

The Supreme Court
of South Carolina,

Tarone Johnson
#260921
Petitioner,

vs.

State of South
Carolina,

Respondent,

Court of Common Pleas
Charleston County,

P.C.R. petition
2019-CP-10-2890

Appellate Case No.
2024-001650

Rule 60(b)4 Motion

(The judge is void)

Petitioner now brings this Rule 60 SCRPC Motion before the Supreme Court of South Carolina, not to strain relations between himself and the state. However, to put under a microscope, the in-actions of the state and their blatant dis-regards for governing laws and statutes.

One such dis-regards is the over-looking of South Carolina Supreme Court own Rules "a defendant has a procedural right to one fair bite at the apple." Wilson vs. State, 559 S.E. 2d 581 (2002).

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S.C. SUPREME COURT

That being said, Petitioner's incorporation of Writ of Mandamus filing within the response to South Carolina Supreme Court's dismissal, did not dissolve the State of S.C. of it's obligated duty of adjudicating the issues incorporated within. Because, upon close examination of the theory put forth in the Writ, and the paper work which followed it. One could clearly see that Petitioner did not stray away from that responsibility.

But merely showed South Carolina Supreme Court that neither it-self, nor South Carolina Court of Appeals, is/was, willing to address the allegation of perjury in Petitioner's case. There-fore acquiring the dismissal of petition through default. Petitioner further state that, in regards of the state of South Carolina dismissal of Petitioner's newly discovered evidence being filed late.

Petitioner wish to go on record as informing the state of South Carolina that Co-defendant Jason Gardine is willing to testify in Court that Petitioner, (Tarone Johnson) is innocent of the Crime of Murder. Where-as, the incorporation of the Writ of Mandamus is now being use by the state of S.C. as the sole reason, (scapegoat) not to address the perjury in the petition.

The Supreme Court retains ability, pursuant to state Constitution, to entertain Writs in its original jurisdiction and grant relief in those unusual instances where there has been a violation which, in settings, constitutes denial of fundamental fairness shocking to universal sense of justice. Const. Art. 1 § 18, Art 5 § 5, Code 1976, § 17-27-20(b)

South Carolina Court of Appeals, as South Carolina Supreme Court both refuse to address the issues that petitioner present before the Court.

17-27-80, States, The Court shall make specific findings of fact, and state expressly its conclusion of law, relating to each issue presented.

When an issue or argument has been raised to but not ruled upon by the Trial Court, a party must file a Motion to alter or amend judgement to preserve the issue for appeal. 397 S.C. 584 (S.C. app 2010)

Rule 59. New Trials, or Amendment of judgement. Rule 59, SCRAP

Rule 8.4. Misconduct
it is professional misconduct for a lawyer to:

(b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respect.

Rule 8.4. Misconduct (a) (c) (d) (e) (f) (g)

Code 1976 § 40-5-510... Removal, Suspension, and imprisonment of attorneys for contempt or disorderly conduct.

Attorneys, Solicitors and Counsellors may be removed or suspended and also, in aggravated cases, imprisoned, by the several courts in which they have been admitted to practice, if, in the presence of such court, they are guilty of any disorderly conduct causing an interruption of business or amounting to an open and direct contempt to the court, its authority or person.

Rule 407, SCAR, Rules of Professional Conduct

Rule 8.3 Reporting Professional Misconduct
(c) A lawyer who knows that another lawyer has committed a violation of applicable rules of judicial conduct that raises a substantial question as to that lawyer's

honesty, trustworthiness or fitness as a lawyer in other respect, shall inform the appropriate professional authority.

Clear and Convincing evidence supports finding that Trial Attorney and Trial Solicitor both committed professional misconduct in Petitioner's Trial, by making false statements.

These false statements have been shown to the Courts to address whether or not statement prejudice petitioner in receiving a fair trial.

and as officers of the court, it is the Court's duty and responsibility to defend and protect a Petitioner's 14th Amendment, Due to process of law right to a fair and Un-bias court proceeding.

Petitioner have presented Constitutional laws and statutes that prohibits the UnConstitutional act of denying the preserving of issues for future filings.

Marlar vs. State, 375 S.C. 407, holding; The Supreme Court held that issues were not preserved for appellate review in that defendant (Respondent) failed to file Motion asking Trial Court to make specific findings of facts and

and conclusions of law on his allegations,
"Holding, an argument must be raised to and
ruled upon by the P.C.R. Court, in order to be
preserved for appellate review."

Kolle vs. State, 386 S.C. 578, 589, 690 S.E.2d 73,
79 (2010).

This Court have ruled that Petitioner is denied
and dismiss with prejudice. (Yet), it completely
failed to explicitly go into details of how the
allegations presented in the petition, have no
Constitutional Merits. Where-in, this act sets an
individual up for failure.

Being that Petitioner have at the ready,
Co-defendant Jason Gardine willing to testify
before the Courts that Petitioner is innocent of
the crime of Murder. So, even though the state
ruled that Petitioner's newly discovered evidence
was filed late. Petitioner is asking the Courts
to preserved on record for them-selves, a copy of
the sign and notarize affidavit, supplied by
Co-defendant Jason Gardine him-self.

Stating that he and Petitioner had no involvement
in the shooting death of Charles Bennett.

See following page, Gardine's affidavit.

Calling into question, the so-call facts, evidence, and theory, and that the state of S.C. is basing petitioner's conviction on. When petitioner have literally put on display for S.C. Court of Appeals, and S.C. Supreme Courts.

Evidence in the form of Co-defendant affidavit. Who've since, been acquitted of this very same charge. (And yet,) willing to testify in a court of law, Petitioner's innocence.

Petitioner, using the 'Due Process Clause' as a tool to challenge invalid judgement, is completely consistent with the principle that the 'Due process clause' protects individuals rights. Due process requires that a judgement be rendered by a court of competent, jurisdiction.

in determining whether a default judgement should be set aside for mistakes, inadvertance, surprise, or excusable neglect, the promptness with which relief is sought, the reason for the failure to act promptly, the existance of a meritorious defense, and the prejudice to the other party, are relevant. Tobias vs. Rice, 379 S.C. 357 (S.C. App 2008)

Again, Petitioner merely included Writ of Mandamus in hopes that South Carolina Supreme Court would read it, and its extensive detail, and see just what exactly that Petitioner was professing before the Courts.

Understanding now, how that was a grave mistake. While asking the Courts to forgive and pardon Petitioner's laymen-ship. Being that one honest mistake should not have the ability to overshadow the need for corrective justice.

Rights to Relief, Excuses for default.

- 1.) The timing of the Motion for relief.
- 2.) Whether the defaulting party has a meritorious defense, and
- 3.) The degree of prejudice to the Plaintiff if relief (is or is not) granted. S.C.R. Civ.P. 55(c)

Code 1976 §15-36-10 (Notice and opportunity to respond reporting violations)
4(c)2

(2.) Unless the Courts finds by a preponderance of the evidence that an attorney, party, or pro-se litigant engaged in advancing a frivolous claim or defense, the attorney, party, or pro-se litigant shall not be sanctioned.

Petitioner states that it would be complete Criminal for the state of South Carolina to dismiss Petitioner's filing without preserving one single issue for the record. There-by damned-ing Petitioner's fate for life in the department of Corrections arbitrarily. All without any supporting evidence behind the Conviction.

We know this fact to be true for the following reasons. While this Court declares Petitioner's filing have no Merits worth acknowledging. it leads one to question the competency of the Courts governing body.

For example, when the actions of the solicitor rises to the level of Prosecutorial Misconduct, the question of whether a Mistrial is warranted is determine by 1.) Cumulative effect of such Misconduct. 2.) The strength of the properly admitted evidence of the defend-ants guilt, and (3) The Curative action taken by the Court.

See the following pages. Trial Transcript
Volume U, pages 226-227.
page 226, Lines 1-25 and
page 227, Lines 1-18

The Cumulative effects of such conduct that greatly prejudice Petitioner was, from the records, we got Material evidence of Petitioner's jury first telling the Courts that they are not in agreement. And it was here that Solicitor Beck and Judge Piper decided to instruct the Jury to go back and deliberate.

Which they did, before coming back into open court a second time, only to tell them that they were not only in a state of disagreement, (But) hung. From there, Solicitor Beck and Judge Piper decided to give the jury an Allen Charge. Violating statute 14-7-1330, Procedure when jury fails to agree.

Petitioner gladly invite this Court to see (Witness) how Solicitor Beck compounded the issue of perjury or prosecutorial misconduct by now directing Judge Piper to give the jury a coercive Allen Charge.

I say coercive because how does a jury that just declared to the Court that they were in a state of dis-agreement and then hung. Suddenly did a 360° degree about face, and were now suddenly unanimously agreeing upon guilt.

See the following 2 pages.

Trial Transcript Volume V. pages ~~216~~²¹⁴ and ~~217~~²¹⁵.

Again, Petitioner wishes to show this Court how Solicitor Beck and Defense Attorney Harry Shaw willing-ness to Commit perjury was aided and abetted with the likes of Judge Daniel Piper. How else do you explain a Season Judge Charging the jury to infer Malice.

Judge Piper use the Words infer or inference a total of 8 times in his Charge to the jury. The compounding of all these issues greatly prejudice Petitioner's ability to success-fully defeat the Charge of Murder, like Co-defendant Gourdine. And to make this Matter Worse, Compounding it even further, there was never a Motion of Severance Made Separating Co-defendant trial from Petitioner.

What Petitioner's able to deduce from all this, is that, Charleston County needed some one to put this Charge on, and Unfortunately for me. I came through at the wrong time.

See Trial Transcript, Volume V, page 214-215.
page 214, lines 14-25 and page 215, lines 1-15

Constitution states: The Fourteenth (14) Amend.
Prohibits the use of presumptions in jury
charges that relieves the state of the burden
of persuasion on essential elements of
charge offense.

Petitioner's conviction came about due to
Solicitor Beck and Defense attorney Shaw
severe dislike for people of color. And this
point is proven by material evidence, facts
shown in the record.

See Trial Transcript volume I. page (2.)
index and exhibits.

See also Trial Transcript, volume III. page (3.)
exhibits

See what is listed as evidence.

An alleged statement by Ms. Ross, and a
alleged second statement by petitioner.
along with pictures of the deceased Charles
Bennett.

Let's travel to Transcript volume V. page 202.
Solicitor Beck closing argument.

He's making statements about some suppose
coins.

Defense Attorney Shaw is doing the same
on page 172, in Transcript Volume V,

See following page.

in closing, Due to its length, Petitioner invites this Court to read III third allegation with in petition, starting with page 49-55.

its in regards of the 2 leading officers, while on stand, giving contradictory testimony about petitioner's arrest. When and Where that arrest took place, and why the allege second statement is (highly) in-admissible in a Court of law.

As it was clearly fruits fallen from the poisonous Tree. Literally removing any and all so call evidence of petitioner's guilt. And this is ~~proven~~ reason enough for why petitioner's Conviction needs to be vacated or retried.