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DEC 29 2014

SC Court of Appeals

The South Carolina Court of Appeals

Robert James Miller, Jr. :

Appellant :

v. :

Robert M. Stevenson, III :

Respondent :

Appellate Case No. : _____

2014-001964

Certificate of Service

I certify that I have served a copy of the Appellant's "Explanation" on the Attorney's for the Respondent by depositing a copy in the U.S. Mail, postage prepaid, on this 22 day of December 2014, addressed to:

Alan McCrory Wilson
Attorney General
1000 Assembly St., Ste. 518
Columbia, SC 29201

R. James Miller, Jr.

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DEC 29 2014

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Robert James Miller, Jr.,
Appellant,

v.

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EXPLANATION PURSUANT TO RULE 203(d)(1)(B)(v)

Appellant, having three (3) pending matters before the Fairfield County Court of Common Pleas, was given a hearing on Motions on September 4, 2014 before the Honorable Judge Gibbons. Appellant was granted "In Forma Pauperis" status in his Tort action and the Claim and Delivery action but Appellant's Habeas Corpus action was denied without explanation or the Respondent being served or involved. However, the Honorable Judge Gibbons did allow Appellant to make a statement (preserve issues for Appeal). At that time, Appellant advised the Court:

- 1) Alleged offenses occurred outside the territorial jurisdiction of the State of South Carolina. Solicitor lacked authority to initiate prosecution and the convicting court lacked authority to try the offenses.

Appellant's conviction and sentence was obtained in violation of the law. Appellant was denied his Sixth Amendment Constitutional Right to a trial in the "State and district wherein the crime shall have been committed." Additionally, the court lacked subject matter jurisdiction and this claim may be raised at any time: HOOKS v. State, (S.C. 2003) 353 S.C. 48, 577 S.E. 2d 211. See also Butler v. King, 781 F. 2d 486, 490 (5th Cir. 1986) (finding that defendant was entitled to writ of Habeas Corpus because state court lacked jurisdiction...).

- 2) Appellant is able to demonstrate a sufficient probability that [the Courts] failure to review his federal claim will result in a fundamental miscarriage of Justice." See Edwards v. Carpenter, 529 U.S. 446, 451, 120 S.Ct. 1587, 1591 (2000). Also, Herrera v. Collins, 506 U.S. 390, 404-405 (1993) "... a prisoner... may have his federal constitutional claim considered on the merits if he makes a proper showing of actual innocence." Id., at 404 (citing Sawyer v. Whitley, 505 U.S. 333 (1992)).

3) Appellants restitution order is Contrary to clearly established Federal Law. Appellant was Ordered to pay restitution (and had a vehicle and thousands of dollars in cash seized) for an alleged offense in NEW YORK in which the Appellant was NEVER arrested, charged, indicted or convicted of and clearly outside this State's Jurisdiction.

The restitution order is illegal:

"restitution to be tied to the loss caused by the offense of conviction." Hughey v. United States, 495 U.S. 411, 418 (1990) (citing 18 U.S.C. § 3580(a) (1982 ed.); emphasis added). That is, restitution may not be imposed for losses caused by any other crime or any other defendant.

4) The Appellants guilty plea was unconstitutional because he pled guilty involuntarily; See Fontaine v. United States, 411 U.S. 213-15, 93 S.Ct. 1461-63 (1973) holding that defendant is entitled to a hearing to determine whether or not his guilty plea was voluntary even though he had declared in open court that his plea was given voluntarily and knowingly. See also Machibroda v. United States, 368 U.S. 487, 494 (1962).

5) The plea agreement was broken by the State. See Santobello v. New York, 404 U.S. 257, 262 (1971)

(holding that when pleas rest on an implied promise or on an agreement by a prosecutor that he will make no sentencing recommendations, such promises must be fulfilled). Also, Johnson v. Beto, 466 F.2d 478, 479-80 (5th Cir. 1972).

6) The Solicitor violated due process by repeatedly making references to Appellants post-arrest silence. See Grayley v. Mills, 87 F.3d 779 (6th Cir. 1996) and Franklin v. Duncan, 70 F.3d 75 (9th Cir. 1995)

Prosecutor's reference in closing arguments to post-Miranda silence... violated 5th Amendment right to remain silent. See also, Alston v. Garrison, 720 F.2d 812, 815-16 (4th Cir. 1983); State v. Robinson, 238 S.C. 140, 119 S.E.2d 671 (1961).

7) Prosecutor's "repeated and clearly intentional misrepresentations"... rendered trial fundamentally unfair in violation of Due Process.

8) Solicitor violated Due Process by suppressing evidence. See United States v. Bagley, 473 U.S. 667, 678, 105 S.Ct. 3375, 3381-82 (1985); Kyles v. Whitley, 514 U.S. 419, 421-22, 435 (1995); Brady v. Maryland, 373 U.S. 83, 87 (1963); and Walker v. Lockhart, 763 F.2d 942 (8th Cir. 1985).

* The Court Reporter has FAILED to respond to my numerous requests for the transcript.

Appellant is able to demonstrate actual innocence, miscarriage of Justice, Jurisdictional defects, denial of due process of law, ineffective assistance of counsel, obstruction of Justice, the wholesale suppression of exculpatory evidence by the Solicitor and Sheriff's Office, prosecutorial and law enforcement misconduct (theft of nearly \$100,000.00: see Fairfield Co. Ct. of Cmmn. Pleas C/A 2014-CP-20-332, 2014-CP-20-333) and numerous other Constitutional Violations which resulted in a case that was corrupted from start to finish.

Appellant's claims have merit, he is entitled to a hearing and relief "on the law" and it is more likely than not that no reasonable Juror would have convicted the Appellant.

The denial of my Habeas Corpus without a hearing or reason, and to my actual and substantial disadvantage, is an error of Constitutional dimensions. This Court has Jurisdiction and Appellant moves the court to review his claims, appoint counsel for Appellant, and grant any additional relief this Court deems Just, proper and equitable.

Dated: December 21, 2014

R. James Miller, Jr.

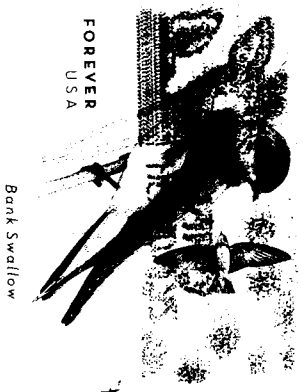
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