

The State of South Carolina
In the Court of Appeal

Appeal From Lexington County
Court of General Session

Honorable Williams P. Keeley Circuit Court Judge

Case No: 2013-00-1849

James Chester Williams 282929 Appellant
State of South Carolina V: Respondent

REPLY BRIEF OF APPELLANT

James Chester Williams 282929
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Appellant Pro Se

Other Counsel of Record
J. Walter Whitmire assistant
Attorney General P.O. Box 11549
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SC Court of Appeals

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TABLE OF AUTHORITIES

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U.S. v. Brown 117 F.3d 471 (11th, 1997) _____ 7

RatziaF v. United States 510 U.S. 135, 136-37, 114
S.Ct. 655, 126 L.Ed. 2d 615 (1994) _____ 7

STATEMENT OF ISSUE ON APPEAL

Whether The court error by not Informing Appellant
of his Right against self-Incrimination

STATEMENT OF CASE

Appellant was indicted at the January 2000 term of the Lexington County Grand Jury For murder Indictment (2000-GS-32-689) and Possession of a weapon during The Commission of a violent Crime Indictment (2000-GS-32-688.) Appellant was Represented by William F. Gorski Esq. on March 21, 2002 the Appellant Pled Guilty To murder. The Possession of a weapon during a Crime Charge was dismissed in exchange For Appellant Guilty Plea. The Honorable Mark H. Westbrook Sentenced the Appellant to Confinement For a Period of thirty (30) years with the South Carolina department of Corrections The Appellant appealed and was Represented on appeal by Robert M. Dudek. After a review Pursuant to Anders v. California 386 U.S. 738 (1967) the South Carolina Court of Appeals dismissed the appeal State v. Williams OP. No. 03-UP-329 (decided May 15, 2003) The Remittitur was issued on June 17, 2003. Appellant then Filed a Post-Conviction Relief Application on May 21, 2003 In his application Appellant alleges his trial Counsel was Ineffective by not being Prepared For trial due to his Failure to do an adequate Investigation of the Facts of This Case on June 27, 2005 an evidentiary hearing was held before the Honorable Jame W. Johnson Jr. Appellant was represented by Robert N. Boarda Esq respondent by Sabrina Todd of the attorney General office. Appellant testified in his own behalf and he called William F. Gorski on August 1, 2005 Judge Johnson Issued an order denying and dismissing The application. This appeal Follows

ARGUMENT

Appellant Refutes what The Attorney General said The Record of The Guilty Plea speak For it self Appellant Guilty Plea was Involuntarily and not knowingly and Intelligently made in Constitutional sense The Court error For not Informed Appellant of The Three Constitutional Right he is waiving The Accuser must be aware of The Privilege against Compulsor SELF-Incrimination The Right to a Jury trial and The Right To Confront one accusers These Three Constitutional Important Federal Right Cannot be Presumed From a silent Record Appellant Fourteenth amendment Right of The Constitutional and his Right of due Process were violated in Boykin v. Alabama See The Guilty Plea Transcript R.P. 35 line 4-5) All Right and do you understand Basically Then what your Right are In The Jury Trial That was another Constitutional error made in his case The Judge suppose to test The appellant his Right to a Jury Trial to make sure he understand The Right he is waiving See The Transcript of The Guilty Plea R.P. 33 line 21-23) and you understand The Reason They do That is because They have The burden of Proof They must Prove you Guilty beyond a Reasonable doubt do you understand That. a defendant dose not Receive Real notice of The Charge when he has not been Informed of both The nature of The Charge to which he is Pleading and it element This is so because a Plea of Guilt Represent in essence an admission as to each and every element of The offense in addition The defendant should understand how his Conduct

Satisfies those element Gaddy 780 F.2d 1125
(11th. Cir 1991 (en banc)) Recognizing that Prior
To entering a Guilty Plea a defendant must
Receive Information on the nature of the
Offense and the elements of the Crime
At The very least due Process Requires
That The defendant Prior to tendering a
Plea of Guilty receive a description of the
Critical element of the charge offense Gaddy
780 F. 2d at 945 The Record make clear duri-
ing the colloquy of the Judge and the Appellant
during his Guilty Plea hearing that the Judge
did not Inform the Appellant of the nature
of the offense or the element the state
would have to Prove beyond a reasonable dou-
bt The Following colloquy took Place between
The Judge and the Appellant the trial Judge
went on to make a vague statement about the
Trial Process it self but at no time did the
Trial Judge Inform the Appellant about the
element of murder what the state would be
Required to Prove beyond a reasonable doubt

nor did The trial Judge ask the Appellant if his counsel had informed him of the element of murder and That The state would have to Prove each and Every element of murder Reviewing The Record With a Practical eye there is no evidence The Trial Judge or The Appellant Counsel Informed him what The element of murder are what The state would be Required to Prove beyond a Reasonable doubt The Record make clear the appellant was not Informed about The element of The offense to which he Plead Guilty U.S. Brown 117 F.3d 471 (11th Cir 1997) The Court stated in view of The undisputed Fact and The Supreme Court subsequent decision in Ratzlaf v. United state 510 U.S. 135, 136-37 114 S.Ct 655 126 L.Ed 2d 615 (1994) it is clear That Brown was not Informed of The True nature of The Charge against him Smith 312 U.S. at 334 615.Ct at 574 instead he was affirmatively misinformed about a Critical element of The charged offense Gaddy 780 F.2d at 945 and that misinformation Cause him to Plea Guilty it necessarily Follows That The Appellant Guilty Plea was Involuntarily and not knowingly made in The Constitutional sense appellant Constitutional Right were held on June 20, 2013 at The Lexington County General session Honorable Williams P. Keeley heard These issue and made his Ruling and had them Put on The Record They were Preserved For appellate Review and he order David Mauldin of The Public Defender

OFFICE TO SUBMIT A NOTICE OF INTENT TO APPEAL ALL THESE
CONSTITUTIONAL ISSUES AND JUST FOR THE RECORD APPELLANT
WAS CHARGED WITH MURDER THERE IS NO EVIDENCE TO
SUPPORT MURDER IT SHOULD HAVE BEEN LIKE OTHER EVIDENCE
SEE TRANSCRIPT OF THE GUILTY PLEA R.P.P. 60-71 LINE 1-25
CONCLUSION

BASED ON THE AFOREMENTIONED GROUND APPELLANT
PRAY THIS HONORABLE COURT WILL GRANT HIS PETITION AND
RELIEF DESIRED

RESPECTFULLY SUBMITTED

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APPELLANT PRO SE

February 22-2015

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In the Court of Appeal

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APPEAL FROM Lexington County
COURT OF GENERAL SESSION

Honorable Williams P. Keeley Circuit Court Judge

Case NO: 2013 - 00 - 1849

James Chester Williams 282929 Appellant
State of South Carolina V. Respondent

Designation of matter

To be included in the Record on Appeal

Appellant Proposes the Following be included in the Record on Appeal

- (1) Transcript of Record on Appeal P.P. 41-46
- (2) Transcript of Record of the Guilty Plea on Appeal P.P. 60-71

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

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Court of General Sessions

SC Court of Appeals

Honorable William P. Keesley Circuit Court Judge

Case No: 2013-001849

James Chester Williams 282929 Appellant
State of South Carolina v. Respondent

Proof of Service

I Certify That I have served a COPY on J. Walter Whitmire
The Reply Brief of Appellant by depositing a COPY of it
in the United States mail postage pre-paid on February 22,
2015 addressed to J. Walter Whitmire ~~Assistant~~ Assistant Attor-
ney General, PO Box 11549 Columbia S.C. 29211-1549

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February 22, 2015

February 22-2015

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Ms. Kitching

Enclosed For Filing is the original For after
Discovered evidence the REPLY BRIEF OF APPELLANT
in the above-referenced matter.

Thank You For your assistance in this matter

Sincerely

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SC Court of Appeals

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