

SOUTH CAROLINA COURT OF APPEALS
STATE OF SOUTH CAROLINA, COLUMBIA, S.C.

EDDIE DEAN DOGAN, Jr. #351596
APPELLATE NAME & SCOC #

Re: BILL OF REVIEW: ART. 1, §3
REDRESS APPEAL: 2017-001164

RECEIVED

247(A)(B), REVIEW 59(c) DVA
APPEAL, 4-28-17

OCT 19 2017

SC Court of Appeals

APPELLATE EDDIE DEAN DOGAN, Jr. BRING THIS BILL OF REVIEW BY WAY OF RULE 247(A)(B), SCACR, UNDER FIRST AMENDMENT RIGHT OF REDRESS, SINCE, AS OF SEPTEMBER 14, 2017, IT APPEARS THAT S.C. COURT OF APPEALS HAS RENDERED AN ORDER TO DENY DOGAN'S RIGHT TO RE-HEARING BUT DID NOT PUT DOGAN ON NOTICE OF DECISION. ON JUNE 21, 2017, AN ORDER CAME BY WAY FROM S.C. SUPREME COURT, C.J. BEATTY, CITING 242 (SCACR), TELLING DOGAN THAT HE COULD NOT FILE FOR A DVA HEARING UNTIL THE S.C. COURT OF APPEAL HAS RULED ON IT BASED ON RULE'S 242(C), SCACR

QUESTION PRESENTED

HOW CAN AN APPELLATE "PRESERVE A RIGHT" IF HE HAS NO KNOWLEDGE OF SUCH, AS AN APPEAL, REDRESS, OR REPLY? BASED ON S.C. RULES OF COURT PROCEEDINGS / PROCEDURES, BY COURT(S), AGENCY(IES) RECORD, [GRANTED OR DENIED, I,] TIME TO APPEAL TO WHO? ESPECIALLY IF THERE IS NO SIXTH AMENDMENT RIGHT OF COUNSEL, TO MAKE APPEAL,

ALLEGE

IF THE JUDGE(S) OR AUTHORITIES "SHALL" RELY ON THE S.C. RULE(S) OF COURT, WHICH GOVERNS THE JURISPRUDENCE OF EACH PROCEEDING SET-OUT IN GUIDELINE(S) FOR THE COURT(S). ATTENDANCE: I WOULD LIKE TO POINT TO RULE 22, RECORD KEEPER, FOR THE STATE, DOGAN ONLY REQUEST THAT IF THE JUDGE(S) COMPARE THE LANGUAGE IN THE AUGUST 11, 2017, AGAINST THE MAY 15, 2017 YOU WILL NOTICE AN IRREPARABLE CLAUSE HAS BEEN DEVELOPED BY GOVERNMENT OFFICIALS TO AVOID CORRECTING A WRONG. SEE EXHIBIT(S) A & B.

AS IT CLEARLY STATES IN THE MAY 15, 2017, RESPOND BY HONORABLE J. MARK HAYES, II, TO DOGAN 59(c) MOTION OF THE 10 DAY FILING OF ALTER OR AMEND, DATED APRIL 28, 2017 CHALLENGING THE ORDER OF APRIL 17, 2017, THAT ARRIVED AT TYBEE-MAIL ROOM APRIL 25, 2017, YET APPEALED APRIL 28, 2017, SERVED ON STATE AND S.C. SUPREME COURT P.O. BOX 11589.

CONCLUSION

SINCE THE STATE DO NOT WANT TO APPLY OR ADAPT TO THEIR OWN RULES, AND ALLOW THIS 2017-001164 ACTION TO BE TIMELY FILED AS OF 4-28-17, I ONLY ASK THAT THE HIGH COURT(S), PROVIDE ME WITH THE BRITE LINE RULE, DATED AUGUST 16, 2017, RENWICK D. MOSE V. STATE OF SC, 2017, WL3496440, 152d.

BRIEF LINE RULE

APPEAL CLAIM(S) THAT THE BRIEF LINE RULE WAS CREATED FOR THE PROVIDENTIAL ACT TO HAVE THE OPPORTUNITY TO BE ALLOWED THE RIGHT THAT HAS BEEN GUARANTEED TO ALL. THE FIRST AMENDMENT OF THE CONSTITUTION "REDESS", PROVIDED BY GRANTOR, GUARANTOR, WHICH BECAME A CONDUCT BY WAY OF § 24-1-110-220, A GOVERNMENTAL [SCDC] AGENCY, WHERE IN WOLFF v. McDONNELL, 418 U.S. 539, 559-58 (1974), IT CLEARLY STATE'S THAT THERE IS NO IRON CURTAIN BETWEEN AN "INMATE INSIDE A PRISON" AND AN FREE INDIVIDUAL' TO THE COURT(S) OR, TRIBUNAL PURSUANT TO § 17-19-20, CHALLENGING HIS/OF HER'S CONVICTION/SENTENCE, WHICH IS AN "APPEAL' REDRESS" UNDER THE PROVISION, ENUMERATED IN SCACR RULE, 203(d)(2)(i)(ii). § SCRCIV, PRL. 4(9). PROOF OF SERVICE, THAT IS INCORPORATED WITH PS-10.08(8.3) WHICH IS AN AVENUE TO SERVE THE COURT(S) IT'S ACTION(S) BASED ON HIS APPEAL, 59(e), THROUGH GA-01.03. ACCESS TO THE COURT(S), THEREFORE, WHEN THE INMATE FILE(S) A BRIEF, AFFIDAVET, MOTION, OR ORDER THAT HAS BEEN REDUCED TO WRITTEN TO BE CHALLENGED, AND IS NOTARIZED AND SIGNED BY SCDC OFFICIAL(S) AND DATED AND LEFT IN THEIR HANDS TO BE SENT OUT, TO MEET THE TIME LIMITATION(S) OR DEADLINES. IT IS CONSIDERED FILED ON TIME. ALSO, SEE AND COMPARE LANGUAGES UP-HELD BY CHIEF JUSTICE, BEATTY, OPINION: SUPTA, 2017-WL3496440. AUGUST 16, 2017.

IF A RULING HAS BEEN MADE, "GRANTING OR DENYING" DOGAN'S APPEAL TO DNA TESTING, IT WOULD BE FAIR TO BOTH SIDES IF DOGAN, KNEW THE DECISION RENDERED BY THE COURT & APPEAL'S, SINCE RE-HEARING WAS FILED JULY 3, 2017, NOW IT'S OCTOBER, STILL NO ORDER; THIS IS A NEED TO KNOW.

Respectfully submitted
Eddie D. DOGAN Jr.

Serving All "Parties below":

- JENNY ABBOTT Kitchings Clerk of Court P.O. Box 11629, Columbia SC, 29211
- Mr. Derrick B. Balsa, Solicitor; 190 Macaulay St. 3 floor, SPTB, S.C. 29206
- Attorney General Allen Wilson P.O. Box 11549 Columbia S.C. 29211
- Daniel E. Shearouse Clerk [Supreme Court] P.O. Box 11330 Columbia S.C. 29211

THIS IS BEING sent out to All AGENCY above; Through, The TYRCI Mail Room PS 10.08(8.3), 4(9) SCRC.P.

Sworn To and subscribed before me -
THIS 10th DAY of October 2017

[Signature] (Notary Public) (S.C.)

NOTARIZED AND FOR SCDC
MY COMMISSION EXPIRES March 24, 2027

Eddie D. Dogan Jr.
EDDIE DEAN DOGAN JR. 250596
TYRCI UNIT-3-126B-44
300 PRISON ROAD
ENOREE, S.C. 29335



APPELLATE CASE No. 2017-CO1164
TRIAL CASE No. 1998-GS-42-3569, 70, 5180

A

State of South Carolina
Circuit Court Judge, At-Large, Seat 5

J. MARK HAYES, II
JUDGE

180 MAGNOLIA STREET, 2ND FLOOR
SPARTANBURG, SOUTH CAROLINA 29306
TELEPHONE: (864) 562-4144
FAX: (864) 562-4142
E-MAIL: mhayesj@sccourts.org

May 15, 2017

Derrick B. Balsa, Esq.
Deputy Solicitor Seventh Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306

Re: DNA Forensic Testing Application for Eddie Dogan 1998-GS-42-3569-70; 5180

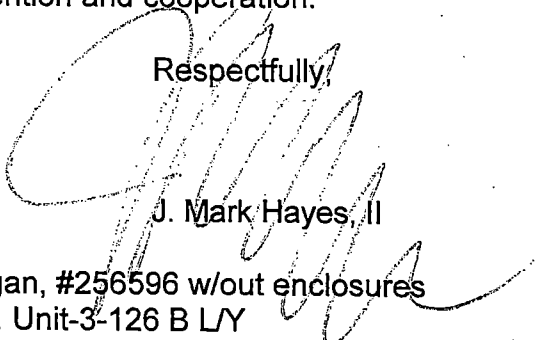
Dear Mr. Balsa:

Attached please find a copy of the Rule 59(e) Motion to Alter or Amend that my office received from Mr. Dogan. I was not sure if your office had received a copy of this motion. Therefore, I am forwarding it to you for an appropriate response.

Also please find a copy of a ten (10) page mailing entitled "Precedent Decision" which my office received today.

Thank you for your attention and cooperation.

Respectfully,


J. Mark Hayes, II

CC: Eddie Dean Dogan, #256596 w/out enclosures
Tyger River Inst. Unit-3-126 B LY
200 Prison Road
Enoree, South Carolina 29335

Spartanburg Clerk of Court Office w/enclosures
180 Magnolia Street
Spartanburg, South Carolina 29306

JMHII/smw



B

ALAN WILSON
ATTORNEY GENERAL

August 11, 2017

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Eddie Dean Dogan, Jr., v. The State of South Carolina
Appellate Case No: 2017-001164

Dear Ms. Kitchings:

Please accept this letter in lieu of a formal return to Appellant's petition to rehear the dismissal of his appeal. If a formal return is required, please let me know.

Appellant's application for DNA testing was denied by way of an April 24, 2017, Order of the Honorable J. Mark Hayes, II. Appellant's attempt to appeal that denial was dismissed by this Court in an Order issued June 7, 2017, due to Appellant's failure to timely serve the notice of appeal on the State. Appellant has now filed a petition to rehear the dismissal of his appeal claiming he "filed his notice of appeal on the State" on May 11, 2017. In a letter dated August 1, 2017, this Court has asked the State to submit a return to the petition indicating whether the State was served with the notice of appeal.

The Attorney General's Office was not served with a copy of Appellant's May 11, 2017, notice of appeal. Assistant Solicitor Balsa is fairly confident the Seventh Circuit Solicitor's Office also was not served but has requested his file from archives in an effort to confirm.

Sincerely,

J. Benjamin Aplin
Senior Assistant Deputy Attorney General
S.C. Bar No: 8729

cc: Robert M. Dudek, Esquire
Derrick B. Balsa, Esquire
The Honorable M. Hope Blackley
Eddie Dean Dogan, Jr., #256596
Victim Advocacy Division



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 21, 2017

Eddie Dean Dogan, Jr., #256596
Tyger River Correctional Institution
Upper Yard
200 Prison Road
Enoree SC 29335-9308

Re: Eddie D. Dogan, Jr., v. The State
Appellate Case No. 2017-001164

Dear Mr. Dogan:

The Court is in receipt of your letter dated July 18, 2017, inquiring about the status of your appeal. The Court received your petition for rehearing on July 3, 2017, which is currently pending before the Court. All parties will be notified once a decision has been made.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Robert Michael Dudek, Esquire
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG,

EDDIE DEAN DOGAN, JR. 356576
APPLICANT NAME & SCDC Number

-vs-

STATE OF SOUTH CAROLINA
Respondent for the State

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OCT 19 2017

SC Court of Appeals

RULE 59(e), SCRCIV. PROC. MOTION
TO ALTER OR AMEND A JUDGMENT
10 DAY FILING.
F-654895, 96, 97

I AM APPLICANT EDDIE DEAN DOGAN, JR. I BRING THIS RULE 59(e), PURSUANT TO THE 10 DAY FILING REQUIREMENT FOR SUCH AN ACTION. SINCE, ON APRIL 17, 2017, YOUR HONORABLE J. MARK HAYES, II, ASK THE STATE TO PREPARE A FORMAL ORDER DENYING DOGAN APPLICATION BASED ON UNTIMELY. I DOGAN RECEIVED THIS NOTICE AT TYREI MAIL ROOM ON APRIL 25 2017. I SENT MY 59(e) REPLY MOTION WITH DOCUMENT(S) OUT ON APRIL 28, 2017. TO STAY IN THE GUIDELINES OF SCRULES/PROCEDURE'S, I ALSO PROVIDED THE S.C. SUPREME COURT WITH SAME, CLAIMING THAT THERE IS NO TIME LIMITATION FOR THIS FILING OF §17-28-10(through)12D, DNA FORENSIC APPLICATION, ESPECIALLY, §17-28-30(A), "ACCESS TO JUSTICE" "ACT" Bill 413, OF 2009, WENT INTO EFF. JANUARY 9, 2009. DISCOVERED IN 2014 APRIL 9, PAID FOR FILING OF DNA APPLICATION \$25.00, BASED ON COURTS ORDER §8-21-310(c)(1)(a)(SUPP 2004), BY WAY OF MS. A. MILLER CLERK OF COURT. I WAS ALLOWED TO FILE THIS §17-28-50(D), CLERK STAMP MARCH 8, 2017, ALSO SEE CASE OF SMITH V. STATE - OPINION NO. 5316, MAY 13, 2015. THIS IS THE LANGUAGE USED BY THE COURT(S) §17-28-30(A) STATES: A PERSON WHO PLED NOT GUILTY TO AT LEAST ONE OF THE FOLLOWING OFFENSE, WAS CONVICTED OF OR ADJUDICATED FOR THE OFFENSE, IS CURRENTLY INCARCERATED FOR THE OFFENSE, AND ASSERTS HE IS INNOCENT OF THE OFFENSE MAY APPLY FOR FORENSIC DNA TESTING OF HIS DNA AND ANY PHYSICAL EVIDENCE MATERIAL RELATED TO HIS CONVICTION. DOGAN CLAIM THAT THERE IS NOT A PHRASE IN THE LANGUAGE CITED ABOVE, THAT STATES A TIME LIMITATION FOR FILING, THEREFORE, I SHOULD BE ENTITLED TO HAVE MY HEARING ON MY INNOCENCE DICTATED BY §17-28-30(A). SINCE DOGAN DID NOT PLED GUILTY, THE SEVEN YEAR OR ANY YEAR DOES NOT EFFECT DOGAN'S CLAIM, ON TIME TO FILE, SAME CASE AS SMITH - VS. STATE, OPINION NO 5316, MAY 13, 2015. AND SHOULD BE TREATED AS SAME., IF YOU NOTICE IN HONORABLE HAYES LETTER, HE DOES THE SAME AS SOLICITORS AND THE CIRCUIT COURT, HE ONLY ADDRESS THE TIME LIMIT AS THE BASIS FOR DENYING DOGAN'S APPLICATION. THE ORDER DO NOT MENTION ANY OF THE OTHER GROUNDS FOR DENIAL, THE SAME AS [SMITH V. STATE, OPINION NO 5316 MAY 13, 2015],

Exhibit A

STATE OF SOUTH CAROLINA }
COUNTY OF SPARTANBURG }

EDDIE DEAN DOGAN, JR. 256596
APPLICANT NAME and SCDC NUMBER)

-VS-

STATE OF SOUTH CAROLINA
RESPONDANT FOR STATE

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OCT 19 2017

SC Court of Appeals

PROOF OF SERVICE
4(C) SCRCIV. PROC.

IN SUPPORT OF Rule 59(e), SCRCIV. PROC.
to ALTER OR AMEND A JUDGMENT
§ 17-29-30(A), NO LIMITATION OF
TIME.

I Eddie Dean Dogan Jr. DECLARE UNDER STATE & FEDERAL CONSTITUTION, THAT AS COUNSEL OF RECORD, THAT ON APRIL 28, 2017, THAT I SERVED A TRUE COPY OF SCRCIV. PROC. 59(e), MOTION TO ALTER OR AMEND A JUDGMENT, ON THE HONORABLE J. MARK HAYES II, RULING DATED APRIL 17, 2017, ASKING THE STATE TO PREPARE A FORMAL ORDER DENYING THE REQUEST AS BEING UNTIMELY, I DOGAN RECEIVED THIS NOTICE AT TYRCI ON APRIL 25, 2017. SEE EXHIBIT OF LETTER RECEIVED FOR THIS REDRESS.

Addressed To: J. MARK HAYES, II, JUDGE, Circuit Court Judge, At Large, SEAT 5
180 MAGNOLIA STREET, 2nd FLOOR, SPARTANBURG, S.C. 29306

I'm sending this through TYRCI MAIL-ROOM, WITH PREPAID STAMP ENVELOPE; I'm also serving the S.C. Supreme Court at P.O. Box 11589, Columbia S.C. 29211,

St. Eddie D. Dogan Jr.
Eddie Dean Dogan Jr. 256596
TIGER RIVER INST - UNIT 3-126 B
300 PRISON ROAD
ENOREE, S.C. 29335

Sworn To and subscribed before me

This 28th DAY of April 2017.

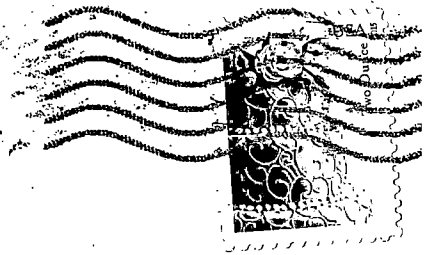
Paul [Signature] (U.S.)

NOTARY FOR SOUTH CAROLINA and SCDC

MY COMMISSION EXPIRE Dec. 19, 2024

Eddie O. Hogan Jr. # 256596
F.R.C.I. Unit 3-B-124 4/4
200 Prison Rd,
Emerlee, S.C. 29335

GREENVILLE SC 296
17 OCT 2017 PM 3:11



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OCT 19 2017
SC Court of Appeals

Jenny ABBOTT Kitchings
Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

29211-162929

