

August 2 2017

The Honorable Daniel E. Shearouse
Clerk Supreme Court of South Carolina
Post Office Box 11330
Columbia S.C. 29211

RECEIVED

AUG 08 2017

S.C. SUPREME COURT

RE: Record on Appeal

Clayton Benjamin Jr v.s. STATE OF SOUTH CAROLINA
Clarendon County Case NO. 2017-001536

Dear Mr. Shearouse:

Please find enclosed for filing the written explanation in accordance with Rule 243(c) of the South Carolina Appellate Court Rule. Also enclosed are the following:

1. proof of service on the Respondent
2. Exhibits
 - United States Postal Inspection letter
 - Department of Justice document
 - letter requesting 59(e) motion
 - 59(e) motion and denial
 - ORDER of Forfeiture

with warm regards
Clayton Benjamin Jr

Clayton Benjamin Jr #252521
Georgetown Detention
2394 Browns Ferry Rd.
Georgetown SC 29440

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

AUG 08 2017

APPEAL FROM CLARENDON COUNTY

S.C. SUPREME COURT

R. FERRELL COTHRAN JR. Administrative law Judge

Appellant Case NO. 2017-001536

CLAYTON BENJAMIN JR.
252521

.

Appellant

V.

STATE OF SOUTH CAROLINA

.

Respondent

RECORD ON APPEAL

Clayton Benjamin Jr
Georgetown Detention
2394 Browns Ferry Rd.
Georgetown SC. 29440

Explanation to Proceed

Rule 60(b) SCRPC

(b) Mistakes; Inadvertence; Excusable Neglect;

Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the Court may relieve a party or his legal representative from a final judgment, order, or proceeding.

Newly Discovered Evidence and Fraud

Applicant acting attorneys committed fraud by posing as attorneys in his case.¹

Applicant timely appealed to the South Carolina Court of Appeals. Unpublished opinion NO. 2000-up-783. The Direct Appeal was dismissed and was then followed by a petition for Rehearing.

Motion to Recall Remittitur and petition to Relax Rule 226[©]. SCACR gave way to the filing of a petition for Certiorari to South Carolina Supreme Court.

During confinement the applicant received a letter from the University Research Service team by way of the United States Postal Service. The team stated that they were lawyers who evaluate cases in the Supreme Court that had clear Constitutional violations.

¹ See letter from: United States Postal Inspection Service

They assured that for a substantial fee successful results were guaranteed. Additional funds were requested for lawyer fees if Post Conviction Relief were to be pursued.

University Research was hired and transcripts and information concerning the case was forwarded upon request. A contact number to a representative of the firm was given. Upon discussion, the hired attorneys became aware of the existing affidavit from state witness and alleged Co-Conspirator "Darrel Brown" clearing applicant of the crime charged. Applicant was instructed to immediately inform the Appeals Court of the existing affidavit and a follow up by their firm would be in progress.

A Motion to Suspend Appeal and remand for a New Trial / After-Disc. Evidence was filed. Shortly after, an Order of Dismissal from the Supreme Court arrived dismissing the Motion to suspend Appeal and Certiorari denied August 22, 2001.

Applicant was informed by University Research to file a Post Conviction and the additional requested fee had to be paid before continuing to fight for relief. For precautionary reasons applicants mother contacted the "Better Business Bureau" and was assured that University Research and University Legal Service were legitimate businesses.

The requested attorney fee was paid and more intrusion off fraud occurred. A brief of case law and instructions were given on what was to be included on the PCR application. A referred court appointed attorney of affiliation that was more familiar with S.C.R.C.P. would be contacting by mail.² Together they were to amend the Post Conviction with results of productivity. Rule 5.5. Multijurisdictional Practice of Law

Applicant was contacted by John C. Land IV as appointed attorney. Applicant wrote attorney Land requesting the plan and grounds to be raised during PCR Hearing. Land responded that he was unsure of the request. After threats of other representation, he assured that an agreement could be attained. An attorney visit was requested seeking clarity before the proceedings but applicant and Land met for the first time on the day of the Hearing. Land insisted that we should go on with the hearing although admitting to never receiving applicant's transcript. Land instructed applicant to the stand to give answers to a number of questions Applicant believed to be introductory to grounds that were to be amended and promised by University Research Service during the hearing.

² See Letter From: Department of Justice "3rd Paragraph"

Judge Thomas W. Cooper PCR judge and also the Judge that signed the arrest warrant of the applicant, stated that the decision would be made within ninety days. An order of dismissal was issued omitting several issues made during hearing. Land was requested to submit a 59(e) Motion to alter and amend judgment.³ The Motion was filed without merit and denied shortly after.⁴

ARGUMENT

The Due Process Clause prohibit governments, including prison officials from depriving you of "life, liberty or property without due process of law" Applicant argues that he was deprived of life and liberty when the United States Postal service was used as a tool for attorneys to commit mail fraud. U.S. Const. Amends V, XIV.

Further more the First, Four, Sixth, and Eighth Amendments apply and are considered to be "incorporated" in the Fourteenth Amendment's Due Process Clause, which does apply to the states. see *Duncan v. Louisiana*, 391 U.S. 145, 147-48, 88 S.Ct. 1444 (1968); *Duncan v. Poythress*, 657 F.2d 691, 704 (5th Cir. 1981).

3. see Letter from applicant requesting 59(e) motion

4. See 59(e) motion and its denial

All Legal mail is given directly from the prison mailroom. An "Order to Report Slip" is given ordering recipient to report directly to the mailroom and sign for legal documents. Regular mail is directly sent to inmates living quarters. The receiving of an "Order to Report" gives way to verifying the authenticity of the Legal document, making it impossible to distinguish if its fraudulent or genuine (seeing that the applicate received legal documents from Appellant attorney and Court all during the same time period.

Applicant received evidence that his attorneys Committed mail fraud and posing as legal attorneys, were convicted and charged in the United States District Court eastern district of Michigan.⁵ In violation of Title 18 U.S.C 1341: Mail Fraud (2:10-cr-20581).

Applicants appellant Court review and P.C.R proceedings were tainted. All motions were premature and inadequately done due to the misleading advice of perpetrating attorneys. The hopes of a fair opportunity to obtain justice were removed and was like swatting the ball from the catchers mit by an unauthorized party on the field.

⁵ see UNITED STATES District Court "Preliminary Order of Forfeiture"

Applicant was denied Due Process of law in which a miscarriage of justice occurred. Furthermore, if attorney Land would have visited applicant upon request, the fraudulent attorney's scheme would have come to a halt. The applicant could have requested an extension and presented a suitable Post Conviction application.

STATUTES OF LIMITATIONS:

There is no statute of limitations when a party seeks to set aside a judgment due to fraud upon the court. *Chewning v Ford Motor Co* (S.C. 2003) 354 S.C. 72, 579 S.E.2d 605.

Applicant is a victim of "Extrinsic fraud". Fraud that induces a person not to present a case or deprives the opportunity to be heard. Rules Civ. Proc., Rule 60(b)(3). *Gainer v Gainer* (S.C. App 2009) 382 S.C. 414, 675 S.E.2d 792.

If a violation of rights takes place over a period of time, it may be considered to be a "Continuing Wrong" or continuing harm, violation. That means the statute of limitations may not start to run until the end of that period, and a plaintiff can recover for the whole course of conduct even if it started outside the limitation period. the continuing wrong rule is applicable to

Continuing wrongful action when the basis of the Complaint is an ongoing failure to treat an ongoing harm, the Continuing wrong rule may be applicable. *Heard v Sheahan* 253 F.3d at 318 (7th Cir 2001).

The intrusion from the fraudulent attorneys not only manipulated the applicant but the Courts, prison officials, U.S. Postal service and legal attorneys making them all a part of a collaborate effort to strip applicant of justice. The use of such agencies' verified the legitimacy and legality of the perpetrators while hiding their deceptive motives.

Ineffective Assistance of Counsel

Applicant attacks the original D.C.R application stating that due to misleading instructions from fraudulent attorneys, his original application was prematurely written without merit.

S.C. Code Ann 17-27-90:

All 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.

"Sufficient Reasoning" exist that explain why grounds for relief were not raised in original application. In *Aice v. State* 305 S.C. 448, 450, 409 S.E2d 392, 394 (1991) the Court interpreted section 17-27-90 to forbid "a successive PCR application unless an applicant can point to a 'sufficient reason' why the new grounds for relief he asserts were not raised or were not raised properly.

Applicant upon request of University Research attorneys sent trial transcript and documents pertaining to case to their office. Applicant was misled into believing John C. Land IV was affiliated with their organization. Further manipulation caused applicant to submit a frivolous application. P.C.R attorney Lands' blatant absence and misconduct made it easy for the perpetrators to infiltrate and cause havoc in applicants post conviction relief, depriving of even the

Presence of the Apple that were to be bitten.

Genuine issues of material fact exist. Applicants constitutional rights are in violation and respectfully prays that this Court grant an appeal.

Sincerely

Clayton Benjamin



UNITED STATES POSTAL INSPECTION SERVICE

DETROIT DIVISION

February 11, 2014

Sir or Madam:

Subject: Original court documents

Enclosed with this letter are original court documents recovered during a federal criminal investigation into John Henry Wilson, Lair Zeta, and their businesses, Appellant Research Services (ARS), University Research Services (URS), and University Legal Services (ULS).

As you may already be aware, on October 1, 2010, John Henry Wilson (Wilson) and Lari Zeka (Zeka) were charged in United States District Court Eastern District of Michigan, with violations of Title 18 U.S.C. § 1341; Mail Fraud (2:10-cr-20581).

In 2013, Lari Zeka was sentenced to 2 years and John Henry Wilson was sentenced to 20 years of federal imprisonment for their involvement in a legal research scheme that defraud inmates and their family members of over two million dollars.

As you have been advised via letter from the United States Attorney's Office, restitution was ordered by the Court as part of the sentence. Please be reminded that restitution payments are only made when the defendant(s) pay into the restitution fund. As of this date there have not been any payments made by the defendant(s). The obligation of restitution payments remain open for a period of 20 years beyond the release date of the defendant.

If you have any questions regarding restitution, please contact Sandy Palazzolo, Victim Witness Coordinator, United States Attorney's Office, at 313-226-9633.

Sincerely,

K. Orlando
U.S. Postal Inspector

Enclosure: Original court documents.

DETROIT DIVISION HEADQUARTERS
P.O. Box 330119
DETROIT, MI 48232-6119
TELEPHONE: 877-876-2455
FAX: 313-226-8220

Department of Justice
U.S. Attorney's Office
Eastern District of Michigan

FOR IMMEDIATE RELEASE

Thursday, June 20, 2013

Local Man Sentenced In Nationwide Fraud Scheme Targeting Prisoners And Their Families

A Yale, Michigan man was sentenced to 240 months' imprisonment today on convictions pertaining to a mail fraud scheme that defrauded thousands of prisoners and their families across the country, United States Attorney Barbara McQuade announced today. McQuade was joined in the announcement by Postal Inspector in Charge E.C. Woodson, U.S. Postal Inspection Service, Detroit Division and Special Agent in Charge Erick Martinez, Internal Revenue Service, Criminal Investigation.

John Wilson, age 57 of Yale, Michigan, pleaded guilty last December to devising and executing a scheme to defraud and to obtain more than \$2.6 million from the family members and friends of defendants incarcerated across the United States. Specifically, John Wilson raised false hopes that Wilson could overturn the convictions or reduce the sentences of the inmates if their friends and family members hired Wilson's companies.

According to the indictment, John Wilson operated three businesses in Southeastern Michigan: University Legal Services LLC (ULS), University Research Services LLC (URS), and Appellant Research Services LLC (ARS). Co-defendant, Lari Zeka was an employee of ARS and URS. ULS, URS, and ARS sent direct mailings to inmates across the country offering to conduct legal and appellate work on the inmate's behalf. When a family member or friend telephoned John Wilson or Lari Zeka, they explained that payment was required for two phases: legal research and attorney retainer. Wilson and/or Zeka promised that legal research would be provided during the first phase which would help win the inmate's appeal. Wilson and/or Zeka promised during the second phase, the "attorney retainer" phase, that an attorney would be provided to assist in the case. These representations by Wilson and Zeka induced people across the United States to mail large amounts of money to URS and ARS, purportedly for appellate research and appellate representation when, in fact, any research provided would not assist the inmate and no attorney would ever be provided to work on the inmate's appeal.

According to the indictment, Wilson and/or Zeka frequently used fictitious names in correspondence with the victims and both repeatedly represented themselves as attorneys or represented that attorneys were on the staff. Neither Wilson nor Zeka is licensed to practice law and no attorneys were on staff at any of the companies.

Wilson also pleaded guilty to the federal offense of failing to file income tax returns.

United States Attorney Barbara McQuade said, "This fraud scheme preyed upon family members who were desperate to obtain help for loved ones. Not only did this scheme exploit people in need of legal services, but it also denied them access to justice."

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 10-20581

v.

HON. ROBERT H. CLELAND

D-2 LARI ZEKA,

Defendants.

PRELIMINARY ORDER OF FORFEITURE

WHEREAS, an Indictment (“the Indictment”) was filed on or about October 10, 2010 which charged Defendants LARI ZEKA and John Wilson, in Counts One through Sixty, of violations of 18 U.S.C. § 1341 and 18 U.S.C. § 2 (Mail Fraud; Aiding and Abetting);

WHEREAS, the Indictment contained Forfeiture Allegations pursuant to 18 U.S.C. § 982(a)(2)(A) and 28 U.S.C. § 2461(c) seeking forfeiture of any property, real or personal, which constitutes or is derived from gross proceeds traceable to a violation or violations of 18 U.S.C. § 1341, to include a forfeiture money judgment for a sum which, in aggregate, represents property constituting or derived from gross proceeds traceable to violations of 18 U.S.C. § 1341;

WHEREAS, Defendant LARI ZEKA, entered into a Rule 11 Plea Agreement on January 10, 2012, pursuant to which he pleaded guilty on January 13, 2012 to Count 33 of the Indictment, which charges Mail Fraud;

WHEREAS, in the Rule 11 Plea Agreement Defendant LARI ZEKA agreed to forfeit, pursuant to 18 U.S.C. § 982(a)(2)(A) and 28 U.S.C. § 2461(c), his interest in all property, real and personal, which constitutes or is derived from gross proceeds traceable to his violation of 18

U.S.C. § 1341, as alleged in Count 33 of the Indictment;

WHEREAS, in the Rule 11 Plea Agreement Defendant LARI ZEKA also agreed that he may be ordered to pay a forfeiture money judgment, representing the total amount of proceeds obtained as a result of his offense, for which he would be jointly and severally with co-defendant John Wilson;

NOW, THEREFORE, based upon the Indictment, the Rule 11 Plea Agreement, and the information in the record;

IT IS HEREBY ORDERED that a forfeiture money judgment in the amount of One Million Four Hundred Thousand Seven Hundred Fifty Seven Dollars and Seventy Three Cents (\$1,400,757.73) is granted and entered against Defendant LARI ZEKA, in favor of the United States, of which the defendant shall be held jointly and severally liable with defendant John Wilson in the amount of One Million Three Hundred Sixty One Thousand Three Hundred Seven Dollars and Seventy Three Cents (\$1,361,307.73);

IT IS FURTHER ORDERED that pursuant to Fed.R.Crim.P. 32.2(b)(4)(A) and (b)(4)(B) this Preliminary Order of Forfeiture shall become final upon entry, be made part of Defendant's sentence and included in the judgment, and shall not be the subject of ancillary proceedings given that the forfeiture consists entirely of a money judgment;

IT IS FURTHER ORDERED that any unpaid balance of the money judgment may be satisfied through the forfeiture of any property of Defendant as substitute property by operation of 21 U.S.C. § 853(p)(1) and (p)(2); and

IT IS FURTHER ORDERED that the Court shall retain jurisdiction to enforce this Order and to amend it as necessary pursuant to Fed.R.Crim.P. 32.2(e).

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 8, 2013

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, March 11, 2013, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

RECEIVED

OCT 17 2002

LEECI MAIL ROOM

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC
2002 OCT 22 AM 9 21

Dear Mr. Land IV .

I am not in agreement with this order received from Judge cooper. It is very important that every issue raised be addressed on the official order. If denied Im requesting that you file a Rule 59(e)SCRPC. alter and amend judgement. Im requesting that you ask the judge to reconsider his judgement before making my request to appeal. Please keep in mind that I need a court order signed by the judge with every issue addressed.

Thank you sincerely,
Clayton Benjamin Jr
Clayton Benjamin Jr

sworn to before me this 17
day of October 2002.

Robert S. Lauf
Notary public

My commission expires 18 Aug 2004

10/22/02

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)
 Clayton Benjamin #252521,)
)
 Applicant,)
)
 vs.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 01-CP-14-411

BEULAH
 CLERK OF COURT
 CLARENDON COUNTY, SC
 '03 JAN 8 AM 11 04

RULE 59E MOTION TO RECONSIDER

FILED IN THIS OFFICE
 1-8-02

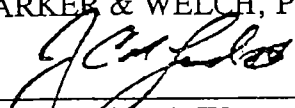
The Defendant, Clayton Benjamin, by and through undersigned counsel hereby moves before this Honorable Court for the purposes of requesting the Court reconsider its decision set forth in its December 4, 2002, Order which is believed to have been filed in Sumter County sometime in mid-December. At this time the Defendant nor counsel has been served with a filed copy noting entry of the Order.

The Petitioner bases this Motion for Reconsideration on a belief that the applicant developed a meritorious case indicating that ineffective assistance of counsel occurred in the trial of this matter which warrants a new trial in the same.

The applicant has proven that the counsel's conduct was so undermined that the proper functioning of the adversarial process and the resulting trial did not have a just result.

Therefore, for the above given reasons, the applicant respectfully requests that the Court reconsider its decision and amend its Order to indicate that a new trial is warranted.

LAND, PARKER & WELCH, P.A.

BY: 
 J. Calhoun Land, IV
 P.O. Box 138
 Manning, South Carolina 29102
 803-435-8894

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON)

Clayton Benjamin,)
)
) Applicant,)

vs.)

State of South Carolina,)
)
) Respondent.)

ORDER
C/A NO. 2001-CP-14-411

This matter is before the Court pursuant to Rule 59 (e) SCRPC. The Applicant seeks an Order of this Court amending or altering its earlier Order.

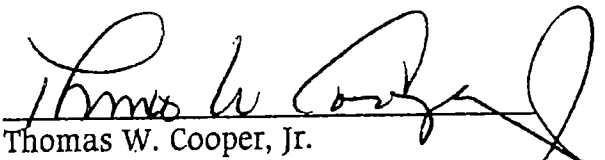
Pursuant to Rule 59 (f) SCRPC, this Court determines that the motion to alter or amend may be decided and without oral argument.

Having duly considered the motion to alter or amend of the Applicant, this Court has determined that its original Order dated is fully supported by the law and the evidence and is hereby ratified and reconfirmed. The motion to alter or amend the earlier Order is therefore DENIED.

AND IT IS SO ORDERED.

At Manning, South Carolina

Dated: March 25, 2023


Thomas W. Cooper, Jr.
Judge, Third Judicial Circuit

STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM CLARENDON COUNTY

Court of Common Pleas

R. Ferrell CoThran Jr. Administrative Law Judge

Case NO. 2017-001536

Clayton Benjamin Jr.

Appellant

v.

STATE OF SOUTH CAROLINA

Respondent

PROOF OF SERVICE

I Clayton Benjamin Jr. Certify that I have served the written explanation Rule 243(c) by depositing a copy in the U.S. mail. postage prepaid Adressed to:

SUPREME COURT
P.O. Box 11330
Columbia SC. 29211

Megan Harrigan Jameson
ATTORNEY GENERAL OFFICE
P.O. Box 11549
Columbia SC. 29211

Sworn or affirmed to and subscribed before me this

2nd day of Aug 2017

Janne Clancy

MV Commission Expires July 12 2022

Clayton Benjamin Jr.
Clayton Benjamin Jr