

1.

The Supreme Court of South Carolina
Harvard L. ROGERS, **RECEIVED** PETITIONER,

AUG 10 2016

VS.

S.C. SUPREME COURT

STATE OF South Carolina Respondent.

Appellate Case No. 2016-001333

PETITION FOR REHEARING

IN BANC

The PETITIONER moves for Rehearing on the grounds that the STATE failed to establish qualification of the person that drew his blood for a D.N.A. sample, pursuant to S.C. Code of Laws 23-3-630, only an authorized appropriately trained person may take a sample from which D.N.A. may be obtained. The newly discovered evidence shows that the person which drew the applicant's blood was not a licensed practical nurse, and the trial transcript shows that a witness for the state testified that MerKYLE Blackmon was a registered nurse. This was an illegal search and seizure in violation of the applicant's Fourth, Fifth, Sixth, and Fourteenth Amendment rights to the state and federal const., thus, applicant's conviction and sentence is in violation of the state and federal const. as the 1979 prior conviction for assault and battery was not classified as violate at that time, thus, applicant's 1998 indictment for assault and battery was without presentment by the Grand Jury as

2.

applicant was never indicted for that charge pursuant to 17-27-90, petitioner presented sufficient reasons why his PCR should not be dismissed as successive, and request this honorable court to reconsider his arguments as he is entitled to a fair trial, and have a due process right to be fully heard.

August 4, 2016

Raymond L. Rogers

The Supreme Court of South Carolina
Hayward L. ROGERS, 2785 **RECEIVED** Petitioner,

vs.

AUG 10 2016

S.C. SUPREME COURT

State of South Carolina,

Respondent.

Appellate Case No. 2016-001333

Certificate of Service

The undersigned hereby certifies that a copy of the motion for rehearing was served upon opposing counsel Patrick Schmeckpeper, Esq., by placing a copy in the U.S. mail postage prepaid.

August 4, 2016

Hayward L. Rogers

C.C. Patrick Schmeckpeper, Esq.

~~Code of Laws of South Carolina 1976 Annotated~~

Title 23. Law Enforcement and Public Safety

Chapter 3. South Carolina Law Enforcement Division

Article 9. State DNA Database

Code 1976 § 23-3-630

§ 23-3-630. Persons authorized to take DNA sample; immunity from liability.

Effective: January 1, 2009

Currentness

(A) Only an appropriately trained person may take a sample from which DNA may be obtained.

(B) A person taking a sample pursuant to this article is immune from liability if the sample was taken according to recognized procedures. However, no person is relieved from liability for negligence in the taking of a sample.

Credits

HISTORY: 1994 Act No. 497, Part II, § 131A; 2004 Act No. 230, § 2; 2008 Act No. 413, § 4.D, eff January 1, 2009.

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Code 1976 § 23-3-630. SC ST § 23-3-630

Current through 2016 Act No. 147, effective March 15, 2016, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

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State of South Carolina
Circuit Court Judge, At-Large, Seat 5

J. MARK HAYES, II
JUDGE

180 MAGNOLIA STREET, 2ND FLOOR
SPARTANBURG, SOUTH CAROLINA 29306
TELEPHONE: (864) 562-4144
FAX: (864) 562-4142
E-MAIL: mhayesj@sccourts.org

July 5, 2016

The Honorable Beth Carrigg
Lexington County Clerk of Court
205 East Main Street, Suite 146
Lexington, South Carolina 29072-3557

Re: Rogers v. State 2012-CP-32-3237

Dear Madame Clerk:

Enclosed please find a letter I have received from Mr. Hayward L. Rogers concerning his PCR case. Please incorporate his letter into the Court's file.

In advance, thank you for your cooperation and attention.

Respectfully,

J. Mark Hayes, II

Attachments

CC: ~~Hayward L. Rogers, #278510~~
Broad River Correctional Institution
4460 Broad River Road
Columbia, South Carolina 29210

David K. Allen, Esq.
206 East Main Street
Lexington, South Carolina 29072-3546

Patrick Schmeckpeper, Esq.
Post Office Box 11549
Columbia, South Carolina 29211

JMHII/smw

Hayward L. ROGERS, 278510
Broad River Correctional Institution
4460 Broad River Road
Columbia, South Carolina 29210

JUNE 23, 2016

Re: ROGERS v. STATE, 2012-CP-32-3237

Lexington County PCR

Dear Judge Hayes;

This is to notify you and the STATE that I have been framed and convicted for crimes I did not commit! Both counsel for the state and my lawyer David Allen lied to you at the January 14, 2016 hearing when they told you that they knew of no law where a person has to be authorized to take DNA sample. At my 201 trial the state established no evidence establishing that Merkyle Blackman was qualified to collect blood for DNA sample. The newly discovered evidence proves Blackman impersonated herself as a nurse to illegally take blood from me in violation of an illegal search and seizure in violation of my 4th, 5th, 6th, and 14th Amendments to the U.S. Const., and S.C. State Const. Blackman was not even an appropriately trained person, and the search warrant used was insufficient for probable cause, because the search warrant used was for the search of a dwelling, and not a search to draw blood by a body intrusion, and there was no court order pursuant to S.C. Code Ann.

2.

23-3-630. only an authorized appropriately Trained person
can collect blood for DNA Sample. Both Patrick Schmeckpeper,
ESq, and David K. Allen, ESq, Lied to you at That ^{hearings} hearing, and
you should see That Justice is served The proper way.

June 23, 2016

Raymond L. Rogers

CC: Daniel E. Shearouse
David K. Allen, ESq.
Patrick Schmeckpeper, ESq.

Hayward Rd L. ROGERS, 29855/0
Broad River Correctional Inst.
4466 Broad River Rd. MLT-19211
Columbia, S.C. 29210

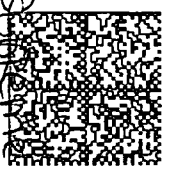
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