

State of South Carolina
In the Court of Appeal

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JAN 19 2016

Appeal from Wilkerson County
Clifton Newman, Circuit Court Judge

SC Court of Appeals

Jason Thomas Boston

Appellant.

The State

Respondent.

Appellate Case: 2015-000753
Pro'se Brief of Appellant

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Statement of Issue on Appeal

was Counsel ineffective assistance in failing to object to the witness inconsistent statement regarding the victim wallet being stolen by defendant and thrown out the car's window.

Statement of the Case

In May of 2014, the Williamsburg County Grand Jury indicted Appellate Boston for Armed Robbery and Possession of a weapon during the Commission of a violent Crime, indictment #2014-GS-45-D120. On April 1, 2015, Appellant proceeded to Jury trial before the Honorable, Clifton B. Newman. The Jury found Appellant guilty of armed Robbery and not guilty of Possession of a weapon during the Commission of a violent Crime. Judge Newman sentence Appellant to eleven (11) Years. A timely notice of intent to Appeal was served on April 6, 2015. Kathrine H. Hudgens, Appellant Defender subscribe and sworn Anders Brief 14th day of Dec, 2015. The U.S. District Court Post marked filed Dec 16, 2015. Appellant received transcript on Dec 23, 2015 at Swan Corr. Inst. mailroom. Appellant move Pro'se.

ARGUMENT

Trial Counsel was ineffective assistance in failing to object to the witness inconsistent statement regarding the victim wallet being stolen by defendant and thrown out the car's window.

The state's witness, L. Hickson testified that she inform the Judge at her guilty plea the defendant, Jason Thomas Boston threw the wallet out the window (R.P. 156, line 2-11). Trial counsel Ms. Shuler posed the question (R.P. 153, line 19). When question by Ms. Barr whether she knew the wallet was stolen, she said, no (R.P. 155, line 18-23).

When Ms. Shuler question whether she knew the wallet being stolen, she [witness] denied and explained that she don't remember (Id. at R.P. 155, line 18-23).

After being advise of the substance of the statement, the time and place it was allegedly made and the Person to whom it was made (Id. at R.P. 156, line 2-11). The witness admitted making the Prior statement.

In general, claims of ineffective assistance of Counsel are covered by the familiar two-part test established in Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984). Under this test, I must first show that trial Counsel Performance fell below an objective standard of reasonableness. see. Strickland, 466 U.S. at 689.

Second, I must establish prejudice by showing a reasonable probability that, but for Counsel's unprofessional errors, the results of the proceedings would have been different.

Trial Counsel, Ms. Shaker was ineffective assistance in failing to object to the witness inconsistent statement regarding the victim wallet being stolen by defendant and thrown out the car's window.

There is a reasonable probability, had she done so, the issue would have been preserved for Appellate review and Appellant Counsel would have "Adversely Briefed" issue for Appellate review and Appellate Court would have reversed conviction and remanded the case to the Circuit Court with instructions for a new trial.

Conclusion

Based on the argument above, the case should be reverse and Remanded for a New trial so I can go home.

Respectfully submitted

By: Jason Boston

Jason Thomas Boston #

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Bennettsville, SC 29512

Date: 1/15/16

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Jason Thomas Boston

Appellant

The State

Respondent

Certificate of Service

I, Jason Thomas Boston hereby Certify that
I have served ~~Pro se~~ Brief of Appellant upon Selley
W. Elliott resq. at the Pembert Dennis Building
1000 Assembly St, room 519 Columbia, SC 29204 and
a copy of the ~~Pro se~~ Brief of Appellant upon the
Clerk of the Appellate Court, Tonya A Glee 1015 Sumter
St., Box 11629 Columbia, SC 29211.

Date 1/15/16

Jason. Boston
By: 1/15/16 JB
Jason Thomas Boston
EVAN. CARR. INST.
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Subscribed before me
this 15 day of January 2016
S. Ouellet
(Notary Public of South Carolina)
My Commission Expires 2/24

