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KEVIN CHOICE, 257223
LEE C.I./DARL. N
990 WISACKY HWY.
BISHOPVILLE, S.C 29010

COA cert

S.C. SUPREME COURT

JULY 31, 2014

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

RE: STATE V. KEVIN CHOICE, 2013-002735, ENCLOSURES: AS;
WRIT OF CERTIORARI, PETITION AND CERTIFICATE OF SERVICE, etc.

DEAR MR. SHEAROUSE:

PLEASE SEE ENCLOSED MY PETITION FOR WRIT OF CERTIORARI AND THE ORIGINAL CERTIFICATE OF SERVICE FILED TO YOUR RESPECTFUL OFFICE AND IT IS SHOWN THAT THE RESPONDENT IS SERVED WITH THE SAME AS IS REQUIRED BY THE COURT RULES, etc.

I HAVE PROVIDED TO YOUR OFFICE MY EXTRA COPY FOR IT TO BE RETURNED BACK TO ME WITH YOUR OFFICE SEALS AND DATE STAMPS ON THEM SOON AS PRACTICAL.

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

RESPECTFULLY SUBMITTED,

JULY 31, 2014
ENCLOSURES:

KC/cm

S/ *Kevin Choice*
KEVIN CHOICE, 257223
990 WISACKY HWY.
BISHOPVILLE, S.C 29010

cc: S.W. ELLIOTT, Esq.
FILES/KC

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
CERTIORARI THE COURT OF APPEALS

APPELLATE COURT CASE #2013-002735

THE STATE,....., RESPONDENT,

Vs.

KEVIN CHOICE,....., PETITIONER.

PETITION FOR CERTIORARI

KEVIN CHOICE, 257223
LEE C.I.
990 WISACKY HWY.
BISHOPVILLE, S.C 29010

cc: SALLEY W. ELLIOTT, Esq.
ASSIST ATTY. GENREAL COUNSEL
PO BOX 11549
COLUMBIA, S.C 29211-1549
RESPONDENT

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STATEMENT OF CASE

PETITIONER KEVIN CHOICE, #257223, IS CURRENTLY CONFINED IN THE S.C. DEPT. OF CORRECTIONS AT THE LEE C.I., PETITIONER CHOICE IS SERVING A SENTENCE FOR MURDER THAT WAS IMPOSED BY THE GENERAL SESSIONS COURT OF THE THIRD JUDICIAL CIRCUIT, SUMTER COUNTY, PETITIONER CHOICE WAS WITH COUNSEL AND THE STATE WAS REPRESENTED BY THE THIRD JUDICIAL CIRCUIT SOLICITOR OFFICE COUNSEL, PETITIONER CHOICE DID APPEAL HIS CONVICTION TO THE APPELLATE COURT. SOMETIME LATER THE PETITIONER HAD MADE AN AFTER TRIAL DISCOVERY OF EVIDENCE IN HIS CASE AND THEREFORE, PETITIONER FILED A MOTION FOR A NEW TRIAL BASED UPON AFTER TRIAL DISCOVERY OF EVIDENCE IN HIS CASE MATTERS. THE PETITIONER'S MOTION WAS REVIEWED BY THE LOWER COURT BY WAY OF A HELD HEARING THAT WAS CONDUCTED BY THE TRIAL COURT, THIS MOTION WAS DENIED AND THE PETITIONER FILED A NOTICE OF AN APPEAL TO THE APPELLATE COURT. THE PETITIONER WAS REPRESENTED BY COUNSEL APPOINTED TO HIM BY THE LOWER COURT AND PURSUANT TO THE PETITIONER'S CONSTITUTIONAL RIGHTS HE WAS ENTITLED TO THE REPRESENTATION BY COUNSEL AS HE IS STILL ENTITLED TO THIS CURRENT TIME AND STAGE OF HIS APPEAL FILED TO THE APPELLATE COURT.

PETITIONER CHOICE FILED HIS NOTICE OF APPEAL TO THE S.C. COURT OF APPEALS AND AFTERWARDS THE COURT OF APPEALS DENIED HIM APPELLATE COUNSEL TO ASSIST HIM WITH APPEAL, SEE APPEND. PAGE 1., 2. AND 3., AND FOR THE SAKE OF THE RECORD AND THE PETITIONER'S ARGUMENTS THE ATTENTIONS IS NEEDED TO SEE THE MANDATES OF THE STATE'S CASE: STATE V. CLINKSCALES, 318 S.C. 513, 515, 458 S.E.2d 548, 549 (1995), WHEREAS, THE STATE AND THE COURT MISAPPLIED THIS CASE LAW DUE TO THE FACTS THAT THE PETITIONER HAD COUNSEL REPRESENTATION DURING EVERY STAGES OF HIS CASE IN THE COURTS AND AT NO TIME DID THE PETITIONER BEEN SEEN WITHOUT COUNSEL REPRESENTING HIM IN HIS CASE, AND THIS IS A FACT ESTABLISHED BY THE COURTS VERY OWN RECORDS ACCUMULATED IN HIS CASE MATTERS.

THEREFORE, PETITION FOR WRIT OF CERTIORARI FOLLOWS:

QUESTION PRESENTED

DID THE COURT OF S.C. APPEALS ERRED WHEN IT DENIED PETITIONER HIS RIGHTS TO COUNSEL WHEN IT APPLIED STATE V. CLINKSCALE, 318 S.C. 513, 515, 458 S.E.2d 548, 549 (1995), AND DENIED THE PETITIONER HIS REQUEST FOR AN EXTENSION TO ATTEMPT TO FIND REPRESENTATION, WITH THE COURT OVERLOOKING THE FACT THAT THE PETITIONER IS INDIGENT STATUS, etc.

ARGUMENTS

PETITIONER PETITION THE COURT FOR WRIT OF CERTIORARI TO THE S.C. COURT OF APPEALS TO THE S.C. SUPREME COURT DUE TO THE ORDER OF DISMISSAL TO THE PETITIONER'S MOTION FOR EXTENSION AND FOR AN APPOINTMENT OF COUNSEL TO PERFECT HIS APPEAL FROM THE TRIAL COURT DENIAL TO GRANT HIM A NEW TRIAL FROM THE RULE 29(B), SCRIM.P., MOTION FILED TO THE LOWER COURT, etc., PETITIONER CONTENDS THAT THE REQUEST FOR EXTENSION OF TIME WAS TO GENERATE FUNDS FROM HIS FAMILY MEMBERS TO RETAIN AN ATTORNEY. HOWEVER, PETITIONER HAS NOT HAD ENOUGH TIME TO DO SO AND THIS HAS CREATED A GREAT BURDEN UPON THE PETITIONER WHERE THE S.C. COURT OF APPEALS REFUSES TO ASSIGN AND OR APPOINT COUNSEL TO ASSIST TO PERFECT THE APPEAL, NOWAS, DUE TO THE PETITIONER CASE BEING DENIED BASED UPON THE MANDATES STATE V. CLINKSCALES, supra., UNLIKE CLINKSCALES, CASE PETITIONER WAS IN FACT REPRESENTED BY AN ATTORNEY AT EVERY STAGES OF HIS MOTION FILED TO THE LOWER COURT/TRIAL COURT, etc., IN FACT THE LOWER COURT APPOINTED COUNSEL TO REPRESENT THE PETITIONER. PETITIONER PROVIDED THE RECORDS OF THE PROCEDURAL HISTORY OF THE CASE AS PROFFERING EVIDENCE THAT SUPPORTED THE CONTENTIONS STATED TO THE COURT OF APPEALS FOR IT TO GRANT THE MOTION FOR AN TIME EXTENSION AND OR APPOINTMENT OF COUNSEL TO PERFECT APPEAL. PETITIONER NOW MAKE THE COURT AWARE THAT THE STATE V. CLINKSCALES 318 S.C. 513, 515, 458 S.E.2d 548, 549 (1995) IS NOT APPLICABLE TO THE PETITIONER'S CASE MATTERS AND THE COURT OVERLOOKED THIS FACTS AND THEREFORE, THE COURT OF APPEALS SHOULD HAVE APPOINTED A COUNSEL TO PERFECT HIS APPEAL ACCORDINGLY TO THE PETITIONER'S RIGHTS OF THE U.S. CONST. AND S.C. CONST., etc.

PETITIONER CHOICE FURTHER BRINGS THE ATTENTION OF THE COURT TO APPEND. PAGE 5. THAT STATES THAT THE COURT DISMISSING PETITIONER'S MOTION DID NOT DISMISSED OR FINALLY DECIDED THE PETITIONER'S APPEAL THAT IS PENDING IN THE APPEAL COURT, HOWEVER, THE DEPUTY CLERK OF COURT ALLEN MUST NOT OVERLOOK THE FACT THAT THE PETITIONER CAN NOT BE PENALIZED FOR SEEKING THE REMEDY TO RESERVE THE RIGHTS TO HAVE THE APPEAL FILED TO THE APPELLATE COURT TO BE REVIEWED BASED ON THE MERITS OF HIS CASE ISSUES SUBMITTED TO THE COURT IN HIS APPEAL FILED TO THE COURT. THE PETITIONER RESPECTFULLY REQUEST THAT THE COURT GRANT HIS WRIT OF CERTIORAIR ON THIS 31 DAY OF July 2014.

CONCLUSION

THEREFORE, THE PETITIONER KEVIN CHOICE, 257223, RESPECTFULLY REQUEST FOR THE COURT TO GRANT CERTIORARI AND FIND THAT HE IS ENTITLED TO HAVE COUNSEL APPOINTED TO HIS CASE AND PERFECT HIS APPEAL AND ALSO FIND THAT THE ~~THE~~ STATE CASE: STATE V. CLINKSCALE IS NOT APPLICABLE TO HIS CASE MATTERS AND TO REVERSE THE COURT OF APPEALS FINDINGS AND REMAND BACK TO THE COURT OF FOR COUNSEL TO BE APPOINTED AND PERFECT PETITIONER'S APPEAL CASE.

IT IS RESPECTFULLY SUBMITTED, ON THIS 31 DAY OF July 2014.

July 31, 2014

RESPECTFULLY SUBMITTED,

Kevin Choice
KEVIN CHOICE, 257223
990 WISACKY HWY.
BISHOPVILLE, S.C 29010
pro se PETITIONER

SWORN AND SUBSCRIBED BEFORE ME
ON THIS 31 DAY OF July 2014
IN THE STATE OF SOUTH CAROLINA.

Debra Sikes
S.C. NOTARY PUBLIC
COMMISSION EXPIRES: 11/4/2015

Mr. Kevin L. Choice, #257223

Lee Correctional Inst.

[Darlington Unit - N-2132]

990 Wiscahy Hwy

Bishopville, SC 29010

Hon. Daniel E. Shearouse
Clerk of the South Carolina
Supreme Court

P.O. Box 11330

Columbia, SC 29211

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