

R. James Miller, Jr. # 316017

Manning Court Inst.

502 Beckman Drive

Columbia, SC 29203

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SEP 30 2015

SC Court of Appeals

September 21, 2015

Jenny Abbott Kitchings, Clerk

The South Carolina Court of Appeals

P.O. Box 11629

Columbia, SC 29211

Appellate case No. 2014-001964

Dear Clerk,

I am in receipt of your letter dated September 21, 2015. I do not understand what you are asking for. A proof of service for everything in this case has been mailed to, accepted and filed in your office. The last thing I filed in your office was a "Traverse" (my response to the Initial Brief of Respondent) dated August 5, 2015. A proof of service was included. For some reason, your office returned part of the documents and incorrectly labeled them as 'extra documents that were filed with the Appellant's initial reply brief' (see attached).

Everything has been properly filed in this case. The only thing missing is a transcript because there isn't one, there was no hearing. Again, I do not understand what you are asking me for?

Thank you,
R. James Miller, Jr.



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The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 21, 2015

Robert James Miller, Jr., #316047
Manning Correctional Institution
502 Beckham Drive
Columbia SC 29203

Re: Robert Miller v. Robert Stevenson
Appellate Case No. 2014-001964

Dear Mr. Miller:

Our records reflect your proof of service of record on appeal should have been filed with the Court. Within ten days of the date of this letter, you must file your proof of service of record on appeal along with a motion requesting permission to file the document out-of-time. Your appeal will be dismissed if no motion is made within ten days of the date of this letter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny A. Kitchens".

CLERK

cc: Alan McCrory Wilson, Esquire
John Croom Colvin Hunter, Esquire

The South Carolina Court of Appeals

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SEP 30 2015

SC Court of Appeals

Robert James Miller, Jr.,

Appellant,

Appellate case No. 2014-001964

v.

Certificate of Service

Robert M. Stevenson, III,

Respondent.

I certify that a copy of the Record on Appeal was served on the Attorneys for the Respondent by depositing a copy in the U.S. Mail, postage prepaid on this 17th day of March 2015, addressed to:

Office of the Attorney General

P.O. Box 11549

Columbia, SC 29211-1549

Respectfully,

R. James Miller, Jr.

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SC Court of Appeals

Attachment RECEIVED

MAR 20 2015

IN THE SOUTH CAROLINA COURT OF APPEALS

Robert James Miller, Jr., :

Appellant,

Appellate Case No.

: 2014-001964

v.

Robert M. Stevenson, III,

Respondent.

Designation
of Matter

I certify that this designation contains no matter which is irrelevant to this application. Designation of matter to be included in the record of appeal:

- 1) Declaration in Support of Petition
- 2) Supplement to pending claims
- 3) Copy of Petition for Writ of Error Coram Nobis
- 4) Affidavit of Defendant for guilty plea
- 5) Arrest warrants: M400779, 80, 81 and M400917
- 6) Indictments: 2011-GS-20-035, 036, 037 and 045
- 7) Sentencing sheets
- 8) Rap sheet dated November 18, 2010
- 9) Guilty plea transcript pgs. 3, 15, 22-25, and 37
- 10) Court Orders dated 3/7/11, 10/14/11, and 4/5/12

Dated: March 17, 2015

Robert James Miller, Jr.
Robert James Miller, Jr.

Attachment A

- Simmons v. Blodgett, 910 F. Supp. 1519, 1524 (W.D. Wash. 1996)
"Because petitioner's ability to prove his claim continues to diminish rapidly over time, and is at risk of being lost, Justice requires that his habeas petition be heard expeditiously."

IV. ISSUE 4. Appellant was denied his constitutional right to Counsel on his direct appeal. See

- Douglas v. California, 372 U.S. 353, 356-58, 83 S.Ct. 814, 816-17.
- Halbert v. Michigan, 545 U.S. 605, 125 S.Ct. 2582, 2583.
- Evitts v. Lucey, 469 U.S. 387, 396, 105 S.Ct. 830, 836.
- Swenson v. Bosler, 386 U.S. 258, 259, 87 S.Ct. 996-97.
- Mason v. Hanks, 97 F.3d 887, 902 (7th Cir. 1996).
- Roe v. Flores-Ortega, 528 U.S. 470, 484, 120 S.Ct. 1029, 1038.
- Also Alston v. Garrison, 720 F.2d 812, 816 (4th Cir. 1983)
(holding that "the content of an appeal is heavily controlled by Counsel, and where... the defendant's trial lawyer also prosecuted the appeal, it is obvious that ineffective assistance of Counsel is not likely to be raised at trial or to appear among the assignments of Constitutional error" on appeal).

4) Relief requested:

Vacation of Conviction, sentence, and illegal restitution
Order and orders disposing of appellants personal property
and grant any additional relief this Court deems just,
proper and equitable.

Executed at Columbia, South Carolina
on March 9, 2015

Robert James Miller, Jr.
Robert James Miller, Jr.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 17, 2015

Robert James Miller, Jr., 316047
Manning Correctional Institution
502 Beckham Drive
Columbia SC 29203

Re: Robert Miller v. Robert Stevenson
Appellate Case No. 2014-001964

Dear Mr. Miller:

The extra documents that were filed with the appellant's initial reply brief are being returned to you. Now is not the time to file these documents, however, if you would like to file a designation of matter with your initial reply brief you must do so within ten days of the date of this letter, along with a motion to file same out of time.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Alan McCrory Wilson, Esquire
John Croom Colvin Hunter, Esquire

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AUG 10 2015

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS **SC Court of Appeals**

APPEAL FROM FAIRFIELD COUNTY
Court of General Sessions

2012 APR 11 P 4: 09

L. Casey Manning, Circuit Court Judge

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

Case No(s): 2011-GS-20-035, 2011-GS-20-036, 2011-GS-20-037

The State of South Carolina,

Respondent.

Robert James Miller, Jr.

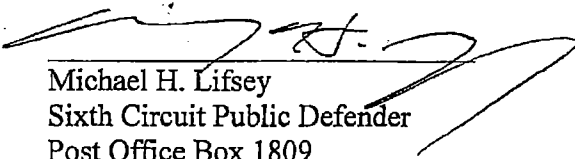
v.

Appellant.

NOTICE OF APPEAL

Robert James Miller, Jr. appeals his conviction and sentence in this case. The sentence was imposed by the Honorable L. Casey Manning on April 03, 2012.

Date: April 11, 2012


Michael H. Lifsey
Sixth Circuit Public Defender
Post Office Box 1809
Lancaster, SC 29721
Attorney for Appellant
(803) 285-5585

Other Counsel of Record:
Riley J. Maxwell, Esq.
Assistant Solicitor
Post Office Box 1085
Winnsboro, South Carolina 29180
Attorney for Respondent
(803) 712-1735

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Fairfield
STATE VS.
Robert James Miller Jr

INDICTMENT/CASE#: 2011-GS-20-36
A/W#: M400780
Date of Offense: 9/2/2010
S.C. Code §: 16-13-0510
CDR Code #: 2813

AKA:
Race: WHITE Sex: M Age: 40
DOB: [REDACTED]-1971 SS#: [REDACTED]-7228
Address: 6974 Lito Rd
City, State, Zip: Mc Connellsburg, PA 17233
DL#: _____ SID#: _____

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10 yrs.
SENTENCE SHEET
SC Court of Appeals

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADED
TO: FinanTC / Financial identity fraud, obtains/records identify. info., access/att. access finan. records of other unlawfully

in violation of § 16-13-0510 of the S.C. Code of Laws, bearing CDR Code # 2813
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 74878 [Signature] [Signature]
Maxwell, Riley J SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 4/3/12 2011GS2037 & 2011GS2035
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ 30,000 plus 20% fee: _____ \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$ <u>500.00</u>
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>18.90</u>
TOTAL		\$ <u>648.90</u>

_____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____
 Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Betty J Beckhar
Court Reporter: Mike Watkins
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: 2061
Sentence Date: 4-3-12

The Supreme Court of South Carolina

The State, Respondent


v.

Robert Miller, Petitioner.

Appellate Case No. 2014-000030

Lower Court Case Nos. 2011-GS-20-00035 thru 2011-GS-20-00037.

ORDER

By order filed on July 18, 2013, the South Carolina Court of Appeals dismissed the appeal in this matter.¹ When no petition for rehearing or reinstatement was received, the Court of Appeals sent the remittitur on August 13, 2013. Petitioner has now filed a motion seeking a writ of certiorari, a writ of habeas corpus, a vacation of his criminal convictions, monetary damages, and such other relief as may be appropriate. 

The motion must be dismissed because petitioner has failed to provide an affidavit or proof of service showing that a copy of the motion has been served on opposing counsel. Rule 240(c)(1) of the South Carolina Appellate Court Rules (SCACR).

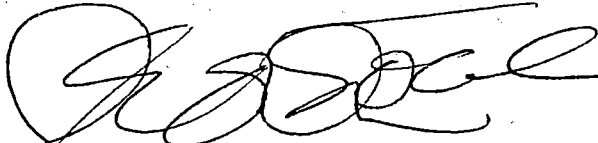
To the extent the motion is seeking review of the decision of the Court of Appeals, the motion must be dismissed for several other reasons. First, under Rule 242(a) of the South Carolina Appellate Court Rules (SCACR), this Court will only review a final decision of the Court of Appeals, and a decision is not final for the purposes of review until a petition for rehearing or reinstatement has been acted on by the Court of Appeals. Rule 242(c), SCACR. Since no petition for rehearing or reinstatement has been ruled on by the Court of Appeals in this matter, there is no final decision for this Court to review.

¹ Before the Court of Appeals, the Appellate Case Number was 2012-211446.

Second, when no petition for rehearing or reinstatement was received by the Court of Appeals, the Court of Appeals properly sent the remittitur. Rule 221, SCACR. The sending of the remittitur ended appellate jurisdiction over this case, and no further motion or petition can be considered in the case. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).

To the extent petitioner may be requesting relief from this Court under Rule 245, SCACR, that request must be dismissed not only for the failure to provide a proof of service, but also because there is no extraordinary reason for this Court to entertain this matter in its original jurisdiction. *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991).

Accordingly, the motion is dismissed.



C.J.
FOR THE COURT

Columbia, South Carolina
January 15, 2014

cc: Salley W. Elliott, Esquire
The Honorable Jenny Abbott Kitchings
Robert Miller
The Honorable Betty Jo Beckham

Applicant was sentenced to a consecutive term of ten (10) years, ~~provided that upon the service~~
~~of three (3) years, the balance would be suspended with probation.~~ Restitution of \$30,000.00 was
also ordered. The Applicant did not appeal.

ALLEGATIONS

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully based on the following grounds:

1. Ineffective assistance of counsel.
 - a. Counsel misled the Applicant by telling him he would receive a lesser sentence than he did.
 - b. Counsel failed to hire a forensic accountant and did not present defendant's request for a restitution hearing.
2. Lack of subject matter jurisdiction.
 - a. The solicitor and the court lacked authority because the offense happened outside the state of South Carolina.
3. Involuntary guilty plea.
 - a. "Defendant pled guilty with the expectation that the solicitor would refrain from making a recommendation to the judge and that he would not oppose any request for leniency by the defendant."

SUMMARY OF TESTIMONY PRESENTED

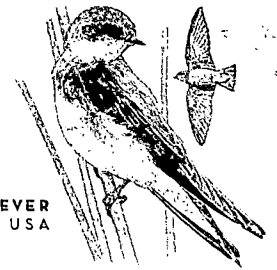
At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from plea counsel, Mike Lifsey, Esquire (Counsel). This Court also had before it a copy of the plea transcript, the Fairfield County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

During the evidentiary hearing, Applicant testified that he was represented at his plea by Mike Lifsey, Esquire. Applicant testified he has filed a lawsuit against the solicitor and the investigators involved in his case. Applicant testified that he understands PCR is solely for attacking the representation of his plea counsel. Applicant testified he was initially appointed another attorney before Counsel took his case. Applicant testified he did not remember all of the charges he faced prior to his plea. Applicant testified there were initially ten charges filed against

R. James Miller, Jr. # 316047
Manning Corr. Inst. W8 23A
502 Beckman Drive
Columbia, SC 29203



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1220 Senate Street
Columbia, SC 29201

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SEP 30 2015

SC Court of Appeals

29201376999



THE DEPARTMENT OF CORRECTIONS
HAS NEITHER CENSORED NOR IN-
SPECTED THIS ITEM. THEREFORE,
THE DEPARTMENT DOES NOT ASSUME
RESPONSIBILITY FOR ITS CONTENTS.

MANNING CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS



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