

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM LEE COUNTY  
HONORABLE R. FERRELL COTHRAN, JR., JUDGE SC Court of Appeals  
APPELLATE CASE No.: 2019-000969

MAR 04 2024

THE STATE,

RESPONDENT,

VS.

KEVIN E. HERRIOTT,

APPELLANT.

MOTION TO COMPEL

Kevin E. Herrriott  
#313862  
McCormick Corr Inst  
386 Redemption Way  
McCormick, SC 29899  
Appellant.

William M. Blitch, Jr.  
S.C. Bar No. 15608  
S.C. Attorney General's Office  
Post Office Box 11549  
Columbia, SC 29211  
Attorney For Respondent.

MOTION TO COMPEL DEFENSE COUNSELS  
TO SURRENDER THE CASE FILE IN THE  
ABOVE STYLED ACTION TO THE APPELLANT  
OF THIS CASE

COMES NOW the Appellant Kevin E. Herriott in prose,  
in necessity, and hereby moves this Honorable Court to issue  
an order, granting compelling Appellant's Defense former  
Counsels of Record, Mr. E. Thompson Kinney, and Mr. Timothy  
L. Griffith, to surrender the case/work file, the two (2)  
created in representing the Appellant. The Appellant hereby avers  
that the portions of his case/work file, that he has been denied  
by Counsels of Record, include but are not limited to:

- 1) Transcripts he reviewed for appeal advice
- 2) All discovery available by Standing Court Order
- 3) All Court filings, motions, responses, and orders
- 4) All other notes, letters, correspondences,  
plea agreements, emails, and/or any other tangible  
thing associated with this case.

The Appellant hereby avers that he intends to file a  
motion for leave to supplement the Record on Appeal. The  
records that the Appellant seeks are necessary for preparation  
of such pleadings and are the Appellant's property. See Rule  
212, SCAER.

Yours Truly,

K. E. Herriott  
Kevin E. Herriott, #313862  
Pro Se Litigant.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

MAR 04 2024

SC Court of Appeals

Appeal from Lee County  
Honorable E. Ferrell Cochran, Jr., Circuit Judge  
Appellate Case No.: 2019-000969

The State,

Respondent,

vs.

Kevin E. Herriott,

Appellant.

MEMORANDUM IN SUPPORT  
TO COMPEL

Kevin E. Herriott  
Sese # 313862  
McCormick Carrs Trust  
386 Redemption Way  
McCormick, SC 29899  
Appellant.

William M. Blitch, Jr.  
S.C. Bar No. 15608  
S.C. Attorney General's Office  
Post Office Box 11549  
Columbia, SC 29211  
Attorney For Respondent.

MEMORANDUM IN SUPPORT TO  
COMPEL

In Support, the Appellant Kevin E. Herriott shows the Court the following:

- 1) Appellant has made attempts to call and/or has made written requests to former defense Counsel of record in hopes that the two (2) would act professionally and responsibly by turning over the case/work file of the Defendant to the Defendant.
- 2) To date, former defense counsel of record, has failed to surrender Defendant's Entire Case/Work File to the Appellant. The Appellant asserts that based on the FACT that two (2) counsel of record is CLEARLY aware that the Appellant seeks these records to pursue an Direct Appeal for relief, Counsel is attempting to frustrate the Appellant's attempts though he's preparing ~~an~~meritorious direct appeal during all crucial stages in proceedings.
- 3) Appellant seeks active protection of this Court through a Court Order directing former defense counsel of record to surrender the case/work file to the Appellant.
- 4) The Court may order former defense counsel of record to surrender the Appellant's Case/Work File, First, the Appellant is entitled to the Case/Work File because it was created during the time period that the two (2) former counsel of record represented the Appellant during the pre-trial and post-trial stages. Second, both law and the American Bar Association recognize that the former Counsel has duties not to obstruct the Appellant's attempts to challenge his conviction.

and/or sentence. See ABA Standards and Commentary ("The resounding message is that former defense attorneys, because of the intimate knowledge of the trial proceedings and their possession of unique information regarding possible post-conviction claims, have an obligation to cooperate with the client's attempt to challenge their convictions.") See also *Maxwell v. Florida*, 479 U.S. 972, 93 L.Ed. 2d 418-420, 107 S.Ct. 424 (1986) ("The right to effective assistance fully encompasses the client's right to obtain from trial counsel the work files generated during and pertinent to that client's defense. It further entitles the client to utilize materials contained in these files in any proceeding at which the adequacy of trial counsel's representation may be challenged."); *Matter of Haddock*, 283 S.C. 116, 321 S.E. 2d 601 (1984) ("The client's file belongs to client and should be returned at client's request.")

5.) Finally, it is clear to defense counsels that the Appellant is diligently seeking to obtain his case/work file and other tangible things. For the two (2) former counsels recognizes that the Appellant has a right to his Case/Work Files and the two (2) Counsels seems to be attempting to stall the Appellant until his statutory limitations has expired.

WHEREFORE UPON, the Appellant Kevin Herritt ask that this Honorable Court has sought for, reviewed, considered, and adjudicate upon this motion to Compel/issuing an order compelling both former defense counsels of record to surrender the full entire and complete case/work file as pertains

to the Appellant's criminal case.

Done This 26 day of February, 2024.

Respectfully Submitted,

*K. E. Herritt*

Kevin E. Herritt

SCDC# 313862

McCormick Correctional Institution

386 Redemption Way

McCormick, SC 29899

Pro Se. Litigant.

EXHIBIT

April 11, 2019

Timothy L. Griffith  
Attorney at Law, 2<sup>nd</sup> Floor  
360 West Westmark Blvd  
Sumter, SC 29150

Re: Kevin E. Herrriott vs. The State

Case No. : 2018A3110100194, 2018A3110100195,  
DIR 310018

Put on Notice / Rule 5 Discovery / Exculpatory Evidence  
Private Investigator / Sixth Amendment U.S. CONST

Dear Mr. Griffith:

I am writing in regards to reference because as I understood the appointment of Counsel is to assist me for my defense. Without due respect I ask that I be made aware, informed, and Put on Notice thirty days to a hearing or Proceeding. I ask that we meet to discuss several issues that of a dire concern that need be addressed.

I ask for a copy of Rule 5 discovery Pursuant to Rule 5 SCRCrMP.  
I ask that you submit two Motions 1) Brady Motion Accord Brady v. Maryland,  
373 U.S. 83, 83 S.Ct. 1194, LE. 2d 215, for exculpatory evidence such as:

- A) Officers Background check (to review their insubordinations in their official capacity named Prison officials that gave any statement, include statements
- B) Medical records of Ofc. Lucky, Sergeant, <sup>&</sup> Freely transfers
- C) Medical staff notes (any and all)
- D) Before I make a longer list any and all document records, tangible and intangible things that intends to be list at the Chief of Trial.

I would like for you to Prepare for Trial. I ask that a Private Investigator be assigned to this case in reference which is the second Motion and set and appointment for the P.I. to meet with me to conduct an independent investigation as early as possible.

I must warn you that I despise a liar. I do not waste time nor words. I am not the average client for I know my rights and I will safe guard my Constitutional rights. I am taking this serious and I need you to understand my Position. I am putting you on notice of my request and further explained below:

- 1) A copy of the indictments, indictment summary,
- 2) Minutes of the grand jury with the exception of the deliberations

LEGAL

- 3) Transcripts of the Blair Hearing on Tuesday April 02, 2019
- 4) Transcript of my Preliminary Hearing.

I ask that these documents be turned over as soon as possible. Thank you in advance and hope to see you soon.

Yours Truly,

Kevin E. Herriott, #313862  
Cypress Unit cell 87-RH1  
Kershaw Correctional Institution  
4848 Goldmine HWY  
Kershaw, SC 29067

Kevin E. Herriott  
# 313862  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

October 2, 2020

TO: E. Thompson Kinney, Esq.  
Post Office Box 339  
Manning, SC 29102

Timothy L. Griffith, Attorney At Law  
360 West Wesmark BLVD., 2<sup>nd</sup> Floor  
Sumter, South Carolina 29154

Re: Criminal Case File For  
THE STATE VS. KEVIN HERRIOTT  
Case No.: 31-MC-002131  
18-GS-31-0120

Dear Attorneys:

This letter is to inform you that I am seeking to obtain from you my ENTIRE Case/Work File where you represented me in the above referenced action. At this time I am hereby asking that you or your office forward to me the ENTIRE Case/Work File in your possession

**LEGAL MAIL ONLY**

to include but not limited to all discovery materials, pretrial motions, responses, and orders. (see attach).

I have a Constitutional right to receive my case/work file under the Sixth Amendment to the Constitution. Accord Sixth Amend, U.S. CONST., see also *Spivey v. Zant*, 683 F.2d 881, 885 (5th Cir. 1982) (Habeas Corpus petitioner is entitled to former trial attorneys file and the work product doctrine does not apply to situations in which the client seeks access to documents or other tangible things created during course of attorneys representation.)

Nevertheless, neither you nor your office currently represents me; however, I plan to pursue a Federal Habeas Corpus petition attacking the constitutionality of the conviction and/or sentence. As you are aware, a motion under §2254 has a statutory limitation of one year.

Hopefully, you will act consistent with the American Bar Associations Standards and refrain from impeding my right to challenge the constitutionality of my conviction and/or sentence. That said, I'm requesting you forward the case/work file to me within the allotted timetable of Thirty (30) days.

Please forward the case/work file to me in large envelopes addressed to me and CLEARLY MARKED as Legal Mail, OPEN ONLY IN PRESENCE OF THE INMATE, at McCormick Correctional Institution, 386 Redemption Way, McCormick, South Carolina, 29899.

Thank you in advance for your cooperation in this matter.

Yours Truly,

*K.E. Lovett*

cc: P/File

**LEGAL MAIL ONLY**

PLEASE PROVIDE The FOLLOWING Below discoveries of any and all intangible and tangible documents to perfect my appeal:

- 1) Any and all Department of Police Services (DOPS) within the Department of Corrections (DOC):
  - A) Police Services reports;
  - B) Police Services documents;
  - C) Police Services investigative reports;
  - D) Chain of command evidence vouchers, ledgers, including but not limited to logged itemize evidence, photographs, and etc.
- 2) Witness Complaints if used.
- 3) Search or Arrest Warrants and the Affidavits used to support them.
- 4) Indictments, Superseding Indictments, and/or Information.
- 5) Pretrial Investigations reports from SCDC (DORS), SLED, Probation and Parole, and any other agency submittance relevant to the subject-matter.
- 6) Medical Records of Edward Lucky, an Correctional Officer at Lee Corr. Inst., known as the alleged victim, relevant to the subject matter.

LEGAL MAIL ONLY

- 7) All pre-trial motions, orders, and answers or replies.
- 8) All communication and correspondences between attorney and client.
- 9) All communications from Attorney(s) Thompson, Kinney E., and Timothy L. Griffith had with the state's prosecution, including but not limited to:
  - A) any and all emails
  - B) any and all letters
  - C) Text messaging
  - D) phone records that's relevant to the subject-matter.
- 10) All proposed plea agreements, and stipulations.
- 11) Presentence Reports, objections to the Presentence Report and the Addendums.
- 12) Docket Sheet.
- 13) Trial Transcripts, Jury Selection, Opening Arguments, Trial Motion Hearings held before, during, and after trial, Jury Charge, and instructions, and closing arguments.
- 14) All Verdict Forms.
- 15) Minutes of the Grand Jury Proceedings And Attendance of Jurors.

LEGAL MAIL ONLY

16) Pretrial Transcripts of any and all hearings including but not limited to:

- A) any and all Transcripts of Competency Hearings
- B) any and all rulings, and
- C) other court proceeding relevant to the subject-matter.

17) Transcripts relating to New Trial Motions.

18) Sentencing Transcripts, Judgment and Commitment Order.

19) Notice of Appeal

20) Appellate and Appellee Briefs

21) All witnesses affidavits who were not called detailing what their testimony would have been if called.

22) Affidavits from Expert Witnesses that were not used during trial, but whose testimony would have made a difference if they had testified.

23) Any and all psychiatric evaluations, reports, records, and documents of the defendant Kevin E. Herriott.

Kevin E. Herriott

\_\_\_\_\_  
Date

LEGAL MAIL ONLY

**KINNEY LAW FIRM, LLC**

17 E. Calhoun Street

Sumter, SC 29150

E. Thompson Kinney, Esq.  
tkinney@kinneylawfirm.com

P: 803-748-1344

November 12, 2020

Kevin Herriott (00313862)  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

Re: Case File Request

Dear Mr. Herriott:

I am in receipt of your letter dated October 23, 2020 where you asked for me to send you your case file.

I have enclosed the contents of my file, up to the point of when I was relieved as your attorney.

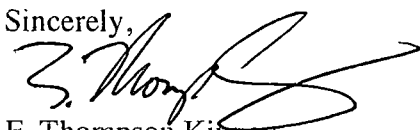
As you may remember, I was relieved by the Court as your counsel in March of 2019. At that time, the Judge relieved me and Timothy Griffith was appointed as your attorney.

At that time, I gave your file to Mr. Griffith and he carried on with your representation. Therefore, there could be other information about your case in Mr. Griffith's file that you may want. His contact information is:

Mr. Timothy Lee Griffith  
2338 Mount Vernon Dr  
Sumter, SC 29154  
tlgriffith@tlgriffith.com  
(803) 607-9087

Please let me know if you have any questions.

Sincerely,



E. Thompson Kinney

Kevin E. Herrrott  
SCDC# 313862  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

July 24, 2023

E. Thompson Kinney  
17 E. Calhoun Street  
Sumter, SC 29150

Re: The State vs. Kevin Herrrott  
Warrant No.'s: 2018 A3110100194,  
2018 A3110100195, 2018 DJR310018  
Case File

Dear Mr. Kinney,

I am writing you for the sole purpose of requesting a copy of all my pro se filings that have been not been included inside of my case file that you sent on November 12, 2020, at which time you was representing me before you was withdrawn and relieved.

I am requesting for a copy of all of the motions clock stamped by the Court namely (1) motion to relieve you as my attorney, (2) motion to proceed pro se, (3) motion to quash indictments

(4) motion requesting for discovery pertaining to the principles according to Brady v. Maryland.

I am requesting for a copy of the Lee County General Sessions Court Schedule for the Month of August, 2018. Also, I am requesting a copy of the transcript of the competency hearing (Blair Hearing).

Yours Truly,

K. E. Harriott  
Kevin E. Harriott  
Pro Se.

Note: resent letter September 22, 2023  
to Lee Public Defender's Office  
P.O. Box 339 - Manning, SC 29102

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
REQUEST TO STAFF MEMBER

TO: STAFF NAME: <i>Mrs. Dawkins</i>		STAFF TITLE: <i>Warden Secretary</i>	DATE: <i>11/5/2023</i>
INMATE NAME: <i>Kevin E. Herriott</i>		SCDC #: <i>313862</i>	
INSTITUTION: <i>McCormick Correctional Inst.</i>	DORM/SIDE/BED: <i>F5A 121</i>	HOUSING TYPE: <input checked="" type="checkbox"/> RHU <input type="checkbox"/> R&E <input type="checkbox"/> INFIRMARY <input type="checkbox"/> SSR <input type="checkbox"/> DEATH ROW <input type="checkbox"/> ASSISTED LIVING UNIT (ALU) <input type="checkbox"/> N/A	
REASON FOR PAPER REQUEST: <input type="checkbox"/> PREA <input type="checkbox"/> MEDICAL <input type="checkbox"/> MENTAL HEALTH <input type="checkbox"/> DENTAL <input type="checkbox"/> MEDICAL COPAY <input type="checkbox"/> MEDICAL RECORDS <input checked="" type="checkbox"/> KIOSK INACCESSIBLE (EXPLAIN): <i>Lawyer Call</i>			
YOU MUST USE THE KIOSK IF YOUR PAPER REQUEST DOES NOT MEET ANY OF THE CRITERIA ABOVE.			

I am requesting to place two legal phone calls.

- 1) E. Thompson Kinney, Esq. — *Says his no longer your attorney and has mailed you file to you.*
    - (803) 748-1344 or (803) 464-1687
    - Requesting for my case file
  - 2) Clerk of Court
    - (803) - 484-5341
    - Option 2, Then
    - Option 3
- I have a pending action where as I am representing myself in this case as my own attorney and I am checking the status of my case.

DISPOSITION BY STAFF MEMBER:

- 1) Jennifer Mullins will request a legal call through General Counsel. I will notify you when that's done.
- 2) Can you make the call to the Clerk of Court on your tablet?

DATE: <i>12/5/23</i>	STAFF SIGNATURE: <i>(M. Dawkins)</i>
----------------------	--------------------------------------

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

MAR 04 2024

SC Court of Appeals

Appeal from Lee County  
Honorable R. Ferrell Cothran, Jr., Circuit Judge  
Appellate Case No. : 2019-000969

The State,

Respondent,

v.

Kevin E. Herrick,

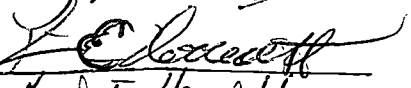
Appellant.

PROOF OF SERVICE

I, Kevin E. Herrick, do hereby, certify that I  
have served the within Motion To Compel with Memorandum  
In Support to Motion To Compel and Exhibits on the  
Deputy Clerk having one copy delivered to:

Deputy Clerk Catherine S. Harrison  
Clerk's Office  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

I further certify that all parties required by Rule to  
be served have been served. This 26<sup>th</sup> day of February, 2024.

1st   
Kevin E. Herrick  
SC Bar # 313862  
McCormick Group, Inc.  
386 Redemptor Way  
McCormick, SC 29897

Kevin E. Herrhoff  
SCDC# 313362  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

February 9, 2024

RECEIVED

MAR 04 2024

SC Court of Appeals

Catherine S. Harrison, Deputy Clerk  
Clerk's Office  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211


Re: The State v. Kevin E. Herrhoff  
Case No.: 2019-000969

Dear Clerk:

I am writing you for the sole purpose to file  
the following documents within this case action:

- 1) Motion To Compel with Memorandum In Support
- 2) Attached Exhibits

I ask that these documents be filed within this  
Court.

Yours Truly,  
  
Kevin E. Herrhoff, Pro Se.

Kevin E. Herriott, #313862  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

US POSTAGE  
ZP 29566 \$002.11  
02 47  
0000776390 PBA 25 0224

**RECEIVED**  
MAR 04 2024  
SC Court of Appeals

**SCDC**  
FEB 26 2024  
**MAIL ROOM**

Catherine S. Harrison, Deputy Clerk  
Clerk's Office  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

