

August 28, 2018

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S.C. SUPREME COURT

Daniel E. Shearouse, Clerk of Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: James R. Rose v. State of South Carolina
Appellate Case No.: 2017-002052

Dear Clerk Shearouse:

Find enclosed an original and one copy of the Plaintiff's Motion for Substitution of Counsel with exhibits on the above referenced case.

Sincerely,
James R. Rose
James R. Rose, #293938
MCCI
386 Redemption Way
McCormick, 29899

**LEGAL MAIL
MAIL ROOM**

THE SUPREME COURT OF SOUTH CAROLINA

James R. Rose, Petitioner,)

v.)

State of South Carolina, Respondent.)
_____)

Appellate Case No.: 2017-002052

MOTION FOR SUBSTITUTION
OF COUNSEL

ISSUE

This matter comes before the Court by way of Petition for Writ of Certiorari filed on or about May 18, 2018, by appointed appellate counsel Robert M. Dudek, esq. Petitioner requested counsel petition the Court for 'Bail Pending Appellate Review', whereas, counsel spurned Petitioner's request stating: "you lost in the PCR court." Please see exhibits (A-C).

ARGUMENT

South Carolina Appellate Rules: Rule 243(K), SCACR, states: A post-conviction relief applicant may be admitted to bail after the service of the notice of appeal by either the applicant or the State. Counsel's remarks are inconsistent with Appellate Court Rule supra. Even though Petitioner quote, unquote, lost in the PCR court, the privilege of 'Bail Pending Appellate Review' is still available to him pursuant to SCACR 243(K). Petitioner is prejudiced by counsel's comments, since he is represented by counsel and is prohibited from submitting substantial documents pro se. Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010). Moreover, counsel's actions disables Petitioner's access to the Court. A right guaranteed to him by the South Carolina and the United States Constitutions.

CONCLUSION

WHEREFORE, Petitioner respectfully requests the Court grant his Motion for Substitution of Counsel.

August 23, 2018
McCormick, South Carolina

Respectfully submitted,
James R. Rose
James R. Rose, #293938
MCCI
386 Redemption Way
McCormick, SC 29899

**LEGAL MAIL
MAIL ROOM**



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
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Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

Exhibit (A)

James R. Rose
James R. Rose, #293938
MCCI
386 Redemption Way
McCormick, SC 29899

February 27, 2018

Mr. James R. Rose, #293938
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Dear Mr. Rose:

Thank you for your recent letter dated February 20, 2018, updating our office with your current address. I did receive your correspondence which also referenced an appeal bond. Since you did not win in the lower court an appeal bond would not be given serious consideration. Further, you are indigent and would not be able to pay a substantial appeal bond. I simply cannot file a motion that I do not believe has substantial merit. I trust that while this is not the response you hoped for that you understand.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

RMD/cp



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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

Exhibit (B)
~~James R. Rose~~
James R. Rose, #293938
MCCI
386 Redemption Way
McCormick, SC 29899

March 19, 2018

Mr. James R. Rose, #293938
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Dear Mr. Rose:

Thank you for your letter dated March 7, 2018. If you are not satisfied with my representation you can make a motion for the Court to relieve me as your attorney. I will not oppose your motion. That is your legal avenue for relief. In my opinion, an appeal bond for a person who lost their PCR case would be a frivolous motion. I will not make a frivolous motion as it would be unethical. Again, if you file a motion to relieve me I will not oppose that motion.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

RMD/cp



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Exhibit (c)
James R. Rose
James R. Rose, #293938
MCCI
386 Redemption Way
McCormick, SC 29899

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

May 18, 2018

Mr. James R. Rose, #293938
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Dear Mr. Rose:

Enclosed please find a copy of the Petition for Writ of Certiorari and a copy of the Appendix in your case, which I have filed with the South Carolina Supreme Court on your behalf. The first issue provides you the best chance of obtaining reversal, and a new trial. This letter is attorney-client privileged. You waive that privilege if you share this letter with anyone else.

I would urge you to not to be writing anymore to the Court or anyone else about your case. It does not help you. If you choose to disregard this advice – it is your life, but I hope you will heed this advice. I strongly think you were entitled to an alibi instruction, and this is the issue in your case. I am not sure anyone in your corner understood this at any stage of your prosecution until now. I will not move to amend the certiorari petition as this is your best shot, and I will not move for an appeal bond because, among other reasons, you lost in the PCR court. I will keep you posted when the state files its return naturally arguing that you received a fair trial, and are entitled to no relief. Obviously, I disagree with that assertion that I am sure will be their response.

Should you have any questions concerning this matter, please contact me by telephone collect, or write me.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

RMD/cp
Enclosure

MR. JAMES K. ROSE, 215 100

MCI

386 Redemption Way

McCormick, SC 29899

The Supreme Court of South Carolina

Daniel E. Shearouse, Clerk of Court

Post Office Box 11330

Columbia, South Carolina 29211

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