

RE : NO: 2017-002219., 2015 CP400549.

DEAR CLERK

PLEASE FIND FOR
Filing WITHIN your OFFICE.

(1) MOTION TO ALTER JUDGEMENT

(2) CERTIFICATED OF SERVICE

AND By THIS LETTER THE PETITIONER
GIVES NOTICE THAT HE HAS CAUSE THE
SAME TO BE SERVED UPON RESPONDENT
By Placing SAME IN THE UNITED STATES
MAIL HERE AT KIRKLAND CORRECTIONAL INST

Respectfully Submitted.
MARCUS A JOSEPH 142764
PETITIONER

RECEIVED

JAN 08 2021

S.C. SUPREME COURT

RECEIVED

JAN 07 2021

SC Court of Appeals

MARCUS A JOSEPH

v

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS
STATE OF SOUTH CAROLINA

MOTION TO ALTER

JUDGEMENT IN CASE

NO: APPELLATE CASE NO

2017-002219

RECEIVED

JAN 07 2021

SC Court of Appeals

NOW HERE COMES THE PETITIONER WHO HEREBY MOVES BEFORE THIS COURT FOR AN ORDER VACATING THE JUDGEMENT OF THE LOWER COURT IN ACTION NO: 2015 CP 14 00549. AS IS BASED UPON THE FOLLOWING.

A HEARING WAS HELD BUT THE COURT DID NOT APPOINT COUNSEL TO REPRESENT APPLICANT THE COURT IN WHITEHEAD V STATE 310 SC 532 426 SE 2d 315 HELD THAT AN INDIGENT POST CONVICTION RELIEF APPLICANT WAS ENTITLED TO THE APPOINTMENT OF COUNSEL WHERE THE COURT ADDRESSED THE MERITS OF HIS P.C.R. APPLICATION IN PITT V M'DONALD 245 SC 98 138 SE 2d 840 THE COURT HELD THAT AN ACCUSE FAILURE TO REQUEST THE ASSISTANCE OF COUNSEL IS NOT A WAIVER OF HIS CONSTITUTIONAL RIGHT TO COUNSEL

HIS CONSTITUTIONAL RIGHT TO THE ASSISTANCE AND IT MAY NOT BE PRESUMED FROM A SILENT RECORD.

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JAN 08 2021

S.C. SUPREME COURT

AN INDIGENT POST CONVICTION RELIEF
APPLICANT WHO IS GRANTED A HEARING HAS A
RIGHT TO BE REPRESENTED BY A COURT APPOINTED
ATTORNEY RULE CIV PROC RULE 71.1(d)

RESPECTFULLY SUBMITTED
MARCUS A JOSEPH 147764

MARCUS A JOSEPH 147764
KIRKLAND CORRECTIONAL INST
4344 BROAD RIVER Rd
Columbia SC 29210
Unit F2 B 162

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JAN 07 2021



SCDC

DEC 31 2020

MAIL ROOM

**LEGAL
MAIL
ONLY**

To **SC Court of Appeals**
CLERK OF COURT
SOUTH CAROLINA COURT OF APPEALS
P.O. Box 11629
Columbia SC 29211

SCDC
JAN 18 '21
MAIL ROOM

29211\$1629 6012



THE DEPARTMENT OF CORRECTIONS HAS NOT
INSPECTED OR CENSORED THIS ITEM, THEREFORE, THE
DEPARTMENT DOES NOT ASSUME RESPONSIBILITY FOR
ITS CONTENTS.

