

Earnest M. Pickett (Allen) #310134

M.C.C.I. F3-B-120  
386 Redemption Way  
McCormick, SC. 29899

RECEIVED

JUL 28 2016

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC. 29211

SC Court of Appeals

RE: State v. Allen - Appellate Case No. 2014-000165

Dear Ms. Kitchings,

I am sending this letter to the Court in response to the Remittitur that was sent to me on July 17, 2016 because there was nothing enclosed showing the judgment of the Court and I truly believe the Petition For A Rehearing should have been granted.

I explained to the Court that on April 11, 2016 I received a letter from my former lawyer informing me that on April 6, 2016 the Court had made the decision to affirm my convictions for Attempted Murder and that his office had closed my case. But because I knew I had fifteen (15) days to submit A Petition For A Rehearing to the Court, I got my family to contact my Appeal lawyer immediately and ask him to submit that petition, but he would not. In fact, he acted as if he had no idea what I was talking about. So on April 20, 2016 (Fourteen (14) days after the decision of the Court) I sent a copy of A Petition For A Rehearing to the Court of Appeals and the Attorney General's

Office. In response to that petition, the Assistant Attorney General Mark R. Farthing sent me a copy of a letter that was sent to the Court on April 27, 2016 addressed to the Clerk, saying that because I had a lawyer my petition should not be seen by the Court.

As soon as I received a copy of the letter from Mark R. Farthing, I sent a letter to the Court explaining why I had no choice but to file on my own behalf, but there was no response from the Court. I tried to show the Court that not until my Appeal lawyer received his copy of Farthing's letter, did he realize that he was wrong to think that the Court would automatically relieve him from my case. And that is when on May 3, 2016 he filed a motion to be relieved as counsel. He even respectfully asked the Court to allow me to re-file my petition, but still no response from the Court. Not until July 15, 2016 did I receive a letter informing me that the motion for relief was granted and I could now proceed pro'se. So I am asking the Court to please consider my Petition For A Rehearing.

Respectfully Submitted,

Earnest M. Dickett (Allen)



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

July 18, 2016

The Honorable Joyce McDonald  
PO Box 1557  
Camden SC 29021-1557

## REMITTITUR

Re: The State v. Ernest M. Allen  
Lower Court Case No. 2013GS2800681, 2013GS2800682,  
2013GS2800683, 2013GS2800685, 2013GS2800811  
Appellate Case No. 2014-000165

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

  
CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire  
Robert Michael Dudek, Esquire  
Thomas Jarrett Bouchette, Esquire  
Jennifer Ellis Roberts, Esquire  
Daniel Edward Johnson, Esquire  
Mark Reynolds Farthing, Esquire

**RECEIVED**

JUL 28 2016

SC Court of Appeals



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

May 3, 2016

Mr. Ernest M. Pickett Allen (Inmate # 310134)  
McCormick Correctional Institution  
386 Redemption Way  
McCormick SC 29899

Re: Withdrawing from your case

Dear Mr. Allen:

Enclosed please find my Motion to be Relieved as Counsel. Please be advised that if you wish for the court to consider your *pro se* petition for rehearing, you will need to promptly resubmit it to the Court of Appeals.

Please contact me if you have any questions. I wish you the best in the future.

Sincerely,

*Suzanne B. Hackett for*

Robert M. Dudek  
Appellate Defender

RMD/ssd

Enclosure

cc: T. Jarrett, Bouchette, Esq. (w/ enclosure)

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Kershaw County

James R. Barber III, Circuit Court Judge

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STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

ERNEST MAURICE ALLEN,

APPELLANT

Appellate Case No. 2014-000165

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**MOTION TO BE RELIEVED AS COUNSEL**

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Counsel for Ernest Maurice Allen moves to be relieved as counsel. In support of this motion, Counsel states:

1. On October 3, 2014, Chief Appellate Defender Robert Dudek moved this Court to appoint Thomas Bouchette as lead counsel in this case as part of the 2014 Appellate Practice Project. On October 7, 2014, this Court appointed Mr. Bouchette as lead counsel and Mr. Dudek as co-counsel. Hereinafter, Mr. Bouchette and Mr. Dudek will be referred to collectively as "Counsel."

2. On January 6, 2015, Counsel filed the Initial Brief of Appellant and Designation of Matter. On April 22, 2015, Respondent filed the Initial Brief of Respondent and Designation of

Matter. The Record on Appeal was filed on June 22, 2015. Counsel filed Final Brief of Appellant on July 16, 2015, and Respondent filed the Final Brief of Respondent on July 15, 2015.

3. This Court heard argument on February 2, 2016.

4. On April 6, 2016, this Court issued an unpublished opinion affirming Appellant's conviction. State v. Ernest Allen, 2016-UP-135 (S.C. Ct. App. filed April 6, 2016).

5. On April 11, 2016, Counsel sent Appellant a letter informing him of this Court's opinion, advising him that our office would be closing his case, and informing him of the rights and time limits associated with an application for post-conviction relief. In short, Counsel would not seek additional relief through the direct appeal process on Appellant's behalf.

6. On April 22, 2016, Appellant filed a *pro se* petition for rehearing.

7. Counsel received notice of the petition for rehearing by way of letter from Mark Farthing, the attorney for the Respondent, on April 29, 2016.

8. After inquiry, the Clerk's Office indicated that they would also like Counsel to file a formal Motion to Withdraw. In compliance with the Clerk's request, Counsel is filing the instant motion.

9. This motion is made in good faith. Counsel has not asked opposing counsel to consent.

10. Counsel understands that Appellant intends to proceed *pro se* or obtain additional counsel. If the Court grants the instant motion, Counsel respectfully requests this Court allow Appellant to re-file his prior *pro se* petition for rehearing.

Wherefore, Thomas Jarrett Bouchette and Robert M. Dudek, Counsel for Ernest Maurice Allen, move to be relieved as counsel.

Respectfully submitted,

*Susan B. Hackett for*

Robert M. Dudek  
Chief Appellate Defender  
1330 Lady Street, Ste. 401  
Columbia, S.C. 29201  
803-734-1330

*Susan B. Hackett for*

T. Jarrett Bouchette  
Johnny Gardner Law Group, P.A.  
212 Main Street  
Conway, S.C. 29526  
803-248-7135

ATTORNEYS FOR APPELLANT

This 3<sup>rd</sup> day of May, 2016

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Kershaw County

James R. Barber III, Circuit Court Judge

STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

ERNEST MAURICE ALLEN,

APPELLANT

Appellate Case No. 2014-000165

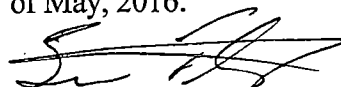
CERTIFICATE OF SERVICE

I certify that a true copy of the motion to be relieved in this case has been served on Jennifer Ellis Roberts at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Ernest Maurice Allen, #310134, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 3<sup>rd</sup> day of May, 2016.

*Susan B. Hackett for*  
Robert M. Dudek  
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 3<sup>rd</sup> day  
of May, 2016.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

The State, Respondent,

v.

Ernest Maurice Allen, Appellant.

Appellate Case No. 2014-000165

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Appeal From Kershaw County  
James R. Barber, III, Circuit Court Judge

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Unpublished Opinion No. 2016-UP-135  
Heard February 2, 2016 – Filed April 6, 2016

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**AFFIRMED**

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Thomas Jarrett Bouchette, of Johnny Gardner Law  
Group, P.A., of Conway, and Chief Appellate Defender  
Robert Michael Dudek, of Columbia, for Appellant

Attorney General Alan McCrory Wilson, Assistant  
Attorney General Mark Reynolds Farthing, Assistant  
Attorney General Jennifer Ellis Roberts, and Solicitor  
Daniel Edward Johnson, all of Columbia, for  
Respondent.

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ALAN WILSON  
ATTORNEY GENERAL

April 27, 2016

**HAND-DELIVERED**

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

RE: State v. Ernest Maurice Allen – Appellate Case No. 2014-000165

Dear Ms. Kitchings:

On April 26, 2016, our office received a pro se petition for rehearing personally submitted by Appellant Ernest Maurice Allen for filing in the above-referenced case. However, pursuant to our records, Appellant is still currently being represented by T. Jarrett Bouchette, Esquire, and Robert M. Dudek, Esquire, in this appeal, and no motion has been filed seeking for appellate counsel to be relieved in Appellant's case. As a result, Appellant's pro se petition for rehearing constitutes an improper pro se filing and, accordingly, should not be accepted by this Court. See Miller v. State, 388 S.C. 347, 347, 697 S.E.2d 527, 527 (2010) ("Since there is no right to 'hybrid representation' that is partially pro se and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed pro se by a person represented by counsel **are not to be accepted unless submitted by counsel.**" (emphasis added)); cf. Foster v. State, 298 S.C. 306, 307, 379 S.E.2d 907, 907 (1989) (ordering the Clerk of Court to return a substantive pro se document filed while the petitioner was represented by counsel). If the Court desires a more formal return from the State or needs any additional information, please contact me at (803) 734-3727.

Sincerely,

Mark R. Farthing  
Assistant Attorney General  
Bar No. 76901

MRF/

cc: T. Jarrett Bouchette, Esquire  
Robert M. Dudek, Esquire  
Ernest Maurice Allen, Inmate No. 310134  
Victim Services



# JOHNNY GARDNER LAW GROUP, P.A.

DUI · PERSONAL INJURY · CRIMINAL · FAMILY · BUSINESS

JOHNNY GARDNER  
HEATHER MOORE  
JARRETT BOUCHETTE  
ADAM SZYSZKOWSKI

April 11<sup>th</sup>, 2016

Mr. Earnest M. Pickett (Inmate # 310134)  
386 Redemption Way  
McCo.mick SC 29899

Re: State v. Ernest M. Allen: Appellate Case No: 2014-000165

Dear Mr. Pickett (Allen):

Enclosed is a copy of the opinion of the Court of Appeals in your case. Unfortunately, the Court affirmed the trial Court's ruling and denied our request for a new trial. Please be advised that our office will be closing your case along with this letter.

Please be aware that there is a **one year statute of limitations for filing an application for post-conviction (PCR) relief**. This is one year from the date of the enclosed opinion. This statute of limitations **is very strictly enforced**, so please be sure that **you** comply with it. Please understand *it is your responsibility alone to be sure this PCR application is timely filed*. **This application must be filed with the clerk of court in the county of your conviction**. There is also now a **one year statute of limitations for filing for federal habeas**. However, you must **exhaust your PCR claims** in state court, before raising them in federal court.

Please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future**. I do wish you the best. Feel free to contact me if you have any questions.

Sincerely,

T. Jarrett Bouchette, Esq.

TJB  
Enclosure: Post-Conviction Relief Application

*Wherever life takes you, we'll be there.*

212 MAIN STREET · CONWAY, SC 29526 · 843.248.7135 · FAX: 843.248.0270  
WWW.JOHNNYGARDNERLAW.COM · INFO@JOHNNYGARDNERLAW.COM

# The South Carolina Court of Appeals

The State, Respondent,

v.

Ernest Maurice Allen, Appellant.

Appellate Case No. 2014-000165

The Honorable James R. Barber, III

Kershaw County

Trial Court Case No. 2013GS2800681, 2013GS2800682,  
2013GS2800683, 2013GS2800685, 2013GS2800811

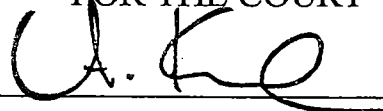
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## ORDER

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The Court has received a motion to relieve Mr. Thomas Bouchette and Mr. Robert M. Dudek as counsel for Ernest M. Allen. This motion is Granted. Mr. Thomas Bouchette and Mr. Robert M. Dudek are now relieved as counsel and the Appellant, Ernest M. Allen, is considered to be proceeding as *pro se*.

FOR THE COURT


 J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire  
Robert Michael Dudek, Esquire  
Thomas Jarrett Bouchette, Esquire  
Jennifer Ellis Roberts, Esquire  
Daniel Edward Johnson, Esquire  
Mark Reynolds Farthing, Esquire  
Ernest Maurice Allen

**FILED**

7/15/16 

Earnest M. Pickett (Allen) #310134  
MCCI F3-B-120  
386 Redemption Way  
McCormick, S.C. 29899

**RECEIVED**  
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