

# The Supreme Court of South Carolina

Charles W. McCormick  
326467  
Petitioner

V.

STATE of South Carolina  
Respondent

CASE NO: 2022-CP-07-00474

Motion to Appeal  
For 2<sup>nd</sup> PCR

Petitioner respectfully comes before this Court. Appellant is presently confined at Allendale CI, South Carolina Department of Corrections serving a life sentence for Murder, Arson 2<sup>nd</sup> degree and possession of a weapon during the commission of a violent crime.

## FACTS

Petitioner was not and is not the perpetrator of these crimes. Petitioner seeks a gateway with the Court.

In the States response motion to dismiss. All petitioners allegations and issues were not answered, Statute 17-27-80 answer to each issue is to be presented. BAKER V. STATE April 17, 2024 Court of Appeals.

Petitioner filed for 2nd PCR on March 17, 2022, while awaiting for response from the 14th circuit Beaufort Court Clerk of Court on filing of DNA Application. Petitioner had mailed application out U.S. MAIL October 20, 2017

## Argument

Petitioner asserts the *Weldon v. State* October 6, 2021 does open doors to argue that had witness been brought to testify the reasonable probability of the outcome of the trial would have been different.

Detective Bromage testified petitioner was ~~at~~ another place, (restaurant/bar)

When evidence introduced by State consists of exculpatory statements of the defendant which are not contradicted or shown to be false by any facts or circumstances in evidence, the State is bound by those statements.

*State v. Bolin*

Here Judge Mullen should have given an Alibi defence Instruction. Judge Mullen should be held accountable.

Petitioner concedes he was sentenced by Judge Mullen under 16-3-10, 16-3-20 and

NOT 17-25-45. Petitioner still asserts the States are mandated by the General Assembly and the Constitution of South Carolina.

Statute 17-25-50 entitled considering closely connected offenses as one offense.

Statute 24-21-640 Parole granting process same day offenses as one day offense.

STATE V. Benjamin (1997) STATE V. Woody (2001)

STATE V. Gordon (2005)

Petitioner was given consecutive sentence.

Petitioner was never informed he would receive

A LWOP sentence.

Petitioner filed a Motion to vacate, set aside, or modify sentence more than a year before 2<sup>nd</sup> PCR Application. With no response from Beaufort Clerk of Court.

Statute 17-28-30 offenses for which post-conviction DNA testing is available. (1) Under section 16-3-10

Here Petitioner mailed out DNA Application October 20, 2017. With no response from Beaufort County Clerk of Court,

Petitioner sent several letters to the Clerk of Court on the status of Petitioner's DNA

Application. April 28, 2018 - August 19, 2018 - November 2, 2018 with no response back.

Petitioner wrote the Administration Law Court,  
December 23, 2018. The director of the ALC  
informed Petitioner the ALC sent letter to  
Beaufort Clerk of Court. March 23, 2019.

Petitioner received no response from Clerk.  
Petitioner then filed a Motion for Cause on  
February 18, 2020.

Petitioner received response back from Beaufort  
Clerk of Court March 11, 2020 informing Petitioner  
application was put on docket October 30, 2017.  
That the Clerk also informed the Solicitor and  
the Attorney General's office. March 9, 2020  
Statute 17-28-50 Application for testing, Notification  
of prosecutor, Custodian of evidence, and  
victim. Here the Clerk took 2 years and 4  
months to notify the Solicitor and Petitioner.  
This is a lengthy delay and Presumptive  
Prejudice.

Statute - 17-28-50 (A) Clerk will deliver for docketing  
to Solicitor. (B) Within 90 days the Solicitor  
or A.G. will respond.

There was no response from Solicitor, A.G.  
or the Court. NO Motions for time extension.  
Petitioner waited 225 days. Then filed A Motion  
for Summary Judgement. Finding the Solicitor  
in default.

(4)

and requesting the Court to into question  
All physical and biological material.

Due to the undue delay and the arbitrary  
actions of the State, 14th Amend. Due process.

Within a few weeks, Petitioner was informed by  
an order to report from Lieber CI at that time.

Petitioner would receive a virtual hearing.

December 16, 2020 Petitioner received a Virtual  
Webex hearing in front of Judge Mullen and  
Deputy Solicitor Sean Thornton.

Petitioner brought many issues to the hearing.

Possession of a firearm, no firearm presented at  
trial, Statute 8.2 must visibly displayed. Statute 16-23-490

5 years except where L W O P. Preservation of  
evidence, Statute 17-28-320. NO blood under  
Finger nails, NO kidnapping charges.

Five days no paperwork where fingernail clippings  
where. 17 days no paperwork where Petitioner's

Clothes where. (Chain of Custody) Grand Jury  
Calendar to compare dates of indictments.

All the delays by the Beaufort Clerk of Court  
Judge Mullen acknowledge she would convert  
everything and go over my entire case;  
The Judge would get back to Petitioner

February 2021 Petitioner requested transcript from virtual hearing. Court Reporter Section assigned Kimberly Williams. This became more delays. Ms. Williams could not seem to be able to obtain the correct date of hearing. (12/16/20) After contacting Judge Mullen's office, Ms. Williams informed Petitioner she was unable to prepare Petitioner's transcript due to her volume.

Petitioner's transcript was 12 pages.

Petitioner wrote the ALC and Appellate Court on January 11, 2022. The Deputy Director of the ALC informed Petitioner May 17, 2022 that Ms. Williams was still his Court Reporter.

More undue delays. Procedural due process.

This took another 130 days to receive my transcript.

Ms. Williams informed Petitioner's sister, she was getting ready to throw it out. Some parts she could not hear. (Letter attached) paid for in advance.

Petitioner filed transcript with Mandamus and the disciplinary Council because parts are changed.

Also letter from Judge Mullen, no Grand Jury calendar.

More undue delays.

October 24, 2022 Petitioner filed writ of Mandamus with Supreme Court. Due to no response or answer from Judge Mullen on hearing.

ONE year, eleven months. More undue delays. Petitioner wrote the Clerk of the Supreme Court on the status of writ of Mandamus, several times. April, July, August, November 2023, February 2024 still pending. August was informed of Appellate case no: Petitioners Mandamus was Oct 24, 2022 certified mail. Rule 65 states the responding party will be notified by the Clerk of Court at the time of receiving and filing with the Court, No time extension given or notified. Petitioner. More undue delays.

December 23, 2023 Petitioner was informed by AAG Danielle Dixon that order 2013-04-12-02 Petitioner was receiving new Judge to rule on PCR Application, with Conditional Order of dismissal. Signed January 8, 2024. Petitioner appealed order.

Petitioner to then still had not heard response on writ of Mandamus. More undue delays.

Petitioner filed notice of Appeal January 30, 2024. Received Motion back stamped February 5, 2024. February 6, 2024 received from Clerk of Appellate Court. No record of Appeal and no jurisdiction. More undue delays.

(7)

April 8, 2024 Petitioner received response from  
S.A.D. AG Farthing on Petitioners writ of  
Mandamus, only addressing 2 issues.

April 12, 2024 Petitioner received order from  
Judge Mullen on virtual hearing and only  
addressing the 2 issues. Judge Mullen was  
removed because she was sentencing + Trial  
Judge. Replaced by Judge Bonds.

Petitioners writ of Mandamus was filed certified  
us. mail October 24, 2022. 9 months pasted before  
State responded. AG Wilson informed July 31,  
2023 by Supreme Court Clerk. (Letter attached)  
Rule 65.

Petitioner mailed a copy to A.G. office October 2022

More undue delays. Here again Petitioners  
procedural due process, Substantive due  
process, Fundamental Fairness and Equal  
protection being violated. 14<sup>th</sup> Amend.

The Solicitor and Attorney Generals office  
should be held in default and the Clerk  
of Courts held accountable.

(8)

## Conclusion

Due to the States undue lengthy delays. The States negligence, Procedural due process, Substantive due process violations. Petitioners equal protection and fundamental fairness is vested. Petitioner has been prejudice. 14th Adment.

Petitioner is indigent and request the Court to provide State funds to presue the complexities that are involved. Appoint a highly diligent Crimmial Attorney for Petitioner and or VACATE sentence as appropriate.

Petitioner still beleives all physical and biological material should be held in question due to the States undue delays.

The Supreme Court of South Carolina

Charles W. McCormick  
326467  
Petitioner

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v.

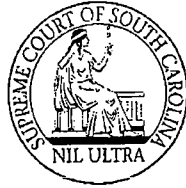
State of South Carolina  
Respondent

Certificate of Service

Appellant Charles W. McCormick certifies that all statements are true and correct. That copies are served to the Appellate Court, 14<sup>th</sup> Circuit Court Beaufort County and the Attorney General's Office c/o Danielle Dixon PCR Division AND the S.C. Supreme Court.

This day of MAY 1, 2024

Charles W. McCormick  
Charles W. McCormick  
326467 BBB-14  
Allendale CI.  
1057 Revolutionary Trail  
Fairfax, SC, 29827



# The Supreme Court of South Carolina

PATRICIA A. HOWARD  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211  
1231 GERVAIS STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499  
[www.sccourts.org](http://www.sccourts.org)

July 31, 2023

Mr. Charles W. McCormick, # 326467  
Allendale Correctional Institution  
P. O. Box 1151, Hwy 47  
Fairfax SC 29827

Re: Charles W. McCormick v. State of South Carolina  
Appellate Case No. 2022-001564

Dear Mr. McCormick:

This will acknowledge receipt of your letter of July 28, 2023. The docket number is listed above. Your case remains pending before the Court and you will be advised as soon as action has been taken.

Very truly yours,

CHIEF DEPUTY CLERK

cc: The Honorable Alan McCrory Wilson

October 26, 2022

To whom it may concern:

This letter is to verify receiving a copy of the transcript of Charles St. McCormick from the Court Reporter, Kimberlee Smithson.

Kimberlee stated to me in our phone conversation that there were "inaudible" portions on the tape.

Sincerely,

Lorraine Berger,

Sister to Charles St. McCormick



State of South Carolina  
The Circuit Court of the Fourteenth Judicial Circuit

Carmen Mullen  
Judge

100 Ribaut Road  
Beaufort, SC 29901  
Phone: (843) 255-5070  
Fax: (843) 522-8362  
cmullenj@sccourts.org

August 15, 2011

Charles W. McCormick  
326467, WB-133  
Lieber Correctional Institution  
P.O. Box 205  
Ridgeville, South Carolina 29472

RE: Beaufort County Grand Jury Inquiry

Dear Mr. McCormick:

This letter is in response to your inquiry to the Beaufort County Clerk of Court regarding a calendar of Grand Jury meetings for the year 2006. With all due respect to your request, the Court does not maintain such records and cannot provide you with these dates.

Please let us know if we may be of further assistance in this matter.

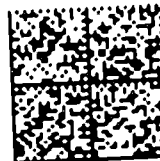
Sincerely,

A handwritten signature in cursive script that reads "C. Robin Graham".

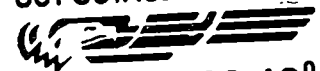
C. Robin Graham  
Law Clerk to The Hon. Carmen T. Mullen

Cc: The Hon. Jerri Ann Roseneau, Beaufort County Clerk of Court

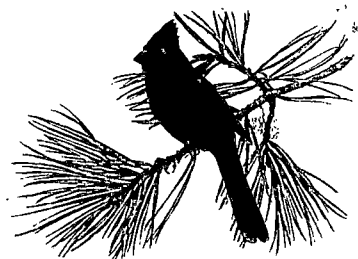
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Supreme Court of South Carolina  
Clerk of Court  
P.O. Box 11330

**RECEIVED**

MAY 07 2024

S.C. SUPREME COURT

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47 MAY 2024 PDC 302  
Columbia, SC 29211