

6/14/19

In The Supreme Court

Dear Clerk please find Enclosed
a motion to the court under Rule
22c which I expect to be construed
to a writ if the court see cause.

Sincerely
S. Galley La P. Jr.

RECEIVED

JUN 18 2019

S.C. SUPREME COURT

IN THE SUPREME COURT OF SOUTH CAROLINA

Case No. 2018-000098

Motion to Review Dismissal and Final Order of Court of Appeals
Honorable Edward W. Miller
Circuit Court Judge

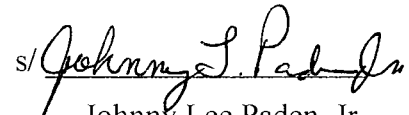
Johnny Lee Paden, Jr.

Petitioner

v.

The State of South Carolina

Respondent


Johnny Lee Paden, Jr.

Pro-se Defender
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

INDEX

Index.....2
Issues Presented.....3-4
Argument.....5-6
Conclusion.....7
Certificate of Service.....8

sl Johnny L. Paden, Jr.
Johnny Lee Paden, Jr., #154700

ISSUE 1

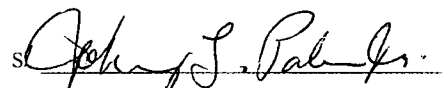
Whether the Court of Appeals erred by dismissing Petitioner's Petition for Hearing?

ISSUE 2

Whether Petitioner has a constitutional right to appeal a denial of an order from the Court of Appeals to the South Carolina Supreme Court?

ISSUE 3

Whether the Court of Appeals overlooked exculpatory evidence, and is it a duty of the court to ensure that an appellant in their court receives justice?

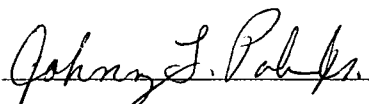

Johnny Lee Paden, Jr., #15470

ISSUE 4

Whether the Attorney General's Office can file a Return to the South Carolina Supreme Court opposing Petitioner's Writ, which was sent to the Court of Appeals?

ISSUE 5

Whether there was a substantial amount of constitutional issues involved violating Petitioner's constitutional rights to due process and equal access to the courts?

s/ 
Johnny Lee Paden, Jr., #154700

ARGUMENT 1

The clerk of Court of Appeals stipulated that I was represented by counsel in this matter, while in the clerk's possession was a letter from the attorney of record closing my file, rejecting the Petition for Rehearing, denying him access to the courts.

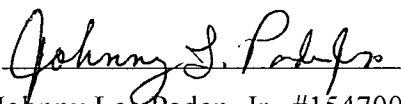
ARGUMENT 2

According to the South Carolina Rules of the Court, it is Petitioner's constitutional right to file a Petition for Rehearing to preserve his right to file to the South Carolina Supreme Court, even if he is pro-se.

ARGUMENT 3

Through documentary evidence, the Court of Appeals is very well aware of the DNA evidence in this case, for instance the hair fibers with roots clutched in the decedent's bloody hands, the skin which is under the decedent's fingernails, which was preserved for DNA testing, the cloth which was tore from the assailant's shirt or clothes which was grasped during his demise.

SEE: Documents in the Motion and DNA results. There are a substantial amount of constitutional issues involved, surely someone should want this looked into.

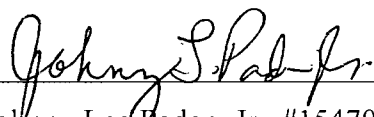
s/ 
Johnny Lee Paden, Jr., #154700

ARGUMENT 4

Petitioner contends that surely he has every right for the Attorney General's Office to file any opposition to his claims or issues in the exact same court, in order for him to have the opportunity to appeal any denial to the highest court. So what kind of process is this to oppose Petitioner's issues in the Supreme Court when Petitioner has not filed a petition or motion in that court? I only view this kind of tactic as discrimination against indigent petitioner's, which has to be looked into, for what it is, is a violation of due process.

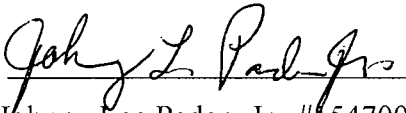
ARGUMENT 5

Petitioner contends that there are novel questions of law and a sure conflict with the Supreme Court because the Supreme Court has always offered one the right to appeal the Court of Appeal's decision after one files a Petition for Rehearing and the rehearing becomes final.

s/ 
Johnny Lee Paden, Jr., #154700

CONCLUSION

Based on the aforementioned claims and issues, Petitioner would request that the court review his entire record, in order to determine whether a gross miscarriage of justice has occurred and if so, correct it.

s/ 
Johnny Lee Paden, Jr., #154700

IN THE SUPREME COURT OF SOUTH CAROLINA

Case No. 2018-000098

Motion to Review Dismissal and Final Order of Court of Appeals

Honorable Edward W. Miller

Circuit Court Judge

Johnny Lee Paden, Jr.

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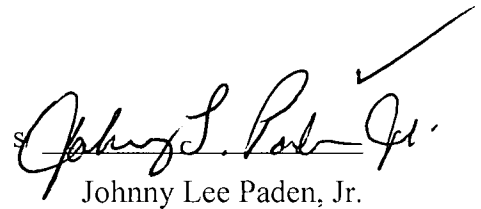
v.

The State of South Carolina

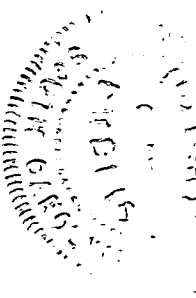
Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion to Review in the above referenced case has been served upon the Attorney General's Office, the State, and the Supreme Court governing at this time.


Johnny Lee Paden, Jr.

Pro-se Defender



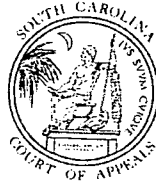
Sworn to and Subscribed before me

this 14th day of June, 2019

Nancy C. Merchant

Notary Public for South Carolina

My Commission Expires: 1-23-2023



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 24, 2019

Johnny Lee Paden, Jr., 00154700
Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29669

Re: Johnny L. Paden v. State
Appellate Case No. 2018-000098

Dear Mr. Paden:

This responds to your recent correspondence entitled "Petition for Rehearing". Since you are represented by counsel in this matter and the remittitur was timely issued effectively ending this Court's jurisdiction on your appeal, no action will be taken on this *pro se* filing. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989). Your filing is being returned with this letter.

Very truly yours,

V. Claire Allen, Deputy

CLERK



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 17, 2019

Mr. Johnny Lee Paden, #154700
Perry Correctional Institution
430 Oaklawn Road
Pelzer, S.C. 29669

Dear Mr. Paden:

Enclosed is a copy of the State's Return to Petition for Writ of Certiorari, which was filed with the South Carolina Supreme Court on January 16, 2019.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

Joanna K. Delany
Appellate Defender

JKD/csb

Enclosure

Time
Filing
or
must
Petition
and
Rehearing



SCCID

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

May 13, 2019

Johnny Lee Paden #154700
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

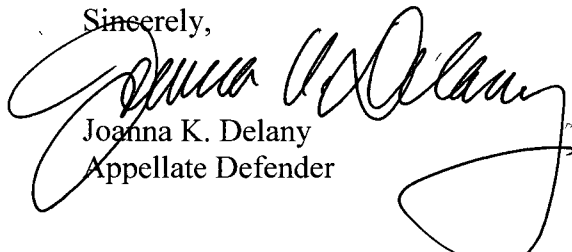
Re: Your case

Dear Mr. Paden:

Enclosed is a copy of the Order of the Court of Appeals denying our Petition for Writ of Certiorari in the appeal from denial of your application for DNA testing. Unfortunately, there is no further state appeal from the denial of certiorari. I am closing your file with this letter.

There is now a **one-year statute of limitations for filing an application for a writ of habeas corpus in federal court**. However, please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future**. This statute of limitations is strictly enforced. I have enclosed a copy of the pertinent section of that statute for you to review. I am closing your file with this letter. Please understand that it is **your obligation alone** to ensure that a federal habeas application is timely filed if you want to continue challenging your conviction. Feel free to contact me if you have any questions, but writing to me **does not stay** the applicability of the statute of limitations. I do wish you the best in the future.

Sincerely,



Joanna K. Delany
Appellate Defender

JKD/csb
Enclosure: Habeas Corpus Application

Greenville County Forensic Division
CRIME SCENE INVESTIGATION REPORT

AGENCY: Greenville Police Department
 AREA: Charlie

CASE NUMBER: 2-06-011922

INCIDENT TYPE:	Death Investigation (Autopsy)	INCIDENT LOCATION:	701 Grove Rd. Greenville SC
VICTIM:	Hernandez, Jorge H/M Unk. DOB	ADDRESS:	1500 E. Washington Ave. #15B Greenville SC
COMPLAINANT:		ADDRESS	
INV. OFFICER	Carias	UNIT NUMBER	53

INCIDENT SUMMARY/ACTION(S) TAKEN:

PAGE 1 Of 2

On 1/30/06, the R/O responded to the GMH morgue regarding an autopsy that was going to be conducted on the above listed victim, who had died as an apparent result of a stab wound to the chest.

Upon arrival, the R/O observed the victim lying on a gurney in the autopsy room.

The R/O secured digital photographs of the victim who was observed to be wearing a pair of blue jeans with a black cloth belt and a pair of gray in color "Hanes" underwear. He also had paper bags on each of his hands.

The victim's clothing items were removed and additional photographs were taken.

The R/O removed the paper bag from the victim's left hand and observed what appeared to be hair like fibers as well as cloth type fibers in the left palm as well as attached to the fingers. The R/O used tweezers and removed the unknown fibers and placed them into a paper towel.

The paper bag was removed from the right hand and an examination was conducted, with hair like fibers being located in the palm area. These hair like fibers were also removed and placed into a paper towel.

The following items were collected by Dr. Ward and released to the R/O via a P&E sheet.

- A. Pair of black in color "Skato" jeans with a black cloth belt
- B. Gray in color "Hanes" underwear
- C. Envelope containing known pulled pubic hair
- D. Envelope containing known pulled head hair

The R/O collected the following items of evidence.

- DS-1 Paper bags from the victim's hand
- DS-2 Piece of paper towel with unknown hair like and cloth like fibers from the left hand
- DS-3 Piece of paper towel with unknown hair like fibers from the right hand

After the victim was cleaned up, additional photographs were taken of tattoos on various areas of the victim's arms and legs as well as a puncture wound in the left upper chest area.

The R/O also obtained rolled fingerprint and palm impressions for identification purposes. No further action was taken.

Upon returning to the Crime Scene Office, the digital images were scanned into the photo database under call id # 15012.

The collected evidence was placed into the drying room to dry at which time they were packaged for placement into the DPS Property and Evidence Section.

REPORTING OFFICER	Shaw- D.L. Sgt.	STAR#	8561	UNIT #	921	DATE	1/30/06
REPORTING OFFICER		STAR#		UNIT #		DATE	
APPROVING SUPERVISOR	Sgt. D.L. Shaw	STAR#	881	UNIT #	921	DATE	1/30/06

FEB01 12:21

2-23-06

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
Appellate Case No. 2018-000098

RECEIVED
MAY 24 2019
SC Court of Appeals

Petition for Rehearing
Honorable Edward W. Miller, Circuit Court Judge

Johnny Lee Paden, Jr.

Petitioner

v.

The State of South Carolina

Respondent

Johnny Lee Paden, Jr.
Pro Se Defender

Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

INDEX

Index.....2

Issues Presented.....3

Argument.....4

Certificate of Service.....5

Issue 1

Whether the court erred in reviewing Petitioner's Writ of Certiorari when the state sent their Return to Petition for Certiorari to the South Carolina Supreme Court, not even opposing petitioner's issues in the Court of Appeals, splitting Petitioner's Certiorari in two courts depriving him of due process and equal access to courts.

Issue 2

Whether Petitioner can appeal his petition to the South Carolina Supreme Court which is the rule of the courts, once the Court of Appeals has denied a petition.

Issue 3

Whether Petitioner's counsel of record informed him that he could not appeal the Court of Appeals decision was misinformed of the Appellate Court's procedure with her letter to Petitioner dated May 13, 2019, becoming ineffective.

Issue 4

Whether the court erred in not taking a closer look at the exculpatory evidence which is the skin from under the victim's fingernails and the cloth tore from the assailant's clothes, which was in the palm of the decedent's hands, as well as hair with roots.

Argument 1

The court must review and grant Certiorari because the state did not send its return to the Court of Appeals, unless I am not knowledgeable and know that the Supreme Court and the Court of Appeals get each court together and let one review the Writ and one review the Return.

Argument 2

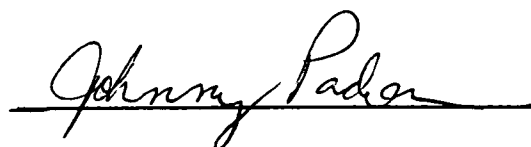
The court erred by making a decision of Petitioner's Writ without even reviewing the Return which opposes Petitioner's Writ that the state sent to the South Carolina Supreme Court. The court has always allowed petitioners to have the opportunity to appeal to the highest court in South Carolina; See rules of the court.

Argument 3

The court knew that Petitioner's lawyer misinformed him that he could not appeal their decision to the Supreme Court and was this legal information given to Petitioner to mislead him about appealing to the Supreme Court.

Argument 4

The court erred by concluding that the hairs and other material clutched in the victim's hands was insignificant, particularly the DNA under victim's fingernails and cloth fibers and hair with roots. DNA testing has an unparalleled ability both to exonerate the wrongly convicted and to identify the guilty. In District Attorney's Office for Third Judicial District v. Osborne, 557 U.S. 52-55 (2009), the Supreme Court of Florida agreed. Hair evidence found in the victim's clutched hand could tend to prove recent contact between the victim and a person present in the room at the time of a persons death. Id. at 180.

A handwritten signature in black ink that reads "Johnny Padon". The signature is written in a cursive style and is positioned above a solid horizontal line.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
Appellate Case No. 2018-000098

Petition for Rehearing

Honorable Edward W. Miller, Circuit Court Judge

Johnny Lee Paden, Jr.

Petitioner

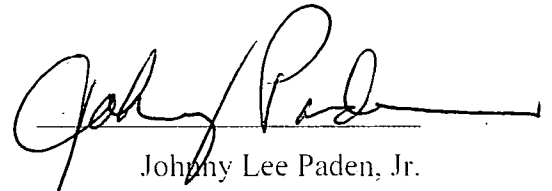
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The State of South Carolina

Respondent

Certificate of Service

The undersigned hereby certifies that a true copy of the Petition for Rehearing in the above referenced case has been served upon the Attorney General's Office, the State, and the Court of Appeals governing the case at this time.



Johnny Lee Paden, Jr.

Pro Se Defender

Sworn to and Subscribed before me

this 22 day of May 2019

Tamara Conwell

Notary Public for South Carolina

My Commission Expires: My Commission Expires
September 25, 2023

RECEIVED

MAY 22 2019

P.C.I. MAILROOM



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

May 10, 2018

Mr. Johnny Lee Paden, #154700
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Your case

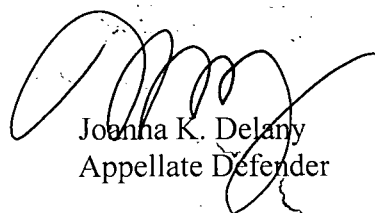
Dear Mr. Paden:

Thank you for your letter dated April 23, 2018. I have read your letter, and understand your concerns regarding fingernail scrapings and the materials found inside the clenched hands of the deceased.

After reviewing your file, I requested copies of a number of documents and exhibits in your case from the Clerk of Court. Once I receive them, I will review them carefully, keeping in mind your concerns.

I hope this letter addresses the concerns you have. Please do not hesitate to contact me if you have questions or I may be of further assistance.

Sincerely,



Joanna K. Delany
Appellate Defender

JKD/cp



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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May 24, 2019

Johnny Lee Paden, Jr., 00154700
Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29669

Re: Johnny L. Paden v. State
Appellate Case No. 2018-000098

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Very truly yours,

V. Claire Allen, Deputy

CLERK

#154700
Q1A CBY Rm 221

Johnny Paden

Perry Correctional Institution

430 OAK Lawn Rd.

Pelzer, SC 29669

THE Supreme Court
of South Carolina
P.O. Box 11330
Columbia, SC 29211

RECEIVED

JUN 14 2019

P.C.I. MAILROOM