

11-26-2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Case No. 2014-001880

RECEIVED
DEC 01 2014
SC Court of Appeals

State of South Carolina Respondent,

v.

Paul Ioan Tat Appellant

PROOF OF SERVICE

Clerk of Court:

Jenny Abbott Kitchings , V. Claire Allen – Deputy Clerk, Tenisha Fuller – Deputy Clerk

1015 Sumter Street

PRIORITY MAIL

Columbia, SC 29201

CONFIRMATION 2312-3170-0000-0338-7516

Attorney for the Respondent:

John Baker Cleveland, III, Esquire

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214 Main Street

CONFIRMATION 2312-3170-0000-0338-7530

Pickens, SC 29671

Salley W. Elliott, Esquire

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Rembert Dennis Building

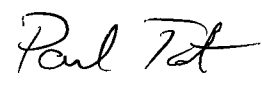
1000 Assembly Street, Room 519

Columbia, SC, 29201

Phones: (803) 734-3970

Appellant

Paul I. Tat



518 Fond Du Lac Drive

Central, SC 29630

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Case No. 2014-001880

State of South Carolina Respondent,

v.

Paul Ioan Tat Appellant

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Appellant

Paul I. Tat

518 Fond Du Lac Drive

Central, SC 29630



THE SOUTH CAROLINA COURT OF APPEAL

THE STATE, RESPONDEND	I	APPELATE CASE NO. 2014-001880
	I	ON APPEAL FROM THE HONORABLE
v.	I	LETITIA H. VERDIN
	I	PICKENS COUNTY TRIAL COURT
PAUL I. TAT, APPELLAT	I	CASE NO. 2013CP3901329

MOTION FOR REINSTATE APPEAL AND RECALL THE REMITTITUR
TO THE HONORABLE JUSTICES OF THE COURT OF APPEAL
AND JENNY ABBOTT KITCHINGS, CLERK OF COURT


Appellant Paul I. Tat, respectfully moves this court for an order recalling the
remittitur and permitting her to reinstate her appeal in this case.

This motion is based upon the following points and authorities and the attached
declarations.

Dated: 11.25.2024

Respectfully submitted,

RECEIVED
DEC 01 2014
SC Court of Appeals

Paul I. Tat 
518 Fond Du Lac Drive
Central, SC 29630
1.864.207.3485
medias90@netzero.net

POINTS AND AUTHORITIES IN SUPPORT OF MOTION
TO REINSTATE APPEAL AND RECALL REMITTITUR

Following the order and judgment entered on 11.21.2014, by the Clerk of Appellate Court Office, signed by Clerck Deputy V. Clair Allen and received by the appellant on 11. 24.2014 (see Exhibit A, attached hereto) , the appellant files this notice of appeal on 11.26.2014.

On 09.30.2014 the Appellant received notice of appeal confirmation and the case no. 2014-01880 was assigned to the case. At the same time the Appellant filed the Appellant Brief and with the Clerk of Court Office in 1015 Sumter Street, Columbia, SC and served copies to the State Attorney John Baker Cleveland III, Esquire, Sallay W. Elliott, Esquire and Alan McCrory Wilson, Esquire at their respective offices in Pickens County Court House, and District Attorney office on Rembert Dennis Building 1000 Assembly Street, Room 519.

On November 05 the Appellate Court Clerck office issued (three) letters requesting:

1. Amended Notice of Appeal to include the date the Appellant received the written notice of entry of trial court order;(see Exhibit B, attached hereto)
2. The Appellant not ordering the Case No. 2013CP3901329 trial Court Record, or per SCACR rule 207 falling to contact Court Administration to request the Transcript and submitting Appellant Brief. (see Exhibit C,hereto)

3. Noncompliance with SCACR 207 and 208 with filling the Appellant Brief and filling prematurely (exhibit D, hereto).

The Appellant received the Clerk Office notice on 11.07.2014 and phoned the Appellate Court Clerk Office and was referred Mrs. Tenishia Fuller, as the case is assigned to her. Mrs. Fuller advised me that on the general procedure to comply with the Court Requirements, including the requirement of a Designation Matter to be included in the Record of Appeal which was not included in the Clerk Office letters, exhibits B,C and D.

On 11.12.2014 the Appellant mailed (see Exhibit E, attached hereto), the response complying with the Clerk Office requirements (see Exhibit F, G, H, J attached hereto) to all the respondents.

On 11.21.2014 the Clerk Office responded with the a dismissal notice stating the Appellant “failed to sufficient prove the transcript was ordered nor have they filed the initial brief and designation of matter as required by rule 207, 208, 209 of SCACR”.

Upon receiving the Appeal Dismissal order on 11.24.2014, the Appellant phoned Mrs. Fuller at the Clerk Office and requested clarification. Mrs. Fuller looked into the case status and advised to file a motion to reinstate/recall remittitur because apparently the mailed documents were not received or lost in the Clerk Office, advised to comply with SCACR rule 59, 221, 260 and FRAP 27 (a), and, include the responses previously

submitted for letters of 11.05.2014; the Appellant Brief and sent copies to all the parties to the appeal.

ARGUMENTS

There seems to be a certain level of confusion in the case:

1. The initial filing of the Notice of Appeal which requires the appellant to provide a copy of the Case Order from which relief is sought through the appeal and without which the Notice of Appeal is not accepted for file, the Clerk Office request for amended Notice of Appeal seems over doing it since the filling the Notice must be accompanied by a copy of the Court Order and should be on file with the Notice of Appeal and the proof of service. SCACR Rule 203 (a),(b)(1), d (B) (I),(ii). However, the Appellant comply and submitted the amended Notice of Appeal (exhibit F) required in (exhibit C).
 2. The return of the Appellant Brief for being prematurely filed and covered by SCACR Rule 208 (exhibit G) shows the Appellant filling the brief within the time prescribed by the rule in either case “within 30 days after serving the notice” and **“INITIAL BRIEFS**
- 2. (a) Time for Serving and Filing Initial Briefs.**
1. **(1) Brief of Appellant.** Within thirty (30) days after receiving the transcript or, if no transcript is ordered, within thirty (30) days after serving the notice of appeal, appellant shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the appellate court one copy of the brief with proof of service..“ ;

The Appellant Brief was submitted at the same time with the Notice of Appeal and was complying with both SCACR Rule 203 208 requirements: 30 days from receiving the transcript and 30 days after filling the Notice of Appeal (SCACR Rule 59).

3. The Trail Court Transcript was obtained by the Appellant prior to filling of Notice of Appeal with South Carolina Courts of Appeal and as per SCACR rule 207 (a) the Appellant needed to order the Transcript within 30 (thirty) days after filling the Notice of Appeal and inform Office of Court Administration and the clerk of the appellate court with copies of all correspondence with the court reporter. Since the Appellant already had received the Transcript and rule 207 legislate the procedure to obtain the transcript and not to file the Notice of Appeal, the request of exhibit F can not be used as the reason for case dismissal. However, the Appellant acknowledged the Court concern with the Appellant having access to all documents required to defend the Appeal and give the Court certainty the law is impartial and submitted a written statement regarding the date the Transcript was ordered and received. (exhibit J).

5. The Appellant mailed first class, Rule **262. FILING AND SERVICE**

(a) Filing. Except for petitions for rehearing (Rule 221) and motions for reinstatement (Rule 260), filing may be accomplished by:

(1) Delivering the document to the clerk of the appellate court Whenever a document is filed with the appellate court, at least one copy of the document must contain an original signature as set forth in Rule 267(b), or


(2) By depositing the document in the U S mail, properly addressed to the clerk, with sufficient first class postage attached. The date of filing shall be the date of delivery or the date of mailing Any document filed with the appellate court shall be accompanied by proof of service of such document on all parties

the required legal documents to the respondents and believed the documents were received by the respective offices. The Appellant believed it should not be penalized for not following up with a call to the Appellate Court Clerk Office to check on the receiving of the mailed documents and that it should be granted relief from default.

The Appellant resubmits the Initial Appellant Brief, the Mater of Designation and the answer to the Clerck of Court questions of November 5th, 2014.

Appellant respectfully requests this court to consider his application in light of the standards announced in *People v. Ribero* (1971) 4 Cal.3d 55, 65, that the power of appellate courts to grant relief from default ". . . is to be liberally construed to protect the right to appeal."

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Paul I. Tat
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Central SC 29630

NOVEMBER 25, 2014

JENNY ABBOTT KITCHINGS - CLERK
1015 Sumter Street, Columbia SC 19630

Re: The State v. Paul I. Tat
Appellate Case No. 2014-001880

Dear Mrs. Kitchings:

I received the three (3) letters dated November 05, 2014, acknowledge the issues raised in the letters and the answers is included:

1. The First page " Appellant Brief " is being replaced with the page "Initial Brief of Appellant" and a copy is forwarded to each of the counsel of The State.
2. The Transcript Record of the Pickens County Court of Common Pleas trial Case no. 2013CP391329 held by Judge Letitia H. Verdin on July 25th, 2014 was ordered and a copy is in my possession as of August 24, 2014.
3. Attached is the amendment to the Notice of Appeal reflecting I received on August 07, 2014 the written notice of the the Pickens County Court of Common Pleas trial signed by Judge Letitia H. Verdin on August 01 and mailed on August 05, 2014 by US Post Mail.
4. The Designation of Appeal as per SCACR rule 208 and 209.

Kind Regards

Paul I. Tat
Appellant



cc: John Baker Cleveland, III, Esquire
Salley W. Elliott, Esquire
Alan McCrory Wilson, Esquire

1	STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
2	Paul Ioan Tat)	2013-CP-39-1329
3)	
4	vs.)	TRANSCRIPT RECORD
5	State of South Carolina)	
6	Defendant)	

July 25, 2014
 Pickens County, South Carolina

BEFORE: The Honorable Letitia Verdin, Judge

APPEARANCES:

Paul Ioan Tat, Pro se
 Pro Se Defendant

John Baker Cleveland, Esquire
 Attorney for the Defendant

Caroline Hiskell
 Thirteenth Circuit Court Reporter

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

Case No. 213CP381329

The State,

Respondent

v.

Paul I. Tat,

Appellant.

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

1. Order of August 01, 2014, "Judgement in a civil case no. 2013CP391329;
2. Magistrate Second Response, July 18, 2014;
3. Order on the Order to Remand from Court of Common Pleas October 14, 2013;
4. Order to Remand, case no. 2013CP3901178, October 07, 2013;
5. Order to Deny Motion to Reconsider Judgement, September 13, 2013;
6. Notice of Appeal from sentence imposed by Magistrate Court, October 23, 2013;
7. Petition for Motion to Appeal to Circuit Court, October 23, 2013;
8. Court of Common Pleas Transcript Record, July 25, 2014;
9. Anjelika Tat Voluntary Statement, February 20, 2013;
10. Paul Ioan Tat Voluntary Statement, February 21, 2013;
11. Anjelika Tat AnMed Health Medical Record, February 20, 2013;
12. Magistrate Court Trial CD Records, August 21, 2013;

I certify that this designation contains no matter which is irrelevant to this appeal.

November 25, 2014

Paul I. Tat



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(864) 207-3485

CC: John Baker Cleveland, III, Esquire
Salley, W. Elliott, Esquire
Alan McCrory Wilson, Esquire

**NOTICE OF APPEAL FROM COMMON PLEAS REGARDING A CONVICTION
IN MAGISTRATES OR MUNICIPAL COURT**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

Case No. 213-CP-39-1329

The State,

Respondent,

v.

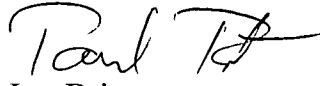
Paul I. Tat

Appellant.

AMENDMENT TO NOTICE OF APPEAL
CASE NO. 2014-001880

THIS Amendment is to confirm Paul I. Tat appeals the order of Honorable Letitia H. Verdin dated August 01, 2014, which affirmed conviction in Magistrate Court. Appellant amends the "Notice of Appeal" filed with the Appellate Court on September 30, 2014 to include: "Appellant received written notice of Order from Pickens County Court of Common Pleas, on August 07, 2014."

November 25, 2014

Paul I. Tat 
518 Fond Du Lac Drive
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(864) 207-3485
Appellant

CC: John Baked Cleveland, III, Esquire
Salley W. Elliott, Esquire
Alan McCrory Wilson, Esquire
Attorneys for Respondent

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM PICKENS COUNTY COURT OF COMMON PLEAS

Letitia H. Verdin, Circuit Court Judge

Case No. 2014-001880

State of South Carolina Respondent,

v.

Paul Ioan Tat Appellant

INITIAL BRIEF OF APPELLANT

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2. Because the State evidence were delivered at the Magistrate Court trial and copies were not submitted to the Defense prior to the trial the Appellant right to a fair trial guaranteed by The Constitution, Amendment XIV, was violated.
3. Because and the Magistrate Court rejected during the trial the Defense Motion to Continue, to asses the State incriminatory evidences and the witnesses depositions introduced at the trial, the Appellant right to a fair trial guaranteed by The Constitution, Amendment XIV was violated.

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Reference Case No.
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2013CP3910329; Central Magistrate Court; Magistrate S. Michael Gillespie

2013CP3901178; Pickens County Court of Common Pleas; Judge - Edward Welmaker

2013A3910300068; Central Magistrate Court; Magistrate S. Michael Gillespie

Statements of Issues on Appeal

1. Circuit Court Judge Letitia Verding erred rejecting the Motion to Reverse Judgement and affirming the judgment and conviction from Magistrate Court.
2. The State represented by Detective J. Gardo and Judge S. Michael Gillespie infringed on the Appellant rights to a fair trial, Constitution, Amendment IV.

Case History and Facts

1. Appellant is arrested on February 20th, 2013 for CDV and incarcerated in the Pickens County Jail. Record on Appeal (RA) 7, Appeal, Oct 23, 2013, Page 2, (b);
2. February 21, Appellant is released on bail upon giving written statement and pictures of his bodily injuries are taken by Detective J. Gardo. RA 7, Appeal, Oct 23, 2013, Page 2,(b), RA 10;
3. August 21st, in the Magistrate Court, Judge S. Michael Gillespie finds the Appellant guilty of CDV sentencing him to 26 hours of Domestic Violence Behavioral Changing Program. Sentence completed the by September 1st; RA 7, RA 13;
4. September 3rd, Appellant files Motion to Reconsider; Appeal Oct 23, 2013, Page 3(p);
5. September 11th, the Motion to Reconsider was denied for untimely filed reason. Magistrate Court Order of September 13th; RA 5, Appeal Oct 23, 2013, Page 3, (r);
6. September 19th, Appellant files the Motion to Appeal the Magistrate's Court Order of September 13th in the Pickens County Civil Court; Appeal Oct 23, 2013, Page 4, (s);
7. October 7th, Judge Edward Welmaker ruled the Motion to Reconsider/Amend Judgement was timely filled and remanded the case to the Central Magistrate Court; Judge E. Welmaker Order, RA 4;

8. October 13th, Judge S. Michael Gillespie denies for the second time the Motion to Reconsider Judgement. No reason given; Magistrate Court Order Oct 14; RA 3;
9. October 23th Appellant introduces Notice of Appeal and the Motion to Appeal Conviction Judgement in the Pickens County Civil Court; Judge S. Michael Gillespie response to Motion is missing from the County Clerck Case file; RA 6,7;
10. July 25th 2014, Judge Letitia Verdin, presides the hearing on the Motion to Appeal Judgement. Present: Appellant and District Att. Ass. Cleveland Baker for the State.RA 8
11. District Attorney Ass, Cleveland Baker introduced The State brief: “Magistrate Second Response”, an untimely 251 days late response from Judge S. Michael Gillespie to the case. The Response appears to address the Motion of October 14th, 2013 to Amend/Reconsider Judgement and not address the Motion to Appeal Conviction Judgement in the Circuit Court of October 23th, 2013. The State Brief is missing from the Pickens County Clerck of Court Case file. Appellant copy is attached. RA 2;
12. On August 1st, 2014 Judge Letitia H. Verdin affirms sentence; RA 1;
13. Appellant receive Judgement on August 5th, 2014.
14. Appellant file Notice of Appeal and receive notice in September 30th, 2014;
- 15 Appellant files Brief and Record of Appeal on October 29th, 2014,

Statements of the Case and Arguments

1. Circuit Court Error

- A. The Judge erred stating the Notice for Appeal should state the Appeal Ground and the Motion to Appeal Judgement does not state the ground for the Appeal.
- B. The Circuit Court accepted the introduction of the “Magistrate’s Second Response”

which misdirecting the issue of the USA Constitution, Amendment XIV, violation, prejudicing the Appellant right to a fair hearing. RA 8, TR 14,15

C. The Circuit Court failed to acknowledges the “Magistrate’s Second Response” is not addressing the Motion to Appeal Judgement, however, addressing the Initial Magistrate Court hearing and the Motion to Reconsider Judgement that was not the subject of the Circuit Court hearing.

D. The Circuit Court failed to acknowledge de “Magistrate Second Response” it deprived the Appellant of answers to the questions of the missing case evidences and the State duty to provide the Defendant prior to trial with copies of the State evidence on the case, effectively depriving the Appellant of any means to defend and consequently violating his constitutional rights to a fair trial. *Brady v Maryland*, 373 U.S.

E. The Circuit Court failed to notice there is on not in the Clerk of Court file from Judge Michael S. Gillespie a Response Brief nor a “Magistrate First Response” to the Appeal.

Arguments

A. Circuit Court Judge erred stating the Notice of Appeal should state the reason for the Appeal and the petition raising only factual issues and affirming conviction.

The base for the Appeal , deriving from *Brady v. Maryland*, 373 U.S. [83, 87 (1963) the Constitution Amendment IV and the self defense position of the Appellant, as the base for the Appeal, is stated and argued with specific explanation. The Judgement of August 5th, 2014 state the Notice of Appeal did not contains the ground for the Appeal and the Appeal contains only factual issues. RA 8, TR. Page 4, prgh 2, Page 5, paragraph 2.

Based on SCACR Rule 203 d (1) (B), the Notice of Appeal does not require to state the ground for appeal and the Notice for Appeal filed on October 23, 2013 complies with SCACR. The Petition of October 23rd, 2013 page 6,7 summarizes the ground for appeal.

B. The court erred accepted the Magistrate Second Response, a late and untimely answer to the Motion to Appeal Judgement Oct 23, 2013, the conviction was affirmed.

Based on the Rules 74 and 75 of SC Rules Civil Courts the Magistrate Judge:

“Within 30 days of the date of the filing of the Notice of Appeal with the Clerk of Court the magistrate judge is required to file a Return to the Notice of Appeal with the Clerk, together with the record, a statement of all proceedings in the case, and, if necessary, the testimony taken at trial. (Rule18, SC Rules of Magistrates Court) “

Magistrate Judge fail to respond timely to the Notice to Appeal. However, the response admitted by the Court pointing the court to issues not listed in the Motion to Reverse Conviction Judgement do not addresses the Constitutional rights violations.

C. The Magistrate Second Response refers to the Motion to Amend Judgement submitted twice for his review and denied twice for different reasons. The Case was removed from Magistrate court on Oct. 23 and by the Rule 18, SC Rules of Magistrates Court, the Judge was required to answer to questions and arguments raised in the Motion to Reverse Judgement. The Magistrate failed to answer those questions and there is not any answer in the case file. FRE. Rule 103. a,(1),b (2014). Pickens County Clerk of Court has no records on file of the Magistrate Court Judge Michael S. Gillespie response/ses to the Motion to Reverse Conviction Judgement filled on October 23, 2013.

2. United States Constitution, Amendment XIV.

A. The State did not provide pre-trial evidences the State was introducing at the trial,

mainly the AnMed medical records, victim's pictures and voluntary statement and the prejudiced the Appellant rights to defend and a fair trial. S.C.R.C.P Rule 5.

Evidence: CD #.1 of August 21, 2013, total time 1:47:30 (h:min:sec). RA 12;

13:31 - The State introduces the evidence "Anjelika Tat bodily injuries pictures";

27:37 - The State sworn in the AnMed medical records manager and a copy of

"Anjelika Tat AnMed medical record" is delivered to the Court ;

28:50 - Judge denies Defendant request for copies of the pictures and order a copy of the medical record made for the Defendant;

32:02 - The State introduces the evidence "Anjelika Tat Voluntary Statement";

40:65 - Detective J. Gardo introduces the evidence "Anjelika Tat's AnMed Health medical records" already in his possession at the time of the arrest;

50:55 - Court acknowledge the medical record subpoena by Defendant was delivered during trial;

1:04:22- Defendant ask for continuation to examine evidence in its defense. Judge denies the Motion for Continuation; S.C.R.C.P Rule 7.

CD #.2 of August 21, 2013, total time 1:11:09 (h:min:sec). RA 12;

28:04 - Detective J. Gardo admits having the medical records available prior arrest.

Arguments

There are three essential components of a true Brady violation: the evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued. A Brady violation occurs when the

government fails to disclose evidence materially favorable to the accused. See 373 U. S., at 87.

The State, represented by Detective J. Gardo, violated the Defendant Constitutional, Amendment IV, rights by withholding and destroying evidence. Denying the Defendant pretrial access to the medical records, prevented the Defendant to subpoena MD Jeanette Kinsey or any AnMed personnel, as expert witness and as the only persons that on the the night of 19 to 20 February 2013 professionally examined both victim and Defendant.

3. Preservation of evidence

Evidence CD #2 of August 21, 2013, total time 1:11:09 (h:min:sec). RA 12;

23:24 - Detective J. Gardo admits of taking pictures of the Appellant bodily injuries and not introducing them as evidence in the case;

26:44 - Detective J. Gardo admits of not introducing the pictures because he believed the pictures were not needed to support his investigation, arrest and case prosecution;

28:04 - Detective J. Gardo admits having the records available at the day of the arrest;

SC Senior Assistant Attorney General N. Mark Papoport, letter of May 12, 2011 to

Anderson County Sheriff's Department Office in reference to S.C. Code Ann. §§ 17-28-

300 et seq., the "Preservation of Evidence Act", states

“ We advise, however, that there are other matters to consider regarding the return or disposition of physical evidence and biological material pursuant to §17-28-320 (C). The Act requires the preservation of physical evidence and biological material for the twenty-four offenses enumerated in §17-28-320 (A), but **other criminal offenses** would not be subject to the Act's provisions . We refer to Hodges v. Rainey, 341 S.C. 79, 533 S.E.2d 578, 582 (2000), where the court discussed the canon "*expressio unius est exclusio alterius*," or "to express or include one thing implies the exclusion of another." *Evidence in cases involving these other criminal offenses should, therefore, be preserved by evidence custodians*

while these cases are pending either at trial, on direct appeal, or while a defendant pursues or is able to pursue post-conviction or federal habeas relief. In order to avoid violating a defendant's constitutional rights or depriving the State of evidence that it may later need to re-prosecute defendants at a later date, we advise that evidence in these cases should not be destroyed, returned, or disposed of without reasonable notification to and approval of the Circuit Solicitor."

The missing evidence prevented the Defendant to sustain and connect the self defense claim with the MD. Jeanette Kinsey note in the medical records, page 7, first paragraph, that describes injuries on the Defendant and states the Defendant claims of self defense:

"Husband has bruises and scratches around neck that he reports as defensive injuries." RA 11, MR. Page 7, Paragraph 1

The Defendant pictures taken by Detective J. Gardo would have supported Appellant position on innocence and self defense and would have cast doubt on the State witnesses.

"the proper standard of materiality of undisclosed evidence, and the standard applied by the trial judge in this case, is that if the omitted evidence creates a reasonable doubt of guilt that did not otherwise exist, constitutional error has been committed. Pp. 112-114.; Id. at 87, 83 S.Ct. at 1196-97. That rule has been expanded to require that, even though a defendant has not made a specific request for exculpatory material, the prosecutor is under a duty to volunteer evidence "obviously of such substantial value to the defense that elementary fairness requires it to be disclosed." United States v. Agurs, 427 U.S. 97, 110, 96 S.Ct. 2392, 2401, 49 L.Ed.2d 342 (1976). The rule laid out in Brady requiring disclosure of exculpatory evidence applies both to materials going to the heart of the defendant's guilt or innocence and to materials that might alter the credibility of a crucial prosecution witness. Ball v. Texas, 631 S.W.2d 809. Holmes v. South Carolina, 547 U.S. 319

The State:

A. Failed to provide the Defendant pre-trial copies of victim medical records, pictures and Voluntary Statement. S.C.R.C.P Rule 5, FER Rule 401, a, b;

"Due Process Clause of the Fourteenth Amendment requires the State to disclose to criminal defendants favorable evidence that is material either to guilt or to punishment, Brady v. Maryland, 373 U.S. [83, 87 (1963);

Ignoring that notions of fundamental fairness prevails and the accused must have a meaningful opportunity to present a complete defense.

California v. Trombetta 467 U.S. 479, 480 (1984)". United States v. Hart, 760 F. Supp. 653

B. The State failed to preserve and disclose the pictures taken at the Defendant's release from the Cnty Jail on February 21st, showing bruises, cuts and scratches on the body.

Accordingly, the government must preserve and disclose to the defense favorable body injuries evidence, that concur with the MD Jeanette Kinsey notes in the medical records, page 7, paragraph 1, evidence that is material, physical proof to the Defendant claim of self defense and innocence. U.S. Const. Amendment XIV; *California v.*

Trombetta, 467 U.S. 479, 480 and 485-88 104 S. Ct. 2528, 81 L. Ed. 2D 413

(1984); *Brady v. Maryland*, 373 U.S. 83, 87, 83 S. Ct.1194, 10 L. Ed. 2D

215(1963). *Holmes v. South Carolina*, 547 U.S. 319, *Brady v. Maryland* holds that :

“the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” *Brady*, 373 U.S. at 87, 83 S.Ct. 1194;”

United States v. Cadet, 727 F.2d 1453 (9th Cir. 1984):

“Names and addresses of eyewitnesses to offense that State does not intend to call to testify”

Ham v. State, 760 S.W.2d 55 (Tex. App. -Amarillo1988, no pet.):

“Prosecution withheld doctors report which support defense position and refuted prosecution.”

C. Detective J. Gardo representing The State as “custodian of evidence” (SC Section 17-28-310(2)) witness and prosecution, had in the absence of a specific request the constitutional duty to preserve and provide the Defendant and the court with the

exculpatory evidence that would have raised doubt about the defendant's guilt.

Detective J. Gardo prejudiced the Defendant by not providing prior to trial all the

evidence The State was introducing to the trial. The Due Process Clause of the

Fourteenth Amendment, United States v. Valenzuela-Bernal, 458 U.S. 858, 867, 102

S.Ct. 3440, 3447, 73 L.Ed.2d 1193 (1982), Brady v. Maryland, 373 U.S. [83, 87 (1963)],

California v. Trombetta, 467, U.S. At 465;

In United States v. Hart, 760 F. Supp. 653 (E.D. Mich. 1991), the Court held that

“it was the court’s responsibility to fix the timing for disclosure of exculpatory evidence. Other courts have issued opinions stating that “disclosure must be made in time for effective use at trial” ; United States v. Starusko, 729 F.2d 256, 261 (3rd Cir. 1984),

D. Detective Gardo admission of destroying exculpatory evidence should have been in lieu of originals. FER 1004. Admissibility of Other Evidence of Content.


Conclusions

For the reasons stated above, this Court should reverse the Circuit Court Affirmation and the Magistrate Court Conviction of Criminal Domestic Violence. This Court should reverse the damage award.

Respectfully submitted,

November 26th, 2014

South Carolina Courts of Appeal



Paul Tat

518 Fond Du Lac Drive

Central, SC, 29630

864.207.3485

The South Carolina Court of Appeals

The State, Respondent,

v.

Paul I. Tat, Appellant.

Appellate Case No. 2014-001880

The Honorable Letitia H. Verdin
Pickens County
Trial Court Case No. 2013CP3901329

ORDER

Appellant has failed to provide sufficient proof that the transcript was ordered nor have they filed the initial brief and designation of matter as required by Rules 207, 208 and 209 of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Paul I Tat

John Baker Cleveland, III, Esquire

Salley W. Elliott, Esquire

Alan McCrory Wilson, Esquire

FILED

11-21-14



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK
V CLAIRE ALLEN
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE (803) 734-1890
FAX (803) 734-1839
www.sccourts.org

November 05, 2014

Paul I Tat
518 Fond Du Lac Drive
Central SC 29630

Re: The State v. Paul I. Tat
Appellate Case No. 2014-001880

Dear Mr. Tat:

Upon reviewing your Notice of Appeal the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- You must provide this office with an amended Notice of Appeal that reflects the date you received written notice of entry of the trial Court order.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

cc: John Baker Cleveland, III, Esquire
Salley W. Elliott, Esquire
Alan McCrory Wilson, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V CLAIRE ALLEN
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November 05, 2014

Paul I Tat
518 Fond Du Lac Drive
Central SC 29630

Re: The State v. Paul I. Tat
Appellate Case No. 2014-001880

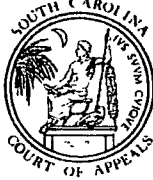
Dear Mr. Tat:

Our records indicate that the transcript in the above matter should have been ordered. As of today's date, we have not received any information indicating that the court reporter has been granted an extension. Further, you have not notified us that you have failed to receive the transcript, nor have we received your initial brief.

If you have not yet received the transcript, Rule 207 of the South Carolina Appellate Court Rules requires you to contact the Office of Court Administration. The address for Court Administration is as follows:

South Carolina Office of Court Administration
1015 Sumter Street, Suite 201
Columbia, SC 29201

EX 111511-D



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V CLAIRE ALLEN
DEPUTY CLERK

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November 05, 2014

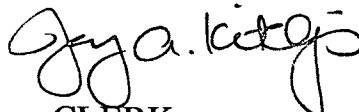
Paul I Tat
518 Fond Du Lac Drive
Central SC 29630

Re: The State v. Paul I. Tat
Appellate Case No. 2014-001880

Dear Mr. Tat:

Returned herewith is your Brief of Appellant. Please be advised that it has been prematurely filed with this office. Please refer to SCACR 207 for the timeline and procedure regarding obtaining the transcript, and SCACR 208 for the time for filing and serving initial briefs.

Very truly yours,


CLERK

cc: John Baker Cleveland, III, Esquire
Salley W. Elliott, Esquire
Alan McCrory Wilson, Esquire

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**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

Case No. 213CP381329

RECEIVED

DEC 01 2014

SC Court of Appeals

The State,

Respondent

v.

Paul I. Tat,

Appellant.

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

1. Order of August 01, 2014, "Judgement in a civil case no. 2013CP391329;
2. Magistrate Second Response, July 18, 2014;
3. Order on the Order to Remand from Court of Common Pleas October 14, 2013;
4. Order to Remand, case no. 2013CP3901178, October 07, 2013;
5. Order to Deny Motion to Reconsider Judgement, September 13, 2013;
6. Notice of Appeal from sentence imposed by Magistrate Court, October 23, 2013;
7. Petition for Motion to Appeal to Circuit Court, October 23, 2013;
8. Court of Common Pleas Transcript Record, July 25, 2014;
9. Anjelika Tat Voluntary Statement, February 20, 2013;
10. Paul Ioan Tat Voluntary Statement, February 21, 2013;
11. Anjelika Tat AnMed Health Medical Record, February 20, 2013;
12. Magistrate Court Trial CD Records, August 21, 2013;

I certify that this designation contains no matter which is irrelevant to this appeal.

November 11, 2014

Paul I. Tat
518 Fond Du Lac Drive
Central, South Carolina 29630
(864) 207-3485

CC: John Baker Cleveland, III, Esquire
Salley, W. Elliott, Esquire
Alan McCrory Wilson, Esquire

**NOTICE OF APPEAL FROM COMMON PLEAS REGARDING A CONVICTION
IN MAGISTRATES OR MUNICIPAL COURT**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

Case No. 213-CP-39-1329

The State,

Respondent,

v.

Paul I. Tat

Appellant.

RECEIVED

DEC 01 2014

SC Court of Appeals

**AMENDMENT TO NOTICE OF APPEAL
CASE NO. 2014-001880**

THIS Amendment is to confirm Paul I. Tat appeals the order of Honorable Letitia H. Verdin dated August 01, 2014, which affirmed conviction in Magistrate Court. Appellant amends the "Notice of Appeal" filed with the Appellate Court on September 30, 2014 to include: "Appellant received written notice of Order from Pickens County Court of Common Pleas, on August 07, 2014."

November 11, 2014

Paul I. Tat
518 Fond Du Lac Drive
central, South Carolina 29630
(864) 207-3485
Appellant

CC: John Baked Cleveland, III, Esquire
Salley W. Elliott, Esquire
Alan McCrory Wilson, Esquire
Attorneys for Respondent

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM PICKENS COUNTY COURT OF COMMON PLEAS

Letitia H. Verdin, Circuit Court Judge

Case No. 2014-001880

State of South Carolina Respondent,

v.

Paul Ioan Tat Appellant

RECEIVED
DEC 01 2014
SC Court of Appeals

INITIAL BRIEF OF APPELLANT

Attorneys for Respondent:

John Baker Cleveland, III, Esquire
214 Main Street
Pickens, SC 29671

Salley W. Elliott, Esquire
Allan McCrory Wilson, Esquire
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC, 29201
Phones: 803.734.3970

Appellant:

Paul Ioan Tat
518 Fond Du Lac Drive
Central, SC 29630
864.207.3485

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2. Because the State evidence were delivered at the Magistrate Court trial and copies were not submitted to the Defense prior to the trial the Appellant right to a fair trial guaranteed by The Constitution, Amendment XIV, was violated.	
3. Because and the Magistrate Court rejected during the trial the Defense Motion to Continue, to asses the State incriminatory evidences and the witnesses depositions introduced at the trial, the Appellant right to a fair trial guaranteed by The Constitution, Amendment XIV was violated.	
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2013CP3910329; Central Magistrate Court; Magistrate S. Michael Gillespie

2013CP3901178; Pickens County Court of Common Pleas; Judge - Edward Welmaker

2013A3910300068; Central Magistrate Court; Magistrate S. Michael Gillespie

Statements of Issues on Appeal

1. Circuit Court Judge Letitia Verding erred rejecting the Motion to Reverse Judgement and affirming the judgment and conviction from Magistrate Court.
2. The State represented by Detective J. Gardo and Judge S. Michael Gillespie infringed on the Appellant rights to a fair trial, Constitution, Amendment IV.

Case History and Facts

1. Appellant is arrested on February 20th, 2013 for CDV and incarcerated in the Pickens County Jail. Record on Appeal (RA) 7, Appeal, Oct 23, 2013, Page 2, (b);
2. February 21, Appellant is released on bail upon giving written statement and pictures of his bodily injuries are taken by Detective J. Gardo. RA 7, Appeal, Oct 23, 2013, Page 2,(b), RA 10;
3. August 21st, in the Magistrate Court, Judge S. Michael Gillespie finds the Appellant guilty of CDV sentencing him to 26 hours of Domestic Violence Behavioral Changing Program. Sentence completed the by September 1st; RA 7, RA 13;
4. September 3rd, Appellant files Motion to Reconsider; Appeal Oct 23, 2013, Page 3(p);
5. September 11th, the Motion to Reconsider was denied for untimely filed reason. Magistrate Court Order of September 13th; RA 5, Appeal Oct 23, 2013, Page 3, (r);
6. September 19th, Appellant files the Motion to Appeal the Magistrate's Court Order of September 13th in the Pickens County Civil Court; Appeal Oct 23, 2013, Page 4, (s);
7. October 7th, Judge Edward Welmaker ruled the Motion to Reconsider/Amend Judgement was timely filled and remanded the case to the Central Magistrate Court; Judge E. Welmaker Order, RA 4;

8. October 13th, Judge S. Michael Gillespie denies for the second time the Motion to Reconsider Judgement. No reason given; Magistrate Court Order Oct 14; RA 3;
9. October 23th Appellant introduces Notice of Appeal and the Motion to Appeal Conviction Judgement in the Pickens County Civil Court; Judge S. Michael Gillespie response to Motion is missing from the County Clerck Case file; RA 6,7;
10. July 25th 2014, Judge Letitia Verdin, presides the hearing on the Motion to Appeal Judgement. Present: Appellant and District Att. Ass. Cleveland Baker for the State.RA 8
11. District Attorney Ass, Cleveland Baker introduced The State brief: “Magistrate Second Response”, an untimely 251 days late response from Judge S. Michael Gillespie to the case. The Response appears to address the Motion of October 14th, 2013 to Amend/Reconsider Judgement and not address the Motion to Appeal Conviction Judgement in the Circuit Court of October 23th, 2013. The State Brief is missing from the Pickens County Clerck of Court Case file. Appellant copy is attached. RA 2;
12. On August 1st, 2014 Judge Letitia H. Verdin affirms sentence; RA 1;
13. Appellant receive Judgement on August 5th, 2014.
14. Appellant file Notice of Appeal and receive notice in September 30th, 2014;
- 15 Appellant files Brief and Record of Appeal on October 29th, 2014,

Statements of the Case and Arguments

1. Circuit Court Error

- A. The Judge erred stating the Notice for Appeal should state the Appeal Ground and the Motion to Appeal Judgement does not state the ground for the Appeal.
- B. The Circuit Court accepted the introduction of the “Magistrate’s Second Response”

which misdirecting the issue of the USA Constitution, Amendment XIV, violation, prejudicing the Appellant right to a fair hearing. RA 8, TR 14,15

C. The Circuit Court failed to acknowledge the “Magistrate’s Second Response” is not addressing the Motion to Appeal Judgement, however, addressing the Initial Magistrate Court hearing and the Motion to Reconsider Judgement that was not the subject of the Circuit Court hearing.

D. The Circuit Court failed to acknowledge de “Magistrate Second Response” it deprived the Appellant of answers to the questions of the missing case evidences and the State duty to provide the Defendant prior to trial with copies of the State evidence on the case, effectively depriving the Appellant of any means to defend and consequently violating his constitutional rights to a fair trial. *Brady v Maryland*, 373 U.S.

E. The Circuit Court failed to notice there is on not in the Clerk of Court file from Judge Michael S. Gillespie a Response Brief nor a “Magistrate First Response” to the Appeal.

Arguments

A. Circuit Court Judge erred stating the Notice of Appeal should state the reason for the Appeal and the petition raising only factual issues and affirming conviction.

The base for the Appeal , deriving from *Brady v. Maryland*, 373 U.S. [83, 87 (1963) the Constitution Amendment IV and the self defense position of the Appellant, as the base for the Appeal, is stated and argued with specific explanation. The Judgement of August 5th, 2014 state the Notice of Appeal did not contains the ground for the Appeal and the Appeal contains only factual issues. RA 8, TR. Page 4, prgh 2, Page 5, paragraph 2.

Based on SCACR Rule 203 d (1) (B), the Notice of Appeal does not require to state the ground for appeal and the Notice for Appeal filed on October 23, 2013 complies with SCACR. The Petition of October 23rd, 2013 page 6,7 summarizes the ground for appeal.

B. The court erred accepted the Magistrate Second Response, a late and untimely answer to the Motion to Appeal Judgement Oct 23, 2013, the conviction was affirmed.

Based on the Rules 74 and 75 of SC Rules Civil Courts the Magistrate Judge:

“Within 30 days of the date of the filing of the Notice of Appeal with the Clerk of Court the magistrate judge is required to file a Return to the Notice of Appeal with the Clerk, together with the record, a statement of all proceedings in the case, and, if necessary, the testimony taken at trial. (Rule18, SC Rules of Magistrates Court) “

Magistrate Judge fail to respond timely to the Notice to Appeal. However, the response admitted by the Court pointing the court to issues not listed in the Motion to Reverse Conviction Judgement do not addresses the Constitutional rights violations.

C. The Magistrate Second Response refers to the Motion to Amend Judgement submitted twice for his review and denied twice for different reasons. The Case was removed from Magistrate court on Oct. 23 and by the Rule 18, SC Rules of Magistrates Court, the Judge was required to answer to questions and arguments raised in the Motion to Reverse Judgement. The Magistrate failed to answer those questions and there is not any answer in the case file. FRE. Rule 103. a,(1),b (2014). Pickens County Clerk of Court has no records on file of the Magistrate Court Judge Michael S. Gillespie response/ses to the Motion to Reverse Conviction Judgement filled on October 23, 2013.

2. United States Constitution, Amendment XIV.

A. The State did not provide pre-trial evidences the State was introducing at the trial,

mainly the AnMed medical records, victim's pictures and voluntary statement and the prejudiced the Appellant rights to defend and a fair trial. S.C.R.C.P Rule 5.

Evidence: CD #.1 of August 21, 2013, total time 1:47:30 (h:min:sec). RA 12;

13:31 - The State introduces the evidence "Anjelika Tat bodily injuries pictures";

27:37 - The State sworn in the AnMed medical records manager and a copy of "Anjelika Tat AnMed medical record" is delivered to the Court ;

28:50 - Judge denies Defendant request for copies of the pictures and order a copy of the medical record made for the Defendant;

32:02 - The State introduces the evidence "Anjelika Tat Voluntary Statement";

40:65 - Detective J. Gardo introduces the evidence "Anjelika Tat's AnMed Health medical records" already in his possession at the time of the arrest;

50:55 - Court acknowledge the medical record subpoena by Defendant was delivered during trial;

1:04:22- Defendant ask for continuation to examine evidence in its defense. Judge denies the Motion for Continuation; S.C.R.C.P Rule 7.

CD #.2 of August 21, 2013, total time 1:11:09 (h:min:sec). RA 12;

28:04 - Detective J. Gardo admits having the medical records available prior arrest.

Arguments

There are three essential components of a true Brady violation: the evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued. A Brady violation occurs when the

government fails to disclose evidence materially favorable to the accused. See 373 U. S., at 87.

The State, represented by Detective J. Gardo, violated the Defendant Constitutional, Amendment IV, rights by withholding and destroying evidence. Denying the Defendant pretrial access to the medical records, prevented the Defendant to subpoena MD Jeanette Kinsey or any AnMed personnel, as expert witness and as the only persons that on the the night of 19 to 20 February 2013 professionally examined both victim and Defendant.

3. Preservation of evidence

Evidence CD #2 of August 21, 2013, total time 1:11:09 (h:min:sec). RA 12;

23:24 - Detective J. Gardo admits of taking pictures of the Appellant bodily injuries and not introducing them as evidence in the case;

26:44 - Detective J. Gardo admits of not introducing the pictures because he believed the pictures were not needed to support his investigation, arrest and case prosecution;

28:04 - Detective J. Gardo admits having the records available at the day of the arrest;

SC Senior Assistant Attorney General N. Mark Papoport, letter of May 12, 2011 to

Anderson County Sheriff's Department Office in reference to S.C. Code Ann. §§ 17-28-

300 et seq., the "Preservation of Evidence Act", states

“ We advise, however, that there are other matters to consider regarding the return or disposition of physical evidence and biological material pursuant to §17-28-320 (C). The Act requires the preservation of physical evidence and biological material for the twenty-four offenses enumerated in §17-28-320 (A), but **other criminal offenses** would not be subject to the Act's provisions . We refer to Hodges v. Rainey, 341 S.C. 79, 533 S.E.2d 578, 582 (2000), where the court discussed the canon "*expressio unius est exclusio alterius*," or "to express or include one thing implies the exclusion of another." *Evidence in cases involving these other criminal offenses should, therefore, be preserved by evidence custodians*

while these cases are pending either at trial, on direct appeal, or while a defendant pursues or is able to pursue post-conviction or federal habeas relief. In order to avoid violating a defendant's constitutional rights or depriving the State of evidence that it may later need to re-prosecute defendants at a later date, we advise that evidence in these cases should not be destroyed, returned, or disposed of without reasonable notification to and approval of the Circuit Solicitor."

The missing evidence prevented the Defendant to sustain and connect the self defense claim with the MD. Jeanette Kinsey note in the medical records, page 7, first paragraph, that describes injuries on the Defendant and states the Defendant claims of self defense:

"Husband has bruises and scratches around neck that he reports as defensive injuries." RA 11, MR. Page 7, Paragraph 1

The Defendant pictures taken by Detective J. Gardo would have supported Appellant position on innocence and self defense and would have cast doubt on the State witnesses.

"the proper standard of materiality of undisclosed evidence, and the standard applied by the trial judge in this case, is that if the omitted evidence creates a reasonable doubt of guilt that did not otherwise exist, constitutional error has been committed. Pp. 112-114.; Id. at 87, 83 S.Ct. at 1196-97. That rule has been expanded to require that, even though a defendant has not made a specific request for exculpatory material, the prosecutor is under a duty to volunteer evidence "obviously of such substantial value to the defense that elementary fairness requires it to be disclosed." United States v. Agurs, 427 U.S. 97, 110, 96 S.Ct. 2392, 2401, 49 L.Ed.2d 342 (1976). The rule laid out in Brady requiring disclosure of exculpatory evidence applies both to materials going to the heart of the defendant's guilt or innocence and to materials that might alter the credibility of a crucial prosecution witness. Ball v. Texas, 631 S.W.2d 809. Holmes v. South Carolina, 547 U.S. 319

The State:

A. Failed to provide the Defendant pre-trial copies of victim medical records, pictures and Voluntary Statement. S.C.R.C.P Rule 5, FER Rule 401, a, b;

"Due Process Clause of the Fourteenth Amendment requires the State to disclose to criminal defendants favorable evidence that is material either to guilt or to punishment, Brady v. Maryland, 373 U.S. [83, 87 (1963);

Ignoring that notions of fundamental fairness prevails and the accused must have a meaningful opportunity to present a complete defense.

California v. Trombetta 467 U.S. 479, 480 (1984)". United States v. Hart, 760 F. Supp. 653

B. The State failed to preserve and disclose the pictures taken at the Defendant's release from the Cnty Jail on February 21st, showing bruises, cuts and scratches on the body.

Accordingly, the government must preserve and disclose to the defense favorable body injuries evidence, that concur with the MD Jeanette Kinsey notes in the medical records, page 7, paragraph 1, evidence that is material, physical proof to the Defendant claim of self defense and innocence. U.S. Const. Amendment XIV; *California v.*

Trombetta, 467 U.S. 479, 480 and 485-88 104 S. Ct. 2528, 81 L. Ed. 2D 413

(1984); *Brady v. Maryland*, 373 U.S. 83, 87, 83 S. Ct. 1194, 10 L. Ed. 2D

215(1963). *Holmes v. South Carolina*, 547 U.S. 319, *Brady v. Maryland* holds that :

"the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Brady*, 373 U.S. at 87, 83 S.Ct. 1194;"

United States v. Cadet, 727 F.2d 1453 (9th Cir. 1984):

"Names and addresses of eyewitnesses to offense that State does not intend to call to testify"

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"Prosecution withheld doctors report which support defense position and refuted prosecution."

C. Detective J. Gardo representing The State as "custodian of evidence" (SC Section 17-28-310(2)) witness and prosecution, had in the absence of a specific request the constitutional duty to preserve and provide the Defendant and the court with the

exculpatory evidence that would have raised doubt about the defendant's guilt.

Detective J. Gardo prejudiced the Defendant by not providing prior to trial all the

evidence The State was introducing to the trial. The Due Process Clause of the

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“it was the court’s responsibility to fix the timing for disclosure of exculpatory evidence. Other courts have issued opinions stating that “disclosure must be made in time for effective use at trial” ; *United States v. Starusko*, 729 F.2d 256, 261 (3rd Cir. 1984),

D. Detective Gardo admission of destroying exculpatory evidence should have been in lieu of originals. FER 1004. Admissibility of Other Evidence of Content.

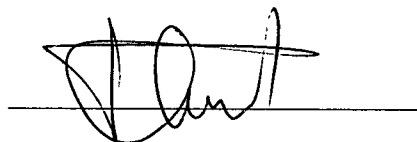
Conclusions

For the reasons stated above, this Court should reverse the Circuit Court Affirmation and the Magistrate Court Conviction of Criminal Domestic Violence. This Court should reverse the damage award.

Respectfully submitted,

October 29th, 2014

South Carolina Courts of Appeal



Paul Tat

518 Fond Du Lac Drive

Central, SC, 29630

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exculpatory evidence that would have raised doubt about the defendant's guilt.

Detective J. Gardo prejudiced the Defendant by not providing prior to trial all the

evidence The State was introducing to the trial. The Due Process Clause of the

Fourteenth Amendment, United States v. Valenzuela-Bernal, 458 U.S. 858, 867, 102

S.Ct. 3440, 3447, 73 L.Ed.2d 1193 (1982), Brady v. Maryland, 373 U.S. [83, 87 (1963)],

California v. Trombetta, 467, U.S. At 465;

In United States v. Hart, 760 F. Supp. 653 (E.D. Mich. 1991), the Court held that

“it was the court’s responsibility to fix the timing for disclosure of exculpatory evidence. Other courts have issued opinions stating that “disclosure must be made in time for effective use at trial” ; United States v. Starusko, 729 F.2d 256, 261 (3rd Cir. 1984),

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NOVEMBER 11, 2014

JENNY ABBOTT KITCHINGS - CLERK
1015 Sumter Street, Columbia SC 19630

Re: The State v. Paul I. Tat
Appellate Case No. 2014-001880

Dear Mrs. Kitchings:

I received the three (3) letters dated November 05, 2014, acknowledge the issues raised in the letters and the answers is included:

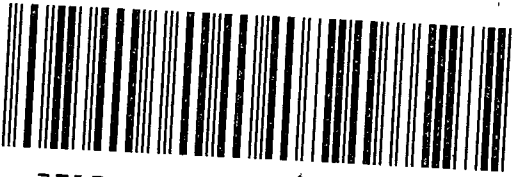
1. The First page " Appellant Brief " is being replaced with the page "Initial Brief of Appellant" and a copy is forwarded to each of the counsel of The State.
2. The Transcript Record of the Pickens County Court of Common Pleas trial Case no. 2013CP391329 held by Judge Letitia H. Verdin on July 25th, 2014 was ordered and a copy is in my possession as of August 24, 2014.
3. Attached is the amendment to the Notice of Appeal reflecting I received on August 07, 2014 the written notice of the the Pickens County Court of Common Pleas trial signed by Judge Letitia H. Verdin on August 01 and mailed on August 05, 2014 by US Post Mail.
4. The Designation of Appeal as per SCACR rule 208 and 209.

Kind Regards

Paul I. Tat
Appellant

cc: John Baker Clevelend, III, Esquire
Salley W. Elliott, Esquire
Alan McCrory Wilson, Esquire

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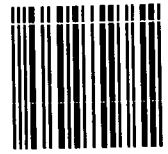



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ATTN: JENNY A KITCHINGS / V CLAIR ALLEN /
~~TEXISSA FULLER~~

Label 228, July 2013

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