

The State Of South Carolina
For State Supreme Court

Vaughn Hillard,
Petitioner

v.

The State Of South Carolina,
Respondent.

RECEIVED
JUN 20 2016
SC Court of Appeals

Appellant Pro Se Brief

Vaughn Hillard #364310
Lee Correction Institution
990 Wisocky Highway
Bishopville, S.C. 29010

Question Presented

Whether Trial Court Denial Of Directed Verdict Motion Was An Abuse Of Discretion?

Once a defendant has been afforded a fair trial and convicted of the offense for which he was charged, the presumption of innocence disappears. Here it is disputed the state met its burden of proving at trial petitioner was guilty of murder. Thus, in the eyes of the law, petitioner does not come before the court as one who is innocent, but on the contrary as one who has been convicted by due process of murder.

The court in *Jackson v. Virginia*, comes close to authorizing evidentiary review of state court conviction on federal habeas. There Jackson court held that evidence adduced at a state trial was not sufficient to convict a criminal defendant beyond a reasonable doubt. The type of review sought by petitioner here is different in critical respects than that authorized by Jackson.

First, the Jackson inquiry is aimed at determining whether there has been an independent constitutional violation, a conviction based on evidence that fails to meet the Winship standard. Thus, state courts act in their official capacity to assure petitioner is not being held in violation of his federal constitutional rights.

Second, the sufficiency of the evidence review authorized by *Jackson v. Virginia*, 443 U.S. 307 (1979) Jackson does not extend to nonrecorded evidence, including newly discovered evidence. Finally, the Jackson inquiry does not focus on whether the trier of fact made the correct guilt or innocence determination, but rather whether it made a rational decision to convict or acquit.

The court can not have confidence in outcome of trial, when evidence shows the witnesses testified victim was aggressor and petitioner was legally within his rights to take

all Precautions to avoid victim. However, the trial and Pre-trial evidence fails to Prove Guilt of Murder. Similarly, the Petitioner was on his own Property when crime was Perpetrated and the In most circumstances, this issue would answer itself in the negative. Our society has a high degree of confidence in its criminal trials, in no small Part because the constitution offers unparalleled Protections against convicting the innocent.

The question similarly would be answered in the negative today, except for the disturbing nature of claim before us. Petitioner contends not only that constitutions Protections "sometimes fail" but that their failure in case at bar resulted in a conviction for murder, even though he is factually innocent and evidence Proves it. In striking this balance, the court should adopt the view of Judge Friendly that there should be an exception to the concept of finality when Petitioner makes a colorable claim of innocence. "Friendly, Is Innocence Irrelevant? Collateral Attack On Criminal Judgments, 38 U. Chi. L. Rev. 142, 160 (1970)

In other words, even a Prisoner who appears to have had a constitutionally Perfect trial

"retains a Powerful and legitimate interest in obtaining his release from custody if he is innocent of the charge for which he was incarcerated."

38 U. Chi. L. Rev. at 159-160 n.87

In considering whether a Prisoner is entitled to relief on an actual innocence claim, this court should take into consideration all record evidence, giving due regard to its reliability.

Wherefore, it is Prayed court Grant writ.

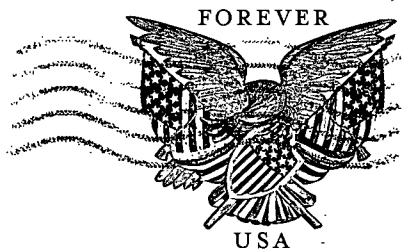
Date: _____ day of _____, 20____.

Respectfully Submitted:

sl _____
Vaughn Hillard/Pro Se

Vaughn Hilliard #364310 FIA-1154
Lee Correctional INST.
Bishopville S.C. 29010

COLUMBIA SC 292
16 JUN 2016 PM 4 L

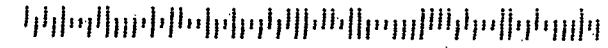


South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
Columbia, South Carolina SC Court of Appeals
29211

RECEIVED

JUN 20 2016

2921139999



RECEIVED

JUN 16 2016

LEE C I MAIL ROOM



THIS ENVELOPE IS RECYCLABLE AND MADE WITH 30% POST CONSUMER CONTENT



© USPS 2013