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11-13-18

South Carolina

NOV 19 2018

Supream Court

S.C. SUPREME COURT

HELLO THIS IS SOME ISSUES I WANT TO RAISE OF MY OWN FIRST AND FOR MOST I WOULD LIKE AND FEW EXTRA WEEKS BECAUSE I WAS MOVED TO TWO DIFFERENT PRISONS WITH IN THE LAST FEW WEEKS. MOST IMPORTANT I WOULD LIKE TO BRING UP SOME THINGS THAT WAS LEFT OUT MY CASE. MY LAWYER WAS INEFFECTIVE BY FAILING TO INVESTIGATE MY CASE IF SO HE WOULD HAVE KNOWN THAT THE CLERK MADE TWO DIFFERENT STATEMENTS FIRST I POSE TO JUMP COUNTER AND POINT A GUN AT HIM. AND IF MY LAWYER WOULD HAVE ASKED THE STATE TO PROVIDE THE TAPE HE COULD SEE THAT WAS NOT TRUE. SECOND THE CLERK SAID I HAD SOMETHING UNDER MY SHIRT APPEARED TO BE A GUN AND HE CAN SEE SIGHTS AND BARRORS AND IF THAT WAS SO THE MOVE MENT WOULD HAD TO SHOW A GUN BECAUSE IN ORDER TO SEE SIGHTS OR BARROR OF GUN IT MUST COME OUT PANTS. MY LAWYER KNOW THAT WASN'T TRUE. ALSO MY LAWYER KEPT TELLING ME TO JUST TAKE THE TEN YEARS NOT ONCE WE TALKED ABOUT MY CASE. HE NEVER MOVED AND ASKED THE STATE TO DROP MY CHARGE TO LESSER FELONY BUT INSIST ON ME SWITCHING ON MY CO-DEFENDANTS. MR. FOX CLAIMED HE CAME TO VISIT ME A DOZEN TIMES THAT WAS FALSE. I WANT TO KNOW HOW CAN YOU GO OFF THE CLERK WORD WHEN HIS STORY CHANGED UP 2 DIFFERENT TIMES THAT SHOULD DRAW A RED FLAG. ALSO THE CAMERA SHOULD SEEN ME REACH AROUND BEER CASE WITH A GUN 9150

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SC Court of Appeals

All Im asking for is a fair trial. I
have 2 beautiful children and a wonderful wife
I need to get back home to. Im not saying
I didnt do nothing wrong I just didnt arm rob
that star not by acting like I had a gun or
having a gun none of us acted or had a gun
Also look Johnson vs. state Also Cherry v. state
Please read over my case and helpene God bless
and Thanks ~~In Advance~~ In Advance

ARGUMENT

The PCR court erred in failing to find plea counsel ineffective for not insuring that Petitioner Nelson's guilty plea was entered voluntarily and knowingly because plea counsel failed to adequately investigate Petitioner's case.

Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland v. Washington, *supra*; Butler v. State, *supra*.

A two pronged test is used in evaluating allegations of ineffective assistance of counsel. The applicant must prove that counsel's performance was deficient and fell below reasonable professional norms; and there is a reasonable probability that, but for counsel's unprofessional errors, the result would have been different. Cherry v. State, 300 S.C. 117-118, 386 S.E.2d 624 (1989).

A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007); Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

In Ard v. Catoe, 372 S.C. 318, 642 S.E.2d 590 (2007), the Supreme Court held that for purposes of the claim of ineffective assistance of counsel, while the scope of a reasonable investigation depends upon a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case.

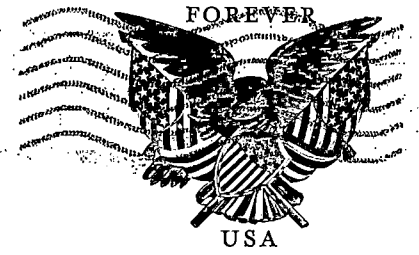
In Lounds v. State, 380 S.C. 454, 670 S.E.2d 646 (2008), the Supreme Court reversed the PCR court and remanded Lounds' case because his defense counsel was ineffective for failing to adequately prepare for trial so as to be able to call key witnesses. Counsel failed to make an independent investigation of the facts and circumstances.

The PCR court erred in denying Petitioner Nelson's PCR application. After Nelson told plea counsel that the video had been edited, counsel had an obligation and duty to investigate the video. Counsel needed to talk to the Sheriff's Department and determine the chain for the video. Counsel himself should have tried to talk to the clerk and determine if there were any other witnesses in the store at the time. Counsel's ineffective performance was prejudicial to Nelson as the charge could reasonably been reduced to strong-armed robbery if counsel had investigated.

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