

~~Order on appeal dated 8-10-22~~

The South Carolina Court of Appeals.

~~Case # 2007-6512-529 thru 532~~

The State, Respondent.)
Vs.

James B. Curry, #186137
Appellant

RECEIVED

AUG 29 2022

Statement and issue on appeal,
Abuse of discretion, perjury &
prejudice, Committed by Judge
Brian M. Gibbons.

SC Court of Appeals

~~Why would Mr. Curry cite inaccuracies in Judge Griffith's orders as grounds for Judge Gibbons to Recuse his Self.~~

Appellate, noticed that Judge Gibbons order's dated 4-14-22 and 5-16-22. Contained False Statement's "Thus, Stating this issue has been litigated numerous times, and no new evidence has been all eged, or Submitted." See Defendant's Exhibit #3 & 4 as proof of the Court's Statement's. Note, "Then see Defendant's Exhibit #2. as proof of his New evidence discovered on 1-11-22. Note, appellate Moved for a rec USal hearing to be Scheduled in re: to the Court's False Statements the Court Scheduled a hearing for 7-20-22. On that day in open Court, appellate moved Judge Gibbons to quash his order's dated 4-14-22 and 5-16-22. and grant a new trial, and then recuse his self from any matter's in re: to the new trial, on the grounds of abuse of discretion, perjury & prejudice. "see Defendant's Exhibit #1. as proof, which was read out loud onto the record. Quote: "Thus, if filed order's cannot be produced to Corrobrate these Statement's, then the Court is guilty of perjury.

~~the State could not produce any Exhibit's on 7-20-22. Instead the Court intentionally Lie's in his order dated 8-10-22 on pp. 2 & 3. to Cover up his Mess, by Stating, Curry argued the Dec, 2014. Order should be quashed, along with the two subsequent order's issued by Judge Griffith dated Dec, 10, 2021. and Nov, 5, 2021, based on inaccuracies, in Judge Griffith's order's. is the reason Curry cites as why Gibbons should be recused. Note, which is 100% all of true, therefore, appellate Move's the SC Court of Appeals to order a new trial on the grounds of abuse of discretion, perjury and prejudice.~~

Exhibit A#1

State of South Carolina
County of Chester.

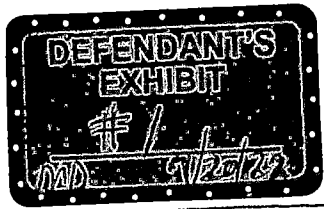
In the Court of General Sessions
For the Sixth Judicial Circuit.
#2007-65-12-529-530-531-532.

State of South Carolina,
Vs.

Affidavit in Support of perjury
accusation in order's dated 4-14-22
and 5-16-22.

James B. Curry,
Defendant.

~~Order's Signed by Judge Brian
M. Gibbons of the Sixth Circuit.~~



~~Relief being sought, Quash Order's
dated 4-14-22 and 5-16-22, grant
new trial and recuse from any matters
in re: to the new trial.~~

"Defendant, hereby states that the issue of Juror #38, Ms. Patricia B. Giather being employed in law enforcement at the time of defendant's trial in Feb, 2008, has not been litigated numerous times, as stated in Judge Brian M. Gibbons order dated 4-14-22, and 5-16-22.

~~Thus, if filed order's cannot be produced to corroborate these
statements, then the court is guilty of perjury and misconduct
in office, but if defendant's relief is granted, then no action is
sought against the court by defendant.~~

"Note. the order from 2011 is in re: to Juror #38, being formerly employed, with the Great Falls police dept. 14 yrs. before defendant's trial, and failed to disclose this fact to the court or to the defendant during voir-dire, in Feb, 2008.

2nd Note. the order dated 11-5-21, was not considered by the court, because there was no affidavit submitted by defendant.

Sworn to and subscribed before me

cc: this 19 day of July, 2022.

Jamarcus Conwell
Notary Public For South Carolina

My Commission Expires:

My Commission Expires

James B. Curry
Perry C.I. 02-A-114
#430 Oaklawn Rd
Pelzer, S.C 29669
7-19-22.

State of South Carolina
County of Chester

In the Court of Common Pleas
Sixth Judicial Circuit.

2007-65-12-529
2007-65-12-530
2007-65-12-531
2007-65-12-532

~~New Evidence~~

State of South Carolina)

Vs.)

James B. Curry)
Defendant.)

Motion/petition to be heard
in RE: to a vior-Dire Violation
Committed by Juror #38.

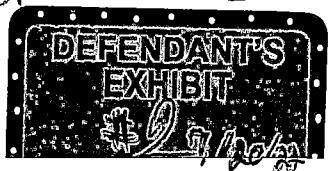
"Defendant, hereby move's the Court to Schedule a hearing in the interest of justice to Correctly address employment Status of juror #38. Ms. Patricia B. Giather, because ~~on 1-11-22 defendant has discovered that Juror #38. Was employed within the walls of law enforcement, and failed to disclose this fact to the judge or to the defendant,~~ as requested by the Court to do so, which make's Juror #38 to have committed Juror misconduct. Note had defendant known this fact at trial, defendant would've struck Juror #38 From sitting on the Jury 100%." also defendant request that the Clerk of Court issue a subpoena to Juror #38 to attend the hearing to answer any question from defendant as to why she concealed her occupation from the Court during vior-Dire. Also, defendant request a print out from the Clerk of Court of the Jury questionnaire, stating Juror #38's occupation ~~in Feb, 2008.~~ during defendant's trial.

FILED
CLERK OF COURTS OFFICE
CHESTER, SC

James B. Curry #186737
Perry Co. I. Q2-A-114
#430 Oaklawn Rd.
Melzer, S.C 29669.

cc:
Michael Davidson, Atty Gen's Ofc.
William M. Blich Jr. Solicitor's Ofc.

DATE: 4/5/2022
TIME: 10:33 AM



4-5-22

* Case Law. *

Case# 2007-GS-12-529-530-531-532.

"An abuse of discretion arises from an error of law or Factual Conclusion that is without evidentiary - Support. Id. (quoting State vs. Trick 344 S.C. 460, 464, 545 S.E.2d 282 (2001): also, State vs. Funderbunk, 367 S.C. 236, 239, 625 S.E.2d 248, 249-50 (Ct.

"Also, if the abuse of discretion result in prejudice - the error Warrants reversal on appeal. Geer. 391 S.C. at 190, 705 S.E.2d at 477 (quoting State vs. preslar 364, S.C. 466 473, 613 S.E.2d at 381, 385 (Ct.

Note. In the matter on appeal Curry vs State, Gibbons, the Judge who could not present evidentiary Support to Corroborate his Statement that Mr. Curry's issue has been litigated - numerous times, and no new evidence has been alleged, "Which is a False Statement, that prejudiced appellate 100% because he Failed to hold a hearing as Mr. Curry requested, in the interest of justice. see Defendant's Exhibit # 2. Thus, Judge Gibbons lied in his order dated 8-10-22. On Pg # 2+3. Stating that Mr. Curry argued the Dec, 2014. Order should be quashed, along with the two subsequent Order's issued by Judge Griffith, which is 100% not true.

~~See Defendant's Exhibit # 1 as proof, which is false. Judge Gibbons order's dated 4-14-22 and 5-16-22 should be quashed, then recuse himself after a new trial is granted.~~

James B. Curry #186737.
Perry C.I. A-Y-RM# 4
#430 Oaklawn Rd.
Pelzer, S.C. 29669

8-19-22

* Note Grant the New Trial. S.C. Court of Appeals. *

~~Exhibit Only~~

~~Exhibit Perry~~

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
State of South Carolina,)
)
v.)
)
James B. Curry,)
)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
FOR THE SIXTH JUDICIAL CIRCUIT

2007-GS-12-529, 530, 531, 532

**ORDER DENYING MOTION FOR
REHEARING BEFORE THE CHIEF
ADMINISTRATIVE JUDGE,
and
ORDER SETTING HEARING ON REQUEST
FOR RECUSAL**

SC Court of Appeals

AUG 29 2022

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This matter comes before the court on the Defendant's motion for rehearing dated April 16, 2022. The Court received the Defendant's motion via mail on April 29, 2022. The Defendant is currently incarcerated at Perry Correctional Institution in Pelzer, South Carolina. The Court has reviewed the Motion submitted by the Defendant. ~~This issue has been litigated numerous times, and no new evidence has been alleged or submitted by the Defendant. This~~ Motion appears to be further re-hashing of the same issues that have been thoroughly vetted by this Court and the Appellate Courts, including the Defendant's previous motion dated April 5, 2022. The Motion for Rehearing is **DENIED**.

Additionally, Defendant's motion includes a motion "for Judge Gibbons to recuse his self." There is no argument, facts, or evidence set forth in support of this motion. The Court will allow Mr. Curry to be heard on that Motion in open court at a hearing to be scheduled and noticed. ~~The Attorney General's Office shall be in attendance.~~

So Ordered.

Judge Brian M. Gibbons
Chief Administrative Judge (since 1/1/22)
Sixth Judicial Circuit

~~May 16 2022
Chester, South Carolina~~

31:11 A 91 MAY 16 2022

DEFENDANT'S EXHIBIT
3
7/15/22

~~Order on Appeal #2023~~ Abuse of discretion, perjury, prejudice. FILED 10 AUG '22 PM 3:24

CLERK OF CRT CHESTER SC

STATE OF SOUTH CAROLINA)
COUNTY OF CHESTER)

IN THE COURT OF GENERAL SESSIONS)
FOR THE SIXTH JUDICIAL CIRCUIT)

James B. Curry, SCDC #186737,)
Applicant,)

Case No.: 2007-GS-12-529, -530, -531, -532

v.

RECEIVED

ORDER DENYING MOTION TO RECUSE)
AND ORDERING FORFEITURE OF)
CREDITS PURSUANT TO)
S.C. CODE ANN. § 24-27-200)

AUG 29 2022

State of South Carolina,)
Respondent.)

SC Court of Appeals

This matter is before this Court based on a motion by James B. Curry, SCDC # 186737, for the recusal of this Court from hearing various motions and collateral attacks he has filed or attempted to file challenging his 2008 convictions for first-degree burglary, armed robbery, kidnapping, and assault and battery of a high and aggravated nature (2007-GS-12-529, -530, -531, -532). Since his conviction, Curry has filed two post-conviction relief actions pursuant to S.C. Code Ann. §17-27-10 et seq., numerous motions for a new trial pursuant to Rule 29(b), SCRCrimP, and appeals from the denial of these actions. Curry has repeatedly filed or attempted to file documents or new actions challenging his convictions with the Chester County Clerk of Court.

In response to the prolific filings and other documents Curry has sent to the Chester County Clerk of Court, the undersigned, acting in its capacity as Chief Administrative Judge for the Sixth Judicial Circuit, issued an order on December 4, 2014, in an attempt to curtail Curry's repetitive and frivolous filings. In this order, this Court:

[D]irects the Chester County Clerk of Court to not accept any future correspondence from [Curry] unless he pays the normal filing fee. Additionally, this Court finds that [Curry] is required to provide a properly notarized affidavit certifying that [Curry] believes in good faith that the matter raised is not frivolous.

This Court also finds that if the Defendant submits a motion that is accompanied with a notarized affidavit and a filing fee, the Clerk's office is directed to submit the motion to the Chief Administrative

Judge for General Sessions. If the Administrative Judge find that the motion is proper, it would then be submitted for filing. However, if the Administrative Judge finds the documents frivolous, [Curry] may be held in contempt pursuant to S.C. Code Ann. § 24-27-300. This order shall also be served on the Attorney General's office, who is authorized pursuant to S.C. Code Ann. §24-27-300 to investigate and prosecute [Curry] for possible contempt of court for any future frivolous filings.

(Order dated Dec. 4, 2014).

Despite this order, Curry has continued to inundate the Chester County Clerk of Court with documents. In a further attempt to curtail Curry's repetitive and frivolous filings, the Honorable Eugene C. Griffith, Jr., acting in his capacity as Chief Administrative Judge for the Sixth Judicial Circuit, issued a subsequent order dated November 5, 2021, again admonishing Curry's behavior and reminding him of the restriction on future filings put in place by this Court's December 2014 order. Judge Griffith then issued another order on December 10, 2021, again referencing this Court's December 2014 order and finding Curry was in violation of this order.

Despite these three orders, Curry has continued to inundate the Chester County Clerk of Court with attempted filings, letters, and other documents, some of which contain threatening language. One such document was a motion to recuse this Court from hearing any motions associated with his case. In response, this Court convened a hearing on Curry's motion for recusal on July 20, 2022, at the Chester County Courthouse. Curry was transported from the South Carolina Department of Corrections for this hearing. Also present for this hearing were Sixth Circuit Deputy Solicitor Candice A. Lively and Senior Assistant Deputy Attorney General Megan Harrigan Jameson from the South Carolina Attorney General's Office.

~~At the start of this hearing, Curry was provided an opportunity to explain the grounds for his motion to recuse this Court. Curry argued the December 2014 order should be quashed, along with the two subsequent orders issued by Judge Griffith, based on inaccuracies in the order. It is~~



~~these purported inaccuracies. Curry cites as the reason why this Court should be recused.~~ After hearing from Curry, this Court **DENIES** the motion for recusal.

Moreover, this Court finds that Curry continues to overwhelm the Chester County Clerk of Court with correspondence, documents, and attempted filings despite three separate orders admonishing Curry to stop his repetitive and frivolous filings. Curry's continued behavior impedes the administration of justice and wastes limited judicial resources as he attempts to litigate issues that have already been litigated and/or patently lack merit. This Court finds that Curry is in violation of this Court's December 2014 order, and notes that Judge Griffith previously found Curry in violation of this December 2014 order.

In response to this behavior in violation of previous court orders, this Court finds that Curry has forfeited his work, education, or good conduct credits in accordance with Section 24-27-200.

Pursuant to Section 24-27-200,

A prisoner shall forfeit all or part of his earned work, education, or good conduct credits in an amount to be determined by the Department of Corrections upon recommendation of the court if the court finds that the prisoner has done any of the following in a case pertaining to his incarceration or apprehension filed by him in state or federal court or in an administrative proceeding while incarcerated:

- (1) submitted a malicious or frivolous claim, or one that is intended solely to harass the party filed against;
- (2) testified falsely or otherwise presented false evidence or information to the court;
- (3) unreasonably expanded or delayed a proceeding;
- or
- (4) abused the discovery process.

The court may make such findings on its own motion, on motion of counsel for the defendant, or on motion of the Attorney General, who is authorized to appear in the proceeding, if he elects, in order to move for the findings in a case in which the State or any public entity or official is a defendant.



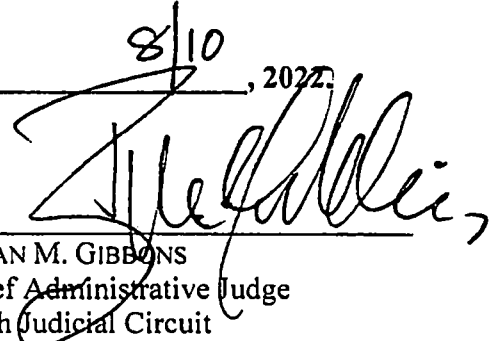
S.C. Code Ann. § 24-27-200. In this case, this Court finds that Curry has violated subsections (1), (2), and (3) of Section 24-27-200 with his repetitive and frivolous filings. This Court notes that Judge Griffith previously found that Curry was in violation of this Court's December 2014 order. Accordingly, this Court recommends and **ORDERS** the South Carolina Department of Corrections to remove Curry's earned work, education, or good conduct credits in accordance with Section 24-27-200.¹

CONCLUSION

Based on the foregoing, this Court **DENIES** Curry's motion for recusal of this Court.

Moreover, this Court finds that Curry has repeatedly violated this Court's December 2014 order regarding future filings, and notes that Judge Griffith previously found Curry in violation of that order. Accordingly, this Court **ORDERS** the South Carolina Department of Corrections to remove Curry's earned work, education, or good conduct credits in accordance with Section 24-27-200.

AND IT IS SO ORDERED this _____ day of 8/10, 2022.



BRIAN M. GIBBONS
Chief Administrative Judge
Sixth Judicial Circuit


_____, South Carolina

¹ This Court is aware of Wade v. State, 348 S.C. 255, 559 S.E.2d 843 (2002), wherein our Supreme Court found that Section 24-27-200 did not apply in post-conviction relief proceedings. However, Applicant's repetitive and frivolous documents and attempted filings do not reference any past or on-going post-conviction relief action, and, accordingly, Wade does not control in the present case.