

Leroy Clifton Gibbs, III
Petitioner

V.

State of South Carolina,
Respondent

Appellate Case No.2018-002044

Appeal to the Final decision of Writ

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SEP 30 2019

S.C. SUPREME COURT

Argument

The post-conviction relief (PCR) judge erred by finding trial counsel was not ineffective when, based on an unreasonable strategy, he failed to call Diane Williams, Latroy Gibbs, and Darnell Green to testify at trial, all three of whom testified during Petitioner's first trial, which ended in a mistrial due to a hung jury, that Petitioner lived with his mother and not with his estranged wife, when counsel admitted Petitioner's defense was that the drugs found in his wife's house were not his and that he did not live there, and where Petitioner was prejudiced because there is a reasonable probability that he would have been acquitted of counsel had called these witnesses to testify.

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S.C. SUPREME COURT

Issue Presented

Did the post-conviction relief (PCR) judge err by finding trial counsel was not ineffective when, based on an unreasonable strategy, he failed to call Diane Williams, Latroy Gibbs, and Darnell Green to testify at trial, all three of who testified during Petitioner's first trial, which ended in a mistrial due to a hung jury, that Petitioner lived with his mother band not with his wife's house were not his and that he did not live there, and where Petitioner was prejudiced because there is a reasonable probability that he would have been acquitted if counsel had called these witnesses to testify. The petitioner Leroy Gibbs is saying that the outcome could have been different because the lawyer in the first trial called upon alibi witnesses which in turn the outcome was a hung jury. In the second trial lawyer did not call alibi witnesses which in turn petitioner was found guilty. The petitioner is saying that 2nd trial was ineffective because attorney was told about witnesses which refused to call them which would have changed the outcome of trial. This was a very critical part of the trial dealing with fact petitioner didn't live there. Trial counselor has an act of duty and petitioner feels the 2nd trial counselor performance fell way below an objective standard of reasonable "Strickland US. Washington, 466 U.S. 668, 687 (1984). The petitioner is confident that if his alibi witnesses would be called the outcome of case would have been different. Petitioner feels he should get this overturned as in Martin v. State 2019 WL 3211276 (SC 2019). He was granted a writ of certiorari because lawyer fail to call alibi witnesses. Petitioner Leroy Gibbs feels he should be granted this writ of certiorari petition because he was not granted a fair and proper trial.

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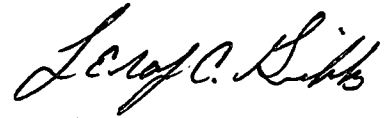
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Conclusion

Petitioner Leroy Gibbs is staying that the outcome of the case would have been different if he's trial attorney would have called the alibi witnesses that he was informed of as in Martin v. State 2019 WL 3211276 (SC.2019).

Sincerely,



Leroy C. Gibbs III

This 25rd day of September, 2019

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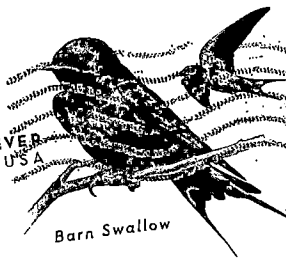
S.C. SUPREME COURT

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