

Date: 12.23.13

To: The Supreme Court of South Carolina
Post Office Box 11330
Columbia, S.C. 29211
Attn: Clerk of Court
Mr. Daniel E. Shearouse

RECEIVED

DEC 30 2013

S.C. Supreme Court

Case: Appellate No. 2013-002372
Brenda Nesbitt v. State

From: Brenda Nesbitt #139726
Leath Correctional Institution
Alexander-Q-2 - 102X
2809 Airport Road
Greenwood, S.C. 29649

RE: Your previous letter.

RECEIVED

Date: 12.23.13

DEC 30 2013

Dear

Sir or Madam, S.C. Supreme Court

I am writing you in response to your most previous letter to Mr. Mark Martin, according to this letter you would not file my documents on Dec 9, 2013 cause the documents was without my signature.

I am deeply sorry, but I was told to sign them and submit to the courts a copy with my signature. Now that you sent everything back. I will now attach the same documents with my signature. I am very arrogant to the law and I don't fully understand it, but I do know that Mr. Mark Martin has been helping me to be heard. I will also be attaching copies of when I received your document's and I've read that you do have 15 day's for a remittitur, the dates as follows:

1) Received your first letter on:
Postmark 11.15.13 Received via Camille Graham
rec'd at Leath 11.22.13, I rec'd it at the
Leath Mailroom on 11.25.13

2) Rec'd your 2nd letter on:
Post Mark 12.3.13 Rec'd via Camille Graham
Rec'd at Leath 12.05.13 I rec'd it at the
Leath Mailroom on 12.9.13.

I will be writing the Attorney General's Office

on 12-22-13 to ask for an attorney to be appointed to me. But in the meantime please file my documents. I had given Mr. Marvin permission to submit important documents on my behalf, cause there is know one here to prepare such documents and half of the case laws are not in this Law Library.

Thank You in advance for your immediate cooperation into this most pressing legal matter, by any chance your office cannot help me please provide me with the name and address of who can.

Yours Truly,
Brunda Nesbitt
#139726

IN THE SUPREME COURT OF SOUTH CAROLINA

BRENDA NESBITT
Appellant

Re: Nesbitt v. State
2011-CP-23-00547

Against

THE STATE OF SOUTH CAROLINA
Respondent

REQUEST FOR RECONSIDERATION REGARDING:
MOTION FOR PERMISSION TO ALLOW LATE FILING OF NOTICE OF APPEAL

BRENDA NESBITT, is in receipt of this court's Order dated: November 15, 2013 dismissing her appeal in this matter. The Court cites: *Lewis v. State*, 368 S.C. 630, 630 S.E.2d 464, 2006. She believes the Court's reliance on *Lewis* is irrational. *Lewis* specifically states that if a (decision/order) of the court so completely fixes the rights of the parties that the court has nothing further to do in the action then it is final. For unfathomable reasons this Court "In our opinion" indicates that deleting the term "Conditional" somehow changes the rights of the parties in a way that justifiably denies the right of a defendant to challenge a miscarriage of justice. *Lewis* is in fact irrational on its face, and fundamentally unfair, and unconstitutional.

Had the Court done further research, it would have learned that it is out of step with higher authority. "A technical defect of prematurity should not be allowed to extinguish an otherwise proper appeal." (*Firs Tier Mortg. Co. v. Investor's Mortgage Co.* 498 U.S. 269, 111 S.Ct. 648, 650-651, 1991) One should note that a "there are situations when ... a premature appeal will ripen at a later date." (*In re Bryson*, 406 F.3d 285, 287, [1] 2005).

Note also:

[Notice of intention to appeal preserves all rights (for final hearing) *Clark v. Dunbar*, 106 S.C. 423, 91 S.E. 323, 1917.

Hand v. Kelly, 102 S.C. 151, 86 S.E. 382, 1915, Appeal from order overturning defendant's demurrer and pleas held not to be premature.

The Supreme Court held that appeal was premature where circuit court did not rule on poor person status. *Martin v. State*, 321 S.C. 533, 471 S.E.2d 134, 1995,]

It appears that this Court holds that South Carolina lacks a remedy for miscarriage of justice that is consistent with the demands of justice.

Respectfully submitted

Brenda Nesbitt

Brenda Nesbitt, 139726
Leath Correctional Institution, Q2-102X
2809 Airport Road
Greenwood, S.C. 29649

I certify under penalty of perjury that I mailed a copy of this motion to the Attorney General,
P.O.B. 11549, Columbia, S.C. 29211-1549

Mark Marvin

Mark Marvin
135 Mills Road
Walden, 12586

Dated: December 3, 2013

28 USC 2254

The Supreme Court, a justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States,

(b)

(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that--

(A)

(i) *there is an absence of available State corrective process; or*

(ii) *circumstances exist that render such process ineffective to protect the rights of the applicant*

Xxx

(d) an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim--

(1) *resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States, (Williams v. Taylor, 529 U.S. 362, 413, 2000) or*

(2) *resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding (Carey v. Musladin, 549 U.S. 70, 2007).*

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE, CLERK OF COURT

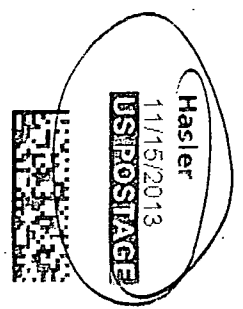
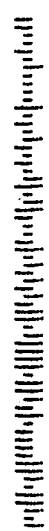
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*Case out
11-28-13*

Walt

BRENDA NESBITT, # 139726
~~CAROLINE GRAHAM CORRECTIONAL INST.~~
~~#30 BROAD RIVER ROAD~~
~~COLUMBIA SC 29210~~

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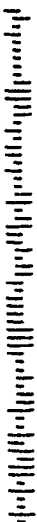
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BRENDA NESBITT, # 139726
CAMILLE GRAHAM CORRECTIONAL INST.
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COLUMBIA SC 29210

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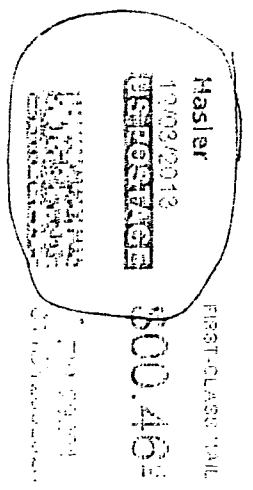
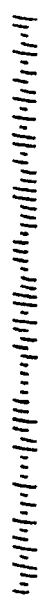
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*12-9-13
Heath*

BRENDA NESBITT, # 139726
CAMILLE GRAHAM CORRECTIONAL INST.
4450 BROAD RIVER ROAD
COLUMBIA SC 29210

*Tue 11
Diver Address*

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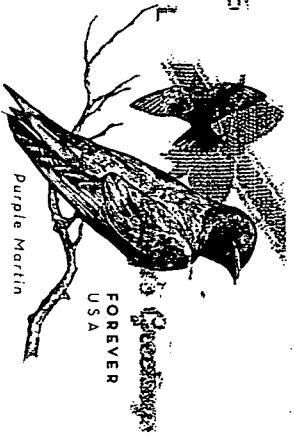


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(Legal Mail)

GREENVILLE SC 29615

27 DEC 2013 PM 4 L



The Supreme Court of South Carolina
Daniel E. Shearwood,
Clerk of Court
Post Office Box 11330

2921133030
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THE DEPARTMENT OF CORRECTIONS HAS
NEITHER CENSORED NOR INSPECTED THIS
ITEM THEREFORE THE DEPARTMENT DOES NOT
ASSUME RESPONSIBILITY FOR ITS CONTENTS

ANGELIA RAWSKI, WARDEN
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