

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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Jul 01 2021

FROM SPARTANBURG COUNTY
Court of Common pleas
J. Derham Cole, Circuit Court

S.C. SUPREME COURT

Case No. 2020-001418

John Garvin..... Petitioner-Appellant,

v.

The State of South Carolina..... Respondent-Appellee.

**AFFIDAVIT IN SUPPORT OF JOHN GARVIN'S
MOTION FOR REQUEST TO LISTEN TO AUDIO
RECORDINGS AND TO READ STENO NOTES, PURSUANT TO
SOUTH CAROLINA COURT REPORTERS MANUAL § XIII (B)(C)**

I, John Garvin, being first duly sworn, deposes and says:

1. I am the Petitioner in the above – entitled action proceeding as pro-se and makes this affidavit in support of my Motion for Request to Listen to Audio Recordings and to Read Steno Notes, pursuant to South Carolina Court Reporters Manual § XIII(B)(C).
2. Petitioner states that he wrote Court Reporter, Linda D. Moffitt, about challenging the accuracy of his PCR transcript. Whereas, she would refer him to get in contact with Karama T. Bailey, Deputy Director, Court Reporter/Court Interpreting at the Office of South Carolina Court Administration.
3. On March 23, 2021, Petitioner would write a letter to the Presiding Judge of that PCR hearing, J. Derham Cole, who is now the Chief Administration Judge, for the Spartanburg County Court of Common Pleas, about a request to listen to the PCR audio recordings. Whereas, Judge Cole, has fail to even respond to Petitioner's request.
4. On May 6, 2021, Petitioner would write a letter to Karama T. Bailey, about his desire to challenge the accuracy of Court Reporter, Linda D. Moffitt's transcription of the PCR transcript in question.

5. Petitioner states that he has challenged the accuracy of Court Reporter, Linda D. Moffitt's, transcription of his July 19, and July 31, 2019, PCR Motion hearing and evidentiary hearing, pursuant to the South Carolina Court Reporters Manual § XIII(B)(C) and Rule – 607(i), SCACR.
6. The PCR transcript was reviewed by Karama T. Bailey, Deputy Director, Court Reporting/Court Interpreting of the South Carolina Court Administration.
7. On June 4, 2021, Karama T. Baily, made her review and findings of errors within the PCR transcript. On June 15, 2021, Petitioner received from her, her finding of errors via Lieber Correctional Institution internal mail staff.
8. Petitioner hereby objects to her review and findings of errors within the PCR transcript, which was less than adequate and fails to fully report all of Linda D. Moffitt's transcript errors as a whole.
9. Further review of the Audio Recordings of the PCR hearing, will show that there are far more errors in the PCR transcript than Ms. Bailey is actually reporting and that there are several inconsistencies in her finding that don't coordinate with the page number of the errors that Ms. Bailey is claiming to have found.
10. Ms. Bailey's report and finding state that there are thirty (30) errors that she found within the PCR transcript, but eighteen (18) of those errors was not where she stated it would be, thus, several inconsistencies within Ms. Bailey's finding that don't coordinate with the actual page number and the numbered line of the errors that she is stating. (See Exhibit – A).
11. There are still over ninety-two (92) errors within the transcribed portions of the PCR transcript, by Court Reporter, Linda D. Moffitt, that are distorted and omits questions that was asked by Petitioner of witnesses, Scott D. Robinson, Esquire; Asst. Solicitor, James E. Hunter; and SLED Agent, Ashley Asbill, that's not presented in the transcript that are substantial and significant alterations and omissions to the testimony giving by the aforementioned witnesses at the PCR hearing.
12. The omissions distort the facts within, Court Reporter, Linda D. Moffitt's, transcription of the PCR hearing transcript and deprives me of a statutory right to produce witnesses and proofs in my favor, pursuant to S.C. Code Ann. § 17-23-60, her transcript errors, specifically prejudices my ability to perfect my appeal and to prove that my constitutional rights were violated on the issues that I presented at my PCR hearing.
13. The following transcript pages and lines that's listed below are not a full complete and accurate account of what transpired during that PCR hearing and further review of the PCR transcript is needed due to the inconsistencies of Karama T. Bailey's report and finding. (See Exhibit – A).

ERRORS WITHIN PCR TRANSCRIPT

Page #	Line #	Change(s) that need to be Made
12	5	“the” should be “to”
15	20	“impartial” should be “partial”
16	13	“was” should be “is”
16	24	“Social” should be “socially”
21	19	Remove “this”
22	13	“was” should be “is”
23	6	Assistance misspelled
24	13	Add “was false” after “that”
24	13	“first” should be “Fredrick”
25	7	“was” should be “is”
25	8	“a” should be “the”
27	13	Add “an” before “extrajudicial”
27	20	“extrigent” should be “extrinsic”
37	16	“actually” should be “adequately”
37	23	“before my trial” should be “for my appeal”
46	8	“convenient” should be “color”
47	9, 10	Remove “- - excuse me - - State grand jury procedures”
47	21	Add “year” before “2012”
47	22	“17” should be “170”
48	7	“2013” should be “2012”
48	17	“causal” should be “cause of”
49	2	“constitutional” should be “constitution”
49	6	“a” should be “above are”
49	7	“permissibly” should be “impermissibly”
49	11	“the prior” should be “deprived”
49	13	Remove “they”


49	24	“2013” should be “2012”
60	13	Add “It was filed?” before the question “Is that the one you filed on July 5 th ?”
61	23	“voluntary” should be “involuntary”
64	2	“voluntary” should be “involuntary”
64	11	“judge” should be “jury”
64	25	“boasting” should be “bolstering”
68	20	“2016” should be “2013”
71	1	Add “complaint.” after “that”
71	12	“with him” should be “against them both”
71	13	“hab [sic]” should be “district court”
74	6	“April” should be “August”
74	11	“April” should be “August”
74	16	Add “appear at” before “that”
75	23	“in” should be “at”
76	23	“presidicial” should be “prejudicial”
78	25	“they” should be “it”
81	19	“there” should be “that”
84	10	“at” should be “under”
84	10	“and” should be “as”
84	13	Add “my case” after “try”
84	14	“That’s as” should be “That”
86	1	“a” should be “the”
87	21	“Beck v. Abraham” should be “Brecht v. Abrahamson, 507 U.S. 619”
90	23	“provided” should be “proved”
91	10	“a” should be “the”
92	14	“cure” should be “colloquy”
94	8	“appears” should be “abused”
101	19	“me” should be “him”

117	14	“your should be “the”
117	20	“if” should be “is”
125	19	“noticed” should be “notified”
127		A question that was asked and the answer is missing from the transcript.
128	25, 1-2	The question that was asked is distorted.
129	15 - 19	The question that was asked is being distorted and is missing Counsel Robinson’s answer.
133	5 - 7	The question that was asked is being distorted.
135	22	“it’s not” should be “it is”
143		The question that was asked and the answer is missing from the transcript.
150	6	“traction” should be “transaction”
160	14	Add “meaningful” before “adversarial testing”
160	17	Add “meaningful” before “adversarial testing”
160	25	Misspelled “astringent” should be “extrinsic”
162	12	Misspelled “astringent” should be “extrinsic”
163	4	Misspelled “astringent” should be “extrinsic”
196	14	Misspelled “astringent” should be “extrinsic”
196	13	“Esquire” should be “conspire”
196	14	“and” should be “for the”
196	15	“subort - - force” should be “submit suborn”
196	22	“Howso” should be “How so”
197	19	“That’s” should be “what’s”
199	13	“isn’t” should be “is”
201	2	“what” should be “that”
213	4	Add “Rule – 60(b)(2)(3)(4) and S.C. Code Ann. § 17-27-20(A)(4)” after “under”
214	14	“he gave” should be “he is”
215	10	“astringent” should be “extrinsic”
220	2	“knew me and that I was” should be “knows me as”

236	24 - 25	This is not what Agent As I'll Stated on the record.
237	17	Add "him" before "my"
239	12	Add "last" before "name"
239	13	Add "and" before "with"
240	9	"The Court:" should be "Mr. James:"
240	12	"The Applicant:" should be "Mr. James:"
286	8	"Perez" should be "him"
293	18	"knee me as Unk" should be "knows me as an Uncle"
295	18	Add "it" after "write"
299	1	"till" should be "until"

14. On page 127, line 13 – 15, right after Counsel Robinson admitted that he failed to appear, Petitioner asked him a question about, was his failure to appear, would that be considered negligence on his part for failing to appear at Petitioner's October 25, 2012, preliminary hearing. Whereas, Counsel Robinson admitted on record that he was negligent for failing to appear.
15. On page 143, line 1 – 2, right after Counsel Robinson admitted that there was a meeting in the Judge's chambers, he was asked what was talked about in the Judge's chamber between himself, Asst. Solicitor, James E. Hunter and Judge McIntosh.
16. Petitioner has simultaneously presented this motion before the Spartanburg County Court of Common Pleas before the presiding judge, J. Durham Cole, of that PCR hearing and before the Supreme Court of South Carolina.
17. The Petitioner makes this Motion for Request to Listen to Audio Recordings and to Read Steno Notes, to correct the transcript errors and any such deficiency within the July 19, and July 31, 2019, PCR hearing transcript.

WHEREFORE, based upon the forgoing the Petitioner prays that the Court grants his Motion for Request to Listen to Audio Recordings and to Read Steno Notes, pursuant to the South Carolina Court Reporters Manual § XIII(B)(C), and Rule – 607(i), SCACR and due administration of justice. Executed on this 29th day of June, 2021.


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