

For some reason the Supreme Court of South Carolina has not been served with the following: 1.) A copy of the notice of appeal; 2.) A proof of service showing that the notice of appeal has been timely served on the Counsel for the State; 3.) A copy of the orders on appeal (be sure to include the conditional order of dismissal and the final order of dismissal); and 4.) The explanation required by rule 243(c) of the South Carolina Appellate Court Rules if the post-conviction relief judge held that this case is barred as being untimely under the statute of limitations or as being successive.

Now to my knowledge you have all of the above following; in which I do ~~to~~ ^{not} ~~but~~ ^{isn't} in a lock-up (segregation) and can't get to my case file. The problem is that on July 8, 2014 The Supreme Court of South Carolina Clerk Daniel E. Shearouse advised me that the above following hasn't been received and the courts gave me 10 days of the date of the letter that I received, to provide them with the above following.

I'm hereby requesting your assistance through Rule 204 (a) in which is Improperly Filed Cases. It states: that in the event that the notice of appeal is filed in the wrong appellate court, the appellate court in which the matter is filed shall issue an order transferring the case to the appropriate appellate court.

However if there is no need for an order can you just forward the The Supreme Court of South Carolina Clerk Daniel E. Shearouse the above ~~following~~ ^{following} so I want have to get into any trouble trying to get to my property. I've already been threatened with gas by officer leaks for trying to get my legal material. I only have 7 days ^{left} to have the above following to The Supreme Court of South Carolina Clerk Daniel E. Shearouse so please help me out with this matter. I thought you had forwarded the above following to the appropriate court ??? was it my fault ???

well thanks for your time and patience and also for a fast and speedy reply and may god bless !!! Please advise me when this letter is received and if you ~~are~~ ^{can} to forward the above following material to The Supreme Court of South Carolina Clerk Daniel E. Shearouse ... respectfully Submitted,

15 Michél A. Dukes
 RECEIVED
 610 49 WEST
 BENNETTSVILLE, SC

SR.#311176

RECEIVED

Michél A. Dukes

JUL 23 2014

311176

29512

S.C. Supreme Court

FILED
 CLERK OF COURT
 HARRIS COUNTY

STATE of South Carolina
County of Horry
MICHAEL A. DUKES, SR. #311176
Applicant
VS.
STATE of South Carolina,
Respondent

IN THE COURT OF
COMMON PLEAS
FIFTEENTH JUDICIAL
CIRCUIT
CA NO: 2013-CP-
26-2686

Notice of APPEAL
From Second or
Subsequent PCR
FILED
14 JAN 24 PM 3:05
CLERK COURT - WARRB

I pro-se litigant am requesting for the above following matter be appealed to the Supreme Court of South Carolina for further review due to a dismissal of Applicant's subsequent PCR by the final order of Dismissal handed down by the Honorable Benjamin H. Culbertson, Chief Judge for Administrative purposes for the fifteenth Judicial Circuit on 19th day of December, 2013, which was filed with the clerk of court Melanie Huggins - ward on January 7, 2014 at 1:31 pm. Pursuant to rule 71.1 (c), SCR, PCR Counsel must file a Notice of appeal on Applicant's behalf if Applicant wishes to pursue appellate review and as a pro-se litigant I'm hereby requesting an appeal. The pro-se litigant is also requesting the clerk of courts to forward copies to the following parties: South Carolina Supreme Court, P.O. Box 11330 Columbia, SC 29211, Joshua L. Thomas, Assistant Attorney General, P.O. Box 11549 Columbia, SC 29211. I'm requesting forwarding because the pro-se litigant is without the proper materials and I'd like to thank you in advance for your time and patience and may god bless you!!!

Pro-se Litigant,
Michael A. Dukes, Sr.
Date: #311176

This 22 day of January, 2014

Pro. se Petitioners' explanation as to why this determination was and is improper made by the lower court:

Petitioner claims PCR appellate Counsel from his first PCR (2008-CP-26-489) in which the PCR appellate Counsel did not raise the issues in her petition for writ of cert to the Supreme Court. Both Issues of (1) motion to suppress and (2) Invalid Arrest warrant could and should of been raised ^{especially} when dealing with ^{violations of the} USCA Const. Amend. 4; Code 1976, § 17-13-140 ⁽³¹⁻¹³⁻¹⁴⁰⁾ 4th Amend, SC Const. Article 1, Section 10 See.

Searches and seizures 349 key 123.1 State V. Covert, 382 SC 205, 675 S.E.2d 740, see also Sikes v. State, 448 S.E.2d 560 (SC 1994) for trial counsel being ineffective for failing to raise a fourth Amendment claim. see Arrest key 68 (4) and criminal law key 641.13 (1) and also criminal law key 641.13 (5) both keys deal with trial counsel failing to be effective assistance of counsel at a defendant's contested trial...

As for the explanation at hand that PCR Appellate Counsel are not per. se a sufficient reason allowing for a successive PCR application see Simpkins v. State, 303 SC 364, 401 SE 2d 142 (1991) post-conviction relief of a new trial granted based on appellate counsel's failure to raise an issue on appeal that constituted reversible error; see criminal law key 641.13 (7). USCA Const. Amend. 6. see also EZELL v. State, 548 S.E. 2d 852 (SC 2001); criminal law key 641.13 (7). USCA Const. Amend. 6.

FACTS

Respondent was convicted of trafficking in crack cocaine and was sentenced to imprisonment for 18 years. His convictions and sentences were affirmed on direct appeal. October 8, 2007 see State v. Dukes, 2007-up-423.

After a hearing on his application for post-conviction relief (PCR), respondent was denied relief on the ground of ineffective assistance of counsel. On writ of certiorari Ms. M. Celia Robinson raised (1) ineffective assistance of counsel claim out of (3) in which was denied and the remittitur was sent to the lower court as provided by rule 221 (b) of the South Carolina Appellate court Rules on January 17, 2011.

ISSUES

- I. Was appellate counsel ineffective?
- II. What is the appropriate remedy for ineffective assistance of appellate counsel?

Conclusion

The issue of the Search and Seizure was ^ameritorious one which would have entitled petitioner to reversal on PCR and or petition for writ of certiorari in which appellate counsel's patent omission in failing to raise the issue of the Search and Seizure clearly establishes ineffective assistance. See State v. Carter, SC 392 S.E.2d 184 (1990). If the issue had been raised by appellate counsel the result of the proceeding would have been different in which ^(vacate sentence) entitles the respondent to a new trial or immediate release due to the Judgement being void under rule 60^{b(4)} Federal rules of court or either state court rule 60^{b(4)}....

The issue of the Search and Seizure was never part of the trial record in which the petitioner had to go off trial record to retrieve the issue; in which trial counsel was ineffective during the course of trial and petitioner raised the issues but appellate counsel abandoned the issues for her own personal reasons and petitioner is attempting to show the honorable courts that her performance was deficient as measured by the standard of reasonableness under prevailing professional norms, and that the petitioner was prejudiced by such deficiency to the extent of there being a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. See Southerland v. State, 337 S.C. 610, 617, 524 S.E.2d 833, 836 (1999) Michael A. Daulton #311176 1-22-14

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Edward B. Cottingham, Circuit
Court Judge

THE STATE,

Respondent,

VS.

Michél A. Dukes ^{SR.}

Appellant

FILED
14 JAN 21 11 33 AM '14
CLERK OF COURT
HARRIS

CERTIFICATE of service

The undersigned pro. se litigant hereby certifies that a true copy of the notice of appeal from denial of final order of Dismissal signed and issued on December 19 2013 by the honorable Benjamin H. Culbertson under civil Action: 2013-CP-26-2686, has been served upon the honorable Melanie Huggins - ward at clerk's office, P.O. Box 677 Conway, SC 29528-0677, and the clerk has forwarded a copy to the following: South Carolina Supreme Courts, P.O. Box 11336 Columbia, SC 29211, Joshua L. Thomas, Assistant Attorney general, P.O. Box 11549 Columbia, SC 29211.

Date: 1-22-14

Michél A. Dukes ^{SR.}
311176
Michél A. Dukes ^{SR.}
311176
Pro. se Litigant



Horry County
COMMITTED TO EXCELLENCE
Committed to Excellence

After Five Days Return To

Melanie Huggins – Ward

P.O. Box 677

Conway, South Carolina 29528-0677

**RETURN SERVICE
REQUESTED**

**PRESORTED
FIRST CLASS**



UNITED STATES POSTAGE
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FIRST CLASS PERMIT NO. 1000 CONWAY, SC
02 1R
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JUL 21 2014

Daniel E. Shearouse
Supreme Court of South Carolina
PO Box 11330
Columbia, SC 29211

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FXH-IMP

29211

