

JOSE ALBERTO MALDONADO, #312648
Kershaw Cl. Hickory/Room #244
4848 Goldmine Highway
Kershaw, South Carolina

Issued Date: November 2018

IN THE SUPREME COURT
HONORABLE DANIEL E. SHEAROUSE
CLERK OF COURT
POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

RECEIVED

DEC 07 2018

S.C. SUPREME COURT

Re: Jose Alberto Maldonado v. The State, Lower Court Case, No. 2015CP2304747,

Appellate Case No. 2017-002092

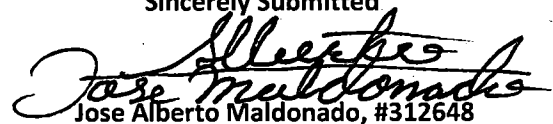
Dear Clerk of Court:

The Petitioner, file enclosed an original; **MOTION TO RECALL THE REMITTITUR**. Include a **CERTIFICATE OF SERVICE**, have been attached below this Petition, Subject to (Attachments: A - 1, A - 2, & A - 3); (Attachments: B - 1, & B - 2); (Attachments: C - 1, & C - 2); (Attachments: D - 1, through D - 7); (Attachments: "E - I, through E - IV"); (Attachments: F - 1, F - 2, & F - 3); and (Attachment: G - 1).

Please if this files meets your approval to Honorable Court, file a copy to Honorable, Donald Betty, C.J., included each one of fourth judges had been signed the ORDER, from August 02, 2018. In this Supreme Court.

Thank you for your valuable time in this matter, and I looking forward a hearing with this Honorable Court, concerning the content of this motion.

Sincerely Submitted


Jose Alberto Maldonado, #312648

The Petitioner, Pro - se.

Cc: Megan Harrigan Jameson, Esquire.

THE SUPREME COURT OF SOUTH CAROLINA

Jose Alberto Maldonado, # 312648, Petitioner,

v.

State of South Carolina, Respondent.

Lower Court Case No. 2015-CP-23-04747

Appellate Case No. 2017-002092

RECEIVED

DEC 07 2018

S.C. SUPREME COURT

MOTION TO RECALLING THE REMITTITUR

JOSE ALBERTO MALDONADO, # 312648
KERSHAW CORRECTION INSTITUTION
HICKORY, A \ ROOM, 244
4848 GOLDMINE HIGHWAY
KERSHAW, SOUTH CAROLINA 29067

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CASES:

To Honorable Judge, Donald W. "Don" Betty, C.J., and Fourth Judges its signature Order:

Mr. Jose Alberto Maldonado, # 312648, Petitioner, pro se, moves the South Carolina Supreme Court. Pursuant to Rules, Rule 60(b), (1-4), SCRPC, Rule 220, SCACR, against the Rule 221 SCACR.

The Petitioner brought an action against the lower Court's "REMITTITUR Case No. 2015-CP-23-047(57)," in order to petitioner's original fourth post - conviction relief action "Case No. 2015-CP-23-04747". This Court did not have been denied the (4th PCR. Act. Application) from the lower court. And after the South Carolina Supreme Court, responded to Petitioner's Legal letter dated October 17, 2017. Appellate Case No. 2017-02092, had\or have been involved to Petitioner's notice of appeal in PCR. C/#:"2015CP2304747". (See, Exhibit:(2), Subject to Appx.:(A)(2))(R. P. ii. ROA). Brief in Opposition to Order Intend to Dismiss Petition for a Writ of Certiorari; the Petitioner explained to Hon: Court that mistake from respondent above the wrong case number of "2015CP2304757". See id.

So now for those reasons the South Carolina Supreme Court recently dismissed petitioner's notice of appeal with a resent order denying his fourth application for post – conviction relief (PCR. Action). Upon the (State) respondent's wrong case number, the filed ordered enter on August 2, 2018". "(See, Attachments: A-1, & A-2)."

An error of mistake, inadvertence, surprise, or excusable neglect; had been introduced the respondent's wrong case number of "2015-CP-23-047(57)". (See, Appx.:(f)(14)(R. P. 106. Line 24.ROA); and (Appx.:(f)(25)(R. P. 117 lines 1 through 21, & R. p. 118. Lines (1 – 3). ROA). Rule 60(b)(1), SCRPC. And Rule 220(a)(b)(D), SCACR. The rule 221, SCACR. No longer have jurisdiction over the order from "August 2, 2018." The South Carolina Supreme Court "ORDERED IS NULL & VOID" if a Court acts without personal jurisdiction. ^(Fn.1) Rule 60(b)(4), SCRPC.

1. State v. Barnes, 413 S.C. 1, at 4, 774 S.E.2d 454, 456-57 (2015); Carpenter v. Lewis, 65 S.C. 400, 43 S.E. 881 (1903)(quoting, Sullivan v. Speights, 14 S.C. 358 *1880) ... The Court's exercise of personal jurisdiction over a remittitur with the wrong (PCR. Action)'s case No. 2015CP2304757 "will not be disturbed on appeal unless wholly unsupported by the evidenced or controlled by error of law". Ex parte S.C. Dept. of Revenue, 350 S.C. 404, 566 S.E.2d 196 (S.C. App. 2002); Browder v. Director Dept. of Corrections of Illinois, 434 U.S. 257, 98 S. Ct. 556, L.Ed.2d 521 24 Fed. R. Serv. 2d 749 (1978). Fed. Rules Civ. Proc., rules 52, 52(b), 59(b), and 60(b) 28 U.S.C.A. Judgment of Court of Appeals reversed.

FACTS/PROCEDURAL HISTORY

On July 31, 2015 Jose Alberto Maldonado brought a fourth post – conviction relief Action, application in the Greenville County’s clerk of court, the clerk “enclosed petitioner a copy of post-conviction relief application”. And returned to petitioner’s **“original docket number of 2015CP2304747.”** (See, Appx.: **(J)(R.p. 318.ROA)**). Thus, the Petitioner filed a **PCR Act. Application**, against the (State) respondent, between the **“State Grand Jury”** after Petitioner discovery that general session court term, had been failed to “subject matter jurisdiction.” Inside of Maldonado’s Criminal case upon the indictment for a second offense which it’s not a true bill indictments, there’s not a true bill indictments that petitioner have been convicted with the lower court. When the Petitioner discovered that conviction was not vested to the state grand jury from Columbia South Carolina he filed a **(4th PCR Act. Application)**. See § **17-27-45(C). Rule 60(b)(2 – 5), SCRPC**. And for this reason the conviction should be totally vacated; here the Petitioner asked for an evidentiary hearing for **“newly discovered evidence”** which that State failed to present the hold records the petitioner have been convicted for a **second offense** within the true bill’s indictment, and the Respondent didn’t presume that sentence is correct with an a fraudulent indictments’ that facts had been discovered on **“April 17, 2015.”** (See, Appx.: **(P), (2 –of- 51)(R.Pp. 388-437.ROA)**; and **(Appx.:(Q) (1 through 34)(R.Pp.4 38-of-497.ROA)**. Rule **60(b), SCRPC, and S.C. Code Ann. § 17-27-45(C)**.

Therein, that general session court failed to answer Mr. Maldonado’s (“Motions under the **Rule 60(b), SCRPC**), including that motions petitioner had been filed and issued of rule 60(b), SCRPC, neither the **“SUMMONS AND COMPLAINT, AND A MOTION FOR DEFAULT JUDGMENT,”** (See, Appx.: **(2-of- 22)(R.Pp. 473-495.ROA)**, The Petitioner filed on **May 26, 2015, Ex parte South Carolina Dept. of Revenue**, 350 S.C. 404, 566 S.E.2d 196 (S.C. App. 2002). This Court have to support the rule **60(b) SCRPC** Against their own order from **August 2, 2018**. “Because the remittitur didn’t have jurisdiction with this Court. And the filed ORDERED is null & void. Upon the lower court’s wrong case number **2015CP2304757** pursuant to the rule 221. SCACR.” **Carpenter v. Lewis**, 65 S.C. 400, 43 S.E. 881 (1903)(quoting, **Sullivan v. Speights**, 14 S.C. 358 (1880)(These Courts cannot entertain a motion for a rehearing of a case decided by it, after the remittitur has been properly sent to the court below.

There being a vacancy in the Supreme Court, the two remaining justices constitute the court under

That terms of Rule 60(b), SCRPC, and Rule 220, SCACR, by Article IV. § 2, of the Constitution are competent to discharge all of its functions.

The South Carolina Supreme Court reversed the ORDER by correcting the error of mistake from respondent, had been wrongly appear with such erred of mistake, inadvertence surprise or excusable neglect, to exchange the original case number of '2015CP2304757' in the Petitioner's (4th) PCR. Action, Application. After Respondent answered with the ("RETURN AND MOTION TO DISMISS, issued on March 8, 2017").

And the CONDITIONAL ORDER OF DISMISSAL, issued on March 13, 2017, (see, also the "FINAL ORDER OF DISMISSAL" at Appx.:(F)(126-127.ROA.). See id., at the "State Respondent's Final Order of Dismissal, (R. P. 219 lines 3 – 10. ROA). In response from the lower court's "Conditional Order of Dismissal" the Respondent erroneously assert that "Jose Alberto Maldonado, Applicant," (1) the Applicant "in correctly asserts" respondent and the lower court have used the (4th PCR. Act.)'s wrong civil action number; (2) respondent didn't review all filed documents in this action and the "PUBLIC INDEX", both indicate the civil action number for this action is incorrectly listed as 2015-CP-23-04757; and (3) that Applicant also asserts in his allegations there are various inconsistencies in his file dates or other inaccuracies in both his current or prior "post – conviction relief actions applications" which he characterizes as "fraudulent records". (See, "Appendices"; Appx.:(E)(1 through 54)(R. Pp. 39 – 92. ROA).

Hereby Petitioner, at the time he filed the (4th PCR. Act. Application)'s "Rule 59(f), SCRPC, Motion", in "support to filed MOTION OF GRANTING APPLICANT's Rule 59(e), SCRPC, and have been supported to "Rules, rule 59(b), and 60(b), SCRPC. (4th PCR. Act. Doc. 7)." I.e., See e.g., Browder v. Director, Dept. of Corrections of Illinois, 434 U.S. 257, 263-64, 266, 98 S. Ct. 556, 560-6, 562 L. Ed.2d 521 24 Def. R. Ser. 2d 749 (1978). (See, Appx.:(E)(8 through 31). As the "ORDER GRANTING APPLICANT's RULE 59(e); in support to Rules, Rule 59(b), & 60(b), SCRPC". Petitioner have been rise to "Honorable Perry H. Presiding 4th PCR. Act. Judge" to sign the Applicant's ORDERED, for the relief has been sought.

Therefore, the reasons the Petitioner, rejected the Court's order and he asked that this Court "Rule 59(f), SCRPC, should be granted. In Conclusion of law, when the 4th PCR. Act. Judge failed to sign the ORDER. See id. (Appx.:(E) (8 through 31).

STANDARD OF REVIEW

The Court's exercise of personal jurisdiction over a "case number 2015CP2304757" will not be disturbed on appeal unless wholly unsupported by the evidence or controlled by error of law." This Court did not have jurisdiction over its **ORDER** of dismissal on August 2, 2018, and a "void judgment is one that, from its inception, is a complete nullity and is without legal effect and must be distinguished from one which is merely "voidable."" 46 AmJur2d Judgments Section 31 (1994).

Generally, a judgment is void only if a court acts without jurisdiction. (See, Attachment: A – 1, A – 2, & A – 3). From August 2, 2018, this Court did not have to use a wrong "Case No. 2015-CP-23-04757" in the face of the "Appellate Case No. 2017-002092" (See, Attachment: B – 1, & B – 2). **ORDER** from May 3, 2018. The question to this Court's in the (Attachments: D – 1, through D – 7); and (Attachments; "E – I", "E – II", "E – III", & "E – IV").

The South Carolina Supreme Court, answered with an "Order from October 23, 2017" see such order ("Attachments: F – 1. Fn.1"). This Court stated that:

The Petitioner's notice of appeal, indicate that the lower court case number is 2015CP2304747. And then this Court changed the wrong case number to actually support the respondent's wrong "Case No. 2015CP2304757". See the (Attachments: F – 2, & F – 3)(this Court, addressed not facts to see the full case, and argued it in light of this mistake, it appears that there is no reason for this Court to consider Petitioner motion to hold this case in ("ABEYANCE") since the circuit court has indicated that it will issue no further ruling in this case. Of "2015CP23047 (57)" where there isn't a Petitioner's right case number. See also page 3 of this Motion's (Appex.:(F)(R. Pp. 126 – 128.ROA). That "Final Order of Dismissal" the lower court signed and issued on July 21, 2017.

Ex parte South Carolina Dept. of Revenue, 350 S.C. 404, at 408, 566 S.E.2d 196, 199 (2002)(quoting, Thomas v. Howard Co. v. T. W. Graham & Co., C., 286, 291, 457 S.E.2d 340, 343 (1995)(Citing Ross v. Richland Co., 270 S.C. 100, 240 S.E.2d 649 (1978). This court has consistently adhered to the rule that acts of a court without jurisdiction are without effect. See, (quote, State v. Funderburk, 259 S.C. 256, 262, 191 S.E.2d 520, 523 (1972)(quoting, Ross v. Richland County, at 240 S.E.2d 649, at 651.; This Court rule it in Ex parte Hart, 186 S.C. 125, 133, 195 S.E. 253, 256 (1938): Holding, the follows:

"It is a universal

Principle as old as the law that the proceedings of a court without jurisdiction are a nullity, and its judgment without effect, either on the person or property."

The lower court, upon finding it, lacked jurisdiction, and was therefore without power to order the case transferred; under “**case number 2015CP2304757.**” This Court reversed that portion of the order purporting to transfer the case to the “Court of Common Pleas and dismiss the action to Respondent’s wrong case number. See id. State v. Funderburk, 259 S.C. 256, 262, 191 S.E.2d 520, 523, the “ORDER” From Donald W. “Don” Betty, Chief Justice or the intermediate ruling of (fourth judges) signed on August 2, 2018, proceed of this Honorable Court without jurisdiction are a nullity, “for principle as old the law”. Whether ford, even if it be assumed that he had the right to do so.

Blandshaw v. State, 245 S.C. 385. 140 S.E.2d 784 (1965). Reversed and remanded for a hearing. When a Petitioner is entitled to hearing depends on sufficiency of Petition to state ground for issuance of Writ of Habeas Corpus. Because a Petition for Writ of Habeas Corpus is properly dismissed if it contains no allegations which warrant issuance of Writ. **28 U.S.C.A. §§ 2244, 2254.**

A petition for writ of habeas corpus must contain adequate statement of facts to make possible preliminarily an intelligent judgment on possible merits of petition. “A habeas corpus petition must at least make a prima facie showing entitling petitioner to relief.”

The jurisdiction of a grand jury is co – extensive with the criminal jurisdiction of the court in which it is impaneled and for which it is to make inquiry. **42 C.J.S. Indictments and Information § 17, page 855; 38 C.J.S. Grand Juries Section 34b, Page 1029.** The South Carolina Supreme Court had, or have been without jurisdiction, and failed to amend the prior order at issue of respondent’s wrong case number, but this **Court amended** the Petitioner “reference to a **murder conviction** and instead referencing Petitioner’s prior conviction for trafficking more than 28 grams of cocaine (**Ind. 2003-GS-23-04547**), possession of cocaine with intent to distribute within a half-mile of a school; (**Ind. 2003-GS-23-04545**); and trafficking more than 400 grams of methamphetamines, with a conspiracy to traffic between 28-100 grams of methamphetamines, “**second offense**” (**Ind., 2005-GS-004726**), counts I & IV). This Court **amend** that Petitioner have been indicted for a “**second offense**” but failed to release any information to Petitioner have being indicted to a “state grand jury for a second offense,”? This Court has knowledge the Petitioner did not have any information dealing with his conviction for a second offense between the state grand jury. No true bill indictment for a second offense, against the Petitioner. (See, Attachment: A-1, & A-2).

State v. Dudley, jurisdiction of the offense charged and the person of the accused is indispensable to valid conviction, **S.C. Code Ann. Section 44-53-375(C)(2)(b)**. See at, 354 S.C. 514, 531- 32, 581 S.E.2d 171, 180-81 (2003); Carter v. State, 329 S.C. 355, at fn.1, 2, 360 495 S.E.2d 776, 777 (1998). (Crack is methamphetamine which is a schedule II. Drug. **S.C. Code Ann. §§ 44-53-370(b)(2), 44-53-375(C)(2)(b)**).

Therefore, the **August 2, 2018. 'ORDERED'** to this Hon: Court said; Petitioner failed to set forth a sufficient reason why this Court should not impose restrictions on Petitioner's future filings relating to those drug convictions. Petitioner answer to this Court "a sufficient reason", with an a **Petition for a Writ of Certiorari**, including the Petitioner's "**Record on Appeal**", see a letter from this Court **January 16, 2018. (Attachment: C-1)**.

And also this Court tried to prohibit the Petitioner from filing any further collateral actions inside the "circuit court" including PCR actions and habeas corpus actions, as well any "motions relating to the previously filed collateral action, challenging indictments (**2003-GS-23-004545, 2003-GS-23-04547, and 2005-GS-47-26, Count I & IV,**) and the convictions and sentences thereon, or any "motions in the underlying Criminal Cases, including a 'Motion pursuant to **Rule 29, SCRCrimP**. Without first obtaining permission to do so from this Court. Enter Rule 60(b), SCRCP.

Motion for relief from judgment under rule providing for relief from judgment under certain enumerated circumstances does not toll time for appeal from or affect finality of "**original judgment under the (4th PCR Action)**. Filed on **July 31, 2015**), were the Greenville County Circuit Court of Common Pleas docket **No. 2015-CP-23-04747**. ^(fn.2)And deny Petitioner's (4th PCR. Act.) Application with a wrong case number, while circuit court lost jurisdiction to grant relief **ten (10) days**, after entry of its judgment directing that, "**Order Granting Applicant's Rule 59(e), In Support of Rules, Rule 59(b), & 60(b), SCRCP**. Filed on **September 15, 2017**. (See, **Appx.:(C)(7 through 10)(R. Pp. 19 – 90. ROA)**).

2. That, Post – Conviction Relief Action Application, with its original number 2015-CP-23-04747. Filed and captioned "**Alternative Petition for State habeas Corpus**," Pursuant to S.C. Ann. Clause 17-17-10/110; and S.C. Const. Art. 1, Section 18; "Motion to Address All Issues", "Initial Brief In Support of The Application For Post – Conviction Relief", with a filed "Amendment To Post – Conviction Relief, Application (4th PCR. Action)". (See, **Appx.:(J)(1 through 11)(R. Pp. 318 – 328.ROA); (Appx.:(K)(1 – 4)R.Pp. 318 – 328. ROA)**; see also a "**Summons**" (**Appx.:(N)(1)(R. p 38. ROA)**); "**Motion To Allow Transfer And Consolidate Cases Pursuant To Rules, Rule 42(a) SCRCP. Subject to Rule 60(b), SCRCP, at the Pending Motions**. (**See, Appx.:(O)(2 – 5)(R. pp. 383 – 385. ROA)**).

Additional findings and amendment of judgment, its power to grant relief from judgment still existed. **South Carolina Rules of Civil Procedure, Rule 52, 52(b), 59, & 60(b), SCRPC.** Browder v. Director Dept. of Corrections of Illinois, 434 U.S. 257, 263, 98 S. Ct. 556, 560, 54 L. Ed. 2d 521 24 Fed. R. Serv. 2d (1978). "The circuit court no longer ha[d] jurisdiction to alter or amend its final order of **July 21, 2017** and the orders whose vacated is sought are void orders." See ante of this Motion Page (1). State v. Cooper, 536 S.C. 389, 400-01, 536 S.E.2d 870, 877 (2000). Rule 60(b), SCRPC, S.C. Code §§, 17-27-70, 17-27-80.

DISCUSSION

A. ARGUMENT:

In challenging the “fourth post – conviction relief action application’s order, Mr. Jose Alberto Maldonado contends the lower court judge erred in finding Mr. Maldonado’s PCR, was filed outside of the one – year statute of limitations. (See, Appx.:(G)(2 – 17)(R. Pp. 222 – 238.ROA). As the (State)’s Respondent requested the application be summarily dismissed based Petitioner’s failure to comply with the statute of limitations pursuant to S.C. Code Ann. Section 17-27-45, and as successive to his prior post – conviction relief applications. (See, Appx.:(G)(6 – 7)(R. Pp. 226 -27.ROA). There is the facts to a wrong case number, and a grounds to this court vacating its own order, against the circuit court’s **“FINAL ORDER OF DISMISSAL”** entered on July 18, 2017. The Hon: **Perry H. Gravely, Presided judge signed, the ‘ORDER’ under a wrong case number**. The orders from the circuit court should be voided. State v. Cooper, 342 S.C. 389, 397, 536 S.E.2d 870, 875 (2000). “The State’s appeal of civil commitment orders directing an attorney general’s office, and funding issue was merely null and void in prior orders before the clerk of court docketed Petitioner or Applicant’s **(4th PCR. Action) application, from July 31, 2015, Case No. 2015-CP-23-04747** was approved by the clerk of court, and the Supreme Court on **October 31, 2017**. (See, Attachment: D – 2). Moses v. State, 420 S.C. 500, 803 S.E.2d 718. Submitted Feb. 9, 2017, filed August 16, 2017).

In PCR actions, the burden of proof is on the applicant. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). “This Court gives great deference to the factual findings of the PCR court and will uphold them if there is any evidence of probative value to support them.” See *Id.*

Summary dismissal of a PCR application without a hearing is appropriate only when; (1) it is apparent on the face of the application that there is no need for a hearing to develop any facts; and (2) the “applicant is not entitled to relief.” Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494-95, (2005); S.C. Code Ann. § 17-27-70(b), (c) (2014). When considering the State’s motion for dismissal of an application, where “no evidentiary hearing has been held” the “PCR judge must assume facts presented by the applicant are true and view those facts in the light most favorable to the applicant.” Leamon, 363 S.C. at 434, 611 S.E.2d at 495. When reviewing the propriety of a dismissal, an appellate court must view the facts in the same faction. *Id.*

State failure to list final judgment on Civil Case No. 2015-CP-23-04747, mandatory this Court reject's prior orders on funding issue or order granting motion for relief from judgment. Rules, Rule 203(b) (1), SCACR, & Rule 60(b), SCRPC. See, Cooper, 398, 536 S.E.2d 875-76. See also (Appx.:(D)(8 -9)(R. Pp. 3 – 31. ROA). Instead Broder v. Director, Dept. of Corrections of Illinois, 434 U.S. 257, at 265. That Petitioner, filed a "MOTION FOR ABEYANCE", see ante of this Motion Page (4); and (Appx.:(P)(14)(R. p. 36. At fn.1.ROA). The Applicant argues under the South Carolina Rules of civil Procedure, Rule 52(a)(b), 54(c)(d), 54(c), (d), 59(b), (e), & (f); and 60(b), SCRPC. Automatically state the time limits for perfecting the appeal with the right (4th PCR. Action application's Civil Case Number 2015CP2304747). The Appellant issue is "PETITION FOR ABEYANCE" to the South Carolina court of Appeals. On **October 4th 2017**.

B. ARGUMENT:

The South Carolina Supreme Court therefore lacked jurisdiction to review the **“Ordered of August 2, 2018.”** And file an ORDER to Respondent answer the Applicant’s **“ORDER GRANTING APPLICANT’S RULE 59(e), TO SUPPORT OF RULES, RULE 59(b), & 60(b), SCRPC”**. By a further proceeding the lower court schedule an evidentiary hearing. In accordance that relief Applicant pursued to **(Appx.:(E)(8). R. Paragraphs (1), (2), & (3). ROA).**

When the Applicant, filed the **‘ORDERED’** to Hon: Perry presided judge to signing. And now for this reason set forth in this Court’s **Rule 220, SCACR, & Rule 60(b), SCRPC**. That (4th PCR Action) application should be granting. **(See, Appx.:(E)(8 – 38)(R.Pp. 46 – 76.ROA)**. This Honorable Court lack of jurisdiction to review de novo its **“Order filed to the lower court’s REMITTITUR”**. When this Court cited and captioned the incorrect case number in the face of **“REMITTITUR”**, stated as follow:

(“Re: Jose A.

Maldonado v. The State lower Court Case No. 2015CP23047(57), Appellate Case No.2017-002092. The Ordered enter on August 02, 2018”). To Honorable Paul B. Wickensimer’s clerk of Court.

Thus, the South Carolina Supreme Court’s Order, is null and void upon the South Carolina Appellate Court Rule 221. Enter **Rule 60(b)(4), SCRPC**. Because the lower court failed to release the information to the (4th post conviction relief action application’s) original docket number under **2015CP2304757**, pursuant to a legal filed between this Hon: Court. On **October 17, 2017**. After Appellant requested to this Court. Holding: the follows, (1) this Court acknowledged clearly, that Petitioner’s notice of appeal, was indicate the lower case number is **2015CP2304747**; and (2) That Supreme Court exchange the number and incorrect cited the actual number of **2015CP2304757**. Yet does not acknowledge the same “PCR’s original number” an issue is the actually a major contention and complaint within the “Petitioner’s Petition.” Pursuant to his “next due process under Rule 243(c), SCACR.” The letter entered on **October 23th 2017. (See Attachment: F-1)(R. p. 9. ROA).**

The Appellant explained to this Court that the lower case number no: **2015-CP-23-04747** in his (4th PCR. Action) application the Petitioner would be cited; upon the face as **(“PETITION FOR A WRIT OF CERTIORARI TO REVIEW AN ALTERNATIVE PETITION FOR STATE HABEAS CORPUS PCR ACTION”)**. (See **Attachment: D – 4).**

Petitioner, also filed the full information ("attachments") concerning the ("4th PCR. Action")'s record true the lower court's clerk. When the clerk of court docket the application from July 31, 2015. **See, the S. C. Code Ann. § 17-27-70. The proof of Petitioner here is (Attachments: D – 1, through D -7);**

And (Attachments "E – I, E – II, E – III, & E – IV"). Such record on appeal against the order's remittitur from this court. **Rule 60(b), SCRPC, and Rule 220, 221, SCACR.**

On an adequate and independent state ground the judgment of the State Supreme Court would be vacated and cause remanded thereto for such further consideration as that court might deem appropriate to clarify the record in Petitioner's Original **(4TH PCR. ACTION APPLICATION, FILED JULY 31, 2015)**. The Order must be "vacated and remanded." See also another mistake to a ("ORDER"), October 11, 2017, by the South Carolina Court of Appeals, when this Court **"TRANSFERRED"** Petitioner's Case to the Supreme Court's clerk, pursuant to **Rule 204(a), SCACR, Appellate Case No. 2017-002092, with the "trial lower court case No. 2008CP2302140.** That is also a mistake by the Court of Appeals. **(See Attachment: F-1).**

Where the record on appeal inside to this Court of Appeals, and transferred it to This Court, did not disclose whether that passed on claim that trial court's denial of access by the press and ("public Index"). **(See, the "FINAL ORDER OF DISMISSAL to July 21, 2017")(Appx.:(f)(127)(R.P. 219. Lines 1 – 6.ROA).** As a pretrial suppression hearing hadn't been scheduled, violated the State Constitution, and Federal Constitution, or whether it denied. "Brief In Opposition to Order Intend to Dismiss Petitioner For A Writ Of Certiorari," on an adequate and independent state ground, judgment of the "State Supreme Court was vacated and cause remanded to that lower court for further proceedings as it might deem appropriate to clarify the records. Philadelphia Newspapers, Inc. v. Jerome, 434 U.S. 241, 244-45, 98 S. Ct. 546, 548 54 L.Ed.2d 506 (1978).

Hereby, the Supreme Court of South Carolina did not affirm the order of the trial judges, at his wrong case number 2015CP23004757. If it had and if there were reasonable doubt as to whether the affirmance were on state or federal grounds, the precedential and res - judicata effects of the affirmance might call for vacating the judgment below Cf. California v. Krivda, 409 U.S. 33, 93 S. Ct. 32 L.Ed.2d 45 (1972). "Judgment affirming a suppression order vacated when it was unclear whether judgment rested on state or federal constitution grounds." **(See, Appx.:(f)(37 – 47)(R. Pp. 128 – 139 ROA).** **Jose Alberto Maldonado v. SCDC (2) Appellate Case No. 2016-001274 Appeal from the (ALJ – S.**

Phillip-Lenski, Administrative Law judge, Unpublished Opinion No. 2017-UP-209 Submitted March 1, 2017 – Filed May 17, 2017. “The Court of Appeals affirmed Appellant’s decision to SCDC that sentence was properly calculated. But there is no record to a “true bill indictment for a second offense with the state grand jury”. This court did not have jurisdiction in the judgment of Rule 220(b), SCACR, ORDERED.

And the following authorities to S.C. Code Ann. § 44-53-375(C)(2)(b)(Supp. 2016). (See, Appx.:(F)(36)(R. p. 129. ROA).

However, the Supreme Court of South Carolina has merely denied extraordinary and discretionary relief without indicating any opinion on appellant’s Constitutional challenge. (See Attachments: B – 1, B – 2). “Order” from May 3, 2018.

Petitioner, are thus presumably free to pursue their challenge through state and federal actions still open to them. Under similar circumstances, where it was unclear whether the lower court denied relief on the merits or because the wrong remedy had been chosen, of “**a case number 2015-CP-23-04757**”; this Court has dismissed the appeal under the wrong (“4th PCR. Action Application”)[?] See, id., at 434 U.S. 245.

I would do that here unless appellant carry their burden of establishing that the decisions of the Supreme Court of South Carolina did not rest on an adequate State ground.

CONCLUSION

It is the judgment of this Court that the judgment of the circuit court be modified so as to conform to the conclusions herein announced.

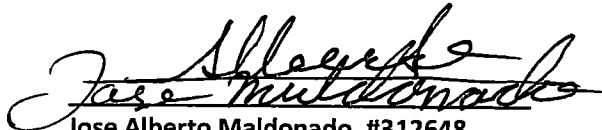
Following Supreme Court's post – remittitur conduct require reversal of Petitioner's conviction on grounds that State request with the wrong case number of (4th PCR. Action application) was this Court improperly denied, petitioner's subsequent "Petition for a Writ of Certiorari" and ignore the error of mistake from respondent's introduction of case number 2015CP2304757 in his previous PCR application, proceeding, and for this reason that Court did not authorize the filed the remittitur in the lower court. That Supreme Court have to vacate the order and recall remittitur and reinstate original Case No. 2015-CP-23-04747, to Petitioner's "4TH PCR. ACTION APPLICATION"; when the Supreme Court did not remand prior appeal, but instead back the wrong case number again?

Now Petitioner pray to Hon: Court to reverse Petitioner's conviction and sentence, leaving the State to decide whether to retry him, when Petitioner have sought alternative relief of remand on appeal, and underlying structural error that Petitioner require showing of prejudice.

In order to justify Supreme Court's exercising the unusual power of sent down the remittitur to circuit court, a very strong showing would be required that the remittitur was sent down through some mistake or inadvertence on the part of the Supreme Court or its officers.

Done this 30 day of NOVEMBER, 2018.

Respectfully Submitted



Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. H-A/Room 244
4848 Goldmine Highway
Kershaw, South Carolina 2067.

THE SUPREME COURT OF SOUTH CAROLINA

Jose Alberto Maldonado, # 312648, Petitioner,

v.

State of South Carolina, Respondent.

Lower Court Case No. 2015-CP-23-04747

Appellate Case No. 2017-002092

CERTIFICATE OF SERVICE

Undersigned Jose Alberto Maldonado pro – se, hereby that on today's date he mailed a copy of the Motion to Recall the Remittitur, to the Clerk's Office Supreme Court, addressed as follows: Post Office Box 11330 Columbia, South Carolina 29211.

Further Petitioner said and certify
In this 30 day of Nov., 2018

SC. Attorney General's Office.
Assistant, James C. Mitchell

P.O. Box 11549
Columbia, S.C. 29211

SWORN to and SUBSCRIBED before Me

This 30 day of November, 2018

Cathrine A. Anoa

NOTARY Public for SOUTH CAROLINA

My COMMISSION Expires: _____

My Commission Expires December 22, 2018

Respectfully, Submitted

Jose Alberto Maldonado
Jose Alberto Maldonado, #312648

Kershaw, Cl. Hickory A/Room, 244
4848 Goldmine Highway
Kershaw, South Carolina 29067

The Supreme Court of South Carolina

Jose Alberto Maldonado, #312648, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2017-002092

(Attachment: A-1)

ORDER

This Court recently dismissed petitioner's notice of appeal of an order denying his fourth application for post-conviction relief (PCR). Petitioner was also given notice and an opportunity to provide reasons why this Court should not impose certain restrictions on petitioner's future filings.

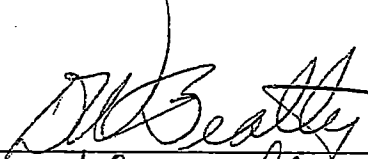
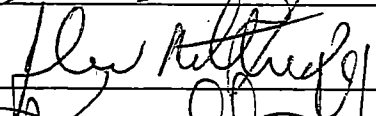
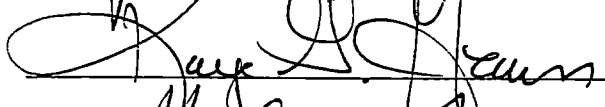


Petitioner has filed a "Brief in Opposition to Order Intend to Dismiss Petition for a Writ of Certiorari." Therein, petitioner seeks reconsideration of this Court's dismissal of his notice of appeal. That request is denied.

With regard to whether restrictions should be imposed on petitioner's future filings, petitioner correctly points out the prior order erroneously referred to a murder conviction. We hereby amend the prior order by deleting reference to a murder conviction and instead referencing petitioner's prior convictions for trafficking more than 28 grams of cocaine (2003-GS-23-004547), possession of cocaine with intent to distribute within a half-mile of a school (2003-GS-23-04545), trafficking in more than 400 grams of methamphetamines, and conspiracy to traffick between 28-100 grams of methamphetamines, second offense (2005-GS-47-26-Counts I & IV).

However, we find petitioner failed to set forth a sufficient reason why this Court should not impose restrictions on petitioner's future filings relating to those drug convictions. We therefore prohibit petitioner from filing any further collateral actions in the circuit court, including PCR actions and habeas corpus actions, as well as any motions relating to the previously filed collateral actions, challenging

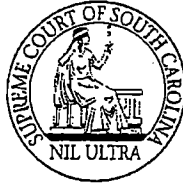
indictments 2003-GS-23-04545, 2003-GS-23-004547, and 2005-GS-47-26-Counts I & IV, and the convictions and sentences thereon, or any motions in the underlying criminal cases, including a motion pursuant to Rule 29, SCRCrimP, without first obtaining permission to do so from this Court.

(Attachment: A-2)

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina
August 02, 2018

cc:
Megan Harrigan Jameson, Esquire
Jose Alberto Maldonado, 00312648
Paul B. Wickensimer



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

(Attachment: A-3)

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

www.sccourts.org

August 02, 2018

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: Jose A. Maldonado v. The State
Lower Court Case No. 2015CP2304757
Appellate Case No. 2017-002092

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

Daniel E. Shearouse
65

CLERK

cc:

Megan Harrigan Jameson, Esquire
Jose Alberto Maldonado, 00312648

The Supreme Court of South Carolina

Jose Alberto Maldonado, #312648, Petitioner,

v.

~~(Attachment: B-1)~~

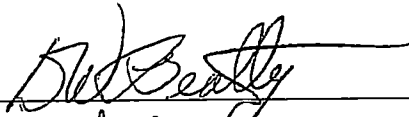
State of South Carolina, Respondent.

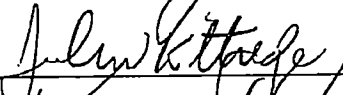
Appellate Case No. 2017-002092

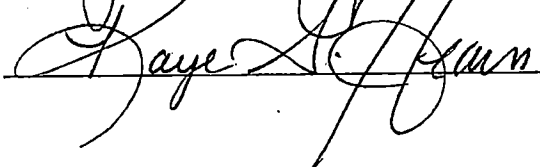
ORDER

This matter is before the Court pursuant to a notice of appeal from the denial of petitioner's fourth application for post-conviction relief. Petitioner has submitted the explanation required by Rule 243(c), SCACR; however, we find petitioner has failed to show that there is an arguable basis for asserting that the determination by the lower court was improper. Accordingly, we intend to dismiss the notice of appeal.

Moreover, because petitioner has filed four applications for post-conviction relief, all of which have been without merit, petitioner shall, within twenty days of the date of this order, provide this Court with any reason(s) he may have why we should not issue an order prohibiting petitioner from filing any further collateral actions in the circuit court, including post-conviction relief actions and habeas corpus actions, as well as any motions relating to the previously filed collateral actions, challenging his murder conviction without first obtaining permission to do so from this Court.


_____ C.J.


_____ J.


_____ J.

~~(Attachment B-2)~~

John Cannon Jr J.
J. James J.

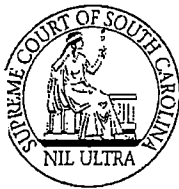
Columbia, South Carolina

May 03, 2018

cc:

Megan Harrigan Jameson, Esquire
Jose Alberto Maldonado, 00312648

(Attachments: C-1)



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

January 16, 2018

Mr. Jose Alberto Maldonado, 00312648
Kershaw Correctional Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw SC 29067

Re: Jose A. Maldonado v. The State
Appellate Case No. 2017-002092

Dear Mr. Maldonado:

This responds to your letter dated January 10, 2017.

A copy of all of the documents filed in the above case are available for viewing or printing without charge at www.sccourts.org/ACMS. Simply enter the above case number in the search screen to retrieve the case.

If you would like this Court to provide you with a copy of the document you filed entitled "Appendix," I can provide a copy for \$146.00. This represents the cost of copying 504 pages at our standard rate of 25 cents a page plus a mailing fee of \$20.00. If you would like a copy, please send a check or money order in the above amount payable to the

South Carolina Judicial Department.

(Attachment - C-2)

Very truly yours,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

CLERK

cc: Megan Harrigan Jameson, Esquire

The Supreme Court of South Carolina

Jose Alberto Maldonado, #312648, Petitioner,

v.

~~(Attachments: D-1)~~

State of South Carolina, Respondent.

Exhibit: (1)

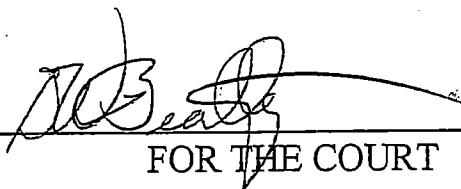
Appellate Case No. 2017-002092

I. Appendix: (A)(1) (Report Page 1 through 3)

ORDER

By letter of this Court dated October 23, 2017, petitioner was instructed to provide the explanation required by Rule 243(c) of the South Carolina Appellate Court Rules (SCACR). Petitioner has now filed a motion asking this Court to direct the lower court clerk to release filings to him, and to grant him an extension until ten days after the receipt of these filings to provide the explanation under Rule 243(c), SCACR.

The motion is denied. Petitioner shall file the explanation required by Rule 243(c), SCACR, within fifteen (15) days of the date of this order.



C.J.

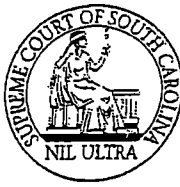
FOR THE COURT

Columbia, South Carolina

November 02, 2017

cc: Megan Harrigan Jameson, Esquire
Mr. Jose Alberto Maldonado, 00312648

(R. P. i- of iii. ROA)



The Supreme Court of South Carolina

Exhibit: (2)

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080

FAX: (803) 734-1499
www.sccourts.org

II). Appendix: (A)(2) (Report page 2 through 3)

October 31, 2017

~~(Attachments: D-2)~~

Mr. Jose Alberto Maldonado, 00312648
Kershaw Correctional Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw SC 29067

Re: Jose A. Maldonado v. The State
Appellate Case No. 2017-002092

Dear Mr. Maldonado:

This responds to your letter dated October 17, 2017. This appellate case involves your notice of appeal in 2015CP2304747

Very truly yours,

CLERK

cc: Megan Harrigan Jameson, Esquire

(R. P. ii - of - iii. ROA)

Jose Alberto Maldonado, # 312648
Kershaw Corr. Inst. MB/Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

Exhibit-(3)

APPX: (A)(3) (Report Page 3)

October 17th, 2017

In The Supreme Court
Honorable Daniel E. Shearouse
Clerk of Court

~~(Attachments: D-3)~~

Post Office Box 11330
Columbia, South Carolina 29211

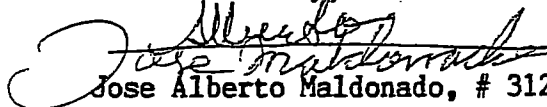
Re: Jose Alberto Maldonado, # 312648 Appellate Case No. 2017-
002092 v. State of South Carolina.

Dear Daniel E. Shearouse:

Enclosed please find the **Petitioner's Time for Appeal**. In The
above captioned petition, with a Certificate of Service.

Thank you for your Valuable time in this matter, in the
reference to the above-captioned, first Post-Conviction Relief
application case. If this Original Copy file, meets your approval,
please, notify the opposite party with this matter, and that
you please notify me with any information above my Petition. By
a return the Petitioner self-address envelope.

Sincerely, Submitted



Jose Alberto Maldonado, # 312648
The Petitioner, pro - se

Enclosures: (1)

Attachments: (3)(A)(B), & (C)

cc:

Megan Harrigan Jameson, Esquire
Rodney Wade Richey, Esquire

(R. P. III. ROA)

Jose Alberto Maldonado, # 312648
Kershaw Corr. Inst. MB/Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

Exhibit: (3)

III). Appendix: (A)(3) (Report Page 1 through 8)

October 25th, 2017

In The Supreme Court
Honorable Daniel E. Shearouse
Clerk of Court

~~(Attachment: D-4)~~

Post Office Box 11330
Columbia, South Carolina 29211

Re: Jose Alberto Maldonado, # 312648, Appellate Case No. 2017-002092 v.
The State of South Carolina.

Dear Clerk, Danil E. Shearouse:

I am in receipt of your October 20, 2017 correspondence, in the above - captioned Appellate Case Number 2017-002092. That you received it from the South Carolina Court of Appeals, and that the "Notice of Appeals" has been transferred.

Please Note: This Honorable Clerk of Court acknowledge's the lower courts filing of the wrong case number (2015-CP-23-04757), yet does not acknowledge the same number and issue is actually a major contentation and complaint within the "Petitioner's Petition." Pursuant to his next due process under the Rule 243(c), SCACR.

Please note the following is the Petitioner's "Lower Court Case No. 2015-CP-23-04747 (4th PCR. Action, ORIGINAL CASE NUMBER) That the Petitioner would be citing; in his "cover sheet of the PETITION FOR WRIT OF CERTIORARI TO REVIEW AN ALTERNATIVE PETITION FOR STATE HABEAS CORPUS POST CONVICTION RELIEF ACTION," also please note the Petitioner's "cover sheet" of this correspondence and see the Petitioner's (4th) (PCR. Action), application, records of proof, "with-in the actual ORIGINAL NUMBER," that the Clerk of Court docket on July 31, 2015." See: (Attachments: "E-I, E-II, E-III, & E-IV."). Hereinafter, entered those records, with this Honorable Supreme Court.

With-in this correspondent, the Petitioner, ask of this Honorable Clerk, that upon meeting with your approval; please clock-stamp my Petition for WRIT OF CERTIORARI, with the (4th PCR. Action's ORIGINAL CASE NUMBER).

However, If you "can not approve Clock - stamping the Original Case Number. Humbly request you please direct the Clerk of

Page 1-of-2 (R. Pages, 1-of-497, ROA)

APPX. (A)(3)(2-OF-8)

Court from Greenville County to release the Original Filing, Clock - Stamped, which is actually "Petitioner's (case No. 2015-CP-23-04757), matching the (Attachments: "E") below this information. Petitioner, Pray to this Hon: Court to granting him 10 more days after this Clerk of Court release any information, and the Petitioner pursuant, the action under Rule 243(c), SCACR. had been received on Oct. 25, 2017.


Thank You For Your Valuable Time and Assistance
With This Matter.

And Also, I looking Forward to hearing from
This Honorable Court sooner, concerning the content
of this information.

With Kind Reads:

~~(Attachment: D-5)~~

Your Truly,


Jose Alberto Maldonado, # 312648
The Petitioner, Pro - Se.

cc:

SC. Attorney General's Office
By Megan H. Jemeson, Esquire

(R.P. 2-OF-497. ROA) 2.

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

Appendix.: (A)(3)(3-OF-8)

Appeal From The Greenville County
Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2017-002092
Lower Court Case No. 2015-CP-23-04747
(4th PCR. Act. ORIGINAL CASE NUMBER)

JOSE ALBERTO MALDONADO, # 312648, PETITIONER,

v. ~~(A)(3)(3-OF-8)~~

THE STATE OF SOUTH CAROLINA, RESPONDENT.


CERTIFICATE OF SERVICE

Undersigned Jose A. Maldonado hereby certifies that on today's date he mailed the Cover Sheet's PETITION FOR WRIT OF CERTIORARI TO REVIEW AN ALTERNATIVE PETITION FOR STATE HABEAS CORPUS CONVICTION RELIEF, with-in a CORRESPONDENCE INFORMATION, ABOVE-CAPTIONED ORIGINAL CASE NUMBER 2015-CP-23-04747. And also the (attachements: "E") to Respondent, addressed as follows: Megan Harrison Jameson, Esquire, 1000 Assembly Street, P.O. Box 11459 Columbia, South Carolina. And the Original Copy addressed To:

In The Supreme Court
Honorable Daniel E. Shearouse
Clerk of Court

Post Office Box 11330
Columbia, South Carolina 29211

Respectfully, Submitted


Jose Alberto Maldonado, # 312648
Kershaw Corr. Inst. MB/Room, # 63

Further, Petitioner said and Certify,

4848 Goldmine Highway
Kershaw, South Carolina 29067

This 25th day of October, 2017 (R. P. 3-OF-497.ROA)

APPX. (A)(3)(4-OF-8)

IN THE STATE OF SOUTH CAROLINA

In The Supreme Court

Appeal From The Greenville County
Perry H. Gravely, Circuit Court Judge

~~(Attachment D-7)~~

Appellate Case No. 2017-002092
Lower Court Case No. 2015-CP-23-04747
(4th PCR. Act. ORIGINAL CASE NUMBER)

Jose Alberto Maldonado, # 312648, Petitioner,

v.

The State of South Carolina, Respondent.

PETITION FOR WRIT OF CERTIORARI
TO REVIEW AN ALTERNATIVE PETITION FOR STATE
HABEAS CORPUS POST CONVICTION RELIEF ACTION

South Carolina
Department of Corrections

Jose Alberto Maldonado, # 312648
Petitioner, Pro - Se

Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw, South Carolina 29067

(R.P. 4-OF-497. ROA)



Office of the Clerk of Court
Paul B. Wickensimer
Clerk of Court for Greenville County
Greenville, South Carolina
www.greenvillecounty.org

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER

2015 JUL 31 PM 2 49

Appx. (A)(3)(5-0F-8)

~~(Attachment: CC-1)~~

JULY 31, 2015

MAR 28 2017 MAR 28 2017
(doc. 5)

JOSE ALBERTO MALDONADO 312648
KERSHAW CORRECTIONAL INSTITUTE
4848 GOLDMINE HWY
KERSHAW SC 29067

Refiled on AUG 01 2017
(4th PCR Act. Doc 6)

MR. MALDONADO,

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS 2015CP2304747

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE SCHEDULED, YOU PROCESS FOR ATTORNEY ASSIGNMENT WILL BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING YOUR CASE.

THANK YOU
CLERK OF COURT'S OFFICE

(R.A. 5-0F-497, ROA)

(Attached: (2))

STATE OF SOUTH CAROLINA)

County of Greenville)

Jose Alberto Maldonado,)

Full name and prison number (if any) of Applicant)

Applicant,)

v.)

APPX: (A)(3)(6-0F-8))

State of South Carolina,)

Respondent.)

Revised on: AUG 01 2017)

(Hm PCR. Doc. 5) (4th))

IN THE COURT OF COMMON PLEAS

~~(Attachment: see IT)~~

MAR 29 2017

(Doc. 5)

APPLICATION FOR

POST-CONVICTION RELIEF

2015-CP-23-0477

FILED-CI
GREENVILLE CO. S.C.
PAUL B. WICK
CLERK
2015 JUL 31
FILED
MAR 29 49

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Greenville County Detention Center,
20 McGee Street Greenville South Carolina.
2. Name and location of Court which imposed sentence Greenville County Court-
house 305 East North Street Suite 325 Greenville SC. 29601
3. Name(s) of co-defendant(s) (if any) Mrs. Lisa Lavern Ramirez, Mr. John Nelson
Turner, See, others at the C/A#: 05-GS-47-0026, Unknow Co-Defendant(s).
4. The indictment number or numbers (if known) upon which and the offenses for which
sentence was imposed: 2005-GS-47-0026/2003-GS-23-45-0047/03-GS-23-45-0045
(a) Count I, Direct Indictment/28-100 grams, 2nd offense, (7-30 years), & (IV)
(b) At the Sentencing Sheet; The Dec. 13, 2005 Indictment, have count (Two).

(R. A. G - OF - 497. ROA)

1

(Attached: (3))

APPX. (A)(3) (7 of 8)
STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

MAR 29 2017

(Attachment III)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,

Applicant, Pro se,

AUG 01 2017

Retired on:

v.

(4th PCR Act. Doc. 6)

State of South Carolina,

Respondent.

Case No. 2015-CP-23-047-57

MAR 28 2017

(Doc. 5)

AMENDMENT TO POST CONVICTION
RELIEF APPLICATION
4TH PCR. ACTION

(Rule 15(a)(b), SCRCP)

4357

FILED IN COURT
GREENVILLE CO. S.C.
PAUL G. WICKENSIMMER
JAN 5 PM 2 20

The Applicant hereby amended answers to number [4 through 19] of his Application for Post-Conviction Relief Action, to state the following:

1. The indictment C/A#:2005-GS-47-0026, upon which the offenses for which sentences was imposed, therein's in violation of 5th, 6th and 14th Amendments to the United States Constitution, and the S.C. Article I, §§ 11, 14; art. V, § 22. That grounds to Applicant's allegations are being held in custody unlawful. Setting this claims an evidentiary hearing. Under Arnold v. State, 309 S.C. 157, 160, 420 S.E.2d 834, 842 (1992);

2. [Ground 4(a)]. The indictment numbers upon which the sentences was imposed, violated the S.C. And U.S. Constitution;

The prosecutor's broadening the charges to include conduct within the "State Grand Jury." (Fn.1) Did not incorporate in "original indictments". Violates the S.C. Const. Art. I, § 11; art. V, § 22, and the United States Constitution. Holdings, the Applicant's C/A#.:2005-GS-47-0026/2003-SG-23-45-0047/03-GS-23-45-0045. And U.S.C.A. Const. Amends. 5th, 6th, and 14th. Set this grounds to Applicant's INITIAL BRIEF, ALTERNATIVE PETITION FOR STATE HABEAS CORPUS. At: (Pp. 14, and 15. Argument III. Doc.2). Because, a "Superseding

1. See, S.C. Code Ann. § 17-27-45(C): McCoy v. State, 401 S.C. 363, 370, 737 S.E.2d 623, 627 (2013); State v. Douglas, 411 S.C. 307, 316, 768 S.E.2d 232, 244 (SC. App. 2014); Hendrick v. State, 387 S.C. 221, 692 S.E.2d 892 (2010).

(R.A. 7-0F-497, ROA)

(Attached: (4))

Appx. (A)(3) (Report Page 8)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,)

Applicant, Pro-Se,)

Case No. 2015-CP-23-04747

v.)

AMENDMENT TO POST CONVICTION
RELIEF APPLICATION
4th PCR. ACTION

State of South Carolina,)

Respondent.)

CERTIFICATE OF SERVICE

2017 JAN 25
PAUL WICKENSIMER
CLERK OF COURT
SOUTH CAROLINA

I, Jose Alberto Maldonado, #312648, the above - stated Applicant, do under oath and penalty of perjury certify that I have serve a copy of the AMENDMENT TO POST CONVICTION RELIEF APPLICATION (4th PCR. Act.) with a SUMMONS within two separate files have been attached. Upon the below listed of parties:

The Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street, Suite #325
Greenville, South Carolina 29601

(SC) Attorney General's Office
Alan Wilson/Karen Ratigan
P.O. Box 11549
Columbia, South Carolina 29211

Respectfully Submitted

Further, Applicant Said and Notarized

This 10th day of JANUARY, 2017. Jose Maldonado
Jose Alberto Maldonado, #312648
Applicant Pro - Se

SWORN TO and SUBSCRIBED Before Me

This 10th day of JANUARY 2017.

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina

Catharine A. Amason
Notary Public For South Carolina

File: (4th PCR. Act. Doc.3)

My Commission Expires: _____

My Commission Expires December 28, 2017

(R.P. 8-0F-497 20A)

(Attachment E-IV)
File on: 1-13-2017
(4th PCR. Act. Doc. 7)

LEGAL



Exhibit: (4)

Appendix: (B) (Report Page, 1 through 4)

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

~~(Attachments: F-1)~~

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

October 23, 2017

Mr. Jose Alberto Maldonado, 00312648
Kershaw Correctional Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw SC 29067

Re: Jose A. Maldonado v. The State
Appellate Case No. 2017-002092
Lower Court Case No. 2015CP2304757¹

Dear Mr. Maldonado:

The South Carolina Court of Appeals has transferred your notice of appeal to this Court. This case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any

¹ In your notice of appeal, you indicate that the lower court case number is ~~2015CP2304747~~. The number is actually ~~2015CP230757~~.

I note further that the Court of Appeals appears to have erroneously listed the lower court case number as 2008CP2302140 in the order transferring the notice of appeal to this Court. (R.P. 9-0f-497. ROA)

filings submitted by counsel admitted in South Carolina must include counsel's bar number.

(Attachment: F-2)

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals.

The order can be found at

www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Since the order of the circuit court determined that this action is barred as being successive and/or as being untimely under the statute of limitations, Rule 243(c) of the South Carolina Appellate Court Rules requires you to provide a written explanation as to why this determination was improper.² This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. The failure to make a sufficient showing may result in the dismissal of this matter.

I ask that you please provide the explanation required by Rule 243(c), SCACR, within twenty (20) days of the date of this letter.

You have filed a motion to hold this case in abeyance. This motion is based on your desire to have a ruling made on various documents dated September 15, 2017, that you filed with the circuit court. This Court has obtained a copy of a letter the circuit court judge sent to you dated October 6, 2017 (copy enclosed). In this letter, the judge indicates that your September 15, 2017, documents cannot be accepted for filing and will not be considered by the circuit court. In light of this, it appears that there is no reason for this Court to consider your motion to hold this

APPX. (B) (2-0F-4)
EXHIBIT: (4)

² You did not provide a complete copy of the conditional order of dismissal dated March 10, 2017, with your notice of appeal. This Court has obtained a copy of this order from the clerk of the circuit court. (R. p. 10-0F-497. ROA)

(Attachment: F-3)

APPK (B)(3-OF-4)

case in abeyance since the circuit court has indicated that it will issue no further ruling in this case.

Finally, as to your correspondence dated October 17, 2017, please be advised that Rule 244, SCACR, has no applicability to this case.³ Instead, this appellate proceeding will proceed in the manner provided by Rule 243, SCACR. As to your question about the appointment of counsel, if this Court determines that you have provided an adequate explanation under Rule 243(c), SCACR, to allow this case to proceed, you will need to submit an affidavit of indigency to the Division of Appellate Defense of the South Carolina Office of Indigent Defense so that it can make a determination as to whether it will provide counsel in this case.

Very Truly Yours,



CLERK

Enclosure (Letter dated October 6, 2017)

cc: Megan Harrigan Jameson, Esquire

(R.P. 11-OF-497. ROA)

³ Rule 244 relates to questions of law certified to this Court by federal courts or appellate courts in other states.

The South Carolina Court of Appeals

~~(Attachment B-1)~~

Jose Alberto Maldonado, #312648, Petitioner,

v.

The State of South Carolina, Respondent.

Appellate Case No. 2017-002092

The Honorable Edward W. Miller
Greenville County
Trial Court Case No. 2008CP2302140

ORDER

This case is transferred to the Supreme Court of South Carolina pursuant to Rule 204(a) of the South Carolina Appellate Court Rules.

FOR THE COURT

BY

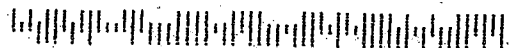
Gay A. Kiteley
CLERK

Columbia, South Carolina

cc:

Jose Alberto Maldonado
Megan Harrigan Jameson, Esquire
Rodney Wade Richey, Esquire
The Honorable Daniel E. Shearouse

FILED
October 11, 2017



Jose Alberto Maldonado SD 648

Kershaw C.I. Hickory/Room #244

4848 Goldmine Highway

Kershaw, South Carolina 29067

In The Supreme Court
Clerk of Court

Hon: Dandel E. Shearouse

Post Office Box 11330

Columbia, South Carolina 29211