

RECEIVED

AUG 14 2017

SC Court of Appeals

The South Carolina Court of Appeals

Bernard McFadden, #199135, Appellant,

vs.

South Carolina Dept. of Corrections, Respondent.

Appellate Case # 2017-00118.1

Rule 221: Petition For Rehearing

Because appellant maxed-out his sentence on June 30th 2017, this court determination this case is moot on July 19th 2017, order received on August 03rd 2017 (See Attachment A, envelope enclosing this Court's July 19th 2017, Order and August 03rd 2017, Remittitur for the first time ever.), appellant requests reconsideration for the following reasons:

1) Because the Clerk never mailed this court's July 19th 2017, Order, this court should reopen because of a clerical error.

2) Controversy exists as to whether Appellant's due process rights were violated, and whether he should have been released in April of 2017 - rather than July;

3) Monetary damages will be sought for time extended in incarceration and no forum will be available to vindicate the alleged due process violations. If the favorable determination set forth in Heck continues to control if claims becomes moot, essentially denying appellant a forum in which to enforce his rights within the

meaning of Pible vs. Scholl, 410 F.Supp.2d 807 (N. D. Iowa 2006), and

4) Because appellant was in custody, at the time this case was filed, which is all the "in custody" provision of 28 USC § 2254 requires. See Spencer vs. Kema, 523 U.S. 1, at. p. —

Declaration of Bernard McFadden:

I declare under penalty of perjury this 10th day of August 2017, that no July 19th 2017 order was received via mail from the clerk's office. St. (Bernard McFadden)

Bernard McFadden

Respectfully Submitted,
St. (Bernard McFadden)
Bernard McFadden
P.O. Box 1622
Columbia, S.C. 29202
(803) 201-9477
Appellant, *Pro se*

Proof of Mailing
Appellate # - 2017-001181

The undersigned hereby certifies that a true copy of the attached matter has been mailed to the person(s) listed below by depositing a properly-addressed-stamped-envelope in the U.S. Mail this 11th day of August, 2017, such matter being: McFadden's Rule 201 Petition For Rehearing With Declaration In Support.

1) Jerry Abbott Kitchings, Clerk
P.O. Box 11629, Columbia
South Carolina 29211; and

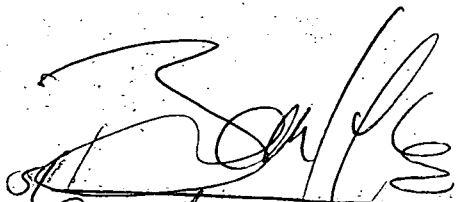
2) Melissa J. Arnold, Attorney
SCDC, Office of General Counsel
4444 Broad River Rd., Columbia
South Carolina 29221

RECEIVED

AUG 14 2017

SC Court of Appeals

Sworn And Subscribed Before Me
This ___ day of ___ 2017
personal copy signed
Notary Public For South Carolina
My commission expires: _____


Bernard McFadden,
Appellant, pro se

RECEIVED
AUG 14 2017
SC Court of Appeals

Attachment A

p 4 of 4



South Carolina Court of Appeals
JENNY ABBOTT KITCHINGS, CLERK
POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

COLUMBIA
SC 29202
AUG 14 2017

Hasler

08/03/2017

US POSTAGE

FIRST-CLASS MAIL

\$00.46⁹



ZIP 29201
011D12602824

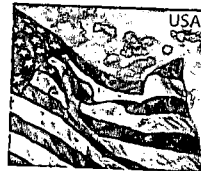
BERNARD MCFADDEN #199135
PO BOX 1622
COLUMBIA SC 29202

29202-162222



Bernard McFadden, 199135
P.O. Box 1622
Columbia, S.C. 29202

COLUMBIA
SC 298
11 AUG '17
29211



RECEIVED

AUG 14 2017
CC Court of Appeals

Jenny Abbott Kitchings, Clerk
Post Office Box 11629, Columbia
South Carolina 29211

McFadden 199135
LEGAL