

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal From Richland County
Robert E. Hood, Chief administrative Judge

Randolph Ashford

Appellant,

v.

The State South Carolina

Respondent,

Appellant Case No. 2023-001463

APPELLANT INITIAL BRIEF

Randolph Ashford # 256638
Allendale Corr. Inst.
1057 Revolutionary Trail
FairFax, South Carolina-

29827

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STATEMENT OF THE ISSUE ON APPEAL

1. The lower court erred by ruling on Appellant/Petitioner's in-complete filings of the S.C.R.Crim.P. Rule - 29 (b). Motion For New Trial Based On After Discovered Evidence.

STATEMENT OF THE CASE

On April 18, 2007, the Richland County Grand Jury indicted Appellant for first degree burglary, two counts of assault with intent to kill (AWIK), and first degree criminal sexual conduct. App. 998-1000.

On May 23, 2007, Appellant was indicted for kidnapping and and three counts of carjacking from the same set of facts. App. 1000-1021. On March 31, Appellant's case proceeded to a jury trial before Judge G. Thomas Cooper, jr. App. 1. Deon O'Neil and Nicole Singletary represented Appellant. Kathryn Luck Campbel and Will Bryant represented the State. App. 1.

Appellant was found not guilty of the Criminal sexual conduct 1st degree. App. 990-998. Transcript of Record, April 3, 2009. Page - 23-26,.

Appellant appealed his conviction and sentences. The court of appeals dismissed the appeal by order dated January 25, 2012. The remittitur was issued on February 15, 2012. On April 23, 2013. Appellant filed an application for post conviction for forensic DNA testing. App. 955. Respondent filed its response on July 18, 2013, requesting that Appellant's application be denied App. 961. An evidentiary hearing was held on January 5, 2015 before Judge Robert E. Hood App. 965. Here, there are no specific finding of fact or conclusion of law made by Judge Hood, in its assessment of whether Appellant had met his burden of proving whether he was entitled to additional DNA testing. David E. Belding, represented the Appellant. Joanna McDuffie, represented the State.

On January 5, 2015, Judge Hood issued an order of dismissal denying Appellant's application. App. 989.

ARGUMENT

The lower court erred by ruling on Appellant/Petitioner's in-complete filings of the S.C.R.Crim.P. Rule - 29 (b). Motion For New Trial Based On After Discovered Evidence.

Appellant argues that on January 20, 2024. He filed a Motion For New Trial Based On After Discovered Evidence, Motion For Appointment Of Counsel and Affidavit of Randolph Ashford. The court clocked stamped filed January 31, 2023. The State filed its response to Petitioner/Defendant motion for after discovered evidence and motion to dismiss and judgment on the pleadings August 16, 2023.

On August 22, 2023. The court denied and dismissed Appellant/Petitioner motion for new trial based on after discovered evidence six (6) days after the Respondent's motion to dismiss.

Due the the courts continued judicial misconduct an Prejudice to Appellant, Ashford, was unaware the court deliberately did not, and still have not provided the Appellant/Ashford with Judge Robert Hood's, August 22, 2023. Order of Dismissal, Pursuant South Carolina Rule - 77,(d). Clerks and Courts. S.C. Code Ann -

On August 29, 2023. Appellant Ashford, unaware the court had dismiss the motion for new trial, Ashford filed Objections to the respondent's motion to dismiss and judgment on the pleadings that never considered by the court or reviewed.

Appellant/Ashford, contends that the Whole/Complete Motion For New Trial was not before the court for its review, due to the courts continued overwhelming judicial misconduct. This motion were clocked filed January 31, 2023. Seperated then the

Affidavit of Randolph Ashford, and Motion For Appointment of Counsel were filed August 1, 2023. According to Richland County Fifth Judicial Circuit Public Index.

Appellant asserts that his complete, Motion For New Trial was not before the court, due to the court neglect o of duty code 1976 & 8-1-60, prejudice Ashford; by failing to keep constant attendance and discharge all duties, According to Code 1976 & 14 - 17 - 220.

In State v. Spann, 334 S.C. 618, 619-20, 513 S.E. 2d 98, 99 (1999). Appellant asserts all (5) five grounds was not presented for the courts review, nor was Ashford's, Objections To Respondent's Motion To Dismiss. all of which hindered the Appellant Motion For New Trial from a full/fair consideration of the facts by the court, violating the U.S. Constitution, Section 1. XIV Amendment, S.C. Constitution, Article I. Section 1, 3, 11, and 22, and the South Carolina Rules of Court.

Here the court's refusal of a hearing to hear this claim constitute a gross miscarriage of justice where state government interference rendered reasonable unavailability of the factual basis of the claim impeded appellant's ability to raise the claim or where some other circumstance beyond Appellant's control occurred.

CONCLUSION

Based on the foregoing argument, Appellant prays that this court grant this appeal, remand this case back to the lower court for hearing and that it violates the U.S. Const. Section 1. XIV Amendment, S.C. Const. Article I. Section 1, 3, 11, and 22, S. C. Rules of Court.

February 21, 2024.

Randolph Ashford

Randolph Ashford # 256638
Pro-se Appellant

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CERTIFICATE OF SERVICE

I do hereby certify that I have serve the following counsels of record the original and a copies of the initial Appellant's Brief by placing the same in the United States mail with the sufficient postage affixed thereto here at the Allendale Corr. Inst. Mail-room this date below.

February 21, 2024.



Randolph Ashford # 256638

Enclosures

CC: John Walter Whitmire, Esquire
Alan McCrory Wilson, Esquire
Mark Reynolds Farthering, Esquire

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February 21, 2024.

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South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, South Carolina - 29211

Re: Ashford v. State, Case No. 2023-001463

Dear Ms Kitchings:

Enclosed you will find the original and a copy of Appellant Initial Brief for your filing. Please return a filed copy to me for my record in the self addressed envelope provided for the return of the copy.

(Please return copy of the initial brief only).

Thank you very much.

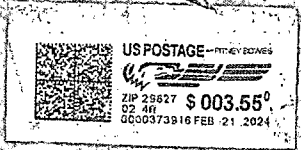
Sincerely,

Randolph Ashford

Enclosures

CC: John Walter Whitmire, Esquire
Alan McCrory Wilson, Esquire
Mark Reynolds farthing, Esquire

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