

RECEIVED

NOV 14 2024

THE SUPREME COURT OF SOUTH CAROLINA

S.C. SUPREME COURT

BOBBY JOE BARTON, #163629  
APPELLANT,

v.

STATE OF SOUTH CAROLINA,  
APPELLEE.

APPELLATE CASE NO. 2024-001190

MOTION REQUESTING A ReHEARING  
AND A Rehearing En banc FOR  
MOTION FOR LEAVE TO FILE RELIEF  
FROM JUDGMENT TO FILE RULE 60(b),  
SCRCP.

THE APPELLANT PETITION THE COURT WITH A MOTION REQUESTING FOR A Rehearing and A Rehearing En banc due to the CIRCUMSTANCES PETITIONER BELIEVES THAT THE COURT HAS OVERLOOKED OR MISAPPREHENDED THE FACTS AND THE REASONS THAT HE FILED THE MOTION FOR LEAVE TO FILE RELIEF FROM JUDGEMENT.

PETITIONER STATED ON THE RECORD THAT THE CURRENT ACTION BEING HELD UNDER APPEAL (Case No. 2024-001190) WHICH HAS NOT BEEN ENTERTAINED BY THE COURT OF APPEALS YET, WAS NOT FILED UNDER THE PROPER APPLICATION. IT WAS FILED UNDER THE POST CONVICTION RELIEF ACT AND IT SHOULD HAVE BEEN FILE UNDER RULE 60(b), SCRCP, FRAUD UPON THE COURT THROUGH AFTER-DISCOVERED EVIDENCE, WHICH COULD NOT HAVE BEEN DISCOVERED THROUGH DUE DILIGENCE BUT WAS DISCOVERED AFTER A LENGTHY INVESTIGATION.

PETITIONER STATE THAT FRAUD UPON THE COURT MUST BE FILED UNDER RULE 60(b), SCRCP AND NOT UNDER THE POST CONVICTION

ACT.

PETITIONER STATES THAT PURSUANT TO RULE 60(b), THERE IS NO STATUTE OF LIMITATIONS AS LONG AS IT'S FILED SOON AS POSSIBLE. THE PETITIONER HAS DONE SO HOWEVER IT WAS FILED UNDER THE INCORRECT APPLICATION. PETITIONER BELIEVES THIS COURT HAS OVERLOOKED OR MISAPPREHENDED THIS

PETITIONER HAS ALSO BROUGHT TO THE ATTENTION OF THIS COURT THAT THE LOWER COURT DID NOT COMPLY WITH SC CODE § 17-27-80 (1976) WHICH WAS PROPERLY FILED RULE 59(e) SCRPC MANDATES THAT A JUDGE HAS A DUTY AND OBLIGATION TO STATE ON THE RECORD ON THE FINDINGS OF FACTS SPECIFICALLY SUPPORTED BY CONCLUSIONS OF LAW NOR DID THE COURT COMPLY WITH A PRENOTIFICATION OF A RULE 52(d) SCRPC FOR THE OPPORTUNITY TO REVIEW "THE FINAL ORDER" PRIOR TO FILING IT WITH THE CLERK OF COURT OFFICE,

PETITIONER REALLEGE THAT "THE MOTION FOR LEAVE TO FILE FOR RELIEF FROM JUDGMENT," PURSUANT TO RULE 60(b) SCRPC WITH THE PROPER APPLICATION WOULD NOT CREATE ANY UNDUE PREJUDICE, NOR DOES IT CREATE ANY OR A FUNDAMENTALLY DIFFERENT CASE WITH NEW CAUSES OF ACTIONS AND DIFFERENT PARTIES. "STANDARD OIL CO. V. U.S.", 429 U.S. 17, 97 S. Ct. 31 (U.S., 1976), & "MR. T. V. MRS. T.", 378 S. Ct. 127, 662 S. Ct. 413 (Ct. App., 2008)

PETITIONER CITE "UNITED STATES OF AMERICA V. AMERICAN-FOR-  
EIGN S. S. CORP.", 363 U.S. 685, 80 S. Ct. 1336 (S. Ct. U.S., 1960), "U.S. -  
V. NIXON", 827 F.2d. 1019 (U.S. Ct. App., 5th Cir. 1987), & "BEACHARNAS -

- V. ILLINOIS, 343 US 250, 72 S.Ct. 1070 (U.S. 1952) AS CASE LAW TO SUBSTANTIATE REASONS TO REQUEST A MOTION FOR REHEARING AND A REHEARING EN BANC FOR A FULL PANEL REVIEW TO DETERMINE THE POSSIBILITY THE EFFICACY OF GRANTING A MOTION FOR LEAVE TO FILE RELIEF FROM JUDGMENT TO FILE A RULE 60(b) SCRPC WHICH WOULD SAVE THIS COURT FROM HAVING TO ENTERTAIN THE SAME CAUSE AT A LATER DATE FILED UNDER THE PROPER APPLICATION AND PROPER PROCEEDING OF AN INDEPENDANT ACTION WHICH MAY BE FILED AT ANYTIME AND NO STATUTE OF TIME LIMITATION;

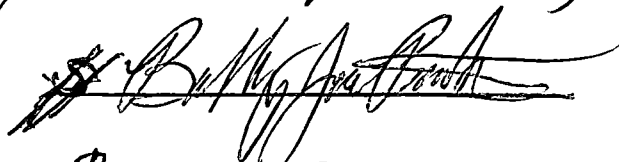
PETITIONER STATE THAT HE HAS FILED THE MOTION IN GOOD FAITH A WITH GOOD CAUSE WITH BELIEF THAT HE'S SHOWN JUST CAUSE AS TO WHY THE COURT SHOULD GRANT THIS MOTION FOR REHEARING AND REHEARING EN BANC,

IT IS WITH MUCH HOPE AND MANY PRAYERS THAT THIS COURT WOULD GRANT HIS MOTION FOR A FULL PANEL HEARING.

WHEREFORE, PETITIONER RESPECTFULLY ASK THIS COURT TO GRANT THIS MOTION FOR REHEARING AND REHEARING EN BANC ON THE MOTION FOR LEAVE TO FILE RELIEF FROM JUDGMENT TO FILE RULE 60(b) SCRPC AND ANY OTHER SUCH THE COURT DEEMS JUST AND APPROPRIATE.

Weather Korn famer  
5/21/34

RESPECTFULLY SUBMITTED,

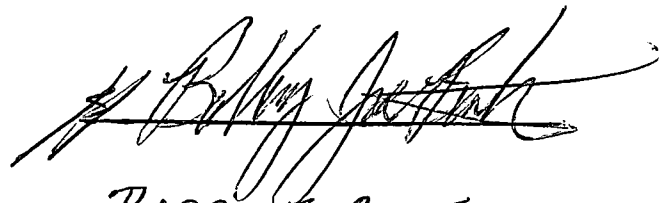


BOBBY JOE BARTON #163629

C. BOBBY JOE BARTON #163629  
PETITIONER

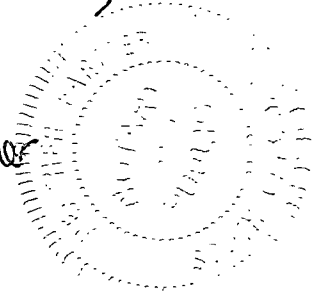
MAILED ON 8<sup>TH</sup> DAY OF NOVEMBER, 2024  
IN THE COUNTY OF SPARTANBURG, SC

THE PETITIONER ATTACHES A S.C.D.C. RECEIPT OF LEGAL  
CORRESPONDENCE VERIFICATION FORM TO SUBSTANTIATE THAT  
HE DID RECEIVE THE COURTS' DENIAL ON NOVEMBER 1, 2024,  
See; EXHIBIT # 1 ATTACHED //



BOBBY JOE BARTON,  
#163629

Heather Karen Farmer  
5/21/24



CC: Melody J. Brown, ADJ. GEN. OFFICE  
Bobby Joe Barton, PETITIONER