IN THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Honorable Steven H. John

Case No. 2014-CP-26-595

Richard Crawford #267022.....Appellant,

v.

State of South Carolina.....Respondent.

PETITION FOR REHEARING PROVIDED BY RULE 240(j) S.C.A.C.R.

Petitioner states that Chief Justice Toal has overlooked and misapprehended Applicant's entire explanation pursuant to Rule 243(c) S.C.A.C.R. and the following legal authority: Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014), reh'g denied (Dec. 3, 2014).

Petitioner prays that this Court reconsider his explanation pursuant to Rule 243(c) S.C.A.C.R.

Respectfully submitted,

Date: 7-17-15, 2015

Columbia, South Carolina

Richard Crawford #267022
B.R.C.I. Wat. 264
4460 Broad River Rd.
Columbia, S.C. 29210

EXPLANATION PURSUANT TO RULE 243(c) S.C.A.C.R.

Applicant's reasons for seeking an appeal of the lower Court's order are as follows. The lower court denied Applicant's PCR application by stating the following:

1) "The Court has reviewed the original pleadings, including the attached records from Applicant's prior collateral proceedings, as well as Applicant's response to the conditional order. The Court finds applicant has not demonstrated how the information obtained from the investigator constitutes newly discovered evidence to excuse his successive and untimely filing.

Applicant pled guilty to voluntary manslaughter. To disavow a knowing and voluntary guilty plea based on newly discovered evidence, the applicant must show "that (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the 'interest of justice' requires the applicant's guilty plea to be vacated." Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014), reh'g denied (Dec. 3, 2014).

The investigator's information merely indicates the weapon Applicant used to kill the victim was in the possession of a person named "Juan" sometime before being discovered in

the possession of Travis Jones. This information could have been easily discovered prior to the entry of the guilty plea. More importantly, this information could have been discovered prior to Applicant's prior post-conviction relief application. The records from Applicant's prior post-conviction relief action indicate Applicant was fully aware the gun was found in Jones' possession. His failure to explore the avenue of how Jones came to possess the gun bars him from raising that issue in a subsequent application. Accordingly, the Court finds any information about where Jones got the gun could have been discovered by the exercise of reasonable diligence prior to Applicant's plea or prior to applicant's previous post-conviction relief action.

Even if the investigator's information could not have been discovered prior to the plea, Applicant has not demonstrated the interests of justice mandate vacation of his plea based on the information. Applicant admitted to possessing the gun at his plea. See Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007)(admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th cir. 1976))). Applicant's plea counsel testified at the prior post-conviction relief hearing that Applicant eventually admitted to possessing the gun when he confronted the victim.

Most importantly, the fact someone else possessed the gun after the shooting was never in dispute. The State possessed other evidence of Applicant's guilt, which ultimately led to Applicant pleading guilty to a lesser offense to avoid a harsher punishment. The Court fails to see how information the weapon was possessed by an individual named "Juan" has any bearing on the validity of Applicant's guilty plea. Therefore, the Court finds Applicant has not shown a sufficient reason why the conditional order should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for Post-Conviction Relief is hereby **denied and dismissed with prejudice."**

The reason this is incorrect for the following reasons. At Appeallant's August 25, 2010 PCR hearing, Appeallant's plea attorney states the following:

2) "...the problem today that I've got with what he's saying is he's saying that the female that took something off of him six or seven minutes after he was shot was the gun.

Well, if that was the gun, then how did the gun show up in Dillon because they used the same, ah, it just doesn't make sense that the gun that he had that she took now finds - - winds up there, and I just - - it just didn't make sense to me."[1]

3) Applicant pled guilty to voluntary manslaughter. To disavow a knowing and voluntary guilty plea based on newly discovered evidence, the applicant must show "that (1) the newly

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(App. p. 126, ll. 15-22)

discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the 'interest of justice' requires the applicant's guilty plea to be vacated." Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014), reh'g denied (Dec. 3, 2014). This covers the first prong of the Jamison doctrine.

4) For the second prong Appeallant states, the voluntary statement of Linda George who took the weapon off of Edward McCallister as shown on video puts her and Juan Grimes, (who sold said weapon to Travis Jones), arriving at Sugar Bear's together pulling up to pump 4. The newly discovered evidence is of such a weight and quality that, under the facts and circumstances of this particular case, the 'interest of justice' requires the applicant's guilty plea to be vacated. Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014), reh'g denied (Dec. 3, 2014). At the very most, this is a case of involuntary manslaughter.

Richard Crawford 267022

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Date: July 17, 2015

Columbia, S.C.

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CERTIFICATE OF SERVICE

Appellant, Richard Crawford, #267022, in the above referenced case, hereby certifies that the **PETITION FOR REHEARING PROVIDED BY RULE 240(j) S.C.A.C.R.**, in this case has been served on the following parties by depositing same in the B.R.C.I. mail room this 17th day of July 2015.

South Carolina Attorney General

Joshua L. Thomas, Assistant Attorney General
PO. Box 11549
Columbia, S.C. 29211-1549

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 17th DAY OF July 2015.

Susan N. Frye
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES:-

My Commission Expires
March 5, 2018

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The Supreme Court of S.C.
Daniel Shearouse Clerk
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