

State of South Carolina  
County of Charleston  
Alicia Beaton #327914  
Petitioner

vs.

The State of South  
Carolina  
Respondent

In the Supreme  
Court

Case # 2014-00000

Motion For Relief  
Of Judgement  
**RECEIVED**

AUG 19 2015

Petitioner brings forth this motion  
for relief of judgement pursuant  
to Rule 60(b)(4) of South  
Carolina Rules of Civil Procedure.

S.C. SUPREME COURT

Petitioner seeks relief of the lower  
court's decision to dismiss  
petitioner's PCR application; due to  
the extrinsic fraud; that took  
place at the April 15; hearing;  
which is void and meritless.

### Procedural History

On January 26, 2012 Petitioner  
appeared before the Honorable  
Judge Hughston; at which time

Petitioner Pleaded Guilty.

At this hearing Petitioner was represented by Ashley Pennington and the State was represented by Jennifer Sheehy.

At the hearing Petitioner was sentenced to 30 years for Burglary 1<sup>st</sup> degree; 30 years for Kidnapping 30 years for Abduction; which was run current with the 35 years for Murder.

On November 26; 2012 Petitioner filed an application for Post Conviction Relief. The State filed its return on April 16; 2013.

On December 5, 2012 Petitioner was appointed Joseph Francis Hand Jr. to represent him at his PCR Hearing.

However - On April 15, 2014 the Petitioner was represented by a J. Michael Bosnuk who was not approve to represent Petitioner until 2 days after the April 15; Hearing.

### ISSUES

(1) Pursuant to Rule 60(B)(3) of SCRP Petitioner is entitle to Relief of the April 15; hearing; due to the misrepresentation and Fraudulent behavior of Attorney J. Michael Bosnuk and the Misconduct of the Adversy Party who was aware that this was not Petitioner's Appointed Counsel.

(2) Due to the Extrinsic Fraud of Attorney J. Michael Bosnuk and the Adversy Party; Petitioner was Prejudice; which prevented Petitioner from presenting his case and/or being heard.

(3.) Petitioner is entitled to be granted Relief of the Lower Courts Finding of Facts and Conclusion of Law; due to the Extrinsic Fraud that took place during the April 15; hearing; making it void and meritless.

### Issue #1

Petitioner is entitled to Relief of Judgement Pursuant to Rule 60 (B) (3) of S.R.C.P.; due to the Misrepresentation and Fraudulent behavior of Attorney, A. Michael Bosnak and the Misconduct of the adverse party who was aware that the above mentioned attorney was not Petitioner's appointed counsel.

On December 5; 2012 it was Filed by the Honorable Clerk of Court Aule Armstrong of Charleston County

that Joseph Francis Hand Jr  
was the appointed Counsel  
for Petitioner's PCR Application  
Case # 2012-CP-10-7608.

Periculously Petitioner wrote to  
the Honorable Julie Armstrong  
inquiring: "Who was Petitioner's  
appointed Counsel?" The Honorable  
Julie Armstrong replied back to  
the Petitioner by sending documents  
proving that Petitioner's PCR  
Counsel was still Joseph Francis  
Hand Jr.

On March 18, 2014: Twenty-Seven  
(27) days before the April 15 -  
hearing Petitioner received a  
document from the Honorable  
Julie Armstrong in response to  
a letter from Petitioner once  
again inquiring about who was  
Petitioner's appointed Counsel;  
and once again the document  
stated Petitioner's appointed Counsel

was Joseph Francis Hand Jr.

PURSUANT TO RULE 11.1 (D) APPOINTMENT OF COUNSEL: PETITIONER WAS ENTITLED TO HAVE A REASONABLE AMOUNT OF TIME TO CONFER WITH COUNSEL TO ENSURE THAT ALL AVAILABLE GROUNDS FOR RELIEF IS INCLUDED IN THE APPLICATION.

PETITIONER WAS DENIED THIS RIGHT AND WAS NEVER GIVEN THE OPPORTUNITY TO GET A FAIR BIT OUT THE APPLE OF JUSTICE; DUE TO THE MISREPRESENTATION AND FRAUDULENT BEHAVIOR OF ATTORNEY J. MICHAEL BOSNOK AND THE ADVERSARY PARTY WHO WAS BOTH AWARE OF THE FRAUD BEING COMMENCED AT THE APRIL 15<sup>TH</sup> HEARING.

On April 15, 2014 Petitioner went to an evidentiary hearing in front of the Honorable Judge Dennis.

At the commencement of the PCR hearing Petitioner asked the court for a continuance (PCR transcript page 3: lines 11-12).

At which time the court asked "why"? (PCR transcript page 3: lines 13) Petitioner then informed the court that he was not ready to proceed with the proceedings because he didn't have the material to proceed (PCR transcript page 3: lines 14-16)

The court informed Petitioner: that he was not representing himself and asked attorney Michael Bosnak was he ready to proceed; at which time counsel stated "yes". (PCR transcript page 3 lines 17-20)

DUE TO THE COURTS DENIAL OF  
PETITIONERS REQUEST FOR A CONTIN-  
UANCE (PLR TRANSCRIPT PAGE 3:  
LINES 21-24) PETITIONER WAS DENIED  
HIS FAIR BIT AT THE APPEAL OF  
JUSTICE AND THE EXTRINSIC FRAUD  
BEGAN.

EXTRINSIC FRAUD: IN SOUTH  
CAROLINA, EXTRINSIC FRAUD IS THE  
ONLY TYPE OF FRAUD FOR WHICH  
RELIEF MAY BE GRANTED UNDER  
RULE 60(B)(3), S.C.R.P. EXTRINSIC  
FRAUD IS "FRAUD THAT INDUCES  
A PERSON NOT TO PRESENT A  
CASE OR DEPRIVES A PERSON OF  
THE OPPORTUNITY TO BE HEARD"  
Clincy vs. Clincy 382 S.C. 414 -  
425 - 426, 675 S.E.2D 792 - 798  
117 APP 2009) Chewing vs Ford  
MOTER CO. 354, S.C. 72, 579 -  
S.E.2D 605 2003

DUE TO THE COURTS DENIAL OF  
PETITIONER REQUEST FOR CONTINUANCE -  
PETITIONER WAS PREJUDICE WHICH  
HINDERED THE PETITIONER FROM  
PROVING BEYOND A REASONABLE DOUBT  
THAT PETITIONER IS ENTITLED FROM  
RELIEF OF THE INVOLUNTARY GUILTY  
PLEA AS REQUIRED BY RULE 71.1 (E)  
AS WELL AS STRICKLAND VS WASHINGTON  
466 U.S. 1068 - 104 S.Ct 2052  
80 - L.E.2d 1074 (1984) LEXIS 79 -  
HILL VS LOCKHART 474 U.S. 52  
1985 - Cherry vs State 300 S.C  
115 - 117 - 386 S.E.2d 624 - 625  
1989.

DUE TO THIS ACT OF FRAUD  
PETITIONERS 5<sup>th</sup> - 6<sup>th</sup> AND 14<sup>th</sup>  
AMENDMENT RIGHTS OF THE U.S.  
CONST. HAS BEEN VIOLATED AS  
WELL AS PETITIONERS S.C. CONST  
RIGHTS OF ARTICLE 1 SECTION 3.

NO TRANSITIONS OR SUBSTITUTION OF COUNSEL WAS EVER GRANTED UNTIL APRIL 17, 2014; WHICH IS TWO (2) DAYS AFTER THE APRIL 15 HEARING WHICH MAKES THE HEARING VOID AND MERITLESS.

SEE EXHIBIT (A) OF THIS PETITION TO SHOW PROOF OF PETITIONERS COLLECTIONS.

### ISSUE #2

DUE TO THE EXTRINSIC FRAUD THAT TOOK PLACE AT THE APRIL 15 HEARING PETITIONER WAS PREJUDICED; WHICH PRECLUDED PETITIONER FROM BEING HEARD AND/OR PRESENTING HIS CASE.

AT THE PCR HEARING PETITIONER WAS ASKED BY J. MICHAEL BOSNAK "WHAT DID HE NOT HAVE A CHANCE TO REVIEW" (PCR TRANSCRIPT PAGE 5, LINES: 12-13)

STATE OF OHIO

IN PROCEEDINGS

PETITIONER ANSWERED BY STATING " HE  
DIDN'T HAVE THE PROPER MATERIALS  
I NEED ; I DON'T HAVE A FULL  
COPY OF MY BRADY MOTION AND  
I DON'T HAVE MY GUILTY PLEA  
TRANSCRIPT ( PCR TRANSCRIPT PAGE 5 -  
LINES 14 - 20 )

PETITIONER WAS DENIED FROM  
PROPERLY DEFENDING HIMSELF AND  
SHOWING BY THE PREPONDERANCE  
OF EVIDENCE ; THAT HE WAS  
ENTITLED TO RELIEF OF HIS SENTENCE  
AND CONVICTION BECAUSE ( 1 ) PETITIONER  
WAS NOT IN POSSESSION OF HIS  
GUILTY PLEA TRANSCRIPT OF THE  
JANUARY 26 HEARING - WHICH HE  
DIDN'T RECEIVE UNTIL TWO ( 2 ) DAY  
AFTER HIS APRIL 15. HEARING .

( 2 ) PETITIONER'S GUILTY PLEA TRANSCRIPT  
WAS IN THE HANDS OF A MICHAEL  
BOSNAK ; WHO WAS NOT PETITIONER'S  
COUNSEL AND HAD NO REASON TO  
BE IN POSSESSION OF PETITIONER'S  
GUILTY PLEA TRANSCRIPTS .

(1). On April 15, 2014; Petitioner did not have his Guilty Plea transcript; which is the heart of Petitioner's PCR hearing. Two (2) days later on April 17, 2014 Petitioner received his Guilty Plea transcript at which time Petitioner moved diligently and amended his PCR application pursuant to Rule 15(A), 52(B) and 59(E).

In the motions to Amend and or Alter Judgement Petitioner showed and proved how he would have been granted relief; due to the trial court's error in failing to question Petitioner on the record to find out: if Petitioner was under the influence of any drugs; alcohol or medication at the time of his Guilty Plea.

Trial Counsel was ineffective and negligent in failing to intervene or make sure that the record was competent and complete.

Trial Counsel was ineffective for not properly investigating Petitioner's mental health issues; which would have assisted attorney in building a defense for Counsel.

(2) Petitioner was prejudiced by attorney J. Michael Bosnak who was not Petitioner's attorney and should not have been in possession of the Petitioner's guilty plea transcript.

Had Petitioner had possession of his transcript Petitioner would have been able to show by the preponderance of evidence how Petitioner's guilty plea was involuntary and unknowingly entered which would have granted him relief.

Due to the fraudulent behavior of the above mentioned attorney Petitioner's 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> U.S. Const. Amend. rights has been violated.

See Exhibit (B) to see PROOF OF PETITIONERS ALLEGATIONS.

### ISSUE # 3

Petitioner is entitled to be granted relief of the lower courts finding of facts and conclusion of laws due to the extrinsic fraud that took place at the April 15 hearing; which is void and meritless

Petitioner is entitled to an evidentiary hearing and respondents have a responsibility and duty to grant Petitioner this hearing because (1) Issues brought forth in this Petition have a genuine issue of material facts which must be addressed. Pursuant to S.C. Code Ann § 17-27-80

(2) Pursuant to S.C. Code Ann § 17-27-80 Petitioner is entitled to an evidentiary hearing on the issues being presented.

(3) PURSUANT TO S.C. CODE ANN § 17-27-20 AND S.C. CODE ANN § 17-27-20 (A) (4) THIS IS PETITIONER'S LEGAL RIGHT OF THE PCR PROCEDURE ACT WHICH IS HELD UP BY THE 14<sup>TH</sup> AMENDMENT OF THE U.S. CONST.

SHOWING THE ALTY IS NECESSARY BECAUSE PETITIONER IS BEING HELD CAPTIVE UNLAWFULLY UNDER A UNKNOWINGLY - UNVOLUNTARY AND AN UN-INTELLIGENT GUILTY PLEA.

(4) THIS IS THE ONLY REMEDY PETITIONER HAS TO COMPLETE THE RESPONSE TO TO GRANT PETITIONER WHICH IS DUE TO HIM - WHICH IS THE RELIEF OF JUDGEMENT AND A NEW EVIDENTIARY HEARING ON ALL MERITS AND FACTS PRESENTED IN THIS PETITION AND PETITIONER'S MOTIONS TO AMEND AND/OR ALTER JUDGEMENT FILED UPON THE LOWER COURTS.

## CONCLUSION

That Petitioner be granted Relief  
of Lower Courts decision to  
Dismiss Petitioner PCR Application  
and a new PCR hearing on  
the merits and facts of the  
Petition.

Respectfully Submitted  
By: A. Beaton

Adrian Beaton # 327014  
Mcormick Corr. Inst  
386 Redemption Way  
Mcormick S.C. 29899

Dated: August 3 2015

Exbit A

JAM JAQEL  
MOOR JAM



ALAN WILSON  
ATTORNEY GENERAL

December 5, 2012

BY \_\_\_\_\_

JULIE J. ARMSTRONG  
CLERK OF COURT

2012 DEC -6 PM 1:40

FILED

The Honorable Julie J. Armstrong  
Charleston County Clerk of Court  
100 Broad Street  
Charleston, SC 29401

RE: Adrian Beaton, # 327914 v. State of South Carolina  
2012-CP-10-7668

Dear Ms. Armstrong:

The above-referenced individual has filed an Application for Post-Conviction Relief (PCR) in the Circuit Court and needs to have an attorney appointed to represent him. If you will appoint an attorney and let me know his/her name, I will send him or her a copy of our file in this matter.

His attorneys listed on his pcr action are "Ashley Pennington."

If you have any questions with regard to this matter, please let me know.

Yours very truly,

Anne Henley, Legal Assistant for  
Ashleigh R. Wilson, Assistant Attorney General

/arh

cc:

The Honorable Deadra L. Jefferson, Ninth Circuit Administrative Judge

Joseph Francis Hand Jr



STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

IN THE COURT OF (Select one)  
 COMMON PLEAS  FAMILY COURT

Adrian Beaton )  
Plaintiff(s) )

CASE NO: 2012-CP-10-7668  
APPOINTMENT OF COUNSEL

Vs. )

ORDER  
 AMENDED ORDER

State of South Carolina )  
Defendant(s) )

FILED  
2013 FEB 11 AM 11:37  
JULIE J. ARMSTRONG  
CLERK OF COURT

TYPE OF CASE/PROCEEDING: (Check one)

- Post-Conviction Relief (PCR)/Habeas Case
- Sexual Violent Predator Case (SVP)
- Minor Name Change
- Abuse and Neglect
- Adoption
- Custody and/or Visitation
- Juvenile
- Other

It appears that Adrian Beaton, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one)

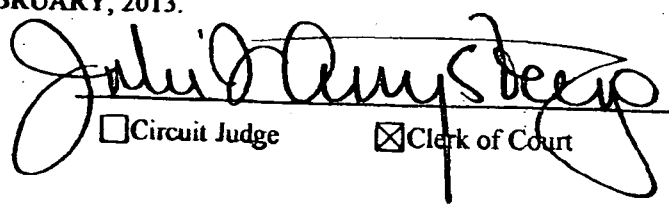
- Counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- Counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on:
- Counsel was previously appointed by the court but has indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- Court appointed counsel has obtained \_\_\_\_\_, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other:

Therefore, it is ordered that Joseph Francis Hand Jr. is hereby appointed as (Select one)  
 counsel  lead counsel (if capital PCR case)  guardian ad litem  
for the above-named person. Any counsel or GAL previously appointed is hereby relieved.

(If Death Penalty PCR Case) It is further ordered that \_\_\_\_\_, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 11TH DAY OF FEBRUARY, 2013.

  
 Circuit Judge  Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at [www.sccid.sc.gov](http://www.sccid.sc.gov), and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

**JULIE J. ARMSTRONG**

CLERK OF COURT, C.P. & G.S.  
100 BROAD STREET, SUITE 106  
CHARLESTON, SC 29401-2258

**RETURN SERVICE REQUESTED**



[www3.charlestoncounty.org](http://www3.charlestoncounty.org)



14



JOSEPH FRANCIS HAND JR.  
106 W 7TH NORTH ST  
SUMMERVILLE SC 29483-6619

**NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC**

**Order Joseph Hand Jr is appt counsel for plntff**

**CASE NO: 2012CP1007668**

**Adrian Beaton VS South Carolina State of**

This judgment was entered on the 11th day of February, 2013, and a copy mailed first class on Thursday, February 14, 2013, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at [www3.charlestoncounty.org](http://www3.charlestoncounty.org).

STATE OF SOUTH CAROLINA )

) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON )

)

) 2012-CP-10-7668

)

ADRIAN BEATON, #327914 )

) Applicant, )

)

) vs )

) AFFIDAVIT OF SERVICE BY MAIL

)

STATE OF SOUTH CAROLINA, )

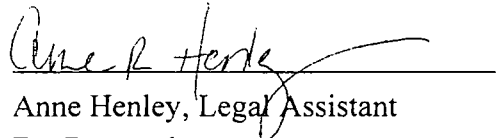
) Respondent. )

)

1. I am an employee of the Respondent in the above-captioned action.
  
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
  
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Joseph Francis Hand Jr, Esquire  
 106 W. 7<sup>th</sup> N. Street  
 Charleston, SC 29483

DATED this 16th day of April, 2013

  
 Anne Henley, Legal Assistant  
 For Respondent

Common Pleas

CASE HISTORY FOR CASE 2012CP1007668

Adrian Beaton VS South Carolina State of

CASE TYPE: CP/Post Convict Rel 500

JUDGE: Clerk Of Court C P, G S, And Family Court

FILED DATE: 11/26/2012

STATUS: PCR

CASE PARTIES:

Plaintiff Beaton, Adrian

Defendant South Carolina State of

Defendant Attorney Wilson, Ashleigh Rayanna  
PO Box 11549, Columbia, SC 29211

Plaintiff Pro Se Beaton, Adrian  
#327914 Lieber C I, P O Box 205, Ridgeville, SC 29472

Plaintiff Attorney Hand, Joseph Francis Jr.  
106 W. 7Th N. St., Summerville, SC 29483

CASE HISTORY FOR CASE 2012CP1007668

Beaton, Adrian Age: Unknown DOB: Unknown  
DL#: SSN: 000-00-0000

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
------	----------	-------------	-----------	--------------

Total:

DATE	TIME	EVENT DESCRIPTION
11/29/2012	10:20 AM	Filing recorded: Filing/Filing Of Email to Atty General PCR
11/26/2012	11:46 AM	Filing recorded: Post Conviction Relief
2/11/2013	12:01 PM	Order Joseph Hand Jr is appt counsel for plntff
4/12/2013	1:35 PM	Filing recorded: Letter Fr/ Plntff to Atty Hand in Re: Status of Case & Ct/Sv

Print Date: 12/13/2013  
Print Time: 4:06:16PM  
Requested By: COCBLC

Common Pleas

CASE HISTORY FOR CASE 2012CP1007668

Adrian Beaton VS South Carolina State of

CASE TYPE: CP/Post Convict Rel 500

JUDGE: Clerk Of Court C P, G S, And Family Court

STATUS: PCR

FILED DATE: 11/26/2012

CASE PARTIES:

Plaintiff Beaton, Adrian

Defendant South Carolina State of

Defendant Attorney Wilson, Ashleigh Rayanna  
PO Box 11549, Columbia, SC 29211

Plaintiff Pro Se Beaton, Adrian  
#327914 Lieber C I, P O Box 205, Ridgeville, SC 29472

Plaintiff Attorney Hand, Joseph Francis Jr.  
106 W. 7Th N. St., Summerville, SC 29483

*Your appointed  
counsel*

*843-875-7111*

CASE HISTORY FOR CASE 2012CP1007668

Beaton, Adrian

Age: Unknown  
DL#:

DOB: Unknown  
SSN: 000-00-0000

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
------	----------	-------------	-----------	--------------

Total:

DATE	TIME	EVENT DESCRIPTION
11/29/2012	10:20 AM	Filing recorded: Filing/Filing Of Email to Atty General PCR
1/21/2014	8:56 AM	Order/Continuance to the next term
11/26/2012	11:46 AM	Filing recorded: Post Conviction Relief
2/11/2013	12:01 PM	Order Joseph Hand Jr is appt counsel for plntff
1/12/2013	1:35 PM	Filing recorded: Letter Fr/ Plntff to Atty Hand in Re: Status of Case & Ct/Sv

Print Date: 03/18/2014  
Print Time: 2:33:14PM  
Requested By: COCBLC

CaseHistory.rpt

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
ADRIAN BEATON, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
STATE OF SOUTH CAROLINA, )  
 )  
Defendant. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
CASE NO: 2012-CP-10-7668

**ORDER OF SUBSTITUTION OF  
COUNSEL**

**FILED**  
2014 APR 17 AM 11:59  
JULIE J. ARMSTRONG  
CLERK OF COURT

The above-named Plaintiff has filed Post-Conviction Relief (PCR) action against the Charleston County Public Defender's Office. Joseph Francis Hand was appointed as counsel to represent the above-named Plaintiff.

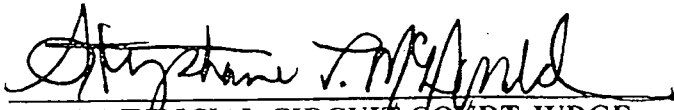
And the attorney, Joseph Francis Hand, has advised the Plaintiff, Adrian Beaton, that he has retained the Law Office of J. Michael Bosnak to represent him in the above-referenced case.

**THEREFORE**, on motion of J. Michael Bosnak and with the consent of Joseph Francis Hand it is **ORDERED, ADJUDGED, AND DECREED**, that the Attorney Joseph Francis Hand is hereby relieved as counsel regarding the above-referenced matter and that Attorney J. Michael Bosnak is appointed counsel of record, **AND IS SO ORDERED.**

*Handwritten signature*

\_\_\_\_\_

\_\_\_\_\_

  
NINTH JUDICIAL CIRCUIT COURT JUDGE

North Charleston, S.C.  
April 18, 2014  
15,

I SO MOVE

  
J. MICHAEL BOSNAK  
Attorney at Law

I CONSENT

  
JOSEPH FRANCIS HAND  
Attorney at Law



**Julie J. Armstrong**  
Charleston County Clerk of Court

Charleston County  
Circuit Court Case Details  
Public Index

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Switch View

**Adrian Beaton VS South Carolina State of**

Case Number:	2012CP1007668	Court Agency:	Common Pleas	Filed Date:	11/26/2012
Case Type:	Common Pleas	Case Sub Type:	Post Convict Rel 500	File Type:	PCR
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:	Ended by Non Jury	Disposition Date:	04/16/2014	Disposition Judge:	Dennis, R. Markley Jr.
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties    Judgments    Tax Map Information    Associated Cases    Actions    Financials

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Beaton, Adrian	Appeal/Supreme Court & Proof/Serv	Action		09/12/2014-09:23		
Beaton, Adrian	Order/Dismissal	Order		08/01/2014-09:41		
Beaton, Adrian	Motion to Amend or Alter Judgment, crt/srv	Filing		05/12/2014-09:51		
Beaton, Adrian	Motion to Amend or Alter Judgment	Filing		04/29/2014-13:33		
Beaton, Adrian	Order/Substitution Of Counsel-Bosnak in place of Hand	Order		04/17/2014-12:37		
	Order/Order application for PCR is denied	Order		04/16/2014-09:06		
	Order/Continuance to the next term	Order		01/21/2014-08:56	04/16/2014-08:56	
South Carolina State of	Return & Aff/Mail	Filing		04/17/2013-16:13	04/16/2014-16:13	
Beaton, Adrian	Letter Fr/ Plntff to Atty Hand in Re: Status of Case & Ct/Sv	Filing		04/12/2013-13:35	04/16/2014-13:35	
Beaton, Adrian	Order Joseph Hand Jr is appt counsel for plntff	Order		02/11/2013-12:01	04/16/2014-12:01	
	Filing/Filing Of Email to Atty General PCR	Filing		11/29/2012-10:20	04/16/2014-10:20	
Beaton, Adrian	Post Conviction Relief	Filing		11/26/2012-11:46	04/16/2014-11:46	

CMSWeb 6.1  
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**Julie J. Armstrong**  
Charleston County Clerk of Court

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Switch View					
<b>Adrian Beaton VS South Carolina State of</b>					
Case Number:	2012CP1007668	Court Agency:	Common Pleas	Filed Date:	11/26/2012
Case Type:	Common Pleas	Case Sub Type:	Post Convict Rel 500	File Type:	PCR
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:	Ended by Non Jury	Disposition Date:	04/16/2014	Disposition Judge:	Dennis, R. Markley Jr.
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

<a href="#">Case Parties</a> <a href="#">Judgments</a> <a href="#">Tax Map Information</a> <a href="#">Associated Cases</a> <a href="#">Actions</a> <a href="#">Financials</a>							
Click the <input checked="" type="checkbox"/> icon to show associated parties.							
Name	Address	Race	Sex	Date Of Birth	Party Type	Party Status	Last Updated
<input checked="" type="checkbox"/> Beaton, Adrian					Plaintiff		09/16/2014
<input checked="" type="checkbox"/> Beaton, Adrian	#327914 Lieber C I P O Box 205 Ridgeville SC 29472				Plaintiff Pro Se		05/13/2014
<input checked="" type="checkbox"/> Bosnak, John Michael	1495 Remount Road North Charleston SC 29406				Plaintiff Attorney		08/01/2014
<input checked="" type="checkbox"/> Hand, Joseph Francis Jr.(Inactive)	106 W. 7Th N. St. Summerville SC 29483				Plaintiff Attorney		04/18/2014
<input checked="" type="checkbox"/> Beaton, Adrian					Plaintiff		09/16/2014
<input checked="" type="checkbox"/> South Carolina State of					Defendant		11/26/2012
Wilson, Ashleigh Rayanna	PO Box 11549 Columbia SC 29211				Defendant Attorney		11/26/2012
<input checked="" type="checkbox"/> Wilson, Ashleigh Rayanna	PO Box 11549 Columbia SC 29211				Defendant Attorney		11/26/2012

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Exhibit B

Joseph Francis Hand Jr.  
WELLS and IVINE LLC, LAW FIRM  
106 W. N 7th Street  
Summerville S.C 29483

Date: 8/20/14

Dear Mr Hand Jr.,  
This is in concerns with getting you  
to file a rule 59(c) dealing with  
the trial court failing to properly finding  
a finding of facts and conclusion of  
law on the motion to Amend or Alter  
Judgement I filed in case # 2012-CP-  
10-7608. I filed this motion upon  
the Defendants and Clerk of Court.  
IF YOU FAIL TO FILE OR DO THIS I DO  
HAVE A COPY OF THIS LETTERS SO PLEASE  
KNOW AND UNDERSTAND THIS WILL BE MY  
EXHIBIT (A) TO SHOW TO THE COURT. I  
WROTE YOU ASKING YOU TO DO THIS.  
ALSO IF YOU FAIL TO DO THIS I WOULD  
ALSO LIKE YOU TO FILE A NOTICE OF  
APPEAL. THANK YOU FOR YOUR TIME  
IN ADVANCE.

Respectfully Submitted  
B. S. Beator

State of South Carolina  
County of Charleston

Adrian Bouten # 327914  
Applicant

VS

State of South Carolina  
Respondent

In Court of Common Pleas

2012-CP-10-76

Motion to Amend or Alter  
Judgement

FILED  
2014 APR 29 PM 1:03  
JULIE R. HARRIS  
CLERK OF COURT

Applicant moves to amend per Application Pursuant to South Carolina Civil Procedure Rule 15, Rule 52(1) and Rule 59(E).

Applicant went to court on April 15 2014 in front of the Honorable Judge Dennis upon request for an evidentiary hearing at which time applicant was not prepared to comply with the procedure because applicant was not in the possession of his guilty plea transcript of the Jan. 26, 2012 guilty plea hearing, which applicant received on April 17 2014.

Therefore applicant hereby file this motion upon the court to have the judgement amended.

### Statement of Facts

Issues to be included in the Supplemental Amendment. Applicant just received guilty plea transcript for guilty plea hearing held on Jan 26 2012.

Applicants guilty plea was not knowingly, voluntarily or intelligently made because applicant was under the influence of psychotropic medication at the time of guilty plea hearing. Applicant trial counsel was ineffective for not requesting trial court to ask me if I was under the influence of any drugs, alcohol or medication at the time of my guilty plea hearing. Applicant was prejudiced because medication he was on would not allow him to make a intelligent decision.

# Arguments

## Issue 1

Trial Court erred in failing to question applicant on the record if he was under the influence of any drugs, alcohol or medication at the time applicant entered his plea of guilt, requires a automatic reversal of applicants conviction and sentence. Applicant did not knowingly, voluntarily or intelligently entered his guilty plea due to trial court error.

The trial court records speak silent of this trial courts error which requires a automatic reversal State vs Orr 408, S.C. S. Ed. 2d 23 (1992). Applicants 14th amendment right has been violated under Applicant United State Constitutional right. Also pursuant to South Carolina Article 1 Section 3 of applicants South Carolina Constitutional rights has been violated as well.

It is the Courts requirement to question applicant on the record if he was under the influence of any drugs, alcohol or medication during the guilty plea hearing. Any plea of guilt cannot be knowingly, voluntarily or intelligently held without the Judge's requirement on the record. Boykin vs Alabama 395, U.S. 238, 89, S. Ct 1709, 23 L. Ed. 2d 274 (1969).

Hill vs Lockhart 474, U.S. 52 (1985).

Therefore Applicants guilty plea is not knowingly, voluntarily or intelligently entered. Applicant is prejudice because trial court failed to question applicant on the record if he was under the influence of any drugs, alcohol, or medication. If trial court would have ask this question applicant would have inform trial court that he was under the influence of Psychotropic medication that he took from other prisoner's because he was stressed out and unable to cope with stress applicant was under due to his case.

Therefore by trial court's error in failing to question applicant on the record to know if he was under the influence of any drugs, alcohol or medication renders applicant plea invalid. Also there is a reasonable probability that the outcome would have been different because if trial court asked this question trial court would have been aware that applicant was under the influence of psychotropic medication at the time of hearing that could not allow applicant to make a intelligent decision.

Trial Court error in failing to construct a knowing/willful or intelligent waiver of the recorded requires a automatic reversal of the applicants conviction and sentence because the record speak silent State vs Orr 409, S.C. S. Ed. 2d 23 (1991)

### ISSUE 2

Trial Counsel was ineffective by failing to request upon the court to question applicant on the recorded was applicant under the influence of any drugs alcohol or medication at the time of the hearing when trial counsel was aware of applicants mental health issues, by trial counsel's failure to request the trial court to question applicant on the recorded was applicant under the influence of any drugs, alcohol or medication violate applicants 6<sup>th</sup> and 14<sup>th</sup> amendment rights of applicants United State Constitution rights and under applicants South Carolina Article 1 Section 3 of applicants South Carolina Constitutional rights as well. Strickland vs Washington 466 U.S. 668 104 S.Ct. 2052, 80 L. Ed. 2d 674 (1984) Lexis 79, Hill vs Lockhart 474 U.S. 52 (1985), and if trial counsel was not aware trial counsel is ineffective for not doing a thorough investigation that could help counsel make strategic decision on defenses for applicants defense at trial Smith vs Wiggins 123 S.Ct. 2527 (2003), Williams vs Fulmer 120 S.Ct. 1495 (2000)

Therefore applicant has been prejudiced because trial counsel fell below standards and didn't object or intervene when trial court failed to question applicant on the record was applicant under the influence of any drugs, alcohol or medication, and there is a reasonable probability that the outcome would have been different because trial court would have been aware that applicant was under the influence of psychotropic medication that could not allow applicant to make an intelligent decision.

All records reflect these allegations presented by applicant. See guilty plea transcript pages. Page 5, 20-25. Page 6, 1-25. Page 7, 1-25 and Page 8, 1-6. Applicant presents these transcript pages of the record to be included as Exhibit (A).

Proof to substantiate that applicant just received a copy of his guilty plea transcript will be a photo-copy of the received envelope in which the transcript came in and will be applicant's Exhibit (B), showing why applicant moves to amend applicant's PCR application pursuant to Rule 15, Rule 52 and Rule 59(c) of South Carolina Civil Procedure. This court has not made a decision on applicant's PCR application so applicant is entitled to amend his PCR application and any denial will be constituted as gross miscarriage of justice. Butler vs State S. Ed. 2d 87 (1990)

Under Rule 71.1(F) and pursuant to S.C. Code Ann 17-2780 applicant requests upon the court to give a specific finding of fact and conclusion of the law related to each issue now amended.

### Conclusion

Applicant's conviction and sentence must be reversed.

Respectfully Submitted  
By: Ade Ben

Adrian Brothers # 27914  
Lieber Corr. Inst  
P.O. Box 005  
Ridgewill S.C 29070

Date: April 25, 2014

(5)

Julie Armstrong  
Clerk of Court  
Charleston County  
100 Broad Street  
Charleston S.C. 29407

May 7 2014

RE: 2012-CP-10-7668

Dear Ms. Armstrong,  
Please Close and Filed this Motion to Amend or Alter  
Judgement that is hereby being Filed upon you.

Respectfully Submitted  
By: Kelli Baker  
Adrian Benton # 27911  
Liber Court Inst  
P.O. Box 205  
Ridgelyville S.C. 29472

Date May 7 2014

CC: Ashleigh Wilson  
Assistant Attorney General  
P.O. Box 11540  
Columbia S.C. 29211  
Records

State of South Carolina  
County of Charleston

Adrian Beaton # 327014  
Applicant

vs.

State of South Carolina  
Respondent

In Court of Common Pleas

2012-CP-16-7668

Motion to Amend or Alter  
Judgement

FILED  
2014 MAY 12 PM 1:55  
JULIE J. ARMSTRONG  
CLERK OF COURT

Applicant moves to Amend PCR Application Pursuant to South Carolina Civil Procedure Rule 15, Rule 52 and Rule 54(E).

Applicant went to Court on April 15 2014, in front of the Honorable Judge Dennis upon request of an evidentiary hearing at which time Applicant was not prepared to comply with the procedure because Applicant was not in possession of his Guilty Plea transcript which Applicant received on April 17 2014.

Therefore Applicant hereby file this motion upon the Court to have the Judgement amend or Alter.

### Statement of Facts

On April 15 2014, I went to PCR hearing in front of the Honorable Judge Dennis at which time Applicant was not in possession of Applicant's Guilty Plea transcript, which Applicant received on April 17 2014 after coming back from court at which time Applicant filed a motion to Amend or alter Judgement to Julie Armstrong Clerk of Court for Charleston County and to Ashleigh Wilson Assistant Attorney General on April 25 2014.

Applicant submitted the motion to Amend or Alter Judgement because Applicant just received Guilty Plea transcript from Applicant on April 26 2014 hearing.

Applicant is now filing this motion to Amend or Alter Judgement to Submit Exhibit(B) in to the record pursuant to South Carolina Civil Procedure Rule 15, Rule 52 and Rule 59(C).

Proof to substantiate that Applicant just received a copy of his guilty plea transcript Applicant submits a photocopy of the received envelope in which the guilty plea transcript came in and this will be Applicant's Exhibit (B) showing why Applicant moves to Amend Applicant's Application pursuant to Rule 15, Rule 52 and Rule 59(C) of South Carolina Civil Procedure. This Court has not made a decision on Applicant's PCR application so Applicant is entitled to amend his PCR application and any denial will be constituted as Gross Miscare of Justice Butler vs State, S. Ed 87 (1990)

So therefore Applicant submits Exhibit(B) into the record

Respectfully Submitted  
By: Adrian Beato  
Adrian Beato # 922410  
Lieber Court, In St  
P.O. Box 205  
Edgeville S.C 29822

The Law Office of  
J. Michael Bosnak  
P.O. Box 63291  
N. Charleston, S.C. 29419

To Court  
4/14/14

MA  
112

Adrian Beaton  
Inmate # 327914

**RECEIVED**  
APR 17 2014  
MAIL ROOM  
LIEBER C.A.

2012-CP-1057668

Certificate of Service

I Adrian Beaton #327914 Certify that on May 7 2014 Served this Motion to Amend or Alter Judgment upon Julie Armstrong Clerk of Court Charleston County by way of U.S. Postage mail on the following date May 7 2014

FILED  
2014 MAY 12 PM 4:54  
JULIE S. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

Respectfully Submitted  
By. Adrian Beaton

Adrian Beaton #327914  
Liber Corr Inst  
Ridgelyville S.C. 29479  
P.O. BOX 205

Date May 7 2014

Certificate of Service

I: hereby certify: that I Aclivian  
Beaton # 327914 OF M'cormick Corp.  
Inst. Served a COPY OF the  
Foregoing motion OF Relief OF  
Judgement by way OF U.S.  
Postage FROM the UNCLERSIGNED  
Institution UPON the SUPREME  
Court; ON AUGUST 13; 2015

UNCLERSIGNED Institution: M'cormick  
Corp. Inst. 386 Redemption Way  
M'cormick S.C. 29899.

Served ON: Daniel E. Shearouse  
Clerk OF COURT P.O. Box 11330  
Columbia S.C. 29211

Respectfully Submitted  
By: A. Beaton

Sworn TO Before me ON the 13<sup>th</sup>  
OF AUGUST 2015

Adrian Beaton # 392914  
McCormick Correctional Institute  
386 Redemption Way  
McCormick, SC 29899

Daniel E. Sheffolds  
Clerk Of Court  
Supreme Court  
P.O. Box 11330  
Columbia S.C. 29211