

# The South Carolina Court of Appeals.

10F2.

Case No. 2007-65-12-529-530-531-532.

The State, (Respondent.)

Vs.

James B. Curry.

Appellant.

**RECEIVED**

SEP 15 2022

SC Court of Appeals

Motion For the Clerk to -  
Rescind the order of dismissal  
in appellate Case No. 2022-001104.  
on the grounds that the notice of appeal  
and proof of service was served -  
premature, not past the deadline. -  
Note, the order dated 8-10-22. was  
timely served as notice of appeal. SO  
Please modify as matter on appeal.

Dear, Ms. Allen

"I received your correspondence dated September, 6, 2022. Stating that you received my notice of appeal and proof of service dated 8-19-22. which you construed as a motion to reinstate appeal case No. 2022-001104. which was dismissed as untimely served. Note. at the time of the sending of the notice of appeal and proof of service in appellate case No. 2022-001104. the enclosed order signed by Judge Gibbons dated 8-10-22. did not exist, thereby, making the appeal case No. 2022-001104. premature and moot, therefore, I am requesting a new appeal case No. in re: to the enclosed order dated 8-10-22. which was timely served with proof of service on all respondents on 8-19-22. and the S.C. Court of Appeals, which you construed as a motion to reinstate case No. 2022-001104. Note. But was my asking the Court for forgiveness of procedural default, and that the Clerk of the appellate Court to rescind the dismissal - order dated Filed, Aug, 16, 2022. as untimely served. TO modify - the order signed by Judge Brian M. Gibbons on 8-10-22. as timely, and the matter on appeal with the S.C. Court of Appeals.

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.

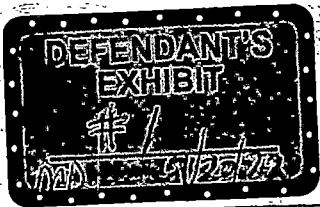
State of South Carolina,  
Vs.

James B. Curry,  
Defendant.

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

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.

Jamarc Conwell  
Notary Public For South Carolina

My Commission Expires:

My Commission Expires

James B. Curry  
Perry C.I. Q2-A-114  
#430 Oaklawn Rd  
Pelzer, S.C 29669  
# 7-19-22.

Order timely dated 8-19-22 Served as notice of appeal along with proof of service.

FILED  
10 AUG '22 4:32 PM  
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. )

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

State of South Carolina, )  
Respondent. )

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

A handwritten signature in black ink, appearing to be 'JH', with a superscripted '2' to its upper right.

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.

A handwritten signature, possibly "R. H. 3", is written in the bottom right corner of the page. The signature is written in dark ink and includes a large, stylized letter 'R' followed by a smaller 'H' and the number '3'.

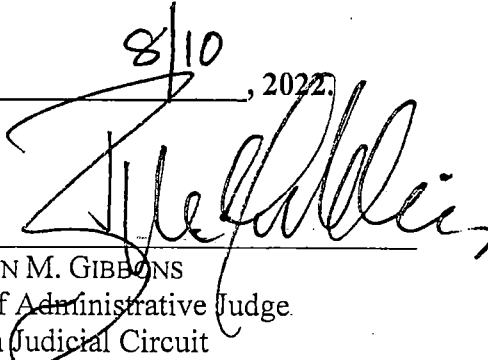
S.C. Code Ann. § 24-27-200. In this case, this Court finds that Curry has violated subsections (1), (2), and (3) of Section 24-27-200 with his repetitive and frivolous filings. This Court notes that Judge Griffith previously found that Curry was in violation of this Court's December 2014 order. Accordingly, 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.<sup>1</sup>

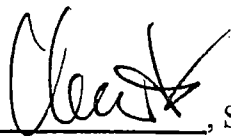
**CONCLUSION**

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

<sup>1</sup> 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.

"Also, Please be advised that S.C.D.C Contacted Police Services and a recorded video interview was conducted on 8-26-22. in re: to the perjury on Pg#2+3 of Judge Gibbons order dated. 8-10-22. "Which State's Curry argued the Dec, 2014. order should be quashed, along with the two subsequent order's 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" which is 100% not true.

Why would Mr. Curry cite inaccuracies in Judge Griffith's order's, asking Judge Gibbons to recuse his self.

"See Defendants exhibit #1. as proof of the grounds Mr. Curry moved for Judge Gibbons to recuse his self, which was the perjury in his order's dated. 4-14-22. and 5-16-22.

Proof of Service.

I James B. Curry hereby certify that proof of service was served on all respondents and the S.C. Court of appeals by placing it in the U.S. Mail addressed to their correct addresses.

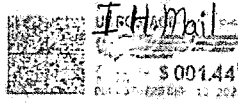
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SEP 15 2022  
SC Court of Appeals

James B. Curry #186737.  
Perry Co. A-Y-RM#4  
#430 Oaklawn Rd.  
Pelzer, S.C 29669  
9-12-22.

cc:  
Alan McCrory Wilson,  
Chester, Co Solicitor's office.  
SLED.

X James B. Curry #186737.  
Perry C.I. A-Y-Rm #44.  
#430 Oaklawn Rd.  
Pelzer, S.C. 29669



Move to Modify, as timely;  
Notice of Appeal Served dated 8-19-22. order dated 8-10-22.

Attn: V. Claire Allen, Chief Deputy Clerk.  
The S.C. Court of Appeals.  
P.O. Bx # 11629  
Columbia, S.C. 29911

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SEP 15 2022  
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