

AUGUST 14, 2016

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AUG 17 2016

S.C. SUPREME COURT

ATTN: DANIEL F. SHEAROUSE, ESQUIRE

"CLERK OF COURT / S C SUPREME COURT"

FROM: BOBBY JOE BARTON, #163629

CASE NO: # 2014-CP-23-5047 (APPEAL TO WRIT OF CERTIORARI)

Re: "MOTION TO RELIEVE COUNSEL & PERMISSION TO PROCEED PRO SE!"

: DEAR SIR,

I AM FILING "A PRO SE MOTION TO RELIEVE COUNSEL AND RESPECTFULLY REQUESTING PERMISSION TO PROCEED PRO SE (SELF-REPRESENTATION)" IN YOUR CLERKS' OFFICE. I AM SENDING THE ORIGINAL MOTION ALONG WITH A TRUE EXACT COPY FOR THE JUDGE(S) TO REVIEW. I REQUEST THAT YOU TO PLEASE CLOCK STAMP & DATE SOON AS POSSIBLE AND RETURN A COPY TO ME. I AM ENCLOSED A SELF-ADDRESS RETURN ENVELOPE TO DEFRAY TO COST OF THE COURT OF COOPERATING WE ME. I HAVE SERVED ALL THE APPROPRIATE PARTIES AS SHOWN ON THE PROOF-OF-SERVICE. THANK YOU.

RESPECTFULLY SUBMITTED,

Bobby Joe Barton Pro Se

Bobby Joe BARTON #163629

MCCORMICK CORR. INST,

386 REDEMPTION WAY

MCCORMICK, SC 29899

CC: BOBBY JOE BARTON, PRO SE PETITIONER

2016-000995

AUG 17 2016

THE SUPREME COURT OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
BOBBY JOE BARTON, #163629,)
PETITIONER,)

V.)

STATE OF SOUTH CAROLINA,)
RESPONDENT.)

S.C. SUPREME COURT
IN THE SUPREME COURT

C/A No.: 2014-CP-23-5047

MOTION TO RELIEVE COUNSEL
AND PERMISSION TO
PROCEED PRO-SE

THE ABOVE PETITIONER COME BEFORE THE SUPREME COURT OF SOUTH CAROLINA WITH A PRO-SE MOTION REQUESTING TO BE RELIEVED OF COUNSEL PURSUANT TO "STATE V. STUCKEY", 333 S.C. 56, 508 S.E.2D 564 (1998), AND PERMISSION TO PROCEED PRO-SE (SELF-REPRESENTATION) PURSUANT TO "FARRETTA V. CALIFORNIA", 422 U.S. 806 (S.C.T. 1995). THE COURT HELD THE RIGHT OF SELF-REPRESENTATION FINDS SUPPORT IN THE STRUCTURE OF THE SIXTH (6TH) AMENDMENT, AS WELL AS IN THE ENGLISH AND COLONIAL JURISPRUDENCE FROM WHICH THE AMENDMENT EMERGED.

THE COUNSEL PRIVISION SUPPLEMENT'S THIS DESIGN. IT SPEAKS OF THE "ASSISTANCE" OF COUNSEL AND AN ASSISTANT, HOWEVER, IS STILL AN ASSISTANT. THE LANGUAGE AND SPIRIT OF THE SIXTH (6TH) AMENDMENT CONTEMPLATE THAT COUNSEL, LIKE THE OTHER DEFENSE TOOLS GUARANTEED BY THE AMENDMENT, SHALL BE AN AID TO A WILLING DEFENDANT - NOT AN ORGAN OF THE STATE INTERPOSED BETWEEN AN UNWILLING DEFENDANT AND HIS RIGHT TO DEFEND HIMSELF PERSONALLY.

TO THRUST COUNSEL UPON THE ACCUSED, AGAINST HIS CONSIDERED WISH THUS VIOLATES THE LOGIC OF THE AMENDMENT. IN SUCH A CASE, COUNSEL IS NOT AN ASSISTANT, BUT A MASTER, AND THE RIGHT TO MAKE A DEFENSE IS STRIPPED OF THE PERSONAL CHARACTER UPON WHICH THE AMENDMENT IS STRIPPED OF THE PERSONAL CHARACTER UPON WHICH THE AMENDMENT INSISTS.

THE UNITED STATES COURTS OF APPEAL HAVE REPEATEDLY HELD THAT THE RIGHT OF SELF-REPRESENTATION IS PROTECTED BY THE BILL OF RIGHTS. IN "UNITED STATES V. PLATTNER", 330 F.2D 271 TO 274, "THE ABSOLUTE AND PRIMARY RIGHT TO CONDUCT ONE'S OWN DEFENSE IN PROPRIA PERSONA".

IN "PRICE V. JOHNSTON", 334 U.S. 266, THE COURT, IN HOLDING THAT A CONVICTED PERSON HAD NO ABSOLUTE RIGHT TO ARGUE HIS OWN APPEAL.

THE PETITIONER DOES NOT DISPUTE THE COURT'S HOLDING IN "JOHNSON", ID. BUT HERE, PETITIONER IS NOT SEEKING THE RIGHT TO ARGUE ORAL ARGUMENTS OF HIS APPEAL AT THIS PRESENT TIME BUT THE RIGHT TO RELIEVE COUNSEL AND PERMISSION TO PROCEED PRO-SE.

THE PETITIONER STATE THAT AN APPEAL DOES NOT NECESSARILY HAS TO BE ARGUED BY ORAL ARGUMENTS AND CAN BE CONSIDERED ON THE MERITS OF THE BRIEF BY PETITIONER AND RESPONDENT IN WHICH HE BELIEVES HE IS QUALIFIED TO BRIEF ON HIS OWN.

THE PETITIONER STATES JUST AS "FARETTA" REPRESENTED HIMSELF ONCE BEFORE IN TRIAL, THE PETITIONER ALSO STATES THAT:

1.) HE REPRESENTED HIMSELF IN A JURY TRIAL BEFORE JUDGE AND JURY IN SPARTANBURG COUNTY, 1992;

- 2.) HE HAS A GENERAL EQUIVALENCY DIPLOMA, "G.E.D." S.C. 1987;
- 3.) HIS READING SKILLS ARE ON THE 12.9 PTS. GRADE AVERAGE;
- 4.) HIS COMPREHENSION SKILLS ARE 11.0 PTS. GRADE AVERAGE;
- 5.) AND HAS ACTIVELY DRAWN UP ISSUES IN APPEAL AND POST CONVICTION CASES ALONG WITH FIVE (5) YEARS EXPERIENCE STUDYING AND PREPARATION TO DEFEND HIS CASE.

THE PETITIONER IS AWARE OF THE OLD PROVERB THAT "ONE WHO IS HIS OWN LAWYER HAS A FOOL FOR A CLIENT". THE COURT BY ITS OPINION TODAY NOW BESTOWS A CONSTITUTIONAL RIGHT ON ONE TO MAKE A FOOL OF HIMSELF. ALTHOUGH IT'S NOT STATED IN THE AMENDMENT IN SO MANY WORDS, THE RIGHT TO SELF-REPRESENTATION - TO MAKE ONE'S OWN DEFENSE PERSONALLY - IS THUS NECESSARILY IMPLIED BY THE STRUCTURE OF THE AMENDMENT. THE RIGHT TO DEFEND IS GIVEN DIRECTLY TO THE ACCUSED; FOR IT IS HE WHO SUFFERS THE CONSEQUENCES IF THE DEFENSE FAILS. SEE "FARETTA V. CALIFORNIA", 422 U.S. 806 (SUPREME COURT 1975).

THE PETITIONER UNDERSTANDS IT IS ONE THING TO HOLD EVERY DEFENDANT, RICH OR POOR, HAS THE RIGHT TO THE ASSISTANCE OF COUNSEL, AND QUITE ANOTHER TO SAY THAT A STATE MAY COMPEL A DEFENDANT TO ACCEPT A LAWYER HE DOES NOT WANT OR DID NOT ASK FOR ON APPEAL. THE VALUE OF STATE-APPOINTED COUNSEL WAS NOT UNAPPRECIATED BY THE FOUNDERS OF THE CONSTITUTION AND BILL OF RIGHTS, YET, THE NOTION OF COMPULSORY COUNSEL WAS UTTERLY FOREIGN TO THEM AND WHATEVER ELSE MAY BE SAID OF THOSE WHO WROTE THE BILL OF RIGHTS, SURELY THERE CAN BE NO DOUBT THAT THEY UNDERSTAND THE INESTIMABLE WORTH OF FREE CHOICE.

ON JULY 1, 2016 ATTORNEY "TAYLOR D. GILLIAM" WAS APPOINTED TO REPRESENT THE PETITIONER ON APPEAL TO THE SOUTH CAROLINA SUPREME COURT.

THE PETITIONER DID NOT REQUEST AN APPELLATE ATTORNEY AND DOES NOT WISH TO HAVE ONE REPRESENT HIM BUT WISHES THE COURT TO RELIEVE COUNSEL AND REQUEST PERMISSION TO PROCEED PRO-SE AGAINST ANY OBJECTIONS BY THE ATTORNEY GENERAL'S OFFICE MAY HAVE.

THE PETITIONER HAS EXPERIENCED MUCH RECKLESSNESS AND CARELESS PRACTICES FROM TRIAL ATTORNEY, APPEAL ATTORNEY, AND POST-CONVICTION ATTORNEY WHOM ALL ACTED LAYMEN LIKE WHEN IT CAME TIME TO SUBSTANTIATE CLAIMS OF HIS ISSUES WITH MEMORANDUM OF LAW, BRIEF OR ORAL ARGUMENT BEFORE THE COURT.

APPELLATE COUNSEL "TAYLOR D. GILLIAM" SPOKE AS A NOVICE WHEN HE SPOKE WITH PETITIONER CONCERNING A CONSTITUTIONAL RULE OF THE 14TH AMENDMENT. (MASSIAH CLAIM) CONCERNING "THAT ALL INTERROGATIONS MUST CEASE ONCE INDICTMENT ATTACHES OUTSIDE THE PRESENCE OF A DEFENDANT'S ATTORNEY". COUNSEL DOES NOT UNDERSTAND THAT THE ABSENCE OF AN ATTORNEY PROTECTION AND GUIDING HAND WHILE BEING INTERROGATED AFTER INDICTMENT IS TO DENY DEFENDANT DUE PROCESS OF LAW AND A FAIR TRIAL. IN WHICH NO PART MAY BE USED AGAINST HIM IN TRIAL OR HIS CO-DEFENDANT. SEE "SPANO V. NEW YORK" 360 U.S 315.

THE PETITIONER DOES NOT WISH TO HAVE COUNSEL REPRESENT HIM IN HIS APPEAL TO THE SOUTH CAROLINA SUPREME COURT BUT DOES DESIRES TO PROCEED PRO-SE AS "FARETTA" DID AND FOR SIMILAR REASONS THAT IT IS MY CASE, MY LIFE AND LIBERTY IS STAKE AND WHOM KNOWS THE RECORD BETTER THAN THE PETITIONER.

THE PETITIONER STATES TO FORCE A LAWYER ON A DEFENDANT CAN ONLY LEAD HIM TO BELIEVE THAT THE LAW CONTRIVES AGAINST HIM AND PETITIONER ALREADY DOES AT THIS POINT. MOREOVER, IT IS NOT INCONCEIVABLE THAT IN SOME RARE INSTANCES, THE DEFENDANT MIGHT IN FACT PRESENT HIS CASE MORE EFFECTIVELY BY CONDUCTING HIS OWN DEFENSE.

THE PETITIONER STATES HE IS A PRISONER THAT DESIRES TO RELIEVE APPELLATE COUNSEL "TAYLOR D. GILLIAM" AND PERMISSION TO PROCEED PRO-SE AND REPRESENT HIMSELF ALSO WITH THE BELIEF THAT THE CASE IS OF SUCH A NATURE THAT ONLY HE HIMSELF CAN ADEQUATELY BRIEF THE FACTS AND ISSUES. SEE 'PRICE V. JOHNSON', 344 U.S. 266. "ORDINARILY THE COURT CANNOT DESIGNATE COUNSEL FOR THE PRISONER WITHOUT HIS CONSENT".

THE PETITIONER KNOWINGLY AND INTELLIGENTLY CHOOSE SELF-REPRESENTATION SO THAT THE RECORD WILL ESTABLISH THAT "HE KNOWS WHAT HE IS DOING AND HIS CHOICE IS MADE WITH EYES OPEN". SEE "ADAMS V. UNITED STATES EX REL. McCANN", 317 U.S. AT 279; AND "UNITES STATES V. GALLOP", 838 F.2D 105 (4TH CIR.), 487 U.S. 1211.

THE PETITIONER, JUST AS IN "FARETTA", THE RECORD AFFIRMLY SHOWS THAT IN BOTH CASES, BOTH ARE LITERATE, COMPETENT AND UNDERSTANDING AND THAT HE WAS VOLUNTARILY EXERCISING HIS INFORMED FREE WILL.

THE PETITIONER MOVES UPON THE COURT IN A TIMELY MANNER TO RELIEVE COUNSEL "TAYLOR D. GILLIAM", AND TO PROCEED PRO-SE, REPRESENTING HIMSELF ON APPEAL. ("UNITED STATES V. GILLIS", 773

F.2D 549 (4TH CIR. 1985))(STATUTORY RIGHT ON APPEAL MUST ALSO BE ASSERTED IN TIMELY FASHION) AND PLACED THE COURT ON NOTICE OF HIS INTENT TO REPRESENT HIMSELF.

THE PETITIONER REQUEST THAT THE COURT ORDER COUNSEL TO TURN OVER THE RECORDS, EXHIBITS AND THE P.C.R. EVIDENTIARY HEARING TRANSCRIPTS AND ALL LEGAL MATERIAL TO THE PETITIONER WITHIN THIRTY (30) DAYS OF THE COURT GRANTING PETITIONER'S MOTION TO RELIEVE COUNSEL AND GRANTING PERMISSION TO PROCEED PRO-SE IN THE CASE AT HAND.

THE PETITIONER BELIEVES THAT HE HAS SHOWN JUST CAUSE WHY COUNSEL SHOULD BE RELIEVED FROM HIS CASE AND THE COURT TO GRANT HIM THE PERMISSION TO REPRESENT HIMSELF PRO-SE TO THE SOUTH CAROLINA SUPREME COURT.

IT IS WITH MUCH HOPE AND MANY PRAYERS THAT HOPE THE HONORABLE COURT WILL GRANT HIS MOTION TO RELIEVE COUNSEL AND GRANT PERMISSION TO PROCEED PRO-SE.

SWORN TO AND SUBSCRIBED BEFORE ME THIS

12TH DAY OF August, 2016

Michael Casware
NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES July 09, 2026

1st Bobby Joe Barton
BOBBY JOE BARTON, #163629
McCI F-4 Q32-B
386 REDEMPTION WAY
McCORMICK, SC 29899
PETITIONER, PRO-SE

CC: DANIEL E. SHEAROUSE, CLERK OF COURT
PAUL B. WICKENSIMER, CLERK OF COURT
ALAN WILSON, ATTORNEY GENERAL OFFICE
TAYLOR D. GILLIAM, APPELLATE ATTORNEY
BOBBY JOE BARTON, PETITIONER, PRO-SE

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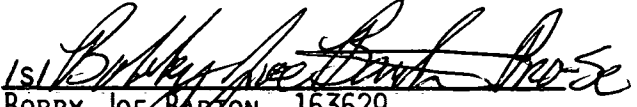
AUG 17 2016

PROOF OF SERVICE

S.C. SUPREME COURT

C/A No.: 2014-CP-23-5047 (APPEAL TO THE SOUTH CAROLINA SUPREME COURT)

THE HEREBY UNDERSIGNED STATES UNDER THE PENALTY OF PERJURY THAT HE HAS SERVED A "MOTION TO RELIEVE COUNSEL AND PERMISSION TO PROCEED PRO-SE" UPON: DANIEL E. SHEAROUSE, CLERK OF COURT; PAUL B. WICKENSIMER, CLERK OF COURT; ALAN WILSON, ATTORNEY GENERAL OFFICE; AND TAYLOR D. GILLIAM, ATTORNEY OF APPELLATE DEFENSE OF SOUTH CAROLINA, BY HAND DELIVERING THE MOTION TO THE MCCORMICK CORRECTIONAL MAIL ROOM, ON THE 15th DAY OF AUGUST, 2016.


BOBBY JOE BARTON, 163629
McCI F-4 132-B
386 REDEMPTION WAY
McCORMICK, SC 29899
PETITIONER, PRO-SE

CC: DANIEL E. SHEAROUSE, CLERK OF COURT
PAUL B. WICKENSIMER, CLERK OF COURT
ALAN WILSON, ATTORNEY GENERAL OFFICE
TAYLOR D. GILLIAM, APPELLATE ATTORNEY
BOBBY JOE BARTON, PETITIONER, PRO-SE

"PROOF-OF-SERVICE"

THE HEREBY APPELLANT IN THE CASE NO:
"2014-CP-23-5047" STATES UNDER THE PENALTY
OF PERJURY THAT HE HAS GIVEN NOTICE OF HIS
NEW ADDRESS TO: TAYLOR D. GILLIAM, ATTORNEY FOR
INDIGENT DEFENSE & A TRUE EXACT COPY TO NOTI-
FY THE NAMED ENTITIES OF HIS NEW ADDRESS & COR-
RECTIONAL INSTITUTION BY MAILING COPIES TO:
DANIEL E. SHEARHOUSE, CLERK OF COURT (S.C./S.Ct.),
ALAN WILSON, DISTRICT ATTORNEYS' OFFICE, PAUL B.
WICKENSIMER, CLERK OF COURT (13th CIR.) AND BY
HAND DELIVERING SAID NOTICE TO MICHAEL CARWARE
_____, MCCORMICK CORR. MAILROOM PERSONEL
ON 15th DAY OF AUGUST, 2016.

NEW ADDRESS →

CC: BOBBY JOE BARTON, APPELLEE

Bobby Joe Barton
BOBBY JOE BARTON #163629
MCCORMICK CORR. INST
386 REDEMPTION WAY
MCCORMICK, SC
29635

AUGUST 10, 2016

ATTN: TAYLOR B. GILLIAM, ESQUIRE
SC COMM. ON INDIGENT DEFENSE
DIVISION OF APPELLATE DEFENSE

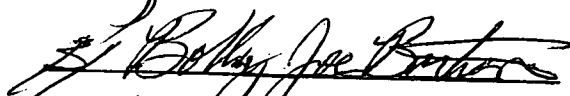
FROM: BOBBY JOE BARTON, #163629
CASE NO: 2014-CP-23-5047

Re: "NOTICE OF TRANSFER WITH NEW ADDRESS & INST."

: DEAR SIR,

I AM NOTIFYING YOU THAT I HAVE BEEN TRANSFERRED FROM PERRY CORRECTIONAL INST. TO: MCCORMICK CORRECTIONAL INST. @ 386 REDEMPTION WAY, MCCORMICK, SC 29835, AS OF AUGUST 9, 2016. ALSO YOU HAVE NOT PROPERLY SUBMITTED THE TELEPHONE PAPERWORK BECAUSE MY CONNECTION TO YOU IS BLOCKED. I WOULD APPRECIATE IT IF YOU WERE TO STRAIGHTEN THIS OUT. AND PLEASE SEND ME THE P.C.R. HEARING TRANSCRIPT AND EXHIBITS COPIES AS SOON AS YOU RECEIVE THEM.

RESPECTFULLY SUBMITTED,



CC: DANIEL E. SHEARHOUSE, CLK. OF S. Ct.
ALAN WILSON, DISTRICT ATTORNEY/SC
PAUL B. WICKENSIMER, CLK. OF Ct.
BOBBY JOE BARTON, APPELLEE

BOBBY JOE BARTON,
MCCORMICK CORR. INST.
386 REDEMPTION WAY
MCCORMICK, SC 29835

BOBBY BARNETT #168625
MCCORMICK CORR. INST. (48-132)
386 REDEMPTION WAY
MCCORMICK, SC 29849

ATTN: DAVID E. SHERROUSE, ESQUIRE
CLERK OF COURT
THE SUPREME COURT OF SC
POST BOX (OFFICE) 1133D
COLUMBIA, SC 29211

LEGAL MAIL

MCCI
MAIL ROOM

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RECORDED COPY OF MAIL NOT
S.C. DEPARTMENT OF CORRECTIONS

THE DEPARTMENT OF CORRECTIONS HAS NOT
INSPECTED OR CENSORED THIS ITEM. THEREFORE,
THE DEPARTMENT ASSUMES NO LIABILITY FOR ITS CONTENTS.