



HENRY McMASTER
ATTORNEY GENERAL

May 12, 2009

RECEIVED

APR 23 2013

S.C. SUPREME COURT

The Honorable Paul B. Wickensimer
Clerk of Court, Greenville County
305 East North Street; Room 224
Greenville SC 29601-2121

**Re: Gustavo Alvarado, 288801 v. State of South Carolina
2009-CP-23-1926**

**Jonathan Arnold, 320526 v. State of SC
2009-CP-23-1798**

**Randall Edwin Latimer, 135007 v. State of South Carolina
2009-CP-23-03289**


**Zachary Vincent Miller, 291301 v. State of South Carolina
2009-CP-23-2619**

**Gerald Lee Whitner, 278224 v. State of South Carolina
2009-CP-23-2625**

Dear Mr. Wickensimer:

Enclosed please find the original **Return and Motion to Dismiss** of the Respondent, in the above-captioned cases, for filing in your office.

Sincerely,


Karen C. Ratigan
Assistant Attorney General

KCR/jacc
Enclosures

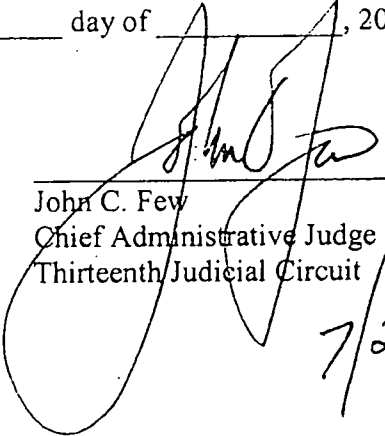
cc: Gustavo Alvarado, 288801
Jonathan Arnold, 320526
~~Randall Edwin Latimer, 135007~~
Zachary Vincent Miller, 291301
Gerald Lee Whitner, 278224

"Furthermore, if a person is procedurally barred, his only means of obtaining state habeas corpus relief is to file a petition in the original jurisdiction of the Supreme Court." Id.

III.

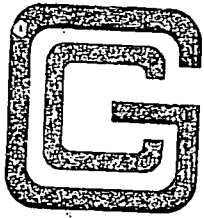
Based upon its review of the pleadings in this matter, this Court expresses its intent to summarily dismiss this matter unless the Petitioner advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Petitioner is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final by filing any reasons he may have with the Clerk of Court for Greenville County, South Carolina, and also by filing a copy of his reasons with the Office of the Attorney General, Attn: Karen C. Ratigan, Post Office Box 11549, Columbia, South Carolina, 29211.

AND IT IS SO ORDERED this _____ day of _____, 2009.



John C. Few
Chief Administrative Judge
Thirteenth Judicial Circuit

7/24/9



Greenville
County

Office of the Clerk of Court

Paul B. Wickensimer
Clerk of Court for Greenville County
Greenville, South Carolina

www.greenvillecounty.org

2011 OCT 20 PM 2:10

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER

OCTOBER 20 2011

RANDALL EDWIN LATIMER 135007
PERRY CORRECTIONAL INSTITUTION
430 OAKLAWN RD/B X 20
PELZER SC 29669 5011

2011-CP-23- 06934

MICHAEL EVANS

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION
RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS
2011CP2306934

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE
ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE
SCHEDULED, THE PROCESS FOR ATTORNEY ASSIGNMENT WILL
BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT
DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING
YOUR CASE.

RECEIVED

THANK YOU
CLERK OF COURT'S OFFICE

APR 23 2013

S.C. SUPREME COURT

Circuit Court • 305 East North Street • Greenville, SC 29601 • (864) 467-8551
Family Court • 301 University Ridge, Post Office Box 757 • Greenville, SC 29602 • (864) 467-5800
Circuit Court • 305 East North Street • Greenville, SC 29601 • (864) 467-8551
Family Court • 301 University Ridge, Post Office Box 757 • Greenville, SC 29602 • (864) 467-5800

STATE OF SOUTH CAROLINA

County of Greenville

Randall Edwin Latimer # 135007
Full name and prison number (if any) of Applicant.

vs.

Greenville County Court of General
Name of Respondent.

Sessions

In the Court of Common Pleas

FILED-CLERK OF COURT
GREENVILLE CO. S.C.

2011-CP-23-06934

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS — READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention BX20 Sm U Perry Correctional Institution 430 Oaklawn Road Pelzer SC 29669-5011

2. Name and location of Court which imposed sentence Greenville County Court of General Sessions
305 E. North St Greenville 29602 467-8551

3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:

(a) no indictment for Attempted Criminal Sexual Conduct found not-guilty (86-1137)

(b) no indictment Burglary First degree - guilty Life sentence (86-1138)

(c) _____

4. The date upon which sentence was imposed and the terms of the sentence:

(a) On April 15, 1986 I was committed to the Department of Corrections Youthful Offender Division

(b) for observation and evaluation pursuant to Section 5B of the Youthful Offender Act. It was discovered

(c) that this commitment was a sham legal process because it was contrary to Sections 24-19-50

Powers of Court, Upon Conviction of Youthful Offenders which provides: In the event of a conviction of a Youthful Offender the court may: (1) Suspend the sentence and place the Youthful Offender on probation (2) release the Youthful Offender to the custody of the division, before sentencing for an observation and evaluation period of not more than 60 days. The observation and evaluation must be conducted by the Reception and Evaluation Center and the findings and recommendations must be returned with the Youthful Offender to the Court for sentencing. This was a falsified order of commitment they changed my original date of conviction.

5. Check whether a finding of guilty was made

- (a) after a plea of guilty _____
- (b) after a plea of not guilty I plead not-guilty to both crimes I was found guilty of Burglary and not-guilty of ACSC
- (c) after a plea of nolo contendere _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?

yes

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. South Carolina Supreme Court
- ii. PCR The Honorable Gary E Clary
- iii. PCR United State District Court

(b) the result in each such Court to which you appealed:

- i. The South Carolina Supreme Court affirmed the applicants conviction and sentence.
- ii. The Honorable Gary E Clary denied and dismissed the PCR application by order on May 29, 1997 The Applicant did not file an appeal
- iii. On June 29, 1998, the Honorable Joseph F. Anderson Jr. United States District Judge issued an order dismissing the petition with prejudice.

(c) the date of each such result:

- i. no dat my trial attorney filed my notice of intent to appeal 8/5/86 (Sc. Supp. filed August 3, 1987)
- ii. May 29, 1997
- iii. June 29, 1998

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. DP No. 87-MO-331
- ii. ~~6:97-3739-17AK~~ none
- iii. 6:97-3739-17AK

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) _____
- (b) _____
- (c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Trial Counsel
- (b) Illegal Arrest Illegal Parole Revocation sued a member of Parole board while on Parole.
- (c) Illegal Conviction / served 20 years under wrong date of conviction / Court of General Sessions did not convene on February 29, 1986
- (d) Illegal Commitment for observation and evaluation

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) The affidavit failed to aver time of crime or entry. The date of offenses was 10-20-85 and 11-1-1985 and dated 10-22-85
- (b) My indictment (86-1138) showed that I had not been indicted by the grand jury. Sections 14-5-790 proved that the Court of General Sessions did not convene Feb. 1986
- (c) The commitment for observation and evaluation was contrary to Section 24-19-50

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

i. subject matter Jurisdiction

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

(a) My Petition was dismissed by fraudulent means the case was dismissed then resubmitted

(b) _____

(c) _____

16. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

i. _____

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. _____

ii. _____

iii. _____

18. State clearly the relief you seek in filing this application.

I am being held unlawfully by an illegal arrest, illegal conviction and an illegal commitment for observation and evaluation. I seek to prove by Newly discovered Evidence that I am being held unlawfully I seek to get my conviction overturned.

19. Are you now under sentence from any other court that you have not challenged?

I have 6 Open detainers one includes the crime I am presently incarcerated for Life B439900

11. Prior to this application have you filed with respect to this conviction
- (a) any petition in a State Court under South Carolina Law? yes
 - (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? yes
 - (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? yes
 - (d) any other petitions, motions or applications in this or any other Court?

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. I filed a State Habeas Corpus in the Court of Common Pleas in Greenville County
- ii. I Filed a lawsuit because rights were violated in the United States District Court
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. The Greenville County Court of Common Pleas 305 E. North St. Greenville 29601
- ii. Clerk, U.S. District Court District of South Carolina 901 Richland Street Columbia South Carolina 29201
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. Assistant Attorney General Karen C. Ratican dismissed as Post Conviction Relief and Failing to Support the Requested Relief
- ii. U.S. District Judge Kevin F. McDonald dismissed/US District Court delayed / Appealed to US Court of Appeals Fourth Circuit dismissed
Failure to
Prosecute
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. The dismissal was may 8 2009 this date was changed to May 12, 2009 On July 22, 2009 the case was re-submitted to Judge John C. Few
- ii. Filed 4/21/2011 dismissed by Judge Joseph F. Anderson on April 21, 2011
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. The Respondent submits the Petition should be summarily dismissed because it fails to support the requested relief.
- ii. The court finds the Magistrate Judges recommendation to be proper and incorporates the Report herein by reference This action is dismissed without prejudice and without issuance and service of process
- iii. _____
- iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

yes

STATE OF SOUTH CAROLINA

County of Greenville

VERIFICATION

I, Randall Edwin Latimer, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Randall Edwin Latimer

SWORN to and subscribed before me this 12th
day of Oct, 19 2011

Doye Mue (L.S.)
Notary Public

My Commission Expires: JAN 28, 2018

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Randall Edwin Latimer, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefor.

Randall Edwin Latimer
Applicant

SWORN or affirmed to and subscribed before me this
12th day of Oct, 19 2011

Doye Mue
Notary Public

My Commission Expires JAN 28, 2018

