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IN THE SOUTH CAROLINA SUPREME COURT

NOV 14 2022

SC Court of Appeals

Appellate Case No. 2019-000658

Glen K. LaConey Appellant,

v.

State of South Carolina Respondent.

SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
NOTICE OF APPEAL

Appellant Glen K. LaConey (“LaConey”) submits his supplemental memorandum and exhibits in support of his Notice of Appeal.

STATEMENT OF FACTS

In July 2014, LaConey, after being denied counsel by Richland County, Fifth Circuit Judge Clifton B. Newman, and while under duress, pled nolo contendere to both charges of Harassment, Second Degree, under Alford v. North Carolina.

In June 2015, LaConey filed a Post-Conviction Relief action to dispose of his Alford pleas. Attorney David K. Allen, Esquire (“Allen”) was appointed to represent LaConey.

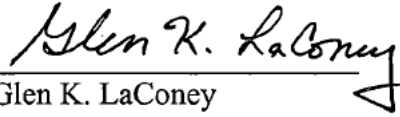
An evidentiary hearing was convened in February 2016 before Richland County, Fifth Circuit Judge J. Derham Cole (“Judge Cole”). Judge Cole, by his written Order, dismissed the matter with prejudice on April 2, 2019, without notice and without additional hearings on the matter. [It should be noted that Judge Cole noted in his Order that “[c]ounsel was not deficient in any manner, nor was Applicant prejudiced by his representation”, notwithstanding that Allen failed to contact LaConey and failed to take any action on the matter from February 2016, until April 19, 2019, when Allen filed notice of appeal.]

On or about October 30, 2019, appointed counsel, Susan B. Hackett, Esquire (“Hackett”) filed a Petition for Writ of Certiorari to the South Carolina Supreme Court, which transferred the case to this Court on May 4, 2020. After no substantive action from either Hackett or the court, the court issued its Order denying LaConey’s petition on June 29, 2022. Subsequently, LaConey forwarded several emails to Hackett relative to her untimely notice of the court’s decision, the inappropriateness of her proposed federal habeas corpus petition, and other matters. By her letter, dated September 22, 2022, Hackett responded and acknowledged her untimely notice. [LaConey’s Exhibit “A”]

CONCLUSION

LaConey’s untimely filing of his Petition for Rehearing or Reconsideration was proximately caused by the defective assistance of his appointed counsel. Additionally, because jurisdictional issues adversely affect the decision of the Court of Appeals, it is imperative to resolve these issues through plenary proceedings.

Respectfully submitted,



Glen K. LaConey
P.O. Box 2673
Columbia, South Carolina 29202
refundsplus@outlook.com
(803) 949-9604
Pro se

November 9, 2022

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SC Court of Appeals

IN THE SOUTH CAROLINA SUPREME COURT

Appellate Case No. 2019-000658

Glen K. LaConey Appellant,

v.

State of South Carolina Respondent.

NOTICE OF APPEAL

On October 26, 2022, Appellant, Glen K. LaConey, untimely filed his Petition for Rehearing or Reconsideration of the South Carolina Court of Appeals' initial judgment, due to appointed counsel's neglect to timely notify LaConey of the Court's decision, as described in LaConey's supplemental memorandum.

Pursuant to Rule 203, SCACR, LaConey appeals the judgment of the South Carolina Court of Appeals, dated November 3, 2022. LaConey received written notice of entry of this judgment on November 5, 2022.

Respectfully submitted,

Glen K. LaConey

Glen K. LaConey
P.O. Box 2673
Columbia, SC 29202
(803) 949-9604
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Pro se

November 9, 2022

The South Carolina Court of Appeals

Glen K. LaConey, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2019-000658

ORDER

This matter is before the court on a petition for a writ of certiorari following the denial of Petitioner's application for post-conviction relief. Based on the vote of the panel, the petition for a writ of certiorari is denied.

FOR THE COURT

BY V. Claire Allen
CLERK

Columbia, South Carolina
June 29, 2022

cc:
Susan Barber Hackett, Esquire
Alan McCrory Wilson, Esquire
D Russell Barlow, II, Esquire
The Honorable J. Derham Cole

Appellant's Exhibit A
Page 1 of 5 Skel



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

June 30, 2022

Mr. Glen K. LaConey
1427 Pickens Street
Columbia, SC 29201

Re: Your case

Dear Mr. LaConey:

Enclosed is a copy of the Order of the Court of Appeals denying our Petition for Writ of Certiorari. This means that you have now exhausted your state court remedies.

There is now a **one-year statute of limitations for filing an application for a writ of habeas corpus in federal court**. However, please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future**. This statute of limitations is strictly enforced. I have enclosed a copy of the pertinent section of that statute for you to review. I am closing your file with this letter. Please understand that it is **your obligation alone** to ensure that a federal habeas application is timely filed if you want to continue challenging your conviction. Feel free to contact me if you have any questions, but writing to me **does not stay** the applicability of the statute of limitations. I do wish you the best in the future.

Sincerely,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

SBH/cws

Enclosures: Order
Habeas Corpus Application

*Appellant's Exhibit A
Page 2 of 5 Skel*



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Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

September 2, 2022

Mr. Glen K. LaConey
PO Box 2673
Columbia, SC 29202

Re: Your case

Dear Mr. LaConey:

Enclosed is the original closing letter which I mailed to you on June 30, 2022, as well as a copy of the order of the Court of Appeals and an application for federal habeas corpus. These were returned to our office as unable to forward.

Please feel free to contact our office if you have any questions.

Sincerely,

Chris Stock
Administrative Assistant

/cws
Enclosures

Appellant's Exhibit A
Page 3 of 5. skl



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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

September 22, 2022

Mr. Glen K. LaConey
PO Box 2673
Columbia, SC 29202

Re: Your case

Dear Mr. LaConey:

I received an email from you on September 19, 2022. In the email you complain that I sent a letter to you dated June 30, 2022, to the wrong address. I readily admit that I did so, and I apologize. The letter was returned to us on September 2, 2022, and we learned of our error on that date. Contemporaneously, we checked our files and discovered the correct address. We sent the letter immediately. Again, I apologize that we did not send the letter to the correct address on June 30, 2022.

Your email questioned whether there is a requirement that you be in custody prior to seeking habeas corpus relief. The "in custody" requirement has been interpreted by some courts to include when an individual is suffering penalties connected to the conviction that do not fit neatly within a usual understanding of "custody." For example, some courts have defined custody as including when an individual is on probation, parole, or supervised release. I know that your sentence was thirty days' imprisonment suspended upon time served with a recommendation of counsel and no contact orders, and that such a sentence is not traditionally included within the "in custody" requirement of federal habeas corpus. However, you may still be suffering the consequences of your sentence, such as the recommended counseling and no contact orders. Rather than decide for myself whether you satisfied the "in custody" requirement, I advised you of the possibility of pursuing federal habeas corpus relief so that you can make the decision for yourself.

Please feel free to contact our office if you have any questions.

Appellant's Exhibit A
Page 4 of 5 skl

Sincerely,

Susan B. Hackett
Appellate Defender



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 03, 2022

Glen K. LaConey
Post Office Box 2673
Columbia SC 29202

Re: Glen K. LaConey v. State
Appellate Case No. 2019-000658

Dear Mr. LaConey:

The Court received your petition for rehearing or reconsideration on October 26, 2022. In response, this case remitted on July 18, 2022, effectively ending your case at the South Carolina Court of Appeals. Accordingly, no action will be taken on the petition.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

cc: Susan Barber Hackett, Esquire
Alan McCrory Wilson, Esquire
D Russell Barlow, II, Esquire

Appellant's Exhibit A
Page 5 of 5 esk

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SC Court of Appeals

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v.

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CERTIFICATE OF SERVICE

Glen K. LaConey, the undersigned Appellant, does hereby certify that on November 9, 2022, he did serve a complete copy of the within Notice of Appeal to the State of South Carolina, and to the Clerk of the South Carolina Court of Appeals via United States Postal Service, with appropriate postage affixed and properly addressed as appears below:

Alan Wilson
South Carolina Attorney General
P.O. Box 11549
Columbia, SC 29211
USPS Certified Mail Article Number: 7021 0350 0001 4530 6443

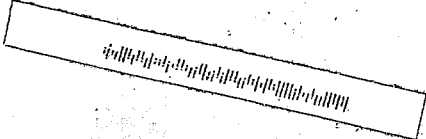
Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
(First-Class Mail)

Glen K. LaConey

Glen K. LaConey
P.O. Box 2673
Columbia, South Carolina 29202
refundsplus@outlook.com
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Pro se



GLEN K. LACONEY
P.O. Box 2673
Columbia, SC 29202



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Columbia, SC 29211

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