

Supreme court of south CAROLINA

RECEIVED

JUL 28 2017

S.C. SUPREME COURT

FRANK FURTick V. STATE
APPELLATE CASE No-2017-001562

Lower court CASE No. 2015 CP 4002382

IN Response to Your letter
of July 21, 2017, I Respectfully
ASK This court to ALLOW me
To Add on the documents that
I HAVE filed in this court
AS MY EXPLANATION AND ARGUMENT.

on July 7, 2002 Applicant filed his
first PCR Application pro se.

Where he Alleged he was being
held UNLAWFULLY for the following
Reasons:

1. ineffective Assistance of Counsel
for Not perfecting A direct APPEAL
Counsel failed to file AN APPEAL FROM
Conviction.

1-2710
Supreme Court of South Carolina

FRANK FURTick V. STATE

APPELLATE CASE No. 2017-001562

LOWER COURT CASE No. 2015 CP 4002382

2. Will amend at a later date
5 issues or less.

I did not get an EVIDENTIARY
hearing. That why my APPLICATION
was not amend. Rule 50. Places
on Counsel the duty to ASCERTAIN
FROM the APPLICANT whether he has
included ALL ground known to the
APPLICANT AS A basis for attacking
The Judgment and sentence AND to
Amend the APPLICATION to include
ANY claims not already included.

I didn't HAVE A TRIAL TRANSCRIPT
DATE I RECEIVE MY TRIAL TRANSCRIPT
WAS JUNE 23, 2011 see Exhibit 4
(AND V. STATE 274 S.C. 243, 262 S.E. 2d 735).

SUPREME COURT OF SOUTH CAROLINA

FRANK FURTICK V. STATE

APPELLATE CASE No. 2017-001562

LOWER COURT CASE No. 2015 CP4002383

3. MY APPLICATION SHOULD NOT BE BARRED AS BEING SUCCESSIVE AND UNTIMELY UNDER STATUTE LIMITATIONS, RULE 243(C). SCACR.

4. WHICH IS THAT THE GENERAL ONE YEAR PERIOD DOES NOT APPLY WHERE A DEFENDANT IS DENIED DIRECT APPEAL DUE TO INEFFECTIVE ASSISTANCE OF COUNSEL. THIS IS NOT SO MUCH AN EXCEPTION TO THE STATUTE OF LIMITATIONS BUT RATHER A SPECIAL SITUATION IN WHICH THE STATUTE OF LIMITATIONS DOES NOT APPLY. CODE 1976-17-27-45 (A). WILSON V. STATE, 348 S.C. 215. 559 S.E.2d 581.

Supreme Court of South Carolina

FRANK FURTick v. STATE

APPELLATE CASE No. 2017-001562

Lower Court CASE No. 2015 CP 4002382

MY FIRST PCR APPLICATION WAS IMPROPER, I DID NOT GET A FULL AND FAIR HEARING.

ON MARCH 10, 2010 MR. BRIAN PETRANO ASSISTANT ATTORNEY GENERAL INFORMED MR. CHARLIE J. JOHNSON, JR. ATTORNEY. THAT A PER HEARING WILL NOT BE REQUIRED. SEE EXHIBIT NO 1.

IN THE MOTION HEARING ON APRIL 1, 2009 MR. BRIAN T. PETRANO SAY THAT I WAS REPRESENTED BY TARA D. SHURLING AND MOVED TO HAVE HER RELIEVED. AND THAT APPLICANT HAS WAIVED HIS RIGHT TO RAISE ANY OTHER PCR ALLEGATIONS. SEE EXHIBIT NO. 2, 3, 6

SUPREME COURT OF SOUTH CAROLINA
FRANK FURTICK, V. STATE

APPELLATE CASE NO. 2017-001562

LOWER COURT CASE NO. 2015 CP 400
2382.

PURSUANT TO AUSTIN V. STATE, 305 S.C.
453, 409 S.E.2d 395 (1991). UNDER AUSTIN
A DEFENDANT CAN APPEAL A DENIAL
OF A PCR APPLICATION AFTER THE
STATUTE OF LIMITATIONS HAS EXPIRED
IF THE DEFENDANT EITHER REQUESTED
AND WAS DENIED AN OPPORTUNITY
TO SEEK APPELLATE REVIEW, OR DID
NOT KNOWINGLY AND INTELLIGENTLY
WAIVE THE RIGHT TO APPEAL. SEE
ALSO KING V. STATE, 308 S.C. 348, 417 S.E.
2d 868 (1992).

SUPREME COURT OF SOUTH CAROLINA
FRANK FURTICK V. STATE

APPELLATE CASE No. 2017-001562

LOWER COURT CASE No. 2015 CP400 2382

ASSISTANT ATTORNEY GENERAL BRIAN PATRINO
STATED HIS INTERVIEW OF TRIAL COUNSEL
INDICATED THAT DUE TO A CLERICAL
ERROR A NOTICE OF APPEAL WAS
NOT PROPERLY FILED. HE ALSO STATED
THAT APPLICANT EXPRESSED NO CONCERN
TO AMENDMENT HIS APPLICATION. HE MISTAKENLY
THE COURT. I DID NOT GET ONE FAIR BITE
OF THE APPLE. see Exhibit 5, 6, 7, 8

RESPECTFULLY SUBMITTED.

Frank Furtick No. 231663

Charlie J. Johnson, Jr.
ATTORNEY AND COUNSELLOR AT LAW

Charlie J. Johnson, Jr.

charlie@cjjlaw.com

1911 Pickens Street
Columbia, South Carolina 29201
(803) 256-7001

MAILING ADDRESS
P.O. Box 11212
Columbia, SC 29211
FAX (803) 256-7002

March 10, 2010

Frank Furtick, Jr.
Inmate No: 231663
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina 29010


RE: Frank Furtick, Jr. vs. State of South Carolina

Dear Mr. Furtick:

I have recently contacted Mr. Brian Patrano, Assistant Attorney General, and he informed me that a proposed Order granting your request for a belated appeal was prepared and sent to Judge Manning for his review and signature back in September 2009. He informed me that as of the date of this letter, that he has not received a signed Order back from judge Manning. Because the State has consented to your PCR request, a PCR Hearing will not be required. I will attempt to contact judge Manning's office to get an up date on the status of the proposed Consent Order.

If you have any questions regarding the above matter, please do not hesitate to contact me.

Sincerely,


Charlie J. Johnson, Jr.
Attorney at Law

CJJJR

Exhibit. 1

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2008-CP-40-04869

Frank Furtick, #00231663 Petitioner,

v.

State of South Carolina, Respondent.

JEANETTE W. McBRIDE
C.C.P. & S.S.
2010 AUG 20 PM 12:26
RICHLAND COUNTY
FILED

NOTICE OF APPEAL

Frank Furtick appeals the Order denying his Motion to Reconsider Order Granting Belated Direct Appeal. On April 26, 2010 a Consent Order Granting a Belated Direct Appeal was filed. Counsel received a copy of the Consent Order Granting a Belated Direct Appeal on May, 10 2010. Based on letters received from Petitioner indicating that he did not agree to waive all other potential PCR issues, Counsel filed a Motion to Reconsider pursuant to SCRCRCP Rule 59(e) on May 19, 2010 specifically asking the Circuit Court modify the Order to allow Petitioner to raise new PCR issues after the belated direct appeal is complete. The Rule 59(e) motion was denied on August 2, 2010. Petitioner was mailed notice of the denial on August 16, 2010. Counsel for Petitioner received the copy of the Order on August 17, 2010. Please also allow this Notice to also serve as notice of intent to appeal the original conviction and sentence pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

August 20, 2010



Mark Schnee
The Schnee Law Firm
1720 Main Street, Suite 202
Columbia, SC 29201
(803)771-0075
Attorney for Petitioner

Other Counsel of Record:
Brian Petrano

EXhibit 2



THE
SCHNEE
L A W F I R M

1720 Main Street, Suite 202
Columbia, SC 29201
(803)771-0075
Fax - (803)799-5888
SchneeLawFirm@gmail.com

Mr. Frank Furtick
Inmate # 00231663
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

August 20, 2010

Mr. Furtick,

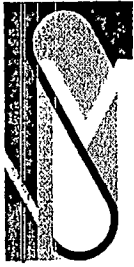
Judge Manning denied our request to reconsider his previous Order Granting a Belated Direct Appeal. I contacted Appellate Defense and have filed and served notice of intent to appeal with the Supreme Court of South Carolina. The notice of appeal addresses both your future PCR grounds along with the direct appeal issues.

If you have any questions, feel free to contact me at the above address.

Respectfully,

Mark Schnee
Attorney at Law

Exhibit 3



THE
SCHNEE
LAW FIRM

1720 Main Street, Suite 202
Columbia, SC 29201
(803)771-0075
Fax - (803)799-5888
SchneeLawFirm@gmail.com

Mr. Frank Furtick
Inmate # 00231663
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

April 29, 2010

Mr. Furtick,

It is my understanding that Charlie J. Johnson, Jr. was appointed to represent you for your Post Conviction Relief Application. Pursuant to doctor's orders, Mr. Johnson needed to reduce his case load and asked me to take over on a number of PCR cases. I have requested a copy of your transcript from the Attorney General's office along with all documents filed related to this PCR.

The Attorney General's office is aware of these case transfers and informs me that I will receive the transcript and related materials for many of them in the next two weeks. I am not, however, sure if your case is included in that timeframe. As soon as the transcript is provided I will review it, along with all other documents, and schedule a time to meet with you.

If you have any questions, feel free to contact me at the above address.

Respectfully,

Mark Schnee
Attorney at Law

cc: Charlie J. Johnson, Jr.

Exhibit 4

**RICHLAND COUNTY PUBLIC DEFENDER
RICHLAND COUNTY JUDICIAL CENTER**

1701 MAIN STREET
POST OFFICE BOX 192
COLUMBIA, SC 29201

PHONE (803) 929-6150
FAX (803) 929-6156

April 30, 2008

Frank Furtick #231663
Lee Correctional Institution
S-S 1110T
990 Wisacky Highway
Bishopville, SC 29010

RE: Your Appeal

Dear Mr. Furtick:

I hope this letter finds you doing well. I received your letter dated 4/23/08. The Court of Appeals does not have a record of our appeal. At this point, what you need to do is file a Post Conviction Relief against me. At this PCR hearing, I will state that I was ineffective assistance of counsel due to not filing a timely appeal and you will be granted an appeal at that time. You should be able to find the PCR forms at the department of corrections. If you have any problems please write me back.

If you have any further questions or concerns, please do not hesitate to contact me.

Sincerely,



Danielle Payne
Assistant Public Defender

EXhibit

5

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 FRANK FURTICK, 231663,)
)
 Applicant,)
)
 v.)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT

CASE NO.: 08-CP-40-4869

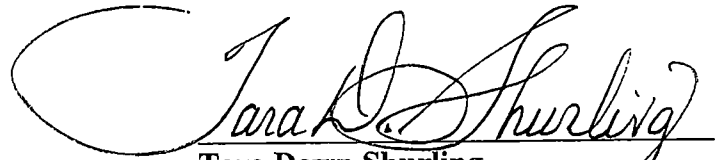
MOTION TO BE RELIEVED AS
 COUNSEL

NOW COMES undersigned counsel for the Applicant in the above-captioned action, respectfully moving this Court to relieve her as counsel in this matter. In support of this motion, counsel for the Applicant would show unto this Honorable Court the following:

Counsel was substituted as court-appointed counsel to represent the Applicant by the Honorable L. Casey Manning on September 3, 2008. On January 15, 2009, the Applicant filed a grievance against counsel with the South Carolina Office of Disciplinary Counsel. In this grievance, the Applicant requested that counsel be relieved from any further duties in this case. Counsel for the Applicant now joins in this request, and hereby moves this Court to relieve her as counsel in this matter.

WHEREFORE, having set forth her grounds, undersigned counsel respectfully requests that this Court relieve her as counsel in this matter and that this Court enter an appropriate Order requiring appointment of new counsel for the Applicant.

Respectfully submitted,



Tara Dawn Shurling
 Attorney and Counselor at Law
 3614 Landmark Dr., Suite D
 Columbia, S.C. 29204
 (803) 738-8622
 (803) 738-1600 (fax)
tdslaw@shurlinglaw.com
 Attorney for the Applicant

This ___ day of February, 2009.

Exhibit 6

Charlie J. Johnson, Jr.
ATTORNEY AND COUNSELLOR AT LAW

Charlie J. Johnson, Jr.

charlie@cjjlaw.com

1911 Pickens Street
Columbia, South Carolina 29201
(803) 256-7001

MAILING ADDRESS
P.O. Box 11212
Columbia, SC 29211
FAX (803) 256-7002

September 17, 2009

Frank Furtick, Jr.
Inmate No: 231663
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina 29010

RE: Frank Furtick, Jr. vs. State of South Carolina

Dear Mr. Furtick:

Please be advised that I have been appointed by the State of South Carolina, to represent you in your Post Conviction Relief Proceeding. I will be setting up a time to meet with you as soon as I receive a copy of the Transcript, the State's Return and other related documents from the State.

If you have any questions regarding the above matter, please do not hesitate to contact me.

Sincerely,



Charlie J. Johnson, Jr.
Attorney at Law

CJJJR

Exhibit 7

Charlie J. Johnson, Jr.
ATTORNEY AND COUNSELLOR AT LAW

Charlie J. Johnson, Jr.

charlie@cjjlaw.com

1911 Pickens Street
Columbia, South Carolina 29201
(803) 256-7001

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P.O. Box 11212
Columbia, SC 29211
FAX (803) 256-7002

April 30, 2010

Frank Furtick, Jr.
Inmate No: 231663
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina 29010


RE: Frank Furtick, Jr. vs. State of South Carolina

Dear Mr. Furtick:

I have recently received the signed Consent Order. I have enclosed a copy of the Order for your Records. Appellate Defense will be taking over your case. They should be contacting you in the near future.

If you have any questions regarding the above matter, please do not hesitate to contact me.

Sincerely,


Charlie J. Johnson, Jr.
Attorney at Law

CJJR

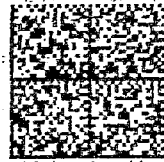
Exhibit 8

31663

Institution

WY

9010



UNITED STATES POSTAGE
PITNEY BOWEN

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0000880020 JUL 26 2
MAILED FROM ZIP CODE 29

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The Supreme Court of
South Carolina
MR. DANIEL E. SheARouse, Clerk of C
Post office box 11330
Columbia, South CAROLINA 29211

