

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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JUL 18 2010

APPEAL FROM YORK COUNTY
CIRCUIT COURT

S.C. SUPREME COURT

DANIEL D. HALL

CHIEF ADMINISTRATIVE JUDGE

THE STATE

RESPONDENT

vs.

JEFFREY LYNN CHRONISTER

APPELLANT

INITIAL BRIEF OF APPELLANT

pro se, JEFFREY LYNN CHRONISTER, #189827
KIRKLAND R&E CENTER, B-II, #63
4344 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA, 29210

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17-27-60	3

STATEMENT OF THE ISSUE

DID THE JUDGE ERROR IN DENYING THE APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF TO POST CONVICTION RELIEF APPLICATION?

HISTORY OF THE PROCEEDING

APPELLANT WAS INDICTED ON APRIL 6, 1992 FOR "MURDER, AND UNLAWFUL POSSESSION OF FIREARM OR KNIFE DURING THE COMMISSION OF A VIOLENT CRIME. THE RESULTS OF AN JURY TRIAL ON SEPTEMBER 21-22, 1992 WAS GUILTY (1992-GS-46-1224). DEFENSE COUNSEL WAS GERALD W. SMITH OF THE YORK COUNTY PUBLIC DEFENDERS OFFICE, SOLICITOR WAS LARRY F. GRANT, AND THE HONORABLE JUDGE DON S. RUSHING IMPOSING A LIFE SENTENCE PLUS FIVE CONSECUTIVE YEARS FOR FIREARMS CHARGE. A PLEA OF NOT GUILTY WAS ENTERED AT THE TRIAL. THERE WAS NO BOND OR PRELIMINARY HEARING HELD.

STATEMENT OF THE CASE

THIS MATTER COMES BEFORE THE COURT PURSUANT TO S.C. CODE ANN. 14-3-330 (2), (a), AND 17-27-20 (a), (1), (2), (4), (6)

THE MATTER AROSE FROM APPELLANT'S PROSE MOTION FOR AFT-ER NEWLY DISCOVERED EVIDENCE, DATED NOVEMBER 12, 2014, IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT.

THE GROUNDS FOR THE COMPLAINT BEING FACTUAL BECAUSE OF SUPPORTED WITH COPIES OF LEGAL DOCUMENTS THAT SHOW VIOLATIONS OF AFFIRMATIVE LEGAL DUTY TO ACT STATUTES, AND THUS CONSTITUTIONAL DUE PROCESS VIOLATIONS.

QUESTIONS PRESENTED:

(A) WAS THE DIRECTED VERDICT PRODUCED BY PROSECUTORIAL MISCONDUCT AND MISREPRESENTATION BY COUNSEL? AND

INCLUDING; ^(a) THE MISCONDUCTS PRODUCING FRAUD ON THE COURT AND ^(b) MISCONDUCT BY THE PRIMARY OFFICER / DETECTIVE IN OBTAINING THE ARREST WARRANT WITHOUT PROBABLE CAUSE. WHICH RAISES;

(B) "WAS THE ARREST MADE WITHOUT PROBABLE CAUSE, VIOLATING THE CONSTITUTION OF THIS STATE, THE 4TH AND 14TH AMENDMENTS OF THE U.S. CONSTITUTION?"

(C) "WAS THE CIRCUIT COURT PROPERLY VESTED WITH SUBJECT MATTER JURISDICTION TO HAVE OBTAINED THE CONVICTIONS? THE INDICTMENT FOR MURDER IS SUBJECT OF ISSUE BECAUSE OF; ⁽¹⁾ THE LACK OF INDICTMENT FOR ITS SEPARATE FIREARMS CHARGE "COUNT-TWO," AND A WAIVER FOR PRESENTMENT; ⁽²⁾ NO INDICATION OF FORMALLY STAMPED "TRUE BILL"; ⁽³⁾ FACIAL IRREGULARITY OF INITIALED "T. BILL," AND NOT IN WRITING OR INDICATION OF BEING PUBLISHED BY THE CLERK OF COURT.

APPELLANT APPEALING THE HONORABLE JUDGE LEE S. ALFORD'S LETTER ORDER, DATED NOVEMBER 21, 2014 THAT STATED:

"THIS COURT CANNOT GRANT RELIEF ON A MOTION UNLESS TIMELY MADE. YOU WOULD NEED TO FILE A POST-CONVICTION RELIEF ACTION IN ORDER FOR THE COURT TO CONSIDER YOUR MOTION" AND;

BY ORDER OF THIS COURT, DATED FEBRUARY 1, 2018, APPELLANT'S PETITION FOR A WRIT OF CERTIORARI ON THE APPEAL WAS DENIED. "APPELLATE CASE No. 2017-001374 LOWER COURT CASE No. 1992-GS-46-1224"

- NOW COMES THE MATTER BEFORE THE COURT:

- APPELLANT RESUBMITTING AN APPLICATION FOR POST-CONVICTION RELIEF ON MAY 22, 2018 (SEE FORM FROM THE YORK

COUNTY CLERK OF COURT, DAVID HAMILTON, DATED MAY 7, 2018. (COPY AT p. 5), AND APPELLANT DIRECTING TO THE GROUNDS OF THE MOTION IN ANSWERING THE QUESTION OF APPLICATION.

IN AN LETTER ORDER, DATED JUNE 4, 2018, THE HONORABLE DANIEL D. HALL, CHIEF ADMINISTRATIVE JUDGE STATED THAT:

"THIS IS THE THIRD PCR APPLICATION THAT YOU HAVE FILED IN THIS MATTER. THE TWO PRIOR APPLICATIONS WERE DISMISSED BY THE CIRCUIT COURTS. YOUR APPLICATION TO PROCEED WITHOUT PAYMENT FOR THIS FILING IS DENIED" (COPY AT p. 6) APPELLANT SERVING AN "NOTICE OF APPEAL" TO THE CLERK OF THIS COURT ON JUNE 14, 2018, AND ON THE SAME DATE SERVING A COPY OF THE NOTICE TO THE YORK COUNTY CLERK OF COURT

ARGUMENT

APPELLANT RESPECTFULLY CONTENDS THAT JUDGE HALL'S ERROR IN DENYING THE APPLICATION BY FAILING TO MAKE FACIAL FINDINGS TO SHOW THE APPLICATION ROSE TO THE LEVEL OF REPETITIVE, AND ABUSIVE FILINGS EFFECTIVELY DISCONTINUED THE ACTION WHICH WAS SIMILAR TO THE CIRCUMSTANCES IN LAKES STATE 510 S2d 228 (S.C. APP. 1998) WHEN PETITIONING FOR A WRIT OF HABEAS CORPUS INMATE MOVED FOR ORDER TO PROCEED *in forma pauperis*. THE CIRCUIT COURT DENIED MOTION AND THE INMATE APPEALED. THE COURT OF APPEALS HELD THAT [2] INMATE WAS ENTITLED TO PROCEED *in forma pauperis* WITH PETITION FOR WRIT OF HABEAS CORPUS, DESPITE NUMEROUS PREVIOUS REQUESTS FOR RELIEF, IN ABSENCE OF FACIAL FINDINGS THAT REQUEST ROSE TO THE LEVEL OF REPETITIVE AND ABUSIVE FILINGS CODE 1976 ^{SS} 17-27-60." INMATE LAKES HAD ALSO SUBMITTED THREE POST CONVICTION RELIEF ACTIONS AMONG HIS REQUESTS FOR RELIEF.

ALSO UNDER LAKES: [1] AN APPELLATE COURT HAS JURISDICTION TO REVIEW AN ORDER AFFECTING AN SUBSTANTIAL RIGHT WHEN THE ORDER HAS THE AFFECT OF DISCONTINUING THE ACTION OR PREVENTING AN APPEAL.

ABLE JUDGMENT. S.C. CODE ANN. 14-3-330(2), (a) SUPP. 1997) THE TRIAL JUDGE'S ORDER DENYING LAKES REQUEST TO PROCEED IN FORMA PAUPERIS EFFECTIVELY DISCONTINUED THE ACTION BECAUSE LAKES ONLY MEANS OF BRINGING THE ACTION WAS IN FORMA PAUPERIS. THEREFORE, THIS COURT HAS JURISDICTION TO REVERSE THE DENIAL OF THE MOTION." ALSO UNDER S.C. CODE ANN. 17-27-20(1): "POST CONVICTION RELIEF APPLICATION MAY BE INSTITUTED WITHOUT THE PAYMENT OF FILING FEE, REGARDLESS OF A PERSON'S FINANCIAL STATUS" LAKES V STATE (S.C. APP. 1998) 333 S.C. 382, 510 SE2d 928, REHEAR DENIED, CERT. DENIED. WADE V STATE 559 SE2d 843 (S.C. 2002) (9) "A POST CONVICTION RELIEF APPLICATION IS NOT REQUIRED TO PAY A FILING FEE OR MEET THE COMPLEX PAYMENT STRUCTURE OF THE INMATE LITIGATION ACT (I.L.A.) CODE 1976 § 24-27-100 et. seq.: THOMPSON V STATE 479 SE2d 808, 325 S.C. 58 (1997): "IN THIS CASE, S.C. CODE ANN. 17-27-20 (1985) SPECIFICALLY STATES THAT AN ACTION FOR POST CONVICTION RELIEF MAY BE INSTITUTED WITHOUT THE PAYMENT OF FILING FEE, REGARDLESS OF A PERSON'S FINANCIAL STATUS, ACCORDINGLY THERE IS NO FILING FEE REQUIRED BY LAW": EX PARTE MARTIN 471 SE2d 135 (S.C. 1995) (FURTHER, WHERE CERTAIN FUNDAMENTAL RIGHTS ARE INVOLVED, THE CONSTITUTION REQUIRED THAT AN INDIGENT BE ALLOWED ACCESS TO THE COURTS) COMPARE BODIE V CONNECTICUT 401 U.S. 371, 91 S. Ct. 780, 28 LEd 2d 113 (1970)

CONCLUSION

FOR THE FOREGOING REASONS, IT IS RESPECTFULLY REQUESTED THAT APPELLANT RESUBMIT THE POST CONVICTION APPLICATION THAT WAS RETURNED BY THE CLERK OF COURT'S OFFICE, AND BE GRANTED TO PROCEED WITHOUT PAYMENT FOR FILING.

JULY 6, 2018

RESPECTFULLY:
Jeffrey Lynn Chronister
prose, JEFFREY LYNN CHRONISTER



CLERK OF COURT'S OFFICE

Post Office Box 649, York, South Carolina 29745-0649

Date: 5/7/2018 4:52:05 PM
TO: Jeffrey L. Chronister
FROM: DAVID HAMILTON, YORK COUNTY CLERK OF COURT
RE: Post-Conviction Relief Application

The above referenced document is being returned for the following reason(s):

1. Requires address, phone number if filing Pro Se.
2. Not dated
3. Not signed
4. Not notarized
5. Incorrect filing fee, Correct amount due: _____
6. Requires original signature
7. Requires a Civil Action Cover Sheet
8. Requires Civil Action Cover Sheet filled out in its entirety
(state nature of action, Jury/Nonjury, Signed by attorney/pro-se)
9. Requires a Motion Cover Sheet
10. Requires a Motion Cover Sheet & \$25
11. This is not a York County Common Pleas Case
12. Check/money order must be payable to Clerk of Court
13. Document is a copy, must file original signature
14. Judge denied Motion to Proceed in Forma Pauperis
Original lawsuit is being returned to you and if you wish to pursue you will need to pay the \$150.00 filing fee.

15. Other

Mr. Chronister,

I am in receipt of your letter regarding your PCR application. I do not see where our office has received your application. Please re-submit.

Thank you,
Clerk of Court's Office

Please make the necessary correction(s) and return for recording.
Thank you for your assistance.

20-5-



State of South Carolina
The Circuit Court of the Sixteenth Judicial Circuit

Daniel D. Hall
Judge

Moss Justice Center
1675-1J York Highway
York, SC 29745-7434
Phone: (803) 628-3048
Fax: (803) 628-3139
dhalij@sccourts.org

June 4, 2018

Jeff Chronister # 189827
Kirkland R & E Ctr., B-II #63
4344 Broad River Road
Columbia, SC 29210

Mr. Chronister:

I received your Application for Post-Conviction Relief with your Application to Proceed Without Payment. This is the third PCR Application that you have filed in this matter. The two prior applications were dismissed by the circuit courts. Your Application to Proceed Without Payment for this filing is denied.

A handwritten signature in black ink that reads "Daniel D. Hall".

Daniel D. Hall
Chief Administrative Judge
of the Sixteenth Judicial Circuit

DDH:rgb

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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JUL 18 2018

APPEAL FROM YORK COUNTY

S.C. SUPREME COURT

DANIEL D. HALL

CHIEF ADMINISTRATIVE JUDGE

MOTION TO PROCEED in forma pauperis

I, JEFFREY LYNN CHRONISTER, MOVES FOR LEAVE TO PROCEED
in forma pauperis IN THIS ACTION, AND DECLARE UNDER
PENALTY OF PERJURY THE FOLLOWING FACTS ARE TRUE:

- (1) I AM THE APPELLANT IN THIS ACTION, AND BELIEVE
I AM ENTITLED TO REDRESS
- (2) BECAUSE OF MY POVERTY I AM UNABLE TO PAY THE
COSTS OR GIVE SECURITY THEREOF

JULY 6, 2018

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER[#] 189827

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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JUL 18 2018

APPEAL FROM YORK COUNTY S.C. SUPREME COURT

DANIEL D. HALL
CHIEF ADMINISTRATIVE JUDGE

THE STATE _____ RESPONDENT
v
JEFFREY LYNN CHRONISTER _____ APPELLANT

DESIGNATION OF MATTER

TO BE INCLUDED IN THE RECORD ON APPEAL

APPELLANT PROPOSES THE FOLLOWING TO BE INCLUDED IN RECORD ON APPEAL

ORDER OF JUNE 4, 2018

FORM CLERK OF COURT'S OFFICE, 5/7/2018

I CERTIFY THAT THIS DESIGNATION CONTAINS NO MATTER WHICH IS IRRELEVANT TO THIS APPEAL.

JULY 6, 2018

Jeffrey Lynn Chronister

JEFFREY LYNN CHRONISTER

I/M #189827

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM YORK COUNTY

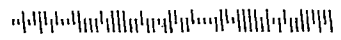
DANIEL D. HALL
CHIEF ADMINISTRATIVE JUDGE

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE INITIAL BRIEF AND
"DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON
APPEAL" BY DEPOSITING COPIES OF THEM IN THE UNITED STATES
MAIL, POSTAGE PREPAID, ON JULY 11, 2018 ADDRESSED TO
DAVID HAMILTON, YORK COUNTY CLERK OF COURT, POST OFFICE
BOX 649, YORK SOUTH CAROLINA, 29745-0649.

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER, #189827
KIRKLAND B+E CTR. BLDG #63
4344 BROAD RIVER RD
COLUMBIA, S.C., 29210

JE



KIRKLAND R&E CENTER, B-II #3
4344 BROAD RIVER RD
COLUMBIA, S.C. 29210



LEGAL
MAIL
ONLY

RECEIVED

JUL 11 2018
KIRKLAND R&E CENTER
MAILROOM

DANIEL E. SHEARGUSE, CLERK OF COURT
SUPREME COURT OF SOUTH CAROLINA
POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA, 29211

