

Jose A. Maldonado, # 312648
Kershaw Corr. Inst. MB/Rm., # 59
4848 Goldmine Highway
Keshaw S.C. 29067

July 3, 2014

The Supreme Court of South Carolina
DANIEL E. SHEAROUSE, CLERK OF COURT
Post Office Box 11330
Columbia S.C. 29211

RECEIVED

JUL 08 2014

S.C. SUPREME COURT

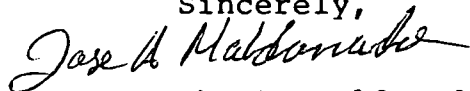
Re: Jose A. Maldonado, C/A#:2014-001164/Lower Court C/A#:2013-CP-23-01440 v. The State of South Carolina

Dear Clerk, In The Supreme Court State of South Carolina.

Enclosed please find the proposed original PETITION FOR REHEARING AND REMITTITUR's Copy. And I hope this Enclosure Petition for Rehearing find you in Greeding heald, in the captioned case. If this part of Appendix, Exhibits meet with your "approval," Please be so kind to clock - stamped and forward it to the Court of Appeals to be review the matter. Involved is [judgment]. Please return the clock-stamped copies to the Appellant's confinement address. For have being file in served inside is Yours, Clerk. In The Supreme Court State of South Carolina.

Thank You, For Your Valuable Time In This Matter, With Kinds was Requires!

Sincerely,



Jose ALberto Maldonado

I Look Forwards To Hearing From Your Court Sooner, For The Content of this Petition For Rehearing And Remittitur.

Enclosures:(5)

Exhibits(1-of-23) pages /Appendix of Inditments:(2)

Appendix:(1-of-25) Pages

Cc: File

RECEIVED

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

JUL 08 2014

S.C. SUPREME COURT APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court

Appellate Case No. 2014-001164
Lower Court Case No. 2013-CP-23-01440

Jose Alberto Maldonado, Petitioner,

v.

State of South Carolina, Respondent.

PETITION FOR REHEARING AND REMITTITUR


The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Karen C. Ratigan
Assistant Attorney General
Post Office Box 11549
Columbia, S.C. 29211

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

Respectfully Submitted

File (4)


s/ Jose A. Maldonado, I/D#: 312648
The, Petitioner.
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Columbia South Carolina, 29067

7-3-2014

REHEARING AND REMITTITUR

1-of-6 Pages
File (4)

That, the Petitioner Jose A. Maldonado in above - reference matter for (3rd) Post-Conviction Relief Act. Application. Filed February 7, 2013. Was the lower court's clerk clock stamped on: March 12, 2013. Petitioner as stated herein this PETITION FOR REHEARING AND REMITTITUR, pleading with his Notice of Appeal has been filed on May 28, 2014. On June 4, 2014 Petitioner was filed his Rule 243(c) SCACR, required Petitioner's to provide a written explanation as to why the determination from the lower court is improper. Therefore, the South Carolina Supreme Court, after received the Notice of Appeal. Was, notify the Petitioner with the same rule 243(c) WRITTEN ORDER on June 3, 2014 Petitioner received June 5, 2014 from SC S.Ct., is clerk, and granted (20) days, after Petitioner filed his Notice of Appeal in the S.C. Supreme Court. The Petitioner refile it and pursuit with the same Rule 243(c)(f) See, (attached copies was Rule 243(c)(f) Refile within "explanation" of the lower Court Orders has been attached), see INDEX Notes of Appendix. Would, Petitioner, wants to briefing of Appellant his Grounds of Records for the Relief have being sought in this Hon:Supreme Court. But this Court dismissed the Rule 243 (c) SCACR, WITH A WRITTEN ORDER ON June 19, 2014 before the deadline has expired on June 24, 2014. The South Carolina Supreme Court dismissed and against my constitutional right to appeal, pursuant is Rule 208(a)(1), & (b)(1)(A-to-E). In Filed INITIAL BRIEF Holdings, as follows:

ISSUES PRESENT

I.

This jurisdiction have being takeover with an Appellate Court to hear matter after issuance of the "REMITITTUR" is well established. The Circuit Court acquires jurisdiction to enforce the judgment and take any action consistent with the Appellate Court is ruling. See RETURN AND MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT's (P.6-&-7)¶[1]) Conditional Ruling on Grant of Motion. ("[T]herein, if the [Plaintiff or Applicant] didn't make any claim upon is the circuit court and did not rule it. That, the Appeal Court cannot consider the issue"). ... See e.g., RENTAL UNIFORM SERV. OF GREENVILLE, S.C.INC. v. K & M TOOL & DIE INC., 292 S.C. 517, 357 SE.2d at 722 (Ct.App. 1987)(the court of appeal will not addressed an by the trial court) see id., at 311 S.C. 394, 429 S.E.2d is P. 463. Was the issue dated in this MOTION has been addressed April 17, 2014. MARTIN V. PARADISE COVE MARINA INC., 348 S.C. 379, 559 SE.2d at 351-52 (CT. App. 2001). In finding that it lack jurisdiction to entertain the Petitioner three Motion without of circuit court is ruling show a damage in the Petition, was Petitioner claim for -INJUCTIVE RELI-ef in the same [MOTION]- is P. (10)-&-(17) Rule 56. Now, Applied Subdbision (c) is REPLY MOTION TO DEFENSE & OBJECTION. Pursuant's Rule 12(a)(2) SCRCP. When the circuit court had heald on April 1, 2014 with the hearing. But Petitioner, refused to hear such hearing with the trial judge (1st);(2nd, & 3rd PCR.Act) the Edward W. Miller judge, when him review the filed Rule 59(e) SCRCP, on 4-1-2014 I was decided to convenced him for an continue but him refused. Petitioner have two issues to said to this Hon: Court:(1) on 10/25/13 hearing, this judge rufused to see my claims for Default judgment when

this court tried in addressed the petition from the Respondent he questioned me above is my evidence, but at the same time refused and said that ("You didn't showed me your facts and now is ["denied with prejudice"]. The PCR Hearing's no longer of [1-to-6] Minutes, with the three times PCR, trial judge/Failed at Rule 59(e), 55(c) & 501 SCACR, Canon 3 (C) & (E) etc., see (P. 5-&-6 Canon 3. (E)(a)(iv) Motion. That it's in [Motion for Summary Judgment P.4] (thereby the filed: Applicant has been explaint that to the clerk of court was the claerk's a party" and the clark has to kepted the time inside the hearing, see id., at STATE V. McINTAIRE, 221 SC. 504, 71 SE.2d 417 (quoting STATE V. BALLANGER, 202 SC. 155, 24 SE.2d 175 (S.C. 1963) ("An accused is entitle to [two hours in a case warranting an argument for such lenght of time])); and (2) on April 9, 2014 the lower's court filed the ORDER DENYING MOTION TO ALTER OR AMEND BETWEEN IS the Respondent's Motion. Surprise, it's the Order from Nov.8,2013 and did no denied Rule 59(e) file on Nov. 19-21, 2013 Motion to ALTER OR AMEND summary judgment have being sought; and the Appellate Court will remending the matter for a further proceeding an appointment of counsel.: Was the lower court failed to do so. See the Order on April 9, 2014 was the Respondent argues that;(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. Petitioner sending this arguable issues in the Motion is Refiled Rule 243(c)(f) file dated June 12, 2014. (p--6) in AL-SHABAZZ V. STATE, 334 SC. 354, 527 S.E.2d at 748 (SC. 2002) and also the Respondent argued that. Applicant voluntarily and

contemptuously vacated the courtroom and refused to participate in his motion hearing/was is Rule 59(e) SCRPC) etc., petitioner is a lay man and him didn't have the "skill to pro se without of counsel." Arguable bassis, in PRINCE, 301 SC. 422, 392 SE.2d 463; FOSTER V. STATE, 298 SC. 306 SE.2d 907 (1989)(quoting STATE V. SANDERS, 269 SC. 215, 273 SE.2d at 53 (1977)). "Hybrid representation, that is representation which is partially [pro se] and partially by counsel."

**REHEARING
II.**

Rule 221(a) SCACR, stated as follows:

Petition for rehearing must actually received by the Appellate Court no later than fifteen (15) days after the filing of the opinion, order judgment, or degree of the court. Appellant received its ["ORDER"] from the Supreme Court, June 23, 2014 has been signed June 19, 2014 C/A#.:2014-001164?lower Court C/A#.:2013-CP-23-01440 was the petition, for Writ of Certiorari has been dismissed with Rule 221(b) SCACR. Now, I Return of Rule 221(a)(c). Holdings as Follows:

The "Appellate Court" will not entertain petition for rehearing on a MOTION or PETITION for REHEARING on MOTION or unless the action of the court on the MOTION or PETITION has the effect of dismissing or FINALLY DECIDING A PARTY is APPEAL.

The Supreme Court Dismissed the Petitioner's Rule 243(c) SCACR, before, the (20) days deadline has been expired on June 20, 2014. when this Court granted the twenty (20) days on June 3, 2014 the Appellant received it June 5, 2014. That, means's no longer to a full reviewed. Once the remittitur is issued from an Appellate Court, the circuit court acquires jurisdiction to enforce the judgment upon is the three pended filed motions and ruling that).

STANDARD OF REVIEW

III.

This is an appeal from the grant of a motion to dismiss for lack of subject matter jurisdiction. A question of law for the Court. See, WOODARD v. WESTVACO CORP., 315 SC. 329-332, 433 SE.2d 890, 892 (Ct.App. 1993) vacated on other grounds by 319 S.C. 460, 392 (1995). During the pendency of the appeal or within fifteen days after filing of the appellate judgment pursuant to Rule 222(d) SCACR, petitioner argues the circuit court erred in this Order was this court tried to dismissed Petitioner is Motion Rule 59(e), 55(c) & SCACR, 501 Canon 3. (Was, the Respondent mistakenly send it to Mr. Edward W. Miller judge, and he didn't review this Motion before he signed it and he dismissed his own Order from November 8, 2013) (See ante p. 3) (emphasis supplied).

Although Rule 222(d) provides that a party seeking costs must file a "MOTION" with the Appellate Court within fifteen calendar days of the issuance of the remittitur, recovery under the rule is clearly limited to costs incurred in pursuing the appeal, such as the filing fee, the cost of obtaining the transcript, the cost of printing the record on appeal and final briefs, and limited attorney fees.

When the remittitur has been properly sent, the Appellate court no longer has jurisdiction over the matter and no motion can be heard thereafter; the only exception to the rule is when the remittitur is sent down by mistake, error or inadvertence of the Appellate Court. WISE V. SOUTH CAROLINA DEPT. OF CORRECTIONS,

6. Page

372 S.C. 173, 174, 642 S.E.2d 551 (SC.2007) pursuant's Rule 59(e) (quoting MICKLE V. BLACKMON, 255 SC. 136, 177 S.E.2d 548 (1970); STATE V. HAWKINGS, 121 S.C. 114 S.E. 538 (1922). Code Ann. § 17-23-110; STATE V. KEELS (1893).... The only exception to this rule is when the remittitur is send down by mistake, error or in advertance of the court.(KEELS supra) ... Appellate Court Rules 221, 224, & 231(a). See id. The effect of this mandate was to set aside the guilty plead in toto and require a retrial of all issues. If this exceeded the relief to which Appellant Jose A. Maldonado was entitle, plaintiff is remedy was by petition to this Hon: Appellate Court before the Remittitur went down. MICKLE V. BLACKMON, at P. 549 (1970).

C O N C L U S I O N

Trial judge had inhearent to recuse himself from multiple times been in retrial Appellant was the facts is on Respondent's Motions: RETURN TO MOTION TO ALTER OR AMEND THE ORDER DENYING THE MOTION FOR DEFAULT was been issue Jan. 15, 2014/ORDER DENYING MOTION TO ALTER OR AMEND issue dated Apr. 9, 2014; was is the ORDER from Mr. Edward W. Miller judge, was mistaked signed it. And him dismissed his own ORDER of Nov. 8, 2013. That is the erred and damaged its "authority and arbitrary an Applicant for the multiple times" is due process (1st-to-3rd PCR Applications) This, Court have to held in ruling in the merit. Rules 59(e),55(c); & SCACR 501 Code Jud. Conduct Canon 3 Subd., (C)(1), & (E)(1)(a)(b);(i-to-iv) enter de novo against the State in his [own] motions, include FINAL ORDER OF DISMISSAL. Therein was the conflict between (PCR) judge, when they tried to stopped an Appellant for the relief have being sought. Petitioner would show that in this Hon: Court to stopping that for happens. Was require Rehearing and Remittitur by Appellant can demonstrate his INITIAL BRIEF, with the RECORD ON APPEAL.

Respectfully Submitted

Done this 3 day of July, 2014. s/ Jose A. Maldonado

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

Appellate Case No. 2014-001164
Lower Court Case No. 2013-CP-23-01440

Jose Alberto Maldonado,.....Petitioner,
V.
State of South Carolina,.....Respondent.

PROOF OF SERVICE

I, Jose Alberto Maldonado, Declare under the oath that, on the below said [issue date] the Petitioner ("J.A.M."), deposit a true and exact copy of foresaid, of the General Allegations, of THE PETITION FOR REHEARING AND REMITTITUR is Appellate C/A#.:2014-001164/Lower Court C/A#.:2013-CP-23-01440 in the above-captioned matter on the following persons by depositing same in the Kershaw C.I. United States mail, postage prepaid. On this 3 day of July, 2014. To:

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL E. SHEAROUSE, CLERK OF COURT
Post Office Box 11629
Columbia, S.C. 29211

The Hon: A. Gee
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

Further, Petitioner said & Not:
Done this 3 day of July, 2014.

Karen V. Ratigan
Assistant Attorney General
Post Office Box 11549
Columbia, S.C. 29211

SWORN TO and SUBSCRIBED Before Me

this 3 day of July, 2014

Respectfully Submitted

Catherine A. Amora
Notary Public For South Carolina

s/ Jose A. Maldonado
Jose A. Maldonado #312648
Kershaw Corr. Inst. MB/Rm., 59
4848 Goldmine Highway
Kershaw, S.C. 29067

My Commission Expired: _____

~~My Commission Expires FEBRUARY 28, 2018~~

Issue Dated: 7-3-14

1

Filed (4)
C/A.# 2014-1164 EXHIBIT (1)

The Supreme Court of South Carolina

Jose Alberto Maldonado, Petitioner,

v.


State of South Carolina, Respondent.

Appellate Case No. 2014-001164

Lower Court Case No. 2013CP2301440

ORDER

In the explanation required by Rule 243(c) of South Carolina Appellate Court Rules (SCACR), petitioner has failed to show that there is an arguable basis for asserting that the determination by the lower court was improper. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.


C.J.
FOR THE COURT

Columbia, South Carolina
June 19, 2014

cc: Karen Christine Ratigan, Esquire
Mr. Jose A. Maldonado, #312648

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

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JOSE A. MALDONADO, #312648
KERSHAW CORRECTIONAL INSTITUTION
4848 GOLD MINE HWY
KERSHAW SC 29069

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JUN 20 2014

MAILROOM

C/A #: 2014-1164. Exhibit (2)



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The Supreme Court of South Carolina

Filed (4)
C/A# 2014-1164

Exhibit (3)

Jose Alberto Maldonado,

Petitioner,

v.

State of South Carolina,

Respondent.

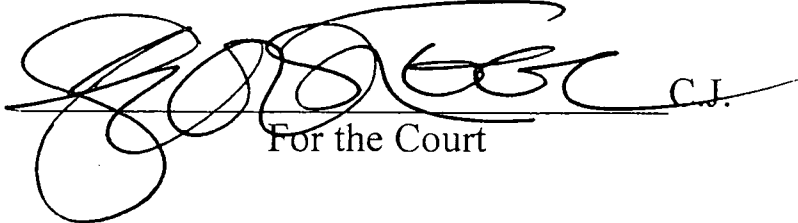
The Court dismissed the
2nd PCR without its case
number to be an appeal
See the remittitur on
June 19, 2014 case (Number)
and wrong date issued.
See Attached 3. APPENDIX
Filed (4) (1 of 15) is P. (5)

The Honorable Robin Stilwell
Greenville County
Trial Court Case No. 2010-CP-23-03391

ORDER of DISMISSAL

In the explanation required by Rule 243(c), SCACR, petitioner has failed to show that there is an arguable basis for asserting that the determination by the lower court was improper. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

IT IS SO ORDERED.


C.J.
For the Court

Columbia, South Carolina

April 20, 2011

cc: Jose Alberto Maldonado #312648
Assistant Attorney General Karen Ratigan

The Supreme Court of South Carolina
DANIEL E. SHEAROUSE, CLERK OF COURT
Post Office Box 11330
Columbia, South Carolina 29211

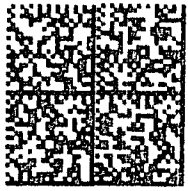
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P.C.I. MAILROOM

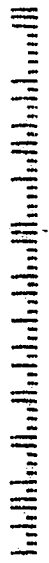
Jose Alberto Maldonado #312648
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

File (4)
C/A # 2014-1164
Exhibit (4)



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Filed (4)
C/A# 2014-1164
EXhibit (5)

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

June 3, 2011

Mr. Jose Alberto Maldonado, #312648
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Maldonado, Jose Alberto v. The State, 2010-CP-23-3391

Dear Mr. Maldonado:

This responds to your letter dated April 30, 2011, which references the Freedom of Information Act. Please be advised that this office does not have any records relating to the State Grand Jury. Those records are maintained by the Clerk of the State Grand Jury. Further, I have no idea what prior request you are referring to.

To the extent your letter may have been intended as a request to reinstate the above matter, no action will be taken on it since you have not provided a certificate of service showing that copy has been served on opposing counsel as required by Rule 240(c)(1), SCACR. Wise v. South Carolina Dept. of Corrections, 372 S.C. 173, 642 S.E.2d 551 (2007) (petition to reinstate is not properly filed without a certificate of service on opposing counsel).

Very truly yours,



CLERK

cc: Assistant Attorney General Karen Ratigan

Filed (4)
C/A# 2014-1164
EXhibit (5)



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

June 3, 2011

Mr. Jose Alberto Maldonado, #312648
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Maldonado, Jose Alberto v. The State, 2010-CP-23-3391

Dear Mr. Maldonado:

This responds to your letter dated April 30, 2011, which references the Freedom of Information Act. Please be advised that this office does not have any records relating to the State Grand Jury. Those records are maintained by the Clerk of the State Grand Jury. Further, I have no idea what prior request you are referring to.

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Very truly yours,



CLERK

cc: Assistant Attorney General Karen Ratigan

Two
envelopes

(Reinstated)

Filed (4)
C/A # 2014-1154
Exhibit (6)

Received
2012

(envelope)

The Supreme Court of South Carolina
DANIEL E. SHEAROUSE, CLERK OF COURT
Post Office Box 11330
Columbia, South Carolina 29211

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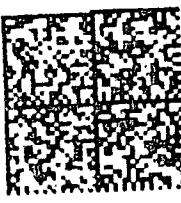
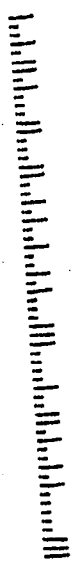
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P.C.I. MAILROOM

Jose Alberto Maldonado #312648
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

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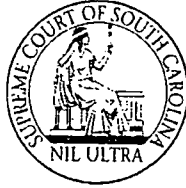
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Filed (4)
C/A# : 2014-1164 Exhibit (7)



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

June 03, 2014

Jose A. Maldonado, #312648
Kershaw Correctional Institution
4848 Gold Mine Hwy
Kershaw SC 29069

Re: Jose A. Maldonado v. State
Appellate Case No. 2014-001164

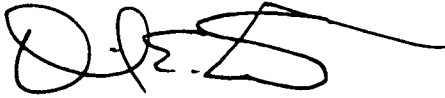
Dear Petitioner:

This Court has received the notice of appeal in the above post-conviction relief action. Since the order of the circuit court determined that this action is barred as being successive and/or as being untimely under the statute of limitations, Rule 243(c) of the South Carolina Appellate Court Rules requires you to provide a written explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. The failure to make a sufficient showing may result in the dismissal of this matter.

Please provide the explanation required by Rule 243(c) within twenty (20) days of the date of this letter.

Very truly yours,

Filed (4)
C/A# 2014-1164-Exhibit (8)

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

CLERK

cc: Karen Christine Ratigan, Esquire

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

(4)
2014-1164 Exhibit (9)

JOSE A. MALDONADO, #312648
KERSHAW CORRECTIONAL INSTITUTE
4848 GOLD MINE HWY
KERSHAW SC 29069

MB59

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Refiled (3)
C/A#: 2014-1164 Exhibit (10)

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 Presided Judge, ...
.....Respondent(s),

Vs.

Jose Alberto Maldonado,Appellant.

CERTIORARI TO REVIEW POST - CONVICTION RELIEF ACTION

THAT, THE APPELLANT REFILE THE RULE 243 (c): & 211(b)(2) OF THE SOUTH CAROLINA APPELLATE COURT RULES. I HAVE BEING PROVIDE A WRITTEN EXPLANATION AS TO WHY THIS DETERMINATION WAS IMPROPER. I WOULD SHOW TO THIS HONORABLE SUPREME COURT. HOLDINGS AS FOLLOWS:

Enclosures: (1) ; Attachment: (25) & (3) Extras Pages: (28)

Cc: File June 19, 2014.

Refiled (3)
C/A#: 2014-1164 Exhibit (11)

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 presided Judge, ...
.....Respondent(s),

v.

Jose Alberto Maldonado,Appellant.

REFILE RULES 243(c, d): 211(b)(2)
CORRECTION OF TYPOGRAPHICAL ERRORS & MISSPELLINGS.
OF THE APPENDIX Pages [I-of-V]

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

Karen C. Ratigan,
Assistant Attorney General
Post Office Box 11549
Columbia, S.C. 29211

Respectfully Submitted

1st Jose A. Maldonado

Appellant, I/D#: 312648 MB/Rm., 59
Kershaw, Corr. Inst.
4848 Goldmine Highway
Kershaw, S.C. 29067

I.

Refiled (3)
C/AH: 2014 Exhibit (12)

I N D E X

Transcript of the [Sentencing].....1
 Transcript of the [Guilty Plea].....2
 Application For Post-Conviction Relief.....3
 Return to the Application.....4
 Transcript of the Post-Conviction Relief.....5
 Order of Dismissal.....6
 Clerk of Court Records.....7
 South Carolina Department of Corrections Records....8

REFILE

EXPLANATION WAS REQUIRE
CONTENT OF APPENDIX(S)
RULE 243(c)(f)(SCACR)

Notes: Appendix(s).....Pages:

1. Appendix of Transcript of The Sentencing.....(1-of-10)P.;
2. Appendix of The Guilty Plea.....(1-of-21)P.;
3. Appendix of (3rd PCR. Act) Application; include the ind-
ictments with two diferent dates, PLEAD AGREEMENT, (DC.24/
DC.15)...[1], ... (1-of-45);...(&), [2].....(1-of-15)P.;
4. Appendix of Return To the (3rd PCR. Act.) See, the Applicant
is RESPONDENSE TO RESPONDENT'S MOTION): DENYING MOTION FOR DE-
FAULT/RETURN TO MOTION TO ALTER OR AMEND THE ORDER DENYING THE
MOTION FOR DEFAULT/ORDER DENYING MOTION TO ALTER OR AMEND: AND
RETURN AND MEMORANDUM IN SUPPORT OF "MOTION FOR SUMMARY JUDGM-
ENT," Hereby this Motion the lower Court Failed to Ruling it,
And this Explanation ... was require to the S.C. Supreme Court
To review the Summary Judgment, from the State,..(1-of-115)P.;
5. Appendix of Transcript of Post-Conviction Relief. See, the Filed
Motion, Was Reply Motion To Defense & Objection For STRIKE THE
TRANSCRIPT'S RECORDS, R.12(a)(2)SCRCP; same, this Court failed
to answer or ruling was require "Rule 54(b)(c)(SCRCP)"; See, of
the (3rd PCR. Act) TRanscript, on Oct. 25, 2013,..(1-of-33)P.;
6. Appendix of ORDER OF DISMISSAL; That, "Explaint of the Motion
for Automatic Stay." Was, the lower court failed to ruling the
Motion made after 10 days? See is Certificate of Service. Fur-
ther the Appellant note that, the court never ruling is [three
pended Motions]. See, ¶[4,5], this facts,.....(1-of-24)P.;
7. Appendix, to Clerk of Court Records. See "Hereby Appendix, ¶[4]
and
8. Appendix of SCDC of The Rocords. Those facts against the kers-
haw is Coordinator, Mrs. Chatherine, was she tried to hold my
Legal-Mail. Of the INMATE GRIEVANCE FOR STEP 1. With, Exhibits
(A-to-C).....(1-of-11)P.

Ref: (3)

C/A.: 2014-1164. Exhibit (13)

STATEMENT OF ISSUE ON APPEAL

ISSUE I.

The, Guilty Plead judges did not have properly conveyed "personal jurisdiction" To Accept The Jose A. Maldonado is Guilty Due, To Illegal Obtained criminal indictments actquired through a fraudulent process. Holdings as Follows: APPENDIX, (1, 2, & 3);

I. Claims

2. Claims, After Discovery New Evidence
APPENDIX, 3. (3rd PCR ACT. is Attachment at, P. (2))

1.) FLAWED INDICTMENTS:

1. Notes:

- 2). MULTIPLE GRAND JURY DATES, OR INDICTED;
- 3). State Grand Jury of S.C. Indicted the Jose A. Maldonado on 13 DAY of December, 2005; (SUPERSENDING INDICTMENT) CONVENED IN CONLUMBIA S.C. SHOW ME THE ISSUE DATE OF FEBRUARY 22, 2005; &
- 4). The Appellant Seek[ing] when this indictments had been amended, was the S.C. Code of Laws Clause, 17-19-100 et seq. 44-53-375(C)(2) violated of Consecutive Offense; SC. Const. Art. 1. §11; USC. Const. Amends. 5, 14. See, INDEX's Note 3. Exple-nation have describe in the Plead Agreement. Without's signed see, (DOC.15/DOC.24) facts to compel disclosure. Appxd. ¶[3].

APPENDIX ¶[4]

2. Notes:

- 1). Appellant's Response To Respondent (Motions); WAS been Certi-fied By Notary and mailed on April 24, 2014; Re: Rule 50(f) SCRCP; And RETURN & MEMORANDUM IN SUPPORT OF MOTION FOR "SUM-MARY JUDGMENT". See, the Appendix of the MOTION ISSUE FILED Apr. 17, 2014. It's in Appedix 4. The, Clerk of Court failed to ruled this Motion, and the Motion to Strike, the transcrip-t's record. Rule 12(a), (f), SCRCP.
- 2). The Return and Motion To Dismiss was being Explaint it to the "lower Court", was clock-Stamped Aug. 15, 2013; Conditional Order of Dismissal was clock-stamped on Aug. 22, 2013. When, Appellant raised the Refiled is Rule 5 (a)[5] SCRCP; RETURN & Response To Motion To Dismiss/Conditional Order of Dismissal/ And also motion Request For Default Judgment/SUPPLEMENTAL AM-ENDMENT OF COMPLAINT, Issue it on Sept, 10 2013 was is in the Same Note of 4. Is Appendix.
- 3). The, Return To Motion To Alter or Amend The Order Denying the Motion For Default, was been clock-stamped on: Jan. 15, 2014. Was, the Appellant show to this Hon: Supreme Court, that there is the summary judgment. See the full information incide's APPENDIX ¶[4] 2. Note (1). Were, the Respondents submitted a Motion, from "Inmate is name Michael A. Sarratt, the clerk of court clock-stamped such motion on Dec. 16, 2013; Respondents argued that motion of Rule 59(e) had been clock-stamped with this dated; on July 31, 2013 Appellant Received another Mot-ion with the name Jose M. Maldonado C/A#: 13-CP-23-4132, and they tried to said is my again summary judgment've being sou-ght.

Refile(3)

C/A# 2014. Exh. b/f (14)

STATEMENT OF ISSUES ON APPEAL
ISSUE II.

Note:

APPENDIX ¶[5]

1). The Transcript of the (3rd. PCR. Application) From Oct. 25, 2013 filed Mrs. Karen C. Ratigan, March 14, 2014; through out is Mrs. Margaret A. Woods Circuit Court Reporter without the clerk of court, clock-stamped, issue dated Feb. 10, 2014. Appellant, made his "Reply Motion To Defense & Objection for Strike The Transcript record Pursuant of Rule 12(a)(2) SCRCF; Issued was been presented for this Transcript, was the result is the Motion To Alter or Amend Judgment Rule 59(e), 55(c) (SCRCF): & (SCACR) 501 CODE OF JUD. CONDUCT CANON 3, Subds.(C) (1); & (E)(1)(a)(b);(i-to-iv). See at Page 5,&-6 Issue V. (a) (iv). Appellant argues that the "Transcript had been show of the allegations for a statements in this facts were this judge refused to see Appellant is Motion for Default, and the court quickly rejected to give me more time to argued my case, so this court, ranned the time like (1-to-6) minutes." See the Filed Motion at thew APPendix, ¶ [4]. Facts of Nov. 19-21, 2013/was, Respondent said I was filed on: Dec. 19, 2012. See Appendix ¶[4] Note 3. Facts from Jan. 15, 2014. Entered it.

Note:

APPENDIX ¶[6]

1). The Explanation of This Appendix [6] was was is the ORDER (1) & (2) fir's the "Order of issued dated Clock Stamped is Nov. 8, 2013; were this court denied my motion for default on 11-4-2013; the last facts in this matter is hereby the Order Denying Motion To Alter or Amend. Herebyby this Order to the Hon: Edward W. Miller signed it on Apr. 3, 2014. Denied his own Order from 11-8-2013 was's the Appellant Motion "Rule 59(e) 55(c) SCRCF, & SCACR, 501 Code of Jud. Conduct Canon 3(C)(1), & (E)(1)(a)(b) ect., the Edward W, Miller judge wrognly ruling, and denied his own Order issue dated to Nov. 8, 2013. Were, Respondent(s) tried to mislead the right dates from Nov.19-&-21, 2013 was been filed.

Note:

APPENDIX [7]

1).Appendix of Clerk of Court Records see the Appxd. ¶[4]; and

Note:

APPENDIX Y[8]

1). The Explanation of this Appendix, ¶[8] shw that, Inmate Grievence Form Step 1. Have been submitted against the Mail-Room. In the matter, of Coordinator, illegal hold my legal mail;and didn't deliver it in time. So, that against policy. Appellant submitted upon the lower court argued those facts, and him had been proved the File Rule 59(e) with the Reply Motion To Lack Merit or Is Untimely; SC. Clerk of Court Manual § 6. 24; & R. 12(a),(b)(5). See the Appendix ¶[4] Records on Appeal.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Refiled(3)

C/A#: 2014-1164 Exhibit (15)

Appellant proposes the following be included in the Records on Appeal:

1. The Letter Ordering Transcript From Court Reporter. Filed on June 3, 2014
2. The Notice of Appeal; Filed it on may 28, 2014. The Appellant is Refile this Notice of Appeal; against of Explanation in Rule 243(c) within 30 days. Was SC Atty. Gen., Office; granted this time. And fall to answer the ("[t]hree Motions? Either, the Greenville County Circuit Court, failed to made any finding in accordance with the S.C. laws to compel disclosure Quating is the Summary judgment, Motion for Automatic Stay. See, Page II, of Note ¶(6). When this claims had been raised. Holdings, as Follows:

Notes:

3. Order Denying Motion For Default Clock-Stamped On Nov. 8, 2013. This, Judgment has been signed the Hon: Edward W. miller, On Nov. 4, 2013.
4. Return To Motion To Alter or Amend The Ordewr Densing The Motion For Default judgment. (Appellant, Addressed the Rule 59(e) SCRCP, in this
5. Order Denying Motion To Alter Or Amend Clock-Stamped April 9, 2014. was the judgment has been entered 4/3/2014; Final Order Of Mismissal entered on 5/1/2014, was been signed on April 29, 2014. ^{cl}
6. The Motion For Automatic Stay. Was, filed to SCDC GENERAL COUNSEL, And Received it, From Appellant May 14, 2014. When, the Lower court didn't answer my "clock-stamped" Motions from the Greenville County. Issue Filed on May 12, 2014.

I Certify that this designation contains no matter which is irrelevant to this Appeal.

In Regarding to the Final Order of Dismissal that had being Attached, and filed to this Hon: SC. S.Ct. to review the judgments and Considering the facts was been presented before this court in the Greenville County's Courthouse, and the lower court ignore the (3rd. PCR.Act) is Grounds, For the Relief have being sought. Petitioner, Submit the (3rd PCR) Application, to "Review of his Indictments, Because, this papers show nulo & void.

See, The Refiled: (CONCLUSION) AT THE NEXT PAGE VI.

WAS EXPLANATION OF RULE 240 (a)(b)(c), And (g)(h), SCACR.: See, At: Al-Shabazz V. State, 338 S.C. 354, 365, 527 S.E.2d at 748.

Refiled (3)
C/A#2014-Exh:614 (16)

A final judgment in a PCR ACTION must be timely appealed, and it is filed in the Supreme Court as a Petition for a Writ of Certiorari. SC. Code Ann. § 17-27-100 (Supp. 1985); Rule 71.1(f), SCRCP; Former Rule 227, SCACR. Now applied Rules 243 SCACR, an indigent Applicant has a right to be represented an appeal by court appointing counsel. Rule 71.1(g), SCRCP: HEREBY, Petitioner, or Appellant; on Oct. 10, 2014 him Certified's Motion to: CROSS-EXAMINATION OF WITNESS & CONFRONTATION WITH THE WITNESSES, by the Six Amendment, Fourteenth Amendments. (Fn.1. Omitted) (quoted Whitehead v. State, 426 S.E. 2d 316, 317 (1992)); S.C. Rules of Civ. Proc., Rule 71.1(d), but the lower court failed in answer my filed request in this matter, before the hearing, 10/25/2013; and they rescheduled the hearing by "Rule 59(e)" on: Apr. 1, 2014. Was Appellant again demand his rights to be appointed counsel. But, the judge refused to do so and denied my petition. here by Respondents, applied the judgment. Was that (Applicant voluntarily and contemptuously vacated the courtroom): (Overruling, [as] stated in Prince v. State, 301 S.C. 422, 392 S.E.2d 462 (1990)). (quoting Whitehead v.State, 310 S.C.532,426 S.E.2d 316-17 (1992)). The, judgment from April 1-9, has not merits to holded Applicant without of counsel, on the "2014." Because, Appellant was not sufficiently aware of dangers of self representation to make informed decision to "pro se". Id., Prince, 301 S.C. 422, 392 E.S.2d 2d 463 (1990); Foster v. State, 298, S.C. 306, S.E.2d 907 (1989) (quoting State v. Sanders, 269 S.C. 215, 237 S.E.2d at 53 (1977)). "Hybrid representation", that is representation which is partially pro se, and partially by counsel.

C O N C L U S I O N

That, Appellant's Challenging the circuit court its determination that this action is barred as been successive and/or as being untimely under the statute of limitation. Setting, this arguments to the STATEMENT OF ISSUES ON APPEAL in this Motion, for below. "Penal Statute Against the State" in Favor to Appellant. For the Reason stated, Petition asks the S.C. Supreme Court to grant the Petition for Writ of Certiorari.

Sincerely,
Done this 12 day of June, 2014. /s/ Jose A. Maldonado

Filed (3)

C/A#: 2014-1164 Exhibit (17)

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 presided Judge, ...
.....Respondent(s),

Vs.

Jose Alberto Maldonado,Appellant.

Certificate of Service By Mail

I Certify that I have serve the ReFile Rule 243(c),(d); & 211 (c)(2), SCACR: CORRECTION OF TYPOGRAPHICAL ERROS AND MISSPELLINGS /OF THE APPENDIX. Issue Filed On 6/3/2014, against the 30 days; Appellant was filed's Notice of Appeal in the Supreme Court. Applied, this Rule at the same time/this court granted the 20 days, to file an explanation to this Honorable court. Was, Appellant's limitation have being file upon this Certificate to against both files. By depositing the Refile, copy of it in the United States Mail, postage, on This 12 day of June, 2014. And a Copy of it have being serve to the Attorney General Office, of records, Further, Appellant Personally Forward is Original Certificate of Service by Mail. To The Following Porsons. To:

The Supreme Court of South Carolina
DANIEL E. SHEAROUSE, CLERK OF COURT
Post Office Box 11330
Columbia, South Carolina 29211

Karen C. Ratigan,
Assistant Attorney General
Post Office Box 11549
Columbia, S.C. 29211

Further The Petitioner Said and Not:

Respectfully Submitted

This 12 day of June, 2014.

1st Jose A. Maldonado
Jose Alberto Maldonado #12648
Kershaw, Corr. Inst. MB/Rm., 59
4848 Goldmine highway
Kershaw, S.C. 29067

SWORN TO and SUBSCRIBED Before Me

This 12 day of June, 2014.

Catherine A. Carter

Notary Public For South Carolina My Commission Expirex: Dec. 22, 2018

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

Filed (2)
C/A#: 2014-1164 EXHIBIT (18)

June 4, 2014

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

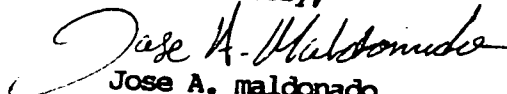
Re: Jose A. Maldonado, C/A#.: 2013-CP-23-01440 v. the State of South Carolina and the Respondent(s).

Dear Clerk Of Court,

Enclosed please find the proposed original copy of the [Appendix] ~~Exhibit~~ 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

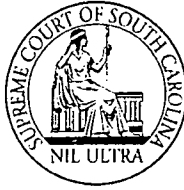
I Looking Forward To Hearing From Your Office Sooner, Concerning The Content of this Appendix, Explanation was Rule 243(c), & (f).

Thank You In Avance

Enclosure: (2)

Attachment: (25) Pages.

Cc: File I-to-V.



File (4)

C/A#: 2014-1164

EXHIBIT (18)

ROSALYN FRIERSON
DIRECTOR

South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

June 10, 2014

Jose A. Maldonado #312648
KCI
4344 Broad River Rd.
Columbia, SC 29210-4098

Dear Mr. Maldonado:

I am writing in response to your letter asking for assistance in obtaining a copy of your court transcript. In order for me to assist you in obtaining the transcripts of record from the proceedings, please clarify which transcripts you are requesting.

When this information is received we will forward the request to the court reporter, who will then contact you to make arrangements for payment and delivery of the transcript. Please be advised that court reporters have 60 days to prepare a transcript after satisfactory payment arrangements have been made. Please contact this office at your earliest convenience with this required information.

Respectfully,

Court Reporting Section

South Carolina Court Administration

South Carolina Court Administration
1015 Sumter Street, Suite 200
Columbia, South Carolina 29201-3739

RECEIVED

JUN 20 2014

MAILROOM

Filed (4)
C/A#: 2014-1164
EXhibit (20)

RECEIVED

JUN 25 2014

Kerol
MAILROOM

Jose A. Maldonado #312648
KCI
4344 Broad River Rd.
Columbia, SC 29210-4098

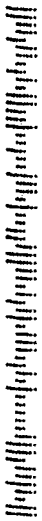
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06/19/2014
US POSTAGE
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FIRST-CLASS MAIL

29210409899



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

Tried (H)
C/A#: 2014-1164 EXHIBIT (21)
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. ("On 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 like 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 swearing 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 FILING 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 filing fee

THE STATE OF SOUTH CAROLINA
In the Supreme Court
C/A#: 2014-1164 EXHIBIT (22)

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Leticia 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)(SCOR)

I certify that I have serve the LETTER ORDING TRANSCRIPT FROM COURT REPORTER. Of The Hon: Rosalyn W. Frierson (DSCA), 1015 Sum-ter St., Suite 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 Green-ville 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's Office of Records Mr. Alan Wilson P.O. Box 11549 Columbia, SC. 29211. Appellant personally forward is Letter Ordng Transcript From Court Reporter. To:

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

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

FURTHER THE APPELLANT SAID AND NOT:

SWORN TO AND SUBSCRIBED Before Me

THIS 3 DAY OF June, 2014

Rosalyn W. Frierson

NOTARY PUBLIC FOR SOUTH CAROLINA
MY Commission Expires:

My Comm. Exp. Date: 06/22/2018

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

Issue File On: *June 4, 2014*

Respectfully Submitted

Jose A. Maldonado

RECEIVED

JUN 20 2014

INMATE TRUST FUND ACCOUNT REPORT
for SOUTH CAROLINA COURT FILING FEES

Filed (4)
C/A #: 2014-1164, Exhibit (23)

K. I. ...
MB59

INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. When returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): Jose A. Maldonado

SCDC # 312648

INMATE SIGNATURE

Jose A. Maldonado
305 E. North Street
Greenville SC 29601

I plan to file this action in the SC County of Greenville

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period* \$ 536.31
- (2) Twenty percent (20%) of line 1 \$ 107.26
- (3) Account balance - current date \$ 13.57
- (4) PAYMENT AMOUNT ** (lesser of line 2 or line 3) Enclosed check # \$ 0

*NOTE to COURT: If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 234
PO Box 21787
Columbia, SC 29221-1787

*Admission date is noted here if inmate incarcerated less than six months

2

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Return & Respond
Exhibit (5)

Jose Alberto Maldonado, #312648,
Petitioner,

) C/A No. 8:11-1372-TLW-JDA
) 3. APPENDIX (1-OF-15) Filed (4)
) C/A#: 2014-1164

v.

Warden Aril Chapman and the
Attorney General of the State of
South Carolina,

) RETURN AND MEMORANDUM
) IN SUPPORT OF MOTION
) FOR SUMMARY JUDGMENT

Respondent.

Respondents, through below signed counsel, hereby make a Return to the Rule to Show Cause issued by the Honorable Jacquilin D. Austin United States Magistrate Judge, in response to the *pro se* petition for writ of federal habeas corpus filed by Petitioner on June 2, 2011. Respondents would show the Court there is no genuine issue of material fact, and Respondents are entitled to summary judgment as a matter of law pursuant to Rule 56 FRCP. In support of its Motion, Respondents would show the Court as follows.

PROCEDURAL HISTORY

Petitioner is presently confined in the Perry Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The South Carolina State Grand Jury indicted Petitioner at the December 2005 term of the State Grand Jury for conspiracy to traffick methamphetamines more than 400 grams (2005-GS-0026, Count 1) and Trafficking in methamphetamines more than 400 grams (2005-GS-47-0026, Count 4).

The Guilty Plea(s)

Petitioner pled guilty on August 22, 2006 before the Honorable Alexander Macaulay, Circuit Court Judge, to lesser included charges of conspiracy to traffick in more than 28 grams but less than

APPENDIX . . . B

(EXHIBIT (F)(e))

Court responded that his office did not have any records regarding the State Grand Jury, and referred Petitioner to the Clerk of the State Grand Jury. The Court also informed Petitioner that to the extent the letter may have been intended as a request to reinstate his appeal, no action would be taken because Petitioner did not provide a certificate of service showing that a copy had been served on opposing counsel as required by Rule 240(c) SCACR. *Citing Wise v. South Carolina Department of Corrections*, 372 S.C. 173, 642 S.E.2d 551 92007)(petition to reinstate is not properly filed without a certificate of service on opposing counsel). The Remittitur was issued on June 3, 2011.

This federal habeas petition followed.

3. APPENDIX Filed (4) (1-0F-15)
CIA#: 2014-1164

ATTACHMENTS

Transcript of Record (Guilty Plea(s), the Honorable Alexander Macaulay

Transcript of Record (Sentencing), the Honorable Alexander Macaulay

Indictments and Sentencing Sheets for 2003 offenses

Indictment (State Grand Jury)

1st PCR Application

State's Return to PCR Application

Amendments to PCR Application

Order of Dismissal (1st PCR), the Honorable Edward W. Miller

2nd PCR Application with attachments

State's Return to 2nd PCR Application

Conditional Order of Dismissal

Response to Conditional Order of Dismissal (2nd PCR Application)

Motion for Immediate Release from Conditional Order of Dismissal

APPENDIX ...B
Brief dated 5/8/2010

(TABLE OF CONTENTS)

Motion for Remand dated 7/4/2010

Final Order of Dismissal (2nd PCR Application)

3. Appendix (1-of-15) File (4)
C/A#: 2014-1164

Objection to Final Order

Letter from Supreme Court re: filing Notice of Appeal and Rule 243(c) explanation

Rule 243(c) explanation (various filings with the Supreme Court)

Order of S.C. Supreme Court dismissing appeal from dismissal of 2nd PCR Application

Petitioner's Letter regarding FOIA appeal

Letter of Clerk of S.C. Supreme Court responding to Petitioner's letter of March 30, 2011

Remittitur

FEDERAL HABEAS GROUNDS

Ground one: The Clerk of Court of Supreme Court of South Carolina failed and refused to raise other my Grounds again. (Under PCR Act).

Supporting facts: Administrative agency affect my right to appeal other my facts, reports to seek my relief for the Court of Appeal. This agency stopping my right of does pro se, because no person shall be finally bound by judicial or quasi-judicial decision of administrative agency affecting private right except on due notice and opportunity to be hear, an he shall have in all such instance the right to judicial review. Applican claim under fist hearin of (PCR): A judge as an officer director, manager advisor.

(Also)³ In post-conviction relief matter, judge who presided at Petitioner's trial may not preside over subsequent postconviction proceeding if that service does not conflict with the judge's judicial duties.

Ground two: Professional conduct for court interpreters. As officer of the court, interpreter help assure that such person may enjoy equal access to justice and that court proceeding.

³At the end of the portion of his federal habeas petition dealing with each ground, Petitioner appears to throw in an additional ground. These are set forth in this Return under each ground after "(Also)" as above.

EXHIBIT (2)

STATE GRAND JURY OF SOUTH CAROLINA

3- Appendix File (4)
C/A#: 2014-1164

STATE OF SOUTH CAROLINA)

VS.)

EMILIANO GARCIA AGUIRRE,)
PAMELA RENEE BOZZI,)
JOSE ALBERTO MALDONADO,)
KENNETH SCOTT POPE aka "SCOTTY",)
LISA LAVERN RAMIREZ,)
THOMAS ERNIE ROBERTS,)
OSCAR SANCHEZ,)
JOHN NELSON TURNER, JR. aka "JJ",)
KELLY LEE NALLEY TURNER,)
DEFENDANTS.)

CASE NO. 2005GS 47 26

INDICTMENT FOR
UNLAWFUL DRUGS

Trafficking Methamphetamine
(Conspiracy)
S.C. Code Ann. § 44-53-375(C)(5)

Trafficking Methamphetamine
> 400 grams -- Two Counts
S.C. Code Ann. § 44-53-375(C)(5)

Possession of a Firearm during the
Commission of a Violent Crime
S.C. Code Ann. § 16-23-490

At a session of the State Grand Jury of South Carolina, convened in Columbia,

South Carolina, on December 13, 2005, the State Grand Jurors present upon their oath:

COUNT I
TRAFFICKING METHAMPHETAMINE (CONSPIRACY)
S.C. Code Ann. § 44-53-375 (C)(5)

ORIGINAL FILED

DEC 13 2005

LISA C. DUNBAR,
CLERK, STATE GRAND JURY

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE
ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA
LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN
NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons
whose names are both known and unknown to the State Grand Jury, did in Anderson

County, Greenville County, Oconee County and Pickens County of South Carolina,

PRICE, ASHMORE & BEASLEY, P.A.

ATTORNEYS AT LAW
644 E. WASHINGTON STREET
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 467-1001
FACSIMILE (864) 242-6560

COPY

JAMES H. PRICE, III •
BEATTIE B. ASHMORE
RYAN L. BEASLEY

*Licensed to practice law in South Carolina and New York

October 13, 2008

3. Appendix Filed (4)
C/A#: 2014-1164

Rodney W. Richey, Esq.
Richey and Richey Attorneys At Law
PO Box 10916
Greenville, SC 29603-0916

**Re: Jose Alberto Maldonado, SCDC # 312648 vs. The State of South Carolina
Case No.: 2008-CP-23-2140**

Dear Mr. Richey:

I am responding to your subpoena demanding copies of my entire file concerning Jose Maldonado.

I have enclosed copies of what I can give you which is primarily letters between Mr. Maldonado and me. The reason that I can not give you anything more is the following:

1. The primary case was a Statewide Grand Jury case;
2. All Statewide Grand Jury materials were covered by a standing Order requiring their destruction or return to the Attorney General's Office. I chose to simply have them destroyed.

I represented Mr. Maldonado in another case which was a garden variety state case with Assistant Solicitor, Joyce Monts. Unfortunately, the discovery in that case was destroyed with the Statewide Grand Jury discovery.

I will be glad to meet with you at anytime to discuss Mr. Maldonado's situation. If you have any questions, please do not hesitate to contact me.

As always, I remain,

Yours very truly,

PRICE, ASHMORE & BEASLEY, P.A.

James H. Price, III

JHP:fab

EXHIBIT (3)

during the period of time extending from on or about April 1, 2005 to present, conspire to sell, manufacture, deliver, purchase, or bring into this State, or otherwise, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

3. Appendix Filed (4)
C/A#: 2014-1164

COUNT II
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE and OSCAR SANCHEZ did, in Greenville County, on or about May 17, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT III
POSSESSION OF A FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That EMILIANO GARCIA AGUIRRE did, in Greenville County, on or about May 17, 2005, did possess (actually or constructively) or visibly display what appeared to be a firearm during the commission of the crime of trafficking methamphetamine in violation of S.C. Code Ann. § 44-53-375 (C)(5), which is defined as a crime of violence pursuant to S.C. Code Ann. § 16-1-60, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one count of this State or arising out of or in connection with a crime having significance in more than one county of this State.

3. Appendix Filed (4)
C/A# 2013-1164

COUNT IV
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That JOSE MALDONADO and LISA LAVERN RAMIREZ did in Greenville County, on or about June 26, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Return to Response
Exhibit (2)

3. Appendix (1-0F-15)
C/A#: 2014-1164

COUNT V
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That John Nelson Turner, Jr. aka "JJ" did in Greenville County, on or about May 16, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

A True Bill

Cathy P. Coffey
FOREMAN

Henry McMaster
HENRY McMASTER (sop)
ATTORNEY GENERAL

3

Exhibit (4)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Filed (4)
C/A#: 2014-1164
3 APPENDIX (1 OF 15)

Jose Alberto Maldonado,	)	Case No. 8:11-1372-TLW-JDA
)	
Petitioner,	)	<u>REPORT AND RECOMMENDATION</u>
	)	<u>OF MAGISTRATE JUDGE</u>
v.)	
)	
Henry McMaster and Warden of Perry)	
Correctional Institution,)	
)	
Respondents.)	
)	

This matter is before the Court on Respondent Warden of Perry Correctional Institution's¹ motion for summary judgment [Doc. 15] and Petitioner's motion to amend/correct the Petition [Doc. 20]. Petitioner is a state prisoner who seeks relief pursuant to Title 28, United States Code, Section 2254. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B) and Local Rule 73.02(B)(2)(c), D.S.C., this magistrate judge is authorized to review post-trial petitions for relief and submit findings and recommendations to the District Court.

Petitioner filed this Petition for writ of habeas corpus on June 2, 2011. [Docs. 1, 1-3.] On August 22, 2011, Respondent filed a motion for summary judgment and a return and memorandum. [Docs. 15, 16.] On September 14, 2011, Petitioner filed a response in opposition to Respondent's motion for summary judgment [Doc. 19] and a motion to amend/correct the Petition [Doc. 20]. Having carefully considered the parties' submissions and the record in this case, the Court recommends that Respondent's motion for summary

¹ Respondent Henry McMaster was terminated as a party on June 28, 2011 by the Court's Order authorizing service of process. [Doc. 8.] Accordingly, throughout this Report and Recommendation, the Court will refer to Warden of Perry Correctional Institution as "Respondent."

EXHIBIT (4)

judgment be granted, Petitioner's motion to amend/correct be denied, and the Petition be denied.

3. APPENDIX (1-OF-15) Filed (4)
C/A#: 2014-1164

BACKGROUND

Petitioner is currently incarcerated in the Perry Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment from the Clerk of Court for Greenville County. [Doc. 1 at 1.] On February 22, 2006, Petitioner was indicted by the state grand jury for conspiracy to traffic methamphetamine and trafficking 400 grams or more of methamphetamine. [Doc. 16-4.] On August 22, 2006, Petitioner pled guilty to two counts: conspiracy to traffic between twenty-eight and 100 grams of methamphetamine and trafficking between twenty-eight and 100 grams of methamphetamine, second offense.² [Doc. 16-1 at 8, 11, 13; see also Doc. 16-2 at 4.] On April 10, 2007,³ Petitioner was sentenced to twenty years imprisonment for each count; the twenty-year sentences were to run concurrent with each other and concurrent with the seven-year sentence for trafficking cocaine he received in November 2005. [Doc. 16-2 at 10-11.] Petitioner was also credited with time served beginning August 6, 2005. [*id.*] Petitioner was represented by James H. Price ("Price") on the charges [Doc. 16-1 at 1], and Britt Hunt interpreted for Petitioner at the plea hearing and the sentencing hearing [*id.* at 2; Doc. 16-2 at 3]. Petitioner did not file a direct appeal.

² Petitioner was serving a seven-year sentence for trafficking cocaine at the time he pled guilty to the methamphetamine charges. [Doc. 16-1 at 18; Doc. 16-3 at 1, 5 (sentencing sheets dated November 29, 2005).]

³ The title page of the sentencing hearing transcript states the date of the hearing as April 10, 2008. [Doc. 16-2 at 1.] However, Petitioner was sentenced on April 10, 2007. [See, e.g., *id.* at 12; Doc. 16-5 at 2.]

FILED

FEB 22 2006

LISA C. CUNBAR,
CLERK, STATE GRAND JURY

Exhibit (3)

STATE GRAND JURY OF SOUTH CAROLINA

3. APPENDIX X (1-OF-15)
Filed (4) C/A#: 2014-1164

STATE OF SOUTH CAROLINA	)	CASE NO. <u>2005-GS-47-26</u>
)	
VS.	)	SUPERSEDING
	)	INDICTMENT FOR
	)	UNLAWFUL DRUGS
EMILIANO GARCIA AGUIRRE,	)	Trafficking Methamphetamine
PAMELA RENEE BOZZI,	)	(Conspiracy)
JOSE ALBERTO MALDONADO,	)	S.C. Code Ann. § 44-53-375(C)(5)
KENNETH SCOTT POPE aka "SCOTTY",	)	Trafficking Methamphetamine
LISA LAVERN RAMIREZ,	)	> 400 grams – Three Counts
THOMAS ERNIE ROBERTS,	)	S.C. Code Ann. § 44-53-375(C)(5)
OSCAR SANCHEZ,	)	Possession of a Firearm during the
JOHN NELSON TURNER, JR. aka "JJ",	)	Commission of a Violent Crime
KELLY LEE NALLEY TURNER,	)	S.C. Code Ann. § 16-23-490
)	
DEFENDANTS.)	
)	
)	
)	

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on February 22, 2006, the State Grand Jurors present upon their oath:

COUNT I
TRAFFICKING METHAMPHETAMINE (CONSPIRACY)
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons whose names are both known and unknown to the State Grand Jury, did in Anderson County, Greenville County, Oconee County and Pickens County of South Carolina,

EXHIBIT (3)

during the period of time extending from on or about April 1, 2005 to present, conspire to sell, manufacture, deliver, purchase, or bring into this State, or otherwise, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

3. Appendix Filed (4)
C/A#: 2014-1164

COUNT II
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE and OSCAR SANCHEZ did, in Greenville County, on or about May 17, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Exhibit (3)

**COUNT III
POSSESSION OF A FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME
S.C. Code Ann. § 16-23-490**

That EMILIANO GARCIA AGUIRRE did, in Greenville County, on or about May 17, 2005, did possess (actually or constructively) or visibly display what appeared to be a firearm during the commission of the crime of trafficking methamphetamine in violation of S.C. Code Ann. § 44-53-375 (C)(5), which is defined as a crime of violence pursuant to S.C. Code Ann. § 16-1-60, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one count of this State or arising out of or in connection with a crime having significance in more than one county of this State.

3- APPENDIX Filed (H)
C/A#: 2014-1164

**COUNT IV
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)**

That JOSE MALDONADO and LISA LAVERN RAMIREZ did in Greenville County, on or about June 26, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Filed Return of Response
Exhibit (3)

3. AppenDIX Filed (4)
CA#: 2014-1164

COUNT V
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That John Nelson Turner, Jr. aka "JJ" did in Greenville County, on or about May 16, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

A True Bill

Cathy P. Coffey
FOREMAN

Henry McMaster
HENRY McMASTER (sop)
ATTORNEY GENERAL

Filed Return & Response
Exhibit (1)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF
GENERAL SESSIONS FOR
THE THIRTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

3. Filed (4)
APPENDIX (1-OF-15)
C/A#: 2014-1164

-VERSUS-

CASE NOS. 2005-GS-47-26 Count I
2005-GS-47-26 Count IV

JOSE ALBERTO MALDONADO,)

PLEA AGREEMENT

DEFENDANT.)
_____)

AGREEMENT made this ____ day of _____, 2006, between and among the State of South Carolina, as represented by Attorney General Henry McMaster, Jennifer D. Evans, Chief, State Grand Jury, and Assistant Attorney General Susan O. Porter, and the Defendant, and his attorney, James H. Price, III, Esquire.

1. The Defendant, Jose Alberto Maldonado, agrees to plead guilty to the offense of Trafficking Methamphetamines 28 - 100 grams by conspiracy, second offense, a violation of S.C. Code Ann. § 44-53-375(C)(2)(b), a lesser-included of that alleged in Indictment Number 2005-GS-47-26 Count I, which carries a sentence range from seven (7) year to thirty (30) years, and a fine of fifty thousand (\$50,000) dollars. The State will make a recommendation of twenty (20) years to run concurrent with the other indictment. This is considered a violent and serious offense.

2. The Defendant, Jose Alberto Maldonado, agrees to plead guilty to the offense of Trafficking Methamphetamines 28 - 100 grams, second offense, a violation of S.C. Code Ann. § 44-53-375(C)(2)(b), a lesser-included of that alleged in Indictment Number 2005-GS-47-26 Count IV, which carries a sentence range from seven (7) year to thirty (30) years, and a fine of

representations and statements of the parties; that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements, whether made prior to or after this Agreement, are null and void.

Filed (H)
3. AP/NEWDTX
C/A# : 2014-1164

DATE

Jose Alberto Maldonado
Defendant

DATE

James H. Price, III
Attorney for Defendant

Henry McMaster
Attorney General of South Carolina

Jennifer D. Evans
Chief, State Grand Jury

DATE

By: _____
Susan O. Porter
Assistant Attorney General
State Grand Jury

(4)

Filed (1) Appendix
C/A# 2014-1164 (1)

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!

Filed (1) Appendix
C/A# 2014-1164

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.

Filed (1) Appendix 214
CIA# 2014-1164
450 (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

Carmine A. Amara
NOTARY PUBLIC FOR SOUTH CAROLINA

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

MY COMMISSION EXPIRES: _____

My Commission Expires _____

Exhibit (A)(1) P. 2 - of - 102

Refiled (3)
CIA#: 2014-1184 (4)
Appendix

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

Karen Ratigan Attorney General Office

ATTORNEY(S) FOR THE DEFENDANT(S)

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

File
Summary Judgment
Exhibit (A)(1) P. 3-of-102

ReFile (3)
C/A. 2014-1164

5

Appendix

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-of-115)

~~Application's Copy~~

ORDER DENYING MOTION FOR DEFAULT

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2013 NOV 20 AM 10 55

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.¹ 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), SCRPC.

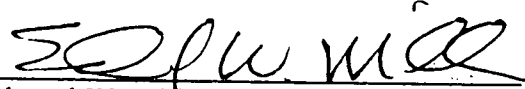
1
2

Filed Summary Judgment
Exhibit (A)(1) P. 4- of - 102

Refile (3)
C/A.: 2014-1164
Appendix

6

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



Edward W. Miller
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

4: APPENDIX (1-OF-115)

¹ A Spanish language interpreter was present.

Filed summary judgment
EXHIBIT (E)(S) P. 75 - of - 102

Refile (3)
C/A #: 2014-1164
Appendix

7

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Jose Alberto Maldonado,
S.C.D.C. No. 312648,

Applicant,

~~Applicant's Copy~~

v.

State of South Carolina,

Respondent.

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

4. APPENDIX (9 - of - 115)

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

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2014 JUN 5 PM 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

Filed summary judgment
EXHIBIT (EXS) P. 76 - OF - 102

Refile (3)
C/A#: 2014-1154
Appendix

8

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.

Filed Summary Judgment
EXHIBIT(E)(S) P. 77-06-102

Refile (3) Appendix (9)
C/A# 2014-1164

4. APPENDIX (1-06-115)

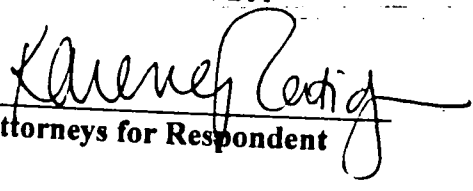
Respectfully submitted,

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

Filed summary judgment
EXHIBIT (E)(5) P. 78-0F-102
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

JOSE ALBERTO MALDONADO, 312648)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

Appendix (10)
Ref. (3)
C/A.: 2014-1164

IN THE COURT OF COMMON PLEAS

2013-CP-23-1440

4. APPENDIX (1-0F 115)

AFFIDAVIT OF SERVICE BY MAIL

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

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

5

EXHIBIT OF SUMMARY JUDGMENT (RETURN AND MEMORANDUM OF DECISION)
IV. Refile (3) (11)
C/A#: 2014-1164

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. BLOKEMERSIMER
2014 APR 9 PM 1:41

Applicant filed an application for post-conviction relief (PCR) on March 12, 2013.¹ 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.² 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.³ Respondent was represented by

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

Filed

EXHIBIT OF: SUMMARY JUDGMENT (RETURN AND MEMORANDUM)

Appendix

Refile (3)
CIA#2014-1164

(12)

V.

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

Lowell, South Carolina.

RECEIVED

MAY 14 2014

GENERAL COUNSEL

JOSE ALBERTO MALDONADO, # 312648
KERSHAW CORR. INST. ME/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

Refile (3)
C/A#: 2014-1154 (13)
Appendix

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

I, Jose A. Maldonado, this matter is in regards to your correspondence written letter. Thank you for your "Valuable" time that you "Expend your time to filed my legal correspondences" 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, #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.



5-2014

CC: FIC

RECEIVED

MAY 14 2014

GENERAL COUNSEL

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,)

Appendix (14)
C/A#: 2013-CP-23-01440

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)(SCRCP) 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

Appendix
Ref:le (3)
C/A#: 2014-1164 (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 ordern't 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.

Appendix
Refile (3)
C/A# 2014

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[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 entitle 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.

Appendix
Refile
C/A 2014-1164 (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), SCRPC, have being "Stay" in open court for such mistaked 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) (SCRPC), 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), SCRPC, 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-

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Refile
CA#: 2014-1164
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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~~

Appendix
Refile
C/A# 2014-1164 (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's 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

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CIAH-2014-1164
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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 Nespepars, 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), SCRCF, 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

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

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE :

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

Ref/le
C/A#: 2014-1164 (2)

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 establishing 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 May, 2014. To:

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

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

AND NOT: THIS 12 DAY OF May, 2014

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

Catherine A. Orma
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires September 24, 2018

MY COMMISSION EXPIRES: _____

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

Respectfully Submitted

1st 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.

Replied Appendix
C/A#: 2014-1164 (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).



Refile Appendix
C/A# 2014-1164 (25)


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 21 day of April, 2014.



Letitia H. Verdin
Chief Administrative Judge
Thirteenth Judicial Circuit

_____, South Carolina.



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

LEBAL - MAIL

COLUMBIA SC 292



RECEIVED
JUL 03 2014
Merci
MAILROOM

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