

STATE OF SOUTH CAROLINA
In The Court of Appeals

Appellate Case No. 2014-000732

Patrick L. Booker,

Appellant,

—VS—

South Carolina Department of Juvenile Justice ;
South Carolina Juvenile Parole Board ;
South Carolina Department of Social Services ;
State of South Carolina ,

Respondents.

MOTION TO REINSTATE
PETITION FOR REHEARING

Pursuant to the South Carolina Appellate Court Rules ("SCACR"), the Appellant Patrick L. Booker hereby petition this Court to reinstate this appeal or to rehear the matter based upon the following:

By Order dated May 19, 2014, this Court dismissed this appeal stating "this appeal is dismissed because the underlying action violates the Supreme Court's orders prohibiting Appellant from filing any further collateral actions challenging his 2003 convictions."

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ARGUMENT

I. This Court Misapprehend The Nature of Appellant's Underlying Civil Action; The Underlying Civil Action Does Not Challenge Appellant's 2003 Guilty Pleas/Convictions.

In June 2011 Appellant discovered the Respondents' past tort of failing to provide him care and treatment which had been ordered by the Greenville County Family Court. Based upon this discovery of evidence, Appellant commenced the underlying civil action against the Respondents alleging only that they are liable unto him for their tort of "gross negligence" by failing to comply with the Family Court orders which ordered Respondents to provide a battery of care and treatment for Appellant and for his dysfunctional family situation.

The Respondents' ~~tort~~ tort of "gross negligence" occurred between April 2000 and December 2001, and Appellant's allegations against the Respondents in the underlying civil action are based solely on a claim of gross negligence.

No where in the civil action does the Appellant challenge his 2003 guilty pleas or convictions.

ACCORDINGLY, this Court erred in dismissing this appeal.

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EX-100-210

II. This Court Overlooked A Principle of Law.

In dismissing this appeal, this Court apparently overlooked a principle of law:

A collateral challenge is defined as "an attempt to undermine a judgement through a judicial proceeding in which the ground of the proceeding is that the judgement is ineffective."

See, Black's Law Dictionary, page 298 (9th Ed. 2009).

In this case, the ground of Appellant's underlying complaint or the underlying civil judicial proceeding is that the Respondents were "grossly negligent" in failing to comply with a court-order; the ground of Appellant's underlying lawsuit is NOT a challenge that his 2003 judgements of conviction are ineffective. Simply put, the Appellant's lawsuit does not attack the validity of Appellant's 2003 criminal convictions. Appellant's tort action against Respondents is based/grounded upon events occurring prior to Appellant's 2003 convictions.

Therefore, Appellant's underlying lawsuit is not a collateral challenge and, thus, he did not violate the Supreme Court orders.

ACCORDINGLY, this Court erred in dismissing this appeal.

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III . This Court Denied Appellant Due Process of Law In Dismissing This Appeal.

This Court dismissed this appeal based upon its belief that Appellant violated a court-order issued by the Supreme Court of South Carolina ; however, this Court did not first issue a rule to show cause or otherwise afford Appellant notice and opportunity to be heard regarding the matter.

The law of this Court is clear : " No judgement or order affecting the rights of a party to the cause shall be made or rendered without notice to the party whose rights are to be affected . " Universal Benefits, Inc. vs. McKinney, 561 S.E.2d 659 (s.c.App.2002).

If this Court suspected Appellant to be in violation of a court-order, then the proper method of action was for this Court to issue a rule to show cause order affording Appellant notice and opportunity to be heard on the matter before the Court decided the issue .

ACCORDINGLY, this Court in dismissing this appeal.

IV . The Supreme Court Orders Are Null And Void For Lack of Jurisdiction.

The Supreme Court injunctive/prohibitory orders in question are without legal effect because they are null and void for want of proper due process/jurisdiction.

When the Supreme Court issued its April 7, 2010 order enjoining Appellant the Supreme Court acted in direct contravention of due

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process principles and outside the scope, and in excess, of its appellate jurisdiction. Specifically, this Supreme Court did not notify Appellant that it was considering an injunction against the Appellant nor did the Supreme Court afford Appellant an opportunity to be heard before or after it issued the injunction order. Thus, the injunction order was issued without due process of law. Moreover, the Supreme Court was acting in its appellate jurisdiction — as opposed to its original jurisdiction — when it issued the April 7, 2010 order. Thus, the Supreme Court's jurisdiction was limited to reviewing errors of law; the Supreme Court has no power to issue injunction orders while being limited to appellate jurisdiction.

ACCORDINGLY, the Supreme Court's ^{orders} are without legal effect and this Court erred in applying the orders of the Supreme Court to dismiss this appeal.

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CONCLUSION

Based upon the foregoing reasons and legal authority, this Court should reinstate this appeal or rehear the matter.

* (See Reverse Side) *

Respectfully Submitted,

Patrick Booker

Mr. Patrick L. Booker, # 297590

Turbeville Correctional Inst.

P.O. Box 252

Turbeville, S.C. 29162

May 20, 2014

Turbeville, South Carolina.

Re: Patrick L. Booker vs. SCDJJ et al.,
Appellate Case No. 2014-000732

Certificate of Service

I, Patrick L. Booker, do hereby certify that I have served the Motion to Reinstate/ Petition for Rehearing upon the parties listed below by depositing a copy of the motion/petition in the U.S. Mail, postage prepaid, addressed to their counsel of record:

Janet B. Holmes, Esq.
Attorney for SCDJJ and SCJPB
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Russel W. Harter, Jr., Esq.
Attorney for SCDSS
P.O. Box 10224
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Kristin M. Simmons, Esq.
Attorney for State of S.C.
P.O. Box 11549
Columbia, S.C. 29211

5/21/14
(Date)

Patrick Booker
(signature)

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To: Clerk's Office
S.C. Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

From: The Hon. Patrick L. Booker, # 297590
Turbeville Correctional Institution
P.O. Box 252
Turbeville, S.C. 29162

Date: May 21, 2014

Re: Patrick L. Booker vs. SCDJJ et al.
Appellate Case No. 2014-000732

Dear Clerk:

Enclosed for filing, please find the Motion to Reinstate/Petition for Rehearing regarding the above-referenced case.

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Thank you,
Patrick Booker

w/enclosures

cc: Janet B. Holmes, Esq.; Russell W. Harter, Jr.; Kristin M. Simmons, Esq.

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