

May 25, 2017

Chuck Edward McCullough #311606
McCormick C.I. F-1236
386 Redemption Way
McCormick, S.C. 29899

South Carolina Commission on Indigent Defense
Division of Appellate Defense
% Taylor D. Gilliam
P.O. Box 1589
Columbia, S.C. 29211

In RE: Appellate Case NO: 2016-001416

Dear Mr. Gilliam,

I am writing you because, I need your assistance. I filed a Memorandum in support of the Johnson Brief. "Brief all arguable issues despite counsels belief the appeal is frivolous or without merit..." Wade v. State 348 S.C. At 263. I'm seeking review on the IAC claim of "failure to challenge prior conviction" App. 155. The merit is that there is no "hybrid representation" in S.C. Counsel was not relieved from the case, and did not appear for court. I paid \$500.00 to the P.D. office. This was evidence of an uncounseled conviction. I submitted the sentence sheet at the PCR. It was from Greenville County Case # H466699 it was marked Exhibit I. App. 72 L. 9-25.

The PCR Court ruled that no evidence was presented to show that the conviction was in violation of Faretta v. California. I showed the court a letter from the Clerk of Court that the transcripts had been destroyed. Therefore, the burden should have been shifted to the state to prove I had waived counsel and was warned of the dangers of self representation. The sentence sheet is "Prima facie" evidence I did not waive counsel, because I paid \$500.00 to P.D. for their representation. Therefore I'm seeking review. I paid it through probation office.

Exhibit I was not in my appendix. because it is relevant to the issue will you amend my Appendix inserting that document or send me a copy so I can add it to my memorandum. I have tried to get Greenville County to send me a copy, but because I received a copy in 2012, (that was submitted at PCR) I have to pay for a copy. I can't afford to.

I sent a SCOC "Financial Report" to show I'm indigent and request to waive the fee. They have not responded. Spartanburg County said they don't have it.

The document is needed because that sentence is invalid for enhancement purposes. That Counsel was ineffective for failing to challenge the conviction, preventing the State from using it, allowing me an opportunity for a more favorable sentence. Prejudice adheres because I plead guilty to a third offense Manufacturing.

I hope that you will assist me and help get me a copy of my exhibit I Greenville County case # H466699 Sentence sheet.

Thank You!

Chuck E. McElroy
5-25-17

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUL 07 2017

Certiorari to Spartanburg County
Honorable R. Ferrell Cothran, Circuit Court Judge

S.C. SUPREME COURT

CHUCK EDWARD MCCULLOUGH,

PETITIONER

v.

STATE OF SOUTH CAROLINA

RESPONDENT

Appellate Case No. 2016-001416

(PRO SE) Motion for Appellate Counsel to
Maintain Representation

Now comes, Petitioner Chuck Edward McCullough #311608, (PRO SE) before the South Carolina Supreme Court with a Motion for Appellate Counsel to Maintain representation. On February 21, 2017 Appellate Counsel filed a Johnson Brief and a Petition to be relieved as counsel. This court should deny such petition. In light of Wade v. State 348 S.C. at 263 ("Counsel should brief ALL arguable issues despite counsels belief the appeal is frivolous..."). see also: Anders v. California 386 U.S. 738, 18 L.Ed. 2d 493, 87 S.Ct. 1396 (1967). For Counsel to only raise one issue and one that is not specifically addressed in the "Order of Dismissal" is not consistent with Wade or Anders. The Sixth and Fourteenth Amendments require effective Counsel on appeal where it's the first place for review of ineffective assistance claims. Martinez v. Ryan 566 U.S. 1, —.

In order for petitioner's appeal to meet the demands of the Sixth and Fourteenth Amendments, Counsel should be effective by raising ALL issues. In particular the issues raised by Petitioner in his (PRO SE) brief, filed March 1, 2017. Those issues should be addressed by Counsel in his brief pursuant to Wade v. State 348 S.C. at 263.

Petitioner has sought due diligence in trying to obtain an exhibit (see: Attachment) that is relevant to the appeal. Petitioner has tried to contact counsel by phone. He has been blocked. Failure to have Counsel raise Petitioner's issues and provide Exhibit 2 in the appendix will undermine the outcome of Petitioner's Appeal.

Therefore, Petitioner moves that Appellate counsel should not be relieved as counsel until he has briefed all Petitioner's issues, and for the purpose of this Appeal. This Motion should be granted.

This 3 day of July 2017

St. Chuck Edward McCullough

Chuck Edward McCullough # 311608
(PRO SE)

McCormick Correctional Inst.
386 Redemption Way
McCormick, S.C. 29899

C.C. p. file
Chuck E. McCullough

STATE OF SOUTH CAROLINA
In The Supreme Court

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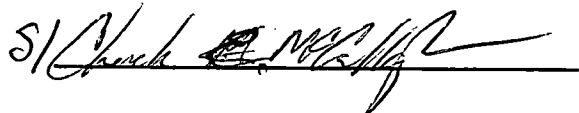
STATE OF SOUTH CAROLINA

RESPONDANT

Appellate Case no: 2016-001416

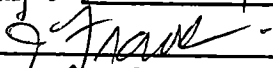
AFFIDAVIT CERTIFICATE OF
SERVICE

The undersigned hereby certifies that a true copy of a "Motion for Appellate Counsel to maintain representation has been served upon Daniel E. Shearouse, Clerk of Court, for the South Carolina Supreme Court at 1231 Bervais Street, Columbia, South Carolina 29201, on this 3 day of July 2017, by depositing in Institutional Inter Office Mail at McCormick Correctional Institution.



Chuck Edward McCullough # 311608
PRO SE

Subscribed and Sworn to before me
this 03 day of July 2017



Notary Public for South Carolina
My Commission Expires 12-16-2017

McCormick Correctional Inst.
386 Redemption Way
McCormick, S.C. 29899

Chuck E. McCullough #311608

McCormick Correctional Institute
386 Redemption Way
McCormick, SC 29399

The South Carolina Supreme Court
Daniel E. Shearouse / Clerk of Court
1231 Gervais St.
Columbia, S.C. 29201

**LEGAL MAIL
MAIL ROOM**

MAIL ROOM
JUL 03 2017

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DEPARTMENT OF CORRECTIONS

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