

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY

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DEC 17 2021

William H. Seals, Jr., Circuit Court Judge S.C. SUPREME COURT

Appellate Case No. 2021-001346

State of South Carolina
v.

Respondent

Gregory Pencille 312332

Petitioner

MOTION TO STRIKE
PETITION TO SERVE NOTICE ON PARTY(S)

Petitioner motions this Honorable Court to consider this filing to allow petitioner freedom from incompetent counsel's attempts to violate his due process rights by counsel's vindictive tactics and actions by motion as follows;

Petitioner prays this court will please disregard and strike the untimely Notice of Appeal filed by James K. Falk on December 07, 2021, Mr. Falk's filing is a hostile and Vindictive

attempt to violate petitioner's due process rights. Mr. Falk's filing(s) are without consulting and without consent by petitioner. Mr. Falk's filing is also clearly deficient in its preparation. Petitioner therefore, requests this court consider only Petitioner's Prose filing of Notice to Appeal and explanation pursuant to Rule 243(c) SCACR. filed on November 15, 2021 as to only proper filing. [Falk's letter to Penille Enclosed]

Petitioner further requests this court clock-stamp file and serve upon Jane K Falk, petitioner's enclosed [Notice to Cease-and-desist filings], And clock-stamp file and serve upon the South Carolina Attorney General's Office Petitioner's enclosed [Letter requesting explanation], And return clock-stamped copies to Petitioner for records [copies enclosed].

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S.C. SUPREME COURT

Petitioner certifies that all enclosed is true and correct to the best of his knowledge and abilities under penalty of perjury.

December 13th, 2021

~~was to and subscribed before me~~
13th day of December 2021
S. Ouellet
(Notary Public of South Carolina)
2117134

Gregory Penille 312332
Evans 41 F44275
60 Hwy 9 west
Bennettsville SC 29512
Petitioner, Pro se

FALK LAW FIRM, LLC.

James K. Falk

PH (843) 606-6007

FAX (843) 972 9005

jfalklaw@gmail.com

December 7, 2021

Gregory Pencille 312332

Evans Correctional

610 Highway 9 West

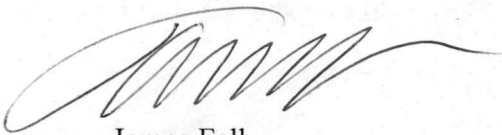
Bennettsville, SC 29512

Dear Mr Pencille:

I enclosed Judge Seals's final Order Dismissing your PCR application as well as his order denying 59E relief. I was unaware that Judge Seals signed the 59e order until this afternoon when I checked out the Horry County public index. I also enclosed a copy of the Notice of Appeal I filed in your case.

The Clerk of Court for the South Carolina Supreme Court will notify the Office for Appellate Defense that an appeal was filed in your case. Appellate Defense will then assign someone to represent you on your appeal.

Regards



James Falk

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DEC 17 2021

S.C. SUPREME COURT

Gregory Pencille 312332
Evans CI F4A275
610 Hwy 9 west
Bennettsville SC. 29512

December __, 2021

James K. Falk.
P.O. Box 1058
Charleston, SC. 29302

*** NOTICE TO CEASE-AND-DESIST
FURTHER REPRESENTATION AND/
OR FILINGS) ***

Mr Falk,

**YOU ARE HEREBY NOTICED: TO CEASE-
AND-DESIST ANY AND ALL FUTURE FILINGS** in
any court on behalf of Gregory Pencille. Your
Filings are construed as hostile actions against
Mr. Pencille.

Mr. Pencille has **NOT CONSENTED** to your
filings and have not communicated any intent to
Mr. Pencille, You ignore his attempts to contact You
and as a result have abandoned representation of
Mr. Pencille.

You filed a motion to be relieved as Counsel on August 23, 2021, which you negligently failed to see through to conclusion and which the Attorney General's Office did not schedule a hearing on. You **MUST** conclude your removal from representation and remove your untimely, non-consented, and improper filing of your Notice of Appeal so it will not interfere with Perille's timely, Prose, Notice of appeal and Rule 243(c). Your incompetence and actions are a detriment to Perille's Due Process rights.

Other than a "On the Record" termination of representation as of August 23, 2021 and a removal of Your untimely Notice of Appeal from the Court and record, **YOU ARE HEREBY GIVEN NOTICE** that any further filings by you in this matter will result in legal actions. You are hereby served and informed. Inaction to the demands will result in legal actions if not responded to within (30) thirty days of the receipt of this letter.

Under penalty of perjury, The above is true and correct to the best of my knowledge and abilities,

Subscribed and sworn to before me this 13th day of December, 2021

Sarah A. O'Brien

(Notary Public of South Carolina)

Commission Expires 01/17/24

Gregory Perille, 312332
Sui Juris

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DEC 17 2021

S.C. SUPREME COURT

Gregory Penille 312332
Evans CI F4A 275
610 Hwy a west
Bennettsville, SC. 29512

December, 2021

Attorney General's Office
Attorney General of South Carolina
P.O. Box 11549
Columbia, SC. 29211

RE: Case No. 2018-CP-26-6065
Appellate Case No. 2021-001346

Dear Attorney General,

This office inadvertently failed to file and schedule a hearing on a motion to Relieve Counsel [enclosed]. Failure to timely schedule the hearing has violated Encaptioned due process and equal protection rights.

Appellant has a constitutional Right to be treated equally in defense of his judicial process and competent representation or removal of incompetent representation is part of that right.

Appellant requests response and explanation as

to why these rights were not afforded his judicial process and why this office decided to ignore counsel's request to hear the motion to relieve as counsel before the Judge ruled on the case.

Response is requested in full explanation within (30) thirty days of receipt of this letter. Failure to respond fully and timely will acquiesce to violating Appellants due process rights.

December 13th, 2021

Gregory Perille 3/2332
Evans CI F4A275
610 Hwy 9 west
Bennettsville, SC 29512
Pro Se, *Sui Juris*

13th day of December 2021
S. Perille
Notary Public of South Carolina
2117124

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DEC 17 2021

S.C. SUPREME COURT

FALK LAW FIRM, LLC.

James K. Falk

PH (843) 606-6007
FAX (843) 972 9005

www.FALKLAW.ORG

JAMES@FALKLAW.ORG

August 23, 2021

Gregory Pencille 312332
Evans Correctional
610 Highway 9 West
Bennettsville, SC 29512

Dear Mr. Pencille

I apologize for being impossible to reach for the past several weeks as I have had two jury trial that occupied a substantial portion of my attention.

I enclosed the Attorney General's proposed order. I also enclosed a copy of my motion to be relieved along with a letter sent to Judge Seals. I am hopeful that either the State will consent to you filing a pro se Rule 59e motion or that the court will hear the motion to be relieved in an expedited manner.

Regards



James Falk

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DEC 17 2021

S.C. SUPREME COURT

FALK LAW FIRM, LLC.

James K. Falk

PH (843) 606-6007
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www.FALKLAW.ORG

JAMES@FALKLAW.ORG

August 23, 2021

The Honorable William H. Seals Jr.

103 North Main Street

Marion, SC 29571

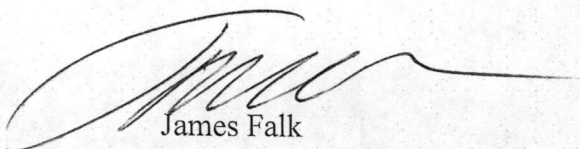
Re: Pencile (312332) v State of South Carolina, 2018-CP-26-6065

Dear Judge Seals:

Ms. Marto from the Attorney General's office has prepared a proposed order for your signature denying my client's PCR application. I have had several telephone conversation with my client and we disagree regarding the issues to raise in a 59e motion. As a result I believe it is best that he be permitted to file a pro se Rule 59e motion. However, the rule preventing hybrid representation limits his ability to so do while I am still his counsel. Therefore I am filing the enclosed MOTION TO BE RELIEVED, with the Horry County Clerk. I am hopeful that we can have this motion heard by the Horry County Chief Administrative Judge in an expedited manner.

Because of the 10 day window in which Mr. Pencile would have to file a 59e motion, I ask your forbearance in signing/ entering Ms. Martro's order until my client can be heard on the motion to relieve counsel.

Sincerely Yours,



James Falk

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S.C. SUPREME COURT

Cc: Chelsey Marto, Esq.
Gregory Pencile

FALK LAW FIRM, LLC.

James K. Falk

PH (843) 606-6007
FAX (843) 972 9005

www.FALKLAW.ORG

JAMES@FALKLAW.ORG

August 23, 2021

Horry County Clerk of Court
PO BOX 677
Conway, SC 29526

Gregory Pencille v State 2018-CP-26-6065

Dear Madam Clerk

I enclosed a Motion to Be Relieved as counsel in the above PCR case. The purpose of the motion is to allow the Applicant to file a *pro se* Rule 59e motion. Judge Seals has not yet signed the State's order dismissing my client's PCR application. However, once the order is entered my client would only have 10 days in which to file the motion. Therefore I am hopeful that we can be heard on this motion at the Court's earliest convenience.

Since this is an SVP action, it is in eligible for electronic filing.

Regards



James Falk

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Cc: Chelsey Marto, Esq
Gregory Pencille

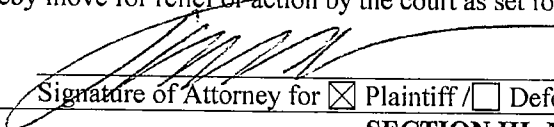
S.C. SUPREME COURT

Mailing Address: PO Box 1058, Charleston, S.C. 29402
Location: 38 Broad Street, Suite 350, Charleston, S.C. 29401

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Horry)
)
)
)
GREGORY PENCILLE 312332)
) Plaintiff,)
)
) vs.)
)
)
STATE OF SOUTH CAROLINA)
) Defendant.)

IN THE COURT OF COMMON PLEAS
 15TH JUDICIAL CIRCUIT
 CASE NO.: 2018_CP-26-6065

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney: JAMES FALK, Bar No. 80125 Address: PO BOX 1058, CHARLESTON 29402 Phone: 843 606 6007 Fax _____ E-mail: JFALKLAW@GMAIL.COM Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: MOTION TO BE RELIEVED Estimated Time Needed: 10 MINUTES Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant	August 23, 2021 Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: \$ _____ <input checked="" type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	
COUNTY OF HORRY)	FOR THE 15th JUDICIAL CIRCUIT
)	
Gregory Pencille 312332)	2018-CP-26-6065
Applicant)	MOTION TO BE RELIEVED
Vs.)	
State of South Carolina)	
Respondent,)	
_____)		

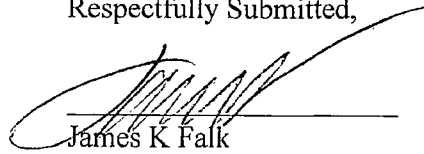
Undersigned counsel moves that he be relived from further representation of Applicant in this action. This motion is made at Applicant's request.

As grounds for this motion counsel states:

On June 23rd, 2021 an evidentiary hearing was held in the Horry County Courthouse before the Honorable William H Seals. Judge Seals advised that he was going to deny Applicant's PCR application and the Attorney General has prepared a proposed order.

Based upon telephone conversations counsel and Applicant have had it is clear that there is no agreement between attorney and client as how best to proceed and what issues to raise in a Rule 59e motion in response to a final order from Judge Seals. Applicant advises that he wants to file a pro se Rule 59e motion, but because of the rule prohibiting hybrid representation he is prohibited from doing so while still represented by undersigned counsel.

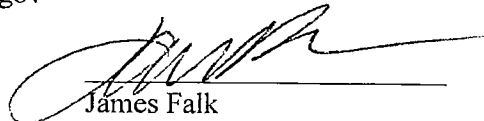
Respectfully Submitted,



James K Falk
 Falk Law Firm
 PO Box 38
 Charleston, SC 29402
 (843) 606-6007
 jfalklaw@gmail.com

CERTIFICATE OF SERVICE

A copy of the above was emailed this ~~day~~ of August 23, 2021 to Chelsey Marto, Esq. at ChelseyMarto@scag.gov



James Falk

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Certificate of Service

S.C. SUPREME COURT

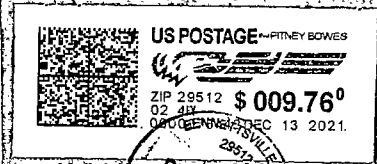
I hereby certify that on the 13th day of December, 2021 In Bennettsville South Carolina Petitioner Served Motion to strike; Petition to serve notice on Parties; Notice to cease-and-desist; Letter to Attorney General of South Carolina, to the Supreme Court of South Carolina Clerk, P.O. Box 11330, Columbia, SC 29211 and further sent copies to all parties in this matter. By placing in the US Mail, postage paid, or in the instituting mailroom. Copies and self addressed envelopes included for certifying, clocked-stamped return on all parties.

December 13th, 2021

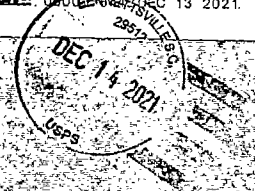
Gregory Perille 312332
 Evans LT F4A 275
 610 Hwy 9 west
 Bennettsville, SC 29512
 Petitioner Pro Se

was to and subscribed before me on the 13th day of December 2021
S. Oullen
 (Notary Public of South Carolina)
 Commission Expires 2/17/24

Gregory Pencille 312332
Evans Ct. F4A275
610 Hwy 9 West
Bennettsville SC 29512



CR



Patricia A. Howard
Clerk, Supreme Court of S.C.
P.O. Box 11390
Columbia, S.C. 29211

