

MICHAEL D. STAGGS.#236145  
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**RECEIVED**

DATE 4-14-2016

APR 15 2016

DANIEL E. SHEAROUSE  
CLERK OF COURT  
P.O. BOX 11330  
COLUMBIA, S.C. 29211

S.C. SUPREME COURT

APPELLATE CASE NO:  
2015-001742

PRO-SE RESPONSE TO PETITION  
RE: CLOCK STAMP / RETURN CLOCKED COPY

DEAR CLERK OF COURT,

PLEASE FILE THIS PRO-SE BRIEF IN MY BEHALF  
WITH THE HONORABLE COURT. AND SEND ME A CLOCKED  
COPY FOR MY RECORDS.

THANK YOU  
Michael Staggs

SUPREME COURT OF S.C.

APPEAL FROM SPARTANBURG

MICHAEL D. STAGGS PETITIONER

STATE OF <sup>V</sup> SOUTH CAROLINA

APPELLATE CASE NO. 2015-001742

**RECEIVED**

APR 15 2016

PRO-SE- PETITION

**S.C. SUPREME COURT**

THEREFORE NOW COMES PETITIONER IN A PRO-SE PETITION ASKING THIS HONORABLE COURT TO LOOK TO THE ISSUES OF BOTH PLEA AND P.C.R. COUNSEL FAILED TO INVESTIGATE, DEFENSE OR EVIDENCE, ARE SUPPRESSION OF EVIDENCE, FAILED TO SECURE OR SUBPOENA WITNESSES, FAILURE TO OBJECT, AND COERCION OR INDUCE PLEA BY PROMISES.

COUNSEL SHOULD HAVE INVESTIGATE AND PUT MOTIONS IN COURT TO SUPPRESS EVIDENCES. THESE MEDICATIONS WERE PRESCRIBED BY HIS DOCTOR, THESE PRESCRIPTIONS WERE LEGAL UNDER S.C. LAW. THIS IS LEGAL DRUG USE. PETITIONER CAN NOT BE HELD CRIMINAL RESPONSIBLE FOR THESE DRUGS IN HIS SYSTEM STATE V. DEVOE

COUNSEL SHOULD HAVE SUBPOENA PETITIONER DOCTOR TO TESTIFY IN A HEARING TO SUPPRESS THE LEGAL MEDICATIONS, AND GOT A RULING FROM THE COURT. TO SEAL THESE DRUGS, SO THEY COULD NOT BE USED IN COURT, SO PETITIONER COULD HAVE WENT TO TRIAL. SEE UNITED STATES EX REL. CROSS V. DEROBERTIS, 811 F.2D 1008, 1016 [7TH CIR. 1987] ALLEGATIONS OF INEFFECTIVE ASSISTANCE CENTERED ON A SUPPOSED FAILURE TO INVESTIGATE MUST INDICATE WHAT WOULD HAVE BEEN OBTAINED FROM THE INVESTIGATION AND WHETHER SUCH INFORMATION WOULD HAVE PRODUCED A DIFFERENT RESULT.

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Michael Scroggs  
PETITIONER

GOMEZ V. BETO, 462 F.2D 596, 597 [5<sup>TH</sup> CIR. 1972] WHEN A DEFENSE COUNSEL FAILS TO INVESTIGATE HIS CLIENTS ONLY POSSIBLE DEFENSE, ALTHOUGH REQUESTED TO DO SO BY HIM; AND FAILS TO SUBPOENA WITNESSES IN SUPPORT OF THE DEFENSE, IT CAN HARDLY BE SAID THAT THE DEFENDANT HAS HAD THE EFFECTIVE ASSISTANCE OF COUNSEL. BOTH COUNSELS IN THIS CASE SHOULD HAVE SUBPOENA THE DOCTOR TO TESTIFY IN A HEARING. BOTH COUNSELS ARE INEFFECTIVE OF ASSISTANCE TO PETITIONER IN ANY COURT. FRIEDMAN V. UNITED STATES, 588 F.2D 1010, 1016 [5<sup>TH</sup> CIR. 1979] ATTORNEY'S FAILURE TO SUBPOENA WITNESSES MAY CONSTITUTE INEFFECTIVE ASSISTANCE. COUNSEL SHOULD HAVE SUBPOENA A TOXICOLOGIST TO TESTIFY ABOUT THE DRUGS AND WHAT THEY TURN TO IN A HUMAN'S SYSTEM. THIS IS INEFFECTIVE OF ASSISTANCE FOR COUNSEL NOT DOING SO.

COUNSEL FAILED TO SUPPRESS ANY EVIDENCE OR PUT MOTION IN COURT TO SUPPRESS THE PRESCRIPTION DRUGS SO PETITIONER COULD STAND TRIAL. SEE UNITED STATES V. WOOD, 879 F.2D 927, 934 [D.C. CIR. 1989] TO MAKE OUT A CLAIM OF INEFFECTIVE ASSISTANCE RELATED TO AN ATTORNEY'S FAILURE TO MOVE FOR SUPPRESSION OF EVIDENCE, THE MOVANT MUST SHOW THAT THE CLAIM HAD MERIT AND THERE IS A REASONABLE PROBABILITY THAT BUT FOR THE,

PAGE 2 OF 5. Michael S. [Signature]  
PETITIONER

EXCLUDABLE EVIDENCE THE VERDICT WOULD HAVE BEEN DIFFERENT. SEE GOMEZ V. BETO, FAILS TO SUBPOENA WITNESSES IN SUPPORT OF THE DEFENSE, IT CAN HARDLY BE SAID THAT THE DEFENDANT HAS HAD THE EFFECTIVE ASSISTANCE OF COUNSEL.

THE COURT IN THIS CASE NEVER TOLD PETITIONER HE HAD A RIGHT UNDER THE CONSTITUTION TO TESTIFY, THIS IS A FUNDAMENTAL RIGHT UNDER OUR CONST. UNDER RULE [11.] THE JUDGE SHOULD HAVE STATED THIS ON THE RECORD. "JUDICIAL ERROR" COUNSEL SHOULD HAVE OBJECTED. SEE MURCHU V. UNITED STATES, 926 F.2D 50, 58 [1<sup>ST</sup> CIR. 1991] DEFICIENT PERFORMANCE WHERE ATTORNEY FAILED TO OBJECT TO JUDGE'S IMPERMISSIBLE ATTEMPT TO COERCE GUILTY PLEA FROM DEFENDANT; REMANDING FOR A HEARING. SEE ALSO: JONES V. BARNES, 463 U.S. 745, 751, 77 L.ED, 2D 987 [1983] THE ACCUSED HAS THE ULTIMATE AUTHORITY TO MAKE CERTAIN FUNDAMENTAL DECISIONS REGARDING THE CASE, AS TO WHETHER TO PLEAD GUILTY, WAIVE A JURY, TESTIFY IN HIS OWN BEHALF, OR TAKE AN APPEAL.

PREJUDICE FAILURE TO SET AFFIRMATIVE DEFENSE

COUNSEL SHOULD HAVE SUBPOENA WITNESSES SET HEARING TO SUPPRESS THE EVIDENCES, AND SUBPOENA A TOXICOLOGIST TO TESTIFY, IN BEHALF OF PETITIONER.

## PREJUDICE PRONG

AND SUBPOENA DOCTOR THAT PRESCRIBED THE MEDICATIONS TO TESTIFY, HILL V. LOCKHART, 474 U.S. 52, 59, 88 L.ED.2D 203 [1985] PREJUDICE SURROUNDING AN ATTORNEY'S FAILURE TO INVESTIGATE OR DISCOVER EXCULPATORY EVIDENCE DEPENDS ON THE LIKELIHOOD THAT DISCOVERY OF THE EVIDENCE WOULD HAVE LED COUNSEL TO CHANGE HIS RECOMMENDATION AS TO THE PLEA, AND A PREDICTION WHETHER THE EVIDENCE LIKELY WOULD HAVE CHANGED THE OUTCOME OF THE TRIAL, HILL V. LOCKHART.

WHEN THE ALLEGED ERROR OF COUNSEL IS A FAILURE TO ADVISE OF AN AFFIRMATIVE DEFENSE, THE OUTCOME OF THE PREJUDICE INQUIRY WILL DEPEND ON WHETHER THE DEFENSE WOULD HAVE SUCCEEDED.

STRICKLAND V. WASHINGTON, 466 U.S. 668, 695, 80 L.ED. 2D 674 [1984] PREJUDICE INQUIRY CAN BE SATISFIED IN THE CONTEXT OF A GUILTY PLEA CLAIM BY SHOWING THAT THE DEFENDANT WOULD HAVE RECEIVED A BETTER DEAL BUT FOR COUNSEL'S ERRORS. SEE ALSO UNITED STATES V. HOWARD, 381 F.3D 873, 882 [9<sup>TH</sup> CIR. 2004] TO SATISFY STRICKLAND'S PREJUDICE PRONG, A DEFENDANT MUST ALLEGE THAT BUT FOR COUNSEL'S ERRORS, HE WOULD HAVE EITHER GONE TO TRIAL OR RECEIVED A BETTER PLEA BARGAIN.

## APPELLATE BRIEF INADEQUATE

EVITTS V. LUCEY, 469 U.S. 387, 83 L.ED.2D 821 [1985]

SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL EXTENDS TO FIRST APPEAL AS OF RIGHT.

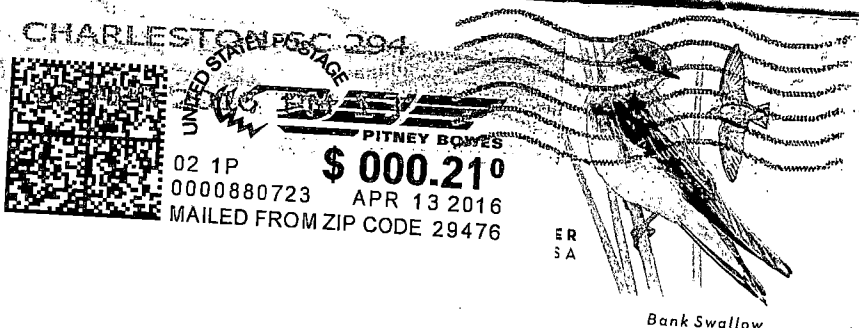
STALLINGS V. UNITED STATES, 536 F.3D 624, 627 [7<sup>TH</sup> CIR. 2008] IN ASSESSING WHETHER AN ATTORNEY WAS INEFFECTIVE FOR FAILING TO PRESENT AN ISSUE, COURTS LOOK FIRST TO SEE IF THE ATTORNEY MISSED A SIGNIFICANT AND OBVIOUS ISSUE; IF SO, THE COURT COMPARES THE NEGLECTED ISSUES TO THOSE ACTUALLY RAISED; IF THE IGNORED ISSUES WERE CLEARLY STRONGER, THEN APPELLATE COUNSEL WAS DEFICIENT; TO SHOW PREJUDICE, A PETITIONER MUST SHOW THAT THERE IS A "REASONABLE PROBABILITY" THE OMITTED CLAIM WOULD HAVE "ALTERED THE OUTCOME" OF THE APPEAL HAD IT BEEN RAISED.

COUNSEL SHOULD HAVE SUBPOENA DOCTOR AND A TOXICOLOGIST TO TESTIFY IN A MOTION TO SUPPRESS THE PRESCRIPTION DRUGS AND TO SHOW THE COURT WHAT DRUGS TURN TO OTHER DRUGS IN A HUMAN'S SYSTEM.

SO THESE DRUGS WOULD HAVE BEEN SEALED, SO A JURY WOULDN'T KNOW OF THEM. IF A PERSON IS UNDER PRESCRIBED MEDICATIONS, HE CAN NOT BE HELD CRIMINAL RESPONSIBLE OF THESE DRUGS IN HIS SYSTEM. THIS CASE SHOULD BE VACATED AND PETITIONER SET AT LIBERTY.

Michael Stragg  
PETITIONER

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*Legal Mail*  
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P.O. Box 11330  
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