

August 14, 2014

Lewis D. Williams #286960
Lee County Correctional Institution
900 Wisacy Highway
Bishopville S.C 29018

Supreme Court of SC
Daniel E. Shearouse
Clerk of Court
Columbia, S.C 29211

RECEIVED

AUG 21 2014

S.C. SUPREME COURT

RE, Lewis D. Williams vs State
Appellate Case NO' 2014-000652

Dear. Shearouse

I'm writing you to let you know
I am sending you the pro se and argue of
my issues for the court to raise for me
I will like to have a counsel to help me
in the Supreme court to.

Thank you
D. Shearouse

Ground One (A) (2)
Ineffective Assistance Of Trial Counsel

AUG 21 2014

S.C. SUPREME COURT

Supporting facts:

Trial Counsel was ineffective for failing to determine whether the co-defendants had personal first hand knowledge that Applicant was, in fact, in a gang or whether their belief Applicant was in a gang based on rumor or what someone else told them, which would be hearsay. And had it been determined that co-defendants beliefs were based on mere hearsay. The Judge may have disallowed any mention of gangs. We all are aware of the negative light the public views gang members and any activities associated with it.

In Old Chief, the United States Supreme Court recognized that some titles or descriptions of information have the strong potential of making jurors see the defendant (accused) as being a bad person who needs to be punished...

The jury in this case could have seen the Applicant, who was much older, as a violent gang leader misleading young children into a life of crime and his using gang status to silence them, or worse; thereby believing Applicant needed to be punished. See Old Chief V. U.S. 117 S.Ct. 644; 519 U.S. 172

The risk to Applicant not receiving his Constitutional right to a fair trial by allowing any mention to the jury of his being in a gang, without first establishing whether the co-defendants belief was based on first hand knowledge or hearsay was denial of Applicant's Constitutional right to a fair trial...and ineffective assistance of counsel.

We believe the prejudicial effect far outweighed any probative value, even under the circumstances it was allowed in, and had it been determined to be hearsay, the Judge could have found the risk too great and disallowed any mentions of gangs. The trial counsel's failure also constituted a denial of Due Process.

Ground One (A) (3)
Ineffective Assistance Of Trial Counsel

Supporting facts:

Trial Counsel was ineffective for failing to make a Motion for a Mistrial, or asking the Judge to instruct the jury to disregard the Applicant's Alibi Witness Statement, stating, "I just want to apologize to the people for what my nephew had done to them and give them my sympathy." See Trial transcript page 395, Lines 6,7, and 8

The prejudice is that the jury could have interrupted the statement as her having first hand knowledge that Applicant was, in fact, guilty and that he had admitted guilt to her.

Such statement acts as an admission of guilt or guilty plea. See Florida V. Nixon 543 U.S. 175 (2004)

The Applicant asserts that had trial counsel requested a mis-trial or instructions to disregard the statement, the outcome (results) of the proceeding would have been different.

It is clear and very likely that the Judge would have granted a mis-trial had it been requested given Judge's earlier statement - See Trial transcript page 395, Lines 2 & 3

We believe we are entitled to a new trial under the Strickland V. Washington and Cronic Presumption of Prejudice Standard.

Ground One (A) (4)

Trial Counsel was ineffective for failing to make a Motion to suppress any and all information obtained from the State's witness, Hakeem Randy Costa, because when Police Officers went to his home with the sole purpose of making an arrest and obtaining information, and indiscriminating statements, Hakeem Randy Costa was a minor, only 16 years of age, and without parental consent or being an adult present, the Police illicited incriminating information and entered the premises, and removed minor from home all without parental consent, which was a violation of the law, and Hakeem Randy Costa's rights.

It is clear from the trial transcript that the Police were aware of the minor's rights and that they were supposed to talk tot he minor's parent before pursuing the course they did. See Trial transcript, State V. Miller 626 SE 2d. 328 / 367 S.C. 328

Normally, defendants do not have standing to challenge the violations of another's rights, or a co-defendant's rights. However the S.C. Court of Appeals have recognized that there are situations where a defendant does have standing to challenge a violation of co-defendant's rights when he has a substantial personal stake in the admissibility of the evidence, and Applicant herein believes he has such substantial personal stake.

Much of the evidence that led to the arrest and conviction of Applicant was obtained from Hakeem Randy Costa, and had that evidence and testimony from him been suppressed, Applicant believes there was a strong possibility that the results would have been different. See: State V. Miller 367 S.C. 329; 626 S.E. 2d. 328

Went to Hakeem Randy Costa's apartment. Trial transcript page 336, Lines 3-18. It is clear from this record that Police were going to Hakeem's house to make an arrest. Page 335, Lines 17-22

Page 337, Lines 21-23, and page 338, Lines 1-19; from this, it's clear the minor was petrified and scared, with no parent or adult being present. See Trial transcript page 337, Lines 23-24, where Police testified minor was petrified.

From Page 340, Lines 6-11, it indicates the Police knew that these were minors and needed and should have had their parents or guardians permission before speaking to them

It was also clear from the record that when the Police went to Hakeem Randy Costa's apartment; both of the minors were put under arrest and kept separate, they were not free to leave.

Ground Two (B) (I)

Denied Due Process of Law

Supporting facts:

Applicant was denied Effective Assistance Of Appellate Counsel in Direct Appeal proceedings when Appellate Counsel failed to raise and or challenge on Appeal the Trial Judge's reading of the Hand of One is the Hand of All charge when the jury only requested the criteria for Armed Robbery. Trial transcript Page 454, Lines 22-25 and continued on Page 455, Lines 1-4.

And proper objections were made by Trial Counsel; Trial transcript Page 455, Lines 5-7 and the Trial Counsel explained that it insinuated Applicant was guilty. Burden Shifting...

This error was compounded by the Solicitor misleading the jury that the Hand of One of All is a Law, which it is not. Trial transcript Page 12, Lines 13-17 in opening statement to the jury.

The prejudice is that the Judge tells the jury that they are the sole deciders of the facts and He cannot interfere with their duties or role, and He (Judge) is the sole judge of the law and basically they must go along with the law he gives whether they like it or not, whether they agree with it, or not. So, by portraying to jury that a Prosecutor's theory is the Law, and they must believe it and see it the way the Prosecutor sees it, deprives the Defendants of a fair trial and for Judges to continue to portray a Prosecutor's "theory"

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4
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are guilty... But, the reason the logos Hand of One is used and designed is to give the Prosecutors a undue and unfair advantage and lessens the Prosecutors burden of proof, which makes the use of the Logos "Hand of One is Hand of All" Unconstitutional and Burden Shifts, and had Appellate Counsel in this case raised the issue on Appeal, the outcome of these proceedings would have been different.

Notice: The Judge says, at Page 459, Lines 20-22, to the jury, "It matters not by whose immediate agency that crime is committed, because All would be guilty..." "The Hand of one is the Hand of All."

Notice: The Judge doesn't say could, if you jurors decide he is guilty." It says would, meaning mandatory, meaning must find him guilty. To use the word could instead of would leaves the matter for the jury to decide based on their own common sense and thinking, but using mandatory language words, encourages and forces the jurors to think as Prosecutors think, after all the logos, 'Hand of One is Hand of All, is a Prosecutors thinking or better word would be theory.

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The jury only asked about the Armed Robbery, which could mean they had made a decision of not guilty on the Burglary, but when the Judge gave the Hand of One is All charge, the jury ~~may~~ may have felt compelled to find Applicant guilty on Burglary charge as well...

~~(EUM | [scribble] | [scribble] | [scribble])~~

5

Ground Three (C) (I)

Denied Constitutional Right To A Fair Trial

Supporting facts:

The Applicant was denied his Constitutional Right to a fair trial when Trial Judge injected a prosecutors theory into the deliberating process of a jury which gave the Prosecutor an unfair and undue advantage and reduced the State's burden of proof... (Burden Shifting)

See Page 454, Lines 22-25 and 455, Lines 1-14

Also: See where Solicitor had (misrepresented) this Prosecutor's "theory" to the Jury as being a LAW in her opening statement to the jury Page 12, Lines 13-17 "Judge Anderson will give you a charge. That means he will give you the law in this case and we believe one of the charges he will give you is, 'The Hand of One Is The Hand of All.'" The reason why Prosecutor used the logos 'The Hand of One Is of All', instead of just defining in a charge what an accessory before and after the fact or accomplice liability, or a principle, which would be sufficient, is it lessens the Prosecutor's burden of proof...

Note: Just because the State and it's Courts and even it's State Supreme Court has done something for a long time, does not mean it's not un-Constitutional. This is clear from the Yates case where the U.S. Supreme Court found the instruction given in Yates and similar cases to be un-Constitutional (Burden Shifting)...

We contend if the un-Constitutional logos of "Hand of One is Hand of All" had not misrepresented the Prosecutors "theory" as a Law, the result of the proceedings would likely have been different.

~~where that there are three (3) other grounds that need to be~~

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