

JAMES A. Giles # 264478
Tyger River C.I. Unit-8-RM 227
200 Prison Road
ENOtec, S.C. 29335

RECEIVED

OCT 18 2018

S.C. SUPREME COURT

October 15, 2016

Daniel E. Shearouse
Clerk of Court
P.O. BOX 11330
Columbia, S.C. 29211

Re: JAMES A. Giles V. State of South Carolina
Appellate Case NO. 2018-000880

Dear Mr. Shearouse

Please find enclosed the original and one copy of the Motion to Relieve Appellate Counsel Wanda H. Carter along with a Certificate of Mailing concerning the above matter. Please file the same with your office and return the copy to me in the enclosed self-addressed stamped envelope.

With kind regards, I am
Your very truly
James A. Giles

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

JAMES A. Giles
Appellant,

VS.

STATE OF SOUTH CAROLINA
Respondent,

Appellate Case NO. 2018-000880

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OCT 18 2018

S.C. SUPREME COURT

MOTION TO RELIEVE APPELLATE

COUNSEL WANDA H. CARTER

You Will Please Take NOTICE, that Appellant James A. Giles, Comes before this Honorable Court, requesting for Wanda H. Carter to be remove as Appellant Appellate Court Counsel, for the stated reason(s)

o First, because MS. Carter is a Very disrespectful Lady, because I have Call Ms. Carter on three (3) different occasion, And all three (3) times during the Middle of our Conversation Ms. Carter always hungs up the telephone Why I AM still trying to discuss My Case With her, I have brought this Matter to MS. Carter attention through a letter, but MS. Carter seem to ignore this Matter, because on October 10, 2018. When I Call MS. Carter, trying to discuss a Very important Matter With MS. Carter Half Way during the

CONVERSATION, MS. CARTER TOLD ME, THAT SHE WOULD GET BACK WITH ME, AND JUST HUNG UP THE TELEPHONE, WHILE I WAS STILL TRYING TO TALK TO HER, SO THEREFORE I REALLY DO THINK THAT A LAWYER HUNG UP THE TELEPHONE ON HER CLIENT HALF WAY DURING A CONVERSATION IS VERY DISRESPECTFUL TO HER CLIENT, AND I DON'T NEED A LAWYER LIKE MS. CARTER TO REPRESENT ME ON MY PENDING APPEAL IN THE SUPREME COURT,

o SECOND, RESPECTFUL I DON'T NEED A LAWYER LIKE MS. CARTER TO REPRESENT ME ON MY PENDING APPEAL, BECAUSE MS. CARTER WILL NOT ACKNOWLEDGE ANYTHING I TRY TO DISCUSS WITH HER ABOUT THE ISSUES I WANT HER TO RAISE IN HER PETITION, WHEN A LAWYER SUPPOSE TO TAKE INTO CONSIDERATION THE ISSUES HER CLIENT PRESENT TO HER FOR THE PURPOSE OF, THE LEGAL BASIS FOR THE APPEAL FOR EACH ERROR CLAIMED WITH APPROPRIATE CITES TO CONSTITUTIONAL LAW, STATUTES, RULES, AND CASE LAW, THAT IS ONE OF THE REASON, WHY THE APPELLATE DEFENSE APPOINTED ME AN ATTORNEY AND SET UP SO I CAN CALL MY ATTORNEY AND DISCUSS MY ISSUES WITH MY ATTORNEY, SO MY POINT IS: IF MS. CARTER WILL NOT ACKNOWLEDGE ANYTHING THAT I AM TRYING TO DISCUSS WITH HER ABOUT MY ISSUE, PLEASE TELL ME WHAT THE USE TO CALL MS. CARTER, WHEN MS. CARTER IS PROVIDING ME WITH INEFFECTIVE ASSISTANCE OF COUNSEL, WHEN THE SIXTH AMENDMENT, GUARANTEES ME EFFECTIVE ASSISTANCE OF COUNSEL, AND IT DOESN'T MATTER IF I HIRE THE ATTORNEY, OR THE ATTORNEY IS HIRED BY THE GOVERNMENT,

THIRD, I AM REQUESTING FOR THIS HONORABLE COURT TO PLEASE REMOVE WANDA H.

Carter from My Pending Appeal, SO I CAN have a fair Appeal, because the Appellant and Ms. Carter have irreconcilable differences, CONCERNING a very important Matter.

due to the fact, that the Appellant PCR Attorney Beth Ramsey Faulkner received the PCR order of Dismissal from Judge Hayes on May 7, 2018. AND ON May 8, 2018. the Appellant PCR Attorney Ms. Faulkner filed her Notice of Appeal in the Supreme Court, AND ON May 17, 2018. Ms. Faulkner filed a Motion to Reconsider, Alter, Amend, AND/or set Aside the order of Dismissal executed by the Honorable Judge, Mark Hayes, II AND Such Motion shall be based upon South Carolina Rules of Civil Procedure Rule 59, AND Rule 60.....

AND the reason Why the Appellant PCR Attorney Ms. Faulkner filed This Motion..... because IN Judge Hayes outlined decision dated February 27, 2018..... IN the instruction to Ms. Faulkner With a ruling ON the Matter CONCERNING the Appellant Post-Conviction Relief hearing, the Honorable Judge Mark, II instructed Via email to Counsel.

" While the record indicates that second Counsel may have NOT have been aggressive and thorough in her representation of Applicant (AND arguably deficient). the guilt of the Applicant was clearly established and thus, the conclusion

So therefore Without Judge Hayes finding indicated in the order of Dismissal, I cannot receive a fair Appeal,..... because the Supreme Court. Will Not Consider the Matter, UNless Judge Hayes finding in outlined decision dated february 27. 2018. is

that error by Counsel Was Prejudicial Would be speculative

This finding is NOT set forth in the Court's order of Dismissal.....

Ms. Faulkner, Went on to say in her Motion. " Based upon the foregoing Petition and brief, along with the testimony and evidence Presented at the evidentiary hearing..... The Court found that any conclusion that Vanessa Lason Shortcoming Would have been Prejudicial to Applicant outcome would only be speculative. This determination is absurd and contrary to Justice, when considering the evidence Presented of Vanessa Lason cumulative deficient representation, Coupled With a guilty Verdict in Applicant's trial.....

so I brought the above information to Ms. Carter attention, that Ms. Faulkner had told me, that Judge Hayes asked the Attorney General Mr. Hunter to Prepare the formal order of Dismissal,..... but Judge Hayes did not Clarify his ruling in his outline decision dated February 27, 2018. regarding the two Prongs of Strickland v. Washington. so Ms. Faulkner had filed a Motion for a 59(e) Ruling, to get the above mention information indicated in the order of Dismissal, because the Court is required to use a two-Prongs test in evaluating allegations of ineffective Assistance of Counsel,..... Which Judge did not do in his outlined decision dated February 27, 2018.

because Judge Hayes had based his total outlined decision on the ground of the Appellant's guilty verdict at his Jury trial, which is illegal.....

So on October 5, 2018. Ms. Carter wrote me a letter stating "that My PCR Attorney filed her Notice of Appeal from the PCR order of Dismissal on May 8, 2018. So when the Notice of Appeal was filed, My PCR Case was transferred to the Appellate Court Jurisdiction, for My PCR Appeal. Thereafter, the Motion to Reconsider/Alter/Amend (Presumably a Rule 59(e) Motion) that was filed by Your PCR Attorney in the Lower Court on May 17, 2018. Was filed after the Appellate Court Jurisdiction attached per the May 8, 2018. Notice of Appeal date, therefore the Reconsideration Motion was not reviewable by the Lower Court,

Which I totally disagree with Ms. Carter's statement, because according to Case Law Hudson v. Hudson, 298 S.C. 215 (1986). "The Supreme Court now holds that the service and filing of a Notice of Appeal before the filing of a timely Post-trial Motions under Rule 59, by any Party does not deprive the Lower Court of Jurisdiction to consider the Motion....."

So if the language in Hudson v. Hudson, is applied to My Case, Then Ms. Carter is providing me with ineffective assistance of

Counsel, When the Sixth Amendment, guarantees Me effective Assistance of Counsel, because MS. Carter is giving Me some Misleading information concerning My timely Post-trial Motion Under Rule 59. And demanding to file a PCR Appeal Petition on My behalf in the Appellate Court, Without the Lower Court reviewing My timely Post-trial Motion Under Rule 59.

Wherefore, for the stated reason(s) I James A. Giles respectfully Motion this Honorable ^{Court} to Relieve Wanda H. Carter as My Pending Appeal Attorney in the Appeal Court, And Provide Me With another Attorney, so I can Pursue My Pending Appeal effectively, because Me and MS. Carter have irreconcilable differences, And MS. Carter is Very disrespectful, And don't have My best interest at heart, so therefore respectful I really do believe, that I can't receive a fair Appeal, With MS. Carter representation, due to the fact that MS. Carter is demanding to file her Petition, Without Waiting on the Lower Court ruling on My PCR Attorney timely Post-trial Motion Under Rule 59, When I really do need Judge Hays outlined decision, to be indicted in the order of Dismissal, for the purpose of the Appellate Court to Consider the Matter, that Judge Hayes did not Clarify his ruling in his outlined decision regarding the two Prongs of Strickland v. Washington. because Judge Hayes based his total outlined decision, on a guilty Verdict from the Appellant Jury trial which is not the Proper remedy for a Post-Conviction Relief hearing

So therefore Without Judge Hayes finding indicated in the order of DisMissal, I cannot receive a fair Appeal,..... - because the Supreme Court, Will Not Consider the Matter, UNless Judge Hayes finding in his outlined decision dated February 27, 2018, is list in the order of DisMissal dated May 7, 2018. And Ms. Carter KNOWS this,..... because on July 18, 2018, Ms. Carter Wrote Me a letter, And it Stated, the Supreme Court Can ONLY Consider the information that is in the PCR Court's order of DisMissal, before it be raised to the Supreme Court,..... but Ms. Carter is still demanding to file her Petition With^{out} Waiting ON the Lower Court ruling, ON My timely Post-trial Motion UNDER Rule 59. SO Judge Hayes outlined decision, Can be indicated in the order of DisMissal,.....

Respectfully Submitted

JAMES A. Giles #264478

Tyger River C.I. Unit 8-RM 227

200 Prison Road

ENoree, S.C. 29335

Spartanburg, S.C.
October 15, 2018

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

JAMES A. GILES

Appellant,

VS.

STATE OF SOUTH CAROLINA

Respondent,

Appellate Case NO. 2018-1000880

CERTIFICATE OF MAILING

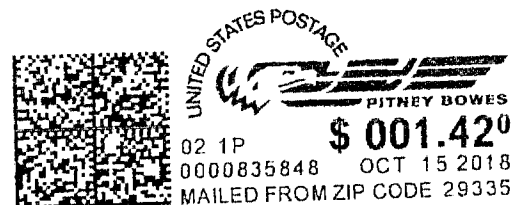
I James A. Giles Certify that on the 15 day of October 2018, I served a copy of the Motion TO RELIEVE APPELLATE COUNSEL in the above-referenced matter upon Wanda H. Carter, by depositing same in the U.S. Mail in an envelope with sufficient postage affixed thereto for first class delivery, Address as follows:

South Carolina Commission on Indigent Defense
Division on Appellate Defense
1330 Lady Street, Suite 401
Columbia, S.C. 29211.

JAMES A. Giles #264478
Tyger River C.I. Unit-RM227
200 Prison Road
Endree, S.C. 29335

October 15, 2018

Giles # 264478
er C.I. UNIT 8- RM 227
on Road
, S.C. 29335



The Supreme Court of South Carolina
DANIEL E. SHEAROUSE, CLERK OF COURT
Post office BOX 11330

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