

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

—————
Certiorari to Horry County

Honorable R. Kirk Griffin, Circuit Court Judge
—————

RECEIVED

Sep 01 2021

S.C. SUPREME COURT

ALTON WESLEY GORE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-000322
—————

SUPPLEMENTAL APPENDIX
—————

SARAH E. SHIPE
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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AMENDED PCR APPLICATION.....1

STATE’S EXHIBIT #34 (PROFFER AGREEMENT
WITH ANGEL DEANGELO)3

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 Alton Wesley Gore Jr. 322597)
 Applicant)
 Vs.)
 State of South Carolina)
 Respondent,)

COURT OF COMMON PLEAS
 FOR THE 15th JUDICIAL CIRCUIT
 2016-CP-26-7592
 AMENDED PCR APPLICATION

FILED
 HORRY COUNTY
 2019 OCT 11 PM 1:00
 RENEE E. EYIS
 CLERK OF COURT
 HORRY COUNTY, SC

Applicant, by counsel amends his original Post-Conviction Relief application to include the following allegations of ineffective assistance of trial counsel and prosecutorial misconduct.

1. Trial counsel provided ineffective assistance of counsel by seeking to challenge the lawfulness of the search warrant by requesting a hearing under Franks v. Delaware, 438 U.S. 154 (1978). Applicant is informed and believes that had trial counsel sought to suppress the search warrant based upon the insufficiency of probable cause alleged within the four corners of the warrant affidavit it is likely that the trial court would have suppressed all evidence seized under the search warrant.
2. By seeking a motion *in limine* to preclude all mention of defendant's prior drug arrests, trial counsel provided ineffective assistance of counsel. As a result of the Court's ruling on the motion, trial counsel was precluded trial from attempting to introduce testimony questioning the reliability of the confidential informant.
3. Trial counsel provided ineffective assistance of counsel by failing to seek and order requiring the State to disclose the identity of the confidential informant.
4. Applicant was prejudiced by trial counsel's failure to seek a continuance of the trial once applicant's co-defendant agreed to testify as a state witness. Trial counsel and applicant had insufficient time to prepare to cross examine the co-defendant.
5. Applicant was prejudiced by trial counsel's failure to strike the jury panel after codefendant agreed to testify against Applicant. Co-defendant participated in the selection of the jury, and after the jury was sworn but before the opening statements, the co-defendant met with the Solicitor and agreed to testify agasint Applicant. Applicant was prejudiced by his co-defendant's participation in the jury selection because Counsel for co-defendant exercised its

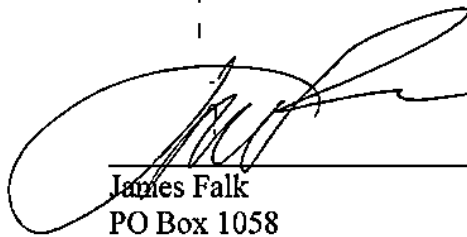
five peremptory strikes against jurors 159, 133, 24, 2, and 122. Additionally counsel for codefendant exercised peremptory strikes against jurors 355 and 270 as potential alternates. Trial counsel prejudiced applicant's 6th Amendment rights and Due Process rights by allowing him to be tried before a jury that was selected in part by a State's witness.

6. Trial counsel provided ineffective assistance of counsel by failing to raise contemporaneous objections to the introduction of testimony and evidence obtained under the search warrant.

7. Trial counsel failed to object to testimony by Officer Kent Donald and Officer Mark Cooper that they each had experience in conducting undercover drug buys. Applicant is informed and believes that the jurors inferred that one or both officer's conducted the undercover buys leading to Applicants arrest.

8. The Solicitor engaged in prosecutorial misconduct by failing to fully disclose the deal that was provided to the co-defendant in exchange for her testimony.

Respectfully Submitted,

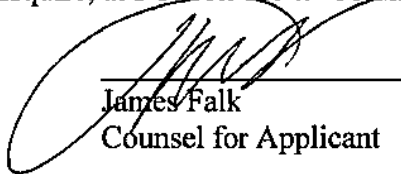


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FILED
HORRY COUNTY
2019 OCT '18 P 1:00
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFICATE OF SERVICE

Undersigned certifies that on October 16, 2019 a copy of the above was both mailed and emailed to Johnny James Jr. Esquire, at PO Box 11549 Columbia, SC 29211; jjames@scag.gov.



James Falk
Counsel for Applicant

January 3, 2012

Robert John Johnston
Attorney at Law
825 Surfside Drive
Surfside Beach, SC 29575

RE: **State v. Angel Deangelo**

Warrant Number(s): M505240, M505242, M505243, M505244

Charge(s): Resisting Arrest, Possession of Marijuana, Possession of Ecstasy, and
Trafficking Cocaine 200-400 grams

Dear Mr. Johnston:

By this letter, the State extends to your client the opportunity of a Proffer in this matter subject to the following material terms:

1. Angel Deangelo shall submit herself to agent(s) of the State for the purpose of debriefing regarding this matter and all other matters materially bearing on this matter. She shall be completely truthful concerning her involvement in this matter, and completely truthful concerning the involvement of all other individuals in this matter. She shall truthfully and completely answer all questions posed by agent(s) of the State bearing materially on this matter, and shall provide without prompting all information concerning this matter in a complete and truthful manner even if such information is not elicited by agent(s) of the State by direct question. Any and all information provided by Angel Deangelo under the terms of this Proffer may be recorded in any fashion at the election of the State;

2. Angel Deangelo shall submit herself to polygraph examination(s) to verify all information provided to the State at the election of the State. The polygraph examiner(s) shall be selected by the State and, for the purpose of this Proffer, are designated agent(s)

of the State; upon examination(s) by polygraph, if Angel Deangelo responses show deception, the terms of this Proffer are null and void at the election of the State. Any statements made by Angel Deangelo **may** be used against her by the State for any purpose;

3. Angel Deangelo shall appear as a witness in the trial(s) of all individuals in this matter who are designated as defendants by the State through indictment; and Angel Deangelo shall testify truthfully, completely, and consistently with prior statements made to the State upon being called upon to do so; failure to testify in the manner specified above will render the terms of this Proffer null and void. Use of statement(s), should Angel Deangelo violate this term of the Proffer, are the same as are provided in paragraph 2 of this Proffer;

4. The State shall consider the extent and degree of cooperation of Angel Deangelo in the election of charges and at the sentencing of Angel Deangelo, and shall advise the Court of Angel Deangelo's extent and degree of cooperation in connection with this matter;

5. Violation of any term of this Proffer renders all terms null and void; and

6. This Proffer is the entire agreement between the parties; any agreement reached between the parties prior to the date of acceptance of this Proffer is made null and void by this Proffer; the terms of this Proffer may be amended only in writing and only by agreement of the parties.

Should your client wish to accept the terms of this Proffer, please indicate by affixing your signatures on the signature lines provided below.

Sincerely



Nancy G. Cote
Assistant Solicitor



ANGEL DEANGELO
DEFENDANT

1/5/11
DATE



ROBERT JOHN JOHNSTON
ATTORNEY FOR DEFENDANT

1-5-2012
DATE