

THE SOUTH CAROLINA COURT OF APPEALS

The State, Respondent,

v

Steven Louis Barnes, Appellant - petitioner

Appellate Case No. 2017-002140

RECEIVED

APR 03 2019

SC Court of Appeals

MOTION for REHEARING EN BANC AND for RECONSIDERATION of THE APPELLANT MOTION TO RELIEVE COUNSEL AND RELATED MOTIONS SUCH AS INEFFECTIVE of APPELLATE COUNSEL THAT WAS ATTACHED TO THE MOTION TO RELIEVE COUNSEL

The Appellant files this motion for rehearing en banc and for reconsideration because the Court of Appeals had erred as a matter of law in the following:

1). South Carolina Rules of Court and/or its laws such as State v. Stuckey 508 S.E.2d 564 (1998); Miller v. State 697 S.E.2d 527 (2010) (since there is no right to hybrid representation that is partially pro se and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed pro se by a person represented by counsel are not to be accepted unless submitted by counsel) gives the petitioner a due process right to relieve counsel in order to file documents in this court. see

Snipes v McAndrew 313 S.E.2d 294, 297 (1984) (citing Bd of Regents of State Colls. v Roth 408 US 564 (1972)) (to determine if the expectation of entitlement is sufficient will depend largely upon the extent to which the statute contains mandatory language that restricts the discretion of the government officials).

furthermore, this Court had arbitrarily denied the petitioner an evidentiary hearing as a matter of due process on both the appellant motion to relieve and motion for ineffectiveness of counsel - see Mueigh v United States, 78 US (11 Wall) 259, 267 (1870); Windsor v Mueigh 93 US 274, 277 (1876); Koester v Citizens Pub. Co 151 S.E. 452 (1930); State v Port Royal & A. Ry Co. 23 S.E. 380 (1895); Hawkins v Freeman 195 F.3d 732, 769 (4th Cir. 1998) (en banc). The petitioner-appellant have a due process right to be heard via an evidentiary hearing on those motions.

Also, the Court of Appeals interpretation of the motion to relieve counsel and ineffectiveness of counsel laws of this state is not an independent and adequate state doctrine because the Court is intentionally violating the appellant constitutional due process right to be heard, especially when the appellant is raising facts of state interference with appellant counsel on raising objected to structural errors in the trial court to this court. See Behrmanhoff - Paris Trust & Sav. Co. v Hill 281 US 673, 681 (1930)

lastly, the Court of Appeals is placing unconstitutional conditions on the appellant right to effective appeal and collateral review regarding when to raise ineffectiveness of appellate counsel, especially when South Carolina law under certain circumstances like the appellant is allowed on direct review.

See e.g. Sharper v State 305 S.E.2d 247 (1982) (The claim that this Circumstances operated to deny appellant effective assistance of Counsel was not squarely presented to the trial court so the Record cannot be said to conclusively refute it. cf. State v Carpenter 288 S.E.2d 354 (1982) (claim of ineffective assistance of Counsel at trial will not normally be considered on appeal from a conviction, particularly when the issue is not argued to the trial judge.)

CONCLUSION

← the petitioner - Appellant prays that this Court grant this motion and/or such other and further relief this Court seem just and proper.

Date: 3/28/19

So
STEVEN LAZUS BARNES
327117
McCormick Correctional Institution
386 Redemption way
McCormick S.C.

THE SOUTH CAROLINA COURT OF APPEALS

THE STATE, RESPONDENT,

STEVEN LOUIS BARNES, Appellant - Petitioner

Appellate Case No. 2017-002140

RECEIVED

APR 03 2019


SC Court of Appeals

PROOF OF SERVICE

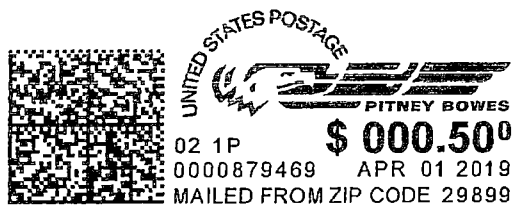
I, Steven Louis Barnes, on 3/19/19, had received this Court order denying my motion to relieve counsel, and other motions related to it, which was dated 3/14/19.

on 3/28/19, I placed my motion to voluntarily dismiss the Appellant appeal to pursue the ineffectiveness of appellate counsel or post conviction relief and motion for rehearing en banc and for reconsideration of the Appellant's motion to relieve counsel, and related motions, in the United States mail with sufficient postage to be mailed to this Court.

Date: 3/28/19


Signature

Steven Louis Barnes #32117
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899



The South Carolina Court of Appeals
P.O. Box 11623
1220 Senate Street
Columbia SC 29201

RECEIVED

APR 01 2019

MAIL ROOM

RECEIVED
APR 03 2019
SC Court of Appeals

2920183769 0076

