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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

MAR 16 2016

S.C. SUPREME COURT

Certiorari to Sumter County
George C. James, Jr., Circuit Court Judge

TERON JACKSON,

PETITIONER,

- - VS - -

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO: 2015-001690

PRO SE PETITION FOR WRIT OF CERTIORARI

TERON JACKSON
Pro Se Petitioner

Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina

PETITIONER

29010

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ISSUES PRESENTED

Petitioner was denied the right to effective assistance of trial and appellate counsel, as guaranteed by the Sixth and Fourteenth amendments of the U.S. Constitution and pursuant to Art. I, §§ 3, 9, and 14 of the S.C. Constitution.

Counsel's representation was unreasonable and prejudicial according to STRICKLAND -vs- WASHINGTON, 466 U.S. 668 (1984). Counsel's undertaken actions and failures included, but not limited to the following charges:

1... Trial counsel failed to conduct an independent investigation of his own to determine if there were any documented record evidence proffering that petitioner had a learning disability from his schools, etc.. Research the records of the police department showing that officers made attempts to contact petitioner's family members before the police interrogated petitioner. Reexamine the reports and SLED reports results by an independent resource to determine that the evidence was without flawed findings. Failed to investigate the circumstances of the crime charged to make a determination of what participation did the petitioner had in it so that there could have been a complete trial strategy planned for petitioner's trial.

2... Trial counsel failed to have the court to evaluate the petitioner minor status so it could have been determined rather if petitioner fully understood his rights to a trial and his constitutional rights by it basic meaning:

3... Trial counsel ineffective assistance when he failed to have petitioner's trial separate from his co-defendant, due to the fact that petitioner's statement played a hostile component to co-defendant's defense:

4... Appellate counsel ineffective when he did not brief all properly preserved issues of the trial record, and by appellate counsel refusal to brief all issues the trial counsel objected to caused the petitioner to be denied his right to a full review of the errors of law committed during his trial.

STATEMENT OF CASE HISTORY

On February 19, 2009, the Sumter County Grand Jury indicted petitioner Teron Jackson for murder, two counts of attempted armed robbery while armed with a handgun, possession of a firearm during the commission of a violent crime, possession of a pistol by a person less than eighteen years of age, and first degree lynching. App. 592-App. 594. On April 15, 2009, petitioner proceeded to trial before the Honorable Ferrell Cothran, Jr., and a jury. Timothy Murphy represented petitioner and Harry Conner represented the State. App. 1.

The State alleged that around two o'clock on the morning of June 18, 2007, petitioner and a codefendant, both wearing ski masks and armed with pistols, approached a couple sitting in a parked car at the Poplar Square Apartments. Petitioner and the codefendant went to either side of the car at the front door and presented their pistols in an attempt to rob the male in the driver's seat. The male wrested away the codefendant's pistol, and petitioner fired into the vehicle multiple times from the passenger side. The female passenger, Toni Wilson, and the male victim fled to an apartment where the male later died waiting for medical help. App. 124, line 19-App. 127, line 20; App. 592-App. 594.

After the State presented its evidence, trial counsel rested petitioner's case without presenting any evidence. App.

408, line 13-App. 412, line 6. During deliberation, the jury asked Judge Cothran in a note, "[Why] didn't Toni Wilson testify?" Judge Cothran instructed the jury, "[Y]ou have got to decide this case based on the evidence you heard and speculate on things you didn't hear. . . . You have heard the evidence and you have got to decide based on what you hears...." App. 480, line 17-App. 482, line 23. The jury found petitioner guilty on all counts except attempted armed robbery of the passenger and lynching. App. 485, line 7-App. 487, line 15. Judge Cothran sentenced him to thirty-seven (37) years incarceration for murder, twenty (20) years concurrent for attempted armed robbery; five (5) years concurrent for possession of a weapon during the commission of a violent crime, and five (5) years concurrent for possession of a pistol by a person less than eighteen years of age. App. 506, line 10-App. 507, line 11.

On October 2, 2012, petitioner filed an application for post conviction relief ("PCR") claiming ineffective assistance of counsel. App. 511-App. 524. The State filed a return on March 22, 2013. App. 525-app. 532. On July 24, 2014, petitioner filed an amendment to the application. App. 534. On April 14, 2015, petitioner appeared at an evidentiary hearing before the Honorable George C. James, Jr.. Charles T. Brooks represented petitioner and Daniel F. Gourley represented the State. App. 536.

Petitioner testified that counsel should have called Toni Wilson to testify in his defense. App. 542, line 9-App. 544,

line 14. Petitioner said her testimony would have helped his case:

I feel it would helped my case as far as the jury, once they deliberated, they came back out and they asked why she didn't testify. So I felt like, they wanted to know what she had to say. That could have changed their outlook on the other evidence they had. That could have made them look different on something else.

App. 544, lines 17-23.

Trial counsel testified that he was not sure he could correctly recall the circumstances surrounding Wilson's failure to testify. He believed that he understood that the solicitor at some point did intend to call her. He acknowledged that she could not have identified petitioner, but in the same breath claimed she would not have provided any helpful information. App. 562, lines 2-15.

On July 20, 2015, the PCR court issued its order of dismissal concluding petitioner failed to establish ineffective assistance of counsel. App. 575-App. 591.

DISCUSSION

1. Trial counsel testified indirectly to the facts that the petitioner had a learning disability and still in minor stages as not being an adult. This being known gave all latitudes to trial counsel to be reasonable in planning his strategies to the petitioner's defense; and being reliable to the petitioner as petitioner being the client. It was incumbent upon the trial counsel to utilize his expertise as in exercising petitioner's constitutional rights to an evaluation to trial matters such as his ability to understand and assist him. This was not pursued and/or done by counsel whom have the duties at the very beginning of trial to the end of trial matters to be the advocate to test the adverse process. Counsel failed to be knowledgable of legal standards and due process rights of the petitioner.

The law turns its meaning to juvenile delinquent as a person being over seventeen and less than sixteen for the sake of criminal aspects; therefore, abiding to the facts that the SC State has a well settled law created by the SC Legislation, gives petitioner a right to an adjudicatory process to be evaluated through, as the trial counsel took a sit back on the hands and do nothing about it positions. The petitioner case issues as how he was discriminated against by the policy/detectives by way of him being young black male in poverty stage automatically makes him to be guilty as charged and deprived of his rights to exercising maintaining to be innocence until proven guilty. The counsel

allowed petitioner to be violated even after the violations was done in the initial arresting processes and yet never sought to have the court to evaluate the matter that of which cause petitioner to be prejudiced against in an extremely high levels that cannot be determined. Counsel failures to procure the relevant documents were more detrimental as compare to allow the court to overlook the petitioner not being entitled to a YOA type adjudication as the law was effective to petitioner's case at the time of his case for trial.

2... Trial counsel ineffective for not safeguarding the petitioner's constitutional rights through the trial court when it is determined that petitioner was not no where knowledgeable of criminal law and could not determine what was the first meaning of criminal law were nor could petitioner be informed as to how the law is applied to him while he was being tried, and to include the facts that he never knew what being read his Miranda Rights meant. The petitioner was coerced by the officers by means of veiled threats against him when he goes to prison, and failed to keep the constitutional laws obeyed in making contacts with the petitioner's family members before they interrogated the petitioner. Counsel never seek to research this matter and this contributed to a unreasonable representation by counsel, due to the facts that the petitioner had a limited understanding about law, and in this scenario the petitioner's background, experience, and conduct in the past was not a question to have

this determined; but instead, to have the documented evidence procured and proffered to the court in pre-trial hearings. This was not done by trial counsel causing the petitioner to be extremely prejudiced against by the trial counsel. His action in this matter was so total wrong and unexcuseable. Counsel performed as he totally forgotten about what his duties were consisted of with the ABA Standards always available for a guide to every attorney who practice law in this nation. The counsel deprived the court of providing the petitioner a benevolent and less formal means than criminal proceeding for dealing with the special and sensitive issues such as the petitioner situation with the learning disabilities to be aware of the criminal processes that he was effective by to his criminal case. Trial counsel was incompetent for not having the trial court to address this matter and make a finding of facts to determine whether if petitioner have obtained constitutional protection as required through trial proceedings.

3... Trial counsel ineffective assistance for not filing a motion to severance petitioner's trial from the co-defendant. Trial counsel overlooked the facts that the petitioner gave statements and in the nature of the statements they implicated the co-defendant thereby making the petitioner a hostile component to the co-defendant's trial defense. It is also shown that there been evidence presented at the trial that should not have been whereas, the evidence should have not been considered

against the petitioner during trial and against the co-defendant, that is meaning that there were evidence that was of probative to the petitioner's guilt but technically admissible only against the co-defendant, and as it was clearly established there been exculpatory evidence that was available to the petitioner if he was tried along and would not have been available if tried as was jointly as petitioner states his position to show counsel ineffective assistance for not requesting for separate trials. Petitioner shows that he was extremely prejudiced against when counsel did not motion for the trials to be separate. Petitioner would have established not being guilty of attempted armed robbery for several reasons that petitioner could have made a theory to be presented to the jury, and here in this position petitioner meets the burden as demonstrating clear and substantial prejudice when the trial counsel did not motion for severance, due to the existing hostile component elements between the petitioner and the co-defendant defenses.

4... Appellate counsel ineffective for not briefing all properly preserved issues in the trial record and prevented the petitioner from a review from the appellate court. The appellate counsel failed to brief the issues as they are objected to by the trial counsel and this did cause petitioner to be deprived of a error of law review and this is a very extreme prejudice against the petitioner. Appellate counsel proffers correspondence to the court that he did send to the appellate counsel, after counsel

sent to petitioner a presentation letter that indicated to petitioner that he had no choice into the matter of issue being submitted to the appeal court, and in this itself indicated that the counsel was not going to comply to the rules of court as in having all issues presented to the court once they are briefed by the standing laws to show errors as the trial counsel had them preserved by after making his objections to the trial records, as to the following issues objected to by the trial counsel, and in the responses from the trial judge he did ruled against the petitioner in all mentioned objections by the trial transcript pages and lines; SEE: Pg. 16 to 37; Pg. 22, Ls. 22-35; Pg. 47-96; Pg. 188, Ls. 18-21; Pg. 189, Ls. 1-11; Pg. 214, Ls. 12-16; Pg. 223, Ls. 18-21; Pg. 225, Ls. 1-8; Pg. 290, Ls. 5-8; Pg. 305, Ls. 18-24; Pg. 312, Ls. 1-15; Pg. 329, Ls. 22-25; Pg. 342, Ls. 1-3; Pg. 344, Ls. 13-16; Pg. 348, Ls. 24-25; Pg. 349, Ls. 1-6; Pg. 351, Ls. 19-22; Pg. 352, Ls. 20-24, in the instance of the petitioner's appeal issue the petitioner's appellate counsel should have raised the properly preserved issues as shown in the trial record and his failure to do so was error and prejudiced petitioner by depriving him of effective assistance of appellate counsel as guaranteed by the State of South Carolina Law and the Sixth amendment to the U.S. Constitution, it is also established that law supporting granting relief in this case matter pertaining to the appeal issues is evenmore appropriate when considering their accumulative, and detrimental effects that creates a probability sufficient to undermine the courts

confidence in the outcome of the trial.

The petitioner relies on the law authorities of; SEE: EVITT -vs- LUCY, 469 U.S. 387 (1985), it is well steeled that petitioner is entitled to effective assistance of appellate counsel on first appeal from conviction.

RELIEF

Reverse and remanded for a new trial or vacate conviction and sentence.

Respectfully submitted



Teron Jackson
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DATE: MAR 11 2016

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CERTIFICATE OF SERVICE


Petitioner, JERON JACKSON, does hereby declare under the penalty of perjury, that on this date, he has served a copy of petitioner's Pro Se Petition for Writ of Certiorari, upon the respondent, by placing a true copy of same, in prison mailroom officials hands, for depositing in the United States Mail, with

first class postage affixed, and addressed as indicated below:

OFFICE OF THE ATTORNEY GENERAL
State of South Carolina
P.O. Box 11549
Columbia, South Carolina 29211-1549.

COUNSEL FOR RESPONDENT

DATE: MAR 11 2016



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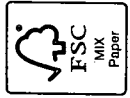


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