

RECEIVED

JUN 18 2014

S.C. SUPREME COURT

JOSE A. Maldonado # 312648  
Kershaw C. I. MB/Room # 59  
4848 Goldmine Highway  
Kershaw, S.C. 29067

Refile

1-of-3

June 4, 2014

The Supreme Court of South Carolina  
DANIEL E. SHEAROUSE, CLERK OF COURT  
POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

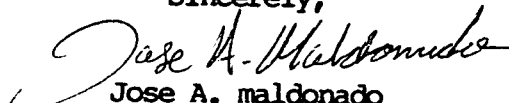
Re: Jose A. Maldonado, C/A#.: 2013-CP-23-01440 v. the State of South Carolina and the Respondent(s).

Dear Clerk Of Court,

Enclosed please find the proposed original copy of the [Appendix] ~~Request~~ Appellant was holding, to this Honorable Court, to release the "Order" to be Pursuant is the Rules 206, and 210 RECORD ON APPEAL.

Thank You, For Your Valuable Time In This Matter,

Sincerely,

  
Jose A. Maldonado  
The, Petitioner

I Looking Forward To Hearing From Your Office Sooner, Concerning The Content of this Appendix, Explanation was Rule 243(c), & (f).

Thank You In Avance

Enclosure: (2)

Attachment: (25) Pages.

Cc: File I-10-V.

Refile (2)

Page 1-of-1

JOSE A. MALDONADO, # 312648  
KERSHAW CORR. INST. MB/Rm., 59  
4848 GOLDMINE HIGHWAY  
KERSHAW, SOUTH CAROLINA 29067

June 3, 2014

The Hon: Rosalyn W. Frierson  
Director, South Carolina Administration  
1015 Sumter Street, Suit 200  
Columbia, South Carolina 29201

Re: Jose Alberto Maldonado, C/A.:2013-CP-23-01440 v. The State of South Carolina and The Respondent(s).

Dear Rosalyn W. Frierson (DSCA),

On November 29, 2005, the above C/A#:03-GS-23-04545 the Appellant had been sentenced before the Honorable Edward W. Miller, Circuit Court Judge, in Greenville County: On Dec. 8, 2008 Appellant was tried as the (1st. PCR. Hearing), with the Hon: Edward W. Miller Judge; on October 25, 2013, the Appellant again was presented before the Hon: Edward W. Miller, in the (3rd PCR. Hearing), was tried before the same judge. ("[o]n March 14, 2014 the S.C. Office Atty., Gen. send me a written letter, with a copies of the "TRANSCRIPT OF RECORDS" was the Hearing on Oct. 25, 2013, this agency released such transcript without my authorization as due process. Mrs. Margaret A. Woods was the Circuit Court Reporter[?]"). I would liking that you please refile the "Original Transcript of Record in the same manner of the (3rd PCR. Act.) is hearing was on 10/25/2013; and, again the last hearing was held on April 1, 2014, before the Hon: Edward W. Miller, Please released the Nov. 29, 05, Dec. 8, 08, Oct. 25, 13, and April 1, 2014, Transcript of Records in such hearings. My records indicate that Mrs. Margaret A. Woods show me that in same transcripts, was the Circuit Court Reporter in my case.

I request that you provide me with this information to the Transcripts, its records of the proceedings. please transcribe the entire record [except for the following parts:

- (1) Selection and swering all Statewide Grand Jury in Columbia South Carolina;
- (2) Opening statement of counsels for Appellant & Respondent including the full information is records of the translator is license, to allow him, or her to translate me on my (1st. PCR.), and (3rd. PCR. Act.) hearings;
- (3) Closing arguments of counsel for Appellant and Respondent].

I agree to pay the per page charge for this transcript as provided by Rule 607 SCACR: and the INMATE TRUST FUND ACCOUNT REPORT for SOUTH CAROLINA FILLING FEES. In accordance with a S.C. Code of laws § 24-27-100 & 150. If I have insufficient funds in my account at this time to pay the court's full filling fee

Refile (3)

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Letitia H. Verdin, Circuit Court judge  
Edward W. Miller, Circuit Court Judge

Case No. 2013-CP-23-01440

State of South Carolina, and Edward W. Miller preside Judge, ...  
.....Respondent(s),

V.

Jose Alberto Maldonado, .....Appellant.

Certificate of Service By Mail  
RULE 243(c), (f)(SCACR)

I certify that I have serve the LETTER ORDING TRANSCRIPT FROM COURT REPORTER. Of The Hon: Rosalyn W. Frierson (DSCA), 1015 Sumter St., Suit 200 Columbia, South Carolina 29201, by depositing a copy of it in the United States Mail, postage, on This 3 day of June, 2014. And a copy of it have being served to the Greenville County's Clerk of Court, to Paul B. Wickensimer, 305 E. North St., Greenville, South Carolina 29601, By personally delivering a copy of it to the Attorney General is Office of Records Mr. Alan Wilson P.O. Box 11549 Columbia, SC. 29211. Appellant Personolly forward is Letter Ording Transcript From Court Reporter. To:

The Hon: Rosalyn W. Frierson  
Director, S.C. Administrator  
1015 Sumter Street, Suit 200  
Columbia, South Carolina 29201

The Supreme Court of South Carolina  
DANIEL E. SHEAROUSE, CLERK OF COURT  
POST OFFICE BOX 11330  
Columbia, South Carolina 29211

FURTHER THE APPELLANT SAID AND NOT:

THIS 3 DAY OF June, 2014.

Respectfully Submitted

/s/ Jose A. Maldonado  
Jose A. Maldonado, # 312648  
Kershaw Corr. Inst. MB/Room # 59  
4848 Goldmine Highway  
Kershaw, South Carolina 29067

SWORN TO And SUBSCRIBED Before Me

This 3 Day Of June, 2014

Catherine A. Amers

NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires:

Issue File On: June 4, 2014

Refle ①  
1-08-15

JOSE A. MALDONADO, # 312648  
KERSHAW CORR. INST. MB/Rm., 59  
4848 GOLDMINE HIGHWAY  
KERSHAW, SC. 29067

May 20, 2014

The Supreme Court of South Carolina  
DANIEL E. SHEAROUSE, CLERK OF COURT  
POST OFFICE BOX 11330  
Columbia, South Carolina 29211

ATTORNEY GENERAL OFFICE  
Alan Wilson Atty. Gen.,  
POST OFFICE BOX 21787  
4444 BROAD RIVER ROAD  
COLUMBIA, SC. 29210

Re: Jose Alberto Maldonado, C/A#.: 2013-CP-23-01440 v. The State of south  
Carolina, and The Respondent(s).

Dear Clerk of Court,,

Enclosed please find the proposed original Notice of Appeal. And I hope  
this Enclosure Notice of Appeal find you in greading health, in the above-  
captioned case. If this Notice of Appeal meets with your "Approval," please be  
so kind to clock - stamped, and forward to the Court of Appeals, to review  
the (2) separated order [judgments]. And also at the same time that you please  
return the clock - stamped copy of the Appellant's confinement address. For,  
have being file in served in "Your Clerk of Court."

Thank You, For Your Valuable Time of This Matter.  
With Kind Was Requires!!!

Sincerely,  
*Jose A. Maldonado*  
Jose A. Maldonad  
The, Appellant

I look Forward To Hearing From Your Office Soon Concerning The  
Content of This Notice of Appeal.

Thank You In Avance,

Enclosure:(1)

Cc: File

Dear Atty. Gen. Please Hold my Notice of Appeal on my Records. Thank You!

Refre

②

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals  
[In The Supreme Court]

---

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge  
Edward W. Miller, Circuit Court Judge

---

Case No. 2013-CP-23-01440

---

State of South Carolina, and Edward W. Miller presided Judge....  
.....Respondent(s),

v.

Jose Alberto Maldonado,.....Appellant.

---

NOTICE OF APPEAL

---

Jose Alberto Maldonado appeals the order [judgments] of the  
Honorable Letitia H. Verdin, and Hon: Edward W. Miller dates Nov.  
8, 2013, April 3, 2014; and Appellant received written notice of  
entry of this and that, order [judgment] on May 1, 2014. And the  
Appellant Received on May 6, 2014.

Refile  
File copy  
③

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge  
Edward W. Miller, Circuit Court Judge

Case No. 2013-CP-23-01440

State of South Carolina, and Edward W. Miller presided Judge, ...  
.....Respondent(s),

v.

Jose Alberto Maldonado, .....Appellant.

PROOF OF SERVICE

I certify that I have serve the Notice of Appeal In The Supreme Court's Clerk of Court, by depositing a copy of it in the United States Mail, postage, on This 28 day of May, 2014. And a copy of it have being served to the Greenville County's Clerk of Court, to Paul B. Wickensimer, 305 E. North Street Greenville, S. C. 29601, by personally delivering a copy of it to the Attorney General is Office of records. Mr. Alan Wilson P.O. Box 11549 Columbia, SC.29211. Appellant personally forward is Notice of Appeal . To:

The Supreme Court of South Carolina  
DANIEL E. SHEAROUSE, CLERK OF COURT  
POST OFFICE BOX 11330  
Columbia, South Carolina 29211

ATTORNEY GENERAL'S OFFICE,  
Alan Wilson Atty. General  
POST OFFICE BOX 11549  
Columbia, South Carolina  
29211

FURTHER THE APPELLANT SAID NOT:  
THIS 28 DAY OF May, 2014.

DAVID TATARSKY/CRISTINA KELLET  
SCDC GENERAL COUNSEL  
POST OFFICE BOX 21787  
4444 BROAD RIVER ROAD  
COLUMBIA, SC. 29210

SWORN TO and SUBSCRIBED Before Me

This 28 day of May, 2014

Cathrine A. Amara  
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: \_\_\_\_\_

My Commission Expires Dec 31, 2013

Respectfully Submitted

Jose A. Maldonado  
Jose Alberto Maldonado, # 312648  
Kershaw Corr. Inst. MB/Rm., 59  
4848 Goldmine Highway  
Kershaw, South Carolina 29067

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
CASE NO: 2013CP2301440

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMER  
2013 NOV 8 AM 10 55

4- APPENDIX (1-OF-115)  
Jose Alberto Maldonado vs. South Carolina State Of

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
  - Rule 12(b), SCRPC;
  - Rule 41(a), SCRPC (Vol. Nonsuit);
  - Rule 43(k), SCRPC (Settled);
  - Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**
  - Rule 40(j) SCRPC;
  - Bankruptcy;
  - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
  - Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
  - Affirmed;
  - Reversed;
  - Remanded;
  - Other: \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order;  Statement of Judgment by the Court:  
Dated at Greenville, South Carolina, this 8th day of November, 2013.

Court Reporter:

\_\_\_\_\_  
PRESIDING JUDGE - Edward W Miller

This judgment was entered on the 8th day of November, 2013, and a copy mailed first class this 8th day of November, 2013, to attorneys of record or to parties (when appearing pro se) as follows:

Jose Alberto Maldonado 312648 Kershaw Corr  
Instit 4848 Goldmine Hwy Kershaw, SC 29067

Karen Ratigan Attorney General Office

\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court  
- Clerk of Court

Refile

5

Exhibit (A)(1) P. 3-0F-102

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 Jose Alberto Maldonado, )  
 S.C.D.C. No. 312648, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 2013-CP-23-1440

4. APPENDIX (1-0F-115)

~~Application for~~

ORDER DENYING MOTION FOR DEFAULT

FILED-CLERK OF COURT  
 GREENVILLE CO. S.C.  
 PAUL B. WICKENSIMMER  
 2013 NOV 10 55 AM

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 12, 2013. The Respondent submitted a return and motion to dismiss dated August 5, 2013. The Applicant filed a motion for default on September 16, 2013. A hearing on the Applicant's motion for default was held at the Greenville County Courthouse on October 25, 2013. The Applicant was present and proceeded pro se.<sup>1</sup> The Respondent was represented by Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General.

This Court finds the motion for default must be denied because the Applicant has failed to show any prejudice resulted from the filing of the Respondent's return and motion to dismiss beyond the authorized time limits. See Kneece v. State, 269 S.C. 177, 236 S.E.2d 746 (1977) (holding that, absent a showing of prejudice, the failure to file the return and motion to dismiss within authorized time limits does not warrant granting the relief requested in the application); see also Rule 55(e), SCRCP.

ReRe

6

Exhibit (A)(1) P. 4-OF-102

AND IT IS SO ORDERED this \_\_\_\_\_ day of 11/4, 2013.

*Edward W. Miller*

Edward W. Miller  
Presiding Judge  
Thirteenth Judicial Circuit

Jul, South Carolina.

4. APPENDIX (1-OF-115)

<sup>1</sup> A Spanish language interpreter was present.

Retire ⑦

EXHIBIT (E)(5) P. 75-0F-102

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
Jose Alberto Maldonado, )  
S.C.D.C. No. 312648, )  
Applicant, )  
v. )  
State of South Carolina, )  
Respondent. )

IN THE COURT OF COMMON PLEAS  
2013-CP-23-1440

4. APPENDIX (4-0F-115)

Applicant's Copy

RETURN TO MOTION TO ALTER OR  
AMEND THE ORDER DENYING THE  
MOTION FOR DEFAULT

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL P. WICKENSIMMER  
2014 JAN 15 AM 11 04

Respondent, by and through undersigned counsel, making Return to Applicant's Motion to Alter or Amend, would respectfully show unto this Court:

1. The matter is before the Court by way of a post-conviction relief (PCR) action filed March 12, 2013. The Respondent submitted a return and motion to dismiss dated August 5, 2013. Applicant filed a motion for default judgment on September 16, 2013.
2. A hearing on Applicant's motion for default judgment was held on October 25, 2013 at the Greenville County Courthouse.
3. Applicant was present at the hearing and proceeded pro se (with the assistance of a Spanish language interpreter).
4. The Honorable Edward W. Miller denied Applicant's motion for default judgment by order dated November 4, 2013 and filed November 8, 2013.
5. Applicant filed a Motion to Alter or Amend Judgment on December 16, 2013 (which was received by Respondent on December 19, 2013). Applicant moves this Court to alter or amend the order denying the motion for default judgment. Applicant alleges a potential

Reverse

8

EXHIBIT (EXS) P. 76 - OF - 102

conflict of interest existed because Judge Miller presided over the hearing for his first PCR application (which Applicant voluntarily withdrew).

6. Respondent submits Applicant's Motion to Alter or Amend Judgment should be denied. Applicant is not requesting either an alteration or amendment to the final order. Rather, Applicant is asking the Court to reverse its decision. See Wilder Corp. v. Wilke, 330 S.C. 71, 77, 497 S.E.2d 731, 734 (1998) (noting the proper use of a Rule 59(e) motion is to preserve issues raised to but not ruled upon by the trial court).

7. Respondent submits Applicant's request to revise the order must be denied. Applicant has failed to demonstrate the order denying his motion for default judgment contains any errors or omissions that must be addressed. Applicant has also failed to demonstrate that Judge Miller either (1) should have recused himself in this case or (2) had a conflict of interest.

8. Respondent submits Applicant has made numerous statements in his motion that are factually incorrect. For example, the order denying his motion for default did not dismiss his PCR action. As an additional example, Judge Miller was neither the sentencing judge nor the PCR judge in Applicant's second PCR action.

9. Respondent submits the order denying Applicant's motion for default judgment must be denied, as that order properly addressed the sole issue before Judge Miller - whether Applicant could prove the State defaulted in this case and he was prejudiced as a result.

EXHIBIT (E)(5) P. 77-06-102

Refile (9)

4. APPENDIX (1-06-115)

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

P.O. Box 11549  
Columbia, S.C. 29211

By:

  
Attorneys for Respondent

January 6, 2014

Refile 10

EXHIBIT(E)(5) P. 78-OF-102  
STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

IN THE COURT OF COMMON PLEAS

2013-CP-23-1440

JOSE ALBERTO MALDONADO, 312648 )

4. APPENDIX (1-OF-15)

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMER  
2014 JAN 15 AM 11 04

Applicant, )

vs )

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA, )

Respondent. )

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return to Motion to Alter or Amend the Order Denying the Motion for Default** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jose Alberto Maldonado, 312648  
Kershaw Correctional Institution  
4848 Goldmine Highway  
Kershaw SC 29067

DATED this 6th day of January, 2014.

*Judy A. Carey*  
Judy A. C. Carey, Legal Assistant  
For Respondent

EXHIBIT OF SUMMARY JUDGMENT (RETURN AND MEMORANDUM OF LAW)  
IV. Relief (3)

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
Jose Alberto Maldonado, )  
S.C.D.C. No. 312648, )  
Applicant, )  
v. )  
State of South Carolina, )  
Respondent. )

IN THE COURT OF COMMON PLEAS  
2013-CP-23-1440

6. APPENDIX (1-OF-12)

**ORDER DENYING MOTION TO  
ALTER OR AMEND**

FILED-CLERK OF COURT  
GREENVILLE, CO., S.C.  
PAUL B. WICKENSIMMER  
2014 APR 9 PM 1:41

Applicant filed an application for post-conviction relief (PCR) on March 12, 2013.<sup>1</sup> Respondent submitted a return and motion to dismiss dated August 5, 2013. Applicant filed a motion for default on September 16, 2013. A hearing on this motion was held at the Greenville County Courthouse on October 25, 2013. Applicant was present and proceeded pro se.<sup>2</sup> Respondent was represented by Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General. This Court denied the motion by order filed November 8, 2013.

Applicant subsequently filed a "Supporting Motion to Alter or Amend Judgment Rule 59(e), 55(c) (SCRCP); And (SCACR), 501 Code of Jud. Conduct Canon 3, Subds. (C)(1); and (E)(1)(a)(b); (i)(ii)(iii)(iv)" on December 16, 2013, 2013. Respondent submitted a return dated January 6, 2014. A hearing on this motion was held at the Greenville County Courthouse on April 1, 2014. Applicant was present and proceeded pro se.<sup>3</sup> Respondent was represented by

<sup>1</sup> This is the third PCR application in which Applicant challenges his August 22, 2006 guilty plea.  
<sup>2</sup> A Spanish language interpreter was present.  
<sup>3</sup> The same Spanish language interpreter from the October 2013 hearing was present.

EXHIBIT OF: SUMMARY JUDGMENT (RETURNS AND MEMORANDUM)

17

V.

Reh'le

Ms. Ratigan. At the hearing, Applicant requested an attorney be appointed on this motion. This Court denied Applicant's request and found Applicant's filing actions in this case were abusive. Applicant voluntarily and contemptuously vacated the courtroom and refused to participate in his motion hearing. This Court finds no evidence or argument was submitted in support of Applicant's motion and, as such, the motion to alter or amend this Court's order filed on November 8, 2013 is denied.

AND IT IS SO ORDERED this 3 day of April, 2014.

6 APPENDIX (1-OF-12)

Edward W. Miller  
Edward W. Miller  
Presiding Judge  
Thirteenth Judicial Circuit

Summit, South Carolina.

RECEIVED

MAY 14 2014

GENERAL COUNSEL

Re: [unclear]

(13)

JOSE ALBERTO MALDONADO, # 312648  
KERSHAW CORR. INST. MB/Rm., 59  
4848 GOLDMINE HIGHWAY  
KERSHAW, SC. 29067

6. APPENDIX (1-OF-12)

DAVID TATARSKY/CRISTINA KELLETT  
SCDC GENERAL COUNSEL  
P.O. BOX 21787  
COLUMBIA, SC. 29210

May 12, 2014

SUBJECT: C/A 13-CP-23-01440

I, Jose A. Maldonado, this matter is in regards to your correspondence written letter. Tank you for your "Valuable" time that you "Expend your time to filed my legal correspondence" to the Attorney General is office. I am (pro se, in this C/A# 13-CP-23-01440, and they mislead information throughout is the Mail room between is same documentation "that said i didn't filed in the right data of my file dates is my pleading regarded this matter to them."

Of the Attorney General is Office, Between is the Kershaw is mailroom clerk, Please forward this filed to my confinement address that I can proof to any court that I was filed in the right file date. My pleadings regarding this matters to them. Of the Rule 62(a), (b), SCRCP.

Cincerely,

*Jose A. Maldonado*  
Jose. A. Maldonado, #312648  
The, Applicant

Jose A. Maldonado

If you wish to send correspondence to the Attorney General's Office, you must do so by mailing it to them directly.

*[Signature]*

5-2014

CC: FILE

RECEIVED

MAY 14 2014

GENERAL COUNSEL

Refile

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE :

IN THE COURT OF COMMON PLEAS  
FOR THE 13TH JUDICIAL CIRCUIT

JOSE ALBERTO MALDONADO )  
S.C.D.C. I/D#: 312648 )  
Applicant, )

C/A#: 2013-CP-23-01440

(14)

Vs.

STATE OF SOUTH CAROLINA, AND )  
THE HON: EDWARD W. MILLER )  
PRESIDED JUDGE' Respondent(s). )

MOTION FOR AUTOMATIC STAY

The Applicant in above - refence matter of this case for post-conviction relief (PCR. Act.) Application. Filed February 7, 2013. ~~Were the clerk of court for the 13th Judicial Circuit clock-~~ stamped on March 12, 2013. Except as stated herein, no execution shall issue upon Final order of Dismissal upon the Applicant is "Response To Respondent's (Motions) didn't have being answer or ruling as a Motion For 'summary judgment'". Ruling in the Applicant is claims would be in this court had been filed on: April 17, 2014, and also the Applicant filed an a separate Motion with the attached a copy of the "Order Denying Motion to Alter or Amend to Hon: Hill D. Garrison "Garry" may him think (him will review such mistaked from the Edward W. Miller who signed such judgment). Upon is the Motion for "Summary Judgment". Rule 50(f)(SCRPC) Filed Motion (Return and Memorandum of Law/in Support Motion for Summary Judgment) Rule 50(f) Motion had been filed on April 24, 2014.

ISSUE PRESENT

I.

This matter came before the court by way of an Application for post-conviction relief (3rd PCR.Act.). That, the Applicant received through SC. Atty. Gen., is office on April 29, 2014; <the Final Order of Dismissal> this judgment was entered on May 1, 2014 into

Refile

(5)

the clerk of court is clock-stamped. However, again such judgment failed to the "ten (10) days" of the court judge lacked jurisdiction to sue sponte alter a judgment more than ten days. See, id., Motion in Rule 59(e) 55(c)(SCRCP) And (SCACR) 501 Code Jud., Conduct etc., is P. 10 (quoting Ness v. Eckerd Corp., at 350 S.C. 402-03, S.E.2d at 195 (SC. App. 2002). Holding, as Follows:

Initially, This Court had to held that, and note that "[i]ssues relating to subject matter jurisdiction may be raised at any time ... and should be taken notice of by this court on our own motion." Bunkum v. Manor Props., 321 S.C. 95, 99-100, 467 S.E.2d 758, 761 (Ct. App. 1996) In Heins v. Heins, 344 S.C. 146, 543 S.E.2d 224 (Ct. App. 2001) this court held that a family court judge lacked jurisdiction to sue sponte alter a judgment more than ten days after it was issued. Although the PCR. judge retain jurisdiction to alter judgments on their own initiative for ten days if a Rule 59(e), SCRCP motion is filed, after ten days that jurisdiction is lost. Id., at 157, 543 S.E.2d at 229-30. In this case, as Heins, the trial judge modified an order as requested in a Rule 59(e). (Hereby the Applicant had been "Requested in time against the ten days" motion, but rather on his own initiative and after than ten days had passed. He therefore lacked jurisdiction to vacated both orders. November 8, 2013, & April 3, 2014, From this Court of Common Pleas for the 13th Judicial Circuit.

Applicant, hereby this judgment applied the same text inside is the <Final Order of Dismissal> had the same problem of the PCR. judge retain jurisdiction to alter judgment on their own initiative after pass ten days that jurisdiction is lost. Because, Hon: Letitia H. Verdin judge lack jurisdiction to alter a judgment more than ten days after it was issued. See, hereby the issued date <Final Order of Dismissal> the mailroom received on April 17, 2014/Applicant received from the mailroom on April 29, 2014; however, is not matter if the mailroom delated my legal - mail to (12) days the judgment had his on issued up date filed on (2) ways one is a written letter show date April 16, second is the (MOTION AND ORDER INFORMATION FORM AND COVER SHEET) From the Respondents.

Rettie

(16)

[T]he (3rd. PCR.Act.) judge's full written orders filed ... more than (5) months later after was patently untimely. Under Rule 59 (e), SCRCF, had been filed on Nov. 21, 2013 (3rd. PCR.) judge has only ten days from entry of judgment to alter or amend an earlier order on his own initiative .... When Applicant timely sua sponte order filed under Rule 59(e), 55(c), SCRCF, & SCACR 501 Code Jud. Conduct Canon 3 Subd., (C) & (E) etc., order filed to (disqualify him self) See the Motion P. 5, & P. 9-10, ("[t]hat is my timely 'sua sponte order filed under Rule 59(e),'" ... form order "matured" into a final judgment.) The [subsequent] order ... was a nullity because the (3rd. PCR. Act) judge no longer had jurisdiction over the matter. Id. at HEINS v. HEINS, at 157, 543 S.E.2d at 229 (Ct. App. 2001).

## II.

Stay of Enforcement "judgment" subject to ten - day automatic stay: Applicant would show the Court there is no Final order of Dismissal subject to the ten - days from the authority is Edward W. Miller, now Hon: Letitia H. Verdin, then Applicant would show the "Court there is no genuine issue of material facts," and the (Respondent(s), State) are entitled to "summary judgment" and entitled to immediately enforce administrative law judge's order from Edward W. Miller judge, revoking is wrong filed dates "Order on: Nov. 8, 2014, and the wrong signature is order April 3, 2014 the judgment entered in the clerk of court on April 9, 2014."

Issued file for summary judgment - against this order's Motion by Order filed November 8, 2013. Applicant, had been applied timely Rule 59(e) Nov. 21, 2013. have being, "Stay, and him lacked jurisdiction to vacated both orders. In this Court.

Refile

(17)

III.

See, (Return and Memorandum In Support Motion For Summary Judgment). Stated, as Follows:

Focus, on a "PROCEDURAL ISSUE OF FACTS". Were, the Applicant raise the issue in Rule 59(e), SCRCP, have being "Stay" in open court for such mistaken in the "signed order was no had been added to denied my right date filed On: Nov. 21, 2013, and that violated my Constitutional Right to access, to being in the court? Because, the "summary judgment" didn't have record to ruling those strong (Attachment's Exhibits facts) was there is no answer or ruling the "summary judgment for those facts against the order of 'April 3-9, 2014.'" The (3rd PCR.Act's filed on April 17, 2014), Against, the Respondents for failed to ruling, were the Applicant have the right to pursuit with the "Rule 12(a) (SCRCP), A party served with a pleading stating a cross-claim against him shall serve answer thereto within 30 days after the service upon him. Same Rule 12(a)(2), b(6) cite is Rule 56, and now hereby the Rule 55(d) Applicant Counterclaimants, and if this court failed; did not lacked jurisdiction over the matter in the boths motion was pending to ruling Applicant, have the right upon is Rule 55(d), SCRCP, file his new Cross-Claimants Motion against the Respondents in Default judgment? Because, is (2) Motions had been filed in this court one is for March 28, 2014, the second is the "Summary Judgment" file dated on April 17, 2014. (Conditional ruling had been applied to ruling that Supporting Motion.

IV.

The Respondents (State) made its Final Order of Dismissal on April 16, 2014 requested the "Application be summarily dismi-

Refile (18)

ssed based upon the expiration of the statute of the statute of limitation and the presumption against successive PCR Application.

- 1). Hereby, the Applicant's (3rd PCR. Act.), Application, in this matter is the <Final Order of Dismissal> set those issues for below; because, the (3rd. PCR. Act) have "Newly Discovery Evidence", subject all arguments for the Relief have being sought.
- 2). The (3rd. PCR. Act), allowing the Applicant to filed upon the expiration of the statute, would be subject to Code 1976 clause 17-19-100, 17-27-45(C). See at "Return & Response To Motion to Dismissal/Conditional Order of Dismissal". Refile On: Sept. 16, 2013. is Page (7) at SC. Code Ann. § 17-27-45(C) stated as follows:

Specifically [i]f the Applicant contends that there is evidence of material facts not previously presented & heard that requires "vacation of the conviction or sentence," the "Applicant must be filed under this chapter within one year after the date when the facts could have been ascertained by the exercise of reasonable diligence." SC. Code Ann. § 17-27-45(C); Coats v. State, 352 S.C. 500, 575 S.C. 2d 557 (S.C. 2003).

- 3). Setting the time limitation upon the expiration of the statute of the statute is limitation didn't against successive PCR Application after Applicant, submitted the (3rd PCR. Act), be pursuit as Code 1976 § 17-19-100. Were, the "Respondents fall in answer the (3rd PCR Act.), Application," of the "indictments, is not a true bill." Instead Code Ann. § 44-53-375(C)(2)(b), were the records show that? Had not been subject to 28- grams his guilty plead at § 44-53-375(C)(5). The Applicant ~~exhausted inside's Code~~

Refile (19)

Ann. § 1-23-380(a)(b)(c)(d)(f), & (g) (1-to-6); S.C. Const. art. II, § 8.; S.C. Rules of Civil Procedure Rules 61, 62(a) (& 56(c)). (As, stated inside of this three "Rules".) Holding, as follows:

(1) Harmless error is "Order on April 3, 2014/Entered in the Clerk of Court Apr.9,2014; State v. Haselden, 353 S.C. 196-197, 577 S.E.d2 449 (S.C. 2003) (quoting State v. Cheeseboro, 346 S.C. 526, 552 S.E.2d 300 (2001) ;(2) Rule 62(a) SCRPC, provides for an automatic stay of ten days after the entry of a final judgment. Ruling on the "Constitutionality of the statute." The Clerk of the lower court improperly canceled the lis pendens notices of the "summary judgment" is the Applicant motions within 10 days of the ruling such motions, both files one is on: March 27-28, 2014/Summary judgment date filed on April 17, 2014/Rule 50(f) SCRPC, Filed on April 24, 2014. That, violated Applicant's constitutional right to access to the court. for the cancellation of that two (2) separated motions to be notified with such fact in this court. Lebovitz v. Mudd, 289 S.C. 476, 347 S.E.2d 95, 96 ((SC. 1986) later proceeding (SC) 358 S.E. 698. Rule 62(b) Stay on Motion for this Motions. Gateway Enterprises, Inc. v. South Carolina Dept., of Revenue, 341 S.C. 103, 553 S.E.2d 896 (S.C. 2000)(quoting Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000); S.C. Code Ann § 1-23-380(A)(2). Also see, At 103, 553 S.E.2d 896 is (Fn.3)(penal statute against the State in favor of Applicant his claims in this Motion); And (3) When reviewing grant of "summary judgment," appellate court applies the same standard. Rules of Civ. Proc., Rule 56(c). IN Order to Prove "defamation," the complaining "Applicant" must show: (1) a false

Refile

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and "defamatory statements" was made; (2) the unprivileged statement "was published to a third person," or party; (3) the publisher was at "fault"; and (4) either the statement was "actionable irrespective of harm or the publication of the statement caused special harm." ("Libel"); Holtzscheiter v. Thomson Nespears, 332 S. C. 502, 506 S.E.2d 497, at, 501-02 (SC. 1998) (COMMON LAW DEFAMATION). See, (Toal, J., Concurring in result in (quoting Flemin v. Rose, 350 S.C. 488, 567, 567 S.E.2d at 860 (S.C. 2002)) result of this opinion? The publication of a statement is defamatory if ~~it tends to harm the reputation of another as to lower him in the estimation~~ of the community or to deter third persons from associating or dealing with him. South Carolina Rules of Civ. Procedure Rule 61.

C O N C L U S I O N

The Applicant's hereby the rules to have being applied to ruling with the right jurisdiction, and pursuit is Rules 62(a), & (b), SCRPC, the Court may Stay the execution of or any proceeding to enforce a judgment pending the disposition of a motions for a "New trial or alter or amend a judgment made pursuant to the Rule 59 or of a motion for relief from a judgment or order made pursuant to Rule 60 or of a motion for judgment in accordance with a motion for a direct verdict made pursuant to Rule 50, or of a motion for "amendment" to the modifying, restoring, or granting of of an injunction during the pendency of an appeal. Rules of Civ., Proc., Rules 62(c), and 56(c). By clear and convencing evidence that the defamatory falsehood was made with ["actual malice"]; Code 1976 § 1-23-380(a), (g) (6).

Respectfully Submitted

Done this 12 day of May, 2014

Page 7.

/s/ Jose A. Maldonado  
 Jose Alberto Maldonado  
 # 312648 Applicant.

Rebbe (2)

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE :

IN THE COURT OF COMMON PLEAS  
FOR THE 13TH JUDICIAL CIRCUIT

JOSE ALBERTO MALDONADO )  
S.C.D.C. I/D#: 312648 )  
Applicant, )

C/A#: 2013-CP-01440

v. )

CERTIFICATE OF SERVICE BY

STATE OF SOUTH CAROLINA, AND )  
THE HON: EDWARD W. MILLER )  
PRESIDED JUDGE' Respondent(s). )

MAIL

G. APPENDIX (1-of-12)

1. I, Jose Alberto Maldonado, declare under the oath that on the below said date the, Applicant deposit a true and exact copy of foresaid of the "General Allegations": in above-captioned matter civil action. Post-Conviction Relief Application.
2. Declare under the Code 1976 § 17-27-10(d)(e); and the Rule 71. 1(a), (d)(g), SCRPC; Quote Rule 602(g)(1,2) & (h), (SCACR), appointment of counsel for "defense in behalf's the Applicant next 'Evidentiary Hearing.'" That, the Applicant can show of the "General Allegations, of the matter's the summary judgment had been submitted in this court. The burden of proof is in the Applicant to stablishing his titlement to relief by a propoderance to the (Exhibits's Attachment had been submitted in this County of Greenville's Court on April 17, 2014.).
3. Applicant, hereby Motion For Automatic Stay: Rule 62(a), and (b), SCRPC. Deposit, through, Kershaw Corr. Inst Mail-room is clerk, to be forward in U.S. posted-system with sufficient postage. Pursuant's 18 USC. § 1314; 28 USC. § 2107; Houston v . Lack, 487 U.S. at, 266-67 (1988); and the SCDC, Plicy No. PS -10.08. Have being file to the followings persons, This 12 day of Mex, 2014. To:

PAUL B. WICKENSIMER'S OFFICE  
CLERK OF COURT  
IN THE GREENVILLE COUNTY  
305 EAST NORTH STREET  
GREENVILLE, SC. 29601

FURIHER THE APPLICANT SAID  
AND NOT: THIS 12 DAY OF May, 2014

ATTORNEY GENERAL'S OFFICE  
ALAN WILSON ATTY. GEN.,  
POST OFFICE BOX 11549  
COLUMBIA, SC. 29211

SWORN To and SUBSCRIBED Before Me  
This 12 day of May, 2014

Cristina A. Ornela  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires December 31, 2018

MY COMMISSION EXPIRES: \_\_\_\_\_

DAVID TITARSKY/CRISTINA KELLET  
SCDC GENERAL COUNSEL  
POST OFFICE BOX 21787  
4444 ROAD RIVER ROAD  
COLUMBIA, S.C. 29210

Respectfully Submitted

Jose A. Maldonado  
Jose A. maldonado, # 312648  
Kershaw C. I. MB/Rm., # 59  
4848 Goldmine Highway  
Kershaw, SC. 29067

Issue Date File: May 12, 2013.

Retire

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STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2013CP2301440

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMER  
2014 MAY 1 PM 9:41

Jose Alberto Maldonado vs. South Carolina State Of

CHECK ONE:

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):
  - Rule 12(b), SCRPC;
  - Rule 41(a),
  - Rule 43(k), SCRPC (Settled);
  - Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):
  - Rule 40(j) SCRPC;
  - Bankruptcy;
  - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
  - Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
  - Affirmed;
  - Reversed;
  - Remanded;
  - Other: \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

See attached order;

Statement of Judgment by the Court;

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE - Letitia H Verdin

This judgment was entered on the . and a copy mailed first class this . to attorneys of record or to parties (when appearing pro se) as follows:

Jose Alberto Maldonado 312648 Kershaw Corr  
Instit 4848 Goldmine Hwy Kershaw, SC 29067

ATTORNEY(S) FOR THE PLAINTIFF(S)

Karen Christine Ratigan PO Box 11549 Columbia,  
SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court  
- Clerk of Court

Refile (23)

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
Jose Alberto Maldonado, )  
S.C.D.C. No. 312648, )  
Applicant, )  
v. )  
State of South Carolina, )  
Respondent. )

IN THE COURT OF COMMON PLEAS  
2013-CP-23-1440

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMMER  
2014 MAY 1 AM 9 41

**FINAL ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 12, 2013. The Respondent made its return on August 5, 2013, requesting the application be summarily dismissed based upon the expiration of the statute of limitations and the presumption against successive PCR applications.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, the Honorable D. Garrison Hill acting in his capacity as Chief Administrative Judge – issued a Conditional Order of Dismissal filed August 22, 2013, provisionally denying and dismissing this action, while giving the Applicant twenty days from the date of service of said Order in which to show why the dismissal should not become final.

The Applicant filed a motion for default on September 16, 2013. A hearing on this motion was held on October 25, 2013. The Applicant proceeded pro se. The Honorable Edward W. Miller filed an order on November 8, 2013 in which he denied the motion for default.

On December 16, 2013, the Applicant filed a “Supporting Motion to Alter or Amend Judgment Rule 59(e), 55(c) (SCRCP): And (SCACR), 501 Code of Jud. Conduct Canon 3,



Refile (24)

Subds. (C)(1); and (E)(1)(a)(b); (i)(ii)(iii)(iv).” A hearing was held on April 1, 2014. The Applicant proceeded pro se. Judge Miller filed an order on April 9, 2014 in which he denied the Applicant’s motion and noted: (1) that “Applicant’s filing actions in this case were abusive” and (2) that the Applicant “voluntarily and contemptuously vacated the courtroom and refused to participate in his motion hearing.”

In addition to the above-referenced motions, the Applicant has filed several other lengthy documents: (1) “Return and Response to Motion to Dismiss/and Conditional Order of Dismissal” filed September 6, 2013; (2) “(Supplemental) Amendment of Complaint P.C.R. Act Application Motion” filed September 16, 2013; (3) “Reply Motion to Lack Merit or is Untimely S.C. Clerk of Court Manual § 6.24.: & Rule 12(a), (b)(5)” filed January 17, 2014, and (4) “Motion for New Pre-Trial Calendar Hearing” filed March 6, 2014. In these documents, the Applicant argues ineffective assistance of plea counsel, lack of subject matter jurisdiction, and an illegal indictment. The Applicant also argues he is entitled to a new evidentiary hearing and the quick resolution of his case.

This Court has reviewed the Applicant’s numerous responses to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

This Court notes the Applicant pled guilty on August 22, 2006 and was sentenced on April 10, 2007. As this action was filed on March 12, 2013, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-27-45(a) (Supp. 2003). This is the Applicant’s third application for post-conviction relief. This Court notes successive PCR applications are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980).



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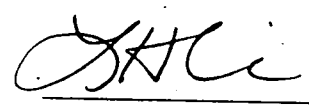
This Court finds the Applicant had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on December 8, 2008 and instead chose to voluntarily withdraw his application. See Odom v. State, 337 S.C. 256, 261, 523 S.E.2d 753, 755 (1999) (“[A]n applicant is entitled to a full adjudication on the merits of the original petition, or ‘one bite at the apple.’”).

This Court finds the Applicant’s claim that the plea court lacked subject matter jurisdiction is without merit. Indictments are not jurisdictional in nature, they are merely notice documents. State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). This Court finds the indictments in this case were true-billed and clearly adequate to provide notice of the charges the Applicant was facing.

**IT IS THEREFORE ORDERED** that, for the reasons set forth in the Conditional Order of Dismissal, the PCR application is hereby denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

**AND IT IS SO ORDERED** this 29 day of April, 2014.



Letitia H. Verdin  
Chief Administrative Judge  
Thirteenth Judicial Circuit

\_\_\_\_\_, South Carolina.



JOSE A. MALDONADO  
KERSHAW, Corr. inst. MB/Rm., 59:  
4848 GOLDMINE HIGHWAY  
KERSHAW, S.C. 29067

LEGAL - MAIL

THE SUPREME COURT OF S.C.  
DANIEL E. SHEAROUSE, CLERK OF COURT  
POST OFFICE BOX 11330  
COLUMBIA, S.C. 29211