

**LEGAL**

**RECEIVED**

**IN THE SOUTH CAROLINA SUPREME COURT  
FOR THE STATE OF SOUTH CAROLINA**

FEB 18 2016

**Jermaine B. Wright  
Petitioner, Pro-Se**

**S.C. SUPREME COURT**

**Case No. 2014CP0801554  
APP. No. 2015-002568**

v.

**The State of South Carolina  
Respondant(s)**

**NOTICE TO FILE OUT TIME  
Reconsideration & Appeal  
Pursuant SCACR Applicable**

COMES NOW, Jermaine B. Wright, Petitioner, Pro-Se [Hereinafter  
] Petitioner. Moves This Honorable Court Pursuant To U.S. &  
S.C. Constitutions Rights to Due Process and Equal Protection,  
of Laws. In addition SCACR applicable to filing out of time Recon-  
siderations and Notice of Appeal for viable reasoning beyond  
the Petyitioner control. The matter of receipt of the Denials  
of Orders attached dated January 5, 2016 and Remittitur was  
all were held beyond the time to afford the petitioner relief  
to respond and file notices held by Ridgeland Correctional Inst.  
Please see attachments. Of Envelopes and Receive Dates by peti-  
tioner and Sworn "AFFIDAVIT"

This 11 day February month  
2016 year

Respectfully submitted,

*Jermaine B. Wright*  
**Jermaine B. Wright  
Ridgeland Corr. Inst**

# LEGAL

## CERTIFICATE OF SERVICE

I, Jermaine B. Wright, certify, I have deposited in the U.S. Mail Deposit via prepaid postage (1) original Notice To File Out of Time Reconsideration & Appeal and served all required parties.

This 11 day February month  
2016 year

Sincerely,

~~Jermaine B. Wright~~  
Jermaine B. Wright  
Ridgeland Corr. Inst.  
P.O. Box 2039  
Ridgeland, S.C. 29936

S.C. Attorney General et.al  
Alan McCory Wilson

**RECEIVED**

FEB 18 2016

S.C. SUPREME COURT

LEGAL

"AFFIDAVIT"

I, Jermaine B. WRIGHT, SCOC# 283115. declarant affirm /swear. Under the Penalties of perjury that all above & within & here to end are true & correct to the best of my knowledge....

THAT on the 29<sup>th</sup> January, 2016. I received a letter Post MARKED 05 JAN 16, & received at Ridgeland Correctional Institution January 7<sup>th</sup>, 2016. However I did not receive this letter until January 29<sup>th</sup>, 2016. From THE Supreme Court of South Carolina Daniel E. Shearouse. Clerk of Court PO Box 11330, Columbia, South Carolina 29211 REF: Case No. Appellate Case No. 2015-002588. Lower Case No: 2014 CP0801554. Ultimately affecting my Appellate RIGHTS Due to the Delivery beyond my Control Incarcerated.

I restate my RIGHTS TO HAVE Due Process & Equal Protection of Laws &

**LEGAL**

NOT BE further subjected to Cruel & Unusual  
Punishment. ILLEGAL CONVICTION & FALSE  
IMPRISONMENT.

This 3rd day February month  
\_\_\_\_\_ year

Sincerely,

Jermaine B. Wright  
Jermaine B. WRIGHT  
SCDCS # 283115  
Ridgeland Correctional INST  
5 Correctional Road  
Ridgeland, South Carolina  
29936

Notary Public

This 3 day February month 2016 year.

My Commission expires 10-1-25

SI Dorothy Ferguson  
SIGNATURE

# The Supreme Court of South Carolina

Jermaine Wright, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002588

Lower Court Case No. 2014CP0801554

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## ORDER

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Petitioner has failed to provide this Court with a proof of service showing that a copy of the notice of appeal has been served on opposing counsel and has failed to provide this Court with a copy of the order(s) under appeal as required by Rules 243(b) and 203(d)(1)(B)(i) and (ii) of the South Carolina Appellate Court Rules. Accordingly, the notice of appeal is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

January 5, 2016

cc: James Rutledge Johnson, Esquire  
Mr. Jermaine B. Wright, 283115

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE, CLERK OF COURT

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

COLUMBIA

SC 290

05 JAN '16

PM 3 L

Hasler

01/05/2016

US POSTAGE

FIRST-CLASS MAIL

\$00.48<sup>5</sup>



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GA-23

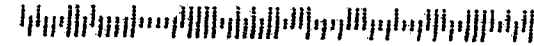
JERMAINE B. WRIGHT, 283115  
RIDGELAND CORRECTIONAL INSTITUTION  
P.O. BOX 2039  
RIDGELAND SC 29936

RIDGELAND CORRECTIONAL  
INSTITUTION

JAN 7 2016

MAILROOM

29936203939



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE, CLERK OF COURT

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

COLUMBIA

SC 290

22 JAN '16

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US POSTAGE

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ZIP 29201  
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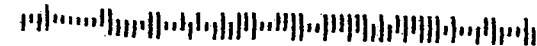
JERMAINE B. WRIGHT, 283115  
RIDGELAND CORRECTIONAL INSTITUTION  
P.O. BOX 2039  
RIDGELAND SC 29936

RIDGELAND CORRECTIONAL  
INSTITUTION

JAN 25 2016

MAILROOM

29936203939



**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
REQUEST TO STAFF MEMBER**

RIDGELAND CORRECTIONAL  
INSTITUTION

FEB 02 2016

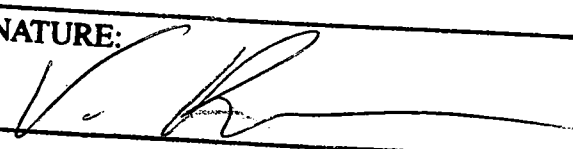
<b>TO: NAME:</b> Ms. Robinson	<b>TITLE:</b> Mail Clerk	<b>DATE:</b> Feb 2, 2016	<b>MALROOM</b>
<b>INMATE'S NAME:</b> Jermaine B. Wright		<b>SCDC #:</b> 283115	
<b>INSTITUTION:</b> Ridgeland		<b>LIVING QUARTERS:</b> GA-23	

I am requesting as a witness as to when I received my legal mail, and when it came to the institution, and when I personally received and pick it up, as signed for. As for the last 2 letters from the Supreme Court of South Carolina

Respectfully,  
Mr. Jermaine B. Wright

**DISPOSITION BY STAFF MEMBER:**

You had 2 letter come in the month of January 2016 from U.S. Supreme Court of S.C. P.O. Box 11330, Col 9, S.C. 29211. 1<sup>st</sup> Received 1/7/16 - Picked up 1/27/16 + 2<sup>nd</sup> 1/28/16  
2<sup>nd</sup> Received 1/25/16 - Picked up 2/1/16

<b>DATE:</b> 2/5/16	<b>SIGNATURE:</b> 
------------------------	---

STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

Jermaine B. Wright, #283115,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

2014-CP-08-1554

**ORDER RESTRICTING FUTURE FILINGS**

CLERK OF COURT  
BERKELEY COUNTY, S.C.

AUG 25 AM 9:56

*[Handwritten signature]*

This Order comes as a result of the State's Motion to Restrict Future Filings of the Applicant. The State argued that Applicant's filings have become repetitive and abusive filings and should be restricted in order to preserve the Court's time and resources and stop any interference with the fair administration of justice. This Court agrees.

There is a strong interest in finality of the criminal process; judicial review must stop at some juncture and finality must be realized. Aice v. State, 305 448, 409 S.E.2d 392 (1991). The Court quoted Justice Harlan when discussing the importance of finality in litigation when they stated the following:

"If law, criminal or otherwise, is worth having and enforcing, it must some time provide a definitive answer to the question litigants present or else it never provides an answer at all. Surely it is an unpleasant task stripping a man of his freedom and subject him to institutional restraints. But this does not mean that in doing so, we should always be halting or tentative. No one, not criminal defendants, not the judicial system, not society as a whole is benefitted by a judgment providing a man shall tentatively go to jail today, but tomorrow and every day thereafter his continued incarceration shall be subject to fresh litigation on issues already resolved. A rule of law that fails to take account of these finality interests would do more than subvert the criminal process itself. It would also seriously distort the very limited resources society has allocated to the criminal process... This drain on society's resources is compounded by the fact that issuance of the habeas writ compels a State that wishes to continue enforcing its laws against the successful petitioner to relitigate facts buried in the remote past through presentation of witnesses whose memories of the relevant events often have dimmed. This very act of trying stale facts may well, ironically, produce a

second trial no more reliable as a matter of getting at the truth than the first.”

Anderson v. Leeke, 271 S.C. 435, 441, 248 S.E.2d 120 (1978).

### I. SUPPORTING FACTS

The Applicant's extensive litigation history is necessary to understand this request for injunction:

#### UNDERLYING CONVICTION

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. The Applicant was indicted at the July 2001 term of the Berkeley County Grand Jury for murder (2001-GS-08-1415). He was represented by J. Mitchell Lanier, Esquire, and Michael A. Brown, Esquire. On April 1, 2002, Applicant appeared before the Honorable R. Markley Dennis, Jr., and pled guilty as indicted. Judge Dennis sentenced him to thirty (30) years imprisonment.

Applicant made a *pro se* Notice of Appeal. By written order dated May 29, 2002, the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203 of the South Carolina Appellate Court Rules for failure to comply with the Court's instructions. The Remittitur was issued on July 11, 2002.

#### First PCR Application: 2003-CP-08-0740

Applicant subsequently filed his first application for Post-Conviction Relief on March 26, 2003, alleging he was being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel in that counsel; and
2. Involuntary guilty plea.

Respondent made its Return on December 1, 2003, and an evidentiary hearing was convened into the matter on December 16, 2003. Applicant was present and represented by counsel, Francis X. McCann, Esquire. Donald J. Zelenka, of the Attorney General's Office,

represented Respondent. At the hearing, Applicant testified on his own behalf. Also testifying was Applicant's plea counsel. By order filed and dated January 26, 2004, the Honorable Roger M. Young denied and dismissed the application with prejudice.

A timely Notice of Appeal and petition for writ of certiorari were filed on Applicant's behalf. In a written order dated November 17, 2005, the South Carolina Supreme Court denied Applicant's petition. The Remittitur was issued on December 6, 2005.

**Second PCR Application: 2009-CP-08-0220**

Applicant filed his second application for Post-Conviction Relief on January 22, 2009, alleging he was being held in custody unlawfully for the following reasons:

1. Newly discovered evidence in that the court erred in not information Applicant of all punishments and the State withheld evidence;
2. Involuntary guilty plea; and
3. Ineffective assistance of counsel.

Respondent made its Return and Motion to Dismiss on January 25, 2010, requesting the matter be summarily dismissed. On February 5, 2010, the Honorable Deadra L. Jefferson issued a Conditional Order of Dismissal, provisionally denying and dismissing the application. Applicant made multiple responses. In a Final Order dated April 2, 2010, Judge Jefferson adopted the Conditional Order of Dismissal, and denied and dismissed the application with prejudice. Applicant did not appeal.

**Third PCR Application: 2010-CP-08-1808**

Applicant subsequently filed his first application for Post-Conviction Relief on May 24, 2010, alleging he was being held in custody unlawfully for the following reasons:

1. Newly discovered evidence in that there was no Grand Jury proceeding (discovered June 26, 2009);
2. Lack of jurisdiction on the court;
3. Prosecutorial misconduct in that prosecutor "willfully frauded indictment."

Respondent made its Return and Motion to Dismiss on October 26, 2010, requesting that the matter be summarily dismissed. On November 22, 2010, Judge Jefferson issued a Conditional Order of Dismissal, filed November 24, 2010, provisionally dismissing the application. Applicant made multiple responses. In a Final Order filed May 5, 2011, the Honorable Kristi L. Harrington denied and dismissed the application with prejudice.

Applicant filed a timely Notice of Appeal. In a written order dated August 3, 2011, the Supreme Court of South Carolina dismissing the appeal, pursuant to Rule 243(c), for failure to show an arguable basis for asserting that the determination by the lower court was improper. The Remittitur was issued on September 8, 2011.

**Federal Habeas Petition: 8:11-2716-JFA-JDA**

On October 4, 2011, Applicant filed a petition to the United States District Court seeking federal habeas relief under 28 U.S.C. § 2254. Applicant raised the following issues:

1. Newly discovered evidence – no Grand Jury convened, discovered June 26, 2009.
2. Lack of jurisdiction upon the court.
3. Prosecutorial misconduct.
4. Lack of subject matter jurisdiction upon the court.
5. Court remains silent on certain issues.
6. Ineffective assistance of counsel, lack of preparation and failure to investigate all plausible lines of defense.
7. Counsel fails to secure preliminary hearing.
8. Counsel overlooks flaws in the indictment.
9. Counsel failed to advise of, secure, and perfect a direct appeal.
10. Involuntary, unintelligent, unknowingly guilty plea.
11. Counsel did not do sufficient preparation nor did he fully investigate all possible defense.
12. Counsel did not secure preliminary hearing.
13. Exculpatory evidence was withheld.
14. Counsel made prejudicial statement.

On March 5, 2012, the Respondent made its Return and Memorandum of Law in Support of its Motion for Summary Judgment. The Honorable Jacquelyn D. Austin, United States

Magistrate Judge, issued a Report and Recommendation on July 20, 2012, recommending that Respondent's motion for summary judgment be granted and the petition be summarily dismissed without an evidentiary hearing. On January 18, 2013, the Honorable David C. Norton, United States District Judge, issued an Order affirming the Report and Recommendation, granting Respondent's Motion for Summary Judgment, and denying the petition. Judge Norton also denied a certificate of appealability, because Applicant failed to make a substantial showing of the denial of a constitutional right.

**Current PCR Application: 2014-CP-08-1554**

In his *fourth* and current application for post-conviction relief, filed June 30, 2014, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Grand Jury of Berkeley County Court of General Sessions lacked subject matter jurisdiction to indict;"
2. "The Court of General Sessions for Berkeley County did not have jurisdiction (subject matter to accept guilty plea(s));"
3. "Community Supervision Program (CSP) violates Due Process Clause;"
4. "CSP Violates Separation of Power(s) Clause."

**II. FINDING OF FACT AND CONCLUSIONS OF LAW**

Applicant's repetitive and abusive filings must be restricted in order to preserve the Court's time and resources and stop any interference with the fair administration of justice.

Applicant has received his full bite at the apple. Under the PCR rules, an applicant is entitled to a full adjudication on the merits of the original petition, or "one bite at the apple;" this "bite" includes an applicant's right to appeal the denial of a post-conviction relief application, and the right to assistance of counsel in that appeal. Matthews v. Evatt, 105 F.3d 907, 916 (1997), Gamble v. State, 298 S.C. 176, 379 S.E.2d 118, 119 (1989), Odom v. State, 337 S.C. 256, 523 S.E.2d 753 (1999).

Applicant has filed four (4) PCR applications and one (1) federal writ of habeas corpus on his 2001 guilty plea, and he has appealed the dismissals of two. Applicant has filed his most recent PCR application on June 20, 2013.

### III. REMEDY

#### a. *Filing Fee*

Due to the repetitive and frivolous nature of Applicant's numerous applications, the Court directs the Berkeley County Clerk of Court not to accept any further PCR applications from the Applicant unless he pays the normal filing fee generally required for the filing of a summons and complaint. The United States Supreme Court has denied litigants who have filed repetitive, frivolous petitions the right to proceed *in forma pauperis*, resulting in the litigants having to pay the required filing fee with that Court. In re Whitaker, 513 U.S. 1, 115 S.Ct. 2, 130 L.Ed.2d 1 (1994); In re Anderson, 511 U.S. 364, 114 S.Ct. 1606, 128 L.Ed.2d 332 (1994); In re Demos, 500 U.S. 16, 111 S.Ct. 1569, 114 L.Ed.2d 20 (1991); In re Sindram, 498 U.S. 177, 111 S.Ct. 596, 112 L.Ed.2d 599 (1991); In re McDonald, 489 U.S. 180, 109 S.Ct. 993, 103 L.Ed.2d 158 (1989).

This Court also requires Applicant to pay the normal civil filing fee for any subsequent motions filed in the case. This includes a filing fee for letters which include arguments for the Court to consider. Documents submitted to the Clerk's Office which are not accompanied by the proper filing fee will be returned to the Applicant.

#### b. *Notarized Affidavit*

This Court requires the Applicant to provide a properly notarized affidavit certifying that Applicant believes in good faith that the matter raised is not frivolous in any further PCR applications. In In re Theron Maxton, 325 S.C. 3, 478 S.E.2d 679 (1996), the South Carolina

Supreme Court required Maxton, who had filed numerous meritless petitions with the Court, to pay a filing fee and accompany any future filings with a properly notarized affidavit by Maxton certifying that he in good faith believed that the matters he was raising were non-frivolous and proper for the Court to consider. Id. Other courts have required that the abusive litigant file an affidavit certifying that he believes the petition raises an original claim or is non-frivolous before accepting filings from the litigant. In the Matter of Verdone, 73 F.3d 669 (7th Cir.1995); Abdul-Akbar v. Watson, 901 F.2d 329 (3d Cir.1990); Green v. Warden, 699 F.2d 364 (7th Cir.), *cert. denied*, 461 U.S. 960, 103 S.Ct. 2436, 77 L.Ed.2d 1321 (1983).

***c. Procedure***

Once Applicant submits an application that is accompanied by the required filing fee and notarized affidavit, this Court directs the Clerk's office to submit the application to the Chief Administrative Judge before filing. The Administrative Judge will then make a finding on whether the issues raised in the application are non-frivolous and proper for the Court to consider. If the Administrative Judge finds the application proper, it will then be submitted to the Clerk's office for filing. No application would be filed without a proper finding from the Chief Administrative Judge. The Applicant must provide, with his application, an explanation as to why it is not barred as successive or being untimely under the statute of limitations. This explanation must contain sufficient facts, arguments and citations to legal authority to show that there is an arguable allegation that is not barred as successive or untimely, and is not based on mere speculation or unfounded accusations. If the Applicant fails to make a sufficient showing, the application will be summarily dismissed by written order of the Chief Administrative Judge.

No response is required from the State unless the Chief Administrative Judge makes a finding that the Applicant made a sufficient showing. The State will then treat the application as

is customary with all PCR applications. The State does not waive the right to raise defenses of untimeliness and successive at a future hearing.

This Court also warns Applicant that the PCR court has the authority to issue Rule 11 sanctions against a post-conviction applicant pursuant to the South Carolina Rules of Civil Procedure. Rule 11 provides: “[t]he signature of an attorney or party [on a pleading, motion, or other paper] constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is a good ground to support it; and that it is not interposed for delay. If a pleading, motion or other paper is signed in violation of this Rule, the court . . . may impose upon the person who signed it, a represented party, or both, an appropriate sanction.” *Hiott v. State*, 375 S.C. 354, 652 S.E.2d 436 (S.C. App. 2008).

#### IV. CONCLUSION

Applicant’s allegations and accusations have become increasingly frivolous and meritless. The Applicant continues to waste the time and resources of the Berkeley County Clerk of Court’s Office, the Chief Administrative and Presiding Judges in the Ninth Circuit, the South Carolina Attorney General’s Office, numerous appointed attorneys of Berkeley County and surrounding Bars, court personnel, and the South Carolina Supreme Court.

#### IT IS THEREFORE ORDERED:

For these reasons, this Court orders the following:

1. The Clerk of Court should refuse to accept further petitions from the Applicant asking the Court to entertain matters unless he pays a filing fee generally required for filing motions and petitions with this Court.
2. The Applicant should be prohibited from filing any legal actions in any jurisdiction in South Carolina without submitting the requisite filing fees<sup>1</sup>

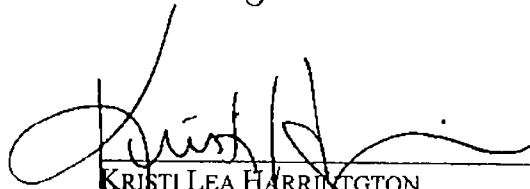
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<sup>1</sup> S.C. Code Ann. §8-21-310(11)(a) (Supp. 2004)

and providing a properly notarized affidavit certifying that the Applicant believes in good faith that the matter raised is not frivolous.

3. Any Applications submitted with properly notarized affidavits be submitted to the Chief Administrative Judge to make a finding on whether the allegations are non-frivolous and proper for the Court before they are filed;
4. The Clerk of Courts should be instructed to return all documents that do not comply with this order, and;
5. The Applicant be directed that if he continues to file Applications containing matter that is frivolous or not proper for this Court to consider, he may be held in contempt or sanctioned under Rule 11, SCRPC.

AND IT IS SO ORDERED this 24<sup>th</sup> day of August, 2015.



KRISTI LEA HARRINGTON  
Chief Judge for Administrative Purposes  
Ninth Judicial Circuit

Moncus Corner, South Carolina

Chermaine B. Wright #28515  
RES. GA 03  
PO Box 2039  
Ridgeland, SC 29936

RIDGELAND CORRECTIONAL  
INSTITUTION

FEB 11 2016

MAILROOM

SCDC  
Christmas  
Envelopes

INTER Department  
THE SUPREME COURT of South Carolina  
Daniel E. Shearhouse, Clerk of Court  
P.O. Box 11330  
Columbia, SC 29211

