

EUGENE THOMAS #222351  
McCORMICK CORR. INSTITUTION  
386 REDEMPTION WAY  
McCORMICK, SC 29899

RECEIVED

NOV 01 2017

S.C. SUPREME COURT

Oct. 26, 2017

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OCT 31 2017

SC Court of Appeals

MR. DANIEL E. SHEAROUSE,  
CLERK OF COURT  
POST OFFICE BOX 11330  
COLUMBIA, S.C. 29211

RE: EUGENE THOMAS V. STATE  
APPELLATE CASE No. 2016-002304

DEAR MR. SHEAROUSE:

IN RESPONSE TO YOUR CORRESPONDENCE DATED AUG. 31, 2017 NOTIFYING ME THAT NO ACTION WILL BE TAKEN ON MY PRO SE FILING BECAUSE I AM REPRESENTED BY COUNSEL, AND THAT THE S.C. SUPREME COURT OR THE COURT OF APPEALS HAS NOTHING TO DO WITH A CASE BEING REMANDED TO A TRIAL COURT.

SIR, I MAY HAVE ADDRESSED MY LAST LETTER TO YOU WRONG, BUT I WASN'T ASKING THE S.C. SUPREME COURT, NOR THE COURT OF APPEALS TO REMAND MY CASE BACK TO A TRIAL COURT, BUT INSTEAD, I WAS REQUESTING MY CERTIORARI COUNSEL ROBERT M. PACHAK OF THE DIVISION OF APPELLATE DEFENSE TO WRITE A MOTION IF THAT WAS THE PROCEDURE TO PETITION THE CERTIORARI TO TRANSFER MY CASE BACK TO MY PCR COURT BEFORE THE CERTIORARI COURT RULED UPON MY ISSUE. MR. PACHAK REFUSED, PLEASE FIND A COPY OF HIS REFUSAL AND A COPY OF MY LETTER DATED AUG. 24, 2017 REQUEST HIM TO DO SO. BEING THAT MR. PACHAK REFUSED MY REQUEST, I AM ASKING THE COURT TO CONSIDER SENDING MY CASE BACK TO THE PCR COURT TO HAVE ALL MY ISSUES HEARD AND RULED UPON.

Cont. . . .

MY PCR COUNSEL MR. BRIAN P. JOHNSON INADEQUATELY ADVISED ME TO ABANDON (4) FOUR OF MY ISSUES THAT WAS RAISED IN MY PCR APPLICATION, ESPECIALLY THE ISSUE OF, TRIAL COUNSEL WAS INEFFECTIVE IN NOT COMMUNICATING THE FULL EXTENT AND CONSEQUENCES OF PLEA OFFER. COUNSEL'S FAILURE TO EXPLAIN A MATTER TO THE EXTENT REASONABLY NECESSARY TO PERMIT DEFENDANT TO MAKE AN INFORMED DECISION REGARDING PLEA BARGAIN, CAUSED DEFENDANT TO PROCEED TO TRIAL, WHEN THERE WAS A REASONABLE PROBABILITY THAT IF CORRECTLY ADVISED, THE DEFENDANT WOULD HAVE ACCEPTED PLEA OFFER BY THE STATE OF 12-14 YEARS. THIS ISSUE WAS SPECIFICALLY WRITTEN WITH A MEMORANDUM OF LAW IN SUPPORT OF PCR APPLICATION.

Sir, PLEASE FORGIVE ANY INCONVENIENCE ON MY PART FROM MY LAST LETTER. YOUR HELP CONCERNING THIS MATTER WILL BE VERY GRATEFUL. IF POSSIBLE, PLEASE SEND A STAMP COPY BACK WITH YOUR REPLY. THANK YOU FOR YOUR TIME AND PATIENCE.

Respectfully submitted

/s/ EUGENE THOMAS # 222351

/s/ Eugene Thomas # 222351

Subscribed and Sworn Before  
ME This 26 DAY OF October 2017

J. Franklin

Notary Public for South Carolina

My commission Expires : 12/16/2019





# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332

Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

September 01, 2017

Eugene Thomas, #222351  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

Re: Your Case

Dear Mr. Thomas:

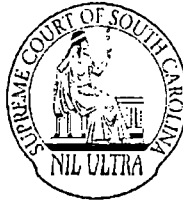
I have already completed your petition for writ of certiorari and the case cannot be transferred back to the lower court. I also cannot change what is in my petition.

Let me know if you have any further questions.

Sincerely,

Robert M. Pachak  
Appellate Defender

RMP/lms



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211

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[www.sccourts.org](http://www.sccourts.org)

August 31, 2017

Mr. Eugene Thomas, 222351  
McCormick Correctional Institution  
386 Redemption Way  
McCormick SC 29899

Re: Eugene Thomas v. State  
Appellate Case No. 2016-002304

Dear Mr. Thomas:

This responds to your recent correspondence dated August 24, 2017. Since you are represented by counsel in this matter, no action will be taken on this *pro se* filing. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

I note that Rule 204 of the South Carolina Court of Appeals relates to the transfer of cases between this Court and the South Carolina Court of Appeals. It has nothing to do with case being remanded by this Court or the Court of Appeals to a trial court.

Very truly yours,

CLERK

cc: DeShawn Herman Mitchell, Esquire (with copy of correspondence)  
Robert M. Pachak, Esquire (with copy of correspondence)

EUGENE THOMAS #222351  
McCormick Corr. Inst.  
386 Redemption Way  
McCormick SC. 29899

AUG. 24, 2017

Mr. Robert M. Pachak  
Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia South Carolina 29201-3332

RE: Appellate Case# 2016-002304

Dear Mr. Pachak:

On this date of Aug, 2017, I respectfully request at this time pursuant SC Supreme Court Rule 204, Transfer Of Cases (b). That you write a motion to have my case transferred back to the PCR Court in order to have the following issues I listed in my PCR application to be ruled upon by the Courts, especially the issue of, Trial counsel was ineffective in not communicating the full extent and consequences of plea offer. Counsel's failure to explain a matter to the extent reasonably necessary to permit defendant to make an informed decision regarding plea bargain caused defendant to proceed to trial when there is reasonable probability that if correctly advised, the defendant would have accepted plea offer by the State of 12-14 years,

This issue was specifically written with a Memorandum of Law in support of application.

- (2) Trial counsel failure to object to a constructive amendment of application indictment, and failure to move for a verdict in arrest of Judgment and entry Judgment of acquittal based on the trial court's lack of Jurisdiction to convict and sentence applicant for unindicted Attempted Armed robbery offense.
- (3) Trail counsel ineffective due to counsel's failure to object to the Prosecutor's closing argument of insinuating prior bad acts of robbery being committed by Applicant.
- (4) Prosecutor violated Brady v. Maryland, 373 U.S. 83, 83 S.ct. 1194, 10 L.Ed. 2d 215 (1963) BY failing to disclose that the State's Fingerprint Analyst, Christopher Adam Gary wasn't certified by Sled in accordance with SC statutory law § 23-3-15, SEE...(Tr.p.196 L.11-25, and pg. 197-200 L.1-16)

Mr. Pachak, I request you write this motion for my sake because my PCR Counsel Mr. Brian P. Johnson inadequately advised me to abandon the listed issues above which violated my 6th and 14th Amendenment Rights.

Your help concerning this matter will be very grateful, and please respond.

Respectfully Submitted

/s/ Ernie Thomas

#222351

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY  
HONORABLE JOHN C. HAYES, CIRCUIT COURT JUDGE

EUGENE THOMAS

PETITIONER

V.

STATE OF SOUTH CAROLINA

RESPONDENT

APPELLANT CASE NO# 2016-002304

PROOF OF SERVICE

I, Eugene Thomas, hereby certify, that a true copy of letter from Appellant requesting Appellant Defense Counsel Robert M. Pachak to file a motion pursuant to South Carolina Supreme Court Rule 204. Transfer of Cases on Appellant's behalf, has been served upon Robert M. Pachak PO. BOX 11589, Columbia, SC 29111-1589 Attorney for Petitioner, and Mr. Daniel E. Shearhouse, Clerk of Court, Supreme Court of South Carolina, PO. BOX 11330, Columbia SC. 29211 for the record, This 24 day of August, 2017.

Subscribed and Sworn Before  
Me This 24 Day of August 2017

JC Franklin  
Notary Public for South Carolina

My Commission Expires: 12-16-2019

Respectfully Submitted

Eugene Thomas #222351

Eugene Thomas

# 222351

EUGENE THOMAS

McCormick Correctional Institution

386 Redemption Way

McCormick, SC 29899

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MCCI  
MAIL ROOM

REVISIONS HAS NOT  
BEEN CENSORED THIS ITEM; THEREFORE,  
TREATMENT DOES NOT ASSUME RESPONSIBILITY  
FOR THE CONTENTS  
WOODRUFF CORRECTIONAL INST  
S.C. DEPARTMENT OF CORRECTIONS