

To: Daniel E Shearhouse
South Carolina Supreme Court
P.O. Box 1330
Columbia SC 29201

Cases: ALTON BROOKS VS. STATE OF SOUTH CAROLINA
Case # 2015-001610

Dear Mr. Shearhouse,

Enclosed is a copy of Petitioner's motion in affidavit to Remand case to lower court and Dismiss appeal without prejudice to allow Trial court to Rule on 59 E motion to alter or amend with leave of court and Response to Respondent's Brief. Petitioner request that the court clock date stamp and file this cert and send to petitioner and counsel of Record as well as have counsel endorse the motion under Plaintiff's order. AS SCDC is not making copies or given petitioner enough paper to serve all parties in this action, send petitioner copies and he will serve parties, State of South Carolina and Robert Pachak.

I swear under Penalty and Perjury that

the foregoing is true and correct this 5th day
August 2017. S. Leotaun Bzo

ALTON BROOKS 313000
PCI
430 Oaklawn Rd
Petersburg VA 22969

RECEIVED

AUG 10 2017

S.C. SUPREME COURT

WEST LEGAL
RECEIVED

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO BERKELEY COUNTY
COURT OF COMMON PLEAS.

TH Honorable William Jeffrey Young, Circuit Court Judge

Appellate case no. 2015-001610

Atlanta Brooke, _____

Petitioner,

v.

STATE OF SOUTH CAROLINA

Respondent.

CERTIFICATE OF SERVICE

I, Atlanta Brooke, certify that I have today served the petitioner's motion in affidavit to remand case to lower court and dismiss appeal without prejudice to allow trial court to rule on 59 E motion to alter or amend with leave of court and response to respondent's brief upon the court by depositing a copy of the same in the United States mail postage pre paid by using first class registered mail box addressed to

Daniel E Shearhouse, clerk of court
SOUTH CAROLINA SUPREME COURT
PO BOX 11330
COLUMBIA SC 29211

I swear under penalty and perjury this 5th day of August
2017 ~~SLATTOW BRUCE~~

Atlanta Brooke 313058
PCJ
430 Oaklawn Rd
Peltier SC 29669

IN THE SUPREME COURT OF SOUTH CAROLINA

Anthony Brooks
Petitioner,

v.

STATE OF SOUTH CAROLINA
Respondent.

Case # 2015-201120

Plaintiff motion in affidavit to
Remand case to lower court and
Dismiss appeal without prejudice
to allow trial court to rule on
S9 E motion to alter or amend, with
leave of court and response to
Respondent's ~~motion~~ Brief

Petitioner Anthony Brooks moves the court through his undersigned attorney and himself Robert M. Pachak to dismiss the appeal without prejudice to allow the P.C.R. court to rule on his S9 E motion to alter or amend the order of dismissal.

The lower court issued an order of dismissal dated May 1st, 2015 and filed May 8, 2015. Plaintiff filed his motion to alter or amend the judgment timely on May 8, 2015, that was filed May 14, 2015, and then filed a appeal June 2nd 2015, for preservation of appeal purposes before a ruling on the S9 E motion to alter or amend could be made and thus the lower court has jurisdiction to hear the Post Trial motion.

See. the service and filing of a notice of appeal before the ~~timely~~ filing of a timely Post Trial motion under civil procedure rule 59 b7 and Part II does not deprive the lower court of jurisdiction to consider the motions. Hudson v. Hudson, 1986) 290 S.C. 215, 349 S.E.2d 371)

Appeal and errors

Petitioner submits that he's filed numerous filings advising the court that the rule S9 E motion was in the lower court and that the case be held in abeyance until the S9 E motion is ruled on by the lower court.

For those reasons, Plaintiff quotes McDonald v. Palmetto theaters, 196 S.C. 38, 11 S.E.2d 444, 449 (1948) if after the jurisdiction of the appellate court attaches, a question arises which ought first be submitted to the circuit judge, leave to do so must be granted

(151)

by the appellate court upon motion or petition; often v. often, 287 S.C. 166, 337 S.E.2d 207, (1985) (granting appellant motion to remand and dismiss appeal without prejudice to allow trial court to rule on 59 E motion).

Conclusion

The Petitioner shall be granted motion to remand case to lower court and dismiss appeal to allow trial court to rule on 59 E motion.

I swear under penalty and perjury this

5th day of August 2019

scott B

ALTON BROOKS 313800
P.C.
430 oakland rd
Petrol 52091669

Robert Pachak,
Applicant counsel

S/

Signature of Applicant counsel

Plaintiff request that counsel endorse this motion and for the court to have counsel endorse this motion ~~and~~ on applicant demand and that this motion preserves that applicant filed it and requested that the motion be filed

Atlanta Books 313000

PCI

430 Oaklawn Rd

Pelzer SC 29169

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AUG 07 2017

PCI Mailroom

Daniel E Shearhouse Clerk of Court
SOUTH CAROLINA SUPREME COURT
PO BOX 1330
COLUMBIA SC 29201

LEGAL MAIL