

Sebastian James Hepburn, #353163
Turbeville Correctional Institution
P.O. Box 252 "8A-105A"
Turbeville, S.C. 29162-0252

S.C. Supreme Court
Office of Disciplinary Counsel
Kelly B. Arnold, Attorney
P.O. Box 12159
Columbia, S.C. 29211

Date: **RECEIVED**

FEB 09 2015

Re: Lawyer, Kathrine Haggard Hudgins, Esquire
Matter Number: 15-DE-L-0032

SC Court of Appeals

Dear Ms. Arnold,

Greetings and Salutations. I am in receipt of your reply of Jan. 15, 2015. I thank you very much for such a speedy response and your assistance in this matter. I will remain brief with this supplementary correspondence.

I have concerns that I consider to be my right of fundamental fairness of due process in obtaining a fair and equal reconstruction hearing. Affidavits have been submitted from prosecution and defense counsels, however, being that I am the principal subject in this matter, it is my position that I too should also be permitted to present an affidavit in lieu of the fact that I testified statement of facts at the closing arguments in opposition to the testimony and issues brought forward by the State that I deem to be complete fabrication and malicious lies, and at no time has any evidence been presented to substantiate and support the accusations made by the State.

Issues presented by me at closing arguments were as follows:

- 1) Conflicting statements of the victim and victim's mother in the recollection of chain-of events, and the timeline therein;
- 2) The delay in time of victim's mother reporting the incident to law enforcement, and the response time of investigating officer given the proximity of the police station (3 blocks);
- 3) Instead of victim's mother taking victim to police station or the hospital which are both are within (3) blocks from residence of incident;
- 4) Why was the defendant's furniture and personal belongings removed and thrown out in the front yard, then maliciously destroyed by victim's mother prior to calling law enforcement;
- 5) Why was victim removed from crime scene, supposedly for her safety, yet, the police station and hospital were passed to take victim to a relatives house;

- 6) lack of evidence of a crime or sexual incident at the crime scene;
- 7) No DNA or tangible evidence collected at the scene, victim was not sought after, no interview that night, no photographs ever taken, and clothing was never confiscated to be sifted through for evidence of crime;
- 8) No Rape Protocol Kit was ever performed (which would have shown no evidence of crime or foreign DNA by the accused that would have supported his innocence), also no post-trauma counseling had ever been sought by victim or victim's mother;
- 9) The arrest was based solely on statement, and no evidence to this day have even been brought forward to support the accusation.

I received a criminal history record from S.L.E.D. (by my request) on Sept. 9, 2014 and there is a conflict. Entered into the S.L.E.D. database was an entry on November 13, 2012 from Greenville County of a conviction of § 16-3-655 (C)(3) 3d degree CSC which is a (10)yr. cap, however, my sentencing sheet has a conviction of § 16-3-655 (B)(4) 2d degree CSC which is a (20)yr cap. That is quite a variance. The totality of errors were obvious at closing arguments.

It is my contention that Appellate Defender Hudgins has not invested any time to provide a meaningful investigation.

Your assistance and attention to my plea is greatly appreciated, and I eagerly await your response

cc:

- 1) The Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
- 2) S.C. Commission of Indigent Defense
Kathrine Haggard Hudgins

Sworn to and Subscribed before me
this 4th day of Feb, 2015

Emily W. Holz
Notary Public for South Carolina
My Commission Exp. 4-27-2016

Respectfully Submitted,
St. Sebastian Hepleur

RECEIVED

FEB 09 2015

SC Court of Appeals

Sebastian J Hepburn, #353163
Turbeville Correctional Institution
P.O. Box 252 "SA-105A"
Turbeville, S.C. 29162-0252

S.C. Commission of Indigent Defense
Kathrine Haggard Hudgins
Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, S.C. 29201

Date:

Re; Hepburn v. State; 2012-GS-23-02699

Dear Ms. Hudgins,

Greetings and Salutations. Please consider this a formal request to submit the "Motion To Grant New Trial" pursuant to S.C.A.C.R., Rule 210(c); S.C. R.C.P., Rule 60(B), that I sent to you on August 13, 2014, on my behalf.

Please consider this request based on Client and Lawyer; S.C. A.C.R., Rule 407 (i.2(a)); and Allocation of Authority between Client and Lawyer (comment 1.2(3)).

Your assistance and cooperation is greatly appreciated.

cc:
The Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

S.C. Supreme Court
Office of Disciplinary Counsel
Kelly B. Arnold, Asst. Disciplinary Counsel
P.O. Box 12159
Columbia, S.C. 29211

RECEIVED

FEB 09 2015

SC Court of Appeals

Respectfully Submitted,
Sebastian Hepburn

Sworn to and Subscribed before me
this 4th day of Feb., 2015

Erinlye Hodges
Notary Public for South Carolina
My Commission Exp. 4-27-2016

Aug. '07 Conviction

Charleston Post + Courier

Dec. 23, 2014

A convicted murder was granted a new chance at freedom because a Charleston Co. court reporter could not produce a transcript of his 5 year old trial for appellate review.

Travis Maurice Hurst at Charleston Co. jail to await new trial. A court reporter, identified in court documents as Deborah Everett, was in the courtroom for every minute of the three-day trial, and her job was to record the proceedings.

But when attorney's presenting Hurst's appeal later requested a transcript of the trial, they were told "significant portions of the transcript were unable to be transcribed due to missing or inaudible recordings" court documents stated.

Attorney's for Hurst filed a Motion in March requesting that the missing portions of the record, roughly half of the documents be reconstructed, attorney Robert Dudek said, Judge J.C. Nicholson oversaw three hearings to revisit evidence, witnesses and the memories of the attorneys who had tried the case, but to no avail he said.

"Judge Nicholson essentially made an exhausted effort. He did everything he could to reconstruct the record. Judge Nicholson ruled the record could not be reconstructed to fairly provide Hurst with meaningful appellate review."

The State Court of Appeals granted Hurst a new trial based on Nicholson's determination.

"People who have exerted their right to a trial do so knowing it could go against them and they do so with a right to an appeal. You know the transcript is going to be the first order of business. Failure to maintain the record so that you can create a transcript is inexcusable."

Charleston Co. Assistant Solicitor Greg Voigt "The cost of that court reporter's negligence really affects the whole system. It should never happen. That should be the most reliable part of the system."

RECEIVED

FEB 09 2015

SC Court of Appeals

Evans v. Rushton, F. Supp. 2d, WL 540326 (D.S.C., 2007)

III., A. Petitioner timely appealed his conviction and an appeal was perfected on his behalf by Tara S. Taggart, Esquire, S.C. Office of Appellate Defense, who moved for a reconstruction hearing, or In the Alternative for a New Trial, on the ground that portion of the trial transcript were not transcribed due to noise on the court reporter's tape.

Petitioner was denied due process of law under the 14th Amend. and is entitled to a new trial because a proper transcript of the trial was not preserved for appellate review and the reconstruction hearing was inadequate.

On direct appeal in this matter, Petition was granted a reconstruction hearing in an attempt to reconstruct the portions of the trial transcript that were missing to ensure that Petitioner would receive an effective appellate review of his trial. Many of the relevant allegations that Petitioner relied on for relief in this matter are missing from the trial transcript, and therefore ~~could~~ not be raised on direct appeal.

The reconstruction hearing did not help this matter any, because the trial judge, the solicitor and trial counsel's memories of the trial were vague at best.

Petitioner argues he is entitled to a new trial because a proper transcript of his trial was not preserved for a meaningful appellate review.

Due process requires that a record of 'sufficient completeness' be provided for appellate review of the errors raised by a criminal defendant. See Draper v. Washington, 372 U.S. 487, 496-98 (1963), However, where a portion of the record is unavailable because a transcript is lost or is otherwise missing, the inability of the State to provide a full transcript of the trial proceedings does not entitle Evans to a new trial perse. Id. Rather, he must demonstrate that despite a good faith effort it is impossible to reconstruct the missing portions of the record and that such precludes effective appellate review of the issues. Id.

RECEIVED

FEB 09 2015

SC Court of Appeals

Friday, October 3, 2014 "The State, Columbia, S.C. Metro

"1 yr. for costing deputy an eye called travesty of justice"

Lost trial records lead to uneasy deal with convicted robber

Kevin Reed v. State "Richland Co."

- 1) One year tacked onto his prison sentence because trial records were lost.
- 2) No one explained in court who was responsible for losing the full Trial Transcript, including a key order by trial judge John Few denying Reed's retrial request.
- 3) Those involved in the case realized the records were missing 3 yrs. ago while Reed was appealing his initial 10-yr. sentence.
- 4) Circuit Judge DeAndrea Benjamin said she doubted she had the authority to override an agreement reached by parties to the case. She was not the presiding judge during the 2005 trial. The loss of court records "give me significant pause," Benjamin said, in approving the one-year sentence.
- 5) Prosecutor Dan Goldberg told Benjamin that problems with the court records were discovered in 2011 during the appeals process. The clerk of courts office could not find a copy of Few's 2009 order refusing Reed's request for a retrial, Goldberg said. That stalled the appeal.
- 6) The Trial Transcript could not be recreated for a retrial because court reporters generally destroy their records 5 yrs. after a case is tried, Goldberg said.
- 7) A retrial would be "rife with problems," Goldberg said, citing concerns that include the inability of defense lawyers to compare what witnesses said the first time with what they might testify to in a second trial.
- 8) Weaver (victim) asked Benjamin (Judge) to reject the agreement and order a new trial.