

The State Of South Carolina
In The Supreme Court

Appeal From Horry County
Court Of Common Pleas
George C. James, Jr., Circuit Court Judge

Case No. 2012-CP-26-5785

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APR 15 2015

80 SUPREME COURT

Billy L. Alford,

v.

Appellant,

State Of South Carolina,

Respondent,

Notice Of Appeal

I, Billy L. Alford, do hereby appeals the Order (Judgment)
of the Honorable George C. James, Jr. on April 2, 2014.

Respectfully Submitted,

~~Billy L. Alford~~ 285850

Billy L. Alford, 285850

Kershaw, C.I., Oak-B-60

4848 Goldmine Highway

Kershaw, S.C. 29067

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Billy L. Alford,

Appellant,

v.

State Of South Carolina,

Respondent,

Certificate Of Service

The Appellant in the above-referenced matter, do hereby under oath and penalty of perjury certify that I served a Notice Of Appeal, a Motion For Belated Appeal And Austin Review and Certificate Of Service upon the below listed parties on the same date,

(1) Mr. Alan Wilson
Attorney General
P.O. Box 11549
Columbia, S.C. 29211-1549

(2) Mr. Daniel E. Shearouse
Clerk Of Court, The South Carolina
Supreme Court
P.O. Box 11330
Columbia, South Carolina 29211

Sworn To Before Me, This
9 Day Of April, 2014,
Notary Public For South Carolina,
Catherine A. Comesa
My Commission Expires,
My Commission Expires December 22, 2018,

Respectfully Submitted,
Billy L. Alford 285850
Billy L. Alford, 285850
Kershaw C.I., Oak B-60
4848 Goldmine Highway
Kershaw, S.C. 29067

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SC SUPREME COURT

The State Of South Carolina
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Case No. 2012-CR-26-5785

Billy L. Alford

Vs.

Appellant

State Of South Carolina

Respondent

Motion For Belated Appeal And Austin Review

Appellant Billy L. Alford hereby moves this Honorable Court to allow him a belated appeal and an Austin V. State review for the following factual and legal reasons.

Appellant filed an application for Post Conviction Relief in July of 2012 on the 27th, Case No. 2012-CR-26-5785.

On December 16th 2013, while appellant was incarcerated in Florida, the Court convened an evidentiary hearing at the Horry County Court House before the Honorable Steven H. John.

The Honorable Steven H. John continued the hearing due to Appellant not appearing at the hearing and allowed Respondent, Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, to file a motion to dismiss for failure to prosecute. Respondent filed said motion February 21, 2014.

Appellant's Counsel has proven to be ineffective in that he knew his client was incarcerated in Florida Dept of Corr and in disregard of Rule 4 and 5. of the S. C. Rules and Criminal Procedures and the Uniform Post-Conviction Act, has failed to notify his client of Respondent's Motion to dismiss held March 20th 2014 or arrange transportation as defined by the SCRPC and the Post-Conviction Relief Act.

The record will reveal Counsel has done nothing to protect or safeguard his client's best interest according to the rules of the S. C. Supreme Court Rule 32 Canons E. C. 6-4, 7; 7.7, 7.8 and 7.9, for Applicant was never released as Counsel has testified before the Court held before the Honorable George C. James, Jr. March 20th 2014, at the Horry County Courthouse.

Counsel, Russell B. Long, was contacted several times by his client who wrote Counsel two (2) times in January and February of 2014. Counsel was also contacted by Mr. Kenneth Moss, an attorney who called and left a message with Mr Russell B. Long's secretary, that his client Billy Alford, was at J. Rueben Long Detention Center. Also Mr. Long was contacted by Emmarie Paston, Appellant's Aunt, who tried to contact Mr. Russell B. Long several times in the months of January and February of 2014 and also left messages with secretary and Mr Russell B. Long, answering service

Furthermore the record will reveal that Applicant, on March 20th 2014, was in fact transported from J. Rueben Long Detention Center, to the Horry County Courthouse by the Horry County Sheriffs' Office which can be seen from the records of the Horry County Courthouse, the Horry County Sheriffs' Transportation Service of the J. Rueben Long Detention Center as well as from

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the Log Books of the J. Rueben Long Detention Center.

The evidence in this case will show that Appellant was maliciously deprived of a PCR hearing through his Counsel's intentional disregard and neglect of his responsibility as Counsel as is defined in the rules of Due Process of Law and the S.C. Rules and Criminal Procedures, both of which are guaranteed and protected under the South Carolina Const. and the United States Const.

Due to Counsel's ineffective assistance of Counsel a Notice of Appeal was never filed nor was client's application amended to include all available grounds for relief as required by Rule 71.1 SCRPC and S.C. Codes of Law §17-27-80, and 17-27-90, Raccon Vs Harrison 9 Fed Appx. 85 (CA4) S.C. 2001; Criminal Law Keys 1045; 1181.5 C.11

Pursuant to Austin Vs State, 305 S.C. 453 (1991) an Applicant has a right to an appeal. Rule 243 SCRPC.

Here an Austin Review should be issued to address Applicant's issues regarding ineffective assistance of Counsel and whether review of previous PCR action was knowingly and intelligently waived. King Vs State 308 S.C. 348 417 S.E. 2nd 868 1992; Aice Vs State

Wherefore, the Motion should be granted,

Respectfully Submitted
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