

Adrian Beaton # 371914
Lieber Corr. Inst
P.O. Box 205
Ridgeville S.C 29472

September 2, 2014

RECEIVED

SEP 15 2014

S.C. SUPREME COURT

CLERK OF COURT
S.C. SUPREME COURT
P.O. Box 11330
Columbia S.C
29211

RE: Adrian Beaton # vs State of South
Carolina Case # 2012-CP-10-7668

Dear Honorable Clerk:

Enclosed please find the original and one (1) copy of the Notice of Appeal and Proof of Service in the above referenced case. Please file with the court and return a filed copy to me.

By copy of this letter I'm serving a copy to Ashleigh Wilson Assistance Attorney General's Suite Armstrong, Clerk of Court of Charleston County, S.C.; and to the S.C. of Appellate Defense.

Respectfully Submitted
Bu. A. Beaton
Adrian Beaton

State OF South Carolina
Supreme Court
Appeal From Charleston County
Court Of Common Pleas

Case# 2012-CP-10-7068

Adrian Beaton # 327914
Applicant

vs.

State OF South Carolina
Respondent

NOTICE OF APPEAL

I Adrian Beaton, Applicant, appeals the dismissal of Applicant's Application For Post Conviction Relief in the above-captioned case. I nevered recieved the final order; with the finding of facts or the conclusion of law on the reasons for dismissal. Only material applicant recieved from the clerk of court is the letter attach herein this motion of appeal being served upon the court.

Pursuant to S.C. App Ct. Rule 243, Applicant attaches a brief explanation as to why the Judge's dismissal was improper and to preserve the record for future allegations applicant may have when he receive his final order.

RECEIVED

SEP 15 2014

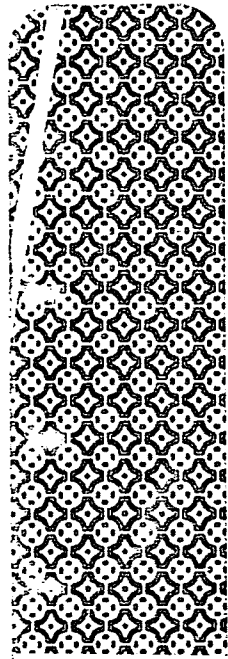
S.C. SUPREME COURT

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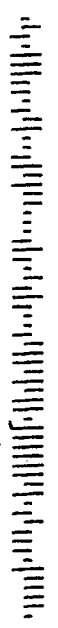
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CK1-SAB 29472



State OF SOUTH CAROLINA
Supreme Court
Appeal From Charleston County
Court of Common Pleas

CASE # 2012-LP-15-71068

Adrian Beaton # 227914
Applicant

vs.

State OF South Carolina
Respondent

Applicant herein, pursuant to S.C. Appellate Ct Rule 84B, brings forth this brief explanation with sufficient evidence showing and proving why the judge's dismissal of Applicant's Post Conviction Relief (PCR) Application was improper.

Issue # 1

Pursuant to Rule 60(LB)(2) of the Civil Rule of Procedure, Applicant is entitled to relief of judgment of the hearing held on April 15, 2014, because the Counsel/Attorney who was representing Applicant at this hearing was not Applicant appointed counsel.

This fraudulent behavior demonstrated by Attorney A. Michael Resnik constitutes a violation of Applicant's 5th and 14th amendment rights, under Applicant's United States Constitutional rights, along with Applicant S.C. Constitutional right under Article 1 § 3.

Due to the extrinsic fraud committed by this attorney which prohibited Applicant from properly presenting his case, prejudice the Applicant.

DUE TO THE MISREPRESENTATION OF COUNSEL WHO WAS NOT ASSIGNED BY THE CLERK OF COURT IN THE COURT OF THE ABOVE-CAPTIONED CASE OR THE JUDGE OF THIS CASE WHO APPOINTED ATTORNEY JOSEPH FRANCIS HOND JR. TO REPRESENT APPLICANT IN THE ABOVE-CAPTIONED CASE. SEE EXHIBIT (A) OF SUFFICIENT EVIDENCE ESTABLISHING APPLICANT ALLEGATIONS.

ISSUE # 2

Applicant was prejudiced because of the misconduct and fraudulent behavior carried out by the attorney J. MICHAEL BOSNIK; who was not applicant's appointed counsel. Applicant was prejudiced by the misconduct and fraudulent behavior committed by the above-named attorney because applicant was not in possession of his guilty plea transcript of the January 26, 2014 hearing; because it was in the hands of this attorney who was not applicant's appointed counsel or was never obtained by the Clerk of Court or any judge permission to substitute or any other form or procedure to represent applicant.

Due to this act of fraud committed by the above-captioned attorney violated applicant's due process right under the 5th amendment along with applicant's 14th amendment right to equal protection; under applicant's United States Constitutional right; along with applicant's S.C. Carolina right to due process and equal protection clause under Article 1 § 3.

Applicant was prejudiced because if applicant was given his guilty plea transcript of the January 26, 2014 hearing applicant would have been able to show and prove at the PCP hearing held on April 15, 2014 that his conviction and sentence was not knowingly, voluntarily or intelligently made or enter instead of having to file a motion with the court to amend or alter judgment because applicant didn't receive

the guilty plea transcript of the January 26, 2012 hearing until April 17, 2014.

- Applicant would have had shown the Court ID that due to the trial court error in failing to properly construct a competent entry of guilt of applicant's guilty plea by failing to ask the applicant was he under the influence of any drugs, alcohol or medication at the time of the guilty plea hearings. If trial court would have ask this question applicant would have informed the court he under psychotropic medication which would not allow applicant to make a intelligent decision.

See Exhibit (B) of sufficient evidence establishing applicant allegation.

Note: Applicant never received any final order from the clerk of court or any other source. So applicant moves to preserve the records for later finding once applicant get in possession of the final order.

Dated: September 9, 2014

Respectfully Submitted
By: A. Beaton
Adrian Beaton #327914
Lieber Corr. Inst
P.O. Box 805
Ridgeville S.C 29472

PETITIONERS Exhibit A For Proof
OF THE PETITIONERS ALLEGATIONS

Common Pleas

CASE HISTORY FOR CASE 2012CP1007668

Adrian Beaton VS South Carolina State of

FILED DATE: 11/26/2012

CASE TYPE: CP/Post Convict Rel 500

STATUS: PCR

JUDGE: Clerk Of Court C P, G S, And Family Court

CASE PARTIES:

Plaintiff Beaton, Adrian

Defendant South Carolina State of

Defendant Attorney Wilson, Ashleigh Rayanna

PO Box 11549, Columbia, SC 29211

Plaintiff Pro Se Beaton, Adrian

#327914-Lieber C I, P O Box 205, Ridgeville, SC 29472

Plaintiff Attorney Hand, Joseph Francis Jr.

106 W. 7Th N. St., Summerville, SC 29483

Your appointed
counsel

843-875-7111

CASE HISTORY FOR CASE 2012CP1007668

Beaton, Adrian

Age: Unknown

DOB: Unknown

DL#:

SSN: 000-00-0000

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
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Total:

DATE	TIME	EVENT DESCRIPTION
11/29/2012	10:20 AM	Filing recorded: Filing/Filing Of Email to Atty General PCR
11/21/2014	8:56 AM	Order/Continuance to the next term
11/26/2012	11:46 AM	Filing recorded: Post Conviction Relief
11/11/2013	12:01 PM	Order Joseph Hand Jr is appt counsel for plntff
12/2013	1:35 PM	Filing recorded: Letter Fr/ Plntff to Atty Hand in Re: Status of Case & Ct/Sv

Print Date: 03/18/2014

Print Time: 2:33:14PM

Requested By: COCBLC

CaseHistory.rpt

JULIE J. ARMSTRONG

CLERK OF COURT, C.P. & G.S.
100 BROAD STREET, SUITE 106
CHARLESTON, SC 29401-2258

RETURN SERVICE REQUESTED



www3.charlestoncounty.org



28



JOSEPH FRANCIS HAND JR.
106 W 7TH NORTH ST
SUMMERVILLE SC 29483-6619

NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC

Order/Continuance to the next term

CASE NO: 2012CP1007668

Adrian Beaton VS South Carolina State of

This judgment was entered on the 21st day of January, 2014, and a copy mailed first class on Thursday, January 23, 2014, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at www3.charlestoncounty.org.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Adrian Beaton)
Plaintiff(s))

Vs.)

State of South Carolina)
Defendant(s))

IN THE COURT OF (Select one)
 COMMON PLEAS FAMILY COURT

CASE NO: 2012-CP-10-7668
APPOINTMENT OF COUNSEL

ORDER
 AMENDED ORDER

FILED
2013 FEB 11 AM 11:37
JULIE J. ARMSTRONG
CLERK OF COURT

TYPE OF CASE/PROCEEDING: (Check one)

- Post-Conviction Relief (PCR)/Habeas Case
- Sexual Violent Predator Case (SVP)
- Minor Name Change
- Abuse and Neglect
- Adoption
- Custody and/or Visitation
- Juvenile
- Other

It appears that Adrian Beaton, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one)

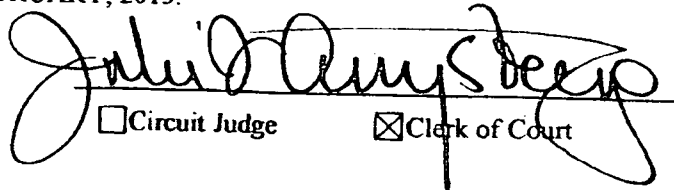
- Counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- Counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on:
- Counsel was previously appointed by the court but has indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- Court appointed counsel has obtained _____, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other:

Therefore, it is ordered that Joseph Francis Hand Jr., is hereby appointed as (Select one)
 counsel lead counsel (if capital PCR case) guardian ad litem
for the above-named person. Any counsel or GAL previously appointed is hereby relieved.

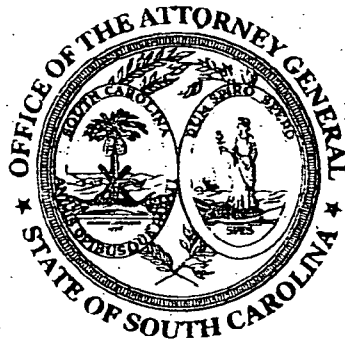
(If Death Penalty PCR Case) It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 11TH DAY OF FEBRUARY, 2013.


 Circuit Judge Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.



ALAN WILSON
ATTORNEY GENERAL

December 5, 2012

FILED
2012 DEC -6 PM 1:40
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street
Charleston, SC 29401

RE: Adrian Beaton, # 327914 v. State of South Carolina
2012-CP-10-7668

Dear Ms. Armstrong:

The above-referenced individual has filed an Application for Post-Conviction Relief (PCR) in the Circuit Court and needs to have an attorney appointed to represent him. If you will appoint an attorney and let me know his/her name, I will send him or her a copy of our file in this matter.

His attorneys listed on his pcr action are "Ashley Pennington."

If you have any questions with regard to this matter, please let me know.

Yours very truly,

Anne Henley, Legal Assistant for
Ashleigh R. Wilson, Assistant Attorney General

/arh

cc:

The Honorable Deadra L. Jefferson, Ninth Circuit Administrative Judge

Joseph Francis Hand Jr.

Common Pleas

CASE HISTORY FOR CASE 2012CP1007668

Adrian Beaton VS South Carolina State of

FILED DATE: 11/26/2012

CASE TYPE: CP/Post Convict Rel 500

STATUS: PCR

JUDGE: Clerk Of Court C P, G S, And Family Court

CASE PARTIES:

Plaintiff Beaton, Adrian

Defendant South Carolina State of

Defendant Attorney Wilson, Ashleigh Rayanna
PO Box 11549, Columbia, SC 29211

Plaintiff Pro Se Beaton, Adrian
#327914 Lieber C I, P O Box 205, Ridgeville, SC 29472

Plaintiff Attorney Hand, Joseph Francis Jr.
106 W. 7Th N. St., Summerville, SC 29483

CASE HISTORY FOR CASE 2012CP1007668

Beaton, Adrian

Age: Unknown
DL#:

DOB: Unknown
SSN: 000-00-0000

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
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Total:

DATE	TIME	EVENT DESCRIPTION
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1/26/2012	11:46 AM	Filing recorded: Post Conviction Relief
1/11/2013	12:01 PM	Order Joseph Hand Jr is appt counsel for plntff
1/12/2013	1:35 PM	Filing recorded: Letter Fr/ Plntff to Atty Hand in Re: Status of Case & Ct/Sv

Print Date: 12/13/2013
Print Time: 4:06:16PM
Requested By: COCBLC

CaseHistory.rpt

PETITIONERS EXHIBIT B FOR PROOF
OF PETITIONERS ALLEGATIONS

State of South Carolina
County of Charleston

Adrian Beaton #327914
Applicant

vs.

State of South Carolina
Respondant

In the Court of Common Pleas

CASE # 2012CP-10-7668

Motion to Amend or Alter
Judgement

Applicant moves to amend per Application pursuant to South Carolina Civil Procedure Rules 15(a), 52(a) and 59(c).

Applicant went to court on April 15 2014 in front of the honorable Judge Dennis. Upon request of an involuntary hearing at which time applicant was not prepared to carry on with procedure, because he was not in possession of his guilty plea transcript, which applicant didn't receive until April 17 2014.

Therefore Applicant hereby file this motion upon the court to have the judgement amended and altered.

Statement of Facts

Issues to be included in supplemental amendment. Applicant just received guilty plea transcript for guilty plea hearing held on Jan 26 2012.

Applicants guilty plea was not knowingly, voluntarily or intelligently made and Applicants trial counsel was ineffective for not correcting the trial court error

Arguments

Issue 1.

Trial Court erred in Failing to Question Applicant on the record, if he was under the influence of any drugs, Alcohol or medication at the time Applicant entered his Plead of Guilt & requires an automatic reversal of Applicant's Conviction and Sentence. Applicant didn't knowingly, voluntarily or intelligently entered his Guilty Plea due to Trial Courts error.

The trial records speak silent of this courts error - which requires automatic reversal. State vs Orr 403 S.C.S.E. 2d 23 (1991)

Applicant United States 14th amendment Right has been violated also pursuant to South Carolina Art. II 1 & 3 of Applicant's S.C Const. has been violated as well.

It is the Courts requirement to Question Applicant on the record, if he was under the influence of any drugs, alcohol or medication during the Guilty Plea hearing. Any Plead of Guilt cannot be knowingly, voluntarily or intelligently held without the Judge requirement on the record. Boykin vs Alabama 395 - U.S. 238 89, S.Ct 1709 23 L.Ed. 2d 274 (1969)

Therefore Applicant Guilty Plea is not knowingly voluntarily or intelligently entered. Applicant is Prejudice, because Trial Court Failed to Question Applicant on the record, if he was under the influence of any drugs, alcohol or medication.

IF trial court would have asked this question to applicant, applicant would have informed trial court that he was under the influence of psychotropic medication, that he took from other prisoner's because he was stressed out and unable to cope with the stress he was under due to his case.

Therefore by trial courts error in failing to question the applicant on the record to know if he was under the influence of any drugs alcohol or medication renders applicant's plea invalid. Also there is a reasonable probability that the outcome would have been different because if the trial court asked this question trial court would have been aware applicant was under the influence of psychotropic medication at the time of hearing that could not allow him to make an intelligent decision.

Trial court erred in failing to construct a knowingly, voluntarily or intelligent waiver of the recorded which requires an automatic reversal of applicants conviction and sentence because the record speaks silent. State vs Ott, 403 S.C.S.E.2d 23 (1991), State vs Arthur 374 S.E.2d 291 (1982).

Issue # 2

Trial counsel was ineffective by failing to request upon the trial court to question the applicant on the record was he under the influence of any drugs alcohol or medication at the guilty plea hearing, which trial counsel was aware of applicants mental health issues.

By Trial Counsel Failure to request the trial court to question Applicant on the record was he under influence of any drugs, alcohol or medication, violated Applicants 6th and 14th Amendment rights of Applicants United State Const. Rights, and Applicants South Carolina Const. Right Article 1 § 3. Strickland vs Washington 466 U.S. 668, 104 S.Ct 2052 80 L.Ed. 2d 674 (1984) Hill vs Lockhart 474 U.S. 52 (1985)

IF Trial Counsel wasn't aware of applicants mental health issues, trial counsel was ineffective for not doing a thorough investigation that could have help trial counsel make a strategic decision on a defense for the applicant defense at trial. Smith vs Wiggins 123 S.Ct 2527 (2003) Williams vs Faylor 120 S.Ct 1495 (2000)

Therefore Applicant was prejudiced, because trial counsel fell below standards and didn't object or intervene when trial court failed to question applicant on the record, was he under the influence of any drugs, alcohol or medication, which could have rendered his plea. So there is a probability that the outcome would have been different, because trial court would have been aware that applicant was on psychotropic medication that would not allow applicant to make an intelligent decision.

All records reflect these allegations presented by applicant. See guilty plea transcript pages 5 (20-25), 6 (1-25), 7 (1-25) and 8 (1-6) applicant presents these transcript pages of the record to be included as Exhibit (A)

PROOF to substantiate that Applicant just relieved a copy of his guilty plea transcript will be a photo copy of the relieved envelope in which the transcript came in and this will be submitted into the records of applicants Exhibit (B) showing and proving applicants reasons for filing this motion to amend judgement; pursuant to Rules 15(a), 54(a) and 59(e) of the South Carolina Civil Procedures. Applicant has the right to amend his PLE Application because the court has not made a decision on applicants PLE Application - so applicant is entitled to amend his PLE Application and any denial will be constituted as gross miscarriage of Justice Butler vs State S.E. 2d 87 (1990)

Under Rule 71.1 (f) and pursuant to S.C. Code Ann 172780 Applicant request upon the court to give a SPECIFIC FINDING OF FACTS AND CONCLUSION OF LAW related to each issue now amended

CONCLUSION

Applicants conviction and sentence must be reverse because of the record speak silent of the trial courts error - State vs Orr 403 S.C. S.E. 2d 23 (1991)

1 he gets to the Department of Corrections he will be
2 labeled as a sex offender.

3 The default position is that you're a sex
4 offender. So that I would ask the Court, and I think
5 the State will stipulate, that this is not a
6 sex-related crime, and that registry would not be
7 appropriate.

8 MS. SHEALY: That's correct, Your Honor.

9 THE COURT: Is there any particular place I need
10 to sign on here or say that on here?

11 MR. PENNINGTON: It's not on there, Your Honor.
12 I believe you have to just pencil in --

13 THE COURT: Write it in?

14 MR. PENNINGTON: Yes, sir. That it would be not
15 sex-related, no registry. No sex registry.

16 THE COURT: All right. I have written after the
17 end of the sentence language, not sex-related crime,
18 not required to register.

19 MR. PENNINGTON: Thank you, Your Honor.

20 THE COURT: All right. Now, Mr. Beaton back to
21 you. Do you understand all these charges and the
22 possible penalties?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You don't have to plead guilty to
25 any of these charges. You've signed up indicating you

1 wish to plead guilty, but you don't have to. You have
2 an absolute right under the constitution of this state
3 and of the United States of America to have a jury
4 trial on each of these charges.

5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You don't have to prove your
8 innocence, the state has to prove you guilty beyond a
9 reasonable doubt. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: If you want a jury trial, you and
12 your attorney would help select a jury of 12 people.
13 They would take an oath to decide your case based only
14 on the testimony and evidence presented against you
15 here in court.

16 Do you understand that?

17 THE DEFENDANT: Yes, sir

18 THE COURT: After having helped select the jury,
19 you and your attorney would participate fully in the
20 trial, cross-examine the state's witnesses, ask them
21 questions to make sure they were telling the truth.

22 You could call witnesses and you could testify
23 if you wanted to, although you don't have to. Nobody
24 can make you testify against yourself.

25 Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And as I said, the burden of proof
3 is on the State to prove you are guilty beyond a
4 reasonable doubt to the satisfaction of all 12 jurors.
5 If the State doesn't do that, then they are required
6 under the law to find you not guilty.

7 Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: would you like to have a jury trial
10 on any or all of these charges?

11 THE DEFENDANT: No, sir.

12 THE COURT: How do you wish to plead?

13 THE DEFENDANT: I wish to plead guilty.

14 THE COURT: Are you really guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Has anybody promised you anything or
17 threatened you in any way to get you to plead guilty?

18 THE DEFENDANT: No, sir.

19 THE COURT: Are you pleading guilty then on your
20 own free will?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Ask you again, would you like to
23 have a jury trial on any or all of these charges?

24 THE DEFENDANT: No, sir.

25 THE COURT: Ask you again, are you really guilty

1 of the charges?

2 THE DEFENDANT: Yes, sir

3 THE COURT: Based on your appearance before me,
4 then, and answers to my questions, I do find your plea
5 to be freely, voluntarily, and certainly thoughtfully
6 and intelligently entered.

7 Solicitor, what would you like to tell me about
8 all this?

9 MS. SHEALY: Thank you, Your Honor. I would
10 like to put on the record that I do have Lydia Lester
11 here. She is a court certified interpreter. She is
12 sitting in the jury box along with one of the victims,
13 Jose Contreras, interpreting for me.

14 Also present other than Mr. Contreras is Adam
15 Willis the detective on the case from Mount Pleasant.
16 And Sgt. Justin Hembree also from Mount Pleasant.

17 Your Honor, as you indicated a moment ago this
18 occurred on March 11, 2010 at the Marsh Grass
19 Condominiums which are located at 1511 Ben Sawyer
20 Boulevard. If you are familiar with where Mama Brown's
21 is, that is sort of the landmark there.

22 THE COURT: Actually, the building is there, she
23 is not there anymore.

24 MS. SHEALY: That's right, it's gone. But the
25 condominiums are right across that side street from

The Law Office of
J. Michael Bosnak
P.O. Box 63291
N. Charleston, S.C. 29419

To Court
4/14/14

MA
112

RECEIVED
APR 17 2014
MAIL ROOM
LIEBER C.I.

Adrian Beaton
Inmate # 327914

Aulie Armstrong
CLERK OF COURT
Charleston County
100 Broad Street
Charleston S.C.
29401

April 25 2014

RE: 2012-CP-10-7668

Dear Aulie Armstrong,
Please find and close Applicant's Motion to Amend or Alter
Judgement that is hereby being served upon you. Also note
that Applicant will be sending Exhibit (B) following this
motion to be submitted into records.

Respectfully Submitted
By: Allen Benton

Enclosure
CC: Ashleigh Wilson
Assistant Attorney General
P.O. BOX 11549 Columbia
S.C 29211

State of South Carolina
County of Charleston

Adrian Bouton #327914
Applicant

VS

State of South Carolina
Respondent

In Court of Common Pleas

2012-CP-10-46

Motion to Amend or Alter
Judgement

FILED
2014 APR 29 PM 1:03
JULIE B. STRONG
CLERK OF COURT

Applicant moves to amend PCR Application Pursuant to South Carolina Civil Procedure Rule 15, Rule 52(c) and Rule 59(e).

Applicant went to court on April 15 2014 in front of the Honorable Judge Dennis upon request for an evidentiary hearing at which time applicant was not prepared to comply with the procedure because applicant was not in the possession of his Guilty Plea transcript of the Jan. 26, 2012 Guilty Plea hearing, which applicant received on April 17 2014.

Therefore applicant hereby file this motion upon the court to have the judgement amended.

Statement of Facts

Issues to be included in the Supplemental Amendment. Applicant just received Guilty Plea transcript for Guilty Plea hearing held on Jan 26 2012.

Applicants guilty plea was not knowingly, voluntarily or intelligently made because applicant was under the influence of psychotropic medication at the time of guilty plea hearing. Applicant trial counsel was ineffective for not requesting trial court to ask me if I was under the influence of any drugs, alcohol or medication at the time of my guilty plea hearing. Applicant was prejudiced because medication he was on would not allow him to make a intelligent decision.

Arguments

Issue 1

Trial Court erred in Failing to Question Applicant on the record if he was under the influence of any drugs, alcohol or medication at the time Applicant entered his Plead of Guilt, requires a automatic reversal of Applicants Conviction and Sentence. Applicant did not knowingly, voluntarily or intelligently entered his guilty plea due to trial court error.

The trial court records speak silent of this trial courts error which requires a automatic reversal State vs Orr 409, S.C. S. Ed. 2d 23 (1991). Applicants 14th amendment right has been violated under Applicant United State Constitutional right. Also pursuant to South Carolina Article 1 Section 3 of Applicants South Carolina Constitutional rights has been violated as well.

It is the Courts requirement to question Applicant on the record if he was under the influence of any drugs, alcohol or medication during the guilty plea hearing. Any plea of guilt cannot be knowingly, voluntarily or intelligently held without the Judges requirement on the record. Boykin vs Alabama 395, U.S. 238, 89, S. Ct 1709, 23 L. Ed. 2d 274 (1969).

Hill vs Lockhart 474, U.S. 52 (1985).

Therefore Applicants guilty plea is not knowingly, voluntarily or intelligently entered. Applicant is prejudice because trial court Failed to question Applicant on the record if he was under the influence of any drugs, alcohol, or medication. If trial court would have ask this question Applicant would have inform trial court that he was under the influence of psychotropic medication that he took from other prisoner's because he was stressed out and unable to cope with stress Applicant was under due to his case.

Therefore by trial courts error in failing to question applicant on the record to know if he was under the influence of any drugs, alcohol or medication renders applicant plea invalid. Also there is a reasonable probability that the outcome would have been different because if trial court asked this question trial court would have been aware that applicant was under the influence of psychotropic medication at the time of hearing that could not allow applicant to make a intelligent decision.

Trial Court error in failing to construct a knowingly voluntary or intelligent waiver of the recorded requires a automatic reversal of the applicants conviction and sentence because the record speak Silent State vs Ort 409, S.C. S. Ed. 2d 23 (1991)

Issue 2

Trial Counsel was ineffective by failing to request upon the court to question applicant on the recorded was applicant under the influence of any drugs alcohol, or medication at the time of the hearing when trial counsel was aware of applicants mental health issues, by trial counsel's failure to request the trial court to question applicant on the recorded was applicant under the influence of any drugs, alcohol or medication violate applicants 6th and 14th amendment rights of applicants United State Constitution rights and under applicants South Carolina Article 1 Section 3 of applicants South Carolina Constitutional rights as well. Strickland vs Washington 466 U.S 668 104, S. Ct. 2052, 80, U. Ed. 2d 674 (1984) Lexis 79, Hill vs Lockhart 474 U.S 52 (1985), and if trial counsel was not aware trial counsel is ineffective for not doing a thorough investigation that could help counsel make strategic decision on defenses for applicants defense at trial Smith vs Wiggins 123, S. Ct. 2527 (2003), Williams vs Falter 126 S. Ct 1995 (2000)

Therefore applicant has been prejudiced because trial counsel fell below standards and didn't object or intervene when trial court failed to question applicant on the record was applicant under the influence of any drugs, alcohol or medication, and there is a reasonable probability that the outcome would have been different because trial court would have been aware that applicant was under the influence of psychotropic medication that could not allow applicant to make an intelligent decision.

All records reflect these allegations presented by applicant. See guilty plea transcript pages. Page 5, 20-25. Page 6, 1-25. Page 7, 1-25 and page 8, 1-6. Applicant presents these transcript pages of the record to be included as Exhibit (A)

Proof to substantiate that applicant just received a copy of his guilty plea transcript will be a photo-copy of the received envelope in which the transcript came in and will be applicant's Exhibit (B), showing why applicant moves to amend applicant's PCR application pursuant to Rule 15, Rule 52 and Rule 59(c) of South Carolina Civil Procedure. This court has not made a decision on applicant's PCR application so applicant is entitled to amend his PCR application and any denial will be constituted as gross miscarriage of justice. BUTLER VS STATE S. Ed. 2d 87, (1990)

Under Rule 71.1(F) and pursuant to S.C. Code Ann 17-2780 applicant requests upon the court to give a specific finding of fact and conclusion of the law related to each issue now amended.

Conclusion

Applicant's conviction and sentence must be reversed

Respectfully Submitted
By: Ade Ben

Adrian Beaton # 327914
Lieber Corr. Inst
P.O. Box 065
Ridgely S.C 29170

Date: April 25, 2014

(5)

Certificate of Service

I, Adrian Beaton #927914 of Lieber Court, Trust Certified that on April 25th of 2014 I served a copy of this motion of Amend. to the Clerk of Court Office of 100 Broad Street Charleston S.C 29401 by the use of the United States Mail, Postage Paid, or in the Mail-Room of the undersigned address and institution as follows:

Julie Armstrong
Clerk of Court
Charleston S.C 29401

Respectfully Submitted
By: Adrian Beaton

Date: April 25, 2014

FILED
2014 APR 29 PM 1:03
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Julie Armstrong
Clerk of Court
Charleston County
100 Broad Street
Charleston S.C. 29401

May 7 2014

RE: 2012-CP-10-7668

Dear Ms. Armstrong,
Please Close and Filed this Motion to Amend or Alter
Judgement that is hereby being filed upon you.

Respectfully Submitted
By: Adrian Beaton
Adrian Beaton # 92791X
Liber Court Inst
P.O. Box 205
Ridgelyville S.C. 29472

Date May 7 2014

CC: Ashleigh Wilson
Assistant Attorney General
P.O. Box 11540
Columbia S.C. 29211
Records

State of South Carolina
County of Charleston

Adrian Beaton # 327014
Applicant

vs.

State of South Carolina
Respondent

In Court of Common Pleas

2012-CP-10-7668

Motion to Amend or Alter
Judgement

FILED
2014 MAY 12 PM 4:55
JULIE J. ARMSTRONG
CLERK OF COURT

Applicant moves to Amend PLE Application Pursuant to South Carolina Civil Procedure Rule 15, Rule 52 and Rule 54(E).

Applicant went to Court on April 15 2014, in front of the Honorable Judge Dennis upon request of an evidentiary hearing at which time Applicant was not prepared to carry on with the procedure because Applicant was not in possession of his Guilty Plea transcript which Applicant received on April 17 2014.

Therefore Applicant hereby file this motion upon the Court to have the Judgement amend or Alter.

Statement of Facts

On April 15 2014, I went to PCR hearing in front of the Honorable Judge Dennis at which time Applicant was not in possession of Applicant's Guilty Plea transcript, which Applicant received on April 17 2014 after coming back from court at which time Applicant filed a motion to Amend or Alter Judgement to Julie Armstrong Clerk of Court for Charleston County and to Ashleigh Wilson Assistant Attorney General on April 25 2014.

Applicant submitted the motion to Amend or Alter Judgement because Applicant just received Guilty Plea transcript from Applicant on Jun. 26 2014 hearing.

Applicant is now filing this motion to Amend or Alter Judgment to Submit Exhibit(B) in to the record pursuant to South Carolina Civil Procedure Rule 15, Rule 52 and Rule 59(C).

Proof to Substantiate that Applicant just received a copy of his Guilty Plea transcript Applicant submits a photocopy of the received envelope in which the Guilty Plea transcript cum in and this will be Applicant's Exhibit (B) showing why Applicant moves to Amend Applicant's Application pursuant to Rule 15, Rule 52 and Rule 59(C) of South Carolina Civil Procedure. This court has not made a decision on Applicant's PCR application so Applicant is entitled to amend his PCR application and any denial will be constituted as Gross Miscare of Justice Butler vs State S. Ed 87 (1990)

So therefore Applicant submits Exhibit(B) into the record

Respectfully Submitted

By: Adrian Beato

Adrian Beato #927410
Lieber Court, In St
P.O. Box 205
Ridgville S.C 29872

The Law Office of
J. Michael Bosnak
P.O. Box 63291
N. Charleston, S.C. 29419

To Court
4/14/14

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LIEBER C.A.

Adrian Beaton
Inmate # 327914

2012-CP-1057668

Certificate of Service

I Adrian Beaton #327914 Certify that on May 7 2014 Served this Motion to Amend or Alter Judgment upon Julie Armstrong Clerk of Court Charleston County by way of U.S. Postage mail on the following date May 7 2014

FILED
2014 MAY 12 PM 4:54
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Respectfully Submitted
By. Adrian Beaton

Adrian Beaton #327914
Liber Corr Inst
Richmond S.C. 29479
P.O. Box 205

Date May 7 2014



State of South Carolina
Attorney General Office
Appeal From Charleston County
Court of Common Pleas

Case# 2012-CP-10-7668

Aurian Beaton # 327014
Appellant

VS

State of South Carolina

PROOF OF SERVICE

I Aurian Beaton, hereby certify that I have served a copy of the Notice of Appeal in the above-captioned case on the persons by depositing a copy of the same in the United State mail, prepaid postage and address as followed:

Ashleigh Wilson
Attorney General Office
P.O. Box 11549
Columbia S.C. 29211

S.C. Appellate Defense
Office
P.O. Box 11589
11330 Lady Street
Columbia S.C. 29211
Suite 407

Quile Armstrong
Clerk of ~~County~~ Court
Charleston County
100 Broad Street, Suite 106
Charleston S.C. 29407

ALLIUM BEATON# 387917
LIBBY CON. INST
P.O. BOX 805
RIDGEVILLE S.C. 29472

RECEIVED

SEP 11 2014

MAILROOM
LIEBERCI

DANIEL S.
CLERK OF COURT
S.C. SUPREME COURT
P.O. BOX 11330
~~RIDGEVILLE~~ S.C. 29211
Columbia

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