

Plaintiff was arrested, indicted, tried by an all white petit jury and convicted, all white only (58) fifty-eight days.

Second Bragillete overlooks that although the charges were amended to (attempt), the prosecutor's trial argument was (actual) aggravated Rape. And, last, he was presented with Sharon's statement to investigator's by Mr. Stack, where she describes an extensive Rape, yet he quotes her statement to Dr. Borenton that she "does not really know if he put it all (penis) the way in."

Plaintiff has presented this evidence to the 12th Judicial District Court, several times since he obtained it, but the district court refuses to rule on the Brady claims by merit or grant an evidentiary hearing for such.

On December 29, 2010, Plaintiff initiated a Petition for Temporary Restraining Order and Preliminary Injunction and Recusal Order (Ex. Q). Plaintiff initiated this filing to obtain the exclusion of all so that he might obtain an evidentiary hearing on his pending Brady claims by way of Cove v. Bell 129 S. Ct. 1769.

However, Plaintiff was not aware of any of this evidence before, during or after trial. Finally in 1994 Plaintiff obtained all of the said information by way of Johnathan Stack of Gabriel Films. Plaintiff not only pursued court action on this Brady material (Ex. U.) but also contacted former trial counsel's Harold J. Brouillete and Michael Kelly.

Not until 1998 did Plaintiff receive a response; Brouillete alleged that he and Kelly were never aware of any existence of these records. Conveniently he avoided the fact that he and Kelly did not seek discovery nor file any other pretrial motion on Plaintiff's behalf. In the letter, Brouillete also attempts to spin doctor the medical exams by stating,

"it should be noted that the charge and conviction were not of Agg. Rape but Att. Rape."

Again, Brouillete conveniently forgets that the charges (were) of Agg. Rape, and only after the United States Supreme Court issued Coker v. Georgia 433 U.S. 884, on June 29, 1977, did the state amend the indictments allegations to Attempt. Only fore want of immediate punishment.

On January 4, 2011, the district, through named defendant MARK A. JEANSONNE, denied the Petition. On January 11, 2011, Plaintiff filed a Notice of Intent to Appeal (Ex. R).

Plaintiff appeals and seeks writs herein.

ARGUMENT IN SUPPORT

In his reason for denial Judge JEANSONNE, defendant, states that there is no basis of law to prohibit a court from lawfully executing its duties. Plaintiff contends that the filing is self explanatory (Ex. Q). The filing is not structured to prohibit the district court from performing its duties.

The filing's goal is to insure that the district court unbiasedly performs its duties concerning (his) case.

A prisoner may seek redress when a person or persons acting under color of state law deprives the prisoner of rights guaranteed by the constitution of the United States and state laws.

U.S.C.A. AMEND (S). 1 AND 14. Haggerty v. TEX. S. UNIV., 391 F.3d 653 (5th Cir 2004).

THIRD CIRCUIT COURT OF APPEALS
STATE OF LOUISIANA

No.:

VINCENT SIMMONS
VERSUS

MARK A. JEANSONNE,
CHARLES RIDDLE,
I. EDDIE KNOLL,
JANET T. KNOLL,
EARL EDWARDS,
HAROL J. BROUILLETTE,
MICHAEL KELLY,
F. D. DIDIER,
ROBERT LABORDE JR.,
FLOYD JUNEAU,
MELVIN VILLEMARETTE,
CHARLES KIMBLE,
BARBARA DECUIR,
BURTON DAUZAY,
FABIAN DIDIER,
F. P. BORDELON,

PETITION FOR SUPERVISORY WRITS

Respectfully Submitted:
~~Vincent Simmons~~
VINCENT SIMMONS 85188
LA. STATE PRISON
T-U Lower E-15
Angola, LA.
70712

By procedure, no defendant can issue a deciding ruling upon a civil action in which he too is a defendant and his unlawful actions are set out in the Petition (Ex. Q). The only course of action available to JEANSONNE is to receive a (mandate) or to recuse himself. And an Act hoc judge or panel be appointed.

Just as JEANSONNE has participated in a deprivation of an evidentiary hearing on Plaintiff's Brady claims and the course of his unlawful imprisonment, he now blatantly seeks to do the same here.

Plaintiff has raised cognizable issues of relief concerning the malfeasant criminal conduct of each named defendant. Jurisprudence and court opinion lends credence to his part.

In the case of defendants KELLY and BROUILLETTE, the court in TOWER v. GLOVER, 467 U.S. 914 (1984), the court stated appointed counsel who conspires with state officials to deprive client of constitutional rights may be found to have acted under color of defendants DILLIE, LABARDE, FURNEAU, VILLEMARETTE, KIMBLE, DECAIR, F. DIDIER and DAUZAT the courts in JACKSON v. WASHINGTON, 390 F.2d 288 (5th Cir. 1968) A RACIAL MISIDENTIFICATION CASE; JONES v. City of Chicago, 856 F.2d 985 (7th Cir. 1988), A CASE OF

Contradiction to her statements to police investigators that, "he ejaculated (came) inside me" (Ex. 5 D & F).

The record and trial court testimony attests to the fact that the July 14, 1977 amendment of the indictment to attempt was only for want of an immediate punishable crime, because the trial arguments were aggravated rape, as well as the state's witness testimony.

This is to presume that the prosecutors/defendants would contend that they had no knowledge of this plethora of exculpatory evidence, which would be hard to qualify based on the fact that the prosecution secured an indictment, secured the conviction and sentence, and also has for those decades spin-doctored the same to deny Plaintiff relief.

We are looking back at rural 1977 Marksville, Louisiana. Racial tensions were high and the community called for swift justice on the perpetrator of sexual assault on two teenage white females by a black male. The defendants succumbed to the racial misidentification; a need to do damage control after the Plaintiff was maliciously shot (inside) the police station, while in full restraints. (Ex. I). The defendants arrested, falsely accused and convicted.

Plaintiff all within fifty-eight days
Thereafter, the evidence he uncovered
through Mr. Stack has been placed before
the 12th Judicial District Court. (Ex. 11).
For no justifiable reason an evidentiary
hearing was not granted. (Ex.'s A & B)

In criminal justice it is not the
duty of the state to win a case but
that justice be done. As such they are
in a peculiar and very definite sense
the servant of the law, the two-fold
aim of which is that guilt shall not
escape (or) innocence suffer.

While they may investigate, arrest
and prosecute with earnestness and
vigour - indeed they should do so.

But not with corrupt, spin-doctoring
biasness.

WHEREFORE, the Plaintiff prays
that writs are granted and an
order is issued for a change of
venue, temporary restraining order,
preliminary injunction, and an
evidentiary hearing based on the
claims against the defendants and the
evidence put forth.

Submitted by: #85188
~~Vincent Simmons~~
Vincent Simmons 85188

State of Louisiana
Parish of West Feliciana

AFFIDAVIT

Affiant swears that the allegations
contained herein are true and
correct to the best of his knowledge
and information.

~~Vincent Simmons #85188~~
Vincent Simmons #85188

CERTIFICATE OF SERVICE

I, do hereby swear that a copy of
the foregoing has been served by U.S.
Mail, this ~~10~~ day of Feb 2011

~~Vincent A. Simmons #85188~~
VINCENT SIMMONS #85188
LA. STATE PRISON
T-11 LOWER E #15
ANGOLA, LA. 70712

Served:

Judicial Administrator's Office
1555 Poydras Street, Ste 1540
New Orleans, LA 70112

Louisiana Attorney General Office
P. O. Box 94005
Baton Rouge, LA 70804

VINCENT SIMMONS
VERSUS
MARK A JEANSONNE,
ET AL

DKT NO: _____
THIRD CIRCUIT
COURT OF APPEAL
STATE OF LOUISIANA

FILED: _____

By: CLERK _____

PETITION FOR SUPERVISORY WRITS

BEFORE THE COURT, COMES
Vincent Simmons, Plaintiff herein, who
SEEKS supervisory writs, for the
following REASONS:

JURISDICTION

Venue is vested here by
LA. Const. Art. 5 Sec. 10(B)

STATEMENT OF FACTS

ON MAY 23, 1977, PETITIONER WAS
ARRESTED BASED ON ALLEGATIONS THAT
HE RAPED TWO TEENAGE WHITE FEMALES
KAREN AND SHARON SANDERS. HE WAS

placed in a physical line up that same day (let it be noted that he was the only preperetrator in full restraints). (Ex. I) Officers allege that Petitioner was positively identified, even though one sister told investigator's that "All blacks look alike" (Ex. F. pg 9).

Some moments after the line-up Petitioner was shot by officer Robert Laborde. Officer Laborde alleges that Petitioner grabbed officer Melvin Villemarette's side arm. (Ex. H). which would be impossible in full restraints

On June 10, 1977, Plaintiff was indicted by an all white grand jury for the allegations of aggravated Rape upon the Sanders twins.

However, on that same day of June 10, 1977, medical exams done by Dr. F. P. Bordelon, state that no evidence of the sexual assaults the victims described was present. (Ex. C & D).

In fact, Dr. Bordelon's exams put forth evidence that Sharon Sanders' hymen was fully intact. So much so that it prohibited him from doing an internal probe (Ex. D).

Contradicting the extensive Rape described by Sharon to investigators (Ex. F).

exculpatory documents that were suppressed by police investigators and BANHAM V. COMMONWEALTH 445 S.E. 2d. 110 (VA. 1994) State's that it is an explicit violation of a defendants rights to both the Due Process Clause and the Equal Protection Clause when police are aware of discrepancies that render all probable cause to arrest and/or prosecute meritless, yet these police defer their civic duties and suppress such expressed exculpatory evidence.

Defendants Riddle I. E. Knoll, and J. T. Knoll as prosecutors were bound by duty to discover what exculpatory evidence was being suppressed by their investigation arm, the police.

United States v. Sebring 1996 WL 622692 (N. W. Ct. Crim. App. 10/15/96); United States v. Young 17 F.3d 1201 (9th Cir 1994). On the very day that the prosecution sought the grand jury indictment (June 10, 1977), Dr. F. P. Bordelon completed his exams, stating that no evidence of the sexual assaults described by the victims could be found. To explain the lack of sexual assault evidence, Sharon Sanders is quoted by Dr. Bordelon as stating "She states that she really does not know if he put his penis in her vagina all the way." A grave