

I contend that my PCR Counsel was ineffective for failure to file a Rule 59(e) Motion to Alter or Amend Judgment upon reading over the Judge's order and seeing that he did not rule on each issue presented. As stated in several past cases where the final order lacked specific finding and conclusions of law to remanded for specific finding in some cases; a new hearing in order to address the pervasive problem of inadequate order. McCullough v. State, 320 SC 270 272 464 SE2d 340 341 (1995), Pruitt v. State, SC 329 330 408 SE2d 241 (1991) Reversing order denying applicant relief and remanding for a new PCR hearing where PCR Court's order failed to make specific finding of fact and conclusions of law sufficient for appellate review. Smith v. Padula, 444 F.Supp 2d 2006, Crooks v. State (SC 1997) 326 SC 171 485 SE2d 374, Marlar v. State, (SC App. 2007).

Pursuant to Austin v. State 305 SC 453 (1991) an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Thereby this was a direct violation of my 6th Amendment right to effective assistance of counsel and my 14th Amendment right to equal protection and due process of law. Marlar v. State, 373 SC 275 644 SE2d 860, Jackson v. State, SC 2003 355 SC 586 SE2d 562, Garner v. State, SC 2006 371 SC 1 636 SE2d 860. The Appellate Court will not uphold the findings of a post-conviction relief of a PCR Court if there is no probative evidence to support those findings.

Thereby this is where the Petitioner brings forth case file #2010-GS-04-2543/2544 on the date of trial, march 12, 2012. At this time, the Petitioner contends a testimony from transcript examination by Randal Moon. If it pleases the Court, please turn with me to p. 58, ll. 15-17. Thereby

this is where Mr. Moon indicated that he had (an) idea of (why that may be). Please see p. 63 ll. 3-8 and p. 65 ll. 23-25. Mr. Moon states that he didn't see Mr. Galloway down on his knees going though no types of safe.

Please turn with me to p. 61, ll. 1-5. Mr. Moon indicated that Mr. Galloway was tied up inside the office, just below the counter and out of sight of the camera's view. The Petitioner hereby claims that there has not been sufficient evidence to prove the opening for safe-cracking because during the time Mr. Galloway was being tied up, Mr. Moon had the time to call law enforcement from his first instinct. In addition, this time frame had granted Mr. Moon favor, to stage the knives in place before law enforcement had a chance to arrive on the scene. And thereby the evidence had to have been planted on Mr. Galloway.

By Webster's definition in the form of a cabinet or a filing cabinet is described as a piece of furniture with shelves, or with drawers for holding or by displaying a form of items.

This segment is in relation to p. 58, ll. 15-17, now which in reference to Webster's definition for a safe or safe deposit and by definition a safe is described as a steel or an iron box. If it pleases the Court, the Petitioner contends a testimony from transcript examination by Lester Brock. Please turn with me to p. 89, ll. 1-10. Mr. Brock indicated that there weren't any pictures from this safe being open from that night of the crime.

If it pleases the Court, the Petitioner contends a testimony from transcript examination by Deputy Michael Hunnicutt, please turn with me to p. 95, ll.

1-7. Mr. Hunnicutt indicated that he himself had not witnessed any weapons or devices, nor had he seen any signs that would link Mr. Galloway to committing a sign of safe-cracking.

Please turn with me to p. 98, l. 23 - p. 99, l. 13. This statement indicates from the night of the crime of September 24, 2010, that the photograph that had been taken, in plain view; they stated that those were not the photos from the crime incident. Thereby they stated that the computer crashed and lost several hundred photos from different people's cases. Thereby the Petitioner's rights have been violated under the 6th and 14th Amendments under the Due Process and Equal Protection clauses. Further, the Petitioner indicated (an) abuse of discretion occurs when the trial court's ruling is based on an error of law or factual conclusion without evidentiary support. See State v. Tumbleson, 376 SC 90-93 654 SE2d 849-851.

The Applicant's trial and PCR attorneys' wrongdoing has changed the complicity of the whole case. Based on the State's evidence for the pair of socks and the knife to find the shading of his skin, and if so, would lack of DNA and fingerprints have prejudiced the outcome for the applicant from having a fair trial? In Wiggins v. State 539 U.S. 510 (2003) and Counsel v. State, 380 SC 159 670 SE2d 356.

If it pleases the Court, the Petitioner contends a testimony from transcript examination by Investigator Christopher Pridemore. Please turn with me to p. 108, ll. 16-24 and p. 109, ll. 15-23. The Petitioner indicated that Investigator's statement cannot be held as a reliable statement.

Thereby the Investigator was not an expert who was qualified to make recommendations based on this conclusion. PCR and trial counsel violated my 6th and 14th Amendment Due Process and Equal protection rights by failing to object for letting a testimony with such content enter the trial record.

If it pleases the Court, the Applicant introduced exhibit (A). In regards to Petitioner's Direct Appeal Anders Brief pages 1-11 for showing Petitioner's innocence. Please turn with me to p. 112, ll. 1-17. On line 16, they ask Mr. Pridemore that if he finds any keys in the floor. In response he indicated by saying no I did not, please see lines 8-10.

Please turn with me to p. 152, ll. 20-25. Mr. Allen indicated to, if my client had a knife or a key to get into the safe by any means, that there would be a mark on the safe. Thereby there would be some sort of scrape mark, or some type of evidence showing how he got into the safe.

If it pleases the Court, please turn with me to p. 114, ll. 1-6, on hereby 16-11-390 for safe-cracking. Thereby the trial Judge showed prejudice to Petitioner. Please turn with me to p. 40, ll. 4-6, where the Judge indicated by saying that, It would be improper for me to do so. I think there is sufficient evidence to take it to the Jury on those elements and I deny your motion for that as well.

The Petitioner indicates that the Judge thereby used a catch-all phrase, thereby disregarding the Motion for a Directed Verdict. Please see p. 40, ll. 1-15. The Trial Judge indicated in lines 6-8 by stating "I cannot do anything, nor can anyone in this courtroom do anything, to invade your

province of being finder of fact."

Please look down to lines 13-15, thereby indicating that, it is my job to instruct you on the law and make sure that both parties receive a fair and balanced trial. Thereby that the trial Judge's ruling was not in compliance to the elements for safe-cracking. In trial cases, it is important for not introducing a personal opinion, and hereby dismissing a directed verdict motion to safe-cracking in a catch-all phrase.

Please turn with me to p. 65, ll. 23-25. Thereby Mr. Moon indicated that he didn't see Mr. Galloway down on his knees going through the safe. The elements for safe-cracking explains larceny. Larceny is the taking and carrying away of goods or personal things of another person, with the intent to permanently deprive the owner of the property and convert it to the taker's use.

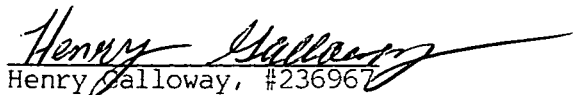
Please review State v. Kimbrell, 362 SE2d 630 (1987). Thereby the Petitioner indicated that, the charge is an abuse of discretion. And that the decision on whether to order a mistrial lies within the discretion of the trial Judge for rendering a fair and impartial trial impossible.

CONCLUSION


My Trial should have been a mistrial, for conduct was so grossly improper that the trial Judge abused its discretion in failing to intervene at that time. Therefore, there is a reasonable probability that if the right charge had been given to the jury, the outcome would have undermined the confidence in, the outcome of the trial. See Id. 466 U.S. 104, SC at 2068 80 L.Ed.2d at 698; also see Cherry v. State, 300 SC 115 386, Se2d 624 (1989).

The relief under 17-27-80, this issue should not become final under specific findings and conclusions of law. The Petitioner thereby asks the Court to sentence the Petitioner to commute sentence to five years and time served on 2nd degree burglary.

This statement is true to the best of the Petitioner's ability.


Henry Galloway, #236967

SWORN TO and subscribed before me
This 23rd day of March, 2016


Notary Public for South Carolina

My Commission Expires: / /

My Commission Expires December 22, 2013

The State of South Carolina
In the State Supreme Court

Appeal from Anderson County
Court of Common Pleas

Honorable J. Cordell Maddox, Jr.
10th Circuit Court Judge
Case No.: 2013-CP-04-1628

J. Walt Whitmire
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

Respondent

-vs.-

Henry Galloway, #236967
Kershaw Correctional Institution, Magnolia-A 59
4848 Goldmine Highway
Kershaw, SC 29067

Petitioner

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the Honorable J. Cordell Maddox, Jr., by depositing a copy of it in the United States mail, postage prepaid, on this 23 day of March, 2016, addressed to the State Supreme Court of South Carolina, Clerk of Court Mr. Shearouse, P.O. Box 11330, Columbia, SC 29211. This statement is true to the best of the Petitioner's ability.

Henry Galloway
Henry Galloway, #236967

SWORN TO and subscribed before me

This 24th day of March, 2016

Cathrine A. Amos
Notary Public for South Carolina

My Commission Expires: / /

My Commission Expires December 22, 2018

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S.C. SUPREME COURT

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Kershaw, SC 29067

Petitioner

NOTICE OF APPEAL

I, Henry Galloway, hereby appeal the order of Honorable J. Cordell Maddox, Jr. The date of the order was on July 15, 2015. The Petitioner received written notice of this order on February 18th, 2016.

J. Walt Whitmire
Office of the Attorney General
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Columbia, SC 29211

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am

To State Supreme Court of South Carolina
MR Daniel Shearouse Clerk of Court
Po Box 11330 Columbia SC, 29211.