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APR 06 2015

SC Court of Appeals 3-31-15

THE South Carolina Court of Appeals

RE Keith Letmon v THE STATE

Appellate Case No. 2012-213672

I RECEIVED A letter from the Clerk & Mrs. JENNY A. KITCHENS stating that I have counsel and I can not file for my petition of a Rehearing and A Petition for Rehearing En Banc due to me having counsel. On March 5, 2015 Mr. Robert M. Dudek of the Appellate Defense sent a letter which is enclosed in this envelope stating when I received said letter that I would not be represented by them anymore. So due to the fact that I don't have counsel I'm asking the court to please accept my petition for Rehearing and my Petition for Rehearing En Banc.

Respectfully Keith Letmon

Keith Letmon # 214137

Lee Correctional Inst.

990 WISACKY Hwy.

Bishopville S.C. 29010



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APR 06 2015

Division of Appellate Defense
1330 Lady Street, Suite 401
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Post Office Box 11589
Columbia, South Carolina 29244-4589

Telephone: (803) 734-1330
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SC Court of Appeals

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 5, 2015

Keith Letmon, #214137
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Letmon:

Enclosed is a copy of the opinion of the Court of Appeals affirming your conviction. Please be advised that our office will be closing your case along with this letter.

Please be aware that there is a **one year statute of limitations for filing an application for post-conviction (PCR) relief**. This is one year from the date of the enclosed opinion. This statute of limitations is **very strictly enforced**, so please be sure that you comply with it. Please understand *it is your responsibility alone to be sure this PCR application is timely filed*. **This application must be filed with the clerk of court in the county of your conviction**. There is also now a **one year statute of limitations for filing for federal habeas**. However, you must **exhaust your PCR claims** in state court, before raising them in federal court.

Please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future**. I do wish you the best. Feel free to contact me if you have any questions.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

RMD/rdp

Enclosure: Post-Conviction Relief Application

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MAR 23 2015
SC Court of Appeals

THE STATE OF South Carolina
IN THE Court of Appeals

Appeal from Spartanburg County
THE HONORABLE J. DERHAM COLE, Circuit Judge

KEITH LEMON SCDC # 214137 Appellant

v.

THE STATE of South Carolina Respondent

Petition for Rehearing

Now comes the Appellant, pursuant to rule 221 (A) of the South Carolina Court Rules, requesting for a "rehearing" regarding the grounds for relief raised in his meritorious brief in the above matter. Timely appeal was filed, the appellant was convicted of murder. Mr Robert M Dudek of the Appellant Defense office was appointed as counsel. On February, 3, 2015 an oral argument was held for a meritorious issue. An unpublished opinion No: 2015-UP-117 was filed March 4, 2015 in which the court affirmed the conviction of applicant.

In the above matter before the court, the Appellant raised a meritorious claim which was reviewed by the court. Rule 221 (A) whereas

HE IS REQUIRED TO STATE WITH PARTICULARITY THE
POINTS SUPPOSE TO HAVE BEEN OVERLOOKED OR
MISAPPREHENDED BY THE COURT.

FOR THE ABOVE REASONS STATED, AND THE ATTACHED
MOTION FOR REHEARING EN BANC THATS INCLUDED
IN SUPPORT OF THIS MOTION, THE APPELLANT PRAYS
THE COURT WILL GIVE HIM A HEARING TO ADDRESS
THIS MATTER.

Respectfully Submitted
s Keith Letmon
KEITH LETMON #214137
LEE COLLECTIONAL INSTITUTION
F-4-B-1209
990 WISACKY HIGHWAY
BISHOPVILLE S.C. 29010

3
THE STATE of South Carolina

IN THE COURT of Appeals

Appeal from Spartanburg County
THE Honorable J. Dehan Cole, Circuit Judge

Keith Letmon SCDC# 214137 Appellant

✓

THE STATE of South Carolina Respondent

Motion for Rehearing EN BANC

Now comes the Appellant, pursuant to Rule 219 (B) of the South Carolina Appellate Court Rules, requesting a rehearing "EN BANC" regarding the grounds for relief raised in appeal for the ~~the~~ above matter.

Appellant raised on appeal "Misidentification" under "Neil v Biggers, 409 US 188 (1972)". In Biggers, the Supreme Court of the United States developed a two prong inquiry to determine the admissibility of an out-of-court identification, Moore 343 S.C. at 287, 540 S.E. 2d at 477. First a court must determine whether the identification process was unduly suggestive. The South Carolina Court of Appeals agreed that the process was suggestive. Second a court must determine

Whether the identification was nevertheless so reliable that the substantial likelihood of mis-identification existed. THE SOUTH CAROLINA COURT OF APPEALS held that the identification was reliable. I differ. Note that in the second prong from the above matter the following should be considered, to determine the likelihood of mis-identification. (1) THE WITNESS'S OPPORTUNITY TO VIEW THE PERPETRATOR AT THE TIME OF THE CRIME. (2) THE WITNESS'S DEGREE OF ATTENTION. (3) THE ACCURACY OF THE WITNESS'S PRIOR DESCRIPTION OF THE PERPETRATOR (4) THE LEVEL OF CERTAINTY DEMONSTRATED BY THE WITNESS AT THE TIME OF CONFRONTATION AND (5) THE LENGTH OF TIME BETWEEN THE CRIME AND CONFRONTATION.

Copeland claimed to have known Appellant for six to seven years. "At the time of the crime" Copeland stated Tr. pg 108 2-3 "He got out, he got out and got by the tree and raised up and started shooting. From the Forensic Diagram of the Spartanburg City Police Dept. From the tree to the porch where Copeland alleged to have been seated is 21' or 22' feet away and 10 feet as Copeland stated. Tr. pg 114-115 Copeland stated everybody saw him to the other side of the house,

And the crime happened very fast. No porch light, SAM intoxicated, high off refer, TR pg 110-111 Copeland admits to drinking two or three bottles of Burnett's which is liquor. TR pg 140 officer Stephen McClure said Copeland smelled of alcohol. Simmons r us 290 us 377, 88 S.Ct 967 FN3 (regardless of how the misidentification comes about, the witness thereafter is apt to retain in his memory the image of the photograph rather than of the person actually * 384 seen, reducing the trustworthiness of ~~the~~ subsequent line up or courtroom identification.)

Ross at the time of the crime in her statement TR pgs 173-174. She states she didn't see his face good. ~~the~~ Description she gave was that ~~the~~ perpetrator was 6 foot 160 pounds. Mc Jan 58 172. Totally different. Her certainty TR pgs 21-22. Detective Poeter says she may have picked Shondrell Holmes out of memory first with him. That's the other slow Det. Poeter says he knows from the North Side. That's what the witnesses first told the police it was slow "Shondrell Holmes" from the Northside ~~before~~ Det. Poeter came in with his suggestiveness. TR pgs 43-44 Det. Nelson admits to not completing form, Admonition in

Ident of Ross. See below, as well as other
Admonition forms of other witnesses Copeland,
Robinson, we don't know whom Ross picked out.
Stated above she may have picked out Shondrell
Holmes • Det. Pelters words. In all forms
besides Ross Admonition form they have the
of the picture that the witness looked at long
or picked in Ross there was none of that.

Robinson stated in her admonition form she
could not identify no-one. So at the time of
the crime she could not see the perpetrator. After
seeing appellant face on news and newspaper.
it caused her to appellant.

JESSE WORTHY is pg 182, 20-20 Did
you see what happened? "Answer" No I
did not.

The whole issue here is at the time of the
crime neither witness saw who committed
this act. The second prong of one of them
is at the time of the crime the witnesses
opportunity to view the perpetrator. Not who
who there earlier or who you think it might
be. The witnesses degree of attention Every one
know as Copeland testified to when the shot rang

off and it happened fast. ~~Blamable~~ NATURE, if SOMEONES shooting and you dont know at who or who the person is you're running for safety not trying to see whats going on. This whole case rests on MISIDENTIFICATION. ONCE the WITNESSES SAID that it was slow from the North Side of town the investigation should have started there, but Detective Porter took it upon himself to suggest that it wouldnt be the slow from the North Side but the slow from the South Side. Tr pg 12, lines 1-5, Tr pg 19 3-5 also see attachments. So for the above reasons the Appellant is asking for a new trial to correct this injustice that was ~~had~~ handed.

Also other merittous issues that Appellant Counsel didnt bring to the courts attention that Appellant advised Counsel to do but did not.

- 1.) Not bringing to the Courts attention that trial judge didnt rule on several objections made by trial counsel pgs 250 - 252. Trial Counsel objected saying that the state didnt tie the said one to Appellant.
- 2.) There were gloves being discussed and wasnt allowed to go into evidence due to chain of

Custody Issues. Trial counsel moved to strike testimony of the gloves from the record. Trial Judge allowed ~~to~~ testimony and the pictures of the gloves to be entered into evidence. Abuse of Discretion. It affected Appellant by painting a picture of they got evidence that ~~is~~ links appellant to said crime. All of these issues led to a cumulative ~~of~~ effect that made it impossible to get a fair trial.

Respectfully Submitted

S Keith Peterson

LEE Correctional Institution

F-4-B 1209

990 W. 10th St.

Bishopville SC 29010

THE STATE OF South Carolina

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(2) THE witness's degree of attention. (3) THE
accuracy of the witness's prior description of the
perpetrator (4) THE level of certainty demonstrated
by the witness at the time of confrontation and (5)
THE length of time between the crime and confrontation.

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Respectfully Submitted

S Keith Watson

LEE Correctional Institution

F-4-B 1209

990 WISKEY STAY

Bishopville SC 29010

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 11-13-2009
BY 990 WASHINGTON AVE
BISHOPVILLE S.C. 29010

RECEIVED

APR 06 2015

SC Court of Appeals

South Carolina Court of Appeals
Jenny Abbott Kitchens, Clerk
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