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JUL 10 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The State of South Carolina,

Richland County General Sessions Court

Case No. C 746074

v.

REESE MOTION FOR HEARING TO VACATE
CONVICTION AND SENTENCE

Bernard Bagley,

Defendant.

COMES NOW, Bernard Bagley, pro se, a state prisoner confined within the South Carolina Department of Corrections (SCDC), at the Kershaw Correctional Institution in the custody of Warden Tonya James. Bagley is serving a life sentence for murder, in which he was tried before a jury in the Richland County Court of General Sessions, presiding Judge Dan Laney on April 10-12, 1991, whereby he was found guilty.

During the course of the three (3) day trial, Bagley was shackled with leg irons and a belly chain, and allowed only his right hand not to be under restraint without any proper determination and without any specific reasons. Moreover, Bagley asked and inquired to his attorneys on record (John Delgado and John O'Leary) why did the restraints have to stay on him before the jury when there was enough security in the court room? Attorneys informed Bagley, that's how Judge Laney is. He is just that kind of judge. Bagley complained about the restraints again when he had to testify with them on, with only his right hand not under restraint. There was no cameras in the court room, and when he made several complaints after trial, conviction, and sentencing, the courts informed him that the transcript can't show whether or not he was shackled with restraints. Bagley has raised the issue that trial judge abused his discretion, but the issue has never been resolved regarding the claim.

On July 3, 2024, upon reading Gray v. State, Appellate Case No. 2019-001127, Unpublished Opinion No. 2024-UP-227, Filed July 3, 2024 (2024 WL 3291598), Bagley's findings discovered an appeal from Richland County reversed and remanded. The Court explained:

[A] defendant in a criminal trial may not be required to wear handcuffs, leg shackles, or other restraints in the presence of the jury unless the trial court makes specific findings on the record as to the particular reasons the restraints are necessary. If the court finds restraints are necessary, it must make every reasonable effort to ensure the restraints are not visible to the jury.

In the Gray case, the Court quoted State v. Heyward, 441 S.C. 484, 895 S.E.2d 658 (2023)..2023

Although, there is nothing in Bagley's record indicated any of the jurors who for his trial could or see the shackles, they were visible for the entire court to see, thus, impinging Bagley's right to a presumption of innocence. However, the trial judge did inform my attorneys that we know that he is guilty, we are just here to determine whether its murder or manslaughter.

Bagley avers if the court would have made a proper determination of the need for shackles, or a specific reason for the need of the shackles, and made every effort that the shackles were not visible before the jury or the court in general he would not be prejudiced. But, for the past 33 years the courts have failed to allow Bagley redress regarding this matter because there is nothing in his record indicated any of the jurors seen the shackles, but there is numerous inaudible excerpts showing in the record. Bagley findings show that this is a common practice in Richland County General Sessions Court, specifically, where there is no camaras in the court room during the trial, such as his. Consequently, attorneys Delgado and O'Leary after Bagley's trial advocated for camaras in the court room for such reasons and other prejudicial tactics.

Nevertheless, trial judge Dan Laney abused his discretion during the course of Bagley's trial when the restraints were specifically visible to the jury when he walked to and from the witness stand, and again, throughout the trial. As such, this REESE Motion for a Hearing to Vacate his conviction and sentence as soon as practicable. SEE: Reese v. State, 441 S.C. 392, 894 S.E.2d 295 (Sept. 6, 2023), reversed and remanded.

Bagley avers whether are not there is nothing in Bagley's record indicated any of the jurors for his trial could or seen the shackles, the record indicates Bagley's movements to and fro to the witness stand to testify and that the jury saw him in leg irons and belly chain restraints that were visible to the jury when he shuffled to the witness stand.

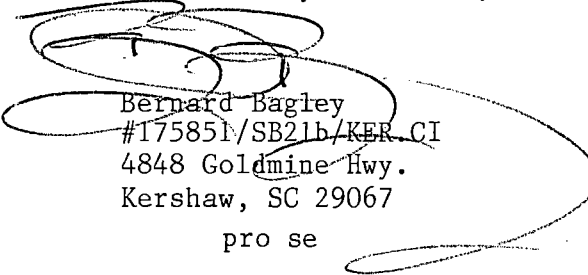
Conclusion

Based on the foregoing reasons, Bagley asks for permission to file for a Reese Hearing whether to vacate his conviction and sentence, or the alternative, for the Court to review the record where Bagley's movements to and fro the wit-

ness stand (State v. Bagley, 90-GS-40-5849). SEE: S.C. Code Ann., §17-23-110; Wiseman v. Texas, 223 S.W.3d 45 (2006); Deck v. Missouri, 544 U.S. 622 (2005); and Willocks v. Tennessee, 546 S.W.2d 819 (1976).

I hereby declare that the matters averred herein are true and correct that clearly describe the violations of state law and constitution due process and equal protections guarantees.

Respectfully submitted,



Bernard Bagley
#175851/SB21b/KER CI
4848 Goldmine Hwy.
Kershaw, SC 29067

pro se

July 5, 2024

IN THE SOUTH CAROLINA SUPREME COURT

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SC Court of Appeals

STATE OF SOUTH CAROLINA

Case No. C 746074

COUNTY OF LANCASTER

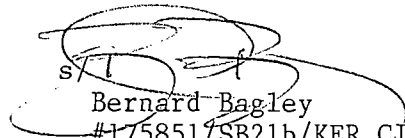
Bernard Bagley, #175851,
Affiant.

AFFIDAVIT IN SUPPORT
OF REESE MOTION

PERSONALLY appearing before me, Bernard Bagley, #175851, who being duly sworn, states the following:

I, Bernard Bagley, Affiant, pro se in this action, state:

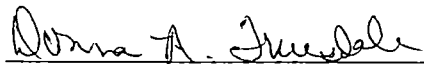
1. That there exists a cause of action against the State of South Carolina;
2. That the Reese Motion is made within a reasonable time for misconduct of of the trial judge Dan Laney's abuse of discretion that resulted in an error of law, mistake, or excusable neglect.
3. That the conviction and sentence is void because Bagley's record indicates movement to and fro the witness stand to testify and that the jury obviously saw him in shackle restraints, i.e. leg irons and belly chain that were visible when he shuffled (walked) to and fro the witness stand.
4. That Reese v. State, 441 S.C. 392, 894 S.E.2d 295 (Sept. 6, 2023), was reversed and remanded.
5. That the court did not make a proper determination of the needs for the shackles, or a specific reason for the need of the shackles whereby this is a common practice in the Richland County Courts of General Sessions.
6. That I, certify, declare, verify under penalty of perjury that the foregoing statement is true and correct, and that I am entitled to the same relief, privileges, and other rights the Court deem just and proper that Reese received.


 Bernard Bagley
 #175851/SB21b/KER.CI
 4848 Goldmine Hwy.
 Kershaw, SC 29067

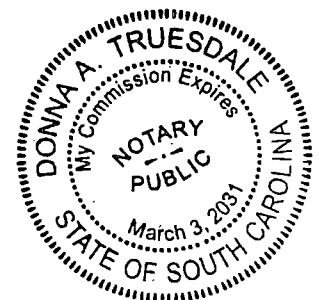
Affiant pro se

Sworn to and Subscribed before me

this 8th day of July, 2024


 Notary Public for South Carolina

My Commission Expires: March 03, 2031



THE STATE OF SOUTH CAROLINA
In The Supreme Court

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SC Court of Appeals

STATE OF SOUTH SOUTH CAROLINA

COUNTY OF RICHLAND

The State

VERIFICATION

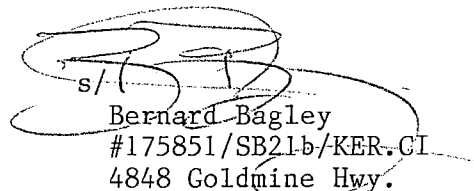
v.

Case No. C 746074

Bernard Bagley,
Defendant.


I have read the Reese Motion for Hearing to Vacate Conviction and Sentence, and hereby verify that the matters avered therein are true and correct that clearly describe the violations of state law and constitution due process, and equal protection guarantees. In Conley v. Gibson, 355 U.S. 41, 41-46 (1957), the U.S. Supreme Court said that in considering a motion to dismiss, a pro se complaint should be held to less strict standards than a motion drafted by a lawyer. WHEREFORE, I certify under penalty of perjury that the Reese Motion for Hearing to Vacate Conviction and Sentence I believe to be true.

Executed in Kershaw, SC July 5, 2024.

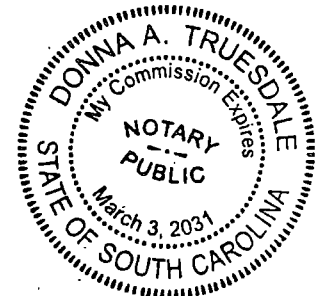

s/ Bernard Bagley
#175851/SB21b/KER-CI
4848 Goldmine Hwy.
Kershaw, SC 29067
pro se

Sworn to and Subscribed before me

this 8th day of July, 2024


Notary Public for South Carolina

My Commission Expires: March 03, 2031



THE STATE OF SOUTH CAROLINA
In The Supreme Court

Richland County General Sessions Court
Case No. C 746074

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SC Court of Appeals

The State v. Bernard Bagley,
Defendant.

CERTIFICATE OF SERVICE

I certify that I have served the Reese Motion, Affidavit in Support, and Verification on the parties by depositing a copy of the same in the U.S. Mail, postage prepaid, on July 8, 2024, addressed to the following:

Richland County Clerk of Court
Jeanette W. McBride, Clerk
P.O. Box 2766
Columbia, SC 29202

S.C. Court of Appeals
Jenny A. Kitchings, Clerk of Court
P.O. Box 11629
Columbia, SC 29211

Richland County Solicitor's Office
Byron Gipson, Solicitor
P.O. Box 192
Columbia, SC 29202


S.C. Office of Attorney General
Allan Wilson, Attorney General
P.O. Box 11549
Columbia, SC 29211

Richland County Circuit Court
Chief Administration Judge
P.O. Box 192
Columbia, SC 29202

SCDC Office of General Counsel
P.O. Box 21787
Columbia, SC 29221

SCDPPPS Office of General Counsel
Matthew C. Buchanan, Esq.
P.O. Box 207
Columbia, SC 29202

July 8, 2024


s/ Bernard Bagley
#175851/SB21b/KER.CI
4848 Goldmine, Hwy.
Kershaw, SC 29067
pro se

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Bernard Bagley, #175851
Kershaw CI/SB21b
4848 Goldmine Highway
Kershaw, SC 29067

S.C. Supreme Court
Office of the Clerk of Court
P.O. Box 11330
Columbia, SC 29211

RE: State v. Bagley, Case No. C 746074.

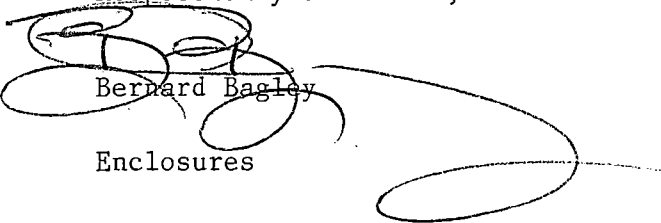
Dear Madam Howard:

Enclosed for filing for permission to file in the lower court, or in this Court's original jurisdiction are the following:

1. Reese Motion for Hearing to Vacate Conviction and Sentence;
2. Affidavit in Support of Reese Motion;
3. Verification; and
4. Certificate of Service.

If a filing fee is required, please allow me to proceed *informa pauperis*, or provide me a filing fee cost in this Court's original jurisdiction. Your findings will show that I am entitled to the relief requested.

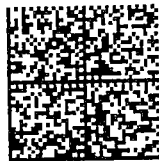
Respectfully submitted,


Bernard Bagley

Enclosures

cc: Jeanette W. McBride, Clerk
Jenny A. Kitchings, Clerk
Byron Gipson, Solicitor
Allan Wilson, Attorney General
SCDC Office of General Counsel
Matthew C. Buchanan, SCDPPPS GC
Chief Administration Judge, Richland County

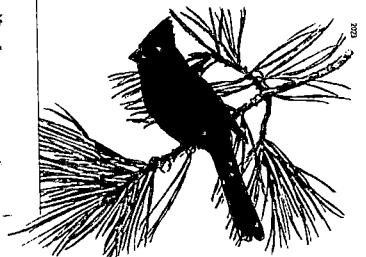
Bernard Beale
#175851-DB213 Ker. Co.
4848 Columbia Heights
Kershaw, S.C. 29067



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MAIL ROOM

So. Court of Appeals
Trent A. Kitchens, Clerk of Court
P.O. Box 11619
Columbia, S.C. 29211-1619

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