

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Charleston County
Court of Common Pleas
Hon. Jennifer B. McCoy
Chief Administrative Judge

Appellate case No. 2021-000055

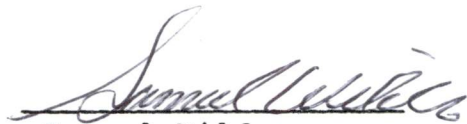
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S.C. SUPREME COURT

Samuel Wilder, #258295.....Petitioner

v.

State of South Carolina.....Respondent

PETITION FOR WRIT OF
CERTIORARI



Samuel Wilder
MCCI
386 Redemption Way
McCormick, SC 29899

INDEX

Question Presented.....1
Statement of the case.....2
Argument.....5

1. Whether Petitioner is being denied due process and equal protection of the law by denying him access to the court in violation of the 14th Amendment of the U.S. Constitution and parallel to the South Carolina Constitution Article 1, § 3.

Conclusion.....6

STATEMENT OF CASE

§ Petitioner was indicted by the Charleston County grand jury for murder and possession of a firearm during commission of a violent crime. On May 7, 1999, Petitioner was convicted as charged. He received a life sentence for murder and five years for the firearm offense.

A timely notice of appeal was filed on Petitioner's behalf on May 14, 1999. On the same day, Petitioner filed a pro-se Motion for a New Trial. On November 11, 1999, Judge Brown held a hearing on the motion. However, the matter was continued without a ruling.

Petitioner's counsel filed a motion to dismissed the appeal on April 24, 2001. The South Carolina Supreme Court, in an order dated June 11, 2001, dismissed the appeal without prejudice because of the pending post trial motion. Remittitur was issued on June 28, 2001.

Petitioner mistakenly filed a federal habeas corpus petition on October 16, 2001. Additionally, petitioner mistakenly filed a motion for a preliminary injunction and a motion for an emergency restraining Order. On June 6, 2002, United States District Judge Margaret B. Seymour issued an order dismissing the petition without prejudice to allow for exhaustion of state remedies. Judge Seymour also denied Petitioner's motion for the injunction and the restraining order. Petitioner appealed the federal

judge's ruling. On April 20, 2002, the Fourth Circuit Court of Appeals denied the certificate of appealability and dismissed the appeal. Wilder v. Catoe 33 F. App'x 142 (4th Cir. 2002).

On December 20, 2001, Judge Brown conducted another hearing in regard to the pro se post trial motion that was still pending. In an order dated January 11, 2002, Judge Brown denied the motion and subsequently denied a motion to reconsider.

A timely notice of appeal was filed on Petitioner's behalf, and an amended notice of appeal was filed on February 22, 2002. Numerous delays ensued, resulting from change of counsel, issues with transcripts, pro se motions and filing extensions. On February 1, 2006, the Supreme Court ordered expedited consideration of the case.

New counsel was appointed, but counsel failed to respond to the Court's request for information regarding the trial transcripts. On March 25, 2006, the Court of Appeals dismissed the appeal. Remittitur was issued on March 29, 2006. The Supreme Court subsequently denied Petitioner's notice of appeal and motion to reinstate the appeal. On June 16, 2006, the Court of Appeals denied petitioner's motion to recall the remittitur.

On January 4, 2006 Petitioner filed pro-se motion for new trial and arrest of judgment in Charleston County General Sessions Court that is still pending.

The Petitioner filed an application for post conviction relief

on September 5, 2006. On September 11, 2007, Judge John C. Few held a PCR hearing. On November 12, 2007, judge Few denied the application for post-conviction relief but granted Petitioner a review of his direct appeal issues pursuant to White v. State 208 S.E.2d 35 (1974). Petitioner's counsel filed a Notice of appeal out of time and a motion to File Appeal out of Time on May 14, 2008.

On June 12, 2008, The Supreme Court issued an order construing Petitioner's motion and notice of appeal as petition for writ of certiorari in the Court's Original jurisdiction. The petition was granted. The Court agreed to review issues related to the denied of Petitioner's PCR application and all direct appeal issues.

Private counsel was appointed, but a Motion for Remand and to relieve Appointed Counsel was filed on May 6, 2009. On June 11, 2009, the Supreme Court denied the motion to remand but relieved appointed counsel. Counsel from Appellate Defense was re-appointed.

Question Presented

1. Whether Petitioner is being denied due process and equal protection of the law by denying him access to the court in violation of the 14th Amendment of the United States Constitution and parallel to the South Carolina Constitution Article 1, § 3.

The Petitioner filed a second PCR and asked for an appeal from denial of his PCR issues. PCR counsel didn't file a cross appeal from denial of the PCR issues within five days after he filed notice of appeal. The Appellate counsel said, the case was referred to Appellate Defense prematurely in error, prior to the resolution of the Rule 243(c) explanation on Petitioner's behalf.

Moreover, Appellate counsel said, based on her review of Petitioner's case, it does not appear that Mr. Wilder ever actually received the Austin review of the issues raised in his first PCR hearing, which was held on September 11, 2007. Appellate Counsel that fundamental fairness requires a belated review the arguably meritorious issues raised in his original PCR hearing. See letter to Daniel E. Shearouse, dated December 30, 2015, and to Samuel Wilder dated February 17, 2016.

The Petitioner filed a third PCR and after dismissal, the State move for motion and order restricting future filing. Thereafter, Petitioner discovered the court in Charleston County was not authorized to trial murder charges against Petitioner because §§ 14-5-740 and 14-5-410 of the S.C. Code of laws, would

make the court's judgment void. The court proceeded with an order denying applicant's filing. See enclosed.


Prior to that an order restricting future filing was issued to denied PCR filing because Petitioner did not have \$50.00 to pay. Petitioner was not even qualified to received an order restricting future filing and the order denying applicant's filing PCR.

CONCLUSION

For the reasons stated, Petitioner asks this Court to grant the petition for a writ of certiorari.

Respectfully submitted

May 4th 2021



Samuel Wilder