

STATE OF SOUTH CAROLINA

In The Court of Appeals

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SC Court of Appeals

Appeal from Charleston County

Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2013-002379

Ronald Coulter, #300410,

Appellant,

v.

State of South Carolina,

Respondent.

PETITION FOR REHEARING

The appellant herein respectfully moves this Court, pursuant to Rules 221 & 240 of the South Carolina Appellate Court Rules, for an order reversing its grant of the respondent's motion to compel appellant to amend the record on appeal. The appellant respectfully shows this Court that the following may have been misapprehended or overlooked:

1. The respondent's designation of matter clearly violates the relevant portions of Rules 209 & 210, SCACR.

Rule 209(b) states that "the Designation may only propose to include portions ... which may be properly included in the Record on Appeal [See Rule 210(c)]." Rule 210(c) clearly states that

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After preparing its initial brief on appeal, the respondent knew with a much higher degree of certainty what portions of a voluminous record should be called to the court's attention. Usually those will be the items cited in the brief. The respondent has unduly enlarged the record on appeal by requiring inclusion of much unnecessary material never cited in its brief, nor presented to the lower court; although, the respondent certified that its designation contains no matter which is irrelevant to the appeal.

There is literally nothing in the respondent's designation, apart from the lower court's findings and judgment, that need be brought to this Court's attention in illuminating the issues on appeal. A jurisdictional or constitutional issue of whether the appellant has standing, under South Carolina's habeas corpus laws, to raise a Due Process claim pursuant to the Fourteenth Amendment to the United States Constitution in his habeas corpus proceeding does not rest upon any particular facts in the case.

2. The reliance on State v. Hunter, 82 S.C. 153, 63 S.E. 685 (1909), to support the grant of the respondent's motion was unreasonable.

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In the instant judgment, it is unclear how the Court's authority to take judicial notice of facts not established by admissible evidence demands the amendment of, thereby admitting evidence in, the record on appeal.

3. Compelling the indigent appellant to reproduce in excess of 8800 pages of irrelevant material, at an estimated cost of over \$2200.00, constitutes a severe financial hardship which restricts the availability of appellate review of the denial of habeas corpus for the indigent criminal appellant.

At the onset of the instant habeas corpus action, the appellant was granted in forma pauperis status. When the State has granted a constitutional right to a procedure to regain liberty lost through the criminal process, financial hurdles should not be permitted to condition its exercise, specifically, where indigent convicted prisoners are involved. The appellant is in no position, financially, or otherwise, to reproduce 10 copies of an estimated 880-page record on appeal, as created by the respondent's cross-designation.

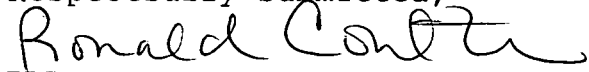
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Conclusion

For the reasons set forth above, the appellant asks that this Court grant a rehearing of the respondent's motion to amend the record on appeal and review the motion accordingly.

January 13, 2015

Respectfully submitted,



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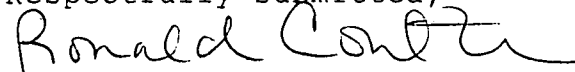
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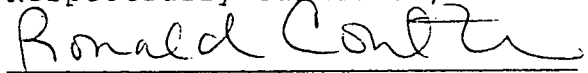
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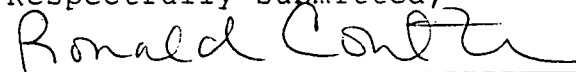
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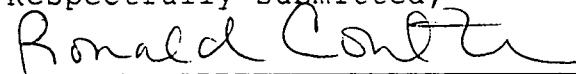
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If the respondent wished to call the Court's attention to something outside the record, as judicially noticeable or otherwise relevant, the initial brief should have fairly disclosed the status of such material. If appropriate, portions should have been quoted in the text of the initial brief itself.

In the instant judgment, it is unclear how the Court's authority to take judicial notice of facts not established by admissible evidence demands the amendment of, thereby admitting evidence in, the record on appeal.

3. Since South Carolina does make appellate review of the denial of habeas corpus available to prisoners who can reproduce a lengthy and costly record on appeal, may it constitutionally preclude its use by those who cannot?

When the State has granted a constitutional right to a procedure to regain liberty lost through the criminal process, financial hurdles should not be permitted to condition its exercise, specifically, where indigent convicted prisoners are involved. At the onset of the instant habeas corpus action, the appellant was granted in forma pauperis status. The appellant is in no position, financially, or otherwise, to reproduce 10 copies of an estimated 880-page record on appeal, at an estimated cost

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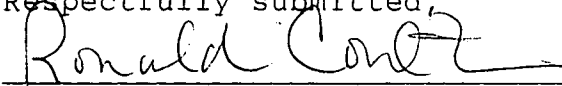
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Conclusion

For the reasons set forth above, the appellant asks that this Court grant an En Banc rehearing of the respondent's motion to amend the record on appeal and review the motion accordingly.

January 13, 2015

Respectfully submitted,



Ronald Coulter, #300410
BRCI Wateree 195
4460 Broad River Road
Columbia, SC 29210

Appellant, Pro Se

STATE OF SOUTH CAROLINA

In The Court of Appeals

Appeal from Charleston County

Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2013-002379

Ronald Coulter, #300410,

Appellant,

v.

State of South Carolina,

Respondent.

PETITION FOR REHEARING EN BANC

The appellant herein respectfully moves this Court, pursuant to Rule 219(a) of the South Carolina Appellate Court Rules, for an order reversing its grant of the respondent's motion to compel appellant to amend the record on appeal. The appellant respectfully shows that consideration by the full Court is necessary to address the following:

1. The Court's grant of the respondent's motion to amend the record on appeal with irrelevant material undermines the relevant portions of Rules 209 & 210, SCACR.

Rule 209(b) states that "the Designation may only propose to include portions ... which may be properly included in the Record

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There is literally nothing in the respondent's designation, apart from the lower court's findings and judgment, that need be brought to this Court's attention in illuminating the issues on appeal. A jurisdictional or constitutional issue of whether the appellant has standing, under South Carolina's habeas corpus laws, to raise a Due Process claim pursuant to the Fourteenth Amendment to the United States Constitution in his habeas corpus proceeding does not rest upon any particular facts in the case.

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Conclusion

For the reasons set forth above, the appellant asks that this Court grant an En Banc rehearing of the respondent's motion to amend the record on appeal and review the motion accordingly.

January 13, 2015

Respectfully submitted,



Ronald Coulter, #300410
BRCI Wateree 195
4460 Broad River Road
Columbia, SC 29210

Appellant, Pro Se

STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Charleston County
Court of Common Pleas
R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2013-002379

Ronald Coulter, #300410,	v.	Appellant,
State of South Carolina,		Respondent.

PETITION FOR REHEARING EN BANC

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There is literally nothing in the respondent's designation, apart from the lower court's findings and judgment, that need be brought to this Court's attention in illuminating the issues on appeal. A jurisdictional or constitutional issue of whether the appellant has standing, under South Carolina's habeas corpus laws, to raise a Due Process claim pursuant to the Fourteenth Amendment to the United States Constitution in his habeas corpus proceeding does not rest upon any particular facts in the case.

2. How does this Court reconcile its power to take judicial notice of facts as the authoritative grounds to grant a motion to amend a record on appeal with the fact that judicially noticed facts need not be established by admissible evidence?

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In the instant judgment, it is unclear how the Court's authority to take judicial notice of facts not established by admissible evidence demands the amendment of, thereby admitting evidence in, the record on appeal.

3. Since South Carolina does make appellate review of the denial of habeas corpus available to prisoners who can reproduce a lengthy and costly record on appeal, may it constitutionally preclude its use by those who cannot?

When the State has granted a constitutional right to a procedure to regain liberty lost through the criminal process, financial hurdles should not be permitted to condition its exercise, specifically, where indigent convicted prisoners are involved. At the onset of the instant habeas corpus action, the appellant was granted in forma pauperis status. The appellant is in no position, financially, or otherwise, to reproduce 10 copies of an estimated 880-page record on appeal, at an estimated cost

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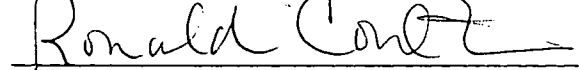
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Conclusion

For the reasons set forth above, the appellant asks that this Court grant an En Banc rehearing of the respondent's motion to amend the record on appeal and review the motion accordingly.

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Respectfully submitted,



Ronald Coulter, #300410
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4460 Broad River Road
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STATE OF SOUTH CAROLINA

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Conclusion

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January 13, 2015

Respectfully submitted,



Ronald Coulter, #300410
BRCI Wateree 195
4460 Broad River Road
Columbia, SC 29210

Appellant, Pro Se

STATE OF SOUTH CAROLINA

In The Court of Appeals

Appeal from Charleston County
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Conclusion

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January 13, 2015

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4460 Broad River Road
Columbia, SC 29210

Appellant, Pro Se

STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Charleston County
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Conclusion

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January 13, 2015

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Ronald Coulter, #300410
BRCI Wateree 195
4460 Broad River Road
Columbia, SC 29210

Appellant, Pro Se

STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

JAN 15 2015

SC Court of Appeals

Appeal from Charleston County

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R. Markley Dennis, Jr., Circuit Court Judge

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Ronald Coulter, #300410,

Appellant,

v.

State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the Petition for Rehearing and Petition for Rehearing En Banc on the State of South Carolina by depositing a copy of each in the United States Mail, postage pre-paid, on January 13, 2015, addressed to the attorney of record, Ashleigh R. Wilson, Asst. Attorney General, Post Office Box 11549 Columbia, SC 29211.

January 13, 2015



Ronald Coulter, #300410
BRCI Wateree 195
4460 Broad River Road
Columbia, SC 29210

Appellant, Pro Se