

The Supreme Court of South Carolina
c/o Mr. Daniel E. Shearouse, Clerk
Post Office Box 11330
Columbia, S.C.

RECEIVED

(Page #1 of 2)

29201

JUN 08 2015

Date: 6-4-15
S.C. SUPREME COURT

RE: PRO SE RESPONSE TO PETITION BRIEF.

DEAR MR. SHEAROUSE, SIR,

I AM WRITING TO ASK THAT BEFORE ANY OF YOU DISCARD MY ENCLOSED PRO SE BRIEF ON THE GROUNDS IT MAY NOT BE ALL THAT BRIEF, I WANT TO LET YOU ALL KNOW THAT MY VERY FIRST ALLEGATION I AM ATTEMPTING TO ALLEGE BEFORE THE HONORABLE COURT IS "EXTRINSIC FRAUD," SERIOUS FRAUD, EXTRINSIC FRAUD SO BLATANT AND WIDESPREAD AS TO BE SOMETHING NOT FOUND EVEN IN A JOHN CRISHAM NOVEL.

MY BRIEF IS A BIT LONG BECAUSE NOT ONLY AM I NOT BEING HEARD REGARDS MY DEFENSE AND PCR, BUT EVEN WITH WHAT LITTLE I MYSELF KNOW ABOUT SOUTH CAROLINA CONSTITUTIONAL LAW AND THE LEGAL SYSTEM, EVEN NOW I FEEL MY OWN ATTORNEY ISN'T REPRESENTING ME AND MY CASE ANYWHERE NEAR STATE CONSTITUTIONAL LEVELS, EVEN LESS FEDERAL.

IF YOU ALL ACTUALLY HAD ONE OF THOSE "THOROUGH REVIEWS OF THE RECORD," YOU ALL SHOULD BE ABLE TO SEE FOR YOUR OWN SELVES THAT I SHOULDN'T EVEN HAVE TO BE WRITING ANY OF THIS.

FROM THE VERY DAY I WAS ARRESTED FOR THE CRIMES I'VE

been falsely accused and convicted of, I've told I know at least a thousand people. I do not understand any of these proceedings whatsoever, and like this "pro se Response To Petition," I am told I have only 45 days to work up and file something you lawyers were able to learn to file for years, and like at my PCR Hearing, my attorney, the esteemed and highly educated and experienced Mr. Charles T. Brooks, puts me up on the stand to literally litigate everything for myself, by myself, a Capital Murder case, and this all is supposed to be "Constitutional levels of representation"?

I again apologize to the Honorable Court for the enclosed brief being a bit long, but I've read longer cases in the law books.

I need access to this Court, Mr. Shearouse, Sir, and I beg the Court's patience procedure-wise, citing Estelle v. Gamble, 429 U.S. 97 (1976) and Hughes v. Rowe, 449 U.S. 5, 101 S. Ct. 173 (1980) (per curiam).

And again I'll apologize, my brief may indeed seem a bit "exhaustive." But the Supreme Courts have surely heard and decided much longer cases than this one.

The key, though, it appears, is in getting myself in the Courts to be heard, and I sincerely hope I've been able to do that here, Sir.

Thank you, Sir, and

Respectfully,
/s/ Harry J. Grant
(pro se Attorney For Plaintiff)

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO BERKELEY COUNTY
STEPHANIE P. McDONALD, CIRCUIT COURT JUDGE

GARY L. GRANT,
280988

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

APPELLATE CASE NO. 2014-002306

RESPONDENT.

PRO SE RESPONSE TO PETITION

RECEIVED

JUN 08 2015

S.C. SUPREME COURT

GARY L. GRANT, # 280988
(PRO SE PETITIONER)

John H. Strom
(Appellate Defender)

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Introduction

With respect to the Honorable Court,

My name is Gary L. Grant, SCDC # 280988, and I was informed I had 45 days to file something called a pro-se response to the petition my Appellate Attorney, Mr. John H. Stram, has filed with your Court.

I am not a very well-educated man, your Honors, not having the levels of education and experience my opponents obviously have.

I don't know the law books and case procedures as good as even the most novice of Attorneys, but as this Court will soon see, I am trying my best because I'm not getting proper and legally effective representation anywhere else.

That all being said, I will beg this Court, this Honorable Court, to grant this humble petitioner some leeway procedure-wise, citing Estelle v. Gamble, 429 U.S. 97 (1976), where Courts are required "to liberally construe pro se documentation," and Hughes v. Rowe, 449 U.S. 5, 101 S.Ct. 173 (1980) (per curiam), holding them to "a less stringent standard than those drafted by the Attorneys."

I realize I'm more than likely making numerous mistakes even as I write this, but also please keep in mind Berudett v. City of Hampton, 775 F.2d 1274, 1278 (4th Cir. 1985), where "liberal construction afforded

pro se pleadings is defined as "if the Court can reasonably read the pleadings to state a valid claim on which the Plaintiff could prevail," then it should do so, but also that a District Court may not re-write a petition to "conjure up questions never squarely presented."

I might not know all those big words and long phrases real lawyers know and use, but I believe I can make my case here today if I can just get real fairness and true legal access to the Court.

The United States' Constitutional Rights violations throughout my PCR hearing are all pretty much self-evident.

Thank you, your Honors, and I will now briefly set forth the grounds on which I feel you all should rule favorably on my petition.

THE ISSUES

#1. Extrinsic Fraud

I would first and foremost like to posit to the Honorable Court clear and indisputable evidence of grievous extrinsic fraud perpetrated not only by the PCR Court herself, but also willingly and knowingly participated in with 2 (two) of her closest officers.

Not wanting to waste this Court's valuable time quoting elementary law, nevertheless I would

like to remind the Court of 2 (two) major aspects concerning fraud, specifically extrinsic fraud, in the Courts and in the actions of its officers.

Extrinsic fraud is collateral or external to the trial of the matter, Mr. G. v. Mrs. G., 320 S.C. 305, 465 S.E. 2d 101 (Ct. App. 1995), and that "A judgment may be set aside on the ground of fraud only if the fraud is 'extrinsic' and not 'intrinsic';" Coxley v. Centennial Construction Company, 247 S.C. 179, 146 S.E. 2d 609 (1966).

If the Honorable Court will look at PCR Transcript of Record 2012-CP-08-2271, dated November 18th, 2013, specifically page 5, starting at line 5 and continuing through to page 6, line 20, the Honorable Stephanie P. McDonald was shown a sheaf of legal documents my PCR Attorney, Mr. Charles T. Brooks sprung on everybody there at the last minute, a big surprise indeed to Judge McDonald, State's Attorney Ashleigh R. Wilson, as well as to State's witness, Mr. Michael T. Bolus.

Judge McDonald held these legal documents less than 5 (five) minutes.

These specific documents were later to be identified as all my issues I was attempting to present to the Court (PCR Transcript page 8, line 9 through to page 9, line 19).

The Judge gave me permission to present my issues on the record, and then she recinds her

permission, lies and said she has already read it (Transcript page 8, line 24 & 25 and page 9, lines 9-13), and then forces me to sit there and try to win my case all on my very own without the use of my legal work.

Judge McDonald again refuses to let me use the paperwork in my hands and tells an even more blatant lie to justify her orders (Transcript page 14, lines 1-9).

In Pierce v. State, 526 S.E. 2d 222 (S.C. 2000), the Supreme Court will reverse a PCR Court's decision when it is controlled by an error of law.

Under PCR rules, an Applicant is entitled to a full adjudication of the merits of the original petition. Rice v. State, 305 S.C. 448, 452, 409 S.E. 2d 392, 395 (1991).

From the very moment Judge McDonald realized what I was trying to read (Transcript page 8, lines 18-25), Judge McDonald colluded with State's Attorney Ashleigh Wilson and even my own Attorney Charles Brooks to throw me and all my legal rights and protections to the dogs.

Citing Rogers v. State, 261 S.C. 288, 199 S.E. 2d 761 (1973): The Judge has jurisdiction to determine whether the appellant's Counsel's representation of him at his trial met "Constitutional standards of adequacy."

Not only did the Honorable Stephanie McDonald

refuse to put an immediate end to the force she well knew was a violation of nearly every Constitutional right I have as a United States citizen in the eyes of the Courts, but she as good as bound my hands behind my back before allowing me to be thrown into a den of lions by my own PCR Attorney, Mr. Brooks, when he put me up on that stand instead of actively and therefore actually "effectively" represented me, his client.

I cannot argue effectively before this Supreme Court about which "issues" were on what "Order" if I was deliberately and willfully conspired against by the very Officers of the Court themselves to prevent me from putting my issues on legal record for the Court's consideration.

My understanding of Attorneys and the Courts is seriously flawed when a Judge isn't wrong when she just sits there, and actively participates in, every Constitutional violation in the world when my PCR Attorney put me on the stand and left me up there to royally foul up ~~that~~ that "one bite at the apple".

An Order denying a Defendant's request for PCR relief would be remanded for re-hearing where it failed to directly address the Applicant's claim of Ineffective Assistance of Legal Counsel. Priddy v. State, 423 S.E. 2d 127.

If the Applicant isn't allowed, or is in some other way hindered from bringing his argument to the Court, how does a Court make direct address on something

That's not going to be there? How can there possibly be "full adjudication" of the merits when the Court forbade me to read my merits into the record?

Trial Court's conclusions of law must be legally correct, and reflecting "a correct application of applicable legal principles to all the facts found." State v. Marcus Lamont Carmon, 576 S.E. 2d 730 (2003).

On my allegation of extrinsic fraud, and the obvious lies told by and at the PCR Court, this alone should prove the injustice done to me at the PCR Court and grant to me the relief I seek in my petition.

The legal record speaks for itself. "Extrinsic fraud" is fraud that induces a person not to present a case or deprives a person of the opportunity to be heard.

The legal record couldn't be more clear. I will never in my life forget the look of absolute glee on the face of Pohleigh Wilson when Judge McDonald recinded her permission for me to put my issues before the Court, thereby depriving me of fair and equal access to the Court.

In Butler v. State, 286 S.C. 441, 334 S.E. 2d 813 (1985), I'm told the burden of proof is on the Applicant, and I totally agree and understand that.

I have also heard "ignorance of the law is no excuse," and I totally agree with that also.

But everybody on this planet ain't no lawyer, just like everybody on this planet can't be carpenters, or

Roofers, or Car Mechanics. I most definitely am not a lawyer, and I again beg this Honorable Court to forgive me any procedural "errors", if they aren't all that bad, and to acknowledge my efforts, as humble as they may be, and grant to me the relief sought in my petition. Thank you.

#2. Ineffective Assistance of PCR Counsel (A.)

Again not wanting to waste this Court's valuable time, but permit me to quote just a couple of paragraphs from what is commonly known as the Attorney's Oath.

"I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge those duties and will preserve, protect and defend the Constitution of this State and of the United States;"

Note: The key phrase in the above paragraph here, at least regards this particular issue of Ineffective Assistance is "and that I will, to the best of my ability, discharge those duties and will preserve, protect and defend the Constitution of this State and the United States."

"To my clients, I pledge faithfulness, competence, diligence, good judgment and prompt communication;"

Given just a few more brief moments of this Court's time, I will show that my PCR attorney showed such little regard for such a sacred oath during PCR proceedings that I am at this very moment pursuing

AVENUES OF CIVIL LITIGATION THAT MAY BE AVAILABLE TO ME WHEN THESE CURRENT LEGAL MATTERS ARE FINALLY SETTLED.

Thirdly, "I will NOT PURSUE OR MAINTAIN ANY SUIT OR PROCEEDING WHICH APPEARS TO ME TO BE UNJUST NOR MAINTAIN ANY DEFENSES EXCEPT THOSE I BELIEVE TO BE HONESTLY DEBATABLE UNDER THE LAW OF THE LAND, BUT THIS OBLIGATION SHALL NOT PREVENT ME FROM DEFENDING A PERSON CHARGED WITH A CRIME;"

And finally, and pretty much most importantly, "I will ASSIST THE DEFENSELESS OR OPPRESSED BY ENSURING THAT JUSTICE IS AVAILABLE TO ALL CITIZENS AND WILL NOT DELAY ANY PERSON'S CAUSE FOR PROFIT OR MALICE."

NOTE: AT MY PCR HEARING, THERE WAS NO ONE THERE MORE DEFENSELESS THAN THE APPLICANT, JUSTICE (REAL JUSTICE) MOST ASSUREDLY WASN'T AVAILABLE TO THIS PARTICULAR UNITED STATES CITIZEN, AND MY OWN ATTORNEY, MR. CHARLES T. BROOKS THE 3RD, WILLFULLY AND KNOWINGLY CONSPIRED WITH STATE'S ATTORNEY ASHLEIGH R. WILSON AND JUDGE STEPHANIE P. McDONALD TO DECEITFULLY AND MALICIOUSLY DEPRIVE THE APPLICANT OF A "FAIR" AND "EQUAL" OPPORTUNITY TO BE HEARD BY THE COURT.

Argument

EVEN A CURSORY LOOK THROUGH THE PCR TRANSCRIPT WILL REVEAL NUMEROUS INSTANCES MY UNITED STATES' CONSTITUTIONAL RIGHTS (WHICH MY OWN ATTORNEY HAD SWORN TO "PRESERVE, PROTECT AND DEFEND") WERE EITHER

blatantly ignored by all 3 (three) of the above-named Court Officers, or deliberately actively violated, because no way in the world could any lawyer anywhere have been so utterly thoughtless and useless, EXCEPT they all be in collusion together.

Your Honors, you all being much more than mere lawyers, but actual judges now, without doubt deserving great respect. Surely you all can see all the many errors and violations so far in my case?

My PCR attorney, Mr. Charles Brooks, breezes into Court on the morning of November 18th 2013, and literally blindsides everybody, literally, with an amendment to my PCR, and, even seeing that nobody at all has even seen it, much less read it, doesn't even ask for any kind of break or "continuance" to give everybody a chance to get on the same page (PCR transcript page 5, lines 5 through page 6, line 20). Please note that Judge Stephanie P. McDonald only had her copy no more than a few minutes at best before giving it back to Mr. Brooks. (PCR transcript page 6, lines 2-6).

When nobody else seems to need a recess either, Mr. Brooks then proceeds, seemingly as if he hasn't seen my application himself, to introduce me and my case to the master shredders by starting it all off with a lie.

"May it please the Court, Judge. Obviously, you've had a chance to see our amended application in regards to Mr. Grant's application." (PCR transcript page 6, lines 18-20)

Once Mr. Brooks got everybody pretty much up to speed on everything everybody there knew I knew absolutely nothing about, he proceeded to prove it by putting me up on that stand and let everyone else see a good show at the expense of pretty much every Constitutional right I had.

Putting someone like me up in front of a Court and left to litigate pro se is only "effective" for the state.

And like a baby mouse in a small box with a bunch of hungry cats, I did everything I know to get my issues and arguments on the legal record, but the legal record itself will prove I had no hope at all of any real fair and equal access. Not that day.

The state calls their star witness, Mr. Michael T. Bolus to the stand, and under Direct questioning by the state, Mr. Bolus' entire testimony mainly consists of all the degrees he has, all the important officials he knows and all the many years he's been practicing law and for whom.

Under Direct questioning by my side, Mr. Brooks, the sum of Mr. Bolus' testimony consists mainly of reasons why he didn't take my case seriously or try harder to defend, preserve and protect my state and Federal rights.

In Rogers v. State, 261 S.C. 288, 199 S.E. 2d 761 (1973), the trial (and PCR judge) has jurisdiction to determine whether the litigant's counsel's representation of him at his proceeding meets "Constitutional

standards of adequacy."

Instead of holding fast to integrity, Mr. Brooks used all of his education and legal experience to sell me out rather than represent his client with "faithfulness, competence, diligence, good judgment." With the emphasis on the term "good judgment."

There's no way at all I was given a "fair" and "best" representation in the PCR Court. My Attorney, Mr. Charles T. Brooks, didn't represent at all, much less any of those "Constitutional-level standards of adequacy!"

Gideon v. Wainwright, 372 U.S. at 335:

A defendant's right to legal counsel would be "futile" unless it comprehended "effective" counsel.

Under PCR Rules an Applicant is entitled to a full adjudication of the merits of an original Petition.

AICE v. State, 305 S.C. 448, 452, 409 S.E. 2d 392, 395 (1991).

My PCR Attorney, Mr. Charles T. Brooks, was supposed to stand up on my behalf, I thought, and was expected to present my "fair" and "best" defense. Richardson v. State, 316 S.C. 360, 363, 426 S.E. 2d 795, 797 (1993).

As many times as I have told everyone from the very day I was arrested that I have serious mental issues, my PCR Attorney gives me only a single piece of advice during our entire venue as Attorney/Client, and that is after he never sent

or brought me any rule or law books, after giving me no legal advice whatsoever on the construction and proper presentation of my PCR Application, and only after allowing someone like me to get up there and "present" my issues until I've royally screwed my self out of any hope.

My Constitutional rights to be represented by legal counsel is fundamental, and get this, "If counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, there has been a denial of Sixth Amendment rights which makes adversary process itself presumptively unreliable." United States v. Cronin, 466 U.S. 648, 80 L. Ed 2d 657.

If my PCR Attorney wasn't the biggest failure in challenging my "adversary" I'll eat the very paper these words are printed on!

Let me remind this Honorable Court again of Powell v. Alabama, 287 U.S. 45, 535. Ct. 55, 77 L. Ed.

158 (1932), something even more true today, your Honors. "The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel (Not the Defendant, not the Applicant, not the Petitioner, etc., but "by counsel"). Even the intelligent and educated human has small and sometimes no skill in the science of law. If charged with a crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left with

out the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step of the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence.

■ "It may be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect?"

The South Carolina Supreme Court will reverse a PCR Court's decision when it is controlled by an error of law. Pierce v. State, 526 S.E. 2d 222 S.C. (2000).

When the PCR Court, the Honorable Stephanie P. McDonald, as "skilled in the science of law" as she is expected to be in her position, refused to step in herself and put an utter end to flagrant violations of my Federal and state constitutional rights being so obviously perpetrated right in front of her eyes, she "erred" in every sworn ethic, every sacred oath, and in every "legal principle" in the profession.

Instead, she did everything in her power to help my adversary, going so far as to forbid me from sending my issues onto the legal record, actively participating in helping to "suppress" the evidence

I was attempting to bring before the Court. State v. Freeman, 319 S.C. 110, 459 S.E. 2d 867 (1995).

I have had only a single year to learn what a PCR was, much less how it all worked!

My PCR Attorney, Mr. Charles T. Brooks, didn't represent me and my interests at all fairly, even less presenting my "best" defense.

Oh, and that single piece of advice he ever gave me I was talking about on page # ? He writes me a letter telling me a Rule 59e Motion doesn't need to be filed after receiving the PCR Court's Order of Denial and Dismissal.

In the closing of this particular issue, Ineffective Assistance of PCR Counsel, the Sixth Amendment requires not merely the provision of counsel to the accused, but "assistance," which is to be "for his defense." Thus, "the core purpose of the counsel guarantee was to assure 'assistance' at trial, when the accused was confronted with both the intricacies of the law and the advocacy of the prosecutor." United States v. Ash, 413 U.S. 300, 309, 93 S.Ct. 2568, 2573, 37 L. Ed. 2d 619 (1973).

I was given just 45 days to file this, something called a "pro se" Response to Petition. I don't even know what this is, but I'm attempting to file it.

I beg this Honorable Court to really "liberally construe" this thing, for real, and I sincerely and profusely apologize for taking up so much of the Court's

valuable time but my life is depending on my being heard, and I myself am all I've got, as you all can obviously see, that even my own Appellate lawyer, Mr. John H. Strom, has put forth the meagrest effort to support my claims.

I thank you, your Honors, and pray that you all will see in all the above facts that I have been denied Constitutionally guaranteed levels of legal representation at my PCR hearing, and immediately vacate PCR Order 2012-CP-08-2271, dated and ordered October 27th 2014 from Berkeley County, South Carolina.

Respectfully Submitted,
x Larry J. Grant
(pro se Attorney For Petitioner)

DATE: 6-4-15

SWORN to before me this 4th day of June
5/ Landon H. Iyer

(Notary Public For South Carolina)

My Commission Expires: _____

My Commission Expires
March 5, 2018

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO BERKELEY COUNTY
STEPHANIE P. McDONALD, CIRCUIT COURT JUDGE

GARY L. GRANT, #280988, PETITIONER,

V.

STATE OF SOUTH CAROLINA,
APPELLATE CASE NO. 2014-002306, RESPONDENT.

CERTIFICATE OF SERVICE

BEFORE ME THE undersigned Notary Public, personally appeared Gary L. Grant, #280988, who deposes and says he used the U.S. mail to mail the attached "pro se Response to Petition" to the South Carolina Supreme Court, P.O. Box 11330, Columbia, S.C. 29211.

s/ Gary L. Grant
(pro se Attorney for Petitioner)

SWORN to before me this 4th day of June
s/ Susan H. Dye
(Notary Public For South Carolina)

My Commission Expires: _____ My Commission Expires
March 5, 2018

MR. GARY L. GRANT #280988
B.R.C.I / MAR. A / 184
4460 BROAD RIVER RD.
COLUMBIA, S.C. 29210



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JUN 04 2018

BRCI
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THE SUPREME COURT OF SOUTH CAROLINA
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P.O. BOX 11330
COLUMBIA, S.C. 29201