

UNITED STATES DISTRICT COURT
SOUTHEASTERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

U.S. DISTRICT COURT
SAVANNAH, GA
2011 DEC 21 AM 9:58
CLERK *B. West*
SO. DIST. OF GE.

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|------------------|---|----------------------------|
| DAVID SUTHERLAND |) | |
| PETITIONER, |) | |
| |) | |
| V. |) | CASE NO. <u>411 CV 107</u> |
| |) | |
| STATE OF GEORGIA |) | HABEAS CORPUS |
| ET EL |) | 28 U.S.C. 2254 |
| RESPONDENT. |) | |

PETITIONER, David Sutherland brings to this court ,response and answers to the RESPONDANTS ANSWER TO THIS PETITION.

NOTICE is also given to this court that petitioner is not a trained lawyer ,and responses Are made without benefit of Transcript of the June 13 2008 Plea hearing, Transcript of The STATE habeas Corpus hearing in February 2010.

Petitioner also points out the answer by respondent (STATE) were entered in the record On October 24 2011 (Doc.15) Petitioner received no notice of the filing by the State. Petitioner did have his correct address filed with this court see (Doc.10) entered on 06/29/2011.

RESPONSE TO STATES ANSWERS

Response 1

Petitioner David Sutherland Did not steal any cooper (wire) from CSX rail road.

1.CSX rail road Did not use this type wire for any safety operation see .exhibits 1&2

Response 2.

1. As to the body of the brief submitted by respondent in its answer Petitioner points out

To the court all claims were brought to the State habeas corpus court that the petitioner could raise at that time, petitioner did not and could not gain any facts to enable him to bring further claims. Petitioner in fact filed his first state court habeas claim without benefit of the transcript.

2. The State totally relies on O.C.G.A. 9-14-51 IN ITS DEFENCE. This defense does not have merit and should not stand.

Response 3.

1. as to the Chatham County Superior Court Habeas hearing held in Feb. 2010 by Judge Bass, the testimony given by petitioner's public defender June Fogle, Ms. Fogle testified that 1. It is her practice to have her assistant appear in her place at critical stages of criminal proceedings and did so in representing petitioner. 2. It is clear by the transcript by her testimony she was totally unprepared for the plea hearing held June 13, 2008. 3. And it is clear by her testimony that she did not file any appeal.

2. It is clear if this court reads the habeas transcript that Judge Bass did deny petitioner due process by denying the habeas petition in denying the petition contrary to the Supreme Court's ruling in the Strickland decision.

3. Petitioner states this FACT the STATE of GEORGIA starting in May 2, 2007 has denied petitioner's rights under the US Constitution amendments 4, 5, 8 and 14th Amendments.

Petitioner stands by his pleadings as truth and fact. And Moves this court to grant his

PETITION for Habeas Corpus.

So entered this 16th day of December 2011

By David Sutherland

DAVID SUTHERLAND

2792 HWY 80
GARDEN CITY GA.31408

I do certify that a copy of **Petitioners Answer** by placing same in the US mail
With proper postage addressed to;

DAVID A, ZISOOK
ASSISTANT ATTORNEY GENERAL
GEORGIA DEOARTMENT AF LAW
40CAPITAL SQUARE, S.W.
ATLANTA GEORGIA 30334-1300

Mr. Sutherland,

The CSX railroad, like other Class One railroads has been phasing out signal control circuits on pole line for many years. Initially, many went to the use of cable instead of open line wire, and then to electronic track circuits with the signals control by codes in the rails, or the use of radio for code lines to control points. I believe that CSX has almost entirely completed this phase-out. I will however, check with our Southeastern area office to confirm the number, if any, of miles and locations left.

This email was forwarded to me by Mr. McFarlin. I hope to have a definitive answer for you shortly.

From: McFarlin, Tom (FRA)
Sent: Friday, February 04, 2011 11:34 AM
To: Weber, Paul (FRA)
Subject: FW: railroadpoleline (wire)

From: Sutherland155@aol.com [mailto:Sutherland155@aol.com]
Sent: Friday, February 04, 2011 11:17 AM
To: McFarlin, Tom (FRA)
Subject: railroadpoleline (wire)

This question, is about the CSX R-R safety signal, control devices, known as pole lines, is this system still used, in the southeastern, routes?

David Sutherland

Exhibit No. 1

david sutherland

From: "Don Carrington" <dcarrington@genesisusa.com>
To: <davidsutherland7@msn.com>
Sent: Friday, April 23, 2010 8:42 AM
Subject: RE: Email from GenesisUSA Website
 David.

Most likely what you're referring to is known as "pole-line." Prior to sometime in the 1970's, all signal information between wayside railroad signals was electrically conveyed between block, intermediate, or control points using pole-line. Pole line consisted of standard poles with crossbars and often a dozen or more wires running alongside any railroad track that experienced moderate to heavy traffic.

In the 1970's, new technology was introduced that allowed all of the information normally carried via pole-line to be electrically sent through the rails. This eliminated the need for pole-line, however, most pole-line installations were left in place for many years simply to avoid the cost of their removal.

We do not work on equipment that uses pole line, as most of it has been out-of-service for a decade or more.
 Don Carrington



-----Original Message-----

From: davidsutherland7@msn.com [mailto:davidsutherland7@msn.com]
Sent: Thursday, April 22, 2010 9:14 PM
To: Don Carrington
Subject: Email from GenesisUSA Website

From: david sutherland

Regarding: Other

Comments: i am looking for someone in your field that may be able to help me find information on over head signal lines(wire)this would be from my informatio a older type signal wire,whatIneed concerns csx rail road, railsaftey signal operations along there routs going through chatham county georgia (savannah ga.)south.on my information this type signal transmtion operation is not used any longer.my qustion is,does csx use this type r-r signal,if not what is used and for how long.or if your company does not deal with this issue,would you be able to direct me to someone who does.

thank you david

Exhibit No. 2

David Sutherland

2792 Hwy 80

Garden City Ga 31408



Clerk, U.S. District Court

P.O. Box 8286

Savannah, Ga 31407