

Mr. Docherty's

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S.C. Supreme Court

Pro se Response

to

The Supreme Court

of

South Carolina

Re: Alton L. Docherty Vs. The State
Appellate Case No. 2012-212179

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March 19, 2013

Alton L. Docherty # 314263
Lee Correctional Institution
990 Wisacky Highway
Bishopville, S.C. 29010-1775

The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: Alton L. Docherty Vs. The State
Appellate Case No. 2012-212179

Dear Honorable Clerk of Court,

I Alton L. Docherty now come pro se
in response to the petition filed by my
counsel, Susan B. Hackett Esq. to raise
issues I believe the Court should consider
in this appeal.

To start with, I would like to inform
the Court that I am severely dyslexic, and
function on an academic level on, or around
about a sixth or seventh grade level.

My Public Defender Mr. Timothy W. Murphy Esq. was ineffective assistance of counsel. Being the third appointed (swapped) Public Defender to my case Mr. Murphy did nothing I asked him to do.

1. First, I had asked for a polygraph test.
2. Second, He did no investigation at all.
3. Third, Failure to call witnesses. Mr. Murphy refused to contact anyone in my behalf.
- * 4. Fourth Failure to call an expert witness.

) The State had an expert witness.

The presence, and testimony of a State's expert witness highlights the unfairnesses of expecting an indigent defendant to get a fair trial without giving him access to an expert witness. In Ake Vs. Oklahoma, it required that the basic tools of an adequate defense be provided by the State to an indigent defendant.

) When a State bring its judicial power to bear on an indigent defendant in a criminal proceeding, it must take steps to assure that the defendant has a fair opportunity to present his defense.

5. Fifth, Mr. Murphy said, to aid in my defense I was to write down what I needed brought up in Court, and give it to him. I'm very dyslexic, and don't read, or spell very well at all, and Mr. Murphy knew this.
6. Sixth, I feel that Mr. Murphy demonstrated personal bias - conflict of interest, due to the fact that the alleged victims Father, and Mr. Murphy were both in the Air Force.
7. Seventh, Mr. Murphy fail to enter direct verdict motion at the proper time.
8. Eighth, I had told Mr. Murphy of a conspiracy to steal my inheritance, and He just scoffed at the notion as if it had no value.

I say again Mr. Timothy W. Murphy Esq. was ineffective assistance of counsel.

On my direct appeal my Appellant Attorney Ms. Wanda H. Carter wrote a wonderful brief in my behalf that I'm sending along with this response. See pages, 9-20.

When Ms. Carter's brief went before the Court of Appeals, they ruled that it was a P.C.R. matter.

Now on my Post-Conviction Relief (P.C.R.)
Ms. Mary S. Williams, Assistant Attorney
General wrote to Mr. James C. Campbell
Sumter County Clerk of Court telling him
that I was in need of an Attorney.
Then Mr. Campbell, Clerk of Court sent me
the paper work appointing me counsel,
one Ms. Kristie F. Curtis as my Attorney.
See pages, 21-24.

I then wrote to Ms. Kristie F. Curtis Esq.
sending Her my P.C.R. application along
with a short letter of introduction, and
a list of my amendments. The last thing
that I said to Her was, as follows.

"Upon closing, I am asking you to come to see
me here at Lee Corr. Inst. I have something
to share with you that is very important
before you amend this P.C.R. application."

See pages, 25-30.

I then received two letter dated June 11, 2010
from a Mr. Charles T. Brooks, III Esq.

One of which was a copy of a letter to
Ms. Mary Williams Esq. and one was a letter
to me saying He had been appointed my
counsel. See pages, 31-33.

Upon receiving these two letters from Mr. Brooks, I decided to write two letters of my own. One to my appointed Attorney by Clerk of Court Ms. Kristie F. Curtis Esq. and one to the Sumter County Clerk of Court Mr. James C. Campbell, asking them if there had been a change in counsel.

Mr. Campbell only scribbles a note back to me saying, "if Mr. Brooks wrote you, then you write him back."

Ms. Curtis on the other hand writes me back saying that She is only a trust officer in a bank, and that She decided to give Mr. Brooks my case, and it appears to me in this letter that Ms. Curtis doesn't even know the difference in a Criminal Case, or a Civil Case. Please See page, 34.

May I Please at this time remind the Court of Rule 11 (b) Change of Attorney.

An Attorney may be changed by consent, or upon cause shown, and upon application by order of the Court, and not otherwise.

Written notice of change of Attorney must be served as provided by Rule 5.

Now on June 28, 2010 Mr. Brook sends me another letter this time along with a copy of the Order Substituting him as counsel, But this Order has No Clerk of Court stamp on it, and is back dated 15 days, and there is No name under the Judges signature. Who is this Judge? Then after a complaint to The Supreme Court of South Carolina, Office of Disciplinary Counsel, Mr. Brooks then on July 7, 2010 sends me another letter with another copy of the Order Substituting him as counsel, But Now this Order has been stamped with a Clerks stamp, and time stamped making it now back dated 20 days, and still there is No name under the Judges signature. To this day I can NOT find out who this Judge is that allegedly signed this Order. So I question its validity.

Please See pages, 35-38.

After writing eight separate complaints to The Supreme Court of South Carolina Office of Disciplinary Counsel, on Ms. Kristie F. Curtis Esq. Mr. Charles T. Brooks Esq. and Mr. James C. Campbell, Clerk of Court.

My letters of complaint to the Disciplinary Counsel are dated as follows. June 28, 2010, June 30, 2010, July 6, 2010, July 7, 2010, July 12, 2010, July 13, 2010, July 14, 2010, and July 20, 2010.

I then decided to file a motion to dismiss counsel. Please See pages, 39-43.

I also wrote a letter dated November 1, 2010 to Daniel E. Shearouse, Clerk of Court, bring Him up to date of the standard of nonsense that exist at the Sumter County Courthouse.

My P.C.R. Application was never amended. My Motion to dismiss Counsel was never heard. I had never met Mr. Brooks, or talked to Him about my case at any time.

I'm also sending you a copy of my March 23, 2012 letter to the Supreme Court of South Carolina, and its attachments showing that I did not even have any written contact with Mr. Brooks for over thirteen month, and the unfair way that I was treated before, and during my P.C.R. hearing. Please See pages, 44-51.

I also filed a Motion for a Rule 59 (e). Motion to Alter, or Amend a Judgement.

This Motion has Not been heard either.

Please See pages, 52-53

Before I end this prose reponse I would like to remind the Court that I an indigent, and I am also innocent, and to please read my last page that I call a

Note of Fact. Please See page, 54.

Now on my P.C.R. appeal my Attorney Ms. Susan B. Hackett Esq. wrote a wonderful brief in my behalf. I feel she did the best she could with what she had to work with. However I do believe that Ms. Hackett could have done so much more for me if Mr. Charles T. Brooks III Esq. had done a little something for His pay.

Please remember that Mr. Brook was never appointed as my Attorney by the Clerk of Court of Sumter County.

Thank You for Your time,
and Consideration.

Sincerely,

Alton L. Docherty



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

Joseph L. Savitz, III, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

June 23, 2008

Mr. Alton Lee Docherty, Sr. #314263
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your appeal

Dear Mr. Docherty:

Enclosed is a copy of the Initial Brief of Appellant in your case, which I have filed with the South Carolina Court of Appeals.

Please contact me if you have any questions.

Sincerely,

Wanda H. Carter
Deputy Chief Appellate Defender

WHC/mwl

Enclosure

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County

R. Ferrell Cothran, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALTON LEE DOCHERTY,

APPELLANT

INITIAL BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT.

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STATEMENT OF ISSUES ON APPEAL

The lower court erred in denying appellant's motion for a directed verdict of acquittal on the charge of first degree criminal sexual conduct with a minor because the state's case was devoid of sufficient proof of sexual battery as the victim testified that she could not recall any acts of sexual misconduct perpetrated upon her.

because there wasn't any

Elements of C.S.C. 1st

1. The actor engages in sexual battery.
2. With a victim who is under the age 11.
3. The actor is in a position of familial, custodial, or official authority to coerce the victim to submit, or is older than the victim.

Sexual Battery - Means

Sexual intercourse, cunnilingus, fellatio, and anal intercourse, or any intrusion however slight of any part of a persons body, or any object into the genital area.

Intrusion in 16-13-651 includes any intrusion by one person into another person body.

STATEMENT OF THE CASE

Appellant Alton Docherty, Sr., was convicted of first degree criminal sexual conduct with a minor and lewd act on a minor during the July, 2007 term of the Sumter County General Sessions Court before the Honorable R. Ferrell Cothran, Jr., Judge. Appellant was sentenced to imprisonment for an aggravate period of forty-five years. Appellant appealed. This brief follows.

ARGUMENT

The lower court erred in denying appellant's motion for a directed verdict of acquittal on the charge of first degree criminal sexual conduct with a minor because the state's case was devoid of sufficient proof of sexual battery as the victim testified she could not recall any acts of sexual misconduct perpetrated upon her.

At trial, the biological mother of the female victim in question testified that she (biological mother) and her husband, Alton Docherty, Jr., lived in their house with the minor victim, the minor victim's biological brother Sean and the minor victim's step-brothers

Not Born Yet (Alex) Brandon, and ~~Chase~~ *Shay*, all of whom were under age eleven during the year 2006. *June 4, 2006* During the months of December 2005 and January 2006, Alton Docherty, Sr., i.e. appellant, who was Alton Docherty, Jr.'s father, babysat the minor children. During those months, the

She had a yeast infection. { female victim told her biological mother that her butt hurt. Tr. p. 45, line 12 – p 56, line 25. Also, the female victim told her stepmother that her butt hurt and that she had been touched inappropriately between her legs. Tr. p. 64, lines 1 – 6; Tr. p. 66, line 7 – p. 67, line 24.

Lie → Brother Sean testified that when the babysitting in question was in progress, the victim would sit on his (appellant's) lap and that appellant's hands were on her "private part on her butt." Tr. p. 130, line 12 – p. 136, line 8; Tr. p. 137, lines 18 – 20.

Lie → Stepbrother Brandon testified that the victim sat beside appellant and on appellant's lap during this babysitting time and that appellant stuck his hands in her pants (the front part) but that he did not see him touch part of her body. Tr. p. 143, line 18 – p. 152, line 15.

The female victim in the case testified that appellant did one thing that "bothered her," but that she "[couldn't] remember." The victim also testified that appellant touched her in her private part, but she "[couldn't] remember, and that with respect to the touching,

My Son Alton Jr. got his son Brandon, and his stepson Sean to lie on me in court. What the boys said was a total fabrication. From the begining, I asked for the boys to be interviewed.

could not "really remember the nasty parts," and that she did not see appellant's "wiener."

Tr. p. 164, line 21 – p. 166, line 6. Additionally, the female victim stated that Christina ^{A Step} _{Sister} showed her all about humping and did that (humping) to her. Tr. p. 170, lines 1 – 19; Tr. p. 167, line 15 – p. 168, line 24. Tr. p. 173, lines 1 – 7. The doll demonstration the victim gave at trial suggested knowledge of sexual acts, but stated that she did not want to talk about it. Tr. p. 168, line 20 – p. 169, line 8.

Forensic interviewer Gwen Herod testified that the victim told her that an assault occurred (Tr. p. 204, line 24 – p. 206, line 2), but there was no information given regarding the details of the assault, nor the nature of the assault, nor the type of the assault in question. Registered Nurse Kathy Sanders testified that the victim's vaginal folds and clitoral and urethral were red.

Appellant testified at trial and stated that he never touched Skye Hester sexually, and that he did not touch her vagina nor her anus, and that he never inserted his penis nor his finger nor anything into her anus. Finally, appellant stated that he never had sexual intercourse with Skye. Tr. 251, lines 3 – 21.

At the close of the case, defense counsel moved for a directed verdict on the criminal sexual conduct charge, but the motion was denied. Tr. 235, l. 8 – p. 236, l. 25.

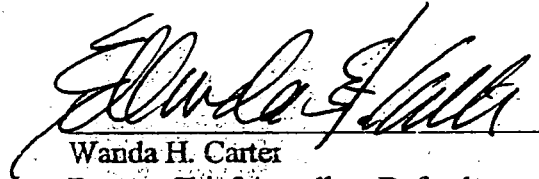
In the case at bar, there was insufficient evidence raising a suspicion that sexual battery occurred here. For example, there was no proof that appellant engaged in sexual battery with the victim via cunnilingus, fellatio, anal intercourse or any intrusion into any body part of the victim. See S.C. Code Ann. Section 16-3-655 (1989). The victim's brothers saw no such intrusions and could only state they saw appellant's hands on her private. The victim stated she could not remember what happened; and with respect to the

doll demonstration. there was never any linking linchpin connecting appellant to these acts, especially since it was minor Christina who showed the victim all about humping. Furthermore, the forensic evidence was weak to nonexistent. For example, the investigator who interviewed the victim received information from the victim that an assault occurred, and the nurse's testimony was to the effect that the victim's vaginal parts looked red. This evidence did not rise to the level of proof of an intrusion into the victim's body. Moreover, appellant denied any sexual misconduct in the case and denied committing any sexual battery upon the victim. Clearly, this was a swearing contest between appellant's word and the victim's word, but the victim gave no words and no testimony to confirm or verify or corroborate the state's allegations of sexual misconduct. Also, the demonstrative evidence involving the dolls was of no consequence because there was no indication or any linking connection establishing that appellant perpetrated those demonstrated doll acts upon the victim.

The accused is entitled to a directed verdict when the evidence merely raises a suspicion of guilt. State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007). Also, a directed verdict should be granted when the state failed to present evidence on a material fact (i.e. sexual battery in this case) when there is no direct or substantial circumstantial evidence reasonably tending to prove the guilt of the accused. State v. Caldwell, ___ S.E.2d ___, 2008 WL 2078139 (May 15, 2008). Here, appellant was not guilty beyond a reasonable doubt of first degree criminal sexual conduct as charged and thus his conviction violates the fourteenth amendment to the United States Constitution and article 1, section 3 of the South Carolina State Constitution.

Based on the following argument, appellant's directed verdict motion should be granted on this charge and the conviction and sentence on the same vacated.

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT.

This 23rd day of June, 2008.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County
- R. Ferrell Cothran, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

v.

ALTON LEE DOCHERTY,

APPELLANT

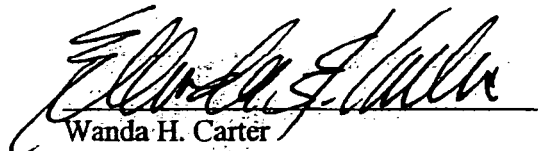
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) Tr. pp. 47 - 79;
- (3) Tr. pp. 128 - 178;
- (4) Tr. pp. 182 - 232;
- (5) Tr. pp. 235 - 236;
- (6) Tr. pp. 240-271;
- (7) Tr. pp. 275 - 282;
- (8) Tr. pp. 332 - 334;
- (9) Tr. pp. 340 - 341.

I certify that this designation contains no matter which is irrelevant to this appeal.

June 23rd, 2008


Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County

R. Ferrell Cothran, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

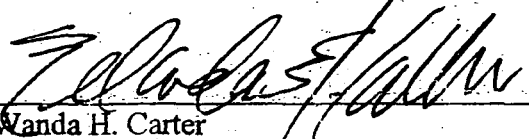
V.

ALTON LEE DOCHERTY,

APPELLANT

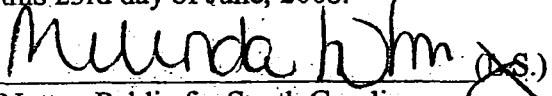
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Initial Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, Assistant Deputy Attorney General, Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201, this 23rd day of June, 2008.


Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 23rd day of June, 2008.


Notary Public for South Carolina
My Commission Expires: November 16, 2008



RECORDED

2010 MAR 22 AM 11:33

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

HENRY McMASTER
ATTORNEY GENERAL

March 19, 2010

The Honorable James C. Campbell
Clerk of Court, Sumter County
141 North Main Street
Sumter SC 29150

**Re: Alton L. Docherty, 314263 v. State of South Carolina
2010-CP-43-0601**

Dear Mr. Campbell:

The above-referenced individual has filed an Application for Post-Conviction Relief (PCR) in the Circuit Court and needs to have an attorney appointed to represent him. If you will appoint an attorney and let me know his or her name, I will send him or her a copy of our file in this matter.

If you have any questions with regard to this matter, please let me know.

Sincerely,

Mary S. Williams
Assistant Attorney General

MSW/aekr

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER
IN THE COURT OF COMMON PLEAS

RECORDED
2010 MAR 24 AM 10:00
CASE NO: 2010CP4300601
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

Alton L #314263 Docherty vs. South Carolina State of

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other:
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy:
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other: _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

see attached Order for Appointment of counsel

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Cherie L. Hoff
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

Dated at Sumter, South Carolina, this 23rd day of March 2010.

Court Reporter: _____

PRESIDING JUDGE -

This judgment was entered on the 22nd day of March 2010, and a copy mailed first class this 23rd day of March 2010, to attorneys of record or to parties (when appearing pro se) as follows:

Alton L Docherty Lee Correctional Institution
990 Wisacky Hwy Bishopville, SC 290101775
Kristi Fisher Curtis National Bank of South
Carolina P.O. Box 1798 Sumter, SC 29151-1798

Henry Dargan McMaster S.C. Attorney
General'S Ofc./Williams P.O. Box 11549
Columbia, SC 29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

SCRPC APP-24/FORM 4

James C. Campbell
James C. Campbell - Clerk of Court

RECORDED

STATE OF SOUTH CAROLINA
COUNTY OF

2010 MAR 24

IN THE COURT OF (Select one.)
 COMMON PLEAS FAMILY COURT

Alton L. Docherty

JAMES B. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

JUDICIAL CIRCUIT

CASE NO.: 2010-CP-43-00601

Plaintiff(s),

-vs-

State of S.C.

Defendant(s).

APPOINTMENT OF COUNSEL OR GAL

(Select one.)

ORDER

AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

- Post-Conviction Relief (PCR)/habeas case
- SVP case
- Minor Name Change

- Adoption
- Custody and/or Visitation
- Other:

- Juvenile
- Abuse and Neglect

CERTIFIED TRUE COPY
OF ORIGINAL FILED
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

It appears that Docherty, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: _____
- counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- court appointed counsel has obtained _____, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.

Other:

Kristie F. Curtis
PO Box 1798
Sumter, SC 29151

- counsel
- lead counsel (if capital PCR case)
- guardian ad litem

Therefore, it is ordered that Curtis, hereby is appointed as (Select one.)
for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

(If Death Penalty PCR Case) It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 22nd DAY OF March, 2010

James C. Campbell

Circuit Judge

Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

25
Curtis

May ?, 2010

Alton L. Docherty #314263
Lee Correctional Institution
990 Wisacky Highway
Bishopville, S.C. 29010-1775

Kristic E. Curtis Esquire
P.C.R. Attorney
Postoffice Box 1798
Sumter S.C. 29150

RE: State Vs. Alton L. Docherty
Case No. 2006-GS-43-0824

Dear Ms. Kristic E. Curtis Esquire

Please allow me a chance to introduce myself, my name is Alton, and I'm a 54 year old functional illiterate, (severely dyslexic). I'm having help with this letter.

I am innocent! In the attached pages you will find what I termed to be "ineffective assistance of counsel" in my application that you will be amending shortly. It is absolutely important to me that you keep in mind during this whole process that I am innocent, and that I do not possess the functional abilities that normal people enjoy.

2

When I was first arrested, my academic level was at a 3.3 in reading, and at a 5.3 in math. I was not able to aid in my defense, nor was I allowed to, which I will share in my attachments. I want to thank you in advance for all your help.

Warmest Regards,
Alton L. Docherty

- 1.) From the very beginning I asked for a polygraph examination, and I would like to add that I had three different Attorneys. Any of the three could have asked for a polygraph test. It is true that any polygraph examination would have obviously been speculative, but the fact that one was never performed is problematic. Furthermore if an expert witness had been retained by counsel such a polygraph could have been a factor in the experts opinions. When I passed the test it would have obviously proved to be helpfull information to be presented with the experts testimony, like I said earlier, I am innocent, the test would have revealed that.
- 2.) Failure to conduct any investigation. Trial counsels choice to do no investigation or exploring any of the witnesses, and leads, upon the defendants countless request which is an error that very well effected the outcome of the trial. A clear understanding of these witnesses, and a full investigation would have revealed relevant, and important information, and should have been explored

3.) Failure to call witnesses.

1. My Mother, Alice B. Docherty, now deceased, ^{D.F.P.} 4-2-200. Mona's statement would have shown that states witnesses were lying.
2. My Brother Paul J. Docherty (Tim) would have backed up my Mother's testimony.
3. My Daughter, Michele L. Pack, could have testified that I never acted inappropriately around her or any of her friends.
4. Ret. Sheriff Tommy Mims, and Church Deacon of the First Baptist Church in Sumter where I am a member also.
5. Bobby Burkett Esquire, testimony would have been crucial to my case.
6. Mr & Mrs Fred Harmon are my friends.
7. Leslie Diaz, who's last name has changed and I can't remember, to what? Leslie was my mental health counselor for many years.
8. My girl friend Bonnie Fenuguin who I've known for about ten years, and is also a member of the First Baptist Church.
9. Dr. Phil Brant, My friend, and personal Physician.
10. Albert McIntire, My best friend.
11. Mr. Gene Huggins, My General Foreman.
12. Mr. Roy Elin, My Druggist, and friend.

My trial Attorney, refused to subpoena anyone in my behalf.

4.) Failure to call expert witnesses.
 We have the burden of showing prejudice in a petition for P.C.R. I need your help on this one. We can not show that I was prejudiced by counsel's failure to call a favorable witness to testify at trial, if that witness does not later testify at the P.C.R. hearing or offer testimony within the rules of evidence.
 I should of had an expert witness to combat their expert witness.

5.) I am dyslexic,
 I don't read very well, and my spelling is very poor. My Trial Lawyer knew this, and in court told me if I had something to say, I was not to talk, but for me to write it down. Something he knew, I could not do (this very much impaired my ability to aid in my defense).

6.) Personal Bias
 I feel that my Trial Lawyer was biased because he is retired Air Force, and the alleged victim's father is in the Air Force. For instance my Lawyer Mr. Murphy told me that "Mr. Hester is a Sergeant in the United States Air Force", this was after I said that Mr. Hester was not telling the truth! It was like, who would believe that Mr. Hester could lie. There are other things too. (Attachment 3 of 4)

6

7.) Failure to enter direct verdict motion
at the proper time.
This big error cost me my appeal.

8.) Upon closing, I am asking you to
come to see me here at Lee Corr. Inst.
I have something to share with you
that is very important before you
amend this P.C.R. application.

The Brooks Law Offices, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
Post Office Box 291226, Columbia, SC 29229
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

June 11, 2010

Office of the Attorney General
Attn: Mary Williams, Esquire
Post Office Box 11549
Columbia, South Carolina 29211-1549

RE: Alton Docherty v State of South Carolina
Case No. 2010-CP-43-601

Dear Ms. Williams:

Please be advised that I was as appointed Counsel to represent Mr. Docherty in his PCR matter in Sumter County. Please send all future correspondence in reference to this matter to my Sumter office. Also please forward a copy of the State's Return and Transcript when available.

Your prompt attention to this matter will be greatly appreciated. If you have any questions or concerns, please contact me at the telephone number above.

With kind regards,

Sincerely,

Charles T. Brooks, III
CTB, III/jlb

cc: Alton L. Docherty, 314263

He was never appointed. a.l.d.

THE BROOKS LAW OFFICES, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
Post Office Box 291226, Columbia, SC 29229
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS,
Attorney

June 11, 2010

Alton L. Docherty, 314263
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina, 29010

RE: Alton L. Docherty v State of South Carolina

Dear **Mr. Docherty**:

Please be advised that I have been appointed as Counsel for you in reference to your PCR case that is pending in Sumter County.

I would like to take this opportunity to explain several things about PCR cases in general and I hope that they benefit your understanding of the PCR process and operating process of my offices.

A Post Conviction Relief Application is your official statement to the Court that you feel that your TRIAL ATTORNEY failed in his duty to you during your CRIMINAL case. You are requesting a new CRIMINAL trial based on that allegation. Many times there is a belief that you can have your sentence reduced and that you can go home immediately. Please be advised that this does not occur in a PCR case.

If your PCR is successful and any Appeal filed by the State is not granted, then you will get a new criminal trial. Your criminal case will begin again. Please be aware that it could be as much as two to three years before you get your new trial as the State does usually appeal all PCR victories by incarcerated persons. Please keep these things in mind when working on or thinking about your pending case.

If you pled guilty at your General Sessions hearing, please be aware that your PCR case will be restricted to one main issue. This issue whether or not you had a clear understanding and state of mind/mental health when you entered that guilty plea. I will not be able to make a determination on this issue until I have received a copy of your guilty plea/sentencing transcripts. If after I receive the transcripts and it appears there may be an issue in the Court determining that you were making your guilty plea properly then I will attempt to visit you and discuss this issue at length.

If you went to trial during your General Sessions case and were found guilty by a Jury of your peers then after I have received all relative documentation on your file I will try to meet with you in person to discuss your case.

As YOUR attorney I will only discuss your case with you directly. I will not speak with members of your family or friends or significant others on your behalf. If you wish to discuss your case with other persons to whom you are related or share a relationship with then that is your choice. I strongly advise against discussing details of any case with anyone other than your legal counsel.

Please feel free to correspond with my office in writing about any concerns you may have regarding your case. Do not hesitate to send to me by mail any information that you think is relevant to your application and PCR case. If there are any arguments which you wish to have raised at the time of your hearing, please feel free to forward them to my office at the address shown above.

Many clients wish to contact my offices by telephone. It is advisable to contact my office and schedule a specific date and time in which to contact me for a phone appointment. Scheduling this will ensure that you are able to speak with me directly instead of a member of my staff. As an attorney my schedule can be quite hectic at times and having a scheduled phone conference with you will in a sense guarantee your ability to contact me.

Please note that my office phone system is NOT compatible with SCDC's phone system due to the features installed in my office telephone system. There have been a few cases where my clients were not able to contact me via telephone due to this problem. If you do not have access to phone my offices due to this problem then I encourage you to call my offices collect.

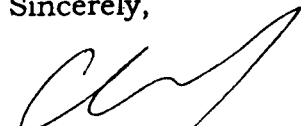
I have been practicing law for more than a decade and in recent years have dedicated a good portion of my practice to PCR cases. I have been successful on a few cases over these years in having PCR's granted.

I look forward to working on your case. I have begun reviewing the information already contained in your file.

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

With kind regards, I am,

Sincerely,



Charles T. Brooks, III
CTB, III/jlb

June 22, 2010

Mr. Alton L. Docherty, #314263
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010-1775

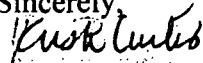
RE: State v. Alton Docherty
Case no: 2006-GS-43-0824

Dear Mr. Docherty:

Thank you for your letters of May 24, 2010 and June 21, 2010. I have been appointed to represent you in your PCR action. However, upon my appointment I contacted attorney Charles Brooks to take over your case. Mr. Brooks has a background in criminal defense. I am currently a trust officer in a bank, and I have never practiced criminal law. I think you will be in very good hands with Mr. Brooks. As soon as the judge signs the order substituting Mr. Brooks for me, a copy will be forwarded to you.

I am forwarding all of your previous correspondence to Mr. Brooks.

I wish you the best.

Sincerely,

Kristi F. Curtis

THE BROOKS LAW OFFICES, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
Post Office Box 291226, Columbia, SC 29229
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com
June 28, 2010

IRMA R. BROOKS
Attorney

Alton L. Docherty, 314263
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina, 29010

RE: Alton L. Docherty v State of South Carolina

Dear **Mr. Docherty**:

Please find enclosed a copy of the Order Substituting me as your counsel in reference to your PCR matter pending in Sumter County.

Also please find enclosed the Amendment to your PCR Application that is being filed on your behalf. We will forward a filed copy to you once we receive back from the clerk.

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

With kind regards, I am,

Sincerely,



Charles T. Brooks, III
CTB, III/jlb

Enclosure as Stated

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)
)
ALTON L. DOCHERTY, 314263)
)
)
Applicant)
)
v.)
)
STATE OF SOUTH CAROLINA)
)
)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

CASE NO: 2010-CP-43-601

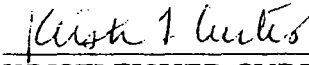
ORDER SUBSTITUTING COUNSEL


IT APPEARING to this court that KRISTI FISHER CURTIS, ESQUIRE, was appointed to represent this matter for the Petitioner, ALTON L. DOCHERTY, it is hereby:

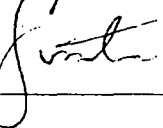
ORDERED, ADJUDGED AND DECREED, that CHARLES T. BROOKS, III, Esquire, be and is hereby substituted as appointed counsel of record in the above captioned for the Applicant as of the 9th day of June, 2010; KRISTI FISHER CURTIS, ESQUIRE, is hereby relieved of all duties of representation of the above-captioned for the Applicant.

AND IT IS SO ORDERED!

We Consent:


KRISTI FISHER CURTIS, ESQUIRE


CHARLES T. BROOKS, III, Esquire


SC 6/24, 2010


CIRCUIT COURT JUDGE

THE BROOKS LAW OFFICES, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
Post Office Box 291226, Columbia, SC 29229
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

July 7, 2010.

Alton L. Docherty, 314263
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina, 29010

RE: Alton L. Docherty v State of South Carolina

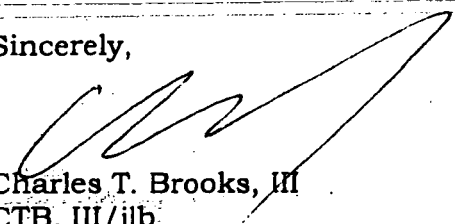
Dear **Mr. Docherty**:

Please find enclosed a filed copy of the Order of Substitution in reference to your Post Conviction Relief case.

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

With kind regards, I am,

Sincerely,



Charles T. Brooks, III
CTB, III/jlb

Enclosure as Stated

RECORDED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) THIRD JUDICIAL CIRCUIT

ALTON L. DOCHERTY, 314263)
JAMES S. CAMPBELL)
CLERK OF COURT)
SUMTER COUNTY, S.C.)

CASE NO: 2010-CP-43-601

Applicant)

v.)

ORDER SUBSTITUTING COUNSEL

STATE OF SOUTH CAROLINA)

RESPONDENT.)

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Shirley L. Jeff
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

IT APPEARING to this court that KRISTI FISHER CURTIS, ESQUIRE, was appointed to represent this matter for the Petitioner, ALTON L. DOCHERTY, it is hereby:

ORDERED, ADJUDGED AND DECREED, that CHARLES T. BROOKS, III,

Esquire, be and is hereby substituted as appointed counsel of record in the above captioned for

the Applicant as of the 9th day of June, 2010, KRISTI FISHER CURTIS, ESQUIRE, is

hereby relieved of all duties of representation of the above-captioned for the Applicant.

AND IT IS SO ORDERED!

We Consent:

Kristi Fisher Curtis
KRISTI FISHER CURTIS, ESQUIRE

Charles T. Brooks, III
CHARLES T. BROOKS, III, Esquire

June 9, SC *6/24*, 2010

[Signature]
CIRCUIT COURT JUDGE

On Nov. 15, 2010 a second copy was sent to Sumter County Court, and a copy sent to Mr. Brooks

August 4, 2010

State of South Carolina

County of Sumter

In the Court of Common Pleas

Proof of Service

Alton L. 314263 Docherty Vs.
South Carolina State of

Proof of Service

I Alton Lee Docherty, do certify I have provided a copy of my motion to dismiss counsel dated August 4, 2010, to the Attorney General's Office, by putting it in the U.S. Postal Service this 4th day of August 2010 at the following address:

Office of the Attorney General
Attn: Mary Williams, Esquire
Post Office Box 11549
Columbia, South Carolina

29211-1549

Alton L. Docherty

August 4, 2010

STATE of SOUTH CAROLINA
 COUNTY of SUMTER
 IN THE COURT OF COMMON PLEAS

Motion to
 Dismiss
 Counsel

Case No. 2010CP4300601

ALTON L. 314263 DOCHERTY VS.

SOUTH CAROLINA STATE OF

Now comes, Alton L. Docherty herein,
 and pro-se, and asks this court to dismiss
 Charles T. Brooks III Esq. and/or Kristic
 F. Curtis Esq. from my case, and appoint
 another. For the following reasons:

Warmest Regards,

Alton L. Docherty

Alton L. Docherty, #314263
 Lee Correctional Institution
 990 Wisacky Highway
 Bishopville, South Carolina

29010-11775

Reasons To Dismiss Mr. Brooks, and/or Ms. Curtis as my Attorney.

1. Mr. Brooks, In his first letter he wrote to me, He Lied, saying "he had been appointed as my Attorney", when in fact he had not. - (Letter dated June 11, 2010).
2. Mr. Brooks also Lied to Mary Willians, Esq. Of The Attorney General's Office, When he wrote, and told her that he had been appointed as my Attorney, when in fact he had not. - (Letter dated June 11, 2010).
3. Concerning Ms. Kristic F. Curtis, Esq. After I received the intentionally untrue letter from Mr. Brooks, I wrote to Ms. Curtis informing her what Mr. Brooks had said. At the same time a copy was sent to the Clerk of Court, Mr. James C. Campbell asking for instructions. Had there been a change made in Attorneys, certainly the Clerks office would have known about it.

4. On June 22, 2010 I received a letter from Ms. Curtis. She admitted, that she had been incorrectly appointed to my case, that she is a trust officer in a Bank, and has never practiced criminal-law, and she was the one that was going to appoint Mr. Brooks to my case. She also said, that as soon as the Judge signs the order substituting Mr. Brooks for her, a copy will be forwarded.
5. Shortly thereafter, I received a note from the Clerk of Court's office saying, "You need to contact Mr. Brooks office since you received a letter from him"
6. Mr. Brooks sent into the Court my writings I had sent to Ms. Curtis, these writings were "unfinished" until Ms. Curtis, and myself had an opportunity to share face to face. My request to Ms. Curtis was as follows:

"Upon closing, I am asking you to come to see me here at Lee Corr. Inst. I have something to share with you that is very important before you amend this P.C.R. application."

Mr. Brooks sent it into the court anyway. Now it is a part of my application, and there appears to be nothing I can do to correct this.

7. After all of the above I contacted the South Carolina Disciplinary Counsel, and filed a complaint against Mr. Brooks, and Ms. Curtis.

Because of the above foresaid I request Mr. Brooks, and/or Ms. Curtis be removed from my case, and another Attorney be appointed.

March 23, 2012

Alton L. Docherty # 314263
Lee Correctional Institution
990 Wisacky Highway
Bishopville, S.C. 29010-1775

The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: State Vs. Alton L. Docherty
Case No 2006-GS-43-0824
Post-Conviction Relief number
is 2010-CP-43-00601

Dear Honorable Clerk of Court,
Please find enclosed a copy of my
complaint to the Supreme Court of
South Carolina Office of Disciplinary
Counsel on the Honorable Judge
(Jeffrey Young)
Please, it would like this put on the record,
and if there is anything you can do to
assist me in getting fair treatment, please do.
Sincerely, Alton L. Docherty

March 23, 2012

Alton L. Docherty # 314263
Lee Correctional Institution
990 Wilsack Highway
Bishopville, S.C. 29010-1775

The Supreme Court of South Carolina
Office of Disciplinary Counsel
ATTN: Lesley M. Coggiola
Post Office Box 12159
Columbia, S.C. 29211

Complaint against
The Honorable Judge, (Jeffrey Young)

Dear Disciplinary Counsel,
On February 22, 2012 I received a letter
from Mr. Charles T. Brooks III esq.
Please see Attachment A.

This letter is telling me that my P.C.R.
hearing is scheduled for Thursday
March 22, 2012.

The last time I had heard from
Mr. Brooks was January 27, 2011 when
he had sent me a letter with the
State's Return. Please see Attachment B.

Page 1 of 3

I had submitted a Motion to Dismiss Counsel, (Mr. Brooks) a year, and a half earlier on August 4, 2010.

I had never met Mr. Brooks or talked with him about my case.

I never heard anything on my Motion to Dismiss Mr. Brooks.

I had also filed numerous complaints on Mr. Brooks with your office.

Mr. Brooks had filed my unfinished P.C.R. application with out my knowledge among other things.

Now to the matter at hand.

I was taken to the Sumter County Court House on March 22, 2012 before the Judge (Jeffrey Young)

At this time I presented the Judge with my Motion to Dismiss Mr. Brooks the Judge gave me a choice of Mr. Brooks or do it myself.

I felt that was no choice since I only have a six grade education (I'm dyslexic) I chose Mr. Brooks, and then I asked the Judge for a continuance.

The Judge Denied Me A Continuance. I was forced to go on with my P.C.R.

This Judge knew I had never met Mr. Brooks, he knew we did not cover all of my amendments to my P.C.R. application, and I did not even have any notes. I was totally unprepared, and this Judge knew it. How can he make a fair, and just ruling like that?

If you please, my complaint is How is this fair, just, or even honest? I am an innocent man accused of something that did NOT happen, and I'm being denied the means to prove it. My public defender was ineffective, and I'm NOT being given the means to prove that either.

I have "NO" outside help, and I'm pleading for help. Just fairness, this is America isn't it?

Please forgive me, but is my only relief going to be suicide?? This is not a threat, I am Not currently suicidal
Pleading for fairness,

Alton L. Docherty
Page 3 of 3

THE BROOKS LAW OFFICES, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
Post Office Box 291226, Columbia, SC 29229
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

February 16, 2012

Alton Lee Docherty, 314263
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina, 29010

Re: PCR Hearing

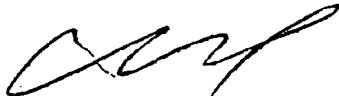
Dear Mr. Docherty:

Please be advised that your PCR hearing is scheduled for **Thursday, March 22, 2012**, at the Sumter County Court House at 9:30 A.M.

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

With kind regards, I am,

Sincerely,



Charles T. Brooks, III
CTB, III/jlb

Attachment (A)

Page 48

THE BROOKS LAW OFFICES, LLC

CHARLES T. BROOKS, III,
Attorney

309 Broad Street
Sumter, South Carolina 29150
Post Office Box 3512, Sumter, SC 29151
Post Office Box 291226, Columbia, SC 29229
OFFICE: (803) 418-5708
FAX: (803) 934-9618 TOLL FREE: (877) 770-8792
Email: cbrooks@ctbrooks.com

IRMA R. BROOKS
Attorney

January 27, 2011

Alton L. Docherty, 314263
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina, 29010

RE: Alton L. Docherty v State of South Carolina

Dear Mr. Docherty:

Please find enclosed a copy of the State's Return for your review and files.

If you have any questions, please let me know.

With kind regards, I am,

Sincerely,



Charles T. Brooks, III
CTB, III/jlb

Enclosure as Stated



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Joseph P. Turner Jr.
Assistant Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Fax: (803) 734-1984

April 13, 2012

PERSONAL AND CONFIDENTIAL

Alton L. Docherty #314263
Lee Correctional Institution
990 Wisacky Hwy
Bishopville, SC 29010

Re: Judge Circuit Court Judge William Jeffrey Young
Matter Number: 12-DE-J-0086

Dear Mr. Docherty:

We have received and reviewed your complaint about Circuit Court Judge William Jeffrey Young. The authority of this office and the jurisdiction of the Commission on Judicial Conduct concerning complaints against judges are limited to issues of whether a judge has committed misconduct or is incapacitated within the guidelines of the Rules for Judicial Disciplinary Enforcement, Rule 502, SCACR, adopted by the Supreme Court of South Carolina.

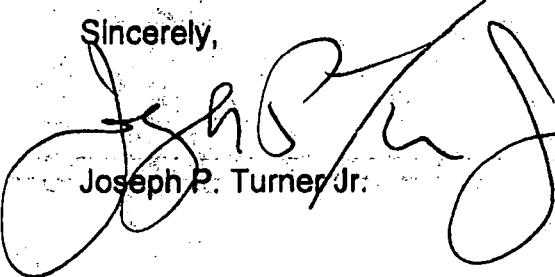
These rules do not apply to questions about whether or not the outcome of a case handled by a judge was fair. We do not have authority to intervene in any matter presently pending before a court or to change the outcome of the decision of a court. These are legal matters which must be addressed by you to the court or raised by you on appeal using the appropriate appellate procedures.

In addition, we do not seek to get a judge to do something a person wants done. We cannot give advice about your case or the legal system in general. This is not a place for an individual to seek relief, but a place where institutional values are promoted for the good of everyone who has dealings with our legal system.

Alton L. Docherty
April 13, 2012
Page Two

The information in your complaint involves legal matters that would not constitute misconduct or incapacity under these rules even if true and, as such, are outside the jurisdiction of this office and the Commission on Judicial Conduct. For this reason, your complaint is dismissed pursuant to the provisions of Rule 19(a) of the Rules for Judicial Disciplinary Enforcement.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph P. Turner Jr.", written over a horizontal dashed line.

Joseph P. Turner Jr.

JPT/clg

Sumter County
Clerk of Court
James C. Campbell
Sumter S.C. 29150

RECORDED
2012 MAR 29 PM 2:23
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

RE: Filing of 59(E) to Alter or Amend

Dear Honorable Clerk,

Enclosed Please find a filing of a
59(E) For my hearing on March 22, 2012
Please Clock stamp, and file this copy,
and make a copy, and return to for my
files.

Thank You,
Alton L Docherty

Alton L. Docherty
March 23, 2012

P.S.

Please give me the name of the Judge
that ruled over my P.C.R. hearing on
March 22, 2012.

Judge W. Jeffrey Young

State of South Carolina
County of Sumter

Alton L Docherty
Appellant

V.
State of South Carolina
Respondent

In the Court of Civil

PR The Third Judicial Circuit

RECORDED
2012 MAR 29 PM 2:23
Case # 2010-CP-43-00601

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

Notice of Motion, and
Motion for Rule 59 (E)
Motion to Alter or Amend
A Judgement requesting
Additional Hearing.

Now comes Appellant to give notice of Motion, and Motion for rule 59 (e) Motion to Alter, or Amend a Judgement requesting a Hearing for Additional Hearing, and Ruling, but not sooner than 10 days from date of Motion, and so moves herein for such for the following reasons:

1. Appellant has over the past one and a half years has trying to dismiss his Attorney who was not Appointed to his case by Clerk of Court,
2. Judge refused to Address issues, and said I would have to represent myself if I did not accept Attorney Mr. Charles T. Brooks III.
3. Attorney never went over anything or visited Appellant at Lee Correction Inst. And as of any of my issues I wish to bring up at PCR Hearing.

Wherefore, Applicant herein prays that this Honorable Court grant his Motion that he be Scheduled for a Hearing for the court to Alter or Amend its order as soon as possible.

Signed on this day of 23 March 2012

Alton L. Docherty

Note of Fact

While confined to prison, the prisoner is in no position to develop the evidentiary basis for a claim of ineffective assistance, which often turns on evidence outside the trial record.

A prisoner's inability to present a claim of trial error is of particular concern when the claim is one of ineffective Assistance of Counsel.

The right to the effective Assistance of Counsel at trial is a bedrock principle in our justice system.

It is deemed as an "obvious truth" the idea that any person hauled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him.

The Right to Counsel is the foundation for our adversary system.

Defense counsel tests the prosecution's case to ensure that the proceedings serve the functions of adjudicating guilt or innocence. The defendant requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. Effective trial counsel preserves claims to be considered on appeal.

