

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM Laurens County
The honorable Frank R. Addy,
Circuit Court Judge

Stakren Jefferson,

Appellant

vs.

The State,

Respondent

APPELLATE CASE NO. 2012-212339

MEMORANDUM OF LAW to Support
ANDERS Brief of Appellant

Stakren Jefferson
Appellant
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AUG 15 2013

SC Court of Appeals

cover sheet

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

"MEMORANDUM OF LAW"

CASE Number 2012-212339

This memorandum of law comes by way of the appellant in this case 2012-212339, in support of the Anders brief that was submitted on June 21st 2013.

Also in this memorandum of law, I will set forth such fact in law to show that this case warrants remanding back ~~to~~ to the County of ~~the~~ Laurens, for a prompt retrial.

At this time I would like to squarely present these facts/issues to the court of Appeals, so they can be properly addressed:

"STANDARD REVIEW OF LAW"

A.

A-1 Perjured Testimony

The inconsistent statements of (3) three witnesses, when all three statements were coerced and involuntary.

The inconsistent statements will fall under perjured testimony. I have a firm belief that if this perjured testimony/evidence was not presented at my trial, the state would most likely have not gotten a conviction. That the inconsistent statements is/was critical to the trial.

MEMORANDUM OF LAW

continued... AI.

"Note" that this was my 2nd second trial, the state/Prosecutor "has a duty to refrain from eliciting" and relying upon testimony known to be Perjurious. see → Gaggi, 811 F. 2d at 59 also citing → Mooney v. Holohan, 294 U.S. 103, 112, 55 S.Ct. 340, 341, 79 L. Ed. 791 (1935).

Although the state/Prosecutor, may have not gone to solicit the Perjured testimony at my trial, but to allow it to go uncorrected when it appears.

To challenge a conviction because of a Prosecutor's knowing use of Perjured testimony, reversal is virtually automatic see → Wallach, 935 F. 2d at 456 also "quoting" → see United States v. Stofsky, 527 F. 2d 237, 243 (2d Cir. 1975).

like that of in Sanders v. Sullivan, 863 F. 2d 218, 226 (2d Cir. 1988), where he contends that his convictions violate due process because the prosecutor knowingly used several pieces of false testimony to get the conviction. When I state knowingly, this was the same prosecutor from the 1st trial, to show that the Prosecutor knew that it was Perjurious testimony.

MEMORANDUM OF LAW

Continued...

B. Impermissibly Shifts the burden

The state prosecutor created a mandatory presumption and impermissibly shifts the burden to the defendant in my trial. With the state prosecutor relying on perjured testimony it was automatically shifted to the defendant at the trial, this is a violation of the due process clause of the (14) Fourteenth Amendment.

Using a statement or testimony obtained by questionable means, dramatically shift the burden to the defendant in the trial. This gave the state prosecutor a powerful rhetorical tool in all respects at the trial. That the erroneous error contributed to the verdict rendered.

That this case deserves a prompt retrial, a retrial which assigns the burden of persuasion to the state prosecution where it constitutionally belongs.

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MEMORANDUM OF LAW

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C. Abused its Discretion

The trial court abused its discretion by refusing to instruct the jury that the testimony of an informer, or snitch, who provides evidence or testimony against a defendant for expected gain, the hope of reward, or for personal advantage or vindication must be examined and weighed by the jury with greater care than testimony of an ordinary witness. This was both erroneous and prejudicial to me the defendant in my trial.

~~The trial court should have disturbed the~~

The court of appeals should disturb my sentence for ~~the reason~~ my sentence is a result of partiality and prejudice see Jones v. State, 332 S.C. 329 339, 504 S.E. 2d 822, 827 1998.

MEMORANDUM OF LAW

Conclusion

That the factual allegations set forth in this memorandum of law is sufficient to raise a right to relief, above the speculative level to the relevant portion thereof, by protecting my rights as a defendant to a fair trial, with all of the Court's errors, Perjured testimony, shift of the burden, abused of discretion, and several Constitutional violations, that my conviction accompanied by such events, do not meet any civilized conception of due process of the law. That alone is sufficient to vacate my sentence at this time, and remand this case back to the County of Laurens for a new trial, and put the burden of persuasion back on the State Prosecutor where it constitutionally belongs.

Respectfully Submitted

Stakren Jefferson
Stakren Jefferson
Appellant

This 31st day of July 2013
Ridgeville South Carolina
County of Dorchester,