

Daniel E Shearouse
Clerk of Court
Supreme Court
P.O. Box 11330
Columbia S.C. 29211

RECEIVED

MAY 08 2015

SC SUPREME COURT

MAY 4th 2015

Dear Mr. Shearouse:

With this letter is a Motion to be granted relief of judgment. Sir I'm asking that you clock stamp and file this motion with the court. Also sir I would like for you to send me back a copy of the stamp and filed copy. Thank you for your time in advance.

Respectfully Submitted
By: A. Beaton
Adrian Beaton #527917
Mcormick Corr Inst
386 Redemption Way
Mcormick S.C 29699

Daniel E. Shearouse
Clerk OF COURT
SUPREME COURT
P.O. Box 11330
Columbia S.C. 29211

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MAY 08 2015

SC SUPREME COURT

MAY 3, 2015

RE: TO File MOTION UPON COURT TO
Be Granted relief OF Judgement and
Seeking to move Forward in Proceedings
Pro Se.

Dear Mr. Shearouse:

This Letter is in concerns with getting
the following Motion and Letter
Clocked; Stamped and Filed with
the Court; so the following issues
can be address. Also may you
inform applicant what motions has
all been submitted on my behalf
by attorney or other sources.

Thank you for you time in advance.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
AURIAN BEATON #327914
Appellant

VS.

STATE OF SOUTH CAROLINA
DEFENDANT

JAM JAGEL
MAIL ROOM

SUPREME COURT

CASE# 2014-062024

MOTION FOR RELIEF
OF JUDGEMENT OR
ORDER

Appellant moves to bring forth this
MOTION FOR RELIEF OF JUDGEMENT OR
ORDER PURSUANT TO RULE (OJLB)(1) OF
SOUTH CAROLINA RULES OF CIV. PRO.

Appellant seeks to obtain relief from
the decision found by lower courts
on August 13 2014.

BRIEF SUMMARY OF FACTS

Issue #1: Appellant was surprised and
unaware that he was not entitled to
file motions pro se in concerns with
his case; which lead to appellant to
make the mistake of filing an
untimely and inappropriate motion upon
the lower court.

(1)

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MAY 08 2015

SC SUPREME COURT

ISSUE #2: Appellant was surprised and unaware that there was a change in counsel in his case; which lead to him making the mistake in requesting counsel to file a 59(E) on his behalf.

ISSUE #1

Appellant was surprised and unaware that he was not entitled to file motions to amend or alter judgement pro se while represented by counsel. Not being aware of this Appellant made a mistake in filing an untimely and inappropriate motions upon court.

On April 25, and May 7, 2015 Appellant filed motions to amend and/or alter judgement under Rules 15(A); 52(B); and 59(E); in order to bring up issues Appellant was unable to present at hearing; because he was not in possession of his guilty plea transcript; which was needed to show the burden of proof needed to be granted relief.

When Appellant received this document he moved diligently to put the newly discovered evidence on the records; not knowing that he could not file motions pro se; while represented by counsel.

Issues Appellant raised in these motions was that had trial court not failed to ask Appellant: "if he was under the influence of any drugs; alcohol; or medication"; which if asked trial court would have been aware that Appellant was under psychotropic medication; which would not have let him make a knowingly and intelligent plea of Guilt.

Appellant also argued in these motions that trial counsel (Pennington) was ineffective in not informing trial court to question Appellant in above mentioned issue; when he was aware or should have been aware of Appellant mental health issues; had he did a thorough investigation as required.

See Exhibit (A) to see proof to substantiate Appellant issue.

ISSUE #2

Appellant was surprised and unaware that there was a change of counsel in his case; which led to Appellant making a mistake in requesting for the wrong counsel to file a motion 59LE) on his behalf.

Appellant received the order of dismissal in concerns with his PCR Application at which time Appellant moved diligently and wrote Joseph F. Hund Jr. asking him to file a 59LE) on his behalf.

Mr. Hund Jr. wrote back informing the Appellant that he was no longer his appointed counsel; this was a surprise to Appellant who was just now being inform of this change of counsel.

This surprise left Appellant confuse and unable to understand what steps needed to be taken; because the time for filing a rule 59LE) was up.

See Exhibit (B) to see Appellant proof to substantiate issue.

Conclusion

Appellant is requesting that the COURT Grant him Relief of Judgement and/or Order of Lower COURT.

Appellant was not afforded his Fair bite at the apple of Freedom and is asking for an Evidentiary hearing on the merits herein.

Respectfully Submitted
By: A. Beaton.

Adrian Beaton # 327914
McLORMICK C. INST.
3860 REDEMPTION WAY
McLORMICK S.C. 29899

Dated: _____

Exhibit A

JIAN JADEI
LEGAL MAIL
ROOM JIAN

State of South Carolina
County of Charleston

Adrian Bouton # 327914
Applicant

VS

State of South Carolina
Respondent

In Court of Common Pleas

2012-CP-10-46

Motion to Amend or Affirm
Judgement

FILED
2014 APR 29 PM 1:03
CLERK OF COURT
BY [Signature]

Applicant moves to amend PCR Application Pursuant to South Carolina Civil Procedure Rule 15, Rule 52(1) and Rule 59(E).

Applicant went to court on April 15 2014 in front of the Honorable Judge Dennis upon request for an evidentiary hearing lit which time applicant was not prepared to come on with the procedure because applicant was not in the possession of his Guilty Plea transcript of the Jan. 26. 2012 Guilty Plea hearing, which applicant received on April 17 2014.

Therefore applicant hereby file this motion upon the court to have the judgement amended.

Statement of Facts

Issues to be included in the Supplemental Amendment. Applicant just received Guilty Plea transcript for guilty plea hearing held on Jan 26 2012.

Applicants guilty plea was not knowingly, voluntarily or intelligently made because applicant was under the influence of psychotropic medication at the time of guilty plea hearing. Applicant trial counsel was ineffective for not requesting trial court to ask me if I was under the influence of any drugs, alcohol or medication at the time of my guilty plea hearing. Applicant was prejudiced because medication he was on would not allow him to make a intelligent decision.

Arguments

Issue 1

Trial Court erred in failing to question applicant on the record if he was under the influence of any drugs, alcohol or medication at the time applicant entered his plea of guilt, requires a automatic reversal of applicants conviction and sentence. Applicant did not knowingly, voluntarily or intelligently entered his guilty plea due to trial court error.

The trial court records speak silent of this trial courts error which requires a automatic reversal State vs Orr 409, S.C. S. Ed. 2d 23 (1991). Applicants 14th amendment right has been violated under Applicant United State Constitutional right. Also pursuant to South Carolina Article 1 Section 3 of applicants South Carolina Constitutional rights has been violated as well.

It is the Courts requirement to question applicant on the record if he was under the influence of any drugs, alcohol or medication during the guilty plea hearing. Any plea of guilt cannot be knowingly, voluntarily or intelligently held without the Judges requirement on the record. Boykin vs Alabama 395, U.S. 238, 89, S. Ct 1709, 23 L. Ed. 2d 574 (1969).

Hill vs Lockhart 474, U.S. 52 (1985).

Therefore Applicants guilty plea is not knowingly, voluntarily or intelligently entered. Applicant is prejudice because trial court failed to question applicant on the record if he was under the influence of any drugs, alcohol, or medication. If trial court would have ask this question applicant would have inform trial court that he was under the influence of Psychotropic medication that he took from other prisoners because he was stressed out and unable to cope with stress applicant was under. Due to his case.

Therefore by trial court's error in failing to question applicant on the record to know if he was under the influence of any drugs, alcohol or medication renders applicant plea invalid. Also there is a reasonable probability that the outcome would have been different because if trial court asked this question trial court would have been aware that applicant was under the influence of psychotropic medication at the time of hearing that could not allow applicant to make a intelligent decision.

Trial Court error in failing to construct a knowingly voluntary or intelligent waiver of the recorded requires a automatic reversal of the applicants conviction and sentence because the record speak silent State vs Ort 409, S.C. S. Ed. 2d 23 (1991)

ISSUE 2

Trial Counsel was ineffective by failing to request upon the court to question applicant on the recorded was applicant under the influence of any drugs alcohol, or medication at the time of the hearing when trial counsel was aware of applicants mental health issues, by trial Counsel's failure to request the trial court to question applicant on the recorded was applicant under the influence of any drugs, alcohol or medication violate applicants 6th and 14th amendment rights of applicants United State Constitution rights and under applicants South Carolina Article 1 Section 3 of applicants South Carolina Constitutional rights as well. Strickland vs Washington 466 U.S 668 104, S.Ct. 2052, 80, L. Ed. 2d 674 (1984) Lexis 79, Hill vs Lockhart 474 U.S 52 (1985), and if trial Counsel was not aware trial Counsel is ineffective for not doing a thorough investigation that could help counsel make strategic decision on defenses for applicants defense at trial Smith vs Wiggins 123, S.Ct. 2527 (2003), Williams vs Fuller 120 S.Ct 1995 (2000)

Therefore applicant has been prejudiced because trial counsel fell below standards and didn't object or intervene when trial court failed to question applicant on the record was applicant under the influence of any drugs, alcohol or medication, and there is a reasonable probability that the outcome would have been different because trial court would have been aware that applicant was under the influence of psychotropic medication that could not allow applicant to make an intelligent decision.

All records reflect these allegations presented by applicant. See guilty plea transcript pages. Page 5, 20-25, Page 6, 1-25, Page 7, 1-25 and Page 8, 1-6. Applicant presents these transcript pages of the record to be included as Exhibit (A).

Proof to substantiate that applicant just received a copy of his guilty plea transcript will be a photo-copy of the received envelope in which the transcript came in and will be applicant's Exhibit (B), showing why applicant moves to amend applicant's PCR application pursuant to Rule 15, Rule 52 and Rule 59(c) of South Carolina Civil Procedure. This court has not made a decision on applicant's PCR application so applicant is entitled to amend his PCR application and any denial will be constituted as gross miscarriage of justice. Butler vs State S. Ed. 2d 87, (1990)

Under Rule 71.1(F) and pursuant to S.C. Code Ann 17-2780 applicant requests upon the court to give a specific finding of fact and conclusion of the law related to each issue now amended.

Conclusion

Applicant's conviction and sentence must be reversed.

Respectfully Submitted
By: Ade Ben
Adrian Beaton # 327914
Lieber Corr. Inst
P.O. Box 865
Ridgely S.C 29078

Date: April 25, 2014

(5)

Julie Armstrong
Clerk of Court
Charleston County
100 Broad Street
Charleston S.C 29407

May 7 2014

RE: 2012-CP-10-7668

Dear Ms. Armstrong,
Please Close and File this Motion to Amend or Alter
Judgement that is hereby being filed upon you.

Respectfully Submitted
By: Adin Beaton
Adrian Beaton #227911
Liberator Inst
P.O. Box 205
Ridgelyville S.C 29472

Date May 7 2014

CC: Ashleigh Wilson
Assistant Attorney General
P.O. Box 11540
Columbia S.C 29211
Records

State of South Carolina
County of Charleston

Adrian Beaton # 327014
Applicant

VS.

State of South Carolina
Respondent

In Court of Common Pleas

2012-CP-16-7668

Motion to Amend or Alter
Judgement

FILED
2011 MAY 12 PM 1:55
JULIE J. ARMSTRONG
CLERK OF COURT

Applicant moves to Amend PCR Application Pursuant to South Carolina Civil Procedure Rule 15, Rule 52 and Rule 54(E).

Applicant went to Court on April 15 2014, in front of the Honorable Judge Dennis upon request of an evidentiary hearing at which time Applicant was not prepared to comply with the procedure because Applicant was not in possession of his Guilty Plea transcript which Applicant received on April 17 2014.

Therefore Applicant hereby file this motion upon the Court to have the Judgement amend or Alter.

Statement of Facts

On April 15 2014, I went to PCR hearing in front of the Honorable Judge Dennis at which time Applicant was not in possession of Applicant's Guilty Plea transcript, which Applicant received on April 17 2014 after coming back from court at which time Applicant filed a motion to Amend or alter Judgement to Julie Armstrong Clerk of Court for Charleston County and to Ashleigh Wilson Assistant Attorney General on April 25 2014.

Applicant submitted the motion to Amend or Alter Judgement because Applicant just received Guilty Plea transcript from Applicant on Jun. 26 2014 hearing.

Applicant is now filing this motion to Amend or Alter Judgement to Submit Exhibit(B) in to the record pursuant to South Carolina Civil Procedure Rule 15, Rule 52 and Rule 59(C).

PROOF to Substantiate that Applicant just received a copy of his Guilty Plea transcript Applicant submits a photocopy of the received envelope in which the Guilty Plea transcript came in and this will be Applicant's Exhibit (B) showing why Applicant moves to Amend Applicant's Application pursuant to Rule 15, Rule 52 and Rule 59(C) of South Carolina Civil Procedure. This Court has not made a decision on Applicant's PCR application so Applicant is entitled to amend his PCR application and any denial will be constituted as Gross Miscare of Justice Butler vs State, S. Ed 87C 1990

So therefore Applicant submits Exhibit(B) into the record

Respectfully Submitted
By: Adrian Beale
Adrian Beaton #927410
Lieber Court, In St
P.O. Box 205
Ridgville S.C 29872

The Law Office of
J. Michael Bosnak
P.O. Box 63291
N. Charleston, S.C. 29419

To Court
4/14/14

MA
112

Adrian Beaton
Inmate # 327914

RECEIVED
APR 17 2014
MAIL ROOM
LIEBER C.A.

2012-CP-10-7668

Certificate of Service

I Adrian Beaton #327914 Certify that on May 7 2014 Served this Motion to Amend or Alter Judgment upon Julie Armstrong Clerk of Court Charleston County by way of U.S. Postage mail on the following date May 7 2014

FILED
2014 MAY 12 PM 4:54
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Respectfully Submitted
By. Adrian Beaton

Adrian Beaton #327914
Liber Corr Inst
Ridgelyville S. C. 29479
P.O. BOX 205

Date May 7 2014

Exhibit B

JAM JAGEL
MAIL ROOM


Weeks & Irvine, LLC
ATTORNEYS AT LAW

MARK W. WEEKS
ROBERT L. IRVINE, III
JOSEPH F. HAND, JR.
R. W. SMITH
JOSEPH W. KESSINGER
J. MARSHALL MILLIGAN
DAVID SHYMANSKY, JR.

567 CROWFIELD BOULEVARD
GOOSE CREEK, SC 29445

(843) 553-9100
FAX (843) 553-9183

SUMMERVILLE
(843) 875-7111

WEST ASHLEY
(843) 571-2996

N. CHARLESTON
(843) 553-9800

MOUNT PLEASANT
(843) 856-9800

September 25, 2014

U.S. MAIL ONLY

Adrian Beaton #327914

Liber Correctional Institution

P.O. Box 205

Ridgeville, SC 29472

RE: POST CONVICTION RELIEF CASE - BEATON

Adrian-

Please be advised that I no longer represent you in the above-referenced case as you are well aware of by now. Again, your lawyer is Michael Bosnak who has visited you in prison and appeared in court for you. He has filed a Substitution of Counsel in this case which has been brought to judgment.

You can reach Mr. Bosnak at his place of business for any further information you may require with regard to your case. I am no longer in the loop.

Please see attached County website printout showing the Substitution of Counsel.

Thank you and good luck.

Sincerely,

WEEKS & IRVINE, LLC


JOSEPH F. HAND, JR.

cc. Michael J. Bosnak, Esq.

enclosures

Joseph Francis Hand Jr.
Wells and Irvine LLC, Law Firm
106 W. N. 7th Street
Summerville S.C 29483

Date: 8/20/14

Dear Mr Hand Jr.,
This is in concerns with getting you
to file a rule 59(e) dealing with
the trial court failing to properly find
a finding of facts and conclusions of
law on the motion to amend or after
judgement I filed in case # 2012-CP-
10-7608. I filed this motion upon
the defendants and clerk of court.
IF you fail to file or do this I do
have a copy of this letter so please
know and understand this will be my
exhibit (A) to show to the court. I
wrote you asking you to do this.
Also if you fail to do this I would
also like you to file a notice of
appeal. Thank you for your time
in advance.

Respectfully Submitted
B. S. Benton

MAY 08 2015

SC SUPREME COURT

Certificate of Service

I, Adrian Beaton, hereby certify that on the 4th of May, in McCormick S.C. a served copy of the foregoing Motion for Relief of Judgment or Order was filed on all parties to this matter by depositing the same in the United State Mail - Postage Paid; or in the Mail Room of Undersigned Institution:

Undersigned Institution: McCormick Corr. Inst.

Served on: Daniel E. Sheardouse
Supreme Court
Clerk of Court

Served on: Aulie Armstrong
Charleston County
Clerk of Court

Dated: May 4, 2015

JAM JAGEL

MOOR JAM

Respectfully Submitted

By: A. Beaton

Adrian Beaton # 321914
McCOMBIL CUYR 1757
386 REDEMPTION WAY
McCOMBIL S.C 29899

Adrian Beaton# 387914

McCormick Correctional Institute
386 Redemption Way
McCormick, SC 29899

Daniel E. Shearouse
Clerk of Court
Supreme Court
P.O. Box 11330
Columbia S.C 29211