South Carolina Supreme Court

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S.C. Supreme Court

No 2013-CP-24-1371

Tyri Landron #309930
Applicant,

V

State of South Carolina
Respondent,

Brief of Tyri Landron

Tyri Landron #309930
10 Faith Lane
Winnsboro, SC 29180

Table of Contents

Table of Authorities

Questions Presented

1. Weather the applicant's current PCR allegation newly discovered pursuant to SC code Ann. 17-27-45 (C)

2. Could have the applicant's allegation been raised in his first Post Conviction Relief application.

STATEMENT OF THE CASE

On September 18, 2012 Mr Landron filed an application for Post-Conviction Relief from his August 25, 2009 Conviction. The grounds Mr Landron state are ineffective assistance of Counsel. The State filed its return and Motion to Dismiss on October 30, 2012. The state alleged that Mr Landron was past his one-year limitations set by the filing procedures of the Uniform Post Conviction Procedure Act 17-27-10 to -160

The Honorable Frank R Addy Jr filed a Conditional Order of Dismissal on November 19, 2012 Mr Landron was moved from Trenton CI to Livesay CI the same week of November 19, 2012. Mr Landron never responded to the Motion. On January 25, 2013 the order was final.

Mr Landron timely filed an appeal with the South Carolina Supreme Court. On March 15, 2013 the Court dismissed the appeal because Mr Landron didn't respond to the Conditional Order of Dismissal filed by the lower Court. The Remittitur was sent on April 2, 2013.

A Habeas Corpus was filed in US District Court and dismissed on December 16, 2013.

December 31, 2013 Mr Landron filed a second PCR application on the grounds of "Newly Discovered Evidence" based on the evidence he fought while being housed at Livesay CI. The State made its return and Motion to dismiss March 7, 2014. The State alleged that Mr Landron's second PCR application is successive to his prior application and his PCR

is past the statute of limitation.

On March 10, 2014 Honorable Frank R Addy filed a Conditional Order of Dismissal. Mr Landron filed a Reponse to the Conditional order. Mr Landron Stated that his PCR application was not successive and his allegation were Newly discovered. The Order become final July 2, 2014 Mr Landron now brings this appeal.

SUMMARY ARGUMENT

The South Carolina's Uniform Post Conviction Procedure Act section 17-27-45(C) States:

> A Person can file if the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the fact could have been ascertained by the exercise of reasonable diligence

Mr Landron filed his first PCR application September 18 2012, Twenty-four months after the deadline for him to file a PCR application

The strength of a legal argument depends in large part on how law, as established in previous court opinions and precedents, is applied to a given case. Therefore citation of relevant statutes and case law is a critical part of legal writing.

Mr Landron would have filed a timely PCR if the institution in which Mr Landron was first held, had the right case laws. The only volumes of the South Eastern Reporter Trenton CI had were volumes 374-577.

Mr Landron tried very hard to find cases to give him merits to file a PCR on ineffective assistance of counsel. Mr Landron also couldn't find help from the outside who knew anything about my allegations. It was twenty-four months after Mr Londron's deadline to file when the South Carolina Department of Correction up date the law Libraries.

Once Trenton's law library was up dated Mr Landron fought cases to support his grounds for ineffective assistance of counsel.

Mrs Nelson represeritation didn't satify the Constitutional right of Mr Landron. Taylor V. State 188 SE2d 850; Mrs Nelson didn't look into Mr Landron's claim of his traffic stop being unlawfully

Mrs Nelson was suppose to protect Mr Landron from his own ingnorance of him not knowing his Constitutional right. Cruz V US 247 F Supp 835; Mr Landron didn't know the traffic stop was unlawfully until Trenton CI updated the law library.

Some kind of unlawfully conduct must be afoot before officers can effectuate a traffic stop. State V. Taylor 694 SE2d 60, State V Robinson 722 SE2d 820; Mr Landron never broke any laws nor did the officers report any laws broken.

Being nervous in front of officers isn't reasonable suspicion alone. State V Rivera 648 SE2d 337; State V Richardo 623 SE2d 840; State V Tindall 698 SE2d 203; Mr Landron being nervouse once he was asked to exist the car was the only conduct the officers reported.

Mr Landron used the cases he just stated in his first PCR, but was denid because he was pasted the statute of limitations.

Mr Landron was than moved to Livesay CI. While being housed at Livesay CI, Mr Landron was able to go to the Law library at Tyger River CI. While at Tyger River CI Mr Landron was able to find more case law that wasn't even available at Trenton CI.

Mrs Nelson was ineffective for failing to seek suppression of evidence. Northrop V. Trippett 266 F3d 372; Mrs Nelson knew that officers had stopped Mr Landron based Solely on nonpredictive anonymous tip and should have known that an illegal stop would render any inadmissible evidence seized during search incident.

Justice White held that except in these situations in which there is at least articulable and reasonable suspicion that a motorist is unlicensed or that an automobile is not registered, or that either the vehicle or an occupant is otherwise subject to seizure for violation of law. Stopping an automobile and detaining the driver in order to check license and registration of the autombile are unreasonable under the 4th Amendment. Delaware V. Prouse III 99 S.Ct 1391

The officers did not have reasonable suspicion for investigative Terry Stop when they receive fleshless anonymous tip of a male sitting in a car. That provides only readily observable information, and they themselves observe no suspicious behavior. Caller contained no details of defendant's future actions. Officers had no basis for assessing

either reliability of caller or grounds on which caller believed that crime was being committed. US v. Roberson 90 f3d 75; Mr Landron was a passenger in a second car that was leaving the store that the officer pulled over.

The caller concern of a male sitting in a car doesn't show that the caller had knowledge of concealed criminal activity as would establish reasonable suspicion to warrant an investigative Terry stop. The reasonable suspicion at issue requires that a tip be reliable in its assertion of illegality, not just in its tendency to identify a determinate person

Law does not free law enforcement officials from all restriction concerning vehicle stops; rather it imposes two requirement: first, reasonable suspicion of illegality must not be based simply on subjective belief but must be supported by articulable and objective facts; and second, the stop must be brief

Because an automobile stop is considered a seizure of a person it must be justified by probable cause or a reasonable suspicion based on specific and articulable facts of unlawful conduct.

Mr Landron filed a second PCR applications under SC ann § 17-27-45(C). These new case law were already in existence, but they were unknow to Mr Landron until he had a chance to study in Tyger River CI. The first time Mr Landron ever heard of the first cases he stated in first PCR was when Trenton CI updated the library, if not for that Mr Landron wouldn't have never known of the cases. The cases Mr Landron state in his second PCR application would never have been known if Mr Landron had not gone to

Tyger River CI. Mr Landron was an indigent inmate, so calls to the home to have a chance to properly talk to someone was impossible. With no help from the outside and Trenton CI not having the cases their was no way Mr Landron could file a timely application

CONCLUSION

Mr Landron would like for the court to rule that his Second PCR application was Newly Discovered Evidence as Stated in SC code 17-27-45 (c) and Mr Landron's allegations couldn't have been raised in his first application. Mr Landron also request a PCR hearing

Respectfully Submitted

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CERTIFICATION

I hereby certify that on this 18 day of September 2014, I provided copies of this brief, with Appendix, to Attorney General
Attn: J. Croom Hunter, Esquire
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By US Postage.

Sworn to and Subscribed before me
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Jarrie Davis Aug 7th 2023

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