

Supreme Court

I ask respectfully of this
court to take in consideration petitioner's response
also I ask for a copy of the pro-se briefing, and that
● petitioner's lawyer Lara M. Caudy receive a copy

Thank you for your time
and patience.

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JUL 10 2014

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Kershaw County

Court of Common Pleas

James R. Barber, III, Circuit Court Judge

HENRY R. Woods, _____ petitioner

v.s

STATE OF SOUTH CAROLINA Respondent

Respondent Return, pursuant SCABA, Rule 227 (h)

Petitioner comes before this humble court in his pro-se status, and submits his Reply to the Respondent Return, pursuant SCA.R.R., Rule 227 (h)

① Respondent asserts that there is evidence of probative value to support the post-conviction relief court's finding that counsel was not ineffective for failing to investigate Vincent Bracey as a potential witness, as counsel aware of Bracey's testimony, Bracey's testimony is not credible, unhelpful, and ultimately inconclusive to petitioner's case, and numerous other witnesses identified petitioner as possessing and firing a weapon during the altercation. Now if the court will allow me to elaborate on this matter. The respondent states that Vincent Bracey testimony stating that petitioner was not the shooter and denied given a written statement to law enforcement was not credible, and held no merit, and held no bearing on petitioner's case in light of numerous other witness who saw petitioner shooting during the altercation. Now in the petition for writ of certiorari prepared by petitioner's Appellate defender she states in her discussion. Despite knowledge that Vincent Bracey could possibly be an "exculpatory witness", plea counsel failed to investigate Bracey as a defense

witness. Nonetheless, before advising petitioner to plead guilty, plea counsel did not interview even though Bracey was in the custody of the South Carolina Department of corrections and would have been easy to locate and interview. If plea counsel would have interviewed Bracey before advising petitioner, plea counsel would have learned that Bracey was prepared to testify that he had seen the back of the shooter and petitioner was not the shooter. See App. 72, l. 17-73, l. 23; App. 80, l. 21-81, l. 16. Plea counsel would have also discovered that Bracey denied writing the written statement provided to plea counsel by the State that implicated petitioner in the murder. See App. 69, ll. 1-24; App. 79 l. 21-23. To establish ineffective assistance of counsel, petitioner must satisfy the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). "First, a defendant must show that counsel's performance was deficient. Under this prong, [t]he proper measure of attorney performance remains simply reasonableness under professional norms." *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989) (internal citations omitted). "The second prong of the *Strickland* test requires showing that the deficient performance prejudiced the defendant to the extent that there is a reasonable probability

that, but for counsel's unprofessional errors, the result of the proceeding would have been different.

The defendant is required to overcome the presumption that counsel was effective in order to receive relief."

I.d. at 117-18, 386 S.E. 2d at 625 (internal citations omitted).

Where a defendant challenges a guilty plea, the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 58 (1985).

The United States Supreme Court has held that "counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Strickland*, 466 U.S. at 691.

This includes a duty to investigate possible defenses even in a case where the defendant ultimately pleads guilty. *Cobb v. State*, 305 S.C. 299, 302 408 S.E. 2d 223, 225 (1991).

(provides that failure to investigate possible defenses constitutes ineffective assistance of counsel)

"Because a guilty plea is valid only if it represents a knowing and voluntary choice among alternatives, a client's expressed intention to plead guilty does not relieve counsel of their duty to investigate possible defenses and to advise the defendant so

that he can make an informed decision." Savino v. Murray, 82 F.3d 593, 599 (4th Cir. 1996).

"The longstanding test for determining the validity of a guilty plea is whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." Hill, 474 U.S. at 56.

The Appellate Defense also states, without a complete investigation by counsel, petitioner could not have made a knowing and voluntary plea because he did not know the available alternatives. Now if the court will allow me to elaborate on this matter. The respondent states that there is numerous other witnesses that can identify petitioner as ~~the~~ the shooter. Now if the court will allow me

to collateral-attack these witnesses which are Jeanette Haile, shanasia Danzey, and Ebony Danzey. "First" if the court will allow me to collateral-attack Ebony Danzey's statement

Ebony states on page 2 of her statement that she saw petitioner and his co-defendants "jump out of a white chevy car" and states again "the car was a four door chevy with chrome rims". Now if you would look in the Appendix that was prepared by the petitioner's appellate Defense on page 122 Lines 14-15

which states "Mr. Woods gathered together some family members and friends. They all ~~hopped~~ hopped in a pickup truck" and this was when Ms. Harrigan

was examining Mr. Riley. Now if the investigator got a pickup truck, but Ebony states it was a white Chevy with chrome rims, I only have one question if Ebony can't see the difference between a pickup truck and a car how can she possibly see the petitioner shoot anyone in the midst of all the various fights that was going on? I ask that the court find ~~the~~ the statement given by Ebony Danzey completely discreditable, and without merit. Next I would like to collateral-attack Shanasia Danzey statement. Shanasia states that she saw the petitioner shoot the decedant two times. Now I would like to go back to Ebony Danzey statement on page 2. Ebony states that Shanasia was in the house with two babies and her four year old son, also I would like to bring to the court's attention the interview notes from the shooting on Rochelle Dr. in Bethune taken by inv. Danny Catoe. Shanasia stated "she thought the ~~the~~ suspects came up in a white van" parked out on the dirt road at the end of the driveway". Now once again I would like to break down this to the court. Shanasia states she saw petitioner shoot the decedant two times, but Ebony states she was in the house with the kids, and Shanasia tells inv. Danny Catoe she thought she saw a white van that the suspects came up in. Going back to the

Appendix that was prepared by the Appellate Defense of the petitioner on page 122 Lines 14-15 States "Mr. Woods gathered together some family members and friends. They all hopped in a pickup truck", Not once was it ever stated that petitioner and his co-defendants hopped in a van, or hopped in a white chevy car so if you can't tell the difference between a van and a car then how can you say you saw the petitioner shoot anyone. The facts are all there, ~~so~~ so I ask this court to find the statement given by Shanasia Danzey be completely discredited, and be held without merit. Next I would like to collateral-attack Jeanette Haile stated on page 3 of her statement "When we was leaving Smurf was still shooting back at them and they were shooting to," she also stated "They gun were small. it had a black handle on the bottom of it and it was silver look the gun besides the bottom part of it. Now on page 126 of the supplemental appendix prepared by petitioner's Appellate defender, on Lines 13-16 "did she see very well" Jeanette respond "when that night" and the solicitor respond "yes" and Jeanette respond "No, sir" Now they also asked Jeanette how far away she was away from the guy that was shooting Jeanette stated 50 yards. This is on page 127 Lines 12- and goes on to page 128

Now on page 127 after line 12 and 13 Jeanette was asked on line 14 "is there a reason why when you were interviewed yesterday you didn't mention anything about seeing another guy with a gun over there, and Jeanette's lawyer Mr. Atkinson respond saying "was she asked about it?" then the solicitor says "you said, I don't know yesterday?" Jeanette's lawyer even asked Mr. Derieg "did you hear it asked yesterday?", and Mr. Derieg responds was "yes, sir". So it's clear that Jeanette committed "perjury" on the stand during her oral statement at her July 19, 2010 guilty plea. For this reason I ask this court to discredit Jeanette Hail's statement cause it's clear that her statement holds no merit and is not credible. Next I would like to collateral-attack the respondent when the respondent states "Bracey admits that he cannot say conclusively that petitioner is or is not the shooter, because he do not know. Now if you look at petition for writ of certiorari prepared by petitioner's appellate defender the part about the PCR hearing Bracey states "the individual who shot the decedent had his back to Bracey and thus Bracey was unable to see the shooter's face or conclusively identify the shooter. However, Bracey explained that "from the look's of it" petitioner was not the shooter. App 717 1. 9-73, 1. 23 (emphasis added). Bracey stated

The fellow that had his back to me was much bigger fellow than petitioner, I'm saying taller. wise" App. 80, 1.23-81, 1.16. Bracey verbal statement clearly describes what he saw and is not misleading, and is not a complete mischaracterization of the record. Next I would like to collateral-attack Exhibit No. 1, indicating that guilty plea was voluntarily and knowingly entered into and that he was satisfied with counsel's services. Now if the court will allow me to elaborate on this matter. It states in Cobbs v. State 305 S.C. 299, 302 408 S.E. 2d 223, 225 (1991). (provides that failure to investigate possible defenses constitutes ineffective assistance of counsel). "Because a guilty plea is only valid only if it represents a knowing and voluntary choice among alternatives, ... a client's expressed intention to plead guilty does not relieve counsel of their duty to investigate possible defense and to advise the defendant so that he can make an informed decision." Savino v. Murray 82 F.3d 593, 599 (4th Cir. 1996). The petitioner did not know that the statement that was provided by the state that was alleged written by Bracey was indeed a false statement, also that Bracey was also willing to testify on behalf of petitioner. This alone hinder ^{Petitioner's} ~~the~~ choice of making a knowingly and voluntary plea. I ask the court to take these arguments into consideration and remand petitioner for a new trial.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

certiorari to Kershaw county

The Honorable James R. Barber, III, Circuit Court Judge

Case No. 2012-CP-28-00901

Appellate case No. 2013-001679

HENRY R. WOODS, petitioner,

v.

STATE OF SOUTH CAROLINA

PROOF OF SERVICE

I, Henry R. Woods, certify that I have served
the within Respondent Return, pursuant SCARR, Rule 227 (H),
have been served on Megan Harrigan, Esquire, at
Rembert Dennis Building, 1000 Assembly Street, Room
519, Columbia, SC 29201, this 7th day of July, 2014

Interview notes from shooting on Rochelle Dr in Bethune.
Notes taken by Inv. Danny Catoe on March 7, 2006 at crime scene.

Interview with: Shanasia Danzey DOB 1-24-90 SS# 250-97-6360
Inwood st Bethune S, C
843-334-6495

Incident Location: 2859 Rochelle Dr Bethune S, C

Homeowner: Ebony Danzey Ph- 843-334-8322

Scene was secured at the time of my arrival and there was no other individuals around the scene other than Shanasia and 3 young kids inside the trailer.

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S.C. SUPREME COURT

Summary:

Upon arriving at the scene I was confronted by Shanasia Danzey the sister of Ebony Danzey. Shanasia began to tell me that several people came to her sister's residence wanting to fight. ~~She stated that all of this started because the father of one of Ebony's kids, Henry Wood, wanted to come see his son and her sister told him that it was not a good time because her boyfriend was there.~~ She stated later several people showed up in the yard, at that time Ebony's boyfriend Demont Hough his brother Chad Hough and Vincent Bracey who were all at the house went out side to see what they wanted. She states that she then went on the front porch and ~~seen Henry Wood, Jerry Haile, Janet Haile, a guy by the name of Corey they call "tee", a guy by the name of James, a girl with the name Dale, and a few more people she didn't know~~ started to fight with the the Hough brothers and Vincent. She said that the two girls had bats in there hands as they came in the yard, she states that shortly after that ~~she saw Henry with a pistol that was silver in color and that he fired two shots.~~ She says that she saw that Chad had been hit and he started running across the drive way and every one else started to run to, during that time she heard two more shots and her sister, Demont and Vincent got in the car to take Chad to the hospital. Shanasia stated that she thought the suspects came up In a white van that was parked out on the dirt road at the end of the drive way. Shanasia also described the pistol to me as silver in color old type gun that you could cock. Shanasia was then ask to write a statement for me as to what she had talked about and seen during this incident.

Interview with Henry Bernard Woods On March 8, 2006
Conducted by Investigator Danny Catoe

On Wednesday the 8th of March 2006 Henry Bernard Woods was brought to the Kershaw County Sheriffs office for an interview. Upon meeting Mr. Woods and introducing myself and Capt David Thomley to him I then advised Mr. Woods of his Miranda rights

EXHIBIT
A

~~and ask him to sign the form that he understood his rights and that he was willing to talk to us. During this interview we ask Mr. Woods about what happen and what caused him to go to Rochelle Dr in Bethune, He then explained that she was upset because his baby's mama wouldn't let him see his son and her boyfriend was getting involved in the matter and was running his mouth to him~~ Mr. Woods wouldn't go into a lot of detail about what happen other than the fact that ~~he was fighting with 3 guys that came out of the trailer when he got there.~~ After this I ask Mr. Woods if he knew which one of the three guys was Ebony's boyfriend and he stated that "no I didn't". So then I ask Mr. Woods if he was aware that the boy (he shot) was not Ebony's boyfriend and he then stated "no". I then went on to ask Mr. Woods about the gun and the where abouts of the gun that was used, he ~~Mr. Woods wouldn't commit on anything to do with a gun he claimed he knew nothing about a gun.~~ Inv Phillip Crawford then came in and spoke with Mr. Woods briefly and he was then transported back to the detention center.

Law Dany P. Lee
KCS

Name of Person Giving Statement

417 Toward Street
Address

Bethune 29009
City, State, Zip Code

(843) 334-8320
Home/Work/Cellular Phone

Social Security Number

Current Time/Date

06-26-27 / 28
Date of Birth / Age

Henry Woods called my phone around 5:30pm stated that he was coming to see his son I had told them not to come to my house come over the grandparents house so he could see the child but he insisted to come to the house. Throughout the day he kept calling, along with his sister Stephanie woods.

Before coming to the house he called the house number to let them know that they were out there they came upon my property wanting to fight my boyfriend, my boyfriends brother Chad and friend.

I have made the foregoing statement freely and voluntarily, without fear, threat, promise of reward or hope of reward of any kind. This is to certify that I have read or have read to me the foregoing statement consisting of 2 pages and a true copy has been given to me this date.

Ebony Dancy
Signature of Person Giving Statement

Cpl. B. Mills 41
Witness Signature

Witness Signature

Page 1 of 2 pages

EXHIBIT
B

SUPPLEMENTAL STATEMENT PAGE 2

Vinny was outside when they were walking up the dirt road then ~~the~~ some people jumped out a white Chevy car about ten guys and girls were coming out of the car.

Everyone squared off and was fighting I was trying to break everyone up but they wouldn't. Frances Haile brought the bat out was hitting my boy friend and Chad also Vinny.

Everything broke up that is when Henry Woods pulled out the gun and shot Chad Haigh twice then ran back and shot the gun two more times at the house and my little sister Shanashia

When while the shooting was going all I had two babies in the house along with my 4 year old son and Shanashia my sister.

The car was a four door Chevy car with chrome rims

Henry woods - smurf - Black hoodie tattoos left are blunt

Jerry Haile Jay

Frances ^{Drakeford} ~~Haile~~ Dale Dark colors with jeans

James ~~Haile~~ Drakeford

Corey Haile

Jeanette Haile

WITNESS

Cpl. B. Morris 4/

WITNESS _____

Ebony Dancy

SIGNED

Shanasia Dancy
NAME

250-97-6360
SOCIAL SECURITY #

417 Inwood St
ADDRESS

8:50 pm 3/7/06
TIME DATE

Bethune S.C 29009
CITY, STATE ZIP CODE

1-24-90
DATE OF BIRTH

843-334-6195
HOME AND WORK PHONE

Henry Woods called to see if he could see his son & she told him that he could not come over here because her boyfriend was here. Henry woods brought Jerry Haile Jeanette Haile & Corey Dale & James over here with him they came my sister boyfriend Damont Hough went outside to see who was in the yard and they started fight and Jeanette Haile & Dale had the bats. Then Henry woods shot Chad Hough 2 times & the place cleared. Then

I HAVE MADE THE FOREGOING STATEMENT FREELY AND VOLUNTARILY, WITHOUT FEAR, THREAT, PROMISE OF REWARD OR HOPE OF REWARD OF ANY KIND. THIS IS TO CERTIFY THAT I HAVE READ OR HAD READ TO ME THE FOREGOING STATEMENT CONSISTING OF 2 PAGES AND A TRUE COPY HAD BEEN GIVEN TO ME THIS DATE. PAGE 1 OF 2 PAGES.

WITNESS [Signature]
WITNESS _____

SIGNED Shanasia Dancy

EXHIBIT
C

Shanasia Dancy
NAME

SOCIAL SECURITY #

417 Inwood St
ADDRESS

8:50pm 3/7/06
TIME DATE

Bethune S.C. 29009
CITY, STATE ZIP CODE

DATE OF BIRTH

HOME AND WORK PHONE

they drove by and shot 2 more times.

The Gun I saw Henry Woods with was silver with a hammer that cocks. I think it is called a revolver

I HAVE MADE THE FOREGOING STATEMENT FREELY AND VOLUNTARILY, WITHOUT FEAR, THREAT, PROMISE OF REWARD OR HOPE OF REWARD OF ANY KIND. THIS IS TO CERTIFY THAT I HAVE READ OR HAD READ TO ME THE FOREGOING STATEMENT CONSISTING OF 2 PAGES AND A TRUE COPY HAD BEEN GIVEN TO ME THIS DATE. PAGE 2 OF 2 PAGES.

WITNESS [Signature]
WITNESS _____

SIGNER Shanasia Dancy

HENRY WOODS #314307

LEE Correctional Institution

990 Wisacky Hwy

Bishopville, SC 29010

Suprem Court

P.O. Box 11330

Columbia S.C. 29211