

Re: Lyles v. State of South Carolina
2018-C7-42-4193

Dear Clerk,

Enclosed for filing is a Notice of Appeal in the above case, also enclosed are the following:

- (1) Proof of Service of the Notice of Appeal
- (2) A Copy of the order which is to be challenged on appeal. (conditional order of Dismissal)
- (3) copy of Petitioner's Motion To Alter/Amend Judgment 59(e)
- (4) motion To Supplement the prior 59(e) motion
- (5) order denying Applicant's Motion For Reconsideration
- (6) 243(c) Explanation

Isaac Lyles 12/5/22

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DEC 09 2022

S.C. SUPREME COURT

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DEC 05 2022

PCI MAILROOM

Exhibit 1



ALAN WILSON
ATTORNEY GENERAL

March 23, 2021

The Honorable J. Mark Hayes, II
Chief Administrative Judge
180 Magnolia Street
Spartanburg, SC 29306

Re: Isaac G. Lyles, #209983 v. State of South Carolina
2018-CP-42-04193

Dear Judge Hayes:

Enclosed please find the original proposed **Conditional Order of Dismissal** in the above-captioned case. Respondent's return and motion to dismiss has also been sent to your chambers for your consideration. If this proposed order meets your approval, please sign and forward back to our office with the enclosed stamped envelope.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s Chelsey F. Marto
Chelsey F. Marto
Assistant Attorney General

CFM/ec
Enclosure(s)

cc: Isaac G. Lyles, #209983

"Exhibit 2"



ICHR 003FD0CB60 from SCCH

SPTSL432

.ICHR.003FD0CB60.SCCH.20121025 11:26:02

TO: SPTSL432-87283 20121025 11:26:02 003FD0CB60

FROM: SCCH-13683552 20121025 11:26:02

PAGE-02 DATE-10/25/2012 TIME-11:19:11
REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT
SID-SC00551705 FBI-324997FA7

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

WARR-00550WY

ARREST CHARGE 03-POSSESSION
OF MARIJUANA

OFFENSE DATE-12/12/1993

WARR-60550WY

COURT CHARGE 01-SIMPLE POSSES
SION OF MARIJUANA

COURT DISP-CONVICTED;30 DAYS
OR \$279 BOND FORFEITED

COURT DATE-12/13/1993

CIT-44-53-375(B) (1) FELONY

DOC-94GS4201190

WARR-D701243

COURT CHARGE 02-CRACK COCAINE
, POSS W/ INTENT, 1ST OFF

COURT DISP-CONVICTED;25 YRS
AND 100,000.00

COURT DATE-03/21/1994

CIT-44-53-445 FELONY

DOC-00GS42

WARR-D701244

COURT CHARGE 03-POSS. CRCK
COCAINE AT SCHOOL, 44-53-4
45

COURT DISP-NON-CONVICTION;
NOLLE PROSSED

COURT DATE-03/21/1994

LYLES, ISAAC GLENARD
SC0420100 SPARTANBURG PD

CASE-15903

WARR-D930751

12/17/1993

ARREST CHARGE 01-MURDER
OFFENSE DATE-12/17/1993
PHOTOGRAPH AVAILABLE

WARR-D930752

ARREST CHARGE 02-BURGLARY
FIRST DEGREE
OFFENSE DATE-12/17/1993

WARR-00288UR

ARREST CHARGE 03-DRIVING
UNDER SUSPENSION 1ST
OFFENSE DATE-12/17/1993

CIT-16-11-311
DOC-94GS4200319

WARR-D930752

COURT CHARGE 01-BURGLARY,
1ST DEGREE
COURT DISP-CONVICTED;25 YEARS

"Exhibit 2"

DOC-94GS4200320
WARR-D930751

COURT DATE-03/21/1994
COURT CHARGE 02-COURT CHARGE
NOT PROVIDED
COURT DISP-CONVICTED;25 YEARS
COURT DATE-03/21/1994

SC004015C PERRY RECPT & EVAL 03/22/1994 CUSTODY STATUS-RECEIVED
CASE-209983 START DATE-03/22/1994
CIT-16-11-311

CIT-16-3-50 FELONY

COURT CHARGE 01-BURGLARY 1ST
COURT DISP-CONVICTED;25Y

CIT-44-53-375 FELONY

COURT CHARGE 02-VOLUNTARY
MANSLAUGHTER
COURT DISP-CONVICTED;25Y
CONCURRENT

COURT CHARGE 03-POSSESSION
W/INT TO DISTRIBUTE CRACK
COCAINE
COURT DISP-CONVICTED;25Y
CONCURRENT

LYLES, ISAAC GLENARD
SC0420100 SPARTANBURG PD
CASE-10-0240-12
ATN-422100199255
WARR-2012A42101 @
CIT-44-53-445 (D) (1)-FELONY

10/09/2012

ARREST CHARGE 01-DRUGS/DIST,S
ELL, MANUF OR PWID NEAR A
SCHOOL
OFFENSE DATE-10/09/2012
PALM PRINTS AVAILABLE

WARR-2012A4210100626
CIT-44-53-375 (B) (2)-FELONY

ARREST CHARGE 02-DRUGS/MAN, DI
ST, ETC OF COCAINE BASE 2ND
OFFENSE DATE-10/09/2012

WARR-2012A4210100625
CIT-44-53-445 (D) (1)-FELONY

ARREST CHARGE 03-DRUGS/DIST,S
ELL, MANUF OR PWID NEAR A
SCHOOL
OFFENSE DATE-10/09/2012

WARR-2012A4210100735
CIT-44-53-375 (C) (A)-FELONY

ARREST CHARGE 04-TRAFFICKING
ICE, CRANK, CRACK, >10G BUT <2
8G-1ST
OFFENSE DATE-10/09/2012

WARR-2012A4210100734
CIT-44-53-370 (E2) (A1)-FELONY

ARREST CHARGE 05-TRAFFICKING
COCAINE/10G OR MORE LESS
28G 1ST
OFFENSE DATE-10/09/2012

WARR-2012A4210100738
CIT-44-53-445 (D) (1)-FELONY

ARREST CHARGE 06-DRUGS/DIST,S

"Exhibit 3"

RY-12-4

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

STATE,)

v.)

Isaac Glenard Lyles,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS

NOTICE OF INTENTION TO SEEK LIFE IMPRISONMENT SENTENCE

2013GS4204570-5 and 2013GS4204575A;

TO: ISAAC GLENARD LYLES, DEFENDANT, AND WILLIAM BEAN, HIS ATTORNEY

YOU WILL PLEASE TAKE NOTICE, that the Solicitor's Office intends to seek a life imprisonment sentence pursuant to Section 17-25-45(B), S.C. Code of Laws 1976, as amended, upon the basis that Isaac Glenard Lyles has two or more prior convictions for:

1. A serious offense [to wit: PWID Crack Cocaine 3rd Offense (see Exhibit A, 1994GS4201190)];
2. A most serious offense [to wit: Voluntary Manslaughter (see Exhibit B, 1994GS4200320)]; and
3. A most serious offense [to wit: Burglary 1st Degree (see Exhibit C, 1994GS4200319)].



Scott Spivey (79868)
Seventh Circuit Solicitor's Office

September 30, 2013
Spartanburg, SC

2013 SEP 30 PM 2:52
M. HOPE BLACKLEY

FILED
CLERK OF COURT

Exhibit 4

WITNESSES

George C. Brown
Spartanburg City Police Dept.
145 Broad St.
Spartanburg, SC 29301

- 1. SENTENCE MADE
- 2. REPORT ENDED **Computer**
- 3. CARD PULLED
- 4. INDEXED
- 5. CHECKED WARRANTS
- 6. CHECKED SIGNATURE
- 7. ASSESSMENT AND FINE CARD MADE
- 8. TRAFFIC VIOLATIONS COPY

ACTION OF GRAND JURY

Juan Bill

Jeffrey C. Bailey

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date:

94-GS-42-0115

DOCKET NO.

The State of South Carolina,

County of Spartanburg (09)

09/11/93

COURT OF GENERAL SESSIONS

JAN 10 1994 TERM

THE STATE

vs.

Issac Lyles

Nolle Pro

Pled to Vol Man

*Impf evld Burg 1st
PWI (C.A. 3rd)*

25 years

A. Maby

3/22/94

**Indictment for ~~Painting~~
~~Firearm and~~ Carrying
a Pistol
Computer**

Holman C. Gossett, Jr.

*The State of South Carolina,
County of Spartanburg (09)
09/11/93
COURT OF GENERAL SESSIONS
JAN 10 1994 TERM*

A CERTIFIED COPY
Amy M. Cox
CLERK OF COURT
SPARTANBURG COUNTY
BY: *Dylan Day* D.C.
DATED *03/24/2022*

State of South Carolina) Common Pleas
County of Spartanburg) #2018-CR-42-4193

Issac G. Lyles
Applicant

vs

State of South Carolina
Respondent

Motion to
supplement the
Prior 59(e) motion
Filed

Applicant Issac G. Lyles in the
above entitled case respectfully motion
this Honorable Court to supplement
the prior 59(e) motion to alter/overrule
and for Reconsider Judgment, SCRC.P

In support of this motion, applicant
would show unto this Court that this
supplement is based on the following
facts and procedures.

Applicant Lyles filed his PCR
application pursuant to Jackson v. State,
331 S.C. 486, 489 S.E.2d 915 (1997) challenging
his prior convictions that were used to
enhance the LWOP sentence he is serving.
See also MacDuffie v. State, 276 S.C. 729,
277 S.E.2d 595 (1981).

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There exist evidence of genuine issue of material facts not previously presented and heard that require vacation of Applicant's conviction and sentence. This matter come by way of newly and after discovered evidence which was discovered June 5, 2018. The applicant have filed this PCR application within one year after date of actual discovery of fact on December 5, 2018, and after the date when the facts could have been ascertained by reasonable diligence S.C. Code Ann. 17-27-20(A)(4) and S.C. Code, 17-27-45(c) after research.

Applicant request/motion this Honorable Court to appoint counsel pursuant to Rule 21.1(d) which provides if after the State has filed its return, the PCR application presents question of law and facts as in the case at bar, the court shall promptly appoint counsel to assist the applicant if he is indigent. Counsel shall be given a reasonable time to confer with the applicant. Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary. Applicant have not been afforded counsel to assist in his case.

Applicant Lyles contend that Rule 71.1(D) SCRCP require the judge to appoint counsel for him or obtain his intelligent and knowing waiver of the right to counsel. Whitehead v. State, 310 S.C., 532, 426 S.E. 2d 315.

Threshold Matter

As a threshold matter, the procedure followed by this Honorable Court denied applicant Lyles an opportunity to have his post-conviction relief claims adjudicated by a judicial officer, S.C. 17-27-80 (1976), require the PCR court to make specific finding of fact and state expressly its conclusion of law relating to each issue(s) presented. McCray v. State, 305 S.C. 329, 408 S.E. 2d 241 (1991). See also Pruitt v. State, 310 S.C. 254, 423 S.E. 2d 127 (1992).

This court did not do that, but delegated that responsibility to the attorney general's office Chebey F. Marto Assistant Attorney General. See attached letter dated March 23, 2021, "Exhibit 1"

The reasoning in the order is entirely that of an advocate and not an independent judicial officer, which violates the separation of powers S.C. Const. Art. I § 8. Applicant was not given the opportunity to submit a proposed order of dismissal.

Our South Carolina Supreme Court strongly encourage PCR Judges to draft their own findings of fact and conclusions of law, Hall v. Latoe, 360 S.C. 353, 601 S. E. 2d 353, As a result of the error, the order of dismissal reads like an advocate trying to save the conviction that a judicial officer safeguarding the rights of litigants. State v. Longford, 400 S.C. 421, 735 S. E. 2d 475 (2012)

The conditional order of dismissal is a verbatim copy of the assistant attorney general proposed conditional order of dismissal. The wholesale adoption of the states advocacy position underscores the lack of judicial independence in this process. The need to grant a PCR hearing with the appointment of counsel is apparent.

The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution protects citizens against state action when the U.S. Supreme Court enunciates a rule based upon the 14th amendment, that rule is binding upon state courts through the

supremacy clause, Henry v. City of Rock Hill, 376 U.S. 776, 84 S.Ct. 1042, See also Keeler v. Maurey, 500 S.F.2d 123

Our supreme court has made it abundantly clear that Post-conviction relief is still a constitutionally protected and statutorily provided mechanism to address a denial of fundamental fairness shocking to the universal sense of justice, Pennington v. State, 441 S.F.2d 315 (quoting) State v. Torrence, 406 S.F.2d 315 (1991).

Applicant would show this Honorable Court that he came upon this information after thoroughly researching his prior conviction soon or about June 5, 2018.

Shortly after making this discovery, applicant Lyles, now filed his post-conviction relief application pursuant to the discovery rule in accordance to S.C. Code Ann. 17-27-45(c). See McCoy v. State, 401 S.C. 363, 737 S.F.2d 623, also Cates v. State, 575 S.F.2d 557 (S.C. 2003). Therefore, the issues raised in his PCR application and 59(e) motion and supplement are timely filed, genuine, issue of material fact exist to warrant a PCR hearing.

Applicant avers that he has demonstrated sufficient reasons why his claim was not included in his prior PCR application and not discovered earlier.

stature of limitation, successiveness and laches does not apply to this case, under the holding of Jackson v. State, supra and McCuffie v. State, supra. It would be a denial of due process to not appoint counsel and have a PCR hearing.

The decision to not appoint counsel in this case and have a evidentiary hearing would be an unreasonable determination of the facts in light of the evidence submitted.

The due process clause provides that no person shall be deprived of life, liberty, or property without due process of law... U.S. Const. Amend V. Similarly, the Fourteenth Amendment provides "nor shall any state deprive any person of life, liberty, or property without due process of law id. Amend XIV § 1

The applicant have been victimized by the state's flagrant use of his prior convictions adjudicated on 3-22-94, to enhance his current sentence to LWOP.

Applicant request this Honorable Court to take judicial notice of his prior guilty plea adjudicated on 3-22-94. The record would show that applicant pled guilty to PWID, voluntary manslaughter and Burglary 1st pursuant to a negotiated plea agreement. See attached NCIC "Exhibit 2" + "Exhibit 4"

The applicant will show this Honorable Court that the state served him with a notice of Intent to seek a 2nd sentence on September 30, 2013. See attached Notice

The state used three (3) "Exhibit 3" charges that were adjudicated by way a guilty plea agreement to enhance his prior charge, DWID Crack Cocaine 3rd offense, Voluntary manslaughter and Burglary 1st Degree were pled to on 3-22-94 under a negotiated plea agreement, to be treated as one offense for parole purposes. See attached NCIC page #2 "Exhibit 2" + indictment "Exhibit 4"

To allow the state to separate the above prior conviction and use them for enhancement purposes under the 3 strikes rule have amounted to a violation of the Due Process Clause.

Applicant request to incorporate/ supplement his original (see) motion that was filed on December 7, 2021 in the Spartanburg County Clerk of Court's office.

Applicant request this Honorable Court to Alter/Amend judgment dated April 13, 2021 and appoint counsel for an evidentiary hearing.

Isaac D. Lyles

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MAR 31 2022

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(3)

State of South Carolina } Common Pleas
County of Spartanburg } 2018-CP-42-4193

Issac B. Lyles
Applicant

vs

State of South Carolina
Respondent

Certificate of Service

The applicant in the above case certify that he has served a copy of the enclosed motion to supplement the original 59(e) motion, by placing a copy in the U.S. mail at Perry Corr. addressed as follows:

Amy Cox
Clerk of Court
180 Magnolia St
Spartanburg SC
29304

J. Mack Hayes II
Chief Adm. Judge
P.O. Box 3483
Spartanburg, S. C.
29304-3483

Chelsey Marto
Asst. Att. Gen.
P.O. Box 11549
Columbia, S. C.
29211

I, Issac B. Lyles, certify and verify under the penalty of perjury that the foregoing is true and correct.

Isaac B. Lyles

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
)

Issac G. Lyles) C/A No. 2018-CP-42-4193
Applicant,)
-vs-) MOTION TO ALTER/AMEND AND/OR
State of South Carolina) RECONSIDER JUDGMENT PURSUANT
Respondent,) TO RULE 59(e), SCRPC.

CLERK OF COURT
SPARTANBURG COUNTY
2021 DEC -7 AM 10:00

COMES NOW, above captioned Applicant, Isaac G. Lyles, pro-se, respectfully moving this Honorable Court to alter/amend and/or reconsider the Final Order that was issued in the above captioned on November 22, 2021 and received by Applicant via Institutional Legal Mail on November 30, 2021, pursuant to Rule 59(e), South Carolina Rules of Civil Procedure.

In support of this request Applicant would respectfully show unto this Court the following:

(1). Applicant filed the instant PCR application pursuant to Jackson v. State, 331 S.C. 486, 489 S.E.2d 915 (1997), challenging his prior convictions that were used to enhance the LWOP sentence Applicant is now serving.

(2). The Order omits any reference or Jackson analysis to Applicant's situation. Applicant set forth sufficient facts and law in opposition to the Conditional Order, which was prepared by the State, which also omitted any reference to Jackson's application to Applicant's present situation.

(3). In Jackson v. State, supra South Carolina Supreme Court, Burnett, J; held that an applicant who alleged that he was suffering continually effects from his conviction had standing to bring a PCR if he is in custody, or, results of his prior convictions still persists. 489 S.E.2d at 916.

(4). The Order also omits any reference to McDuffie v. State, 276 S.C. 229, 277 S.E.2d 595 (1981), which Applicant relied on in opposing the Conditional Order. Applicant would respectfully point out to the Court the in McDuffie, held that even though the sentence is fully served the Applicant ~~is~~ still entitled to an evidentiary hearing to determine if he suffers any prejudice from the use of the prior convictions. In the instant matter the prejudice incurred is easily seen by the use of the prior convictions.

(5). The Order also inaccurately states "...Applicant also claims that his 1994 conviction could be reopened." Final Order page 1. To the contrary, Applicant argues that the State was without authority "to reopen a final judgement" from 1994 and separate the three convictions and use them for enhancement purposes for the sentence Applicant is now serving. After Applicant entered the plea agreement in 1994 to plead to three charges the same day, as one offense, he was under the premise that the charges were concurrent and disposed of as [one conviction]. In Enoree Bapt. Church v. Fletcher, 287 S.C. 602, 340 S.E.2d 546 (1986), Our Supreme Court held that "one circuit court judge does not have the authority to set aside an order of another. Circuit Court Rule 60.accord, Cook v. Taylor, 272 S.C. 536, 252 S.E.2d 923 (1979). When Applicant pled guilty to the

2021 DEC -7 AMB:00
SOUTH CAROLINA SUPREME COURT

1994 charges it was a package deal, and the Judge sentenced Applicant to concurrent sentences and the commitment [Order] became Final on those charges. If one circuit judge cannot set aside another judge's order, then surely the State should be prevented from "reopening the 1994 circuit courts' commitment order and be allowed to now all these years later [separate] the offenses and be allowed to use the priors tactically against Applicant to three strike him out and give him life without parole. Had Applicant known this could have happened, he would have never pled to the three 1994 charges.

(6). Applicant believes the Court may have overlooked critical facts in reaching it's decision. Applicant also believes the Court has not applied to proper law to the case at hand as discussed and described in the Opposition to the Conditional Order and again above.

CONCLUSION

Based on the above, Applicant respectfully asks the Court to alter/amend and/or reconsider the Final Order in the instant matter, and remand the case for an evidentiary hearing at the Court's earliest convenience.

Respectfully Submitted,

/s/ Isaac G. Lyles

Isaac G. Lyles, pro-se

CLERK OF COURT
PARTISBURG COUNTY
21 DEC -7 AM 10:30

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
)

Isaac G. Lyles) C/A No. 2018-CP-42-4193
 Applicant,)
 -vs-) **CERTIFICATE OF SERVICE**
 State of South Carolina)
 Respondent,)

The undersigned hereby certifies he has served a true and correct copy of the enclosed Motion to Alter/Amend and/or Reconsider Judgment on the persons whose names and addresses appear below, by placing the aforesaid in properly addressed, first-class postage affixed envelopes and placed in the U.S. Mail this 2 day of December, 2021.

Those Served:

Amy W. Cox
Clerk of Court
P.O. Box 3483
Spartanburg, SC.
29304-3483

Law Clerk of
J. Mark Hayes, II
Chief Administrative Judge
P.O. Box 3483
Spartanburg, SC.
29304-3483

Assistant Attorney general
P.O. Box 11549
Columbia, SC. 29211

Respectfully Submitted,

/s/ Isaac G. Lyles
Isaac G. Lyles, pro se

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 2nd DAY OF December 2021

Tamara Conwell
NOTARY PUBLIC

MY COMM. EXPIRES My Commission Expires
September 25, 2023

CLERK OF COURT
SPARTANBURG COUNTY
2021 DEC - 7 AM 10:00