

Ben Robert Stewart, 223006  
990 Wisacky Highway  
Bishopville, South Carolina 29010

**RECEIVED**

APR 29 2024

S.C. SUPREME COURT

April 18, 2024

The Honorable Eugene C. Griffith  
P.O. Drawer 10, 1226 College St.  
Newberry, South Carolina, 29108

Re; Stewart v. State, (2013 CP-46-3731, York County  
December, 9, 2013) PCR hearing April 17, 2023, inquest to  
Fishburn v. State, 427 S.C. 505, 832 S.E.2d 584 (2019),  
status; Stewart v. State, 0001478, Appellate Case No,  
direct appeal - Supreme Court of South Carolina

Dear Judge Griffith:

I am the Applicant/Appellant in the above mentioned caption  
regarding the PCR hearing in York County before you on April 17, 2024.  
Per your order, I forwarded my proposal Motion, applying the  
Applicable law and Standard of review pursuant to Nance v. Ozmint,  
367 S.C. 547, 626 S.E.2d 878 (2006) denial of effective  
assistance, quoting United States v. Cronin, 466 U.S. 648, 104 S.Ct.  
2039 (1984) see; Exh #1, PCR Application and Exh #2, Memorandum  
of law in Support of PCR at 1, 2, 3, 4, and 5.

As circumstances in our Supreme Court holding in Fishburn v.  
State, supra; where there is a procedural flaw such as

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South Carolina Code Ann. 17-27-90. Final Judgment and the Applicable law pertaining to issues raise and the Exhibits to support the issues were not included in the proposal by Mr. Johnson (18) as of that date but not limited to that amount. You were compelled to ~~Dismiss~~ the Application accordingly.

On February 2024, I requested that an Order of Contempt for Ola Johnson Esquire infractions and misconduct be enforced. These actions and inactions violates the Federal Habeas Corpus 42 U.S.C.A. 2254 Section (b) (c) and also see; Martinez v. Ryan, 132 S.Ct 1309 (2012) citing 71.1 (d) and a deprivation of 71.1 (g) Appellate Review, where, Mr. Johnson forwarded my appeal to the Indigent Defense without a court order to be relieved as counsel and creating a conflict of interest because ineffectiveness stewardship is cited against D Chief Appellate Defender, Wanda H. Carter.

I must add also according to Fishburn supra; standards, the statutory 59 Motion was not filed and I attempted to file my pro se pleadings two different occasions on October 25, 2023 and November 17, 2023 and the York County Clerk, Angie Bryant returned my filings because Mr. Johnson was attorney on record and did not forward 59 Motion accordingly to your office and the Honorable Clerk, was cited.

To conform to the norms of justice, I am requesting that you take judicial notice to judge the facts and sence of these problems.

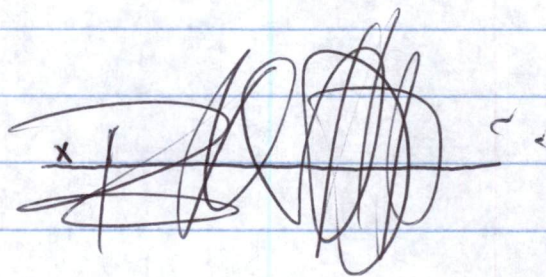
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My PCR is in the Supreme Court of South Carolina and I am appointed Appellate Defender Sarah E. Shipe, Esq., from the Indigent Defense and reasonable and understood with the standards of an appeal, none of my PCR issues can be heard because they were not ruled on in the Order of Dismissal or a statutory 59 motion as well as according to 17-27-80 s.c. code ann. Fishburn v. State supra; enclosing in this inquest is exploration letters to Mr. Ola Johnson Esquire, Ms. Sarah E. Shipe, Esquire, Mr. Zachary Jones, Attorney General

As did parties concluded in the Fishburn, Court they had a mutual agreement to correct the PCR procedural errors on the effective assistance of counsel issues, likewise in this case.

In closing, please review and allow a corrective process such as applying the Fishburn v. State, 427 S.C. 505, 832 S.E.2d 584 (2019) holding and standards, where a new PCR hearing is required and a new proposal submitted to include all evidence needed to properly adjudicate this case. My initial PCR application, my Memorandum of Law in Support, Mr. Johnson's two amended petitions and Exhibits A1-A6, B1-B19 (25 total exhibits) please see Exhibit A index and Exhibit B index enclosed.

cc /

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a horizontal line across the middle.

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Ben Robert Stewart, 223006  
990 Wisacky Highway  
Bishopville, S.C. 29010

Attorney, Sarah E. Shipe  
1330 Lady Street, Suite 401  
Columbia, S.C. 29201-3332

April 18, 2024

Re: Power of Attorney notice; Request for  
A.G. file; Fishburn v. State; PCR-transcript;

Dear Ms. Shipe:


I hope all is well, could you please bring your attention to my enclosed Exh letter of Ola Johnson Esq. which states that you were forwarded the A.G. file, could you please provide me with that as well as the PCR transcript of April 17, 2024. Because it is hindering me being able to properly defend and wasted time I can research and you to properly assist me also; I am contending that my last attorneys are complacent or conspiring with State officials. see Tower v. Glover,

I have written you as my Exh #12, 14, and 15 without a respond. Please do not file a Johnson Petition whereas

the Applicable law and Standard of Review has not been at all in my Order of Dismissal (under the Nance v. Ozmint holding of a denial of effective assistance under the second prong quoting U.S. v. Croniz.),, rendering Fishburn v. State, remand quoting 17-27-80 Final Judgment, respectively this is clear violation, and in other words the Supreme Court cannot even Rule on my Appeal because none of the claims were concluded or Ruled on in the lower Court.

Also, I have a Power of Attorney that I will give consent to contact you as approval and as needed prior to with my approval.

cc/

x   
Ben Robert Stewart, 2230010  
990 Wisacky Hwy  
Bishopville S.C. 29010

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Ben Robert Stewart, 223006  
990 Wisacky Highway  
Bishopville, S.C. 29010

Office of the Attorney General,  
The State of South Carolina,  
Post office Box 11549,  
Columbia, S.C. 29211

April 18, 2024

Re: Fishburn v. State, Appellate Case No.,  
2023-001478

Dear Attorney Jones:

I am the Appellant in the above named captioned; I am writing you as a request to assist my Attorney, Ms. Sarah E. Shipe at the Indigent Defense in the interest of justice and public equity and diversity whereas I am illegally transported to South Carolina and adjudged mentally ill as a Social Security dependant, and upon this notice request you to investigate because your findings in the Order of Dismissal at demonstrates that you have not found or reviewed me Exh-B1, Pennsylvania Bureau of Disability Determination, Dated 01-20-2006 or Exh B-2 Pre-trial Habeas Corpus that was filed and received by your office on 02-09-2009 see; Habeas Corpus, certified receipt attached. also; this was raised under the rubric of a denial of effective assistance of counsel under the Nance v. Ozmint holding as the Applicable law

and Standard of review, please see; Exh #1, Post Conviction Relief Application at 8 cited as Writ of Habeas Corpus (Pretrial) 02-06-2009 enclosed is a copy, along with Exh B-3 Direct indictments, which are invalid because there are no warrant Number as cause-probable-cause nor did I waive consent for a direct and I was in Pennsylvania jurisdiction on July 19, 2019, which is a clear violation of special responsibilities of a prosecutor 3.2 to be tried without probable cause; also, Exh B-4 Letter from Philadelphia PA, District Attorneys office requesting for warrant by 04-27-2008 which was never obtained, Exh B-5 Extradition Forms to South Carolina Governor's office, where detainer cites four charges; and compared to Exh B-3 Direct indictments nine total, five charges whereas upon the detainer can not be tried, rendering my convictions unlawful and transporting, IAD proceedings unlawful.

Please take judicial notice that my issues filed in the PCR matter case No: 2013-CP46-3731 in the Order of Dismissal my Standard of Review is not cited under the Nance v. Ozmint, holding nor is it cited regarding any fact finding and or conclusion of Law and these procedural errors fits the Fishburn v. State

holding on all four corners quoting 17-27-80 as to Final Judgment and where the cases cited in the Order of Dismissal are nonapplicable to this case.

The Supreme Court of South Carolina cannot rule on issues or claims which were not ruled on by the lower Court on PCR adjudications, see; Fishburn supra, .

Also, as Fishburn - where the defense and State combined and in good faith and in the interest of Justice, to fix the procedural fault agreed to remand the case because pursuant to 17-27-80, s.c. code ann was not judged correctly.

I respectfully request that a full PCR hearing be held to complete the Courts findings before, Judge, Eugen C. Griffith, respectively.

Due to PCR Attorney - Ola Johnson defaulting this process and should be still the attorney of record because no order was given for him to be relieved, though he forwarded my appeal to the Indigent Defense and applied a clear conflict of interest. If I must, I will agree to him remaining my attorney or another appointed Attorney as soon as possible. Please note; I have cited Mr. Johnson in (15) instances of misconduct for professional conduct.

In his representation regarding lacking in 1.1 inter alia infractions that deprived fundamental fairness in PCR proceedings such as, a mandated 59 Motion where see; Fishburn supra; and Mr. Ola Johnson did not include at least (18) Exhibits, please see; List of Exhibits enclosed that was requested by the Honorable PCR Judge, to conclude fact finding; (but not limited to).

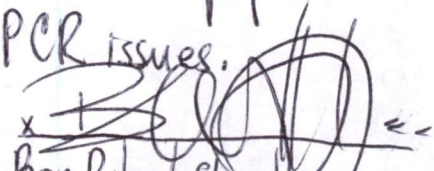
As the Attorney General, A Knight of Justice, and also the adversary in this process please take judicial notice that I am actually and factually innocent of the crimes charges related herein and these charges were unlawfully obtained without probable cause under the Kalina v. Fletcher, holding as well, damages are not my concern; My freedom is; and justice is. I have been unjustly convicted for nearly 20 years. Justice Delayed; Justice denied!

Included; I have forwarded my attorney this notice and hope you both contact the Honorable Eugene C. Griffith, to remand this matter.

I understand within laws and statutes you can provide the proper remedy to a fair adjudication of my mandated PCR issues.

Thank you for your time as to this matter

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Ben Robert Stewart, 223006  
990 Wisacky Highway  
Bishopville, SC 29010

Ben Robert Stewart, 223006  
990 Wsacky Highway  
Bishopville, S.C. 29010

April 18, 2024

Attorney Ola Johnson  
P.O. Box 549  
Lexington, S.C. 29071

Re; Fishburn v. State,  
correcting my case, remand

Dear Mr. Johnson;

In regards to your representation of my PCR case No. 2013-CP-46  
3731. and PCR hearing on April 17, 2024 Before the Honorable  
Eugene C. Griffith and order per the Court for proposal Motions  
I am requesting that you as my attorney in the matter fulfill your  
obligation and assist me in the proceeding required by the  
Sixth Amendment. The Fishburn v. State  
fits these circumstances and it is clear that my proposal was bungled.  
The proposal did not cite any of my Applicable law and Standard  
of Review see; Fishburn supra, nor did you submit any of the  
Exhibits that were forwarded to your office prior to and after  
the PCR hearing; there are (18) Exhibits But not limited

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to the list enclosed. All claims and issues were under the rubric of a denial of effective assistance of counsel citing *Nance v. Ozmint* and you allowed the State to withdraw claims without my consent. I cite this to the Disciplinary Counsel for your infractions. You also defaulted all my mandated PCR claims. I ask that you fix this, or I'll be forced to go civil Section 1983. Fishburn supra states;

"We do not place the blame on a single party below for an insufficient PCR order. The preparation and finalization of a PCR order is often a collaborative effort, the prevailing party often prepares a proposed order for the PCR Court."

Due to me having no remedy, I'll have no other remedy but § 1983 and it appears that you followed the foot steps of known misconduct of trial Attorney Kenneth Snow that conspired with Solicitor Thompson regarding the invalid direct indictments without probable cause see; *Kalina v. Fletcher*, from the beginning, and transported me illegally as in a kidnapping such is proven

with the Extradition Forms sent to the Governors office with four charges and I went to trial with nine direct indictments and unjustly convicted of five charges not upon the detainer; rendering my conviction unlawful for each charge namely (the pistol charge you withdrew,) and also the Kidnapping-accessory, accessory ~~After~~ the fact.

It should be noted that I was tried and convicted without probable cause from the State, see; Special Responsibility of a prosecutor 3.2.

Also; My statutory 59 Motion Filing was abandoned as well. Mr Johnson aside from this, I need to remind you that I am a human with feelings and very much alive, and active to redress my situation. I do not take these missteps personal but I must emphasize my concerns to the maximum because the proceeding-procedures were totally violated and unjust and shocking, and being blindsided by my attorney, especially a man of your stature be hurt.

Please help me. You know my case, please do not be upset with me for defending myself. I have to defend myself or no one else will.

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Ben R. Stewart 225006

~~Ben R. Stewart~~

STATE OF SOUTH CAROLINA

County of YORK

Ben Robert Stewart, HK-9369

V.

State of South Carolina

~~To: Judge Griffith~~ To: Zachery Jones  
~~To: Sarah Shipe~~ To: Ola Johnson

) IN THE COURT OF COMMON PLEAS  
) 2013 CP 46-373-1  
) CONCLUSION OF FACTS AND  
) MEMORADUM OF LAW IN SUPPORT  
) OF APPLICATION FOR  
) POST-CONVICTION RELIEF  
)  
)

TABLE OF EXHIBITS 1 of 2

EXHIBIT	PG
A-1 Monday Bishop Affidavit Dated January 4, 2013 (three pages) .....	21,22,23,28,30
A-2 Lawanda (Val) Hudson Affidavit Dated February 22, 2013 (two pages) .....	21, 23
A-3 Reed Allen Statement dated 27 October 2006.....	25
A-4 South Carolina Law Enforcement Division Forensic Services Laboratory Report (six pages) .....	9,13,18-20
A-5 Letter from Counsel Kenneth Snow dated.. February 17, 2009.....	27
A-6 SCI-Frackville agreeing to host Video Conferencing for the South Carolina Court.....	32

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2013 DEC 9 PM 3:42  
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

## B - Table of Exhibits

- B1 Pennsylvania Bureau of Disability Determination, Dated, 1-20-06
- B2 Pretrial Prose Emergence Writ of Habeas Corpus, Dated, 2-6-09, filed, 2-12-09
- B3 Direct Indictments, Dated, July 19, 2009 nine total
- B4 Philadelphia District Attorney office letter Dated, 2-6-07
- B5 Extradition Forms filed with South Carolina Governor's office Dated, 3-17-08
- B6 York County Clerk of Court letters Dated, 9-16-09/9-24-09/10-29-09  
and Receipt for general session file Dated, 10-20-09
- B7 South Carolina Department of Mental Health
- B8 Pennsylvania Sentencing Sheet, for completion of term 1-27-23
- B9 Judge, John C. Hayes, III, letter scheduling Habeas Corpus, 2-11-09
- B10 February 11, 2009 Pretrial hearing, York County, 23 pgs. transcript
- B11 September 17, 2008 Pretrial hearing, Union County, 29 pgs. transcript
- B12 Lawanda (Val) Hudson, Obituary Dated, July 12, 2019.
- B13 Ola A. Johnson, Esquire, letter - Notice of Appeal Dated Sep. 24, 2023.
- B14 Applicants Post Conviction Relief Proposal nonfiled
- B15 Receipt of Applicant's Post Conviction Relief Proposal shipped via  
mail on 4-19-23 / 4-21-23 to Ola A. Johnson for, 4-17-23 - April 17,  
2023 Post Conviction Relief hearing at York County, Postage \$9.80
- B16 Pretrial Habeas Corpus, transcript - pgs 31-54, February 23, 2009
- B17 Clerk of Court, Angie Bryant, returned filings notices, Dated,  
October 25, 2023 and November 17, 2023
- B18 South Carolina Department of Corrections Policies OP.21-04, Section(s)  
28.4.6 / 28.4.7 and 28.4.9
- B19 Petition For Rehearing and Memorandum in Support
- B20 SCDC Form 19-11. Request to Staff Member, Dec. 7, 2023