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S.C. SUPREME COURT

South Carolina Court of Appeals

Charles W. McCormick  
326467

v.

STATE of South Carolina

CASE NO: 2022-CP-07-00474

Writ of Certiorari

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence for Murder, Arson 2nd Degree and possession of a weapon during the commission of a violent crime. Applicant plead not guilty to all charges and was found guilty by jury.

Facts

Appellant Charles W. McCormick received motion notice of conditional order to dismissal on December 27, 2023 Case NO: 2022-CP-07-00474.

Notifying Appellant Assistant Attorney General Danielle Dixon request the Honorable Robert J. Bonds sign the dismissal. Due to South Carolina Supreme Court order 2013-04-12-02 (Filed April 12, 2023,

Replacing Judge Mullen due that Judge Mullen was Appellant's trial and sentencing Judge.

Here Judge Bonds had already signed order on December 21, 2023. Six days before Appellant received order. Informing Appellant that He had 20 days to respond. Appellant responded twice to the Court and the Attorney General's office. Appellant received the same order in response.

Appellant Filed DNA application October 20, 2017. Appellant received no response from Court or the Clerk of Court. (Beaufort County).

Appellant wrote to the Beaufort County Clerk of Court on April 28, August 19, November 2, 2018 with no response back.

Appellant wrote to the S.C. Administrative Law Court December 23, 2018. The ALC informed Appellant that a letter was sent informing the Beaufort County Clerk of Court of Appellant's request. Appellant wrote the Clerk of Court on March 23, 2019 again no response.

Appellant then filed a Motion for Cause on February 18, 2020. Appellant received response

back from Clerk of Court March 11, 2020 informing Appellant that DNA Application was put on the docket October 30, 2017 and the Clerk also would inform the Solicitor. Here the Clerk of Court has violated Appellants due process rights over a 2 years and 4 months time period for not notifying Appellant or the Solicitor and Attorney General.

### Statute

Section 17-28-50 (A) Clerk will deliver for docket to Solicitor. (B) Within 90 days the Solicitor or the A.G. shall respond. STATE V. BRANNON 379 SC. 487 (2008)

Appellant allowed two 90 day plus days to pass 225 days with no response from Solicitor or the Court extending anytime limit.

Appellant then filed a motion for Summary Judgment. Finding the Solicitor in default and asked the Court to move and hold all related physical and biological material in question. Due to the undue delay and due process violations. At that time 3 years 4 months. Now 6 years 4 months.

South Carolina Constitutional Law once a legislature has made a choice there is no room for the courts to impose a different judgement based on their own notions or public policy.

December 16, 2020 Appellant recieved a Virtual WebEx hearing in front of Judge Mullen. In response to the Motion for default and having sentence vacated.

Appellant would inform this Court that parts of the WebEx hearing transcripts are missing and changed. Appellant included the transcript and what was missing and changed when appellant filed a Writ of Mandamus with this Court.

It took one year and ten months for appellant to obtain transcript. Court reporter Ms. K. Williams of Beaufort seem to be having a problem obtaining the right date of WebEx hearing. After contacting Judge Mullen's office. Ms. Williams informed Appellant that she could no longer do appellants transcript due to her volume. How does a Court reporter decide this? When she's been appointed by the Court.

Ms. Williams mailed 800 form with her letter.

Appellant filled out 800 form and included all correspondence between Ms. Williams to the Administration and Appellate Court,

The deputy Director of the Administration Court informed Appellant March of 2022 that Ms. Williams was still my Court reporter for my Transcript. (More delays)

Appellant then had sister Lorraine Berger see Ms. Williams the next day. Lorraine Berger then payed Ms. Williams \$75 dollars for 12 pages.

Ms. Williams informed Lorraine Berger that she would have transcript ready in 60 days.

Appellant had to have sister call Ms. Williams after 125 business days had past to receive transcript that should have been mailed to appellant.

Ms. Williams informed sister she was going to throw out transcript. She Ms. Williams didn't think I wanted it. Ms. Williams also stated some parts are not audible. (more delays)

Timely matter, Due process.

Appellant questions transcript Page 4 from line 7 to 17

Appellant explained the default by the Clerk and Solicitor and not responding at all.

(Over 180 days)

Page 7 line 16 I Appellant Charles W. McCormick never said my lawyer told me, This line 16 should have said your office Judge Mullen.

(Letter Attached)

Appellant refers to Transcript page 8 Lines 6 thru 11. Here is what's missing and or changed.

Appellant explained to Judge Mullen that I asked my Attorney at that time Mr. Bauer. How could I be indicted with no evidence. Mr. Bauer informed me at the time. The Grand Jury receives about 300 to 400 cases. They the Grand Jury don't read them all. They just rubber stamp them.

Appellant asked Judge Mullen how could that be legal.

Appellant also explained prior to his first PCR. Appellant wrote several times to the Clerk of Court (Beaufort County) asking for a calendar of when the Grand Jury was in session with no response. Then Judge Mullen's office responded.  
(Letter Attached)

Calendars do exist. There are records. Appellant explained why he wanted to compare dates with his indictments, part of Appellants case.

Due process violation. Judge responsible for office personnel. (Transcript Attached) Statute 14-5-10

Appellant Also filed this matter with the disciplinary counsel. Letter and Transcript and Motion for Default.

Appellant also filed other motions. Judge Mullen acknowledge she was aware of them.

Appellant was sentenced wrong. Title 17

Section 17-25-45 (FCJA) State v. Johnson 522 S.E.2d 339 - 347 S.C. 67 (2001)

Written notice must be given by the Solicitor to the defendant and the defendants Counsel not less than 10 days before trial when seeking a life sentence without parole.

Appellant never received any such letter.  
(14th Amendment due process)

Appellants other motion resentencing, modify, amend, vacate sentence.

Sentencing wrong. Statute 17-25-50 Considering closely connected offenses as one offense.

(7)

Appellant also spoke to Judge Mullen that there was no firearm used as evidence. NO POSSESSION. Statute 16-23-490 5 years Except where death penalty or life out parole. Must visibly display.

Judge Mullen Acknowledge she would go over my, Appellants whole case and get back to Appellant with her ruling. (More delays) More than 2 years past Appellant then Filed writ of Mandamus.

STATUTES - The rules of statutory construction developed by South Carolina Supreme Court establish that a criminal statute must be strictly construed against the state and any ambiguity or doubt or uncertainty MUST be resolved in favor of the defendant. Hodges V. Rainey 533 SE2d 578 (2000)

Second PCR Appellant Filed under Weldon V. State (2001) A.G. claims not a new law. It is new case law. If witnesses testified at appellants trial the outcome would have been different.

No overwhelming evidence. Appellant convicted of crimes he did not do.

Witness could put Appellant in another place.  
(Albi) Police testified in another place  
NO GSR, Sled Agents testimony false and misleading to jury, Sled report inconclusive: not gun shot residue.

No Firearm found or present at trail.

NO Bleeding, NO Blood, NO Gasoline smell

NO Gasoline on clothes, NO smoke smell.

Appellants clothes should have been excluded under 403 rule.

AT Virgurl webEx hearing. Appellant also explained to Judge Mullen that there was no paper work to show where finger nail clippings were for 5 days and 17 days no paper work where Appellants clothes were.

Statue Article 3 17-28-320 (A)(B)(C)

Physical and biological material must be preserved  
Appellant ask this Court to hold all physical and biological material in question due to undue delays and default.

With Judge Mullen removed and who presided over Web Ex hearing. How is it possible for Judge Bonds to make a ruling on a hearing he did not attend. And does not have all the facts.

Where is Appellants Fundamental Fairness, due process rights and equal protection, 14<sup>th</sup> Admendment.

Petitioner Charles W. McCormick asks this Court to vacate these sentences