

May 15, 2018

Edward Whitlock # 201405

McCormick Corr Inst.

386 Redemption Way

McCormick SC. 29899

RECEIVED

MAY 23 2018

S.C. SUPREME COURT

To: THE Supreme Court of

South Carolina

Clerk of Court

P.O. Box 11330

1231 Gervais Street

Columbia SC 29201

RE: 2017-CP-23-695

Edward Whitlock, Applicant

STATE OF SC, Respondent

Dear Clerk of Court:

Enclosed is request to make appeal to Case No. 2017-CP-23-695 forward copies to the parties herein, and other needed matters performed because South Carolina Dept. of Corr. Lockdown. This matter is made in good faith to preserve, Amend, and make part of record. with self addressal envelope for return.

Respectfully submitted

cc: Office of Attorney General

R. Mills Acrial Jr

S.C. Commission on Indigent Defense

Edward Whitlock # 201405

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S.C. SUPREME COURT

Edward Whitlock #201405
MCC 386 Redemption Way
McCormick SC 29899

Attorney General
P.O. Box 11549
Columbia SC 29211

Office of Indigent Defense
P.O. Box 11589
Columbia SC 29899

R. Mills Ariail, Jr.
11 North Irvine Street Suite 11
Greenville, SC 29601

South Carolina Supreme Court
P.O. Box 11330 1231 Gerails Street
Columbia 29201

THE STATE OF SOUTH CAROLINA
SUPREME COURT

RECEIVED

MAY 23 2018

Case No 2017-CP-23-695

S.C. SUPREME COURT

Edward Whitlock # 201405 Applicant

v.

STATE of South Carolina Respondent

Appellant request Clerk of Court to send copy to all parties herein because applicant is unable access court due to lock down. to preserve intent.

I Office of the Attorney General - Respondent Attorney
P.O. Box 11549
Columbia S.C. 29211

II R. Mills Acriail Jr. - Applicant Attorney
11 North Irvine Street, Suite 11
Greenville SC 29601

III South Carolina Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, S.C. 29211

Edward Whitlock # 201405
MCC1 386 Redemption Way
McCormick SC 29899

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MAY 23 2018

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

~~Edward Witlock~~

Edward Witlock SCDC#201405

Appellant

v

STATE of SC

Respondent

IN THE COURT OF

COMMON PLEAS

FOR THE County of Greenville

JUDICIAL CIRCUIT

CASE No: 2017-CP-23-695

MOTION FOR ACCESS

TO LEXUS NEXUS OR

~~WESTLAW~~
I. Request to allow Applicant to: WESTLAW, ~~WESTLAW~~
and other applica 59e SCRC

~~Appellant~~ Appellant would show unto the Court the following:

1. That Edward Witlock (hereinafter, "Appellant") is an inmate of the S.C. Dept. of Corrections (hereinafter, "SCDC"), detained at McCormick Correctional Institution (SCDC#201405), ~~386~~ 386 Redemption Way, McCormick SC 29899.

2. SCDC has been lockdown since April 15, 2018, restricting his access to prison library to case authorities that are available only in electronic database such as LEXIS and WESTLAW, which as prisoner applicant has no access to prepare appeal....

3. Applicant has not received order from Judge decision in case #2017 CP 23695. Letter dated April 28, 2018 from R. Mills shows where he wrote inquiring to Attorney as to order and asked for him to file Rule 59e ~~ORDER~~ motion to Amend upon receiving order to preserve all issues if court denies PCR #2017-CP-23-695

4. Applicant Ask this Court to access Lexus Nexus and Westlaw.

5. Applicant asks this Court to issue order to Requiring Respondent's counsel to provide Applicant with paper copies of any unreported decisions or unavailable decisions that are cited in any further proceedings. 59e SCRCP

6. Applicant asks this Court to provide Applicant with access to case law that cite Authorities in State of South Carolina cases both Federal and State that are available from WestLAW or NEXUS

7. Applicant ask this Court to order PCR Attorney to amend order under Rule 59e ^{FRCP} ~~PCRCP~~, Rule 59e SCRCP when Respondent files there order to fact and finding of PCR Case #2017-CP-23-695 to Add issues, ensure Appeal of to include all per 59e - The enclosed relief pursuant Austin v State 305 S.C. 453 (1991) Rule 71.19 SCRCP (ORDER SHOW CAUSE) - For reply 2

8) Applicant ask this Court to provide ~~the~~ ~~papers~~, within 7 days of the date of receiving Respondent's Order to Case No. 2017 CP 23695 per Rule 77 d ~~SCRCR~~ SCRCR.

9) Finally, Applicant request this Court E-discovery of Case No. 2017 CP 23695 per Rule 5 because he has been transferred, and ask this Court to Order Attorney to forward order or any documents he has received through SCE-File system through first class mail as provided in Rule 77 d ~~SCRCR~~, also provide applicant with copy of docket sheet for same. Guidl 6, SCEF 88 SCRCR, 77(d), Rule 10 SCRCR, 603 SCRCR, Guidl-7,

10) To not provide Applicant with the above would hampering his ability to access court (Bounds v Smith 430 U.S. 817, 828, 97 S.Ct. 1491 52 L.Ed 2d 72 (1977); Hebbe v Pliler, 627 F.3d 338 (CA9 2010) and deny access to Court violates Due Process right of fair hearing

This Motion is made in Good Faith to Access LEXUS NEXUS AND WEST LAW see Davis v Laffer, 692 F. Supp 2d 705 (E.D. Mich. 2009) for equality

11) Applicant's was denied the right to due process and equal protection of the law in violation of the Sixth, Eighth, and Fourteenth Amendments of the U.S. Constitution, violation of State law rendering his 3 Trial unfair.

Motion For Access DATE May 15, 2018

12. — Need order to show cause for reply

Issue raised at No. CASE# 2017-CP-23 695,
E-discover, SCACR 203, Rule 207, 243, 264
SCACR to reply to Judge Order for the
following:

Applicant

13. — ~~Person~~ wishes to appeal post-conviction relief action
pursuant to *Austin v. State* 305 S.C. 453 (1991) for the
following reasons: Rule 71.1(9) SCACR, or other applicable
rules....

i. Trial court failed to conduct a competency hearing
on its own initiative in violation of *Pate v*
Robinson 383 U.S. 375 86 S.Ct. 836 (1966) because at
time of trial there was sufficient evidence of petitioner's
~~in~~ incompetency to warrant a hearing

ii. Guilty plea was involuntary, unknowingly entered
without due process and equal protection of the
laws in violation of the Sixth, Eighth, Fourteenth
Amendments of the U.S. Constitution, and State law

iii. Due to Attorney's error to not request hearing after
trial courts inquiry of petitioner's competency, victims
statement of requesting leniency to receive the
adeguase help, past history of post-traumatic-

stress disorder, and the fact petitioner had went to get help after crime for PTSD finding that there was sufficient evidence at trial to establish a reasonable probability of incompetence at the time of guilty plea (see *Bouchillon v Collins* 987, F.2d 589, 592-94 (5th Cir. 1990).

- iv. Trial counsel failed to provide the assistance that the Sixth Amendment guarantees. ~~and~~ as in *Strickland* failing to investigate or prepare, competency determination of petitioner's background cannot be characterized as reasonable professional conduct, such errors violate Federal law, State law, and if counsel would called for mental evaluation and went to trial there is a reasonable probability that at least one juror would struck a different balance after hearing all facts of case, changing the outcome. *Johnson v Norton* 249 F.3d 20, 22 (1st Cir. 2001); *Wiggins v Smith* 539 U.S. 522, 156 L.Ed 2d 491 123 S.Ct. 2527 (2003); *U.S. v Kauffman* 109 F.3d 186 (CA3 1997)

V. Supreme Court of the United States in *Buck v Davis* 137 S.Ct. 759 (2017) reaffirmed the definition of prejudice by stating it is it is reasonable probable that "at least one juror would have ~~had~~ harbored a reasonable doubt", the prejudice is ~~not~~ -

sufficient for ineffective assistance of counsel claim

- vi. Trial Attorney's failure to advocate when victim asked that petitioner receive leniency, with proper mental health treatment was prejudicial because petitioner could have presented mental illness history as defense with ~~proper~~ reduced sentence to lesser charge of assault receiving probation ~~with~~ with treatment if victim agreed to accept the conditions.

I am inmate in an institution Today, May 16, 2018

I am depositing the following Need for Order case# 2017-CP-23-695, E-discovery, to reply SCACR 203, SCACR 207 per Rule 71.1(A) SCACR and other applicable rules - in institution internal mail system.

First-class, enclosed is ~~SAFE~~ for return

I declare under penalty of perjury that the foregoing is true and correct (see 28 U.S.C. § 1746; 18 U.S.C. § 1621).

J. Edward Whielick

date: 5-15-18

Edward Whielick # 201405

McCormick Corr. Inst. F-1-A

386 Redemption Way

McCormick SC 29899

II.

Conclusion

due to Attorney's errors, and inadequate advice there is a reasonable probability that the sentence imposed would have been less severe if victim's actual request from trial to not press charges, Applicant's past history was investigated, mental evaluation was performed, and facts that Solicitor mention of competency hearing after Court heard of Applicant's medical past for Attorney to argue against client's best interest was prejudicial. For the reasons stated, this Court should do the following...

This Court should vacate hearing held rehearing to accept victim's request to not press charges, and sentence Applicant to lesser offense with probation to attend Vocational Rehab for Mental illness or other outcome. This Court seems just in order of fairness, that all criminal proceedings are entitled to guaranteed by Federal law and State law. with the Equal Protection of law to protect against any discrimination of past history or other disabilities, or any other outcome that is fair

III. Motion to Amend original finding of fact and conclusions of law, and any new facts findings no later than 10 days after the receipt of written notice of the entry of Judges order in case# 2017-CP-23-695 Edward Whitlock v STATE S.C.
Per - Rule 243 SCACR

Rule 602 SCACR Act No. 309 In cases involving..... indigent criminal proceedings, counsel shall request for counsel due to indigent, Order transcript per Rule 207(a) or 243(b) SCACR provide any notice of Extensions 607, and appointment Rule 608 SCACR.

I Edward Whitlock am an indigent prisoner request all matters stated herein I, II, III to be included in the record on appeal of PCR.

Edward Whitlock
5-15-18

IN THE COURT OF COMMON PLEA OF Greenville
County

Edward Whitlock

Applicant

CASE No. 2017 CP 23 695

v

State of SC

Respondent

Motion for Access,

request for 59e, 77(b),

71.1(d), 203, 207, 243,

SCACP, SCACP, FRCP, FRAP

I am an inmate in an institution. Today, May 16, 2018, I am depositing the Motion ~~for access~~ ^{for access} in this case in the institution's internal mail system. First-class postage is being ~~prepared~~ prepaid by the institution on my behalf. Also enclosed is an Self address stamped envelope for this Court to copy, clock-stamp return for Applicant's record due to his inability to copy, access or provide duplicate, ³ E-File.

I declare under penalty of perjury that the foregoing is true and correct (see 28 U.S.C. § 1746; 18 U.S.C. § 1621).

§ Edward Whitlock #201405

date: 5 15 2018

Edward Whitlock #201405

386 Redemption Way F-1-A

MCCI

McCormick SC 29899

RECEIVED

MAY 23 2018

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

Supreme Court

AFFIDAVIT

Edward Whitlock # 201405

Case# 2017-CP-23-695

Appellant

Motion to receive order

v

for reply Rule 77d ~~Order~~,

STATE of SC

request for Access, E-Discovery,

Respondent

upon finding file ~~59e~~ ~~Order~~,

and other applicable rules SCEFR 10

AFFIDAVIT OF Edward Whitlock SCDC# 201405

I, Edward Whitlock, being duly sworn according to the law that all of the information I have submitted in support of Motion is true and correct and served to S.C. Supreme Court by U.S. Mail System P.O. Box 11330 Columbia SC 29201

Edward Whitlock
SIGN HERE Before Notary Public

J. Frankler

Edward Whitlock's
Print Name

Sworn to before me this

17 day of May, 2018.

J. Frankler
NOTARY PUBLIC

Exp 12-16-2019

Edward L. Whitlock #201403

MCC#(F)-A-267

386 Redemption way

MCCORMICK, S.C. 29899

SOUTH Carolina Supreme Court

Clerk of Court

POST OFFICE Box 11330

Columbia S.C. 29201

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MAY 18 2008

**MCC
MAIL ROOM**

THE DEPARTMENT OF CORRECTIONS HAS NOT
INSPECTED OR SEARCHED THIS ITEM; THEREFORE,
THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY
FOR ITS CONTENTS.

MCC
SOUTH CAROLINA CORRECTIONAL INST.
S.C. DEPARTMENT OF CORRECTIONS

