

CLERK,

6-29-15

I NEED TWO (2) WRITS OF CERTIORARI... THESE ARE THE GROUNDS AND PROOF I NEED FOR THE WRIT TO ISSUE...

1.) THE COURTS AMENDED AND INDICTMENT FROM A 24-7-155 TO A 24-3-950... SEE: STATE V. FAZZE (SC 1895) 43 SC 52, 20 SE 798, WHILE A MATERIAL CHANGE ~~CAN~~ ~~NOT~~ IN THE BODY OF THE INDICTMENT CANNOT BE MADE BY AMENDMENT BY ORDER OF COURT, SUCH AMENDMENT MAY BE MADE WITH THE DEFENDANT'S CONSENT IN OPEN COURT...

I DID NOT GIVE MY CONSENT  
TO AMEND THE ATTACHED  
INDICTMENT...

2.) MY RIGHTS WERE NOT READ  
TO ME, BEFORE THE WRITTEN  
STATEMENT WAS GIVEN... SEE  
ATTACHED PAGE # 59... HE STATED  
ON LINE # 12 MY RIGHTS HAD  
ALREADY BEEN READ TO ME, AND  
ON LINE # 21 HE STATES HE HAS  
NO KNOWLEDGE OF THE ORAL  
STATEMENT, BUT, ON LINE # 12  
MY RIGHTS HAD BEEN ALREADY  
READ TO ME... WHAT IS HE  
TALKING ABOUT? YOU GOT TO  
GIVE A ORAL STATEMENT BEFORE  
YOU CAN PUT IT INTO WRITING...  
MY RIGHTS WERE NOT READ TO ME...

3.) THE JURY WAS ALLOWED TO LISTEN TO MY TRIAL TAPES AT 3:30 PM ON LITVUES #8 + 9 ON PAGE #247... ON PAGE #250 THE JURY RETURNED WITH THEIR VERDICT AT 4:05 PM... WHEN JUDGE TRAXLER JR. LET THE JURY LISTEN TO MY TRIAL TAPES, THOSE TAPES CONSTITUTED A 2<sup>ND</sup> TRIAL WHICH CONVICTED ME AND THAT IS A DOUBLE JEOPARDY CONVICTION...

Paul Leddie Cox

P R O C E E D I N G S

(The case against Paul Leslie Cox was called for trial.)

MR. RAY: Your Honor, we would waive arraignment.

We have filed a Motion to Suppress the statement that he gave in this particular case, and we would like to have a hearing on that motion at this time.

THE COURT: All right. Is the State ready to proceed on that motion?

MR. CHILDS: Yes, Your Honor.

I have a Motion to Amend the Possession of Contraband indictment. There is a scribner's error on the indictment. It cites 24-7-155 and it should cite 24-3-950.

THE COURT: Let me see the indictment.

(The indictment was handed the Court.)

THE COURT: What is the correct number?

MR. CHILDS: I've got a copy of the statute, 24-3-950. It's entitled Possession of Contraband in Prison. There is just a scribner's error on the section number, and I would move to amend it.

THE COURT: What is 24-7-155?

MR. CHILDS: There is no such statute.

THE COURT: Okay, the motion to amend is granted. Change the numbers.

Are you ready to proceed on the suppression motions, Mr. Childs?

PERCIVAL INDY. MUNCH. IN 47303

5P-2084

1 A. I have no idea, sir.

2 Q. Were you aware that those four inmates had been locked  
3 up prior to the giving of this statement by Mr. Cox?

4 A. Yes, sir. Well, they were in the holding cells.

5 Q. And are you aware that they were released after the  
6 statement was given?

7 A. No, sir, there was not anything said about them as far  
8 as when we got the statement from Mr. Cox.

9 Q. All right, now, when Mr. Cox gave this statement which  
10 was reduced to writing, his rights were read to him, is that  
11 correct?

12 A. No, sir, they had already been read to him.

13 Q. Previously?

14 A. Yes, sir.

15 Q. At six o'clock?

16 A. Yes, sir.

17 Q. All right, and that was on the 10th of May?

18 A. Yes, sir, approximately, seven o'clock.

19 Q. When the statement-- there were two statements, an  
20 oral statement and a written statement, is that correct?

21 A. I don't have any knowledge of the oral statement, Sir.

22 Q. All right, when the written statement was given, were  
23 his rights read to him at that time?

24 A. No, sir.

25 Q. They were not read?

1 you have arrived at a unanimous verdict, Madam Forelady, on  
2 the back of this indictment you will see the word VERDICT is  
3 printed. When you have arrived at a unanimous verdict,  
4 underneath that, you would write what your verdict is, using  
5 the form that I have given you. Write whatever your verdict  
6 is and sign your name as Forelady on the lines provided. As  
7 I say, there are two charges and so there will be one verdict  
8 for each charge, a total of two verdict.

9 Now, again, as I say, whatever your verdict is, it must  
10 be unanimous, all twelve of you must agree.

11 At this time I'm going to ask that you go back in your  
12 jury room. I am required by law to stop and discuss my  
13 charge with the attorneys. Do not begin discussing the case  
14 yet, though, it may be necessary for me to call you back.  
15 So, at this time, if you would, please step back in the jury  
16 room.

17 (The jury retired from the courtroom.)

18 THE COURT: Any exceptions or additions on behalf of  
19 the State?

20 MR. CHILDS: None, Your Honor.

21 THE COURT: The defense?

22 MR. RAY: None at this time, Your Honor.

23 THE COURT: Give the indictments and the forms to the  
24 Bailiff and I'll ask the Bailiff to take the indictments back,  
25 along with the evidence, bring the alternate out, and tell

1 the jury to begin their deliberations.

2 (The jury began their deliberations at 11:35 a.m.)

3 (The jury was sent to lunch at 12:35 p.m.)

4 (The jury indicated they had a question at 3:00 p.m.  
5 and the panel was brought into the courtroom.)

6 THE COURT: I have a note from the jury that states:  
7 "The jury would like transcripts of first day's testimony."  
8 signed Mildred Overstreet, foreman.

9 Bring the jury in.

10 (The jury was brought into the courtroom.)

11 THE COURT: Madam Forelady, I have your request for a  
12 transcript of the first day's testimony. We don't have that  
13 typed up. We have tapes. Everything that is testified to  
14 is taped and the way that we can make testimony available to  
15 you is to bring you back in and play the tape of whatever  
16 it is that you want to hear. The testimony from the first  
17 day, the Court Reporter estimates about five hours, so I  
18 don't have a transcript I can send back with you. If  
19 bringing you back in and listening to the tapes will help you  
20 or if you want to hear something specific, or specific  
21 people's testimony that you need to hear, we'll be glad to  
22 replay that for you, but there is no transcript that I could  
23 send back to you. But, like I say, if there is something  
24 taped that you'd like to hear, we can bring you back in  
25 and play anything you want to hear.

1 THE FOREMAN: Your Honor, I'm sorry, I didn't under-  
2 stand, but I do know there has been a question about the  
3 testimony of Officer Riley.

4 THE COURT: All right, if you will go back to your  
5 jury room a few minutes, I'll have the Court Reporter find  
6 Officer Riley's testimony and we will bring you back in and  
7 replay it for you.

8 (The jury retired from the courtroom, and returned to  
9 hear the testimony of Officer Riley, and retired at 3:30 p.m.)

10 (The jury returned at 3:50 p.m. with a question.)

11 THE COURT: Madam Forelady, it is my understanding  
12 that you need for me to explain again the difference  
13 between assault and battery with intent to kill and assault  
14 and battery of a high and aggravated nature, is that correct?

15 THE FORELADY: Yes, sir.

16 THE COURT: You will recall that I defined for you what  
17 assault was, which is an offer to do violence, and what a  
18 battery was, which is the carrying into effect an assault by  
19 use of applying force.

20 With respect to assault and battery with intent to  
21 kill, I charge you that an assault and battery with intent to  
22 kill is an assault and battery in which if the person upon  
23 whom the battery was committed had died, then, the person  
24 making the assault would have been guilty of murder. Now, in  
25 order for you to fully understand assault and battery with

1 intent to kill, it is necessary for me to tell you what  
2 constitutes murder.

3 Murder is the killing of another person with malice  
4 aforethought, either express or implied. There must be  
5 malice or there can be no murder, and in an assault and  
6 battery with intent to kill, the element of malice must  
7 be present.

8 Malice is a term of art that is a technical term,  
9 importing wickedness and excluding just cause or excuse. It  
10 is something that springs from depravity, from a heart devoid  
11 of social duty and fatally bent on mischief. Malice has been  
12 defined as the wrongful intent to injure another and indicates  
13 a wicked or depraved spirit intent on doing wrong. The words  
14 express or implied do not mean different kinds of malice but  
15 merely the manner in which the only kind known to the law may  
16 be shown to exist. Malice is express where there are  
17 antecedent threats of vengeance or circumstances show directly  
18 that the criminal purpose was entertained. The law says that  
19 if one intentionally inflicts an injury upon another with a  
20 deadly weapon, the implication of malice may arise. If facts  
21 are proved beyond a reasonable doubt sufficient to raise an  
22 inference of malice to your satisfaction, this inference  
23 would be simply an evidentiary fact to be taken into consider-  
24 ation by you, the jury, along with all the other evidence in  
25 the case and you may give it such weight as you determine it

1 should receive.

2 When I refer to murder as being the unlawful killing  
3 with malice aforethought, when I use the term "aforethought"  
4 I mean that while the law does not require that malice shall  
5 exist any particular length of time before the commission of  
6 the act in question, it must be aforethought. It must be a  
7 combination of the previous evil intent and the act which  
8 produces the fatal result. The malice need not be in the  
9 mind of the one doing the wrongful act any particular length  
10 of time before the act. If it is present in the mind  
11 any length of time before the act, at the time of the act,  
12 accompanying and prompting the act, then its presence would  
13 be sufficient.

14 Now, there is included in the charge of Assault and  
15 Battery with Intent to Kill what is known as a lesser  
16 included offense, which is Assault and Battery of High and  
17 Aggravated Nature.

18 An Assault and Battery of a High and Aggravated Nature  
19 means that if the person upon whom the battery is committed  
20 had died, then, the person committing the battery would be  
21 guilty of manslaughter. So, I need to tell you what man-  
22 slaughter is.

23 Manslaughter is the unlawful killing of one person by  
24 another without malice. It is the absence of malice that  
25 distinguishes manslaughter from murder. So, if you have an

1 unlawful killing of another human being with malice afore-  
2 thought, it would be murder. If you have the killing of  
3 another human being without malice, then, it would be man-  
4 slaughter. So, the presence or absence of malice is what  
5 distinguishes the two crimes.

6 Now, if you have any further questions, or need me to  
7 go over that again, I'll be glad to.

8 (The jury returned to the jury room and deliberated  
9 further.)

10 THE COURT: All right, any exceptions or additions  
11 from the State?

12 MR. CHILDS: No, sir, Your Honor.

13 THE COURT: The defense?

14 MR. RAY: None, Your Honor.

15 (The trial proceedings were in recess until the jury  
16 returned with their verdict at 4:05 P.M. with a verdict.)

17 THE CLERK: Your Honor, this is Cases 87-GS-3859, The  
18 State v. Paul Leslie Cox, indicted for Assault & Battery with  
19 Intent to Kill. The verdict: Guilty of Assault and Battery  
20 with Intent to kill.

21 87-3860, Paul Leslie Cox, indicted for Possession of  
22 Contraband, the verdict is Guilty.

23 (The jury was dismissed from the case.)

24 THE COURT: All right, Mr. Childs.

25 MR. CHILDS: Your Honor, I pass forward the

1 indictments that I had prepared for impeaching purposes. He  
2 has been convicted for Kidnapping, which he received a life  
3 imprisonment sentence; Grand Larceny of Auto; four counts of  
4 Forgery and one count of Breach of Trust with Fraudulent  
5 Intent.

6 THE COURT: Hand up the indictments, please.

7 (Indictments were handed the Court.)

8 THE COURT: Is there anything you wish to say?

9 THE DEFENDANT: Yeah, I want you to sentence me to the  
10 whole maximum sentence. As I've been railroaded this far,  
11 don't stop now. I've been lied on, everything in this court-  
12 room, don't stop now, go ahead and give me the whole thing,  
13 run it consecutive with the life sentence.

14 If the man had to lie on me that bad to get me, then,  
15 please give me the whole thing, I feel I deserve it.

16 THE COURT: Anything you want to say, Mr. Ray?

17 MR. RAY: Your Honor, obviously, the jury has been out  
18 quite a while and there must have been some question about  
19 Mr. Cox's guilt. I would ask the Court to take that into  
20 account in imposing your sentence.

21 THE COURT: On the indictment for Assault and Battery  
22 with Intent to Kill, Indictment 87-3859, the sentence is the  
23 defendant be confined for a period of twenty years consecutive  
24 to all other sentences now existing.

25 Indictment 3860, the sentence is he be confined ten

1 years consecutive to the sentence today given on 87-3859 and  
2 to all over sentences existing.

3 The Court is in recess.

4 (END OF PROCEEDINGS.)

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CERTIFICATE

I, V. LOUISE GRAY, being an Official Court Reporter for the Thirteenth Judicial Circuit, State of South Carolina, County of Greenville, do hereby certify that I took the proceedings had in the matter of THE STATE v. PAUL LESLIE COX which was held in Greenville, South Carolina on August 3-4, 1987 before the Honorable William B. Traxler, Jr., Resident Judge.

I further certify that I am not of kin, counsel, nor of interest to any parties to this proceeding.

October 30, 1987.

*V. Louise Gray*  
Court Reporter

47502

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PEZZER, SC 29269

AY

RECEIVED

CLERK OF COURT

JUN 3 0 2015

P.O. BOX 11330

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COLUMBIA, SC

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LEGAL MAIL