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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Colleton County

Honorable William H. Seals, Circuit Court Judge

MAURIO D. RIVERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2020-001106

SUPPLEMENTAL APPENDIX

KATHRINE H. HUDGINS
Senior Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MARK R. FARTHING
Senior Assistant Deputy Attorney General
PO Box 11549
Columbia, SC 29201-1549

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

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MOTION TO ALTER OR AMEND FILED JANUARY 23, 20201
RETURN TO MOTION TO ALTER OR AMEND DATED JULY 21, 20203

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	FOURTEENTH JUDICIAL CIRCUIT
MARIO D. RIVERS, #232669,	)	C/A NO.: 2016-CP-15-0647
Applicant,)	
-versus-)	
STATE OF SOUTH CAROLINA,	)	MOTION TO ALTER OR AMEND THE
Respondent.	)	JUDGMENT PURSUANT TO RULE
	)	59(e), S.C.R.Civ.P.

Applicant, by and through undersigned counsel, hereby moves this Honorable Court to alter or amend the judgment filed on January 2, 2020 and received by undersigned counsel on January 6, 2020 to include rulings on all issues raised by Applicant in his Applications and during the hearing of this matter.

COLLETON COUNTY
 COMMON PLEAS COURT
 2020 JAN 23 AM 11: 26

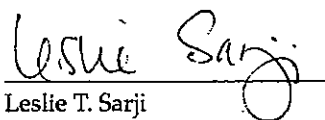
The grounds for this Motion are as follows:

1. That the judgment does not address applicant’s assertion that trial counsel was ineffective for failing to request a jury charge instructing the jury that specific intent to kill must be proven in order to support a conviction for Attempted Murder;
 2. That the judgment does not address the issue raised in Applicant’s amended application filed November 27, 2017 that trial counsel was ineffective for failing to move to require the State to elect a theory or basis of criminal liability;
 3. That the judgement failed to address the issue raised in Applicant’s amended application filed November 27, 2017 regarding disparity in sentences received by Applicant and his co-defendant;
- and

4. That the judgment fails to address the issue raised during Applicant's post-conviction relief hearing that trial counsel was ineffective for failing to properly advise Applicant regarding his testimony at trial and whether any prior convictions would be admissible against him.

Applicant requests this Court alter or amend the judgment in this case to include specific rulings on each of the issues raised.

Respectfully submitted,

A handwritten signature in cursive script that reads "Leslie Sarji". The signature is written in black ink and is positioned above a horizontal line.

Leslie T. Sarji
SC Bar No.: 15672
PO Box 20248
Charleston, SC 29413
(843)722-5354
Attorney for Applicant

Charleston, South Carolina
January 15, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	FOURTEENTH JUDICIAL CIRCUIT
)	
Maurio D. Rivers, #232669,	)	2016-CP-15-0647
)	
Applicant,)	
)	
v.)	
)	
	)	RETURN TO APPLICANT'S
	)	"MOTION TO AMEND AND ALTER
	)	JUDGMENT PURSUANT TO RULE
	)	59(E), SCRPC"
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

Respondent, by and through undersigned counsel, making its Return to Applicant's "Motion to Alter or Amend Judgment Pursuant To Rule 59(e), SCRPC," would respectfully show unto this Court:

I.

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Colleton County Clerk of Court's orders of commitment. Applicant was indicted by the August 2011 term of the Colleton County Grand Jury for two counts of attempted murder (2011-GS-15-00549, -550) and possession of a weapon during the commission of a violent crime (2011-GS-15-551). John D. Bryan, Esquire, represented him. Solicitor Steven Knight prosecuted the case. On December 12-13, 2012, Applicant proceeded to trial before the Honorable Diane S. Goodstein. Applicant was found guilty as indicted of one count of attempted murder (2011-GS-15-549). Applicant was found not guilty of attempted murder (2011-GS-15-550) and possession of a weapon during the commission of a violent crime (2011-GS-15-551). Judge Goodstein sentenced Applicant to incarceration for thirty years.

Applicant filed a timely notice of appeal. Carmen V. Ganjehsani, Esquire represented Applicant and filed an *Anders* brief. On December 3, 2014, the South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Rivers, Op. No. 2014-UP-441 (S.C. Ct. App., Filed December 3, 2014).

Applicant subsequently filed a petition for rehearing on December 4, 2014. Applicant also filed a petition for writ of certiorari to the South Carolina Supreme Court. On December 17, 2014 the South Carolina Supreme Court issued an order stating that it would construe Applicant's notice of appeal as a petition for writ of certiorari, and dismiss the petition without prejudice until the South Carolina Court of Appeals issues its decision on Applicant's petition for rehearing. The Remittitur was sent down on December 31, 2014. On January 29, 2015, the South Carolina Court of Appeals issued an order recalling the remittitur. On January 30, 2015, the South Carolina Court of Appeals granted Applicant's motion to relieve his counsel, and thereafter, proceeded pro se. On April 16, 2015, the South Carolina Court of Appeals denied Applicant's petition for rehearing.

On April 27, 2015, the South Carolina Supreme Court received Applicant's petition for writ of certiorari. On November 19, 2015, certiorari was denied. The Remittitur was sent down on December 7, 2015.

II.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. "Failing to object to the jury instructions charging the hand of one is the hand of all."
 - b. "Failing to motion for a directed verdict on the charge of accomplice liability in regard to Attempted Murder."
 - c. "Failing to object to the inclusion of a criminal offense for which the defendant was not indicted (Burglary and a getaway driver) as an example to the jury defining accomplice liability/or the hand of one is the hand of all."

An evidentiary hearing into the matter was convened at the Beaufort County Courthouse. Applicant was present at the hearing and was represented by Leslie Sarji, Esquire. Respondent was represented by Assistant Attorney General Benjamin Limbaugh of the South Carolina Attorney General's Office. After hearing all the testimony presented at the evidentiary hearing, as well as arguments from both parties, this Court issued an order of dismissal on January 2, 2020, denying and dismissing the application with prejudice.

Subsequently, on January 15, 2020, Applicant submitted a “Motion to Amend and Alter Judgment Pursuant To Rule 59(e), SCRCP.” This Return follows.

III.

In his “Motion to Amend and Alter Judgment Pursuant To Rule 59(e), SCRCP,” Applicant asserts trial counsel was deficient for requesting the accomplice liability charge to the jury, failing to introduce the uncredibility of the state’s witness Allan Innabinet, and failing to elect a theory of criminal liability. In support of these allegations, Applicant asserts the evidence did not support a jury charge on accomplice liability, counsel should have introduced that Detective Innabinet had been convicted for falsifying statements to federal agents, and not moving to elect a theory allowed the State to prosecute Applicant as both the principle and the alleged accomplice. Applicant asserts that this Court should alter or amend the order and grant Applicant post-conviction relief.

Respondent submits this Court’s order of dismissal contains the required findings of facts and conclusions of law as required by S.C. Code Ann. §17-27-80 (1976) and Rule 52(a) SCRCP. *See also McCray v. State*, 305 S.C. 329, 408 S.E.2d 241 (1991). Respondent submits the Court fully enumerated its reasoning in the order, including citations. Respondent submits Applicant’s motion does not provide any insight not already considered by this Court when making its ruling.

Respondent submits this Court fully ruled on all issues properly presented through Applicant's post-conviction relief application and Applicant's "Motion to Amend and Alter Judgment Pursuant To Rule 59(e), SCRCF" should be denied. As each properly raised allegation was addressed fully in the order, Respondent submits Applicant's assertions are without merit.

IV.

WHEREFORE, having made its Return to the motion, the State requests the relief requested in the motion be denied and that said motion be dismissed.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BENJAMIN LIMBAUGH
Assistant Attorney General

By: s/ Benjamin Limbaugh
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

July 21, 2020

From: [Stock, Chris](#)
To: mfarthing@scag.gov; [SC - COLLINS CAROLINE](#)
Cc: [Hudgins, Kathrine](#)
Subject: 2020-001106 - Maurio D. Rivers - Supplemental Appendix
Date: Tuesday, September 24, 2024 10:16:00 AM
Attachments: [2020-001106 - Maurio D. Rivers - Supplemental Appendix.pdf](#)

Mr. Farthing,

Please find attached for service the Supplemental Appendix for Maurio D. Rivers' appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

Chris Stock
Administrative Assistant
Commission on Indigent Defense
Appellate Division
(803) 734-1330