

RECEIVED

Jan 22 2024

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM CHARLESTON COUNTY
Court of General Sessions**

The Honorable Deadra L. Jefferson Presiding Judge

Appellate Case No. 2023-000251

STATE OF SOUTH CAROLINA, RESPONDENT

VS.

AKIM JAMMAR JEAN-CHARLES, APPELLANT

PETITION FOR REHEARING

NOW COME the Appellant, Akim Jammam Jean-Charles, by and through their undersigned agent, who respectfully petition and move this Court pursuant to Rule 221(a) of the South Carolina Appellate Court Rules and Rule 60(b) of the South Carolina Rules of Civil Procedures to rehear this case and to provide leave for a motion to set aside its order filled on 5th day of January, A.D. 2024 due to material facts and principles of law that has been either overlooked or disregarded by this Court as they relate to this case.

In support of this petition, the Appellant, states the following:

DISCLAIMER

The Appellant, Akim Jammam Jean-Charles, and their undersigned agent, being over age of majority, and having origins outside legal society, have the disability to understand the language of legalese used by the Court and within legal society. All attempts by the Appellant to use the

language of legalese to communicate with the Court are in good faith and with the sole intent to redress the grievances, wrongs, and the deprivation of inalienable and constitutionally secured rights under the color of State law, by State officials, the Appellant alleges the lower Court subjected him to and or allowed him to be subject to. Additionally, this petition was drafted under duress and extreme mental anxiety due to the forementioned disability in conjunction with the limited time to present this petition before the remittitur be sent and this appeal dismissed. This petition for rehearing does not fully support the Appellant's position for why rehearing is warranted, nor does it outline all the allegations the Appellant has against the Respondent and or the lower Court. The Appellant cannot meet the deadline to timely file this petition and adequately present his full case in support thereof due to his disability to understanding of legalese, distressed mental state, financial hardship, and lack of access to legal research resources. Therefore, where the law permits, let this disclaimer written under duress, double as a petition to the Court for an extension of time to supplement this petition for rehearing or for an extension of time to produce a different initial petition for rehearing in place of this petition for rehearing. Furthermore, in the interest of justice and for the purposes of upholding and protecting the Appellants substantive rights, please liberally construe this petition.

FACTUAL INTRODUCTION

1. Appellant filed a notice of appeal from the Charleston County General Sessions Court with this Court on the 17th day of February A.D. 2023.
2. Appellant alleges that on or about the 6th day of March A.D. 2023 Berkeley County Probation, Pardon, and Parole ("PPP") agents falsely arrested and imprisoned the Appellant, under the color of the authority of the order that is the subject of this appeal.
3. Appellant alleges that subsequently, while in custody, he was compelled into attending a fraudulently induced family court hearing at which the judge deprived him of his property, freedom, and liberty (Appellant appealed the order from this hearing, see App Ct 2023-000458).
4. Appellant was forced to pay over eight thousand dollars in order to get out the Berkeley County Jail

5. Appellant filed a motion for the first extension of time to obtain court transcript on the 13th day of March A.D. 2023 due to financial hardship.
6. Appellant filed a motion for the third extension of time to obtain court transcript on the 19th day of May A.D. 2023 due to financial hardship.
7. On the 20th day of June A.D. 2023, This Court filed an order holding this appeal in abeyance for thirty days to allow Appellate defense to screen the matter.
8. On the 26th day of June A.D. 2023, the Appellant was compelled by way of threats of arrest, to attend what the Appellant alleges to be an unlawful probation revocation.
9. The probation revocation hearing on the 26th day of June A.D. 2023 arose from the alleged unlawful arrest of the Appellant by the “PPP” agents perpetrated on or about the 6th day of March A.D. 2023.
10. At the probation revocation hearing on the 26th day of June A.D. 2023, the Appellant informed the presiding judge of the pending appeal in the case at hand.
11. At the probation revocation hearing on the 26th day of June A.D. 2023, the Appellant, to protect from further deprivation of rights, moved the Court to stay all proceedings and actions in the matter until the determination of the judicial review can be completed.
12. At the probation revocation hearing on the 26th day of June A.D. 2023, the presiding judge agreed with the Appellant that, Appellant had the right to have all proceedings and actions stayed.
13. At the probation revocation hearing on the 26th day of June A.D. 2023, the presiding judge erroneously failed to grant Appellant’s motion to stay although he agreed with the Appellant’s right said relief.
14. At the probation revocation hearing on the 26th day of June A.D. 2023, the presiding judge erroneously continued the hearing to the 26th day of July A.D. 2023.

15. On the 21st day of July A.D. 2023, the Appellant filed a motion titled “motion to compel lower court to hear timely filed motion for new trial and abate all adverse actions to stop ongoing deprivations of civil rights under the color of State law by State employees until the conclusion of appeal” with this Court.
16. This “motion to compel lower court to hear timely filed motion for new trial and abate all adverse actions to stop ongoing deprivations of civil rights under the color of State law by State employees until the conclusion of appeal” outlined the intent of the Appellant to have lower court actions and proceedings stay until the conclusion of this appeal.
17. On the 26th day of July A.D. 2023, the Appellant under duress, threat and coercion , arrived at the Berkeley County Courthouse at 300 California Ave, Moncks Corner, South Carolina [29461] for what Appellant alleges to be an unlawful probation revocation hearing.
18. On the 26th day of July A.D. 2023, upon arrival at the Berkeley County Courthouse, Appellant called agent Brown of the (“PPP”) on his cell phone, to ask which room the hearing will be held.
19. On the 26th day of July A.D. 2023, the Appellant went to the Berkeley County general sessions court clerk’s office with the intention of filing motions in his defense of the fraudulently induced hearing.
20. On the 26th day of July A.D. 2023, before the Appellant could fully file his papers with the clerk, agent Brown of the (“PPP”) and two court bailiffs came into the Berkeley County general sessions clerk’s office and falsely arrested the Appellant.
21. On the 26th day of July A.D. 2023, the Appellant’s access to the Berkeley County general sessions clerk’s office was interfered with during the false arrest that took place in the clerk’s office on that day.

22. On the 26th day of July A.D. 2023, the Appellant was refused explanations from agent Brown of the (“PPP”) or the court bailiffs of the lawful grounds of the arrest when the Appellant demanded explanation.
23. On the 26th day of July A.D. 2023, the Appellant was dragged from the first floor of the Berkeley County Courthouse up the stairs to the top floor of the Berkeley County Courthouse, all while handcuffed, by agent Brown of the (“PPP”) and the court bailiffs.
24. On the 26th day of July A.D. 2023, before entering the General Sessions courtroom with me, one of the court bailiffs stated to agent Brown of the (“PPP”), “we can’t bring him in the courtroom in handcuffs.”
25. On the 26th day of July A.D. 2023, agent Brown of the (“PPP”) refuted the court bailiff’s assertion to un-cuff the Appellant before forcing him in to the courtroom and stated, “it’s ok, the judge wanted him cuffed”
26. On the 26th day of July A.D. 2023, agent Brown of the (“PPP”) and the court bailiffs proceeded to forcefully take the Appellant in to the courtroom handcuffed and the following occurred:
 27. (a) A misnomer of the Appellant’s name was called
 28. (b) Agent Brown of the (“PPP”) then forcefully brought the Appellant across the bar and to the stand to stand for the misnomer called.
 29. (c) Agent Brown then took position in the opposite stand where prosecutors and plaintiffs plead their case from.
 30. (d) The presiding judge then asked Appellant if the misnomer was the Appellant.
 31. (e) The Appellant stated truthfully that he was not and directed the presiding judge to take judicial notice of Appellant’s motion to stay, status of duress, and other documents in support thereof.

32. (f) The presiding judge ignored the Appellant's compelled testimony, motion, and documentation in support thereof.
33. (g) The presiding judge then revoked the sentence of probation and sentenced the Appellant to 180 days in South Carolina Department of Corrections.
34. (h) Appellant was in handcuffs the whole hearing.
35. On the 24th day of October A.D. 2023, this Court granted Appellant's third motion for an extension to obtain transcript.
36. On the 3rd day of November A.D. 2023, Appellant filed a motion titled "motion for an equitable waiver of transcript fee."
37. This "motion for an equitable waiver of transcript fee" outlined Appellant's inability to pay for the transcript due to financial hardship, majority of which being direct result of the alleged false arrest perpetrated by ("PPP") on or about the 6th day of March A.D. 2023.
38. On the 5th day of January A.D. 2024, this Court filed an order dismissing the Appellant's appeal.
39. The order filed on the On the 5th day of January A.D. 2024 by this Court stated the "Appellant failed to complete and return an affidavit of indigency from Appellate Defense, and failed to make other arrangements for payment of the transcript."
40. The Appellant now moves this Court to set aside the order filed on the On the 5th day of January A.D. 2024 by this Court and rehear (essentially hear) this appeal for the following grounds.

**MATERIAL FACTS AND PRINCIPLES OF LAW THAT HAS BEEN EITHER
OVERLOOKED OR DISREGARDED BY THIS COURT AS THEY RELATE TO
THIS CASE AND GROUNDS FOR GRANTING PETITION.**

1. U.S. CONST. art. XVI.

According to the Supremacy Clause, states are bound to any international treaty that the federal government joins, and are immobilized from enacting laws contrary to international agreements. See *Ware v. Hylton*, 3 U.S. (3 Dall.) 199 (1796).

1a) **The International Covenant on Civil and Political Rights** is an international treaty ratified by the United States of America government, therefore, pursuant to the Supremacy Clause of the United States Constitution, states are bound to it.

1b) Article Fourteen (5) states “Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.”

2. S.C. Const. art. I, § 3.

This clause from the South Carolina Constitution stands as a resolute guardian of individual substantive rights, placing paramount importance on the core liberties of life, liberty, and property. It boldly asserts that the privileges and immunities bestowed upon citizens must remain inviolable, with a clear emphasis on safeguarding these substantive rights. Through its unwavering commitment to due process of law, the clause ensures that individuals are shielded from arbitrary deprivations. Importantly, it distinguishes itself by prioritizing the protection of substantive rights over procedural considerations. In doing so, it not only guarantees a fair legal process but, more fundamentally, safeguards the very essence of what it means to be free and secure in one's life and possessions. The clause stands as a testament to the enduring commitment to justice,

where the protection of individual substantive rights takes precedence in the pursuit of a just and equitable society.

3. S.C. Const. art. I, § 22.

This clause in the South Carolina Constitution serves as a robust shield for individual substantive rights in the realm of administrative decisions. It emphatically asserts that no person shall be conclusively bound by an administrative agency's decision affecting private rights unless granted due notice and a fair opportunity to be heard. With unwavering dedication to safeguarding individual liberties, the clause ensures that no one is subject to the dual roles of prosecutor and adjudicator, maintaining a clear separation for a just process. Crucially, it places a significant emphasis on protecting the individual's substantive rights by prohibiting the deprivation of liberty or property unless through a mode of procedure prescribed by the General Assembly. This underscores a commitment to a defined and just legal process, giving precedence to the protection of fundamental rights over procedural expediency. Furthermore, the clause stands as a beacon of accountability, affirming the right to judicial review in all instances. This not only grants individuals the power to challenge administrative decisions but reinforces the constitutional commitment to ensuring that substantive rights are upheld through a thorough and impartial review by the judiciary. In essence, this constitutional provision is a steadfast guardian, prioritizing the protection of individual substantive rights and the pursuit of justice in the face of administrative actions.

4. General Principal of Law, *Lex specialist derogate generalis* (“the specific prevails over the general.”)

You may be thinking, why did the Appellant cite the foregoing as if you as a judge do not understand the constitution or international law principles. That is not the

Appellant's intent. The Appellant's intent is to move this Court to grant this petition, notwithstanding, any proper procedural grounds this Court has found in this matter, pursuant to the true intent of these authorities the Appellant has invoked, pursuant to his specific substantive rights outweighing the general procedural norms.

5. South Carolina Rules of Civil Procedure: Rule 60 (b) , SCRCP.

Rule 60 (b) , SCRCP, states "on motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud, misrepresentation, or other misconduct of an adverse party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court.

During the pendency of an appeal, leave to make the motion must be obtained from the appellate court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining

any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.”, this rule is prime facia evidence of South Carolina General Assembly’s intent to provide people with access to prompt relief from court orders when the terms are just, notwithstanding, the appearance of other factors that may be proper.

In this petition for rehearing, The Appellant also moves the court to grant leave to the Appellant to file a motion to set aside this Court’s order filed of the 5th day of January A.D. 2024, pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure on the following grounds, but not limited to them:

- (a) mistake, inadvertence, surprise, or excusable neglect.
- (b) fraud, misrepresentation, or other misconduct of an adverse party;
- (c) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

Due to the Appellant’s disability to understand legalese as well as the temporary extreme mental anguish the Appellant has been experiencing due to what the Appellant alleges to be various incidents that have deprived him of various God given and constitutionally secured rights the adverse party has subjected him to, the Appellate did not understand that due to the order of this Court filed on the 20th day of June A.D. 2023, that the Appellant could have filed an affidavit of indigency from Appellate Defense in order to obtain the transcript even without the ability to pay, because the Appellant did not interpret the meaning of “indigency”. Additionally, the Appellant was under extreme mental anguish during the time period after this

Court filed the June 20th order, due to ongoing fraud, misrepresentation, or other misconduct of instrumentalities of the adverse party, as well as a lack of access to legal research and mobility due to the Appellant being on house arrest for this whole time period in question. Furthermore, now that the Appellant understands that filing an affidavit of indigency with Appellate Defense, that he can finally obtain the court transcript despite his financial hardship, and finally obtain remedy for the wrongs committed against him. The Appellate, in good faith, will file the affidavit with Appellate Defense at or about the same time as the Appellant files this petition for rehearing, therefore, making the prior order filed by this Court on the 5th day of January A.D. 2024, no longer equitable that the order should have prospective application.

6. Good Faith and the Overall interest of Appellant's Substantive Rights.

This Court dismissed the Appellant's appeal strictly on grounds that are procedural in nature. Procedural defects that have not prejudiced the adverse party or the Public or the Court. Alternatively, a dismissal of this appeal will assuredly greatly negatively effect and hinder the Appellant's substantive rights and pursuit to right wrongs done to him. The Appellant is alleging serious violations of the South Carolina Constitution by the lower Court and other officials. To dismiss the Appellant's appeal for a purely procedural matter, and not hear the serious allegations against Court officials is a danger to the Public, and just isn't Just.

7. Although this petition lacks the Appellant's full position and supportive authorities to bolster said position, It is exactly 4:30 P.M. on the 22nd day of January A.D. 2024, and

under duress, I must file this petition. In good faith, I reserve the right to amend this petition for lawful purpose.

8. For the foregoing reasons, The Appellant, respectfully move this honorable Court, to grant this petition for rehearing and or grant leave of this appeal for the Appellant to file a Rule 60(b) motion to set aside the order dismissing this appeal filed on the 5th day of January A.D. 2024, and or put this appeal in abeyance to Allow Appellate Defense review the Appellant's indigent affidavit. The Appellant and their undersigned agent, do hereby affirm the foregoing to be true and correct to the best of their knowledge and that they state so under the laws and penalties of perjury under the laws of the united states of America.

~~1st day of november a.d. 2023~~
22nd day of January A.D. 2024

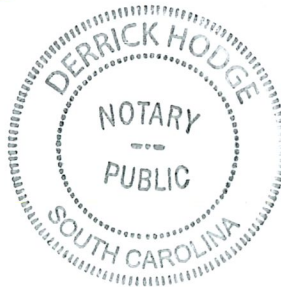
cc:
Lemuel Christopher Zeigler, Esquire
Mark Reynolds Farthing, Esquire

Alan McCrory Wilson, Esquire
Robert Michael Dudek, Esquire

for: Akim Jammal Jean-Charles

by: *[Signature]* All Rights Reserved

Notary: *[Signature]*
EXP: 06/23/2033



RECEIVED

Jan 22 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

The Honorable Deadra L. Jefferson Presiding Judge

Appellate Case No. 2023-000251

STATE OF SOUTH CAROLINA, RESPONDENT

VS.

AKIM JAMMAR JEAN-CHARLES, APPELLANT

PROOF OF SERVICE

I certify that, the Appellant and their undersigned agent, have served the Petition for Rehearing on Lemuel Christopher Zeigler by merely using the United States Mail to deliver a copy of it to his office at the Charleston solicitors office, on the 22nd day of January A.D. 2024, at O.T. Wallace Building 101 Meeting Street Charleston, South Carolina near 29401; as well as on Mark Reynolds Farthing by merely using the United States Mail, to send the Petition for Rehearing, on the 22nd day of January A.D. 2024, to his office at, Rembert C. Dennis Building, Post Office Box 11549, Columbia, South Carolina near 29211.

22nd day of January A.D. 2024

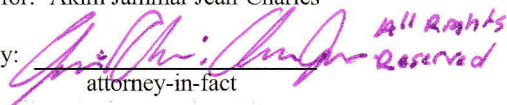
cc:

Lemuel Christopher Zeigler, Esquire


Mark Reynolds Farthing, Esquire

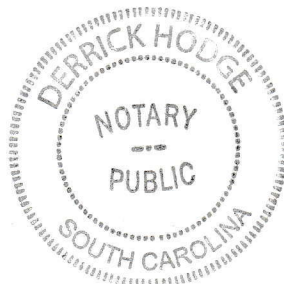
for: Akim Jammam Jean-Charles

by:


attorney-in-fact

All Rights Reserved

Notary 
EXP. 06/23/2033



Sean - Marks: Akim - Summer
70424 Sean Wells drive
Goose Creek, South Carolina
Near [Bawns]

Lemuel Christopher Ziegler
Charleston Solicitors office
G. I. Wallace Building ~~101~~
101 Meeting Street, Charleston
South Carolina, near [29401]

59681 095
\$1.87⁵
US POSTAGE
0652 176458
29461
00025853

Dean - Charles; Adam Tanner
c/o 424 Dean Wells drive
Goose Creek, South Carolina
near [29445]

Mark Reynolds Pastimes
Rembert C. Dennis Building,
Post Office Box 115219,
Columbia, South Carolina
near [29211]

