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No. 2018-000711

S.C. SUPREME COURT

Supreme Court of South Carolina

Tenrence Wright El) from Charleston County
(from N.C. Dept. of Prison)) File No. 2015-CP-10-2332
V.)
STATE OF South Carolina) Written Explanation Required by
Rule 243(c)

I was arrested August 1993 and begun filing Speedy trial request and motions starting from October 1993 as stated in the Exhibit-A Pre-trial hearing transcript dated 6 April 95. see: Exhibit-A Transcript page 2 line 7-12. Where I was already in jail for two (2) years despite the consistant petitioning for a Speedy trial. see: Exhibit-A transcript page 3 line 21-25; page 4 line 1-8.; acknowledging that I was filing such motions.

I was sent to North Carolina deceptively where I wasnt able to still obtain a trial for six (6) years, and even so then in March 99 the trial last three (3) days with no subpoenas filed for any defense witnesses. see: Exhibit-B Objection to dismissal Order and additional argument.

Federal Statutes of limitations and the Due Process of the 5th Amend. to the U.S. Const. provides in relevant part that "[N]o person shall... be deprived of life, liberty, or property without Due Process of law" The 14th Amendment of the U.S. Const. imposes the identical limit on the states.

The Due Process clause also guarantee reasonably speedy appeals and sentencing determinations. Courts, however are reluctant to find a due process violation absent a showing of actual prejudice.

Compare: Klopfer v. North Carolina, 386 U.S. 213, 222-23 (1967)

Marion, 404 U.S. at 324; U.S. v. Gouveia, 467 U.S. 180, 192 (1984) (dictum) (claim that preindictment intentional delay violated Due process, valid if defendant prove government intentionally delayed to gain tactical advantage and actual prejudice resulted)

South Carolina prosecution pacifically stated... "there is the contention that we send him back to North Carolina for trial FOR STRATEGY REASONS FIRST," (see: Transcript exhibit-A page 9 line 6-8)

I ended up filing the first Post Conviction Relief that was dismissed Without Prejudice with direct appeal was still going on. The Court reporter took (2) two years to provide copies of the trial transcripts in violation of the 6th U.S. Const. Amend. as clearly, stated

IN Doggett V. U.S. 505 U.S. 647, 651-52 Courts generally hold that approximately one year is presumptively prejudicial.

see: first PCR dismissed without prejudice

see: Second PCR dismissed without prejudice because I'm Not in South Carolina jurisdiction to be heard.

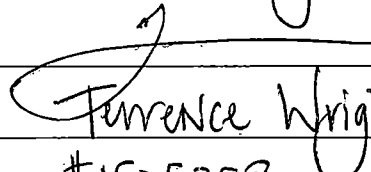
At No time has the state ever ruled on any of my Motions, or Petitions on its "MERITS" but sought to dismiss on procedural grounds and rules that I don't have access to because I'm in North Carolina where there isn't a law library for N.C. prisoners so, there's no way to even begin to figure out South Carolina's

I haven't filed multiple PCR because NONE haven't been ruled on that would make it successive, once the Merits has been answered point for point, plus far as missing time lines, I've been requesting speedy trials from day one and the states violations of my 6th Amendment U.S. Const. right is in questions along with me not being in South Carolina that they feel that my due process can be violated on technical procedural rules I don't have access to.

This Court should grant my Writ of Certiorari that Due Process should meet the correction of all the violations I've endured up to this point and still is.

Without Prejudice

24 April 2018


Terrence Wright EI

#0505358

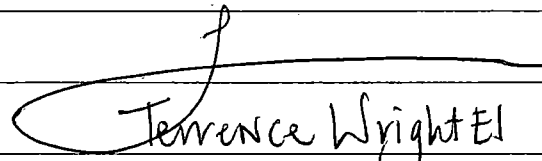
PO Box 600

Nashville, NC [27856]

CERTIFICATION OF SERVICE

I Certify a Copy was sent to Attorney Gen. Office via
U.S. Postal Service @ PO Box 11549 Columbia, SC 29211

24 April 2018


Terrence Wright EI

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S.C. SUPREME COURT

Exhibit - A

6 April 95 Pre Trial hearing
Transcript.

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page 3

page 4

Page 9

1 (Matter came before the Court on April 6, 1995, at
2 approximately 10:45 A.M.)

3 MR. PENNINGTON: Your Honor, based on some pleadings
4 there were filed, there is a motion by my office to have the
5 Court renew the question of our appointment as counsel.

6 THE COURT: What's he charged with?

7 MR. PENNINGTON: Your Honor, this is State versus
8 Terrance Wright, 93 GS 10 6252, 6253, 5254, indictments for
9 burglary in the first degree, criminal sexual conduct in the
10 first degree, murder and kidnapping, from an event that
11 arose--from events that allegedly arise from August 17th of
12 1993, approximately some twenty months ago.

13 THE COURT: Mr. Wright is present. Mr. Roddey, that
14 letter that you handed back, he wrote the letter to Judge
15 Dennis and they sent it up to me.

16 MR. RODDEY: That's correct, Your Honor.

17 THE COURT: Could I have it?

18 MR. RODDEY: Oh, yes.

19 THE COURT: Somebody put it on my desk up here, and
20 he's asking Judge Dennis to modify a bond. I didn't know
21 Mr. Pennington represented him, and that is the reason I
22 was going to ask him who represented him. Now I know, so we
23 can proceed.

24 All right, Mr. Pennington.

25 MR. PENNINGTON: The first matter that I would like to

1 take up with the Court is that some events have developed
2 which in my view would call for the Court to assess the ap-
3 pointment of my office in this case.

4 I have--I need to give you some factual background in
5 order to understand what's going on. As I indicated, Mr.
6 Wright was charged in August of 1993 with a homicide and other
7 related charges. At that time I was appointed to represent
8 him and have represented him continuously since then.

9 During the first twelve months of the period of time,
10 I received--I filed a motion for discovery and received dis-
11 covery and learned that around nine months into the proceeding
12 that DNA testing was being undertaken. There was a DNA report
13 rendered last September that was far less than conclusive. One
14 in 37 African-Americans would fit the profile that was rendered
15 by SLED, and on that basis we began to prepare for trial.

16 However, I was then advised that there had been a sub-
17 sequent review of evidence by the Mt. Pleasant Police and the
18 local medical examiner, and other swabs that were allegedly
19 taken at the time of the autopsy were sent up to SLED for re-
20 newed testing.

21 We didn't know at that time how long it would take and
22 in December a motion essentially for a speedy trial was filed
23 and heard by Judge Dennis as the Chief Administrative Judge.

24 At that time, Judge Dennis articulated some ground rules
25 He wanted the State to attempt to try to speed this testing

1 along so we would get on to trial.

2 Since that time--I should shift gears and tell you that
3 in March I learned by accident that on the civil docket of
4 the Court of Common Pleas for Charleston County that an action
5 had been filed apparently by Mr. Wright in August of 1994.
6 That would have been roughly a year into his incarceration,
7 and I would ask that this be marked as exhibit for purposes
8 of this hearing.

9 THE COURT: Are you saying you never were served with
10 it?

11 MR. PENNINGTON: That's correct. I was never served
12 with it.

13 THE COURT: The Rules say it is supposed to be struck
14 if it's not served within a certain period of time.

15 MR. PENNINGTON: That's my understanding, Your Honor,
16 and that certainly would be the position I would take on behalf
17 of my office and myself.

18 THE COURT: I can't grant that though.

19 MR. PENNINGTON: No, sir, I wouldn't ask you to do
20 that.

21 THE COURT: It isn't whether you ask me to do it or
22 not. It has to be addressed to Judge Rawl who is over civil.
23 I'm over criminal. I don't have the authority to do that.
24 Judge Rawl should do that.

25 MR. PENNINGTON: I couldn't agree more, Your Honor.

AZ-FMSRN-EE

NATIONWIDE: 1-800-255-5040

CORBY GROUP

1 again. If you do it, Mr. Wright, I'll either have you removed
2 from the Court or have you bound and gagged. Sit down.

3 You may continue.

4 MR. RODDEY: The reason I brought that up is the fact
5 that the murder, as far as this case is concerned--it doesn't
6 have any relevance other than the fact that there is the con-
7 tention that we send him back to North Carolina for that
8 trial for strategy reasons first, and if he was convicted of
9 the murder in North Carolina then bring him back because that
10 could also have an effect on the--on whether we'd charged him
11 with the death penalty here.

12 So I just wanted to clarify that for you.

13 THE COURT: You're saying that within the next several
14 weeks unless the Defense or whoever the Defense Attorney is,
15 if not Mr. Pennington--unless they move for a continuance,
16 then the State would be prepared to proceed for setting a
17 trial date?

18 MR. RODDEY: Yes, sir.

19 THE COURT: All right.

20 MR. RODDEY: Or allow North Carolina to try him for mur-
21 der there.

22 THE COURT: Well, North Carolina doesn't have the
23 right to necessarily try him unless he is extradicted or he
24 agrees to go up there.

25 MR. RODDEY: I'm aware of that. I just wanted that

Exhibit - B

Additional Argument
to Consider

STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH CIRCUIT

Terrence Wright El)

2015-CP-10-2332

v

STATE OF SOUTH CAROLINA)

Objections to Conditional order to
dismiss

I, Terrence Wright El a pro.se. North Carolina State prisoner, present this matter before the court in response to the Conditional order to dismiss issued on 31 October, 2017 and filed on 3 November, 2017. I was given twenty (20) days to file my objection to this order. Factoring the Veteran's and Thanksgiving Day holidays, twenty (20) working days requires me in accordance with Houston v. Lack, 487 U.S. 266, 273-76 108 S. ct 2379 (1988) known as the "Mail box Rule", to have this objection logged in the Nash Correctional Institution mailroom no later than 8 December, 2017.

Objection to untimely filing

- 1) As a pro.se. litigant I was under the impression that the 365 day deadline for filing my Post Conviction Relief No. 2003-CP-10-1894, was working days. I did not understand that it was calendar days. Even with my misinterpretation, I only missed the deadline.

by NINE (9) WEEKS.

Resnick v. Hayes, 213 F.3d 443, 446 (9th CIR 2000) agreeing with the district court's liberal construction of pro. se. pleading

Gomez v. USAA Fed. Sav. Bank, 171 F.3d 794-795-96 (2nd CIR 1999) (per curiam) noting that pro. se. complaints must be read liberally.

2) As noted in Memo from Nash Correctional Institution Case Manager Herring (See Exhibit A) from the period of 6 April, 2001 thru 16 March, 2003, I was housed at Corrections Corporations of America (CCA) facilities known as Mt. View and Pamlico. Both of these facilities were taken over by the North Carolina Division of Prisons (NCDOP) due to the management of CCA interfering with inmates access to courts by way of not allowing pro. se. litigants the material to properly prepare their legal documents and interfering with the sending and receiving of legal mail. I was not able to properly prepare my Post Conviction Relief, No. 2003-CP-10-1894, until I was transferred to Hyde Correctional Institution, a NCDOP facility on 16 March, 2003 (see Exhibit A)

3) As shown in correspondence with the South Carolina Office of Disciplinary Counsel (see Exhibit B) and the South Carolina Bar (see Exhibit C), there was a total lack of communication between myself and the court appointed attorney Brown. Had my court appointed attorney acted in a proper, legal, ethical

Manner, the issues of my case could have been settled at the 15 June 2004 evidentiary hearing before the Honorable Judge Doyett A. Early III. I found out about this hearing when I received a copy of the order to dismiss my Post Conviction Relief No. 2003-CP-10-1894 without prejudice on procedural grounds (I'm Not present in court)

Fogle V. Pierson, 435 F.3d 1252, 1258-59 (10th CIR 2006)

Jones V. Blanas, 393 F.3d 918, 929 (9th CIR 2004) to deny tolling would effectively insulate from legal challenge the very confinement that may unconstitutionally restrict a detainee's access to justice in the first place.

Walker V. Jastremsk, 430 F.3d 560, 564 (2nd CIR 2005) exceptional circumstances must be beyond party's control.

Langella V. Bush, 306 F. Supp. 2d 459, 467 (SDNY) (2004) Plaintiff met requirements of "exceptional circumstances" and diligence where he was pro.se., and he missed the deadline by three (3) days.

Objection To Successive Post Conviction Relief Applications

The State claims that successive Post Conviction Relief applications are frowned upon by the courts. However, Post Conviction Relief No. 2003-CP-10-1894 was dismissed by the court without prejudice

with leave for me to refile upon my return to South Carolina. This creates a circular situation. The only way I can return to South Carolina is if North Carolina grants me parole. North Carolina will not grant me parole due to a detainer placed on me by South Carolina. In order to have South Carolina remove this detainer, I need the court to rule on the merits of my Post Conviction Relief application. Yet the state had my Post Conviction Relief application dismissed on procedural grounds. I wasn't present in court. How do I receive justice when the state continually has my motions dismissed on procedural grounds?

The state is requesting my latest Post Conviction Relief application be dismissed on procedural grounds of being successive, saying that I must provide a new issue for the court to rule on. The truth of the matter is as the court has "never" ruled on any of the merits of any of my Post Conviction Relief applications, everything in Post Conviction Relief application No. 2015-CP-10-2332 is new to the court and available for the court to rule on.

CONCLUSION

As a Pro. Se. litigant I have, to the best of my ability, made every attempt to follow the rules to receive justice through applications for Post Conviction Relief. However, due to my lack of knowledge of the intricacies of the procedural rules of the South Carolina court system, all my attempts have been dismissed.

As I have shown, exceptional circumstances have severely hampered my ability to know about and follow the procedural rules of the courts.

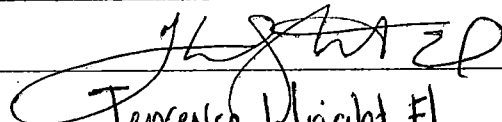
In the name of justice, I request the following mercy from the court:

- 1) Set aside the conditional Order to Dismiss.
- 2) Appoint an attorney that will communicate with me in North Carolina.
- 3) Hold an evidentiary hearing so the court may rule on the merits of my Post Conviction Relief application.

So Mote It Be This

22 day of November 2017

Without Prejudice


Terrence Wright El

0505358

P.O. Box 600

Nashville, NC [27856]



North Carolina Department of Public Safety

Prisons

Roy Cooper, Governor
Erik A. Hooks, Secretary

W. David Guice, Chief Deputy Secretary
Kenneth E. Lassiter, Director

To: Terrence Wright, #0505358

From: Mr. Herring, Case Manager

Re: Contact

Date: 11/21/17

Per your request please see below information regarding your Control housing assignments during this incarceration:

11/04/97 Assigned to Restrictive Housing at Odom Correctional
11/07/97 Assigned to Restrictive Housing at Odom Correctional
11/14/97 Assigned to Restrictive Housing at Odom Correctional
10/14/98 Assigned to Restrictive Housing at Odom Correctional
4/06/01 Assigned to Restrictive Housing at Mt. View Correctional
8/01/02 Assigned to Restrictive Housing at Pamlico Correctional
8/21/02 Assigned to Restrictive Housing at Pamlico Correctional
3/16/03 Assigned to Restrictive Housing at Hyde Correctional
4/02/03 Assigned to Maximum Control at Hyde Correctional
9/05/03 Assigned to Maximum Control at Caledonia Correctional
02/26/04 Assigned to Intensive Control at Scotland Correctional

MAILING ADDRESS:

P.O. Box 600
Nashville, NC 27856
www.ncdps.gov



OFFICE LOCATION:

2869 US HWY 64
Nashville, NC 27856
Telephone: (252) 459-4455
Fax: (252) 462-4046

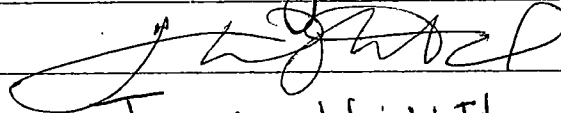
CERTIFICATION OF SERVICE

I Terrence Wright El hereby certify that copies of this Objection to Conditional Order to dismiss was placed in the Nash Correctional Inst. Mail box on this 22nd day of November, 2017 to be sent to the listed addresses below.

Julie J. Armstrong Clerk
100 Broad St. #106
Charleston, SC 29401

Rasheeda Cleveland Esq AAG.
PCR DIV. 9th CIR
PO Box 11549
Columbia, SC 29211

Without Prejudice



Terrence Wright El

#0505358

PO Box 600

Nashville, NC [27856]