

STATE OF SOUTH CAROLINA
In The Court of Appeals

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OCT 30 2017

SC Court of Appeals

Appeal from Charleston County
Court of Common Pleas
R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2013-002379

Ronald Coulter, #300410,

Appellant,

v.

State of South Carolina,

Respondent.

PETITION FOR REHEARING

The appellant herein respectfully moves this Court, pursuant to Rule 221, SCACR, for an order (1) vacating its affirmation of the lower court's dismissal of the appellant's petition for habeas corpus, entered on October 18, 2017, and (2) conduct a plenary review of the judgment below.

The appellant respectfully shows the Court that the following factual or legal matters may have been overlooked or misapprehended:

1. The issues distinctly stated on appeal in this case which were necessary to the decision of the appeal were not stated in writing in this Court's opinion. Rule 220(b), SCACR.

An aggrieved party is entitled to have explicit findings of fact upon which the conclusion of the court was based. Such findings are obviously necessary to the intelligent and orderly presentation and proper disposition of an appeal, if taken.

2. Questions involving the construction and application of the federal Constitution in a criminal state appeal cannot be reasonably found to be manifestly without merit.

The question of whether a state court's failure to follow the mandate of federal rule is violative of the Fourteenth Amendment's protection against arbitrary state action cannot be reasonably found to be manifestly without merit, especially where that rule is binding upon state courts through the Supremacy Clause.

The question of whether the Due Process Clause of the Fourteenth Amendment tolerates nominal representation in a first tier collateral review of a Sixth Amendment right to counsel claim cannot be reasonably found to be manifestly without merit.

3. This Court affirmed the decision of the lower court despite the lower court's failure to specify any findings of facts, or conclusion of law, in its decision to dismiss the appellant's petition for habeas corpus.

The appellant received meaningless appellate review of the lower court's decision after the appellant pointed out to this Court, in his final brief, that the lower court failed to articulate any findings, or conclusions, in its final order.

4. This Court's affirmation of the lower court's cryptic dismissal: 1) deprives the appellant of any reasonable opportunity to have the issues as to the claimed rights heard and determined by the courts; and, 2) represents an ambiguous application of state court rules, resulting in an evasion of the federal constitutional claims presented under the State's constitutional and statutory habeas laws.

Federal and state courts have constantly emphasized the fundamental importance of the writ of habeas corpus in our constitutional scheme, and have steadfastly insisted that there is no higher duty than to maintain it unimpaired. Because, however, a number of due process and other federal constitutional rules do in fact regulate the form and substance of and the

procedures the States use in criminal prosecutions, generalizations about the cognizability of these issues in habeas corpus are dangerous and no substitute for a careful analysis of the constitutional principles that govern the particular issue and of the factual circumstances recognized as implicating those principles.

CONCLUSION

For the reasons set forth above, as well as those contained in the final brief(s) of the appellant, the appellant prays that this Court grant rehearing of the order affirming the lower court's dismissal, vacate that order, and review the judgment below.

Respectfully submitted,



Ronald Coulter, #300410

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Appellant, Pro Se

October 27, 2017.

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PROOF OF SERVICE

I certify that I have served the Petition for Rehearing on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on October 27, 2017, addressed to the attorney of record: Alan Wilson / J. Rutledge Johnson, Office of Attorney General, P.O. Box 11549, Columbia, SC 29211.

October 27, 2017.



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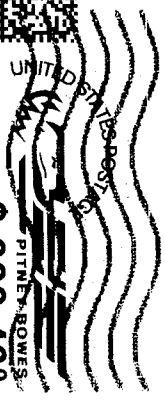
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OCT 27 2017

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