

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

APPEAL FROM GREENVILLE COUNTY  
COURT OF COMMON PLEAS

G. D. MORGAN, JR., CHIEF ADMIN. JUDGE

Case No. 2021-CP-23-03093

APP. CASE NO. 2024-001190

BOBBY JOE BARTON, . . . . . APPELLANT,

v.

STATE OF SOUTH CAROLINA, . . . . . RESPONDENT.

MOTION FOR TEMPORARY STAY

APPEAL CASE NO. 2024-001190

THE ABOVE APPELLANT MOVE BEFORE THE HONORABLE COURT WITH A TEMPORARY MOTION OF STAY DUE TO CIRCUMSTANCES BEYOND HIS CONTROL BUT NOT LIMITED TO: PURSUANT SCA CR, RULE 246;

APPELLANT WAS NOTIFIED BY A LETTER FROM THE SUPREME COURT OF SOUTH CAROLINA ON THE 12, DAY OF AUGUST, 2024, THAT IN ACCORDANCE WITH RULE 243(2), SCA CR, REQUIRES A WRITTEN EXPLANATION AS TO WHY THE LOWER COURT DETERMINATION WAS IMPROPER WITHIN (20) DAYS. See EXHIBIT-A } ATTACHED

THE APPELLANT MOTION FOR A TEMPORARY STAY DUE TO THE FACTS

THAT AFTER PLACING TIMELY OBJECTIONS ON THE RECORD AND FILING MOTION FOR ALTER/OR AMEND, RULE 59(e) & RULE 52(a) OF SC R CP, PURSUANT TO SC CODE ANN. 1976 § 17-27-80. THE PETITIONER DID FILE A TIMELY APPEAL WITH THE SUPREME COURT OF SOUTH CAROLINA ON JULY 15, 2024.

THE APPELLANT DID ALSO FILE A MOTION FOR "APPOINTMENT-OF-COUNSEL" WITH THE CLERK OF COURTS OFFICE, HON. PATRICIA A. HOWARD, THE SOUTH CAROLINA COMMISSION OF INDIGENT DEFENSE, DIVISION OF APPELLATE DEFENSE ADDRESSED TO ROBERT M. DUDEK, CHIEF APP. DEFENSE AND ALSO THE HONORABLE JENNY ABBOTT KITCHINGS, CLERK OF COURT OF APPEALS,

APPELLANT ENCLOSED WITH THIS MOTION AN AFFIDAVIT TO PROCEED IN FORMA PAUPERIS WITH A CERTIFIED INMATE FINANCIAL STATEMENT FROM S.C.D.C. FINANCE DIVISION ALONG WITH A CERTIFICATE-OF-SERVICE ON 7/18/2024, 7/30/2024, AND 8/6/2024. AS OF THIS MOTION TO STAY THERE HAVE BEEN NO RULING (DECISION) ON APPOINTMENT OF COUNSEL. HOWEVER THE CASE HAS BEEN ACCEPTED BY THE APPELLATE COURT AND ASSIGNED AN APPELLATE CASE NO. #2024-D01190.

ON JULY 27, 2024 APPELLANT DID RECEIVE A "ORDER" FROM THE SUPREME COURT OF SOUTH CAROLINA STATING "PURSUANT TO RULE 204(2) OF SC APPELLATE COURT RULES, THIS MATTER IS HEREBY TRANSFERRED TO THE SOUTH CAROLINA COURT OF APPEALS!". See EXHIBIT - #8 ATTACHED.

"SCRA Ct. RULE 204"

RULE 204. TRANSFER OF CASES

(3) IMPROPERLY FILED CASES: "IN THE EVENT THAT THE NOTICE OF APPEAL IS FILED IN THE WRONG APPELLATE COURT, THE APPELLATE IN WHICH THE MATTER IS FILED SHALL ISSUE AN ORDER TRANSFERRING THE CASE TO THE APPROPRIATE APPELLATE COURT."

ON AUGUST 1, 2024 APPELLANT DID RECEIVE A LETTER FROM CHIEF DEPUTY CLERK, BRENDA J. SHEALY ONCE AGAIN INSTRUCTING THE APPELLANT THAT THEY WERE FORWARDING DOCUMENTS FROM THE SUPREME COURT TO THE COURT OF APPEALS AND ANY FURTHER FILINGS SHOULD BE SENT TO THE COURT OF APPEALS. SEE EXHIBIT # C } ATTACHED

APPELLANT STATE THAT HE HAS FILED AN "APPOINTMENT OF COUNSEL" ON AUGUST 6, 2024. SEE "EXHIBIT # D" ATTACHED. HOWEVER THIS MOTION IS STILL PENDING AND THE DECISION SHOULD BE SETTLED BEFORE ANY OTHER ACTIONS BEING CARRIED OUT.

THE PETITIONER APPLICATION, REPLY MOTION, EXHIBITS, TRANSCRIPTS, CERTIFIED DOCUMENTS WHICH SUBSTANTIATE AND CORROBORATES HIS CLAIMS, ALSO THE RECORD OF THE CLOSED CHAMBER REVIEW BY A LOWER COURT CHIEF ADMINISTRATIVE JUDGE WITH OBJECTIONS AND MOTIONS PROPERLY AND TIMELY PLACED ON THE RECORD BUT NOT ACKNOWLEDGED BY THIS COURT. THEREFORE REMOVING THE FUNDAMENTAL FAIRNESS OF THIS HEARING. IN COMPARISON TO "STATE V. JERIOD J. PRICE," 441 SC 423, 895 S.E.2d 633 (SC, 2023), HOWEVER THE HEARING WORKING AGAINST THE APPELLANT IN THE CASE AT HAND.

APPELLANT ALSO STATE THAT ALL OF THE LOWER COURT RECORDS HAS NOT

BEEN TRANSFERRED TO THE APPELLATE COURT, THE RECORD IS NOT PRESERVED FOR APPELLATE REVIEW INSPITE OF THE PETITIONER TIMELY AND PROPERLY FILING THE APPROPRIATE MOTIONS. (IF 59(e) & 52(a), SC A CR, THEREFORE THE APPELLANT FILED THE NECESSARY PAPERS WITH THE APPROPRIATE COURTS AND OFFICES TO "APPOINT COUNSEL TO DEFEND HIS CASE IN THE APPELLATE COURT, BEFORE MOVING FORWARD.

APPELLANT IS NOT AN ATTORNEY AND HAS DONE EVERYTHING HAS ASK OF HIM, NOW THE COURT ASK ME TO REPRESENT HIMSELF IN A APPELLATE COURT, THEREFORE IT WOULD BE LIKE AMBUSH BY THE COURT TO FORCE HIM TO DO SO AND TO DENY HIM COUNSEL. IT IS MY BELIEF THE FIRST RULE OF LAW WOULD BE TO "REMAND TO THE LOWER COURT AND COMPEL THE LOWER COURT TO COMPLY WITH RULE 59(e) & 52(a) SC A CR" AND PRESERVE THE RECORD FOR REVIEW, WHICH WAS FILED PROPERLY AND TIMELY AND WITHOUT SUCH THERE IS NO RECORD TO REVIEW. APPELLANT STATES OTHERWISE THE STATE HAS SHIFTED THE BURDEN TO THE APPELLANT AND RELIEVED THE COURT OF ITS DUTY TO SPECIALLY ADDRESS THE FINDINGS OF FACTS, SUPPORTED BY THE CONCLUSION OF LAW, PURSUANT TO SC CODE ANN. 1976 § 17-27-80,


WHEREFORE APPELLANT ASK THIS HONORABLE COURT TO GRANT HIM MOTION FOR A "TEMPORARY STAY" UNTIL A RULING CAN BE MADE ON THE "MOTION FOR APPOINTMENT OF COUNSEL" OR AN "EXTENSION OF TIME" TO CONSULT WITH AN ADVISOR OF LEGAL COUNSEL AND TO BE ASSISTED IN LEGAL ACTIONS TO HELP IN THE WAY AN

APPELLATE COUNSEL CAN POINT OUT TO THE COURT HOW THE LOWER COURT HAS ABUSED ITS DISCRETION FROM THE VERY BEGINNING OF REVIEWING THIS CASE. See EXHIBIT E

THEREFORE APPELLANT RESPECTFULLY ASK THIS COURT FOR A "TEMPORARY STAY" OR ANY OTHERWISE GRANT HIM THE OPPORTUNITY FOR "APPOINTMENT OF COUNSEL" OR ANY OTHER OPTIONS THE COURT MAY GIVE HIM THAT IT DEEMS JUST AND APPROPRIATE WHEREAS HE IS NOT FORCED TO OPERATE PRO SE.

MAILED ON THE 19, DAY OF AUGUST,  
2024,  
IN THE COUNTY OF SPARTANBURG

RESPECTFULLY SUBMITTED,



BOBBY JOE BARTON, #163629  
LIVESAY C.I. (B) CAMP  
P.O. BOX 580  
UNION, SC 29378-0580

C: Melody J. Brown, Esq., ATT. GEN. OFFICE  
Bobby Joe Barton, APPELLANT

SCDC  
AUG 19 2024  
MAIL ROOM