

STATE OF South Carolina
County of Lexington

Joseph Mills, #376444

Applicant,

Vs.

State of South Carolina

Respondent.

IN THE COURT OF Common Pleas
FOR THE 11th Judicial Circuit
Case No. 2019-CP-32-00851

Amended For Writ
Ceterior

I the applicant MR. Joseph Mills # 376444, respectfully
submit the following arguments for further proceedings
in order for reconsideration. If it is needed for
any additional information, I ask the courts to take
into consideration of motion extension to prepare.

I'm furthermore is still in lock-down status due to covid-19.

Respectfully Submitted,

Joseph Mills

Brand River Correctional Inst.
4460 Brand River Road
Columbia South Carolina,
29210

February 6th 2022

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FEB 17 2022

S. C. SUPREME COURT

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Failure to Properly Investigate

Counsel was ineffective of assistance of counsel by failing to fully investigate matters of the case.

In fact it is substantial issues that counsel never did receive the remaining parts of the (Rule 5) motion of discovery. This concludes a fact that counsel did not fully investigate the case to properly prepare trial strategy ~~as~~ to see if client had merits to plea out to a lesser offense instead of murder. Counsel herself had admitted to not receiving the remaining of the motion of discovery (Rule 5) giving another substantial fact that it was impossible to fully investigate. Transcript pg. 150 of P.C.R. hearing.

Client/petitioner was then prejudiced by receiving 40 years when counsel could have waited for the remaining of motion of discovery.

Failing to investigate, petitioner was misrepresented and was left to take an involuntary plea that he did not wish to take in this case, which is a prejudice issue.

Failure to properly investigate, State v. Sweet 342 S.C. 342
Porter v. State 368 S.C. 378
Walker v. State 397 S.C. 226
LEE v. State 137 S.Ct. 1958

During P.C.R. hearing several allegations of the actual incident was explained to the judge. It appears that the case actually did not consist of a murder in the first degree, a manner of the petitioner was not at all plan a premeditated homicide. (Review P.C.R. Records)

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If counsel would have properly investigated the case through out its entirety, counsel could have had a better plea bargain. Even if the case would have went to trial, it clearly states with the already said events of the crime that it was not a Murder 1st degree case.

Also the remaining parts of the (Rule 5) Motion or discovery could have been additional evidence that would have assisted counsel to prepare for a better outcome than 40 years

Due to petitioner being prejudice for a fair chance to prepare properly for trial strategies, and a fact counsel had admitted to not even waiting to receive the rest of the Motion or Discovery (Rule 5) to prepare, petitioner respectfully request that the courts to set the conviction to ASIDE, Reverse and Remand back to the lower courts

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S.C. SUPREME COURT

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B. Involuntary Guilty Plea

Counsel was ineffective of assistance by persuading petitioner MR. Joseph Mills #376644 for pleading to murder in this case and did nothing to fight for a lesser offense to plea to when it is evidence in this case consisting of Involuntary Manslaughter and not in a way of premeditated murder.

Counsel did not function as counsel guarantees under our 6th Amendment Strickland v. Washington.

In this case it was an additional parts of (Rule 5) motion of discovery. Instead of waiting to investigate through its entirety, counsel deficient performance prejudice the petitioner by allowing him to plea to Murder. Counsel functioning in representing a criminal defendant is to assist a defendant and hence a counsel actually owes his client a duty of loyalty. In this particular case it was more additional evidence to investigate, and during the Post-Conviction Hearing, counsel admitted to not receiving the full motion of discovery (Rule 5)

Nature of Case

In this case counsel for the petitioner was told several times by him that he did not committed murder in the first degree, basically explaining that the incident never occurred in a premeditated manner. The case/incident occurred in an involuntary manner. According to factual reports petitioner was lynched/attack from behind by several men. At least 8 to 10 men was present in the area of the attack. There was no legitimate reason for men to severely attack petitioner, because petitioner actual incident before the lynching occurred was that

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A female ran off with his drugs. There was no further assault made by petitioner or the female that ran off with his drugs, and in fact petitioner was trying to help the female up after she accidentally fell to the ground.

In this particular case the victims lynched and harassed him leaving him in an involuntary action of the incident, and if the attackers would have never lynched petitioner the incident would have never occurred. Further more the incident continued to proceed on even after the first attack ~~by~~ the victims when petitioner supposedly fell over a wall, the attacker (victim) actually waited until petitioner to get back over the wall and begin in another manner of attacking petitioner. Petitioner shot a gun in the air in order for attackers to leave him alone, but the method did not work leaving petitioner in an involuntary issue and stand your ground law manner. With said facts of the incident there is no evidence of an premeditated murder for petitioner to enter a plea to an offense of murder.

With knowingly other said evidence of a (Rule 5) Motion discovery to be handed down in the behalf of the petitioner in this case Attorney did not adequately prepare. Our justice system requires Attorney to meet the standard of the 6th Amendment, which is to represent their client as it guarantees. Which attorney in this case did not. In this case Counsel also made a false statement to with drawl of plea hearing of stating "My client change his mind" which caused the Judge to with drawl the plea. I was persuaded in taking a plea because Attorney advise me that it would push my court date back. which was the reason I accepted the plea. Counsel performance was deficient by misleading client in this case. Counsel learned more for me to plea to murder and did not consider awaiting the remainder of the (Rule 5) Motion of Discovery, that could have been a part of fighting for a lesser offense to plea to. Even counsel admitted at P.C.R hearing that she did not receive the rest of the motion of discovery Transcript pg 150

If counsel would have reviewed the rest of the (Rule 5), then counsel could have made a better plea bargain of lesser offense because even with already said facts, the incident happen is

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Not Murder. It is no evidence of how much the rest of the motion of discovery would have made a difference, because without it I was prejudice for such a chance that could have help with a better plea bargain.

I was prejudice by having to take a plea to Murder against my will, being deceive by my attorney, and the lack of a full investigation and receive an excessive amount of time of 40 years.

Due to this matter I ask the courts to take into consideration of how the incident actually occurred, and in fact counsel should have fought for a lesser offense to plea to because the incident was no way in any shape or form of a premeditated murder, but only the nature of involuntary murder.

Ineffective assistance of Counsel

MS. Mauldin perjured herself several times while being questioned at the P.C.R. Hearing. She said we had never discussed me withdrawing the plea. That's false. She was the one who told me if I felt Judge McCratton was not being fair in his Judgements that he was stepping down at the end of the month and if I took the plea then withdrew it that he would not be able to reschedule me on the docket quick enough to preside over my case before he stepped down. I took the plea never intending to keep it only to have a different Judge preside over my case. In part because I felt his decisions were being made biasedly and letting emotions stop him from making evidence based decisions. I asked for a change of venue several times which MS. Mauldin assured me she would file for but never did. There were several inaccuracies in statements made by the prosecution about what actually happened. I never denied the incident that occurred. I told the truth from the very beginning about everything. If MS. Mauldin had stuck to her word and given a proper argument at my withdrawal of plea hearing instead of telling a lie that the Judge ultimately used to deny my withdrawal. Her statement was deficient and I feel was done purposefully. Thanks for your time and consideration of these matters.