

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
MAR 13 2025
SC Court of Appeals

APPELLATE CASE NO. 2022-000641

STATE OF SOUTH CAROLINA

V.

PATRICK LEE BOOKER

—
PETITION FOR REHEARING
—

COMES NOW the *pro se* Appellant hereby submits this petition for rehearing the Court's decision entered February 26, 2025. The basis for this rehearing petition for is set forth hereinbelow:

1. **This Court's decision is controlled by a clear error of law:** the Court deprived the parties of due process of law, in violation of the Fourteenth Amendment, by (A) considering and deciding—without any notice to the parties--questions that were not before this Court (i.e., a question of whether

this criminal direct appeal is the “proper proceeding”¹ was never before this Court, nor was there ever a question before this Court about “waiver”²), and by (B) refusing and failing to decide the merits of the *pro se* Appellant’s Fourteenth Amendment claims (violation of separation of powers doctrine and violation of due process resulting in involuntary guilty plea) which were properly preserved for appellate review and squarely presented to this Court. Additionally, this was a departure from the ordinary rules of appellate practice. See Rule 208(b)(1)(B), SCACR (“Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.”).

2. **This Court’s decision is controlled by a misapprehension of the facts:** the Court found that the *pro se* Appellant did not seek a ruling on the claim of

¹ The question of whether this appeal from the decision of a circuit court judge who ***heard and decided*** appellant’s squarely presented Fourteenth Amendment claims was not raised by the State. Thus, any such question was waived by the State by its failure to object and thus failure to preserve such a question, and by its decision to address the merits of the issues raised on appeal. ***See, S.C. Dep’t of Transp. V. First Carolina Corp. of S.C.***, 372 S.C. 295, 301, 641 S.E.2d 907 (2007) (“[I]t is a litigant’s duty to bring to the court’s attention any perceived error, and the failure to do so amounts to a waiver of the alleged error.”)

Furthermore, any such question was rendered moot by the fact that trial court decided to hear and decide the Fourteenth Amendment claims that were squarely presented to it, and, because the State did not challenge the properness of the proceeding, the judge’s **decision** to hear and decide the federal claim became the law of the case. See *Buckner v. Preferred Mut. Ins. Co.*, 255 S.C. 159, 161, 177 S.E.2d 544, 544 (1970) (holding an unchallenged ruling right or wrong is the law of the case and requires affirmance).

² The question of whether the *pro se* appellant waived certain issues was itself waived by the State by its failure to object, and by its decision to address the merits on appeal. ***See, S.C. Dep’t of Transp. V. First Carolina Corp. of S.C.***, 372 S.C. 295, 301, 641 S.E.2d 907 (2007) (“[I]t is a litigant’s duty to bring to the court’s attention any perceived error, and the failure to do so amounts to a waiver of the alleged error.”)

violation of the separation of powers doctrine following the issuance of the April 28, 2022, Order.

Contrary to the Court's findings, the *pro se* Appellant did seek, and he obtained, a ruling on the claim of violation of the separation of powers doctrine: see the record on appeal where the trial court, after permitting the *pro se* Appellant to claim and argue a violation of the separation of powers doctrine, ruled on the claim from the bench on the claim and later memorialized its ruling in the September 2022 Order which was consolidated and made a part of this appeal. The record on appeal clearly shows that the *pro se* Appellant was permitted by the trial court, without objection from the State, to claim a separation of powers violation and to argue the merits of his claim of which was heard and decided by the trial court.

This Court has every opportunity to conduct a proper judicial review of the federal Fourteenth Amendment claims made by the *pro se* Appellant in this appeal, claims that did not become ripe for judicial review³ until the *pro se* Appellant participated in the CSP.

³ The circuit court and the state supreme court both determined that the *pro se* Appellant's due process claim attacking the voluntariness of his guilty plea would not become ripe for judicial relief unless and until the Appellant participated in the Community Supervision Program ("CSP").

WHEREFORE, having made the foregoing showing, the *pro se* Appellant hereby request that this Court reconsider its decision dated February 26th, 2025.

Patrick L. Booker

Patrick Lee Booker

March 12, 2025

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PATRICK LEE BOOKER

—
PROOF OF SERVICE
—

I, Patrick L. Booker, do hereby certify that I did serve the Petition for Rehearing upon the State by depositing a copy of the same in the U.S. Mail, postage prepaid, addressed to:

Matthew C. Buchanan, General Counsel
South Carolina Department of Probation, Parole, and Pardon Services

March 13, 2025


