

The Supreme Ct. of S.C.

Mr. Daniel E. Shearouse, Clerk

P.O. BOX 11330

Columbia SC 29211

RECEIVED

MAR 20 2015

S.C. Supreme Court

Dear Mr. Shearouse

Please find enclosed for filing my
pro-se brief

Would you be so kind as to return
me back a copy.

Thank you

Sincerely

The Hon. Daniel E. Shearouse Clerk
P.O. BOX 11330
Colg SC 29211

copy

Date 2/2/15

RECEIVED

MAR 20 2015

S.C. Supreme Court

Dear Hon. Clerk Shearouse

Please be advised, that I requested
an extension of time back in Dec 2015
before my 45 days ran out. But I
have not heard anything from you
regarding this extension.

Please advise, because I have my prose
brief ready to filed.

Thank you

cc: Personal file

Sincerely
SAMMY SCOTT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAR 20 2015

S.C. Supreme Court

Certiorari to Anderson County
R. Lawton Mcintosh, Cir. Ct. Judge
#2014-000748

Sammy Lee Scott

Petitioner

vs.

the State

Respondent

PETITIONER'S PRO-SE BRIEF

Sammy Lee Scott
McCormick C.I.
Unit
386 Redemption Way
McCormick SC 29899

Appellate Defender for Petitioner
Kathrine H. Hodgins

INDEX

INDEX _____ 1

ISSUE PRESENTED _____ 2

STATEMENT _____ 3

ARGUMENT _____ 4-23

CONCLUSION _____ 23-24

ISSUE PRESENTED

WHETHER THE PCR JUDGE ERRORED IN
REFUSING TO FIND COUNSEL INEFFECTIVE
IN FAILING TO OBJECT TO HEARSAY
TESTIMONY, LEADING AND SPECULATION
QUESTIONS AND TESTIMONY

STATEMENT

For the record of this brief, the Petitioner agrees with his Appellate Defender's statement upon her Johnson petition for writ of certiorari.

ARGUMENT

Petitioner argue that the PCR Judge
errored in refusing to find counsel ineffective
in failing to object to hearsay, leading
and speculation questions and testimony

Here Markesha Smith testified ----

A: We went to the Wal-Mart parking lot

Q: And why did you go to the Wal-Mart
parking lot

A: We heard that -- Samal Watson (Phonetic)
told me that Sammy had a beef with somebody
I'm not sure. We went to the parking lot
and said that everybody would meet up there.
And whoever Boot is, he's supposed to be
there and Sam's supposed to come, too.

SEE: Tr.p 122 - App. p128 L 9 - L 15

Whitney Brandon Keasler testified ----

Q: All right. Now, when you where in shock after all this happened and you got back in the complex, what, if anything, did Nicki Scott say to you.

A: You don't know nothing, you didn't see nothing. SEE: App. p 148 L23 - p 149-L2

Kyle Duncan testified ---

Q: Okay, I show you this statement from July 11th - look at that last paragraph and see if that refreshes your memory

A: They were talking about Sammy

Q: They were talking about Sammy, Right

A: Uh-huh

Q: And go on, it says "everybody started screaming" SEE: App. p 162 L23 - p 163-L5

Also see App.p 157 L 22 - L 24

Q: But in the car you heard people screaming
"No, No, No" and talking about Sammy, is
that right

A: Un-huh
Also see App.p 159 L 10 - L 12
Petitioner also argue that this is/was
also leading

Moreover, Duncan testified.

Q: And what did Nicki tell you

A: She was saying in general, you didn't see
anything, but I didn't see anything so
I didn't know what she was talking
about Also see App.p 158 L 13 - L 14

And counsel failed to object to the
leading question SEE: App.p. 159 L 4 - L 6

Q: Which again, you didn't see Sammy shooting or you didn't see him with the gun.

A: Uh-huh

Q: But you were in the car that was behind him, but your head was ducked down most of the time.

A: The majority of the time

Q: You heard people in the car screaming "No. No. No."

A: Yes

Q: They were talking about Sammy

A: Yes

Q: That's all true

A: Yes

SEE App. p 165 L4 - L16

Brittany Young testified

Q: They were just driving at the Wal-Mart

A: Uh-huh

Q: And then everyone was going to publix

A: Uh-huh

Q: But you didn't go to publix

Here, Petitioner argue was leading

SEE: App-p 168 L 16 - L 20

Young further testified

A: We were going down the road and we pulled up next to Sammy and them and then started screaming saying that they saw a gun. SEE: App-p 169 L 21 - L 23

Petitioner argue that the PCR Judge
errored in failing to find counsel
ineffective, when counsel failed
to object to leading and speculation
issues, when Young further testified

Q: All right. But was everyone talking about
what had happened

A: No, Ma'am

Q: Everyone pretended like nothing happened

A: Yes, Ma'am

Q: Even though you just heard gunshots and had
seen this guy pointing a gun at you all

A: YES

Here, Josh Black testified

Q: Somebody took shots at you

A: Yes, Ma Am SEE; App-p 177 L6 - L7

Down to line 13

Q: Who did you think was doing it

A: I mean, everybody was saying it was Boot so...

Petitioner argue that, that was speculation
and or hearsay.

Further counsel failed to object to further
speculation and leading issues SEE:

App-p 179 L13 - L14

Q: And Boot and Sammy had words before

A: Yes, Ma, Am

Q: Okay, so you saw Sammy shoot the
Shotgun out the Window SEE: App 183
L 13 - 14

Q: He shot into the crowd, didn't he SEE:
App 187 L 8

Q: Now, you also talked about Sammy and
Boot not really liking each other

A: Yes, Ma'am SEE: App 195 L 2 - L 4

And Torrey Acker testified

Q: Like a shotgun

A: Yeah, real loud, a big bang

Q: Did you hear the shotgun shots before the
Shotgun shots

A: huh-uh SEE: App 215 L 2 - L 9

James Burns testified---

Q. Did they tell you what was in your back

A. Yeah. They said two buckshots or whatever

Petitioner argue that this was hearsay,
leading and speculation SEE: App-p 227
L 3 - L 4 .

Sydney Chester testified---

Q: Okay, and did they tell you what was
inside your ankle

A. Yes Ma Am

Q: Was it a pellet

A. Well, the thing that came from a shotgun

SEE: App-p 235 L 22 - p 236 - L 1

Jeremi Dial testified...

Q: Okay, and so you all went to Wal-Mart
and Y'all didn't stay very long. Right.

A: Yes Ma'am

Q: And then everybody decided to go to
Publix

A: Yes Ma'am SEE App. 253 L 20 - p 254

L 1

Now see App. 256 L 20 - L 24

Q: Okay, so you heard the shots from that
direction

A: Yes Ma'am

Q: Which was from a shotgun

A: (Nodded head)

Detective, Andrew Tribble testified---

A: We had received a tip-- I didn't receive the tip, someone in the office had received the tip-- that Sammy Scott may have been involved in the shooting. And we were to go and try to locate him at his residence

SEE: App. p 282 L 5 - L 8 .

Petitioner argue that the fact that someone's mentioned there had been a tip - it might have been Petitioner and they didn't say who it was.

Detective, Michael Sloan testified....

Q: Were there voices

A: There was

Q: I mean and did they seem very loud

A: Yes. They were, the mother was actually telling Mr. Scott. we need to go, we need to go. The police want to talk to you, so we got to get you out of here

Petitioner argue that his trial attorney failed to object on the grounds of hearsay and leading—with that question going on to his mother SEE App. p 290 L 17 — L 22.

Petitioner Verbatim re-argue the above issues as he argued at his PCR hearing SEE: App. p. 615 — p 629. And further argue that the hearsay statements / testimonies were offered in evidence to prove the truth of the matters

asserted. Which prejudiced Petitioner
SEE: State v Wick 682 SE2d 276; State v
Mitchell 379 SE2d 123 Here, Petitioner had
not made his character an issue,
Which prejudiced Petitioner. And where
counsel were ineffective for not objecting
to testimony of Markesha Smith, Whitney
Keasler, Patrice Gaines and Patricia
Durham.

Moreover, counsel was ineffective for not
renewing his objections to Markesha.

Brandon and Patricia testimonies that
Petitioner's sister directed and then to
not cooperate with police and her conduct
as a co-conspirator SEE: Trp 130; pp 142 -
43; p 158. Here, counsel provided ~~no~~
valid reason why he abandoned the object
after objecting on the matter during Kyle's

Trp 115 As a result of counsel failure to renew the objection to this particular testimony throughout the trial,

Which the Court of Appeals found that this issue to be unpreserved on appeal.

Petitioner further argue that because counsel failed to object and renew his objections - caused the testimony - un-objected testimony to be cumulative.

Also, if trial counsel had objected to all of the impermissible hearsay testimony(ies), the Court of Appeals would not have been able to hold that there was no resulting prejudice therefore, without the no resulting prejudice finding, there is a reasonable probability that appellate

counsel would have challenged the Court of Appeal's finding. that the testimony did not constitute hearsay

Petitioner verbatim re-argue the above leading and speculation arguments as he argued at his P.C.R hearing
SEE: App. p 619 — p 629 .

Here, Petitioner argue that counsel was ineffective for failing to object to the leading questions and or speculation testimony as argued above.
Here, the solicitor's re-direct examination of Torrey Acker was impermissible
SEE: Trp 209 but this has been deemed cumulative — because counsel had

failed object the hearsay, leading and or speculation issues.

Petitioner argue that its clear that his trial counsel "did not" have any sound trial strategies, (where he testified....

Q: Were you able to formulate a trial strategy around a Mr. Ricky Harkness

A: If I could have a moment. Let me -- honestly, that may have been my strategy. Offhand, I do not recall that specifically SEE: App. p 641 L16 - L20

App. p. 642 L22 - p 643 - L15

Q: Did you make an effort to focus

your objections on testimony that implicated Mr. Scott's involvement or alleged involvement in the incident

A: This was a frustrating case because he had made a statement. Which there was a Jackson & Deuno hearing and it was going to be heard by the jury. So you know, any objections being made, you know, I would hazard a guess, were made for strategic reasons or not made for strategic reasons at the time.

Q: And the first six witnesses, Mr. Scott's associates from Pendleton and Clemson, when they referenced Mr. Harkness through hearsay statements, why didn't you object

A: Well, again, we were hopeful that we can have some success in pointing the finger at Mr. Harkness.

Q: In fact, didn't you object-- well, when the first State's witness, Duncan, testified to statements made by Mr. Scott's sister and Troy Brown, page 116--

A: I'm sorry. Okay, so page 116 of the appellate

SEE: App 643 L23 - p644 - L6

Q: Well, didn't you object to alleged hearsay statements made by the State's first witness, Duncan, regarding statements made by the Applicant's sister

A: If it's in the transcript I objected, then I did

Q: You objected when the State had, I believe, Mr. Black read from his statement on page 187 is that correct.

A: Yes, again, if that's what the transcript indicates, then that's what I did

Now on cross-examination counsel testified ----

Q: You would agree that there were a number of witnesses that, for whatever reasons, you allowed hearsay testimony in. - Would you agree to that

A: Well, again, if I didn't object on the record, then I didn't object to it

SEE: App. p 645 L 7 - L 11

Q: And as you said earlier, if it's in the transcript you don't dispute it

A: No.

Here, the Petitioner strongly argue that the P.C. 2 Judge erred in

refusing to find counsel ineffectiveness
in failing to object to hearsay, leading
and or speculation question and or
testimony. Where the foregoing arguments
Petitioner has shown that counsel's
representation was deficient which
prejudiced him. And, if it wasn't for
counsel's errors, there is a reasonable
probability the result of his trial and
appeal would have been different see:
Strickland v Washington, 104 S.Ct. 2052; U.S.
Const. amend. 6.

CONCLUSION

Based on the foregoing arguments counsel's
motion to be relieve as Petitioner's

counsel should be denied. Where
this court should order counsel to
fully brief her issue as well
as Petitioner's arguments upon his
pro-se brief. Where Petitioner's case
should be remanded for a new trial

Date: _____

Respectfully submitted
s/ Andy Kett

SAMMY SCOTT #330564

McCormick Correctional Institute
386 Redemption Way
McCormick, SC 29899

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL F. SHEAROUSE CLERK OF COURT
POST OFFICE BOX 11336
COLUMBIA S.C. 29211



02 1M
000 800 7260
MAILED FROM ZIP CODE 29835
\$02.030
PRINTED BELOW