

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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JUL 6 2015

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Eugene C. Griffith, Jr., Circuit Court Judge

Greenville Case Number: 2014-CP-32-0531

Frank Daniel Simpson

Respondent,

v.

State of South Carolina,

Petitioner.

Reply to State's Return to Petition for Appeal Bond

Frank Simpson replies to the State's return to his petition for an appeal bond as follows:¹

1) The State argues in paragraph six that Mr. Simpson is unlikely to prevail on the merits. The State, however, now appears to concede that Mr. Simpson received ineffective assistance of trial counsel during his guilty plea. Rather, the State argues that he cannot show prejudice. Not only does the State not cite any authority for this position, it completely overlooks the standard set forth in *Hill v. Lockhart*, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985) and applied by the Circuit Court in its final order.

¹ The State argues, in paragraph 4 of its return, that the Petition for Appeal Bond should be dismissed as improperly filed. Mr. Simpson filed his petition in the Court to comply with the provision or Rule 243(k), SCACR's requirement that Rule 240, SCACR is also applicable. As set forth in his pleadings, Mr. Simpson is aware that this request is addressed to the Circuit Court.

Additionally, the State overlooks the undisputed fact that plea counsel never advised Mr. Simpson that the mandatory minimum could not be suspended.

2) In paragraph 10 argues that Mr. Simpson has not provided and “exceptional circumstance or compelling reason for an appeal bond to be granted in this case.” In his cover email to the Honorable Eugene C. Griffith, Jr. requesting a hearing on the motion, counsel for Mr. Simpson stated:

I respectfully request Your Honor schedule a hearing on this matter at the earliest convenience. There are some matters about Mr. Simpson’s ... situation that I did not want to put in the pleadings but Your Honor should be aware of as part of this process.

Counsel will provide those materials to Judge Griffith confidentially but also copying the State.

3) In paragraph 11, the State objects to a hearing based on the expenses of it attending the hearings and transporting Mr. Simpson. The State overlooks the cost of continued detention based on a wrongful conviction. The decision whether to convene a hearing should be left up to Judge Griffith.

Mr. Simpson respectfully requests the Circuit Court convene a hearing to determine what conditions of an appeal bond should be imposed.

Respectfully submitted,

By 

E. Charles Grose, Jr.
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404 Main Street
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(864) 538-4466

July 13, 2015
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA
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APPEAL FROM GREENVILLE COUNTY
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Eugene C. Griffith, Jr., Circuit Court Judge

S.C. SUPREME COURT

Greenville Case Number: 2014-CP-32-0531

Frank Daniel Simpson

Respondent,

v.

State of South Carolina,

Petitioner.

Certificate of Service

I certify that I have served a copy of this pleading on the State of South Carolina by placing a copy in the United States Mail, postage prepaid, on date reflected below, addressed as follows:

The Honorable Eugene C. Griffith, Jr.
P.O. Box 375
1226 College St.
Newberry, SC 29108

Karen C. Ratigan, Esquire
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

By



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Greenwood, South Carolina

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July 13, 2015

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

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JUL 16 2015

Re: Frank Daniel Simpson v. State
Greenville Case Number: 2014-CP-32-0531

S.C. SUPREME COURT

Dear Mr. Shearouse:

Enclosed please find the original and six copies of Mr. Simpson's Reply to the State's Return to his Petition for an Appeal Bond. Because the original sentence is less than ten years, I understand that this request will be heard by the Circuit Court. By copy of this letter to Judge Griffith, I am informing the Circuit Court of this Petition.

By copy of this letter to Ms. Ratigan, I am serving a copy of this petition on the State.

If you have any questions or require additional information, please do not hesitate to contact me.

With kindest regards, I am

Yours very truly,



E. Charles Grose, Jr.

cc: The Honorable Eugene C. Griffith, Jr.
Karen C. Ratigan, Esquire
Mr. Frank Daniel Simpson