

RECEIVED

MAY 26 2020

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. SUPREME COURT

MANDAMUS TO YORK COUNTY
COURT OF COMMON PLEAS
DAVID HAMILTON, CLERK OF COURT

APPLICATION FOR POST-CONVICTION RELIEF
LOWER COURT CASE NO. 2019-CP-46-01421

JEFFREY LYNN CHRONISTER, #189827 PETITIONER

v.

DAVID HAMILTON RESPONDENT

PETITION FOR WRIT OF MANDAMUS

JEFFREY LYNN CHRONISTER, #189827
KIRKLAND R+E CTR., B-II #63
4344 BROAD RIVER ROAD
COLUMBIA, S.C., 29110
PETITIONER prose

DAVID HAMILTON
CLERK OF COURT, YORK COUNTY
POST OFFICE BOX 649
YORK, S.C., 29745-0649

QUESTION PRESENTED

DID THE CLERK OF COURT ERR IN RESPONSE TO PETITIONER'S LETTER PERTAINING TO FAILING TO RECEIVE COPY OF THE NOTICE OF ENTRY OF THE FINAL ORDER OF DISMISSAL?

STATEMENT OF THE CASE

PETITIONER IS PRESENTLY IN THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS PURSUANT TO ORDER OF COMMITMENT BY YORK COUNTY CLERK OF COURT. THE ARREST FOR MURDER AND POSSESSION OF A FIREARM DURING COMMISSION OF A VIOLENT CRIME OCCURRED ON FEBRUARY 14, 1992, AND A VERDICT OF GUILTY ON BOTH CHARGES WAS FOUND AT AN JURY TRIAL ON SEPTEMBER 21-22, 1992 (1992-GS-46-1224) GERALD W. SMITH WITH YORK COUNTY PUBLIC DEFENDERS OFFICE WAS PRIMARY COUNSEL, LARRY GRANT SOLICITOR, AND PRESIDING JUDGE DON S. RUSHING HANDING DOWN A LIFE SENTENCE PLUS FIVE CONSECUTIVE YEARS FOR FIREARMS CHARGE.

THE MATTER AROSE FROM PETITIONER'S PROSE MOTION FOR NEWLY AFTER DISCOVERED EVIDENCE, AND ITS RELATED APPLICATION FOR POST-CONVICTION RELIEF THAT WAS STAMPED "FILED - RECEIVED" BY THE HONORABLE DAVID HAMILTON, YORK COUNTY CLERK OF COURT, ON APRIL 23, 2019 (2019-CP-46-0142). BY COPY OF RESPONDENT'S LETTER TO THE CLERK: (1) DATED AUGUST 7, 2019 THE ORIGINAL "RETURN AND MOTION TO DISMISS" WAS SENT FOR "FILING" AND (2) MARCH 18, 2020 THE ORIGINAL "FINAL ORDER OF DISMISSAL" SIGNED BY THE HONORABLE DANIEL D. HALL WAS ALSO SENT FOR "FILING" (COPY PAGE 4)

PETITIONER WROTE TO THE CLERK ON APRIL 1, 2020 CONCERNING FAILING TO RECEIVE COPY OF THE NOTICE OF ENTRY / FINAL ORDER SO TO COMPLY WITH THE 30 DAY TIME LIMITATION OF SERVING A "NOTICE OF APPEAL" RULE 203 (a) (2) (i). PETITIONER STATED IN THE LETTER RECEIVING A COPY OF THE RESPONDENT'S MARCH 18TH LETTER ON FILING THE FINAL ORDER, AND

DIRECTING TO RULE 71.1(f) - 77(d) SCACP (COPY PAGE 5)

THE RESPONSE, DATED APRIL 14, 2020 (COPY PAGE 6)

"OUR OFFICE CANNOT SEND SOMETHING WE HAVE NOT YET RECEIVED. PLEASE BE ASSURED WHEN WE RECEIVE THE ORDER WE WILL SEND YOU A COPY. SINCE THE COURTS ARE OPERATING UNDER THE COVID-19 GUIDELINES WE MAY NOT RECEIVE YOUR ORDER FOR A FEW WEEKS OR MONTHS."

THE RESPONSE WAS RECEIVED ON THE SAME DAY OF SERVING A "NOTICE OF APPEAL" TO THIS COURT, APRIL 17, 2020, AND INCLUDED WITH THE NOTICE WAS A COPY OF RESPONDENT'S MARCH 18TH LETTER, ALSO A EXPLANATION OF FAILING TO RECEIVE A COPY OF THE FINAL ORDER OR JUDGMENT AS OF THE DATE OF SERVING NOTICE.

BY ORDER DATED APRIL 29, 2020, AND RECEIVED ON MAY 1, 2020 THE NOTICE WAS DISMISSED ON FAILING TO PROVIDE A COPY OF THE ORDER TO BE CHALLENGED ON APPEAL, AND ALSO STATING "ACCORDING TO THE PUBLIC CASE INDEX FOR YORK COUNTY, NO FINAL ORDER HAS BEEN FILED IN THIS POST-CONVICTION CASE" APPELLATE CASE No. 2020-000659; LOWER COURT CASE No. 2019-CP-46-01421

ARGUMENT

PETITIONER RESPECTFULLY CONTENDS THAT THE RESPONSE IS IMPROPER, AND IMPEDES THE RIGHT OF DUE PROCESS TO APPEAL USCA CONST. AMEND. 14; S.C. CONST. ART. I. BECAUSE THE RESPONSE BEING TO PETITIONER'S LETTER THAT SHOWED KNOWLEDGE OF RESPONDENT'S LETTER ON FILING THE "ENCLOSED" FINAL ORDER, WHICH WOULD HAVE MADE AWARENESS OF NOT RECEIVING THE ORDER AS PRESENTED IN THE RESPONSE, THAT IN TURN WOULD HAVE CALLED FOR A RESPONSE OF INVESTIGATION IN WHY THE ORDER HAD NOT BEEN RECEIVED.

RULE 71.1(f) SCRPC STATES:

"THE POST CONVICTION RELIEF JUDGE SHALL SUBMIT THE SIGNED FINAL ORDER OR JUDGMENT TO THE CLERK FOR FILING, AND THE CLERK OF COURT SHALL PROVIDE NOTICE OF ENTRY OF JUDGMENT, AND SERVE A COPY OF THE ORDER OR JUDGMENT TO THE PARTIES

AS PROVIDED IN RULE 77(a) SCRPC WHICH STATES (IN PART) THAT:

"IN ADDITION TO THE ABOVE, IN POST-CONVICTION RELIEF ACTIONS THE POST-CONVICTION RELIEF JUDGE SHALL SUBMIT THE SIGNED ORDER OR JUDGMENT TO THE CLERK OF COURT FOR FILING AND THE CLERK SHALL PROMPTLY PROVIDE NOTICE OF THE ENTRY OF JUDGMENT AND SERVE A COPY OF THE SIGNED ORDER TO THE PARTIES"

CONCLUSION

FOR THE FOREGOING REASONS, PETITIONER RESPECTFULLY REQUEST OF THIS HONORABLE COURT THE FOLLOWING RELIEF:

- (1) HOLD SUCH HEARING THIS COURT DEEMS NECESSARY TO RESOLVE THIS MATTER.
- (2) REQUIRE RESPONDENT TO ANSWER THE CHARGES
- (3) APPOINT QUALIFIED APPEALS COUNSEL FOR APPEAL REPRESENTATION
SEE MOTION PAGE 7-8 STAMPED FILED-RECEIVED BY CLERK, MARCH 4, 20

VERIFICATION

I, JEFFREY LYNN CHRONISTER, DO BY AND VERIFY THAT I HAVE SUBSCRIBED TO THE FOREGOING PETITION. THAT I KNOW THE CONTENTS, AND THE ARGUMENTS, AND ALLEGATIONS IN THIS MATTER ARE TRUE TO THE BEST OF MY KNOWLEDGE.

GIVEN UNDER MY HAND ON THIS 18TH DAY OF MAY, 2020

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER

MAY 18, 2020

RESPECTFULLY SUBMITTED,

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER, #189827
KIRKLAND RIVE CIR., B-II"63
4344 BROAD RIVER ROAD
COLUMBIA, S.C., 29210



ALAN WILSON
ATTORNEY GENERAL

March 18, 2020

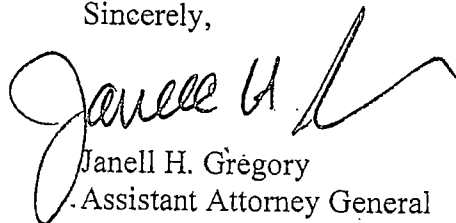
The Honorable David Hamilton
Clerk of Court, York County
Post Office Box 649
York, South Carolina 29745-0649

Re: Jeffrey Lynn Chronister, #189827 v. State of South Carolina
2019-CP-46-01421

Dear Mr. Hamilton:

Enclosed please find the original **Final Order of Dismissal** signed by The Honorable Daniel D. Hall in the above-captioned case for filing in your office. Please return a copy in the enclosed self-addressed envelope.

Sincerely,


Janell H. Grégory
Assistant Attorney General

JHG/jpg
Enclosure

cc: Jeffrey Lynn Chronister, #189827

(4-07-8)

PETITION

THE HONORABLE DAVID HAMILTON
CLERK OF COURT, YORK COUNTY
POST OFFICE BOX 649
YORK, S. C., 29745-0649

RE: JEFFREY LYNN CHRONISTER #189827 v STATE OF SOUTH CAROLINA
CASE NO. 2019-CP-46-01421

HONORABLE CLERK,

THIS CONCERNS THE RESPONDENT'S LETTER DATED MARCH 18, 2020
AND MY COPY WAS RECEIVED ON MARCH 20, 2020.

BY THE LETTER THE "FINAL ORDER OF DISMISSAL" IN THE ABOVE
CAPTIONED CASE WAS SENT FOR FILING, AND AS OF THE DATE OF
THIS LETTER TO YOU I HAVE NOT RECEIVED AN NOTICE OF THE
ENTRY. RULE 71.1(f) + 77(d) SCRPC

THANK YOU FOR YOUR ATTENTION, AND ASSISTANCE TO RESOLVE
THIS MATTER.

SINCERELY,

APRIL 1, 2020

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER #189827
KIRKLAND R+ECTR., B-II #63
4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210

CC: JAWELL H. GREGORY
ASSISTANT ATTORNEY GENERAL

(5-OF-8)



CLERK OF COURT'S OFFICE

Post Office Box 649, York, South Carolina 29745-0649

Date: 4/13/2020 11:32:55 AM
TO: Jeffrey Lynn Chronister
FROM: DAVID HAMILTON, YORK COUNTY CLERK OF COURT
RE: Final Order of Dismissal 2019-CP-46-1421

The above referenced document is being returned for the following reason(s):

1. Requires address, phone number if filing Pro Se.
2. Not dated
3. Not signed
4. Not notarized
5. Incorrect filing fee, Correct amount due: _____
6. Requires original signature
7. Requires a Civil Action Cover Sheet
8. Requires Civil Action Cover Sheet filled out in its entirety
(state nature of action, Jury/Nonjury, Signed by attorney/pro-se)
9. Requires a Motion Cover Sheet
10. Requires a Motion Cover Sheet & \$25
11. This is not a York County Common Pleas Case
12. Check/money order must be payable to Clerk of Court
13. Document is a copy, must file original signature
14. Judge denied Motion to Proceed in Forma Pauperis
Original lawsuit is being returned to you and if you wish to pursue you will need to pay the \$150.00 filing fee.
15. Other

Mr. Chronister,

Our office cannot send something we have not yet received. Please be assured when we receive the order we will send you a copy. Since the courts are operating under the Covid-19 guidelines we may not receive your order for a few weeks or months.

Clerk of Court' Office

(6-0FB)

FILED-RECEIVED

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS ^{2020 MAR - 4 AM 11: 57}

COUNTY OF YORK DAVID HAMILTON
C.C.P. & CS

RE: JEFFREY LYNN CHRONISTER, #189827, YORK COUNTY, SC STATE OF SOUTH CAROLINA
MOTION FOR AFTER NEWLY DISCOVERED EVIDENCE AND RELATED
POST-CONVICTION RELIEF APPLICATION; CASE NO 2019-CR-46-01421

MOTION FOR APPOINTMENT OF COUNSEL

APPLICANT MOVES FOR APPOINTMENT OF COUNSEL IN THE ABOVE REFERENCED CASE FOR THE FOLLOWING REASONS:

(1) EVIDENCE OF MATERIAL FACTS, NOT PREVIOUSLY PRESENTED AND HEARD THAT REQUIRES VACATION OF THE CONVICTION AND SENTENCE IN THE INTEREST OF JUSTICE S.C. CODE 17-27-20(4)

(2) THE CONSTITUTIONAL ISSUES INVOLVED. 17-27-20(2); WOOD v STATE (S.C. 1971) 267 S.C. 179, 184 SE2d 701

(3) QUESTIONS OF LAW AND FACTS WHICH WILL REQUIRE A HEARING AND ALSO;

(4) APPLICANT IS INDIGENT RULE 71.1(d) SCACP.

(5) APPLICANT PRO SE WITH NO FORMAL TRAINING IN LAW

(6) AS TO THIS CLERK'S OFFICE LETTER DATED "2/17/20," (COPY AT P. 3), STATING: "WE ARE DIRECTED BY THE ATTORNEY GENERAL'S OFFICE TO APPOINT ATTORNEYS FOR PCR CASES" THAT APPARENTLY DERIVED FROM CHIEF JUSTICE TOAL'S MEMORANDUM, DATED JANUARY 12, 2004 (SEE COPY OF LETTER BY THIS OFFICE DATED APRIL 23, 2019 AT P. 4), AND THE MEMORANDUM STATES (IN PART) THAT:

"THE MEMORANDUM POINTS SPECIFICALLY TO APPLICATIONS WHICH ARE SUCCESSIVE, FILED BEYOND THE STATUTE OF

~~(1 OF 8)~~

(7-OF-8)

LIMITATIONS, AND THOSE THAT RAISE JURISDICTIONAL ISSUES WITHOUT SPECIFICS".

" THE MEMORANDUM SHOULD NOT APPLY TO APPLICANT'S CASE BECAUSE OUTSIDE OF THE REFERENCED MOTION BEING SUBMITTED "UNDER RULE 29(b)" AND "PURSUANT TO RULE 60(b) SCRPC "IT IS ALSO SHOWN BY RAISING THE FOLLOWING NOT TO BE SUCCESSIVE, FILED BEYOND STATUTES OF LIMITATIONS, AND ALSO SPECIFICS ARE SHOWN,

(1) MOTION PAGE 2-17; INTENTIONAL FRAUD UPON THE COURT "BY ATTORNEY, SOLICITOR, AND PRIMARY INVESTIGATOR, MR. T. M. ST 378 S.C. 127, 135, 662 S.E.2d 413 (Ct. App. 2008): "THERE IS NO (TIME) LIMITATION WHEN A PARTY SEEKS TO SET ASIDE A JUDGMENT DUE TO FRAUD ON THE COURT" CHEWNING, 354 S.C. AT 80 579 S.E.2d AT 609-10; ARATA V VILLAGE WEST OWNERS ASSN. INC. NOT REPORTED IN SE 2d 2011, WL 11935004 (S.C. APP. 2011); RULE 60(b)

(2) PAGE 17-21: "SUBJECT MATTER JURISDICTION" BELLS V MONSANTO CORP. 577 S.E.2d 325 (S.C. 2003) "THIS ISSUE CAN BE RAISED AT ANYTIME, CANNOT BE WAIVED BY THE MOVANT, AND THE COURT SHALL NOT FAIL TO TAKE NOTICE" BROWN V STATE 343 S.C. 342, 540 S.E.2d 846 (2001); STATE V BROWNING 320 S.C. AT 368, 465 S.E.2d AT 359 CITING STATE V MUNN 357 S.E.2d 461 (S.C. 1987)

CONCLUSION

FOR THE REASONS STATED, APPLICANT ASKS FOR APPOINTMENT OF COMPETENT APPEALS ATTORNEY

FEBRUARY 23, 2000

RESPECTFULLY SUBMITTED

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER #189827
KIRKLAND R & E CTR., B-1163
4344 BROAD RIVER ROAD
COLUMBIA, S.C., 29210