

Johnell Porter #240208  
Broad River Court Inst.  
Monticello Unit - (124)  
4460 Broad River Rd.  
Columbia, S.C. 29210


May, 2017

The Honorable David Hamilton, Clerk  
Clerk of Court's Office  
P.O. Box 649  
York, S.C. 29745-0649

Re: Case No. 2015-CP-46-1186

Dear Clerk:

Enclosed, please find the Applicant's Rule #59(E) SCRIP.P., Motion to Alter and Amend Judgment and Certificate of Service. Please Clock-Stamp and return a copy to me. I submit this Motion under Houston v. Lack, 487 U.S. 266-274 (1988). Applicant received Judge Cooper's Order, on April 25, 2017!!!

  
LEGAL MAIL

Johnell Porter # 240208  
Broad River Carr. Inst.  
Monticello Unit - (124)  
4460 Broad River Rd.  
Columbia, S.C. 29210

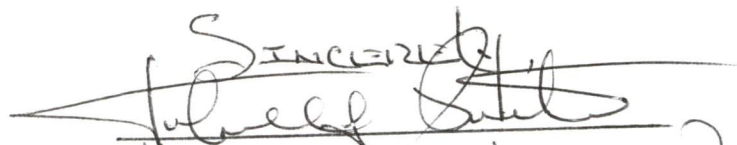
May, 2017

The Honorable Justin T. Hunter,  
Asst. Attorney General  
S.C. Attorney General's Office  
P.O. Box 11549  
Columbia, S.C. 29211

In Re: Case No. # 2015-CP-46-1186

Dear Sir:

Enclosed is a copy of the  
Rule # 59(E) SCR Civ. P., Motion to Alter  
and Amend Judgment. The Motion is  
filed in accordance with Houston  
v. Lack, 487 U.S. 266, 274, (1988)!!!

Sincerely,  
  
Johnell Porter, # 240208, P20 SEE

CC:

LEGAL MAIL

State of South Carolina  
County of York

In The Court of  
Common Pleas

Case No. # 2015-CP-46-1181

Townell Porter, 240208,  
Applicant,

State of South Carolina,  
Respondent.

Motion to Alter or  
Amend Judgment  
Pursuant to Rule # 59(E)  
SCRCiv.P.

Comes now the Applicant, pursuant to Rule # 59(E), SCRCiv.P. and hereby moves to Alter or Amend the Judgment rendered by the Honorable Thomas G. Cooper, Jr., on April 19, 2017, in regards to the Applicant's Motion to Relieve Counsel in the York County Court of Common Pleas.

(1) At the Motion to Relieve Counsel hearing, the Applicant asked that PCR Counsel Mr. Nathan T. Sheldon, Esq., be relieved as Counsel and that another Counsel be appointed to represent him!!!

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(2.)

(2.) The Applicant NEVER ASKED the Court to represent himself pro se, and in State v. Arthur, 295 S.C. 495, 374 S.E. 2d 291. . . . "The South Carolina Supreme Court stated, we held that waiver of a constitutional or statutory right requires a showing on the record, that the defendant made the waiver knowingly and intelligently." Citing the United Supreme Court, in Paton v. United States, 281 U.S. 275, 50 S.Ct. 253 (1930); See also, State v. Diaz, 403 S.E. 2d 523.

(3.) The Court would not appoint him another attorney and the applicant was forced by the Court to choose between "Incompetent Counsel" or "No Counsel at All". See Crandell v. Bunnell, 144 F. 3d 1213 (9th Cir. 1998), overruled by Schell v. Witek, 213 F. 3d 1017 (9th Cir. 2000). The State cannot force attorney on defendant, but decision to represent self must be knowing and intelligent. See Gonzalez v. California, 422 U.S. 806 (1975). The Judge must allow sufficient

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(3.)

TIME FOR DEFENDANT TO MAKE DECISION,  
DEVELOPE FOR RECORD INFORMATION ON DE-  
FENDANT'S ABILITY TO MAKE WAIVER  
DECISION, AND EXPLAIN VALUE OF COUNSEL  
TO ACCUSED. TOWNES v. UNITED STATES,  
371 F.2d 930 (4th Cir. 1955), CERT. DENIED,  
387 U.S. 947 (1967); AND UNITED STATES v.  
GALLOP, 838 F.2d 105 (4th Cir.), CERT. DENIED  
487 U.S. 1211 !!!

(4.) PRIOR TO THE AUGUST 1,  
2016, AUSTIN v. STATE HEARING, THE  
APPLICANT HAD NEVER SEEN, SPOKEN TO,  
OR RECEIVED ANY LETTER CORRESPONDENCE  
FROM MR. NATHAN F. SHELDON, ESQ., IN  
TWO (2) YEARS. NEVERTHELESS, MR. SHELDON  
AND SOUTH CAROLINA ASSISTANT ATTORNEY  
GENERAL MR. JUSTIN HUNTER, ESQ. .... HAD  
ENTERED A CONSENT DECREE AGREEMENT  
IN REGARDS TO APPLICANT'S AUSTIN v. STATE  
PETITION. WITHOUT THE APPLICANT'S KNOWLEDGE  
APPROVAL, OR CONSENT. THE AUGUST 1, 2016  
"ORDER", STATED THE APPLICANT WAS  
PRESENT IN THE COURT ROOM, REPRESENTED  
BY MR. SHELDON. WHEREAS THE APPLICANT  
WAS NOT PRESENT, AND AN INVESTIGATION

LEGAL MAIL

(4.)

Was ordered by former South Carolina Supreme Court Chief Justice, the Honorable Costa M. Pleicones. In which was conducted by the Honorable DANIEL E. SHEAROUSE Clerk of the S.C. Supreme Court. ... REVEALED the Applicant was not present at the August 1, 2011 hearing !!!

(5.) By NOT appointing the Applicant another Attorney and ordering him to go pro se, Judge Cooper, violated a Substantial and Constitutional Right to have witnesses testify in his behalf. ... IN VIOLATION of the Sixth (6<sup>th</sup>) Amendment of the United States Constitution. The Applicant NEVER asked the Court to represent himself pro se !!!

(6.) On April 24, 2012, the York County Clerk of Court, filed twelve (12) Subpoenas for witnesses to testify in his behalf. The Clerk of Court filed the Subpoenas, but inform the Applicant that it was his responsibility to make sure the witnesses are properly served !!!

(5)

(7.) The Applicant asserts the Motion to Revoke Counsel Hearing held April 19, 2017, in the Moss Justice Center, in York, S.C. Before the Honorable Thomas C. Cooper was a miscarriage of justice that violated a substantial and Constitutional Right, which violates the Applicant's Due Process and Equal Protection Rights under the Fifth and Fourteenth Amendments of the United States Constitution. Also, the Applicant NEVER asked to represent himself pro se. That is required in regards to the United States Supreme Court's Jays, Reznick and Mandates in Farrelle v. California, 422 U.S. 806 (1975).

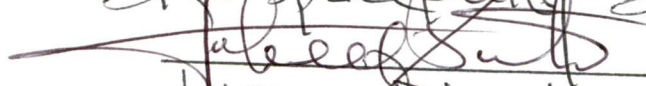
(8.) The Applicant needs all of the witnesses subpoenaed to testify in regards to the newly discovered evidence claim presented in his Austin v. State petition, that the S.C. Supreme Court "Ordered" to be heard before a writ of CERTIORARI can be filed in the S.C. Supreme Court. See the "Order"

(6.)


of former Chief Justice of the S.C. Supreme Court, the Honorable Costa M. RECONES, ON November 28, 2016 !!!

"CONCLUSION"

Wherefore, the Applicant asked that Judge Cooper's April 19, 2017 Order denying the appointment of Counsel should be "vacted". By not appointing a new Counsel the Applicant's fifth (5<sup>th</sup>), sixth (6<sup>th</sup>), and fourteenth (14<sup>th</sup>) Amendment Rights under the United States Constitution is clearly violated !!!

Respectfully Submitted  
  
James S. Cooper # 240208

Sworn and Subscribed before me  
this 8 day of MAY 2017,

  
Notary Public:

9/16/2026  
My Commission Expires:



State of South Carolina  
County of York

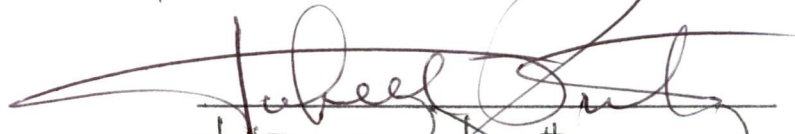
In The Court of  
Common Pleas

Townell Porter, #240208, Pro Se  
State of South Carolina,


Case No. 2015-CP-46-1186

Certificate of  
Service

I do hereby certify that a copy of the Motion to Alter and Amend Judgment Pursuant to Rule # 59(e) SCRPC, was sent to the Respondent by pre-paid postage, via U.S. Mail, here at the Broad River Court, Trust, and addressed to the Honorable Justice Hunter, Ass., S.C. Attorney General; S.C. Attorney General's Office; P.O. Box 11549; Columbia, SC 29211.

  
Townell Porter, #240208, Pro Se

Sworn to and Subscribed before me  
this 8 day of May 2017.

  
Notary Public:

9/14/2022  
My Commission Expires

LEGAL MAIL

