

# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

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July 27, 2015

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JUL 27 2015

**SC Court of Appeals**

Mr. Shedrick Wigfall, #90323  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

RE: *Wigfall v. State*, Appellate Case No. 2015-001190 (Lower Court Case No. 2014-CP-19-00249)

Dear Mr. Wigfall:

This responds to your letter to Chief Justice Toal dated July 22, 2015. Please be advised that the Chief Justice cannot consider this *ex parte* communication about the above case that is currently pending before the South Carolina Court of Appeals.

Sincerely,

Daniel E. Shearouse

cc: Courtney Edwards Lowell, Esquire (with copy of letter and attachments)  
The Honorable Jenny Abbott Kitchings (with copy of letter and attachments)

MR. STEDRICK W. HIGGINS, 90323  
386-REDEMPTION WAY  
McCOMB CONVENTIONAL BLDG.  
McCOMB, SC 29699

July 22<sup>d</sup> 2015

TO: MRS JEAN HOEFER TOL, CHIEF JUSTICE

CIVIL ACTION No. # 2014 CP-19-00249

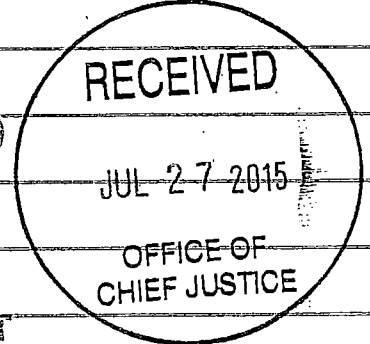
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DEAR HON. JEAN H. TOL,

S.C. SUPREME COURT

I PETITIONER STEDRICK W. HIGGINS, WAS PRO-SE AT THE STATE HABEAS CORPUS HEARING, WITHOUT APPOINTMENT OF COUNSEL, WHICH IS PROHIBITED WITHOUT BEING WARNED OF SELF REPRESENTATION, A VIOLATION OF VIOL.

THE COURT'S DECISION THAT, I WAS COMPETENT TO REPRESENT MY SELF, VIOLATED MY SIX AMENDMENT RIGHTS, TO EFFECTIVE ASSISTANCE OF COUNSEL, FOR MY STATE HABEAS CORPUS HEARING, A DUE PROCESS VIOLATIONS, 6<sup>th</sup> AND 14<sup>th</sup> AMENDMENT. U.S.C.A.

PETITIONER SHOULD HAVE BEEN AFFORD, A AFFORNEY ONCE DETERMINED THAT, A EVIDENTIARY HEARING WAS REQUIRED.

CASE "MUST" BE REMANDED FOR NEW HEARING OR VACATE SENTENCE.

SHARO U. WYO DEPT OF CORR. STATE PEN. WARDEN, 23 # 30 332

P.S. PLEASE FILED THIS LETTER WITH YOUR OFFICE, AND SERIE A COPY BACK TO ME.

PETITIONER "WAS NOT" WARNED OF SELF REPRESENTATION, FAILED TO WARN PETITIONER OF SELF DANGERS OF REPRESENTATION. SEE TRANSCRIPT.

PETITIONER FILED, A NOTICE OF INTENT TO APPEAL WITH THE EDGEFIELD CLERKS OF COURT OFFICE, IN EDGEFIELD COUNTY, AND SERVED, A COURTNEY E. LOWELL, ASSISTANT ATTORNEY GENERAL, WHO REPRESENTED STATE, AT STATE HABEAS CORPUS HEARING, OF MARCH - 18<sup>TH</sup> 2015, AT EDGEFIELD COUNTY COURTHOUSE.

PETITIONER "DID NOT" ABANDON HIS APPEAL. WHO IS A LAYMAN, AND STILL HAS A CONSTITUTIONAL RIGHT TO HIS APPEAL, AND APPOINTMENT OF COUNSEL.

WHITE V. STATE, 208 SE 2d 35 (1974)

FEIN V. GRANLEY, 99 F.3d 255, 258 (7<sup>TH</sup> Cir. 1996)

SAGER V. MOSS, 907 F. Supp. 1412 (1995)

WILLIAMS V. BARTVETH, 44 F.3d 95, 100 (2<sup>ND</sup> Cir. 1995)

ROBERTS V. MORRIS, 20 F.3d 457

89 F.3d 605, 613 (9<sup>TH</sup> Cir. 1996)

84 F.3d 1272

155 F.3d 159 3<sup>RD</sup> Cir.

145 F.3d 1006 (8<sup>TH</sup> Cir. 1998)

WHEREFORE PETITIONER PRAYS HEIS GRANTED, A APPEAL OR A NEW HEARING OR VACATE SENTENCE.

of Sheldrick Weyford  
Mr. Sheldrick Weyford, Pro-Se

# The South Carolina Court of Appeals

Shedrick Wigfall, Appellant,

v.

The State of South Carolina, Respondent.

Appellate Case No. 2015-001190

The Honorable Frank R. Addy, Jr.  
Edgefield County  
Trial Court Case No. 2014CP1900249

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## ORDER

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Appellant has failed to provide the notice of appeal filing fee, proof of service, and a copy of the order being appealed, as required by Rule 203 of the South Carolina Appellate Court Rules, and as requested in the Court's letter dated June 9, 2015. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina  
cc:  
Shedrick Wigfall, #90323  
Courtney Edwards Lowell, Esquire

**FILED**

June 30, 2015

⑨

Sheelick Weisfall, 90323  
386-REDUCTION KEY  
McComick Correctional Inst.  
McComick, South Carolina, 29889

Corrective  
to deficiencies  
July-9<sup>th</sup> 2015

Case No. 2014-CP-19-00249

RE: APPEAL.

**RECEIVED**

JUL 13 2015

SC Court of Appeals

DEAR HONORABLE CLERK.

PLEASE REVIEW INSIDE, THE ADMINISTRATIVE ORDER  
REGARDING FILING, CASE NUMBER: 2014-CP-19-249.

FILE AUGUST 6, 2014 AT AM 11:43, WHICH STATES AND WITHOUT  
PAYMENT OF A FILING FEE.

ALSO, APPELLANT FILED, APPLICATION TO PROCEED WITHOUT PAYMENT OF  
COST AND AFFIDAVIT IN SUPPORT THEREOF. SIGNED AND NOTARIZED, BY  
A NOTARY PUBLIC, A MRS PENNY I. MORTON. SEE, APPELLANT: PETITION  
FOR STATE HABEAS CORPUS, WHICH WAS FILED, AUGUST 6<sup>th</sup> 2014

THIS MATTER SHOULD NOT BE DISMISSED. AND AN APPEAL SHOULD  
BE ALLOWED AND FILE, WITH APPOINTMENT OF COUNSEL.

Sheelick Weisfall  
Sheelick Weisfall-Pro-SE

THIS CASE IS HEREBY TRANSFERRED TO THE SOUTH CAROLINA COURT OF APPEALS.  
PURSUANT TO RULE 204 (A) SCA CR'S.

2

Shedrick Wigfall, 90323  
386 - REDEEMED WAY  
McCORMICK CONNECTION LABS.  
McCORMICK, SOUTH CONOVER, 29899

July - 9<sup>th</sup> 2015

Case No. 2014-CP-19-00249

RE: APPEAL.

RECEIVED

JUL 13 2015

DEAR HON. CLERK.

SC Court of Appeals

PLEASE STAMP AND FILE, THIS LETTER AND MARK  
THE ADMINISTRATIVE ORDER REGARDING FILING, CASE NUMBER:  
2014-CP-19-249. SERVE COPIES BACK TO ME FOR MY FILE.

Thank You.

Shedrick Wigfall

• RESPONDENT AND EDGEFIELD CLERKS OFFICE WAS SERVED THE SAME DAY.  
SEE - NOTICE OF INTENT TO APPEAL, IN WHICH I SERVE ON YOUR OFFICE.

• THIS IS MY SECOND TIME SERVED, A COPY OF THE "ORDER" BEING APPEALED.

• APPELLANT THEN FILE A APPLICATION TO PROCEED WITHOUT PAYMENT OF COST AND  
AFFIDAVIT IN SUPPORT THEREOF. SIGNED BY NOTARY PUBLIC, A Mrs Corple,  
PENNY J. MORTON.

SIGNED, WILLIAM F. KEESLEY, CHIEF JUDGE. 11<sup>TH</sup> JUDICIAL CIRCUIT.

5

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF EDGEFIELD )

IN THE COURT OF COMMON PLEAS

EDGEFIELD COUNTY  
CLERK OF COURT  
SHIRLEY F. NEWBY

2014 AUG -6 AM 11:43

SHEDRICK WIGFALL, 90323, )  
 )  
Petitioner, )

vs. )

THE STATE OF SOUTH CAROLINA, )  
 )  
Respondent. )

Administrative Order Regarding Filing

Case Number: 2014-CP-19- 249

Mr. Shedrick Wigfall sent various documents to the Edgefield County Clerk of Court's office over the course of the last two years dealing with efforts to attack his convictions for murder and armed robbery. His more recent requests have taken the form of petitions for a writ of mandamus directed toward the Clerk of Court and the Chief Judge for Administrative Purposes. Yesterday, the Clerk of Court forwarded to the undersigned judge a copy of the packet of materials that Mr. Wigfall sought to file. Having reviewed the packet, the court notes obvious issues related to the relief originally sought, but feels that the documents should be filed without payment of a filing fee, using a new civil action number. There are different captions used. The caption Mr. Wigfall first used should be the case name.

THEREFORE, IT IS ORDERED that the Clerk of Court for Edgefield County file the materials using the original caption that the petitioner supplied, with a new civil action number, and without payment of a filing fee.

IT IS FURTHER ORDERED that a copy of this order be sent by the Clerk to Mr. Wigfall, as well as to the Solicitor and the Attorney General.

AND IT IS SO ORDERED.

August 6, 2014

**RECEIVED**  
JUL 13 2015  
SC Court of Appeals

*William P. Keesley*

William P. Keesley, Chief Judge for  
Administrative Purposes, Common Pleas,  
11<sup>th</sup> Judicial Circuit

(5)

STATE OF SOUTH CAROLINA )

COUNTY OF EDGEFIELD )

Shedrick Wigfall, #90323, )

Plaintiff, )

vs. )

The State of South Carolina, )

Defendant. )

IN THE COURT OF COMMON PLEAS  
IN THE ELEVENTH JUDICIAL CIRCUIT

Civil Action No. 2014-CP-19-00249

ORDER RECEIVED

JUL 13 2015

SC Court of Appeals

2015 MAR 19 AM 11:50

EDGEFIELD COUNTY  
CLERK OF COURT  
CHARLES L. FEEI

This matter comes before the Court upon Defendant State of South Carolina's Motion to Dismiss, which was heard Wednesday, March 18, 2015. Present at the hearing was the pro-se Plaintiff and Assistant Attorney General Courtney E. Lowell appearing on behalf of the Defendant.

Plaintiff filed this action on or about August 6, 2014 alleging that (1) he was denied his Sixth and Fourteenth Amendment rights because the Court failed to follow requirements of S.C. Code Ann. Section 16-3-26 and provide Plaintiff with adequate representation; (2) a preliminary hearing was not held prior to the grand jury issuing the indictment; and, (3) there was no hearing on his fitness to stand trial. Through this action, Plaintiff seeks to be released from custody and to have his 1977 armed robbery and murder convictions vacated.

Plaintiff is a prisoner in the custody of the South Carolina Department of Corrections. On or about November 10, 1977, a warrant for armed robbery and murder was issued for the Plaintiff. On November 11, 1977, an "Affidavit and Request for Waiver" and "Motion for Waiver" was filed to have the Plaintiff's case transferred to the Court of General Sessions. The Court issued an order waiving the jurisdiction of the Family Court and allowing the Court of General Sessions to assume jurisdiction over the Plaintiff's case. On November 16, 1977,

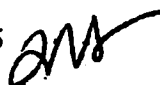
Plaintiff was admitted to the hospital to determine his capacity to stand trial pursuant to Section 32-977 (1962). On December 1, 1977, the Court ordered bail be set at One Hundred Thousand Dollars (\$100,000) and acknowledged that Plaintiff was committed to the state hospital for a fifteen (15) day observation period. In Dr. Dosekocil's Report of Finding he found that Plaintiff was *not mentally ill*, that he was capable of understanding the nature of the charges, and able to assist counsel in his own defense. Dr. Dosekocil recommended that Plaintiff be returned to the jurisdiction of the court.

On January 11, 1978 the Court demanded a preliminary examination in writing and at least ten (10) days before the convening of the next Court of General Sessions with regard to the Plaintiff's charges of murder and armed robbery. Also, the Court stated the case should not be submitted to the grand jury until the preliminary examination has been held which should take place on January 19, 1978.

Plaintiff was indicted on February 6, 1978 for armed robbery and murder. On or about February 7, 1978, Plaintiff pleaded guilty and was sentenced to life for murder and twenty-five (25) years for armed robbery, both sentences to run concurrently. Plaintiff filed a Post-Conviction Relief ("PCR") Application on November 21, 1990 and a hearing was held on July 15, 1991. At the PCR hearing, the Plaintiff informed the Court that the Plaintiff wished to withdraw his PCR Application. The Court dismissed the PCR application without prejudice.

#### ANALYSIS

Plaintiff's action is dismissed because this is not a declaratory judgment action, but a collateral attack on his sentencing and the action is barred by the statute of limitations. Plaintiff has also failed to state facts sufficient to constitute a cause of action.



"PCR is a proper avenue of relief *only when the applicant mounts a collateral attack challenging the validity of his conviction or sentence* as authorized by Section 17-27-20(a)." *Al-Shabazz v. State*, 338 S.C. 354, 367, 527 S.E.2d 742, 749 (2000) (emphasis in original). A PCR application filed pursuant to S.C. Code Ann. § 17-27-45(A) (2013), must be filed within one (1) year after the entry of a judgment of conviction or within one (1) year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later. "The character of an action is not necessarily determined by such recitation in the pleadings. Rather, it is the nature of the issues and the remedies which are sought that is determinative." *South Carolina v. Yelsen Land Co.*, 257 S.C. 401, 403, 185 S.E.2d 897, 898 (1972).

Plaintiff seeks to have his guilty plea vacated and to be released from custody. Therefore, the nature of this action is not a Writ for Mandamus, but a collateral attack of his sentence under § 17-27-20(A). The action is barred by the statute of limitations and is completely lacking in merit, and is nothing more than an attempt to circumvent the well-established procedures for challenging a conviction or sentence by direct appeal or post-conviction relief.

Second, Plaintiff failed to state facts sufficient to constitute a cause of action for declaratory judgment requiring dismissal pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. A trial judge in the civil setting may dismiss a claim when the defendant demonstrates the plaintiff has failed to state facts sufficient to constitute a cause of action in the pleadings filed with the court. Rule 12(b)(6), SCRPC; *see Ashley River Properties I, LLC v. Ashley River Properties II, LLC*, 374 S.C. 271, 277, 648 S.E.2d 295, 298 (Ct. App. 2007); *Williams v. Condon*, 347 S.C. 227, 553 S.E.2d 496 (Ct. App. 2001). Dismissal of a complaint pursuant to Rule 12(b)(6) is appropriate where, as here, the allegations set forth on the face of the



complaint and inferences reasonably deducible therefrom, even when viewed in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, fail to state any valid claim for relief. *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006); *Gentry v. Yonce*, 337 S.C. 1, 5, 522 S.E.2d 137, 139 (1999); *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999).

In 1978, Section 16-3-26(B)(1) was enacted and stated:

Whenever any person is charged with murder and the death penalty is sought, the court, upon determining that such person is unable financially to retain adequate legal counsel, shall appoint two attorneys to defend such person in the trial of the action. One of the attorneys so appointed ***shall have at least three years' experience in the actual trial of felony cases***, and only one of the attorneys so appointed shall be the Public Defender or a member of his staff.

S.C. Code Section 16-3-26(B)(1) (emphasis added).

Plaintiff alleges one of his attorneys had only tried one (1) capital case and assisted on two (2) other capital cases, and the *second attorney* had tried only one (1) felony noncapital murder case. He bases his ineffective assistance of counsel argument on the number of cases previously tried by his appointed counsel. This argument is of no merit, as the statute looks to the number of years an attorney has been licensed, not the number of cases that attorney has tried, in determining whether an attorney is qualified to be appointed in a capital case.

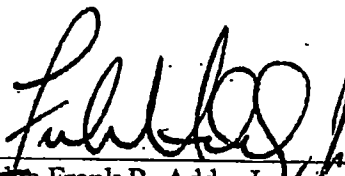
Additionally, Plaintiff asserts that he was not afforded two hearings. He alleges a preliminary hearing was not held ten (10) days before the convening of the next term of court of General Sessions and before the warrant, for armed robbery and murder, was issued by magistrate. Plaintiff was not entitled to a hearing prior to the issuing of a warrant. Moreover, the lack of a hearing was not harmful or prejudicial to the Plaintiff. Plaintiff also alleges that he was entitled to a hearing to determine whether he was fit to stand trial. There was no hearing, but he was admitted to the hospital on November 16, 1977 to determine his capacity to stand trial

pursuant to Section 32-977 (1962). Plaintiff was found not mentally ill, that he was capable of understanding the nature of the charges, and able to assist counsel in his own defense.

Accordingly, it is hereby,

**ORDERED** for the reasons set forth above, the Defendant's Motion to Dismiss is  
**GRANTED.**

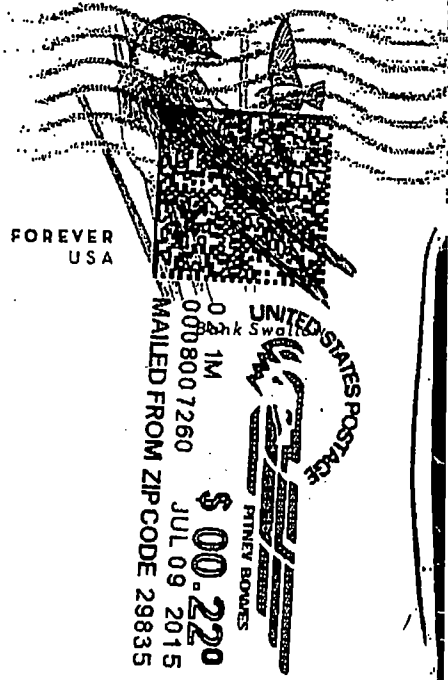
**AND IT IS SO ORDERED.**

  
\_\_\_\_\_  
Judge Frank R. Addy, Jr.  
Eighth Judicial Circuit

March 19, 2015  
Sumner, South Carolina

J Hedrick-Wigfall, 90323  
Mc Cormick Correctional Institution  
386-Redemption Way  
Mc Cormick, South Carolina 29899

AUGUSTA GA 309  
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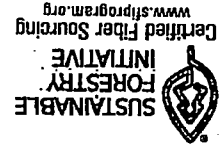
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