

STATE OF South Carolina
IN THE SUPREME COURT

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S.C. SUPREME COURT

Writ of Habeas Corpus
William Jeffrey Young Circuit Court Judge

Ralphward PEARSON

PETITIONER

v.

STATE of South Carolina

RESPONDENT

APPELLATE CASE No: 2012-213452

PETITIONER PRO-SE BRIEF TO WRIT OF HABEAS CORPUS

PETITIONER
Ralphward PEARSON

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Issues Presented

Procedure lack of competency where petitioner suffers from mental retardation. Defense counsel failed to have petitioner evaluated by the appropriate facility and have him stay at the facility for the required 15 days per state law and this lack of help from defense counsel shows ineffective assistance of counsel as well....

STATEMENT OF FACTS

PETITIONER WAS indicted AT THE DECEMBER 11 2006 TERM OF THE WILLIAMSBURG COUNTY GRAND JURY FOR MURDER TWO COUNTS OF ARM ROBBERY AND ONE COUNT OF POSSESSION OF A WEAPON DURING THE COMMISSION OF A CRIME. PETITIONER WENT BEFORE THE JUDGE TO HAVE A GUILTY PLEA ACCEPTED ON FEBRUARY 12 2007. PETITIONER LATER APPEARED BACK ON MAY 3 2007 AND ENTERED GUILTY PLEAS TO THE ABOVE CHARGES AND RECEIVED LIFE FOR MURDER 30 YEARS FOR ONE ARM ROBBERY 25 CONSECUTIVE YEARS TO MURDER AND 5 YEARS CONSECUTIVE TO MURDER. BEFORE THESE GUILTY PLEAS WAS ACCEPTED PETITIONER WAS PROBABLY INDICED PETITIONER WAS EVALUATED BY THE WITNESS AGENCY AND WAS NOT PROPERLY EVALUATED WITHIN THE SAID TIME FRAME BY STATE LAW TO SEE IF PETITIONER WAS COMPETENT TO ACCEPT GUILTY PLEA.

PETITIONER STATES THAT IN STATE V BLAIR 275 S.C. 529-275 S.F. 2d 536 (1991) THE EXAMINER SHALL TERMINATE, THE CRIMINAL RESPONSIBILITY AND CAPACITY TO CONFORM EVALUATION. THIS IS PURSUANT TO S.C. CODE AND § 44-23-410. IF THE DEFENDANT MAY NOT BE COMPETENT TO STAND TRIAL WHEN THE COMPETENT TO STAND TRIAL EVALUATION HAS BEEN DONE BY WRITTEN COMMUNICATION THE EXAMINERS SHOULD STATE SUCH OPINION. SUCH LACK OF COMPETENCE IS DUE TO MENTAL ILLNESS, MENTAL RETARDATION OR A RELATED DISABILITY A COPY OF THIS SHOULD BE SENT TO THE PROSECUTOR AND DEFENSE COUNSEL BY THE PROPER AGENCY TO DETERMINE THAT THE PETITIONER IS MENTALLY ILL. THE DEFENSE COUNSEL REFUSED TO ARGUE A DEFENSE FOR PETITIONER IN ORDER FOR THE COURT TO HAVE A BETTER UNDERSTANDING OF THE PETITIONER HISTORY ABOUT HIS MENTAL HEALTH. IN MCCARTY V. STATE 802 N.E. 2d 989 MCCARTY WAS PREJUDICED BY HIS ATTORNEY'S DEFICIENT PERFORMANCE BECAUSE AN ADEQUATE INVESTIGATION AND PRESENTATION OF MITIGATION WOULD HAVE REVEALED TO THE SENTENCE COURT THAT THE DEFENDANT WAS MENTALLY RETARDED IN PETITIONER CASE IF THE DEFENSE COUNSEL WOULD HAVE ARGUED PETITIONER MITIGATING EVIDENCE ABOUT HIS MENTAL HISTORY THE PETITIONER WOULD HAVE HAD A CHANCE AT A LESSER SENTENCE DUE TO THIS PETITIONER WAS SENTENCED TO LIFE IN THE DEPARTMENT OF CORRECTIONS. PETITIONER WAS EVALUATED BY THE WRONG AGENCY IF THE PETITIONER WAS EVALUATED BY THE CORRECT AGENCY THE PETITIONER I.Q. WOULD OF BEEN ON A DIFFERENT SCALE OF BEING MENTALLY ILL AND THE COURTS WOULD HAVE A BETTER VIEW ON WHAT SENTENCED TO IMPOSE ON THE PETITIONER. SEE S.C. CODE ANN § 44-23-410(1) THE AGENCY DETERMINE IN ONE DAY THAT THE PETITIONER WAS COMPETENT TO STAND TRIAL IT WAS NOT CORRECT AND PER THE STATUTE THE PETITIONER WAS SUPPOSE TO BE EVALUATED BY THE AGREEMENT OF SPECIAL NEEDS AND NOT TO EXCEED 15 DAYS TO DETERMINE RATHER THE PETITIONER WAS COMPETENT TO STAND TRIAL OR TO ACCEPT GUILTY PLEA. ALSO SEE ROPEZ V SIMMONS 543 U.S. 551 (2005) TO SEE IF THIS WAS A CAPITAL CASE OBVIOUSLY IT COULD NOT BE BECAUSE THE PETITIONER WAS MENTALLY RETARDED. IT IS THE INTENTION OF THE STATE OF CAROLINA TO PROVIDE ANY DEFENDANT AN ADEQUATE OPPORTUNITY FOR MENTAL STATUS INVESTIGATION WHEN THE DEFENDANT'S MENTAL CONDITION IS SERIOUSLY IN QUESTION PURSUANT TO ALEX V OKLAHOMA 470 U.S. 108, 105 S. CT 1987 (1985). PETITIONER MENTAL CONDITION IS A SIGNIFICANT FACTOR IN THIS CASE BECAUSE THIS WAS A MURDER CASE AND PETITIONER MENTAL HEALTH HISTORY NEEDED TO BE UNDERSTOOD BY THE COURTS TO SHOW THE PETITIONER WAS SUFFERING FROM A MENTAL ILLNESS

THE STANDARD FOR COMPETENT TO STAND TRIAL IS WHETHER THE DEFENDANT HAS SUFFICIENT PRESENT
ABILITY TO CONSULT WITH HIS LAWYER WITH A REASONABLE DEGREE OF "RATIONAL UNDER-
STANDING" AND HAS A RATIONAL AS WELL AS FACTUAL UNDERSTANDING OF PROCEEDINGS AGAINST
HIM. JOHNSON V. ZEBST 304 U.S. 458 468, 58 S. CT. 1019, 1025 LEd 1461 (1938). IN
MOPE V. MISSOURI - 420 U.S. 162 171, 95 S. CT. 896, 903, 43 LEd 2d 103 (1975). IT STATES IF
A DEFENDANT LACKS CAPACITY TO UNDERSTAND THE NATURE AND OBJECT OF THE PROCEEDINGS
AGAINST HIM TO CONSULT WITH COUNSEL AND TO ASSIST IN PREPARING A DEFENSE MAY
NOT BE SUBJECTED TO A TRIAL WHILE THE STATE HAS MET A STANDARD FOR COMPETENCE
TO STAND TRIAL THE STATE NEVER EXPRESSLY ARTICULATED A STANDARD FOR COMPETENCE TO PLEAD
GUILTY. OR TO WAIVE THE RIGHT TO COUNSEL. FURTHER MORE THE STATE CAN NOT SAY IT'S THE
PETITIONER CHOICE ALONE TO PLEAD GUILTY BECAUSE THE ADVICE OF A COUNSEL IS (2)
PEOPLE THE PETITIONER IS REPRESENTED BY A DEFENSE COUNSEL NOT HIMSELF SO IT'S NOT
THE PETITIONER CHOICE ALONE WHEN THE DEFENSE COUNSEL IS PROMISING HIM SOMETHING
A PERSON CANNOT BE REQUIRED TO PLEAD TO AN INDICTMENT OR BE TRIED FOR A
CRIME WHILE HE IS SO MENTALLY DISORDER. 992

(Abundant) (2)

At the P.C.R. hearing Petitioner argue the fact that defense counsel advised petitioner that the only way he would receive less than life was take a guilty plea. Petitioner took attorney's advice and plead guilty. The judge error in not taking letter and the fact that attorney admitted that he advised petitioner to plead guilty that was the only chance. Petitioner had counsel stated he had me to sign a document summarizing a discussion we had talk about further more the document was not not advised and the signature dose not match the signature of my P.C.R. application the two signatures is not a match and further more the petitioner could barely read. Further more if you look at the guilty plea transcript it will clearly show the defense counsel spoke about the sentence. I was suppose to receive PC. B. LINE 15-17 BUT WAS PUT OFF TO A LATER DATE. THAT ALONG WILL SHOW THAT THE JUDGE DID NOT LOOK INTO THE ISSUE AT P.C.R. ABOUT DEFENSE COUNSEL AS WELL AS THE SOLICITORS OFFICE ABOUT SENTENCE OF THE PETITIONER. FURTHER MORE THE STATE GAVE PETITIONER LIFE AND HE WAS NEVER NOTIFIED OF THIS IN WRITING PER THE STATUTE. PETITIONER ALSO ADVISED THE JUDGE THAT THE DEFENSE COUNSEL SPOKE WITH PETITIONER FAMILY IN REGARDS TO THE PLEA. JUDGE FORGOT AND DID NOT ALLOW THE PETITIONER TO CALL HIS FAMILY AS WITNESS. JUDGE STATED PETITIONER DID NOT HAVE EVIDENCE TO SHOW THE DEFENSE COUNSEL SPOKE TO PETITIONER FAMILY. LOOK AT THE JUDGE ORDER OF DISMISSAL FROM P.C.R. PGS 8 OF 10 WHERE JUDGE STATES COUNSEL AND PRIVATE INVESTIGATOR SPEAK WITH PETITIONER FAMILY ABOUT THE CASE AND MENTAL HISTORY IT CLEARLY SHOWS THAT THE PETITIONER WAS COERCED INTO ACCEPTING THE GUILTY PLEA. PETITIONER WAS PROMISED HE WOULD RECEIVE LIFE SO HE TOOK LAWYER'S ADVICE AND PLEAD GUILTY. THIS ARGUMENT SUPPORTS HERMAN V. MAUDY (350 U.S. 116, 118, 76 S.Ct 223, 224 LEd 126 (1956)). PETITIONER STATES IF HE WOULD KNOW HE WOULD BE RECEIVING A LIFE SENTENCE ON A PLEA HE WOULD WANT TO PLEAD AND NEVER GIVE UP HIS APPEALS. THE PETITIONER STATES THE PLEA COULD BE VOLUNTARY BUT NOT INTELLIGENT GIVEN BECAUSE THE PETITIONER STATES COUNSEL ADVISED HIM HE WOULD RECEIVE 30 YEARS SO HE ACCEPTED THE PLEA AND PLEAD GUILTY BUT HE DID NOT BELIEVE THAT. PETITIONER STATES IT'S NOTHING IN WRITING TO SHOW THE PROMISE OF THE DEFENSE COUNSEL 30 YEARS. PETITIONER STATES RECORD AS WELL AS THE LETTER FROM DEFENSE COUNSEL STATES HE "TOLD" THE PETITIONER TO PLEAD GUILTY SO HE WOULD NOT RECEIVE A LIFE SENTENCE. IN ORDER FOR THIS TO OCCUR THIS HAD TO BE A NEGOTIATED PLEA. IF YOU LOOK AT SENTENCED LETTERS NONE OF THE BOX ARE CHECKED TO SAY WHAT KIND OF PLEA WAS ACCEPTED.

(17)

(Attachment 3)

PETITIONER ARGUES THAT JUDGE ERROR BY NOT VIEWING INDICTMENT PETITIONER INDICTMENT IS VOID BECAUSE JURISDICTION WAS UNLAWFULLY OBTAINED BY THE CIRCUIT COURT BECAUSE THE INDICTMENT IN PETITIONER CASE IS VOID BECAUSE ON DECEMBER 11 2006 THE GRAND JURY CONVENED, ON DECEMBER THE 7 2006 IT WAS TRUE BILLED AND COULD YOU POSSIBLY TRUE BILL AN INDICTMENT 4 DAYS BEFORE THE ACTUAL TERM BEGAN. DECEMBER 11 2006 CLAUDE DO NOT SHOW THAT JUDGE CORTEZ HELD GENERAL SESSION IN WILLIAMSBURG COUNTY ONLY. CONSTITUTIONAL STATE LAW STATES NO COURT CAN CONVENE OUTSIDE THE PRESCRIBED TIMES SET BY THE COURT SOUTH CAROLINA SUPREME COURT. THERE IS KNOW NOW THAT THIS CASE INDICTMENT WAS TRUE BILLED BY THE GRAND JURORS UPON THEIR OATH ON DECEMBER 7 2006 YET IT AWAITS SUCH. ADDITIONALLY BY RULE 3(C) CRIMINAL PROC. THE SOLICITOR UPON RECEIPT OF WARRANTS SHALL PRODUCE A INDICTMENT FOR PRESENTMENT BEFORE A GRAND JURY WITHIN IN PETITIONER CASE THE WARRANTS WAS NEVER FILE WITHIN THE 180 DAYS THAT SHALL INCLUDE BE FILED BY THE CLERK OF COURT GIVEN A CASE NO. AND PRESENTED TO A GRAND JURY IN THIS EXACT ORDER IT WAS FILED BY THE CLERK ON DECEMBER 7 2006 AS WELL ON THE SAME DAY OF THE TRIAL THIS CONFIRMS THAT THE INDICTMENT WAS NOT PRESENTED TO A BODY OF GRAND JURORS JOE DID 12 PEOPLE ELECT TO TRIF BIL THIS INDICTMENT THIS (NULLIFIES) THE ACCUSATIONAL INSTRUMENT AND ALSO NULLIFIES THE SUBJECT MATTER JURISDICTION AUTHORITY THAT IS FOUNDED UPON SUCH (GUILTY PLEAS) IS ALSO A NULLITY AND CANNOT STAND FOR THE FOLLOWING REASONS MENTIONED HEREIN AND IN INITIAL APPLICATION. I WANT THIS COURT FOR VACATION OF ALL SENTENCES AND DISMISSAL OF INDICTMENT 2006-GS-45-340 W/ PREJUDICE AND PASC OVERTURE. ALSO PETITIONER WAS SENTENCED TO 25 YEARS CONSECUTIVE AND THERE IS KNOW INDICTMENT TO SHOW THAT THE PETITIONER IS SERVING A 25 YEAR CONSECUTIVE SENTENCED ALL THIS IS A FACTOR TO PETITIONER. INDICTMENT FOR 25 YEARS SHOULD BE VACATED BECAUSE THERE IS KNOW INDICTMENT FOR THE MURDER ROBBERY.

(Conclusion)

PETITIONER STATES ON THE ARGUMENTS THAT'S RAISED IN THIS WRIT HE WISHES THAT ALL ISSUES BE LOOKED INTO WITH THE MOST RESPECT BECAUSE IF YOU LOOK THE PETITIONER SHOWED THAT LOWER WAS INEFFECTIVE AND ALSO SHOWED THAT THE MENTAL HEALTH EVALUATION SHOULD BE DONE BY THE APPROPRIATE FACILITY PETITIONER STATES THE F.C.R COURT, THE LOWER COURT VIOLATED THE PETITIONER CONSTITUTIONAL DUE PROCESS PETITIONER IS REQUESTING THAT THE COURT GRANT PETITIONER RELIEF AND CASE BE REWARD BACK TO THE LOWER COURTS...

STATE OF South Carolina
vs THE SUPREME COURT

CERTIORARI TO Williamsburg County
William Jeffrey Lamb, Circuit Court Judge

Raymond Pearson

PETITIONER

v.

STATE of South Carolina

RESPONDENT

APPELLATE CASE No. 2012-213482

CERTIFICATE OF SERVICE

I CERTIFY THAT A TRUE COPY OF THE PETITIONER PRO-SE BRIEF TO THE SUPREME COURT
WAS PLACED IN THE PEERY CORRECTIONAL INSTITUTION MAIL ON THE 21ST DAY OF OCTOBER 2013.
TO THE SOUTH CAROLINA SUPREME COURT.

SUBMIT TO BEFORE ME THIS 16TH DAY

OF October 2013

Raymond Pearson

Notary Public for South Carolina

1-23-2023

My Commission Exp....

Raymond Pearson

296097

Peery Correctional Institution
S.W. L-43

435 Oakwood Rd

Pelzer SC 29669

Raymond Pearson

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