

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

Rebecca Keaton
Rebecca Keaton
Clerk of Superior Court Cobb County

STATE OF GEORGIA)
)
 v.)
)
 JUSTIN ROSS HARRIS,)
 Defendant.)
)
)

INDICTMENT # 14-9-3124

AMENDED MOTION FOR NEW TRIAL

COMES NOW, Defendant JUSTIN ROSS HARRIS, in the above-styled matter and amends the previously filed motion for new trial and adds the following additional grounds to this motion. This motion is made pursuant to the First, Second, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and the Georgia Counterparts, including but not limited to Article I, Section I, Paragraphs I, II, IV, V, VII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XXIV and XXVIII of the Georgia Constitution, and other applicable statutory and case law.

Defendant files this amendment in support of his original Motion for New Trial filed January 3, 2017, and continues to raise the grounds presented therein and all issues raised before the trial court during the pretrial stage, at trial and post trial.

In addition, Defendant raises the issue of ineffective assistance of counsel. Defendant submits trial counsel provided ineffective assistance of counsel by failing to call Dr. David Diamond as an expert witness at trial. In the previous motion requesting a new trial, an issue was raised submitting the trial court erred by requiring trial counsel to provide the State with the notes of Dr. Diamond before trial. The notes were provided and consequently, defense counsel decided not to call Dr. Diamond as a witness at trial. The testimony of Dr. Diamond was a key part of their defense theory. By failing to call him as a witness and operating under the belief the


notes would not be subject to disclosure as directed by the trial court, it is submitted defense counsel provided ineffective assistance of counsel.

Likewise, Defendant submits trial counsel was ineffective for relying on their belief that certain evidence would be admissible at trial and making this the basis of their defense. Early on defense trial counsel made it clear that attacking the credibility of the police investigation was a key to their defense theory. In opening statements, defense counsel laid the ground work by informing the jury the police department made numerous false or misleading statements, including but not limited to statements made to the magistrate court when seeking search warrants. At trial, defense counsel was unable to introduce into evidence the statements supporting their theory and that were referred to during opening statements.

Undersigned counsel notes that the above referenced issues are addressed as errors made by the trial court. The submission of ineffective assistance of counsel are raised in the event it is found that there was no error by the trial court and defense counsel relied on incorrect legal analysis and judgment when making decisions throughout the trial.

Defendant reserves the right to file additional enumerations and amendments to this Amended Motion for New Trial any time before the ruling is issued by the trial court. O.C.G.A. §5-5-40 (b). Further, Defendant reserves the right to present on appeal issues that were addressed at trial but are not listed in this or any future Amended Motion for New Trial. O.C.G.A. §5-5-40 (g). A hearing is requested to allow Defendant to be present and have an opportunity to present evidence, argument and citations of authority.

Respectfully submitted:



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CERTIFICATE OF SERVICE

This is to certify that as of this date, I have served the proper prosecuting officer in the foregoing matter with a copy of the foregoing Motion by one of the following ways:

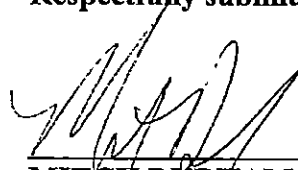
_____ (a) Depositing in the United States Mail, with adequate postage affixed thereon; or

_____ (b) Personally placing a copy of same in his hands, or his authorized agent for this purpose.

Cobb County District Attorney's Office
Superior Court of Cobb County
70 Haynes Street
Marietta, GA 30090

This the 2nd day of December, 2020.

Respectfully submitted,



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