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APR 18 2016

COMMISSION ON
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APR 19 2016

SOUTH CAROLINA SUPREME COURT

Kevin Wayne McDaniels

vs.

State of South Carolina

ON APPEAL FROM THE SPARTANBURG COUNTY S.C. SUPREME COURT
COURT OF COMMON PLEAS

2014-CP-42-0506

~~2016-000819~~

Rule 59(e) MOTION MOVING THE COURT TO ADDRESS
BELOW LISTED ISSUES AS REQUIRED PURSUANT TO
S.C. Code § 17-27-80, WHICH MANDATES THAT THE PCR
JUDGE ADDRESS ALL THE ISSUES PRESENTED TO THE COURT

MAY IT PLEASE THIS COURT, Kevin W. McDaniels acting ProSe
by and through Counsel Brandt Rucker who has completely abandoned
Mr. McDaniels files this Rule 59(e) Pro-Se making sure such is
preserved for Appellate Review.

First and foremost, Mr. McDaniels has continuously ask that
Counsel Brandt Rucker subpoena additional parties prior before
the recent January 11, 2016, Evidentiary Hearing which McDaniels
requested counsel Brandt Rucker to subpoena the following parties:

1. Federal Bureau of Investigation.
2. ATF/U.S. Marshals/Secret Service who has surveillance of McDaniels
in florida on december 27, 2005 & January 14, 2006, not in
Spartanburg South Carolina, Counsel refused to Subpoena them.
2. Prior before the January 11, 2016 evidentiary hearing McDaniels
filed a Motion to relieve Counsel Brandt Rucker based upon
a conflict of Interest, there was a hearing and the Court
refused to relive him, so McDaniels did not have a Fair Evidentiary
hearing on January 11, 2016, after waiting Six Years, since
Judge Derham Cole and the S.C. Atty Generals Office refused
to entertain McDaniels original 2009 PCR-#2009-CP-42-3350
filed June 16, 2009.

Mr. McDaniels hereby sets forth the Issues that Judge Ralph Cothran failed to address pursuant to S.C. Code § 17-20-80:

DUE PROCESS VIOLATIONS:

On June 16, 2009, McDaniels filed his initial PCR Case No. 2009-CP-42-3350, on November 5, 2010 Chief Judge "Derham Cole and the S.C. Atty General Jointly Conspired to Deny McDaniels PCR, ISSUING THE ORDER STATING BECAUSE MCDANIELS IS IN FEDERAL CUSTODY HE MUST WAIT UNTIL HE IS BACK IN STATE CUSTODY 9/11/2020 Then he could file another PCR, McDaniels presented NEWLY DISCOVERED Evidence, Twelve Alibi witness affidavits of Family members who were in florida with McDaniels on 12/27/05 & 1/16/06-STILL JUDGE DERHAM COLE AND THE S.C. ATTY GENERAL REFUSED TO ALLOW MCDANIELS TO PRESENT A NON-FRIVOLOUS CLAIM, FURTHERMORE, The FBI/ATF/U.S. Marshals presented Depositions that McDaniels was in florida at the time the crimes were committed in Spartanburg south Carolina, STILL DENIED BY JUDGE DERHAM COLE, The "DUE PROCESS VIOLATIONS" Judge Ralph Cothran has failed to address as mandated by S.C. Code § 17-27-80."Kevin Wayne McDaniels has been mentally and physically tortured since March 11, 2006-day of arrest, his family has suffered tremendously, fathers leg is recently amputated, McDaniels mothers legs have plates and screws in them from falling and breaking them, McDaniels is awaiting for surgery on Gallstones, and Hiatal Hernia, he lives on a Breathing machine, because of the corruptive Judicial system, and Judge Derham Cole and the S.C. Atty Generals personal biasness, McDaniels and his family has suffered mentally and physically.

McDaniels has filed Numeropus pleadings arguing this in Federal Courts, Lawsuits/Writ of Certioraris-only to be told McDaniels must EXHAUST STATE REMEDIES FIRST-If Judge Cole and the S.C. Atty General is not allowing McDaniels to EXHAUST STATE REMEDIES -then he is being held against his will by Judge Cole and the State of South Carolina, see, attached Cases filed by McDaniels,6th Amendment/8th Amendment/14th Amendment violations he should have been EXONERATED in August 26, 2008 day of trial but Robert Hall abandoned McDaniels -admitted this on 1/11/2016.

Judge "Ralph Cothrans erroneous decision was contrary to, and involved unreasonable application of clearly established federal law, as determined by the Supreme Court of the United States, furthermore, resulted is a decision that was based on an unreasonable determination of the facts in light of the evidence presented [McDaniels presented 16 alibi witness affidavits-photo's of McDaniels in florida on 12/27/05 & 1/14/06-depositions from FBI/ATF/U.S. Marshals/SECRET SERVICE proving Kevin Wayne McDaniels was DEFINITELY AT ALL TIMES- florida during these events-FACTUALLY INNOCENT, and Judge Ralph Cothran personally received all these documents for evidence and still made the erroneous ruling, Judge Cothran joining in on the "CIVIL CONSPIRACY" with Judge Derham Cole and the S.C. Atty Generals Office, to mentally torture McDaniels and his family, knowing McDaniels is FACTUALLY INNOCENT, EVEN THE FEDERAL GOVERNMENT CAN TESTIFY TO THIS AND STILL JUDGE COTHRAN, JUDGE DERHAM COLE, S.C. ATTY GENERALS OFFICE, AND ALSO "Brandt Rucker" have jointly conspired to mentally torture McDaniels and his family, when Brandt Rucker was originally appointed HE TOLD MCDANIELS HE NEEDED TO WITHDRAW HIS PCR AND JUST LAY DOWN AND DO HIS TIME, THIS IS RECORDED BY TELECONFERENCE, a Court appointed atty not wanting to fight for a FACTUALLY INNOCENT MAN WHO THE FEDERAL GOVERNMENT HAS PLACED HIM IN FLORIDA.

FUNDAMENTAL MISCARRIAGE OF JUSTICE HAS OCCURRED

Judge Ralph Cothran Perpetrating a FRAUD with Judge Derham Cole, S.C. Atty Generals Office, to dismiss McDaniels NON-FRIVOLOUS PCR, in which on Jneary 11, 2016 "ROBERT HALL ADMITTED THAT HE DID NOT ASK FOR A ONE HOUR CONTINUANCE JUST LONG ENOUGH FOR ALIBI WITNESSESS WHO DROVE 10 STRIGHT HOURS FROM FLORIDA TO TESTIFY THAT MCDANIELS WAS IN FLA-THEIR VEHICLE BREAKS DOWN IN WOODRUFF, S.C. 10 MINUTES FROM THE SPTG COURTROOM, ROBERT HALL WAS NOTIFIED OF THIS IN THE COURTROOM ON DAY OF TRIAL AUGUST 26, 2008-STILL HE REFUSED TO MOVE FOR A ONE HOUR CONTINUANCE JUST LONG ENOUGH FOR MCDANIELS MOTHYER TO GO PICK UP ALIBI WITNESSESS, THIS IS PRESERVED ON january 11, 2016 TELECONFERENCE, MCDANIELS SHOULD HAVE BEEN EXONERATED ON AUGUST 26, 2008, FACTUALLY INNOCENT.

INEFFECTIVE ASSISTANCE OF COUNSEL

Mr. McDaniels has proven "Robert Hall's" performance fell below an objective standard of reasonableness, but for Robert Hall's errors, the result of the proceeding would have been different. Strickland v. Washington, 104 S.Ct. 2052(1984).

Futhermore, Brandt Ruckers performance has fell below and objective standard, McDaniels tried to fire him once, a hearing was held, Denied, there is absolutely no reason for APPEAL/APPEAL/APPEAL, when Mr. McDaniels SDUE PROCESS RIGHTS WERE VIOLATED IN HIS ORIGINAL 2009 PCR-JUDGE COLE AND THE STATE ISSUING ORDER TELLING MCDANIELS HE CANNOT FILE AN APPEAL UNTIL 9/11/2020- JUDGE RALPH COTHRAN FAILED TO PROPERLY RULE ON THIS CAUSING A FUNDAMENTAL MISCARRIAGE OF JUSTICE.

RELIEF REQUESTED

WHEREFORE, MCDANIELS MOVES THE S.C. SUPREME COURT TO REVERSE THE LOWER COURTS ERRONEOUS DECISION, ORDERING THAT KEVIN WAYNE MCDANIELS BE IMMEDIATELY RELEASED BASED UPON THE CONSTITUTIONAL VIOLATIONS, AND BASED UPON FACTUALLY INNOCENT, MCDANIELS WAS IN FLORIDA AT THE TIME, THE FBI/ATF/U.S. MARSHALS/SECRET SERVICE CAN TESTIFY TO THIS, MCDANIELS AND HIS FAMILY HAS SUFFERED ENOUGH, MOTHERS LEGS ARE HELD TOGETHER BY PLATES AND SCREWS?/DADS LEG IS AMPUTATED DIABETES, KEVIN MCDANIELS HAS BEEN FALSELY IMPRISONED SINCE MARCH 11, 2006 OVER TEN YEARS.

I declare under penalty of perjury the above is true and correct:

CERTIFICATE OF MAILING

I, KEEVIN MCDANIELS CERTIFY THAT I HAVE MAILED THE ENCLOSED RULE 59(e), TO THE BELOW LISTED ADDRESS ON THIS _____ DAY OF _____ 2016.

TO: S.C. SUPREME COURT
P.O. Box 12154
Columbia SC 29211

TO: Brandt Rucker
522 N. Church St
Greenville SC 29601

I declare under penalty of perjury:
Dated On: April 19 2016.

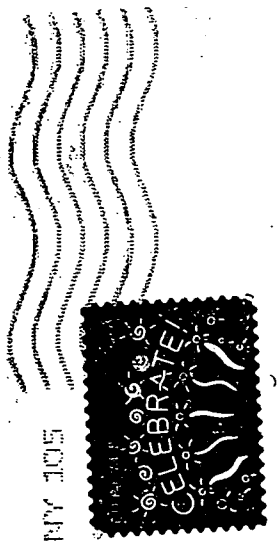
/s/ [Signature]
Kevin W. McDaniels[ProSe]

~~Due Process~~
~~Still fundamental~~
~~rights~~
~~protections~~
~~of~~
~~the~~
~~Constitution~~

Frankly
I

NAME KEVIN M. [Signature]
REGISTER NO. 14256171
FEDERAL CORRECTIONAL INSTITUTION
P.O. BOX 1000
OTISVILLE, NY 10963

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14 APR 2016



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DISCIPLINARY COUNSEL

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NAME Kevin M. [Signature]
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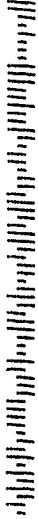
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