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JUL 27 2015

SC Court of Appeals

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
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COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080

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JUL 27 2015

SC Court of Appeals

July 27, 2015

Mr. Ray Mayo, #363744
Ridgeland Correctional Institution
P.O. Box 2039
Ridgeland, SC 29936

RE: *State v. Mayo*, Appellate Case No. 2015-000870 (Lower Court Case No. 2014GS4300075)

Dear Mr. Mayo:

This responds to your letter to Chief Justice Toal dated July 21, 2015. Please be advised that the Chief Justice cannot respond to your legal questions. If you have legal questions, you may wish to consult with an attorney.

Your appeal in the above case was dismissed by the South Carolina Court of Appeals for failing to provide an adequate explanation for an appeal from a guilty plea as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). When no petition for rehearing was received within the time permitted Rule 221, SCACR, the remittitur was sent to the circuit court on July 14, 2015. I have enclosed a copy of the dismissal order and the remittitur since you indicate that you have not received a copy of these documents.

Sincerely,

Daniel E. Shearouse

Enclosures

cc: Jacob Edward McFadden, Esquire (with copy of letter)
Office of the Attorney General (with copy of letter)
The Honorable Jenny Abbott Kitchings (with copy of letter)

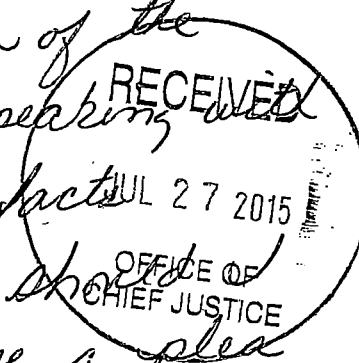
Dear Chief Justice Toal,

7-21-15

My name is Ray May. I am currently incarcerated at Ridgeland Correctional Inst. I am writing you this letter because I am seeking your help due to the fact that I have been wrongfully convicted. In April of this year I went before Judge King at a bench trial at Sumpter County on a charge of Trafficking in Illegal Drugs (Heroin).

I was represented by Mr. Jacob E. McFadden of the Sumpter County Public Defenders office. After speaking with my attorney and making him aware of the facts surrounding my case, he advised me that should I plead guilty then the state was offering me a plea negotiation whereby I would receive a three year sentence in exchange for my plea. As I am not knowledgeable in the practice of law, I completely trusted my attorney to provide me with the best legal advice and representation which he was able to provide.

This however proved to be a mistake on my part. I would just like to state to you Mrs. Toal that I have never said that I was not guilty. I am guilty but only to an extent. There were things done by my public defender as well as the Sumpter Co. Sheriffs Dept which are illegal and it is due to these illegal acts which I now stand before you wrongfully convicted. Just so you will understand, I was indicted over



for 300 separate packets of heroin, however when I went before the judge my lawyer stated that there were only 250 bags available. Although I had requested that he provide me with Rule 6 in my discovery he refused to acknowledge my request. The chain of custody had been broken on the evidence. Someone from the Sheriff's Dept had taken 50 bags. No questions were ever asked by the judge of the discrepancy in the amount of drugs presented to the court and what the indictment actually reflected. Even after many questions to my public defender he has yet to explain how 50 bags of heroin just disappeared. When the traffic stop was made and the drugs were found in my car, two officers counted the bags and acknowledged that there were 300 bags, not 250. Also, as to the stop itself, I was only going 5 miles per hour over the speed limit when I was stopped. I and my wife were present in the car. After the officer asked me for my license and registration and checked to make sure there were no outstanding warrants on me, before surrendering my license and registration back to me he asked me if he could search my car to which I calmly and politely said "no". At that time he walked back to his car with my license and registration still in his

possession and called for another officer who arrived a short time later accompanied by a police dog. Without asking my permission he walked the dog around my car whereby he stated that the dog "hit" on the back rear door region of my automobile. The drugs were found in a completely different location within the car away from the area where he had stated that the dog alerted on. There was no provable cause for this officer to search my automobile. He had stated in court that the reason he called for back-up was because I was "sweating" and "nervous", and that me and my wife were not consistent in our answers to his questions. It has recently been found that the police dog who was used to search my car had actually been "retired" from the force for the last 2 years. These officers had attempted to charge my wife even though I had claimed possession of all the drugs found.

After my bench trial whereby I was given three years, my attorney, Jacob McFadden, filed a notice of appeal with the S.C. Court of Appeals on April 21, 2015 along with a proof of service. This notice was also filed to the S.C. Office of Appellate Defense. My attorney, Mr. McFadden, sent me a letter stating

that he did not see any issues to raise on appeal and that I had 20 days to file any issues which I would like the court to consider on appeal. After review of his letter I made a list of issues that I wanted the court to make a ruling on and submitted them to the Clerk's office at the Court of Appeals. My case was assigned an appellate case number and filed. It was while I was waiting to be notified by appellate defense that I had my wife call the appellate defense office to check on the status of my appeal whereby she was told that they had "no case number" of any appeal for me and that the last time they represented me was in 1999, which is false because I am from another state and have never been in trouble in S.C. until now. When my wife called the S.C. Court of Appeals and spoke with the Clerk, she was told that because I had not challenged the guilty plea but was instead challenging the "defectiveness of the indictment" and the "tampering with evidence" that the court

had decided not to hear my appeal and had dismissed it. My question is how can the court rule on an appeal in which there has been no legal representation made as no attorney was ever assigned to me nor did I waive my rights to counsel? It is my understanding from reading the case of Austin v. State that I am entitled to a belated appeal under the rules of appellate procedure. It is also my understanding that on appeal, counsel must raise at least one arguable issue of merit for the courts review. In my situation, since my public defender filed my appeal, he stated he did not see any issues for appeal, then under Anders v. California and Johnson v State, he should have raised at least one arguable issue. Since he did not, appellate defense should have picked up my representation.

Mrs. Toal, there are a lot of unanswered questions involved in my case. Why would appellate defense not appoint counsel after my

public defender notified their office on the notice of appeal? Why would the appeals court rule on an appeal where no counsel had been appointed and no valid waiver had been submitted by me? Why would appellate defense not have the appellate number which the appeals court had assigned to my case? Why would the Appellate Defense office tell my wife that they did not have any recent appellate case number and that the last time they represented me was in 1999 when I am not from S.C. and have never been in trouble in this state until now? Where did the 50 packets of drugs go which was reflected on the indictment but mysteriously "disappeared" before trial? Why am I being denied copies of the chain of custody which I requested in my discovery or will my public defender even discuss this matter?

As of the writing of this letter, I have not received any notice or ruling from the Court of Appeals stating that my appeal has been dismissed nor have I received any explanation

from the office of Appellate Defense as to why I have been denied representation from their office after being requested to do so by my public defender.

Mrs. Toal, I know that you are an honest and fair judge. I am reaching out to you in hopes of finding answers to these perplexing questions. If I am going to be convicted it should be done lawfully, not dishonestly. My family is currently speaking with civil litigation attorneys in relation to my ~~case~~ situation. I am therefore humbly requesting that you please look into my situation and see why I am being denied counsel and why my appeal has been unjustifiably dismissed.

In closing, I thank you for your time, help, efforts and understanding in this matter. I look forward to hearing from you soon.

Sincerely,
Ray Mayo

P.S. I have sent you these copies so that it will assist
the Court in its research of my case.

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JUL 27 2015

S.C. SUPREME COURT

Jacob E. Mcfadden
Sumter County Public Defender
215 North Main Street, Rm. 151
Sumter, SC 29151
(803)436-2424

May 06, 2015

Mr. Ray Mayo SCDC #00363744
C/O Kirkland Reception and
Evaluation Center
4344 Broad River Road
Columbia, SC 29210

Re: The State v. RAY MAYO
Appellate Case No. **2015-000870**

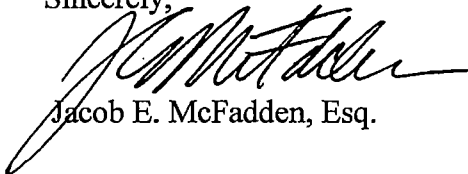
Dear Mr. Mayo:

Action is required on your part in pursuing an appeal of your guilty plea in this case. After filing the notice of appeal in your case I have informed the South Carolina Court of Appeals that I do not find any issues which can be appealed in your case. From the date of this letter you have twenty (20) days to inform the Court in writing of any arguable basis that there are issues preserved for appeal. The address for the Court is below.

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Please include the above case name and appellate case number in your correspondence with the Court.

Sincerely,



Jacob E. McFadden, Esq.

RECORDED THE STATE OF SOUTH CAROLINA
2015 APR 20 PM 12:01 In the South Carolina Court of Appeals

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C. APPEAL FROM SUMTER COUNTY
Court of General Sessions

Howard P. King, Circuit Court Judge

Case No(s): 2014GS4300075

The State of South Carolina,

Respondent.

RAY MAYO ,


v.

Appellant.

NOTICE OF APPEAL

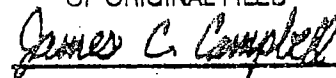
Ray Mayo appeals his plea of guilty and his sentence in this case. The plea was heard by and the sentence was imposed by the Honorable Howard P. King on April 16, 2015.

Date: April 20, 2015


Jacob E. McFadden
Sumter Public Defender
215 North Main Street, Rm. 151
Sumter, SC 29151
(803)436-2424
Attorney for Appellant

Other Counsel of Record:
Edgar R Donald, Jr. , Esq.
Assistant Solicitor
Sumter County Courthouse
141 North Main Street, Rm # 201
Sumter, SC 29150

CERTIFIED TRUE COPY
OF ORIGINAL FILED



CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA



RECORDED THE STATE OF SOUTH CAROLINA
2015 APR 20 PM 12:01 In the Appellate Court

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C. APPEAL FROM SUMTER COUNTY
Court of General Sessions

Howard P. King, Circuit Court Judge

Case No(s): 2014GS4300075

The State,

Respondent.

v.

RAY MAYO ,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the below listed respondents/involved parties by depositing a copy of it in the United States Mail, postage prepaid, on April 21, 2015, addressed to:

Edgar R. Donald, Jr., Esq.
Assistant Solicitor
Sumter County Courthouse
141 North Main Street, Rm # 201
Sumter, SC 29150

S.C. Office of Appellate Defense
P.O. Box 11433
Columbia, SC 29211

Sumter County Clerk of Court
215 North Harvin Street
Sumter, SC 29150

The Honorable Tanya Gee
Clerk, The S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Date: April 20, 2015

CERTIFIED TRUE COPY
OF ORIGINAL FILED

James C. Campbell

CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

J. McFadden

Jacob E. McFadden
Sumter Public Defender
215 North Main Street, Rm. 151
Sumter, SC 29151
(803)436-2424
Attorney for Appellant

ATTACHMENT 175.015"

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

Drugs / Trafficking in Heroin, morphine, etc., 28 g or more

At a Court of General Sessions, convened on February 6, 2014 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE
TRAFFICKING IN ILLEGAL DRUGS
(HEROIN)

CDR: 0149 44-53-0370(e)(3)(c)

That Ray Mayo did in Sumter County on or about June 23, 2013, sell, deliver, purchase, or bring into this state, or did aid, abet, attempt or conspire to sell, deliver, purchase or bring into this state, or was knowingly in actual or constructive possession of a quantity of Heroin in an amount of twenty-eight grams or more, same being a controlled substance all within the meaning of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, in violation of Section 44-53-0370(e)(3), S. C. Code of Laws, 1976, as amended, for the crime of Trafficking.

COUNT TWO
TRAFFICKING IN ILLEGAL DRUGS
(HEROIN)

CDR: 0149 44-53-0370(e)(3)(c)

That Certoya Mayo did in Sumter County on or about June 23, 2013, sell, deliver, purchase, or bring into this state, or did aid, abet, attempt or conspire to sell, deliver, purchase or bring into this state, or was knowingly in actual or constructive possession of a quantity of Heroin in an amount of twenty-eight grams or more, same being a controlled substance all within the meaning of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, in violation of Section 44-53-0370(e)(3), S. C. Code of Laws, 1976, as amended, for the crime of Trafficking.

Against the peace and dignity of the State, and contrary to the statute in such case made
and provided.

Solicitor

E. Bennett Frazier III