

South Carolina Court of Appeals  
Jenny Abbott Kitchings, Clerk

6-5-19

**RECEIVED**  
JUN 11 2019  
SC Court of Appeals

Re: Review Constitutional Claims

- Hearing On Sufficiency of Evidence  
(South Carolina Supreme Court)
- Freedom From Cruel and Unusual Punishment

Please Clock, Stamp, File  
And Return Copy To Defendant  
Thank You.

C.C. Appellate Defender  
Susan B. Hackett

C.C. South Carolina Supreme Court  
(Clerk)

I also ask you to Challenge these issues. As follows: . . .

① Defendants rights to "Confrontation" pursuant to the Sixth Amend. to the U.S. Constitution, and due process of law and equal protection under the law was violated when "chain of custody" was "stipulated to" with on record colloquy. . . See. Tr. Dated July 24-28, 2017, Page 74, Lines 4-25; Defense Counsel stipulated to "chain of custody" to [greatly truncate list of witnesses] therefore prejudicial to defendants right to confrontation and due process of law pursuant to 14th Amend. See Also (Crawford v. Washington, U.S. Sup. Ct. 2004)

② In regards to Subject Matter Jurisdiction / Insufficient Evidence

The State must prove that the amount of heroin or any mixture containing heroin was 4 grams or more but less than 14 grams; 14 grams or more but less than 28 grams; and 28 grams or more." State lacked sufficient proof to charge or convict defendant with "Trafficking" [which must be proven element by element] U.S. v. Jordan, United States Court of Appeals, Fourth Circuit, December 4, 2007 509 F.3d 191 held "No one element of a crime is more essential than another. Tr. dated July 24-28, 2017, Page 861, Lines 14-25; 862, Lines 1-5. See., Supreme Court of South Carolina (Sam Brown, Petitioner v. State South Carolina)

③ Defendants right to "Effective Assistance of Counsel" to the Sixth Amend. to the United States Constitution, and due process of law and equal protections pursuant to the 14th Amend. to U.S. Const. was violated. Defense Counsel "stipulated to" "chain of custody" to accommodate prosecutions "long line of witnesses" to "greatly truncate" list of witnesses prejudicing defendants right to confront Chemist/Analyst as to "actual amount of heroin" (Tr. Date July 24-28, 2017, Page 74, Lines 6-25.; Page 75, Lines 1-5. In violation of Rule 6 S.C. Rules Criminal Procedure, and violating defendants due process of law in violation of 14th Amend. to U.S. Const. Also, trial counsel completely abandoned any defense for defendant when counsel was acting as second prosecutor, and in middle of trial advised defendant to plead. (Tr. Dated July 24-28, 2017, Page 235, Lines 5-18. See Strickland, 466 U.S. at 690. Also see. U.S. v. Aguilar-Tamayo, 300 F.3d 562, 566 (5th Cir. 2002)

④ Defendants right to the 5th Amend. to the U.S. Const. and due process of law pursuant to the 14th Amend. was violated when defendant had not been indicted, also see Art. I, § 11, and Art. 5, § 22 of S.C. Const.

"The Fifth Amendment requires a [legally constituted] and [unbiased] grand jury for a valid indictment. See *Costello v. U.S.*, 350 U.S. 359, 363 (1956) Also see Correspondence from Court Admin. dated 10-23-17 and Nov. 6, 2017. Code 1976, § 17-19-20.

⑤ Defendants right to due process of law pursuant to the 14th Amend. to the U.S. Const was violated when statutory and constitutional provisions were denied defendant. See Court Admin. Correspondence.

In violation of Section 14-7-1700 "no court reporter was assigned to record grand jury proceedings, therefore no transcript being available also in violation of § 14-7-1750, and § 14-7-1720(D); U.S.C.A. Const. Amend. 14; Code 1976 §§ 14-7-1700, 14-7-1720, 14-7-1770, Rule 5 Crim. Proc. Rule 5. Code 1976, § 17-19-20.

⑥ In Brady v. Maryland, the Supreme Court held that due process, pursuant to 14th Amend. requires the prosecution to disclose evidence favorable to an accused upon request when such evidence is material to guilt or punishment. See Tr. dated July 24-28, 2017, Page 15, Lines 5-6, when defendant requested "impanelment documents" and was denied, also see Correspondence from Court Admin. advising defendant that "no court reporter had been assigned to record grand jury proceedings, therefore no transcript available.

⑦ Defendants right to "Confrontation" to the 6th Amend. to the U.S. Const., and due process of law and equal protection under the law pursuant to the 14th Amend. to the U.S. Const. was violated when co-defendants confession/statement was admitted as testimony when he was not present at trial. See Crawford v. Washington, 124 S.Ct. 1354, 1374 (2004).  
(Tr. dated July 24-28, 2017, Page 721 of trial transcript)

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S.C. Court of Appeals, I ask that this substance be considered by the S.C. Court of Appeals, the Supreme Court, for Evidentiary Hearing regarding "Insufficient Evidence" and all mentioned Constitutional violations in that the current issue/Brief of Appellant is inadequate to free defendant from unreasonable and oppressive prosecution. I ask that these Courts Review Constitutional deprivations to defendant/Appellant and to Rule on them. Thanking You in Advance.

Please Clock, Stamp, File  
And Return Copy To Defendant,  
Thanks Again

Sincerely,  
Appellant  
Emory Roberts

C.C. Susan B. Hackett  
Appellant Defender

C.C. S.C. Supreme Court,  
(South Carolina Supreme Court)

Susan B. Hackett  
Appellate Defender

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SC Court of Appeals

Hello Ms. Hackett, I'm writing to you in order that you may address the various Federal Constitutional violations that Appellant has suffered in violation of the 5th, 6th, 8th, and 14th Amendments to the United States Constitution. I ask that you may consider, as my Appellant Defender to raise these issues to the Supreme Court, S.C. Court of Appeals, and in Appellants Brief. You have direct knowledge of the "substance" of my transcript, and the Supreme Court will not allow me to a "Review" of this substance because I am represented by Counsel. It would be ineffective assistance of Appellate Counsel to ignore Appellants Constitutional claims therefore depriving Appellant of his constitutional right to counsel pursuant to the 6th Amendment to the United States Constitution. Appellant suffers "irreparable injury" due to all the violations of defendants right to due process of law and equal protections under the law pursuant to the 14th Amendment to the United States Constitution. Further, I've made you aware of Court Administration's Correspondence to me that "no court reporter was assigned to record grand jury proceedings" in violation of Section 14-7-1700 and a deprivation of defendants right to due process under the law pursuant to the 14th Amend. to U.S. Constitution, I've provided you a copy of this correspondence to "challenge" subject matter jurisdiction because I have not been indicted in violation of the 5th Amend. to U.S. Constitution, this is indisputable Ms. Hackett. Continued prosecution in my case is and constitutes "Cruel and Unusual Punishment in violation of the 8th Amend. to the United States Constitution. As my Appellate Defender I ask you to "Alert" the Supreme Court, and S.C. Court of Appeals to all of Constitutional violations defendant has suffered because you are knowledgeable of the substance in my trial transcript.

Emory W. Roberts Jr. 373393  
Lieber Correctional Institution  
136 Wilborn Ave.  
Ridgeville S.C. 29472

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JUN 07 2019

MAIL ROOM  
LIEBER C.I.

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South Carolina Court of Appeals  
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