

The State of South Carolina
In the Supreme Court

Appeal from Spartanburg County
Court of common pleas

R, Keith Kelly, circuit court Judge

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OCT 14 2015

Case NO, 2014-CP-42-2977

S.C. SUPREME COURT

Keith Drayton, 312611..... Appellant

V.S
State of South Carolina. Respondent
pro se appellant

NOTICE WRITTEN EXPLANATION

RULES 243 (c)

This matter comes by way pursuant to post-conviction relief application filed in the court of common pleas pursuant to case no. # 2014-CP-42-2977, filed on August 1, 2014, and amended December 5, 2014. Respondents made it's return and motion to dismiss on or about May, 5. 2015, requesting that the application be summarily dismissed. Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached there to, this court issued a conditional order of dismissal

filed and dated May 13, 2015, provisionally denying and dismissing this action, while giving the applicant twenty (20) days from the date of service, of said order in which to show why the dismissal should not become final. Attached to this final order and incorporated here in by reference is an affidavit of service dated June 16, 2015, personally serving the above mentioned conditional order of dismissal on applicant.

Conclusion of Law

"Facts in support pro se applicant conviction and sentences is unconstitutional where by the applicant is serving a life sentence without parole, and trial court lacked Jurisdiction to impose sentence upon him to life without parole for kidnapping, because the maximum penalty for kidnapping is thirty (30) years." see Sentencing sheet 04-GS-42-4703).

The applicant has discovered all evidence obtained by the victim, "baseball-bat and knife, and the applicant made his newly discovery; on October 3, 2014, and the evidence by the solicitor during the applicant Jury trial by the solicitor,

Where by the sheriffs office did not have a search warrant to seize evidence, and did not have a chain of custody involved in this case.

To obtain a new trial based on New discovery pursuant to S.C. code of law Ann 17-27-45 (c) if the applicant contends there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence; the discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence. Applicant appears to, by alleging that at the time of trial, records does NOT EXIST OF chain of custody involved in the case, who had handled the evidence, and was the evidence tested for prints and forensic evidence, where by evidence was seized had small blood stain on the sheet, pursuant to the newly discovery evidence, discovered from the solicitors office files dated as exhibit (A) total numbered 62, Dated September, 29, 2014 Sign by solicitor office Lisa Garrett, Records

does not exist, any records of a chain of custody, to determine who had custody over the evidence. Pursuant to exhibit (B) court should review evidence case no. #2004071618 property report form, which is not a chain of custody or laboratory report, which a chain of custody report would have been the proper report needed in court when handling evidence from hand to hand. Applicant does request that the supreme court review evidence where by the respondent there reply in there conditional order of dismissal which is moot, and there final order of dismissal is moot, and the trial records or transcript does not show verification of a chain of custody. Pursuant to spartanburg county sheriff's department property records/report exhibit (B) There is evidence showing at line 18 received By JK, Line 19 reason evidence Line 20. Date and time received 7-23-04 1650. According to officer Balderrama testified that the evidence was in the custody of spartanburg county sheriffs office upon receipt, and that he only took possession of it the

day before the trial. Records and exhibit (B) of spartanburg county sheriffs' department property report does not show when officer Balderrama sign for the evidence on the date of his trial, on 9-1-2006. see Exhibit (c) Dated October 28, 2014, which will verify, that at the time of the applicant trial in 2006, it didn't exist, and the applicant does has facts and evidence from the county administrator Katherine L. O'Neill that there is no available records, where by the applicant should be entitled to an evidentiary hearing. Pursuant to s.c code of law Am 17-27-45 (c)

Last applicant made admitted that on 10-3-14 that the applicant received a legal letter from the law office of John G. Reckenbeil, and the applicant made his discovery on 10-3-2014.

Applicant obtained the evidence Exhibit (c) request for information under the S.C freedom of information act (FOIA) For our File NO: 14-FO 357

Where for South Carolina Supreme Court should grant the applicant a evidentiary hearing pursuant to Newly discovery of evidence.

DATE _____ 2015

Granted or Denied

✓ _____
Judge's