

NOVEMBER 26, 2018

Hon. Daniel E Shearouse

Clerk of court of South Carolina

P.O Box 11330

Columbia S.C 29211

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P.C.I. MAILROOM

S.C. SUPREME COURT

RE: Scotty M Brown v. State Appellate case No. 2018-001951

Lower court case No. 2017CP4200854

Dear, Mr. Shearouse: Hon,

I filed a notice of Appeal in my case because my Attorneys of record Richard w vieth failed to consult with me about the status of my 59(e) motion and memorandum that support of 59(e) Finding of facts, Support by conclusions of law, and motion to supplement the record. See attached letters.

Before the order of Dismissal was filed in my case, I specifically instructed him to file these motions Because the order of Dismissal was not accurate. The order failed to address each and every allegation That I filed. there was also a misrepresentation of The facts, in light of the evidence submitted.

I filed the notice of Appeal because the time limit was expired. I didn't want to lose out on my post-trial motion or an appeal. My Desire or and wish for Attorney Vieth to file my memorandum that support of 59(e) motion.

The Attorney have a mandatory obligation to discuss the manner and method for taking and Appeal and then.

Deciding the clients wishes; to see if they choose, to appeal or not appeal or file post-trial motions. the ultimate decision is the clients/defendants alone. See Roe v. Flores-Ortega, 120 S. Ct 1029 and James v. Barnes 463 US 745. / The notice of Appeal that I filed in this court is Null and void based upon Hybrid representation. My Desire is for my 59(e) motion and memorandum that support of 59(e) be heard in the lower court, spartanburg county Common Plea court. Any action of Attorney Veith to file or co-sign a Notice of Appeal is also Null and void because The 59(e) motion was filed by attorney veith. Appellant Brown have not signed any kind of waiver stating that I want Attorney Veith to file a Notice of Appeal None consultation between Attorney and client has caused this problem.

I Am requesting that you hold my notice of Appeal in obeyance pending my post-trial motion that was filed by Attorney Veith.

I, Scotty M. Brown #257869 certify and verify under The penalty of perjury that foregoing is true and correct

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Scotty M. Brown 257869

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
County of Spartanburg)	IN THE SEVENTH JUDICIAL CIRCUIT
)	Case No.: 2017-CP-42-0854
Scotty Brown, #257869)	
APPLICANT,)	MOTION TO SUPPLEMENT THE
V)	PCR RECORD
State of South Carolina)	
RESPONDENT.)	

The Applicant, Scotty Brown, #257869, through his attorney Richard Veith, respectfully moves this Honorable Court to allow the Applicant to supplement the PCR record to rebut an argument posed by the Respondent, Fletcher Smith, esquire.

A PCR hearing was held on June 22, 2018, in the Spartanburg County Common Pleas Court on the above entitled parties. The Applicant was represented by Richard Veith of the Spartanburg County bar. The state was represented by the S.C. Attorney General's Office. The Honorable Gracie Knie presided over the PCR hearing.

At this time, the Applicant moves to supplement the PCR record, because opposing attorney Fletcher Smith's testimony did not accurately reflect the true facts as they were before trial.

Attorney Fletcher Smith stated on the record, that the Applicant Scotty Brown was subjected to a Life Without Parole (LWOP) sentence upon conviction. See attached conviction summary report.

Applicant's first conviction was in 1999 for trafficking. Applicant was released in 2003. Applicant's next conviction was April 1, 2015 (2014-GS-42-01804-05) Distribution of Heroin. According to S.C. Code Ann. 44-53-470(a)(3) and 44-53-470(b), the trafficking in 1999 should not have been counted as a conviction for enhancement, which would make the April 1, 2015 conviction a first offense. Had attorney Fletcher Smith applied S.C. Code Ann. 44-53-470(a)(3) and 44-53-470(b) to Applicant's case as it should have been, Applicant's conviction of Distribution of Heroin (2014-GS-42-03942) should be a second (2nd) offense, which would nullify the possibility of a LWOP sentence upon conviction. This misrepresentation of the facts in light of the true evidence denied the Applicant a fair proceeding.

Applicant has rebutted the misrepresentation of the facts by attorney Smith. Had attorney Fletcher Smith fully investigated the Applicant's prior conviction and time limits before giving him erroneous advice about a LWOP sentence, the outcome of the proceedings would have been different.

Applicant respectfully requests this Honorable Court to grant relief to him. This supplementation is submitted in good faith.

Respectfully Submitted,

Richard Veith, esquire
Attorney for Petitioner

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PC.I. MAILROOM

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OCTOBER 1, 2018

ATTN: RICHARD W. VIETH, ESQUIRE
OF HENDERSON, BRADY, & VIETH, P.A.
360 EAST HENRY ST., STE 101
SPARTANBURG, SC 29307-2646

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P.C.I. MAILROOM

FROM: SCOTTY BROWN, #257869
: 2017-CP-42-00854

Re: RULE 59(e) FINDING OF FACTS, SUPPORTED BY CONCLUSIONS OF
LAW & NOTICE OF APPEAL

: DEAR, MR. VIETH,

I AM INSTRUCTING YOU TO FILE A 59(e) FACTS OF
FINDINGS SUPPORTED BY CONCLUSIONS OF LAW IN MY CASE
WITHIN (10) DAYS OF THE JUDGES RULING OR (10) DAYS OF
YOU BEING AWARE OF THE JUDGES ADVERSE RULING. I ALSO
INSTRUCT YOU TO FILE AN NOTICE OF APPEAL WITHIN THE
(30) DAY APPEAL TIME LIMIT. I ALSO WANT TO PURCHASE A
COPY OF THE COURTS TAPE/DISK ALONG WITH THE P.C.R.
HEARING TRANSCRIPT TO CHECK THAT IT IS ACCURATE. I
WANT THIS IMMEDIATELY LONG BEFORE AN ATTORNEY IS ASSIGNED
MY CASE IN THE APPEAL PROCESS. PLEASE FURNISH ME WITH THE
COURT REPORTERS NAME AND ADDRESS. PLEASE MOVE ON THESE
INSTRUCTIONS AS TO ASSURE ME A FAIR APPEAL PROCESS. THANK
FOR YOUR TIME AND I LOOK FORWARD TO YOUR RESPONSE.

IT IS MY BELIEF THAT IF THEY AGREE TO THE APPEAL THEN
THE MOTION TO FILE AN 5910 SHOULD APPLY AS WELL BECAUSE
TO DENIED THAT MOTION WOULD EQUAL TO AN BASH FROM BY
THE COURT # IN ORDER TO DENY ME RIGHTS AFFORDED BY THE
CONSTITUTIONAL KNOWN SUCH AS DUE PROCESS CLAUSE OF THE
FOURTEENTH (14TH) AMENDMENT - U.S.C.A. CONST

RESPECTFULLY SUBMITTED

Scotty M. Brown
SCOTTY BROWN, #257869

THE HEREBY UNDERSIGNED STATE UNDER THE PENALTY OF
PERJURY THAT HE HAS SERVED INSTRUCTIONS UPON "RICHARD
VA VIETH ON THE 2 DAY OF Oct, 2018 BY THE
UNITED STATES POSTAL SERVICE CERTIFIED RETURN RECEIPT

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OCT 02 2018

P.C.I. MAILROOM

NOVEMBER 8, 2018

Attn: Richard W. Vieth
Henderson, Brandt & Vieth P.A
360 East Henry Street, Ste 101
Spartanburg, S.C 29302-2646

From: Scotty Brown #257869

Case: 2017-CP 42-00854

RE: Memorandum that support of 59(E)

DEAR, Mr. Vieth,

How are you Doing? I hope well. my mom Annette
Been trying to Get in touch with you. I'm Respectfully
Asking you to send me a copy of Memorandum
in support of 59(E) I asked you to file for me.

Please forward me this for my Records.

I'm talk about the second one
on (10-9-2018)

Respectfully Submitted

~~Scotty B~~

Scotty Brown, #257869

The Hereby undersigned state under the PenALty of
Perjury that He has served Instruction upon "Richard W
Vieth on the 9th, Day of November 2018 by the

United States Postal Service Certified Return Receipt'

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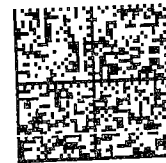
Tamara Conwell 11/9/2018
My Commission Expires
September 25, 2023

P.C.I. MAILROOM

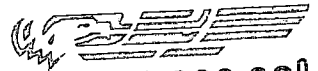
Scotty Brown #257869
Perry Correctional Institution
430 Oaklawn Rd
Pelzer, S.C. 29669

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Hon. Daniel Shearouse
Clerk of Court
The Supreme Court of South Carolina
P.O. Box 1330
Columbia S.C. 29211



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