

RECEIVED The South Carolina Court of Appeals

AUG 29 2016

SC Court of Appeals

THE STATE, _____ RESPONDENT

v.

VICTOR EXPOSITO, _____ Appellant

APPELLANT CASE No. 2016-000010

ORDER TO FILE PRO SE
EXPLANATION

Now comes, the Appellant, VICTOR EXPOSITO STATES UNDER STRICKLAND VS. WASHINGTON, LOMAX VS. STATE, AND CHERYL V. STATE, 300 S.C. 115³⁷⁶ S.E., 2d 624 (1989) THAT THE APPOINTED LAWYER, MR. DE GRANT GIBBONS OF Second Judicial Circuit Public Defender Office did AND WILL FULLY VIOLATED THE APPELLANT'S RIGHTS OF PROPER REPRESENTATION. THE CONSTITUTIONAL RIGHTS VIOLATED UNDER THESE PROCEDURES ARE AMENDMENT 4, 6, 8, AND 14.

ARTICLE FOUR (IV) (4): THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS, AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES, SHALL NOT BE VIOLATED, AND NO WARRANTS SHALL ISSUE, BUT UPON PROBABLE CAUSE, SUPPORTED BY DATA OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THINGS TO BE SEIZED.

ARTICLE SIX (VI) (6): IN ALL CRIMINAL PROSECUTIONS, THE

ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT wherein the crime shall have been committed, which district shall have been previously ascertained by law, AND to be informed of the nature AND cause of the ACCUSATION; to be confronted with the witnesses AGAINST him; to have compulsory process for obtaining witnesses in his favor, AND to have the assistance of Counsel for his defence.

ARTICLE EIGHT (VIII): Excessive bail shall not be required, nor excessive fines imposed, nor cruel AND unusual punishments inflicted. AND

ARTICLE FOURTEEN (XIV): Section 1: All persons born OR naturalized in the United STATES, AND SUBJECT TO THE JURISDICTION thereof, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE wherein they reside. No STATE shall make or enforce any Law which shall abridge the privileges or immunities of citizens of the United STATES; nor shall any STATE deprive ANY person of life, liberty, or property without due process of law; nor deny to ANY person within its JURISDICTION the equal protection OF THE LAWS.

These AND several of the other constitutional RIGHTS were violated when the (defendants) Appellant(s) own counsel or attorney, Mr. DeGrant Gibbons, STATED THAT HE WAS GOING TO HAVE THE APPELLANT come forward in the COURTROOM UNDER THE HONORABLE JUDGE JACK EARLY because it is known that this JUDGE AROUND CHRISTMAS HOLIDAYS shows leniency toward drug offenses by giving fines or probation, AND Mr. Gibbons STATED, TO THE APPELLANT, Mr. Victor Exposito, that he would pull out (when) the circumstances was not going as he presented to him."

Also Mr. Debraunt Gibbons was unaware of the Appellant(s) criminal history thus making him unprepared and failed to properly advise Mr. V. Exposito, the Appellant, all of this is reason for arguable basis / explanation / identifying issues to be raised on Appeal.

This shows the court that under RULE 407, RPC 1.2 SCOPE OF REPRESENTATION (a):

A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to PARAGRAPHS (c), (d) AND (e), AND SHALL CONSULT WITH THE CLIENT AS TO THE MEANS BY WHICH THEY ARE TO BE PURSUED. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter.

In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to plea to be entered, whether to waive jury trial and whether the client will testify.

The above matter is the reason the Appellant, Mr. Exposito should have received the opportunity to wait for his original court date instead of gaining eight (8) years non-violent because he was not scheduled for this matter to be sentenced on December 15, 2015, in the Court of General Sessions, in the County of Aiken, in the State of South Carolina before the Honorable JUDGE (JACQ) ESTEY. In the disposition of the said indictment comes now the Appellant who was Pleads TO: Possession with Intent to Distribute Marijuana, 2nd violation of § 44-53-0310(b)(2) of the S.C. Code of Laws, hearing CDL Code # 0187, non-violent, AND INDICTMENT/CASE #! 2015GS 0200 995.

Another Arguable base that the Appellant presents to the South Carolina Court of Appeals under RULE 407, RPC 1.3 DILIGENCE AND PROMPTNESS in representing a client. THIS RULE; A lawyer shall act with reasonable diligence AND PROMPTNESS in representing a client. REQUEST AND

You see Mr. Debraunt Gibbons, put in a, "MOTION FOR Discovery, on April 10, 2015, to J. SIMON THURMOND, JR. SOLICITOR, second JUDICIAL CIRCUIT AND IT WAS HAND Pgn. 3 of 8

IT WAS HAND DELIVERED AS AFFIDAVIT OF SERVICE BY THE SECRETARY FOR THE AIKEN COUNTY PUBLIC DEFENDERS OFFICE WHOSE NAME IS TESA CULBERTSON ~~ATA~~ (SEE EXHIBIT ~~21~~) UNDER WARRANT/FINDINGMENT NOS.: 2015 AD2 102 00437, AT THAT TIME.

THEN YOU WILL SEE AS I, THE APPELLANT, VICTOR EXPOSITO HAVE BEEN DOING THE FOOT WORK TO OBTAIN THESE DOCUMENTS IN WHICH THE LAST LETTER I WROTE TO THE SOLICITOR STROM THURMOND, JR. ON AUGUST 9th 2016 WHICH WILL INCLUDE ALL MATTERS THAT MY LAWYER MR. DEBRAnt GIBBONS SHOULD BE HANDLING AND THEY ARE IN NUMBER SEQUENCE ONE (1) THROUGH SIX (6), (SEE ALL PAPERS AND NO RESULTS AS OF YET).

UNDER RULE 407, RPC 1.3 DILIGENCE, COMMENT SECTION SECOND (2ND) PARAGRAPH STATES:

PERHAPS NO PROFESSIONAL SHORTCOMING IS MORE WIDELY PRESENTED THAN PROCRASTINATION. A CLIENT'S INTERESTS OFTEN CAN BE ADVERSELY AFFECTED BY THE PASSAGE OF TIME OR THE CHANGE OF CONDITIONS; IN EXTREME INSTANCES, AS WHEN A LAWYER OVERLOOKS A STATUTE OF LIMITATIONS, THE CLIENT'S LEGAL POSITION MAY BE DESTROYED. EVEN WHEN THE CLIENT'S INTERESTS ARE NOT AFFECTED IN SUBSTANCE, HOWEVER, UNREASONABLE DELAY CAN CAUSE A CLIENT NEEDLESS ANXIETY AND UNDERMINE CONFIDENCE IN THE LAWYER'S TRUSTWORTHINESS.

ON JANUARY 8, 2016, SENT ME THE EXPLANATION OF HIS THOUGHTS FOR THE APPELLANT(S) APPEAL IN WHICH UNDER RULE 203(B)(iv), THE UNDERSIGNED ASSESS THAT HE DOES NOT HAVE GOOD FAITH BASIS TO BELIEVE THAT ANY ISSUES ARE PROPERLY BEFORE THE COURT OF APPEALS, AND THE UNDERSIGNED DID NOT OBJECT TO THE SENTENCE OR FILE A MOTION TO RECONSIDER THE SENTENCE UNDER THE BORIN V. SCDC (OPINION NO. 5361), IN WHICH THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORMS ACT OF 2010, AMENDED SUCH MATTERS AS MR. EXPOSITO, THE APPELLANT, HAVING THE SENTENCE SUSPENDED AND PROBATION GRANTED, AND IS ELIGIBLE FOR PAROLE, SUPERVISED FURLOUGH, COMMUNITY SUPERVISION, WORK RELEASE, WORK CREDITS, EDUCATION CREDITS, AND GOOD CONDUCT CREDITS."

FOR THIS MATTER WE BRING TO THE COURT'S ATTENTION
TO RULE 407, RPC 1.4 Communication;

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

UNDER COMMENT PARAGRAPH ONE (1) AND TWO (2) EXEMPLIFY THE NEEDED COMMUNICATION THAT WAS NOT STATED OR GIVEN TO THE APPELLANT BY HIS COUNSEL OR ATTORNEY OR LAWYER TO GRANT HIM, THE APPELLANT FURTHER TIME TO GAIN A REASONABLE ALIA OR OFFER.

PARAGRAPH ONE (1) SAYS;

THE CLIENT SHOULD HAVE SUFFICIENT INFORMATION TO PARTICIPATE INTELLIGENTLY IN DECISIONS CONCERNING THE OBJECTIVES OF THE REPRESENTATION AND THE MEANS BY WHICH THEY ARE TO BE PURSUED, TO THE EXTENT THE CLIENT IS WILLING AND ABLE TO DO SO.
FOR EXAMPLE, A LAWYER NEGOTIATING ON BEHALF OF A CLIENT SHOULD PROVIDE THE CLIENT WITH FACTS RELEVANT TO THE MATTER, INFORM THE CLIENT OF COMMUNICATIONS FROM ANOTHER PARTY AND TAKE OTHER REASONABLE STEPS THAT PERMIT THE CLIENT TO MAKE A DECISION REGARDING A SERIOUS OFFER FROM ANOTHER PARTY.

A LAWYER WHO RECEIVES FROM OPPOSING COUNSEL AN OFFER OF SETTLEMENT IN A CIVIL CONTROVERSY OR A PROFFERED PLEA BARGAIN IN A CRIMINAL CASE SHOULD PROMPTLY INFORM THE CLIENT OF ITS SUBSTANCE UNLESS PRIOR DISCUSSIONS WITH THE CLIENT HAVE LEFT IT CLEAR THAT THE PROPOSAL WILL BE UNACCEPTABLE, SEE RULE 1.4(g).
EVEN WHEN A CLIENT DELEGATES AUTHORITY TO THE LAWYER, THE CLIENT SHOULD BE KEPT ADVISED OF THE STATUS OF THE MATTER.

PARAGRAPH TWO(2) SAYS:

A adequacy of communication depends in part ON THE KIND OF ADVICE OR ASSISTANCE INVOLVED. FOR EXAMPLE, IN NEGOTIATIONS where there is time to explain A PROPOSAL, the lawyer should review ALL IMPORTANT PROVISIONS WITH THE CLIENT before proceeding to an ~~(AGREEMENT)~~ AGREEMENT. IN LITIGATION A LAWYER SHOULD ~~(REVIEW ALL IMPORTANT PROVISIONS)~~ EXPLAIN THE GENERAL STRATEGY AND PROSPECTS OF SUCCESS AND ORDINARILY SHOULD CONSULT THE CLIENT ON TACTICS THAT MIGHT INJURE OR COERCE OTHERS. ON THE OTHER HAND, A LAWYER ORDINARILY CANNOT BE EXPECTED TO DESCRIBE TRIAL OR NEGOTIATIONS STRATEGY IN DETAIL. THE GUIDING PRINCIPLE IS THAT THE LAWYER SHOULD FULFILL REASONABLE CLIENT EXPECTATIONS FOR INFORMATION CONSISTENT WITH THE DUTY TO ACT IN THE CLIENT'S BEST INTERESTS, AND THE CLIENT'S OVERALL REQUIREMENTS AS TO THE CHARACTER OF REPRESENTATION.

IN A CONCLUSION of the Appellant, Victor Exposito is ASKING THE COURTS TO GRANT HIM THE REST OF HIS TIME TO BE SUSPENDED AND PLACED ON PROBATION ACCORDING TO WITH CASES OF FOWLER V. SDC AND BOLIN V. SDC.

THE APPELLANT WOULD LIKE TO THANK THE COURTS FOR RECEIVING HIS EXPLANATION AND FOR THE DECISION YOU MAKE FOR ~~AN~~ AGAINST HIM IN THESE MATTERS. YOUR COOPERATION AND TIME IN THESE MATTERS IS GREATLY APPRECIATED.

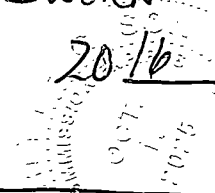
RESPECTFULLY SUBMITTED,
BY,

Victor M. Exposito
VICTOR EXPPOSITO, 336796

DATE: AUGUST 22nd, 2016

Affiant declares under the penalty of perjury the facts
set forth here in are true and correct this
23 day of August, 2016.

Sworn to before this 23 day of August,
2016.

 Sereya Ferguson
Notary Public / of South Carolina
Commission expires:
10-1-25

Victor M. Exposito
Victor Exposito, Appellant

- Enclosed: (1) LETTER TO SOLICITOR
STROM THURMOND JR.
- (2) REQUEST AND MOTION FOR DISCOVERY
 - (3) AFFIDAVIT OF SERVICE (Hand Delivery)
 - (4) LETTER FROM Aiken Clerk of Court
Criminal Division
 - (5) LETTER TO THE CLERK OF COURT
Aiken County Judicial Circuit
 - (6) LETTER TO MRS. ANGEL MILES
Deputy Clerk, Criminal
Division Aiken County
 - (7) LETTER TO Mr. Debraunt Gibbons
Appellant's Public Defender

Certificate of Service

I, Victor Exposito, certify I have deposited in the U.S. Mail Deposit (1) ORIGINAL "ORDER TO FILE PROSE EXPLANATION" IN THE South Carolina Court of Appeals IN THE STATE OF SOUTH CAROLINA, POST OFFICE BOX 11629 COLUMBIA, SOUTH CAROLINA 29211 & CC; The FOLLOWING LISTED below via ECF & via Prepaid Postage.

This 23 day August month
2016 year

Severly Ferguson

10-1-25

*Sincerely,
1st Victor Exposito*

VICTOR EXPPOSITO, 336796
RCI GA 24
PO BOX 2039
RIDGELAND, SC. 29936-2039

cc: Clerk of Court
Aiken County Judicial Circuit
POST OFFICE BOX 583
Aiken, South Carolina 29802

cc: J. William Weeks
DEPUTY SOLICITOR
POST OFFICE DRAWER 3368
Aiken, South Carolina 29802

cc: Mr. Debraunt Gibbons
Appellant's Attorney
POST OFFICE DRAWER 2247
Aiken, SC. 29802

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VICTOR EXPOSITO, 336 796
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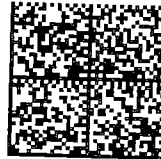
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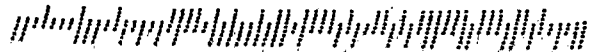
South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, SC 29211



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