

Darrin D. Holston 288828  
386 Redemption Way  
Mc Cormick, South Carolina 29899

**RECEIVED**

JAN 04 2016

**S.C. SUPREME COURT**

Supreme Court of South Carolina  
Daniel E. Shearouse, Clerk of Court  
P.O. Box 11330  
Columbia, South Carolina 29211

RE: APPENDIX ON Writ of Certiorari

Honorable Shearouse,

My name is Darrin D. Holston 288828, and my case has been filed in this court by way of writ of certiorari by appellate counsel Katherine Hodgins. On December 29, 2015 I recieved the issue statements submitted with my writ along with the appendix in the case. Upon examination of the appendix I have noticed that the transcript is incomplete and the record is silent as to my claim and memorandum of law in relation to the prosecutorial misconduct issue raised in my

P.C.R application and argued at the hearing.

Enclosed is a clerk of court stamped copy that is not included in the appendix. In the interest of justice mr Shearouse, im requesting that you please inquire into the disappearance of this issue from the record. This is needed in the instance

I may need to seek federal habeas review on this issue, that it needs to be made part of the record.

Date: 12/30/15

J. D. Nofst

PS: MR Shearouse if you would please make a copy of that memorandum and return it back please. I do not have another copy

State of South Carolina )  
County of Aiken )  
Darrin Darrell . Holston )  
Applicant )  
V )  
State of South Carolina )  
Defendant )

State of South Carolina  
Second Judicial Circuit

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JAN 04 2016

**S.C. SUPREME COURT**

MEMORANDUM OF LAW  
IN SUPPORT OF  
POST-CONVICTION RELIEF APPLICATION

The applicant in the above captioned case respectfully submits this  
MEMORANDUM OF LAW in support of sections 10(B) and 11(B) of applicants Post-Conviction  
Relief Application

FILED 415 13  
200  
Liz Godard  
U.C.P. & S. 830  
Anita Knoepfle  
Deputy Clerk

4-9-13

Darrin Holston

Darrin D. Holston #228828  
430 Oaklawn Road  
Pelzer, South Carolina 29669  
Q4A-101

Applicant contends a Constitutional violation in that the prosecution denied applicant due process of the law in violation of South Carolina Constitution Article one section three and the fourteenth Amendment of the United States Constitution.

Applicant contends prosecution denied him a right to a fair trial in the following manner:

Prosecutor Kevin Malony failed to correct misstatements be alleged victim Willie Walker

Applicant contends a Constitutional violation in that the prosecution denied applicant due process of the law in violation of South Carolina Constitution Article one section three and the fourteenth Amendment of the United States Constitution.

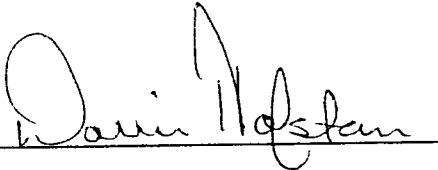
At the 2011 trial, alleged victim Willie Walker was asked on three separate occasions by trial counsel had he locked the door behind him on July 17, 2010 the night of the incident (Tr. p 10L.18-20; p.102 L.3-5; and p. 102 L.19-25). Alleged victim emphatically denied having locked the door but indicated if the door was open he left it open neglecting to mention that he informed Inv. James D Sanders that he had "locked the door on the way out hopefully to deter suspect from going inside" (Supplemental report of lead Inv. James D. Sanders p.3 para. 3 L.8; and Inv. Sander Cross-examination Tr p.192 L. 10-19) and informed Lt. Eric Abdullah that " the keys to the doors were on the key ring in his vehicle" (Supplemental report of Inv. James D. Sander p.2 para 5 L. 8-9). Mr. Malony was I possession of the report, as it is his investigative branch that questioned the alleged victim prior to trial and he heard the sworn testimony of his lead Investigator James D. Sanders, so legally what lead Investigator Sanders knew must be imputed to prosecutor Kevin Malony and he failed to correct alleged victim Willie Walkers testimony. Walker's testimony created a false impression of a material fact obtaining a tainted conviction.

Thus the issue is not why alleged victim Willie Walker failed to tell the truth, rather, it is why prosecutor Kevin Malony, who knew Walker's testimony to be false, failed to correct it. Cf. Washington V. State 324 S.C. 232, 478 SE 2d 833 (1996); Giglio V. United States 405 U.S. 150, 154, 92 S.ct 763 (1972).

#### Conclusion

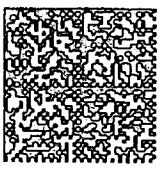
Applicant contends that the foregoing issue and facts as set forth in this memorandum of law is sufficient to constitute a claim of Prosecutorial Misconduct and as such deny the applicant his guaranteed right to a fair trial afforded by the South Carolina constitution Article one section three and the fourteenth amendment of the United States Constitution. Applicant moves this honorable court to set aside conviction and sentence and remand for a new trial.

Date 4-9-13

  
Darin Holman

Darwin D. Holston 288828  
386 Redemption Way  
McCormick, South Carolina, 29899

Supreme Court of South Carolina  
Daniel E. Shearouse, clerk of court  
P.O. Box 11338  
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