

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM CHARLESTON COUNTY
COURT OF COMMON PLEAS

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AUG 19 2013

SC Court of Appeals

THE HONORABLE JUDGE YOUNG, CIRCUIT COURT JUDGE

APPELLATE CASE NO: 2013-0001526

ALBERT LEGARE

PETITIONER

VS

THE STATE OF SOUTH CAROLINA

RESPONDENT

FACTS ARGUMENT AND CITATION TO LEGAL AUTHORITY TO
SHOW ARGUABLE BASIS FOR ASSERTING THAT THE DET-
ERMINATION BY THE CIRCUIT COURT WAS IMPROPER
PURSUANT TO RULE 203 (D) (1) (B) (VI), SCACR

HONORABLE CLERK;

PURSUANT TO YOUR PRIOR ORDER PLEASE BE ADVISED
AS FOLLOWS:

THAT THE CIRCUIT COURT SOLELY FOUND THAT "THE ISSUES
COULD HAVE BEEN RAISED IN A TIMELY APPLICATION
UNDER THE POST-CONVICTION RELIEF ACT (SEE SIMPSON
V. STATE 495 S2D 429 (1998))."

HOWEVER THIS DETERMINATION WAS ERROR BY THE
COURT BASED ON THE FOLLOWING GROUNDS:

8/4/2013 SI Albert Legare

GROUND 1

THE RESPONDENTS WAIVED ALL DEFENSES BY FAILING TO ANSWER WITHIN 30 DAYS AFTER SERVICE OF SUMMONS

GROUND 2

THE RESPONDENTS WAIVED ALL DEFENSES BY FAILING TO APPEAR AT THE MAY 31 2013 HEARING

GROUND 3

THE RESPONDENTS VIOLATED THE TIME LIMITS TO HAVE PETITIONER IN COURT WITHIN 20 DAYS PURSUANT TO STATUTORY TIME LIMITS

GROUND 4

SUBJECT MATTER JURISDICTION MAY BE RAISED AT ANYTIME

GROUND 5

THESE GROUNDS WERE UNDER NEWLY DISCOVERED EVIDENCE AND SHOULD HAVE BEEN HEARD AS SUCH.

GROUND 6

PETITIONER IS ENTITLED TO DEFAULT JUDGMENT UNDER RULE 55 S.C.R. CIV PROCEDURE AND GRANT OF RELEASE FROM PRISON BASED ON SAME.

8/4/2013

St. Albert Legere

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VS

STATE OF SOUTH CAROLINA

RESPONDENT

PROOF OF SERVICE

THIS IS CERTIFICATION THAT I SERVED A COPY OF
RULE 203 REPLY ON THE FOLLOWING PARTIES
BY PLACING A COPY OF SAME IN THE U.S. MAIL
POSTAGE PREPAID ADDRESSED:

HONORABLE V CLAIR ALLEN
CLERK, COURT OF APPEALS
P. O. Box 11629
COLUMBIA SC 29211

RAYANNA WILSON
P. O. Box 11549
COLUMBIA SC 29211

8/4/2013 s/ Albert Legare

ALBERT LEBAIRE

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THE HONORABLE V CLARENCE ALLARD

CLERK, COURT OF APPEALS

P. O. Box 11629

COLUMBIA SC 29211

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AUG 05 2013

KCI

BUSINESS OFFICE

FROM: ...
TO: ...
SUBJECT: ...

FOR ITS CONTENTS.

WARDEN
KERSHAW CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS

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AUG 05 2012