

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

**RECEIVED**

SEP 14 2015

**S.C. Supreme Court**

Appeal from Charleston County

R. Markley Dennis, Jr., Circuit Court Judge

---

KANDY GILLIARD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001425

---

SUPPLEMENTAL APPENDIX

---

WANDA H. CARTER  
Deputy Chief Appellate Defender

ALAN WILSON  
Attorney General

---

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

J. RUTLEDGE JOHNSON  
Assistant Attorney General  
P. O. Box 11549  
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....i  
STATE'S EXHIBIT # 1 (NOTES OF MARCH, 19, 2007).....1  
STATE'S EXHIBIT # 2 (NOTES OF JUNE 14, 2007).....9

Attorney's  
Report of Trial or Hearing

To be prepared by the attorney and submitted to the Attorney General and Chief Deputy each time an attorney appears in any court.

Attorney: Jeanette Van Ginhoven Section: PCR

Other AAG(s) appearing: \_\_\_\_\_

Opposing counsel: William L. Runyon, Jr.

Case name: Kandy Gilliard v. State 2005-CP-10-0619

Day & date of appearance: 3/14/07 Time: 09:30

Court: PCR County: Charleston

Judge: Roger M. Young

Type of trial or hearing: PCR hearing  
(eg. Jury trial, bench trial, motions(s), jury selection, guilty plea, sentencing, appellate argument, roster meeting, post-conviction relief hearing.)

Description of event, issues and result \_\_\_\_\_

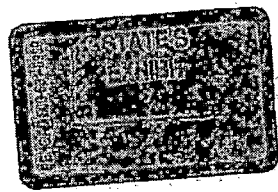
Matter under advisement with Judge Young

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3-19-07  
Date

Jeanette Van Ginhoven  
Attorney

Distribution  
Original - Attorney General  
Copies - Chief Deputy  
Legal file



evaluator

- not psych not an expert
- had to evaluate comp & civil resp.

Kandy Biliard's PCR 3-14-07

Lisa Day

what was  
results  
comp &  
in resp  
what were  
results  
- get  
report that

- crim def lawyer for 16 yrs
- had family, primarily mother lived her
- had Δ evaluated - received report from physician
- CO Δ in case - had some impairments - "slow" per state
- CO Δ had been evaluated
- was examined Johnson
- did not hire expert to formulate?
- in Mr. Johnson
- did not hire <sup>med.</sup> expert to formulate cross exam.

- never a capital case
- received discovery via Rule 5
- did not subpoena N. Carol. PD
- doesn't normally do that
- doesn't know if anything that exists that she would need for the case

didn't  
spoke w/  
Δ

- Randy Wade - had Δ evaluated - Δ was very difficult to talk to - non reality based - ~~she~~ didn't know if she didn't understand & couldn't communicate
- "physical evaluation requires Δ to physically impair?"
- bad facts

- didn't have her evaluated
- Δ could understand what was going on - her view was different from the reality of what was going on
- had her evaluated - she was competent & crim resp.
- Out of touch w/ realities & exposure bc coD actually physically killed woman
- State cut a deal w/ coD - couldn't understand that
- didn't qualify for mental defense - she didn't have a real history of ~~the~~ mental illness
- prepared case based on evidence from Rule 5
- didn't go to N. Carol PP
- behavior was bizarre before & during trial
- Δ testified - never told Judge @ difficulties -
- Δ wanted to testify
- didn't bring to Judge's attention Δ was acting weird
- Δ appeared to understand it to testify
- Neuro feedback
- Diagnoses - personal disorder

what did N. have to do with it?

not to testify  
 I want over plea deals  
 I want over

memo from Mr. Hawey Patrick - Counselor  
 not psychiatrist or psychologist  
 2-16-01 - mental health counselor at jail  
 - rec cont treatment for Depression

- State know D was evaluated  
 - D may have been taking Celebra during trial

- coping skills better at time of trial 1st  
 beginning of arrest.

- D understood as much as she could  
 understand.

- ready for case to be moved  
 - no question atty was ready to go  
 forward to try case - D conceded  
 - atty is hard to control - none of it  
 was easy - more of lack of understanding  
 how serious the charge was - she was  
 very entrenched in her own reality.

what D was  
 going to discuss

- D took stand & it all fell apart  
 - told her what options were - J. Lockemy  
~~would have~~ went over options  
 - more concerned w/ getting case over  
 - didn't realize how she was going  
 to present herself.  
 - they had talked & discussed prior to trial

- D was moving all over the place
- got on the floor to do self removal on floor
- D was all over the place
- D behaving

State believed she was actual participant plus to had of one is had of all

- didn't discuss w/ her prior to trial regarding testifying
- no mental health D
- could have been mitigation of plea

Judge's Questions

- Wang - D doesn't have mental disorder - has personality disorder
- closer to psychotic than intellectual
- more emotional man - reality
- didn't know if raised to level of psychosis but
- D is competent

- toward end of case - D totally out of control
- atty pt was to end the case just get it over
- D may have been incompetent at end of trial
- atty not ready for it to end
- she was overwhelmed

---

~~(1/2)~~ - in end she was unable to  
assist in her own defense - wasn't  
the same as the beginning

- D became unable to assist after co D's testimony
- she wanted to tell
- she got off stand - D was staying off into space
- never asked ct to evaluate her or tell ct of issues she was having
- D may have needed medical from the jail

- Repleth of trial course being so efficient

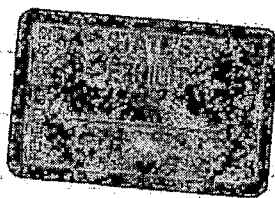
MUA

- Judge gets to take under advisement
- Can get more evidence
- Can ask more W's

Council v. Cable

- At 10 hrs comp. at P.R. hearing

Kandy Gilliland



6-14-07

~~DE~~

- Judge -

- PCR hearing - Runyon had concerns  $\Delta$  not competent

- J ordered evaluation

-  $\Delta$  found competent by Dr. Cross of DMH

- evaluation made an exhibit

Arguments

Runyon

- ? is not as complicated as to whether she was competent or not competent at trial

- App thoroughly evaluated - found competent to stand trial prior to trial

-  $\Delta$  was able to assist in own defense the 1<sup>st</sup> day but not the second day - don't know why she couldn't assist

- Gay did a great job trying the case

- rep not def in preparation or trying the case differently

- D couldn't assist in defense
- didn't bring to trial judge's attention
- b/c she was tired & wanted case over

May have met 1st prong - IAC <sup>or he did</sup>  
but what about 2d prong - has <sup>voluntarily</sup> full on sword duty PCR  
being

- Ms Gay's testimony is not believable  
when you look at the record

MUA