

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Aiken County

R. Knox McMahon, Circuit Court Judge

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JAN 25 2016
JAN 25 2016
SC SUPREME COURT
SC SUPREME COURT

DARRIN HOLSTON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLANT CASE NO. 2015-000666

SUPPLEMENTAL APPENDIX

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MEMORANDUM OF LAW IN SUPPORT OF POST-CONVICTION RELIEF APPLICATION
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State of South Carolina)
 County of Aiken)
)
 Darrin Darrell . Holston)
 Applicant)
 v)
 State of South Carolina)
Defendant)

State of South Carolina
 Second Judicial Circuit

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JAN 04 2016

S.C. SUPREME COURT

MEMORANDUM OF LAW
 IN SUPPORT OF
 POST-CONVICTION RELIEF APPLICATION

The applicant in the above captioned case respectfully submits this
 MEMORANDUM OF LAW in support of sections 10(B) and 11(B) of applicants Post-Conviction
 Relief Application

Filed 4 15 13
Liz Hodson
 D.C.P. & S.
Anita Knoepfle
 Deputy Clerk

4-9-13

Darrin D. Holston
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 Q4A-101

Applicant contends a Constitutional violation in that the prosecution denied applicant due process of the law in violation of South Carolina Constitution Article one section three and the fourteenth Amendment of the United States Constitution.

Applicant contends prosecution denied him a right to a fair trial in the following manner:

Prosecutor Kevin Malony failed to correct misstatements be alleged victim Willie Walker

Applicant contends a Constitutional violation in that the prosecution denied applicant due process of the law in violation of South Carolina Constitution Article one section three and the fourteenth Amendment of the United States Constitution.

At the 2011 trial, alleged victim Willie Walker was asked on three separate occasions by trial counsel had he locked the door behind him on July 17, 2010 the night of the incident (Tr. p 10L.18-20; p.102 L.3-5; and p. 102 L.19-25). Alleged victim emphatically denied having locked the door but indicated if the door was open he left it open neglecting to mention that he informed Inv. James D Sanders that he had "locked the door on the way out hopefully to deter suspect from going inside" (Supplemental report of lead Inv. James D. Sanders p.3 para. 3 L.8; and Inv. Sander Cross-examination Tr p.192 L. 10-19) and informed Lt. Eric Abdullah that " the keys to the doors were on the key ring in his vehicle" (Supplemental report of Inv. James D. Sander p.2 para 5 L. 8-9). Mr. Malony was I possession of the report, as it is his investigative branch that questioned the alleged victim prior to trial and he heard the sworn testimony of his lead Investigator James D. Sanders, so legally what lead Investigator Sanders knew must be imputed to prosecutor Kevin Malony and he failed to correct alleged victim Willie Walkers testimony. Walker's testimony created a false impression of a material fact obtaining a tainted conviction.

Thus the issue is not why alleged victim Willie Walker failed to tell the truth, rather, it is why prosecutor Kevin Malony, who knew Walker's testimony to be false, failed to correct it. Cf. Washington V. State 324 S.C. 232, 478 SE 2d 833 (1996); Giglio V. United States 405 U.S. 150, 154, 92 S.ct 763 (1972).

Conclusion

Applicant contends that the foregoing issue and facts as set forth in this memorandum of law is sufficient to constitute a claim of Prosecutorial Misconduct and as such deny the applicant his guaranteed right to a fair trial afforded by the South Carolina constitution Article one section three and the fourteenth amendment of the United States Constitution. Applicant moves this honorable court to set aside conviction and sentence and remand for a new trial.

Date 4-9-13

