

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APR 11 2016

APPEAL FROM GREENVILLE COUNTY SC County of Appeals
D. Garrison Hill, Circuit Court Judge
Appellate Case No. 2015-000066

THE STATE,

Respondent,

v.

FURMAN EUGENE TAYLOR, JR.,

Appellant.

MOTION SEEKING CLARITY AND CORRECTION FOR
RESPONDENTS RETURN TO MOTION REQUESTING
LEAVE BE GRANTED BASED UPON AFTER DISCOVERED
EVIDENCE.

Now comes the above captioned
appellant in an effort that justice be served
and to prevent a continuing manifest
miscarriage of justice would respectfully
submit the following corrected case
history unto this Court;

(1)

1) Appellant was originally tried on the charges of First degree burglary and petit larceny in Greenville County by way of jury trial held before the Honorable R. Knox Memahan on February 11 and 14, 2014, that concluded in a hung jury.

2) Appellant was re-tried on the same charges in Greenville County by way of jury trial held before the Honorable D. Garrison Hill on January 5 thru 7, 2015, that concluded in conviction. Appellant was sentenced to life imprisonment for burglary and thirty (30) days for petit larceny.

3) Appellant filed and served notice of appeal, and applied to South Carolina Commission on Indigent defense, appellate Division, and assigned Mr. Robert M. Pachak on May 28, 2015.

4) On July 01, 2015, appellate indigent defender Mr. Robert M. Pachak submitted: (1) An Anders brief of appellant presenting the issue of whether the trial court erred in denying appellant's motion for a directed verdict; (2) a Petition to be relieved, and (3) only the record from the second trial.

5) Appellant was directed by the court on July 09, 2015, that within forty-five (45) days

he could file a pro-se brief addressing any issues that he believed this court should consider in this appeal.

6.) On August 06, 2015, appellant filed a motion requesting leave be granted for after-discovered evidence and/or an extension of time to file his pro-se brief.

7.) An extension of time was granted and filed on August 14, 2015, to extend the deadline until September 23, 2015.

8.) Appellant filed a pro-se brief, and pro-se designation of matter on September 21, 2015.

9.) On October 16, 2015, the State filed a motion to strike matter from appellant's pro-se designation of matter and pro-se brief.

10.) On October 21, 2015, the court requested appellant file a return to the State's motion to strike.

11.) On October 28, 2015, appellant filed an objection to the motion to strike by the State.

12.) On November 17, 2015, appellant filed a motion for new counsel to be appointed and substituted as his attorney for the appeal from the trial, after appointed counsel, Mr. Robert M. Pachak

refused to re-brief the issues and/or submit the transcript from the first trial.

13) On November 24, 2015, this court contacted both opposing counsel, as well as counsel for the appellant, requesting that both file a return to appellant's motion.

14) Only the State filed a return to appellant's motion requesting re-appointment of counsel on December 02, 2015.

15) On February 09, 2016, appellant received an Order from this court that was filed February 04, 2016, that (1) granted the State's motion to strike, and (2) denied appellant's motion to substitute counsel.

16) On March 03, 2016, appellant submitted a motion requesting leave be granted based upon after-discovered evidence "to present grounds intrinsic to the litigation of this case which have been discovered since trial that ought first be presented to the circuit judge upon a motion for a new trial based upon this after-discovered evidence. Which opposing counsel claims to have received on March 16, 2016.

17.) The respondent has now filed a return to appellant's motion requesting leave, claiming the motion is an improper pro-se filing, and that there is no constitutional right to "hybrid" representation either at trial or on appeal.

However, the appellant is aware that the South Carolina Constitution, Article I § 14, states in relevant part:

"Any person charged with an offense shall enjoy the right . . . to be fully heard in his defense by himself, or by Counsel, or by both."

And, (the practical necessities of the litigation process should certainly influence the allocation of control between counsel and client.") Brown v. Warden, 417 F. Supp. 970, at 973; 31 AFAVE ET AL., Supra note 4 at 797 (appointment of "hybrid" Counsel is permissible. . .) McKaskle v. Wiggins, 465 U.S. 168, at 183 (1984); (also see;) Faretta v. California, 422 U.S. 806.

In addition, the United States Constitution, 28 U.S.C.A. § 1654 (1994) also states in relevant part:

"In all courts of the United States the Parties may plead and conduct their own cases personally or by counsel....")

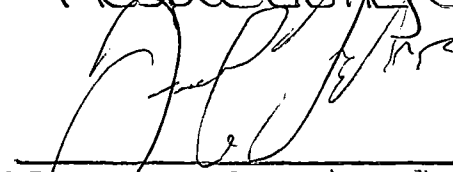
Which is consistent with 6th and 14th amendment rights.

In which, the appellant has had no choice but to act in his own best interest since Mr. Pachak has not consulted and/or conferred, nor even attempted to communicate with him in any meaningful manner. Also, Mr. Pachak has already filed his Anders brief and Petition to be relieved as counsel, as well as refused to correct the record on appeal, or re-brief the issues as requested by appellant's correspondence.

Furthermore, all the filings by appellant and the merit of the grounds raised show that Mr. Pachak's professional performance falls below the Strickland standard because of the prejudicial affect it has on this appeal which produces a fundamentally unfair proceeding. (also see: Sexton v. French, 163 F.3d 874 (4th Cir. 1998).

Wherefore, In the interest that justice prevail and to prevent a miscarriage of justice from occurring as the original framers of our

Judicial system intended the appellant,
would respectfully submit that to correct
and/or prevent a constitutional manifest
injustice this court should allow and accept
all filings and Grant appellant's motion
requesting leave based upon After-discovered
evidence.

Respectfully Submitted,

Herman E. Taylor; #198161.

Pelzer, South Carolina
April 05, 2016.

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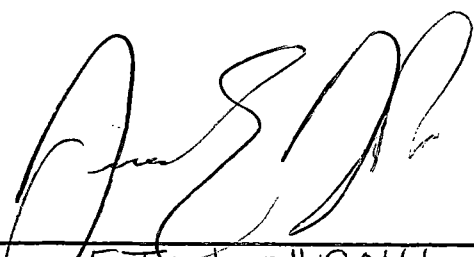
SC Court of Appeals

Certificate of Service

I, Furman E. Taylor, hereby certify that a True Copy of a Motion seeking Clarity and Correction for respondent's return to appellant's Motion requesting leave, in appellate case No. 2015-000066, postage pre-paid, was this day placed in the hands of the United States Postmaster here at Perry Correctional Institution and addressed as follows:

South Carolina Court of Appeals
Jenny A. Kitchings, Clerk
Post Office Box 11629
Columbia, S.C. 29211

Mr. Alan Wilson, Atty. Gen.
Office of the Attorney General
Post Office Box 11549
Columbia, S.C. 29211-1549


Furman E. Taylor #192161

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P.C.I. MAILROOM

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

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SC Court of Appeals

Furman E. Taylor: #198161
Perry Corr. Inst. 103A-206
430 Oaklawn Road
Pelzer, S.C. 29669
(page 1 of 1)

April 05, 2016

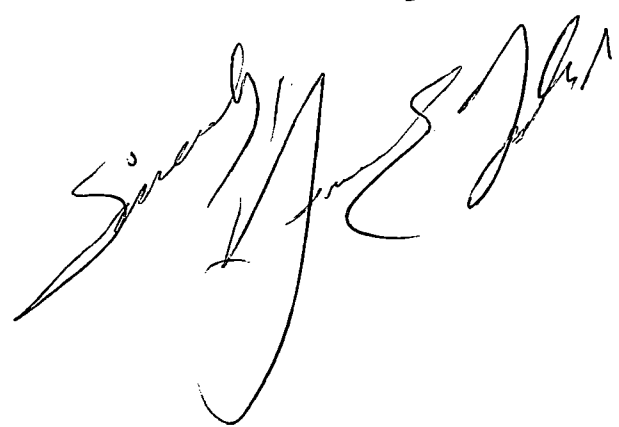
In Re: The State v. Furman E. Taylor, Jr., Appellate Case
NO. 2015-000066.

Dear Ms. Kitchings,

I am writing in concern of the above referenced matter.

Please find enclosed a motion seeking clarity and correction for respondent's return to Appellant's motion requesting leave, that I would like filed in the court in this matter.

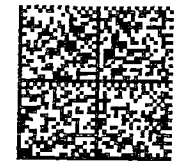
In addition, I wish for you to know that all of your time, help, and consideration in these endeavors on my behalf is greatly appreciated by me.




Furman E. Taylor #198161
Perry Corr. Inst. / 03A-206
430 Oaklawn Road
Pelzer, S.C. 29669

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South Carolina Court of Appeals
Jenny A. Kitchings, Clerk
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LEGAL MAIL

2921131629 8012

