

STATE OF SOUTH CAROLINA
In the Supreme Court

Appeal from Sumter County
Court of Common Pleas

Case Nos.: 2014-GS-43-00317
2014-GS-43-00317
2015-GS-43-00333
2015-GS-43-00334

ROBERT WILLIAM WAZNEY, Applicant,
v.
State of South Carolina,

LEAVE TO FILE SUPPLEMENT TO
APPLICATION FOR POST-CONVICTION RELIEF

AFFIDAVIT OR DECLARATION

COMES NOW, ROBERT WILLIAM WAZNEY, Applicant, pro-se, who after being duly sworn deposes and states:

RE: LEAVE TO FILE SUPPLEMENT TO
APPLICATION FOR POST-CONVICTION RELIEF

Dear S.C. Supreme Court:

I am ROBERT WILLIAM WAZNEY, and this is my Motion entitled LEAVE TO FILE SUPPLEMENT TO APPLICATION FOR POST-CONVICTION RELIEF, Application For Post-Coviction Relief (PCR) has been previously filed with the circuit court. Pursuant to Rule 15 South Carolina Rules of Civil Procedure (SCRCP), and Rule 212, South Carolina Appellate Court Rules (SCACR), Applicant ROBERT WILLIAM WAZNEY, Through moves for leave to supplement his APPLICATION FOR POST-CONVICTION RELIEF, which is attached herewith, on the grounds that since Applicant filed his original complaint, new facts have been discovered and events have occurred that are material to this action, as is more fully shown in copy of the proposed Supplement To Application For Post-Conviction Relief, which is attached herewith. Contemporaneously with this paper Applicant has provided Notice Of Leave To File Supplement To Application For Post-Conviction Relief upon South Carolina Attorney General.

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SEP 26 2022

S.C. SUPREME COURT

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SC Court of Appeals

Subsequent PCR filing, State of South Carolina has not provided a responsive pleading thus far, it has not appeared in the action. "For purposes of rule allowing leave to be granted to amend pleadings when leave does not prejudice any other party, 'prejudice' is a lack of notice that the new issue is going to be tried, and lack of opportunity to refute it." Parker v. Spartanbury Sanitary Sewer Dist. (S.C.App. 2005) 362 S.C. 276, 600 S.E.2d 711. Thus, instantly, where Applicant suffered from State of South Carolina's behavior described in the supplemental complaint, court granting leave to file such supplemental complaint will not prejudice State of South Carolina.

Applicant is entitled to supplement his complaint because his supplements would not be futile. Applicants proposed supplements are not futile. A district court may deny a motion to amend a complaint as futile if the proposed claim would not survive a motion to dismiss. Foman, Davis v. Piper Aircraft Corp., 615 F.2d 606, 613-614 (4th cir. 1980). In order to survive a motion to dismiss, a complaint must have facial plausibility allowing the court to draw a reasonable inference that the defendant is liable for the alleged misconduct. Ashcroft v. Iqbal, 556 U.S. 662 (2009), the court must construe the complaint in favor of the applicant and grant applicant the benefit of all inferences derived from the facts. Schuler v. United States, 617 F.2d 605, 608 (D.C. Cir. 1979).

Equal protection clause directs that all persons similarly situated should be treated alike. United States Dep't of Agriculture v. Murry, 413 U.S. 508, 517 (1973) (Marshall, J., concurring). The purpose of the Due Process clause is not to protect an accused against a proper conviction but against an unfair conviction. Adamson v. People of State of Cal., U.S. Cal. 1947, 67 S.Ct. 1672, 332 U.S. 46, 91 L.Ed. 1903, rehearing denied 68 S.Ct. 27, 332 U.S. 784, 92 L.Ed. 367. Concepts of equal protection and due process are not mutually exclusive. Lee v. Habib, C:A:D.C. 1970, 424 F.2d 891, 137 U.S.App.D.C. 403. See, also, Kline v. Vlandis, D.C. Conn. 1972, 346 F.Supp. 526, affirmed 93 S.Ct. 2230, 412 U.S. 441, 37 L.Ed.2d 63.

LEAVE TO FILE SUPPLEMENT TO APPLICATION FOR POST-CONVICTION RELIEF

Page 2-of-16

① 83 S.Ct. 227, 371 US 178

On its face, Applicant's complaint alleges the construction of a State of South Carolina criminal statute for South Carolina Courts, abortively denies recognition to and vindication of plainly vested legal rights so as to violate equal protection, providing the basis for an equal protection claim. Equal protection of the laws of a state is extended to persons within its jurisdiction, within the meaning of the 14th Amendment, when its courts are open to them on the same conditions as to others in like circumstances, with like rules of evidence and modes of procedure for the security of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts. Truax v. Corrigan, 257 U.S. 312, 42 S.Ct. 124, 66 L.Ed. 254, 27 A.L.R. 375 (1921), Marallis v. City of Chicago, 349 Ill. 422, 182 N.E. 394, 83 A.L.R. 1222 (1932), Universal Adjustment Corp. v. Midland Bank, Ltd., of London England, 281 Mass. 303, 184 N.E. 152, 87 A.L.R. 1407 (1933), State ex rel. Wells v. Walker, 326 Mo. 1233, 34 S.W.2d 124 (1930) (overruled in part on other ground by, City of St. Louis v. Butler Co., 358 Mo. 1221, 219 S.W.2d 372 (1949)). Additionally, in context of allegations that similarly situated persons have been treated differently, substantive due process considerations are virtually coextensive with equal protection guarantees of Fourteenth Amendment. Kaufman v. Board of Trustees, Community College Dist. No. 508, N.D.Ill. 1982, 552 F.Supp 1143. In Hornsby v. Allen, the court found that the standards of due process and equal protection were not met when city officials denied an applicant's liquor license, stating, "If one applicant for a license is preferred over another equally qualified as a political favor or as the result of a clandestine arrangement, the disappointed applicant is injured[.]" Applicant alleged that State of South Carolina denied his right to equal protection, due process and right to effective assistance of Appellate Counsel, in general, an allegation of ineffective assistance of counsel or after-discovered evidence is sufficient to entitle the applicant to a hearing. See Royers v. State, 261 S.C. 288, 199 S.E.2d 761 (1973), see also S.C. Code Ann. § 17-27-80 (Law. Co-op. 1976). The supplements Applicant seeks to make to his complaint are thus not futile and should be permitted.

LEAVE TO FILE SUPPLEMENT TO APPLICATION FOR PAST CONVICTION RELIEF

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JUN 21 2018

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
County of Sumter)	S.C. SUPREME COURT
RO)	
ROBERT WILLIAM WAZNEY, §03-428-2800)	APPLICATION FOR
Applicant,)	POST-CONVICTION RELIEF
V.)	
State of South Carolina.)	Jury Trial Demanded
)	Priority Matter

NOTWITHSTANDING prejudice demonstrated by Sumter County Clerk Of Court and many Justices and officials associated with the South Carolina Judicial System towards ROBERT WILLIAM WAZNEY, this Motion comes pursuant Rule 71.1 SCRPC and South Carolina Code Ann. §§ 17-27-10 to - 120 (1985). Because of inappropriate Government interference by the incursion of pretrial freezing of above titled Applicant's assets as a criminal defendant, consequently and subsequently effecting his poverty, this Motion is taken in forma pauperis (Attached) establishing that Applicant, ROBERT WILLIAM WAZNEY, will be unable to pay the fees and costs of the proceedings.

1. Place of detention: Lee Correctional Institution.
2. Name and location of Court which imposed sentence: Sumter County Judicial Center, Court of General Sessions, 215 North Harvin St., Sumter, South Carolina 29150.
3. Names of co-defendants: N/A.
4. The indictment number or numbers (if known) upon which and the offenses for which sentences was imposed: N/A.
5. The date upon which sentence was imposed and the terms of the sentence: April 17, 2015, terms not agreed upon by ROBERT WILLIAM WAZNEY.
6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty: No
 - (b) after a plea of not guilty: Yes
 - (c) after a plea of nolo contendere: No
7. Did you appeal from the judgment of conviction or the imposition of sentence?; Yes
8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

- i. South Carolina Supreme Court
- ii. Sumter Family Court
- iii. Sumter Probate Court
- iv. Sumter Court of Common Pleas
- v. United States District Court
- vi. South Carolina Court of Appeals
- vii. United States Bankruptcy Court

(b) the result in each such Court to which you appealed:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- v. N/A
- vi. N/A
- vii. N/A

(c) the date of each such result:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- v. N/A
- vi. N/A
- vii. N/A

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- v. N/A
- vi. N/A
- vii. N/A

9. If you answered "no" to (7), state your reasons for not so Appealing:

- (a) N/A
- (b) N/A
- (c) N/A

10. State concisely the grounds on which you base your allegation(s) that you are being held in custody unlawfully:

- (a) ROBERT WILLIAM WAZNEY was denied the right to be confronted with the witnesses against him and to have compulsory process for obtaining witnesses in his favor - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the South Carolina Constitution - During the guilt-or-innocence phase of his trial.
- (b) ROBERT WILLIAM WAZNEY was denied the right to counsel of choice - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the South Carolina Constitution.
- (c) ROBERT WILLIAM WAZNEY was denied the right of effective Appellate counsel - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the South Carolina constitution.
- (d) ROBERT WILLIAM WAZNEY was denied the right of access to the Courts - guaranteed by the fourteenth amendment to the United States of America Constitution and by article I §§ 3 and 14 of the South Carolina Constitution.
- (e) ROBERT WILLIAM WAZNEY was denied the right to an impartial Jury - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the South Carolina Constitution.
- (f) ROBERT WILLIAM WAZNEY was denied the right to effective assistance of trial counsel - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the South Carolina Constitution.
- (g) ROBERT WILLIAM WAZNEY was denied the right to confrontation - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the

- S South Carolina Constitution.
- (h) ROBERT WILLIAM WAZNEY was denied the right to effective assistance of trial counsel - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the South Carolina Constitution.
 - (i) ROBERT WILLIAM WAZNEY was denied the right to counsel - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the South Carolina Constitution.
 - (j) ROBERT WILLIAM WAZNEY was denied the right to speedy trial - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the South Carolina Constitution.
 - (k) ROBERT WILLIAM WAZNEY claims actual innocence.
 - (l) ROBERT WILLIAM WAZNEY commitment order(s) is illegal.
 - (m) ROBERT WILLIAM WAZNEY was denied the right to effective assistance of Appellate counsel - guaranteed by the sixth and fourteenth amendments to the United States of America Constitution and by Article I §§ 3 and 14 of the South Carolina Constitution.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Supporting facts: Court improperly limited impeachment of alleged victim testimony when it excluded relevant, material, highly probative, noncumulative, nonconfusing, nonprejudicial video testimony, vital to the central issue in the case, regarding Applicants innocence, ostensibly based on the rape shield statute.
- (b) Supporting facts: The Government interfered by its incursion of pretrial freezing of criminal Defendants assets needed to retain counsel.
- (c) Supporting facts: Appellate counsel failed to develop a complete record notwithstanding Applicants complaints of erroneous transcripts from both March and April trials.
- (d) Supporting facts: The Government interfered with Applicants attempt to secure legal representation and communicate with

an attorney, Applicant was forced to attend his bail proceeding without legal representation.

- (e) Supporting facts: Trial Judge tainted Jury during voir dire.
 - (f) Supporting Facts: Trial counsel failed to fully inform Applicant.
 - (g) Supporting facts: Trial proceedings were had in absence of Applicant.
 - (h) Supporting facts: It did not occur to Applicants Counsel that collateral estoppels of relevant exculpatory material evidence permitted at the first trial would not be permitted at the retrial, foreclosing testimony of the alleged victim video statement of Applicants innocence, precluding introduction of contrary evidence at subsequent trial.
 - (i) Supporting facts: Arguments between Applicant and counsel conspired regularly, to include subsequent Applicant complaint to the Court at first trial about his Constitutional rights abridgement regarding speedy trial.
 - (j) Supporting facts: Applicant was incarcerated over fourteen months before being tried.
 - (k) ROBERT WILLIAM WAZNEY is actually innocent.
 - (l) Supporting facts: Commitment order(s) is in violation of State and Federal Statutes and Constitutions, commitment order(s) was established in violation of public policy. ROBERT WILLIAM WAZNEY offered no acceptance nor did he agree to the commitment order(s), therefore there is no validity of assent. Commitment order(s) are void ab initio.
 - (m) Supporting facts: Appellate counsel took advise of trial counsel notwithstanding Appellants conflict of interest with trial counsel.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law?: Yes
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief?: Yes
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)?: Yes
 - (d) any other petitions, Motions or applications in this or any other Court?: Yes

13. If you answered "yes" to any part of (12), list with respect to each petition, Motion or application:
- (a) the specific nature thereof:
- i. see case # 2014-DR-43-0038, 2015-DR-43-0046
 - ii. see case # 2017-000916, 2016-001342, 2016-001674, 2016-000221, 2015-002193, Order of Default (appeal, etc.), 2017-001490, 2017-001112, 2018-000081.
 - iii. see case # 2017-001728, 2017-001776
 - iv. see case # 2017-CP-43-00569, 2016-CP-43-00733
 - v. see case # N/A
 - vi. see case # 17-90009-dd
 - vii. see case # 3:17-cv-02873-HMH-KFM, 3:17-cv-02900-HMH-KFM, 3:17-cv-³²¹⁶~~01116~~-HMH-KFM, 6:15-cv-01116-HMH-KFM, 3:18-921-HMH-KFM
- (b) the name and location of the Court in which each was filed:
- i. Sumter County Family Court, 215 N. Harvin St. Sumter, S.C. 29150
 - ii. S.C. Court of Appeals, PO Box 11629, Columbia, SC. 29211
 - iii. S.C. Supreme Court, PO Box 11330, Columbia SC. 29211
 - iv. Sumter County Common Pleas, 215 N. Harvin St. Sumter, S.C. 29150
 - v. Sumter County Probate Court, 215 N. Harvin St., Sumter, SC. 29150
 - vi. U.S. Bankruptcy Court, 1100 Laurel St., Columbia, SC. 29201
 - vii. U.S. District Court, 300 E. Washington St., Room 239, Greenville, S.C. 29601
- (c) the disposition thereof:
- i. N/A
 - ii. N/A
 - iii. N/A
 - iv. N/A
 - v. N/A
 - vi. N/A
 - vii. N/A
- (d) the date of each such disposition:
- i. N/A
 - ii. N/A
 - iii. N/A

iv. N/A

v. N/A

vi. N/A

vii. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

v. N/A

vi. N/A

vii. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? Yes

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/A

ii. N/A

iii. N/A

(b) the proceedings in which each ground was raised:

i. N/A

ii. N/A

iii. N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A

(b) N/A

(c) N/A

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? N/A

(b) your trial, if any? No

- (c) your sentencing? No
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. N/A
 - ii. N/A
 - iii. N/A
- (b) the proceedings at which each such attorney represented you:
 - i. N/A
 - ii. ~~N/A~~
 - iii. N/A

19. State clearly the relief you seek in filing this application: Vacation of sentence(s) and equitable damages and any other relief as the Court deems fit and proper, and independent rulings for each issue upon its merits.

20. Are you now under sentence from any other court that you have not challenged?: N/A

STATE OF SOUTH CAROLINA)

VERIFICATION

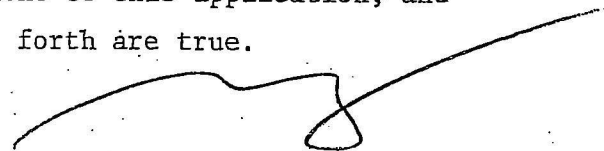
County of Lee)

I, ROBERT WILLIAM WAZNEY, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that I do not have post-conviction counsel at the time of filing this application, further I do not yet have a copy of trial counsels file, access to discovery, access to funds for expert and investigative services, or any ability to conduct an investigation. Given those limitations, I cannot provide further information regarding additional claims for post-conviction relief, although I, ROBERT WILLIAM WAZNEY, BELIEVE THERE ARE OTHER VIABLE

post-conviction claims available to me with the exception of the specific issues included in this application at this time. I, ROBERT WILLIAM WAZNEY, do not waive the attorney-client privilege to any extent, and I request that my trial counsel not provide any portions of my files to any representative of the Attorney General's office, outside the scope of the specific claims addressed in this application and any amendment to this application; and that the matters and allegations therein set forth are true.

April 25, 2018.

/s/



ROBERT WILLIAM WAZNEY :.
890 Wisacky Highway
Bishopville, SC 29010
Indigent, Applicant, pro se

SWORN to and subscribed before me this 25
day of April, 2018.

Debra Eastin (L.S.)
Notary Public

My Commission Expires: 3/3/2022

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, ROBERT WILLIAM WAZNEY, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the Applicant in this action and I believe I am entitled to redress.
- (2) Because of inappropriate Government interference by the incursion of pretrial freezing of my assets as a criminal defendant effecting my poverty I am unable to pay the costs of said proceeding or give security thereof.

April 25, 2018.

/s/



ROBERT WILLIAM WAZNEY
990 Wisacky Highway
Bishopville, SC 29010
Indigent, Applicant, pro se

SWORN or affirmed to and subscribed before me this

25 day of April, 2018:

Delma Eastridge
Notary Public

My Commission Expires: 3/3/2026