

Floyd Strickland
712 Saint Matthews, Rd.
Swansea, South Carolina 29160-9081

July 25, 2012

RECEIVED

JUL 26 2012

The Honorable Daniel E. Shearouse
Clerk South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

S.C. Supreme Court

RE: Floyd Strickland, 066891 v. State of South Carolina, Case No. 2011-CP-400-3694.
Appellate Case No. 2012-212313

Dear Mr. Shearouse,

I received your letter dated July 16, 2012 asking me to explain why this matter should not be dismissed as moot. Several factors played into me responding as I have. First, I'm not sure how I should respond. Do I just write you a letter with my explanation or should I address the Court in this reply? As you can see I chose the later. As requested, please find enclosed a copy of my Reply to your letter of July 16, 2012.

Please take the appropriate action in recording this Reply with you and the Court.

Sincerely,



Floyd Strickland
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Swansea, South Carolina 29160-9081
Tel: (803) 568-7466
Email: floydstrickland@ymail.com
Petitioner Pro Se

FS/fs

Cc:

Brian T. Petrano, Assistant Attorney General

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Administrative Judge
Fifth Judicial Circuit

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S.C. Supreme Court

Case No. 2011-CP-400-3694
Appellate Case No. 2012-212313

Floyd Strickland, #066891

Petitioner,

v.

State of South Carolina,

Respondent.

REPLY

Floyd Strickland
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Petitioner, Pro Se

Other Counsel of Record:
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Attorney for Respondent

This matter comes before this court pursuant to an Appeal in a post-conviction relief filed June 7, 2011 in the Court of Common Pleas, Fifth Judicial Circuit, County of Richland. Petitioner filed Notice of Appeal in this matter June 1, 2012 as Case No. 2012-212313. Pursuant to a letter from the Honorable Daniel E. Shearouse, Clerk of Court, South Carolina Supreme Court dated July 16, 2012 the Petitioner is making this Reply.

QUESTION ASKED

The Court asked this question;

“Since you have apparently now completed these South Carolina sentences and have been released for custody, I ask you to please explain why this matter should not be dismissed as moot. *See Jackson v. State, 331 S.C. 486, 489 S.E.2d 915 (1997); McDuffie v. State, 276 S.C. 229, 277 S.E.2d 595 (1981).*”

The matter before this court is one of an extreme magnitude requiring more than just a conclusion in a legal proceeding. The Court asked a question that appears based on a conclusion that since the Petitioner has completed service of a prison sentence the issue before the Court is moot. The Petitioner would ask the Court how can a wrongful, unjust, and unconstitutional violation of a citizens Constitutional Rights and Civil Liberties be moot without a resolution to the wrong and injustice. How can the matter be moot without a declaration for the Constitutional violation and ratification for the Civil Liberties violation to the Petitioner?

There are three elements to this action that support the Petitioners right to be heard in this matter and why his petition should not be dismissed or denied.

1. The first is the Constitutional violation of the Double Jeopardy Clause of the South Carolina Constitution and United States Constitution.

The South Carolina Constitution, Article 1 Section 12. **“No person shall be subject for the same offense to be twice put in jeopardy of life or liberty...,”**

Amendment 5 to the United States Constitution, the essential part reads, **“nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb...”**

The issues before this Court are issues of an injustice perpetrated and inflicted on the Petitioner. Confirmed Constitutional Guarantees have been violated causing this Petitioner to suffer great harm and damage. These matters must be reviewed by this Court and a conclusion of fact and law must be corroborated and delta with according to the order of law.

The Petitioner amended his PCR Application March 2, 2012 seeking a Declaratory Judgment in light of his release from prison. This release did not remove the harm and damage inflicted on the Petitioner as a result of the false imprisonment. A declaratory judgment would not resolve the actual controversy in this matter, but it would resolve the issues relating to Constitutional Amendment and Civil Right violations carried out by the Respondents against the Petitioner. It would also open the door for an equitable resolution between the parties.

2. The Petitioner struggled with the question of mootness and concluded he must find and understand this Courts ruling on this subject. Turning to a recent case in the Court of Appeals, *McDill v. Nationwide Insurance, Opinion No. 4072, Hard December 6, 2005 – Filed January 17, 2006*,

An appellate court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy. *Jackson v. State, 331 S.C. 486, 489 S.E.2d 915 (1997)*. Moot appeals differ from unripe appeals in that moot appeals result when intervening events render a case nonjusticiable. *See Jean Hoefer Toal, Sahin Vafai & Robert A. Muckenfuss, Appellate Practice in South Carolina 122 (1999)*. “A case becomes moot when judgment, if rendered, will have no practical legal effect upon [the] existing controversy. This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief.” *Mathis v. South Carolina State Highway Dep’t. 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973)*.

he comes to the following understanding;

Unlike the McDill case the issues and allegations now before this Court cry out for a resolution. The questions now before this Court are nether “academic” or “moot” and there is a “controversy.” Due to, and because of the action taken by the South Carolina Department of Corrections the Petitioner was forced to endure a wrongful and illegal incarceration, the loss of his freedom and suffered the consequence of life in the most horrendous institution in the States penal system, North Side of the Infamous “Special Management Unit” (segregation), at Lee

Correctional Institution. The rule of law and justice demand a resolution from this Court for the Petitioner.

This judgment and conviction was rendered over forty (40) years ago; however the public records portray the Petitioner as committing this offense only months ago. This perpetuated incarceration makes it appear the crime was committed only yesterday bringing humiliation and mischief to the Petitioner. The prejudicial element of this incarceration pursues every productive effort of the Petitioner to reenter society. The Petitioner is denied access to credit, secure places, and rights that would have long been returned.

3. The third element or issue is the request for the petition to be dismissed for lack of standing.

The Respondents filed a Return and Motion to Dismiss, alleging the Application for Post-Conviction Relief should be summarily dismissed. This motion was based on two premises, (1) issues raised in the PCR are not claims that can be raised in a post-conviction relief proceeding, and (2), a Summary Dismissal should be granted due to timeliness issues. The Court signed the Conditional Order of Dismissal August 25, 2011; it was filed with the Court August 31, 2011. This filing was followed with a response and several other petitions from the Petitioner showing why this PCR meet all provisions of S.C. Post-Conviction Relief Act and further evidence that the PCR was filed in a timely manner.

No further order from the Court come until after the Petitioner had been released from confinement and from the custody of the South Carolina Department of Corrections. The Court filed a Final Order of Dismissal April 5, 2012. It should be noted that the Court found and ruled that the issues raised in the PCR were such that could be raised in PCR. The Court erred in ruling on the merits of this case and the allegations pursued in the PCR. This action denied the Petitioner due process, denying him the right to defend and, or present facts supporting his PCR Application.

Petitioner filed a Motion to Alter and Amend a Judgment April 13, 2012. The Court responded with an order denying the Motion to Alter and Amend a Judgment April 30, 2012, and filed May 3, 2012. The Court erred in denying the Motion without further pleadings, oral, or

written documents. The Court erred in finding and ruling, *“The Applicant has failed to raise any PCR issue or raise any genuine issue of material fact.”* The Court erred in denying the Rule 59(e) Motion and upholding the Final Order of Dismissal entered on or about April 5, 2012. Petitioner’s Appeal to this Court followed.

As submitted above at no time in any Court Orders have the Court deny or dismiss this action due to a lack of Standing. At no time or under any circumstance has there ever been a demand or request for this matter to be dismissed for lack of standing.

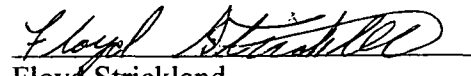
Conclusion

The Petitioner has come before this court seeking relief from an erroneous decision from the Circuit Court. He believes his Application for Post-Conviction Relief should be granted due to the overwhelming issues of constitutional violations. The matters raised in his PCR must be addressed in the interest of justice. The matters presented in this PCR are nether academic or moot. There exist a major controversy between the South Carolina Department of Corrections and the Petitioner over the understanding of a Court Ruling, and the South Carolina Probation, Parole and Pardon Board decree. In the interest of Justice and fair play these issues must be resolved only after all parties have had their day before the Court to present their case.

Petitioner would ask that he be allowed to pursue this matter in the Court under the standing rule of law; to allow his appeal to move forward in an orderly and judicious manner.

This 25th, day of July 2012.

Respectfully submitted,


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Petitioner Pro Se

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
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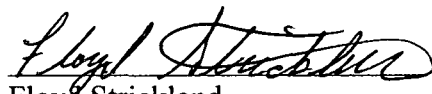
State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, addressed to the attorney of record, Brian T. Petrano, Assistant Attorney General, Post Office Box 11549, Columbia, South Carolina 29211.

July 25, 2012


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Att. Ryan Alphin

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