

RECEIVED

OCT 07 2024

S.C. SUPREME COURT

Appellate Case No. 2024-001521

(1 of 2)

The State OF SOUTH CAROLINA

In The Court OF APPEALS

[In The Supreme Court]

{ 41:1. Notice of Appeal

Dear Clerk of Court,

As a courtesy, I ask that you may
Clock, date, Stamp & return a copy to Appellant, thanking
you in advance, please enjoy your day.

Sincerely,

Mr. Emory W. Roberts Jr.

373393

{ 41:1. Notice of Appeal (From Court Form 1, SCACR)

(2 of 3)

The State OF SOUTH CAROLINA

In The Court of Appeals

[In The Supreme Court]

Appellate Case No. 2024-001521

APPEAL FROM BERKELEY COUNTY

Court of Common Pleas

Ninth Circuit, Circuit Court Judge R. Kirk Griffin

Case No. 2020-CP-08-01349

State of South Carolina

V.

Mr. Emory W. Roberts Jr.

NOTICE OF APPEAL

Mr. Roberts (Appellant), appeals the order denying PCR, of the Honorable R. Kirk Griffin dated August 26, 2024. Appellant received written notice of entry of this order denying PCR relief on September 10, 2024.

Other Counsel of Record

Danielle Dixon, AAG

South Carolina

Attorney General's Office

P.O. Box 11549

Columbia, SC

29211-1549

Name of Attorney

Mr. Emory W. Roberts Jr. (Prose)

Perry Correctional Institution

430 Oaklawn Road

Pelzer, South Carolina 29669

Certificate OF Service (§5:2)

(3 of 3)

I, Mr. Emory W. Roberts Jr., did this date (10-1-2024) serve a "Notice of Appeal" from Berkeley County Court of Common Pleas, by placing a copy of the same in a United States Postal Service Mail Box, Postage Paid, and Addressed as follows:

Danielle Dixon, AAG
South Carolina Attorney General's Office
PCR Division
P.O. Box 11549
Columbia, SC 29211-1549

The Supreme Court of South Carolina
South Carolina Court of Appeals (Clerk of Court)
Post Office Box 11330, Columbia, South Carolina, 29211

This ~~1st~~ day of ^{October (EWR)} ~~September~~, 2024 10
Name of Attorney: Mr. Emory W. Roberts Jr. (Pro se).

Appellate Case No. 2024-001521

(4 of 8)

Mr. Emory W. Roberts Jr.

Appellant, Prose

V.

State of South Carolina
Berkeley County Court of
Common Pleas.

Respondent

South Carolina Court of Appeals

Case No. 2020-CP-08-1349

Date: 9-24-24

Appeal From Berkeley County Court
of Common Pleas

Re: Rule 62, SCBCP

Rule 62 Stay of Proceedings To
Enforce Judgment

§ 243(b) Notice of Appeal and Ordering of
Transcript

§ Rule 59(e); Rule 60(b)(4); Rule 60(b)(3)(G)

§ Proof of Service as required by Rule 243(b) and

Honorable Clerk of Court:

203(d)(1)(B)(i), SCACR

Please Clock, Stamp, Copy

§ Written Statement as required

& Return A Copy To Appellant,

by Rule 203(e)(1)(C), SCACR

Thank you kindly.

* Rule 62. Stay of Proceeding To Enforce Judgment. *

(b) Stay on Motion For New Trial or For Judgment.

"In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b).

Relevant Facts

Appellant petitioned for a Writ of Mandamus (dated August 5, 2024) to compel: 1.) Compliance of § 17-27-80 by the PCR court to issue a Proposed Order rendering its findings of fact and its conclusions of law to issues raised in Application; 2.) Compliance of § 17-27-80 in order that Mr. Roberts' right to seek appellate review of the denial of PCR which is expressly authorized by state law be (restored), S.C. Code Ann. § 17-27-100 (1985); Supreme Court Rule 50(9); and 3.) That Denise Swope, Esquire comply with SCACR 3.3, as Mr. Roberts had been given the Forette warnings by Judge Griffin in his PCR proceedings and it was ordered that Mr. Roberts be accorded his Sixth Amendment right to proceed pro se - to which he had at every one of his PCR hearings. Subsequent to Judge's [order], his order was [reversed] in violation of Rule 60. of the Circuit Courts and Mr. Roberts Petitioned for a Writ of Mandamus to address these issues. Mr. Roberts attempted to include the same issues in a Petition for a Writ of Certiorari (dated September 10, 2024), to the Supreme Court of South Carolina at present. Also, Mr. Roberts has included the issue of the failure of PCR court to render its findings of fact and conclusions of law regarding Appellants "ineffective assistance of counsel claim" ... that counsel was ineffective assistance of counsel when trial counsel failed to object and cite controlling precedent regarding "introduction of testimonial hearsay in form of lab reports and out-of-court statements" read into record by officers, despite the declarants unavailability for trial - this was included in Mr. Roberts [timely] submitted Rule 59(e) but was returned to Mr. Roberts by Clerk of court instructing that "All correspondence

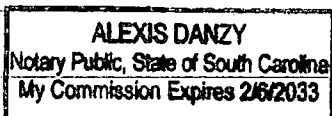
should be sent to your lawyer" (See Enclosure From Leah Guerry Dupree, Clerk, dated 9-13-24). Mr. Roberts contends that the Clerk failed in her ministerial duty to file Mr. Roberts [timely] submitted Rule 59(e); Rule 60(b)(4); and Rule 60(b)(3)(6), as Mr. Roberts [is] his "lawyer" and his due process right to appellate review has been violated as a result of Denise Swope, Esquire failing to announce of make known to the court that she is not my attorney. Mr. Roberts has recently Petitioned for "another" Writ of mandamus in order to compel "Leah Guerry Dupree, Clerk" to file my "Prose" filings and to enter an order declaring that Mr. Roberts file/or submitted motions [timely] and that he be given a chance to re-submit his Rule 59(e) for filing that he may enjoy his due process right to Appellate review; Mr. Roberts has ask the court to compel compliance with § 17-27-80 by the PCR court; and to compel Denise Swope, Esquire to "disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of Mr. Roberts and [not] disclosed by opposing counsel," SCACR 3.3.

In short, Mr. Roberts asks this Court, pursuant to Rule 62, SCRCP, to Stay of Proceedings To Enforce Judgment. The failure of PCR court to comply with § 17-27-80; and the infringement of Mr. Roberts Sixth Amendment right to proceed prose and the Clerk's Failure of her ministerial duty to file papers, Mr. Roberts cannot access the court to even have file his Rule 59(e) until the disposition of Writ of Mandamus to compel compliance and restore Mr. Roberts right to proceed prose and to seek appellate review, and therefore asks for "A Stay of Proceedings To Enforce Judgment".

(8 of 8)

I, attest upon the penalty of perjury that
the enclosed facts are true and accurate regarding
my right to Appellate Review pursuant to Rule 62, SCRPC,
and that my petition for Appellate review is timely.
Further Affiant Sayth Not. Emory W. Roberts Jr.

Sworn to and subscribed
before me on this 23rd
day of September, 2024.
Alexis Danzy Notary Public



As Required By Rule 203(e)(1)(C), SCACR:

Date of Order: August 26, 2024.

Judgment: Dismissed with prejudice.

Sentence from which appeal is taken: 25 Years

I, Mr. Emory W. Roberts do attest to receiving the written notice of entry of the final order in this case on September 10, 2024.

Emory W. Roberts Jr.

Proof of Service

A copy of (Petition For a Writ of Certiorari dated 9-10-24), has been served on the counsel for the State as required by Rule 243(b) - Enclosed is a copy of the Certificate of Service dated 9-10-24 proving I served respondent for the State; subsequent to this service, "some how" my correspondence was delivered to the "Administrative Law Court" despite my "clear" addressing to Danielle Dixon, Esquire at the South Carolina Attorney General's Office - the Writ of Cert. was sent back to me by the "Administrative Law Court", to which I made copies of my "Envelope" address to the State and made copies of the "Envelope" the Law Court sent back to me. At that point I made copies (enclosed), wrote Supreme Court of South Carolina explaining this and promptly "re-sent" the Writ of Certiorari" to Danielle Dixon, Esquire on that same day.

Dear Clerk of Court,

(9-10-24)

Leah Guerry Dupree

If there is any misunderstanding or confusion regarding Mr. Roberts "Pro se" status, I direct you to the bottom of Page 1 of the States "Order of Dismissal" where it expressly states: "Applicant was previously appointed counsel, but counsel was relieved at Applicant's request, and Applicant was permitted to proceed pro se." (Emphasis). Also see, Applicant's "Petition for a Writ of Mandamus" dated August 5, 2024 to South Carolina Supreme Court regarding "SCACR 3.3";

Accordingly, all motions submitted to this court will be of Pro se status by Mr. Roberts; see Supreme Court correspondence to Mr. Roberts (Appellate Case No. 2024-001351) dated August 20, 2024.

Accordingly, I ask that my Rule 59(e); Rule 60(b)(4); and Rule 60(b)(3)(b) motions be filed, clocked, stamped, thanking you in advance.

Mr. Emory W. Roberts Jr.

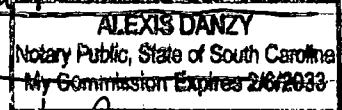
Affidavit

I, Mr. Emory W. Roberts Jr., being the Affiant Knows the facts stated herein to be true of his own knowledge and sworn to be true and correct under the penalty of perjury and sworn to or Affirmed before an officer authorized to administer oaths.

Sworn to and subscribed before

me on September 10th, 2024

Alexis Danzy



Affiant, Mr. Emory W. Roberts Jr.

that enclosed are "supporting exhibits" which includes:

- 1.) Letter from former "Clerk of Court" of Berkeley County, Mary P. Brown dated (7-6-16) (Re: lack of jurisdiction) (Exhibit G).
- 2.) Letter from "Christina Bass" of SLED dated June 9, 2016 (Exhibit A).
- 3.) Letter from R. Brady Vannoy, Esquire and "print-out" of public index dated March 7, 2017 (Exhibit D-1, D-2).
- 4.) Supreme Court of South Carolina, Court Administration correspondence dated (10-16-17) (Exhibit E); (10-23-17) (Exhibit B); (10-31-17) (Exhibit F); (11-6-17) (Exhibit C).
- 5.) Motion to be filed by PCR Court: Rule (60)(b)(3) (Extrinsic Fraud, Misconduct).
- 6.) Motion to be filed by PCR Court: Rule (60)(b)(4).
- 7.) Motion to be filed by PCR Court: Rule 59(e), New Trials; Amendment of Judgments Motion To Alter or Amend A Judgment (Rule 59(e)).

Certificate of Service (§5:2.)

I, Mr. Emory W. Roberts Jr., did this date (9-10-24) serve
A Petition for a Writ of Certiorari, by placing a copy of the
same in a United States Postal Service Mail Box, Postage Paid,
and addressed as follows:

Danielle Dixon, Esquire
South Carolina Attorney General's Office
PCR Division
P.O. Box 11549
Columbia, SC 29211-1549

Judge R. Kirk Griffin
215 North Harvin Street, Suite 226
Sumter, South Carolina 29150

Original Copy Sent to: Patricia A. Howard, Clerk of Court
The Supreme Court of South Carolina
Post Office Box 11330, Columbia, South Carolina, 29211

This 3rd day of September, 2024
Name of Attorney: Mr. Emory W. Roberts Jr. (Pro Se)



**LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY
COMMON PLEAS**

POST OFFICE BOX 219
MONCK'S CORNER, SOUTH CAROLINA 29461-0219
(843) 719-4400 (843) 567-3136 (843) 723-3800

TO: Mr. Roberts

RE: 2020 CP 08 1349

The enclosed document is being returned for the following reason(s):

- ☐ This document is not signed / notarized
- ☐ The filing fee is insufficient. The correct amount is _____
- ☐ This document is a copy. We must have original.
- ☐ This is not a Berkeley County case
- ☐ The check or money order must be made payable to the **Clerk of Court**.
- ☐ The case is ended. Date ended: _____
Reason Ended: _____
- ☐ Your Check must be signed. _____ Stale dated check
- ☐ Inmate litigation must comply with S.C. Code of Laws, Title 24, Chapter 27
- ☐ There is not a case listed in our system that matches this caption.
- ☐ The required **new case** coversheet is not included.
- ☐ The required **motion/order** coversheet is not included.
- ☐ The required **order (Form 4)** coversheet is not included.
- ☐ Information may be obtained from our web-site at www.berkeleycountysc.gov.

☒ Other All correspondence should be to your attorney.

Please make the necessary corrections and return this document for filing.
Thank you for your assistance.

Staff Initials

LD

Date

9/13/2024