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S.C. SUPREME COURT

The State of South Carolina
In The Supreme Court

Appeal From Aiken County Court of Common
Pleas

Circuit Court Judge
Clifton Newman

Case No. 2023-000114

Eric L. Spann, #245840, Petitioner,

v.

State of South Carolina, Respondent.

Petition For Reconsideration/
Rehearing Pursuant To Rule 231
SCACR

The court issued an order Dismissing the
Within appeal on March 28, 2023. The order
finds that the Rule 243 (c) explanation...

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... (explanation required) provided failed to show that there was an arguable basis for asserting that the determination by the lower court was improper.

"Argument"

Petitioner would request that this court reconsider this dismissal. The court has failed to comply with S.C. Code Ann. § 17-27-80 by reaching its factual findings based upon a "conclusion of law." (Emphasis Added)

The rule 243 (c) explanation required was dismissed without the court's or the state rebuttal by way of Statutory, rules of the court, or reference of the State constitution and the United States constitution.

The March 28, 2023, order/dismissal is void of the court's conclusion of law.

"Law/Analysis"

S.C. Code Ann. § 17-27-80

Rule 50 (a) & (b)

Pursuant to Rule 50 (a) Effect. In all ...
E.S.D.

... actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specifically and state separately its conclusion of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusion of law which constitute the grounds of its actions. Requests for findings are not necessary for purposes of review. The findings of a master, to the extent that the court adopts them, shall be considered as the findings ~~of~~ the court. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Findings of fact, and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41 (b).

Wherefore, in "Fishburne v. State," (July 31, 2019) 427 S.C. 505, 832 S.E. 2d 584, the court decides: on an application for post conviction relief, trial court was required to make findings and conclusions with respect to claim duly raised in application that trial counsel was ineffective for referring to defendant's presence at "roll call" for another, unrelated charge on day of arrest and characterizing defendant as "unusual suspect." U.S. Const. Amend. 6; S.C. code Ann. § 17-27-80. (Emphasis Added).

"Conclusion"

The Petitioner hereby request this court to reconsider the March 28, 2023, order of dismissal because this court has failed to base its findings upon any conclusion of law; as required by Rule 52 (a) and S.C. code Ann. § 17-27-80. (Emphasis Added).

Petitioner Hereby Moves!!

/s/ Eric P. Spamm

Ec. by.