

LEROY BENNETT, 153421
LEE C.I. D/N 1131
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010

MAY 02, 2014

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MAY 07 2014

HON: DANIEL E. SHEAROUSE
CLERK OF SUPREME COURT
PO BOX 11330
COLUMBIA, S.C. 29211

S.C. SUPREME COURT

RE: LEROY BENNETT V. STATE, Appellate Court #2014-00836, ENCLOSURES
REQUIRED EXPLANATION TO THE COURT per se RULE 243(c), SCACR.

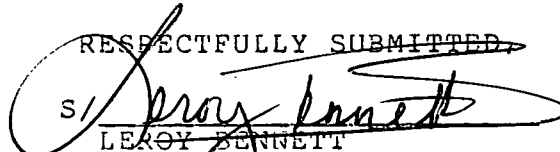
DEAR MR. SHEAROUSE:

PLEASE SEE ENCLOSED MY REQUIRED EXPLANATION WRITTEN TO THE COURT AS IS REQUIRED BY THE COURT , I HAVE ALSO PROVIDED TO THE COURT A COPY OF THE PROOF OF SERVICE AS WAS SERVED TO THE RESPONDENT ON THIS STATED DATE. PLEASE PROVIDE TO ME A STAMPED COPY OF THIS BRIEF AS TITLED AS SOON AS PRACTICAL.

THANKING YOU IN THE ADVANCE FOR YOUR TIME AND HELP GIVEN TO ME IN THIS CRUX MATTERS AND I LOOK FORWARD IN HEARING FROM YOU IN VERY NEAR FUTURE.

AGAIN THANK YOU!

may 02, 2014
ENCLOSURES:

RESPECTFULLY SUBMITTED
s/ 
LEROY BENNETT
990 WISACKY HWY.
BISHORVILLE, S.C. 29010
PETITIONER

cc: JOSHUA L. THOMAS, ESQ.
FILES/LB

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL FROM DARLINGTON CO.
COURT OF COMMON PLEAS

MAY 07 2014

HON: J. MICHAEL BAXLEY, Cir. Ct. **SC SUPREME COURT**

APPELLATE CASE NO. 2014-00836

LEROY BENNETT,....., PETITIONER,

V.

STATE,....., RESPONDENT.

REQUIRED EXPLANATION, per RULE 243 (c), SCACR

LEROY BENNETT, 153421
LEE C.I.
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010
PETITIONER

MR. JOSHUA L. THOMAS, Esq.
ASST. ATTY. GENERAL
PO BOX 11549
COLUMBIA, S.C. 29211-1549
RESPONDENT

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STATEMENT OF CASE

THE PETITIONER FILED AN APPEAL TO AN ORDER OF DISMISSAL TO A PCR SERVED TO THE PETITIONER ON MARCH 20, 2014, this order was SIGNED BY JUDGE J.L. BAXLEY ON DECEMBER 23, 2013.

THIS CASE IN ITSELF DEFINES A CLEAR CASE OF TORTUOUS NATURE BECAUSE OF HOW LONG IT TOOK FOR THE COURT AND THE RESPONDENT TO HAVE THE ORDERS SERVED TO THE PETITIONER, THE TIME FRAMES IS THE EVIDENCE OF THIS FACT, AND THE LOWER COURT OVERLOOKING THE THE EXISTING CONFLICT OF INTEREST OF THE JUDGE BAXLEY AND THE PETITIONER IN PCR CASE #1991-CP-0375, ect., is a violation of the PETITIONER CONSTITUTIONAL RIGHTS, etc.
SEE U.S. CONST. 6th AMEND.

THE PETITIONER WAS SERVED A CONDITIONAL ORDER OF DISMISSAL AND PETITIONER FILED HIS RESPONSES WITHIN THE TWENTY (20) DAYS AS WAS REQUIRED TO THE COURT AND THE RESPONDENT. THE RESPONDENT FILED A RETURN THAT IS CONSISTED OF SEVERAL FALSE AND INCORRECT FACTS, PETITIONER MADE A RESPONSE AGAINST ALL UNTRUE STATEMENTS MADE BY THE RESPONDENT IN IT RETURN.

ISSUES

1. WHY THE LOWER COURT DETERMINATION WAS IMPROPER WHEN IT
DISMISSED PCR #12-CP-16-810, etc.?

1.

ARGUMENTS

THE LOWER COURT DETERMINATION WAS IMPROPER WHEN IT DISMISSED THE PETITIONER'S PCR WITHOUT HAVING AN EVIDENTIARY HEARING , THIS A VIOLATION TO THE PCR §17-27-80 &90, etc., THE PETITIONER PRESENTS THE RECORD EVIDENCE OF THE CASE THAT SHOWS HE FILED THE POST CONVICTION FROM AN APPEAL THAT WAS FILED FROM A POST TRIAL MOTION OF A pro se STATUS IN THE LOWER COURT THAT OF WHICH THE COURT HAD THE ORIGINAL TRIAL ATTORNEY TO REPRESENT THE PETITIONER IN AT A RECONSIDERATION HEARING TO THE POST TRIAL MOTIOIN FOR NEW TRIAL BASED UPON NEWLY DISCOVERED EVIDENCE AND THE ORIGINAL TRIAL COUNSEL FAILED TO RAISE ALL FACTUAL ISSUES AT THIS HEARING AS IN THE JURY WOULD HAVE BEEN THE SOLE FACTORS TO DECIDE WHAT THE SLED REPORTS WOULD HAVE BEEN AT THE PETITIONER'S TRIAL, THE JURY ASKED NINE (9) QUESTIONS AND THE SLED REPRTS WAS RELEVANT TO THE JURY QUESTIONS ASKED TO THE TRIAL JUDGE, SEE TRIAL TRANSCRIPT OF PETITIONER'S TRIAL.

THE PETITIONER TAKE POSITION THAT THE COURT MUST RECOGNIZE PETITIONER'S RIGHTS TO FILE POST CONVICTION RELIEF AGAINST THE TRIAL COUNSEL WHEN HE DID NOT RAISE THE ISSUES CONCERNING THE SLED REPORTS AS THEY WERE NEVER DISCLOSED TO THE DEFENSE BEFORE TRIAL AND NOR DID THE TRIAL COUNSEL RAISED THE FACT THAT THE JURY WOULD HAVE BEEN THE SOLE JUDGES OF THE RELEVANCY OF THE SLED REPORTS TO THE PETITIONER'S DEFENSE. THE PETITIONER WILL EXPLICITLY STATE THAT HE IS ENTITLED TO HAVE PCR AND THE APPEAL TO HIS CASE PRESENTLY BEFORE THE COURT ACCORDINGLY TO THE WELL SETTLED LAWS OF THE CONSTITUTION AND OF THE STATE BASED UPON THE FACTS THAT THERE EXIST A CLEAR SHOWING THAT THE TRIAL COUNSEL WAS INEFFECTIVE AND THE APPELLATE COUNSEL WAS INEFFECTIVE IN REPRESENTING PETITIONER , THE RECORD SHOWS THAT THE TRIAL COUNSEL SHOULD NOT HAVE BEEN THE COUNSEL TO REPRESENT HIM AT THE POST TRIAL HEARING AND THIS IS AN ESTABLISHED FACT BASED ON THE PETITIONER HAD FILED AN INEFFECTIVE ASSISTANCE CHARGE AGAINST HIM IN HIS FIRST PCR HELD BACK IN 1993, etc., THIS IS A CLEAR CONFLICT OF INTEREST THAT THE COURT REFUSED TO HEAR, AND BASED ON THE COUNSEL LACKING TO RAISE THE IMPORTANT ISSUES TO THE COURT DURING THE POST TRIAL HEARING THIS IS A FACT THAT IS CLEARLY SHOWN BY THE RECORDS TO THE COURT, THE APPELLATE COUNSEL ALSO FAILED TO RAISE THIS PARTICULAR ISSUE TO THE APPELLATE COURT.

THE APPELLATE COUNSEL FAILED TO BRIEF THE ISSUES AS TO THE JURORS DID NOT HAVE ALL OF THE FACTS PRESENTED TO THEM BASED UPON THE STATE NOT SUBMITTING THE SLED REPORTS SHOWING THE PETITIONER NOT SHOOTING A GUN AND PETITIONER NOT HAVING ANY OF THE VICTIM BLOOD ON HIM AS A RESULT FROM THE ALLEGED INCIDENT, THE APPELLATE COUNSEL DID NOT MAKE A CLAIM THAT THE SOLICITOR OFFICE HAD HELD BACK EVIDENCE FROM THE PETITIONER THAT WAS CRUCIAL TO HIS DEFENSE AND THE SLED REPORTS WOULD HAVE MADE A DIFFERENT TO THE OUTCOME OF THE PETITIONER'S TRIAL AS TO THE FACTS THAT THE JURY MADE IT KNOWN THAT THERE WAS NOTHING PRESENTED TO THE COURT SHOWING THAT THE STATE HAD EVIDENCE THAT SHOWED THE PETITIONER WAS GUILTY OF

GRAND LARCENY OF A VEHICLE THAT OF WHICH WOULD HAVE RAISED A REASONABLE DOUBT TO THE MINDS OF THE JURY, THE SLED REPORTS WAS NOT GIVEN TO THE PETITIONER AND THE LOWER COURT DID NOT REVIEW THIS VIOLATION RAISED TO IT AND ACCORDINGLY TO THE RULES OF THE COURT THE LOWER COURT FAILURES TO REVIEW THIS ISSUE AS IT DID DID IN FACT DEPRIVED THE PETITIONER OF A FAIR REVIEW THAT HE IS ENTITLED TO FROM THE COURT. THE PETITIONER TAKE THE STANCES THAT ONCE THE APPELLATE COURT DENIED HIS APPEAL PETITIONER HAD A CONSTITUTIONAL RIGHT TO FILE A POST CONVICTION TO THE LOWER COURT BASED UPON THE DEPRIVATIONS THAT THE TRIAL COUNSEL AND THE APPELLATE COUNSEL DID IN HIS CASE , THE ISSUES WAS NOT RAISED AND THIS IS A CLEAR VIOLATION TO THE WELL SETTLED LAWS OF THE STATE AS SEE IN: GILCHRIST V. STATE, AND SOUTHERLAND V. STATE, SUPRA., etc., THE PETITIONER DID NOT WAIVED ANY OF HIS RIGHTS TO HAVE ISSUES RAISED TO THE PCR COURT AND OR TO THE APPELLATE COURTS,etc. THE PETITIONER PROFFERS TO THE COURT ALL FILED DOCUMENTS THAT ARE SUFFICIENTLY AS IS REQUIRED TO OBTAIN RELIEF FROM THE COURT.

PETITIONER RELIES ON THE LEGAL AUTHORITY THAT DEFINES HIS RIGHTS TO HAVE ASSISTANCE OF A COUNSEL TO REPRESENT HIM FREE OF A CONFLICT OF INTEREST THAT OF WHICH WAS NOT DONE, THIS MATTER IS A CLEAR AND SHOWN ONE FROM THE LOWER COURT RECORDS AS IT SHOWS THE TRIAL JUDGE OVERLOOKING THAT THE EPTITIONER HAVE HAD A PCR AND HABEAS CORPUS BUT NOT HAVING IT TO COUNT AS IT SHOULD, AS THE LOWER COURT OVERLOOKED THIS FACT THE CONFLICT OF INTEREST ISSUE COULD NOT BE RESOLVED THAT OF WHICH IS A VIOLATION OF THE PETITIONER'S CONSTITUTIONAL RIGHTS, etc.

IT IS ALSO SHOWN THAT THE JUDGE WHO SIGNED THIS ORDER OF DISMISSAL IN THE LOWER COURT SHOULD NOT HAVE PARTICIPATED IN THE SIGNING PROCESS BASED UPON THE JUDGE FIRM DID HAVE RECORDS OF THE PETITIONER'S CASE MATTERS IN 1991, etc., THE PETITIONER WILL EXPLICITLY STATE THAT THE BAXLEY'S :AW FIRM WAS THE REPRESENTATIVE OF THE PETITIONER'S FIRST PCR DATED BACK IN 1991, THE JUDGE OVERLOOKED THAT PETITIONER FILED A PAN ISSUE INVOLVING THIS SAME CASE MATTER IN THE CURRENT PCR BECAUSE THE COURT DID NOT SEE THE PETITIONER TRIED TO APPEAL SAME CASE TO THE SUPREME COURT. THIS IS A FACTORS OF A CONFLICT OF INTEREST AND THE COURT OVERLOOKED THIS ISSUE TO BE RESOLVED BY THE LOWER COURT, etc..

THE PETITIONER PROFFERS SEVERAL DOCUMENTS TO SUPPORT THIS CLAIM TO THE COURT AND SHOW THE COURT THAT THIS ISSUE WAS PROPERLY PRESENTED TO THE COURT TO BE REVIEWED BY IT AND YET IT REFUSED TO REVIEW IT ACCORDINGLY TO THE WELL SETTLED LAWS OF HTIS STATE.

THE PETITIONER EXPLICITLY STATES THAT HE TAKES THE POSITION OF THE SAME AS SEE BRADY V. MARYLAND, *supra.*, AND SEE KYLES V. WHITNEY, *supra.*, AND SEE S.C. CODE OF LAWS CREATED BY THE JUDICIAL TRIBUNAL, ETC., AS DESCRIBED BY THE LEGISLATORS, etc., THE PETITIONER WILL ALSO STATE THAT HE IS NOT TRAINED AT LAW AND IS *pro se* THE COURT MUST GIVE HIM A REVIEW ON A DE NOVO STATUS AND GIVE HIM THE BENEFIT OF THE DOUBTS IN PROVING HIS CASE TO THE COURTS, etc..

CONCLUSION

WHEREAS THE PETITIONER ASK THE COURT TO FIND THAT HE HAS GIVEN
A REQUIRED EXPLANATION TO THE COURT THAT IS SUFFICIENTLY AND
PLAIN TO HAVE THIS COURT TO GRANT HIS APPEAL FOR THE APPELLATE
REVIEW AND ALSO FIND THAT THE LOWER COURT ERRED IN IT RULING TO
DISMISS THE PETITIONER'S PCR AND REMAND FOR A EVIDENTIARY HEARING
TO BE HELD.

THE PETITIONER FOREVER PRAYS FOR THIS RELIEF ON THIS DAY
OF MAY 2014.

MAY 02, 2014

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Leroy Bennett", written over a horizontal line.

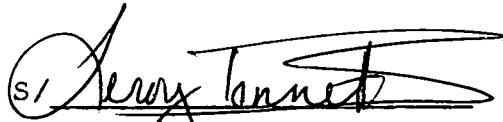
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990 WISACKY HWY.
BISHOPVILLE, S.C. 29010
pro se PETITIONER

JOSHUA L. THOMAS, Esq.
ASST. ATTY. GEN.
PO BOX 11549
COLUMBIA, S.C. 29211-1549
RESPONDENT.

PROOF OF SERVICE

I, LEROY BENNETT, PETITIONER, CERTIFY THAT I DID SERVE A COPY OF THE REQUIRE EXPLANATION TO THE RESPONDENT AS JOSHUA L. THOMAS, Esq., ON THIS 2nd DAY OF MAY 2014, BY WAY OF U.S. MAIL, POSTAGE PREPAID, ADDRESSED TO HIS OFFICE ADDRESS AS: PO BOX 11549, columbia, s.c. 29211-1549, on this 2nd DAY OF MAY 2014, PERSONALLY DELIVERING IT TO THE PRISON MAIL ROOM ON THIS 2nd DAY OF MAY 2014.

MAY 02, 2014

A handwritten signature in cursive script that reads "Leroy Bennett". The signature is written in black ink and is positioned above the typed name.

LEROY BENNETT
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010
PETITIONER

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S.C. SUPREME COURT