

To: The Supreme Court of South Carolina  
P.O. Box 11330  
Columbia SC 29211

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NOV 09 2018

From: Steven Louis Barnes #322117  
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S.C. SUPREME COURT

RE: Appellate Case No 2018-001253  
Lower Court No. 2015-ALJ-300318-AP  
Barnes v SCL

Dear Court Clerks:

Please see enclosed is my original copy of my motion for Reconsideration of Motion to Recall the Remittitur to be filed in this Court.

I received this Court order denying my motion to recall the Remittitur on October 24, 2018.

— Thanks you for reading my letter

Date: 11/5/2018

Respectfully Submitted  
Steven Louis Barnes

THE SUPREME COURT OF SOUTH CAROLINA

Steven L. Barnes, petitioner,

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v.

NOV 09 2018

South Carolina Department of Correction, Respondent

S.C. SUPREME COURT

Appellate Case No. 2018-001253

Lower Court Case No. 2015-ALJ-300318-AP

MOTION FOR RECONSIDERATION OF MOTION TO RECALL  
THE REMITTITUR

QUESTION I: IS THIS COURT ORDER TO DENY THE PETITIONER MOTION TO RECALL THE REMITTITUR AN INDEPENDANT AND ADEQUATE STATE LAW DOCTRINE WHERE THIS STATE COURTS UTILIZES THE COURT RULES TO DEPRIVE THE PETITIONER TO A HEARING ON THE MERITS OF HIS FEDERAL LAW CLAIMS

FACTS

Regarding the procedural history of this case the petitioner

Crave reference to and incorporate the facts in his motion to Recall the Remittitur in the South Carolina Court of Appeals in order for the "Appellant Timely motion for Reconsideration, for En Banc Hearing to be considered by this Court, and Second Writ of Mandamus against the South Carolina Court of Appeals in which was filed in this Court, and Declaration in support of motion to Recall the Remittitur and Motion to Reinstate the petitioner Appeal in this Court, and Motion to Recall the Remittitur, and Motion to Reinstate the petitioner Appeal in this Court in this motion for Relief

Bluntly, the petitioner is going against the whole state governments of South Carolina: Judicial, Executive, and legislature. Technically, the South Carolina laws as applied to the petitioner by those three branches of governments are unconstitutional under both the state and federal constitutions - This is fundamentally unfair because the state of South Carolina is utilizing these laws to deny the petitioner of hearing on his ineffective assistance of counsel claims in his one hundred page brief that was filed in both this Court and the Court of Appeals regarding the contested hearing process in the Administrative law Courts. The petitioner had utilized all the laws of South Carolina such as motion to Revoke counsel in both this Court and the Court of Appeals in order to get his ineffective assistance of counsel issues heard in those Courts. The state of South Carolina has not persistently applied their laws adequately to the petitioner.

## LEGAL ARGUMENT I

On October 17, 2018, in which the petitioner had received on October 28, 2018, this Court order denying the petitioner motion to Recall the Remittitur states that Rule 221(A), SCACR; Rule 260(A), SCACR and Case law, *Wise v S.C. Dep't of Corr.*, 642 S.E.2d 551 (2007) are the proper legal Rule "when the remittitur has been properly sent" to the appellate court because the court "no longer has jurisdiction over the matter and no motion can be heard thereafter."

The adequacy of the above procedural rules as applied to the petitioner constitutional federal and state legal arguments regarding this court failure to adopt the *Houston v Lacy* 487 US 266 (1988) mail box rule is in extreme doubt. This court can not utilize legal rules to deny the petitioner access to the courts when this court knows that the petitioner is confined in a penal institution in South Carolina. See *Henry v Mississippi* 379 US 443, 447 (1965) (deciding that in every case the court must inquire whether a state procedural [law] serves a legitimate state interest before it undertakes review of whether that procedural right impinges a federal right)

Plus, this court legal rule concerning inmates handling their legal mail to prison officials has not been persistently applied in this state. See *Lacy v State* 557 S.E.2d 662 (2001) and *cf. Mass v South Carolina* 803 S.E.2d 718 (2017)

for example, in a factually same context of handing the petitioner legal mail to prison officials, this court will not even apply *Mass v South Carolina* 503 S.E.2d 718 (2017) equitable tolling principles to the factual situation of the petitioner case, let alone adopt the *Houston v Lack* *supra* principles to the petitioner situation. see *Ford v Georgia* 498 US 411, 424 (1991) (stating that for an adequate and independent state procedural rule to bar appellate review of constitutional claims, that rule must have been followed consistently); *Hathorn v Lowery*, 457 US 255, 262-63 (1982) (explaining that a state procedural ground is not adequate unless the procedural rule at issue has been applied everhandedly to all claims of the same type); *Barr v City of Columbia*, 378 US 146, 149 (1964) (ruling that state procedural requirements which are not strictly or regularly followed cannot deprive us of the right to review); *NAACP v Alabama ex rel. Patterson* 351 US 449, 457-58 (1956) (noting that states novel procedural requirements must not impede the supreme court ability to review the claims of those who chose to vindicate their federal rights in state courts)

lastly, this court October 17, 2018, in which the petitioner had received on October 24, 2018, order denying the petitioner motion to recall the peremptory had indirectly addressed the constitutional arguments in the motion this court had denied. see *Michigan v Long* 463 US 1032, 1041-42 (1983) (stating that when a state court decision seems to be based on federal law and when the adequacy of the state law ground is not clear from the face of the opinion the supreme court will assume that the state court decision was based

based on its interpretation of the federal law at issue.)

CONCLUSION

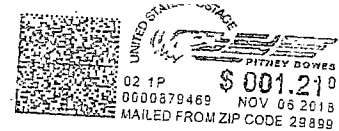
The petitioner contends that his ineffective assistance of counsel issues that he'd persistently tried to raise in this court and the court of appeals are exhausted because of the inadequacy of the procedural law rules of South Carolina as applied to the petitioner. See *Henry v Mississippi*: 379 US 443, 447 (1965) (stating that allowing a state procedural rule to preclude review of a federal right prevents implementation of the federal right)

The petitioner pray that this court grant this motion and such other and further relief this court seems just and proper.

Date: 11/5/2018

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