

2015-001063

Dear Mr. Shearhouse

Please send me a stamped clock
dated copy of my prose brief as soon
as possible, thank you.

Louie Chapman 98290

McCormick Ct EIA-185

386 Redemption Way

McCormick SC, 29899

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JAN 14 2016

S.C. SUPREME COURT

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"Statement"

S.C. SUPREME COURT

To prove that Mr. Whelchel, counsel for defendant Louie Chapman was ineffective as defense counsel and his performance fell below the professional norms and prove how his failure affected his clients right to a fair and impartial trial by jury and how the defendant was prejudiced by his actions.

Issue Presented

Witness: Michael Sean Nix, crime scene investigator.

Prosecutor: Mr. Morin's direct examination of Mr. Nix.

Page 94 lines 19,20: q. Okay and the same thing here. Can you tell me what is in the lower left hand corner?

Lines 21: a. I believe it's the white shirt.

Page 98 Lines 22,23: q. All right this is state's exhibit #5, can you tell me what this is a picture of?

Line 24: a. It is a picture of a white button up shirt with what appears to be blood on it.

Mr. Whelchel's examination of Michael Sean Nix:

Page 100 line 5,6 q. That you previously identified. It has a white shirt and what appears to be blood on it, correct?

line 7 a. Yes sir.

line 8 q. Has that substance been tested?

line 9 a. I have not tested it, No sir.

line 10 q. Do you have any knowledge of it being tested?

line 11 a. I don't have any knowledge of it being tested, no sir.

Mr. Morin's response to Mr. Welchel's request for a direct verdict:

Page 103 Lines 15, 16. He says he saw blood, ~~we~~ we have his shirt with blood, photographs of the shirt with blood on it.

Page 104 Lines 10-18 Mr. Welchel: I don't want to belabor the point your honor, but I would correct the prosecutor. We do not have a shirt with blood on it, we have a shirt with what they believe might be blood on it. There's no testimony whatsoever that there's blood on that shirt.

Mr. Morin: I tried to correct myself, I certainly defer....

Mr. Welchel: I'm sorry

Mr. Morin: but I certainly defer to his....

Mr. Morin's closing argument:

Page 146 lines 10, 11, 12 Ms. Geddes says I saw blood come out. And you have pictures of the shirt he was wearing with what appears to be blood.

page 93 lines 20,21: q. What are the photographs of for the most part in general?

Line 22: A. For the most part they're photographs of the scene.

line 23: q. Okay

line 24: A. And items at the scene.

line 25: Mr. Morin: Your honor, I move state's 1-5

Page 94 line 1: Mr. Whelchel: no objections.

line 2: The Court: They're admitted.

lines 4,5: Mr. Morin: May I publish them to the jury Your honor?

line 6 The Court: You may.

lines 19,20: q. Okay and the same here. Can you tell me what this is in the lower left hand corner?

Line 21: a. I believe it's the white shirt.

Page 175, lines 2,3,4: The Court: Are there any exceptions taken to the instructions or requests for additions to the instructions by the state?

line 5: Mr. Morin, prosecutor: No sir.

line 6: The Court: By the defendant?

line 7: Mr. Whelchel: None your Honor.

line 8: The Court: Now let me ask you to verify the exhibits.

line 12. The Court: All the exhibits are accounted for?

line 13: Mr. Morin, Yes Sir.

line 14: Mr. Whelchel, Yes Sir.

lines 15, 16: Send them back and tell the jury to begin deliberations and notify us when they have concluded.

Mr. Whelchel failed to object to the shirts and photographs of the shirts to be published in front of jury or allowed the exhibits in the jury room. The fact that counsel did not nor the state make a determination as to whom it was that was wearing or owner of this garment left the jury to speculate that it was possibly the applicants and the shirt was never tested for DNA. Further leaving the jury to believe that it was in fact the applicants without scientific evidence, this was extremely crucial evidence that counsel allowed to be argued before the jury clearly prejudiced the applicant's case and led to his conviction. The awesome emotional impact on the jury was incalculable. Mr. Morin's continued statements about the shirts with what appears to be blood, even though he tried to correct himself on page 104 lines 10-18, was misconduct by Mr. Morin and the impact on the jury prejudiced the defendant by misleading the jury.

Transcripts from the Post Conviction Relief hearing:

Louie Chapman's direct examination by Mr. Rucher:

Page 205 Line 5: a. He never checked the shirts.

Line 6: q. All right.

Line 7: a. To see if that substance was blood.

Lines 8, 9: q. What do you believe was actually on the shirts?

Line 10: a. Transmission fluid.

Lines 11, 12: q. Okay why do you believe it was transmission fluid?

Lines 13, 14: a. Well I had been working on my truck for several weeks and I had a bunch of old shirt. I used these.

Page 208 Lines 2, 3: q. Okay do you know - was that - did they get those shirts as a result of a search warrant?

Line 4: a. Yes sir.

Ms. White's direct examination of Mr. Whelchel:

Page 232, Lines 22, 23, 24, 25: q. Okay in regards to the shirt with the substance on it which the state alleged may have been blood, were there any additional things you thought you could have done, investigation wise about that since Mr. Chapman believes (continues on

page 233, lines 1,2,3,4) it was possible it was transmission fluid?

Mr. Whelchel: no ma'am I don't, if I thought that that would have been something that we could testify about, I would have done that, I just don't remember at this time.

lines 5,6,7: q. And did you cross examine the police about the fact that they had not tested this, and could not prove it was blood didn't you?

line 8: a. (witness nods affirmatively)

line 9: q. About the gun---

line 10: The Court: Was that a yes answer?

line 11: a. The Witness: Yes.

line 12: Ms. White: I'm sorry.

"Argument"

Mr. Whelchel stated on page 232 lines 22,23,24,25 and page 233 lines 1,2,3,4; that if he thought that the testing of the shirts was something that we could testify about then he would have had them tested. Then on page 233: lines 5,6,7 Mr. Whelchel admitted that he had questioned the police about the shirt and they could not prove the substance was blood. Mr. Whelchel should have had an independant test done on the shirt and this important issue would not have contributed to my con-

viction, Mr. Whelchel was ineffective as my counsel. The impact of the shirt on the jury was detrimental and led to defendant's conviction. Mr. Whelchel should have introduced the forensic report labeled Exhibit A.

Judge Couch's Order of Dismissal:

Page 247 lines 4-7 Applicant testified that the state alleged that the shirt he was wearing at time of his arrest had dark spots on it, which could have been blood. However, applicant testified that counsel failed to have the shirt tested to prove what the substance was.

lines 15-18 Counsel testified that he would have presented that evidence to the jury had he believed the dark spots on the applicant's shirt was transmission fluid or motor oil instead of blood. Counsel testified that he was able to cross-examine the state's experts as to the fact that they could not affirmatively state that the substance was blood.

Page 249 lines 8-10 Although he alleged that counsel was ineffective for failing to investigate the alleged spots on applicant's shirt and in the car applicant failed to produce any evidence that would have supported his defense.

Argument

Exhibit A

page 7a

Deputy Report for Incident 10071336

Page 10 of 17

Supplement

Forensic Report

Spartanburg County Sheriff's Office

Incident Type: Attempted Murder/Search Warrant

Case#: 2010071336 Date: 07/28/10 On Scene Time: 0821 hrs

Address: 290 Broadcast Dr., Spartanburg, SC

Vehicle: 2006 KIA Rio SC Tag: ERQ 128

Victim: Thorne, Justin Suspect: Chapman, Louie

Deputy: Letterman, B. Forensic Officer: Shaffer, R. L.

Synopsis:

Sgt. Burgess advised me we had a search warrant on the above vehicle and the above location.

Scene Processing:

I reviewed the search warrant and confirmed the information.

At 0825 hrs, I executed the search warrant. I searched the vehicle for the firearm, ammunition and other trace evidence. I located a darkish brown stain on the driver's seat. I tested the stain with Quick Check and it was negative for blood. I didn't locate the firearm or ammunition.

At 0843 hrs, I closed the search warrant and left the copy on the driver's seat.

At 0855 hrs, I did the search warrant returned with Judge Chumley.

I entered the photographs into the computer located in ID.

Judge Couch stated that the shirt belonged to the applicant and he was wearing it at the time of his arrest. Page 247 Lines 4-7

Again Judge Couch stated that the shirt in question was applicants, Page 249 line 8-10

Judge Couch's statements that the shirt's belong to applicant are not based on the records of the trial transcripts or the Post Conviction Relief hearings. Judge Couch's statements are erroneous and are misleading to future investigations.

Complaint

On the 7th. day of December, 2015 Ms. Lanelle Cantey Durant appellate lawyer for Louie Chapman case # 2015-001063 filed a Johnson petition for writ of certiorari in the South Carolina Supreme Court. on page 7 "Issues presented", Ms. Durant made the false statement that will confuse the court as to the facts in my case. She states that "Chapman's case especially related to his shirt with alleged blood on it," is and has been a issue in my trial, direct appeal and in my post conviction relief hearing. Also on page

4 labeled "Argument" on the second line Ms. Durant states again his shirt with alleged blood on it. No one has tested the shirts to find out who the shirts belong to or tested them to discover what the substance is that appears to be blood.

"Conclusion"

Based on the arguments above the certiorari should be granted, and the convictions and sentences reversed and the case remanded for a new trial.

Respectfully submitted
Laurie Chapman
Petitioner.

Please find enclosed a copy of my complaint against my appellate lawyer in this case # 2015-001063 to Mr. Robert Dubek, Chief Appellate lawyer for the South Carolina Commission on Indigent Defense. Ms. Durant failed to research this case and filed a Johnson Petition. Page 10, 11

Mr. Robert M. Dubek, Chief Appellate
Division of Appellate Defense
South Carolina Commission on Indigent Defense
P.O. Box 11589
Columbia, S.C. 29211

Dear Mr. Dubek:

Ms. Lanelle Cantey Durant is my appellate lawyer in case # 2015-001063. Ms. Durant filed a Johnson Petition for writ of certiorari in the South Carolina Supreme Court on the 7th day of December 2015.

Ms. Durant has made several false and very damaging statements in her petition. This must be corrected before the Supreme Court reads her petition.

On page 2 "Issues Presented" Ms. Durant made the false statement that will confuse the court as to the facts in my case. She states that, "Chapman's case especially related to his shirt with alleged blood on it," is and has been an issue in my direct appeal and in my PCR.

Also on page 4 labeled "argument" on the second line Ms. Durant states again his shirt with alleged blood on it. No one has tested the shirt to find out who the shirt belongs to or tested them to discover what the substance is that appears to be blood. This issue is

in my Post Conviction Relief hearing and application.

Mr. Dubek I need another lawyer assigned to my case to correct these errors that Ms. Durant has placed in front of the Supreme Court. This must be corrected. Please help correct this as soon as possible. Thank you in advance.

Louie Chapman

Louie Chapman # 98290

McCormick C.I. FIA-185

386 Redemption Way

McCormick, S.C. 29899

"Argument"

Mr. Welchel's failure to investigate the evidence in my case was prompted by the length of time that he had been my counsel. His belief was that I was guilty and his desire for me to plead guilty prejudiced the result of my trial. Mr. Welchel's "norms" contributed to my conviction.

Mr. Welchel's first visit was on June 28, 2011 and on his second visit July 11, 2011 he brought a young lady named Frances with him.

Mr. Welchel visited me at the holding area just before court and asked if I was going to testify.

Richard Welchel's direct examination by Mr. White:
PCR transcripts.

Page 230

Line 3, q. In your recollection, how many times did you meet with (Line 4:) Mr. Chapman

Line 5 a. Five or

Line 6 q. Just give me

Line 7 a. Five or six and I can't tell you if --- that may be low.

Line 8, a. It may be high, I just don't know. I mean

that would be line 9: the norm.

Page 231 lines 5, 6, 7, 8 PCR transcripts.

line 5 q. In regards to the guilty plea offers was that
line 6 q. something that you thought possibly could
be in his best (line 7 a.) interest.

Line 8 a. Yes ma'am

Please note Exhibit B, next page. Mr Whelchel
was not appointed as my counsel until April 25, 2011.
Mr. Whelchel was my counsel for 81 days before my
trial. He visited me 3 times, twice at the jail and
once before court at the holding area.

Mr. Whelchel failed to investigate potential witness
for my defense. Trial transcripts list on page 10

line 5 Wayne Chapman

line 6 Peter Braun a medical doctor, Freddie Thompson

with the Spartanburg 911

I also wrote Ms. Kathleen Hodges to subpoena Ms Meredith
White who lived with Calvin Lyles.

These witnesses would have clarified the issues of
Dorothy Geddes eyesight at the time of the alleged
incident and to the frequent accidents she had
while operating a vehicle.

SEVENTH JUDICIAL CIRCUIT PUBLIC DEFENDER

CLAY T. ALLEN
CIRCUIT PUBLIC DEFENDER

13 A

366 NORTH CHURCH STREET
SUITE 3000
SPARTANBURG, SC 29303



TELEPHONE (864) 596-2561
FAX (864) 596-2284
FAX (864) 562-4412

April 25, 2011

Louie Alvoid Chapman
Pod 6/Cell 38
Spartanburg County Detention Center
950 California Avenue
Spartanburg, SC 29303

[Handwritten signature]

Re: State v. Louie Alvoid Chapman
Warrant/Ticket No(s): M424319; M424320

Dear Mr. Chapman:

This is to inform you that Kathleen J. Hodges has resigned her position at the Seventh Judicial Circuit Public Defender's Office effective April 11, 2011. As such, your case has been transferred to Richard H. Whelchel . Any request to discuss your case should be directed to Richard H. Whelchel at Seventh Judicial Public Defender Office, 366 North Church Street, Suite 3000, Spartanburg, South Carolina 29303.

I remind you to keep the office advised of any change of address and phone number because this is the only way you will be notified of court appearances.

Again, please do not hesitate to contact me, should you have any questions.

Sincerely,

Clay T. Allen
Circuit Public Defender

Exhibit B.

Mr. Whelchel's cross-examination of Dorothy Geddes:

Page 49 Line 5 q. Do you wear glasses ma'am?

line 6 a: No I just had contacts took out, and I got implants.

Line 7 q. When was that?

Line 8 a. like last month.

Mr. Whelchel's failure to investigate Mrs. Geddes vision at the time of the alleged incident prejudiced my ability to prove that Mrs. Geddes' vision was so poor that she could not recognize anyone by sight. Implants are a last resort when there is no alternative. Mr. Whelchel also failed to produce any evidence that confirmed Mr. Thorne's medical claim.

"Argument"

Justin Thorne's cross examination by Mr. Whelchel:

Page 84 line 19 q. Okay when you talked to the officers that day at the hospital (line 20) I think is when you gave a statement, Do you (line 21) remember that?

line 22 a. Yes, sir.

line 23 q. Okay you didn't see him leave did you?

line 24 a. Yes sir I did.

line 25 q. Do you remember saying "I guess I saw him leave I don't know?"

Mr. Thorne's perjury of the facts and Mr. Whelchel's

failure to introduce evidence that Mr. Thorne had in fact made conflicting statements to police officers. Mr. Whelchel should have presented statements at the trial.

A criminal defense attorney has a duty to investigate, but is limited to a reasonable investigation. But at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case.

Ar. v. Catoe 372 S.C. 318, 331, 642 S.C. 2d. 590, 596 (2007)

Conclusion

Based on the above, certiorari should be granted, and the conviction and sentence reversed and the case remanded for a new trial.

Respectfully submitted

Louie Chapman

Louie Chapman #98290

McCormick C.I. FIA-185

1386 Redemption Way

McCormick, S.C. 29899

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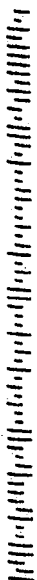
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S.C. DEPARTMENT OF CORRECTIONS

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The Supreme Court of South Carolina
Daniel E. Shearhouse
Clerk of Court
P.O. Box 11330
Columbia S.C. 29211

Louie Chapman #098290
McCormick Correctional Institute
386 Redemption Way
McCormick, SC 29899

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