

Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, S.C. 29211

March 17, 2015

RECEIVED

MAR 19 2015

S.C. Supreme Court

Re: State of South Carolina v. Anthony Britt  
and

Anthony Britt, #317524 v. State of South Carolina  
2010-CP-38-1105

Appellate Case No. 2014-000634

To The High Court,

I, the above-named Petitioner, hereby moves this Honorable Court for a Writ of Mandamus to vacate my Application for Post-Conviction Relief and the Johnson Petition for Writ of Certiorari in the above entitled action.

I was arrested December 3rd, 2008 and indicted by the Orangeburg County Grand Jury during its March 4th, 2009 term for Burglary first degree (2009-GS-38-0331).

On August 6th, 2009, I entered a plea of guilty to burglary first degree before the Honorable Judge Edgar W. Dickerson. Sentencing was deferred until August 13th, 2009, so that I could assist law enforcement with fencing operation. The Honorable Judge Dickerson sentenced me to sixteen (16) years on August 13th, 2009.

Unbeknownst to me, my plea counsel, Mr. C. Bradley Hutto, Esquire, filed and served a written "Notice of Motion and Motion To Reconsider" my plea and sentence on August 13th, 2009 [no ruling has been made on this Motion].

On August 3rd, 2010, I filed an Application for Post-

Conviction Relief ("APCR") alleging that I was being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel."
  - a. "... failing to object to enhanced sentence."
2. "Due process violation."
  - a. "Applicant's 14th Amend. Right to due process was violated."
3. "Trial court lacked subject matter jurisdiction."

Mr. Victor Li was appointed to represent me on PCR. On October 29th and 31st, 2013, an evidentiary hearing was held at the Dorchester County Courthouse. Ms. Megan E. Harrigan of the South Carolina Attorney General's Office represented the Respondent; Honorable Diane S. Goodstein, Judge.

The following issues were raised:

1. Ineffective assistance of counsel for failing to investigate Rule 5 materials before advising Applicant to plead guilty;
2. Ineffective assistance of counsel for failing to protect his Fourth Amendment right against bodily intrusion; and
3. Ineffective assistance of counsel for failure to object and argue against the State's Schmerber motion.

By written Order, the Honorable Judge Goodstein denied APCR on March 5th, 2014.

A timely Notice of Appeal was filed and served on all parties.

Mr. Benjamin John Tripp, Appellate Defender, of the South Carolina Commission on Indigent, Division of Appellate

filed a Johnson Petition for a Writ of Certiorari, and raised the following issue:

Whether Counsel's performance was constitutionally deficient for failing to adequately investigate evidence against Petitioner the State claimed to have where plea counsel testified he instructed Petitioner to plead guilty based on what he "believed" the State would show without independently vetting the purported evidence.

I filed a pro se response, after being advised by this Court that I could file a pro se response within forty-five (45) days of the Court's letter dated December 1st, 2014.

By Order of this Court, Johnson Petition was denied and counsel's request to withdraw was granted on February 19, 2015. Remittitur was sent down on March 9th, 2015.

Mr. Tripp sent me a §2254 Petition for writ of Habeas Corpus form. Upon receipt of this form, I went to the law library here at Lieber (Corrections) Institution for information. A law clerk read through my paperwork. He informed me that I should not file the §2254 federal habeas petition until the notice of motion and motion to reconsider my plea and sentence was heard and ruled on. He also showed me a court rule, actually two court rules that I believe deprived the PCR court as well as this Court of jurisdiction to hear the PCR and certiorari in my case.

Rule 203(b)(2), SCACR:

Appeals from the Court of General Sessions:

"After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed. In all other cases, a notice of appeal shall be filed within ten (10) days after receipt of written notice of entry of the order or judgment. When a timely post-trial motion is made under Rule 29(g), SCR CrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion..." (underlining for emphasis).

The PCR court was without jurisdiction to hear my APCR and I believe that this Court was without jurisdiction to hear or deny certiorari, due to plea counsel's ineffective assistance of counsel in failing to provide me a copy of written motion to reconsider plea and sentence as well as failing to move the trial court for a ruling.

I would further assert that PCR may have rendered the ineffective assistance of counsel for failing to pursue whether a ruling was made in my case.

I request this Court vacate PCR (2010-CP-38-1105) and Johnson Petition for a Writ of Certiorari (Appellate Case No. 2014-000634) and restore my status to my Rule 29(g) motion to reconsider, and if unsuccessful, to allow me to file an appeal or PCR in this matter.

Attachments:  
Copy of Cover Letter from  
C. Bradley Hutto to Donald  
Sorenson and Notice of  
Motion and Motion To Reconsider

Respectfully Submitted,  
x Anthony Britt  
Anthony Britt  
Pro se Petitioner

## CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify under the penalty of perjury, § 16-9-10(A)(2) of the South Carolina Code of Laws (1976) and 28 U.S.C. § 1746, that on this 17th day of March, 2015, I served a true and exact copy of the enclosed Letter Request for a Writ of Mandamus, as well as Certificate of Service in this matter by depositing a true copy of it in the United States Mail, postage prepaid, properly addressed to the following as indicated below:

Ms. Megan Harrigan  
Assistant Attorney General  
S.C. Attorney General's Office  
P.O. Box 11549  
Columbia, S.C. 29211-~~1549~~ 1549

DATED: March 17th 2015.

X *Anthony Britt*  
Anthony Britt #317524  
Lieber Correctional Inst.  
Cooper B-32  
P.O. Box 205  
Ridgeville, S.C. 29472

**WILLIAMS & WILLIAMS**  
ATTORNEYS AT LAW

MARSHALL B. WILLIAMS  
(1912 - 1995)  
CHARLES H. WILLIAMS, P.A.

CHARLES H. WILLIAMS, II  
C. BRADLEY HUTTO  
RUSSELL A. BLANCHARD, IV

370 ST. PAUL N.E.  
P. O. Box 1084  
ORANGEBURG, SOUTH CAROLINA 29116-1084  
(803) 534-5218  
FAX (803) 536-6544

August 13, 2009

Assistant Solicitor Don Sorenson  
Post Office Box 1525  
Orangeburg, S.C. 29116-1525

*RE: State v. Anthony Britt*  
*Warrant J 695972*

Dear Don:

Enclosed and served upon you is a Notice of Motion and Motion to Reconsider that I am filing on behalf of Anthony Britt.

Sincerely,



C. Bradley Hutto

/vws

enclosure

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

IN THE GENERAL SESSIONS COURT  
Warrant No. J695972

State of South Carolina )  
 )  
vs. )  
 )  
Anthony Britt, )  
 )  
Defendant. )  
\_\_\_\_\_ )

NOTICE OF MOTION AND  
MOTION TO RECONSIDER

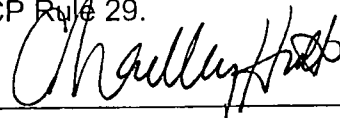
TO : Assistant Solicitor Don Sorenson

YOU WILL PLACE TAKE NOTICE, by and through his attorney, C. Bradley Hutto, hereby gives notice of his intent to move at such time and place as the Court may direct and does hereby move for reconsideration of the plea and sentence in this case based on additional information that may become available to the Court by law enforcement's investigation immediately prior to sentencing. Defendant will hereby reserve the right to present additional information to the Court relative to the plea and sentence in this case in the event that law enforcement is able to make further progress in resolving this case.

This motion is being made pursuant to SCRPC Rule 29.

August 13, 2009

Orangeburg, S.C.

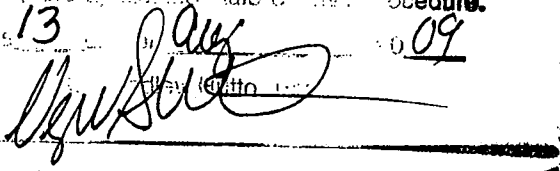


C. Bradley Hutto, Esquire  
WILLIAMS & WILLIAMS  
Post Office Box 1084  
Orangeburg, S.C. 29116-1084

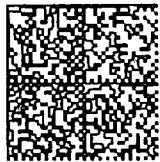
**CERTIFICATE OF SERVICE**

I certify that the foregoing was served on each party by  mailing,  emailing, or other means prescribed by the applicable Rule of Court procedure. (803) 534-5218  
attorneys for Defendant

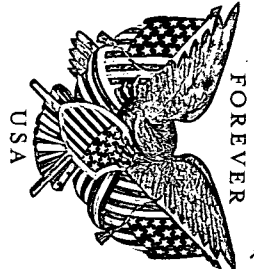
This 13 day of Aug, 2009

BY: 

Anthony Britt S.C.D.C. 317524  
Paper Room 32  
C.I.T  
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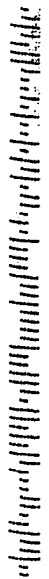


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