

IN THE SUPREME COURT OF SOUTH CAROLINA

ALTON BROOKS
Petitioner

v.

STATE OF SOUTH CAROLINA
Respondent

CERTIFICATE OF SERVICE
APPELLATE CASE 2015-001613
LOWER COURT CASE 2011-CP082266

I hereby certify that I have served the SC SUPREME COURT CLERK KAREN E SHEARHOUSE at PO Box office 1330 colase 29211, SC COURT ADMINISTRATION ROSALYN FRIERSTU 2015 SUMNER ST SUITE 200 colase 29209 and SC ATTORNEY GENERAL JOSHUA THOMAS PO BOX 11549 colase 29211 1 copy of letter ordering transcript for appeal under rule 207 S. C.A.C.R. by placing a copy of the same in the united states mail addressed to the above addressed pre-paid first class postaged

I swear under penalty and perjury that the foregoing is true and correct this 15th day of October 2015

Alton Brooks
ALTON BROOKS
PCE DXX
430 oaklawn rd
Peterson SC 29669

RECEIVED

OCT 21 2015

S.C. SUPREME COURT

South Carolina Court Administration

Rosalyn Frierson

1015 Sumter St Suite 200

Columbia SC 29201

RE: ALTON BROOKS V. STATE

Appellate Court No. 2015-001600

Lower Court Case No. 2011-CP-08-22100

RECEIVED

OCT 21 2015

S.C. SUPREME COURT

Dear Ms Frierson

In reference to the above case court reporters, Sharon Vizer, Amanda Huffenden and Joyce C. Rueger held the post-conviction relief hearings in the above cases the dates of these hearings are September 18, 2013, November 20th 2013, August 8th 2014 and April 22nd 2015, As specified by rule 207 of the South Carolina Rules, I request a order of the transcripts for appeal purposes and request that you forward this request to the following court reporters

~~ST ALTON BROOKS~~

ALTON BROOKS 313600

PCI DX8

430 oaklawn rd

Peter SC 29669

Date 10-15-2015

request order of the tapes as well

cc SC Attorney General

Joshua Thomas

SC Supreme Court

clerk of court Daniel E. Shaarhouse

IN THE SOUTH CAROLINA SUPREME COURT

Alton Brooks
Petitioner

Appellate Case No 2015-081610
Lower court case No 2011 CP 08022660

v.

STATE OF SOUTH CAROLINA
Respondent

I hereby certify that I have served the [redacted] South Carolina
Supreme Court a copy of Affidavit of Indigency with a letter explaining
when I received the courts order etc by placing a copy of the same in the
United States Mail prepaid ^{postaged} addressed as follows:

[redacted] SC Supreme Court
PO Box 11330
Columbia SC 29211

I swear under penalty and perjury that the foregoing is true and correct
this ~~15th~~ day of October 2015

Alton Brooks
ALTON BROOKS
P.O. BOX
435 OAKLEIGH RD
PETERS C 29669

RECEIVED

OCT 21 2015

S.C. SUPREME COURT

THE SUPREME COURT OF SOUTH CAROLINA

Altony Brooks
 Perry Correctional
 436 Oaklawn Rd
 Peter S.C. 29669

RECEIVED

RE: Altony Brooks v. STATE
 Appellate case No: 2015-001610
 Lower Court case No. 2011-CP-08022106

OCT 21 2015

S.C. SUPREME COURT

Dear Mr. Shearhouse,

On October 7th 2015 I sent the Supreme court the Affidavit of Indigency that the commission of Indigency requested to be served to them by 10-8-2015. I explained that Perry Correctional Inst. mail personnel Ms. Merchant would not sign the affidavit of Indigency and only signs them on ~~Thursdays~~ ^{Fridays}. I explained that I received the letter on October 2nd 2015 which was a Friday see exhibit A. I was forced to send the letter out on the 7th of October 2015, declaring under penalty of perjury, to the Affidavit of Indigency, the exhibit ~~A~~ will be sent ^{as of} when I sent it to the Supreme court. ~~I~~ ~~have~~ ~~been~~ ~~impeded~~ ~~by~~ ~~Governmental~~ ~~authorities~~ of Perry Correctional Inst in filing the Affidavit of Indigency as requested by SC commission of indigent defense.

I sent the SC Supreme court in which Mr. Shearhouse indicated he received my letter requesting counsel on September 17, 2015, indicating on the documents and letter head that I was transferred to Perry Correctional Institution 436 Oaklawn Drive, Peter SC 29669, However, you sent your order to Lee Correctional ordering me to complete and submit the attached Affidavit of Indigency and submit it to the court within 10 days of the date of the letter. You also stated that I submit my desire to seek representation from the Division of Appellate Defense and if I do not submit the Affidavit of Indigency to Appellate Defense within the next 10 days, I must ~~provide~~ provide this court with proof that I have ordered the transcript of the Post conviction relief hearing in the manner specified by Rule 207 of the South Carolina Appellate ~~Court~~ Court rules within 20 days of the date of this letter.

You also indicated that you have marked the records to reflect that I'm proceeding before the court without counsel, I object to this as I've requested counsel at the issuance of this appeal and did not receive your order ~~dated~~ dated September 30th 2015 addressed to Lee Court 1 until October 13 2015.

while at Perry Correctional Inst see exhibit B ~~_____~~ of the exhibit of the letter ~~_____~~ making a prima facie showing that I did not receive the order to comply with the 10 day demand.

Moreover, the clerk of court of Berkeley has never sent me a signed clocked date stamp copy showing that the order of dismissal of the case has been filed. As you've indicated that you've received the order from the lower court however, I have not been served with the order as prescribed by rule 77(d) SCRPC of South Carolina Rules of Court

I also filed a timely 59 E motion to alter or amend the judgment as a omnibus motion and motion to relieve counsel because the court was not accerting my previous filings, I also submitted exhibits and receipts proven I sent the 59 E motions to alter or amend the judgment of the order of dismissal despite receiving a clocked date stamp copy and reception of the clerk's filing the document the clerk filed my 59 E motion to alter or amend the judgment on May 14 2018 in which I sent to the court May 5, 2018.

Though I filed a timely appeal I have not received a final adjudication on the merits of this action see Upchurch vs Upchurch 367 SC 164 SE2d 634 SC 2006 our court rules provide that a notice of appeal shall be served on all respondents within 30 days after receipt of written notice of entry of the order or judgment ~~is entered~~ rule 203(B) S.C.A.C.R. (emphasis added) Generally, a judgment is effective only when set forth and entered in the record, rule 88(a) SCRPC. An order is not final until it is entered by the clerk of courts and until the order or judgment is entered by the clerk of the court, the judge continues and retains control of the case, Bowman v. Richland Mem Hospital 335 SC 188, 91, 818, SE2d 259, 260, Ct App 1999 (Citations omitted), however the moment... the order is filed by the clerk of court, it becomes the judgment of the court and fixes the right of the parties Archer v. Long 46 SC, 292, 295, 24 SE 183, 84 (1896) stated otherwise the effective date of an order is not when it is signed by the judge, but when it is entered by the clerk of court, Bowman, 335 SC at 93, 818, SE2d at 260

In Bowman v. Richland Mem Hospital, the trial court dismissed the respondents as a party based on the Appellants failure to amend the complaint within ten to days of the date of the trial courts order Id at 90, 818, SE2d at 259

The order was signed on September 17 1996, but was not entered by the clerk until Sept 23, 1996, The Appellant served an amended complaint on October 2, 1996

which was 13 days after the order was signed and 9 days after the order was filed. The court of Appeals held that the appellant amendment to the complaint was timely. Finding that the final and effective date of the trial judge order was the date the order was entered by the clerk of court . . . not when the order was signed Id at 92, 815, 816 at 261.

Rule 77 d S.C.R.-CP states that immediately upon the entry of an order or judgment the clerk shall serve a notice of entry by first class mail upon every party affected thereby who is not in default for failure to appear, and shall make a note in the case file or docket sheet of mailing. Such mailing shall not be necessary to parties who have already received notice. Such mailing is sufficient notice for all purposes for which notice of notice of an entry of an order or judgment is required by these rules but any party may in addition, serve a notice of entry on any other party in the manner provided in Rules 5 for the service of such papers.

Because a critical issue of this is entry of the order of judgment, we find the instant case more comparable with Bowman. In Bowman, the court held that principles of fairness and equity required a finding of timeliness because parties to an action are not provided notice of a judge's ruling at the time the judge signs an order rather until after it is filed with the clerk of court are the parties given notice of the order Bowman, 335, S.C., at 92, 815 816 at 261. To hold wife responsible for notice of an event that had not yet occurred was a foul of the notions of fairness and equity articulated in Bowman.

By its plain language rule 203 (b) requires notice of entry of the order. Entry of the order occurs when the clerk files the order. Delivery of the order to the clerk is not analogous to the entry of the order. Accordingly, we held that time to file an appeal pursuant to rule 203 S.C.R.C. begins to run when written notice that the order has been entered into the record by the clerk of court has been received. Therefore the mail 31st letter from judge assistant was not notice of entry of judgment, the very language of the letter indicated that the order has not yet been filed. Accordingly the court of Appeals erred in dismissing the appeal (untimely).

The supreme court justice trial (c) held that time to file notice of appeal begins to run when written notice that trial court's order has been entered into record by clerk of court has been received.

In these instances Petitioner has not received a final order from the Circuit court and service has not been served to Plaintiff of the denial of his 59 E Motion filed by the court on May 14 2015 or the 59 E Motion with a 50 Argument brief filed May 19 2015 despite the timely notice of Appeal for the following reasons Petitioner request that the court sends him the filed date clocked stamp copy of the courts order of dismissal of the case on both issues, moreover, the Indigent Defense letter sent to me dated September 29th 2015, did not indicate that they had advised the court that I have not submitted a completed Affidavit of indigency and applied for a order. As this is a form of intent to deny Petitioner fundamental fairness with receiving adequate representation of an appeal and for the court to knowingly send the order or agree to the order when the court sent the letter of September 17th 2015 of Petitioner to the SC Dept of Indigent defense with ~~both~~ Petitioner address of Perry Correctional Inst with a 10 day order to complete the Affidavit of indigency is prejudicial to Plaintiff despite the completed Affidavit of indigency sent by Petitioner on September 7th 2015, Petitioner is on Administrative lock up and can only get Notarial Service on ~~Thursday~~ Thursday, in the interest of Justice and Fundamental Fairness as stated in Bowman supra, Petitioner, submits a complete notarized copy of the Affidavit of indigency, see SCED letter 9-29-2015-see exhibit A shows there was no notice to contact the supreme court to note I'm representing myself by SCED-
 Date 10/15/2015

Sincerely
 Albert Brooks
 PEI DX8
 430 Oaklawn Rd
 Pelzer SC 29169

SUBSCRIBED BEFORE ME AND SWORN
 this 15 day of October 2015
Tamara Conwell
 NOTARY PUBLIC FOR SOUTH CAROLINA
September - 25 - 2023
 MY COMMISSION EXPIRES

Note: the ups tracking number for the 50 Argument brief filed 8-19-15 is 9114-9014-9645-0608-9160177 for tracking inquiries call 1-800-222-1811, they have assured it went to the Berkeley county court of common Pleas however I have no record its been filed, you stated I represented myself in this action, so I ask that you have them file it documents.

Exhibit A shows the day I received SC CID letter with a deadline of October 2015
in which I received October 2015 to where I could not get notified also
with no notice that they applied to the court that I'm representing myself before
the affidavit of indigence could be filed, denial of fundamental fairness?

SC Commission on Indigent Defense
P O Box 11589
Columbia, SC 29211-1589

COLUMBIA
SC 290
29 SEP '15
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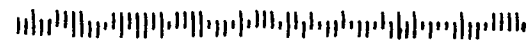
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OCT 02 2015
PCI Mailroom

Mr. Altony Brooks #313000
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

DX8

29669870499





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 29, 2015

Mr. Altony Brooks #313000
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Your Appeal

Dear Mr. Brooks:

This office is in receipt of a notification from the South Carolina Supreme Court that you have filed a Notice of Intention to Appeal. If you are possibly wanting this office to represent you on appeal, **please complete the following questions and answer all questions on the enclosed Affidavit of Indigency, and have it notarized and return it to me no later than October 8, 2015**, or we will be closing our file. If we do not hear from you by this time we must assume that you have retained private counsel to perfect your appeal.

Are you appealing from a trial conviction hearing or from a post-conviction relief hearing? Post conviction

In what county was this hearing held? Berkeley

Presiding Judge's name: Judge Jeffery Young, Thomas cooper and Stephanie P mcclain

List **all hearing dates** related to your case and the purpose of each hearing (include the Judge's name if different from the Judge listed above):

September 12 2013, November 20th 2013, January 9th 2014, August 8th 2014
April 22nd 2015

Mr Altony Brooks #313000
September 29, 2015
Page Two

Were you represented by a court-appointed attorney, public defender or retained counsel?

Court Appointed counsel (Polk County v Dobson et)

Name of attorney/public defender: Pamela Jeanne Polzella, Sharon Cyprius, Lorraine S. Boozler

If represented by retained counsel, how much was paid for his/her services and how much is still owed this attorney? KC

After receipt of this information and the Affidavit of Indigency, it will be presented to the Chief Appellate Defender to see if this office will be able to offer its services to you. If you do not hear from me, you will know that it was approved for this office to represent you on your appeal.

Also, if it is approved for this office to represent you on appeal, I will request the transcript from the court reporter. The court reporter has sixty (60) days in which to type the transcript or request an extension of time in which to do so. After this office receives the transcript, I will assign your case to an attorney, and that attorney will write you a letter informing you of your new counsel of record on appeal.

Sincerely,


Loriene French
Legal Services Coordinator

Enclosure

Appeal From post conviction relief

STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)

AFFIDAVIT OF INDIGENCY

Case Name Anthony Brooks v State of South Carolina

Criminal Case No. 2011-CP-0822660 "PCR" Appellate case # 2018-001610

Current Address: 430 OAKLAWN Rd PETER SC 29669

Are you incarcerated? YES Yes (If "Yes") Where? Perry Correctional
No

What were you convicted of? ABHAY + Aiding escape of custody of officers

What was your sentence? 10 Years non violent

In what county was this hearing held? Berkeley

Presiding Judge's name? ~~Jeffery Young, Stephanie P. McDonald~~ Jeffery Young, Stephanie P. McDonald

Date of hearing? 4-22-2015, 11-20-15, 9-18-2015

Are you appealing from a trial, guilty plea or from a post-conviction relief hearing? PCR

Were you represented by a court-appointed attorney, public defender, , or retained counsel?

Name of attorney/public defender? Lance S Boozer,

If retained, how much did you pay for attorney fees? \$ NO

If you still owe money to your attorney, how much? \$ NO

1. Are you presently employed? Yes _____ No

a. If "yes," state the amount of your salary or wages per month, and give the name and address of your employer. NO

b. If "no," state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month. NO

2. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support. NO

3. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or form of self-employment?
Yes _____ No

b. Rent payments, interest or dividends?
Yes _____ No

c. Pensions, annuities or life insurance payments?
Yes _____ No

d. Gifts or inheritance?
Yes _____ No

e. Any other sources?
Yes _____ No

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months. NO

4. Do you own cash, or do you have any money in a checking or savings account?
Yes _____ No

If the answer is "yes," state the total amount of the cash owned. \$ _____

5. Do you own any real estate, stocks, bonds, notes or other valuable property (excluding ordinary household furnishings and clothing)? Yes _____ No

If the answer is "yes," describe the property and state the appropriate value of the items owned. NO

6. What kind of motor vehicle do you own? NO

Is it paid for? Yes _____ No
If not, what are the monthly payments? \$ NO

7. How much do you owe (on liens, mortgages, other encumbrances or debts)? NO

I do solemnly swear that the account by me delivered into this Court does contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, which I, or any person in trust for me, have or at the time of my possession had, or am, or was, in respect, entitled to, in possession, remainder or reversion and that I have not at any time since charges were made against me or before, directly or time since charges were made against me or before, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned herein.

I understand that the State shall file a claim against me in an amount equal to the cost for representation, but that such claim shall not constitute a lien against my property, unless, the claim is reduced to judgment by the Order of the Court after giving me at least thirty days' notice.

Under penalty of perjury, I certify that the information give by me on this affidavit is true and correct, and I understand that I will be subject to ~~civil~~ and/or ~~criminal penalties~~ if I knowingly furnish false information.

I am financially unable to employ counsel.

This 15 day of October, 2015

Alton Bous
Defendant

I understand that I am entitled to at least thirty days' notice before a claim against me may be reduced to judgment, and I do hereby waive the right to such notice.

This _____ day of _____, _____.

Defendant

SUBSCRIBED AND SWORN to before
me this 15 day of October, 2015

Tamara Cunwell
NOTARY PUBLIC FOR SOUTH CAROLINA

My commission Expires: September-25-2023

Exhibit ~~A~~^B Reception of the supreme court order sent to the wrong address and received
by Petbone 10-13-15



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

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

www.sccourts.org

September 30, 2015

Mr. Altony Brooks, #313000
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

Re: Altony Brooks v. State
Appellate Case No. 2015-001610
Lower Court Case No. 2011CP0802266

Dear Mr. Brooks:

This responds to your letter dated September 17, 2015.

As you know, you represented yourself before the circuit court. The Division of Appellate Defense has advised this office that you have not submitted a completed Affidavit of Indigency, making it impossible for the Division of Appellate Defense to determine if you are eligible for representation by that office. Accordingly, I have marked the records to reflect that you are proceeding without counsel before this Court.

If you desire to seek representation from the Division of Appellate Defense, you must, within ten (10) days of the date of this letter, complete and submit the attached Affidavit of Indigency to the Division of Appellate Defense at 1330 Lady Street, Columbia, SC 29201.

If you do not submit the Affidavit of Indigency to Appellate Defense within the next ten (10) days, you must provide this Court with proof that you have ordered

the transcript of the post-conviction relief hearing in the manner specified by Rule 207 of the South Carolina Appellate Court Rules within twenty (20) days of the date of this letter.

I would strongly encourage you to either hire counsel to represent you in this case, or obtain counsel from the Division of Appellate Defense if you are indigent. A lawyer who is trained in the law can be very beneficial to you in this case. Further, if you are not represented by counsel in this matter, you will be expected to fully comply with all of the requirements of the South Carolina Appellate Court Rules.

Very truly yours,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

CLERK

Enclosure (Affidavit of Indigency)

cc: James Rutledge Johnson, Esquire
Division of Appellate Defense

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE, CLERK OF COURT

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

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OCT 13 2015

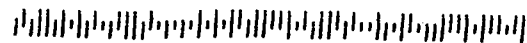
PCI Mailroom

ALTONY BROOKS, #313000
~~LEE CORRECTIONAL INSTITUTION~~
~~990 WISACKY HIGHWAY~~
BISHOPVILLE SC 29010

DX8

Perry CI

29010177590



A 17441 Books 313020

PCEDX8

43a oaklawn Rd

Rehner SC 297604

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067 16 2016

RC.I. MAILROOM

SC Supreme Court

Clerk of Court

DANIEL E Shookhouse

PO Box 1330

Columbia SC 29211

LEGAL MAIL

THE DEPARTMENT OF CORRECTIONS HAS
NOTIFIED THE DEPARTMENT OF
CORRECTIONS OF THE RECEIPT OF
THESE DOCUMENTS. THE DEPARTMENT
OF CORRECTIONS WILL BE RESPONSIBLE
FOR THE DELIVERY OF THESE DOCUMENTS
TO THE DEPARTMENT OF CORRECTIONS.
PLEASE CONTACT THE DEPARTMENT OF
CORRECTIONS FOR MORE INFORMATION.