

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT RECEIVED

SEP 13 2019

LARRY JAMES TYLER,

S.C. SUPREME COURT

PETITIONER

v.

RECEIVED

SEP 13 2019

STATE OF SOUTH CAROLINA,

SG Court of Appeals

RESPONDENT

APPELLATE CASE NO. 2016-002364

APPELLATE'S MOTION TO SUPPLEMENT BRIEF

PURSUANT TO RULE 7(b)(1), FED. R. CIV.  
P., APPELLANT REQUEST A MOTION TO  
SUPPLEMENT BRIEF.

1. ON THE GROUNDS OF "FRAUD" WHICH CAN  
BE REPORTED AT ANYTIME, BECAUSE  
THERE IS NO STATUTE OF LIMITATION ON  
FRAUD. *PEOPLES V. ZASIC, BB INC AND*  
*3d 477 S, 410 N.E. 2d 626 (1980)*

2. ALSO I PETITIONER JUST HEARD  
ABOUT "FRAUD" ONLY TWO MONTHS AGO.

ON THE GROUNDS OF MAJN ERROR FED. R. 2 OF 2  
CRIM. P. 52(b) (A DEVIATION FROM A LEGAL  
RULE ...") (QUOTING OHANO, 507 U.S. at 732-  
33).

THIS MOTION IS SUPPORTED BY A  
MEMORANDUM OF LAW, AND A DECLARATION.

Harry J. Tyler

HARRY JAMES TYLER

DATE:

DARWINTON, S. C. 2003

CERTIFICATE OF SERVICE

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I HAVE SERVED THE RESPONDENT  
A COPY OF THE "APPELLATE'S MOTION  
TO SUPPLEMENT BRIEF" BY U.S.  
MAIL AT THE ADDRESS BELOW:

ATTORNEY GENERAL  
JAMES BOGLE SR.  
BOX 11549  
COLUMBIA S.C. 29211-1549

*James J. Tyler*

WARREN J. TYLER  
2349 ROGERS RD.  
DARWINTON SC 29932

DATE SEPT. 11, 2019

"A DECISION PRODUCED BY FRAUD UPON THE COURT IS NOT IN ESSENCE A DECISION AT ALL, AND NEVER BECOMES FINAL." FRAUD UPON THE COURT MAKES VOID THE ORDERS AND JUDGMENTS OF THAT COURT, AND VITIATES THE ENTIRE PROCEEDING. 4 OF 10

IN 1994, THE U.S. SUPREME COURT HELD THAT DISQUALIFICATION IS REQUIRED IF AN OBJECTIVE OBSERVER WOULD ENTERTAIN REASONABLE QUESTIONS ABOUT THE JUDGE'S IMPARTIALITY. IF A JUDGE'S ATTITUDE OR STATE OF MIND LEADS A DETACHED OBSERVER TO CONCLUDE THAT A FAIR AND IMPARTIAL HEARING IS UNLIKELY, THE JUDGE MUST BE DISQUALIFIED. *LITKEY V. U.S.*, 114 SGT 1147, 1162 (1994).

POSITIVE PROOF IS NOT REQUIRED, ONLY THE APPEARANCE OF PARTIALITY.

SEC. 455(A) OF THE JUDICIAL CODE,  
28 U.S.C. § 455(A).

1. FRAUD BEGAN WITH THE INTRODUCTION OF THE FOUR INVOLTEMENTS INTO THE COURT. THE INVOLTEMENTS WERE OBTAINED BY THE PROSECUTOR UPON LIES TOLD TO THE GRAND JURY BY OFFICER ERIC HODGES ON 2-21-2013. HE TOLD THE JURY THE

PETITIONER WAS NUDIE IN PHOTOS MINORS (THE 5 OF 10 VICTIMS) LOOKED AT, AND THEY ALSO READ A TEXT MESSAGE THAT WAS INDECENT THE PETITIONER WROTE.

AT TRIAL, THE VICTIMS TESTIFIED THEY SAW NO NUDIE PHOTOS OR READ ANY INDECENT MESSAGES. SO THE INDICTMENTS WERE OBTAINED ILLEGALLY AND VIOLATED PETITIONER'S PROCEDURAL DUE PROCESS OF LAW BY PROSECUTING HIM ON DEFECTIVE INDICTMENTS AND INTRODUCING FRAUD AT THE ONSET OF THE TRIAL. SEE DECLARATION NO.

2. THE PETITIONER WAS NEVER SERVED INDICTMENTS BEFORE TRIAL. HE DID NOT KNOW HE WAS SUPPOSE TO BE SERVED. ANOTHER PROCEDURAL VIOLATION AND FRAUD TRANSPIRING. U.S. CONST. AMEND. V

THE FOLLOWING CASELAW'S APPLY TO POINT NO. 1 U.S. V. THOMAS, 274 F.3d 655, 655 (2d CIR. 2001). THE SECOND CIRCUIT HAS HELD THAT THE FAILURE TO CHARGE A MATERIAL ELEMENT OF AN OFFENSE IS NOT A JURISDICTIONAL DEFECT AND THIS IS SUBJECT TO MAIN ERROR REVIEW.; U.S. V. HATHAWAY, 318 F.3d 1001, 1010 (10TH CIR. 2003) CHALLENGE TO INDICTMENT FOR FAILURE TO

CHARGE CRIMINAL OFFENSE PROPOSED WHEN RAISED 6 OF 10 FIRST ON APPEAL, BECAUSE DEFENDANT DID NOT HAVE NOTICE); U.S. V. KINGREA, 573 F.3d 186, 194 (4TH CIR. 2009) (PETIT JURY'S GUILTY VERDICT OVERTURNED BECAUSE INDICTMENT HAD SUBSTANTIVE, JURISDICTIONAL DEFECT OF MISSING, ESSENTIAL ELEMENT THAT COULD NOT BE CONDUCTED BY PETIT JURY); U.S. V. SCRUGGS, 714 F.3d 258, 262 (5TH CIR. 2013) (JURISDICTIONAL CHALLENGE TO INDICTMENT MAY BE RAISED AT ANY TIME)

3. AFTER THE VICTIMS TESTIFIED THAT THE PETITIONER DID NOT DO THE CRIMES IN THE INDICTMENTS, HIS ATTORNEY DID NOT CHALLENGE THE PROSECUTOR'S WITNESS, ERIC HUGHES, WHO CHARGED AND SAID THE PETITIONER WAS AWAY AND THE MINORS READ THE MESSAGES, BUT ALLOWED THE PROSECUTION TO BUILD A PRESUMPTION CASE THAT UNDERMINED THE FACTFINDER'S RESPONSIBILITY TO FIND THE ELEMENTS OF A CRIME BEYOND A REASONABLE DOUBT. HE ALLOWED FRAUD TO ENTER AND REMAIN. U.S. V. ELLIS, 326 F.3d 550, 557 (4TH CIR. 2003) (INSTRUCTION THAT JURY MAY INFER THE TYPES OF EVIDENCE THAT "CAN" SUPPORT FINDING OF INTENT CREATED PERMISSIVE PRESUMPTION); THE PROSECUTOR DID NOT

PRESENT A CONCLUSIVE PRESUMPTION AT TRIAL BECAUSE HE NEVER INTRODUCED ANY PROOF OF THE ELEMENT OF THE CRIME.

~~HE INTRODUCED~~ ALLEN, 442 U.S. AT 157 HE INTRODUCED A REBUTTABLE PRESUMPTION REQUIRING THE JURY TO FIND THE PRESUMED ELEMENT AND THE DEFENDANT CAN PERSUADE THE JURY THAT THE INFERENCE IS UNWARRANTED. HIS ATTORNEY MADE NO SUCH MOVE BUT ALLOWED FRAUD TO FURNISH AN INTENT TO CONVINCE

THE JURY THE PETITIONER HAD AN INTENT. FRANCIS, 471 U.S. AT 318 N.2 (PRESUMPTION THAT PERSON OF SOUND MIND ACTED WITH INTENT REBUTTABLE); COUNSEL FAILURE TO SUBJECT THE PROSECUTION'S CASE OF INTENT TO MEANINGFUL ADVERSARIAL TESTING PERMITTED FRAUD TO EXIST. THE

ADVERSARIAL PROCESS ITSELF BECOMES FRAUDULENT AND PRESUMPTIVELY UNRELIABLE. CRONIG, 466 U.S. AT 659; SEE ALSO

~~MA V. MAXON, 543 U.S. 175, 177-92 (2004)~~

BELL V. CONE, 535 U.S. 685, 697-98 (2002)

(COUNSEL'S FAILURE TO OPPOSE PROSECUTION AT SPECIFIC POINTS WARRANTED STRICKLAND

ANALYSIS...); MILLER V. MARTIN, 481 F.3d 468, 473 (7th Cir. 2007) (COUNSEL'S CHOICE NOT TO

PRESENT ANY MITIGATING FACTORS OR OBJECTIONS 8 OF 10  
AND TO REMAIN SILENT AT SENTENCING  
HEARING FOR NO APPARENT REASON WARRANTED  
PRESUMPTION OF PRESUMPTION. WHEN THE  
PETITIONER'S ATTORNEY REMAINED SILENT  
AT EVIDENCE PRESENTATION OF "INTELL" BY THE  
PROSECUTOR, HE ALLOWED FRAUD TO ENTER  
THE COURT.

44. THE POLICE FELT THEY HAD LEGAL RIGHT TO  
OBTAIN SEIZURE WARRANTS OF HIS PROPERTY AT  
HIS HOME BY THE INVALID ARREST WARRANT THAT  
CLAIMED INDICENT PHOTOS. HIS COUNSEL NEVER  
MOVED FOR A SUPPRESSION MOTION AFTER THE  
WARRANT AND INDICTMENTS WERE PROVEN  
INVALID. HE ALLOWED ILLEGAL EVIDENCE TO  
BE SUBMITTED IN COURT WHICH WAS FRAUD.

HE FAILED TO PRESENT EVIDENCE THAT THE  
SEIZED EVIDENCE WAS ILLEGALLY OBTAINED.  
FRAUD INTRODUCED. GENTRY V. SEVIER, 597  
F.3d 830, 851-52 (7TH CIR. 2010) (BUT FOR  
COUNSEL'S FAILURE TO OBJECT TO UNCONSTITU-  
TIONAL SEARCH, REASONABLE PROBABILITY OF  
DIFFERENT TRIAL RESULT); GANNETT V.  
ADAMS, 706 F.3d 1140, 1166 (9TH CIR. 2013) (BUT  
FOR COUNSEL'S FAILURE TO INTRODUCE  
EXCULPATORY EVIDENCE CONTRADICTING  
PROSECUTOR'S STAR WITNESS TESTIMONY,

REASONABLE PROBABILITY OF DIFFERENT  
TRIAL RESULTS)

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5. THE PETITIONER, BY HIS ATTORNEY,  
MOTIONED AT THE END OF TRIAL FOR  
DIRECTED VERDICT. THE JUDGE DENIED  
IT AT THAT TIME BUT LEFT IT OPEN TO  
CONSIDER AFTER SURV VERDICT. MY  
ATTORNEY NEVER USED THAT OPTION  
TO REQUEST DIRECTED VERDICT AGAIN.  
ALLOWING FRAUD TO CONTINUE  
THROUGHOUT THE TRIAL.

BULLOCK V. U.S. 763 F.2d 113, 1121  
(10TH CIR. 1985) - DIRECTED AT THE  
JUDICIAL MACHINERY ITSELF. IF  
THE JUDGE HAS NOT PERFORMED HIS  
JUDICIAL FUNCTION, THEN THAT IS WHETHER  
THE IMPARTIAL FUNCTIONS OF THE  
COURT HAVE BEEN DIRECTLY CORRUPTED.

DATE

RESPECTFULLY SUBMITTED,

LARRY JAMES TYLER

2349 ROGERS RD.

DARWIN CT, S.C. 29537

CERTIFICATE OF SERVICE

100410

THIS IS TO CERTIFY I HAVE SERVED  
THE RESPONDENT A COPY OF THE  
"APPELLATE'S MOTION TO SUPPLEMENT  
BRIEF" BY U.S. MAIL AT THE ADDRESS  
BELOW:

ATTORNEY GENERAL  
JAMES BOGLE JR.  
BOX 11549  
COLUMBIA, S.C.

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2011-1549

SC Court of Appeals

Larry J. Tyler

LARRY J. TYLER  
2349 ROGERS RD.  
DARLINGTON SC 29532

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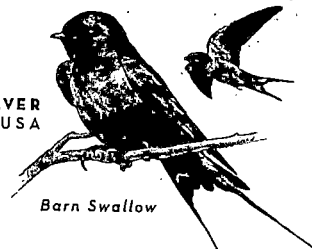
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S.C. SUPREME COURT

Mr. THUR  
2349 ROGERS RD.  
COLUMBIA, S.C. 29532



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SC Court of Appeals

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