THE STATE OF SOUTH CAROLINA
In the Supreme Court of South Carolina

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Kristi L. Harrington, Circuit Court Judge
Trial Court Case No. 2011-CP-10-4018

Appellate Case No. 2012-212353

Donald James Hurlbert, *Appellant,*

v.

State of South Carolina, *Respondent.*

PETITION FOR REHEARING

I, Donald J. Hurlbert certified that six copies of the Petition shall have been mailed on 22nd September 2012, and, in addition, copies for service on all parties shall have been mailed on said date.

I have preserved and/or reserved any and all issues raised as well as those that ought to have been raised on petition (e.g., ineffectual counsel).

Mr. George Emanuel Counts was my trial court-appointed counsel, and remained counsel of record under Rule 264(a), SCACR. *See also* Rule 71.1(g), SCACR.

I attempted by all means to have otherwise obtained representation by the Division of Appellate Defense, South Carolina Commission on Indigent Defense. If the Division of Appellate Defense should have represented me, then the Division of Appellate Defense should have taken the appropriate actions so to have ordered the transcripts, etc... or so I was informed by the Division of Appellate Defense.

I received further correspondence from the Division of Appellate Defense on 15th September 2012 via a letter dated 6th September 2012. The letter stated an erroneous conclusion insofar as the Chief attorney's belief that a civil appeal was taken from a magistrate's court and the Division of Appellate Defense was therefore unable to have assisted me. The appeal was taken from a post-conviction relief case (a civil action), but was taken from the Court of Common Pleas for Charleston County. The appeal was not taken from a magistrate's court, and the Division of Appellate Defense may have represented me evidently.

I have respectfully asserted that the Order of 5th September 2012, which dismissed this matter, was unconstitutional insofar as the due process and/or equal protection clauses of the federal Constitution for reasons above.

What I have said herein was true and correct to the best of my knowledge and belief.

17th September 2012

Donald J. Hurlbert
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Pro Se