

January 12, 2016

Dear Mr. Shearouse

In accordance with your recent letter enclosed are the corrected deficiencies to my writ of certiorari for the following case:

Kimmiie Heaton v. State
Appellate Case No. 2015-002616

Please take note of my request for a return copy of all records and transcripts submitted. As an indigent inmate I was unable to make a copy to send to the Court so I sent my own copy of the records and transcripts. Thank you for your time in this matter.

Respectfully,
Kimmiie Heaton

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JAN 15 2016

BC SUPREME COURT

TABLE OF AUTHORITIES

CASES

Cooper v. Oklahoma, 517 U.S. 348, 369, 116 S.Ct. 1373, 1384, 134 L.Ed. 2d 498 (1996)	4
Godinez v. Moran 113 S.Ct. 2680 (1993)	8
U.S. v. Vaughn 443 F.2d 92, 94-95 (CA2 1971)	iii, 8
U.S. v. Martinez 277 F.3d 517, 524-27	9
U.S. v. Olano 507 U.S. 725, 732, 113 S.Ct. 1770, 123 L.Ed. 2d 508	9
McCarthy v. U.S. 394 U.S. 459, 89 S.Ct. 1166, 22 L.Ed. 2d 418 (1969)	9
Suber v. State 371 S.C. 554, 558-59, 640 S.E. 2d 884 886 (2007)	9

Other Authorities

Fourteenth Amendment	6, 8
Federal Rules of Civil Procedure 11(b)(3)	8
Federal Rules of Civil Procedure 52(b)	8
28 U.S.C. A.	8
Diagnostic and Statistical Manual of Mental Disorder, Fourth Edition, Washington D.C. American Psychiatric Association, 2000	5

Statement of the Case.

Before Applicants Post-conviction proceedings in 1999 she informed her Public Defender, Mr. Townsend, about the records that remained at the Laurens County Mental Health. Applicant stressed she felt the importance of these records because she knew something was wrong with her mental state at the time of her crime and the year following. Mr. Townsend proceeded without obtaining these records. Applicant felt so strongly about their significance she put opinion evidence onto record twice when questioned by States attorney Mr. Steinberg concerning what evidence she had to support her claims. These claims are included herein. Judge Cole ruled against Applicant for PCR. Applicant was reviewing medical records for an unrelated reason and discovered records that PCR attorney would not obtain. Applicant immediately filed PCR for after-discovered evidence. PCR was denied as being successive.

Reasons for Granting the Writ

Applicant can show she was prejudiced by her Post-Conviction Counsel deficient representation by after-discovered evidence. The medical reports Counsel claimed was of no consequence clearly shows applicant was suffering from psychosis during her plea entry. Therefore, applicant was denied due process during her Post conviction proceedings. Applicants counsel did not familiarize himself with evidence applicant was requesting. This error was prejudicial due to the fact that evidence referred to on record by client and was not obtained precluded the Judge from the only evidence corroborating applicants testimony. There is a reasonable probability that the error outcome would have been different if not for the error committed by Counsel. U.S. v. Vaughn 443 F.2d. 92, 94-95 (CA2 1971). This error prevented the Judge from properly deciding the facts and assessing applicants ability to understand plea.

Applicant put forth due diligence afforded her by the circumstances to obtain Laurens County Mental Health Records. She wrote on many occasions and received no response. Applicant would have no reasonable way to know those records were in the possession

of SCDC. As those records show applicant was suffering from psychosis upon her admission to SCDC. The court expressly ignored applicants entry of opinion evidence on to record concerning competency. Now the lower court are improperly applying that applicant can not use the evidence as now after-discovered. This is now satisfactory evidence that can fully demonstrate the involuntariness of plea entry due to psychosis.

Kimmmie Heaton # 249607
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Urgent
Time Sensitive

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SC SUPREME COURT

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

