

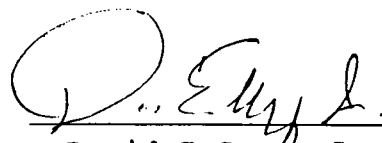
WOM

David E Gregg Sr 296199
Appellant
v
State of South Carolina

In The Court of Appeals
Evidentiary Hearing Request
Case:2011-CP-42-3521
Notice of Appeal

This is a notice to appeal the denial of Applicants second P.C.R. in Spartanburg County, signed by Judge Roger L Couch on July 3, 2013. Explanation will follow.

Date: 7.22.13



David E Gregg Sr.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 AUG - 1 PM 4:20
M. HOPE BLACKLEY

WOM

The State of South Carolina
In The Court of Appeals

Appeal From Spartanburg County
Roger L Couch Circuit Judge
Case: 2011-CP -42-3521

David E Gregg Sr. 296199

v

State of South Carolina

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SPARTANBURG COUNTY
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M HOPE BLACKLEY
Applicant
Respondent

Explanation For Appeal

Purauant to Rule 243(C) S.C. RCP, the applicant files this explanation for his appeal for the denial of his second P.C.R. application. The issue of after discovered evidence was raised during appelants second P.C.R. proceedings, which was filed pursuant to 817-27-45 (C) of the P.C.R. statute.

The \ppellant contends that pior to his trial the State obtained a search warrant to search his place of business for durgs based on information provided by a C.R.I. "confidential reliable informant. The search warrant presented to the magistrate contained a sworn statement to the magistrate given by the police that a C.R.I. has informed them that the C.R.I. had seen Durgs in Appellant's business. As the result the Magistrate issued the search warrant to search the Appelant's business. This warrant was dated 4-29-02. Useing the affidavit from this search warrant the same police used the facts from the first affidavit to get a second search dated 4-30-02. Both warrants were served on 4-30-02, but was not accompanied by the affidavits to support them. The Money found by this search was linked to the alleged drugs.

Following the Appellant's trial and first P.C.R. hearing

the affidavits for the search warrants were given to the Appellant. Only after Ms. Gregg gave Appellant her Affidavit did Appellant find out the statements for the search warrant were false.

The Appellant argued in his second P.C.R. that the discovery of the States affidavit was only after his trial and first P.C.R. proceeding should have intitled him to a second P.C.R. on the merits of his claim. In as much as the C.R.I.'s affidavit shows proff of false statements by the police and in as much the Appellant discovered thie evidence after his first trial and P.C.R. haering, he should be intitled to a second P.C.R. hearing.

Matter of Law

Franks v Delaware 438 U.S. 154 (1978) were the Court held; Where the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally or with reckless disregard for the truth, was included by the affiant in the warrant affidavit and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment as incorporated in the Ffourteenth Amendment **requiers** that a hearing be held at the defendants request, P 155,156,164,172

WHEREFORE for the foregoing reasons the Appellant prays the Horonable Court will reverse the Administrative Judges ruling and grant him a evidentiary hearing to serve the merest of Justice.

Date 7.22.13



David E Gregg Sr

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