

Mr. LEVERN McCrea
348291 BB-12
Ridgeland Com. Inst.
5 - Correctional Road
Ridgeland, S.C 29926

December 9, 2021

Michael J. NEUBAUER Esquire
Assistant Attorney General
Rembert DENNIS Bldg. Room 519
1000 Assembly Street
Columbia, S.C 29201

RE: LEVERN McCREA VS. THE STATE 2020-
001420 S.C

Dear Mr. NEUBAUER:

ENCLOSED ARE THE AMENDED PETITION
FOR WRIT OF CERTIORARI AND MOTION TO RELIEVE
COUNSEL IN THE ABOVE ENTITLED CASE, WHICH I
HAVE FILED TODAY WITH THE SOUTH CAROLINA
SUPREME COURT.

Respectfully, requested
I Mr. Levern McCrea
Mr. LEVERN McCrea
Petitioner Pro-Se.

cc:

RECEIVED

DEC 14 2021

1 of 1

S.C. SUPREME COURT

Mr. LEVERN McCree
348,291 BB-12
Ridgeland Corr. Inst.
5 - Correctional Road
Ridgeland, S.C 29936

DECEMBER 9 2021

S.C. Commission on Indigent Defense

Attorney Robert M. DUDEX Esquire
Post Office Box 11589
Columbia, S.C 29211

RE: LEVERN McCree vs. The STATE
of S.C.: 2020-001426

Dear Mr. DUDEX:

Enclosed are the Amended Petition for writ
of certiorari and motion to relieve counsel in the above
entitled case, which I have filed today with the
South Carolina Supreme Court.

Respectfully, requested

Mr. Levern McCree

Mr. LEVERN McCree
Petitioner Pro-Se

cc:

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DEC 14 2021

S.C. SUPREME COURT

Mr. LEVERN McCree
348291 BB-12
Ridgeland Com. Inst.
5 - Correctional Road
Ridgeland, S.C 29936

December 9, 2021

ASSISTANT ATTORNEY GENERAL OFFICE

Attorney JANET GREGORY
Post office Box 11549
Columbia, S.C 29211

RE: LEVERN McCree VS. THE
STATE OF S.C.: 2020-001426

DEAR MS. GREGORY:

ENCLOSED ARE THE AMENDED PETITION FOR
WRIT OF CERTIORARI AND MOTION TO RELIEVE COUNSEL
IN THE ABOVE ENTITLED CASE, WHICH I FILED
TODAY WITH THE SOUTH CAROLINA SUPREME COURT.

Respectfully, requested.

Mr. Levern McCree

Mr. LEVERN McCree
PETITIONER PRO-SE

cc:

1 of 1

RECEIVED

DEC 14 2021

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO WILLIAMSBURG COUNTY
HONORABLE GEORGE M. McFADDIN, CIRCUIT COURT JUDGE

LEVERN McCREE,

PETITIONER,

V.S.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO: 2020-001426

PETITION FOR WRIT OF CERTIORARI

MOTION TO AMEND BRADY ISSUES

1 Mr. Lovern McCree

Mr. LEVERN McCREE
#348291 BB-12
Ridgeland Corr. Inst.
5-Correctional Road
Ridgeland, S.C 29936
DECEMBER 9, 2021

1 Mr. Lovern McCree

PRO-SE

RECEIVED

DEC 14 2021

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

LEVERN MCCREE #348291

VS. PETITIONER

STATE OF SOUTH CAROLINA

RESPONDENT

AMENDMENT TO WRIT
OF CERTIORARI

APPELLATE CASE NO: 2020-
001426

Certiorari to Williamsburg County
Honorable George M. McFaddin Circuit Court Judge

THE PETITIONER through the following addition-
al claims and AMENDMENT to his prior two (2)
ISSUES for writ of certiorari for relief:

STATEMENTS

1. Brady violations were committed by the
state resulting in prosecutorial misconduct.

ON October 17, 2011, PETITIONER proceeded
to a jury trial Pro-se. Solicitor Kimberly
Barr appeared on behalf of the state, and
the Honorable W. Jeffrey Young was the trial
Judge. PETITIONER was convicted of Murder
and Weapon Charge. App. 689 11, 4-10.
Judge Young sentenced PETITIONER to a Life
Sentence on the murder charge and Five (5)
years consecutive for the weapon charge.
App. 698 11, 10-19.

AMENDED ISSUE PRESENTED

Whether the P.C.R. Court Erred in denying relief for Brady violations committed by the state resulting in prosecutorial misconduct. IN addition to a sanction hearing that was held ON JUNE 26, 2018 against solicitor Kimberly Barr. Where solicitor Barr's omission during that hearing proves my claim of prosecutorial misconduct.

Whether the P.C.R. Court Erred in denying relief for PETITIONER claims of prosecutorial misconduct because of the states solicitor handling the petitioner Brady evidence the 1st, 2nd and 3rd day during the petitioner trial. IN addition to withholding that letter of leniency from the petitioners RULE-5 Brady Motion prior and during trial. which prejudice the outcome of the trial and DENIED the petitioner a fair trial to be fully heard. UNDER S.C. CONSTITUTION ARTICLE 1, SECTION 14. THE right to DUE PROCESS OF LAW. 14th AMENDMENT, THE government has a DUE PROCESS obligation [grounded in the 14th Amendment] to disclose [All] that Brady evidence to the defendant. INFORMATION coming within the scope of this principle including NOT ONLY EVIDENCE that is EXCULPATORY i.e. going to the heart of the defendants guilt or INNOCENCE, but also EVIDENCE that is useful for impeachment. i.e.

ARGUMENTS

THE COURT ERRED IN RULING IN SOLICITOR KIMBERLY BARR FAVOR IN NOVEMBER OF 2018. AFTER THE SANCTION HEARING WAS HELD ON JUNE 26, 2018. WHERE THE PETITIONER WAS GRANTED THAT HEARING DATE TO ADDRESS THE COURT FOR THE SOLICITOR KIMBERLY BARR VIOLATIONS OF RULE 37(b) FAILURE TO COMPLY WITH ORDER. AND RULE (e) FAILURE TO PARTICIPATE IN THE FORMING OF A DISCOVERY PLAN. AND RULE 26 (f) DISCOVERY CONFERENCE. [SEE ATTACHED REQUIREMENTS]

THE COURT ERROR DURING THE PETITIONERS OCTOBER 17, 2011 TRIAL. FOR NEGLECTING TO ADDRESS THE VIOLATION OF THE STATES SOLICITOR HANDING THE PETITIONER BRADY EVIDENCE THE 1st, 2nd AND 3rd DAY DURING HIS TRIAL. SEE TTP: 29 AT NO: 24 TO 25. TTP: 30 AT NO: 1 TO 13. TTP: 41 AT NO: 24 TO 25. TTP: 42 AT NO: 1 TO 4. TTP: 45 AT NO: 17 TO 25. TTP: 46 AT NO: 1 TO 14. TTP: 47 AT NO: 9 TO 12.

THE COURT ERRED IN FINDING THE TESTIMONY OF SOLICITOR KIMBERLY BARR CREDIBLE. AND THAT SHE COMPLIED WITH RULE-5 BRADY REQUIREMENTS. SEE TTP: 402 AT NO: 10 TO 25. AND PAGE .6 OF THE SUPPLEMENTAL REPORT [SEE ATTACHED SHEET]

ARGUMENT

SEE: P.C.R. HEARING TRANSCRIPTS pg. 170
at NO: 1 to 25, pg. 171 at NO: 1 to 25, pg. 172 at
NO: 1 to 25, pg. 173 at NO: 1 to 25, pg. 174 at NO:
1 to 25, pg. 175 at NO: 1 to 25, pg. 176 at NO: 1 to
25, pg. 177 at NO: 1 to 25.

THE BRADY DISCLOSURE RULE REQUIRES
THE PROSECUTION TO PROVIDE TO THE DEFENDANT
ANY EVIDENCE IN THE PROSECUTIONS POSSESSION
THAT MAY BE FAVORABLE TO THE ACCUSED.

STATE VS. KENNERLY, 331 S.C. 442, 452, 503 S.E.2d
214, 220 (Ct. App 1998) (Citing Brady v. Maryland

373 U.S. 83, 87, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963).

FAVORABLE EVIDENCE INCLUDES BOTH EXCUIPATORY
EVIDENCE AND EVIDENCE WHICH MAY BE USED FOR
IMPEACHMENT. UNITED STATES V. BAGLEY, 473

U.S. 667, 676, 105 S.Ct. 3375, 87 L.Ed. 2d 481 (1985)

THE STATE MUST DISCLOSE BRADY EVIDENCE EVEN
WHEN A CRIMINAL DEFENDANT DOES NOT SPECIFICALLY
REQUEST THE EVIDENCE. UNITED STATES V. AGURS

427 U.S. 97, 107, 96 S.Ct. 2392, 49 L.Ed. 2d

342 (1976). CEL PRODUCTS, LLC VS. ROZELLE, 357

S.C. 125. [7] [8] THE GIST AND GRAVAMEN OF THE DIS-
COVERY RULES, MANDATES FULL AND FAIR DISCLOSURE TO
PREVENT A TRIAL FROM BECOMING A GUESSING GAME
OR ONE OF AMBUSH FOR EITHER PARTY. SCOTT VS.

GREENVILLE, 353 S.C. 639, 652, 579 S.E.2d. 151.

158 (2003).

ARGUMENT

The rights of discovery provided by the solicitor and the court rules, give the trial lawyer, the means to be prepared for trial. Where these rights are not accorded, prejudice must be presumed and unless the party who has failed to submit to discovery can show a lack of prejudice reversal is required. Downey vs. Dixon, 294 S.C. 42, 46. 362 S.E. 2d, 317, 319 (1987).

* A defendant in a criminal trial has the right to seek out the truth in the process of defending himself. Davis vs. Alaska, 415 U.S. 308 320; 94 S.Ct. 1105; 39 L.Ed. 2d 347 (1974) Few rights are more fundamental than that of an accused to present witnesses in his own defense. Chambers vs. Mississippi, 410 U.S. 284, 302, 93 S.Ct. 1038; 35 L.Ed. 2d 297 (1973). Misconduct of counsel for prosecution in general. Most cited when reliability of a given witness may well be determinative of guilt or innocence, nondisclosure of evidence affecting credibility falls within rule that suppression of material evidence justifies a new trial irrespective of

ARGUMENT

Good faith or bad faith of the prosecution. As long ago as MOONEY VS. HOLLOMAN, 294 U.S. 103, 112, 55 S. Ct. 340, 342 79 L. Ed. 791 (1935). This court made it clear that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of justice. This was reaffirmed in PYLE VS. KANSAS, 317 U.S. 213, 63 S. Ct. 177, 87 L. Ed. 214 (1942). IN NAPOE VS. ILLINOIS, 360 U.S. 264 79 S. Ct. 1173, 3 L. Ed. 2d 1217 (1959). We said, (t)he same results obtains when the state although not soliciting false evidence, allows it to go uncorrected when it appears Id. at 269, 79 S. Ct. at 1177. Thereafter, Brady vs. Maryland, 373 U.S. at 87, 83 S. Ct. at 1197 held that, suppression of material evidence justifies a new trial, irrespective of the good faith or bad faith of the prosecution, SEE AMERICAN BAR ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE, PROSECUTION FUNCTION AND THE DEFENSE FUNCTION.

CONCLUSION

BASED ON THE FOREGOING, PETITIONER respectfully requests that this COURT REVERSE the P.C.R. Court ruling and Remand for a NEW trial. And or, VACATE with PREJUDICE.

Mr. Levern McCrea

MR. LEVERN MCCREA
PETITIONER PRO-SE

Ridgeland, South Carolina

This 9 day of DECEMBER, 2021

CERTIFICATE OF SERVICE

MR. LEVERN MCCREA
248291 BB-12
Ridgeland Corr. INST.
5- Correctional Road
Ridgeland, S.C. 29936

SOUTH CAROLINA SUPREME COURT
Court of Appeals (Clerk of Court)
Post office Box 11320
Columbia, S.C. 29211

cc:

1 Q: All right. So if you take a right from 378, you'd
2 be on Highway 41?

3 A: Coming back from Johnsonville.

4 Q: All right. Now, what was the approximate distance
5 on Old River Road from Highway 378 that the firearm
6 that we talked about in this case was recovered?

7 A: I measured it at eleven point five miles.

8 Q: Eleven point five miles from Highway 378?

9 A: Yes, ma'am.

10 Q: Now, it has been suggested or insinuated at this
11 point that Mr. Briggs wrote a statement requesting
12 to talk to law enforcement back on March the 29th,
13 2010, and that was the reason why you all came to
14 see him; is that true?

15 A: No, ma'am.

16 Q: You never received any type of letter requesting
17 that he speak with you?

18 A: I don't have any knowledge of any letters.

19 Q: And the only reason why you all went to go see him
20 on the 29th of March of 2010 was because of what was
21 told to you by Ms. Smith?

22 A: Yes, ma'am.

23 Q: And was there any type of deal between the sheriff's
24 department and Christopher Briggs concerning him
25 providing you with information?

On the top of pg. 403 of No. 1 NO, Ma'am!

1 A: No, ma'am. "STOP"

2 Q: Was there any promises made to get him out of jail?

3 A: No.

4 Q: All right. And as a matter of fact, after you
5 recovered a firearm on Old River Road in Florence
6 County, where did y'all take Christopher Briggs?

7 A: Back to the jail.

8 Q: Right back to jail.)

9 A: Yes, ma'am.

10 Q: Is that right?

11 A: Yes, ma'am.

12 Q: And would the Williamsburg County Sheriff's Office
13 even have any control or say-so or authority related
14 to Georgetown County Cases?

15 A: No, ma'am. He's actually in custody for Georgetown
16 County. So we wouldn't have any say-so on those
17 matters.

18 Q: Now, the items that were recovered from Old River
19 Road, you transported those items to SLED in
20 Columbia?

21 A: I did.

22 Q: All right. And typically you all have items of
23 evidence that are taken to SLED in Columbia to be
24 analyzed. You all have Lieutenant Jeff Scott to do
25 that; is that right?

PLAINTIFFS EXHIBIT 184
No. 6
PERIOD 09-01-09

INCIDENT REPORT SUPPLEMENTAL

Case Number: 0902123



Officer: 1727 LAMBERT, BRENDA

Date Entered/Changed: 03/15/2009

Reviewer:

Review Date:

WE WAS TOLD THAT [REDACTED] KNEW WHY LEVERN MCCREA KILLED CORA BROWN. WE TALKED TO [REDACTED], AND TOLD HER THAT WE NEEDED TO TALK WITH HER ABOUT CORA DEATH, AND SHE STATED THAT SHE DO NOT KNOW ANYTHING ABOUT HER DEATH. WE TOLD THAT SOME ONE TOLD US THAT SHE KNEW WHY LEVERN KILLED CORA, AND [REDACTED] STATED THAT IF SHE KNEW ANYTHING SHE WOULD HAVE CALL OR COME BY, THE SHERIFF OFFICE, AND LET THE LAW KNOW. SHE STATED THAT SHE AND CORA WERE BEST FRIENDS, AND SHE WILL DO ANYTHING TO HELP US FIND OUT THE TRUTH. *****WILLIE BROWN*****

HERE

ON JULY 30, INVESTIGATOR BROWN ALONG WITH LT COLLINS, AND CHIEF JOHNSON MADE A LETTER FOR CHRIS BRIGGS WHICH STATED BASE ON OUR RECENT CONVERSATIONS, WE BELIEVE THE YOU HAVE VITAL INFORMATION ABOUT CORA BROWN DEATH. AT THIS POINT WE DO NOT BELIEVE THAT YOU ARE THE ACTUAL SHOOTER AND IF YOU FREELY AND VOLUNTARILY PROVIDE ALL OF THE TRUTHFUL DETAIL SURROUNDING CORA DEATH, AND PASS THE POLYGRAPH. CHRIS WILL BE CHARGED WITH ASS, AFTER THE FACT, THE LETTER WENT ON TO SAY THAT WE WILL TALK WITH THE JUDGE AND THE SOLICITOR TO GET CHRIS BRIGGS LENTENCY ON HIS CHARGE. INVESTIGATOR BROWN ALONG WITH LT COLLINS WENT TO [REDACTED], AND MADE CONTACT WITH [REDACTED], WHO WAS ABLE TO MAKE CONTACT WITH CHRIS BRIGGS. [REDACTED] STATED THAT CHRIS HAD TOLD HIM THAT HE DO NOT WANT TO TALK WITH US, WITH OUT A LAWYER. [REDACTED] STATED THAT HE WILL EXPLAIN THE LETTER TO CHRIS AS SOON AS HE CAN GET IN TOUCH WITH HIM.

INV. Willie Brown, Lt. Debra Collins & Chief Michael Johnson

JULY 30, 2009 LT COLLINS MADE CONTACT WITH [REDACTED] WHO STATED THAT HE WILL TALK WITH US BUT IT WILL BE AFTER MONDAY, CHRIS BRIGGS WANTS TO TALK WITH A LAWYER FIRST. *****WILLIE BROWN*****

ON 08/04/2009 INV. BROWN WENT TO CHRIS BRIGGS HOUSE TO MAKE CONTACT WITH HIM, AND THE [REDACTED] WAS IN THE YARD BUT NO ONE CAME TO THE DOOR, I LEFT AND WENT DOWN THE ROAD, TO THE [REDACTED] WHERE CHRIS BRIGGS [REDACTED]. I THEN CALLED AND I WAS ABLE TO MAKE CONTACT WITH MS BRIGGS, AND I ASKED HER WHEN WAS THE LAST TIME SHE SEEN CHRIS, AND SHE STATED THAT SHE DO NOT KNOW NOTHING.

INV. BROWN AND LT COLLINS WENT BACK TO CHRIS BRIGGS HOUSE, AND THE [REDACTED] WAS GONE. WE THEN WENT DOWN TO THE ROAD, AND WAITED FOR CHRIS BRIGGS TO COME HOME. OFFICER WAS ABLE TO MAKE CONTACT WITH CHRIS BRIGGS, AND HE STATED THAT HE WAS NOT RUNNING FROM US. CHRIS STATED THAT HE WILL GO WITH US, BUT HE NEED TO DROP OFF HIS SON AT THE [REDACTED]. CHRIS BRIGGS CAME TO W.C.S.D ALONG WITH LT COLLINS, AND MYSELF. CHRIS BRIGGS STATED THAT HE WANT'S TO TALK BUT HE THINK THAT WE ARE GOING TO LOCK HIM UP.

INV. BROWN AND CHIEF JOHNSON GIVE CHRIS BRIGGS HIS MIRANDA WARNING, AND CHRIS STATED THAT HE WILL TALK WITH US. CHRIS STATED THAT WHEN LEVERN MCCREA FIRST CAME BACK TO [REDACTED] THE FIRST OF MARCH, LEVERN STATED THAT HE HAD SOME FOLK'S TO GET RID OF. CHRIS BRIGGS STATED THAT LEVERN TOLD HIM THE CORA, QWAN, LEVERN'S SISTER, AND SOMEONE ELSE, WAS ON LEVERN LIST. CHRIS BRIGGS STATED THAT LEVERN TOLD HIM THE CORA WAS TALKING ABOUT HIM AND TELLING EVERYONE THAT HE WAS A FAGGOT, AND LEVERN WAS UPSET ABOUT THAT. [CHRIS STATED THAT THE TUESDAY BEFORE CORA DEATH LEVERN, AND HISSELF WENT TO NORTH CAROLINA, TO GET SOME MONEY FROM LEVERN GIRLFRIEND. CHRIS STATED THAT WHEN THEY GOT THERE THE [REDACTED] LEFT AND LEVERN, AND HISSELF WENT INTO THE HOUSE, WITH THE KIDS. CHRIS STATED THAT LEVERN THEN LEFT. CHRIS STATED THAT THE NEXT TIME HE SAW LEVERN, WAS THE NEXT MORNING, WHEN LEVERN WAKE HIM UP TO COME HOME. CHRIS STATED THAT THEY GOT HOME ABOUT 12:00 NOON, AND THEY WENT TO LEVERN HOUSE. CHRIS STATED THAT LEVERN LEFT AND WENT TO HIS MOTHER HOUSE FOR ABOUT 15 MINS. CHRIS STATED THAT LEVERN CAME BACK AND TOLD HIS THAT HE HAD TO GO AND TAKE CARLYNN TO WORK AT AYA, AND THEY DID. CHRIS STATED THAT WHEN THEY GOT BACK THAT WENT TO ANDREWS TO CARLINDA HOUSE. CHRIS STATED THAT THEY GOT THERE ABOUT 9:00PM, CHRIS STATED THAT HE WAS DRINKING, AND LEVERN NEEDED TO GET SOME DRUGS. CHRIS STATED THAT LEVERN GOT A PHONE CALL SOMEONE, CHRIS STATED THAT HE DO NOT KNOW IF IT WAS BJ, DORSEY, OR CHRISTEN. CHRIS STATED THAT [REDACTED] GOT DRUNK, AND HE WENT TO SLEEP. CHRIS STATED THAT LEVERN WAKE HIM UP, AND TOLD HIM LET'S GO. I ASKED HIM IF LEVERN HAD ON THE SAME CLOTHES FROM THE DAY BEFORE, AND CHRIS STATED NO. CHRIS STATED THAT LEVERN DID NOT HAVE ANYTHING THERE SO PUT ON. CHRIS STATED THAT THE TWO OF THEM WENT AND PICK CHRISTEN UP FROM HER HOUSE, AND THE THREE OF THEM WENT TO ANDERSON, TO PAY LEVERN CAR NOTE. CHRIS STATED THAT ON THE WAY BACK CHRIS DROVE FROM FLORENCE, AND CHRISTEN, AND LEVERN WAS IN THE BACK SEAT HAVING SEX. CHRIS STATED THAT THEY CAME BACK DOWN HWY 512, AND WHEN THEY GOT TO WINGO CHANDLER ROAD LEVERN TOLD HIM TO KEEP STRAIGHT. CHRIS STATED THAT HE WENT ON UP TO HWY 41, AND LEVERN TOLD HIM TO GO RIGHT SO THEY COULD TAKE CHRISTEN HOME. WHICH WAS ABOUT 15 MILES OUT THE WAY. CHRIS STATED THAT LEVERN TOLD HIM THAT HE HAD TO GO SEE THE POLICE, BUT LEVERN NEVER TOLD HIM WHY. CHRIS STATED THAT LEVERN TOLD HIM THAT HE WAS GOING TO KILL CORA, AND A FEW DAYS AFTER SHE WAS DEAD. WE THEN ASKED CHRIS IF HE WAS WILLING TO TAKE A POLYGRAPH TEST, AND CHRIS STATED OK. WE THEN TOOK CHRIS TO S.L.E.D, AND CHRIS TOOK THE TEST.

MR RICK STATED THAT CHRIS HAD TOUBLE WITH ONE QUESTION, AND THAT WAS DID YOU LIE ABOUT LEVERN SAYING HE SHOT CORA, AND CHRIS ANSWER NO.

09-08-2009 INV. LAMBERT MADE CONTACT WITH [REDACTED] IN REFERENCE TO THE POLY GRAPH THAT WAS SET UP FOR 09-09-09. LAMBERT ADVISED [REDACTED] THAT WE WOULD PICK HER AND TAKE HER. [REDACTED] STATED THAT SHE WOULD GET SOMEONE TO TAKE HER TO THE OFFICE. I ADVISED [REDACTED] THAT THE POLY GRAPH WOULD NOT BE DONE AT THE OFFICE. [REDACTED] THEN STATED THAT SHE WOULD CALL ME BACK IN 20 MINUTES TO LET ME KNOW IF SHE HAD A RIDE TO THE OFFICE FOR THE NEXT MORNING. [REDACTED] DID NOT CALL BACK SO I CALLED HER BACK AND SHE WOULD NOT ANSWER THE PHONE. I LEFT HER A MESSAGE TO CALL ME. MORNING OF 09-09-09 I TRIED TO MAKE CONTACT WITH [REDACTED] SEVERAL TIME AND NO CONTACT WAS MADE. PER LT. COLLINS I MADE CONTACT WITH CPT. PIERCE FROM GEORGETOWN AN CANCELLED THE POLY GRAPH.

20-9 1/2

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to do. Now, the part about that is because it relates to
the roles those two fellas had that night. The night
that Cora was killed. ^{*} Let me go ahead and tell you
folks, I know some of you all are thinking in the back of
your mind, maybe you all are thinking in the back of your
mind, um Ms. Barr, I'm not too sure about Christopher
Briggs. He might know more than what he's saying. Tell
me you all are thinking that. I know you all are
because it ran through my mind as well. He might have
seen a little more than he letting on but, well not but.
Let me tell you this. I'm not going to get up here with
a straight face and say that Christopher Briggs is all
innocent, he's a choral boy. I'm not going to say that,
Not with a straight face anyway. But Christopher Briggs,
I would submit to you is the lesser of two evils. But
the evil one, let there be no doubt, the evil one is
right there. He is the one who is clearly, clearly in
control. ^{*} Christopher Briggs sort of strikes me as a
follower. He sort of strikes me as the type of person
that, he just, for lack of a better word, he's lacking.
And quite frankly, he very possibly could have been the
look out. ^{*} Let me tell you why you should be satisfied
within your spirits and your soul that Christopher Briggs
is not the one who killed Cora Brown. A couple of
reasons. One, when the police officers went and talk to

1 around a month before this murder was committed to
2 anybody who would listen to him. People I want to get.
3 I got people I want to get. Telling Christine. Telling
4 Christopher. Christine said, I'm not the only person you
5 told that to. Because he's, you know, he's smart, he's
6 big city, running his mouth. He's telling all these
7 people here. Cora Brown, one of them and Carmen Presley
8 another one. He put his mama and his sister on the list.
9 Now, that was interesting to me because I remember in one
10 of these investigator's file that the defendant had
11 actually filed a police report on Carmen Presley about a
12 year and a half before Cora was murdered. So there's
13 some evidence of some links between Carmen and the
14 defendant, which sort of, in my mind, remember I was
15 talking about credibility of witnesses and corroboration,
16 that sort of boost the credibility of what Christine and
17 Christopher were both saying. He's the kind of fellow, I
18 think it's pretty clear now, that has to be in control.
19 He's like the person that has all of these various chess
20 pieces and they're the ones --- he's the type of fella
21 that's making all the moves. I mean you can kind of see
22 how he was asking witness questions, you can kind of see
23 in those letters. He's the one in control. He's the one
24 doing the planning. He's the one doing the manipulation.
25 You know that. He's constantly telling someone else what

* 1 Q And it says -- and this is from it looks like Brenda
2 Lambert. It says (as read): "On July 30, Investigator
3 Brown, along with Lieutenant Cowans and Chief Johnson,
4 made a letter for Chris Briggs which stated: 'Based on
5 our recent conversations, we believe that you have vital
6 information about Cora Brown's death. At this point we do
7 not believe that you're the actual shooter, and if you
8 freely and voluntarily provide all of the truthful details
9 surrounding Cora's death and pass the polygraph, Chris
10 will be charged with accessory after the fact.'"

11 The letter went on to say that (as read): "We will
12 talk with the judge and the Solicitor to get Chris Briggs
13 leniency on his charge. Investigator Brown, along with
14 Lieutenant Cowans, went to ..." -- and it looks like it's
15 blacked out -- "and made contact with ..." -- it's blacked
16 out -- "... who was able to make contact with Chris
17 Briggs. Stated that Chris had told him he was not willing
18 to talk with us without a lawyer. Stated he will explain
19 the letter to Chris as soon as he can get in touch with
20 him."

21 So after reading that, would you agree with me that
22 somewhere in existence there is a letter that is outlining
23 some sort of agreement for Mr. Briggs?

24 A It appears to.

* 25 Q Okay. Why was that not turned over?

1 A I'm not sure why that wasn't turned over. The
2 Solicitor's Office never had a -- that letter. I -- I
3 would assume that, based upon what's contained in that
4 paragraph, that that letter would've been given to someone
5 to give to Mr. Briggs. And the only thing that I could --
6 I could guess is that a copy was not made of that letter.

7 Q Would that not be subject to disclosure pursuant to
8 Rule 5?

9 A I think it would've been.

10 Q Okay. It definitely would've been, wouldn't it?

11 A Yeah. I ---

12 Q Okay.

13 A --- think it would've been.

14 Q And as a matter of fact, at the trial, did Mr. Briggs
15 not -- did he deny, during your examination and all also
16 Mr. McCrea's examination, that there was any sort of deal
17 that had been promised to him?

18 A I believe he did.

19 Q Okay. So Mr. McCrea -- it would've been important for
20 him to have had a letter where there was actually a deal
21 laid out 'cause that's pretty rare, is it not, to have?

22 A Is what pretty rare? I'm sorry.

23 Q Is it pretty rare for law enforcement or the State to
24 take a written letter or agreement and send it to a
25 witness before they even testify saying that, "If you

* 1 testify, we'll give you this." Is that pretty rare?

2 A It is.

3 Q Okay. So that would've been important for Mr. McCrea
4 to have during his examination of Mr. Briggs; would it
5 not?

* 6 A In theory, yes. Here -- let me explain why I qualify
7 my answer. It appears that this letter indicates that law
8 enforcement did not believe that Christopher Briggs was
9 the person who killed Ms. Brown, but they believed that he
10 had knowledge about the involvements of -- of the person
11 or persons who did; and that if the -- Mr. Briggs were
12 willing to give truthful information that could be -- the
13 truth, the authentic -- the authenticity of which could be
14 corroborated by the polygraph, that they would agree to
15 talk to the Solicitor and to the judge and advise the
16 Solicitor and the judge of his cooperation and request
17 leniency on his charge.

18 As far as this case is concerned, as I sit here today
19 and even with the trial of the case and in preparation for
20 the trial of the case, there was no evidence that ever
21 came to mind that Mr. Briggs was a participant in the
22 murder or acted to assist Mr. McCrea once the -- the
23 murder was committed.

* 24 I vaguely have a recollection of talking with the
25 officers about potential charges that defendants could

1 face. I -- and -- and that's -- and that's normal.
2 Before arrest warrants are issued, law enforcement
3 officers may talk to prosecutors who -- to find out what -
4 - what charges, if any, are appropriate.

~~7~~ 5 And I remembered that -- you know, obviously, I wanted
6 to charge Mr. Briggs with something more than simply the
7 charge of misprision of a felony, but there was no
8 evidence -- no information in the file or in the
9 investigation that -- that I'm aware of that Mr. Briggs
10 actually assisted the principal once the felon had been
11 committed. So an accessory after the fact -- although law
12 enforcement might've believed that that was an appropriate
13 charge, it was not my belief, based upon what we could
14 prove, that that was an appropriate charge.

15 And in talking with Mr. Briggs prior to the trial of
16 the case, he wanted guarantees from me that he could get
17 probation. And I was very candid with him, in the
18 presence of several witnesses, that that was not being
19 offered. And -- and my recollection was that he actually
20 was sentenced to prison rather than given a probationary
~~21~~ 21 sentence.

~~22~~ 22 So yes, I believe, in principle, that that's something
23 that -- that should've been discovered. I -- I suspect
24 that, based upon how this read, that it was a letter that
25 was turned over or given to somebody to give to Mr.

1 Briggs. Never dawned on me, quite frankly, to ask Mr.
2 Briggs if he has that letter. But it is ---

3 Q You might want to ask law enforcement if they've got
4 the letter.

5 A They -- law enforcement does not have a letter to this
6 effect.

7 Q Have you checked with law enforcement?

8 A I did.

9 Q You -- before the trial or after the trial?

10 A My recollection is it was during the trial when that
11 issue came up.

12 Q When did that issue come up?

13 A I believe it was during the point where Mr. McCrea was
14 asking Mr. Briggs about the State offering him leniency or
15 -- or something along lines of a sentence recommendation
16 to ---

17 Q Well, you're saying ---

18 A --- induce him to testify.

19 Q That wasn't addressed to the judge where you said,
20 "Judge, I think there was a letter out there that we may
21 have written to Mr. Briggs." It didn't come up like that,
22 did it?

23 A It did not.

24 Q Okay.

25 A No.

1 Q So there's nothing on the record about the existence
2 of this letter.

3 A No, I'm sorry. I thought you were asking me when did
4 I ask law enforcement about it.

5 Q Yeah. So ---

6 A About the letter.

7 Q --- you -- you asked law enforcement during the trial
8 is your testimony --

9 A Correct.

10 Q -- about this letter.

11 A Correct.

12 Q So there's nothing in the record about -- about that
13 or you bringing it to the Court's attention.

14 A No, sir.

15 Q Okay.

16 A No, sir.

17 Q Okay. Let me ask you, going back to the June 22, 2011
18 motion to relieve Mr. Anderson, do you recall the Court --
19 Judge King stating that if Mr. Anderson were relieved,
20 that he would remain -- he would stand by to advise with
21 the procedure in the courtroom. Do you recall that? And
22 I'm happy to hand up the transcript if you don't have one.

23 A That'd be great.

24 (Mr. Boozer hands document to the witness.)

25 Q And specifically I'm looking at page 41, and just

1 The Court: All right ladies and gentlemen, you have
2 been selected as our jurors for this case. Now this case
3 is not going to start until tomorrow. I'm going to
4 release you for the afternoon. Please do not discuss
5 this case with anyone. Ladies and gentlemen, all that
6 information will be given to you during the course of the
7 trial as you sit and hear it. Now, ladies and gentlemen,
8 I'm going to release you for the evening. Have a nice
9 day. We will see you back here tomorrow morning at 10:00
10 a.m. Thank you.

11 (Jury excused for today)

12 The Court: All right, I understand there's a number
13 of matters of law that need to be taken care of, why
14 don't we have lunch and we will start right at two
15 o'clock with pre-trial matters.

16 Ms. Barr: Yes sir. Thank you.

17 (Court Lunch Break was taken/Back on the Record)

18 The Court: All right, you ready to proceed?

19 Ms. Barr: Your Honor, if it please the court? We
20 are back on the record for indictment 2010-GS-45-135. and
21 there are several matters that I would like to address
22 before the court.

23 The Court: All right.

24 Ms. Barr: The first concerns supplemental discovery
25 that was served on Mr. McCrea. He should have received

1 this morning a copy of the SLED crime scene report and
2 that's actually dated November 16th of 2009 there were
3 probably about ten Sled reports in the case and I think
4 through an oversight that was not given to him but Judge,
5 I wouldn't think that it would change the defense or come
6 as a surprise to him because there is nothing in there
7 that is exculpatory. So I wanted the record to reflect
8 that he has received that. He's also received ...

9 The Court: You said nothing in it is exculpatory?

10 Ms. Barr: That is correct. Judge, he's also
11 received a latent print Sled report dated October 17,
12 2011 it was faxed to me as some point this afternoon and
13 I've given that to him as well. We had a pretrial
14 conference on last Wednesday and during that time that
15 Sled report had not been done because we just received
16 it. It was about a month or so ago. That's been done
17 and I've given that to him as well.

18 The Court: As soon as you got it, you gave it to
19 him?

20 Ms. Barr: Yes sir.

21 The Court: All right.

22 Ms. Barr: Your Honor we were initially served with
23 a Rule 5 request from the defendant's first attorney, Mr.
24 Cezar McKnight, and that was done in, I believe, October
25 of 2010 and I'll make that response as Court's Exhibit

1 Ms. Barr: No sir.

2 The Court: Mr. McCrea do you have any motions at
3 this time?

4 Mr. McCrea: Yes sir, Your Honor. I requested
5 copies of Investigator Brown, Wayne McFadden and
6 Investigator Lambert document infractions or complaints
7 against them and or acts of misconduct towards them, Your
8 Honor.

9 The Court: Do they relate to this case?

10 Mr. McCrea: Yes they are testifying to what they
11 discovered in reference to this case.

12 The Court: These were what now?

13 Mr. McCrea: Infractions and misconduct reports.

14 The Court: You're asking for that now?

15 Mr. McCrea: Yes sir.

16 Ms. Barr: Your Honor, I don't know that there's
17 been an infractions or reports. Well, first of all, I
18 don't know if these things even exist but they certainly
19 don't relate to the investigation of this case. So, Your
20 Honor, we would submit to the court that information,
21 should it exist is irrelevant.

22 The Court: Why would it be relevant in this matter
23 and why are you asking for it the day of the trial?

24 Mr. McCrea: Well, Your Honor, I haven't had an
25 opportunity to prevail due the fact that I'm still

1 getting late undisclosed evidence and then all of a
2 sudden I am representing myself pro se.

3 The Court: I understand that but that's because you
4 have relieved three attorneys.

5 Mr. McCrea: Yes and I've entered those exhibits in
6 for a reason to show cause as well.

7 The Court: Does the state know of any records such
8 as that?

9 Ms. Barr: Your Honor, not as it relates to this
10 case. I don't know the witnesses that the defendant
11 talks about but certainly. There was some sort of
12 complaint or something about an officer some time ago,
13 but completely unrelated to this case. To my knowledge
14 there's never been any complaint to this case.

15 The Court: She has nothing concerning the officers
16 of this case. That's where we stand.

17 Mr. McCrea: Yes sir, that's not what I was asking.
18 Your Honor I object to Mr. Brigg's entire testimony and
19 request, Your Honor, that he was coerced.

20 The Court: Who is Mr. Briggs?

21 Mr. McCrea: He is the alleged witness, Your Honor.

22 The Court: You're welcome to cross examine. That's why
23 we have cross examination.

24 Mr. McCrea: Due to the fact that Mr. Briggs at one
25 point was asleep. ____

1 Mr. McGee: I see him, you know, because I, you
2 know, because I live in Andrews, I'm in and out.

3 The Court: Small town. Would the fact that you might
4 know him make it so that you can't be fair and impartial
5 to the State or the defense in this case?

6 Mr. McGee: I don't know nothing about the case now.

7 The Court: But you think you could be fair to the
8 State and to the Defendant?

9 Mr. McGee: Right.

10 The Court: Okay, anything further?

11 Ms. Barr: Nothing Your Honor.

12 The Court: Mr. McCrea do you have any questions?

13 Mr. McCrea: Nothing.

14 The Court: Alright thank you, we're going to leave
15 you on the jury. Thank you. Anything further.

16 Ms. Barr: Nothing further in regard to the issue of
17 the jury. Judge I just want to put you on the record that
18 on yesterday I gave the Defendant four photographs of Ms.
19 Roberta Smith's vehicle. Those photographs were taken on
20 Sunday and so I handed them to him on yesterday. In
21 addition Judge, there were two SLED reports from the
22 latent prints department, one that relates to a piece of
23 paper that was found in the yard of the Defendant and
24 that's why we had the Defendant's palm print and I gave
25 that to him on yesterday. Today I also gave him a copy of

1 the latent prints report from SLED also dated October 17,
2 2011 that relates to the firearm that was recovered in
3 the case and they indicated there was no prints
4 identifiable, but I just handed him that.

5 The Court: There were nothing ...

6 Ms. Barr: Right. So I just handed that to him.
7 Judge in addition, I subpoenaed Roberta Smith, to come
8 here from North Carolina; after I subpoenaed her, I
9 issued a second subpoena duces tecum for her to bring any
10 letters that she may have written to the Defendant or the
11 Defendant may have written to her while he was
12 incarcerated. Yesterday, she did in fact bring several
13 letters and I have copied those letters that the
14 defendant wrote to her and I have given them to him.

15 The Court: This was his witness right?

16 Ms. Barr: Yes sir. This was his alibi witness. And
17 Judge if the record would reflect so that it's clear I
18 gave him a copy of a letter that he wrote to her August
19 11, 2010, a letter he wrote to her November 15, 2010, a
20 letter he wrote to her March, I'm sorry, June 20, 2010,
21 May 17, 2010 and February 22, 2011.

22 The Court: Mr. McCrea do you have those documents?

23 Mr. McCrea: Yes I do, Your Honor.

24 The Court: Those were your letters that you sent to
25 her, is that correct?

1 Mr. McCrea: Yes I did Your Honor and well Ms. Barr
2 to write her and ask her and even talk to her again is
3 illegal.

4 The Court: No sir.

5 Mr. McCrea: Why not?

6 The Court: She's a witness. They can talk to her if
7 they want to. A witness is a witness, not for the State
8 or defense, it's just a witness.

9 Mr. McCrea: Your Honor, the comment on this just
10 like I stated to you yesterday, Your Honor, I've been
11 spoon fed discovery that I should have had years ago and
12 here's one example.

13 The Court: Well, let me ask you. Didn't you just
14 tell them last week that you were going to call her as a
15 alibi witness?

16 Mr. McCrea: Right.

17 The Court: Wait a minute, let me ask her a question.
18 Is that correct?

19 Mr. McCrea: Yes.

20 The Court: So they didn't know she was an alibi
21 witness until last week?

22 Mr. McCrea: Well, no they had knowledge of her long
23 before then. My point is this, Your Honor, speaking in
24 reference to this report here dated October 17th and I'm
25 just now receiving this stating that she's just now

1 receiving this. I don't believe that at all, Your Honor.
2 This is one of the indictment done long ago, so we had
3 these prints back long before ...

4 The Court: Tell me how you're prejudiced by a SLED
5 report that says there's no prints?

6 Mr. McCrea: No, I'm not, what I'm saying was due to
7 the fact that she's been spoon feeding me, that's
8 exculpatory to me, that's my point, Your Honor. Also, I
9 have another issue. What took place in reference to, I'd
10 like to have this on the record for the appeal. Yesterday
11 you allowed them to change the date on an indictment for
12 their case because she, she, declare oversight on the
13 victim's death. I don't understand that part, Your
14 Honor.

15 The Court: Sir, you're not prejudiced because of the
16 fact that the discovery that they gave you well over a
17 year ago was clear on the dates that they were claiming
18 that the murder might have taken place, so they're not,
19 you weren't prejudiced by that. It was, it was a
20 technicality that did not effect you.

21 Mr. McCrea: On who's part?

22 The Court: It's on their part.

23 Mr. McCrea: Well yes, and that's a defective
24 indictment, Your Honor.

25 The Court: No sir.

TRANSCRIPTS OF SANCTION HEARING AGAINST
SOLICITOR KIMBERLY BARR, HELD JUNE 26, 2018.

ATTENTION PLEASE: ON JULY 28, 2021. MY SISTER Elizabeth McGree at: 1-203-823-3741 SENT THE COURT REPORTER MS. FRANCES B. RAY. THE \$80.00 DOLLARS MONEY ORDER THAT SHE HAD TO SIGN FOR, TO TRANSCRIBE THE JUNE 26, 2018 SANCTION HEARING TRANSCRIPTS. AGAINST SOLICITOR KIMBERLY BARR FOR VIOLATING RULE 37 (b) FAILURE TO COMPLY WITH ORDER. AND RULE (e) FAILURE TO PARTICIPATE IN THE FORMING OF A DISCOVERY PLAN. AND RULE 26 (f) DISCOVERY CONFERENCE. IT HAS ALMOST BEEN FIVE (5) MONTHS THAT ME AND MY FAMILY MEMBERS HAS BEEN WAITING FOR MS. RAY TO SEND ME THOSE TRANSCRIPTS. THAT WILL PROVE MY CLAIM OF PROSECUTORIAL MISCONDUCT. HOWEVER, I UNDERSTAND THAT MS. RAY HAS 60 DAYS TO TRANSCRIBE THEM. AND IF SHE IS UNABLE TO, THAT MS. RAY MAY REQUEST AN EXTENSION. BUT SHE HAS NOT INFORMED ME, OR MY SISTER. NOR DO I BELIEVE MS. RAY HAS INFORMED THE COURT ADMINISTRATION OF THIS ALMOST 5-MONTHS DELAY. THOSE TRANSCRIPTS THAT I'M UNABLE TO ATTACH WITH THIS MOTION ARE OF PARAMOUNT IMPORTANCE TO ME PROVING THAT SOLICITOR KIMBERLY BARR VIOLATED MY 14TH AMENDMENT RIGHT TO DUE PROCESS OF LAW. BY SOLICITOR KIMBERLY BARR'S OWN OMISSION DURING THAT HEARING, SHE ADMITTED HER WRONG DOING. AND I BELIEVE BECAUSE OF THAT FACT, APPELLATE COUNSEL TAYLOR GILLIAM REFUSED TO ORDER THOSE TRANSCRIPTS AND STATED THAT IF I WANTED THEM THEN I HAD TO PAY FOR THEM. I'M INDIGENT AND IT'S APPELLATE COUNSEL RESPONSIBILITY TO ORDER ALL TRANSCRIPTS. MORE IMPORTANTLY, IF I RECEIVE THOSE TRANSCRIPTS BEFORE THE SUPREME COURT MAKE THEIR RULING IN MY CASE. I WILL SEND COPIES TO ALL PARTIES.

Thank you for your help.

Ms. Deborah McGree

12-9-2021