

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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NOV 29 2017

S.C. SUPREME COURT

Certiorari to Greenville County
Letitia H. Verdin, Circuit Court Judge

ANTHONY MAURICE LOUNDS

PETITIONER

v.

STATE OF SOUTH CAROLINA

RESPONDENT

APPELLATE CASE NO. 2013-CP-23-04178

APPELLATE CASE NO. 2017-000494

APPELLATE CASE NO. 2015-CP-23-4911

Pro se

PETITION FOR WRIT OF CERTIORARI

ANTHONY M. LOUNDS

LEE CORRECTIONAL INSTITUTION

990 WISACKY HWY

BISHOPVILLE, SC

29010

INDEX

ISSUES PRESENTED

STATEMENT

ARGUMENTS

1. Did PCR Court ERROR by failing to give Petitioner an Evidentiary hearing based on Material Fact evidence presented after PCR ruling, was obtain by FRAUD upon the Court.

2. Did PCR Court ERROR by dismissing Petitioner's Application, and denying action brought forth by Petitioner. CA No. 2015-CP-23-4911.

CONCLUSION

STATEMENT OF CASE

The Petitioner was indicted by the Greenville County Grand Jury at the November 2010 term of General Sessions for armed robbery (2009-GS-23-10155, Count 1) and possession of a weapon during commission of a violent crime (2009-GS-23-10155 Count 2). SCOTT D. ROBINSON, ESQ. represented the Petitioner. After the state brought the case to trial, the Petitioner was found guilty on July 13, 2011. The Honorable C. Victor Pyle, Jr. sentenced the Petitioner to life imprisonment without parole for armed robbery and five years for possession of a weapon during commission of a violent crime. A notice of appeal was filed at the South Carolina Court of Appeals, Franklin-Best of the South Carolina Commission on Indigent Defense Division of Appellate Defense provided the Petitioner with trial transcript on November 22, 2011, and informed the Petitioner she would be representing the Petitioner on direct appeal at the South Carolina Court of Appeals. Later the following year 2012 at some point the Petitioner received a letter from Susan B. Hackett esq. of the South Carolina Commission on Indigent Defense of Appellate Defense advising the Petitioner she would be representing the Petitioner on direct appeal. The Court of Appeals affirmed the Petitioner's conviction and sentences STATE V. LOUNDS, OP. NO. 2013-UP-239. Petitioner then filed PCR with Greenville County Clerk of Court August 21, 2013. STATE made its return on April 8, 2014 requesting evidentiary hearing be held. On October 21, 2014 PCR hearing was held before the Honorable Letitia H. Verdin. Karen Ratigan esq. Attorney for the respondent, SCOTT D. ROBINSON esq. Mills Aricail esq. Attorney for the Petitioner.

Petitioner alleged he was being held to confinement because of ineffective assistance of trial counsel. Petitioner testified at PCR hearing and presented witnesses. Petitioner testified trial counsel failed to communicate with him to adequately prepare for life w/o parole case. Petitioner testified he met with trial counsel for the first time on July 10, 2011 just 2 days before petitioner's trial. Petitioner testified he was appointed representation of Scott D. Robinson on December 31, 2010 as he met with Paul Silvaggio Scott D. Robinson's investigator.

On March 22, 2011 petitioner was met with solicitor George Campbell and Paul Silvaggio at the Greenville County Detention Center where petitioner was being held at that point petitioner was served with notice to seek life w/o parole, on March 22, 2011, petitioner testified he never met with Paul Silvaggio again. On June 28, 2011 petitioner wrote a letter to the Honorable Robin Stilwell in regards to the representation of Scott D. Robinson, petitioner had trial court read letter in court on record see tr. pg 236 line 8. Petitioner testimony at PCR hearing was that he informed trial counsel of witness but did not No witness name however his family had informed trial counsel's investigator Paul Silvaggio about witnesses wanting to testify. Petitioner presented witness Brigham Young & Zeldrick Vance at petitioner's PCR hearing please see PCR transcript testimony of witnesses. TRIAL counsel's testimony that he had investigator Paul Silvaggio active in the investigation of petitioner's case improperly influenced the PCR court decision causing the petitioner to have an un-favorable ruling. DUE PROCESS 6th, 5th, and 14th amendment Right of the United States Constitution and the South Carolina Laws.

In the early part of November 2014, Petitioner contacted Paul Silvaggio and informed Mr. Silvaggio of trial counselor's testimony at his PCR hearing, and informed Mr. Silvaggio whom petitioner's PCR Counsel was. On November 28, 2014 Petitioner received letter from Paul Silvaggio which he had forwarded to Petitioner's PCR Counsel Mills Ariail, please see letter from Paul Silvaggio regarding the investigation in Petitioner's case. Petitioner forwarded Paul Silvaggio a copy of his discovery to see actually what part of petitioner's case had he investigated please see Paul Silvaggio letter dated March 17, 2015. Petitioner forwarded copies of both letters to Attorney General Karen Ratigan, A. Mills Ariail and PCR Judge Letitia H. Verdin asking that her ruling be set aside by motion FRAUD upon the court 6a(b) when your opposing counsel submit perjury or false documents as he is an officer of the court, didn't think twice about his status as an official of the court, this amounts to FRAUD upon the court and voids the whole proceeding. Attorney General Karen Ratigan, whom knew of trial counselor's testimony regarding the ~~PCR~~ investigator received those letters and twist justice, did nothing in regard, which the petitioner now ascertains is a miscarriage of justice. ~~At that~~ petitioner nor petitioner's family knew of the conflict between the trial counsel and the investigator. Petitioner's sister Janet Lounds testified at PCR hearing she had informed Paul Silvaggio about witnesses wanting to testify for her brother. Trial counsel preparation for this trial suggest he really didn't think petitioner had any witnesses.

During Petitioner's trial a video was played showing Petitioner and another gentleman at a grocery store the other gentleman in the video was Mr. Young and he informed the prosecutor George Campbell and attorney Scott Robinson different account on what the state presented to the jury. The attorney knowing he had not actually communicated with petitioner to adequately prepare for life w/o parole case undermined the out-come by informing the court the witness Brigham Young was sitting in the court room while everyone else testify after making sequester motion. Petitioner ascerts he has a constitutional right to present witnesses in his favor thus violated the petitioner's 6th Amendment Compulsory Process, and 5th and 14th Amendment rights of the United States Constitution and South Carolina laws. Petitioner ascerts that PCR court presume counsel rendered adequate assistance and petitioner must overcome this presumption at PCR hearing, however when counsel committ perjury to prevent petitioner from presenting his case fully and fairly clearly deny petitioner the 5th Amendment right of the United States Constitution and the 14th Amendment right and the laws of our great state of South Carolina. Although it is not required that a lawyer be a private investigator in order to discern every possible avenue which may hurt or help the client, counsel must make an effort to investigate the obvious. SEE TESTIMONY OF BRIGHAM YOUNG.

To constitute ineffective representation, actions of defense counsel must amount to a failure to perform an essential duty which substantially harmed and prejudiced the defendant in obtaining a fair trial. In determining whether accused was deprived of effective assistance of counsel, court must make inquiry into actual performance of counsel conducting defense and make determination of whether reasonably effective assistance was rendered based upon totality of circumstances in entire record. Obtaining a complete acquittal should not be the measure of a defense lawyer's competency and effectiveness; it is the task of counsel merely to attempt by all honorable means to see that justice is done. In the petitioner's case counsel admitted he met with defendant just 2 days before trial see PCR testimony of counsel tr. pg. 307 line 7-15. Had petitioner given the name of Brigham Young to counsel 2 days before trial how was counsel going to secure his testimony by locating this witness, investigating witness to see what the testimony would be. Harmful or helpful. . . .

Petitioner Prays to this Honorable Court For What it Deems Proper and Just based solely on the Merits of material Facts presented. LETTER'S FROM the Investigator.

DID PCR COURT ERROR by dismissing Petitioner's Application, and denying action brought forth by Petitioner,

Facts.

Petitioner received his trial transcript of record on November 22, 2011 from Appellate Counsel ELIZABETH FRANKLIN-BEST, whom informed Petitioner she's been assigned his direct appeal counsel.

Later in the early part of 2012 Petitioner received letter from Susan B. Hackett of the South Carolina Commission of Indigent Defense informing Petitioner she will be conducting his direct appeal.

Petitioner's direct appeal was affirmed in June 2013 STATE V. Lounds OP. No. 2013-up-239. Petitioner then filed

PCR with Greenville County Clerk of Court August 2, 2013.

State made its return on April 8, 2014 requesting an evidentiary hearing be held. On October 21, 2014 PCR hearing was held before the Honorable Letitia H. Verdin;

Following dismissal of Petitioner's PCR Application, Petitioner and family sought Investigator LEE CONNALLEY from Columbia, South Carolina on June 9, 2015 Investigator

provided Petitioner with copy of trial transcript, and on same date Petitioner discovered trial transcript

of record provided to him by Appellate Counsel ELIZABETH FRANKLIN-BEST on November 22, 2011 was incomplete, missing pages 227-234 bearing an issue trial court's failure

to release alternate Juror #14-7-1340, Petitioner then contacted Appellate defender Wanda Carter, and informed her about incomplete transcript he had been provided with in November 2011.

Petitioner then File PCR with Greenville County Clerk on August 7, 2015, and Amended PCR October 13, 2015. THE State made its Return and motion to Dismiss requesting Application be summarily dismissed on or about February 26, 2016. Petitioner Filed with Clerk, PCR Application along with incomplete transcript he received on November 22, 2011 along with letter from Investigator dated June 9, 2015 providing him with copy of trial transcript, All were Attached with PCR Application Filed on August 7, 2015. Petitioner was informed by the Hon. Perry Gravely that the Application had been dismissed after petitioner Filed with the Court his reasons why Application should not be dismissed. Petitioner then Filed with the Clerk of the Supreme Court Notice of Appeal, however which was dismissed. Petitioner now come before the Court according to the statute 14-7-1340 he was denied the right to a fair trial 5th Amendment of the United States Constitution, and violation of South Carolina Laws. Petitioner's transcript reveals the alternate Juror was never released prior to Jury deliberation 14-7-1340 See trial transcript, reflects 13 Jurors were selected. Petitioner's 5th 6th and 14th Amendment rights of the United States Constitution has been violated.

Petitioner has a right to a Fair trial not a Perfect trial, and 13 Jurors is not a Fair trial it's a miscarriage of Justice. Petitioner prays that the court Coupled with all other errors made by trial counsel, Grant a NEW TRIAL OR what ever relief Court deems Proper. Petitioner's Appellant counsel provided incomplete transcript of record on November 22, 2011 bearing the issue, however Petitioner discovered the issue on June 9, 2015.

Respectfully Submitted

ANTHONY M. COURDS

PRO SE.

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P.C.I. MAILROOM

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CERTIFICATE OF SERVICE

I, ANTHONY MAURICE LOUNDS do hereby certify that on this November 22, 2017, I served upon the below named individual copy of the Pro Se Petition for Writ of certiorari. PETITIONER, was given 45 days to respond, to file with Court his pro se petition for writ of certiorari. Petitioner received letter dated on Oct 5, 2017 at the McCORMICK Correctional Institution on Oct 10, 2017 advising petitioner he has 45 days from the date of letter which was October 5, 2017, petitioner received letter on October 10, 2017. See letter inclosed showing date received at Institution. PETITIONER has placed his pro se petition in US mail on this November 22, 2017.

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL E. SHEAROUSE, CLERK OF COURT
POST OFFICE Box 11330
Columbia, South Carolina 29211

Anthony Lounds

ANTHONY MAURICE LOUNDS
LEE CORRECTIONAL INSTITUTION
990 WISACKY HWY
BISHOPVILLE SC, 29010

SUBSCRIBED AND SWORN TO before me
this 22nd day of November 2017

Tamara Conwell
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES Sept. 25, 2023

My Commission Expires
September 25, 2023

November 22-2017

ANTHONY M. LOUNDS # 227456

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998 WISACKY HWY

BISHOPVILLE, South Carolina

29010

THE SUPREME COURT OF SOUTH CAROLINA
ATTN: DANIEL E. SHEAROUSE, CLERK OF COURT

POST OFFICE BOX 11330

Columbia, South Carolina

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P.C.I. MAILROOM