

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Writ of Certiorari to Williamsburg County
the Honorable George M. McFaddin Circuit Judge

APPELLATE CASE: 2020-001426

Mr. LEVERN McCrea #348291

PETITIONER

VS.

RECEIVED

State of South Carolina

JAN 26 2023

SC Court of Appeals

Motion to Amend, Alter, Correct or Reconsider

PLEASE TAKE JUDICIAL NOTICE, that the Petitioner, Mr. LEVERN McCrea #348291 COMES NOW, and move with his Pro-SE Motion to Amend, Alter, Correct or Reconsider in pursuant to the South Carolina Rules of Civil Procedure Rule 59(e), ON January 9th 2023. Petitioner RECEIVED an order denying him the right to RELIEVE COUNSEL in violation of his Sixth Amendment CONSTITUTIONAL right to proceed Pro-SE, if he elects to do so, by knowingly and intelligently waiving his rights to COUNSEL. Petitioner respectfully asks this Honorable Court to Amend, Alter, Correct or Reconsider based upon the case of Faretta vs. California, 422 U.S. 806, 95 S.Ct. 824, 45 LEd 2d 562 (1975). The United States Supreme Court Justice Stewart, held that a defendant in a state criminal trial has a constitutional right to proceed Pro-SE without counsel when he voluntarily and intelligently elects to do so, and that the state may not force a lawyer upon him when he insists that he wants to conduct his own defense.

Also stated in State Law 40-5-80. ALSO SEE

Price vs. Johnston, 334 U.S. 266, 68 S.Ct. 1049, 92 L.Ed 1356, the Court, in holding that a convicted person had NO absolute right to argue his own appeal, said this holding was in "sharp contrast" to his "recognized privilege" of conducting his own defense at the trial, Id at 285. 68 S.Ct. at 1060 the right to the assistance of counsel the Court concluded, was intended to supplement the other rights of the defendant, and not to impair "the absolute and primary right to conduct ONE'S OWN DEFENSE in propria persona. Id, at 274 in it's decision in the language of the 1789 federal statute. The Sixth Amendment provides that in all criminal prosecutions, the accused shall enjoy the right to have the assistance of counsel for defense, U.S. CONOT AMEND VI. that right includes the right to waive counsel and to represent ONESELF, Faretta vs California, 418 U.S. 806, 834-36, 95 S.Ct. 2525, 45 L.Ed 2d 562 (1975). But the decision to relinquish the right to counsel must be made "knowingly and intelligently". Id. at 835. 95 S.Ct 2525. the Sixth Amendment right to counsel is the rest of the right to proceed pro-se. For good cause shown, Petitioners motion to Amend, Alter, Correct or RECONSIDER should be granted.

CONCLUSION

Wherefore, the Petitioner, Mr. LEVERN McCrea #348291, prays for relief, that this Honorable Court, grants his motion for relief from judgement, motion to Relieve Counsel. And motion for leave to Proceed Pro-SE, by first granting Petitioner's motion to Amend, Alter, Correct OR Reconsider. Order denying the Constitutional right to waive counsel and Proceed Pro-SE guaranteed by the United States Constitutional Amendment 6, and the states Constitutional rights under Art. I Section 14.

Therefore, for good cause shown, understanding the disadvantages and the dangers of proceeding Pro-SE. The Petitioner knowingly and intelligently waives his right to Appellate Counsel Taylor Davis Gilliams representation. Petitioner's motion to Relieve Counsel, should be granted. And his sixth Amendment right to proceed Pro-SE should be Reconsidered, as justice is so required as a matter of Law.

Dated: January 19, 2023

Respectfully Submitted
Mr. Levern McCrea
Mr. LEVERN McCrea
ACI Hampton F-3-A-5
Post office Box 1151
Fairfax, S.C 29827
PRO-SE PETITIONER

State of South Carolina
in the Court of Appeals
Writ of Certiorari to Williamsburg County
THE Honorable George M. McFaddin Judge

Appellate Case: 2020:001486

McLVERN McCrea #342291

Petitioner

vs.

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JAN 26 2023

State of South Carolina

SC Court of Appeals

Respondent

Certificate of Service

The undersigned Petitioner hereby certifies that on this 19 day of January, 2023, a true copy of petitioner's Notice of Motion to Amend, Alter, Correct or Reconsider, have been served on the following parties by depositing into the U.S. Mail addressed to: David A. Spencer Esquire, Office of the Attorney General, Post Office Box 11549, Columbia, S.C. 29211, Commission on Indigent Defense, Taylor David Gilliam Appellate Defender Post Office Box 11589, Columbia, S.C. 29211, and the Honorable Jenny A. Kitchings Post Office Box 11629 Columbia, S.C. 29211

Dated: January 19, 2023

SWORN TO AND AFFIRMED TO BY AFFIANT
this 19 day of January 2023.

Ashley Vanacore

NOTARY PUBLIC

My Commission Expires: 9/9/32

Mr. L. L. McCrea



Respectfully submitted

Mr. L. L. McCrea

McLEVERN McCREA

ACT Hempton F-3-A-5

Post office Box 1151

Fairfax, S.C 29827

Pro-SE PETITIONER

Dated: Jan 19, 2023

The Honorable Jenny A. Kitching
Clerk of the S.C. Court of Appeals
Post office Box 11629
Columbia, S.C. 29211

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SC Court of Appeals

RE: MR. LEVERN McCrea #348891, PETITIONER
VS. STATE OF SOUTH CAROLINA, RESPONDENT,
Appellate Case: 2020-001426

Dear Ms. Kitching:

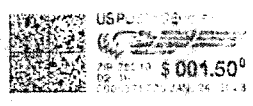
ENCLOSED you will find the PETITIONER'S NOTICE
of motion to AMEND, ALTER, CORRECT OR RECONSIDER in
PURSUANT to the SOUTH CAROLINA RULES of CIVIL PROCEDURE
RULE 59(e). PLEASE file with the COURT and SEND back
a date stamped copy for my record.

Sincerely

Mr. Levern McCrea

MR. LEVERN McCrea #348891
A.C.I. Hampton Unit F-3-A-5
Post office Box 1151
Fairfax, S.C. 29827
Pro-SE Petitioner

Mr LEVERN McCree
3418291 Hempton F-3-A-5
Allendale Corr. Inst.
Post office Box 1151, Hwy 47
Fairfax, S.C 29827



ENTER AGENCY MAIL

RECEIVED
JAN 26 2023
SC Court of Appeals

SOUTH CAROLINA COURT OF APPEALS
THE HONORABLE JENNY A KITCHINGS
Clerk of the S.C. Court of Appeals
Post office Box 11629
Columbia, S.C 29211

LEGAL MAIL

