

COURT OF CRIMINAL APPEALS No. _____

APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS

FROM

CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

CIRCUIT COURT NO. CC92-2313.60, 92-2314.60 and 92-2315.60

CIRCUIT JUDGE FERRILL D. McRAE

Type of Conviction / Order Appealed From: RULE 32 - DENIED

Sentence Imposed: _____

Defendant Indigent: YES NO

RODNEY KARL STANBERRY

Vader Al Pennington (334) 438-4691

NAME OF APPELLANT

(Appellant's Attorney) (Telephone No.)

P.O. Box 40361

(Address)

Mobile, Alabama 36640

(City)

(State)

(Zip Code)

V.

STATE OF ALABAMA

(State represented by Attorney General)

NAME OF APPELLEE

NOTE: If municipal appeal, indicate above, and enter name and address of municipal attorney below.

(For Court of Criminal Appeals Use Only)

1 THE COURT: And in effect she said in that
2 letter that we all knew that her son didn't
3 commit an offense. To that I would say, I wasn't
4 the jury, the jury was. And two: That I knew or
5 insinuated that I knew that somebody named Moore
6 committed this offense and not her son.

7 I do not mind telling her or the world that
8 that letter was thrown in the first garbage can
9 and was not considered by me, because that is
10 ex parte communication. But I wanted y'all to
11 know that.

12 If I was the mother or father of this young
13 man, I'd probably feel the same way. So I'm not
14 knocking her for it, I am just letting y'all know
15 that I did receive that communication; isn't that
16 right, ma'am, didn't you write that letter?

17 UNIDENTIFIED SPEAKER: (Shaking head.)

18 THE COURT: She is saying yes. Proceed.

19 MR. KNIZLEY: We call Mr. Jordan.

20 BUZZ JORDAN

21 was sworn and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. KNIZLEY:

24 Q. State your --

25 THE COURT: I can save you some questions.

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1 Buzz was the prosecuting attorney that tried this
2 case.

3 BY MR. KNIZLEY:

4 Q. State your name please?

5 A. Buzz Jordan.

6 Q. And as the Court said, you prosecuted this
7 case?

8 A. Yes, sir.

9 Q. How long had you been at the DA's office at
10 that time?

11 A. About ten years.

12 Q. And had you had significant trial experience?

13 A. Yes, sir.

14 Q. And you certainly was familiar with the rules
15 of disclosing exculpatory evidence as set forth by
16 Brady versus Maryland?

17 A. Yes, sir.

18 Q. And could you briefly explain what that
19 means?

20 A. My understanding is that there is evidence
21 that indicates that somebody's innocent under Brady,
22 you are required to provide that to the defense.

23 Q. This case, how long did the investigation of
24 this case go on before this came to trial; if you
25 recall?

1 A. That, I don't recall.

2 Q. A number of years?

3 A. Whenever it occurred, and then, I think, the
4 Judge said the trial was in 1995.

5 Q. And I believe it occurred in 1992, does that
6 sound right?

7 A. I really don't recall at this time.

8 Q. Okay. Do you recall it being longer than
9 most cases before the time it was able to come to
10 trial?

11 A. I remember Mr. Nixon and I had the case
12 continued a number of times over that three-year
13 period or two-year period, whatever period it is,
14 Mr. Knizley.

15 Q. And during the course of your investigation,
16 you became aware of a number of different potential
17 participants, or people that were associated with it
18 in the week previous to this lady's death?

19 A. Well, I became aware of what the defense
20 strategy or theory was, yes, sir.

21 THE COURT: Excuse me. Let me correct you.
22 The lady didn't die. She died years later.

23 MR. KNIZLEY: Your Honor's correct. The lady
24 did not die as a result of this event, but she
25 eventually died from some other causes.

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1 that he was incarcerated in the State of New York?

2 A. Is that "Ponytail"?

3 Q. I'm sorry about the nicknames, but was there
4 a witness that you interviewed in New York?

5 A. I went and talked to the person that
6 killed -- that shot Mrs. Finley in New York. And I
7 only -- I only know him by "Ponytail". I don't know
8 what his --

9 Q. Okay.

10 A. -- as I'm sitting here, I don't remember what
11 his real name was.

12 Q. You understood at least the State's version
13 of the case was that this man that you refer to as
14 "Ponytail" was the quote, trigger man, that shot this
15 lady?

16 A. He was the trigger man, yes.

17 Q. And in the course of investigating this
18 matter, you undertook to go to New York?

19 A. Well, no, I went to New York on vacation.
20 And while I was in New York, I wanted to see if I
21 could get in to see if there was in fact somebody by
22 the name of "Ponytail".

23 Q. Okay.

24 A. His existence and where he was, and if he was
25 the same person that was Mr. Stanberry's acquaintance.

1 Q. And were you successful in doing so?

2 A. I was. S

3 Q. And where did you interview the person that
4 they called "Ponytail"?

5 A. I wouldn't say I interviewed him, but I
6 talked to him in I think Ryker's Prison in New York
7 City.

8 Q. Okay. Now, Buzz, could you tell us, did you
9 call the New York City Police Department or the prison
10 system or how did you find this guy?

11 A. Well, I think Mr. Stanberry or Mr. Nixon had
12 told us that he was in New York in prison or something
13 to that affect. I don't know how I knew he was up
14 there.

15 Q. Did Mr. Nixon or Mr. Stanberry deliver
16 information to you where -- about which they suggested
17 he may have some exculpatory information?

18 A. No.

19 Q. They did -- they wanted you to go find and
20 talk to him to get inculpatory information?

21 A. No, they didn't send me on any mission.

22 Q. Okay.

23 A. I just knew he was the trigger man. From
24 what my lady described, "Ponytail" was the trigger
25 man. And "Ponytail" was not in Mobile, and I wanted

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Q. And was your theory of this case that this gentleman that you located was in fact the trigger man?

A. Yes.

Q. And in interviewing this gentleman did he confirm or deny that, or did you ask him?

A. I don't recall asking him that, because I -- really the sole purpose was to see if that was the "Ponytail" that was in Mobile that knew Stanberry and where he was at that time, Ryker's.

Q. Did he confirm that he was the "Ponytail", and he was in Mobile and knew Stanberry?

A. Yes.

Q. And tell me anything else that may have been remotely connected to Rodney Stanberry that he told you that you might recall?

A. I don't recall anything else.

Q. So all you gather today that you can recall that you got out of that conversation with him was that, he was in Mobile, and he did know Stanberry and his nickname was "Ponytail"?

A. Yes.

Q. Okay. And did you disclose any of this information to defense counsel?

A. No.

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Q. Did you even tell defense counsel you had interviewed this man?

A. I don't recall -- I don't know.

Q. Okay. Did you deliver to the defense counsel any written summation of this interview?

A. There was no written summation. I didn't write any notes. I didn't prepare any written summation. It wasn't anything typed, no.

Q. Did you make any other disclosures to the defense counsel regarding Mr. Whitecloud's statement in connection with this shooting?

A. No. I had anticipated or expected the defense might bring Mr. "Ponytail" to Mobile to testify based on what Mr. Stanberry had said in his statement.

So that was basically to confirm that that was "Ponytail" and where he was, and if Mr. Nixon would have brought him down, I wanted to have his record and wrap sheet, and whatever I could use to impeach him.

Q. So you didn't make any other disclosures about any representations Mr. Whitecloud made to defense counsel?

A. I may have told Mr. Nixon that I knew where he was, or he was in prison at Ryker's or something to that affect, but there was nothing -- there was

1 nothing to disclose.

2 Q. So you made no written disclosure?

3 A. No.

4 Q. Okay. Do you know what year you went on your
5 vacation?

6 A. I don't know. See my family lives up there,
7 so I would usually go up and see them sometimes at
8 Christmas times.

9 Q. Was it in 1993; if you recall?

10 A. I don't remember.

11 Q. Do you recall the name of the police officer?

12 A. I do not.

13 Q. And it was in August of '92 or October of
14 '93?

15 A. It could have been.

16 Q. Okay.

17 A. I really don't -- I really don't know.

18 Q. Okay. Officer Sisco (sic) does that recall
19 -- Sisco, I believe, does that ring any bell to you?

20 A. That is not --

21 Q. Michael Greco?

22 A. I'm sorry?

23 Q. Michael Greco?

24 A. Greco. Now that sounds more familiar than
25 Sisco.

1 testified at the trial of the case and was acquainted
2 with Mr. Moore saying that he saw, identified with Mr.
3 Moore leaving the home that day?

4 A. Who would that be?

5 Q. I don't recall his name. If you could give
6 me a moment, I'll let you know?

7 A. Sure.

8 MR. RUSSELL: Tyrone Dortch.

9 BY MR. KNIZLEY:

10 Q. Mr. Tyrone Dortch?

11 A. I don't -- that name, I don't recall. But
12 I'm familiar pretty much with --

13 THE COURT: As I recall, he is the gentleman
14 that had the Barbecue; isn't he?

15 MR. RUSSELL: No, sir. He was the one
16 working in the middle of the median.

17 THE COURT: I remember all of that. Let's go.

18 THE WITNESS: I was probably familiar at that
19 time, because I pretty much had interviewed most
20 of the defense witnesses to what I knew what
21 their testimony was going to be too.

22 BY MR. KNIZLEY:

23 Q. And lastly, Buzz, not only did you interview
24 this man, but previous to your interviewing of him,
25 Mr. Russell had interviewed him, made a videotape from

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1 which he gave substantially the same statement he gave
2 to you?

3 A. Tyrone Dortch?

4 Q. No, excuse me. I'm talking about Mr. Moore.

5 A. I wouldn't say substantially the same,
6 because I don't recall how they coincided.

7 Mr. Moore may have said a lot of things factually
8 that I thought were incorrect from what the victim had
9 stated, from what the facts show that showed he was in
10 fact lying.

11 Q. Hold on one second, Buzz?

12 MR. KNIZLEY: Thank you, Buzz.

13 THE COURT: Martha, are there any questions?

14 MS. TIERNEY: Yes, sir, I do have some.

15 CROSS EXAMINATION

16 BY MS. TIERNEY:

17 Q. Buzz, when did you first get involved in the
18 investigation of this shooting?

19 A. It seems like shortly after the shooting
20 because I remember Detective LaBarron Smith may have
21 been one of the key investigators, and it seems as if
22 I was involved shortly after the shooting, but I don't
23 know how so.

24 Q. That would be prior to the arrest of the
25 suspect?

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1 A. He was only granted testimonial immunity.

2 Q. Did you withdraw that testimonial immunity
3 for the purpose of his testifying in this courtroom?

4 A. I never granted him testimonial immunity in
5 the courtroom.

6 Q. Right. So, his immunity only applied to his
7 statement to you but not to come to court to tell that
8 statement?

9 A. That statement only protected what he had
10 told me in Mr. Clark's office. That was a condition
11 that Mr. Clark allowed him to talk to me as his
12 lawyer. And that was the only condition he'd let him
13 talk to me. So I took that condition to --

14 Q. And --

15 A. -- talk to --

16 Q. -- what was your reason for not extending
17 immunity to him at trial?

18 A. Well, number one: I didn't believe Mr.
19 Moore, had never believed Mr. Moore, will never
20 believe Mr. Moore. I know Mr. Moore was not involved
21 in this crime.

22 Number two: I would not grant him any
23 concessions, whatsoever as far as prosecution or
24 anything otherwise in any circumstance ever.

25 Q. Okay. Do you recall another witness who

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