

Seth Stearns  
VS  
State of South Carolina

~~XXXXXXXXXXXXXXXXXXXX~~

Certificate of Service  
Appellate case NO.  
2015-001681

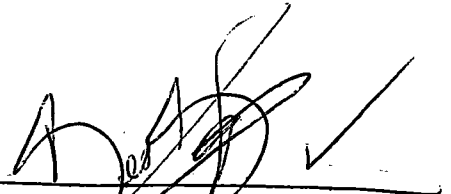
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APR 11 2016

**S.C. SUPREME COURT**

I Seth Stearns, do hereby  
certify that a true copy of my  
written memorandum, a response to the  
petition filed by my counsel in my  
writ of certiorari to the Supreme Court  
P.O. box 11330 Columbia SC 29211  
has been sent on this day \_\_\_\_\_

Subscribed before me  
this 6<sup>th</sup> day of April  
2016.

S/   
Seth Stearns  
# 327380

S/ Nancy C Muchant  
Notary of Public South Carolina  
my commission expires 1-27-2023

The PCR court Erred in ruling that Counsel's performance was not deficient when he opened the door to the results of co-conspirators polygraph results on cross examination.

-- Counsel's failure to refrain from opening door to polygraph results was an ineffective strategy, because showing the greater amount of how many passed, surely outweighs the advantage of discussing the one who failed.

When asked during PCR hearing did Counsel have a concern about Kenneth Laverder's polygraph bringing out the others' polygraph results He said (pg 42 L11-17) "of course. And if I remember right, Ms. Evans tried to argue to put in the plea agreements for all the other witnesses that were testifying-- she wanted to put in the actual plea agreement, which I objected to, because it had polygraph language in the plea agreements. And my recollection is that the Judge did not allow them to do that because of that reason."

However, In the order of Dismissal pg 7 of 14 it says "Thereafter, the state offered the plea agreements for the other witnesses into evidence because the Plea agreements referenced their polygraphs."

Which clearly shows counsel highly prejudiced Seth Stearns when allowing polygraph results into evidence showing 5 people passing and only one failing. Especially when there was no physical evidence but only the testimony of these witnesses, and therefore made a drastic change in the Jury's thoughts of whether they could believe these witnesses, The only evidence against Seth Stearns, which not for this the outcome of the trial would have been very different.

The PCR court Erred in ruling that when counsel failed to object to prejudicial remarks in the States closing argument, that applicant failed to meet his burden of proof.

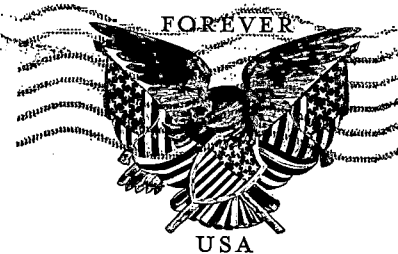
When asked should counsel have objected to those statements he said pg 62 (L 12 - L 20) "Maybe I should have objected to it, I'm not sure" Then when asked by Mrs. Moore "But you can see how that possibly could, in fact, be prejudicial to Mr. Stearns?" Mr Kappel said "of course the whole is -- you know, everything is prejudicial. I mean alot of it is prejudicial. The testimony is prejudice -- excuse me, is prejudicial. The druggs are prejudicial. Its all prejudicial."

Counsel admitted to being prejudicial by allowing the Solicitors closing argument of "they shoot guns, they kill people" which there was no evidence of in my case. (see State vs Linder 278 SE 2d 335) Into evidence and not at least objecting to those highly prejudicial remarks which could have greatly altered the Jurys mindset at end of trial.

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GREENVILLE SC 296

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