


Applicant stated that he and Victim got into a verbal altercation regarding the terms of an exchange of narcotics. Applicant told law enforcement that as he was leaving the residence Victim commanded his dog to attack Applicant. Applicant said the Victim armed himself with a stick and began to threaten Applicant. In response, Applicant stated he armed himself with a knife. Applicant stated he grabbed Victim's stick and stabbed Victim with the knife. As the two tussled, Applicant said he continued hitting Victim until Victim passed out. Applicant took money belonging to Victim and left the residence. He admitted he went to Conner's residence afterwards and hid his bloody shorts. In addition, he confessed to burning his shirt when he got home.

An autopsy was performed on Victim on September 29, 2006. The forensic pathologist noted four nonfatal stab wounds of the abdomen and back as well as contusions, abrasions and lacerations of the head. The examination determined that Victim was beaten, resulting in a closed-head injury and subarachnoid hemorrhaging which caused his death. The pathologist also noted a number of defensive type injuries on the back of each hand, the back of the left forearm and on the right forearm.

Multiple items of evidence were collected during the course of the investigation, which were subsequently sent to the forensic laboratory at the South Carolina Law Enforcement Division ("SLED") for DNA analysis. These items included swabs from a knife, swabs from various areas in Victim's residence, swabs from the Applicant's vehicle, fingernail clippings from Victim (Item 18), and the shorts located at Conner's residence (Item 8). An evidence technician at SLED processed the shorts by taking multiple cuttings (Item 8.1 and 8.2) as well as a swab from the pocket of the shorts (Item 8.3). The fingernail clippings (Item 18) were not analyzed. Analysis of the cuttings revealed the presence of blood with a DNA profile matching that of Victim. The swab from the same pair of

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shorts (Item 8.3) was not analyzed.

In February of 2009, the State called this case for trial. During the trial, Applicant testified that he acted in self-defense after Victim threatened him with a stick. Applicant stated he armed himself with a knife and began swinging it primarily at Victim's dog but also at Victim. Applicant conceded he may have struck the victim in the process. Applicant testified he then grabbed Victim's stick and they fell over a chair. As Applicant was getting up to exit the residence, Victim grabbed his leg. Applicant stated he hit Victim with the stick until Victim let go and then departed.

During his testimony, Applicant admitted that he went to Conner's residence after the incident. He explained how and why he discarded the shorts he was wearing at Conner's residence:

I didn't want to leave them in Mr. Conner's house, again because if there was blood on them it might have been somebody else's blood, and I thought that would be just rude or nasty just to leave a pair of bloody pants laying around somebody's house, so I just took them outside, and he didn't have a trash can, so I just stuck them in the side of the porch right there, and I said I would just come back and dispose of them tomorrow or something.

On February 12, 2009, Applicant was convicted of voluntary manslaughter and armed robbery. Based on Applicant's prior record, he was sentenced to life without parole in accordance with S.C. Code Section 17-25-45. On January 3, 2017, Applicant filed a motion requesting the State perform DNA testing on additional items: swabs taken from the pockets of the blue jean shorts (SLED Item 8.3) and fingernail clippings taken from Victim (SLED Item 18). Applicant claimed this testing would prove his innocence.

Analysis

An application for post-conviction DNA testing under the Act requires, *inter alia*, an applicant to (a) demonstrate that identity was a significant issue during the original court proceedings; (b) explain how testing of DNA would provide a substantially more probative result

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than evidence submitted at trial; and (c) explain how any exculpatory DNA results would constitute new evidence that would probably change the result of defendant's conviction if a new trial was granted. S.C. Code Ann. §17-28-40(C)(5)-(8).

Applicant's request for additional DNA testing fails to meet any of the statutory requirements listed above. First, Applicant is unable to assert an issue of identity in this case. During the investigation, Applicant admitted to law enforcement that he and Victim were involved in a physical altercation. Furthermore, at trial Applicant testified on his own behalf and admitted that he swung a knife at Victim and beat him with a stick, albeit in self-defense. Applicant's own account of the events demonstrates that identity was not, nor should it have been a significant issue at trial.

Second, Applicant fails to explain how additional DNA testing would provide substantially more probative results than the evidence submitted at trial. Applicant requested additional testing on Victim's fingernail clippings (SLED Item 18) and a swab from the pockets of a pair of shorts found at Conner's residence (SLED Item 8.3). Testing these items could have no significant bearing on this case. Applicant admitted on multiple occasions that he was involved in a physical confrontation with Victim. Thus, testing the fingernail clippings would not provide any additional probative value. With regards to Item 8.3, which came from the shorts Applicant admitted he discarded at Conner's residence, two areas from these shorts (Items 8.1 and 8.2) have been tested and confirmed to contain Victim's blood. Examination of a third area from the same pair of shorts would not provide further probative value.

Finally, additional testing would likely not change the result of the conviction if a new trial were granted. As stated above, the identity of individuals involved was not an issue in this case. The primary issue presented to the jury was whether Applicant acted in self-defense and examination of

additional items would have no bearing on the issue of self-defense. Any results obtained from testing these materials would merely be cumulative to Applicant's own testimony that he and Victim were involved in the altercation.

Conclusion

For the reasons discussed above, the Court finds that Applicant has failed to meet the statutory requirements for post-conviction DNA testing provided by the Act. Accordingly, the application is DENIED.



Edgar W. Dickson,
Presiding Judge

Date: Dec. 16, 2019
Orangeburg, SC.