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JAN 07 2016

**S.C. SUPREME COURT**

State of South Carolina  
In The Supreme Court

Appeal from Charleston County  
P. Mackley Dennis Jr., Circuit Court Judge

Appellant Case #: 2015-001397

Dion O. Taylor, ... Petitioner

v.

State of South  
Carolina, Respondent

(Petitioner)  
Appellant Pro Se Response to Petition  
Filed By Counsel

Petitioner, above named appeals to this Hon. Court to consider issues on said appeal that counsel found of merit or were not addressed.

Issue #1: Jail Credit not received at Plea Hearing

Petitioner was initially given probation for Failure to Stop for a Blue Light, w/ the passage of time, has come the erosion of my memory, but to my best recollection, it was the year of 2004 or 2005. This probation was reinstated since the time of origin, & extended until the petitioners arrest in 2008. The petitioner in 2004 or 2005, was given credit for 146 days of jail credit, given a 2yr sentence suspended upon completion of a year of probation. Petitioner never completed the year of probation, so the violation was a part of the guilty plea in 2008, since concurrent w/ other charges he is serving a 10yr sentence for, at present. Petitioner did not receive the 146 days credit in addition to his jail time while awaiting sentence on all his charges, including the probation violation.

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This same probation was revoked by the sentencing judge. According to state statutes & case law, the petitioner should have also received credit for the jail time served, in Aprx yr of 2004- or 2005, in part due to the split sentencing nature of the initial proceeding (ie being given credit for the time served & still being sentenced, albeit suspended) & ~~subsequent~~ subsequent revocation in the yr of 2008, & the plain language of the statutes of the State, regarding issues such as these, (ie S.C. Code Ann. § 24-13-40, & § 23-13-40), Hays v. State, 413 S.C. 553, 777 S.E.2d 6 (2015): "We find the PCL court erred as a matter of law when it determined a probationer who receives a split sentence should not receive credit for time served prior to trial against a reinstated sentence" because the pre-trial detention time was already awarded to satisfy the time served portion of the split sentence: when... (b) the commencement of the service of the sentence follows revocation of probation... the computation of the time served shall be reckoned from the date of the commencement of the service of the sentence... "In every case... full credit... shall be given for time served prior to trial & sentencing." § 24-13-40. The Petitioner's circumstance satisfies the above-stated criteria delineated by the statutes & case law as at the latest sentencing, his probation was revoked, when he was initially placed on probation, he was given jail credit on the suspended sentence (ie split sentencing). The Petitioner shouldn't just lose this time allotted & the time frame shouldn't effect the application & effect of the plain language of the law. Petitioner implores the Court to consider this issue due to its constitutional import.

Issue # II: Brady violation & Rule 5 of SCR Crim Proc. violation by Prosecution

Petitioner addresses these issues contemporaneously as he believes they concatenate in the most intrinsic of fashions. The Petitioner desired & wanted a trial, even his public defender admits as much in his testimony at initial PCL hearing. A confession/statement was given by the petitioner to the detective.

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Only a typed version, by detective, was ever produced, & wasn't an accurate attestation of the statement, & this was the only version provided in Rule 5 discovery, & w/ the significant variance in statements & the petitioner's mental health issues that are perpetual & even more pronounced at that time, this was an egregious constitutional omission. This prejudiced the Petitioner greatly, in addition to by S.C. state law (i.e. Rule 5 of SCR Crim. Proc.) the written confession used as evd. by the prosecution at Appellant's plea hearing by title "written confession" was never produced & has yet to materialize. The Petitioner decided to take to trial or accept plea hinged on in part, being able to compare the statements to assist in a defense that would be beneficial & propitious.

In Gibson v. State, 334 S.C. 515, 514 S.E.2d 320 (1999):

... A defendant's decision whether or not to plead guilty is often heavily influenced by his appraisal of the prosecution's case."

Sanchez v. United States, 150 F.3d 1448, 1453 (9th Cir. 1998);

Accord Custine v. State, 325 S.C. 123, 127-28, 480 S.E.2d 444, 446

(1997) ("waivers of const. rights not only must be voluntary, but must be knowing, intelligent acts done w/ sufficient awareness of the relevant circumstances & likely consequences"). Even though the Brady issue in context of the guilty plea (this appeal derives from the guilty plea) is a novel issue in this state, the Second, Sixth, Eighth, & Ninth Cir. Court of Appeals have adopted the view that a Brady violation is material when there is a reasonable probability that but for govt's failure, to disclose Brady evd. would have persuaded to plead guilty & gone to trial. Not only is there the appropriability in that regard in this instance, but the mitigating circumstances & issue of the Appellant's lucidity at the time of crime & confession is intertwined w/ the intricate nature of the mental health-insanity defense, as the Petitioner is in addition challenging the voluntary nature of the guilty plea in of itself, see Carter v. State, 329 S.C. 355, 495 S.E.2d 723 (1998). It is obvious the prosecution knew of this written confession by his own admission at the Appellant's guilty plea hearing, as is the implications of the explicit nature & context of SCR Crim. Proc. Rule 5, which was

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clearly not adhered to, producing an unjust result. The Appellant urges the Court to consider these issues & grant a writ of certiorari for briefing on these issues.

Respectfully submitted;  
By: Dion O. Taylor

State of South Carolina  
In The Supreme Court

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Pro Se Response

S.C. SUPREME COURT

Appellant Case # = 2015-001397

Appeal from Chas. County  
R. Mackley Dennis Jr., Circuit Court Judge

Dion O. Taylor ... Petitioner

v.

State of South Carolina, Respondent  
Certificate of Service

I, the undersigned, certify that a true copy of the Petitioner's Pro Se Response has been mailed to Daniel E. Shembrose, Clerk, Supreme Court, by a shipping & attaching proper postage & placing in the exclusive care of the U.S. Postal Service.

Signed by:  
Dion O. Taylor

Jan 5th, 2016

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