



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

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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

August 29, 2014

Kathrine Haggard Hudgins, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
P.O. Box 11589
Columbia SC 29211-1589

Re: Dexter Palmer v. State
Appellate Case No. 2013-001940
Lower Court Case No. 2011CP3400122

Dear Counsel:

Enclosed is a *pro se* Rule 59 motion that your client has sent to this office. This motion is dated August 25, 2014.

This *pro se* motion appears to be untimely under Rule 59, SCRPC. Further, since you represent him in this matter, it appears that this *pro se* motion is essentially a nullity. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010).¹ Accordingly, I will

¹ "Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel. [citations omitted]. Because petitioner was represented by counsel, the *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. . . . We also take this opportunity to remind judges and clerks of court of

not dismiss this matter under *Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341 (1986). If you disagree and believe this matter should be dismissed under *Hudson* so that you circuit court can consider the *pro se* motion, you will need to make a motion to this Court.

Very truly yours,

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

CLERK

Enclosure

cc: Karen Christine Ratigan, Esquire (with copy of *pro se* motion)
Mr. Dexter Palmer, #311922

our directive in *Foster* not to accept substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a party who is represented by counsel."

Dexter J. Palmer #311922
Lee C.I. Richland B-191
990 Wisacky Hwy
Bishopville, SC 29010

To: Danile E. Shearous
Clerk of Court
P.O. Box—11330
Columbia, SC 29211

RECEIVED

AUG 28 2014

S.C. SUPREME COURT

RE: Notice of Motion and Motion for Rehearing Pursuant to Rule 59(a) SCRCP. And/or Motion to Alter or Amend Pursuant to Rule 59(e) SCRCP

Sir/Madam:

Will you please stamp, file, and send copies to all parties concerned as well as send an additional copy back to me.

Thank You,

s/ Dexter Palmer

STATE OF SOUTH CAROLINA)
)
 County of Marlboro)
)
 Dexter Palmer, SCDC #311922,)
 Applicant)
)
 v.)
)
 State of South Carolina)
)
 Respondent)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTH JUDICIAL CIRCUIT

Case No. 2013-001940

**Notice of Motion and Motion
 For Rehearing Pursuant to
 Rule 59(a) SCRPC and/or Motion to
 Alter or Amend Pursuant to Rule 59(e) SCRPC**

Please take notice that the Applicant comes by way and through his undersigned attorney will move before the Honorable Karen C. Ratigan, to direct an entry of a new judgment and/or alter or amend the judgment signed on August 21, 2013 and filed September 6, 2013. Copy of the Order of Dismissal was received by the undersigned attorney on unknown date and—was received by Applicant on October 16, 2013.

Come New the Applicant by and through his undersigned attorney and request that this court direct the entry of a new judgment. Pursuant to Rule 59(a)(2) and/or amend the findings of fact and conclusion of law in the standing order of Dismissal Pursuant to Rule 59(e) SCRPC.

This matter comes before the court by way of an application for post-conviction relief filed June 1, 2011. An evidentiary hearing into the matter was convened on July 16, 2013 at the Darlington County Courthouse. The Applicant was present at the hearing and represented by David E. Belding, Esquire. The Respondent was represented by Karen C. Ratigan, Esquire, of the South Carolina Attorney General’s Office.

The Applicant testified on his own behalf at the PCR hearing. Also testifying were Deputy Solicitor Kernard E. Redmond, Esquire and the Applicant's plea counsel, Emily M. Crayton, Esquire. The Court had before it the transcript of the guilty plea hearing the Marlboro County Clerk of Court records, the Applicant's South Carolina Department of Correction records, the PCR application and subsequent trial brief, the return, and Applicant's Exhibits, 1-4.

- 1) The Order of Dismissal does not fully address the Applicant's claim regarding ineffective assistance of counsel. Applicant respectfully request that this Court review the Applicant's Proposal order, where this claim is addressed, and/or the evidentiary hearing transcript and Properly address this claim.
- 2) The Order of Dismissal fails to fully summarize the Applicant's testimony at the evidentiary hearing. Pursuant to the Marlor v. State, 375 S.C. 407, 653 S.E. 2d 266(2007), the Applicant respectfully requests that the Court review the evidentiary hearing transcript and Properly address his testimony.
- 3) The Order of Dismissal does not fully address the Applicant's claim regarding his involuntary guilty plea. Pursuant to Marlor v. State, 375 S.C. 407, 653 S.E. 2d 266(2007), the Applicant respectfully requests that the court review the evidentiary hearing transcript and Properly address this claim.
- 4) The Order of Dismissal does not fully address the Applicant's claim regarding Breach of plea agreement. Pursuant to Marlor v. State, 375 S.C. 407, 653 S.E. 2d 266(2007), the Applicant respectfully request's that the court review the evidentiary hearing transcript and Properly address this claim.

Therefore, based upon the foregoing, the Applicant prays that the court reconsider the Order of Dismissal and review the transcript of the evidentiary hearing.

The Applicant respectfully requests that this court direct an entry of a new judgment and/or alter or amend the judgment signed on August 21, 2013 and filed September 6, 2013.

I so move

Dexter J. Palmer

Applicant

Lee C.I. Richland B-191

990 Wisacky Hwy

Bishopville, SC 29010

August 25th, 2014

Bishopville, South Carolina

STATE OF SOUTH CAROLINA)
County of Marlboro)
Dexter Palmer, SCDC #311922,)
Applicant)
v.)
State of South Carolina)
Respondent)
_____)

IN THE COURT OF COMMON PLEAS
FOURTH JUDICIAL CIRCUIT

Case No. 2013-001940

Certificate of Service

I, Dexter J. Palmer, Applicant, hereby certify that I placed in the United States Mail on this 25th day of August 2014, a copy of a Motion for Rehearing Pursuant to Rule 59(a) SCRPC and/or Motion to Alter or Amend Pursuant to Rule 59(e) SCRPC. With Postage Prepaid and the return address clearly shown on said envelope to the Office of the Attorney General at:

Office of the Attorney General

ATT: Karen C. Ratigan Esq.

P.O. Box—11549

Columbia, SC 29211

RECEIVED

AUG 28 2014

S.C. SUPREME COURT

s/ Dexter Palmer
Dexter J. Palmer, #311922
Applicant
Lee C.I. Richland B-191
990 Wisacky Hwy.
Bishopville, SC 29010

August 25th, 2014