

T.R., et alia,
Appellants,
vs.
S.C.D.C, et alia,
Respondents.

Case # 2020-000154 In re To :

Case # 2005-CP-40-02925

Affidavit of Motion For Rehearing, ^{FN Banc}
and Motion For Default

(12 March, 2020)

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SC Court of Appeals

Pursuant to Rules 221 (a), 224, etc., SCACR, Pro Se Appellant (Mr. Daniel R. McClain^o), hereby moves for rehearing and default for the following just cause of Extraordinary Circumstantial matters.

Appeal History

As shown in the (5th) Circuit Court of South Carolina records in Case # - 2005-CP-40-02925, a Notice of Appeal was properly filed in this case, and Respondent, Roy F. Lawley, and Co-counsel Daniel J. Westbrook were also served Notice on (24 Jan, 2020).

This Appeal was subsequently filed with the South Carolina State Supreme Ct. as a Writ of Certiorari on (27 Jan., 2020), with an Affidavit of Notice of Brief; and Motion To Stay Settlement Decree - Re-activate Claim;

a (10)-page Appeal Brief; and

supporting evidence of an SCDC (9-2) Law Book Request Form; and also a (5)-page Affidavit of Formal Complaint dated (7 Jan, 2020).

No response was ever made by the S.C. State Supreme Court regarding this filing.

As a result, on (2 March, 2020), a (2)-page Motion For Default was formally filed with the S.C. State Supreme Ct., the (5th) Circuit Court of S.C.; the Respondent and Co-counsel were also served a copy of this filing.

ON (Feb. 26, 2020), an Order was filed in the South Carolina State Court of Appeals, erroneously omitting the proper above-stated caption, substituted by:

Daniel R. McClain, Appellant v. South Carolina Department of Corrections, Respondent.

Matters At Issue

- 1) The re-designation of this claim was not only deceptive, but was tactical to manipulate procedures, causing prejudice.
- 2) I properly filed under Rules 208, and 225, SCACR regarding a Settlement Decree Agreement, not a Final Order issue as suggested in the (Feb. 28, 2020), Order.
- 3) The alleged "Hybrid Representation" ground is an UNCONSTITUTIONAL assertion based upon misapplied state Statute (S.C. Code Ann. § 14-3-330), and

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3) Matters At Issue (continued)

also *Mitter v. State*, 388 S.C. 347, 697 S.E. 2d 527 (2010).

South Carolina Constitution, Article 1 § 14 clearly states "... or both", to be formally recognized as litigants. Furthermore, the United States Constitution also directs that "This Constitution ... shall be the Supreme Law of the land; and the judges in every state shall be bound thereby ...", see: Amendment 6 § 2.

This is clearly a state created right,

- 4) Therefore, this claim should have been liberally construed (at least), as an Ineffective Assistance of Counsel claim.
- 5) Due to the validity of contents of material indexed in the Appeal Brief filed, constitutional issues predominated every residual procedural excuse by the (wrong) court.

These matters entailed Lockdowns; Overcrowding; Riots / Fatalities; CAC/ACA-Standards; Medical; Medical Records; Food/Drink; Unlawful Imprisonment; and Cross-Claims violations that were undermined, resulting in more injuries and fatalities (ongoing).

- 6) Notice that an Order by the S.C. Supreme Court was required pursuant to Rule 204(a), SCACR to transfer the case to the S.C. Court of Appeals was required; and in respect to Rule 204(b), SCACR, no motion was filed by any party but this Pro Se Appellant due to further injuries incurred, as procedural default. There was no just cause for dismissal (or deferment), but for relief that was specifically motioned for.

These are all clearly issues of public interest, and legal principles of major importance, as were explicitly cited in the Appeal Brief.

- 7) Prejudicially also, was the lack of a full hearing as only (1 of 6) Justices ruled in this PENDING claim, in error. See: Rule 219(a), SCACR.

And, also most notable by this erroneous Order was the suggestion that the original documents were being returned, along with a Remittitur, but weren't (likely to force a default); nor an answer to my (2 March, 2020), correspondence to the Clerk of Court. It was all coercion.

- 8) In addition, several attorney's in this case were not properly informed of this Appeal Order (e.g. Roy F. Loney, arbitor for the Defense; et alia).

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CONCLUSION

Based on the urgency of the crisis within the "broken system" of the South Carolina Department of Corrections, these unnecessary administrative delays again conclusively prove the "Syndicated Racketeering Scheme" to condone a defunct state agency, promote more tyranny, and continue the carnage.

D. R. McCLain

Pro Se Appellant's Signature and Address

Mr. Daniel R. McClain, # 268976
Turbeville C.I., Infirmary
P.O. Box 252; Room # 112
Turbeville, S.C. 29162

Certificate of Service

I Mr. Daniel R. McClain^o, hereby serve the aforementioned and listed below:

- 1) One page Cover Letter;
- 2) One (3)-page Affidavit of Motion For Rehearing, EN Banc; and Motion For Default; and
- 3) Two Certificates of Service by placing same with First-Class postage in the United States Postal Service on this 12th day of March, 2020.

ATTN: Clerk of Court
 South Carolina Court of Appeals
 Post Office Box 11629
 Columbia, South Carolina 29211

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Daniel R. McClain^o
 Pro se Appellant's Signature and Address

Mr. Daniel R. McClain^o, #268976
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 Turbeville, S.C. 29162

(Refused To Sign) Ms. E. Hodge (Mailroom Agent), SCDOC
 Notary Public's Signature

(Refused To Seal)
 Expiration Date of Notary Seal

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D. R. McClain^o Mr. Daniel R. McClain^o, #268976
 Pro Se Appellant's Signature and Address Turbeville C.I., Infirmary
 P.O. Box 252; Room #112
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Cover Letter

(12 March, 2020)

Dear Clerk,

Enclosed in this filing you will find a total of (6) pages, two of which are Certificates of Service. Please Clock/Date one of the Certificates and return it to me at your earliest convenience.

I remain,

Daniel R. McClain

Pro Se Appellant's Signature and Address

Mr. Daniel R. McClain^o, #268976
Turbeville C.I., Infirmery
P.O. Box 252; Room #112
Turbeville, S.C. 29162

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Daniel McLain #268976 INFO112A

COLUMBIA
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