

MAY 19, 2017

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MAY 26 2017

S.C. SUPREME COURT

Daniel E. Shearouse, Clerk of Court
In The Supreme Court of South Carolina
Post Office Box 11330
Columbia, So. Car. 29211

Re: STEVEN W. LITTLEBOW V. STATE OF SOUTH CAROLINA
Appellate Case No. 2017-001054

Dear Mr. Shearouse,

Please find enclosed Appellant's Original Explanation Brief with exhibits and proof of service on the Attorney General's Office.

Appellant would point to the fact that there are two matters still pending in the lower court that were timely filed pursuant to South Carolina Rules of Civil Procedure Rule 52(b) that are still under the lower court's jurisdiction and have been forwarded to the Presiding Judge where no ruling has been made.

Appellant has asked the lower court to correct two substantive errors in the "Motion to Reconsider Order dated Apr. 17, 2017 and the Conditional Order of Dismissal dated Sept. 23, 2015. Also, the Cherokee County Clerk's Office has not forwarded the Appellant's "Objections to the Proposed Final Order of Dismissal" as asked by the South Carolina Court Administration Office.

Failure to address these substantive matters will deprive

the Appellant of a mode of trial to which he is entitled
to as a matter of right to protect his due process rights.

Please find enclosed a self address stamped envelope
containing the cover letter and proof of service in the above
captioned case to be "clocked-date-stamped", filed by your
office and clocked in copy of the same returned to me
pursuant to rule 602 SCACR, as soon as feasible.

Respectfully Submitted,
~~Stacy Hayes~~
SCDC NO. 321946

CC: Valerie Giovanoli
J. Mark Hayes II (Judge)
Brandi M⁴BEE

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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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MAY 26 2017

S.C. SUPREME COURT

APPEAL FROM CHEROKEE COUNTY
THE HONORABLE J. MARK HAYES, II
2015-CP-11-0242

Appellant Case No. 2017-001054

STEVEN W. LITTLEJOHN,
Appellant,
v.

STATE OF SOUTH CAROLINA,
Respondent,

EXPLANATION BRIEF

STEVEN W. LITTLEJOHN #321946
T.C.I. S/A #124
1578 CLARENCE COCKER HWY.
TURBEVILLE, SO. CAR. 29162
(Appellant Pro-Se)

S. C. ATTORNEY GENERAL
HON. VALERIE G. GIOVANNOLI
P.O. BOX 11549
COLUMBIA, S.C. 29211
(Counsel For Respondent)

Timeline And Case Statement

MAY 3, 2007 - The South Carolina Supreme Court Ordered SCACR Rule 224 Placed in RESERVE. (SEE exhibit NO. 1)

MAY 21, 2007 - (A) Plead Guilty to 15 YEARS

AUG. 17, 2007 - Pro Se (A) Filed his 1st PCR Application on grounds of ineffective Assistance of Counsel

OCT. 2007 - Both Parties received Copies of the General Session transcript.

April 8, 2008 - PCR Hearing held - Five year Negotiated Sentence Memorialized in the transcript was properly raised

August 6, 2008 - PCR denied - 59E motion denied Nov. 19, 2008, A timely Notice of Appeal was Filed.

JUNE 24, 2009 - (A) Appeal Attorney Filed his Petition for Writ of Certiorari.

SEPT. 9, 2009 - (R) Filed A motion to Correct The Record and file A Supplemental Appendix, Pursuant to rule 224 (SCACR) raising the claim of error for the 1st time on appeal (SEE exhibit NO. 2A-C)

SEPT. 2009 - Appellate Counsel Filed (A)'s Return to motion to Correct Record and file A Supplemental Appendix.

JAN. 21, 2010 - The Supreme Court Denied (A) Writ of Certiorari As to Arguments I, III, IV, V, and VI, Allowed the (R) to correct record (SERVENER Error)

JUNE 25, 2010 - The South Carolina Supreme Court denied the (A)'s Writ of Certiorari (Argument II) that was reserve by the Court.

JULY 22, 2010 - The South Carolina Supreme Court denied (A) Motion for reconsideration.

April 15, 2011 - Pro Se (A) Filed A Petition For Writ of Habeas

Corpus CIA NO. 0:11-889 RMG-PSG in the United States District Court For So. CAR.

MAY 7, 2012 - (A)'s Federal Habeas Petition was found to be timely under the ONE YEAR statutory deadline set forth in the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") by the District Court of So. CAR. Stopping (AEDPA) Clock - (SEE exhibit NO. 3)

MAY 23, 2012 - (A) learned newly discovered evidence that the (B) used a SCACR Rule 224 that was placed in reserve by the So. CAR. Supreme Court MAY 3, 2007. (SEE exhibit NO. 1)

Dec. 22, 2012 - U.S. Court of Appeals for the Fourth Circuit Judgement NO. 12-7245 - Certificate of Appealability denied.

MARCH 22, 2013 - Pursuant to S.C. Code § 17-27-45(C) (ONE YEAR statute) 10 months after actual discovery (A) timely filed his 2nd PCR Application NO. 013-CP-11-0192 on the grounds of "Prosecutorial Misconduct" because (B) used a SCACR Rule 224 that was placed in reserve by the So. CAR. Supreme Court violating a Supreme Court order dated MAY 3, 2007. AEDPA Clock still stopped. Equitable tolling - statute of limitation does not run while litigation is pending.

MAY 16, 2013 - (A) timely filed in the U.S. Supreme Court, Writ of Certiorari Denied Oct. 15, 2013 NO. 13-5995 (SEE exhibit NO 4)

JAN. 25, 2014 - (A) received letter from Attorney General Office with Proposed Order of dismissal allowing 20 days to show cause why the order should not become final.

Feb. 12, 2014 - Pursuant to (A) Eighth Amendment rights, (A) exercised Protected Conduct to timely file a motion for an extension to seek medical treatment due to

A HEART ATTACK that occurred Feb. 1, 2014 - ADA Protections (See Exhibit No. 5)

MARCH 24, 2014 - (A) received a Conditional Order of Dismissal dated MARCH 12, 2014 allowing 20 days to show why the order should not become final. The signing of this order by the (A) sentencing Judge violated a Supreme Court order dated April 12, 2013, also the Judge did not have jurisdiction over this matter.
April 14, 2014 - (A) exercised Protected Conduct to timely file a motion for enlargement of time pursuant to Rule 60(b)(1) "excusable neglect" (Heart Attack) (Rules of Civil Procedure) while under ADA Protections (See Exhibit No. 6)

JUNE 7, 2014 - requested confirmation received from CDC Health Information Services - mailed medical records to Judge as requested. (See Exhibit No. 7A, 7B).

OCT. 10-15, 2014 - (A) exercised Protected Conduct to seek medical treatment pursuant to his eighth amendment and ADA rights Protections as (A) was hospitalized a second time for heart catheterization surgery (See Exhibit No. 8)

DEC. 31, 2014 - while still under ADA Protection after surgery (limited duty) (A) exercised Protected Conduct to timely file a notice and motion for a stipulated dismissal without prejudice and/or held in abeyance to address the issue of "lack of subject matter jurisdiction" that can be raised at anytime even for the first time on appeal and ineffective assistance of appellate counsel.

JAN. 20, 2015 - (A) exercised Protected Conduct to timely file his 3rd PCR Application No. 2015-CP-11-0242 on the grounds of lack of subject matter jurisdiction and ineffective

Assistance of Appellate Counsel. Mailroom Clerk stated Certificate of Service did not need to be Notarized.

Jan. 26, 2015 - (A) 3rd PCR Application was returned clocked in error - Clerk of Court Office stated that Certificate of Service need to be Notarized. (See Exhibit No. 9, 9A)

Jan. 28, 2015 - (A) exercised Protected Conduct to File a Status Check regarding the disposition of the stipulated dismissal without prejudice and/or to be held in Abeyance.

Feb. 3, 2015 - Status Check returned clocked in error regarding Certificate of Service needing to be Notarized (See Exhibit No. 10)

Feb. 5, 2015 - (A) exercised Protected Conduct to File a Writ of Mandamus regarding the Notarization of the Certificate of Service - Appellate Case No. 2015-000250.

March 5, 2015 - Supreme Court of South Carolina ruled NO EXTRA-ORDINARY REASON to entertain.

March 17, 2015 - Corrections were made - Mailroom Clerk stated that the Certificate of Service did not need to be Notarized. (A) timely exercised Protected Conduct to RE-Submit his 3rd PCR Application (See Exhibit No. 11)

MAY 8, 2015 - Final Order of Dismissal - Denied, The Court noted: "This Court notes that the Applicant Filed Another Successive Application on March 17, 2015, which will be addressed in a separate Order." This was Prejudicial to the (A) case and was error. (See Exhibit No. 12, 12A)

JUNE 29, 2015 - Motion for Reconsideration denied

July 14, 2015 - (A) exercised Protected Conduct to timely File his Notice of Appeal - 2nd PCR NO. 2015-CP-11-0192

August 5, 2015 - (A) exercised Protected Conduct to File his Appellate Brief.

Sept. 14, 2015 - (A) received Proposed Conditional order of Dismissal NO. 2015-CP-11-0242.

Sept. 28, 2015 - (A) received Signed Conditional order OF Dismissal.

Oct. 16, 2015 - (A) Filed Motion TO Dismiss Without Prejudice AS Improperly Filed 159E AND ASKED the Court to correct AN OVIOUS ERROR in the Conditional order of Dismissal.

March 18, 2016 - (A) exercised Protected Conduct to file A status check on both cases.

April 6, 2016 - (A) received return status check on both cases From the Clerk of Court NO. 2015-CP-11-0242. Stating: Conditional Order of Dismissal Filed 9-25-2015 rule 59E Sent to "AG" ON 10-21-15. This will be schedule by the AG's OFFICE. (See exhibit NO. 13)

July 8, 2016 - (A) receive letter From The South Carolina Supreme Court Assigned Appellate Case NO. 2016-001368

July 25, 2016 - (A) timely Filed explanation Brief

August 15, 2016 - Order of Dismissal received.

August 22, 2016 - (A) timely Filed Petition For rehearing

Sept. 9, 2016 - (A) received Petition For rehearing denial AND Remittitur.

Dec. 20, 2016 - (A) received the ORIGINAL Proposed Final Order OF Dismissal NO. 2015-CP-11-0242.

Jan. 3, 2017 - (A) exercised Protected Conduct to timely file Objections TO The Proposed Final Order OF Dismissal.

Jan. 9, 2017 - (A) received the Final Order Filed Jan. 3, 2017

Jan. 17, 2017 - (A) exercised Protected Conduct to timely file A "Motion to RECONSIDER"

April 10, 2017 - (A) received Return TO Applicant's Motion TO Reconsider.

April 17, 2017 - (A) exercised Protected Conduct to timely file objections TO respondents return TO Applicant's motion to reconsider.

April 17, 2017 - (A) received order denying his motion to reconsider dated April 7, 2017.

April 26, 2017 - (A) exercised Protected Conduct to timely file a letter to Judge Hayes regarding the corrections of two errors motion to reconsider order and Conditional order of Dismissal (SEE exhibits NO. 15, 16, 17)

April 26, 2017 - (A) exercised Protected Conduct to timely file his Notice of Appeal and Ask For leave to correct errors in the motion to reconsider order and Conditional order of Dismissal to So. Car. Supreme Court.

MAY 2, 2017 - (A) Filed letter with The South Carolina Court Administrator regarding the Cherokee County Clerk's office refusal to file his objections TO The Proposed Final Order of Dismissal.

MAY 3, 2017 - (A) received letter From The South Carolina Supreme Court Appellate Case NO. 2017-001054 rule 243(C)

MAY 9, 2017 - (A) received copy of letter to Attorney Valerie Giovanoli From Judge J. MARK HAYES, II regarding Amended errors.

MAY 11, 2017 - (A) received letter From South Carolina Court Administration to Directing Clerk to Assist.

MAY 11, 2017 - (A) mailed letter to DANIEL E. SHAWOUSE Supreme Court Clerk regarding leave to correct errors Pursuant to SERCP Rule 52(b).

MAY 11, 2017 - (A) MAILED letter to Judge J. MARK HAYES
to Amend errors in the Order denying his motion to
reconsider dated April 7, 2017 And the Conditional
Order of Dismissal dated Sept. 23, 2015.

Clearly Appellant has been Pursuing his rights diligently
And has not slept on them. He is currently being illegally
detained in violation of the Laws and Constitution of the
State And of the U.S. by the Issues presented.

SUCCESSIVENESS

Under MATTHEW V. EVATT 105 F.3d 937 A PCR Applicant would be allowed to file successive applications in South Carolina. IN MATTHEW V. EVATT SUPRA, Our Fourth Circuit Court of Appeals has recognized three circumstances in which a successive application would be entertained in South Carolina.

- Procedural Irregularities
- When Counsel at PCR did not differ from that at Trial, or,
- When Appellant prepares his Petition without the Benefit of Counsel.

Further, S.C. Code Ann Title 17-27-45(C) allows an Applicant to file when newly discovered evidence is found that could not have been discoverable at his previous action. And he must present his claim within a reasonable time through the exercise of due diligence.

The (A) plead guilty to several drug charges in Cherokee County on MAY 21, 2007. The (A) received (15) years. (A) at the time of plea and receiving his sentence but before leaving the Court room instructed Counsel

to file his Appeal and a Motion for Reconsideration because of the previous (5) year offer.

After Discovery that Counsel had not filed his Notice on Motion for Reconsideration he filed his First PCR on August 17, 2007 (excluding the 10 days to Appeal) (78 days had elapsed). However, (A) would contend because Counsel was instructed to file a Notice of Appeal this time would be tolled. The PCR hearing was held on April 8, 2008 and on August 6, 2008, The court found (A) Counsel was not ineffective. The (A) then filed a timely 594E motion to Alter or Amend the Order of Dismissal. The PCR Court Denied this motion on November 19, 2008. (A)'s Counsel timely filed the Notice of Appeal for Writ of Certiorari. The State asserted that the record had an error concerning a reference to a (5) years. The So. Cal. Supreme Court granted the States motion to take out the 5 years on Jan. 21, 2010. Which in effect whitewashed the (A) issue. The Supreme Court Denied half of (A) Arguments on June 25, 2010 and on July 22, 2010 the Court Denied the other half.

First, by allowing the record to be amended which substantially prejudiced the (A) ability to argue his claim in the Supreme Court is reversible error. Secondly denying (A) claims absconded the (A) ability to have the Supreme Court to consider the

Cumulative Error Analysis, when the Supreme Court ruled in a way that they dismissed half of the arguments one day and then dismissed the other half on another day the Court could not have reviewed \textcircled{A} 's issue as a whole to determine that even if the arguments or errors were harmless individually the Court could have reviewed them in cumulative error analysis.

In any event, the error occurred on this represented PCR appeal and \textcircled{A} had no way to know absent a crystal ball to see prior to his first hearing. He could not have raised these issues due to the timing.

In any event, \textcircled{A} filed his Federal Habeas Corpus (Pro se) April 15, 2011 (267 days) July 22, 2010 - April 15, 2011. During the pendency of this action likewise his time is tolled. The \textcircled{A} acknowledges under the (AEDPA) that there exist one statute of limitation for state and federal actions which run at the same time.

While the \textcircled{A} awaited the first Federal Habeas Corpus decision, which further tolled the statute of limitations \textcircled{A} filed his second PCR action due to the errors that occurred while the first PCR was on appeal and \textcircled{A} was represented by counsel which \textcircled{A} did give notice but the error was allowed to stand and while on the first, timely PCR appeal the Supreme Court was not by their own actions allowed to apply the

Cumulative error test. However, because A was represented on his first PCR and PCR appeal thereby tying A's hands due to the rules that do not allow hybrid representations. A filed his second action on March 22, 2013, and on May 30, 2012 A's first federal habeas corpus was denied. However, due to the actions of B while A's PCR went up on its first bite at the apple and thereafter the court's ruling on his issues in such a way that deprived A of a cumulative error analysis there would have been serious procedural irregularities by the courts ruling on half of his claims one day and then almost a month later ruling on the others compare Matthew v. Evatt supra. These procedural irregularities would allow a new hearing or at least a cumulative error analysis review. Secondly, when the A's main argument at PCR was that he was offered (5) years and then given (15) years and that case goes up on appeal and the state would be allowed to go back and purge the record of the testimony that would have substantiated his claim, A is clearly prejudiced. In short, the second filing is a direct result of what transpired during the first PCR appeal.

On the second PCR the B made their return Jan. 23, 2014. Feb. 1, 2014 the A sustained a heart attack and was hospitalized. Feb. 12, 2014 A exercised protected conduct to seek medical treatment pursuant to his eighth Amendment rights to request an extension of time for recovery. March 24, 2014 A received conditional order of dismissal. April 4, 2014 A timely

Filed A motion For enlargement OF Time Pursuant to Rule 60(b)(A) "Excusable Neglect" (Heart Attack) while under ADA Protections. (See exhibits No. 5, 6) On June 7, 2014 (A) Confirmation received from SCDC, medical records mailed to Judge. Oct. 10-15, 2014 (A) was hospitalized A Second time For Heart Catheterization Surgery. (See exhibits No. 7A, 7B, 8)

Courts look not to the length of delay, but to reason for delay in determining whether equitable tolling of the statute of limitations (Rouse v. Lee 339 F. 3d 239). Here the (A) had an extraordinary circumstances beyond his control, external to his conduct that delayed the filing of this 3rd PCR Application.

(A) Exercised Protected Conduct to timely file this Original Application on Jan 20, 2014 on the grounds of lack of subject matter Jurisdiction that can be raised at anytime, even the first time on appeal and ineffective assistance of appellate counsel which was returned by the Clerk's office clocked in error, stating Certificate of Service need to be Notarized. (A) Filed A writ of mandamus with the Supreme Court, corrections were made (A) exercised Protected Conduct to timely re-submit his 3rd PCR Application that was originally file Jan. 20, 2014 (See exhibits No. 9, 9A, 10, 11)

In the Final of Dismissal date May 8, 2015, The Court noted that the (A) Filed another Successive Application on March 17, 2015, which will be addressed in a separate order. This order was Prejudicial to the (A) timely filed Application, because Subject

Matter Jurisdiction Can be raised at any time, even the first time on appeal and has no statute of limitations. This so called third action was an amendment to the second and technically not a third action. Because of what happened on appeal from the first, the second was both timely and truly newly discovered from what occurred after the first was on appeal to the Supreme Court. The (A) never intended for there to be a third or current action but for it to be considered an amendment to the timely second and because the circumstances of what occurred on the first PCR appeal the second was not successive and the amendment that the lower court deemed as a third filing was error. As set out in S.C. Code § 17-27-90 specifically "Unless Applicant can point to a sufficient reason" why new grounds for relief were not raised or were not properly raised in the previous application. *Aice v. State* 409 SE 2d 392.

Newly Discovered Evidence

As discussed before when there are procedural irregularities involved in a case and when considering the evidentiary fact that the state petitioned and was allowed after the authorized time prescribed by law, and used a rule SCACR 224, as a vehicle to change the record on the first PCR appeal and the Supreme Court deciding half of the (A) arguments and then a month later deciding the other half of (A) arguments on appeal there by depriving the (A) of an opportunity of having his issue considered under the cumulative

Error Analysis, when considering that A was originally offered (5) years in exchange for his guilty plea, the court ultimately giving him (15) years and while on the PCR appeal the state filing a motion, using an illegal vehicle (SCACR 224) (which had been placed in reserve) to purge the record of the most viable issue, that he was promised one thing and received another. It totally white washes A of his issue as the error was not just scrivener but substantive to the issue for appeal and then having the so. ca. supreme court rule on his claims piece meal a month apart and not applying the cumulative error analysis. Jamison v. State 765 S.E. 2d 123

Lastly when comparing Matthew v. Evans supra, this court should allow A appeal to be perfected address the claim that the state promised (5) years and he received (15) years had he known he was to receive (15) years he would have insisted on going to trial where he would have been found not guilty, but when the case went up on appeal from the PCR the state engaged in and the court allowed the record to be purged so as to deny relief and prevent the federal court on habeas corpus to adequately review the actions of the state court. As this is clearly a denial of due process of law and a equal protection violation as guaranteed by the United States Constitution. The petitioner prays that this court reverse the previous decision, grant PCR relief by reversing the subject sentence or restate the record to reflect (5) years and reevaluate

the issue(s) both individually and all together under the
Cumulative Error Analysis Doctrine or any other remedy
that this Court Deems just and proper.

Respectfully Submitted,

~~Steven Littlejohn~~

STEVEN W. LITTLEJOHN

SCDC NO. 321946

State of South Carolina
In The Supreme Court

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MAY 19 2017

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TURBEVILLE CI

Appeal From Cherokee County
The Honorable J. Mark Hayes, II
2015-CP-11-0242

Appellant Case No. 2017-001054

STEVEN W. LITTLEJOHN,
Appellant,
v.

State of South Carolina
Respondent.

PROOF OF SERVICE

I Steven W. Littlejohn do Certify that I have served my explanation brief w/ exhibits on Respondent's Counsel of record: South Carolina Attorney General's Office Valerie G. Giovanoli, Esquire, Post Office Box 11549, Columbia, So. Car. 29211 by depositing the same in the United State's mail, postage prepaid on this:

This 19, day of May 2017

Steven W. Littlejohn
STEVEN W. LITTLEJOHN
SCDC NO. 321946

Mary McCabe

From: Chris Florian
Sent: Wednesday, May 23, 2012 9:32 AM
To: Mary McCabe
Subject: RE: Scan from a Xerox WorkCentre

~~Reserved means that there is no Rule 224, they are keeping it as a placeholder. This was done by way of Supreme Court Order dated 5/3/2007.~~

Chris

-----Original Message-----

From: Mary McCabe
Sent: Tuesday, May 22, 2012 6:14 PM
To: Chris Florian
Subject: RE: Scan from a Xerox WorkCentre

We need to know what this means: "Reserved" in 2009. And what month did it take effect?
mhm

-----Original Message-----

From: Chris Florian
Sent: Tuesday, May 22, 2012 9:02 AM
To: Mary McCabe
Subject: RE: Scan from a Xerox WorkCentre

Rule 224 was marked "RESERVED" in 2009.

Chris

-----Original Message-----

From: Mary McCabe
Sent: Monday, May 21, 2012 6:07 PM
To: Chris Florian
Subject: FW: Scan from a Xerox WorkCentre

Mr. Florian, here's another I need answered. Thanks in advance. mhm

-----Original Message-----

From: DoNotReply@doc.state.sc.us [mailto:DoNotReply@doc.state.sc.us]
Sent: Monday, May 21, 2012 7:09 PM
To: Mary McCabe
Subject: Scan from a Xerox WorkCentre

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre.

Attachment File Type: PDF

WorkCentre Location: Tyger River CI UY Education (DC016106) 896-3527

For more information on Xerox products and solutions, please visit <http://www.xerox.com>

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BRANDY W. MOBEE

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BRANDY W. MOBEE

CLERK OF COURT
CHEROKEE COUNTY, S.C.

25 OF 29
25 OF 29

35 OF 40

EXHIBIT No. 1

10

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO CHEROKEE COUNTY
Court of Common Pleas

The Honorable Kenneth G. Goode, Circuit Court Judge
2007-CP-11-495

FILED IN OFFICE OF
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CHEROKEE COUNTY, S.C. BRANDY W. MCBEE
2015 JAN 23 PM 11 16
BRANDY W. MCBEE

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

Steven Wayne Littlejohn, 321946.....

Petitioner,

v.

State of South Carolina,.....

Respondent.

MOTION TO CORRECT THE RECORD AND FILE A SUPPLEMENTAL APPENDIX

Pursuant to Rule 224 of the South Carolina Appellate Court Rules, counsel for Respondent moves for

this Court to allow the Respondent to correct the record and file a supplemental Appendix in this case. It has come to the Respondent's attention that the guilty plea transcript found in the appellate record contains a material typographical error.

The Petitioner claims he was not informed of a five-year plea deal prior to his pleading. This claim is based on the appearance of the word "five" on page 3 of his guilty plea transcript. (App. p. 109). The court reporter has sworn by an attached affidavit that the word "five" should actually be the word "fifteen." Page 109 of the Appendix reflects page 3 of the guilty plea transcript. Lines 15-17 currently read, "The state and his attorney, Mr. Roger Poole, have negotiated a sentence of five years to run concurrent on all of these charges." These lines should be corrected to read, "The state and his attorney, Mr. Roger Poole, have negotiated a sentence of fifteen years to run concurrent on all of these charges."

The Petitioner did not raise his allegation of a five-year plea offer in his post-conviction relief

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26 OF 29
~~26 OF 29~~

ATTACHMENT #6

GROUND 2

~~36 OF 40~~

Fxh-wit-NA-2-A

application. He briefly raised it at his post-conviction relief hearing, noting that he had not heard anything about a five-year offer until he read his guilty plea transcript. Though the Petitioner mentioned it in his testimony, the record indicates it was not the focus of the PCR hearing. It was not until his Petition for Writ of Certiorari that the Petitioner made substantial argument on the appearance of the word "five" in his guilty plea transcript.

The Petitioner enumerated 31 allegations in his post-conviction relief application, but none of them related to the typographical error discussed herein. The Respondent did not investigate the appearance of the word "five" in the transcript prior to the post-conviction relief hearing because the Petitioner failed to notify the Respondent he intended to raise this issue. At the time of the PCR hearing, the Respondent believed the brief mention of a five-year negotiation was a misstatement by the solicitor. It was clear in following paragraphs that all parties appearing in the record understood the plea negotiation to be for fifteen years rather than five years.

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CLERK OF COURT
SHERWOOD COUNTY, S.C.
2011 APR 11 11 20
BRANDY, MBBE

The claim regarding the five years was merely mentioned by the Petitioner and was not the focus of his PCR claim. Further, the PCR Court did not make a finding on this issue and the Petitioner failed to request a finding on this issue through a 59 (e) motion. Rather, the Petitioner raised the issue for the first time in a significant way during his Petition for Writ of Certiorari.

In preparing the State's response to the petition, the Respondent realized the guilty plea transcript possibly contained a significant typographical error. After speaking with the court reporter, Linda Moffitt, it became clear that where the record reflects the solicitor mentioning a five-year negotiation, the solicitor actually stated it was a fifteen-year negotiation. Linda Moffitt was able to conclusively determine a typographical error had been made and the record is erroneous.

The Respondent requests this Court hold time in abeyance to allow for the correction of the error in the record. The Respondent moves to correct the record and supplement the appendix.

An accurate transcript is required for a full and fair review of the lower court's findings. Inasmuch as

2
27 OF 29
37 OF 40

Exhibit 110-2-B

the above records are relevant and pertinent material under Rule 227(e), SCACR that should be included in the Appendix, counsel moves this Court to allow the Respondent to include a corrected guilty plea transcript in a Supplemental Appendix.

WHEREFORE, as the Appendix is incorrect, counsel for Respondent requests this Court: (1) grant the motion to allow the Respondent to correct and supplement the Appendix and (2) hold time limits for the filing of the Return to Petition for Writ of Certiorari in abeyance until the motion is ruled upon.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MICHELLE PARSONS KELLEY
Assistant Attorney General
Post Office Box 11549
Columbia, S.C. 29211
(803) 734-3737

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CLERK OF COURT
CHEROKEE COUNTY, S.C.
2015 MAR 17 AM 11:20
BRANDY W. MCBEE

By: Michelle Parsons Kelley
ATTORNEYS FOR RESPONDENT

September 9, 2009.

See id. at 784 (finding that “[t]here is no text in [§ 2254] requiring a statement of reasons” by the state court). If no explanation accompanies the state court’s decision, a federal habeas petitioner must show that there was no reasonable basis for the state court to deny relief. Id. Pursuant to § 2254(d), a federal habeas court must (1) determine what arguments or theories supported or could have supported the state court’s decision; and then (2) ask whether it is possible that fairminded jurists could disagree that those arguments or theories are inconsistent with the holding of a prior decision of the United States Supreme Court. Id. at 786. “If this standard is difficult to meet, that is because it was meant to be.” Id. Section 2254(d) codifies the view that habeas corpus is a “‘guard against extreme malfunctions in the state criminal justice systems,’ not a substitute for ordinary error correction through appeal.” Id. (quoting Jackson v. Virginia, 443 U.S. 307, 332 n.5 (1979) (Stevens, J., concurring in judgment)).

C. Respondent’s Motion for Summary Judgment

1. Statute of Limitations

The respondent argues that Littlejohn’s Petition is untimely under the one-year statutory deadline set forth in the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), 28 U.S.C. § 2244(d)(1). However, in his response in opposition, Littlejohn points out that the respondent erroneously calculated the statute of limitations deadline in that the date that the South Carolina Supreme Court issued its remittitur following the denial of Littlejohn’s petition for a writ of certiorari was July 22, 2010 rather than June 22, 2010. (Petr.’s Resp. Opp’n Summ. J., ECF No. 35 at 2-3.) ~~A review of the record reveals that Littlejohn’s federal Petition was timely filed.~~ Accordingly, the court will address the merits of Littlejohn’s Petition.

PJG

Exhibit 110-3

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

~~October 15, 2013~~

Mr. Steven W. Littlejohn
Prisoner ID 321946
Liversay Correctional Institution
PO Box 580
Una, SC 29378

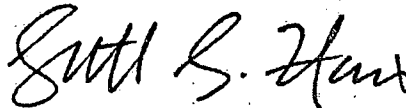
Re: /Steven W. Littlejohn
v. Tim Riley, Warden
No. 13-5995

Dear Mr. Littlejohn:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



Scott S. Harris, Clerk

Exhibit NO. 4

~~Feb. 12, 2014~~

Livesay Correctional
P.O. Box 580
Una, SC 29378

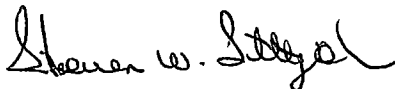
Brandy W McBee
Cherokee County Clerk of Court
P.O. Box 2289
125 E. Floyd Baker Blvd.
Gaffney, S.C. 29342

Dear Ms. McBee:

Please be advised that I, Steven W. Littlejohn #321946 will not be able to meet the deadline to file the Return of Motion regarding the PCR Motion For Dismissal since I am currently hospitalized after experiencing a heart attack and emergency surgery on February 1, 2014.

An extension will be needed upon my release and support documents of my condition will be made available to you.

Yours Truly,



Steven W. Littlejohn #321946

Telephone: 864-487-2571

Fax: 864-487-2754

~~Exhibit No. 5~~

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

STEVEN WAYNE LITTLEJOHN, #321946,
Applicant,

V.

STATE OF SOUTH CAROLINA,
Respondent.

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT
)

) 2013-CP-11-0192
)

) ~~MOTION FOR~~
) ~~ENLARGEMENT OF TIME.~~
)

The Applicant, STEVEN WAYNE LITTLEJOHN, #321946, hereby moves this Honorable Court with his MOTION FOR ENLARGEMENT OF TIME in the above referenced matter.

The Applicant, STEVEN WAYNE LITTLEJOHN, #321946, hereafter referred to as The Applicant, request an enlargement of time as provided by the South Carolina State Rules of Court, Rules of Civil Procedure, Rule 60(b), in the Court's discretion, for good cause shown, to permit the act to be done.

The Applicant submits this motion based on the following:

1. MONDAY, JANUARY 27, 2014, Applicant received a CONDITIONAL ORDER OF DISMISSAL requesting that his current application for post-conviction relief be summarily dismissed.
2. MONDAY, JANUARY 27, 2014, Applicant also received a RETURN and MOTION TO DISMISS his application.
3. SATURDAY, FEBRUARY 01, 2014, Applicant had a heart attack and was admitted to the Spartanburg Regional Hospital where he underwent life-saving emergency heart surgery, which led to further hospitalization until Tuesday, February 04, 2014.
4. TUESDAY, FEBRUARY 04, 2014, Applicant was placed in the Infirmary at the Kirkland Medical Center, Columbia, S.C. and remained admitted for a total of eighteen (18) days.

~~EXHIBIT NO. 6~~

5. WEDNESDAY, FEBRUARY 12, 2014, Applicant's family member notified the Cherokee County Clerk of Court of his medical status and his inability to respond to any legal matters which were pending in the court. Also, a request was made to the Clerk of Court's Office to forward to all parties of relevance to the case that Applicant was incapacitated at the present time.

6. TUESDAY, FEBRUARY 18, 2014, Applicant was placed under twenty-four (24) hour required medical care and then sent to the Turbeville Correctional Institution, Turbeville, South Carolina, which is a state facility of the South Carolina Department of Corrections offering twenty-four (24) hour medical care.

7. FRIDAY 21, 2014, Applicant received some of his legal materials from his prior housing location. Documents relating to this case at hand and other current legal material did not arrive to date.

8. THURSDAY, FEBRUARY 27, 2014, Applicant enlisted to attend the Turbeville Correctional Institution Law Library to make attempts to continue with his legal requirements, but experienced many institutional delays.

9. WEDNESDAY, MARCH 12, 2014, South Carolina Department of Corrections, Turbeville Correctional Institution required Applicant to attend to required medical appointments due to this ongoing health condition and recuperation period.

10. Due to Applicant's uncontrolled movements by the South Carolina Department of Corrections from the LIVESAY CORRECTIONAL INSTITUTION in Una, South Carolina, to the SPARTANBURG REGIONAL HOSPITAL in Spartanburg, South Carolina, to the KIRKLAND CORRECTIONAL MEDICAL FACILITY in Columbia, South Carolina, and then on to the TURBEVILLE CORRECTIONAL INSTITUTION in Turbeville, South Carolina, Applicant was unable to attend to his legal requirements and did not have control over his legal property.

11. Due to Applicant's frequent medically required change of locations and institutions, Applicant submits a copy of the South Carolina Department of Corrections Legal Mail Delivery Log to verify that he did not receive the CONDITIONAL ORDER OF DISMISSAL until Monday, March 24, 2014, which now makes it relevant to have an extension/enlargement of time to appropriately respond.

12. THURSDAY, MARCH 27, 2014, Applicant requested and is awaiting a medical print-out to be submitted to the court for verification to support his request for additional time. To date, the Department of Corrections have not provided the requested copy for submission to the court. (See attached/enclosed copy of request/letter.)

CONCLUSION

Based on the above Medical factors and reasons submitted, Applicant, STEVEN WAYNE LITTLEJOHN, #321946, has shown the Court that the delays experienced were not of his own doing and thereby were never intentionally orchestrated by him. Applicant hereby requests that this Honorable Court would find it in the interest of justice, and the means of fairness, to grant Applicant's

MOTION FOR ENLARGEMENT OF TIME.

Applicant prays that this Honorable Court will also take into consideration that he is a PRO SE LITIGANT without substantial knowledge and experience in the matters of law and the Court will assist him to assure fairness.

DATED: 4-4-14

s/ Steven W. Littlejohn

STEVEN W. LITTLEJOHN, #321946.

SELOC A-108,

TURBEVILLE CORRECTIONAL INST.,

POST OFFICE BOX 252,

TURBEVILLE, S.C. 29162.

Sworn to and Subscribed before me
this 4th day of APRIL, 2014.

Emily Huf
Notary Public for South Carolina.

My Commission expires 4-27-2016.

TO: MR. BLACKWELL, H.C.A.,

HEAD OF MEDICAL, TURBEVILLE CORRECTIONAL INSTITUTION.

FROM: STEVEN W. LITTLEJOHN, #321946.

RE: MEDICAL HISTORY PRINTOUT.

STEVEN W. LITTLEJOHN #321946, Applicant,

VS.

STATE OF SOUTH CAROLINA, Respondents.

Please provide me with a S.C.D.C., TURBEVILLE CORRECTIONAL INSTITUTION, MEDICAL HISTORY PRINTOUT, which will be sent as supporting documentation to the Court that has jurisdiction in the above referenced matter.

I am the Applicant, and the requested printout is to show the Court, and the Presiding Judge, THE HONORABLE J. DERHAM COLE, that I was hospitalized. Due to this hospitalization period, I, Steven Littlejohn #321946, the Applicant, was removed from the South Carolina Department of Corrections and placed in the SPARTANBURG REGIONAL HOSPITAL of South Carolina, which caused denial of access to the LAW LIBRARY and denial of access to the courts.

The MEDICAL (print-out) DOCUMENT requested would appropriately reflect the dated history of events that commenced on FEBRUARY 01, 2014 through to FEBRUARY 18, 2014.

Thanking you kindly for your assistance,

DATED: 3-27-14

S/ *Steven Littlejohn*

STEVEN LITTLEJOHN #321946

SCDC

APR 04 2014

MAIL ROOM

03/27/14 - Request info from HR as provided - ~~signature~~

EXHIBIT NO. 71A

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

TO: NAME: <u>(H.I.R.)</u> TITLE: <u>HEALTH INFORMATION RESOURCES</u>		DATE: <u>THURSDAY 03-27-14</u>
INMATE'S NAME: <u>STEVEN LITTLEJOHN</u>		SCDC #: <u>321946</u>
INSTITUTION: <u>TURBEVILLE C-I</u>		LIVING QUARTERS: <u>SBLOC A-108</u>
<p>I requested a print-out from MEDICAL but was advised to request it from H.I.R.</p> <p>Please see attached/fenclosed which was returned for specifics of this request. If for security reasons or other, please send this information to</p> <p>The Honorable Judge J. DERHAM COLE, Seventh Circuit Administrative Judge, Post Office Box 1744, Spartanburg, S.C. 29304.</p> <p>CASE NUMBER: 2013-CP-11-0192 and notify me of your procedures. <i>S/ Steven Littlejohn</i></p>		
DISPOSITION BY STAFF MEMBER:		
<p>Mailed requested records to the Judge listed above.</p>		
DATE: <u>6/4/14</u>	SIGNATURE: <u>Kathy Arel/HIR</u>	

HEALTH INFORMATION RESOURCES
 2014 MAR 32 10 17 AM '14

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

RECEIVED
JUL 24 2015

BY:

TO: NAME: Mr. Blackwell	TITLE: Medical	DATE: 7-24-15
INMATE'S NAME: STEVEN W. Littlejohn	SCDC #: 321946	
INSTITUTION: T.C.I.	LIVING QUARTERS: SIA #124	

I Need ~~to~~ CONFIRMATION that I WAS hospitalized FROM OCT. 10-14 2014 FOR A HEART CATHETERIZATION PROCEDURE.

DISPOSITION BY STAFF MEMBER:

~~According to our notes, you were at Palmetto Richland Memorial Hospital undergoing a cardiac catheterization on 10/10/14, on 10/11/14 you were transferred to Kirkland Correctional Infirmary until 10/15/14, then back to Turbeville Correctional Facility to your dorm on 10/15/14.~~

DATE: 07/31/15	SIGNATURE: 	EXHIBIT NO: 8
-------------------	---	---------------

015CP10242

Steven W. Little John, 321946
Turbeville Corr. Inst.

SA - 124

Post Office Box 252

Jan 20, 2015 Turbeville, South Carolina

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
JAN 17 AM 11 20
BRANDY W. MCBEE

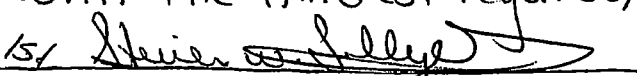
Attn: Hon. Brandy W. McBee,
Clerk of Court
Post Office Drawer 2289
Caffney, South Carolina
29342

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2015 JAN 17 AM 11 20
BRANDY W. MCBEE
CLOCKED IN
CLOCKED OUT

Re: C/A No. _____
Notice: Evid. hearing requested

Dear Hon. McBee,

Please, upon receipt of such, find enclosed
an original successive P.C.R., that is being sub-
mitted pursuant to 17-27-45(B) and (C), with cover sheet,
Table of Contents, P.C.R. application, Memo. of Law,
exhibits, and Certificate of Service, to be, "Clocked-
date-stamped", filed by your office, and a clocked
in copy of the same returned to me pursuant
to rule 602 SCACR; as soon as feasible.

With the kindest regards,


Steven W. Little John, 321946

1 of 29
1 of 29

H of 40

Exhibit NO. 9

Office of
CLERK OF COURT
CHEROKEE COUNTY
MRS. BRANDY W. MCBEE, CLERK

Post Office Drawer 2289
Gaffney, S.C. 29342

Phone: 864-487-2571 • Fax: 864-487-2754

~~Date: 1/26/2015~~

Name on Document to be filed: ~~Steven W. Littlejohn v State of South Carolina~~

Case Number:

The attached document and all remittance are being returned for the reason(s) checked below:

- Insufficient amount of filing fee. Correct amount is:
- The Judge is no longer in this Circuit. Please forward to him/her directly.
- This document is a copy-Please file ORIGINAL
- Not a Cherokee County Case
- Incorrect County/Case Number listed. Please correct and re-submit.
- Case ended: Date: _____ Reason Ended: _____
- Inmate Litigation must comply with SC Code of Law, Title 24, Chapter 27
- Case not found matching this caption
- Civil Action/Motion cover sheet not included
- Original Signature is required
- ~~Document not notarized (Motion for Discovery & Certificate of Service)~~
- Check made payable to wrong County
- Check # returned.
- Check not signed

Comment:

If you have any questions, please contact _____ at 864-487-2571.

EXHIBIT NO 9A

10 of 40

Office of
CLERK OF COURT
CHEROKEE COUNTY
MRS. BRANDY W. MCBEE, CLERK
Post Office Drawer 2289
Gaffney, S.C. 29342
Phone: 864-487-2571 • Fax: 864-487-2754

Date: 2/3/2015

Name on Document to be filed: Steven Littlejohn #321946 vs. State of South Carolina

Case Number: 2013-CP-11-192

Return Address: Steven Littlejohn #321946 Turbeville Corr. Inst. SA-124 PO Box 252 Turbeville SC 29162

The attached document and all remittance are being returned for the reason(s) checked below:

- Insufficient amount of filing fee. Correct amount is: \$ _____
- The Judge is no longer in this Circuit. Please forward to him/her directly.
- This document is a copy-Please file ORIGINAL
- Not a Cherokee County Case
- Incorrect County/Case Number listed. Please correct and re-submit.
- Case ended: Date: _____ Reason Ended: _____
- Inmate Litigation must comply with SC Code of Law, Title 24, Chapter 27
- Case not found matching this caption
- Civil Action/Motion cover sheet not included
- Original Signature is required
- Document not notarized
- Check made payable to wrong County
- Check # _____ returned.
- Check not signed
- Other: Copies are .50 a page.

Comment:

If you have any questions, please contact Clerk's Office at 864-487-2571.

Exhibit No 10

Inmate Request

Today's Date: 3/19/15 12:24

SA 122

Name: LITTLEJOHN, STEVEN WAYNE
Booking #: 321946
Permanent #: 321946

Reference #: 15-430234
Date Requested: 01/20/15 18:37
Request Type: Notary Services
Requested By: Kiosk

Request Details: DEAR GENERAL COUNSEL, OF SCD, ON 1-20-15, TUES. MORNING I WENT TO THE MAILROOM TO HAVE MY P.C.R. APPLICATION NOTORIZED AS WELL AS A HAND DRAFTED UP CERTIFICATE OF SERVICE, TO BE INFORMED BY, MS. HODGE, THAT T.C.I., MAILROOM DOES NOT NOTORIZE, INMATES DRAFTED CERT. OF SERVICE, WHEN PURSUANT TO RULE 5[B][1]S.R.C.P. PROCESS OF SERVICES, IS PROTOCOL, FURTHER ALL OTHER YARDS OF SCD DESIGNATED FACILITIES OF EVANS, MC CORMICK, AND KERSHAW THERE WAS NO PROBLEM, FURTHER, I COULD NOT GET LEGAL COPIES, BECAUSE STRANGELY AT THE SAME TIME IT WAS IMPUTED TO ME THAT ALL COPIERS WERE BROKE, SO PLEASE ASSIST, EVAUSIVE ACTION REQUESTED. THANK YOU.

Disposition: Pending
Officer:
Disposition Date:

~~Certificate of Service~~
~~does not need to~~
~~be Notarized!~~

Ang

3-20-15

EXHIBIT NO. 11

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

Steven W. Littlejohn, #321946,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2013-CP-11-0192

FINAL ORDER OF DISMISSAL

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2014 MAY 12 AM 8 23
RANDY W. MOBBE

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed March 22, 2013. Respondent made its Return and Motion to Dismiss on or about January 23, 2014, requesting that the Application be summarily dismissed.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal filed March 12, 2014, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated April 10, 2014, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a letter addressed to the Cherokee County Clerk of Court and dated February 12, 2014, Applicant requests an extension of the deadline to respond to the Respondent's Motion to Dismiss because of medical issues.

In a letter addressed to Respondent and dated April 4, 2014, the Applicant submitted a document captioned, "Motion for Enlargement of Time." The Motion was also provided to the Respondent from the Cherokee County Clerk of Court and was filed April 9, 2014. Applicant

RKK

Exhibit NO. 12

provides this Court with a timeline of this matter, including the various transfers and hospitalizations Applicant has experienced and asserts he could not have responded because of those issues. Applicant asserts that he received the signed Conditional Order of Dismissal on March 24, 2014.

In a document captioned, "Notice and Motion for a Stipulated Dismissal Without Prejudice and/or Held in Abeyance," and filed January 7, 2015, Applicant requests that the Court dismiss the application without prejudice or holds it in abeyance so that he can pursue filing an additional application based upon newly Discovered evidence. ~~This Court notes that the Applicant filed another successive application on March 17, 2015, which will be addressed in a separate order.~~

This Court has reviewed the Applicant's response to the State's motion to dismiss in its entirety, in conjunction with the original pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for PCR is hereby denied and dismissed with prejudice.

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. See Rule 203, SCACR. The Applicant's attention is directed to Rule 227, SCACR., for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 8 day of May 2015.

R. Keith Kelly
R. KEITH KELLY
Chief Judge for Administrative Purposes
Seventh Judicial Circuit

Lexington, South Carolina.

FILED IN OFFICE OF
CLERK OF COURT
JEROME COUNTY, S.C.
MAY 11 2015
11:08 AM
BRANDY W. MCBEE

March 18, 2016

Brandy McBee
Clerk of Court, Cherokee County
Post Office Drawer 2289
Gaffney, So. Car. 29342

FILED IN THE OFFICE
CLERK OF COURT
2016 MAR 28 P 12:59
BRANDY W. MCBEE
CHEROKEE COUNTY, SC

RE: Case Status Check

Dear Clerk,

Please provide me with the current to date status of these two Court of Common Pleas cases listed below:

1. Steven W. Littlejohn v. State of South Carolina
013CP-110192 - Filed March 22, 2013
Dismissed 5/13/15 Re-consider order affirmed Appeals 7/17/15
Original dismissal 6/29/15
2. Steven W. Littlejohn v. State of South Carolina
~~2015-CP-11-0242 - Filed March 7, 2015~~
~~Conditional Order of Dismissal filed 9/23/2015~~
~~Rule 59E sent to AG on 10/21/15 - this will be scheduled~~
Your assistance in this matter is greatly appreciated. by the AG's office.

Respectfully Submitted,
Steven W. Littlejohn
Steven W. Littlejohn

RECEIVED

APR 06 2016

MAILROOM
TURBEVILLE, SC

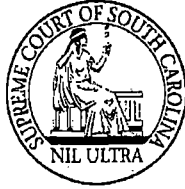
RECEIVED

MAR 22 2016

MAILROOM
TURBEVILLE, SC

cc: File

Exhibit NO-13



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

May 02, 2017

Mr. Steven W. Littlejohn, 321946
Turbeville Correctional Inst.
P.O. Box 252
Turbeville SC 29162

Re: Steven W. Littlejohn v. State
Appellate Case No. 2017-001054

Dear Petitioner:

This Court has received the notice of appeal in the above post-conviction relief action. Since the order of the circuit court determined that this action is barred as being successive and/or as being untimely under the statute of limitations, Rule 243(c) of the South Carolina Appellate Court Rules requires you to provide a written explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. The failure to make a sufficient showing may result in the dismissal of this matter.

Please provide the explanation required by Rule 243(c) within twenty (20) days of the date of this letter.

RECEIVED

~~MAY 03 2017~~

MAILROOM
TURBEVILLE CI

EXHIBIT NO. 143

Very truly yours,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

CLERK

cc:
Valerie Garcia Giovanoli, Esquire

RECEIVED

MAY 03 2017

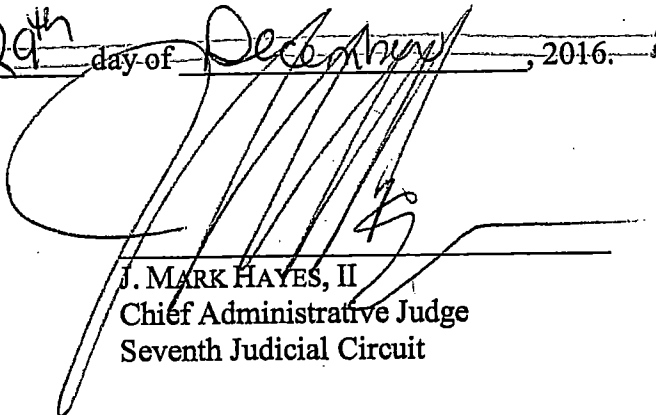
MAILROOM
TURBEVILLE, CA

Fri May 03 2017 14:14

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within 30 days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 29th day of December, 2016.



J. MARK HAYES, II
Chief Administrative Judge
Seventh Judicial Circuit

Cherokee, South Carolina.

FILED IN THE OFFICE
CLERK OF COURT
2017 JAN - 3 A 8:39
BRADY W. MOSE
CHEROKEE COUNTY, SC

RECEIVED

JAN 10 9 2017

MAILROOM
TURBEVILLE, CI

STATE OF SOUTH CAROLINA)

COUNTY OF CHEROKEE)

Steven W. Littlejohn, #321946,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

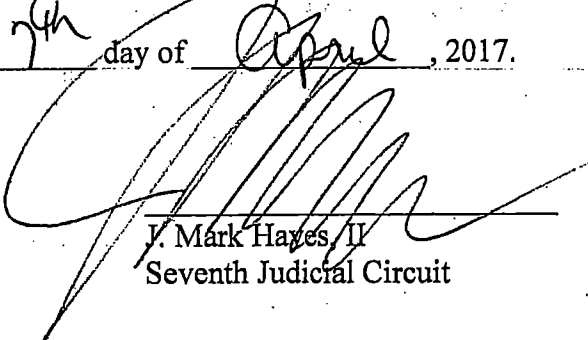
2015-CP-11-0242

ORDER

This matter comes before the Court by way of Applicant's *pro se* document titled "Motion to Reconsider." The Respondent made its Return to this Motion requesting it be dismissed.

The Final Order of Dismissal in this matter was signed by this Court on December 29, 2015. Based upon careful reconsideration of all the evidence in this case and upon full consideration of Applicant's response and objections, this Court is not persuaded to alter or amend the judgment. This Court further finds that oral argument would not aid in the reconsideration of the original judgment. Therefore, this Court finds that the original Order of Dismissal, which was signed and then filed January 3, 2017, shall stand as it was written.

AND IT IS SO ORDERED this 7th day of April, 2017.



J. Mark Hayes, II
Seventh Judicial Circuit

Cherokee South Carolina

RECEIVED

APR 17 2017

MAILROOM
TURBEVILLE CI

FILED IN THE OFFICE
CLERK OF COURT
2017 APR 12 A 11: 04
CHEROKEE COUNTY, SC

Exhibit NO 16

Respondent
i. ~~Applicant~~ inappropriately used a rule of Appellate procedures that was no longer applicable and was reserved by the Supreme Court; being rule 224 SCACR, thus prejudicing Applicant and defaulting his claim.

2. Ineffective assistance of appellate counsel.

Before this Court are the Cherokee County Clerk of Court records regarding the subject guilty plea, records from the South Carolina Department of Corrections, records from Applicant's prior PCR proceedings, and Respondent's Return and Motion to Dismiss.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

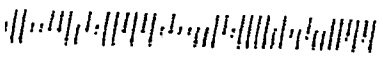
Successiveness

This Court finds the present application for post-conviction relief should be summarily dismissed because it successive to Applicant's previous PCR application. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). The relevant statute provides

[a]ll grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

S.C. Code Ann. § 17-27-90 (2014). Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application

RRK

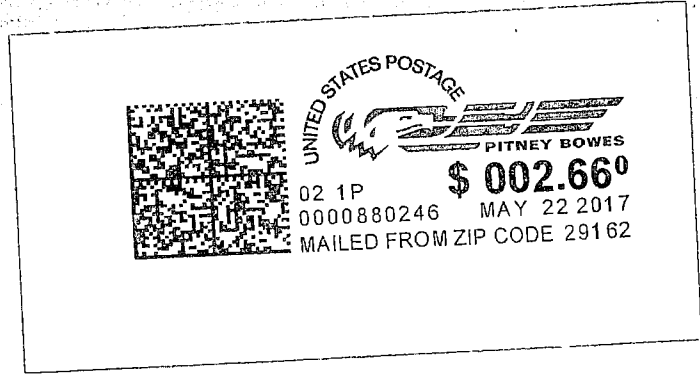


NO. 129 B

E. Coker Hwy.

S. CAR.

29162



Daniel E. Shearouse, Clerk of Court
In The Supreme Court of South Carolina
Post Office Box 11330
Columbia, So. Car.

RECEIVED

MAY 19 2017

MAIL
TURREVILLE CI