

KEVIN CHOICE, 257223  
LEE C.I./F4A  
990 WISACKY HWY.  
BISHOPVILLE, S.C 29010

APRIL 14, 2015

HON: DANIEL E. SHEAROUSE  
CLERK OF SUPREME COURT  
PO BOX 11330  
COLUMBIA, S.C. 29211

**RECEIVED**

APR 20 2015

**SC SUPREME COURT**

RE: THE STATE vs. KEVIN CHOICE, C/A. No. 2013-002753, etc., SEE ENCLOSURES>

DEAR MR. SHEAROUSE:

PLEASE SEE ENCLOSED FOR YOUR RESPECTFUL FILING IN MY CASE STATED ABOVE.

I HAVE PROVIDED A COPY OF THE CERTIFICATE OF SERVICE AND THE PLEADINGS TO BE RETURNED TO ME ONCE YOU HAVE PLACED YOUR OFFICE DATE AND TIME STAMPS ON THEM.

THANKING YOU IN THE ADVANCE FOR YOUR TIME AND ASSISTANCE GIVEN TO ME IN THIS CRUX MATTERS AND I LOOK FORWRARD IN HEARING FROM YOU IN THIS VERY NEAR FUTURE.

AGAIN THANK YOU!!!

APRIL 14, 2015  
ENCLOSURES:

RESPECTFULLY SUBMITTED,



KEVIN CHOICE  
990 WISACKY HWY.  
BISHOPVILLE, S.C 29010  
pro se APPELLANT

cc: SC Admin.  
DONALD J. ZELENKA, Esq.  
FILES/KC

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

APR 20 2015

APPEAL FROM SUMTER COUNTY  
GEORGE C. JAMES, Jr., Cir. Ct. JUDGE

**SC SUPREME COURT**

APPELLATE CASE NO. 2014-001661 &  
APPELLATE CASE No. 2013-002735

THE STATE,....., RESPONDENT,

v.

KEVIN CHOICE,....., PETITIONER

PETITION FOR APPELLATE COUNSEL  
TO BE APPOINTED TO PREPARE APPEAL  
AND REVERSE COURT APPEALS ORDER ISSUED  
ON APRIL 04, 2015 IN CASE, etc.

KEVIN CHOICE  
LEE C.I.  
990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010  
pro se PETITIONER

DONALD J. ZELENKA, Esq.  
ASSIST. ATTY. GEN.  
PO BOX 11549  
COLUMBIA, S.C. 29211-1549  
  
COUNSEL FOR RESPONDENT

PROCEDURE HISTORY

PETITIONER KEVIN CHOICE FILED AN APPEAL TO HIS CASE MATTER FROM THE CIRCUIT COURT ORDER DENYING THE MOTION FOR A NEW TRIAL BASED UPON UPON AFTER TRIAL DISCOVERED EVIDENCE SEE: ORDER DATED DECEMBER 06, 2013, PETITIONER NOTICE OF APPEAL WAS FILED ON DECEMBER 23, 2013 BY ATTORNEY JEREMY A. THOMPSON, Esq. WHOM BY FACTS REPRESENTED THE PETITIONER AT THE CIRCUIT COURT HEARING TO THE MOTION FOR A NEW TRIAL BASED UPON AFTER TRIAL DISCOVERED EVIDENCE PURSUANT TO RULE 29(b) MOTION, etc., THE COURT OF APPEALS TOOK THE JURISDICTION OF THE PETITIONER'S APPEAL FROM THE CIRCUIT COURT WITHOUT KNOWING THAT THE PETITIONER WAS REPRESENTED BY A COURT APPOINTED ATTORNEY AND THEREFORE QUALIFIED PETITIONER FOR APPELLATE DEFENSE COUNSEL BY HIS INDIGENT STATUES TO INCLUDE THAT THE PETITIONER QUALIFIED FOR APPELLATE DEFENSE ASSISTANCES IN PROCURING HIS HEARING TRANSCRIPT RECORDS FROM THE HEARING HELD ON NOVEMBER 21, 2013, PETITIONER CHOICE FILED AN EXTENSION OF TIME BEING UNDER DURESS DUE TO THE FILINGS BY THE COUNSEL TO THE COURT OF APPEALS TO BE RELIEVED FROM PETITIONER CASE MATTERS IN THE APPELLATE COURT, AND BASED UPON THIS MOTION TO BE RELIEVED FROM THE PETITIONER CASE FORCED THE PETITIONER TO BE LEFT TO DEFEND FOR HIMSELF AND TO LOSE THE ABILITY TO PROCURE THE TRANSCRIPT FROM THE PROCEEDING OF HIS MOTION FOR A NEW TRIAL.

THE COURT OF APPEALS DENIED THE PETITIONER REQUEST FOR APPOINTMENT OF APPELLATE COUNSEL FROM THE APPELLATE DEFENSE AND THIS DENIAL FROM THE COURT VIOLATED THE PETITIONER'S U.S. CONST. RIGHTS ACCORDINGLY TO THE 6th. AMEND., THIS RULING WAS BASED UPON THE RESPONDENT PLACING ALL ERRONEOUS ARGUMENTS BEFORE THEE COURT IN THEIR RETURNS FILED TO THE COURT THROUGH THE PETITIONER'S FILED PETITION FOR CERTIORARI TO THE SUPREME COUERT, DATED AUGUST 08, 2014. THE COURT OF APPEALS HAS NOW ISSUED AN ORDER NOT TO TAKE ACTIONS ON THE PETITIONER'S PLEADINGS FILED TO IT ON NOVEMBER

03, 2014 AND CONSTRUED THE PETITIONER'S REQUEST AS A REHEARING REQUEST THAT OF WHICH IS WRONGFULLY DEEM AND CONSTRUED BY THE COURT RESPECTFULLY. THE PETITIONER NOWCOMES RESPECTFULLY PETITIONING THE SUPREME COURT TO APPOINT APPELLATE COUNSEL TO ASSIST HIM IN PREPARING HIS APPEAL AND TO ESPECIALLY PROCURE THE TRANSCRIPT FROM THE NEW TRIAL MOTION HELD IN THE LOWER COURT ON THE INTERPOSED DATE STATED. SEE THE PETITIONER'S LEGAL AND CLEAR JUSTIFICATIONS FOR THE SUPREME COURT TO REVIEW AND GRANT THE PETITIONER APPELLATE DEFENSE COUNSEL ASSISTANCE TO HIS APPEAL, etc.

SEE JUSTIFICATIONS AS FIOGLOWS:

JUSTIFICATIONS:

THE PETITIONER'S JUSTIFICATIONS ARE BASED UPON THE LEGAL THAT ARE WELL ESTABLISHED BY THE U.S. SUPREME COURT AND THE STATE OF SOUTH CAROLINA SUPREME COURT AS HAVING THE PETITIONER'S CONSTITUTIONAL RIGHTS PROTECTED IN SUCH CASE MATTERS BEING HELD IN THE COURTS, etc., THE PETITIONER FILED HIS NEW TRIAL MOTION IN THE COURT OF COMMON PLEAS BEING WITHIN THE COMPLIANCE OF THE LOWER COURT RULES, THE PETITIONER FILED HIS MOTION THROUGH THE CASE ORIGINAL COUNSEL AND THE COURT ACKNOWLEDGED THIS COMPLIANCE AS PERMITTING THE CASE ORIGINAL COUNSEL TO REPRESENT THE PETITIONER AT THE NEW TRIAL MOTION HEARING, THE PETITIONER NEW TRIAL MOTION WAS DENIED AND THIS DENYING THE PETITIONER'S MOTION FOR A NEW TRIAL WAS ONE THAT WAS NOT FAVORABLE TO HIM AND THEREFORE, GIVING THE PETITIONER A RIGHT TO HAVE THIS RULING REVIEWABLE BY THE APPELLATE COURT, AND FOR THE SAKE OF THIS EXPLANATIONS THE PETITIONER CASE MATTERS IS ONE OF THE CRIMINAL PROCEEDINGS RESULTING FROM HIS ORIGINAL TRIAL THAT HE WAS CONVICTED FORM , THE ORIGINAL CASE COUNSEL REPRESENTED THE PETITIONER AT THE NEW TRIAL HEARING IN THE LOWER COURT AND HAD NO OBJECTIONS IN DOING SO AND THEREFORE MAKING HIM IN THE AGREEMENT IN REPRESENTING THE PETITIONER AT THE NEW TRIAL HEARING, THE PETITIONER PRESENTED THE EVIDENCE THAT WAS DISCOVERED AFTER THE ORIGINAL TRIAL AND IT WAS REVIEWED BY THE GENERAL COURT AS THE COURT DID GIVE THE PETITIONER PROTECTIONS TO HIS DUE PROCESS RIGHTS BEING EXERCISED AT THE HEARING BY CASE COUNSEL WHO IS THE ORIGINAL TRIAL COUNSEL. THE PETITIONER ALSO SHOWS THE COURT THAT THE COURT OF APPEALS ALLOWED THE RESPONDENT'S COUNSEL TO INTERPOSE AN OPINION TO THE COURT SO THE COURT CAN PASS THE ERRONEOUS RULING THAT THE PETITIONER IS NOT ELIGIBLE TO THE ASSISTANCE FROM THE APPELLATE COUNSEL IN HIS APPEAL, THE PETITIONER IS ENTITLED TO THE ASSISTANCE FROM A COUNSEL TO PREPARE HIS APPEAL FILED TO THE COURT OF APPEALS SO IT CAN BE REVIEWABLE TO ALL OF THE ERRORS THAT THE LOWER COURT COMMITTED TO DENYING THE PETITIONER'S NEW TRIAL MOTION, etc., THE PETITIONER CAN ABSOLUTELY SHOW THAT THE LOWER COURT DID NOT EVALUATED THE AFTER TRIAL DISCOVERED EVIDENCE AS IT SHOULD HAVE ACCORDINGLY TO THE EVIDENCE RULES AND THE STANDARDS ESTABLISHED BY THE WELL SETTLED LAWS THAT GOVERNS THIS TYPE OF LEGAL MATTERS PROPERLY FILED BEFORE THE LOWER COURT, AND THE PETITIONER IS ENTITLED TO APPELLATE COURT REVIEWS TO HIS APPEAL CURRENTLY BEFORE THE COURT.

THE PETITIONER MAKES IT FACTUAL KNOWN THAT THE COURT OF APPEALS RULINGS PRESENTLY BEFORE THE COURT DOES HAVE THE EFFECTS TO DISMISS THE PETITIONER'S APPEALS IN ITS FINALITY AND THEREFORE MAKING THIS CASE A SUBJECT MATTER THAT THE SUPREME COURT CAN REVIEW IN ITS JURISDICTION ACCORDINGLY TO THE RULES OF THE S.C. SUPREME COURT, etc.

THE PETITIONER TAKES THE STANCES AS A *pro se* PETITIONER BY BEING ENFORCED TO DO SO BASED UPON THE COURT OF APPEALS CONSTANT AND CONTINUATIONS OF GIVING WRONGFUL RULINGS TO ALL OF HIS REQUESTS MADE TO IT IN THE BEGINNING STAGES OF HIS FILED APPEAL, THE PETITIONER POINTS OUT TO THE RECORD THAT WHEN THE CASE COUNSEL THOMPSON FILED THE MOTION TO BE RELIEVED AFTER FILING TO THE APPEAL TO THE COURT OF APPEALS THIS MOTION TO BE RELIEVED BROUGHT ABOUT LEGAL CONFUSIONS TO THE COURT OF APPEALS AND BY DOING SO THIS CAUSED THE COURT OF APPEALS TO ASSUMED THAT THE PETITIONER DID NOT WARRANT ELIGIBILITY TO BE ENTITLED TO INDIGENT REPRESENTATION FROM THE APPELLATE DEFENSE FROM THE COMMISSION ON INDIGENT DEFENSE, THE CASE COUNSEL EVEN MADE A PREMATURE STATINGS TO THE PETITIONER "THAT HE WOULD REPRESENT THE PETITIONER FOR HIS APPEAL IF THE COURT APPOINT HIM TO DO SO" AND UNDER THIS MIND FRAME BY THE CASE COUNSEL SHOWS THAT THE COUNSEL DID NOT KNOW THE PROCEDURES TO FOLLOW WHEN HE MOVE THROUGH THE LOWER COURT WITH HIS CASES THAT HE REPRESENT HIS CLIENTS IN, THE COUNSEL SHOULD HAVE AUTOMATICALLY FILL-OUT AN INDIGENT FORM AND SUBMITTED IT TO THE S.C. COMMISSION ON INDIGENT DEFENSE (APPELLATE DEFENSE) IN REGARDS TO THE PETITIONER'S CASE MATTERS FROM THE LOWER COURT. THE CASE COUNSEL FILED HIS MOTION PREMATURELY AND THIS IS THE REASON THAT THE COURT OF APPEALS CONFUSION TO THE PETITIONER'S CASE MATTERS CURRENTLY BEFORE THE COURT OF APPEALS, THE PETITIONER HAS MADE ALL CIVILIZED ARGUMENTS TO THE COURT OF APPEALS AND THE COURT CONSTANTLY FAILURES TO ADDRESS THE NATURE OF THE PETITIONER BEING ELIGIBLE TO HAVE APPELLATE COUNSEL APPOINTED TO ASSIST HIM IN HIS APPEAL TO BE PREPARED IS ONE THAT THE FAILURES WILL CONTINUE TO CAUSE AN INJUSTICE TO BE A FURTHER HAPPENING TO THE PETITIONERS THAT FALLS IN THESE MATTERS SITUATIONS, EVENSO, AS IT CAUSED BY THE MISTAKES OF THE CASE COUNSELS WHEN THEY ARE THINKING THAT THEY ARE DOING RIGHTS BY THEIR CLIENTS AS THE PETITIONER'S COUNSEL THOUGHT WHEN HE FILED THE MOTION TO BE RELIEVED FROM HIS CASE, THE COUNSEL DID NOT FILED TO HAVE THE TRANSCRIPT TO BE ORDERED FROM THE HEARING HELD IN THE NEW TRIAL REQUEST AND BY HIM NOT DOING SO THIS CAUSED THE PETITIONER TO BE AT RICK TO DEFAULT IN ORDERING THE TRANSCRIPT FROM THE COURT REPORTED OF THE HELD HEARING AND THE COURT OF APPEALS HAS NOT RECOGNIZED THIS FAULTY ISSUE THAT OF WHICH THE COUNSEL HAS CAUSED TO EXIST AND

THAT OF WHICH THE COURT OF APPEALS HAS OVERLOOKED AND NEVER GAVE THE PETITIONER THE BENEFIT OF THE DOUBT IN, AND IF THE HONORABLE COURT DOES NOT THINK THE PETITIONER HAS NOT INVOKED HIS INDIGENT STATUES TO BE RECOGNIZED BEFORE THE COURT AS IT BEING HIM REQUESTING FOR APPELLATE DEFENSE TO ASSIST HIM AS HAVING THE COURT TO APPOIINT AN ATTORNEY TO ASSIST HIM THEN IT CAN NOT BE MORE CLEARER STATED TO THE S.C. SUPREME COURT TO RECTIFY THE OVERLOOKED MATTERS BY THE S.C. COURT OF APPEALS, AND JUST BY THE WAY THE COURT OF APPEALS HAVE SIDED WITH THE RESPONDENT, IT HAS SHOWN THAT IT IS BIAS AND PREJUDICE AGAINST THE PETITIONER IN HAVING THE APPEAL TO BE PRESENTED IN ITS CORRECT FORMS ACCORDINGLY TO THE APPELLATE COURT RULES AS DESIGNED IN THE S.C. RULES OF THE APPELLATE COURT, etc.

CONCLUSION

THE PETITIONER SHOWS THAT HIS CONSTITUTIONAL RIGHTS TO BE ASSISTED AND AIDED BY AN ATTORNEY TO PREPARE HIS APPEAL TO BE REVIEWED BEFORE THE APPELLATE COURT HAVE BEEN VIOLATED AND DENIED BASED UPON THE LOWER COURT COUNSEL MISTAKES AND THE ERRONEOUS CONSTRUINGS BY THE S.C. COURT OF APPEALS, THE PETITIONER ASK THE SUPREME COURT TO APPOINT APPELLATE DEFENSE COUNSEL TO ASSIST AND PREPARE THE PETITIONER'S APPEAL RECORDS, BRIEFS, etc. THE PETITIONER FURTHER REQUEST THAT THE CORRECT THE LEGAL STANDARDS TO APPLIED WHEN GENERAL SESSIONS COURT CASES BE REVIEWED ON APPEALS FILED TO THE COURT OF APPEALS SO THAT THE PETITIONER WILL NOT LOSE THE ABILITY TO HAVE COUNSEL IN THE FUTURE TO REPRESENT HIM WILL NOT BE INTERFERED WITH BY THE COURTS AND THE COUNSELS, etc.

PETITIONER CHOICE FOREVER PRAYS THAT THE RELIEF BE GRANTED TO HIM IN HIS CASE MATTER PRESENTED TO THIS COURT ON THIS 14th DAY OF APRIL 2015.

RESPECTFULLY SUBMITTED,

s/ 

KEVIN CHOICE  
LEE C.I./F4A  
990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010  
pro se PETITIONER

# The South Carolina Court of Appeals

The State, Respondent,

EXHIBIT #1.

v.

Kevin Choice, Appellant.

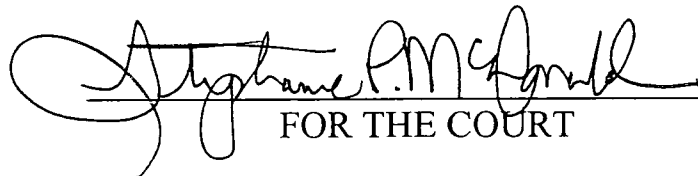
Appellate Case No. 2013-002735

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## ORDER

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This Court previously denied Appellant's motion for the appointment of counsel. Appellant has now filed a November 3, 2014 letter again requesting the appointment of counsel. This Court construes that letter as a request to rehear the denial of the motion for the appointment of counsel. Pursuant to Rule 240(i), SCACR, no action will be taken on the petition for rehearing. *See* Rule 240(i), SCACR ("The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.").

  
FOR THE COURT

Columbia, South Carolina

cc:  
Kevin Choice, 257223  
Alan McCrory Wilson, Esquire  
Donald J. Zelenka, Esquire

**FILED**  
4/3/15

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM SUMTER COUNTY

GEORGE C. JAMES, Jr., Cir. Ct. JUDGE

APPELLATE COURT CASE No. 2014-001661

APPELLATE CASE No. 2013-002735

**RECEIVED**  
APR 20 2015  
SC SUPREME COURT

THE STATE,....., RESPONDENT,

v.

KEVIN CHOICE,....., PETITIONER.

PROOF OF SERVICE

I, KEVIN CHOICE, PETITIONER DO CERTIFY THAT I SERVED A TRUE COPY OF ENCLOSED PETITION FOR THE SUPREME COURT TO APPOINT APPELLATE DEFENSE COUNSEL TO PREPARE APPEAL AND REVERSE THE COURT OF APPEALS ORDER ISSUED ON APRIL 14, 2015, TO THE RESPONDENT BY WAY OF U.S. MAIL, POSTAGE PREPAID, SENT TO RESPONDENT'S OFFICE ADDRESS AT: PO BOX 11549, COLUMBIA, S.C. 29211-1549, , MR. D.J., ZELENSKA, Esq. Sr. ASST. ATTY. GENERAL, ON THIS 24th DAY OF APRIL 2015, PERSONALLY DELIVERING IT TO THE LEE C.I. POSTAL SERVICE MAILROOM, AS BEING NOTARIZED IN THE SERVICES OF PROCESS, etc. ON APRIL 14, 2015.

*Kevin Choice*

KEVIN CHOICE  
990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010  
pro se PETITIONER