

State of South Carolina
In The Supreme Court

Richard Keith Poe#259297

Cover Letter

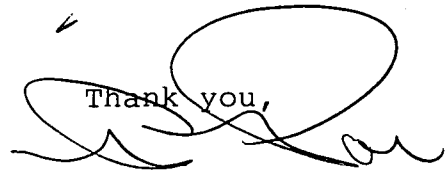
vs.
State of South Carolina

Appellate No:2014-000737

Mr, Shearouse:

Please find inclosed one supplemental to be filed
along with writ for certiorai.

2Richard K Poe#259297
Evans Correctional
610 Hwy 9 West
Bennettsville SC,29512

Thank you,

Janurary, 1- 2015

RECEIVED

JAN 02 2015

S.C. Supreme Court

State of South Carolina
In The Supreme Court
Certiorari To York County
J.Micheal Baxley Circuit Court Judge

RECEIVED

JAN 02 2015

S.C. Supreme Court

Richard Keith Poe

VS.

Petitioner

State of South Carolina

Respondents

Appellate Case No:2014-000737
Petition for Writ of Certiorari

Richard K Poe#259297
Evans Correctional
610 Hwy 9 West
Bennettsville SC,29512

SUPPLEMENTAL GROUNDS AND FACTS
FOR WRIT OF CERTIORARI

APPELLATE CASE NO:2014-000737

Richard Keith Poe, #259297

VS.

State of South Carolina

Statement of Memorandum

Issue: Arrest Warrant "STATUTE VIOLATION" specifically does not mention (dwelling) or (residence) according to the elements, under statute §16-11-311.

Supporting Facts: Prosecuting Officer: R J.Gurganus-G0626, prepared the arrest warrant alleging Burglary First Degree as stated in narrative the defendant did willfully and unlawfully violate the laws of this state by entering a "LOCKED STORAGE" "Building". This arrest warrant was authorized and signed by the York County Magistrate Lynn Horton Benfield in "violation of the state statute elements of §16-11-311 number-one element, must be a (dwelling) or (residence).

Here, the same arrest warrant was used to obtain an burglary first indictment in violation of statute, under same "narrative verbatim" under §16-11-311 and the burglary first degree charge that was contained in the arrest warrant was indicted by the Grand Jury in York County, see App, 130 (17-23) also App, 154 (11-25) also App, 155 (1-25) and App, 156 (1-10).

The warrant says burglary first. There is "no" language in the body of the warrant that indicates that the building was anything other than a "storage building". There is no language about, appurtenant or curtilage or even "connection". Counsel testified he did not request a preliminary hearing on any of these charges, and really can't testify (WHY) he did not, see: App, 155 (1-11).

"STATUTE VIOLATION AND FRAUD"

Issue: Petitioner "never" signed any waiver of presentment.

Supporting Facts: Counsel Sean F. Cronin testified during, questioning by Counsel Hemplepp as stated, "are you familiar with direct indictment? APP, 155, (25) his answer App, 156 (1) yes. Further continues to answer questions as, what is a direct indictment? Cronin answer it's when they indict (him) without

presenting it to the Grand Jury.

Counsel Micheal Hemplepp, continued to question Counsel Cronin as stated, okay okay when they present the case to the grand jury without an "underlying" warrant and in a direct indictment, some-times there is an "arraignment? Cronin answered yes correct, see, App, 156 (1-10). Further continues the questioning Counsel as asked "had you ever done that prior to this hearing? Cronin's answer was "no"!!

Issue: Relevant evidence was not obtained for (PCR) hearing.

Supporting Facts: Phone records from the York County Jail center, would have further supported claim of "ROCKY RELATIONSHIP" between petitioner and Counsel Cronin, App, 153, (7-23). There was never any kind of "patch-up as Cronin stated regarding the parties relationship.

Furthermore, the transcript of hearing that took place on April, 1-2013 was not obtained by Counsel Micheal Hemplepp as requested by Richard K. Poe in which would have supported claims during (PCR) hearing. The Honorable Judge Lee S. Alfred failed to address Poe's letter on April, 1-2013 requesting Cronin be relieved off case. App, 154 (7-9) Counsel testified he don't recall a hearing in front of Judge Alfred, the record would have reflected "clearly Judge Alfred did address Cronin regarding his actions.

Here, it's very clear on transcript of record that the Honorable Judge J. Micheal Baxley during PCR hearing failed to address the "warrant claim" and "indictment claim" as well as the issue regarding Cronin refusing to perfect appeal and comply with the court of appeals request for "necessary" documents, violating state statute of §17-27-80.

Post Conviction relief Counsel "chief" Appellate Defender Robert M. Dudek has also "failed" to brief legal arguable issue's in which arose during the PCR hearing, approximately (27) legal grounds. According rule, (71.1)(g) Counsel on appeal from the denial post conviction is required to brief all arguable issues despite Counsel's belief that appeal is friolous to safe-guard the right to the appeal.

The "AGENTS" of the State of South Carolina continue so to speak the "fox's" continue to guard the hen house. The question to be determined here is how much more of Poe's Constitutional rights are going to be violated before much needed relief is granted, due to the unlawfull conviction and sentence.

Respectfully,

A handwritten signature in black ink, appearing to be 'R. Poe', written over the word 'Respectfully,'.

January, 1-2015

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

"ATTACHMENT"
FACTS AND MEMORANDUM OF LAW

Appellate No: 2014-000737

"Counsel Sean F. Cronin, has already testified that he did not request an preliminary hearing on any of the charges, see App, 155, (1-11). Here a preliminary hearing is where a Judge decides whether there's enough evidence to make a person stand trial. On the "charges" filed against them. The Judge's decision at a preliminary hearing is like the decision a Grand Jury makes in deciding whether to return an indictment.

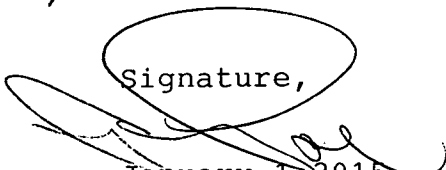
"The prosecution (must) establish "probable cause" of two things; That a crime was committed and that you committed it." Probable cause" is a low standard of proof. it doesn't rise anywhere near the level of "proof beyond a reasonable doubt" or even, preponderance of evidence.

A person is permitted to waive a preliminary hearing, the waiver is accomplished by filling out a form in open Court.

An "arraignment is a Court hearing at which you enter a plea of guilty or not guilty to the charges that have been filed against you. Counsel further testified that he never filed for arraignment hearing in this case. see, App, 156, (1-10).

"Memorandum"

A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State". McKnight v. State, 378 s.c. 33, 46, 661 s.e. 2nd 354, 360 (2008), also Ard v. Catoe, 372, s.c. 318, 642 s.e. 2nd. 590 (2007) (Without a doubt) a criminal defense attorney has a duty to investigate, but this duty is limited to reasonable investigation"" (quoting Thompson v. Wainwright, 787 f. 2nd 1447, 1450 (11th Cir. 1986)) "While the scope of a reasonable investigation depends on a number of issues, at a minimum, counsel has a duty to interview potential witnesses and to make an independent investigation of facts and, circumstances of the case. Lounds, 380 s.c. at 460, 670 s.c. at 649, (quoting Ard, 372 at 331 32, 642 s.e. 2nd. at 597. see also, Sneed v. Smith, 670, f. 2nd 1348, 1353 (4th Cir 1982) to meet this standard an attorney must at a minimum, conduct appropriate investigations, both factual and legal, to determine if matters of defense can be developed, and to allow himself enough time for reflection and preparation for trial. Coles v. Peyton, 389, f. 2nd. 224, 226, (4th Cir 1968).

Signature,

January, 1-2015

"STATEMENT OF FACTS AND,
MEMORANDUM OF LAWS

Pa.4

Appellate No:2014-000737

" Our Supreme Court concluded a defendant has a right to obtain such documents of "impanelment of grand jury" defendant has in fact inquired to defense counsel Cronin regards to being improperly charged, and indicted. see, app 154 (10-11). further asking how did the Grand Jury of York County in fact "TRUE BILL" an burglary first degree on warrant alone?, when in fact the arrest warrant does not " hold elements " of burglary first under statute §16-11-311 specifically must be (dwelling) or (residence).

Here, Poe continued to question defense counsel regarding the evidence presented before the grand jury of York County and Counsel said there's no type of records of Grand Jury proceedings available.

Defendant Poe, never received or reviewed any recorded proceedings of the grand jury of York County, prior to (his) jury trial on June, 4th-2013.

Whereas, Poe ended up being "forced" into a situation to enter into a plea of guilty. instead of continuing to trial, due to counsel's ineffectiveness in his representation and preparation for a jury trial. "specifically" (no) witnesses were subpoenaed. See, app, 122 (1-23). further

The State was going to argue that the incident occurred at night and witness Ms, Donna the neighbor of the Stiles, her verbal testimony was in fact "relevant" to trial to (rebut) the states assertions that the incident occurred at night time, see, app, 135, (1-6).

State alleged the "shed" in questioned here was within (50 feet) of residence. "Counsel failed to have investigator out of his office investigate the actual crime to obtain relevant proper measurements to (rebut) the states allegations of shed within (50 feet) of the residence, nor did counsel file for a "EX PARTE MOTION" for an private investigator, according to South Carolina Code of Laws §17-3-50(b). see, app, 179-180.

Post Conviction relief, counsel Micheal Hemplepp was requested by Poe regarding Grand Jury Documents, and having witnesses for his (PCR) hearing. This request were by way of letters to counsel Hemplepp prior to hearing counsel never replied. and only speaking to counsel for about (8 minutes) prior in going into hearing, counsel never did answer Poe regarding these facts.

Poe, even ask Appellate Defender Robert M. Dudek counsel on appeal from denial of Post Conviction relief regarding Grand Jury, Documents in which counsel blatantly ignored petitioner saying documents are not relevant to appeal?

"Grand Jury impanelment documents may be released to defendant prior to trial upon timely request or to an "applicant" in a Post Conviction (PCR) proceeding.

According to U.S.C.A Const. Amend, 14, code, 1976; §14-7-1700 and §14-7-1720, also §14-7-1770, rules of Crim, Proc. rule (5) a defendant right to obtain recorded proceedings and testimony before grand jury in "PREPARING" his defense. A defendant is allowed to obtain and use the impanelment documents in preparing his defense and ensuring protection of his due-process rights.

A defendant is entitled to review grand jury impanelment document in order to determine, whether the grand jury which indicted him was "LEGALLY ESTABLISHED"

Grand Jury impanelment documents "ordinarily" may be released to a defendant after the grand jury has issued a TRUE BILLED indictment against that defendant.

Whether, the grand jury which indicted defendant had been properly impaneled pursuant to S.C, Code Ann, §14-7-1630, Supp, 2003. and Circuit Court would "Lack Subject Matter Jurisdiction" in case, if in fact grand jury was not properly impaneled.

Section (a), §14-7-1770 is not a complete prohibition on the release of information, (b) release of the documents usually is not prohibited by "secrecy provisions" or other "concerns" following the issuance of a "TRUE BILL" of indictment. (c) a defendant has the right to review the documents to determine whether to challenge the legality of the grand jury in which indicted him.

"If the State objects, to releasing all or part of grand jury impanelment documents that defendant has requested. The "BURDEN OF PROOF, is on State to demonstrate why the documents should not be released, rule (5)(d). See, exhibit Poe has several times to secure these documents or recordings "through Counsel Cronin, and "Pro-Se as well through "PCR" Counsel Hemplepp, and even through Appellate Counsel Dudek to no avail!!

Respectfully,

January, 1-2015



CLERK OF COURT'S OFFICE

Post Office Box 649; York, South Carolina 29745

Exhibit

October 21, 2014

Richard K. Poe #259297
Evans Corr Inst
610 Hwy 9 West
Bennettsville SC 29512

Grand Jury sessions are not public record. It is not clear as to what documentation you mean when you say "impanelment documentation". Your PCR attorney can get access to your General Sessions file, which includes indictments.

General Sessions Division



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
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November 6, 2013

Mr. Sean Francis Cronin
PO Box 1025
Rock Hill SC 29731

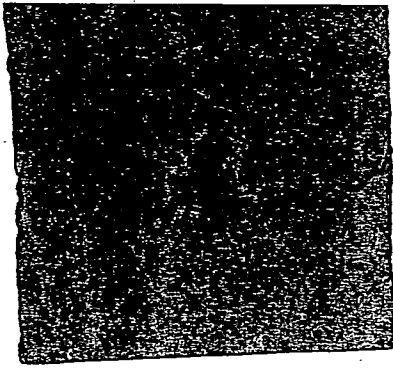
Re: The State v. Richard Keith Poe
Appellate Case No. 2013-001239

Dear Counsel:

This Court has received the notice of appeal filed by your client, Richard Keith Poe, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.



Very truly yours,

Joy A. Kiteley

CLERK

cc: Robert Michael Dudek
Richard Keith Poe
Salley W. Elliott
Alan McCrory Wilson

Richard Poe, 25929M

Evans Court

610 Hwy 9 West

Bennettsville SC
29512



DEC 30 2014

Clerk of Court
A.M. Shearous

PO, Box 11330

Columbia SC, 29211