review and full adjudication on the merits of his original June 28, 2007 hearing, of which Petitioner is fundamentally entitled to under South Carolina Code of Law 17-27-90 and the Due Process Clause of U.S. Constitution. Resulting from the Attorney General office and the Solicitors office of Orangeburg and the investigating law enforcement agencies deliberately deceiving PCR Judge Diane Goodstein and Petitioner by presentation of known false evidence at Petitioner's June 28, 2007 PCR evidentiary hearing to mislead the PCR Judge and Petitioner to believe the nonexistence of material evidence which was material to Petitioner's entitlement to relief on his PCR issues, and material to mitigating Petitioner's criminal liability, and punishment. See Brady v. Maryland, 373 U.S. 83, 87; also see Giglio v. U.S., 405 U.S. 150. and Riddle v. Ozmint 369 SC 39, 631 SE2d 70 (2006).

The South Carolina Attorney office violated Petitioner's statutory rights and Due Process Right under the U.S. Constitution by deliberate deception by the presentation of known false evidence and false testimony, regarding issue #3. The Attorney General called Trial Counsel Carl Grant to the witness stand at Petitioner's June 28, 2007 PCR hearing and had him testify under oath falsely that no weapon was recovered from the deceased. (See Attachment #1 PCR transcript Page 14 Line 18-24) Also, the following testimony was given by Petitioner at the June 28, 2007 PCR hearing: (See Attachment #1 PCR transcript Page 117 Line 8-14).

The PCR court failed to examine that these were just two examples of where the Attorney General allowed false testimony to be sworn in front of Judge Diane Goodstein at Petitioner's June 28, 2007 PCR hearing by trial counsel Grant and the effect of that false testimony misguided and deceived the PCR Judge Diane Goodstein and Petitioner as the Attorney General stood silent and allowed this deception to permeate Petitioner's June 28, 2007 PCR hearing and denying Petitioner's of his "full bite at the apple." see Riddle v. Dzwintz 369 SE 39, 631 SE2d 70 (2006)

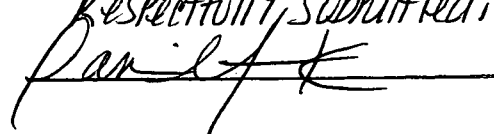
Petitioner got the PCR court on noticed that he did raise issues #3, #5, and #7 in his original PCR application, but the Respondents had unconstitutionally obstructed and illegally manipulated the proceedings denying Petitioner's full and fair "bite" at the apple, therefore Petitioner is not procedurally barred to bring these same issue before the PCR court in a subsequent PCR application. The statute S.C. Code Ann § 17-27-90 did not bar Petitioner subsequent PCR application. Petitioner ~~was~~ brought this present PCR to challenge the PCR procedure at his June 28, 2007 PCR hearing. See State v. Ddom, also Piston v. State, 528 SE2d and Carter v. State, 362 SE2d 20, and Washington v. State 478 SE2d 833.

Although Petitioner's PCR claim may ultimately prove to be untimely, successive, or perhaps unsuccessful on the merits, the PCR Judge erred in granting the State's motion for summary dismissal because genuine issues of material fact exist as to whether Petitioner's PCR regarding issues # 3, #5, and #7 are successive or untimely. See Leamon, 363 S.C. at 434, 611 S.E.2d @ 495 (citing S.C. Code Ann § 17-27-70 (b)-(c)) (noting summary dismissal of a PCR application without a hearing is appropriate only when it is apparent on the face of the application that (1) there is no need for a hearing to develop any facts and (2) the applicant is not entitled to relief). The Attorney General's office failure to correct false evidence and false testimony is as reprehensible as its presentation which entitled Petitioner to an evidentiary hearing on his ~~second~~ subsequent application as a matter of fact and as a matter of law and as a matter of statutory right and constitutional right. (See Attachment #1)

WHEREFORE the Petitioner Prays this Court grant the following relief:

- 1) Grant the writ of certiorari and appoint Petitioner with counsel to assist him in his presentation of issues.
- 2) Grant Petitioner's appeal bond, in an amount that is financially reasonable, until such time a final decision is rendered on this case.

Date June 27, 2014

Respectfully submitted,


THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO DRANGEBURG COUNTY
COURT OF COMMON PLEAS

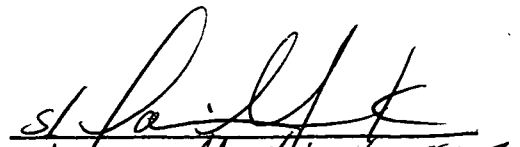
Lower court case number: 2012-CP-38-00250
Appellate court case number: 2014-000731

CERTIFICATE OF SERVICE

I Certify that I have served this Pro Se Petition for Rehearing of Writ of Certiorari brief by depositing a copy of it in the Lieber Correctional Inst. Prison mailroom, Postage Prepaid on June 27, 2014 addressed to the S.C. Supreme Court:

S.C. Supreme Court
P.O. Box 11330
Columbia, SC 29211

Date June 27, 2014


Jakim Mazurk #238056
P.O. Box 205
Ridgeway, SC 29472

1 and him offering a self-defense defense?

2 A. Well, when you say on the same page, what
3 do you mean by that.

4 Q. You all were in agreement that you all were
5 planning on going to trial -- at least initially
6 y'all were planning on going to trial based on the
7 self-defense?

8 A. I was preparing on going to trial and
9 representing Mr. Mazyck he decided to plead guilty.

10 Q. Isn't it true that you told Mr. Mazyck that
11 you had no real concern regarding the murder charge
12 or even the assault, the aggravated assault charge
13 regarding Ms. Williams, but your issue was with the
14 burglary charge whether he actually forced himself
15 into it, into the apartment?

16 A. No, sir. That's absolutely not true.

17 Q. Okay.

18 A. How could I not have concern over a man who
19 shot somebody and killed an unarmed man and then shot
20 an unarmed lady.

21 Q. Was he really unarmed? Isn't it true that
22 there was a weapon found on Mr. Huggins?

23 A. There was no evidence of any weapon present
24 that we discovered.

25 Q. Okay. Isn't it true that there's case law



1 THE COURT: Wait a minute now you got to
2 slow down a little bit.

3 THE WITNESS: Okay. Another claim that I
4 raised deals with the fact that my trial counsel
5 ability to exercise effective assistance of counsel
6 was greatly affected by State interference because --

7 BY MR. SHADD:

8 Q. What did the State interfere on that
9 Mr. Grant didn't address?

10 A. By not fully disclosing my trial counsel or
11 my Rule 5 Brady material that it could have gave him.

12 Q. For example, is it the same stuff you're
13 talking about, the autopsy and medical records?

14 A. Yes.

15 Q. So we've already addressed that?

16 THE COURT: And the medical records.

17 THE WITNESS: And the medical records, yes.

18 THE COURT: Okay.


19 THE WITNESS: And also that in order for my
20 trial counsel to be effective, he must have access to
21 all and any evidence, information that is under the
22 actual or constructive possession of the State. My
23 trial counsel cannot tell me that his failure to
24 pursue a certain line of defense was the product of a
25 tactical or strategically sound choice or decision



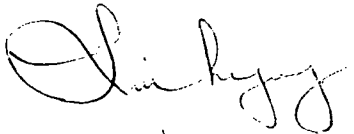
Attachment 2 (2 of 6)

because I felt the same way and was unsure if I was now a target after my car being riddled with bullets. I attended several of Jamin's court proceedings after his arrest. I tried twice at the very least to speak with Jamin's attorney Carl Grant about my willingness to testify for the defense regarding this incident specifically and about Terrell Huggins threats and actions to take Jamin's life. I provided the detail account of this incident of which I was an eyewitness and victim as well as Jamin Mazyck. I provided attorney Carl Grant with all my contact info at least twice. Attorney Grant never contacted me. I made my follow-up calls to Attorney Grant's office but he has not returned any of my calls.

LINH MY NGUYEN
NOTARY PUBLIC
PRINCE GEORGE'S COUNTY
MARYLAND
My Commission Expires 01-14-2015

Danyel Smith


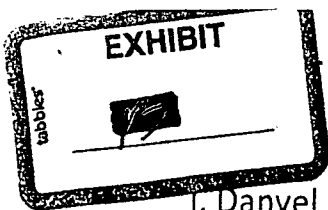
NOTARY:



DATE :

02/29/2012

Attachment 2 (1 of 6)



I, Danyel Smith, do hereby being duly sworn attests and deposes to the following:

I have worked in education as a middle school teacher for eight years going on nine. At my current school I am the Department Chairperson and have held this position going on four years now. I have coached three different sports at my school (Softball, Girls Basketball, & Boys Soccer) during the course of each 4 yrs. I am involved in several mentoring programs designed to guide and mold our young men into responsible prospering adults. I have earned my Bachelor's Degree as well as my Massage Therapy Certification over the years.

While attending South Carolina State University Jamin and I connected on many different levels one in particular is that we were both out-of-state students. I personally witnessed many lead up events instigated by Terrell Huggins that built a crescendo of tension, fear, restlessness, and frustration among myself and others. Some I remember vividly others vaguely in this affidavit I will recall such events that I recollect vividly.

On January 8, 2004, Jamin Mazyck and I were attending a social club in Orangeburg, S.C. when Terrell Huggins accompanied by two other males approached Jamin in an aggressive combative manner. While cursing and verbally threatening Jamin's life. Terrell Huggins then physically assaulted Jamin. Jamin and I immediately exited the club we got in my vehicle and sped away as quickly as possible to secure our safety. As I drove away we were followed by two speeding cars. After a few lights I was able to identify the occupants in the vehicle as Terrell Huggins and the two other men who were involved assaulting Jamin in the social club. Terrell Huggins and the two other men fired multiple gun shots into my vehicle attempting to take the life of myself and Jamin. I entered the Wal-Mart parking lot to turn around while Jamin called 911 alerting the dispatch. The police apprehended one of the vehicles while the other vehicle with Terrell Huggins got away that night. This incident occurred twelve days before Terrell Huggins death.

After that incident I can recall seeing Jamin wearing a bulletproof vest. Jamin expressed to me that he feared Terrell Huggins would see his plan realized to him and he did not want to die. I empathized fully Jamin's fears and concerns

Attachment 2 (3 of 6)

I, Robert Greene, do hereby being duly sworn, depose and attest to the following:

My name is Robert Greene; I am a teacher in Brooklyn, NY. I am a graduate of South Carolina State University and the University of Louisville. I'm also a member of Phi Beta Sigma Inc.

I shared a residence at Russell St. in Orangeburg S.C. in 2003 with Mr. Jamin Mazyck. I was at this residence when I personally witnessed an incident that occurred in which Terrell Huggins threatened to kill Jamin Mazyck. This incident happened on or around the month of December, 2003. Jamin and I were playing the Xbox (video game) when Jamin's phone rang. Jamin answered the phone on speaker so that he could still play the game; he had the controller in his hand. Jamin answered "Hello". Then I heard a voice say "I owe you nigga; I can take your life anytime I want" Jamin then said "who the hell is this"? Then I heard the voice say "Rell nigga, Dayna's man nigga! Next time I see you I'm going to body you nigga! Any place, any time, any where...I'm going to kill you nigga!" Jamin hung up the cell phone and was visibly shaken and afraid. The cell phone rang again, Jamin answered it on speakerphone. It was the voice that identified itself as "Rell" from the previous phone call. The voice said "You can't duck me Jamin, I got bullets with your name on them. I'm going to kill you motherfucker. I'm going to teach you that Rell is a bonafied killer you pussy motherfucker". Jamin then hung up the phone and turned it off. I was shocked and asked Jamin who is Rell? Jamin said that he's the guy Terrell, the one who is dating Dayna. It was then that I fully realized that the voice of Rell to be the voice of Terrell, a guy who I've seen and heard speak in person.

I attended a court hearing regarding Jamin's case after his arrest. It was at this hearing where I spoke to Jamin's lawyer and advised him that I was a material witness and that I have personal knowledge of Terrell Huggins's specific threats to Jamin's life which I've witnessed. I was more than willing to testify and I provided his attorney (Grant) with my contact information. However his attorney never contacted me.

Robert Greene

May 18, 2012

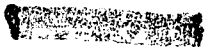
[Signature]

Linda P. James
Notary Public State of New York
No. 01JA4768727
Qualified in Kings County
Commission Expires Sept. 30, 2014

I, Jovan Lamar McVair, do hereby being duly sworn, attest and depose to the following:

I began my collegiate studies at South Carolina State University in 2002, and graduated with a Bachelor's degree in Business Marketing in 2007, and a Master's in Hotel Management from Strayer University in 2013 in Charlotte, NC. I am also an active member of Phi Beta Sigma Fraternity, Inc.

When I set out my collegiate studies at South Carolina State University in 2002, I developed a friendship with Jarnir Mazzyk, and personally witnessed incidents that brought fear, paranoia, and frustration to Jarnir's life, specifically an incident that took place in 2004 that Jarnir Smith and Jarnir Mazzyk became victims of an attempted murder plot carried out by Terrell Huggins.



and his friends. Being able to personally see the bullet holes that were violently administered by Terrell Huggins and his friends into Marietta Smith's car in their attempt to kill Jamun, but also those who were close to him upon the serious danger that he was facing of losing his life by being murdered by Terrell Huggins. Not only did incident resulted in Jamun having to wear a bullet-proof vest, but also Jamun diligently following up with the Orangeburg County Sheriff Department on the incidents. Jamun emotionally displayed his concerns of being a target to be killed by Terrell Huggins and buddies. This had a serious impact on Jamun's movements and participation in school activities and public outings that he had to for a time reside at numerous college friend houses for safety instead of his own residence.

Jammin Mazick #238056
Lieber Corr. Inst. WC-160
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136 Wilburn Ave.
Ridgelyville, SC 29472

AMS

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JUN 30 2014

MAILROOM
LIEBER CI

[REDACTED]

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