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State Of South Carolina
In The Supreme Court

MAR 03 2016

S.C. SUPREME COURT

Certiorari To Spartanburg County

Deadra L. Jefferson, Circuit Court Judge.

Norman Stoudenmire

-----Petitioner

V.

State Of South Carolina

-----Respondent

Case No. 2015-001311

Motion To Amendment To
Petition For Writ Of Certiorari

Other Counsel On Record
Wanda H. Carter
South Carolina Commission on
Indigent Defense
Division Of Appellate Defense
P O Box 11589
Columbia S.C. 29211-1589

Norman E. Stoudenmire
#182302
Perry Corr, Inst.Q-3-B-105
430 Oaklawn Rd.
Pelzer South Carolina
29669

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A M E N D M E N T

S.C. SUPREME COURT

Issues Presented

(2)

PCR Court Erred By failing to Rule Trial Counsel Was Ineffective in that, He made no objections during critical points of trial thereby allowing harmful prejudicial testimonial evidence to go unchallenged Before the jury by States Witnesses Solicitor's in closing argument's and The Judges Jury Charge.

(M). Counsel was ineffective for failure to object to the trial Court's statements to the Jury that "Your Sole Objective Is To Simply Reach The Truth Of The Matter" and "Simply give Both the State and the Defendant a fair and Impartial Trial" during the Jury instructions.

Petitioner Alleges that Trial Counsel rendered Ineffective assistance of Counsel when He failed to object to the trial Courts statement's to the Jury that "Your Sole objective is to simply give both the state and the defendant a fair and impatial trial", On the Basis of "Impermissible Burden shifing which affected His right to a fair Trial.

"If Counsel had properly objected the Question before the Appellate Court would have been whether the instructions as a whole properly conveyed the Law to the Jury, and whether it was reasonably likely that the jury acted in contravention

of the reasonable doubt standard.

SEE. State V. Aleksey 343.S.C. 20, 29, 538 S.E.2d 248, 252-3.

Due to Counsel's failure to enter a Contemporaneous object the jury charge was not reviewed by the Appellate court. In State V. Daniels Op. No. 27180, S.C. Sup. Ct. filed October 10, 1981 (Davis Adv. Sh. No. 36 at 41) The South Carolina Supreme Court addressed the usage of similar language contained in trial Courts instructions to the jury.

[We] instruct the Trial Judge to remove any suggestion from His general session's charges that a criminal Jury's duty is to return a verdict that is "Just" or "Fair" to all parties. Such a charge could effectively alter the Jury's perception of the Burden of proof, substituting justice and fairness for the presumption of "Innocence and the States burden to prove the Defendant's guilt beyond a reasonable doubt. Moreover to a lay person, the "ALL PARTIES INVOLVED IN A CRIMINAL CASE may well extend beyond the Defendant and the State, and include the Victim the inaccurate and misleading charge risk depriving a criminal Defendant of His right to a fair Trial. [Davis Adv. Sh. No. 36 at 44]

Chief Justice Teal strongly warned the judiciary as follows The Constitutional Framework governing criminal Trials is highly technical body of Law developed by the United States Supreme Court's. It is critical that jurors understand the proper application of the reasonable doubt standard, that standard does not charge the jury with ensuring justice for all of the parties [Davis Adv. Sh. No. 36 at 52]

See: Lewry V. State 376 S.C. 449, 657. S.E.2d 760 (2008).

(finding defense Counsel's failure to object to a unconstitutional jury instruction "Inneffective")

SEE: Francis V. Franklin, 471 U.S. 307, 322 (1985) (Language that merely contradicts and does not explain a constitutionally infirm instruction will not suffice to absolve the infirmity")

SEE: Tr.TN. Pg.438 Lns 7-13 and Pg. 443 Lns 19-24 (Jury Charge)

SEE Also: Tr.Tn. Pg 114 Lns 15-19 (Opening Charge)

Norman F. Stenderius
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Certificate Of Service

I Certify that a True copy of the Motion to Amend to the Petition for Writ of certiorari has been served on Daniel E. Shearouse Clerk of the Supreme Court of South Carolina at, P.O:Box 11330 Columbia South Carolina 29211. By depositing Same in the United States Mail.

Norman E. Stoudenmire
#182302

Sworn To Before Me this 29 day

of February 2016.

Tamar Conwell

Notary Public For South Carolina

My Commission Expires

My Commission Expires: September 25, 2023.

Norman E. Stoudenmire
#182302

Perry Corr, Inst Q-3-B-105

430 Oaklawn Rd.

Pelzer South Carolina

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Norman E. Stoudenmire #182302
Perry Corr, Inst. Q-3-B-105
430 Oaklawn Rd.
Pelzer S.C. 29669

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P.C.I. MAILROOM

Mr. Daniel E. Shearouse
(Clerk) South Carolina Supreme Court
P.O. Box 11330
Columbia S.C. 29211