

State of South Carolina
In the Supreme Court

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JUN 07 2018

Appeal from Colleton County
Court of Common Pleas **S.C. SUPREME COURT**

Rory M. Bretner, Circuit Court Judge
Appellate Case no: 2017-001915
Lower Court Case no: 2013-CP-15-0014

Walter McCune 29982 ----- Petitioner
v

State of South Carolina ----- Respondent

Rule 243(c), SCACR Denovo Review
Pro se Petition for a Writ of Certiorari
under 415 S.C. 438(2016)

6-4-18

1 V. 5C 81
28 V. 5C 81746

Christian B. Sawille, Esquire
PCR Division
P.O. Box 11549
Columbia S.C. 29901

1/3/ Walter McCune
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Columbia SC 29910

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Questions Presented

1. Did the Honorable Perry M. Beeson, Commit Fraud upon appellant and Fraud upon South Carolina Supreme Court?

299 882
LEGAL
MAIL
ONLY

Statement of Case

I filed the Second PCB 2013-CP-15-0214 under Martinez v. Ryan (March 20, 2012) 217-27-45(B). On April 23, 2014, I filed an amendment erasing Martinez v Ryan, including all Claims filed under Martinez and Amended Brannan v State, 548 SF 2d 866 (2001) 17-27-45(C); 17-27-90; 1st Amend U.S.C.A. On October 23, 2014 the State Made it Return and Motion to Dismiss and Conditional Order of Dismissal. On December 17, 2014 the state issue the Conditional Order of Dismissal. On March 24, 2016 the State serve Affidavit of Personal Service. On April 4, 2016 applicant Objection Post marked. On April 16, 2016 Objections filed. On December 12 2016 Skyler Hutto allege state filed Dismissal in 2014. On April 19, 2017 Chief Justice Beatty sent Order (Appellate Case no: 2017-000897). On April 21, 2017 the State filed final Order of Dismissal - and served notice on May 8, 2017. On May 8, 2017 Remittitur filed in Lower Court. On May 26, 2017 I motion under Rule 60(b)(3), SCRCP, to relief final Order of Dismissal. On June 2, 2017 allege notice provided. On June 7, 2017 Rule 60(b)(3), SCRCP, filed to relieve final Order of Dismissal. On June 20, 2017 allege Counsel sent Correspondence - Confirming Objection to Conditional Order of Dismissal were filed. On August 7, 2017 hearing held Judge discretion full and fair opportunity on merits. On August 25, 2017 allege Counsel mail Correspondence with Propose Order. On September 8, 2017 Judge sign an issue Attorney General Propose final Order of Dismissal. On September 27, 2017

Order denying applicant's motion to alter or amend. On September 19, 2017 South Carolina Court of Appeals transferred Order under 204(a) SCACR. On September 21, 2017 Supreme Court provide allege Counsel, Paul Mathew, Esquires draft Good faith explanation pursuant to Rule 243(e). On October 2, 2017 allege Counsel filed explanation. On October 16, 2017 Pro se Notice of Appeal Denial 59(e) motion filed. On October 26, 2017 Appellate Case no: 2017-001915 transferred to Indigent defense. On May 16, 2018 Supreme Court grant Self-Representation and Order Petition and Appendix shall be serve and filed within thirty (30) day of this Order.

Facts

The Honorable, Perry M. Buckner, Conspired with officer of the Court, Attorney General, Ruston Newby, Esquire and allege Counsel, David Mathew, Esquire in PCB 2013-CP-15-0214 to deny me of the right to a fair hearing on the April 16, 2016 Objection to Conditional Order of Dismissal that I Compose and timely filed. On June 21, 2017 putting allege Counsel, David Mathew, Esquire on the Case to allegedly represent. Knowing that he assume authority at the June 7, 2017 hearing to rehear the April 21, 2017 final Order of Dismissal and Convinced to my defeat at the August 8, 2017 hearing in re: Objection by applicant. When he intentionally raise an issue that had been already raise in PCB 2004-CP-15-1002, knowing the Attorney General would argue successive and statute of limitation. Forcing me not to Present the merits of the Objections and deprive me of the opportunity to be heard on the merits of Brannon v State, 548 SF 2d 866 (2001) Rule 71.1(f) violation, SCRCP, all violating their Oaths to deny me a full and fair opportunity to raise Claims in one PCB application.

ARGUMENT

The Honorable, Perry M. Buckner, Committed Extrinsic
Fraud upon appellant and fraud upon the South Carolina Supreme
Court

The Honorable, Perry M. Buckner, determination is improper because he Committed Extrinsic fraud upon me and Fraud upon the South Carolina Supreme Court when he Conveyed an intentional Perversion of truth in his Final Order of Dismissal filed September 8, 2017 alleging: "On June 2, 2017, this Court held a hearing to determine whether applicant's opposition to his COA was timely filed and meritorious. This Court appointed Paul Mathew, Esquire to represent applicant." (emphasis added) (App. p. 155, line 6-8). The Court Calendar for the 14th Judicial Circuit for the Month of June 2017 reveal no hearing held June 2, 2017 (see attached Affidavit page 1-5 that is notarized). Allege Counsel, Paul Mathew, Esq. intentionally assume authority at the June 7, 2017 Rule 60(b)(3) SCACP hearing to relieve the April 21, 2017 Final Order of Dismissal and Convince to my defeat at the August 8, 2017 hearing in re: Objection by Applicant.

when he raised an issue that had been alleged in PCR
2004-CR-15-1002 (App. p. 117, line 2-18) forcing me not
to present the merits of the filed April 16, 2016 Objections
to Conditional Order of Dismissal and deprive me
of the opportunity to be heard on the merits of *Brannon
v State*, 548 S.E.2d 866 (2001) Rule 7.1(f) violation, SCRC
(App. p. 123, line 22-25-p. 124, line 1-19) (App. p. 140
, line 9-23) (App. p. 149, line 15-16, line 24-25-p. 150
line 1-6) (App. p. 142, line 8-9) (App. p. 144, line 16-20)

Defile the South Carolina Supreme Court when he knows
no hearing held June 9, 2017 and the Court did not
appoint allege Counsel, officer of the Court, David
Mathew, Esquires to represent applicant, and knows
he assume authority and connive to my defeat
to deny me "one bite at the apple" in violation
of his Oath an unconscionable scheme which is
design to improperly influence the South Carolina
Supreme Court in its decision

Affidavit

On September 24, 2017, I receive the June 2017 Court Calendar for the 14th Judicial Circuit. The Court Calendar reveal no hearing held June 2017. I affirm to a Higher Power and declare under the Penalty of Perjury the foregoing is true and correct. Through the exercise of due diligence.

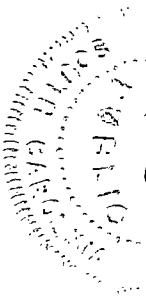
6-14-18

10.6.C.81

280.5.C.81746

1st Walter McQuinn

see Attachments

 Cheryl R. Lued, Notary
Commission Expires Jan. 27, 2025

South Carolina Court Administration
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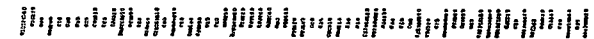
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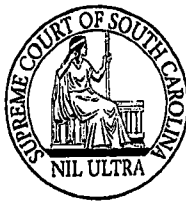
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Mr. Walter McQune, # 299882
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4556 Broad River Road
Columbia, South Carolina 29210

29210-409555





South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

TONNYA K. KOHN
INTERIM DIRECTOR

1220 SENATE STREET, SUITE 200
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TELEPHONE: (803) 734-1800
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September 25, 2017

Mr. Walter McQune, # 299882
G.C.I., B-5 40B
4556 Broad River Road
Columbia, South Carolina 29210

Re: Your correspondence received September 22, 2017

Dear Mr. McQune:

As requested, we have enclosed a copy of the court calendar for the 14th Judicial Circuit for the month of June 2017. Additionally, enclosed is a copy of the Supreme Court's Order concerning the cost for copies and mailing. Please be advised that should you request additional documents, you will be charged per the enclosed Order.

All terms of court dating back to 2002 are available on our public website at <http://www.sccourts.org/calendar/scmapping.cfm>, and may be downloaded and printed free of charge. If you are not able to access the internet, you may wish to have a friend or family member do so on your behalf.

Sincerely,

Staff Attorney Section/tr

Enclosures

3 of 5

Circuit Number	6/5/2017	6/12/2017	6/19/2017	6/26/2017
<p>14</p> <p>Common Pleas Non-Jury/PCR 5, 6 Goodstein, Diane</p> <p><u>HAFFENDEN</u> 5, 6</p> <p>Common Pleas/Common Pleas Nonjury Beaufort Goldsmith, Brooks</p> <p><u>ROWE</u> 5, 6, 7 <u>NO CR NEEDED</u> 8, 9</p> <p>General Sessions Non-Jury McIntosh, R.</p> <p><u>MANLEY</u></p> <p>Common Pleas/Common Pleas Nonjury Hampton Buckner, Perry</p> <p><u>NO CR NEEDED</u></p> <p>Common Pleas Non-Jury 5 Toal, Jean</p> <p>Common Pleas Non-Jury/General Sessions Non-Jury 7 Buckner, Perry</p> <p><u>YOUNG</u> 7</p> <p>Common Pleas Non-Jury/PCR 9 Goodstein, Diane</p> <p><u>HAFFENDEN</u> 9</p>	<p>Common Pleas/Common Pleas Nonjury Colleton McIntosh, R.</p> <p><u>ROWE</u> 12 am <u>NO CR NEEDED</u> 13, 14, 15, 16</p> <p>General Sessions Hampton Buckner, Perry</p> <p><u>HILL</u> 12, 13, 14, 15 <u>NO CR NEEDED</u> 16</p> <p>Common Pleas/Common Pleas Nonjury Jasper Mullen, Carmen</p> <p><u>MANLEY</u></p>	<p>Common Pleas/Common Pleas Nonjury Colleton McIntosh, R.</p> <p><u>HILL</u> 12, 13, 14, 15 <u>NO CR NEEDED</u> 16</p> <p>Common Pleas/Common Pleas Nonjury Jasper Mullen, Carmen</p> <p><u>MANLEY</u></p>	<p>Common Pleas/Common Pleas Nonjury Beaufort Goldsmith, Brooks</p> <p><u>MANLEY</u> 19, 20, 21, 22 am <u>NO CR NEEDED</u> 23</p> <p>Common Pleas Non-Jury McIntosh, R.</p> <p><u>ANDERSEN</u> 19 am, 20 am <u>ANDERSEN</u> 21, 22 <u>NO CR NEEDED</u> 23</p> <p>Common Pleas/Common Pleas Nonjury Colleton Buckner, Perry</p> <p><u>HILL</u> 19, 20 am <u>HILL</u> 21 am, 22 am <u>NO CR NEEDED</u> 23</p> <p>General Sessions Non-Jury Mullen, Carmen</p> <p><u>MANLEY</u> 19 am <u>NO CR NEEDED</u> 20 <u>HILL</u> 21, 22 pm <u>MANLEY</u> 23</p>	<p>General Sessions Colleton Buckner, Perry</p> <p><u>HILL</u> 26, 27, 28, 29 <u>NO CR NEEDED</u> 30</p> <p>General Sessions Beaufort Mullen, Carmen</p> <p><u>ROWE</u></p> <p>General Sessions Beaufort Brown, D.</p> <p><u>MANLEY</u> 26 <u>NO CR NEEDED</u> 27, 28, 29, 30</p>
<p>Family Court Beaufort Smoak, Gerald C.</p>	<p>Family Court Allendale / Beaufort Fuge, Peter L.</p>	<p>4 of 5</p> <p>Family Court Colleton Creech, Wayne M.</p>	<p>Family Court Colleton Creech, Wayne M.</p>	<p>Family Court 26 Beaufort</p>

<u>HARTLEY</u> 5, 6 <u>HAFFENDEN</u> 7 <u>HARTLEY</u> 8, 9	<u>HARTLEY</u>	<u>TAYLOR</u> 19 am, 20 <u>TAYLOR</u> 21 pm, 22, 23 am	Fuge, Peter L. <u>HARTLEY</u> 26
Family Court Colleton Malphrus, Deborah A.	Family Court Beaufort Malphrus, Deborah A. <u>BROWN</u> 12, 13, 14 am <u>BROWN</u> 15, 16 am	Family Court Beaufort Fuge, Peter L.	Family Court Beaufort Malphrus, Deborah A. <u>BROWN</u> 26, 27, 28 am <u>NO CR NEEDED</u> 29 <u>BROWN</u> 30 am
<u>BROWN</u> 5, 6 <u>HILL</u> 7 <u>LANDRY</u> 8 <u>ROWE</u> 9		<u>HARTLEY</u>	
		Family Court Jasper Seigler, W. Greg <u>BROWN</u> 19, 20 am <u>BROWN</u> 21 am, 22 am <u>BROWN</u> 23 am	Family Court Allendale / Beaufort McGee, Randall E. <u>NO CR NEEDED</u> 26, 27 <u>TAYLOR</u> 28, 29, 30 am
		Family Court Hampton Tiffany, Katherine H. <u>YOUNG</u> 19, 20, 21, 22 <u>NO CR NEEDED</u> 23	Family Court 29, 30 Beaufort Fuge, Peter L. <u>HARTLEY</u> 29, 30

354 S.C. 648 (ct. App. 2003) (fraud is an intentional Perversion of truth for the purpose of inducing another irreluctance upon it to Part with some valuable thing belonging to that Person or to surrender a Legal right) 46 F.R.D. 625 (1969) ("fraud upon the Court" embrace only that species of fraud which does, or attempts to, defile the Court itself, or is fraud Perpetrated by officers of the Court, and fraud inter partes, without more, does not amount to fraud upon the Court within rule providing for relief from Judgment because of fraud upon the Court.) 46 F.R.D. 625 (1969) (In order to set aside a Judgment or Order because of fraud upon the Court under rule Providing for such relief, it is necessary to show an unconscionable scheme or plan which is design to improper influence the Court in its decision). Odum v State, 337 S.C. 256 (1999) (All applicants are entitled to a full and fair opportunity to Present Claims in one PCR3 application). Whitehead v State, 310 S.C. 532 (1992); S.C. Code Ann. §17-27-60 (A PCR3 applicant who is granted a hearing has a Statutory right to be represented by a Court-appointed-attorney)

294 S.C. 9, 11 (1987) (Extrinsic fraud, is fraud that induces a Person not to present a case or deprives a Person of the opportunity to be heard. Relief is granted for Extrinsic fraud on the theory that because the fraud prevented a Party fully exhibiting and trying his case, there has never been a real contest before the Court on the subject-matter of the Action). Hepburn v. Griswold, 45 U.S. (8 Wall) at 612 (1869) (The oath... every member... is required to take that he will administer Justice without respect to person and do equal right to the poor and the ~~poor~~ rich and faithfully perform the duties incumbent upon him to the best of his ability and understanding, agreeably to the Constitution and Laws of the United States.) Pub. L-101-650

Robertson v. State, OP no. 27691 (Dec 14, 2016) (We believe it is unreasonable to think that an indigent PCB applicant who relies on the State to appoint qualified Counsel, would have the knowledge to question Counsel qualification at the onset of the proceedings.) Justice Peatty

CONCLUSION

Because the fraud prevented the appellant from fully exhibiting and trying his case, there has never ~~been~~ been a real contest before the Court on the subject matter of the action, relief should be granted on this theory, the Circuit Court aforesaid judgment should be set aside reversed and remand to the Court of Common Pleas for a hearing.

6-4-18

10-S-C-81

28 U.S.C. 81746

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State of South Carolina
In the Supreme Court

Appeal from Colleton County
Court of Common Pleas

Perry M. Buckner, Circuit Court Judge
Appellate Case no: 2017-001915
Lower Court Case no: 2013-CP-15-0814

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JUN 07 2018

Walter McDune 299822 Petitioner

State of South Carolina Respondent

S.C. SUPREME COURT

Certificate of Service

I Certify that I have served, "Rule 243(c) SCACP, Pano vs Brunner Pano
Petition for a Writ of Certiorari 415 S.C. 438 (2016)" upon all Parties to the
Appeal by depositing one (1) copy each in the U.S. mail Postage Pre-paid
addresses as follow: Christian H. Saunton, Esquire, PCA Division, P.O. Box
11330 Columbia S.C. 29211 and Daniel Smarovec, Clerk of Court, P.O.
Box 11330, Columbia S.C. 29211-1330 "with APPENDIX" according
to S.C.ACP s. 7 copies to Court

6-4-18

10 S.C. 91
28 U.S.C. 21746

15/ Walter McDune
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