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Delgado v. State Appellant's Reply Brief Dckt. 38663

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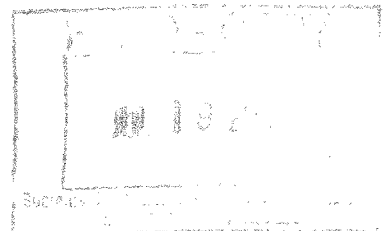
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ELUITH DELGADO,
Petitioner-Appellant,
v.
STATE OF IDAHO,
Respondent.

APPELLANT'S REPLY BRIEF

Respondent
State Of Idaho
Deputy Attorney General
Criminal Division
P.O. Box 83720
Boise, Id. 83720-0010

NOTE: Petitioner/Appellant has filed this Reply Brief late, as there were circumstances which prevented him from filing on time. He was sent to segregation, pending a investigation by IDOC. He was without his legal work and also had no communication with the inmate who was assisting him. This all can be verified by IDOC, if the Respondent wants to object.



FINAL ARGUMENT

Page 1 of the respondents brief, respondent admits that trial counsel filed the petition and request for appointment of counsel. They further admit that the petition contained allegations which were not substantiated with evidence or affidavit's. On page 6, they also admit that the trial Judge who was appointed over the post-conviction proceeding did not know the same attorney filed this petition. The court should have known, due to counsel also filing a motion for appointment of counsel.

Page 3, the respondents want to rephrase Delgado's issue's on appeal, which only confuses the issues and does not address them. Delgado stands on the issues presented on appeal and only wants to exhaust his state remedies so he can file in Federal Court. The respondents use Idaho case law, however Delgado has given this court the "Gold Standard", which is Federal Case Law.

It is clear by both Delgado and the Respondent, that trial Counsel filed a petition on Delgado's behalf. It is a "Fact" that Delgado did not verify the petition by signing it. It is also a "Fact" that Delgado is not trained in Law and has to rely on other inmate's for help. Had Delgado been able to assist with his post-conviction petition, he would have filed ineffective assistance of counsel. Had he been appointed counsel, he would have also added these claims in his amended petition.

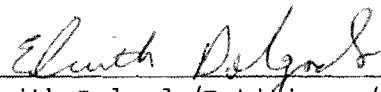
It is also a "Fact" that trial counsel filed no ineffective assistance claims on himself, however did file a Motion For

Appointment of Counsel, which was denied. At that point the Court should have been alerted to the conflict. Once again, no attorney will file a claim against himself.

Now Delgado is faced with a life sentence in prison and his only chance at addressing claims of ineffective assistance of counsel, were done in by trial counsel filing a petition that was not verified by the petition. Idaho code requires the petition to be signed by the petitioner, not counsel. Therefore Delgado was and still is deprived of his Constitutional Rights of the United States.

Delgado assert's issues 1 thru 7 again, however seeks this Honorable Court to remand and allow the petition to address the issue's he wants, rather than what trial counsel wanted. The big question here is, what is trial counsel trying to hide that went on between the petitioner and trial counsel?

Dated this 17 day of July, 2012.

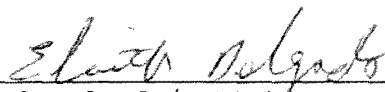


Eluith Delgado/Petitioner/Appellant

CERTIFICATE OF SERVICE

I hereby certify that on the ___ day of July, 2012, I served two (2) copy which are true and correct of the forgoing "Appellant's Reply Brief" to the person listed below:

Idaho Attorney General
Criminal Division
P.O. Box 83720
Boise, Id. 83720-0010



Eluith Delgado/Petitioner-Appellant

IN THE SUPREME COURT OF THE STATE OF IDAHO

ELUITH DELGADO,)	
)	
Petitioner-Appellant,)	CASE NO. 38663
)	
v.)	
)	APPELLANT'S REPLY BRIEF
STATE OF IDAHO,)	
)	
Respondent.)	
)	
)	
)	

Petitioner (Pro-se)
Eluith Delgado #29023
ISCI Unit #15
P.O. Box 14
Boise, Id. 83707

Respondent
State Of Idaho
Deputy Attorney General
Criminal Division
P.O. Box 83720
Boise, Id. 83720-0010

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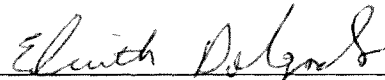
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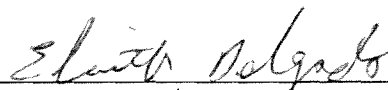


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