

STATE OF SOUTH CAROLINA
COURT OF APPEALS

The State,

Respondent,

Vs.

Vincent Missouri,

Appellant

APPELLATE CASE NO. 2014-001176

Appeal from Pickens County

The Honorable James R. Barber, Circuit Court Judge

Opinion No. 2017-UP-383

ON PETITION FOR REHEARING

RECEIVED

NOV 15 2017

SC Court of Appeals

Appellant Vincent Missouri petitions this Honorable Court himself for the inclusion of the following concerns for rehearing, after requesting appellant counsel David Alexander, to include such. But after receiving the brief for rehearing, this important question was not asked. Whereby, if this case proceeds on writ of certiorari. According to Mazloom v. Mazloom, 392 S.C. 403, 709 S.E.2d 661 and Camp v.

Spring Mortgage, 310 S.C. 514, 516, 442 S.E.2d 304, 305 (1993), an important concern would be totally omitted that could alter the courts decision in this appeal. For that reason in "*the interest of justice*", does this Appellant pray for leave to include the following concerns. As such issue would probably produce a different outcome in the court's ruling. That directly relates back to whether the court's October 18, 2017 judgment should have any prospective value or authority in this case. And that concern is as follows:

**WHETHER JUDGE BARBER HAD AUTHORITY OR PPOWER
TO "REVISIT OR OVERRULE" A CIRCUIT JUDGE'S PRIOR ORDER?**

Here the Court correctly found that Appellant was denied the right to represent himself, but erred in determining that Appellant "abandoned or waived" this right on the day of trial. According to counsel's brief, it focuses on the fact of a "third motion to relieve counsel and proceed pro-se"; at a five month interval. Whereas, other attempts to do so proved futile. See (June 26, 2012 letter); and the records of letters forwarded to the South Carolina Supreme Court. Because the hybrid restrictions interfered with Appellant's rights to manage and conduct his defense at all times leading up until the trial date, consistent with Kaskle v. Wiggins, 465 U.S. 268, 104 S.Ct. 944(1984).

Once this court ruled Appellant was denied his right to represent himself. It erroneously fixed its attention on judge Barber's "*new revelation*" in law. (that he read a case at lunch which indicated the defendant may retain such rights). And on this new revelation, "the trial court engaged in a procedure he lacked subject-matter over". And that is; "**the authority to revisit, modify, reverse or overrule a**

decision rendered by another circuit court judge". When judge Barber "ATTEMPTED " to extend the right judge Verdin, on December 18, 2013, had previously denied. See Charleston Co. Dept. Of. SS v. Father, 317 S.C. 283, 454 S.E.2d 307 (1995)(*there is a longstanding rule in South Carolina that one judge may not overrule another judge of the sane court*) see also Tisdale v. Am. Life INS. Co. 216 S.C. 10, 56 S.E.2d 580 (1949).

While I can appreciate a three-panel, diverse court reviewing this case. The decision totally overlooked " when a Faretta violation is complete". According to the United States Supreme Court. The violation either occurred or it didn't.

But moreover, " to ignore the error based on Judge Barber's attempt to do what the law clearly disallowed". Is to premise its decision not on law and facts. But instead, on the illegal procedure for which the lower court should never have engaged. The Counsel Clause of the Sixth Amendment implies a right in the defendant. "to conduct his own defense". Such comes with the filing of pre-trial motions, obtaining witnesses in his favor, combing through discovery material, interviewing witnesses, having tested the prosecutions evidence, jury selection and the rest.

Thus, the "attempted" extension of such Sixth Amendment right on the day of trial, (**May 19, 2014**). Where such had been denied since Appellant's arrest (**June 26, 2012**). Seems inconsistent with a comparison case with Dylan Roof. Where he asserted his Sixth Amendment right on or about November 7, of his trial year. And judge Gergel granted the right in the same year; on November 28. And "both jurisdictions are governed by the same standard of review with respect to this important Sixth Amendment right".

Finally, in South Carolina, Appellant continually wrote and complained about this state created

impediment (hybrid restrictions) that was interfering with managing his own defense. I forwarded appellate counsel countless letters from the Clerk, which detailed; "appellant is represented by counsel and until counsel is removed you cannot file substantive motions in the court". See State v. Stuckey, 333 S.C. 56 (1998). Appellant questioned the Supreme Court, clearly outlining. A Faretta hearing is not being called. And Appellant cannot prepare his case. That counsel is simply running interference for the state. Which is why the arbitrary denial would lead a defendant to believe "the law contrives against him". Faretta, supra.

In conclusion, because this Court overlooked "the procedure" judge Barber "attempted" to employ. Which was outside of his proper authority, jurisdiction and power. With respect to overruling a prior denial by another circuit court. The reasons given for affirming the conviction and sentence should be reversed, as the alleged "abandoned or waived" right on the day of trial could not lawfully take place.

Respectfully Submitted,

S/Vincent Missouri #197996

Cc: 11/10/2017

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