IN THE SOUTH CAROLINA
SUPREME COURT

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S.C. SUPREME COURT

CASE NO: 2014-002563.

Appeal From The Honorable Judge Couch.
In the Court of Common Pleas

JOHNSON PETITION
OF PETITIONER

S/David L. Parker
David L. Parker
Tyger River Corr. Inst.
200 Prison Road
Enoree, SC 29335

STATEMENT OF CASE

The Petitioner, asserts that his counsel was ineffective for violating his right to Due Process, when counsel failed to conduct a pretrial investigation in order to obtain exculpatory evidence of video footage from crime scenes.

As a result of counsel's error to conduct pretrial investigation the video footage was destroyed. Had counsel collected the video footage it would have been presented at the PCR hearing. Counsel abandoned a viable defense when counsel failed to retrieve the video footage that was exculpatory in nature.

Furthermore, counsel informed Petitioner at the time of plea that his charge would be non violent, however the Law does not allow for non violent status.

GROUNDS FOR RELIEF

1.) Counsel rendered ineffective in failing to obtain footage from the crime scenes that were exculpatory in nature.

2.) Involuntary Guilty Plea.

Arguments

1.) Counsel rendered ineffective in failing to obtain footage from the crime scenes that were exculpatory in nature.

Mr. Slade failed to do pretrial investigation by failing to retrieve the video footage from the crime scenes. If Mr. Slade, Counsel of Record, had retrieved the video footage from the crime scenes, as well as the sign in list for evidence from the Gaffney Inn, the place of Robbery for May 24, 2011, it would have given Petitioner an alibi defense, when the victims were robbed.

The Robberies took place at First Piedmont ATM. Counsel never viewed the video footage of the ATM Machine, which would have given a time and visual of the actual violater. Gaffney police monitor Limestone Court Apartment Complex, which has video surveillance, that are reviewed by the Sheriff's Department. Counsel did not review the video footage from the Sheriff's Department or from the Apartment Complex. Had counsel reviewed the video footage it would have proven that petitioner was in fact not in Limestone Courts Apartment Complex on May 24, 2011 when the robberies were committed.

Prior to the Plea Counsel was informed that he had to file Notice of any Alibi defenses. This required stating specific times and places at which the Petitioner would claim to have been at the time of the robberies, as well as names of witnesses intended to be used. Because of the failure to obtain video footage and the Statement of Maryann Parker, who was at the Gaffney Inn with Petitioner, counsel's failure to respond to the written request for alibi defense denied the Petitioner a viable defense, which would have verified the Petitioner's claim of innocence.

Instead a Photo line up was done by the Gaffney Police Department. Counsel and Petitioner were not present during this process. Petitioner asked counsel to have the line suppressed due to its validity was questionable. However, counsel failed to investigate the process of taking the Photo Lineup.

Two of the victims failed to show up for court, Petitioner asked counsel to have those charges dismissed, however counsel failed to file a motion to have the charges dismissed, even though the State's witnesses were unable to testify, which would have prevented the State from using the Photo Line Up, where those victims were used in that process.

2.) Involuntary Guilty Plea

Counsel advised the Petitioner that attempted armed robbery was a non violent offense. At the time of sentencing the Court informed Petitioner that the charge was violent, Petitioner informed counsel at that time to move for a continuance, in order to prepare for a trial, Counsel told Petitioner he had to plead guilty or go to trial the next day, further he informed the Petitioner that none of the charges showed the element of Arm Robbery. That at most all evidence showed strong armed robbery or common law robbery. Petitioner insisted on a continuance, where the attempted arm robbery would be considered a violent charge, however counsel insisted that pleading guilty to attempted armed robbery was no different from common law robbery.

In support of this Counsel informed the Petitioner that mere words alone could convict Petitioner for Arm Robbery. However S.C. Code § 16-11-330, clearly states and requires that words must be accompanied by **representation of a deadly weapon.**

Therefore, counsel's advice fail below the standard required in Strckland v. Washington, and prejudice the Petitioner rendering his plea involuntary.

s/David L. Parker.

David L. Parker
Petitioner Pro Se

PROOF OF SERVICE

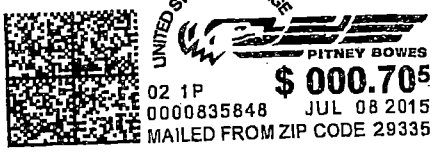
The Petitioner, David L. Parker, hereby certifies that he has served the Clerk of Court for the South Carolina Supreme Court with a true copy of his johnson Petition, this 6th day of ~~June~~ July 2015, by depositing in the United States Mail Postage prepaid addressed as follows:

Daniel E. Shearouse
Post Office Box 11330
Columbia, SC 29211

RESPECTFULLY SUBMITTED
S/David L. Parker.

David L. Parker
Tyger River C.I.
200 Prison Raod
Enoree, SC 29335

David Parker 250125
Unit H 103A
Tyger River C.I.
200 Prison Rd.
Enoree S.C. 29335



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Daniel E. Shearouse
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