

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Spartanburg County
Honorable Larry B. Hyman Circuit Court Judge

RECEIVED

MAR 04 2020

SC Court of Appeals

CHRISTOPHER HAMPTON

APPELLANT

v.

STATE OF SOUTH CAROLINA

RESPONDENT

APPELLATE CASE NO. 2017-002374

SUPPLEMENTAL AFFIDAVIT IN
RESPONSE TO THE RETURN FOR
WRIT OF CERTIORARI PURSUANT
TO AUSTIN V. STATE

CHRISTOPHER HAMPTON 314697
APPELLANT

BROAD RIVER CORRECTIONAL INSTITUTION
4460 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA 29210

AFFIDAVIT

Personally appeared before me, Christopher Hampton who having first been duly sworn, deposes and avers the following:

I have reviewed the state's return to the petition for writ of certiorari pursuant to Austin v. State. Because the state has gotten it all wrong in its erroneous findings in the PCR Court's favor, it is of the utmost importance that I give my supplemental response because there are certain arguments in the above mentioned return that only I can explain to rebut those arguments.

In response to the state's argument that I failed to present any "credible" evidence to support my claim that I demanded an attorney prior to my confession; That may be true, but in my attempt to present credible evidence, the PCR Court denied me that opportunity. I informed the PCR Court that my public defender never provided or discussed any of the discovery material with me prior to my guilty plea, and I also explained that my PCR attorney provided me with the discovery file less than an hour before the PCR hearing started, so therefore I needed a continuance so that I could have time to look through the discovery to find the evidence to prove that I asked for a lawyer multiple times prior to my confession. Specifically, I explained that Lt. Lamb had used a voice recorder during the drive from Edgefield to Spartanburg that would prove that I requested an attorney more than once and demanded to be taken straight to the Spartanburg County jail. I also explained that I had demanded an attorney again at the narcotics building where they took me instead of the County jail, and there, they cuffed me to a desk and interrogated me in front of a video camera, and I really needed to see the video. My PCR attorney had previously informed me that the video would be of no help because nothing could be heard in it but I had stressed

to him that I still needed to see the video because the video camera had been pointed directly at me and I remembered the exact moment when I demanded an attorney moments after Lt. Lamb continued interrogating me after hanging up his cell phone call with the solicitor. I also wanted a continuance so that my PCR attorney could resubpoena Lt. Lamb who was not present at the hearing even though he had been subpoenaed, and because of unknown, and unexplained reasons, the PCR Court denied my request for a continuance that would have allowed me the opportunity to present evidence. Also, the denied continuance by the PCR court denied me the opportunity to resubpoena and confront the key interrogator that was single-handedly responsible for repeatedly ignoring my demands for a lawyer.

It was not until I returned to prison after the PCR hearing that I finally did get the chance to view the discovery and I found no evidence or any mentioning of Lt. Lamb's voice recorder ever having been added to the case file. However, I did find several pre-interrogation waiver forms; two of the waiver forms were from the day of my confession and would have been relevant at the PCR hearing: The "first" waiver form is from 9:50 a.m. and because I had insisted on not talking without a lawyer, Lt. Lamb wrote "refused to sign" on that first one. The "second" waiver, after "non-stop" interrogation, is from 2:18 p.m. and I did sign it because my privilege against self-incrimination was in no way protected when my interrogators took me to a strange place 'against my will' instead of transporting me straight to the Spartanburg County jail to be processed as I had demanded. Because my public defender withheld the discovery from me, and because the PCR court denied my request for a continuance so that I could view the discovery which would have given me the chance to know that the waiver forms were included in the discovery, Investigator Steadman was able to lie about them at the PCR reconstruction hearing. He testified that the "first" waiver form had nothing to do with

this case, but the case number on both the 'Signed' and the 'refused to sign' waivers are the same and clearly from the same case. And because the waiver forms were not a part of the original record, I was not allowed to present them at the reconstruction hearing to impeach Steadman's testimony which would have destroyed his credibility. Had the PCR Court granted the continuance, I could have presented both waivers as "credible" evidence that would have proved that both waivers are from the same case, and the 9:50 a.m. waiver, in light of the "never ceasing" interrogation, would have proved the subsequent 2:18 p.m. signed statement and waiver as illegally obtained; and even though I "unwittingly" waived my right to challenge my confession statement by pleading guilty, the PCR Court should have found that my guilty plea is invalid because I testified that my public defender told me that if I actually believed that a Spartanburg County jury would bring back a manslaughter verdict, then I needed to get my head checked, and that he further warned me that the end result of a trial would be either guilty of murder or not guilty of murder and because I had already told on myself and led police to the body, the end result would be in fact guilty of murder. I went on to inform the PCR Court that I was scared because of that so I pled guilty to get it over with. Under cross-examination, the attorney for the state attempted to discredit that testimony by saying that those were my words against Mr. Bartosh's and because Mr. Bartosh was deceased and unable to speak for himself, the state must go on my credibility. However, I immediately informed the attorney for the state that Assistant Public Defender Mr. James Cheek was present at the time Mr. Bartosh told me those things and I informed the court that I thought Mr. Cheek had been subpoenaed to be there. I honestly did not know that I could have really gotten the confession thrown out because of the fact that I had confessed and led the police to the victim's remains. For that reason, along with the fact that my guilty plea, according to my testimony, was founded on an improperly obtained confession, the PCR

Court should have found that the guilty plea that I entered was unknowing and Constitutionally invalid.

Also, if the PCR Court would have granted my request for a Continuance, Lt. Lamb could have been resubpoenaed and I could have gotten his testimony as well as questioned him about why his voice recorder evidence was not added to the discovery. Additionally, a continuance would have allowed me to view and place the video-taped interrogation into evidence. That video, and Lt. Lamb's voice recorder were part of the reason why I had requested a continuance. The State argues that I failed to provide credible evidence to support my claims but it is clear, and the record proves that I requested a continuance to give myself the opportunity to look through the discovery to find the credible evidence that I later found in the discovery. Also, the State argues that because the video-taped interrogation was not properly marked and placed into evidence, it is irrelevant to my petition pursuant to Austin v. State; However, it is clear that the PCR Court prevented me from presenting the video and any other "credible" evidence when it denied my request for a continuance.

I also later found in the discovery a SLED report, and in that SLED report, I learned that after multiple attempts of analyzing the bones that I led police to, SLED did not detect human DNA and the final results in the report lists the different bones that were analyzed and each and every one had "No human DNA detected" in the result section. If I had known about that SLED report prior to my guilty plea, I would have never agreed to plea guilty and if the PCR Court granted my request for a continuance, I could have presented that SLED report as evidence of further ineffective assistance of counsel in that plea counsel erred in advising me to plead guilty to murder even though the state had not had any success in determining if the remains that I led the police to were human or not.

The State further argues that I "explicitly" was told that I could challenge the voluntariness and admissibility of the Confession Statement by the Plea Court but pled guilty anyway; the Plea Judge did not put it in those exact words, if the judge would have used the word "voluntariness" of the statement, I would have informed him that the statement was not voluntarily given because police held me in an interrogation room against my will until the statement was extracted. And if the Plea Judge would have used the word "admissibility" I would have asked him what that word meant because at that time, I never heard of that word before. The way the Plea Judge actually asked me was contradictory and confusing because he informed me that for constitutional reasons I could challenge the state from using and entering the statement into evidence, and he also informed me that by pleading guilty, I waive the right to challenge the statement. I replied "yes" to those questions because it was my understanding and it was obvious that during the recitation of the facts, the solicitor had already used the statement against me, so I did not know, or think that I could challenge what had already been used against me in front of the entire courtroom. Also, it was my understanding that the solicitor had "already" placed the statement and waiver into evidence before the Plea Judge informed me that I could challenge the state from entering them into evidence. Clearly, I could not have waived my right to prevent something from being placed into evidence that was already put into evidence before the inquiry by the Plea Judge. Another thing worth mentioning of what was contradictory about the Plea Judge's inquiry is the fact that he informed me that if I chose to exercise my right to a trial, I would be presumed innocent; I knew that was unrealistic and not true because of the fact that I had confessed and led police to the victim's remains, but still when the Plea Judge asked me if I understood that I would be presumed innocent at trial, I replied "yes" knowing full-well that I would not be presumed innocent because I had confessed in the high-profile case. So likewise, when the Plea Judge asked me if I understood that by pleading guilty I would be waiving my right to

Challenge the Statement and Waiver from being used and put into evidence by the State, I replied "yes" also because I honestly was in a tunnel vision mode to get the proceeding over with because I did not know that I could in all reality "Challenge" the Statement because of my Confession and because of the fact that the statement had already been used against me and placed into evidence. In my mind, the damage had already been done before the Plea judge belatedly gave me that option. For those reasons, I did not knowingly and voluntarily waive my right to Challenge the Statement or my Presumption of innocence.

The State argues that it presented the "Credible" testimony from one of my interrogators, (Steadman) Not only did Steadman lie repeatedly on the stand about me not requesting an attorney, he also "Clearly" lied about the 9:50 a.m. "refused to sign" waiver as being from a totally different case. I had made it well known at the PCR hearing that other than two or three short lines of interrogation, Steadman's only part that day was only as being the driver, who by the way, drove me to a place other than to the County Jail to be booked. I made it known that Lt. Lamb was the person that did all the interrogation and I made it known that Lt. Lamb should have been there at the PCR hearing because my PCR attorney had subpoenaed him, but the State chooses to ignore the fact that Lt. Lamb was not there because he might have had something to hide.

The State also argues that the PCR Court "properly" denied relief after it found me to be not credible on all issues. The damage of my credibility likely arose from my testimony when I explained that during the course of Lt. Lamb's illegal interrogation; he spoke with the solicitor twice and he told me that the solicitor had told him to tell me that only "perhaps" two people knows what happened that day and one of them is "more than likely" dead, so that only left me and I had the paintbrush to make up any story and mold it however I liked and if it was believable, they would use it to go by. I admitted to the PCR Court that during

the hours leading up to my Confession, Lt. Lamb on more than one occasion, Lt. Lamb gave me manslaughter type Scenarios, so when I confessed, I admitted to the PCR Court that I tried to mold the Confession to fit involuntary manslaughter because Lt. Lamb had told me that it carried "so little prison time that I would be free before my daughter was old enough to start school." I further testified that I realized that I had been tricked when the murder charge was never reduced, and the fact that I testified that the victim had a box-cutter, the PCR Court assumed that I was lying because I did not mention the box-cutter in my original Confession statement. The fact is the victim really did have a box-cutter that she began carrying ever since she had an altercation at my apartment with one of my other girlfriends. The other fact is, if Lt. Lamb would have ceased the interrogation at 9:50 a.m. like he was Constitutionally required to do, and if Steadman would have drove straight to the Spartanburg County jail and booked me as I had demanded, I would have never been "enticed," or put in a position to make up or mold a story at all. Now the State is using Lt. Lamb's misconduct against me and my credibility. My "making up" a Confession and later adding a detail does not take away from the fact that, (1) I requested an attorney multiple times prior to the signed waiver, (2) my public defender was ineffective for not motioning to suppress the statement and confession, which would have gotten the case dismissed, and (3) my public defender was ineffective for not sharing or providing me with discovery material prior to my guilty plea which would have allowed me to assist in my defense and prepare for trial. When a defendant lacks knowledge of material evidence in the prosecution's possession, the waiver of constitutional rights cannot be deemed knowing and voluntary. Gibson v. State, 334 S.C. 515. The plea court accepted my guilty plea not knowing that I had no idea or knowledge of 'material' evidence" that the prosecution had in its possession, therefore the PCR Court should have found that the guilty plea was not knowing and voluntary "without"

my having to show or prove how my not been provided with discovery prejudiced me because my being convicted as a direct result of a guilty plea that was not knowing and not voluntary is actual prejudice in itself. But the PCR court dismissed that claim because it found me to be not credible, even though I informed the court that I wrote a complaint on the public defender's office in an attempt to make them give me the discovery file. With my credibility an issue, push it aside and consider Investigator Steadman's "Credible" testimony; his testimony actually corroborates my testimony which shows that at 9:50 a.m. when that first pre-interrogation waiver was read to me, I did not want to be interrogated and demanded to be taken "straight to the Spartanburg County jail" Even "IF" that first "refused to sign waiver was from a different case, I told them that "I wasn't about to sign **Nothing**" If an individual indicates in any manner, prior to or during questioning that he wishes to remain silent, the interrogation must cease. Miranda v. Arizona. Even though he falsely claims that I never requested an attorney, his testimony alone proves that (1) the interrogation never ceased, (2) my right to remain silent was violated, which is basically the same thing as being violated of my "Fifth" and fourteenth Amendment right to have counsel present during custodial interrogation. Edwards v. Arizona. Clearly, the interrogation continued for over 15 hours after I had invoked at 9:50 a.m.

Steadman's testimony confirms that fact, and therefore proves the signed **second** waiver as well as the Confession Statement is invalid. In light of those facts, it is clear that my plea counsel, who knew those facts, was ineffective for not filing for a motion to suppress my confession because the suppression would have been granted and the entire case against me would have been dismissed because the entire case rested on the illegally obtained confession. Plea Counsel's deficient performance prejudiced me and my entire case.

The state, relying on Investigator Steadman's testimony seems to make it appear as if a Cheeseburger and a single Cigarette would have compelled me to give a voluntary Confession. Well, since the Cheeseburger is being used against me, I should make it known that Steadman and Lamb actually "Starved" me: They detained me from the federal prison some time after 9:00 a.m. I did not eat any breakfast because I had been planning on being released that morning because my bench warrant detainer was only for an unpaid traffic ticket and I had the money to pay that fine thanks to my having been working and saving my money the entire nine months that I was in federal prison. I was not given that cheeseburger and one cigarette until some time after 1:00 p.m. Steadman and Lamb ordered themselves 'full meals' but gave me only that small Cheeseburger after seriously debating over which one of them was going to pay the mere dollar or two for the burger. The only reason I was given the Cheeseburger and cigarette at all is because I kept nagging them to take me to the County jail so that I could make it in time for lunch and so I can smoke. That Cheeseburger happened to be the only thing that I ate that day because Steadman and Lamb did not take me to the County jail until well after 11:00 p.m. because the Confession statement was not complete until around 11:15 p.m. Needless to say, I went to sleep that night not only feeling defeated, I had also been very hungry. I had been in Steadman and Lamb's "Custody" for over 15 hours, therefore, I should have been "entitled" to a full, well-balanced lunch as well as dinner; the single Cheeseburger that I was given for lunch was not enough for a 24 year-old male. Dinner was supposed to be their responsibility as well, but they deprived me of dinner altogether. I agree that they provided me rest-room access but I was not provided with food and Cigarettes how the state makes it seem. My entire Ordeal after my detainment from federal prison was nothing short of kidnapping because I was taken to some place other

than the Spartanburg County jail as the detainment paperwork had ordered and as I had demanded.

Finally, the state argues that I present an unpreserved, unfounded and alarming claim that "law enforcement" destroyed evidence in bad faith, but the state completely ignores the fact that the voice recorder that Lieutenant Lamb had used in the car during the drive from Edgefield to Spartanburg that contained exculpatory audio, was withheld by "law enforcement" in its entirety. In light of that blatant misconduct, the issue of the compromised audio in that video-taped interrogation was "highly likely" was a result of further misconduct and "bad faith" on behalf of "law enforcement" as well. The state now has presented an insulting insinuation that the video sound never existed at all; Steadman and Lamb may have been unfamiliar with the video camera system at the narcotics office, but that lame excuse by Steadman is groundless because he and Lamb took no part in operating the system because the narcotic office had its own staff that operated the camera and were watching the interrogation the entire time. I know this for a fact because as soon as Steadman and Lamb began discussing the food, someone immediately came in to collect the money to go buy the food and likewise when Lt. Lamb said to me, "We can get you a cigarette." Someone also immediately came in with a cigarette, ashtray and a lighter. Because the solicitor mentioned, but failed to put that video into evidence, maybe he had knowledge of the obvious exculpatory evidence in the video. Furthermore, I did make an argument about the video at the PCR hearing and it was a part of the reasons why I had requested a continuance in the first place.

In conclusion, it is unmistakably clear that my constitutional rights has been violated from the time when Steadman and Lamb detained me from the federal prison, and the violation of my rights continued through the period when

I was awaiting trial, during the guilty plea proceeding, at the PCR hearing, and all throughout the years to this present day of being held unlawfully as a direct result of an improperly obtained, involuntary confession; and now, here I am, 13 years after my PCR hearing and now finally getting appellate review of the 2007's PCR Court and its erroneous denial and I pray that this Honorable Court will grant me relief by reversing my conviction and sentence or by ordering the lower court to conduct a new PCR hearing so that I may present the evidence that I could have presented from the discovery if the continuance had been granted, and also so that I can confront Lt. Lamb. That way I would enjoy a PCR hearing in which I will get my one full bite of the apple that I did not get at the first PCR hearing and so that there would be a "full" and unreconstructed transcript for the record.

FURTHER, AFFIANT SAYETH NOT

Christopher Hampton 3/02/2020
Christopher Hampton
PETITIONER



SWORN TO AND SUBSCRIBED BEFORE ME
THIS 2nd day of March 2020
Angela Robinson
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES 8/5/2024

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Spartanburg County
Honorable Larry B. Hyman, Circuit Court judge

CHRISTOPHER HAMPTON,

APPELLANT

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v.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true Copy of the Pro se Brief of Appellant pursuant to White v. State and Pro se Affidavit in response to the State's return pursuant to Austin v. State in the above referenced case has been served upon Johnny Ellis James, Jr., Esquire at the Rembert Dennis Building, 1000 Assembly street, Room 519, Columbia, SC 29201, on this 02nd day of ~~March~~ 2020.

Christopher L Hampton

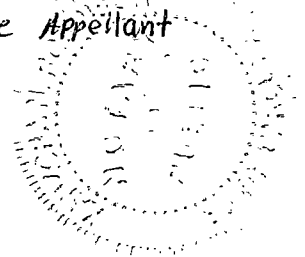
Christopher L Hampton

PRO se Appellant

SWORN ~~to~~ AND SUBSCRIBED TO Before Me:

THIS 2nd DAY OF MARCH 2020

Kongem Peterson
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES 8/5/2024



March 02, 2020

Christopher Hampton # 314697
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South Carolina Court of Appeals
Jenny A. Kitchings, Clerk
Post Office Box 11629
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MAR 04 2020
SC Court of Appeals

RE: Christopher L. Hampton v. State
Appellate Case NO. 2017-002374

Dear Ms. Kitchings:


I wrote your office about a month and a half ago to find out if my pro se appeal pursuant to White v State was accepted; also in that letter I ask if I could get permission to submit a supplemental affidavit to respond to the state's return pursuant to Austin v. State, on my own behalf.

I did, on February 06, 2020 receive the stamped copy of my pro se appeal that you mailed me in response to my letter; however, you did not inform me on whether I would be allowed to submit a pro se affidavit to give my personal response to the state's return pursuant to Austin v. State.

On February 25, 2020 I received another letter from you giving me permission to submit a response within 15 days. However, I found the letter a bit confusing, but I, to the best of my knowledge, interpret your letter as a response to my letter asking for permission to submit the affidavit.

Inclosed, I have submitted a supplemental affidavit in response to the state's return pursuant to Austin v. State. Also, I have submitted another pro se brief pursuant to White v. State. In my newly submitted pro se brief, I only modified one of my previous issues because I was not sure if I had applied the CORRECT standard of review for that issue. It is my hope that this brief will be accepted and considered along with my original pro se response.

Very truly yours,


Christopher Hampton

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LEGAL MAIL