

THE SOUTH CAROLINA COURT OF APPEALS

The State, Respondent,

v.

Kevin E. Herriott, Appellant.

Appellate Case No. 2019-969

RECEIVED

APR 14 2020

SC Court of Appeals

DEFAULT JUDGMENT

Appellant Kevin E. Herriott, moves this Court asking for Order granting "default judgment". Pursuant to Rule 55 of the South Carolina Court Rules of Civil Procedure (SCRPC).

The Appellant Herriott submits that Respondent has entered default and judgment shall be rendered to the requesting party. In accordance to SCRPC, Rule 55(b)(2), "In all other cases, the party entitled to a judgment by default shall apply to the court therefor;" Accord SCRPC, Rule 54(c), "A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment."

Herein this case, the matter before this Court, Respondent have not formally requested a stay in matters for which the Respondent complains thereof in light of letter dated March 12, 2020, filed by Respondent. The Appellant Herriott contends that this Court did not enforce such abeyance nor issued an Order by issuance of Court Order to stay this appeal or setting a specific date of duration for Respondent to plead other than by correspondence dated March 11, 2020; therefore, the Respondent

**LEGAL
MAIL
ONLY**

has failed to conform thereby.

Meanwhile, the 30 days dead-line has thus ended. For the start date of the issuance for Order directing the Respondent to plead Filing 'a(n) initial brief of respondent and designation of matter' on March 11, 2020, continuing through April 12, 2020, whereby ending the action by Respondent's failure to plead or otherwise defend.

The Appellant Herrhoff directs the Court's attention to Order dated February 2, 2020, whereas this Court ordered the Appellant to proceed prose and from that date until March 12, 2020, the Respondent informally request 'to hold the time for the State's Initial Brief of Respondent in abeyance resulting in thirty-nine (39) days has elapsed while giving the Respondent another 30 days to file an initial Brief of Respondent totaling to sixty-eight (68) days without filing their initial Brief. The absence of the Respondent's filing is unfair to the Appellant Herrhoff resulting to prejudice when over 294 days has lapsed since the verdict rendered by the Circuit Court, the Appellant's trial that was held on June 4, 2019, and ending on June 4, 2019, while awaiting the state corrective process on appeal. see *Allen v. Leeke*, 328 F.Supp. 292; *Jones v. Crouse* (10th Circuit 1966), 360 F.2d 157, 158. An inordinate and unjustified delay in the state corrective process may well result in the frustration of petitioner's rights and be such a circumstance as to render that process ineffective. For the Court after remarking that an 'inordinate, excessive, and inexcusable' delay may very well amount to a denial of fairness, a(n) due process cognizable claim in federal court, Found that delay of 18 months by the state court required justification.

WHEREFORE, The Appellant Herrhoff ask that this Honorable Court has sought for reviewed, and ruled upon granting Order for DEFAULT JUDGMENT.

Respectfully Submitted,



Kevin Herriott 313862
Kirkland Correctional Institution
D Dorm Cell 60
4344 Broad River Road
Columbia, SC 29210
Pro se Litigant.

April 10, 2020

Date

IN THE STATE OF SOUTH CAROLINA
FOR THE COUNTY OF COLUMBIA

SOUTH CAROLINA COURT OF APPEALS

Kevin E. Herrriott, #313862
Affiant,

CIA No.: 2019-000969

vs.

AFFIDAVIT

The State of South Carolina,
Respondent.

RECEIVED

APR 14 2020

SC Court of Appeals

COMES PERSONALLY APPEARING before me one Affiant Kevin E. Herrriott who being duly sworn affirms:

- 1) I am competent to testify and above the age of 18 years;
- 2) I testify that these facts are true, honest, and correct under the penalty of perjury;
- 3) I present these facts voluntarily without being promised anything nor coerced.

The Affiant sayeth not Any Further.

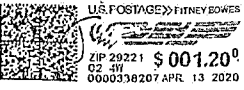
Sworn and Subscribed before me
on this 10 day of April, 2020
Melissa Lopez (L.S.)
NOTARY PUBLIC

ISI K. E. Herrriott
Kevin E. Herrriott, #313862
KEI
4344 Broad River Road
Columbia, South Carolina 29210
AFFIANT
4/10/2020
Date

MY COMMISSION EXPIRES: 12-1-2025

Kevin L. Merritt, # 51586Z
RHU - (b) Dorm cell 57
Kirkland Correctional Institution
4344 Broad River Road
Columbia, South Carolina 29210

Inter AG



RECEIVED
APR 14 2020
SC Court of Appeals

SCDC
APR 13 2020
MAIL ROOM

The South Carolina Court of Appeals
Deputy Clerk Claire Allen
1220 senate Street
Columbia, South Carolina 29201

**LEGAL
MAIL
ONLY**

