

The State OF South Carolina
In The Supreme Court

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Mar 13 2023

S.C. SUPREME COURT

Appeal From Aiken County
Court OF Common Pleas

Clifton Newman, Circuit Court
Judge

Case No. 2023-000114

Eric L. Spann Appellant,

v.

State OF South Carolina Respondent.

Petitioner's Pro Se Response To
The Supreme Court's Clerk Patricia
A. Howard's Prohibition of Any Additional
Court Filings By Petitioner:

E.L.
(1. OF 8)

"Facts"

Petitioner in this case matter Eric L. Spann, hereby make this Pro Se motion through his PCR counsel Paul Andrew Anderson, and would bring to this Honorable Court's attention the following facts).

Petitioner/Appellant received correspondence from his PCR Attorney Paul Andrew Anderson dated February 6, 2023. Also, enclosed was an additional letter from the South Carolina Supreme Court clerk of court Patricia A. Howard dated January 31, 2023.

The clerk (Patricia A. Howard) states in her letter that the court, if it determines that an adequate explanation has not been provided under Rule 243(c), SCACR, may decide to prohibit Mr. Spann from filing a post conviction relief application, habeas corpus action or any other action, motion or petition in the circuit court challenging the underlying convictions...

(2 ^{Ex. b.} of 8)

...and sentences (including a motion under Rule 29 of the South Carolina Rules of Criminal Procedure) without first obtaining the permission of this court to do so.

If you believe that there is some reasons why such a prohibition should not be imposed on future filings by Mr. Spann, in the Circuit court, those reasons should be provided to this court within twenty (20) days of the date of this letter.

In the event you determine that you do not have a good faith reason as to why a prohibition on future filings should not be imposed, I would recommend that you advise this court by letter of that fact, and that this letter advise Mr. Spann, that he has twenty (20) days to provide this court with any reason(s) he may have as to why he should not be prohibited from filing a post-conviction relief application, habeas corpus action or any other...

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...action, motion or petition in the circuit court challenging the underlying convictions and sentences (including a motion under Rule 29 of the South Carolina Rules of Criminal Procedure) without first obtaining the permission of this court to do so. The letter filed with this court should include a proof of service showing that a copy of the letter has been sent to petitioner.

Very Truly Yours,
Patricia A. Howard

Cc:

Megan Harrigan Jameson, Esquire

"Argument"

The Petitioner/Appellant hereby contend the clerk of the South Carolina Supreme Court letter dated January 31, 2023, is void and therefore; without any legal effect or enforcement pursuant to "Barnes v. State", (June 03, 2021) 433 S.C. 399, 859 S.E. 2d. 260.

(48/8)

In Barnes, Supra the South Carolina Supreme Court States Verbatimly:

"We take this opportunity to remind the clerks of courts of their ministerial duty to docket and file legal documents irrespective of potential procedural flaws that may exist." Miller v. State, 377 S.C. 99, 102, 659 S.E. 2d. 492, 493 (2008) ("It is not within the clerk of court's authority to refuse to perform her duty based on her opinion that a filing lacks legal merit or is untimely.")

unless specifically authorized by statute or a court rule, a clerk of court may not exercise any judicial power reserved for a judge. Id. ("The clerk cannot, without expressed constitutional or statutory authority exercise any judicial functions.") This includes the prohibition of performing any action contingent on deciding a question of law. Id. ("It follows that a clerk of court...

... does not have the authority to reject a filing based on ostensible or perceived failures, including whether the document is contained on the proper form.

Because the clerk role is ministerial in this respect, the clerk shall not be concerned with the merits of the papers or with their effect and interpretation... Id § 337. Stated differently, "[a] clerk of court may not reject a pleading for lack of conformity with requirements of form; only a judge may do that.¹" See, Hooker v. Sivley, 187 F.3d 680, 682 (5th Cir. 1999); See also, "Gorod v. Tabachnick" 438 Mass. 1001, 696 N.E. 2d 547, 548 (1998) ("In the absence of an order from a judge, [clerks] may not refuse to accept a notice of appeal, even if they believe that no appeal is available or that the notice is untimely or otherwise defective.") Instead, the clerk shall accept the filing, thereby...

¹ There is not Judge's signature on the clerk of court's letter dated January 31, 2023. (Emphasis Added).
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- ... permitting the court to decide any issues the parties may have with it. (Emphasis Added).

"Conclusion"

Petitioner/Appellant hereby complain that clerk Patricia A. Howard has been bias and has shown prejudice to Appellant's Court filings and thereby, Ms. Howard has not acted neutral as required by her ministerial duty.

Ms. Howard, has demonstrated an act of "Discrimination toward Petitioner/Appellant in this case matter."²

February 24, 2023
Date

/s/ Eric L. Spann
Eric L. Spann, #245840
LEE Corr. Inst. / F-7-#68/
990 Wisacky Highway
Bishopville, SC 29010
PRO SE Motion

² Petitioner/Appellant may file civil action against clerk Patricia A. Howard for Discrimination (7 OF 8) & b.