

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Doyet A. Early III, Circuit Court Judge

RECEIVED

FEB 05 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

NOEL GRAY,

APPELLANT

MOTION FOR STAY OF PROCEEDINGS TO ENFORCE A JUDGEMENT

COMES NOW INTO THIS HONORABLE COURT Noel E. Gray Jr. #307590
by and through Mr. Robert M. Pachak Esq. of the South Carolina Appellate
Defense pursuant to RULE 62 (b) SCRPC MOTION FOR STAY OF PROCEEDINGS
TO ENFORCE A JUDGEMENT.

The Appellant respectfully moves this Honorable Court to Suspend
this Appeal Case No. 2012-213607 and Grant leave to file a Motion to
Vacate Sentence and Conviction pursuant to State v. Holbrook, 274 S.C.
4, 260 S.E.2d 181 (1979) also pursuant to Subject Matter Jurisdiction and
Supplemental Jurisdiction infra.

September 25, 2012 the Appellant filed a Motion For New Trial pursuant to RULE 29(b) S.C. Code Ann. § 17-32-110 After Discovered evidence with Material Facts to support Motion to the Honorable Doye + A. Early III Circuit Court Judge denied said Motion with no reason why he denied it on November 30, 2012, the evidence provided was relevant and required a hearing.

December 4, 2012 the Appellant filed an appeal to the Honorable Doye + A. Early III denial into this Honorable Court.

One of the issues raised in appellant's Rule 29(b) Motion was Trial Counsel violated appellant's Federal Interstate Agreement on Detainers Act Contract.

Upon an intense research project, the Honorable Clerk of Court received two (2) vital documents that clearly prove Trial Counsel Kelly P. Brown Esq. Aiken County Public Defender's office lied to the Honorable Reginald L. Lloyd Chief Administration Judge for the Second Circuit Court and to the Honorable Doye + A. Early III Circuit Court Judge for appellant's Post-Conviction Relief Hearing dated February 2, 2009.

April 8, 2013 the Chief Deputy Clerk Cheryl S. Westall sent appellant Trial List for weeks of October 18 & 25 of 2004 and Trial Court Sessions were not in commencement. October 29, 2004 Trial Counsel filed an Illegal Continuance telling the Honorable Lloyd that the State was prepared to try appellant's case.

Pursuant to the Appellant's Federal IADIA Trial was set for October 18, 2004. The 29th of October Trial Court was over, Because

the 29th of October NO CR needed.

Pursuant to State v. Holbrook, 274 S.C. 4, 260 S.E.2d 181 (1979)
the appellant can prove by the preponderance of Material facts
Trial Counsel was seriously ineffective beyond the Strickland Standard;
Cronic Standard and Cherry Standard.

The Honorable Jackson v. Gregory did not have jurisdiction
to Convict or Sentence the appellant to a Life without Parole Sentence
pursuant to S.C. Code Ann. § 17-25-45(a) Recidivist Statute, and the
appellant is Unlawfully incarcerated in clear violation of the Fifth;
Sixth; Eighth and Fourteenth Amendment under the United States
Constitution and Article 1 § 3 and 14 of the South Carolina
State Constitution, and a Federal IADIA Contract.

Therefore, the appellant respectfully moves this Honorable Court
to Grant appellant's Motion For Stay of Proceedings TO Enforce a Judgment
pursuant to Rule 62(b) SCRPC. Exhibits enclosed to Support.

Respectfully Submitted
Noel E. Gray Jr. #307590
Noel E. Gray Jr.
Appellant

SUBSCRIBED BEFORE ME THIS 3rd day of
February, 2011
by Susan N. Jipe vs.

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires:

My Commission Expires
March 5, 2018

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

APPEAL FROM AIKEN COUNTY

Deputy A. Early III, Circuit Court Judge

THE STATE,

RESPONDENT.

v.

NOEL GRAY,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned appellant hereby certifies that a true copy of this Motion in the above referenced case has been served upon Sally W. Elliott, Esq. 5+ Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC. 29201 and Robert M. Pachak Esq. Appellate Defense P.O. Box 11589 Columbia, S.C. 29211-1589

Subscribed before me this 3rd day of February, 2014
Susan H. Dyer

Noel E. Gray Jr #307580
Noel E. Gray Jr.
Appellant

Notary Public for South Carolina
My Commission Expires March 5, 2018

Noel E. Gray Jr. #307590

Waterloo # 274

Broad River Corr Inst.

4460 Broad River Rd

Columbia, SC 29210

February 3, 2014

Honorable Clerk of Court

P.O. Box 11629

Columbia, SC 29211

RECEIVED

FEB 05 2014

SC Court of Appeals

Re: Motion Pursuant to Rule 62(b) SCRPC.

Dear Honorable Clerk,

Please find enclosed the original motion to file in this Honorable Court.

I've wanted to file this "New Evidence" for quite some time, and I know that I have just one (1) year, pursuant to Subject Matter Jurisdiction, I can raise at any time.

Enclosed is a true copy with a self-addressed stamped envelope to return a clock stamped copy back to appellant please.

God Bless You Ma'am.

Thank you kindly

Respectfully Requested

Noel E. Gray Jr. #307590

2004- GS-02-01333 (F 718991)
2004- GS-02-01334 (F 718990)

April 6, 2013

Dear Honorable Clerk,

Please send me the name of the Court Reporter and docket Number to the Continuance that was filed in General Sessions Court by the Honorable Reginald I. Lloyd Chief Administrative Judge on October 29, 2004

And who has the Record of Transcript for that Open Court hearing? and what time was that hearing?

Respectfully Requested.

Noel E Gray Jr. #307540

Noel E Gray Jr.

Murray # 212-B

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, SC. 29210

SWORN AND SUBSCRIBED BEFORE ME

this 8th day of April, 2013

Deborah H. Dryers

Notary Public for South Carolina

My commission Expires: _____ 2018

CC/FILE

* see attached Response
CON

FILED

April 11 2013

J. Godard

CLERK OF COURT

Shirley E. Westall / CON

(EXHIBIT A-1)



*Aiken County Clerk of Court
Liz Godard*

*P.O. Box 583
Aiken, SC 29802*

*(803) 642-1757
General Sessions Division*

April 8, 2013

Re: 2004-GS-02-01333 (F718991)
2004-GS-02-01334 (F718990)

RECEIVED

FEB 05 2014

SC Court of Appeals

Mr. Gray,

I have received your request. I am sending you a copy of the Continuance that you are referring to. I see that it was signed by the judge on 29th day of October, 2004. It was filed in our office on November 8, 2004. I don't know if the continuance was heard before the court in the courtroom or just presented to the Judge in chambers. I pulled the schedule off of the Court Administration Website and see that Judge Lloyd was in Aiken for that scheduled term of court. I am sending you a copy of that along with instructions for ordering transcripts

Thank you,

Cheryl S. Westall
Chief Deputy Clerk
Criminal Division

(EXHIBIT A-2)

Trial List for Weeks of October 18 & 25

Defendant	Charge	Attorney	Solicitor
Allen, Charles	Shoplifting	L Danielson	JWW
Battle, Damian	Dist MJ (6/4/04)	K Brown	JWW
Bentley, Kathleen	CSC	L Danielson	BRB
Brown, Leon	CSC w/Minor	K Brown	BRB
Buscio, Santiago	Lewd Act on Child	M Chesser	EKC
Canty, Tabaria	ABHAN	K Brown	BRB
Colden, Cedric	Murder, Kidnap x2; Armed Robb X2	R Simmons	JWW
Corley, Michael	CSC 3 rd (03-0236)	M Puetz	BRB
Cox, John	Poss Cocaine	D Mauldin	EKC
Denny, Janice	Shoplifting	B Goodman	BRB
Eller, Leslie	Obt. Subs by Fraud	L Danielson	JWW
Garrett, Willie	Poss CC	B Harte	JWW
Gilliam, McKenzie	PWID CC	L Danielson	JWW
Glover, Frances	Dist Hydrocodone; Prox; Poss Hydrocodone; Poss Methadone	J Whittle	JWW
Gray, Noel	CSC w/Minor	K Brown	EKC
Hearn, Tabitha	Mfg MJ	J Harte	JWW
Hickson, Javier	Unl Poss Firearm <21	B Goodman	BRB
Jackson, Christopher	Dist MJ	B Harte	JWW
Johnson, Merle	Dist Cocaine	L Danielson	JWW
Jordan, Johann	PWID MJ; Prox; FTSBLS	G Walters	JWW
Langford, Demarco	Drugs	M Chesser	BRB
Langford, Dwayne	Drugs	R. Simmons	BRB
Lawrence, Elliot	Poss CC	L Danielson	JWW
Lucas, Joyce	Acc After Fact - Felony	K Brown	BRB
McCain, Alexander	Poss Cocaine	L Danielson	BRB
McMahan, Christopher	Burg 2 nd x2; GL	B Sussman	EKC
Moxley, Timothy	DUI	B Harte	EKC
Offenbaker, Galen	Mfg MJ	J Harte	JWW
Paschal, Diane	P&P	J Whittle	BRB

(EXHIBIT A-3)

Trial List for Weeks of October 18 & 25

Perrin, Johnny	Dist CC; Prox; CAP	C Siegler	JWW
Pilot, Leon	Dist Meth	T Williams	JWW
Robinson, Daniel	Dist MJ; Prox	none	JWW
Ross, Cedric	Drugs	D Mauldin	BRB
Smith, Robin	Dist CC; Prox	A Anderson	JWW
Turner, David	CSC w/Minor x3	T Woodruff	BRB
Vaughn, Betty	RA(B); Throwing Bodily Fluids	E Hatcher	EKC
Wolfe, Courtney	PWID MJ	K Brown	JWW

(EXHIBIT A-4)

Circuit	10/4/2004	10/11/2004	10/18/2004	10/25/2004
2	Common Pleas Aiken Lloyd, Reginald <u>SIGWALD</u> 4, 5, 6, 7 <u>SHEPPARD</u> 8	General Sessions Bamberg Nicholson, J. <u>SIGWALD</u>	General Sessions Aiken Keesley, William <u>SIGWALD</u> 18 <u>SHEPPARD</u> 19 <u>SIGWALD</u> 20, 21, 22 <u>DAVENPORT</u> General Sessions 19 Barnwell Buckner, Perry <u>SIGWALD</u> 19 General Sessions 21 Bamberg Keesley, William <u>SIGWALD</u> 21	Common Pleas Barnwell Early, Doyet <u>SIGWALD</u> 25, 26, 27, 28 <u>NO CR NEEDED</u> 29 General Sessions Aiken Lloyd, Reginald <u>THOMAS</u> <u>DAVENPORT</u> General Sessions Aiken / Bamberg / Barnwell Early, Doyet <u>SIGWALD</u> 25, 26, 27, 28 <u>NO CR NEEDED</u> 29

(EXHIBIT A-5)

OCTOBER TERM OF COURT

18th - 29th

	S	M	T	W	T	F	S	
						1	2	
	3	4	5	6	7	8	9	
	10	11	12	13	14	15	16	
	17	(18)	19	20	21	22	23	
	24	25	26	27	28	(29)	30	
	31							

(EXHIBIT A-5)