

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Kevin E. Herriott, #313862
Defendant,

vs.

The State of South Carolina,
Respondent.

CIA No. : NOT APPLICABLE

MOTION FOR PERMISSION TO
REMOVE CASE ACTION FROM
STATE COURT

COMES NOW, Defendant Kevin E. Herriott, pro se litigant, moves before this Honorable Court asking for a) Order granting permission to remove state case action from the South Carolina Appellate Courts to federal jurisdiction. Accord 28 U.S.C. § 1442 (a) (1).

The defendant Herriott asks removal of state case action 2019-000969 on grounds of in violation of inordinate delay, lack of subject-matter jurisdiction, lack of specific notice, denial of compulsory process for obtaining witnesses in his favor, Brady violation, and prosecutorial misconduct. Pursuant to, (5)th Fifth Amendment, (6) Sixth Amend., (14) Fourteenth Amend., to the United States Constitution.

The defendant Herriott submits that the Respondent Mr. William Blitch has caused inordinate delay and has not applied to the rules of court procedures resulting in the frustration of the defendant's rights creating a circumstance as to render that process ineffective in the state corrective process, see *Allen v. Leeke*, 328 F.Supp. 292.

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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 ineffectual. *ibid.*

On August 24, 2020, the state Supreme Court ruled on defendant's Herriott motion titled "Transfer Case Action" denying the motion and certification notice. see attached.

On August 14, 2020, the state Court of Appeals of South Carolina granted Respondent Mr. Blich (30) days extending time for Respondent to reply to defendant's Herriott initial brief filed on November 6, 2019. However, this extension were the Respondent Mr. Blich's second in which he has failed to answer in accordance to SCACR, Rule 208(a)(4) and not being held accountable. see §1442(d)(1); see also, attached order.

The defendant Herriott submits that the basis for this motion is to raise all available grounds that were exhausted at the state's level given that no relief is available who has presented his court claims to both jurisdictions without any remedy present. see *Jones v. Crouse*, 360 F.2d 157, 158, (10th Cir. 1966).

The defendant Herriott directs the court attention that this request is timely within (30) days of the S.C. Supreme Court's, State Court adjudication and has offered good reason why the court shall entertain this motion granting relief.

Respectfully Submitted,

K. E. Herriott
Kevin E. Herriott # 313862
McCormick Corr. Inst.
386 Redemption Way HWY
McCormick, South Carolina 29889

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The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 24, 2020

Kevin Herriott, 313862
Kirkland Correctional Institution
4344 Broad River Road
Columbia SC 29210

Re: The State v. Kevin Herriott
Appellate Case No. 2019-000969

Dear Mr. Herriott:

The Court has received your motion titled "Transfer Case Action and Certification Notice". On August 5, 2020, the South Carolina Supreme Court denied the appellant's motion to certify that was filed in their Court. Therefore, this Court will take no further action on this matter.

Very truly yours,

V. Claire Allen

CLERK

cc: Alan McCrory Wilson, Esquire
William M. Blich, Jr., Esquire

The South Carolina Court of Appeals

The State, Respondent,

v.

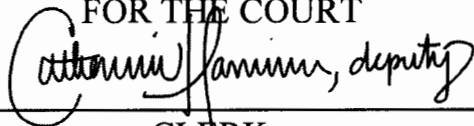
Kevin Herriott, Appellant.

Appellate Case No. 2019-000969

The Honorable R. Ferrell Cothran, Jr.
Lee County
Trial Court Case No. 2018GS3100120

ORDER

The Court has received the respondent's motion for an extension of time to serve and file the initial brief of respondent and designation of matter. This motion is Granted. The initial brief and designation of matter are due to be served and filed within thirty (30) days of the date of this order.

FOR THE COURT
BY  deputy
CLERK

Columbia, South Carolina
August 14, 2020

cc:
Kevin Herriott, 313862
Alan McCrory Wilson, Esquire
William M. Blich, Jr., Esquire



South Carolina Court of Appeals

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KEVIN HERRIOTT, 313862
KIRKLAND CORRECTIONAL INSTITUTION
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COLUMBIA SC 29210

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South Carolina Court of Appeals

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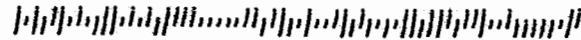
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KEVIN HERRIOTT, 313862
KIRKLAND CORRECTIONAL INSTITUTION
4344 BROAD RIVER ROAD
COLUMBIA SC 29210

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September 14, 2020
Clerk Robin L. Blume
Clerk's Office
901 Richland Street
Columbia, SC 29201

Re: The State vs. Kevin Herriott
Appellate Case Action: 2019-969
Remove Jurisdiction

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2020 SEP 21 PM 12: 29

Dear Clerk:

PLEASE FIND ENCLOSED, (1) one copy of motion for permission to remove case action from state court, attached exhibits, and mailing correspondences dates. Also, would you please file within this jurisdiction and providing a clocked-date stamp for my records.

Yours Truly,
[Signature]
Mr. Kevin Herriott #313862
McCormick Corr. Inst.
F5A#33
McCormick, SC 29889

cc: // Mr. William Bitch, Jr., Esq.

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Heath E. Herrick # 313862
McCormick Correctional Institution
FSA #33
386 Redemption Way Highway
McCormick, South Carolina 29889

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ITEM X-RAYED BY
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THE DEPARTMENT OF CORRECTIONS HAS NOT
SENSORED THIS ITEM; THEREFORE, THE
DEPARTMENT DOES NOT ASSUME RESPONSIBILITY
FOR ITS CONTENTS.
McCORMICK CORRECTIONAL INST.
S.C. DEPARTMENT OF CORRECTIONS