

PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEALS

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM WILLIAMSBURG COUNTY
Court of GENERAL SESSIONS

Judge SEAL, Circuit Court Judge

Opinion No. 2022-001806 (S.C. Ct. App. filed April 12, 2023)

STATE OF SOUTH CAROLINA

Respondent,

v.

Bobby Joe Fulton, Jr. Ali

Petitioner,

PETITION FOR A WRIT OF CERTIORARI

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of The United States Courts*

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S.C. SUPREME COURT.

Certificate of Course 1

Page 1

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Questions Presented

Page 2

MAY 03 2023

Statement of Case

Page 2

S.C. SUPREME COURT

Arguments

Page 2

1. Appellate Courts Erred in dismissing Petitioner's case
2. The Appellate Courts were given reasons to grant Petitioner's Appeal base upon facts of a matter of law.
3. The court of Appeals received all documents needed as a prerequisite of the Petitioner's case on Appeal.

Conclusion

Page 3

Appendix Court of Appeals Denial of Petitioner's notice of Appeal

A-1

Appendix Court of Appeals acceptance of Petitioner's notice of Appeal

B-1

Appendix Court of Appeals Dismissal order of Petitioner's initial Appeal

C-1

Appendix Court of Appeals Dismissal order of Petitioner's Petition for Rehearing

D-1

Appendix Petitioner's initial Brief & Petition for Rehearing

E-1

Exhibits Court of Appeals Order of Correction of harmless errors

A-1

Exhibits Court of Appeals Order of dismissal of Petitioner's Rehearing

B-1

Exhibits Order of Mecklenburg Family Courts of Petitioner's name change

See Appendix D-1

Exhibits

C-1

Certificate of Counsel

Prose Petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on April 12th 2023, and files this Petition for Writ of Certiorari pursuant to S.C.R. App. P. rule 242.

Questions to be presented

1. Did the Court of Appeals err in dismissing the Petitioner's Appeal, holding that the Petitioner failed to provide proof of Service of his Notice of Appeal neither provided proof of Service that a copy of the notice was filed with the County Clerk of Court.
2. Did the Petitioner file a notice of Appeal with the Court of Appeals and a copy of proof of Service and also proof of Service and a copy of the notice was filed with the clerk of Court.

I. Statement of Case

On December 29th, 2022 Prose Petitioner "Bobby Joe Felton Sr. Ali", brought forth this action before the South Carolina Court of Appeals seeking for grant of Appeal of his State Criminal Case due to "deprivations of his Constitutional rights under the 5th Amendment rights to fair trial hearing and procedure. Petitioner made claims of Willful Corruption and Willful deprivations of the prosecutor of his State Criminal Case, also claims of Coercion of Interest. Among others Petitioner argued that the State prosecutor failed to prove all elements of the Crime charged, moreover that the Criminal Charges were false and not adequately filed within the "National Criminal Information Center data base, Sec Title 28 U.S.C. § 534 ("N.C.I.C.") data base center; Neither within South Carolina's Law Enforcement divisions data base center. Petitioner states that the Court of Appeals dismissed his initial Appeal on February 2nd of 2023 for failing to provide a proof of Service of the Notice of Appeal, and provide proof that a copy of the Notice was filed with the County Clerk of Court as required by rule 208 of the South Carolina Appellate Court Rules. Petitioner filed for a Rehearing with declarations affirming that he did file a "proof of Service with the County Clerk of Court and notice of Appeal, but stated that he was never given a Order of the Judge and of his State Criminal Case due to the fact that he was sentenced to life, he was taken directly to prison after being sentenced. And that the Clerk of Court failed to send him a copy of the Judgment of his case but attached a copy of the Judgment to the notice of Appeal themselves, and forwarded the Notice of Appeal and proof of Service he filed himself, to the Court of Appeals which was granted on December 29th 2022. On April 12th of 2023 the Court of Appeals ordered for the dismissal of the Petitioner's Rehearing stating the same as reasons for the dismissal of the Petitioner's initial Appeal.

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MAY 03 2023

S.C. SUPREME COURT

II. Argument

1. Petitioner argues that the Court of Appeals dismissed his initial petition of Appeal for failing to file his State Criminal Trial-hearing Order and Judgment in which he filed an appeal to challenge the state Order and Judgment. Petitioner argues that he was transported directly to Prison after being sentenced to life and was never given the Order and Judgment of his sentence. Petitioner argues that he was denied the right to a law library or access the law library at the Kirkland R&E Center and was later moved to the McCormick Correctional Institution. Petitioner argues that he is a pro se appellant (385 U.S. 41, 45-46, 78 S.Ct. 99, 102, 2 L.Ed. 2d 80 (1967); see *Diguardi v. Durang*, 139 F.2d 774 (1984); also Petitioner argues that he has the right of access to the Courts, see *Boulds v. Smith*, 430 U.S. 817, 97 S.Ct. 1491 (1977); also see *Lewis v. Casey*, 518 U.S. 343, 116 Ct. 2124 (1996)
2. Petitioner argues that he filed a petition for rehearing, and also a declaration affirming that he wrote the Williamsburg clerk's office of general sessions and never received any correspondence concerning the Order of Judgment of the state rendered Judgment. Petitioner argues that the clerks of state Courts have a duty to ensure that Orders of the Courts are filed and mailed to all parties concerning cases which they are implicated in. See U.S.C.A. Const. Art. 3 § 1. Petitioner argues that the South Carolina appellate Courts erred in its discretion by dismissing his petition on mere grounds that he failed to file the Order and Judgment of the State Courts of Williamsburg County in which he was challenging an appeal as an appendix; "Clerks of Courts have a ministerial duty to docket filings in respect of potential procedural flaws that may exist, S.C. Code Ann. § 17-27-20; moreover a Clerk of Court may not reject pleadings for lack of conformity with requirements of form or a Judge may do that, S.C. Code Ann. § 17-27-40. Petitioner argues that he filed a notice of appeal with the Court of Appeals and it was deemed. See Exhibits A-1. Petitioner argues that he also filed a notice of appeal with the Williamsburg County clerk's office, and that the clerks themselves attached the Court Order and Judgment of his state Criminal case hearing, and forwarded all orders including proof of service and notice of appeal which was accompanied to the Appellate Courts, which was accepted by the South Carolina Court of Appeals. See Exhibit B-2. Petitioner argues that he made efforts to write the Clerk of South Carolina Court of Appeals office to be sent the copy of Judgment Order attached to the notice of appeal that he sent to the Williamsburg County clerk's office never received any correspondence concerning the same. Petitioner argues that he has a right under the Fourteenth amendment "under equal protection clause" and "under due process clause" to access of the Courts, to correspond with the Courts and receive response from the Courts and to be furnished copies of documents and orders from the Courts including transcripts of Court hearings without cost. See *Mayer v. City of Chicago*, 404 U.S. 189, 92 S.Ct. 410 (1971);
3. Petitioner further argues that the Court of Appeals dismissed his petition for rehearing for failing to file as an appendix the Court Order of Judgment of his criminal case which he is challenging on appeal. See Exhibits C-1. "Correspondence from the South Carolina Appellate Courts clerks office stated that the Petitioner needed to only correct the following errors" to ensure that all correspondence were served a copy of the petition and documented on proof of service. See *Bullock v. United States*, 763 F.2d 1115 (1985); "Fraud upon the Courts" is fraud which is directed to the Courts' judicial machinery "itself and not fraud between parties or fraudulent documents, false statements or perjury. It is this fraud where Court or member is corrupted or influenced, or influence is attempted or where Judge has not performed his judicial function so that the impartial functions of the Court have been directly corrupted. Petitioner claims fraud upon the Courts" On part of the Courts and clerks office of the South Carolina Court of Appeals, he also argued that he was certain that only errors needed to be corrected for his petition of rehearing was to ensure all correspondence were indicated on proof of service and properly served. Petitioner states that he suffered from irreparable damages due to the clerks office failure to send him a copy of the attached order and Judgment of his criminal case which was attached to the notice of appeal that he filed with the Williamsburg County clerk's office which they forwarded to their clerks office. See title 18 U.S.C. § 241, Willful deprivation; and also see title 18 U.S.C. § 242 Willful corruption.

III. Conclusion

Wherefore Petitioner Prays for this honorable Courts of South Carolina to honor and grant this Petition for Writ of Certiorari as a matter of Law, due to unfair methods, and Prejudice Judicial Procedures implemented by the Court of appeals, and ensure that the Petitioner's appeal process is treated impartial thus after this Courts grant of his Petition of Writ of Certiorari.

April, 24th 2023

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