

SUPREME COURT
STATE OF SOUTH CAROLINA

LEROY STATON, Petitioner

96-GS-34-982,
2018-CP-34-0113
(County of Marlboro)

Against

SUPERINTENDENT, LEE CORRECTIONAL INSTITUTION,
BISHOPVILLE S.C.

RECEIVED
MAR 05 2019
SC Court of Appeals

PETITION FOR A WRIT OF HABEAS CORPUS
FOR MISCARRIAGE OF JUSTICE AND PLAIN ERROR

LEROY STATON, Petitioner , with other defendants was convicted of murder, kidnapping, first degree criminal sexual assault, and conspiracy; after a jury trial before Hon. Edward B. Cottingham, Circuit Court Judge, with Ralph J. Wilson, Esq., Solicitor, and Milton M Moore, Esq. for this defendant, March 10, 1997 to March 19, 1997, following the death of a Darlene Patterson whose body was found in a body of water near Burnt Factory Road on November 24, 1994, following her last appearance to her sister on November 12, 1994 after she (the victim) had hired Ringo Pearson to repair her car. She failed to make a phone call in about an hour and did not appear for a planned event the next day. (Court of Appeals, 2001, State v. Stuckey 347 S.C. 484, 556 S.E.2d 403) which appeal to the South Carolina Supreme Court denied April 19, 2004 (State v. McIntosh, 2004, 358 S.C. 432, 595 S.E.2d 484) , Application to the United States District Court was denied (8:2011cv00745).

1, The Court of Appeals reported that: "Police discovered Victim's body floating in a creek near Burnt Factory Road on November 24, 1994. Her wrists were bound together behind her back with duct tape. With the exception of her forehead, part of her chin, and a small area at the tip of her nose, her face was entirely covered with duct tape which was wrapped around her head. **Her pants were pulled down below **406 her knees. *490." WRONG**

2, Sandra Condra, M.D. forensic pathologist testified: "She was clothed in underpants, stretch type pants, shoes and socks, as well as a bra and a sweatshirt. She was taped with duct tape. And I would be glad to get into that if you like at this point. . . . Her ankles were taped together. And the left middle finger was caught in the -- in the back of her underpants, but her wrist and ankles were taped together and the pants were actually caught in the duct tape." (N.T.

p. 544:5-17) THE DECEDENT WAS NOT WEARING PULLED DOWN PANTS , BUT HER PANTS WERE CAUGHT IN THE TAPE ON HER HANDS AND HER FINGER WAS CAUGHT IN HER UNDERPANTS. There is no reference to her pants being pulled down. Since her finger was caught in her underpants, and the pants were caught in the tape around her wrists, the conclusion is inescapable. Her regular stretch pants, and her underpants were up to her waist, and taped in place to her waist to her finger. Her pants were not pulled down. She was not vulnerable to being raped.

3, Sandra Condra, M.D further testified that there was no injury to the decedent's genitals that was consistent with sexual assault. She did testify that genital injury does not always happen during sexual assault. (Id. p. 559) Sandra Condra, M.D further testified that there was no evidence of seminal fluid or sexual enzymes in the vaginal area. (Id. p. 566) Oddly, we have a case where some six men were convicted of raping the decedent, and there is no evidence of injury or sexual fluids. The fact is that the decedent's vagina was effectively sealed closed by the clothing and by having her legs taped together.

4, It is an inescapable fact that THERE WAS NO RAPE.

5, Ralph J. Wilson, Solicitor, in his closing argument to the jury said: "And every bit of the testimony in this record is that she was taped up from the very first time at the pig pickin (cookout of pig's feet) until the day they dumped her into the river." (Id. p. 1612:12-15) This makes rape of the decedent at the cookout impossible.

6, Leroy Staton was reported to have been at the cookout, but denied knowing any girl was there, and certainly denied raping her. He did not have any inclination to accuse others of a crime he knew nothing about. According to the forensic pathologist and the Solicitor, the decedent, if she were at the cookout was impossible to rape because she was sealed shut with a chastity belt of clothing and duct tape, which the Solicitor assures the court was in place during the cookout. Leroy Staton is absolutely not guilty of raping the decedent.

7, Since there was no rape, there was no gang rape.

8, Since there was no (gang) rape, there was no motive nor opportunity for this defendant to conspire to kidnap, or murder the decedent.

9, The decision of the Court of Appeals was based on the false information that the decedent had her pants pulled down. Since this is incorrect, and the decedent was fully insulated against rape at the cookout, the only opportunity for Leroy Staton to have assaulted her; he is therefore not guilty of rape, nor any of the associated crimes, and the government's witnesses were giving incorrect information to the jury, resulting in a fundamentally unfair trial and a

miscarriage of justice.

10, The Court of Appeals goes on to claim that “Stuckey orchestrated or at a minimum permitted others to hold Victim at his home as a sex-slave to partygoers and friends.” (State v. Stuckey 347 S.C. 484, 501, 556 S.E.2d 403,412) This cannot be true because the decedent was immunized against sex attack by the duct tape chastity contrivance which the Solicitor assures the court was in place from the start of the cookout.

THE STATE’S WITNESSES WERE NOT COMPETENT TO TESTIFY.

11, “The State’s case against Petitioner and other co-defendants consisted primarily of the testimony from co-defendants Danny Davis and Bobby Ransom.” (State v. McIntosh, 2004, 358 S.C. 432, 437, 595 S.E.2d 484, 487) “Davis testified that he suffered brain damage from a traumatic head injury.... His alcohol use caused him to forget events and confuse things.” (437, 486) “Davis testified that he saw nonexistent shadows, heard a lot of nonexistent voices, and talked with imaginary friends and taking anti-psychotic medications. (Id. 437,486) Ransom testified that he often blacked out and suffered from memory loss.” (Id. 437, 487) “Davis changed his story a lot of times.” (Id. 438, 487) Any jury verdict based on their testimony is overtly irrational, and their testimony should be stricken from the record as incompetent because they repeatedly testified that the decedent was raped, when the evidence proves that this is not true.

12, The United States District Court erroneously held (Staton v. Warden, 2012 WL 33214) that your petitioner’s claim of actual innocence was time barred. In this instant case the United States Court was ignorant of the principles of Newly Available Evidence, Plain Error, and Miscarriage of Justice. (see Memorandum of Law annexed)

COUNSEL AT ALL LEVELS WAS CONSTITUTIONALLY INEFFECTIVE.

13, Counsel at all levels failed to notice or litigate the impossibility of the sexual assault charge and the extensive implications instead litigating frivolous issues.

WHEREFORE, there being no competent evidence adduced at trial of the guilt of Leroy Staton and he should be, *nunc pro tunc*, granted habeas relief, ordered released on his own recognizance and granted such other and further relief as is just and proper.

Affirmed as true under penalty of perjury,

Leroy Staton, 241382
Lee Correctional Institution, F-2-B-part-2226
990 Wiscacy Highway
Bishopville, S.C. 29010
Dated: February 15, 2019

LS:mm

Leroy Staton #241382

January 5, 2019

Office of the Criminal Court Clerk
In General Sessions Court
Marlboro County Courthouse
105 Main Street
Bennettsville, S.C.

Re: State v. Staton, 96-GS-34-982

To the Court:

I am in receipt of a letter (annexed) from the Attorney General, responding to my inquiry as to the status of my case, in which he states that my petition for a writ of habeas corpus was dismissed on August 4, 2018 by Hon. Paul M. Burch. The Attorney General attached a letter (what letter?) for (my) convenience.

This Court should note that I filed an "Answer to Government's Motion To Strike" on or about November 6, 2018 (Index No. 2018-CP-34-000113).

It seems that I have not received any of these Court orders, and I presently request copies of all orders issued by this court, particularly the order of dismissal dated August 4, 2018, that preceded the government's Motion to Strike. The Attorney General's Motion To Strike dated October 25, 2018 does not mention this illusive Order of Dismissal.

Please enter the letter from the Attorney General as "so ordered" and enter my Notice of Appeal to the dismissal of my habeas petition.

And, kindly send me the orders of this court, and the docket sheets for this case.
Thanking you in advance, I am
very truly yours,

Leroy Staton 241382
F #2B Part 2226
990 Wisacky Hwy.
Bishopville, S.C. 29010
LS:mm

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SC Court of Appeals

(Received from Marlboro County clerk of Court, Feb. 4, 2019, Order of Dismissal)

February 16, 2019

Office of the Clerk
South Carolina Supreme Court
P.O.B. 11330
1231 Gervais Street.
Columbia, S.C. 29201

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SC Court of Appeals

To the Court:

Enclosed please find my petition for a writ of habeas corpus.

Thanking you for your kind attention to this matter, I am
very truly yours,

Case No 2019-000173

Leroy Staton, 241382
Lee Correctional Institution
990 Wisacky Highway
Bishopville, S.C. 29010
LS:mm

Cc: Mark Marvin, 135 Mills Road, Walden, N.Y. 12586

LEROY Staton # 241382
F-2-B-part-2224
990 Wisacky Hwy
Bishopville, SC 29010



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MAR 05 2019

SC Court of Appeals

South Carolina Court of Appeals
Jenny Abbott Kitchings Clerk
Post Office Box 11629
Columbia, SC 29211