

APR 25 2013

In The South Carolina Supreme Court of Appeals
Latimer vs. State
Case no. 2009-CP-23-0328

Randall Edwin Latimer #135007
Lieber Correctional Institution
P.O. Box 205
Ridgeville S.C. 29472
Appellate

vs.
State of South Carolina
County of Greenville,
Court of General Sessions
Resident Judge C. Victor Pyle Jr.
Presiding Judge Thomas J. Ervin
Solicitor Joseph L. Watson
Assistant Attorney General
Karen C. Ratigan

State of South Carolina
Department of Probation,
Parole and Pardon Services
Parole Agent Leslie Dorn
Greenville City Police Dept.
Det. M.F. Banton
Officer Larry Drummond

Respondents

On January 15, 2009 I filed a State
Habeas Corpus in the Court of Common
Pleas.

On May 9, 2009 the Respondents filed a
motion dismissing the Petition for writ
of Habeas Corpus claiming it failed
to support the requested relief.

Upon my review of the dismissal
it was revealed that Judge Larry R.
Patterson did not sign the dismissal.

On July 22, 2009
Assistant Attorney
General Karen C. Ratigan
re-submitted Case no.
2009-CP-23-0328 to
Judge John C. Few.

Dear Judge Few it has come
to my attention that Judge
Patterson did not have time
to sign several proposed
conditional orders of dismissal
in various Thirteenth Circuit
PCR and/or Habeas Corpus
cases before his retirement.

Therefore, I am enclosing
copies of the proposed conditional
orders for your review.

The only change I made from
the original proposed orders
sent to Judge Patterson was
to update your name in the
signature block.

I am advising the Applicants
of the re-submission of the
proposed orders.

If you have any questions
please let me know (803)
734-3737.

I submitted the following proposed
orders of dismissal to Judge Patterson
on March 3, 2009.

- Patrick Bocker 2008-CP-23-7865
- Robert Campbell 2008-CP-23-8452
- Joseph Davis 2008-CP-23-8218
- James Nesbitt 2008-CP-23-8819
- Robert Rondeau 2008-CP-23-7886
- Dwight Spears 2008-CP-23-8342
- John Wate 2008-CP-23-8272

I submitted the following proposed
conditional orders of dismissal
to Judge Patterson on April
26, 2009.

- Maxie Gamble 2009-CP-23-0280
- Trevon Keith 2008-CP-23-7051
- Trevon Keith 2009-CP-23-0357

I submitted the following
proposed conditional orders
of dismissal to Judge Patterson
on April 28, 2009

- Steve Lester 2009-CP-23-1211
- William McKennedy 2009-CP-23-
4798
- Joseph Murray 2009-CP-23-
0971

I submitted the following
proposed conditional orders
of dismissal to Judge Patterson
on May 12, 2009

- Gustavo Alvarado 2009-CP-23-
1926
- Jenathan Arnold 2009-CP-23-
1787
- Randall Latimer 2009-CP-23-
0328

Zachary Miller 2009-CP-23-2619
Gerald Whitner 2009 CP-23-2625

Enclosures

Gustavo Alvarado, # 288801
Jonathan Arnold, # 320526
Patrick Lee Booker, # 297590
Robert Bernard Campbell, # 131941
Joseph Davis, # 222918
Maxie Gamble, # 254413
Trevon A. Keith, # 272473
Randall Edwin Latimer, # 135007
Steve Lester, # 75259
William Clayton McKennedy, # 256024
Zachary Vincent Miller, # 291301
Joseph David Murray, # 269067
James Arthur Nesbitt, # 291377
Robert A. Rondeau, # 280201
Dwight Spears, # 12210-171
John Lee Ware, # 271206
Gerald Lee Whitner, # 278224

S.C. Code of Laws Title 14 Chapter 5 Circuit Courts
Section 14-5-790 Terms of Court In Thirteenth Circuit

The courts of the thirteenth circuit shall be held as hereinafter provided.

1. Greenville County - - (a) The Court of Common Pleas for Greenville County shall be held at Greenville on the fourth Monday in January for four (4) weeks for jury trials and one for equity cases, followed by two weeks of jury trials on the third Monday in May for two weeks, the third Monday in June for two weeks, the second Monday in September for two weeks, the second Monday in October for two weeks and the second Monday in November with three (3) weeks for jury trials and one week for equity cases. The Court of General Sessions for the county shall be held at Greenville on the second Monday in January for two weeks on the second Monday in March for two weeks, the first Monday in May for two weeks, the last Monday in August for two weeks, the fourth Monday in October for two weeks and the first Monday in December for one week.

(b) In addition to the terms of court herein above set forth, there shall be additional terms of court of common pleas for Greenville County to hear equity matters and any other non-jury matters as follows:

On the second Monday in January for one week on the second Monday in May for one week, and the first Tuesday in September for one week.

(c) The terms of court provided for in paragraph (b) of this subsection shall be presided over by a judge other than the resident judge of the thirteenth judicial circuit or the presiding judge regularly assigned at that said circuit. Such judge shall be selected by the Chief Justice of the Supreme Court from among the regular circuit judges or the retired circuit judges or the lawyers admitted to practice in the Supreme Court. If found at any time to be unnecessary the term of court provided for in paragraph (b) of this subsection shall be cancelled in the manner provided by law for cancellation of other terms.

Patterson, Larry R. "Choppy" (1991-2003) Judge of Thirteenth Judicial Circuit
Greenville County Courthouse, 305 E. North St. Ste. 315 Greenville 29601
Tel. (864) 467-8406 Court Reporter Mary Sprague 1970-71 Appointed Family
Court Judge Thirteenth Judicial Circuit 1981

Few, John C. (2000-2006) Judge of Thirteenth Judicial Circuit 305 E. North
St. Ste. 318 Greenville 29601 Tel. (864) 467-8448 Court Reporter
Teresa Johnson

Floyd, Henry F. (1992-2004) Judge of Thirteenth Judicial Circuit P. O. Box 1390
Pickens 29671 Tel. (864) 899-5790 or 5791 Fax (864) 898-5792 b Nov. 5, 1947

Johnson, R. Kinard Jr. (1982-2007) Judge of Thirteenth Judicial Circuit P. O. Box
757 Greenville 29602 Court Reporter vacant

Counties - Greenville, Pickens

Thirteenth Judicial Circuit

Theron G. Cochran, Greenville

Greenville County - 13th Circuit Founded in 1786

Court Address: 305 E. North St. Greenville 29601

Family Court: P. O. Box 757, Greenville 29602 467-5800

Circuit Court: 305 E. North St. Greenville 29602-467-8551

Contact Number for Visiting Judges: 467-8668 (Circuit) 5839 (Family)

County Code 23

Population 379,616,

Area Code: 864

Paul B. Wickensimer Clerk of Court 467-8551 305 E. North

St. Greenville 29601

www.SCCounties.org

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Randall Edwin Latimer,)
S.C.D.C. No. 135007,)
)
Petitioner,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
C.A. No. 2009-CP-23-0328

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APR 24 2013

SC Court of Appeals

**RETURN AND MOTION TO DISMISS
PETITION FOR WRIT OF
HABEAS CORPUS**

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APR 25 2013

S.C. Supreme Court

This matter comes before the Court by way of a document filed January 15, 2009, and captioned "Petition for Writ of Habeas Corpus." The Respondent submits the petition should be summarily dismissed because it fails to support the requested relief.

I.

The Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Greenville County. The Petitioner was indicted at the February 1986 term of the Greenville County Grand Jury for first-degree attempted criminal sexual conduct (1986-GS-23-1137) and first-degree burglary (1986-GS-23-1138). He was represented by H.W. "Pat" Paschal, Jr., Esquire.

After the State brought the case to trial, the Petitioner was found guilty of first-degree burglary. At the conclusion of the trial – on April 15, 1986 – the Honorable C. Victor Pyle, Jr. ordered an evaluation. On July 29, 1986, the Honorable Thomas J. Ervin sentenced the Applicant to life imprisonment.

A notice of appeal was filed at the South Carolina Supreme Court. Stephen P. Williams,

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

Randall Edwin Latimer, 135007)

CASE NO.

Plaintiff)

2009-CP-23-0328

v.)

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

State Of South Carolina)

Defendant.)

Plaintiff's Attorney: Randall Edwin Latimer, 135007, Bar No. Address: Perry Correctional Institution 430 Oaklawn Road Pelzer SC 29669 phone: fax: e-mail: other:	Defendant's Attorney: Karen C. Ratigan, Bar No. Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
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- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

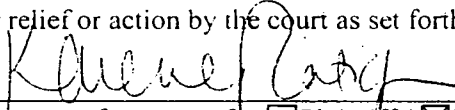
Nature of Motion:

Estimated Time Needed: Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
 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 Plaintiff / Defendant

May 8, 2009
 Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT:
 EXEMPT: Rule to Show Cause in Child or Spousal Support
 (check reason) Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCF)
 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:
 Other:

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
 Other:

JUDGE

CODE: Date:

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

- MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

“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.

Larry R. Patterson
Chief Administrative Judge
Thirteenth Judicial Circuit

_____, South Carolina.

Court affirmed the Applicant's conviction and sentence. State v. Latimer, Op. No. 87-MO-331 (S.C. Sup. Ct. filed August 3, 1987).

1997-CP-23-0701

The Applicant filed a PCR application on February 27, 1997 (1997-CP-23-0701). The Respondent filed a return and motion to dismiss on May 21, 1997. The Applicant raised the following issues in his PCR application:

1. Ineffective assistance of trial counsel.
2. Violation of Constitutional rights.

The Honorable Gary E. Clary denied and dismissed the PCR application by order on May 29, 1997. The Applicant did not file an appeal.

Federal Habeas Corpus

The Applicant filed a petition for writ of habeas corpus in the United States District Court for the District of South Carolina on December 3, 1997 (6:97-3739-17AK). The Respondent submitted a motion for summary judgment on January 22, 1998. The Honorable William M. Catoe, Jr., United States Magistrate Judge, issued a report and recommendation to grant the motion for summary judgment dated April 16, 1998. On June 29, 1998, the Honorable Joseph F. Anderson, Jr., United States District Judge, issued an order dismissing the petition with prejudice.

State Habeas Corpus

The Applicant filed a "Petition for Writ of Habeas Corpus" in the Court of Common Pleas on January 15, 2009 (2009-CP-23-0328). The Respondent submitted a return, arguing the matter should be dismissed. The Honorable John C. Few signed a conditional order of dismissal on July 24, 2009. Judge Few signed a final order of dismissal on October 13, 2009. The

The State of South Carolina
County of GREENVILLE

INDICTMENT FOR
BURGLARY - FIRST DEGREE
VIOLATION SECTION 16-11-311(A)(3)

At a Court of General Sessions, convened on the 27th day of February
19 86 the Grand Jurors of Greenville County present upon their oath:

That RANDALL EDWIN LATIMER

did in Greenville County on or about the 20th day of October
19 85 enter the residence of one Louise Smith located at 40-C Piedcrest
Village, Greenville, South Carolina, in the nighttime, without consent
and with the intent to commit a crime therein. Such being in violation
of South Carolina Code of Laws Section 16-11-311(A)(3).

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S.C. Supreme Court

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.

Joseph J. Watson
Solicitor

Rundell E. Latimer #135007
Lieber Correctional Institution
Smu MB 229
P.O. Box 205
Ridgeville SC ~~29922~~ 29472

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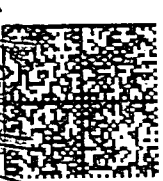
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FOR LEGAL USE ONLY

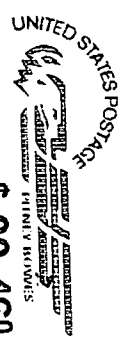
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THE HONORABLE KENNETH A. NICHOLS
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

FIRST CLASS



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