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STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM RICHLAND COUNTY
In the Court of Appeals

G. Thomas Cooper, Jr., Circuit Court Judge
Case No. 13-CP-40-5285

RECEIVED

JAN 28 2016
SC Court of Appeals

Michael D. Jackson _____ Appellant,

V.

State of South Carolina _____ Respondent.

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FEB - 3 2016

SC SUPREME COURT

MOTION FOR ABEYANCE

I, Michael D. Jackson, the Applicant, Moving Pro se hereby moves this court to hold this appeal in Abeyance & states:

1. PCR counsel Failed to consult with me about the need to file a "Rule 59 (e) Motion", if the order does not address & rule on all issues I raised at PCR.
2. The order fails to address all issues I raised at PCR, Specifically, the order fails to address the reason why I wanted to subpoena counsel & what trial strategy counsel articulated.
See attached "Rule 59(e) Motion"
3. WHEREFORE, I pray that this Court hold this appeal in Abeyance until the PCR Judge rule on my "Rule 59(e) Motion".

1/25/16

X Michael Jackson
Michael D. Jackson # 294410 EB-43 LCI
P.O. Box 205
Ridgeville S.C. 29472

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

COURT OF COMMON PLEAS
C/A. 2013-CP-40-05285

Michael D. Jackson, #294410,
Applicant,

v.

State of South Carolina,
Respondent.

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SO SUPREME COURT

I, Michael D. Jackson, the Applicant, moving pro se, hereby moves the court pursuant to Rule 59(e), SCRCP, to Alter or Amend its' 10 day of December, 2015 "ORDER OF DISMISSAL" & Rule 60(b) For Reconsideration & states:

1. Counsel Anna R. Good, Esquire, appointed counsel Failed to perform his duty per Rule 59(e), that is, review the order to ensure it addresses & rules on all issues we raised at PCR. THE ORDER DOES NOT

ORDER FAILS TO ADDRESS

2. The PCR order Fails to address: A.) the reason why I wanted to subpoena Counsel, & B.) what trial strategy Counsel articulated.

SUBPOENA

3. I attempted to have trial counsel subpoena to the PCR hearing to question Counsel so as to establish my claim of me being handcuffed in front of jury. Trial Counsel Failed to appear at the PCR hearing & therefore did not testify at the hearing. The order is silent as to the reason, where the court did not review the testimony of trial Counsel at the evidentiary hearing, to observe trial Counsel, pass upon his credibility, & weigh the testimony against that of mine in order to determine my credibility. Noting that Counsel would of testified I was handcuffed in front of the jury.

4. This Court held that "[a]s a matter of general impression, this Court Finds Applicant's testimony & assertions to be NOT CREDIBLE." see PCR Order, p. 3 of 11. The order is also silent as to why the court Finds my testimony NOT CREDIBLE.

5. MOREOVER, I testified at the PCR hearing that I was told to stand & Face

the jury & that my handcuffs were clearly visible. The court found my testimony not credible, self-serving & unsupported by any evidence. Trial Counsel could have testified that I was handcuffed & such testimony would have changed the outcome of the PCR. This is the reason why I wanted to subpoena Counsel, for Counsel's testimony about me being handcuffed in front of the jury.

TRIAL STRATEGY

6. Where Counsel articulated a valid reason for employing a certain strategy, Counsel's choice of tactics will not be deemed ineffective assistance. Where trial Counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective assistance of Counsel. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995).
7. Being that trial Counsel did not testify at the PCR hearing, in fact trial Counsel was unwilling to participate in the proceedings, such must be deemed a failure to articulate a valid reason. Therefore, an adverse inference must be held & my testimony deemed credible. Pursuant to Rule 60(b), at a minimum this Court should reconsider.

CONCLUSION

8. WHEREFORE, I pray that this Court Alter or Amend its' ORDER of Subpoena trial Counsel for an evidentiary hearing to ensure my full & fair bite at the appeal, &/or ORDER PCR Counsel to file a "Rule 59(e) Motion."

1/25/16

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JAN 28 2016

SC Court of Appeals

X. Michael Jackson

Michael D. Jackson

#294410, EB43, LCI

P.O. Box 205

Ridgelyville, SC 29472

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of this on: 1.) G. Thomas Cooper, Jr.; Presiding Judge; 1701 Main St., Rm. 215; P.O. Box 192; Columbia, SC 29202-0192, & 2.) J. Clayton Mitchell; Attorney Gen. Off., P.O. Box 11549; Columbia, SC 29211-1549.

STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM RICHLAND COUNTY
In the Court of Common Pleas

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G. Thomas Cooper, Jr., Circuit Court Judge
Case No. 13-CP-40-5285

JAN 28 2016
SC Court of Appeals

Michael D. Jackson _____ Appellant,
v.

State of South Carolina _____ Respondent.

PROOF OF SERVICE

I certify that I have served the "Motion For Abeyance" on: J. Clayton Mitchell, Esq., by depositing a copy of it in the U.S. Mail, postage prepaid, on 1/16, addressed to: Ass't Attorney Gen.; P.O. Box 11549; Columbia, SC 29211-1549.

1/25/16

X. Michael Jackson
Michael D. Jackson
#294410, EB43, LCI
P.O. Box 205
Ridgeville, SC 29472

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FEB -3 2016
SC SUPREME COURT

Hon. Jenny A. Kitchings
Clerk, S.C. Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211-1629

Re: Michael D. Jackson v State
2013-CP-40-5285

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JAN 28 2016
SC Court of Appeals

Dear Honorable Kitchings,

Enclosed For your Filing is my Motion For Abeyance, & proof of service.

1/25/16

Thank You
Michael D. Jackson #294410
EB-43, LCI
P.O. Box 205
Ridgeville, S.C. 29472

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FEB -3 2016
SC SUPREME COURT

Michael D. Jackson 294410 EB-43
Lieber Corr. Inst.

P.O. Box 205
Ridgeville S.C.
29472

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JAN 25 2016

MAILROOM
LIEBER CI

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JAN 28 2016

SC Court of Appeals

Honorable Jenny A. Kitchings
Clerk S.C. Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211-1629

Interagency Mail

Legal Mail

Legal Mail

Interagency Mail