

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Sumter County

S.C. SUPREME COURT

George C. James, Circuit Court Judge

NATHANIEL BRADLEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001121

SUPPLEMENTAL APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) **2015 APR -9 PM 3:58** IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

NATHANIEL BRADLEY,) **JAMES C. CAMPBELL**
CLERK OF COURT)
SUMTER COUNTY, S.C.) **CASE NO.: 2010-CP-43-2797**
2012-CP-43-1519

Applicant,)

v.)

**AMENDMENT TO APPLICATION
POST CONVICTION RELIEF**

STATE OF SOUTH CAROLINA,)

Respondent.)

Applicant, amending his application for Post Conviction Relief dated December 29, 2010, further alleges as additional grounds regarding his claim of ineffective assistance of counsel as follows:

1. Trial Counsel erred when he failed to move to quash the arrest warrant on the basis that the information in the warrant was demonstrably false and therefore the magistrate issued the warrant based on false information. The warrant claimed that Mr. Bradley committed the murder in Sumter County and an eyewitness placed Mr. Bradley at the scene of the crime. However, at trial, Investigator McMillan admitted that he had no evidence that the victim was killed in Sumter County. (Tr. p. 729-730).
2. Trial counsel erred when he failed to argue in his directed verdict motion that the state had failed to place him at the scene of the crime or show any evidence of his participation in the murder of the victim. (Tr. p. 820-831).
3. Trial counsel erred when he waived the *Neil v. Biggers* hearing and allowed in testimony concerning the identification of Mr. Bradley by the states witness, Darrell Koenig. Additionally trial counsel failed to object to the line-up introduced through Mr. Koenig

and Mr. Koenig's in court identification of Mr. Bradley. (Tr. p. 583-585; Koenig Testimony p. 621-661).

4. Trial counsel failed to investigate Easy Auto to see if they in fact used yellow temporary tags on their vehicles and if other cars, similar to the blue Volvo, had been sold near the time of the murder. Additionally, trial counsel failed to object to hearsay testimony by an employee of Easy Auto during trial. (Tr. p. 522-524; p. 628, l. 12-18; p. 680-681)
5. Trial counsel failed to object to the prosecutor referring to Mr. Bradley as a liar in her closing argument while arguing that her witnesses were credible. (Tr. p. 1009, l. 3-5; p. 1016, l. 23-25; p. 1017, l. 1-6; p. 1024, l. 3-18; p. 1025, l. 19-24).
6. Failure to call expert witnesses to challenge the testimony of prosecution witnesses. Furthermore trial counsel informed Mr. Bradley that experts would be at the trial to introduce phone records and give an expert opinion as to the location of the phone. Additionally witnesses that were familiar with the condition of the car at the time of the recovery were not called to testify as to the condition of the car.
 - a. Arson Expert: An arson expert could have testified that a burning car would have produced an immense amount of smoke and would have been easily visible for a long distance during the day. Furthermore, the expert could have testified that the car would have still retained some heat at the time it was discovered if it had in fact been burned after 10:30 am on the day the car was discovered. Mr. Bradley's position is that it is impossible for the car to have been burned after 10:30 am on Sunday morning (when he was allegedly seen by Mr. Koenig driving the car). Therefore, Mr. Koenig's identification of Mr. Bradley was in error and, in fact, impossible.

- b. Telecommunications Expert: This expert could have testified that Mr. Bradley's phone was in use during the time frame when Darrell Koenig allegedly saw Mr. Bradley driving the victim's car. The phone records would indicate that Mr. Bradley's phone was miles away from the location that Mr. Koenig allegedly saw Mr. Bradley driving the victim's car and during the time frame in which the car was allegedly burned by Mr. Bradley. Furthermore, the phone records would have corroborated Mr. Bradley's alibi witnesses.
- c. Eyewitness Identification Expert: This expert could have testified to the inherent unreliability of eyewitness identifications.
7. Trial counsel failed to properly investigate Mr. Bradley's alibi witnesses. Although trial counsel did call Calvin Davis as an alibi witness (Tr. p. 864-884) he failed to call Glenn Moses (and others) who were also present and would have corroborated Mr. Davis' testimony.
8. Trial counsel failed to move for a mistrial when the security belt worn by Mr. Bradley accidentally discharged and caused Mr. Bradley to fall out of his chair. (Tr. p. 201-206).
9. Trial counsel erred when he called the defendant's brother, Paul Bradley, to testify that the defendant told him that the victim was deceased prior to police finding the body. (Tr. p. 934-935).
10. Trial counsel failed to object to hearsay testimony entered by Mr. Koenig. Mr. Koenig testified that his neighbors told him that the police were looking for a blue Volvo with temporary tags. (Tr. p. 634-635).
11. Trial counsel failed to object to the prosecutor asserting that she did not have to prove when or where the victim was murdered. (Tr. p. 93).

12. Trial counsel erred when he failed to object to two letters introduced by Gloria Portee into evidence. The letters were primarily character evidence and had little to no relevance at trial. (Tr. p. 378-386)
13. Trial counsel erred in allowing Wayne Johnson to say that he had an altercation with Bradley and armed himself (Tr. p. 560).
14. Trial counsel failed to object to Bobby Lee Hughes saying that he thought the Defendant might have had something to do with the death. (Tr. p. 570, 580)
15. Trial counsel failed to object to hearsay of Officer Wesley Gardner and Clarence McMillan when saying Koenig said he was 100% sure of his identification. (Tr. p. 613, 715).
16. Appellate counsel erred by not appealing the decision by the trial Judge to give a jury charge on accomplice liability (hand of one is the hand of all). Additionally, appellate counsel did not include relevant case law in her brief that would have likely resulted in a reversal of the conviction. (Tr. p. 972-974; p. 979).

~~Respectfully submitted,~~


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This 6 day of April 2015.