

THE SUPREME COURT OF SOUTH CAROLINA

Patrick Lee Booker, Petitioner,

VS.

State of South Carolina, Respondent.

Appellate Case No. 2012-212979

Lower Court Case No. 2012-CP-23-2384

**RECEIVED**  
OCT 18 2012  
S.C. SUPREME COURT

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PETITION FOR REHEARING

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COMES NOW the Petitioner Patrick L. Booker, pro se, with this Petition for this Honorable Court to rehear this matter. The basis for this Petition is set forth:

ARGUMENT

**I.** THE April 7, 2010 ORDER IS VOID AND IS WITHOUT LEGAL EFFECT.

In Booker vs. State, Appellate Case No. 2010-150506, this Court issued an order dated April 7, 2010. This order denied Booker's petition for rehearing in that case. The order also further prohibited Booker from filing any further collateral

actions challenging his 2003 convictions without first obtaining the permission of this Court to do so.

Prior to this Court issuing the afore-said April 2010 order, this Court did not notify Booker that it was considering to issue an injunction, nor did this Court provide Booker any opportunity to be heard (in any way) regarding the injunction prior to this Court's issuance of the April 2010 injunction, in violation of the constitutional guarantee of due process of law. See, Cromer vs. Kraft Foods North America, Inc., 390 F.3d 812 (4th Cir. 2004) (court's injunction against a litigant is a "drastic remedy [which] must be used sparingly, however, consistent with constitutional guarantees of due process of law ..."); Lau vs. Meddaugh, 229 F.3d 121, 123 (2nd Cir. 2000) ("unequivocal rule" is that litigants are entitled to notice and an opportunity to be heard before they are enjoined from litigating, and must receive a written order stating precisely what they are forbidden to do)

Booker contend that the latter provision of the Court's April 7, 2010 order (i.e., that portion of the order which enjoins Booker) is void as a matter of law and has no legal effect because the injunction order was made or taken without any notice to Booker and without affording Booker the opportunity to be heard. See, Universal Benefits, Inc. vs. McKinney, 349 S.C. 179, 561 S.E.2d 659 (S.C. App. 2002) ("No judgement or order affecting the rights of a party to the cause shall be made or rendered without notice to the party whose rights are to be

affected. The requirements of due process not only include notice, but also include an opportunity to be heard in a meaningful way, and judicial review. ")

Even though Booker do not believe he violated the April 2010 injunction order, Booker submit he had the right to ignore the injunction order and to assume that no court would enforce it against him. See, Universal Benefits, Inc. vs. McKinney, supra ("Generally, a person against whom a judgement or order is taken without notice may rightfully ignore it and may assume that no court will enforce it against his person or property. ")

Again, Booker contend the injunction order is void and thus, is without legal effect. Accordingly, this Court must vacate the void injunction and thereupon vacate this Court's October 9, 2012 order which dismissed this appeal case.

## II. PETITIONER HEREBY REQUEST PERMISSION TO PROCEED WITH HIS CHALLENGES TO THE SENTENCES IMPOSED IN 2003.

Ms. Justice Jean Toal please, I implore you to please allow me to challenge my sentences with the newly discovered evidence that provide powerful mitigating circumstances in regards to my foolish actions of robbing people when I was seventeen.

I have a minor child that need me to be there in her life. My mother is growing old. All those things I did were when I was young and foolish. I am a man now and I am more humble. Alot of individuals including judges, lawyers, prison officials, academic personnel tell me that I am bright and intelligent.

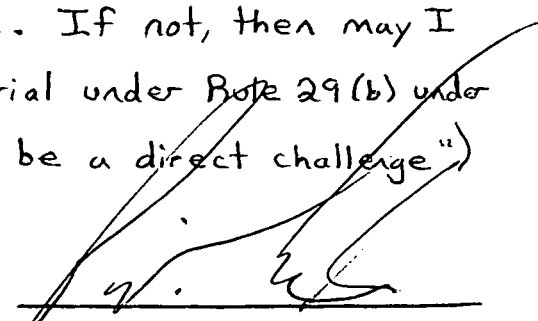
I merely want to be resentenced in light of the fact that I was prematurely released onto the street in December 2001, without receiving the full level of care and treatment the family court judge had ordered for me. The judge knew that I had certain qualities that simply needed cultivation and refinement in a structured, positive setting surrounded by men who had my best interest at heart. I was wrongfully denied being placed in a Marine Institute or another group-setting upon my release from the DJJ. I should be resentenced in light of that factor which, undoubtedly, is a mitigating factor.

Thus, I implore you, please grant me permission to proceed with my collateral challenge to my sentence. If not, then may I please bring a motion for new sentencing trial under Rule 29(b) under S.C. Rules of Criminal Procedure? ("That would be a direct challenge")

Respectfully Submitted By:

October 15, 2012

Bennettsville, South Carolina

  
Mr. Patrick L. Booker

Evans. C. I.

610 Hwy 9 West

Bennettsville, S.C. 29512

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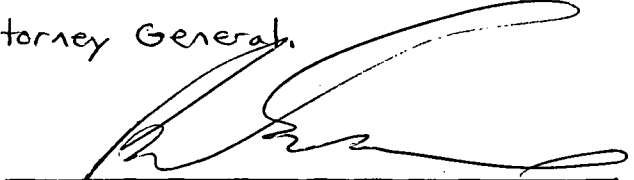
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CERTIFICATE OF SERVICE

I, Patrick L. Booker, do hereby certify that I have this date served a copy of the Petition for Rehearing upon the Respondent State of South Carolina by depositing the same in the U.S. Mail, postage prepaid, addressed to Assistant Deputy Attorney General Karen C. Ratigan, Office of the Attorney General.

10/15/12  
(Date)

  
(Signature)

To: The Honorable Daniel E. Shearouse,  
Clerk of Court of South Carolina Supreme Court  
P.O. Box 11330  
Columbia, S.C. 29211

From: Mr. Patrick L. Booker, #297590  
Evans, C.I (F1-251)  
610 Hwy 9 West  
Bennettsville, S.C. 29812

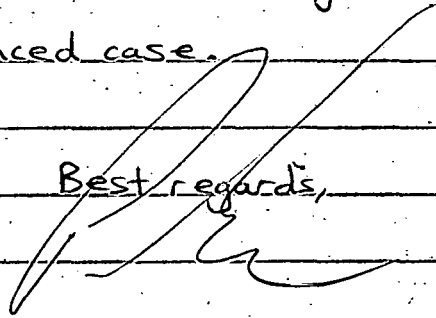
Date: October 15, 2012

Re: Booker vs. State, Appellate Case No. 2012-212979

Dear Mr. Shearouse,

Enclosed for filing in your office, please find the original  
Petition for Rehearing in the above-referenced case.

Best regards,



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OCT 16 2012

S.C. SUPREME COURT

cc: My File