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FEB 22 2021

STATE OF SOUTH CAROLINA S.C.

IN THE SUPREME COURT

APPEAL FROM NEWBERRY COUNTY

MANUEL S. HERNANDEZ,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2020-001080

PRO SE WRITTEN MEMORANDUM FOR THE COURT CONSIDERATIONS
JOHNSON PETITION FOR WRIT OF CERTIORARI

THE PETITIONER WAS DEPRIVED OF CONSTITUTIONAL SAFEGUARD
GUARANTEE BY THE 6TH AMENDMENT TO THE U.S. CONSTITUTION
ARTICLE 1. SECTIONS 3 AND 14 OF THE SC STATE CONSTITUTION
AND APPLICABLE CASE AUTHORITY OF STRICKLAND V. WASHINGTON
466 US 668 (1984); HILL V. LOCKHART 474 US 52 (1985).

THE PETITIONER WAS DEPRIVED EFFECTIVE ASSISTANCE OF
COUNSEL IN THE FOLLOWING PARTICULARS.

THE PETITIONER GUILTY PLEA WAS NOT ENTERED BEFORE THE
COURT KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY THUS
THEREFORE, THE SAID PLEA IS IN VIOLATION OF THE "DUE
PROCESS OF LAW" SAFEGUARD OF THE 5TH AND 14TH

2 - CONTINUED

AMENDMENTS OF THE CONSTITUTION, ARTICLE 1, SECTIONS 3 AND 14 OF THE S.C. CONSTITUTION, AND THE APPLICABLE CASE AUTHORITY OF BOYKIN V. ALABAMA, 395 U.S. 238 (1969) NORTH CAROLINA V. ALFORD 400 US 31. (1970).

THE PETITIONER WAS DEPRIVED "DUE PROCESS OF LAW" WHEN THE STATE FAILED TO FULFILL IT'S PART OF NEGOTIATED PLEA AGREEMENT. IN VIOLATION OF SC AMENDMENTS TO THE U.S. CONSTITUTION ARTICLE 1 SECTIONS 3 AND 14 OF THE S.C. CONSTITUTION AND APPLICABLE CASE AUTHORITY OF BLACKLEDGE V. ALLISON, 431 US 63 (1977).

*** SUPPORTING FACTS ***

THE PETITIONER WOULD SHOW THIS COURT THAT COUNSEL WAS DEFICIENT AND DID PREJUDICE THE PETITIONER CRIMINAL PROCEEDINGS WHEN:

- 1.) COUNSEL FAILED TO CONDUCT MEANINGFUL INDEPENDENT INVESTIGATION
- 2.) FAILED TO INFORM THE COURT OF NEGOTIATE PLEA AGREEMENT
- 3.) FAILED TO APPRISE THE PETITIONER OF THE MANY EXCLUSIONARY MECHANISMS AVAILABLE TO ATTACK THE VALIDITY OF THE STATES EVIDENCE AND ANY STATEMENTS GIVEN BY PETITIONER OR WITNESSES.

3- CONTINUED

- 4.) FAILED TO EXPLAIN THE CHARGES TO PETITIONER AND THE FACTS OF THE CHARGES IN RELATIONSHIP TO THE APPLICABLE LAW.
- 5.) FAILED TO FORMULATE AN DEFENSE STRATGEY AND TOOK THE PATH OF LESS RESISTANCE BY COERCING PETITIONER TO PLEAD GUILTY.
- 6.) FAILED TO WITHDRAW PETITIONER GUILTY PLEA.
- 7.) FAILED TO FULLY APPRISE PETITIONER OF HIS CONSTITUTIONAL RIGHTS AND SAFEGUARDS.
- 8.) COUNSEL FAILED TO COMMUNICATE WITH PETITIONER ABOUT THE STATUS OF HIS CASE PRIOR TO GOING TO COURT.
- 9.) COUNSEL WAS INEFFECTIVE WHEN HE FAILED TO INFORM PETITIONER OF THE ADVANTAGES AND DISADVANTAGES OF PLEADING GUILTY OR TAKING A TRIAL IN WHICH COUNSEL WAS CONSTITUTIONALLY REQUIRED TO DO SO.
- 10.) COUNSEL HAS A RESPONSIBILITY BY LAW FUNCTION AS ASSISTANT TO PETITIONER DERIVE THE OVERARCHING DUTY TO ADVOCATE PETITIONER'S CAUSE AND MORE PARTICULAR DUTIES TO CONSULT WITH PETITIONER ON IMPORTANT DECISION AND TO KEEP PETITIONER INFORMED OF IMPORTANT DEVELOPMENTS

4- CONTINUED

IN COURSE OF THE PROSECUTION U.S.C.A.
CONST. AMEND. 6.

- 11.) COUNSEL'S FUNCTION IN REPRESENTING THE PETITIONER IS TO ASSIST PETITIONER AND HENCE COUNSEL OWES PETITIONER DUTY OF LOYALTY, A DUTY TO AVOID CONFLICT OF INTEREST. U.S.C.A. CONST. AMEND. 6.
- 12.) THE PETITIONER MR. HERNANDEZ IS FROM MEXICO AND HIS NATIVE TONGUE/NATIVE LANGUAGE IS SPANISH THE PETITIONER IS NOT FLUENT IN ENGLISH. THE PETITIONER CAN'T READ OR WRITE ENGLISH.
- 13.) THE PETITIONER MR. HERNANDEZ WAS COERCED BY COUNSEL TO ENTER A PLEA OF GUILTY. COUNSEL PRESSED MR. HERNANDEZ TO PLEAD GUILTY.
- 14.) COUNSEL FAILED TO FILE A MOTION TO SUPPRESS THE PETITIONER'S VERBAL AND WRITTEN STATEMENT TO DEPUTY STEPHEN EPPS ON JUNE 29, 2014

- 15.) COUNSEL WAS INEFFECTIVE BY NOT FURTHER INVESTIGATING/FURTHER TIED TOGETHER THE THE MINORS VARIOUS STATEMENTS.
- 16.) COUNSEL FAILED TO SECURE AN INTERPRETER/ TRANSLATOR
- 17.) THE PETITIONER MR. HERNANDEZ GUILTY PLEA WAS ENTERED ONLY AS THE RESULT OF INEFFECTIVE ASSISTANCE OF COUNSEL IN THAT COUNSEL WRONGLY LED PETITIONER TO BELIEVE HE SHOULD ENTER A GUILTY PLEA.

THE PETITIONER'S PRAYER OF RELIEF

SENTENCE VACATED AND GRANTED A NEW TRIAL ON THE FACTS.

END OF DOCUMENT



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