

JAMES A. Giles # 264478  
Tyger River C.I. UNIT 8-RM 227  
200 PRISON ROAD  
ENOREE, S.C. 29335

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APR 11 2019  
S.C. SUPREME COURT

April 8, 2019

The Supreme Court of South Carolina  
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

ENCLOSE YOU WILL FIND A COPY OF MS. BETH RAMSEY FAULKNER, MOTION FOR A 59(c) RULING ON THE APPELLANT POST-CONVICTION RELIEF HEARING, MR. SHEAROUSE I WOULD LIKE TO BRING TO THIS HONORABLE COURT ATTENTION, THAT I HAVE NEVER RECEIVE A RULING ON MS. FAULKNER MOTION FOR A 59(c) THAT WAS FILE ON MAY 17, 2018..... SO THEREFORE THE APPELLANT HAS FILE A MOTION TO STAY ON PENDING APPEAL, BECAUSE THE APPELLANT HAVE MADE SEVERAL ATTEMPS TO CONTACT MR. JAMES R. FALK CONCERNING THIS MATTER, BUT MR. FALK HAVE REFUSE TO RESPOND TO ANY OF THE APPELLANT LETTERS, SO THEREFORE THE

D.

Appellant have NO Way Knowing, that Mr. Falk Will file a Motion to Stay, UNTil the Lower Court, Make a ruling ON the Appellant 59(e) Motion, ..... because the Appellant Cannot receive a fair appeal UNTil the Lower Court Makes it ruling, because Judge Hayes finding in his outlined decision dated february 27, 2018. is Not included in the Court's order of Dismissal, Prepared by the Attorney General office, .....

Mr. Shearouse, according to Case Law Hudson V. Hudson, the Appellant is entitle to a ruling on his 59(e) Motion from the lower Court, before the Appellant Petition of Writ of Certiorari is filed in the Supreme Court, because the Appellant Needs a ruling from the lower Court, so the Appellant issues Will be Preserve for a Appellate Court review, AND the Appellant Can receive aN Fair Appeal,

∴ WHEREFORE, the Appellant Pray that this Honorable Court, grants his Motion to stay ON Pending Appeal in the Supreme Court, UNTil the Applicant receive a ruling from the Lower Court ON his 59(e) Motion.....

Respectfully Ms. Shearouse, I have Made several attempS to bring this Matter to Mr. Falk attention, but Mr. Falk have refuse to Communicate With Me about My Appeal Matters, ..... because the Court appoint Mr. Falk to represent Me ON Dec 14, 2018, AND Not ONE (1) time have Mr. Falk Contacted Me ON the behalf of My Pending Appeal, AND that is Not right. ..

Thanks

JAMES A. GILES

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF UNION )  
 )  
James A. Giles, )  
 )  
Applicant, )  
 )  
vs. )  
 )  
State of South Carolina, )  
 )  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Case No.: 2014-CP-44-0295

**MOTION TO RECONSIDER, ALTER,  
AMEND AND/OR SET ASIDE ORDER**

**YOU WILL PLEASE TAKE NOTICE** that the Applicant James A. Giles, through his undersigned counsel, will move before the Court of Common Pleas in Union County for the Sixteenth Judicial Circuit on the tenth (10<sup>th</sup>) day after service hereof for an Order altering, amending and/or granting relief from the Order of Dismissal executed by the Honorable J. Mark Hayes, II on April 20, 2018 and filed in the Office of the Clerk of Court on May 2, 2018. Counsel for Applicant received said Order of Dismissal on May 7, 2018. Such Motion shall be based upon South Carolina Rules of Civil Procedure 59 and 60, the case law of this state, and such other matters as may be presented at the hearing on this motion.

The basis for such motion is as follows:

Applicant filed an Application for Post-Conviction Relief on July 22, 2014. With the consent of the Respondent, Applicant filed an amended PCR application on January 25, 2018 and a subsequent amended PCR application on January 30, 2018. Applicant also filed a Brief in Support of Applicant's PCR Petition on January 30, 2018. Based upon the foregoing petitions and brief, along with the testimony and evidence presented at the evidentiary hearing on

January 30, 2018, Applicant submits that he met his burden of proving that his attorneys Vanessa Cason and Lanelle Durant provided ineffective assistance of counsel.

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

In the instructions to counsel with a ruling in this matter, the Honorable J. Mark Hayes, II instructed, via email to counsel:

"While the record indicates that second counsel may have not have been as aggressive and thorough in her representation of applicant (and arguably deficient), the guilt of the applicant was clearly established and thus, the conclusion that error by counsel was prejudicial would be speculative.

This finding is not set forth in the court's Order of Dismissal in this matter. If the Court is not inclined to set aside its Order of Dismissal, Applicant seeks for this finding to be included in the Order of Dismissal.

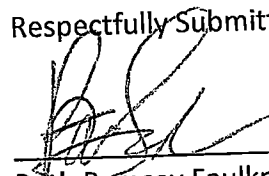
First and foremost, however, Applicant seeks to have the Order of Dismissal set aside. Attorney Vanessa Cason was deficient in her representation of Applicant, which was proven by Applicant when viewing the totality of her representation of Applicant.

The Court found that any conclusion that Vanessa Cason's shortcomings would have been prejudicial to Applicant's outcome would only be speculative. This determination is absurd and contrary to justice, when considering the evidence presented of Vanessa Cason's cumulative deficient representation, coupled with a guilty verdict in Applicant's trial.

**WHEREFORE**, the Applicant seeks an Order of this Court altering, amending and/or granting relief from the Order of Dismissal issued by this Court, and granting such other and further relief as the court deems just and proper.

York, South Carolina  
May 17, 2018

Respectfully Submitted,



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Beth Ramsey Faulkner  
Attorney for Applicant James Albert Giles  
Faulkner Law Firm, LLC  
P.O. Box 1030  
616 E. Liberty Street  
York, South Carolina 29745  
(803) 818-5700

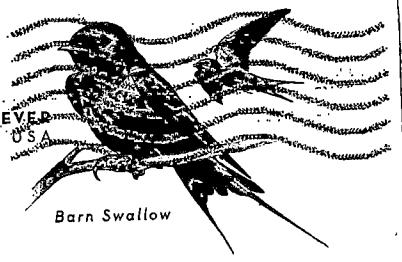
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FOREVER  
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Legal Mail

