

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

JAN 15 2021

SC Court of Appeals

Appeal from Sumter County
Honorable George M. McFaddin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

Pedro A. Gardo Torres-Shaw

APPELLANT.

APPELLATE CASE NO. 2019-001234

Pro Se ANDERS BRIEF OF APPELLANT

Pedro Torres Shaw
Pro se litigant

4460 Broad River Rd
Columbia, SC. 29210
B.R.C.I.

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South Carolina Bar Ethics Advisory Committee.

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WEST LAW search

STATEMENT OF ISSUE ON APPEAL

did the trial court violate the defendant's Sixth Amendment right to effective assistance of counsel, and his right to "Conflict Free Counsel." Also due Process; Constitutional right to a fair trial as ment by the 14th Amendment.

STATEMENT OF THE CASE

A Sumter County grand jury indicted appellant Pedro A. Grado Torres-Shaw for first-degree criminal sexual conduct with a minor and on July 15, 2019, appellant was tried before the Honorable George M. McFaddin and a jury. R.1 John P. Meadors represented the state. R.1 Micheal Rautzong and J.C. Bridges represented appellant. R.1 The jury convicted appellant. R.441, 1.7 - 442, 1.3. Judge McFaddin sentenced appellant to twenty-five years' imprisonment. R.450, 11.4-9. This appeal follows.

STANDARD OF REVIEW

"In order to establish a violation of the Sixth Amendment right to counsel based on conflict of interest, a defendant who raised no objection at trial must demonstrate that an actual conflict of interest adversely affected his lawyer's performance; a defendant who shows that a conflict of interest actually affected the adequacy of his representation need not demonstrate prejudice in order to obtain relief" U.S.C.A. Const. Amend. 6. *Duncan v. State* 281 S.C. 435, 315 S.E.2d 809 (1984) (internal quotations and citations omitted).

A lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) The representation involves a client directly adverse to another client; or
- (2) There is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer. Rule 407, SCACR, Rules of Prof Conduct, Rule 1.7

STANDARD OF REVIEW

A lawyer may not, without the consent of clients, represent a party with interests directly adverse to another client. Nor may a lawyer without consent, represent a client if the representation may be materially limited by lawyer's responsibility to another client or third person. South Carolina Bar Ethics Advisory Committee

October 1991; Ethics Advisory Opinion

SC Adv. Op. 91-24 S.C. Bar. Eth Adv. Comm 1991

WL787753 Under 1.7(c) Rule 407 SCALR

Statement of Case

Complainant, was twelve years old at the time of trial. R. 69, L. 3-6.

Appellant was complainant's mother's boyfriend. R. 176, L. 12-16. On January 27, 2018 complainant was home with her brother, appellant and appellant's two son and one daughter. R. 70, L. 1-74, L. 14. Appellant told his daughter to take a shower. R. 74, L. 18-24.

Complainant claims appellant then anally raped her while his daughter was in the shower. R. 75, L. 4-77, L. 15.

Complainant also testified that appellant had been repeatedly molesting her since April of 2017. R. 77, L. 16-81, L. 3.

Complainant's mother and sister returned home from running errands and complainant told her older sister about the alleged abuse. R. 137, L. 15-139, L. 15.

The older sister then got the mother's attention to come into the room where the three girls were. R. 139, L. 11-140, L. 15.

The mother testified that Complainant told her about the alleged abuse. Then testified about the time and place. R. 185, L. 1-187, L. 4.

The mother in her statement says she took the girls into the master bedroom along with the appellant and claimed he responded that he had blackouts, and that if complaint said it, it must be true and that she should call the police. R. 187, L. 21-189, 1. 2.

Appellant testified and denied making these statements to the mother R. 356, L. 18-24.

Appellant also vehemently denied abusing complainant in any manner. R. 349, L. 1-8

Appellant did however tell the mother to call the police, after the mother told him that if complaint went to school and said anything to anyone that she could get in trouble.

Appellant was certain a competent investigation would exonerate him. R. 351, L. 11-355, L. 3.

Appellant had not taken a shower that day and the police's intrusive, extensive search evidence on his person found none. R. 353, L. 4-355, 1

Appellant discredited the State's DNA evidence on clothing of complainant's pulled from laundry room where it had been for not hours weeks.

Contradicting prior testimony that every resident of the house had their own laundry basket, stating that he was the only one with a laundry basket. (Appellant notes that public defender Mr. Rutzberg failed at impeaching several inconsistencies on these matters). R. 285, 1.7 - 290, 1.7, R.

355, 11.4 - 11.

PLED's serologist admitted that clothing from the same household could carry the DNA of all residents if they had been in the same place there could be cross contamination.

(Appellant notes that this was applied unfairly to his underwear which did not come from the laundry basket at home, but from off of his body at the Sumter, County Jail. However the clothing of the complainant did come from the laundry at home and it wasn't what she had on on the day of Jan. 27, 2018.) R. 272. L. 15-19.

Appellant also specifically denied making any statements about blocking out to the police and described officer as wearing a body camera at the time

After hearing this testimony, the State was forced to call the officer back as a reply witness to correct his earlier (unobjected to) erroneous testimony, R. 389, L. 11-390, L. 25.

ARGUMENT

A Criminal defendant has a sixth Amendment right to have the Assistance of Counsel for his defense. The Court has interpreted this right to include a right to counsel free from conflict of interest, *Wheat v. United States*, 108 S.Ct. 1692 (1988)

During a Cross examination out side the presence of the jury, Mr. Rutzong Public Defender for the defendant began to question Denise Watkins a key witness for the state and mother of the complainant. Mr. Rutzong asked Ms. Watkins about a phone call she made to him on April 2, 2018.

R. 155.L. 1-10 Q. "Do you remember calling me on April, 2nd, 2018?"

A. Yes.

Q. Do you remember telling me that it would be impossible for Pedro to have molested your daughter in April of 2017 because he hadn't come into your life until June?

Q. "Do you recall telling me that?"

A. "I didn't tell you that, I told you he didn't move in my house in June.

Pedro was been at my house prior to that.

Q. But he didn't move in until June?

Ms. Watkins

A. Yes

Mr. Routzong goes on to question her about her visits to the jail to see Mr. Torres show the defendant. She claims a confession was given.

Mr. Routzong points out to the judge, later that Ms. Watkins' statement to police is inconsistent with her testimony.

After Mr. Routzong is done cross-examining Ms. Watkins, Solicitor Meadors redirects examination begins. Mr.

Meadors R. 157.6.11

Q. "When you met --- you said you met with Mr. Routzong?"

A. "I never met with Mr. Routzong. I talked to Mr. Routzong over the phone."

Q. Okay. To your knowledge, was anybody else there?

A. With ---

Q. In his office or do you know?

A. I don't know

Q. So it's just a conversation between you and Mr. Routzong?

A. "Yes"

Mr. Meador goes on to ask about when the wall was made and by who which Ms. Watkins confirms she called Mr. Routzong.

Mr. Meador then questions Mrs. Watkins on why she called Mr. Rutzong R. 158, L. 1

Q. "you did not tell him that Pedro was not in your life in April?"

A. "He was in my life and he would stay the night and then he initially moved in June."

Mr. Rutzong Recross R. 159, L. 2-24

Q. "Do you recall telling me that you didn't want me to tell anybody else about our conversation?"

Q. And the reason for you saying that to me was?

A. The reason for me saying that to you was because one I didn't have a lawyer at the time, and I didn't know this case was picked up, and I didn't want to be disclosed from talking to you."

R. 159, L. 11

A. disclosed or exposed or how ever you say that word.

Mr. Rutzong asks R. 159, L. 14

Q, what were you afraid would be exposed?

A, what I was afraid would be exposed?

after a Pause Mrs. Watkins says R. 159, 16

A. "Nothing I just didn't want to be.

I would like to be ---- I wanted to be.

I wanted to be anonymous at that time."

Q. Well you weren't anonymous cause you identified your self " isn't that correct?

A. "To you" But if the conversation was to go any further I didn't want you to expose me to anyone else.

Mr. Rutzang then began to ask Ms. Watkins if she feared something because of being exposed.

R. 160. L. 1-16

Q. Would it be unfair to say that if you feared that if you didn't believe your daughter on some aspect of this case, that they might take custody of your children away from you? "Is that a fear that you have"?

A. "No Sir"

Rule 407 SCACR. Rules of Prof. Conduct

Rule 1.3 Diligence:

States; A lawyer shall act with reasonable diligence and promptness in representing a client.

- (1). A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer and take whatever lawful and ethical measures are required to vindicate a client cause or endeavor. A lawyer must also act with commitment and dedication to the interest of the client and with zeal in advocacy upon the clients behalf.

In *Walker v. State* 407 S.C. 400 756 S.E. 2d. 14/4 (2014). a case where a man was convicted of Kidnapping and first-degree Criminal sexual conduct. Certiorari was granted.

The Supreme Court, Hearn, J. held that:

- 1) Trial Counsel was required to interview defendant's former girlfriend as potential alibi witness, and
- 2) Counsel failure to interview girlfriend prejudiced defendant.

Upon affirming conviction the Court of appeals found that Walker girlfriend's testimony did not qualify as an alibi because "her testimony does not account for Walker's whereabouts on March 2, 2007 (the date of the offense); such ~~that~~ it was physically impossible for him to commit the crimes.

Therefore, the Court concluded that under *Glover v. State*, 318 S.C. 496, 458 S.E. 2d 538 (1995) that failure to interview an alibi witness is only prejudicial where witness testimony, if true, would actually establish an alibi defense by making it physically impossible for the defendant to have committed the crime.

However in *Glover* after PCR Judge heard Counsel for defense concession that he had not contacted all potential alibi witnesses

Judge concluded that had all potential witnesses been contacted, there was a reasonable probability the results would have been different" Where matters of Credibility are involved we give great deference to a Judge's findings, since we lack the opportunity to directly observe the witness.

In *Grier v. State* 229 S.C. 321 386 SE.2d 722 (1998). It was the testimony of the defendant's trial Counsel that formed a sufficient basis upon which to affirm the granting of PCR.

Because as stated in *Baker. State v. Baker* 411 S.C. 583, 769 S.E.2d 860 (2015), that time is not an element of the offense. Therefore it is not the alibi of the Evidence Ms. Watkins Statement to Mr. Rutzang that Partitioner is mostly concerned about but the impeaching nature on a key witness of the prosecution. *Horner v. Shearin* U.S. 439 F.Supp3d

Favorable evidence under Brady, is either exculpatory of the defendant or impeaching of an adverse witness.

Federal Rules of Criminal Procedure Rule 44(e)

Right to and Appointment of Counsel

Rule 44(a): A defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant at every stage of the proceeding from initial appearance through appeal, unless the defendant waives this right.

Rule 44(c): establishes a procedure for avoiding the occurrence of events which might otherwise give rise to a plausible post-conviction claim that because of joint representation the defendants of a criminal case were deprived of their Sixth Amendment right to the effective assistance of counsel.

When a potential conflict of interest arises either where court has assigned the same counsel to represent several defendant or where the same counsel has been retained by co-defendants in a criminal case, the proper course of action for the trial judge is to conduct a hearing to determine whether a conflict exists to the degree that a defendant may be prevented from receiving advice and assistance sufficient to afford him the quality of representation guaranteed by the Sixth Amendment. The defendant

should be fully advised by the trial court of the facts underlying the potential conflict and be given the opportunity to express his views.

Avoiding a conflict - of - interest situation is in the first instance a responsibility of the attorney.

During the same hearing Solicitor Meador says to the Judge R. 165, L. 5-19

Q. "Judge, the one other problem I have is that Mr. Ratzong conversation obviously is in dispute with our victims, (referring to Mr. Watkins) and kind of makes him a witness." That's one reason we always try to have an investigator or somebody with us. I don't know how we rectify that. I'd love to have Mr. Ratzong on the stand, but if she says no I didn't tell you that. I told you he moved in in June. but I didn't tell you. I didn't know him or he wasn't in my life. The next --- that puts his credibility against our victims, which I don't think is appropriate, and I don't know how we remedy that because I think in effect he's made himself a witness there perhaps. I don't know.

I need to think about that for a second quite frankly. But --- cause he saying do you remember when you talked to me, he's putting his Credibility against hers.

The Court: R. 165, L. 20-23

A. " My initial thought on that one, I'll take them out of order here, I don't think he can get into that at all, Mr. Rutzong, in this trial because that's what you've sort of put yourself in the case now.

Mr. Rutzong R. 165, L. 24, 25.

A. Well, I guess Mr. Meadors and I would both be in this case, your Honor because

I --- it wasn't immediately, but I disclosed this to Mr. Meadors probably within a couple of months period of time. I think it was in that conference room right back there.

We had --- we sat down. I -- he tells me he doesn't recall that I guess.

Solicitor Meador reply R. 166, L. 6-10

A. I've got a great memory. I recall you told me, and I want the record to reflect, that she call you. You did not tell me she told you he was not in her life in April. I'm a hundred percent sure about that.

Mr. Rutzong R. 166, L. 11-22

"well, I disagree. I wouldn't of had any reason for --- other than to tell him and then the reason I delayed the disclosure to him was I wasn't sure how to use this piece of information.

evidence is favorable, requiring disclosure under Brady., not only when it tends substantively to negate guilt but also when it tends to impeach the credibility of a key witness for prosecution, evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the results of the proceeding would have been different, United States v. Abdallah 911 F.3d 201 (2018)

Mr. Rutzong : R. 166, L. 15

A: But, you know if you're going to begin to negotiate a case with someone, what do you do? you start telling them hey this is a problem with your case, and that's when I told him what she told me, and I wouldn't have had any reason --- there would be no reason for me to tell him, and I'm not saying that, obviously my friend, John, I'm not saying he's being untruthful with the Court. I think his memory is faulty.

The Court: R. 166, L. 23-25 and R. 167, L. 1-2

"Well, what I want to stress to both of you is I don't question the character of either one of you.

This is not about that. But I don't think the jury should hear any conversation or questions about your conversation with her if ---- I just don't think they should.

In, *Byrd v. Hopson* 2004 WL 1770241, 108 Fedl Appx. 749 A case where a lawyer was needed to testify as a witness.

The district court determined that based on "Diggs" presence during some of the key events underlying the case, he would "most certainly be called as a witness" at trial. J.A. 1308. And, the court concluded that Diggs' dual role as advocate and witness presented a conflict of interest that required disqualification. See also *United States v Morris* 714 F.2d 469, 671 (7th Cir. 1983)

(explaining that the general prohibition against counsel acting as advocate and as witness "eliminates the possibility that the attorney will not be a fully objective witness")

Based on the record, the district court determined that Diggs had independent knowledge of disputed facts and thus would likely be a necessary witness. In disqualifying Byrd Attorney Diggs the district court recognized, any prejudice that Byrd may have suffered was results of Diggs' failure to acknowledge his likely disqualification and bring in substitute counsel earlier in the litigation. See *Alexander v. Watson*, 128 F.2d 627, 631 (4th Cir 1942) emphasizing that "No amount of sophistry can gloss over the impropriety of an attorney's accepting employment in a cause in which he knows that he is to testify".

The courts should have disqualified Mr. Rutzeng and ordered a new trial.

The court : R. 167. C. 10-12

A. Where your version of your conversation with her differ, I don't think you should get into that at all.

Mr. Routzong R. 167. C. 13-18

A. I don't disagree with that at all
Your Honor.

I think that makes it very complicated and it's was a one sided conversation where she asked me not to disclose to anybody, although ultimately, I did because I represent Mr. Torres Shaw.

A conflict of interest occurs when a defense attorney places himself in a situation inherently conducive to divided loyalties. If a defense attorney owes duties to a party whose interests are adverse to those of the defendant, then a actual conflict exists.

"To establish a violation of the Six Amendment right to effective counsel due to a conflict of interest arising from multiple representation, a defendant who did not object at trial must show an actual conflict of interest adversely affected his attorney's performance. Thomas v. State 346 S.C. 140, 143, 551 S.E. 2d 254, 256 (2001)

(emphasis added) (citing Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 773, (1998)). However, a defendant who shows that a conflict of interest actually affected the adequacy of his representation need not demonstrate prejudice to obtain relief. Stagg v. State, 372 S.C. 549, 551-52 (2007) 43 S.E.2d 690, 692 (2007)

When Ms. Watkins called Mr. Rutzony and gave him information about this case. Then asked him not to say anything to anyone. The fact that he didn't until months as he claims and didn't try to interview anyone to confirm her revelation of Mr. Torres Shaw not being around in April nor did he interview her so there would be no conflict at all.

He instead kept the information to himself which meant that he divided his loyalty between Ms. Watkins and his client Mr. Torres Shaw.

CONCLUSION

Thomas, 346 S.C. at 144, 551 S.E.2d at 256 says ("to be valid waiver of a conflict of interest must not only be voluntary, it must be knowingly and intelligently done.

There is no such waiver in this case, in fact the Court knew that Mr. Torres had wanted another attorney by his Motion at the beginning of the trial R. 38.6, 10 - P. 49 where the court was told of these issues and denied my motion. (Motion will be attached to appeal).

Can after viewing these error of law the Courts beyond a reasonable doubt declare that the defendant received a fair trial, as ment by the 6th and 14 amendment. The Appellant asks the Court to Reverse and Remand for a new trial.

Petitioner asks that the Courts
Consider that this, Pro se Anders Brief,
was prepared and filed during a
Pandemic, while under Quarantine.
In the matter of Gordon v. Duke, all
Pro se filings be liberally construed.
Gordon v. Duke 279 F. Supp. 3d 46 (2017).

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

IN THE COURT OF GENERAL SESSIONS
Warrant No(s). 2018A43102001a1
Indictment No. 2018-88-43-0797

State of South Carolina,

MOTION FOR STATUS OF COUNSEL
HEARING

v.

PEDRO A. GRADO TORRESSHAW

Pedro A. Grado Torres Shaw, Defendant.
Real Party of Interest and Petitioner

THIS MATTER SHOULD COME BEFORE THE COURT at the earliest GENERAL SESSION date after NOTICE of PETITION, pursuant to the Motion for the State to relieve^(s) the defendant of appointed Counsel, on the grounds of Ineffective Counsel.

In March of 2018 the Sumter County Public Defenders Office assigned to case Warrant No(s). 2018A4310200131 Mr. Michael D. Rutzong. In April of 2018 at the first bond hearing, the judge ordered a continuance of one week, to provide time for prosecutor to produce evidence that would give weigh on granting, or denying a bond. Not weeks, but Months went by before we returned to court some five(5) months later.

In August of 2018 the second(2) bond hearing, in front of a different Judge, after being told by Mr. Rutzong that I'd appear before the same judge as the last hearing. The Prosecution was given an additional (30) days to produce said evidence.

It is now June of 2019 and I have yet to return to court for a bond hearing. After several months on No communication from Mr. Rutzong, I began writing letters to the OFFICE OF DISCIPLINARY COUNSEL, as well as THE PUBLIC DEFENDER

OFFICE. They claimed there was an investigation however I myself never had a conversation with anyone from that OFFICE on the matter. The Head Public Defender Mr. Jack Howell, reply was for me to try an work with mr. Rutzong, which I have tried.

In January of 2019 Mr. Rautzeng showed up to inform me that my trial would start on the following weeks Monday, No defense strategy had been developed. When I asked Mr. Rautzeng about why had he not taken me up for bond, his reply was "that was just me being careless".

Sense then Mr. Rautzeng has been feeding me misinformation about facts of this case. He's failed to secure valuable eye witness testimony for the defense at a time closes to the accusations, as a result of such neglect, helpful testimonial evidence maybe lost due to the amount of time that has passed.

Mr. Rautzeng has yet to provide me with all documents in his possession pertaining to this case. Documents that should have been a part of my MOTION OF DISCOVERY. I have requested these documents both written and orally.

Mr. Rautzeng's blatant disregard to uphold claimed obligations on several occasions, giving me false court dates, failure to present me before the courts for bond, the change of judges against my wishes ect; his verbal exhibition for the lack of care to secure his clients pretrial release and the neglectful way he has handled this case shows an unguarded Ineffective Counsel. I can not go on with Mr. Rautzeng as my defense Counsel, I ask for the complete immediate removal from this case.

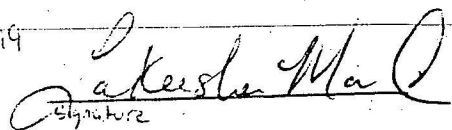
Further in depth details to be elaborated during Status of Counsel hearing.



Pedro A. Prado Torres-Druw. Defendant / Petitioner.

Notary of South Carolina

I subscribe on the 27 day of June, 2019



6-27-19

Date

My commission expires
10-16-2025

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

PEPRO A. TORRESSHAW
Pititioner,

STATE OF SOUTH CAROLINA
respondent

Case (No) 2018-GS-43-797

MOTION TO CHALLENGE

TRANSCRIPT OF RECORD

Pititioner challenges recorded trial transcript for
Trial (No) 2018-GS-43-797. This trial took place on July -
15th - 19th 2019 in Sumter, South Carolina. Before the
Honorable Judge GEORGE M. McFadden.

Assistant Solicitor for THE STATE
JOHN P. MEADORS

ASSISTANT PUBLIC DEFENDERS
MICHAEL RUTZGRO and
JASON C. BRIDGES

TRANSCRIBED by PAMELA E. GREEN
DCRP, Digital Courtroom Recorder Project

AFFIDAVIT

I Pedro A. Torres Shaw Am the Affiant and I state that The foregoing are true to the best of my remembrance on the statements, and testimony given during trial on July 15th - 19th, 2019, taken place in Sumter, S.C. Court of General Sessions. Before The Honorable George M. McFadden Judge; and Jury.

Appearances:

John P. Meadors
Assistant Solicitor
Attorney for the state

Transcript
of

Record (no) 2018-65-43-797

Micheal Routzong and
J.C. Bridges
Assistant Public Defenders
Attorney for the Defendant.

Transcribed by:

Pamela E. Green, from DCRP,
Digital Courtroom Recorder Project

Petitioner States that the transcript that has been recieved are not accurate as to the statements, and testimoney/ made by the defendant in this trial, by the Judge, Judge McFadden also Solicitor Meadors as well as Counsel for the defendant, M. Rautzong.

For this reason Petitioner Challenges the provided recordings. This is a request for Correction and Resend to Appellants Case file. (No) 2019-001234.

Within the findings of the transcript in play are errors of Omission, misspellings, misplacment of facts, added words. These errors stated above are not limited to.

As it is my belief that upon check the digital recordings there will be many more found.

I request that the Courts Petition the Courts Reporter, Pamela E. Green, to Produce the Authenic Original unedited (roughdraft) transcript of the record. Also the Authenic Audio Digital recording of the proceeding for case (No) 2018-GS-43-0797 that took place on the dates of July 15th - 19th 2019 in Sumter, S.C. Court of General Session before The Honorable Sudge George M. McFadden.

Under the South Carolina Rules of Court, Appellate Court rule 607 Court reporter transcripts and tapes (i) Retention of tapes.

Proceedings which were a hearing or a trial that lasted for more than one (1) day. In any proceeding which has transcribed for a period of at least one (1) year after the original transcript has been sent to the requesting party. A Court Reporter shall retain the primary and back up tapes. Not to be destroyed or reused until a period of at least (5) five years.

The request to challenge the transcripts accuracy are well within the Statute of Limitations.

Petitioner would also like to inform the courts that the unedited transcript is relevant upon Appellates Appeal and that this motion is and has been prepared during the COVID-19 pandemic and resources has been limited do to being Quarantined.

Motion Respectfully Submitted: Yours Truly

Pedro A. Torresshaw
4460 Broad River Rd.
B.R.C.I. Columbia, S.C.
29210

(1). The Jury Selection Pg. R. 24, line 25 "where upon a jury panel including two alternate jurors was selected at this time."

The selection of Jurors was made but is not in the record.

• Appellate request the list of names and juror numbers are needed for Apped.

(2). Pg. R. 38, line 20-21 "The indictment as well as I submitted roughly around three weeks ago, a motion for status of (to Arrive) - Omission

• Motion for status of Counsel hearing to "the Clerk of Court," Is what should be on the record. This statement was specifically asked to be recorded.

(3). Pg. R. 352, line 13 "I feel like I here because of malfetus."

• should say Malfeasance

(4). Pg. R 352, line 15 "In terms of the detective"

• should read Detective Gill

(6). Pg. R203, line 17-22 Denise Watkins was asked who retrieved the items Line 22 says "Jazmyne" retrieved them.
: It should Recd That Ms. Watkins replied she her-self retrieved the items.

(6). Pg. R 242 Line 24 is missing.

Mr. Rutzong replies "So Essentially Nothing means Nothing"

: Mr. Rutzong Makes reference to this Statement on Pg. R 419 Line 4. (Proof of what he said, but has been omitted).
Digital recording will show this

(7). Pg. R 441, line 24-25 "Charged Correction" was not stated.

THE STATE OF SOUTH CAROLINA

County of Sumter

Pedro A. Grado Torres Shaw

v.

State of South Carolina

THE SOUTH CAROLINA COURT
OF APPEALS

Case (No) 2019-001234

Certificate of Service

I Pedro A. Torres Shaw Certify that on this 5th
day of January 2021 sent to the Courts
Pro Se Anders Brief along with relivant documents
for my appeal. Please Send Stamp copy back.
Document have been sent by U.S. mail at The
Broad River Correctional Institution to addresses
below.

JAMES L. CAMPBELL

Clerk

215 N. Harvin Street

Sumter, S.C. 29150

JENNY ABBOTT KITCHINGS

Clerk

P.O. Box 11629

Columbia S.C. 29211

~~Jenny Abbott Kitchings~~ notary Sworn to and subscribed
by me, this 5th day January / 2021

Notary Public

My Commission Expires July 27, 2026

JAMES C. CAMPBELL

CLERK

215 N. Harvin Street

Bumter, S.C. 29150

Case (No) 2019-001234

Dear Clerk in closed, Please find one
Original and Copy of Appellant's Pro Se Anders
Brief along with relevant documents for the Appeal.
Please Stamp, file, and send one Copy back
to Appellant.

Pedro A. Garcia Torres Shaw
4460 Broad River Rd.
Columbia S.C. 29210

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County
Honorable George M. McFaddin, Circuit Court Judge
THE STATE,

RESPONDENT,

V.

Pedro A. Gardo Torres-Shaw

APPELLANT.

APPELLATE CASE NO. 2019-001234

Pro Se ANDERS BRIEF OF APPELLANT

Pedro Torres Shaw
Pro se litigant

4460 Broad River Rd
Columbia, SC 29210
B.R.C.I.

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TABLE OF AUTHORITIES

- Alexander v. Watson, 128 F.2d 627, 631 (4th Cir. 1942)
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Jackson v. State 329 S.C. 345, 354, 495, S.E.2d 768, (1998)
Staggs v. State 372, S.C. 549, 551-57, 643 S.E.2d 690 (2007)
State v. Baker 411 S.C. 583, 769 S.E.2d 860 (2015)
State v. Lomax 379 S.C. 100, 65 S.E.2d 167
Thomas v. State 346 S.C. 140, 143, 551 S.E.2d 254 (2001)
United States v. Abdallah 911 F.3d 201 (2018)
Walker v. States 407 S.C. 400, 756 S.E.2d 144 (2014)
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APPENDIX

U.S.C.A. Constitutional Amendments 6th, 14th.

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(United States Code Ann.) Rule, 44(c).

South Carolina Bar Ethics Advisory Committee.

SCACR: Rule 407 1.3 and 1.7

WEST LAW search

STATEMENT OF ISSUE ON APPEAL

did the trial court violate the defendant's Sixth Amendment right to effective assistance of counsel, and his right to "Conflict Free Counsel." Also due Process; Constitutional right to a fair trial as ment by the 14th Amendment.

STATEMENT OF THE CASE

A Sumter County grand jury indicted appellant Pedro A. Grado Torres-Shaw for first-degree criminal sexual conduct with a minor and on July 15, 2019, appellant was tried before the Honorable George M. McFaddin and a jury. R. 1. John P. Meadors represented the state. R. 1. Michael Routzong and J.C. Bridges represented appellant. R. 1. The jury convicted appellant. R. 441, 1.7 - 442, 1.3. Judge McFaddin sentenced appellant to twenty-five years' imprisonment. R. 450, 11.4-9. This cipped follows.

STANDARD OF REVIEW

"In order to establish a violation of the Sixth Amendment right to counsel based on conflict of interest, a defendant who raised no objection at trial must demonstrate that an actual conflict of interest adversely affected his lawyer's performance; a defendant who shows that a conflict of interest actually affected the adequacy of his representation need not demonstrate prejudice in order to obtain relief" U.S.C.A. Const. Amend 6. *Duncan v. State* 281 S.C. 435, 315 S.E.2d 809 (1984) (internal quotations and citations omitted).

A lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) The representation involves a client directly adverse to another client; or
- (2) There is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer. Rule 407, SCALR, Rules of Prof Conduct, Rule 1.7

STANDARD OF REVIEW

A lawyer may not, without the consent of clients, represent a party with interests directly adverse to another client. Nor may a lawyer without consent, represent a client if the representation may be materially limited by lawyer's responsibility to another client or third person. South Carolina Bar Ethics Advisory Committee

October 1991; Ethics Advisory Opinion

SC Adv. Op. 91-24 S.C. Bar. Eth Adv. Comm 1991

WL787753 Under 1.7(a) Rule 407 SCALR

Statement of Case

Complainant, was twelve years old at the time of trial. R. 69, L. 3-6.

Appellant was complainant's mother's boyfriend. R. 176, L. 12-16.

On January 27, 2018 complainant was home with her brother, appellant and

appellant's two son and one daughter, R. 70, L.

74, L. 14. Appellant told his daughter to take a shower. R. 74, L. 18-24.

Complainant claims appellant then anally raped her while his daughter was in the shower. R. 75, L. 4-77, L. 15.

Complainant also testified that appellant had been repeatedly molesting her since April of 2017. R. 77, L. 16-81, L. 3.

Complainant's mother and sister returned home from running errands and complainant told her older sister about the alleged abuse.

R. 137, L. 15-139, L. 15

The older sister then got the mother's attention to come into the room where the three girls were. R. 139, L. 11-140, L. 15

The mother testified that complainant told her about the alleged abuse then testified about the time and place. R. 185, L. 1-187, L. 4

The mother in her statement says she took the girls into the master bedroom along with the appellant and claimed he responded that he had blackouts, and that if complaint said it, it must be true and that she should call the police. R. 187, L. 21-189, 1. 2.

Appellant testified and denied making these statements to the mother R. 356, L. 18-24.

Appellant also vehemently denied abusing complainant in any manner. R. 349, L. 1-8.

Appellant did however tell the mother to call the police, after the mother told him that if complaint went to school and said anything to anyone that she could get in trouble.

Appellant was certain a competent investigation would exonerate him. R. 351, L. 11-353, L. 3.

Appellant had not taken a shower that day and the police's intrusive, extensive for evidence on his person found none. R. 353. L. 4-355, 1.

Appellant discredited the State's DNA evidence on clothing of complainant's pulled from laundry room where it had been for not hours weeks.

Contradicting prior testimony that every resident of the house had their own laundry basket, stating that he was the only one with a laundry basket. (Appellant notes that public defender Mr. Routzoury failed at impeaching several inconsistencies on these matters). R. 285, 1.7 - 290, 1.7, R. 355, 11.4 - 11.

DLED's serologist admitted that clothing from the same household could carry the DNA of all residents if they had been in the same place there could be cross contamination.

(Appellant notes that this was applied unfairly to his underwear which did not come from the laundry basket at home, but from off of his body at the Sumter, County Jail. However the clothing of the complainant did come from the laundry at home and it wasn't what she had on on the day of Jan. 27, 2018.) R. 272. L. 15-19.

Appellant also specifically denied making any statements about blocking out to the police and described officer as wearing a body camera at the time

After hearing this testimony, the State was forced to call the officer back as a reply witness to correct his earlier (unobjected to) erroneous testimony, R. 389, L. 11-390, L. 25.

ARGUMENT

A Criminal defendant has a sixth Amendment right to have the Assistance of Counsel for his defense. The Court has interpreted this right to include a right to counsel free from conflict of interest, *Wheat v. United States*, 108 S.Ct. 1692 (1988)

During a Cross examination outside the presence of the jury, Mr. Rutzong Public Defender for the defendant began to question Denise Watkins a key witness for the state and mother of the complainant. Mr. Rutzong asked Ms. Watkins about a phone call she made to him on April 2, 2018.

R. 155-L. 1-10 Q. "Do you remember calling me on April, 2nd, 2018?"

A. Yes

Q. Do you remember telling me that it would be impossible for Pedro to have molested your daughter in April of 2017 because he hadn't come into your life until June?

Q. "Do you recall telling me that?"

A. "I didn't tell you that, I told you he didn't move in my house in June.

Pedro has been at my house prior to that.

Q. But he didn't move in until June?

Ms. Watkins

A. Yes

Mr. Rutzong goes on to question her about her visits to the jail to see Mr. Torres show the defendant. She claims a confession was given.

Mr. Rutzong points out to the judge, later that Ms. Watkins' statement to police is inconsistent with her testimony.

After Mr. Rutzong is done cross-examining Ms. Watkins, Solicitor Meadors redirects examination begins. Mr.

Meadors R. 157. L. 11

Q. "When you met --- you said you met with Mr. Rutzong?"

A. "I never met with Mr. Rutzong. I talked to Mr. Rutzong over the phone."

Q. Okay. To your knowledge, was anybody else there?

A. With ---

Q. In his office or do you know?

A. I don't know

Q. So it's just a conversation between you and Mr. Rutzong?

A. "Yes"

Mr. Meador goes on to ask about when the wall was made and by who which Ms. Watkins confirms she called Mr. Rutzong.

Mr. Meador then questions Mrs. Watkins on why she called Mr. Rutzong R. 158, L. 1

Q. "you did not tell him that Pedro was not in your life in April?"

A. "He was in my life and he would stay the night and then he initially moved in June."

Mr. Rutzong Recross R. 159, L. 2-24

Q. "Do you recall telling me that you didn't want me to tell anybody else about our conversation?"

Q. And the reason for you saying that to me was?

A. The reason for me saying that to you was because one I didn't have a lawyer at the time, and I didn't know this case was picked up, and I didn't want to be disclosed from talking to you."

R. 159, L. 11

A. disclosed or exposed or how ever you say that word.

Mr. Rutzong asks R. 159, L. 14

Q. what were you afraid would be exposed?

A. what I was afraid would be exposed?

after a Pause Mrs. Watkins says R. 159, 16

A. "Nothing I just didn't want to be."

I would like to be ---- I wanted to be.

I wanted to be anonymous at that time."

Q. Well you weren't anonymous cause you identified your self " isn't that correct?"

A. "To you" But if the conversation was to go any further I didn't want you to expose me to anyone else.

Mr. Rutzang then began to ask Ms. Watkins if she feared something because of being exposed.

R. 160. L. 1-16

Q. Would it be unfair to say that if you feared that if you didn't believe your daughter on some aspect of this case, that they might take custody of your children away from you? "Is that a fear that you have"?

A. "No Sir"

Rule 407 SCACR, Rules of Prof. Conduct

Rule 1.3 Diligence:

States; A lawyer shall act with reasonable diligence and promptness in representing a client.

- (1). A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer and take whatever lawful and ethical measures are required to vindicate a client cause or endeavor. A lawyer must also act with commitment and dedication to the interest of the client and with zeal in advocacy upon the clients behalf.

In *Walker v. State* 407 S.C. 400 756 S.E. 2d. 14/4 (2014). a case where a man was convicted of Kidnapping and first-degree Criminal sexual conduct. Certiorari was granted.

The Supreme Court, Hearn, J. held that:

- 1) Trial Counsel was required to interview defendant's former girlfriend as potential alibi witness, and
- 2) Counsel failure to interview girlfriend prejudiced defendant.

Upon affirming conviction the Court of appeals found that Walker girlfriend's testimony did not qualify as an alibi because "her testimony does not account for Walker's whereabouts on March 2, 2007 (the date of the offense); such ~~that~~ it was physically impossible for him to commit the crimes.

Therefore, the Court concluded that under *Glover v. State*, 318 S.C. 496, 458 S.E. 2d 538 (1995) that failure to interview an alibi witness is only prejudicial where witness testimony, if true, would actually establish an alibi defense by making it physically impossible for the defendant to have committed the crime.

However in *Glover* after PCR Judge heard Counsel for defense Concession that he had not contacted all potential alibi witnesses

Judge concluded that had all potential witnesses been contacted, there was a reasonable probability the results would have been different. Where matters of credibility are involved we give great deference to a Judge's findings, since we lack the opportunity to directly observe the witness.

In *Grier v. State* 229 S.C. 321, 386 S.E.2d 722 (1998). It was the testimony of the defendant's trial counsel that formed a sufficient basis upon which to affirm the granting of PCR.

Because as stated in *Baker*, *State v. Baker* 411 S.C. 583, 769 S.E.2d 860 (2015), that time is not an element of the offense. Therefore it is not the alibi of the evidence Ms. Watkins' statement to Mr. Routzong that petitioner is mostly concerned about but the impeaching nature on a key witness of the prosecution. *Horner v. Shearin* U.S. 439 F.Supp3d

Favorable evidence under Brady, is either exculpatory of the defendant or impeaching of an adverse witness.

Federal Rules of Criminal Procedure Rule 44(e)

Right to and Appointment of Counsel

Rule 44(a): A defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant at every stage of the proceeding from initial appearance through appeal, unless the defendant waives this right.

Rule 44(c): establishes a procedure for avoiding the occurrence of events which might otherwise give rise to a plausible post-conviction claim that because of joint representation the defendants of a criminal case were deprived of their Sixth Amendment right to the effective assistance of counsel.

When a potential conflict of interest arises either where court has assigned the same counsel to represent several defendant or where the same counsel has been retained by co-defendants in a criminal case, the proper course of action for the trial judge is to conduct a hearing to determine whether a conflict exists to the degree that a defendant may be prevented from receiving advice and assistance sufficient to afford him the quality of representation guaranteed by the Sixth Amendment. The defendant

should be fully advised by the trial court of the facts underlying the potential conflict and be given the opportunity to express his views.

Avoiding a conflict - of - interest situation is in the first instance a responsibility of the attorney.

During the same hearing Solicitor Meador says to the Judge R. 165, L. 5-19

Q. "Judge, the one other problem I have is that Mr. Ratzong conversation obviously is in dispute with our victims, (referring to Mr. Watkins) and kind of makes him a witness." That's one reason we always try to have an investigator or somebody with us. I don't know how we rectify that. I'd love to have Mr. Ratzong on the stand, but if she says no I didn't tell you that. I told you he moved in in June. but I didn't tell you. I didn't know him or he wasn't in my life. The next --- that puts his credibility against our victims, which I don't think is appropriate, and I don't know how we remedy that because I think in effect he's made himself a witness there perhaps. I don't know.

I need to think about that for a second quite frankly. but --- cause he saying do you remember when you talked to me, He's putting his Credibility against hers.

The Court: R. 165, L. 20-23

A. " My initial thought on that one, I'll take them out of order here, I don't think he can get into that at all, Mr. Rutzong, in this trial because that's what you've sort of put yourself in the case now.

Mr. Rutzong R. 165, L. 24, 25

A. Well, I guess Mr. Meadors and I would both be in this case, your Honor because

I --- it wasn't immediately, but I disclosed this to Mr. Meadors probably within a couple of months period of time, I think it was in that conference room right back there. we had --- we sat down. I -- he tells me he doesn't recall that I guess.

Solicitor Meador reply R. 166, L. 6-10

A. I've got a great memory, I recall you told me, and I want the record to reflect, that she call you. You did not tell me she told you he was not in her life in April. I'm a hundred percent sure about that.

Mr. Rutzong R. 166, L. 11-22

"well, I disagree. I wouldn't of had any reason for --- other than to tell him and then the reason I delayed the disclosure to him was I wasn't sure how to use this piece of information.

evidence is favorable, requiring disclosure under Brady., not only when it tends substantively to negate guilt but also when it tends to impeach the credibility of a key witness for prosecution, evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the results of the proceeding would have been different, United States v. Abdallah 911 F.3d 201 (2018)

Mr. Rutzong : R. 166, L. 15

A: But, you know if you're going to begin to negotiate a case with someone, what do you do? you start telling them hey this is a problem with your case, and that's when I told him what she told me, and I wouldn't have had any reason --- there would be no reason for me to tell him, and I'm not saying that, obviously my friend, John, I'm not saying he's being untruthful with the Court. I think his memory is faulty.

The Court: R. 166, L. 23-25 and R. 167, L. 1-2

"Well, what I want to stress to both of you is I don't question the character of either one of you.

This is not about that. But I don't think the jury should hear any conversation or questions about your conversation with her if ---- I just don't think they should.

In, *Byrd v. Hopson* 2004 WL 1770241, 108 Fedl Appx. 749 A case where a lawyer was needed to testify as a witness.

The district court determined that based on "Diggs" presence during some of the key events underlying the case, he would "most certainly be called as a witness" at trial. J.A. 1308. And, the court concluded that Diggs' dual role as advocate and witness presented a conflict of interest that required disqualification. See also *United States v Morris* 714 F.2d 669, 671 (7th Cir. 1983)

(explaining that the general prohibition against counsel acting as advocate and as witness "eliminates the possibility that the attorney will not be a fully objective witness")

Based on the record, the district court determined that Diggs had independent knowledge of disputed facts and thus would likely be a necessary witness. In disqualifying Byrd Attorney Diggs the district court recognized, any prejudice that Byrd may have suffered was results of Diggs' failure to acknowledge his likely disqualification and bring in substitute counsel earlier in the litigation. See *Alexander v. Watson*, 128 F.2d 627, 631 (4th Cir. 1942) emphasizing that "No amount of sophistry can gloss over the impropriety of an attorney's accepting employment in a cause in which he knows that he is to testify".

The Courts should have disqualified Mr. Rutzeng and ordered a new trial.

The court : R. 167. C. 10-12

A. Where your version of your conversation with her differ, I don't think you should get into that at all.

Mr. Rautzong R. 167. C. 13-18

A. I don't disagree with that at all

Your Honor.

I think that makes it very complicated and it's was a one sided conversation where she asked me not to disclose to anybody, although ultimately, I did because I represent Mr. Torres Shaw.

A conflict of interest occurs when a defense attorney places himself in a situation inherently conducive to divided loyalties. If a defense attorney owes duties to a party whose interests are adverse to those of the defendant, then a actual conflict exists.

"To establish a violation of the Six Amendment right to effective counsel due to a conflict of interest arising from multiple representation, a defendant who did not object at trial must show an actual conflict of interest adversely affected his attorney's performance. Thomas v. State 346 S.C. 140, 143, 551 S.E. 2d 254, 256 (2001)

(Emphasis added) (Citing Jackson v. State, 329 S.C. 345, 354, 495, S.E.2d 768, 773, (1998)). However, a defendant who shows that a conflict of interest actually affected the adequacy of his representation need not demonstrate prejudice to obtain relief. Stagg v. State, 372 S.C. 549, 551-52 643 S.E.2d 690, 692 (2007)

When Ms. Watkins called Mr. Rutzony and gave him information about this case. Then asked him not to say anything to anyone. The fact that he didn't until months as he claims and didn't try to interview anyone to confirm her revelation of Mr. Torres Shaw not being arond in April nor did he interview her so there would be no conflict at all.

He instead kept the information to himself which meant that he divided his loyalty between Ms. Watkins and his client Mr. Torres Shaw.

CONCLUSION

Thomas, 346 S.C. at 144, 551 S.E.2d at 256 says ("to be valid waiver of a conflict of interest must not only be voluntary, it must be knowingly and intelligently done.

There is no such waiver in this case, in fact the Court knew that Mr. Torres had wanted another attorney by his Motion at the beginning of the trial R. 38.6, 10 - P. 49 where the court was told of these issues and denied my motion. (Motion will be attached to appeal).

Can after viewing these error of law the Courts beyond a reasonable doubt declare that the defendant received a fair trial, as ment by the 6th and 14 amendment. The Appellant asks the Court to Reverse and Remand for a new trial.

Petitioner asks that the Courts
consider that this, Pro se Anders Brief,
was prepared and filed during a
Pandemic, while under Quarantine.
In the matter of Gordon v. Duke, all
Pro se filings be liberally construed.
Gordon v. Duke 279 F. Supp. 3d 46 (2017).

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

IN THE COURT OF GENERAL SESSIONS
Warrant No(s). 2018A43102001a1
Indictment No. 2018-BS-43-0797

State of South Carolina,

MOTION FOR STATUS OF COUNSEL
HEARING

v.

PEDRO A. GRADO TORRESSHAW

Pedro A. Grado Torres Shaw, Defendant.
Real Party of Interest and Petitioner

THIS MATTER SHOULD COME BEFORE THE COURT at the earliest GENERAL SESSION date after NOTICE of PETITION, pursuant to the motion for the State to relieve^(s) the defendant of appointed Counsel, on the grounds of Ineffective Counsel.

In March of 2018 the Sumter County Public Defenders Office assigned to case Warrant News. 2018A431020013. Mr. Michael D. Rutzong. In April of 2018 at the first bond hearing, the judge ordered a continuance of one week, to provide time for prosecutor to produce evidence that would give weigh on granting, or denying a bond. Not weeks, but Months went by before we returned to court some five(5) months later.

In August of 2018 the second(2) bond hearing, in front of a different Judge, after being told by Mr. Rutzong that I'd appear before the same judge as the last hearing, The Prosecution was given an additional (30) days to produce said evidence.

It is now June of 2019 and I have yet to return to court for a bond hearing. After several months on No communication from Mr. Rutzong, I began writing letters to the OFFICE OF DISCIPLINARY COUNSEL, as well as THE PUBLIC DEFENDER

OFFICE. They claimed there was an investigation however I myself never had a conversation with anyone from that OFFICE on the matter. The Head Public Defender Mr. Jack Howel, reply was for me to try an work with mr. Rutzong, which I have tried.

In January of 2019 Mr. Rautzeny showed up to inform me that my trial would start on the following weeks Monday, No defense strategy had been developed. When I asked Mr. Rautzeny about why had he not taken me up for bond, his reply was "that was just me being careless".

Since then Mr. Rautzeny has been feeding me misinformation about facts of this case. He's failed to secure valuable eye witness testimony for the defense at a time closes to the accusations, as a result of such neglect, helpful testimonial evidence maybe lost due to the amount of time that has passed.

Mr. Rautzeny has yet to provide me with all documents in his possession pertaining to this case. Documents that should have been a part of my MOTION OF DISCOVERY. I have requested these documents both written and orally.

Mr. Rautzeny's blatant disregard to uphold claimed obligations on several occasions, giving me false court dates, failure to present me before the courts for bond, the change of judges against my wishes ect; his verbal exhibition for the lack of care to secure his clients pretrial release and the neglectful way he has handled this case shows an unguarded Ineffective Counsel. I can not go on with Mr. Rautzeny as my defense Counsel, I ask for the complete immediate removal from this case.

Further in depth details to be elaborated during

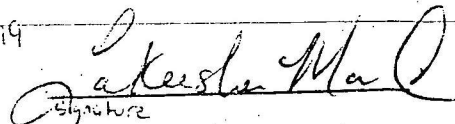
Status of Counsel hearing.



Pedro A. Ordoñez Torres-Sraw. Defendant / Petitioner.

Notary of South Carolina

I subscribe on the 27 day of June, 2019



6-27-19

Date

My commission expires
10-16-2025

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

PEDRO A. TORRESSHAW
Pititioner,

STATE OF SOUTH CAROLINA
respondent.

Case (No) 2018-GS-43-797

MOTION TO CHALLENGE
TRANSCRIPT OF RECORD

Pititioner challenges recorded trial transcript for
Trial (No) 2018-GS-43-797. This trial took place on July-
15th - 19th 2019 in Sumter, South Carolina. Before the
Honorable Judge GEORGE M. McFadden.

Assistant Solicitor for THE STATE
JOHN P. MEADORS

ASSISTANT PUBLIC DEFENDERS
MICHAEL ROUTZGRO and
JASON C. BRIDGES

TRANSCRIBED by PAMELA E. GREEN
DCRP, Digital Courtroom Recorder Project

AFFIDAVIT

I Pedro A. Torres Shaw Am the Affiant and I state that The foregoing are true to the best of my remembrance on the statements, and testimony given during trial on July 15th - 19th, 2019, taken place in Sumter, S.C. Court of General Sessions. Before The Honorable George M. McFadden, Judge; and Jury.

Appearances:

John P. Meadors
Assistant Solicitor
Attorney for the state

Transcript of

Record (No) 2018-65-43-797

Michael Routzong and
J.C. Bridges
Assistant Public Defenders
Attorney for the Defendant.

Transcribed by:

Pamela E. Green, from DCRP,
Digital Courtroom Recorder Project

Petitioner States that the transcript that has been recieved are not accurate as to the statements, and testimoney/ made by the defendand in this trial, by the Judge, Judge McFadden also Solicitor Meadors as well as Counsel for the defendand, M. Rouzong.

For this reason Petitioner Challenges the provided recordings. This is a request for Correction and Resend to Appellant's Case file. (No) 2019-001234.

Within the findings of the transcript in play are errors of Omission, misspellings, Misplacment of facts, added words. These errors stated above are not limited to.

As it is my belief that upon check the digital recordings there will be many more found.

I request that the Courts Petition the Courts Reporter, Pamela E. Green, to Produce the Authenic Original unedited (roughdraft) transcript of the record. Also the Authenic Audio Digital recording of the proceeding for case (no) 2018-GS-43-0797 that took place on the dates of July 15th - 19th 2019 in Sumter, S.C. Court of General Session before The Honorable Sudge George M. McFadden.

Under the South Carolina Rules of Court, Appellate Court rule 607 Court reporter transcripts and tapes (1) Retention of tapes.

Proceedings which were a hearing or a trial that lasted for more than one (1) day. In any proceeding which has transcribed for a period of at least one (1) year after the original transcript has been sent to the requesting party. A Court Reporter shall retain the primary and back up tapes. Not to be destroyed or reused until a period of at least (5) five years.

The request to challenge the transcripts accuracy are well within the Statute of limitations.

Petitioner would also like to inform the courts that the uncredited transcript is relevant upon Appellates Appeal and that this motion is and has been prepared during the COVID-19 pandemic and resources has been limited do to being Quarantined.

Motion Respectfully Submitted: Yours Truly

Pedro A. Torresshaw
4460 Broad River Rd.
B.R.C.I. Columbia, S.C.
29210

LIST OF ERRORS

(1). The Jury Selection Pg. R. 24, line 25 "where upon a jury panel including two alternate jurors was selected at this time."

The selection of Jurors was made but is not in the record.

∴ Appellate request the list of names and juror numbers are needed for Apped.

(2). Pg. R. 38, line 20-21 "The indictment as well as I submitted roughly around three weeks ago i a motion for status of (re Arrive) - Omission

∴ Motion for status of Counsel hearing to "the Clerk of Court"
Is what should be on the record. This statement was specifically asked to be recorded.

(3). Pg. R. 352, line 13 "I feel like I here because of malfetus."

∴ should say Malfeasance

(4). Pg. R 352, line 15 "In terms of the detective"

∴ should read Detective Gill

(5). Pg. R203, line 17-22 Denise Watkins was asked who retrieved the items Line 22 says "Jazmyne" retrieved them.
∴ It should read that Ms. Watkins replied she herself retrieved the items.

(6). Pg. R 242 Line 24 is missing.

Mr. Rautzong replies "So Essentially Nothing means Nothing"

∴ Mr. Rautzong makes reference to this statement on Pg. R 419 Line 4. (proof of what he said, but has been omitted).
Digital recording will show this

(7). Pg. R 441, line 24-25 "Charged Correction" was not stated.

THE STATE OF SOUTH CAROLINA

County of Sumter

Pedro A. Grado Torres Shaw

v.

State of South Carolina

THE SOUTH CAROLINA COURT OF APPEALS

Case (No) 2019-OC1234

Certificate of Service

I Pedro A. Torres Shaw Certify that on this 5th day of January 2021 sent to the Courts Pro Se Anders Brief along with relevant documents for my appeal. Please send Stamp copy back. Document have been sent by U.S. mail at The Broad River Correctional Institution to addresses below.

JAMES C. CAMPBELL

Clerk
215 N. Harvin Street
Sumter, S.C. 29150

JENNY ABBOTT KITCHINGS

clerk
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Case (No) 2019-001234

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Dear Clerk in closed, Please find one original and copy of Appellants Pro Se Andrus Brief along with relevant documents for the Appeal. Please Stamp, file, and send one copy back to Appellant.

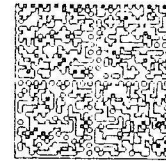
Pedro A. Garcia Torres Shaw

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