

THE SOUTH CAROLINA COURT OF APPEALS

Terrell McCoy, Petitioner

v.

State of South Carolina

Appellate Case No. 2024-000601

RECEIVED

OCT 09 2025

SC Court of Appeals

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SUPPLEMENT THE RECORD OF APPEAL

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Appellant ~~here-by~~ move this court under Rule 212, SCACR (B) to include the September 14, 2015 "Summary Judgment Order" issued by presiding Judge Hyman. See Attachment 1.

The State never submitted this order during the original appeal denying PCR in the Appellate Case No. 2017-000755/2019-001193

The Appellate Counsel never submitted the order neither. During the original appeal, the September 14, 2015 was not submitted in the record on Appeal, nor did the Clerk of Court mailed a copy of Order to Appellant during September of 2015.

Appellant recently requested the Order after careful review of his PCR transcript pages 4 line 15-25; and page 5 line 1-3 December 14, 2015 PCR hearing. Attachment 2

See September 14, 2015 Summary Judgment Order, and letter attach.

The "Order" is significant to this appeal, as Appellant raises a timely Rule 60(B)(1) motion in the circuit court, where the

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Circuit Court order denying PCR relief pertaining to the ineffective assistance of trial counsel claims for failure to investigate, and subpoena witnesses is error of law, and facts under Kemp v. United States --- U.S. --- 142 S.C. 1856, 213 L.Ed 2d 20 (2022) Russell v. State 2021 WL 5356306 Rouvet v. Rouvet 388 S.C. 301, 309, 696 S.E. 2d 204, 207 (Ct. App. 2010) ("The decision to grant or deny a motion made pursuant to Rule 60(b) is within the sound discretion of the [PCR court].") Mangal v. State 421 S.C. 85, 92, 805 S.E. 2d 568, 571 (2017) ("On review of a PCR court's resolution of procedural question arising under... the South Carolina Rules of Civil Procedure, we apply an abuse of discretion standard.")

Here, the September 14, 2015 "Order" is evidence Judge Hyman abused its discretion by granting the State's motion to dismiss the Ineffective Assistance of trial counsel claims without an hearing.

This court was deprived of this order during the appeal phase. Recently, The South Carolina Supreme Court decided Lewis v. State 439 S.C. 635 889 S.E. 2d 570 (2023). In Lewis, the Supreme Court held "we have never adopted a brightline rule forbidding prose defendants from alleging ineffective assistance of pretrial counsel, and we decline to do so today. Rather, we acknowledge a prose defendant may present a colorable claim of pretrial ineffective assistance of pre-trial counsel."

This court affirmed the PCR court decision on May 18, 2022 and denied Appellant the relief guaranteed under SC Constitution, and U.S. Constitution, and under the PCR act.

During the time, Judge Hyman erroneously decided there were no federal nor state case where a prose litigant raised ineffective assistance of pretrial counsel claims. ~~was error of law~~. See Wilson v. Parker, 515 F.3d 682, 698 (6th Cir. 2008) (stating that because counsel's allegedly defective conduct occurred before the defendant waived his right to counsel, "the logic... that exercising the Faretta right to represent oneself necessarily eliminates claims of ineffective assistance does not apply"). See also Cook v. Ryan, 688 F.3d 598, 610-12 (9th Cir. 2012)

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See also Harrington v. Richter 562 U.S. 86 131 S.Ct. 770 178  
L.Ed.2d 624 (2011) Harrington was decided in 2011, four years  
before Petitioner's September 9, 2015 Summary Judgment hearing  
and eight years, before the PCR Judge issued the June 14, 2019  
PCR order. See Wiggins v. Smith 539 U.S. 510 123 S.Ct. 2527 156  
L.Ed.2d 471 (2003). Petitioner has timely filed Rule 59(c) motions.

This court overlooked this issue, and neither state nor appellant  
counsel submitted the "September 15, 2015" Summary Judgment  
Order in the "Record on Appeal"

Petitioner timely filed a Rule 60 (b)(1)(2)(3)(4)(5) motion to  
set aside Judgment within a "reasonable time" where he was  
deprived of an evidentiary hearing on the ineffective assistance  
of trial counsel claim. There exist a defect in the integrity of the PCR  
Proceeding which requires the Orders to be vacated, and relief granted.

For these reasons set forth, Petitioner/Appellant request the  
September 14, 2015 Order be included in the Record on Appeal  
for review by this Court.

I am

10-5-25

James M. McRay  
BRCI WAA 241  
4460 Broad River Rd  
Columbia SC 29210

LEGAL MAIL

Ce  
AG  
AT  
STATE OF SOUTH CAROLINA  
County of  Charleston  Berkeley

COURT OF COMMON PLEAS  
Case # 2013 -CP- 10 - 1994

TERRELL McCoy  
Applicant / Petitioner

vs.  
State of South Carolina,  
Respondent.

ORDER

FILED  
2015 SEP 14 AM 12:56  
JULIE J. ARMSTRONG  
CLERK OF COURT

This post-conviction relief case came before the court for a hearing. Having now heard this matter, the court orders as indicated herein.

- 1. The application for post-conviction relief is hereby:  denied  granted  under advisement; a formal order will be filed (see below - No.6)
- 2. Motion(s) was/were heard in this case and the court orders:
  - The motion to dismiss and/or for summary judgment is hereby  granted  denied  under advisement based upon the  statute of limitations and/or  the successive nature of the application or  other reason as follows:  
PERTAINS TO INEFFECTIVE COUNSEL ONLY.  
SEE BELOW #5

- 3. A conditional order of dismissal was previously filed in this case. Upon review of the matter, the court finds:
  - Good cause as to why the case should not be dismissed has been shown in response to the order of dismissal; therefore, a hearing on the merits of the application shall be scheduled.

The court has considered the response to the conditional order of dismissal and finds that good cause has not been shown or  no response has been filed to the conditional order of dismissal; therefore, the application is hereby dismissed.

- 4. The application was freely, voluntarily, and intelligently withdrawn as indicated on the record; therefore, this case is dismissed  with prejudice  without prejudice.

- 5. Other: ANOTHER ISSUE WILL BE HEARD AT THE NEXT PER TERM.  
THIS ISSUE WILL BE CLARIFIED IN A FORTHCOMING PROPOSED ORDER SUBMITTED BY APPLICANT'S ATTORNEY WITHIN 30 DAYS

- 6. The court further orders:
  - The  Attorney General  Applicant's counsel is directed to submit to the court a proposed order and to serve the order on opposing counsel within 30 days.
  - Both sides are directed to submit proposed orders to the court and to serve the orders on each other within  days.
  - The court does not request proposed orders.

IT IS SO ORDERED.

Date: 09 / 09 / 2015  
Charleston, S.C.

[Signature]  
Presiding Judge, 2152

Court Reporter Denise LAUDER

Attorney for Applicant RODNEY DAVIS

Attorney for Respondent J. RUTLEDGE Johnson

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL) Rev. 08/12/02  
CLERK, C.P., G.S. & F.C.  
By [Signature]  
DEPUTY CLERK

Exhibit  
1



4

10/2

1 (The following proceedings were had  
2 December 14, 2105, Charleston County Circuit Court,  
3 Judge Deadra Jefferson, 10:21 a.m.)

4 THE COURT: State ready to proceed?

5 MR. JOHNSON: Yes, Your Honor.

6 THE COURT: Applicant ready to proceed?

7 MR. DAVIS: If you could give me a  
8 moment; I'm letting Ms. Proctor know that we called  
9 this one.

10 (Brief pause)

11 MR. DAVIS: Your Honor, may it please  
12 the Court?

13 THE COURT: Give me one second.

14 MR. DAVIS: Yes, ma'am.

15 THE COURT: Did you-all get an order to  
16 Judge Hyman, that he specified in his form order?

17 MR. DAVIS: To whom, Your Honor?

18 MR. JOHNSON: Judge Hyman's order.

19 MR. DAVIS: I apologize, Judge, no.

20 And that's something -- on the record, no. I wish  
21 I could tell the Judge when I saw that form.  
22 That's a drop-the-ball on my part, obviously,  
23 summary judgment in favor of the State and I did  
24 not.

25 I have in my notes that I was to

1 provide an order against my client, and so I did  
 2 not. Within the past -- not long, Your Honor. I  
 3 apologize, but I have seen it --

4 THE COURT: I don't know that it's  
 5 necessary because I think his finding on the  
 6 record, as well as his form order, is clear.

7 MR. DAVIS: I understand, Your Honor,  
 8 but, for the record, I did not see that until not  
 9 long ago and I did not provide --

10 THE COURT: I wouldn't lose any sleep  
 11 over it. I was just curious when I saw it because  
 12 I didn't see it in the file, and I wanted to make  
 13 sure.

14 MR. DAVIS: Yes, ma'am.

15 THE COURT: Let's see here. The  
 16 applicant filed his application for post-conviction  
 17 relief on April 4th of 2013. The matter was  
 18 appealed to the court of appeals which was affirmed  
 19 in Opinion Number -- it's an unpublished opinion --  
 20 2011 UP 471. It was tried by Judge Young, and that  
 21 opinion was filed October 26th of 2011.

22 At that time, Mr. McCoy represented  
 23 himself. He was sentenced to 40 years confinement  
 24 by Judge Young on 3/5/09, on the charge of murder.  
 25 And that is Indictment 2006-GS-74987. He was

1 for post-conviction relief.

2 Going back to Judge Hyman, apparently,  
3 the State at that time moved for a motion -- made a  
4 motion for summary judgment, and he found at that  
5 time that since the applicant proceeded on his own  
6 that he could not make an application or sustain an  
7 application for ineffective assistance of counsel,  
8 at least at the trial level.

9 Also, within the order relieving Ms.  
10 Proctor, Judge Dennis noted that she was relieved  
11 of any post-conviction relief action effective  
12 after 12:00 p.m. on January 27th of 2009. Judge  
13 Hyman granted summary judgment as to trial counsel,  
14 and based on this transcript it involved all  
15 parameters of her representation prior to being  
16 relieved.

17 The only issues that would be left then  
18 would be the alleged prosecutorial misconduct as  
19 well as appellate counsel.

20 Was the summary judgment ever  
21 appealed --

22 MR. DAVIS: No, Your Honor. And --

23 THE COURT: The State still takes the  
24 position that any alleged prosecutorial misconduct  
25 is a direct appeal issue?

Terrell McCoy 256070  
BRCI WAA # 241  
4466 Broad River Rd  
Columbia SC 29210

Attachment  
2 of 2

September 17, 2025

2025 SEP 26 AM 10:44  
CLERK OF COURT  
ADN

Jellie J Armstrong  
Clerk of Court, C. P.  
Charleston County  
100 Broad Street, Suite 106  
Charleston SC 29401

RE: Terrell McCoy v. State of South Carolina  
Lower Court Case No. 2013-CP-10-01994

Dear clerk, I would like to request the September 9, 2015 order issued by Judge Hyman in the above reference case, and also I would like for this court to send any proof of service of the order mailed to me and which institution the order was mailed to ~~me~~ me, and the date the order was mailed. Thank you

9-17-2025

x Terrell McCoy

Terrell McCay 256070  
BRCI WAA #241  
4460 Broad River Rd  
Columbia SC 29210

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OCT 09 2025  
SC Court of Appeals

October 6, 2025

Jenny Abbott Kitchings  
Post office Box 11629  
Columbia SC 29211

RE: Terrell McCay v. State of South Carolina  
Appellate Case # 2024-000601

Dear clerk, enclosed is Petitioner's motion to Supplement the Record of Appeal, and the September 14, 2015 order that was never submitted in the Record of Appeal and is relevant to this case. Please file the motion and include the order in the record of Appeal. Thank you.

Terrell McCay 256070  
BRCI WAA #241  
4460 Broad River Rd  
Columbia SC 29210

I declare that a copy of the record of appeal has been sent to the attorney general office on October 6, 2025.

**LEGAL MAIL**

Terrell McCoy 256070  
BRCI WAA 241  
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Columbia SC 29210

COLUMBIA SC 290

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OCT 09 2025

SC Court of Appeals

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Post office Box 11629

29211-162929

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