

Michael C. Rose

Petitioner

v.

State of South Carolina

Respondent

Appellate Case No: 2021-000484

Applicant Pro Se brief

Michael C. Rose
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S.C. SUPREME COURT

1 of 6

Per Ineffective Assistance of Counsel MY Guilty Plea Was Not Voluntarily And intelligently Made; Counsel failed; (1) To Advice me that the Police did not have Probable Cause to Arrest Me for the offense of first degree burglary, because the Warrant affidavit did not Accuse me of entry into a building, dwelling, Or Any Structure. The Warrant Affidavit Accused the Alleged entry into the business, Which is According to Blacks Law Dictionary 11th Edition; business is An Occupation Or Employment And Not A building, dwelling Or Structure Which would Support the burglary Statute elements.

(A) (1) This is in violation of Article I, Section 10 of the 1895 Constitution of South Carolina And the fourth Amendment to the United State Constitution. (No Warrant shall issue but UPon Probable Cause Supported by Oath.)

(A) (2) This is in violation of South Carolina Code Ann 16-11-311. Burglary first degree. (A) A Person is guilty of burglary in the first degree if he or she enters a dwelling; Not a business.

(A) (3) See Exhibit # A

(2) To Advise Me that there Was No Witness Or Witnesses to the Alleged offense of Burglary first degree And that there Was No Written Statement Or Statements given by Any Witness Or Witnesses Accusing me of entry into Any building, dwelling Or Structure.

(A) (1) See Exhibit # B

(3) To Advise me that there Was No finger Prints, DNA Or Evidence Placing me At the Alleged Crime Scene.

(A) (1) See Exhibit # C And Exhibit # D

(4) On December 9, 2019 My Public Defender Allen Barnes Presented Me With a falsified And fraudulent Sentencing Sheet to Sign for the Alleged Prosecution of Burglary first degree indictment / Case # 2019-GS-43-1099 And An Alleged Plea to the lesser included offense of burglary Second degree violent. There is No documentation Proof of record to Show And Prove that the Case Was Presented And Prosecuted On the record in Open Court before the Honorable Circuit Court Judge R. Ferrell Cothran, Code # 2144.

(A) (1) See Exhibit # F

(A) (2) See Exhibit # G (Tr. P.4. Sentences 2-3)

Allen Barnes (MY Public Defender for Plea) Violated MY Constitutional Rights afforded to me by the Sixth and fourteenth Amendments to the United States Constitution, which guarantees a Applicant like all other Defendants the right to Assistance by an Attorney whether retained or appointed who plays the role necessary to ensure that the trial is fair. (See) *Strickland v. Washington* 466 U.S. 668 (1984), states that P.C.R. Allegations are centered upon Allegations that Applicant did not receive effective Assistance of Counsel guaranteed by the Sixth Amendment. The Allegation of denial of such Representation sets forth a Prima facie violation of this Constitutional right. MY incarceration is a clear violation of due Process because I was and still am being deprived of liberty without due Process of law under the fourteenth Amendment of the United States Constitution.

The Sentencing sheet offense for first degree burglary (2019-GS-43-1099) for which I am incarcerated on has not been indicted before the Grand Jury of Sumter County.

(See Exhibit #E) - indictment/Case # (2019-GS-43-1099) for Second degree burglary violent do not support the Sentencing sheet S.C. Code offense § 16-11-311. And there was never a Waiver of Presentment to the Grand Jury of Sumter County for the Sentencing sheet offense of first degree burglary (2019-GS-43-1099).

The State altered my Plea transcript by adding a Case Burglary Second degree Violent indictment / Case # 2019-GS-43-1099 to the record in Order to trick me and the Courts into showing that I was Prosecuted on two (2) charges when in fact the evidence shows that only one (1) charge Burglary first degree indictment # 2016-GS-43-0619 was presented and prosecuted on the record, based on the two Sentencing sheets for I am incarcerated on.

In State v. Ladson 644 SE 2d 271

A new trial is appropriate if the Appellant establishes that the incomplete nature of the transcript prevents the Appellate Court from conducting a meaningful Appellate review.

In Whitehead v. State 574 SE 2d 200

Where a transcript has been lost or destroyed a Court may remand to have the record reconstructed.

Since P.C.R. Counsel did not aid me in motioning / reconstructing the Plea transcript regarding my above arguments. The incomplete nature of the omissions and inaccuracies will prejudice my appeal. Thus no meaningful review of my above issues can be had. Therefore, this Court stay my appeal until the P.C.R. Court reconstruct my Plea transcript.

(1) Since about Or between February 1st And February 28th 2022 i have a Pending Challenge to the Court reporter On the Plea transcript from December 9, 2019.

Relief, Plea Should be Vacated because the P.C.R. Court ruled in error. There is No documentation Proof of record to Show Or Prove the Sentencing Sheet # 2019-GS-43-1099 Prosecution Or Present- On the record. The Altered transcript Presents A Case indictment # 2019-GS-43-1099 for Burglary Second degree violent for Which i Am Not incarcerated On And Public defender Allen Barnes stated that he Pressured And Coerced me by stating that i would receive A life Sentence.

Respectfully Submitted

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