

January 8, 2016

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S.C. SUPREME COURT

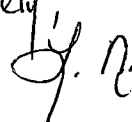
Daniel E Shearouse, Clerk of Court
Post Office Box 11330
Columbia, S. C. 29211

Re: Appellate Case No. 2015-001231

Dear Mr. Shearouse,

I'm in receipt of your letter dated January 4, 2016. I don't know how much time I have, I'm hoping you would assist my endeavor.

Please find enclosed, one issue consisting of four pages, two police reports consisting of five pages, and one letter to Tiffany Butler, esquire. If you would be kind to file the contents for record purposes, send a copy to Ms. Butler and letter to me acknowledging receipt of my request. Thank you in advance. you're scholar and a gentelman.

Sincerely,


#273996/ Lorenzo Rantelle Nicholson
Kershaw C.I.
4848 Goldmine Hwy.
Kershaw, S.C. 29067

January 8, 2016

Tiffany L. Butler, Esquire
P.O. Box 11589
Columbia S.C. 29211-1589

Re: Appellate Case No. 2015-001231

Ms. Butler Dear,

I'm in receipt of my petition. I understand you have filed only one of my claims. I would like for you to amend my petition and file my claim of ineffective assistance of counsel for failure to protect Petitioner's constitutional right against an unreasonable search and seizure. I've submitted a copy to the Clerk of Court, Mr. Shearouse for record purposes. This copy contains two police reports consisting of five pages and one issue consisting of four pages. I've requested for him to send you a copy of the contents. Once in receipt of this copy please send me a letter informing me of your course of action.

Sincerely,
L.N.

#273996 / Lorenzo Rantelle Nicholson
KCI
4848 Goldmine Hwy
Kershaw, S.C. 29067

Issue Presented

Did PCR judge err by finding counsel provided effective representation where counsel failed to adequately defend Petitioner's constitutional right against an unreasonable search and seizure by disregarding the opportunity to point out anything the judge overlooked or any reasoning he may be flawed?

Statement of the case

Officers testified, he was concerned someone got out the car and went into the house. App. P. 31, lines 5-15. The Petitioner disappeared from view for several minutes. App. P. 10, lines 13-14. The Petitioner pulled him and Hanning into his home. App. P. 8, lines 21-25. Handcuffed the Petitioner in front first once he settle down we move them to the back App. P. 9, lines 13-21. The arrest was completed in the house inside the dining room. App. P. 9, lines 13-23. Smelled marijuana smoked not unsmoked. App. P. 10, lines 3-8. Were concerned a codefendant could be inside the house. App. P. 10, lines 11-16.

The judge found officers credible denied our motion to suppress backed up and gave counsel an opportunity to point out anything he may have overlooked or any reasoning he may be flawed. App. P. 75, lines 6-10.

Counsel disregarded the opportunity went back to arguing case law. App. P. 75, lines 11-P. 76, lines 5. The judge advised counsel he had already **covered** that. App. P. 76, lines 6-11. Counsel gave his point of view as to the arrest and how it applied to case law. App. P. 76, lines 11-P. 77, lines 20. The judge informed counsel he's putting his own spin on those facts, that's not the evidence then gave an assessment of the evidence as to the arrest and counsel another opportunity to point out anything he did not discuss or any point he overlooked. App. P. 77, lines 21-P. 78, lines 20. Counsel failed to point out the relevant facts neglecting the opportunity presented.

Argument

The PCR judged erred by finding counsel provided effective assistance where counsel failed to adequately defend Petitioner's constitutional right against an unreasonable search and seizure by neglecting the opportunity to point out anything the judge overlooked or any reasoning he may be flawed,

Had counsel took the opportunity to refute the officers testimony by pointing out the inconsistencies between the officers testimonies and reports he would have proved:

- There was no reason to be concerned about a passenger from the vehicle entering the house Investigator Weiner observed the car pulling into the driveway. Read Weiner's Sup. Report P.1, 2nd Paragraph.

- The Petitioner did not disappeared for several minutes. It was for five seconds to put on a shirt. App. P.50, line 7-22.

- The Petitioner was never handcuffed in front. Weiner advised the Petitioner when he came to the door to put his hands behind his back he locked his arms a few seconds before complying then was secured with handcuffs without incident two feet inside the doorway. Once he was secured I took him and seated him at his kitchen table. Read Weiner's Sup. Report. P.1, 3rd Paragraph - P.2, 1st Paragraph.

- The arrest was completed on the front porch without incident. Read Hanning's Sup. Report P.1, 2nd Paragraph.

- Officer never had any specific information that other than the Petitioner was in the house at the time of the arrest. App. P.58, lines 3 - P.59, lines 1.

The arrest was completed on the front porch no further than the threshold without incident. Unless the officers reports and testimonies are fictitious and the Petitioner's conviction was acquired through the knowing use of perjury by the prosecution which violates due process. See Napue v Illinois, 360 U.S. 264, 269, 79 S.Ct. 1173, 3 L.Ed 2d 1217 (1959). This is true regardless of whether the prosecution solicited testimony it know to be false or simply allowed such testimony to pass uncorrected. See Giglio v. United States, 405 U.S. 150, 153, 92 S.Ct. 763, 31 L.Ed 2d 104 (1972).

The Fourth Amendment has drawn a firm line at the entrance at the home exigent circumstances, that threshold may not reasonably be crossed without a search warrant. Even with a

Proper arrest in house, police officer(s) must have probable cause to fear that their safety is threaten by a hidden confederate of an arrestee before they may sweep through the entire home. See Payton v. New York, 445 U.S. 573, 100 S.Ct. 1371. The State failed to present evidence that exigent circumstances existed to justify the officer entering the Petitioner's home without a search warrant. Also Hanning admitted they did not have any specific information anyone was in the home except the Petitioner at the time of the arrest, App.P.58, lines 3- P.59, lines 1. Weiner also admitted he did not hear any rummaging around. App.P.25, lines 20- P.26, lines 1.

Maryland v. Buie, 494 U.S. 325, 337, 110 S.Ct. 1093 Held: The Fourth Amendment permits a properly limited protective sweep in conjunction with an in house arrest when the search officer possesses a reasonable belief based on specific and articulable facts that the area to be swept harbors an individual posing a danger to those on the arrest scene

Such a sweep is not a full search of the premises, but may extend only to a cursory inspection of those spaces where a person may be found officers may look in closets and other spaces immediately adjoining the place of arrest from where an attack could be launched beyond that however there must be articulable facts.

The sweep should last no longer than to dispel the reasonable suspicion of danger and in any event no longer than it takes to complete the arrest. Hanning stated in his report the arrest was completed on the front porch without incident. Read Hanning's Sup. Report P.1, 2nd Paragraph. Weiner stated in his report the arrest was completed in the threshold without incident. Read Weiner's Sup. Report P.1, 3rd Paragraph.

The Standard Is Met Here in Maryland v. Buie, 494 U.S. 325, 337, 110 S.Ct. 1093. The State has shown neither exigent circumstances nor an unforeseen danger that arose once officer were in the house or could draw an inference from specific and articulable facts that the area to be swept harbors an individual posing a danger to those on the arrest scene, there is no excuse for the failure to obtain a search warrant. Officers executed a sweep of the Petitioner's entire residence under the guise of a protective sweep with-out probable cause or a search warrant.

OF AGENCY I.D.
SC0230000

Greenville County Sheriff's Office
SUPPLEMENTAL REPORT

CASE NUMBER

08000033596

ORIGINAL REPORT
 STATUS CHANGE
 ADDITIONAL VICTIMS
 ADDITIONAL STOLEN PROPERTY
 INCIDENT TYPE Search Warrant
 SUPPLEMENTAL REPORT
 OTHER
 ADDITIONAL OFFENDERS
 ADDITIONAL RECOVERED PROPERTY
 PATROL DISTRICT 2
 PAGE 1 OF 1 PAGES.

On Wednesday March 5, 2008 at 0930 hours I responded to 51 Songbird Ct in reference to assisting Inv Weiner with the arrest of B/M Lorenzo Nicholson who had warrants for Armed Robbery.

Upon our arrival at the residence I knocked on the front door and approximately three minutes later a male answered the door. At this time Inv. Weiner identified himself and told Mr. Nicholson that he was under arrest for Armed Robbery. Mr. Nicholson was taken into custody without incident and secured in a patrol car. While taking Mr. Nicholson into custody on the front porch the pungent smell of smoked marijuana emitting from within the residence. At this time Inv Fortner returned to the LEC where he obtained a search warrant for the residence.

At approximately 1030 hours Inv Fortner arrived with the search warrant and a search of the residence took place. While searching the master bedroom closet I located a black suite case which contained a 9mm Luger Tec 9 with a magazine loaded to capacity. The weapon was secured and entered onto the inventory return.

At approximately 1200 hours the search of the residence was completed and all of the listed property was entered into P&E.

<input checked="" type="checkbox"/> SUBJECT IDENTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> SUBJECT LOCATED <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADMIN. CLOSED <input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED UNDER 18 <input checked="" type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEARED UNDER 18 <input type="checkbox"/> EX-CLEARED 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: <input type="checkbox"/> OFFENDER DEATH <input type="checkbox"/> NO PROSECUTION <input type="checkbox"/> VICTIM/DECLINES COOPERATION <input type="checkbox"/> EXTRADITION DENIED <input type="checkbox"/> JUVENILE-NO ARREST									
ADMIN	REPORTING OFFICER(S)		DATE	UNIT NO. / STAR #	APPROVING OFFICER		DATE	UNIT NO. / STAR #	
	Inv Craig Hanning		03-05-08	622	Sgt. Tim Jones		03-05-08	604	
					FOLLOW-UP INVESTIGATION		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (OFFICER)		

005 3/8/08 E

checked by SLW

