

HON. GENERAL ATTORNEY,
SOUTH CAROLINA,
ALAN WILSON,
1000 ASSEMBLY STREET,
COLUMBIA, SC, 29201

Dear Sir;

RE: LEGAL OPINION ON THE WRONGFUL CONVICTION OF THE
CARMEN RICE

Humble reference is made to the above subject.

Having carefully studied the brief, and specifically the *PROCEEDINGS, SWORN AFFIDAVIT AND SENTENCE OF THE CARMEN RICE* and various correspondences thereof, we would like to opine and advise you as follows:-

1. Facts of the case.

Carmen Rice, was a working single mother rearing her five years old son and taking care of her sick father, but in November 2003 she was picked up by Richland Country police department without being availed with traffic citation. Without any color of rights she was wrongful convicted in 2003 in the capital offense of murder and robbery.

2. Issues.

- (i) Whether there was a fair hearing during the trial.

- (ii) Whether the prosecution attorney proved the case beyond reasonable doubt.
- (iii) Whether the Carmen Rice was wrongfully convicted

ISSUE No. 1.

Whether there was a fair hearing during the trial.

We answer this issue in negative, that there was no fair hearing during the trial of the case, something which is contrary to SIXTH AMENDMENT and the case of *GIDEON V. WAINWRIGHT* where the *SUPREME COURT* insisted on the *"FAIR HEARING"*.

We say so because, the verdict in the case of CARMEN RICE, which lead to her conviction was tainted with conviction malice as during the trial, her attorney failed to disclose before the court her exculpatory evidence, even the Jury did not bother to ask for it. We will proceed to say that, there was no right to fair trial because the prosecution attorney failed to prove guilty of the Carmen Rice.

Furthermore her attorney was not competent and did not acted diligently in prosecuting the case and this is contrary to the laws as it was clearly *enshrined in the case of STRICKLAND V. WASHINGTON*, where the court held that, Criminal Defendant has a right to minimally effective and COMPETENT help from an attorney. But in our case at hand there was no fair hearing as the attorney was not competent. Neither her family members was called before the court to testify on the correctness of her charges.

ISSUE No. 2.

Whether the Prosecution Attorney proved the case beyond reasonable doubt.

We are of the firm view that, the prosecution attorney failed to prove the case against Carmen Rice beyond reasonable doubt as we here below expand;

- i. The charges against Carmen Rice was robbery and murder. To prove guilt beyond a reasonable doubt with regard to the offense, the Prosecution Attorney must present evidence that establishes, beyond a reasonable doubt, that the accused person was the one who committed the robbery

and murder. This might include forensic evidence, such as DNA or fingerprints, eyewitness testimony, or other physical evidence. With regard to our case at hand all DNA and FORENSIC evidence did not match with the CARMEN RICE. Bad enough no eye witness testified before the court to justify correctness of offense against CARMEN RICE. The federal constitutional right to due process of law requires that the State prove beyond a reasonable doubt every fact necessary for a criminal conviction. In the Case of *RE WINSHIP, 397 U.S. 358 (1970)*. A conviction predicated on evidence insufficient to permit a reasonable juror to find that the State has proven beyond a reasonable doubt every element of the particular offense charged and that the defendant is the perpetrator of that offense violates the Fourteenth Amendment to the U.S. Constitution. *JACKSON V. VIRGINIA, 443 U.S. 307 (1979)*.

- ii. The evidence adduced before the court/ jury was insufficient and contradictory to itself to convict the CARMEN RICE. In the Statement signed by Nathaniel Hallman, he stated that, I beg to quote; *“Around midnight one night I received a phone call my sister’s cell phone from IRIS BRYANT.....I asked her what is wrong. She said we robbed a man and I think we killed him..... she said “me and my cousin, TINA or TIKA shot him”. She said he might be dead.”*

The NATHANIEL HALLMAN proceeded to state in his statement made at Columbia, South Carolina, on this 13th day of July 2003, he stated that, I beg to quote; *“I think IRIS COUSIN is the shooter because IRIS was in the front seat, her COUSIN was in the back seat. IRIS told me that.”*

CAMONT BOSTICK/ISAAC, he took his AFFIDAVIT on 1st day of AUGUST 2003 and through interrogations he stated that, I beg to quote the question and answer as hereby do; *“What do you know about the murder of BERNARD BRENNAN? I know what NATHANIEL HALLMAN told me when we were together in RICHLAND COUNTRY DETENTION CENTER. He told me that you could get out of trouble if you said what you know about IRIS*

KILLING that man. PEANUT thought I know about IRIS involvement in the murder...”

Taking into consideration of the above evidence adduced before the jury no anywhere they mentioned and connected involvement of the CARMEN RICE in the said offense. In addition to that, no any GUN or exhibits tendered before the court in relation to the CARMEN RICE offense they purported to her.

The whole decision against CARMEN RICE was tainted with a fatal variance evidence. A fatal variance exists when the State’s evidence differs from a material allegation contained in the indictment or other pleading. A fatal variance between the indictment and the proof at trial is a specific type of insufficiency problem. See Case of *STATE V. WADDELL, 279 N.C. 442, 445 (1971)* the Court held that; “A variance between the criminal offense charged and the offense established by the evidence is in essence a failure of the State to establish the offense charged.”

Having said so in the above, we are of the firm view that without any color of right and against principle of natural justice the jury proceeded to wrongful convict CARMEN RICE.

ISSUE NO. 3.

Whether the CARMEN RICE was wrongful Convicted

With all of the above position of the laws and the evidence adduced in court, we are of the opinion that, CARMEN RICE was wrongful convicted as the evidence adduced are insufficient and unrelated to the offense charged therefore, convicting her since 2003 until now, it’s unacceptable and totally against the rules of natural justice. We further say that, when someone is falsely convicted, it is not just that person who suffers, but society as well and that make society less safe.

Our Opinion:

We are of the opinion that, CARMEN RICE be released from South Carolina Department of Correction because she an innocent, as her Constitutional rights were

violated through judicial process as false testimony statement was used against her, No DNA test match with CARMEN RICE, No any eyewitness linked her with the crime scene, No exculpatory evidence disclosed to her. United State is one among of the big nations in the world and a lot of peoples all over the world believe in the criminal justice system. But with regard to what happened to CARMEN RICE this will lead and destroy the image of the United State Criminal system. The strength of Criminal justice system depends on its accuracy and ability to convict the guilty and to clear the innocent, but in our case at hand, thing turned upside down. Therefore, if the judicial system will not release CARMEN RICE from this wrongful conviction, this will proceed to go viral and will destroy the image of the big nation like United State.

CONCLUSION:

We would like to conclude by quoting the words of Blackstone who said; ***"IT IS BETTER THAT TEN GUILTY PERSON ESCAPE, THAN THAT ONE INNOCENT SUFFER"***.

We say so because the purpose of our criminal justice system is to deter crime specifically for the public good. Therefore we believe that CARMEN RICE will be exonerated from South Carolina Department of Correction.

Yours sincerely,

Rashidi Shabani, Advocate

FAIRFAX ATTORNEYS.