

Notice of Appeal/Explanation  
Explanation required pursuant Rule 243(c), SCACR  
Applicant/Appellant Billy R. King Jr. #249995

- \* PCR Filed (12-15-10)
- \* Conditional Order to Dismiss (09-12-2014)
- \* Motion against Conditional Order to Dismiss (10-08-2014)
- \* Motion to Amend PCR application (02-20-2015)
- \* Final Order to Dismiss (04-20-2015) (Received 06-26-2015)

A constitutional right violation can be raised at anytime; therefore the matter at hand dealing with the appellant being denied his right to due process as granted by the 6<sup>th</sup> amendment.

1. The appellant contends that his Constitutional Right by 6<sup>th</sup> Amendment was violated by way of him not being a part of a ruling of the court. Appellant's right to due process was violated when a jury member came forth after recognizing that she had been an employee of the appellant's brother who testified as a witness. She had been dismissed from her job by the brother. Neither the brother nor the appellant was notified of the discussion or decision by the court. The decision to leave the juror on the jury should be considered a bias move, denying the appellant due process through out the criminal proceedings being brought against him.
2. The appellant contends that the solicitor committed perjury while on the stand as a witness. The appellant filed a PCR to have the issue of perjury by an officer of the court addressed. The court moved to have the appellant's PCR dismissed on the grounds of it being successive; the issues that are being brought forth have never been heard. The appellant attempted to bring forth in a second PCR about the perjury of the Solicitor. This was dismissed due to the argument by the state that the appellants time period to file had elapsed, therefore it was not heard. The issue of perjury by an officer of the court while on the witness stand does not carry a statue of limitations.  
After having had the perjury issue denied being heard the appellant perused in obtaining a copy of the evidence that would prove beyond a reasonable doubt that Solicitor Alston Badger had perjured himself on the stand as a witness. Under the Freedom of Information Act the appellant was able to obtain the evidential evidence that proved perjury had been committed.

The solicitor is an officer of the court and expected to act in accordance of a professional manner. The solicitor stated while on the stand as a witness during the appellant's first PCR hearing. While being questioned by the appellant's attorney solicitor Alston Badger stated that he never felt the need to have any DNA testing done and if he felt he needed testing done he would have ask SLED to conduct testing. There are two items that discredit his testimony.

- There is an Order to Submit Forensic Sample. This order said that testing was to be done to prove innocence or guilt. The order was signed by Alston Badger, proving that he not only thought testing should be done.
- The SLED report showed that testing was done and that a copy of the report was sent to Alston Badger's office.

The two above items were obtained through the Freedom of Information Act. Neither of these items where released to the appellant.

3. The appellant contends that the Judge placed upon him a sentence that cannot be completed according to the way he laid it out. The appellant has a 10 yr. sentence with 5 yrs. Probation run consecutive to a 20 yr. sentence run concurrent with a 25 yr. sentence with 5 yrs. Probation. The issue is that the appellant must complete one sentence before he can begin the sentence running consecutive to it. If the sentence stays the way that the South Carolina Department of Corrections is interrupting it the first 5 yr. probation is moved to the end of both sentences. If any part of the sentence is moved then the sentence does not stay true to the legal term of consecutive.

The applicant sent in a request to Amend the Application that was clocked and filed by the Clerk's office on 10-08-2014, but the court seemed to ignore the request to amend the application.

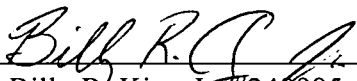
Nevertheless, pursuant to South Carolina Code Ann. 17-27-70(A)... the Court shall take account of substance, regardless of defects of form.

Applicant should be granted the opportunity to appeal the improper determination by the Lower Court, since Genuine Issues of Material facts have not been resolved.

The Applicant has provided specific reason, factual and legal to show that his proceeding should continue. Applicant could not have raised issues in prior application due to the resent discovery (2009) of exhibits that display Genuine Issues of Matter Fact. He knows that Extreme Prejudice occurs when one's legal rights to due process as well as the legal rights to correct sentence is denied.

Applicant respectfully and humbly asks the Honorable Court to allow the Applicant to appeal.

Respectfully submitted

S/   
Billy R. King Jr. #249995  
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Date 7-6-2015