

The Supreme Court of South Carolina

Robert Holland Koon, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2014-002432

ORDER

By order dated September 2, 2014, this Court, in response to a petition for rehearing of the denial of a petition for writ of habeas corpus filed by petitioner, stated that in light of petitioner's history of frivolous, repetitive and abusive filings over the years, petitioner is prohibited "from filing anything in this Court in a pro se capacity." The order noted petitioner is not precluded from addressing any grievances he may have in this Court, provided he is represented by counsel and such grievances are not frivolous. We directed the Clerk of this Court not to accept any filings from petitioner unless they have been prepared by an attorney and filed by the attorney in this Court.

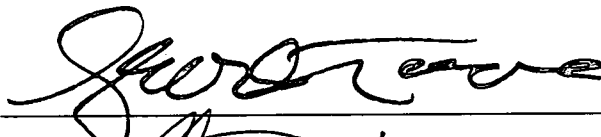
On November 3, 2014, petitioner filed a pro se "Notice of Intent to Appeal and Writ of Mandamus" in the Court of Appeals. The Court of Appeals accepted the document for filing and assigned it an appellate case number. On November 18, 2014, the case was transferred to this Court.

In the notice of appeal and request for mandamus, petitioner states he attempted to file an application for post-conviction relief (PCR) alleging juror misconduct with regard to his 1998 convictions for grand larceny and second degree burglary, but the circuit court refused to accept the application for filing. Petitioner states he attempted to file the application, along with the filing fee and affidavit required by an earlier order issued by the circuit court, with the Cherokee County Clerk of Court, but he was informed he had been "banned" from filing any documents directly with the clerk and instead had to submit them to Judge J. Mark Hayes, II to determine whether they could be accepted by the clerk for filing. Petitioner

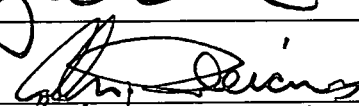
subsequently sent the application to Judge Hayes, who forwarded the documents to Judge J. Derham Cole, who was Chief Judge for Administrative Purposes for the Seventh Circuit. Petitioner states Judge Cole issued a verbal order that petitioner cannot proceed with the PCR application but has refused to issue a written order. Petitioner states he is appealing the verbal order and seeks a writ of mandamus requiring Judge Cole to issue a written order.

By letter dated November 20, 2014, following the transfer of the case from the Court of Appeals, the Clerk of this Court informed petitioner that in light of this Court's order of September 2, 2014, he could not accept the pro se notice of appeal and request for writ of mandamus for filing. Petitioner has now filed a document entitled "Objection by Petitioner," in which he states he has appealed this Court's order of September 2, 2014 to the United States Supreme Court. He further asserts that the order does not apply to this case because the "Notice of Intent to Appeal and Writ of Mandamus" was accepted and filed by the Court of Appeals and assigned a case number. Petitioner also moves for Chief Justice Toal and Justice Beatty to recuse themselves in this matter because petitioner has named them as a defendant in one or more of his many lawsuits.

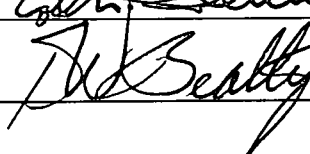
Pursuant to Rule 243, SCACR, a notice of appeal in a PCR matter must be filed in this Court. Accordingly, petitioner erred in filing the notice of appeal and request for mandamus in the Court of Appeals. In those situations, the Clerk of the Court of Appeals enters the notice of appeal into the South Carolina Appellate Case Management System and then transfers the matter to this Court. Petitioner cannot circumvent this Court's order of September 2, 2014, directing the Clerk of this Court not to accept any filings from petitioner unless they are submitted by an attorney, by filing the notice of appeal in the wrong court. We therefore dismiss the notice of appeal and request for mandamus because it was filed in contravention of Rule 243, SCACR, and this Court's order of September 2, 2014. Petitioner's request for Chief Justice Toal and Justice Beatty to recuse themselves is denied.




C.J.



J.



J.



Columbia, South Carolina

January 22, 2015

cc:

Karen Christine Ratigan, Esquire

Robert Holland Koon, 00227826

The Honorable Brandy W. McBee

The Honorable J. Derham Cole

The Honorable Jenny A. Kitchins

Jenny A. Kitchins J.
Karen Christine Ratigan J.