

August 29 2022

Alonzo C. Jeter, III, #282902
Manning Correctional Institution
W-5 / 53B
502 Beckman Drive
Columbia, South Carolina 29203

The Honorable Brandy W. McBee
Clerk, Cherokee County Court
Post Office Box 2289
125 E. Floyd Baker Blvd.
Gaffney South Carolina 29342

RE. Alonzo C. Jeter, III v State of South Carolina, C/A No. 2021-CP-11-00593

Dear Honorable McBee:

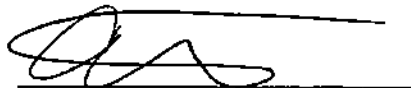
Enclosed for filing, please find the Motion For Reconsideration And To Alter Or Amend Judgment; along with a Certificate of Service.

Enclosed, please also find an additional copy of the same, along with a self-addressed stamped envelope.

Please return to me file-stamped copies of these documents by way of the provided SASE.

Thank you for your assistance in this matter.

Sincerely,



Alonzo C. Jeter, III

FILED IN THE OFFICE
CLERK OF COURT
2022 SEP - 1 P 12:23
BRANDY W. MCBEE
CHEROKEE COUNTY, SC

Cc: Leon David Leggett, III
FILE

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

IN THE COURT OF COMMON PLEAS
IN THE SEVENTH JUDICIAL CIRCUIT

Alonzo C. Jeter, III,)
)
Plaintiff,)

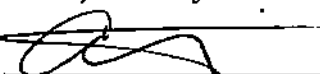
Civil Action No. 2021-CP-11-00593

vs)

CERTIFICATE OF SERVICE

State of South Carolina,)
)
Defendant.)

I, Alonzo C. Jeter, III, hereby certify that I have served the Motion To Reconsider And Alter Or Amend Judgment; on Respondent by placing a copy of the same inside of a postage prepaid envelope and by placing the same in the hands of Manning Correctional Institution's mail room personnel on this 29th day of August, 2022, for mailing via the United States Mail, addressed as follows: Leon David Leggett, III, AAG, Office of the Attorney General, PO Box 11549, Columbia, South Carolina 29211; The Honorable R. Keith Kelly, Judge, Seventh Judicial Circuit, 125 E. Floyd Baker Blvd., Gaffney South Carolina 29340; The Honorable Brandy W. McBee, Clerk, Cherokee County Court, Post Office Box 2289, 125 E. Floyd Baker Blvd., Gaffney South Carolina 29342.

S/ 
Alonzo C. Jeter, III

FILED IN THE OFFICE
CLERK OF COURT
2022 SEP - 1 P 12:23
BRANDY W. MCBEE
CHEROKEE COUNTY, SC

STATE OF SOUTH CAROLINA)
 COUNTY OF CHEROKEE)
)
 Alonzo C. Jeter, III,)
)
 Plaintiff,)
)
 vs)
)
 State of South Carolina,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 IN THE SEVENTH JUDICIAL CIRCUIT

Civil Action No. 2021-CP-11-00593

**MOTION TO RECONSIDER AND
 TO ALTER OR AMEND JUDGMENT**

FILED IN THE OFFICE
 CLERK OF COURT
 2022 SEP - 1 P 11:23
 BRANDY W. HOBBS
 CLERK
 CHEROKEE COUNTY

Plaintiff, Alonzo C. Jeter, III, hereby moves the Court, respectfully pursuant to Rule 59(e), SCRCP, that it would reconsider its decision dated August 17, 2022 granting the Defendant's Motion to Dismiss.

Plaintiff received written notice of the Court's decision on August 25, 2022, by and through the Manning Correctional Institution mailroom.

PROCEDURAL HISTORY

Plaintiff filed this action on September 7, 2021, and the State received a copy via regular U.S. mail on September 17 and September 27, 2021. The State moved to dismiss Plaintiff's Complaint with prejudice pursuant to Rule 12(b)(2), (4), (5), and (6) on October 15, 2021.

On April 27, 2022, the Office of the Attorney General was hand delivered a copy of the Summons and Complaint. In light of this, on May 23, 2022, the State withdrew its motion for dismissal pursuant to Rule 12(b)(2), (4), and (5) and renewed its Motion to Dismiss pursuant to Rule 12(b)(6). A hearing was held on this matter on July 18, 2022, before the Honorable R. Keith Kelly. Present for the State was Assistant Attorney General Leon David Leggett, III. Plaintiff did appear, pro se, virtually via WebEx.

The State proposed a final order dismissing the case. Plaintiff filed a document titled, 'Plaintiff's Object To Proposed Order', whereby he objected to the proposed order. The proposed order was ultimately adopted and signed by Judge Kelly on August 17, 2022.

RULE 59(E), SCRPC STANDARD

("When an issue is raised to but not ruled upon by the trial court, the issue is preserved for appeal only if the party raises that same issue in a motion to alter or amend the judgment.") Chastain v Hiltabidle, 381 SC 508, 673 SE2d 826 (2009); ("[I]t is proper to view a Rule 59(e) motion not only as a vehicle to request the trial court alter or amend the judgment, but also as a vehicle to seek reconsideration of issues and arguments") Elam v South Carolina Dept. of Transp., 361 SC 9, 602 SE2d 772 (2004) (internal quotations omitted)

At the outset, Plaintiff does adopt and incorporate his reasoning as previously set forth in his pleading titled, 'Plaintiff's Objection To Proposed Order' which he filed with this Court on August 11, 2022.

Attorneys [and/or pro se litigants] are placed in precarious positions when forced to repeatedly call a court's attention to its own errors. This is the very reason [] preservation rules recognize "that in circumstances where it would be futile to raise an objection to the trial judge, failure to raise the objection will be excused." See State v Passmore, 363 S.C. 568, 584, 611 SE2d 273, 282 (2005) ("[O]ur courts have developed the doctrine of futility, which recognizes that in circumstances where it would be futile to raise an objection to the trial [court], failure to raise the objection will be excused.")

However, in the interest of certainty and good faith, Plaintiff will attempt again to bring the following misapprehensions and omissions to the Court's attention. See Home Medical Systems, Inc. v South Carolina Dept. of Revenue, 382 SC 556, 677 SE2d 582 (2009) ("[The South Carolina Supreme Court has previously] explained [] that there is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument.")

I

Failure To Address Motion To Appoint Counsel

The Court's order also fails to address the fact that Plaintiff did move for an appointment of counsel and provide a ruling on Petitioner's motion request. Plaintiff did file a written motion with the Court and did also discuss the same with the Judge at the hearing which was held on the State's motion to dismiss on July 18, 2022. Judge Kelly did indicate at that time the he intended to adjudicate upon this motion taking the matter under advisement. The order is insufficient as it fails to indicate and reflect the Court's adjudication of this motion.

II

Failure Acknowledge Public Interest / Public Importance / Public Concern

The order fails to address the fact that Plaintiff has emphasized and argued that the matter has an impact on the public interest. South Carolina has no case law on the issue which Plaintiff raises as to the ambiguity and vagueness of S.C. Code Ann §44-53-470.

Thus, there has been a resort to allowing the State and solicitor's offices in the state to loosely construe the statute. Lawyers and judges differ as to its interpretation as Plaintiff has clearly exhibited and demonstrated at the July 18, 2022, hearing on the matter. Men on common knowledge, ordinary people, differ as to interpretation. This certainly creates and leaves in place the potential for repetition in the future as this Court as well as all other courts in which have heard similar matters have failed to establish a clear rule and interpretation for future guidance. See Granados v Garland, 17 F.4th 475 (4th Cir. 2021) ("A [statute] is [] unconstitutionally vague in contravention of the Due Process Clause if it fails to give ordinary people fair notice of the conduct it punishes, or is so standardless that it invites arbitrary enforcement.") Plaintiff, as well as many others have experienced this arbitrary enforcement.

See Edwards v City of Goldsboro, 178 F3d 231 (1991) (Explaining that an issue "involves a matter of public concern if it affects the social, political, or general well-being of a community."); York v Conway Ford, 325 SC 170, 480 SE2d 726 (1997) (Explaining an issue "has an impact upon the public interest if it has the potential for repetition."); Florence Paper Co. v Orphan, 379 SE2d 289, 291 (1989) (Explaining that when an issue affects more than just the party in the instant action, the issue has an impact on the public interest.)

III

Reconsideration Of The Merits of the Constitutional Claim

During the July 18, 2022 hearing, the Court did inquire and explore the merits of Plaintiff's constitutionality challenge to S.C. Code Ann §44-53-470. The Court, as it did delve into the merits of Plaintiff's claim by its own request, did in-fact hear the merits of Plaintiff's claim and therefore did render a ruling on the merits. However, the Court does misapprehend Plaintiff's challenge. The Court ultimately bases its order dismissing the action on ultimately to premises. (1) That the claim is barred by res judicata, and (2) that the claims should have been brought by way of a post-conviction relief action rather than a declaratory judgment action, and (3) that S.C. Code Ann §44-53-470 is not unconstitutional.

This Court has erred in allowing the State to make a tacit amendment to Petitioner's pleading argument by ignoring Plaintiff's clear emphasis that he clearly is making a constitutional challenge to the statute rather than a collateral challenge to his sentence or conviction. Plaintiff unambiguously makes challenges the constitutionality to S.C. Code Ann §44-53-470 and the State and this Court does concede this. (See Order Pg. 6) However, the Court misapprehends at it fails to concede to the fact that Plaintiff has been blocked from getting his constitutional claim heard in any fair proceeding in this state whether by way of his 2016 PCR Action, by way of appellate review of the same, or by way the case at bar.

The Court's notion is premised on its insistence to change Plaintiff's argument. The ~~order dismissing the action~~ makes this clear as it states, (1) Plaintiff's claim that Section 470 violates his due process rights is a claim that his conviction "was in violation of the constitution of the United States", also (2) Plaintiff's "implicit" allegation that he has been improperly sentenced is an assertion that his sentence "exceeds the maximum authorized by law". (See Order Pg. 4) The order further makes a red herring argument that Plaintiff premises this case on the fact that he was indicted for a third or subsequent offense and pled to a second offense.

The State and this Court's reconstruction of Plaintiff's argument is actually a forced attempt to make Plaintiff's claims fit into South Carolina's Uniform Post-Conviction Relief Act. See S.C. Code Ann. §17-27-20(A), which states that pcr actions are possible when any person who has been convicted of or sentenced for, a crime makes a claim that the conviction or sentence was in violation of the Constitution of the United States or the Constitution or laws of this State; or that the sentence exceeds the maximum authorized by law. (See S.C. Code Ann. §17-27-20(A)(1) and S.C. Code Ann. §17-27-20(A)(3))

In this attempt, the order states that Plaintiff makes these implicit allegations and therefore Plaintiff's arguments could have been raised in his 2016 PCR action. However, Petitioner's complaint and pleadings are in direct contradiction to these assertions. In addition, the Court errs as it looks only to whether or not the constitutional claim could have been raised in any other proceeding, rather than to whether or not the Plaintiff actually did attempt to raise the claim in any such prior proceedings and was unfairly blocked through no fault of his own.

Plaintiff does not make a collateral challenge to his conviction or sentence as would be required to be brought by way of a PCR action. Rather Plaintiff makes a challenge as to the constitutionality of the statute. A challenge to the conviction or sentence does not equate with a challenge to the constitutionality of the statute. Plaintiff asks that the Court would reconsider its ruling on the merits of his challenge to the constitutionality of S.C. Code Ann §44-53-470.

Transcript Of August 17, 2022 Hearing

Plaintiff further requests this Court's assistance in obtaining the transcript of the August 17, 2022 hearing on this matter so as to provide a complete record of this case action.

CONCLUSION

For these reasons and the reasons within Plaintiff's Complaint and Plaintiff's Objection to Proposed Order, Plaintiff prays that this Court would reconsider and also alter and amend its judgment made in its August 17, 2022 order to include the findings of fact and conclusions of law as to all issues which Plaintiff has brought before this Court as well as a full ruling with regard to the merits of Plaintiff's constitutional claim to S.C. Code Ann §44-53-470.

Respectfully submitted,



Alonzo C. Jeter, III
PLAINTIFF / pro se

This 27th day of August 2022.

FILED IN THE OFFICE
CLERK OF COURT

2022 SEP -1 P 12:24

BRANDY W. MCBEE
CHEROKEE COUNTY, SC.



After 5 Days Return To:
Mrs. Brandy W. McBee
Clerk Of Court, Cherokee County
Post Office Drawer 2289
Gaffney, S.C. 29342

neopost
08/18/2022
FIRST-CLASS MAIL
US POSTAGE
\$00.81⁰



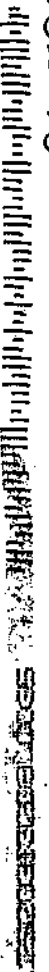
ZIP 29340
041111245001

SCDC

Mr. Alonzo Jeter #282902
Manning Correctional Institution
W-5/53B
502 Beckman Dr.
Columbia, SC 29203

MAR 24 2022

MAIL ROOM



21-593

Macie Cashion

From: Macie Cashion
Sent: Thursday, September 01, 2022 12:48 PM
To: 'ChelseyMarto@scag.gov'; 'Jordan Hickman'
Subject: Jeter Motion
Attachments: Jeter.pdf

Good morning,

Please see attached motion for reconsideration from inmate Alonzo Jeter.

Thank you!

Macie Cashion

Cherokee County Clerk of Court Office
Civil Clerk/Jury Coordinator
864-487-2571
P.O. Box 2289
Gaffney, SC 29340

FILED IN THE OFFICE
CLERK OF COURT
2022 SEP - 1 P 12:48
BRANDY W. MCBEE
CHEROKEE COUNTY, SC

Macie Cashion

From: Macie Cashion
Sent: Thursday, September 01, 2022 12:46 PM
To: 'Kelly, R. Keith Law Clerk (Madalyn Dalton)'
Subject: Motion
Attachments: Jeter.pdf

Good morning,

I have attached a Motion for Reconsideration submitted by inmate Alonzo Jeter.

Please let me know if this is something the Judge wants us schedule. Thank you!

Macie Cashion

Cherokee County Clerk of Court Office
Civil Clerk/Jury Coordinator
864-487-2571
P.O. Box 2289
Gaffney, SC 29340

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BRANDY W. MOBEE
CHEROKEE COUNTY, SC