30 August 2014

Mr. Robert Louis Garrett Jr.
~~SCDC #291096~~
Lee ~~CI ~~~ SMU South 12.6~~
990 Wisacky Highway
Bishopville, S. Caro. 29010

The Honorable ~~Kenneth A Richstad~~
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, S. Caro. 29211

RECEIVED
SEP 0 5 2014
SC Court of Appeals

RE: Robert Louis Garrett Jr. v. State Of South Carolina
Appellate Case No.: 2014-001712

Dear Mr. Richstad:

Please find enclosed for filing, my Motion To Be Appointed Outside Counsel, and other related pleadings. By way of the South Carolina Supreme Court's 13 August 2014 Order (That I received on 18 August 2014), my motion entitled "Notice Of Appeal, Motion To Transfer And Motion For Appointment of Outside Counsel" was transferred over to this jurisdiction. Because I'm still representing myself at present, the enclosed motion and related pleadings are my pro se attempts to adhere to the South Carolina Appellate Court Rules.

PLEASE "time stamp" all of the enclosed pleadings (Acknowledging receipt) and forward me a copy at your very earliest convenience. Thanks in advance for your anticipated help and prompt response, good day to you and your's, and of course God bless.

With Truth And Grace,
Robert L. Garrett Jr.
Robert L. Garrett Jr.
Pro Se/Indigent Appellant

RLGJ

cc: Attorney General Alan McCrory Wilson
South Carolina Commission On Indigent Defense

ENCLOSURES: 30 August 2014 Motion To Be Appointed Outside Counsel (Exhibits 1X-10X);
30 August 2014 Letter To Attorney General Wilson (Exhibits A1-A12);
30 August 2014 Letter To Chief AD Dudek
Table Of Contents; Coversheet; 32 Pages Total

State Of South Carolina County Of Sumter Robert Louis Garrett Jr., #291096 Appellant, V. State Of South Carolina, Respondent.	~1~	In The Court Of Appeals Appellate Case No 2014-001712 Motion To Be Appointed Outside Counsel

The undersigned respectfully shows the Court:

1. I, Robert Louis Garrett Jr., currently an "indigent/pro se litigant" for this matter, filed a Notice Of Appeal, Motion To Transfer Case And Motion For Appointment Of Outside Counsel bach on 31 July 2014 with the South Carolina Supreme Court.

2. On 18 August 2014, Appellant received a copy of the South Carolina Supreme Court's 13 August 2014 Order transferring this matter over to this Court's jurisdiction. (See Exhibit 1X)

3. Appellant's case involves an assortment of appeals that were previously filed in this Court, but due to the South Carolina Supreme Court's "new standard" regarding the "Confrontation Clause and Non-Testifying Co-Defendant's Redacted Statements (See State v. Henson 407 S.C. 154, 754 S.E. 2d 2014; Appellate Case No 2011-204008), this Court now holds the duty of correcting it's prior rulings that reversed/overturned Appellant's trial court's "grant" of a "New Trial With No Co-Defendant Involved" bach in June 2002.

4. Appellant is indigent and has had to rely on the South Carolina Commission on Indigent Defense to represent him on "three (3) prior occasions", and Appellant raised "ineffective assistance of counsel" claims on two (2) different attorneys from the said Commission. (See Exhibits 2X, 3X, 4X, 5X, 6X, 7X and 8X)

SEP 0 5 2014

SC Court of Appeals

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5. Exhibit 3X .... Page From PCR Application (Details About Ineff. Ass. Counsels) .... 1 Page
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14. Exhibit A4-A6 .... Attorney General's Petition For Rehearing To The South Carolina Supreme Court For The <u>Henson</u> Case .... Their Argument Was That My Case Was The Previous Precedence And If The Supreme Court Didn't Reverse The Court Of Appeal's 2002 Reverse And Remand Of My Trial Court GRANT OF A NEW TRIAL, Then The Court Should Re-visit <u>Henson</u> And Change It's Ruling .... 3 Pages
15. Exhibit A7-A12 .... Pages From January 2000 Trial Transcript ...... Solicitor Used My Non-Testifying Co-Defendant's Redacted Statement Against Me In His Closing Arguments; Said Solicitor Tried To Convince My Jury That It Was Okay For Them To Use It Against Me; My Trial Counsel Objected ..... This Was A Blatant Violation Of The Confrontation Clause And My Trial Court Granted The New Trial Motion Partially Because Of This Violation
16. Letter To Chief A.D. Robert Dudek .... 1 Page .... 30 August 2014

PLEASE TIME-STAMP AND SEND
ME A COPY ACKNOWLEDGING RECEIPT. Thank you.

5. On the last of the above referenced occasions, Appellant's appointed counsel, Kathrine H. Hudgins, filed a Motion To Be Relieved From Representation and Motion For Appointment of Outside Counsel; Said counsel filed the said motions after Appellant brought it to her attention that it would likely be a conflict of interest for anyone from the herein referenced Commission to represent him. (See Exhibit 9X and 10X)

6. The primary issue in this appeal is straight forward and will not require thirty years of legal experience to craft and perfect, however this matter will involve this Court having to revisit several of it's prior rulings, so Appellant merely begs this Court to appoint him "competent/effective counsel", who can at least meet with him once (1) during the course of perfecting this appeal.

7. As it is highly probable that it will be a conflict of interest for the South Carolina Commission On Indigent Defense to represent Appellate, he respectfully ask this Court to grant this motion, and appoint him "compe-tent/effective counsel".

With Truth And Grace,
Robert L. Garrett Jr.
Robert L. Garrett Jr.
Pro Se/Indigent Appellant

RLGJ

30 August 2014

cc: Attorney General Alan McCrory Wilson
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, S. Caro. 29211

ATTACHMENTS: Exhibits 1X-10X (10 Pages)

Exhibit 1X
— August 2014 Enclosure
— Supreme Court Transfer Order —

The Supreme Court of South Carolina

The State, Respondent,

v.

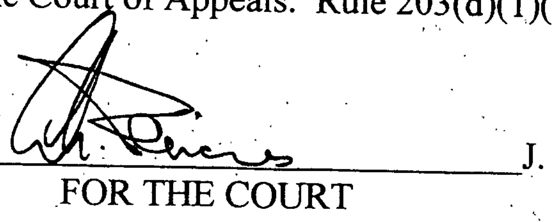
Robert L. Garrett, Jr., Appellant.

Received 18 Aug 2014
RLGJ

Appellate Case No. 2014-001712

ORDER

Appellant has filed a notice of appeal from an order of the circuit court denying appellant's motion for a new trial based on after-discovered evidence pursuant to Rule 29(b), SCRCrimP. Appellant moves for the appeal to be transferred to this Court and for the appointment of outside counsel. We have construed appellant's request as a motion for certification pursuant to Rule 204(b), SCACR. The motion is denied and this appeal, including appellant's motion for the appointment of outside counsel, is hereby transferred to the Court of Appeals. Rule 203(d)(1)(A), SCACR.



_______________________________ J.
FOR THE COURT

Columbia, South Carolina

August 13, 2014

cc:
Alan McCrory Wilson, Esquire
Robert Louis Garrett, Jr.

Exhibit 2X
— August 2014 Enclosure

PAGE FROM PCR Application Rega[rding]
INEFFECTIVE ASSISTANCE OF APPELLA[TE]
COUNSELS

(b) N/A

(c) N/A

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Due Process Violations/Speedy Trial Violation

(b) Ineffective Assistance of Counsels

(c) Prosecution Misconduct

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) See next page for brief summary; Full argument will be in Amended Application by appointed counsel.

(b) See next page for brief summary; Full argument will be in Amended Application by appointed counsel.

(c) See next page for brief summary; Full argument will be in Amended Application by appointed counsel.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? yes

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? yes

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no

(d) any other petitions, motions or applications in this or any other Court? yes

13. If you answered yes to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. Applicant's Letter/Motion For Dismissal (Speedy Trial Violation), 8-7-98

ii. Applicant's Trial Counsel's Motion For Speedy Trial, 12-23-98

iii. Applicant's Letter/Motion For Dismissal (Speedy Trial Violation), 8-12-99

iv. Applicant's Letters/Motion (Speedy Trial Violation); 11-19-99, 11-26-99

—CONTINUED ON NEXT PAGE—

(b) the name and location of the Court in which each was filed:

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

ii. Sumter County General Sessions, 141 North Main Street, Sumter, S.C. 29150

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

—CONTINUED ON NEXT PAGE—

Exhibit 3X
— August 2014 Enclosure

11. State concisely and in the same order the facts which support each of the grounds set out in (10): PCR Application [ineffective Assistance of Appellate Counsels

To be brief, in support of the grounds for relief because of the Due Process Violations, Speedy Trial Violations, Ineffective Assistance of Counsel, and Prosecution Misconduct, Applicant shows as following:

1. Applicant has been denied his Constitutional Rights to Due Process of law and a Fast and Speedy Trial and, under the Barker v. Wingo criteria set forth by the Supreme Court he should have never been taken to trial.
2. Had Applicant not had several cases pending against him back in December 1999 when the Supreme Court took his case under consideration, Applicant is certain the Court would have dismissed the case to which Applicant is now being illegally held on and ordered his immediate release.
3. State asserted to Supreme Court that they would try Applicant on one if not more of his cases in September 1999 or November 1999 terms of Court and, further laid out in explicit terms the forty (40) something charges to which they had indicted Applicant on, making it seem to the Court that Applicant was a menace to society. Applicant wonders now how the State can explain to the Supreme Court of South Carolina or any other Court why they still have not tried Applicant on any of those other charges even though he demanded Speedy Trials on numerous occasions.
4. Applicant will file new Motion For Dismissal within the next sixty (60) days if he is not tried on the said charges.
5. Applicant has an assortmennt of letters from Clare admitting that she felt she was commiting malpractice because she had too many clients to represent. PCR counsel (Brooks) failed to have her at PCR hearing so the letters could be made a part of the record and prove that she admitted that she was ineffective, thus relinquishing Applicant's burden to prove both prongs that she was ineffective.
6. Clare represented two of Applicant's co-defendants (Andre China and Samuel Temoney), which is a clear conflict of interest and, when Applicant brought it to Clare's attention that he knew she was representing the said co-defendants, she got belligerent, disrespectful, and down right unprofessional with Applicant, going so far on one occasion to make slurs about Applicant's mother in one of her letters. Applicant has the letters to and from Clare (To include letters with her admitting she was committing malpractice and talking about Applicant's mother), and he will have them to present at the first Evidentiary Hearing for this case.
7. Said letters will prove that because Clare was so overworked, because she could not effectively represent Applicant, because of that and the fact that she was representing two of Applicant's co-defendants who wrote statements against Applicant but later recanted, because she did not want to except help from the NLPA and because of her overall performance, her deficient performance severely prejudiced Applicant and did not allow him Due Process of law and effective assistance of counsel.
8. Applicant's first letter to Pachak advised him about severe conflict of interest with him due to the fact that Clare had represented Applicant on State's Direct Appeal and, she was in the same office with him so, it would be extremely hard if not impossible for him to raise such issues against his co-worker.
9. Applicant counsel (Pachak) didn't respond to the said letter nor did he respond to any of Applicant's other letters and for further insult, he never sent Applicant copies of any briefs or motions he filed on Applicant's behalf and he actually sent Applicant a copy of one of his other client's briefs by mistake.
10. Pachak should have filed a Motion To Be Relieved as Counsel just like his co-worker Hudgins did when Applicant advised her that a conflict of interest existed because Pachak had once represented him and because he didn't, Applicant's Direct Appeal was not effectively argued because it was void of Applicant's key arguments from trial.
11. Pachak purposely did not come to Applicant's PCR hearing because of his criminal conduct towards Applicant and, Applicant's PCR counsel was likewise grossly ineffective for not making sure Pachak and Clare were present at the said hearing. Even a mediocre review of the record with all of the facts will show that all three counsels were ineffective; It was as if they were washing each other's backs.
12. Brooks told Applicant a bold faced lie at PCR Hearing in that he told Applicant that since the majority of his witnesses were not present, they would continue his hearing to a later date when all of them could be there; Co-defendants were going to testify that they had in fact lied on Applicant on their first statements to investigators because they were coerced and they wrote additional statements recanting, and of course neither Clare nor Pachak were present either.
13. Because none of the herein referenced individuals referred to in number (12) were present at PCR hearing, PCR Court did not have even a third of the facts in Applicant's case in which to make a sound judgement.
14. Applicant is willing to take a lie detector test to prove to the Court that Brooks lied to him; He doubts very seriously if Brooks will submit to one.

Exhibit 4X — August 2014 Enclosure

15. Applicant plans to send out either an official complaint to the Bar Association or file a civil action against Brooks for his part in violating Applicant's Constitutional and Human Rights.
16. Brooks performance was grossly deficient and there was an assortment of prejudices to Applicant as a direct result of his deficient performance.
17. Brooks was re-appointed to represent Applicant on appeal of PCR and should have filed a Motion To Be Relieved as Counsel because Applicant advised Court that he was grossly ineffective at Applicant's hearing so, the likelihood of him being ineffective on the said appeal was highly probable and expected..
18. Applicant with the help of an attorney with his best interest at heart and not merely being a puppet for the State in helping keep Applicant illegally incarcerated, and their investigator will easily demonstrate and show that his attorneys' deficient performances greatly violated Applicant's Constitutional Rights and failure to appoint counsel and hear all of the facts with this case will result in a fundemental miscarriage of justice.
19. Because of an assortment of procedural irregularities Applicant has been denied Due Process of law and moreso, because Applicant did not receive a "full bite" at the apple on his first PCR and the system has failed to hand out justice; The only remedy at this point is to set up a Evidentiary Hearing so Brooks can explain on the record how he could have possibly effectively represent Applicant when he did not have all of the motions, transcripts, and other pleading filed during stages in Applicant's case.
20. Applicant has a meticulous file that him and his appointed counsel will present to the Court to prove beyond a shadow of a doubt that Applicant is being illegally detained and, with the testimonies of his herein referenced co-defendants at his PCR hearing telling the truth, the Court will be forced to set a new "Landmark Case" and grant Applicant his requested relief.

Exhibit 5X
August 2014
Enclosure
PCR Application; Ineffective Assistance Of Appellate Counsel

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) See next page for brief summary.

(b)

(c)

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? no

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

18. If you answered yes to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. I.S. Leevy Johnson; Johnson, Toal and Battiste
1615 Barnwell St., P.O. Box 1431, Columbia S.C. 29202

ii. Aileen P. Clare, Applellate Defense
1205 Pendleton Street, Room 306, Columbia, S.C. 29201

iii. Robert M. Pachak, Applellate Defense
1205 Pendleton Street, Room 306, Columbia, S.C. 29201

—CONTINUED ON NEXT PAGE—

(b) the proceedings at which each such attorney represented you:

i. Johnson represented Applicant at trial and at his sentencing hearing held three years later.

ii. Clare represented Applicant on the State's Direct Appeal of Judge Westbrook's grant for Applicant to receive a new trial.

iii. Pachak represented Applicant when Applicant filed his Direct Appeal.

—CONTINUED ON NEXT PAGE—

Exhibit 6X
August 2014 Enclosure
PCR Application

16. If any ground set forth in (10) has not previously been presented to any Court, State, or Federal, set forth the grounds and state concisely the reasons why such ground has not previously been presented:

(a) Charles T. Brooks, III purposely refused to put alot of Applicant's key arguments on the record (Under the banner that he didn't feel they were reversible errors) so, Applicant was forced to file an assortment of pro se motions (Most of which were not ruled on): As a review of the various Orders and motions herein referenced will reflect, no Court ever said Applicant's pro se motions were meritless or frivilous, they either didn't rule on them because they were pro se or they didn't say anything about them (I guess because they couldn't explain on the record why they didn't agree with them and grant Applicant his requested relief). The Supreme Court has held that if a particular case be violated by even an isolated error by counsel, if that error is sufficiently egregious and prejudicial then Applicant's requested relief should be granted. Brooks didn't have one isolated error, he had a wide selection of egregious/prejudicial errors that rose to the level that both prongs of Strickland were met. Brooks did not amend Applicant's original PCR Application with even one percent of Applicant's arguments he asked him to include, the ones he did somewhat raise were not argued adequately, he didn't have either of Applicant's Appellate counsels present at the PCR hearing, he didn't have Applicant's codefendants who were going to tell the truth in that they had in fact lied on Applicant on their first statements(Because investigators coerced them to), he lied to Applicant about his PCR hearing being continued until all of the witnesses could be rounded up, and his deficient performance severely prejudiced Applicant's hearing because PCR Court did not have the facts to enable him to grant Applicant his requested relief.

(b)

(c)

18. If you answered (yes) to one or more parts of (7), list:

(a) the name and address of each attorney who represented you:

iv. Katherine K. Hudgins: SC Commission on Indigent Defense, 1330 Lady Street, Suite 401, P.O. Box 11589, Columbia, S.C. 29201-3332, or 29211-1589

v. Charles T. Brooks, III; Law Office of Charles T. Brooks, III, P.O. Box 3512, Sumter, S.C. 29150

(b) the proceeding at which each such attorney represented you:

iv. Hudgins represented Applicant on appeal of PCR until Applicant wrote her a letter explaining to her about his case, Clare and Pachak's ineffectiveness and the fact that they were her co-workers, and of course Brooks' gross incompotence and gross ineffectiveness at Applicant's PCR hearing; As a result of letter Hudgins filed a Motion To Be Relieved as Counsel. That's when Supreme Court incorrectly reappointed Applicant Brooks.

v. Charles Brooks represented Applicant on PCR, at PCR Hearing, and was later incorrectly reappointed to represent Applicant on appeal of PCR to the Supreme Court.

CHAIN OF EVENTS FILE 114

Exhibit 7X
— August 2014 Enclosure

Pro Se Motion; Ineffective Assistance of Appellate Counsels

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Sumter County
Honorable Clifton Newman, Circuit Court Judge

ROBERT L. GARRETT JR.,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

MOTION FOR APPOINTMENT OF OUTSIDE COUNSEL

The undersigned respectfully shows the Court:

1) Kathrine H. Hudgins was appointed to represent petitioner in his appeal from the denial of post conviction relief (PCR). The notice of intent to appeal was filed on February 27, 2008, and Hudgins received the transcript on July 14, 2008; To this day Hudgins has failed to provide petitioner with a copy of the said transcript, as is his right.

2) Upon Hudgins review of the transcript, as well as a letter from petitioner (See enclosed Enclosure #1), counsel determined and saw that a conflict existed in regards to her representing petitioner. Aileen Clare and Robert Pachak, other attorneys with the South Carolina Commission on Indigent Defense, Appellate Division, represented petitioner on State's appeal of trial Court's grant of a new trial without co-defendant, and represented petitioner in his direct appeal. Both were overwhelmingly ineffective and in petitioner's PCR application both were mentioned as having been ineffective.

3) On August 13, 2008 Hudgins filed a motion to be relieved as counsel and for this Court to appoint new outside counsel.

4) On August 28, 2008 this Court granted said motion and reappointed Charles T. Brooks, III to represent petitioner again.

5) Brooks represented petitioner at his PCR hearing held on March 2007. Brooks failed to have everybody subpeanaed to be there (Namely

Ilave and Pachak), and at the said hearing Brooks lied to petitioner telling him because everyone wasn't there he (petitioner) would be brought back to court to finish up the hearing. This was a lie because deposition was done for Pachak and months later Brooks told me about it and the fact that the Court had denied my PCR.

6) Brooks visited petitioner one time only days before the herein referenced PCR hearing, and at that time he did not have all the motions/briefs filed by Clave or Pachak so, it was impossible for him to effectively represent petitioner at said hearing because he didn't know all there was to know about petitioner's unique case. Brooks didn't even know that Pachak was involved because he questioned petitioner extensively about him; It was evident to petitioner that Brooks had not thoroughly read trial transcript or all of other pleadings in petitioner's case.

7) As is evident by Enclosures #2 through #6, it is abundantly clear that Brooks will not admit to his mistakes and errors in representation of petitioner (Which petitioner plans to have relayed to this Court in detail in his Writ of Certiorari). (See enclosed Enclosures #2 through #6).

8) Not only does Brooks fail to respond to petitioner's letters, he likewise failed to voice even a fraction of petitioner's key arguments and grounds for appeal and therefore, to ensure that petitioner's rights are not further violated, petitioner respectfully asks and pleads with this Honorable Court to appoint petitioner another outside attorney to represent him. Thank you.

Respectfully Submitted,
Robert L. Garrett Jr.
Robert L. Garrett Jr.
Petitioner

24 September 2008
RLGJ

Enclosures #1 through #6

SUBSCRIBED AND SWORN TO before me
this 24 day of September 2008.

[signature]

Notary Public for South Carolina
My Commission Expires: 27 June 2017

Exhibit 9X
August 2014 Enclosure
Hudgin's Motion To Be Relieved As Counsel And Appoint Outside Counsel

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

Honorable Clifton Newman, Circuit Court Judge

ROBERT L. GARRETT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

MOTION FOR APPOINTMENT
OF OUTSIDE COUNSEL

The undersigned respectfully shows the Court:

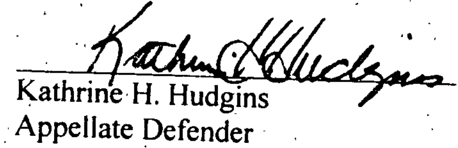
1. Counsel was appointed to represent Mr. Garrett in his appeal from the denial of post conviction relief. The notice of intent to appeal was filed on February 27, 2008, and counsel received the transcript on July 14, 2008.
2. Upon review of the transcript counsel determined that a conflict existed in regard to her representation of Mr. Garrett. Robert Pachak, another attorney with the South Carolina Commission on Indigent Defense, Appellate Division, represented Mr. Garrett in his

Exhibit 10X
August 2014 Enclosure

direct appeal. In his post conviction relief application Mr. Garrett asserts that appellate counsel was ineffective. Mr. Pachak was deposed in reference to this case.

3. Based on the above detailed conflict, counsel asks to be relieved from the representation of Mr. Garrett and asks the Court to appoint outside counsel.

Respectfully submitted,



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR PETITIONER

August 13, 2008

10

State Of South Carolina)
County Of Sumter)

In The Court Of Appeals

Robert Louis Garrett Jr., #291096)
Appellant,)

Appellate Case No. 2014-001712

V.

State Of South Carolina,)
Respondent.)

Certificate And Proof Of Service

The undersigned pro se/indigent Appellant herby certifies that a true copy of the Motion To Be Appointed Outside Counsel (With Attachments And Exhibits; 32 Pages In Total), has been served upon Attorney General Alan McCrory Wilson this 31 August 2014, by depositing in the United States Postal Service (Via the Lee Correctional Institution Mail System.

Mr. Alan McCrory Wilson, AG
S.Caro. Attorney General's Office
Post Office Box 11549
Columbia, S.Caro. 29211

Robert L. Garrett Jr.
Robert L. Garrett Jr.
Pro Se/Indigent Appellant

31 August 2014

30 August 2014

Mr. Robert Louis Garrett Jr.
SCDC #291096
Lee CI ~ ~ ~ SMU South 126
990 Wisacky Highway
Bishopville, S. Caro. 29010

Mr. Alan McCrory Wilson, Attorney General
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, S. Caro. 29211

RE: Robert Louis Garrett Jr. v. State Of South Carolina
Appellate Case No.: 2014-001712

Dear Attorney General Wilson:

RLGJ I am respectfully coming to you now, as a "pro se litigant" for the above referenced matter, in an attempt to procure you and your office's help in MENDING JUSTICE in this matter. Back on 18 August 2014 I received the South Carolina Supreme Court's 13 August 2014 Order transferring jurisdiction of my case over to the South Carolina Court of Appeals. As you will clearly see from reviewing the ENTIRE RECORD for this matter, the presiding Judge (The Honorable George C. James Jr.) more or less said that though "he" won't RE-grant me a new trial, I should UNDOUBTEDLY be re-granted one; His rationale in short was that there's currently no law that gives "him" the authority to re-grant me a new trial at a 29B Motion Hearing, so I should therefore take my argument (Which is centered around the South Carolina Supreme Court's recent ruling in Davontay Henson v. State, Appellate Case No. 2011-204008) to the "Correct Forum/Court" WITH THE AUTHORITY AND JURISDICTION to grant me the said relief (See Exhibits A1-A3). RLGJ

RLGJ I know this is an unorthodox request, but I nonetheless felt compelled to move in this direction because of the language that YOU and your office used in your Petition For Rehearing to the South Carolina Supreme Court for the Henson case. In the said Rehearing Petition, your argument was more or less that MY CASE (State v. Garrett, 350 S.C. 613, 567 S.E. 2d 523, 526 (Ct. App. 2002)) was the "Previous Precedence on the issue at hand, and if the Supreme Court DIDN'T OVERTURN MY CASE BACK IN 2002 (In effect, they didn't overturn/reverse the Court of Appeal's June 2002 Reverse And Remand For Sentencing of my trial court's order GRANTING ME A NEW TRIAL WITH NO CO-DEFENDANT PRESENT), then the Court should NOT have overturned/reversed Henson's case and should without question revisit it's ruling on the issue; You all further argued that their failure to revisit Henson would be detrimental to both the law as well as prosecutor's throughout this State because it would create a "de facto rule of seperate trials". (See Exhibits A4-A6) RLGJ

RLGJ On 6 March 2014, the Supreme Court denied your Rehearing Petition, and in essence was saying that Henson is the NEW PRECEDENCE on the

Confrontation Clause issue regarding redacted statements of non-testifying co-defendants; Therefore, since the Court DID NOT revisit it's Henson ruling to conform to the "old precedence" on the matter (That being State v. Garrett, MY CASE), that ultimately means that it knows that they've created a de facto rule of seperate trials in matters such as mine's and Henson's....... Thus in the interest of MENDIND JUSTICE the next thing to do is REVISIT MY CASE to conform to the "New Standards Set Up In Henson". 2L65

2L65 As Judge James clearly pointed out in Exhibits A1-A3, our cases are "almost identical", but the MAJOR DIFFERENCE in my favor was that my trial judge (The late Honorable Marc H. Westbrook) EXERCISED HIS 13th JUROR DOCTRINE DISCRETION AND GRANTED ME A NEW TRIAL at the conclusion of my trial, "partially" because of his earlier failures to grant me a severance (Especially in light of the "prejudice" that was created by my "Non-Testifying Co-Defendant's Redacted Statement"). Judge Westbrook (My trial court) stated in quote; "... Let me note [To the solicitor].... I also was concerned no question you were correct legally on the motion to sever, but I cannot help but think that perhaps the fact that I did not grant the motion to sever, caused Mr. Garrett to be prejudiced by some of the things the way they worked out....... I just think it's appropriate to give Garrett a chance for a new trial WITHOUT A CODEFENDANT involved." 2L65

2L65 Those are my trial court's EXACT WORDS and add to that dynamic, in the Solicitor's closing arguments my trial counsel had to object because he 2L65 PURPOSELY used my non-testifying co-defendant's redacted statement against me (And tried to persuade my jury that it was okay for them to do so as well); The said solicitor, Dudley Salebee, was REPEATEDLY given explicit instructions NOT to do that, so coupled all together .... Even YOU can clearly see that the VERY LEAST that I should receive at this point is a NEW TRIAL, just like my trial court (Judge Westbrook) originally ordered. (see Exhibits A7-A12) 2L65

2L65 I know that it's not common practice for your office to go out of your way to help somebody in my position get relief, but in light of the FACT that justice has REPEATEDLY been offended in my case and for it to even begin to be mended I need to be "RE-granted A New Trial", I ask that instead of you and your powerful office doing everything in your power to make my UNJUST convictions stand...... I respectfully ask that you and your office do like a few other courageous Attorney General's Offices have done and go outside the norm and "help" free me from my UNLAWFUL AND UNJUST incarce-ration. 2L65

2L65 I thoroughly detailed it at the 29B Motion Hearing for this matter but for some "odd" reason Judge James, my paid attorney (Jeremy Thompson) and

everybody else keeps trying to overlook and sweep under the rug the FACT that I was denied my Constitutional Right to a fast and speedy trial SOLELY because for OVER TWO YEARS (From August 1997 to December 1999) the Sumter County Solicitor's Office COULD NOT TRICK, COERCE, BARGAIN WITH, PERSUADE or otherwise convince any of my co-defendants to get on the stand and LIE ON ME, and because I made the decision to remain silent and exercise my 5th Amendment Rights and not get involved in the PARADE OF LIES that was the "Probable Cause" to arrest me .... Because of that I've now been illegally and unjustly incarcerated for OVER 17 YEARS and people just keep turning a blind eye to all of the injustices that I've been dealt by this system that was designed to "Uphold Justice At Any And All Cost". RLGJ

RLGJ Unlike in Henson, my co-defendants in this case BOTH RECANTED their original statements, signed affidavits saying EXACTLY why they lied on me to begin with, and testified at my 29B Motion Hearing as to how the Sumter County Solicitor's Office from back then tricked/coerced them to actually get on the stand at my January 2000 trial and LIE on me. At this point I'm merely asking for your help in making sure I'm at least RE-granted a new trial, but please know and overstand Mr. Wilson ...... I am NOT GUILTY of doing what my co-defendants said I did in this case. RLGJ

RLGJ At present I'm still the attorney of record for this matter (My Motion For Appointment Of Outside Counsel hasn't been ruled on yet, nor have I been appointed someone from the South Carolina Commission On Indigent Defense), so I therefore ask that you arrange for us to meet or at least have a telephone conference at your very earliest convenience; At present I'm being unjustly held on SMU because I participated in a non-violent demonstration back in April 2014, so my access to the courts and anybody is severely hampered. I'm innocent Mr. Wilson and "The Law" clearly warrents a new trial and my release, so I ask that you please, PLEASE help MEND JUSTICE. Until the inevitable .... Good day to you and your's, and of course God bless. RLGJ

RLGJ

With Truth And Grace,
Robert L. Garrett Jr.
Robert L. Garrett Jr.
Pro Se / Indigent Appellate

cc: South Carolina Court of Appeals (Clerk)
The Honorable Kenneth A. Richstad
The South Carolina Commission On Indigent Defense

ENCLOSURES: 30 August 2014 Motion To Be Appointed Outside Counsel (Exhibits 1X-10X);
30 August 2014 Letter To South Carolina Court of Appeals (Clerk);
30 August 2014 Letter To Chief AD Dudek;
Exhibits A1-A12

maintains that when the victims were shot, he was inside his vehicle, and that when they all left, the victims' vehicle was left behind with the victims.

First, as noted above, the court does not find Cunningham's new testimony credible. He claimed at different times during the motion hearing that he could not remember certain things or that he was not in a position to see who did what to the victims at any given time. The court finds this fading memory to be quite "convenient" and that simply having a faulty memory over ten years after a trial does not even amount to a true recantation, much less a credible one. Also, the fact remains that Cunningham has not varied from his testimony that the defendant was present at all stages of the crimes and that, at the least, the defendant either drove the victims' car away from the car wash or followed closely behind in the Oldsmobile. The trial judge charged the jury on the principle of "the hand of one is the hand of all". In his September 13, 2012 statement, Cunningham stated that the defendant "did not participate <u>much</u> in these crimes. We were kids at the time trying to have a little fun and didn't intend to harm anyone." (Emphasis added). This makes it clear that Cunningham still admits the defendant participated in the crimes, *albeit* not <u>much</u>. In my view, Cunningham's new testimony, with regard to the first of the five relevant factors the defendant must establish, is not such as would probably change the result if a new trial is granted.

Defendant's Claim under <u>State v. Henson</u>

At trial, both the defendant and Arthur Davis repeatedly moved to sever their trials on the ground that their defenses were inconsistent. As noted above, Davis gave a statement to law enforcement that implicated himself, China, Cunningham, and the defendant. The statement was redacted to remove any reference to the defendant's name, and words to the effect of "another guy" or "the other guy" were inserted in the place of his name. Cunningham testified as noted

~ Exhibit A2 ~
— August 2014 Enclosure
Judge James Order 23 July 2014

above and implicated himself, Davis, China, and the defendant by name. The defendant argued at trial that it would be obvious to any juror that the reference to "another guy" or "the other guy" in Davis' statement would point to no one other than the defendant as being that person. The defendant cites State v. Henson, 407 S.C. 154, 754 S.E. 2d 508 (2014) for the proposition that his Sixth Amendment right to confront witnesses was violated by the admission of Davis' statement.[1]

→ It is possible that if the instant defendant were to be tried today, he would be entitled to be tried separately from Davis, as the use of the identifiers "another guy" or "the other guy" might impermissibly "facially incriminate through inference" the defendant. See Henson, 407 S.C. at 164. This is true even though Cunningham also testified that the defendant was involved in the crimes. In Henson, the non-testifying co-defendant's statement was read to the jury and referred to Henson as "him", "the guy", and "he". Two other parties to the crime testified and directly detailed Henson's, the co-defendant's, and their own participation in the crime. The ← only practical difference between the posture of Henson and the posture of the instant case is that in Henson, there were two participants testifying against Henson, and in the instant case, only one (Cunningham) testifying against the defendant. France and Chiappone were not able to identify the defendant, and the only direct evidence identifying the defendant as an active participant other than Davis' statement was Cunningham's testimony. Cunningham, as the two witnesses in Henson, faced charges for his participation, and had an incentive to downplay his involvement and to shift blame to others. To paraphrase Henson, unless Davis' confession could be redacted in such a way as not to implicate the defendant, there is an argument that the only

He should have ADDED that my testifying codefendant RECANTED BEFORE TRIAL in signed affidavits saying why he lied on me to begin with, and testified at a 29B Motion Hearing saying HE WAS TRICKED/COERCED to testify against me by the Sumter County Solicitor's Office.

[1] The defendant raised the issue of the admissibility of the redacted statement to the Court of Appeals, and the Court held the statement was properly admitted. 350 S.C. at 620-621.

~ Exhibit A3 ~
— August 2014 Enclosure
Judge James Order 23 July 2014

alternative would be not to admit Davis' confession or to grant the motion to sever their trials. Henson, 407 S.C. at 167.

The question becomes whether Henson affords the defendant the right to a new trial at this stage. It does not. The Court of Appeals addressed the issue and held the statement was properly introduced. Also, the court is aware of no authority for the proposition that Henson may form the basis for a state court granting a new trial either under Rule 29 (b) or otherwise, in a case that was tried fourteen years before Henson was decided.[2] The court therefore denies the defendant's motion for a new trial pursuant to Henson. The court will not address whether the defendant may be entitled to relief in another forum.

IT'S CLEAR that I am ENTITLED TO RELIEF. The question now is "who" has the authority to REINSTATE MY TRIAL COURT'S GRANT OF A NEW TRIAL.

WHAT FORUM ??

Defendant's Additional Grounds for New Trial

At the May 29, 2014 hearing, the defendant testified. He submitted the following additional grounds for a new trial:

1. This court's Conditional Order dismissing his application for post-conviction relief (See 2012-CP-43-2007) contained a "blatant lie". This ground is dismissed as not properly considered in a new trial motion.

2. The Honorable Marc H. Westbrook, if still alive, would grant the new trial motion. This ground is dismissed, as it is irrelevant what another circuit judge might rule.

3. Retroactivity of State v. Henson. Discussed above.

Judge Westbrook GRANTED A NEW TRIAL ALREADY; were he still alive he would be in a position to RE-GRANT me a new trial (Partially because of Henson). The Court of Appeals reversed Westbrook's new trial ruling and because the South Carolina Supreme Court did not feel like it now does pursuant to Henson, they did not reverse the Court of Appeal's reversal.

[2] The court recognizes that Henson is not new law, but the Henson Court's ruling, along with State v. Holder, 382 S.C. 278, 676 S.E.2d 690 (2009), does somewhat crystallize the approach to be taken in considering severance motions in these-type instances.

~ Exhibit A-4 ~
— August 2014 Enclosure
Attorney General's Petition For Rehearing

> overwhelming probability of their inability to do so that is the foundation of Bruton's exception to the general rule.

Id. at 208.

Combining the holding from Richardson with the understanding of Gray discussed thoroughly above—that Gray did not overrule Richardson's rejection of inferential incrimination—the State submits the phrase "facially incriminating" must be interpreted consisted with the Supreme Court's holding in Richardson. That is, a nontestifying codefendant's confession can only be facially incriminating where, as in Bruton, "the codefendant's confession "expressly implicates" and "powerfully incriminates" the defendant. Id. at 208. Thus, it is the State's position that this Court's expansive understanding of the phrase "facially incriminating" which was demonstrated in the present case, is one which clearly goes beyond the Supreme Court's understanding of the phrase in Richardson, a case which was not modified by Gray, and is simply at odds with the Bruton trilogy of cases. In light of this, State asks the Court to consider this point in rehearing, or in the alternative, substitute an opinion consistent with this reasoning.

D. The Court's Expansive Interpretation of the Phrase "Facially Incriminating" in this case results in an Extension of Confrontation Clause Rights to Individuals that while Arguably Incriminated in a Redacted Statement, are not Expressly Identified and should not be Protected by the Sixth Amendment

"The Confrontation Clause of the Sixth Amendment, extended against the States by the Fourteenth Amendment, guarantees the right of a criminal defendant to be confronted with the witnesses against him." Richardson, 481 U.S. at 206. "The right of confrontation includes the right to cross-examine witnesses." Id. "Therefore, where two defendants are tried jointly, the pretrial confession of one cannot be admitted against the other unless the confessing defendant takes the stand." Id. The Supreme Court explained in Richardson however, that, "[o]rdinarily, a

~ Exhibit A5 ~
— August 2014 Enclosu
Attorney General's Petition For Rehearing

witness whose testimony is introduced at a joint trial is not considered to be a witness 'against' a defendant if the jury is instructed to consider that testimony only against a codefendant." Richardson, 481 U.S. at 206. The Court added its reasoning behind this statement stating, "[t]he law almost invariabl[y] assum[es] that jurors follow such limiting instructions. Id. (internal quotations omitted). Continuing, the Richardson Court said:

> The rule that juries are presumed to follow their instructions is a pragmatic one, rooted less in the absolute certitude that the presumption is true than in the belief that it represents a reasonable practical accommodation of the interests of the state and the defendant in the criminal justice process. On the precise facts of Bruton, involving a facially incriminating confession, we found that accommodation inadequate. As our discussion above shows, *the calculus changes when confessions that do not name the defendant are at issue*. While we continue to apply Bruton where we have found that its rationale validly applies, we decline to extend it further. We hold that the Confrontation Clause is not violated by the admission of a nontestifying codefendant's confession with a proper limiting instruction when, as here, the confession is redacted to eliminate not only the defendant's name, but any reference to his or her existence.

Id. at 207 (emphasis added).

Here, the State submits the result of this Court's finding, that despite a jury instruction, a neutral pronoun redaction which neither "expressly implicates," nor "powerfully incriminates" violates Bruton and as a result, the Confrontation Clause, is in error since, as discussed above, the Confrontation Clause requires more. Bruton and the Confrontation Clause require that a statement: (1) expressly implicate and (2) powerfully incriminate. Richardson, 481 at 207. In this case, the State agrees that the redaction "the guy who did the shooting" and "the guy that did the shooting" are incriminating, however, as mentioned above, the redactions utilized in the statement do not "expressly implicate" a specific individual and therefore are not "facially incriminating." Rather, as discussed in the State's brief and reiterated at oral argument, Richardson requires that the statement itself must express "who" the guy who did the shooting is in order for it to facially incriminate Henson. Moreover, the State stresses that Gray did not

~ Exhibit AG ~
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change this holding. As a result, the Court's finding that the redactions utilized violate both Bruton and the Confrontation Clause has the effect of extending the Confrontation Clause to unidentified individuals, which is of course at odds with the text of the Sixth Amendment. Indeed, as noted by the Richardson Court, the Confrontation Clause only "guarantees the right of a criminal defendant to be confronted with the *witnesses against him*." Richardson, 481 U.S. at 206 (emphasis added). Thus, while Reid's statement certainly incriminates "the guy who did the shooting" it did not incriminate Davontay Henson meaning Reid is not a witness against Henson for purposes of the Confrontation Clause, especially since the trial Court gave the proper limiting instruction. Id. at 207. Instead, Reid's statement only becomes incriminating to Henson when other evidence, notably the testimony from Newman and Ervin, identifies that Davontay Henson is "the guy who did the shooting." Therefore, because Richardson, as well as at least Twelve Federal Circuit Courts of Appeals have all interpreted Gray as not disturbing the Richardson Court's rejection of inferential incrimination, neither the Bruton trilogy of cases, nor the Confrontation Clause are violated by the neutral pronoun redactions utilized in this case.[8]

E. The Effect of Failing to Revisit the Court's Opinion in the Present Case would Undermine the Rule that Juries are Presumed to Follow their Instructions and Create a *de facto* Rule of Severance

The State submits the effect of failing to revisit this Court's opinion in the present case would be detrimental to both the law as well as prosecutors throughout this State. First, as

[8] Moreover, the State notes that the form of redaction utilized by the trial court in this case is consistent with the example provided in Gray and noted in the State's brief insofar as the redactions were seamless and there was no risk the jury, when reviewing the statement, would do anything but evaluate the statement on its face (i.e. the jury would have no reason to fill in any obvious blanks as was the case in Gray). Additionally, as noted in the State's brief, the substance of the redaction utilized by the trial court was clearly consistent with both the example provided in Gray and the redactions that were approved of by the Court of Appeals in State v. Garrett, 350 S.C. 613, 567 S.E.2d 523, 526 (Ct. App. 2002). Specifically, the Gray Court, by using the phrase "some other guys" in a case with five other men at least tacitly approved of the redaction used in this case. Further, the redactions used by the trial court in this case are consistent with previous precedent from the Court of Appeals in Garrett. Thus, it cannot be said that the use of the phrase "the guy who done the shooting," "the guy who did the shooting," "the guy," "him," and "he" are at odds with the redactions "some other guy" that were used in Garrett, especially where both cases involved only two co-defendants with only one of the two co-defendants in each case providing a statement.

Because HENSON WAS NOT revisit, Garrett v. State must be revisited and reversed.

Exhibit A7
August 2014 Enclosure

Trial Transcript; Solicitor's Closing Arguments: Jan 2000

1 MR. DAVIS SAID, AND THEN SEE, WHAT CHECKS OUT, AND WHAT
2 DOESN'T CHECK OUT.
3 AND I'LL TELL YOU WHAT BOTHERS ME, AND IT PROBABLY
4 BOTHERS YOU. YOU KNOW, WHEN MR. CHIAPPONE, IT FELT LIKE
5 FOUR PEOPLE URINATED ON HIM. AND WHEN HE SAID THERE WERE
6 TWO OF THEM BEATING US HERE, AND TWO OF US BEATEN THERE, WE
7 CAN'T PROVE THAT WAS HIM. IT'S AWFULLY SUSPICIOUS, AND I
8 WISH WE WOULD PROVE IT. AND I'LL TELL YOU THIS, WHAT MR.
9 JOHNSON SAID IS INCORRECT. THE JUDGE IS GOING TO SENTENCE
10 THAT MAN. WE -- I WOULD NOT HAVE IT ANY OTHER WAY. HE'S
11 NOT BOUGHT AND PAID FOR BECAUSE HIS SENTENCE IS HANGING
12 THERE. AND THE JUDGE IS GOING TO BE ABLE TO EVALUATE WHAT
13 HE SAID, AND HOW IT FITS, AND MAKE THAT DETERMINATION.
14 HE WASN'T GOING TO GET IN ANY SORT OF SITUATION WHERE
15 HE COULD GET ANYTHING AND EVERYTHING TO COME UP HERE AND SAY
16 THAT. HE NEEDED TO BE EVALUATED. AND HE'S BEING EVALUATED.
17 DON'T LIKE HIM, DON'T HAVE ANYTHING TO DO WITH HIM. LOOK AT
18 WHAT HE SAYS. LOOK AT WHAT DAVIS SAYS. LOOK AT WHAT THESE
19 OTHER GUYS SAY. AND REMEMBER THIS WHEN YOU'RE THINKING
20 ABOUT IT. WHEN DAVIS TOLD IT, HE THOUGHT HE HAD THE
21 SWEETEST DEAL OF ALL. DAVIS WAS GIVING UP AS MUCH AS HE
22 COULD GIVE UP. DAVIS IS EVEN GIVING UP THAT HE WAS THE
23 SHOOTER.
24 NOW DAVIS WANTED TO CHANGE THE NAMES AROUND. DAVIS
25 WANTED TO SAY, SOMEBODY ELSE WAS THERE. AND IF DAVIS WANTED

Exhibit A8
— August 2014 Enclosure

Trial Transcript; Solicitor's Closing Arguments; Jan 2000

1 TO NAME SOME OTHER PEOPLE, HE COULD HAVE DONE THAT. HE
2 DIDN'T. HE IDENTIFIED THEM. AND WHEN CUNNINGHAM GAVE HIS
3 STATEMENT WHICH WAS ABOUT EIGHT DAYS LATER, IT WAS AT A
4 DIFFERENT TIME. IT WAS TO THE SHERIFF'S DEPARTMENT. AND
5 THERE WAS NO REASON, NO MOTIVATION FOR EITHER ONE OF THOSE
6 GUYS TO CORROBORATE OR TO LIE, OR TO GET ON OTHER PEOPLE
7 ABOUT WHAT THEY DID. NOW HERE'S WHAT YOU WEAVE TOGETHER. ←
8 STATE'S EXHIBIT NO. 18 IS WHAT HAS BEEN INTRODUCED. AND
9 WHAT MR. CUNNINGHAM TESTIFIED TO ON AUGUST 27TH 1997 TO
10 DETECTIVE JOHN DAVIS.
11 THERE IS A BLOWUP OF WHAT ANDRE AND TYRONE MAY HAVE
12 SAID. AND THEN YOU THINK ABOUT, THINK ABOUT WHAT THE AIRMEN
13 SAID. MR. DAVIS SAID WELL HE WAS SOMEBODY ELSE ALL DAY.
14 DESMOND CUNNINGHAM, ANDRE CHINA AND I, ARTHUR DAVIS,
15 DECIDED TO GO TO BJ'S CLUB IN LYNCHBURG. NOW CAN YOU
16 BELIEVE THAT? THAT SEEMS TO BE SOMETHING THAT DOESN'T POINT
17 TOWARDS ANYBODY'S GUILT. WHEN YOU LOOK AT THIS PARTICULAR
18 STATEMENT IT SAYS -- WHAT WAS MR. CUNNINGHAM'S TESTIMONY
19 ABOUT IT? EVERYBODY IS TALKING ABOUT GOING TO THE CLUB.
20 ALL RIGHT SO WE KNOW THAT THAT CHECKS OUT. THE AIRMEN KNOW
21 NOTHING ABOUT THAT.
22 → MR. JOHNSON: I HATE TO INTERRUPT, MR. SALEEBY, BUT I
23 AM GOING TO HOLD AN OBJECTION FOR REASONS I'VE PREVIOUSLY
24 STATED. DO YOU UNDERSTAND WHAT MY OBJECTION IS, SIR?
25 THE COURT: YES, SIR.

Here he tells the jury it's okay to use my non-testifying co-defendant's redacted statement against me.

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1 → MR. JOHNSON: THE SUPREME COURT SAID I NEED TO MAKE
2 IT CLEAR.
3 → THE COURT: YES, SIR. I'LL LET YOU PUT IT MORE CLEAR
4 WHEN WE FINISH. THE OBJECTION IS NOTED FOR THE RECORD.
5 GO AHEAD.
6 MR.SALEEBY: MR. DAVIS SAYS WE WERE LEAVING OUT OF
7 BRIARCLIFF TRAILER PARK. AND WHAT DOES MR. CUNNINGHAM SAY?
8 WE WERE AT BRIARCLIFF MOBILE HOME PARK. WE SAW TWO WHITE
9 MALES AT THE CAR WASH ON 441. WHAT DOES MR. CUNNINGHAM SAY?
10 HE SAYS WE WENT TO GET GAS. THEN THEY WENT BACK TO THE CAR
11 WASH NEXT TO BRIARCLIFF. AND YOU KNOW OF COURSE, FROM THESE
12 GENTLEMEN'S TESTIMONY, THAT THEY WERE THERE. SO YOU SAY,
13 CAN YOU BELIEVE THIS. YOU CAN BELIEVE IT BECAUSE THEY SAID
14 IT. YOU CAN BELIEVE IT BECAUSE BOTH OF THOSE GUYS SAID IT.
15 WHAT HAPPENED THEN. ANDRE AND THIS OTHER GUY GOT OUT
16 OF THE CAR AND ROBBED THEM. LIKEWISE, WHAT DOES MR.
17 CUNNINGHAM SAY? HE SAYS THAT MR. CHINA WAS ONE OF
18 THE ROBBERS. AFTER THEY ROBBED THEM, THEY, ANDRE AND THE
19 OTHER GUY, TOOK THE AIRMEN'S CAR. DID THEY TAKE THE
20 AIRMEN'S CAR? YES, YOU KNOW THAT. YOU KNOW THAT NOT
21 BECAUSE OF MR. CUNNINGHAM. YOU KNOW THAT NOT BECAUSE OF MR.
22 DAVIS. YOU KNOW IT BECAUSE THAT'S WHAT MR. FRANCE AND MR.
23 CHIAPPONE TOLD YOU.
24 THEY HAD THE TWO AIRMEN IN THE TRUNK OF THE CAR. THEY
25 OPENED THE TRUNK, AND TWO WHITE GUYS WERE IN THE TRUNK. WE

Exhibit A 10
— August 2014 Enclosure

Trial Transcript; Solicitor's Closing Arguments; Counsel's Objection; Jan 2000

1 SIGN. WE DECIDED TO GET RID OF THE CAR, AND LET THEM GO.
2 WE GOT THEM OUT OF THE CAR AND TOLD THEM TO LAY DOWN. MR.
3 CUNNINGHAM CONVENIENTLY DISTANCES HIMSELF FROM THE SITUATION
4 AT THIS POINT. THEN I SHOT BOTH OF THEM IN THE BUTT. AND
5 WE WENT BACK TO THE BRIARCLIFF TRAILER PARK, WHERE THE OTHER
6 GUY LIVES.
7 NOW AS I SAID SO EARLIER, THIS IS NOT A MATTER THAT ONE
8 SIMPLE TRIBUNAL, OR ONE PERSON CAN DECIDE. WHAT HAPPENED TO
9 THESE YOUNG MAN IS AN OFFENSE AGAINST THIS ENTIRE COMMUNITY.
10 NOW THE LAW ENFORCEMENT OFFICERS HAVE DONE WHAT THEY CAN.
11 AND GATHERED WHAT THEY COULD, TO BRING YOU WHAT IT TOOK TO
12 DEAL WITH THESE TWO. AND WE IN THE SOLICITOR'S OFFICE, HAVE
13 DONE WHAT WE CAN, TO BRING THEM AND HAVE THEM DEALT WITH.
14 AND YOU'RE THE ONLY PEOPLE WHO CAN DEAL WITH ROBERT GARRETT
15 AND WHO CAN DEAL WITH ANDRE CHINA FOR WHAT THEY DID TO PAUL
16 FRANCE AND JOE CHIAPPONE. AND WE SUBMIT TO YOU THAT THE
17 ONLY WAY YOU CAN DO THAT, IS BY RETURNING A VERDICT OF
18 GUILTY ON EACH AND EVERY COUNT. THANK YOU VERY MUCH.
19 THE COURT: THANK YOU, SIR. LADIES AND GENTLEMEN, LET
20 ME ASK YOU TO STEP TO YOUR JURY ROOM, AGAIN, JUST FOR
21 MOMENT. THIS IS ONLY FOR A SECOND. WE'LL BRING YOU RIGHT
22 BACK. BUT BE SURE YOU DON'T TALK ABOUT THE CASE.
23 (THEREUPON, THE FOLLOWING TAKES PLACE OUTSIDE THE
24 PRESENCE OF THE JURY.)
25 → MR. JOHNSON: YOUR HONOR, MY MOTION EARLIER OBVIOUSLY,

Exhibit A 11
— August 2014 Enclosure

Trial Transcript; Counsel objection
Jan. 2000

1 WAS IN CONNECTION THAT MR. SALEEBY WAS MAKING ABOUT MY
2 CLIENT BETWEEN THE STATEMENT OF MR. DAVIS AND THE STATEMENT
3 OF CUNNINGHAM. AS I HAVE REPEATEDLY SAID, YOU HONOR, IN
4 SUPPORT OF MY MOTION FOR A SEVERANCE, BUT FOR THE FACT THAT
5 WE ARE BEING TRIED JOINTLY, MY CLIENT WOULD NOT BE FACED
6 WITH THIS TESTIMONY THAT IS ADVERSELY PREJUDICIAL TO HIM.
7 AND DURING THE -- AND WHAT MAKES IT SO OFFENSIVE IN
8 VIOLATION OF THE RULES, YOUR HONOR, THAT DURING THE COURSE
9 OF THE RECITATION OF STATEMENT OF MR. DAVIS AND
10 MR. CUNNINGHAM, THAT MR. SALEEBY WEAVED TWO STATEMENTS
11 TOGETHER TO MAKE THEM APPEAR AS ONE.
12 FOR EXAMPLE, YOUR HONOR, WHEN READING DAVIS' STATEMENT,
13 HE GOT DOWN TO THE PART, WE MADE THE AIRMEN TAKE THEIR
14 CLOTHES OFF. WE THEN BEAT THEM UP AND PUT THEM BACK INTO
15 THE TRUNK OF THE CAR. NOW THAT'S FROM DAVIS' STATEMENT.
16 THE FOLLOWING STATEMENT THAT WAS MADE TO THE JURY, I HAD
17 STAYED IN THE CAR, AND WAS YELLING AT TYRONE NOT TO GET
18 INVOLVED IN IT. CHUBBY, AND CHUBBY, AND SOMEBODY, DESMOND'S
19 TESTIMONY, WAS THE NAME THAT THEY GAVE ROBERT GARRETT.
20 CHUBBY THEN PUT THE GUYS BACK INTO THE TRUNK. TYRONE GOT
21 BACK IN THE BLAZER. THE RESULT OF THAT, MERGING OF THESE
22 TWO STATEMENTS YOUR HONOR, GAVE THE IMPRESSION TO THE JURY
23 WHICH IS INESCAPABLE, THAT THERE WERE EVEN ONE TOTAL
24 STATEMENT. AND BECAUSE OF THAT MERGING OF THESE TWO
25 STATEMENTS IN HIS CLOSING ARGUMENT, YOUR HONOR, THAT IS

Margin note (lines 3–11): Solicitor totally violated the rules by using my non-testifying co-defend-ant's redacted statement against me.

Margin note (lines 21–25): The Solicitor made it seem like it was OKAY FOR THE JURY to do so as well.

Exhibit A12
— August 2014 Enclosure
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Trial Transcript Jan. 2008
Counsel's objection

1 HIGHLY PREJUDICIAL TO MY CLIENT. AND THERE'S NO WAY, YOUR
2 HONOR, THAT THE JURY COULD IN DECIDING THIS CASE, NOT COME
3 TO THE CONCLUSION THAT WHAT WAS HAPPENING AND GIVE CREDENCE
4 AND CREDIBILITY TO THIS STATEMENT BECAUSE OF HIS CLOSING
5 ARGUMENT. AND AGAIN, YOUR HONOR, WE WOULD MOVE FOR A
6 SEVERANCE. IN THE ALTERNATIVE FOR A MISTRIAL.
7 THE COURT: MR. WEISSENSTEIN, DID YOU WANT TO JOIN
8 IN THAT MOTION?
9 MR. WEISSENSTEIN: YES, SIR, YOUR HONOR.
10 THE COURT: MR. SALEEBY, YOU WANT TO RESPOND?
11 MR. SALEEBY: YOUR HONOR, JUST THAT I, FIRST OF ALL, I
12 TRIED TO MAKE IT ABUNDANTLY CLEAR TO THE JURY, BECAUSE I WAS
13 UP HERE POINTING TO WHICH DOCUMENT I WAS REFERRING
14 TO MAKE SURE THAT THEY WERE DIFFERENT. AND NEVER AT ANY
15 TIME, MADE ANY REFERENCE TO WHO THE OTHER GUY MIGHT BE. AND
16 I INVITED THE JURY ON MORE THAN ONE OCCASION TO MAKE
17 THEIR CONNECTIONS.
18 THE COURT: ANYTHING ELSE, MR. JOHNSON?
19 MR. JOHNSON: NO, SIR, YOUR HONOR.
20 THE COURT: COUNSEL, FOR THE REASONS NOTED EARLIER,
21 AGAIN, I WILL DENY THE MOTIONS. BUT IT HAS BEEN NOTED FOR
22 THE RECORD. MR. WEISSENSTEIN, DO YOU WANT TO NOTE ANY
23 MOTIONS REGARDING THE CHARGE AS WELL?
24 MR. JOHNSON: YOUR HONOR, AS TO DEFENDANT, WE WOULD
25 RESPECTFULLY REQUEST THAT AFTER YOU GIVE YOUR CHARGE THE

The Supreme Court CLEARLY pointed out in Henson, that if it appeared that the jury used the redacted statement against me, then I am entitled to a new trial, g... A NEW TRIAL THAT MY TRIAL COURT ALREADY GRANTED

30 August 2014

Mr. Robert Louis Garrett Jr.
SCDC #291096
Lee CI ~~~ SMU South 126
990 Wisacky Highway
Bishopville, S. Caro. 29010

Mr. Robert M. Dudek, Chief AD
South Carolina Commission On Indigent Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, S. Caro. 29211

RECEIVED
SEP 05 2014
SC Court of Appeals

RE: Robert Louis Garrett Jr. v. State Of South Carolina
Appellate Case No.: 2014-001712

Dear Mr. Dudek:

Please find enclosed some pleadings regarding the above referenced case. I'm not sure if the Court of Appeals will grant my Motion To Be Appointed Outside Counsel, so I thought it prudent to tag you in these pleadings in case they appoint me someone from this office.

As you will see, the last time your office was appointed to represent me, Ms. Kathrine H. Hudgins filed a similar motion because Mr. Robert Pachak and Ms. Aileen Clare were named in my PCR Application as being ineffective, therefore creating a conflict of interest for this office to represent me.

Ms. Susan B. Hackett handled the Henson case that's directly linked to the issues in this appeal, so however the Court of Appeals rules to proceed, I thankk her for doing such a fine job in getting the Supreme Court to change it's standards regarding the Confrontation Clause and non-testifying co-defendant's redacted statements.

Until the inevitable ...... Good day to you and your's and of course, God bless.

With Truth And Grace,
Robert L. Garrett Jr.
Robert L. Garrett Jr.
Pro Se / Indigent Appellant

RLGJ

cc: The Honorable Kenneth A. Richstad, Clerk
Attorney General Alan McCrory Wilson

ENCLOSURES: 30 August 2014 Motion To Be Appointed Outside Counsel (Exhibits 1X-10X)
30 August 2014 Letter To Attorney General Wilson
30 August 2014 Letter To South Carolina Court of Appeals (Clerk)