

Clerk Daniel E. Shearouse  
Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211

RECEIVED

JUN 19 2017

S.C. SUPREME COURT

Date: June 14, 2017

Dear Clerk Shearouse,

Please find enclosed for filing my  
pro-se brief.

Would you be so kind as to return me back  
a filed copy.

Thanking you in advance.

Sincerely,

Charli Belser # 331210

# PROOF OF SERVICE

I Charlie Belser certify that I have served my pro-se brief upon the below Hon. Clerk of Court. By placing the above said into the Turbeville Corr. Inst. mail room on this 17 day of June to be placed in the U.S. mail.

with postage prepaid  
Clerk Daniel E. Shearouse  
Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, S.C. 29211

RECEIVED

JUN 19 2017

S.C. SUPREME COURT

Sworn to before me

This 17<sup>th</sup> day of June 2017 s/ Charlie Belser

Emily Holz  
Notary Public

my commission Expires 5-18-26

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

RECEIVED

JUN 19 2017

S.C. SUPREME COURT

Appeal from Clarendon County  
Honorable Brooks P. Goldsmith, Circuit Court Judge

The State

Respondent

v

Charlie Belser

Appellant

PRO-SE BRIEF

NO 2016-001705

Charlie Belser # 331210  
Turbeville Corr Inst SB 255 A  
1578 Clarence Coker Hwy.  
Turbeville, SC 29162

Appellate Defender for App.

Kathrine H. Hodgins

# TABLE OF AUTHORITIES

## Cases

- State v Armstrong (S.C. 1975) 263 S.C. 594, 211 S.E. 2d 889 \_\_\_\_\_
- State v Brown 360 S.C. 581, 602 S.E. 2d 392 \_\_\_\_\_
- S.C. Dept. of Social Services v Forrester (S.C. App 1984) 282 S.C. 512, 320 S.E. 2d 39 \_\_\_\_\_
- Pauling v State 503 S.E. 2d 468 (S.C. 1998) \_\_\_\_\_
- Martinez v. State 304 S.C. 39, 403 S.E. 2d 113 (1991) \_\_\_\_\_
- State v Warren (S.C. 1998 App) 330 S.C. 584, 500 S.E. 2d 128 \_\_\_\_\_
- Lorenzen v State (1998) 376 S.C. 521, 657 S.E. 2d 771 \_\_\_\_\_
- Ingle v State, 560 S.E. 2d 401 (SC 2002) \_\_\_\_\_
- State v Brownlee, 318 S.C. 34, 455 S.E. 2d 704 (Ch. App. 1995) \_\_\_\_\_
- State v Rosemond, 560 S.E. 2d 636 S.C. App 2002 \_\_\_\_\_
- State v McHenry (2001) 344 S.C. 85, 544 S.E. 2d 30 \_\_\_\_\_
- State v Megget (SC App 2012) 398 SC 516, 728 S.E. 2d 492 \_\_\_\_\_
- State v Claypoole (2006) 371 S.C. 473, 639 S.E. 2d 466 \_\_\_\_\_
- Glover v State, 318 SC 469, 458 S.E. 2d 538 (1995) \_\_\_\_\_

## Statutes

S.C. Code § 16-3-655 (B) (2) \_\_\_\_\_

## STATEMENT OF ISSUE ON APPEAL

Whether PCR judge erred in denying appellants PCR case when trial attorney was ineffective for not making timely directed verdict motion when state rested, and for failing to call an DNA expert for secondary transfer for the defense to contradict state's DNA witness testimony of secondary transfer and for relying solely on state's DNA witness testimony of secondary transfer to help with case for the defense; also for not presenting into evidence for the defense the Serology Analysis results which shows appellants innocence. Should have questioned authenticity of underwear since victim's DNA was not found in panties and mother testified to having sexual relationship with me.

## STATEMENT OF THE CASE

For the record of this brief, the Appellant agrees with the Appellant Defender's statement upon her Johnson Petition for Writ of Certiorari that PCR judge erred in refusing to find trial counsel ineffective for not calling an expert to testify at trial in regard to secondary transfer of DNA, a main component of the defense.

## ARGUMENT

The PCR judge erred in denying Appellant's PCR case for ineffective assistance of counsel when trial attorney clearly was ineffective for not providing DNA expert of secondary transfer at appellant's request where as secondary transfer was the main component of the defense, trial attorney was also ineffective for not making directed verdict motion when state rested knowingly that state didn't have in evidence a element of CSC to get a conviction.

According to S.C. 2014 criminal defense counsel has duty to interview potential witness and to make an independent investigation of the facts and circumstances of the case. U.S.C.A. Const. Amend 6. A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonable available mitigation evidence tending to rebut or oppose any aggravating evidence introduced by the state. Ineffective assistance of counsel: South Carolina Code of Laws Title 17-23-100. In general: The failure of defendant to object or to request additional instructions, when opportunity is afforded, constitutes a waiver of any rights to complain on appeal of errors in the charge. Also according to South Carolina Code of Laws Title 17-23-100 failure to timely request a specific charge or charges constituted a waiver of any right to complain on appeal of asserted errors in the charge: example "Directed Verdict motion" (State v Armstrong S.C. 1975) 263 S.C. 594, 211 S.E. 2d 889. The effective assistance of counsel is a necessary requisite or in other words absolutely needed or necessary of due process of law. And in part of me or my 14<sup>th</sup> Amendment

being violated in my conviction the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every not some but every fact necessary to constitute the crime with which he is charged. I have been charged, accused, and convicted of CSC 2nd degree w/ a minor B. According to the statute of CSC 2nd degree w/ a minor B) it states that a person is guilty of CSC 2nd degree if the actor engages in sexual battery with a victim who is at least 14 years of age but who is less than 16 yrs of age and the actor not or but and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim. (Elements of CSC w/ minor 2nd degree are as follows: 1) the actor engages in sexual battery 2) with a victim who is at least 14 years of age, but who is less than 16 yrs. of age 3) and the actor is in a position of familial custody or is older than the victim. There are three elements of CSC w/ minor 2nd degree B to be proven for a guilty conviction to occur. Under State v Brown 360 S.C. 581, 602 S.E. 2d 392 when the state fails to present sufficient proof of all the elements of the offense, a conviction must be reversed and a judgement for the defendant

must be rendered. The 14<sup>th</sup> Amendment Due Process Clause and the 6<sup>th</sup> Amendment right to a jury trial entitle a criminal defendant to a jury determination that he is guilty of every element of the crime which he is charged beyond a reasonable doubt. To be in violation of 16-3-655 the actor must engage in a sexual battery with the victim. On page 216 in the transcript lines 8-10 trial judge clearly states that the legal issue in this case is whether sexual conduct occurred or didn't occur. South Carolina Dept. of Social Services v Forrester (S.C. App 1984) 282 S.C. 512, 320 S.E. 2d 39 [According to S.C. Dept of social services v Forrester under 11.) Infants - to be in violation of statute prohibiting criminal sexual conduct w/ minors actor must engage in sexual battery with victim.] On page 294 in transcript lines 16-25 trial judge says that state must prove beyond a reasonable doubt that the defendant engaged in a sexual battery with the victim. He defined sexual battery as intercourse - sexual intercourse. In this brief I'm alleging ineffective assistance of counsel on my trial attorney 1.) on the bases of not calling expert witness at my request for the defense to contradict what state's DNA expert testified to of secondary transfer not being likely in this case and for relying only on

the testimony of state's DNA witness Adrian Hefney,<sup>2)</sup> not making a motion for directed verdict when state rested and also<sup>3)</sup> for failure to present forensic evidence at trial of examination of victim and for not calling Dr. Keith to testify to the lack of evidence that proved no sexual intercourse between victim and myself. My PCR lawyer also erred in not presenting evidence such as Serology Analysis examination that proves that there was none of my DNA on or about the victim and there was no proof of sexual intercourse ever happening, PCR attorney also denied my request of forensic expert present at my PCR hearing to testify to secondary transfer and to prove that secondary transfer were the reason my DNA was found and if my trial attorney would have provided a forensic expert of secondary transfer for the defense the result of the trial would have been different and would have resulted in an acquittal in the case. Also on page 216 lines 4-5 trial judge says that the state isn't alleging attempt, they're alleging actual sexual conduct or sexual intercourse. On page 181 in the transcript lines 15-22 the state offered into evidence exhibit 1 underwear without objection from trial lawyer. Trial lawyer should have

objected to the underwear being placed into evidence by the state because he knew that they were using these underwear to show that they were the victim's panties, that the victim was wearing these underwear before and after alleged sex with me when SLED Serology Analysis was done and none of their swabs tested positive for my semen, but the panties that had my DNA in them when tested for female victim's DNA it was insufficient for interpretation and couldn't prove that panties belonged to victim. There has been nothing at this time of the trial to show that the underwear proved or shown a sexual assault occurred so for trial attorney not to object to the hearsay statement of victim's underwear worn before and after the sexual assault shows his ineffectiveness. In Pauling v State 503 S.E. 2d 468 (S.C. 1998) charged with CSC 1st degree the only evidence of sexual battery was victim's testimony, there was no corroborating physical evidence of penetration or any forensic evidence of sexual assault. Further down in Pauling v. State Dr. Pernel testified she found no lesions, cuts, or tears while performing a pelvic examination on the victim. The triage nurse testimony of the victim's

statement shortly after the assault would've been crucial, both as substantive evidence that a sexual battery didn't occur (and therefore there was no CSC) and as evidence to impeach the victim's credibility. On page 275 in transcript lines 10-18 trial attorney speaks of victim going to doctor and examination being done along with vaginal swab, anal swab, oral swab and none of that is put into evidence. Why? Because it didn't show or prove anything and then on page 278 lines 7-20 he speaks of Dr. Keith who done the examination on victim should and could have been present to back what state was alleging but that he wasn't there and couldn't testify to that cause like he admitted on page 275 lines 10-18 because there was no proof of any sort that sexual intercourse occurred. Under Martinez v State, 304 S.C. 39, 403 S.E. 2d 113 (1991) where trial counsel admits the testimony of a certain witness may have made a difference in obtaining an acquittal, the court may find ineffective assistance. In State v Warren (S.C. 1998 App) 330 S.C. 584, 500 S.E. 2d 128- to be in violation of 16-3-655 the actor must engage in sexual battery.

In Lorenzen v State (1998) 376 S.C. 521, 657 S.E. 2d 771 - accused of CSC w/ minor 2nd degree the judge found that Lorenzen counsels "failure to properly and adequately prepare for the trial and prepare Lorenzen's defense in general amounted to a complete denial of counsel and failed to subject the prosecution's case to a meaningful adversarial testing. Based on this assessment, the judge granted Lorenzen's application because essentially, trial counsel was ineffective for failing to prepare and present Lorenzen's case as required under the 6th amendment. Page 8 in trial transcript lines 14-20 trial attorney states as being given the opportunity to talk to me that has not occurred. So he and I have not had a chance to prepare together for this case. On page 65 lines 11-16 he states given the totality of the circumstances in this case with the fact that him and I have not been able to prepare, and he and I had no chance to cumulatively review her report, talk about his defense, etc. Now on page 380 in transcript and page 48 in PCR transcript lines 8-25 he clearly states he

could have gotten a DNA expert for the defense to come in, and on lines 13-15 he says if you can get the state's expert to say what you want them to say, then, you know, I think that's better for our case, then lines 16-19 he says unless there is a overbearing reason to have an expert or to put on somebody, I try not to put up any witnesses so we always get the last argument. Now on page 381 or page 49 in PCR transcript when asked on line 6 what was y'all's overall trial strategy in this case? Lines 7-13 he states how secondary transfer was a big thing to appellant and on lines 12-13 he admitted that secondary transfer was our overall trial strategy but he clearly relied on the state's DNA expert to help with our defense of secondary transfer when on page 205 lines 17-21 when asked could state's DNA expert Adrian Hefney rule out in this situation that this case was a result of secondary transfer she answered I couldn't rule that out. She continues that would be unlikely, but I couldn't rule it out. Now under Lorenzen v State (2008) 376 S.C. 521, 657 S.E. 2d 771 charged with CSC w/ minor 2nd degree at the PCR hearing Lorenzen testified that he believed that his lawyer or trial counsel should have retained an expert witness to 1) examine him to prove that he was not a pedophile, 2) discuss the lack of physical evidence

of sexual abuse. Specifically the judge found counsel failed to retain or even consult with an expert witness. Now if <sup>trial attorney</sup> he would have retained DNA expert of secondary transfer for the defense the expert could have testified that this case was a result of secondary transfer to oppose what state witness testified to and trial attorney depended solely on state's witness testimony. Once again according to S.C. 2014 criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the state. Under Ingle v. State 560 S.E. 2d 401 (S.C. 2002) found guilty of CSC 1st degree and lewd act upon a child. [In addition, the petitioner claims counsel "absolutely destroyed" his theory of defense by eliciting testimony from the forensic serologist that semen could not have been transferred from the bed sheets to the victim's shorts. The court granted petitioner review of four questions raised in the petition for a writ of certiorari. None of the questions raised in the petition address trial counsel's examination of the forensic serologist. (PCR court denied relief to petitioner and ruling was reversed) And in my case my trial lawyer most definitely absolutely destroyed my theory of defense of secondary transfer by relying solely on state's witness testimony and not providing witness for the defense where as state's witness testimony

damaged my theory and defense of secondary transfer. My next issue on ineffectiveness of trial counsel was that though he questioned the serologist expert on findings of forensic evidence he never put into evidence the Serology Analysis for the defense emphasizing thoroughly the findings of each swab being negative with my DNA, and even though my DNA was found in the panties, the panties was insufficient for interpretation for the victim's DNA and could rule out 1) that they belonged to victim and 2) that sexual intercourse took place. Even my appellate defender Katherine Hudgins said on page 5 in her brief that while counsel in the present case was able to cross examine the state's DNA expert, the expert testified that the defense theory of secondary transfer was unlikely. Trial counsel was ineffective in not calling a defense DNA expert to validate the secondary transfer theory. There is a reasonable probability that, but for counsel's deficient performance, the result of the proceedings would have been different. My next motion for trial attorney ineffective assistance is failing to make timely directed verdict motion when state rest and close its case not having the evidence in to get a conviction where as upon realizing this the state ask to reopen its case to put into evidence to prove their case and get a conviction which they did. According to South Carolina

Code of Laws Title 17-23-100 Failure to timely request a specific charge or charges constituted a waiver of any right to complain on appeal of asserted errors in the charge

(State v Armstrong S.C. 1975 263 S.C. 594, 211 S.E. 2d 889.

In State v Brownlee 318 S.C. 34, 455 S.E. 2d 704 (Ct. App. 1993)

accused is entitled to a directed verdict when the evidence merely raises a suspicion of guilt. When the state fails to present sufficient proof of all the elements of the offense, a conviction must be reversed and a judgement for the defendant must be rendered: (State v. Brown 260 S.C.

581, 602 S.E. 2d 392) The 14<sup>th</sup> Amendments Due Process

clause and the 6<sup>th</sup> Amendment right to a jury trial entitle

a criminal defendant to a jury determination that he is guilty of every element of the crime with which he is

charged beyond a reasonable doubt. Now up to the state resting its case there has been no evidence proving sexual intercourse with victim. Every forensic swab SLED done

to link me to the victim tested negative. For my semen and DNA. The one piece they used which contained my DNA tested negative and insufficient for interpretation when trying to match panties to victim, her DNA was found no where in the panties so how could they say that

panties belonged to the victim. According to the law evidence is the only thing that proves something, the victim's testimony and statements that panties belonging to victim is all hearsay cause no evidence proves any of those theories. Now on page 208 lines 7-8 in transcript where as state rest and there was no evidence put in at time to support any elements of CSC 2nd w/ minor the state rested and Mr. Robinson then should have made motion for directed verdict of acquittal and upon realizing not putting into evidence for a conviction on page 210 line 23 the state then asks to reopen the case. Mr. Robinson didn't make his directed verdict motion until the state was granted to reopen and he now makes motion on page 220 lines 25 where as judge granted state's motion to reopen on page 213 lines 15-16. State v Rosemond, 560 S.E. 2d 636 S.C. App 2002 - defendant is entitled to directed verdict when state fails to produce evidence of charge. State v McHoney (2001) 344 S.C. 85, 544 S.E. 2d 30 - accused also is entitled to a directed verdict when the state fails to present evidence of the offense charged. State v Megget (SC App 2012) 398 S.C. 516, 728 S.E. 2d 492 - charged with 1st degree CSC and 1st degree burglary at the close of the state's case, Megget moved for a directed verdict. Under State v Claypoole (2006) 371 S.C. 473, 639 S.E. 2d 466 - court stated that a defendant is entitled to a directed verdict at trial level when the state does not produce evidence of the offense

charged. Now in page 6 of my Anders brief filed by appellant attorney Katherine Hudgins she states "Prior to closing, however, the state offered no evidence that Appellant was over eighteen. If the state had not recalled Investigator Richards and Appellant had moved for a directed verdict because the state failed to prove that appellant was over 18 years of age, an element of CSC second degree, the judge would have erred if he had not directed a verdict of acquittal. So Mr. Robinson was very ineffective for not making directed verdict motion and causing me a conviction and costing me my freedom. My last motion is against my PCR attorney Lance Boozer. Mr. Boozer was ineffective for denying my motion for forensic specialist to testify at PCR hearing of secondary transfer and proving my innocence along with him presenting as evidence the Serology Analysis that showed my innocence. Under Bradley v State (Roderick Bradley) ← CSC 2nd degree w/ minor. According to the PCR courts they find that Bradley's PCR allegation of ineffective assistance of counsel failed on his merits. At the PCR hearing, Bradley chose to rely on the record and presented no evidence of prejudice. I wrote Mr. Boozer and requested a forensic expert to testify at PCR hearing to help prove my case and he denied my request. Relying on Glover v State, 318 SC 469, 458 S.E. 2d 538 (1995) the state maintains the petitioner failed to meet

his burden of proof because triage nurse did not testify at PCR hearing. In Glover the court held in order to support a claim that trial counsel was ineffective for failing to interview or call potential alibi witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses testimony in a manner consistent with the rules of evidence.

## CONCLUSION

Based on the foregoing arguments counsel's motion to be relieved as Appellant's counsel should be denied. And, ordered to fully brief her issue and or Appellant arguments upon his pro-se brief. Where Appellant's case should be remanded back to Clarendon County / General Sessions court with instructions for a directed verdict of acquittal where the state has failed to prove beyond a reasonable doubt that Appellant is guilty of crime charged and that Appellant was older than eighteen (18) years of age.

Date:

Respectfully Submitted

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION

## FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY  
Governor



MARK A. KEEL  
Chief

Ricky Richards  
Clarendon County Sheriff's Office  
P.O. Box 1289  
Manning, SC 29102

**DNA ANALYSIS**  
October 19, 2012  
SLED LAB: L11-10075  
Your Case No: 110813315  
Incident Date: 8/13/2011  
[V] Shanisty Billups  
[S] Charlie Belser

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief  
South Carolina Law Enforcement Division

### SEROLOGY ANALYSIS

<u>Items Submitted:</u>	<u>Results of Examinations:</u>
1 Sexual Assault Evidence Collection Kit from Shanisty "Keels"	
1.1 Blood standard from Shanisty Keels	1.1 No analysis performed.
1.1.1 Dried blood standard from Shanisty Keels	1.1.1 See DNA analysis.
<del>1.2 Smears-vaginal, oral, and rectal</del>	<del>1.2 No analysis performed.</del>
<del>1.3 Vaginal swabs</del>	<del>1.3 No semen identified.</del>
<del>1.4 Oral swabs</del>	<del>1.4 No semen identified.</del>
<del>1.5 Rectal swabs</del>	<del>1.5 No semen identified.</del>
1.6 Fingernail scrapings	1.6 See DNA analysis.



**Items Submitted:**

**Results of Examinations:**

1.7	Known head hairs	1.7	No analysis performed.
1.8	Known pubic hairs	1.8	No analysis performed.
<del>1.9.1</del>	<del>Hair from pubic combings</del>	1.9.1	See DNA analysis.
<del>2.1</del>	<del>Cutting from underwear</del>	2.1	<del>Semen identified. See DNA analysis.</del>
3	Buccal swab from Charlie Belser	3	See DNA analysis.

**DNA ANALYSIS**

**ITEMS ANALYZED:**

1.1.1 Dried blood standard from Shanisty Keels  
3 Buccal swab from Charlie Belser

1.6 Fingernail scrapings  
~~1.9.1 Hair from pubic combings~~  
~~2.1 Cutting from underwear~~

**EXAMINATIONS**

DNA analysis was performed on the items above. The results of Short Tandem Repeat (STR) PCR DNA analysis are shown in Table 1.

**RESULTS**

The DNA profile developed from the semen on item 2.1 matches the DNA profile of Charlie Belser. The probability of randomly selecting an unrelated individual having a DNA profile matching the semen on this item is approximately 1 in 16 quadrillion.

No DNA profile foreign to the victim, Shanisty Keels, was developed from item 1.6.

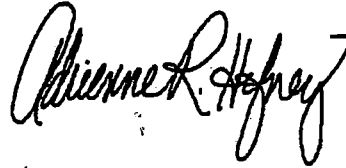
~~The DNA profiles developed from items 1.9.1 and the non-sperm fraction of item 2.1 are insufficient for reliable interpretation.~~



SLED LAB No. L11-10075  
October 19, 2012

Page 3 of 4

Note: Any remaining evidence and/or packaging will be returned to the requesting agency.



Adrienne R. Hefney  
Forensic Scientist



October 15, 2015

Dear Mr. Boozer,

I'm writing you in reference of obtaining a forensic expert or specialist for my defense to contradict and to prove the case of secondary transfer of the semen being found in the panties supposedly of the victim, and I say supposedly because the female DNA portion found in the panties was said to be insufficient for interpretation or for identification of victim so who can say that the panties belonged to the victim. Now back to the matter at hand, Sted agent Adrien Hefmy testified on page: 205 lines 6-21 in the trial transcript that she can't rule out secondary transfer even though she wouldn't get a strong DNA profile like this one, she still couldn't rule out secondary transfer. Whereas Mr. Robinson could have had another forensic expert test the cuttings of the panties and the semen found for the defense to show and prove that the semen found there came from secondary transfer and not from actual sexual intercourse. So I would like to show that in my PCR case and would like to have a forensic expert to testify at my PCR hearing on my behalf and to discredit the credibility of the panties cause that's the only holdings to support victims testimony of sexual intercourse. Now according to § 17-27-60 Court costs and expenses for indigents it states that if the applicant is unable to pay court costs and expenses of representation, including stenographic, printing and legal

services, these costs and expenses shall be made available to the applicant in the trial cost, and on review, in amounts and to the extent funds are ~~made~~ made available to indigent defendants by the General Assembly so I think that its key for me to show at my PCR hearing how I've been prejudiced and what the outcome would have been if my defense counsel had a forensic expert to testify to and about secondary transfer and the possibility that the semen in pants came from secondary transfer, and I would like to have one available at my PCR to testify on my behalf of the ~~possibility~~ possibility of secondary transfer not actual sex itself. I'm sending you this letter as I keep a copy for myself and for my records. Thank you in advance for your consideration in this matter.

Sincerely,

Charles A. Belsir # 331210

Charles Belsir # 331210

December 01, 2015

Dear Mr. Bozco,

I am writing in reference of your response to my request to obtain a forensic expert to prove secondary transfer. First and foremost to show prejudice component of ineffective assistance claim, the PCR applicant must show that, but for counsel's errors, there is a reasonable probability the result of the trial would have been different. For petitioners to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonable effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective assistance. According to S.C. 2014 criminal defense counsel has duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case. U.S.C.A. Const. Amend 6. A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the state. Now the key evidence in my case was the panties and the testimony of the panties. Now the expert actually testified that though were able to <sup>match</sup> my DNA profile to the underwear, they were unable to match and identify the female DNA profile found in the same underwear, or even rule out that the female DNA profile came from the mother. Now here's the

issue at hand, why were the state using the panties as evidence? Because other than the victim alleging sexual intercourse the panties were the only supposedly concrete evidence to prove sexual intercourse. So now my defense is to argue against state evidence which is the panties, and if my defense is against the sex occurring or how my DNA was found in the panties I have to prove <sup>that</sup> what the state is alleging is false and prove how its false. So its important for me to have my expert forensic witness to justify to secondary transfer being the reason for my DNA being in the panties and not that <sup>it</sup> happened because of sex occurring between the victim and I which is what the state argued and is using as why my DNA was found in the panties. And like S.C. 2014 criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available evidence tending to rebut any aggravating evidence introduced by the state. So its my job along with my defense attorney to rebut any aggravating evidence introduced by the state which was the panties. Yes the state's DNA expert Adrien Hafary said that she cant rule out secondary transfer but she also didnt say that secondary transfer was the case, so for that reason my defense attorney should have <sup>had</sup> a forensic expert for the defense to show secondary transfer and secondary transfer only case its my job to show in my PCR what would've been different if I wasn't prejudiced in my counsel's ineffectiveness, so I must show and argue against the state's only evidence

which is the penties. So I want and need a forensic ~~expert~~ expert to testify to the secondary transfer for my defense of my PCR hearing cause its key for me to show what would have happened which is no conviction for the charge cause those penties was the states only defense to supposedly sex occurring. And when the state fails to present sufficient proof of all the elements of the offense, a conviction must be reversed and a judgment for the defendant must be rendered: (State v. Brown 360 S.C. 581, 602 S.E. 2d 392) Now I would also like to address the issues you are putting in on my PCR, I do not want you to deter from the original issue which is the judge forcing my attorney to go forward in the trial when my lawyer clearly told him that he wasn't prepared to try my case and that I had retained a paid attorney to represent me who wasn't there at the time and the judge still forced the public defender to represent me and go head with the trial which led to Mr. Robinson's ineffectiveness, but the trial judge is greatly accountable for my lawyers ineffectiveness and I want him held ~~at~~ accountable for it as well in the record and for the records. In fact I would like copies of all the issues you have plans to submit for the PCR before you submit it so I could see and make sure that everything ~~is~~ is addressed that I need and want addressed so I would know what to amend to my applications. Because this is my freedom at hand and I only get 1 shot to my case and my innocence in this PCR case, so yes I still want a forensic expert for the defense of secondary transfer and I want to see list

what you're filing before you file it and send it. I'm writing you this letter of notice as I keep a copy for my records and for myself as well. For the issue at hand is that the secondary transfer is key because it was never argued for cause it was not the issue at trial to prove the case for the state, the state issue for the DNA in the parties was sexual ~~intercourse~~ intercourse, and the issue for the defense is and should have been secondary transfer to dispute their findings of sexual intercourse and to prove the strength of secondary transfer to help my case and to beat my case cause sex was never proven by the state to get a conviction but yet the parties was used by the state to determine that sexual intercourse happened which is a lie and its the defense job to prove that its a lie and to have a forensic expert for the defense to argue how and that <sup>the</sup> DNA found came from secondary transfer and not sex and to prove my innocence in a crime alleging sex occurred when no evidence supports that, and state's DNA forensic expert should not have been used for <sup>the</sup> defense of the defense, where as defense counsel should have had present a forensic expert for the defense to argue secondary transfer and secondary ~~to~~ transfer only and to argue against what state forensic expert was alleging which is that sex occurred and the DNA found in parties belonging to me proves it. As I appreciate your help and advice in my case these are issues I need handled to cover me and to prove my innocence cause this is my freedom and my life I'm fighting for!

Sincerely  
Chad Bels

#331210

# THE BOOZER LAW FIRM, LLC

---

**Lance S. Boozer, Esq.\***

\*Also admitted in Florida

807 Gervais Street, Suite 203  
Columbia, SC 29201

Telephone: 803-608-5543  
Fax: 803-926-3463

Email: [lsb@boozerlawfirm.com](mailto:lsb@boozerlawfirm.com)  
Website: [www.boozerlawfirm.com](http://www.boozerlawfirm.com)

November 19, 2015

Mr. Charlie Belser  
#331210  
Turbeville Correctional Institution  
1578 Clarence Coker Hwy.  
Turbeville, SC 29162

**RE: Charlie Belser, #331210, v. State of South Carolina  
2015-CP-14-156**

Dear Mr. Belser:

I am in receipt of your letter in which you request that I obtain a "forensic expert" to prove secondary transfer in your case. I do not believe an expert will assist in your case and may actually damage your PCR hearing. Specifically, your attorney was able to very effectively cross-examine the State's DNA expert, Adrian Hefney. The expert actually testified that although they were able to match your DNA profile to the underwear, they were unable to match and identify the female DNA profile found in the same underwear, or even rule out that the female DNA profile came from the mother as you claim. See tr. pg. 206. This testimony was actually quite beneficial for you. Furthermore, your attorney was able to elicit testimony from Ms. Hefney that secondary transfer could not be ruled out in this case. See tr. pg. 207.

A separate expert is likely to make the same exact findings the State's expert made. This will do nothing to assist in your PCR claim. Additionally, there is always a risk that a separate test may reveal damaging evidence in your case, when there really was no damaging forensic evidence at your trial linking the victim to the underwear. It is my opinion that we argue your strongest claims, which I of course believe are counsel's failure to timely move for directed verdict and the inexplicable reason your retained counsel failed to enter an appearance on your behalf.

Yours very truly,

  
Lance S. Boozer

**SEXUAL ASSAULT EXAMINATION PROTOCOL  
SOUTH CAROLINA LAW ENFORCEMENT DIVISION**

**INFORMATION AND EXAMINATION FORM**

NAME OF HOSPITAL: Care House of Pee Dee  
 NAME OF VICTIM: Sherrill Keels DATE: 8/15/11 TIME ADMITTED: 1500  
 DATE OF BIRTH: 3/26/97 SEX: Female RACE: Black  
 PARENT/GUARDIAN: (if applicable): Latorya Billups MARITAL STATUS: Single  
 LAW ENFORCEMENT OFFICER: Investigator Rickie Roberts BADGE NO: \_\_\_\_\_  
 LAW ENFORCEMENT AGENCY: Charleston Co Sheriff's Office

BRIEF SUMMARY OF ASSAULT (Brief account of assault. If possible, include descriptions of incident location)  
Plaintiff was assaulted by 28yo mother's boyfriend on 7/29/11 and the  
5-6 times more between dates 7/26/11 - 8/13/11. Pl. states that  
Charlie Bolser, 28yo, forced her to have vaginal and anal  
oral sex. No protection used and assault ejaculated in  
on 8/13/11

**SINCE ALLEGED ASSAULT, HAS VICTIM:**

- Douched
- Defecated
- Urinated
- Bathed/Showered
- Eaten
- Brushed Teeth
- Changed Clothes
- Used Mouthw

**DURING ALLEGED ASSAULT:**

- Did penis penetrate?  Attempted  Vagina  Anus
- Did foreign object penetrate?  Yes
- Did assailant experience ejaculation?  Yes
- Did assailant use a condom?  Yes
- Was there hand/digital penetration?  Yes
- Was there oral copulation? Of victim by assailant  Yes  No
- Was there masturbation? Of victim  Yes  No
- Did assailant bite, lick, or kiss the victim?  Yes  No
- If yes, specify (i.e. breast, genitals, anus): mouth
- Did assailant fondle?  Breasts  Genitals  Anus  No
- Was lubricant used?  Yes  No

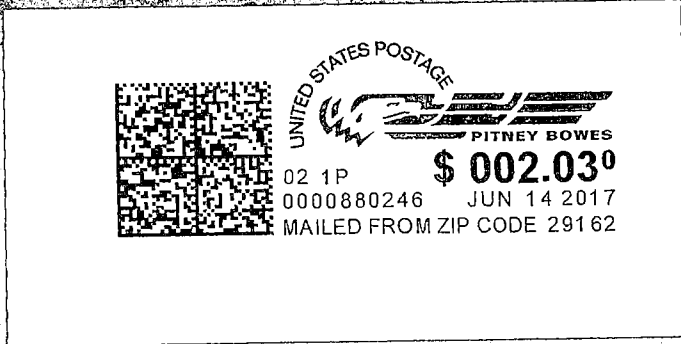
1st issue ineffective  
for getting to process  
case Page 82 in tran-  
script lines 18-20 victim  
testified to not showering

Of assailant  Yes  No  
 Not known

Did assailant state: \_\_\_\_\_ If yes, identify: \_\_\_\_\_  
 Had any sexually transmitted diseases?  Yes  No If yes, identify: \_\_\_\_\_  
 Had a vasectomy?  Yes  No If yes, identify: Unknown  
 Had anyone besides assailant see the assault?  Yes  No If yes, identify: \_\_\_\_\_  
 Was sterile, or couldn't have children?  Yes  No  
 If yes, identify: \_\_\_\_\_

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Clerk Daniel E. Shearouse  
Supreme Court of South Carolina  
P.O. Box 11330

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