

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM Horry County

William H. Seals Jr. Circuit Court Judge

Appellate Case No. 2021-001346

State of South Carolina

Respondent

v.

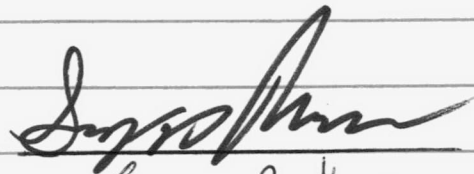
Gregory Penick 312332

Petitioner

PETITION TO PRESERVE ON RECORD

Petitioner requests the enclosed to be recorded and clock-stamped and return a clock-stamped copy to petitioner.

February 10<sup>th</sup>, 2022



Gregory Penick 312332

Evans CB #41A275

616 Hwy 9 west

Bennettsville SC 29512

**RECEIVED**

FEB 17 2022

S.C. SUPREME COURT

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

February 18<sup>th</sup>, 2022

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

**RECEIVED**  
FEB 17 2022  
S.C. SUPREME COURT

RE: NOTICE AND DEFAULT

Mr. Falk,

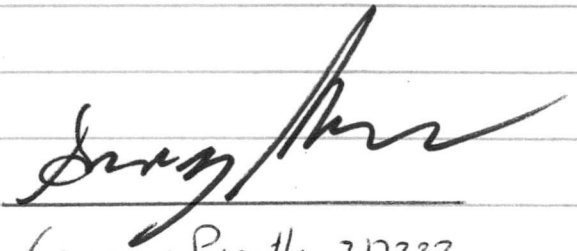
YOU ARE HEREBY NOTICED that you have failed to timely comply with encaptioned's demands to remove your representation and withdraw your non-consented and improper filings.

YOU ARE FURTHER NOTICED that you have (30) thirty days from the receipt of this letter to fully remove your representation and withdraw your erroneous filings and serve copies on the involved parties including copies to encaptioned. Failure to fully comply and/or respond will acquiesce to malicious intent, violating Pencille's due process rights. Further, failure will assent to James K. Falk [Bar No. 80125] violating oaths under Rule 407 SCACR, Rules of professional conduct and will

be considered a Voluntary acceptance of James K. Falk  
to forfeiture of his ability to practice law.

Encapsuled swears under penalty of perjury,  
that the above is true and correct to the best  
of his knowledge and abilities.

February 10<sup>th</sup>, 2022



Gregory Penelle, 312332  
Evans CI F4A275  
610 Hwy A West  
Bennettsville, SC 29512  
Sui Juris.

Subscribed and sworn to before me and subscribed to before me  
on 10<sup>th</sup> day of February, 2022  
J.P.  
(Notary Public of South Carolina)  
Commission Expires 2117134

**RECEIVED**

FEB 17 2022

S.C. SUPREME COURT

Gregory Penille 312332  
Evans CI F4A275  
610 Hwy 9 west  
Bennettsville, SC, 29512

February 10<sup>th</sup>, 2022

Attorney General's Office  
AG of South Carolina  
PO. Box 11549  
Columbia SC 29211

## RE: SECOND NOTICE AND DEMAND

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

Dear Attorney General,

A requested response and explanation was requested dated December 13, 2021.

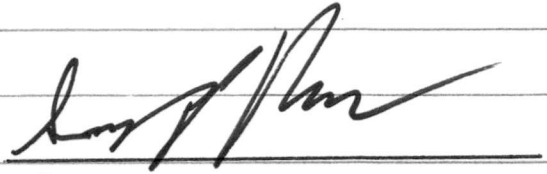
This Office has failed to timely and fully respond to request in the given grace period.

**SECOND NOTICE IS GIVEN** to fully respond to request(s) within (30) thirty days of the receipt of this letter. Failure to fully respond will acquire to Violating Encaptured's due process and

equal protection rights and admit to misconduct  
and fraud.

\* Prior request and evidence enclosed

February <sup>10<sup>B</sup></sup> 2022

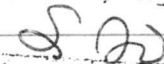


Gregory Pencille 312332

Evens CE F44275

610 Hwy 9 west

Bennettsville SC 29512

Subscribed and sworn to before me  
on the 10<sup>th</sup> day of February 2022  
  
(Notary Public of South Carolina)  
Commission Expires 211724

**RECEIVED**

FEB 17 2022

S.C. SUPREME COURT

Gregory Penille 312332  
Evans CI F4A 275  
610 Hwy 9 west  
Bennettsville, SC 29512

December 13, 2021

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

RE: Case No. 2018-CP-26-6005  
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 Encapsulated 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 representatives 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 amount to violating Appellants' due process rights.

December 13<sup>th</sup>, 2021

*Gregory Perille*

Gregory Perille 312333  
Evans CI F4A275  
610 Hwy 9 west

Bennettsville, SC 29512  
Pro Se, Sui Juris

Notary Public of South Carolina  
13<sup>th</sup> day of December 2021  
2117124

RECEIVED

FEB 17 2022

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

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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

**RECEIVED**  
FEB 17 2022  
S.C. SUPREME COURT

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

# FALK LAW FIRM, LLC.

James K. Falk

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

www.FALKLAW.ORG

JAMES@FALKLAW.ORG

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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

Cc: Chelsey Marto, Esq.  
Gregory Pencile

**RECEIVED**

**FEB 17 2022**

**S.G. SUPREME COURT**

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

**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

Cc: Chelsey Marto, Esq  
Gregory Pencille

**RECEIVED**  
**FEB 17 2022**  
**S.C. SUPREME COURT**

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

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STATE OF SOUTH CAROLINA )

COUNTY OF Horry )

GREGORY PENCILLE 312332 )

vs. )

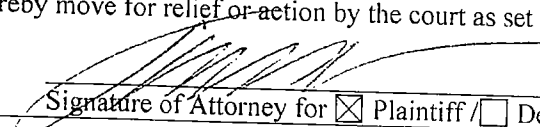
STATE OF SOUTH CAROLINA )

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"/> <b>MOTION HEARING REQUESTED</b> (attach written motion and complete <b>SECTIONS I and III</b> ) <input type="checkbox"/> <b>FORM MOTION, NO HEARING REQUESTED</b> (complete <b>SECTIONS II and III</b> ) <input type="checkbox"/> <b>PROPOSED ORDER/CONSENT ORDER</b> (complete <b>SECTIONS II and III</b> )			
<b>SECTION I: Hearing Information</b>			
Nature of Motion: MOTION TO BE RELIEVED Estimated Time Needed: 10 MINUTES Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO			
<b>SECTION II: Motion/Order Type</b>			
<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	
<b>SECTION III: Motion Fee</b>			
<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, SCRCPP) <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: _____			
<b>JUDGE'S SECTION</b>			
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____		JUDGE CODE _____ Date: _____	
<b>CLERK'S VERIFICATION</b>			
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____			

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )  
 )  
Gregory Pencille 312332 )  
 ) Applicant )  
Vs. )  
 )  
State of South Carolina )  
 )  
 ) Respondent, )  
 )

COURT OF COMMON PLEAS  
FOR THE 15th JUDICIAL CIRCUIT  
2018-CP-26-6065  
MOTION TO BE RELIEVED

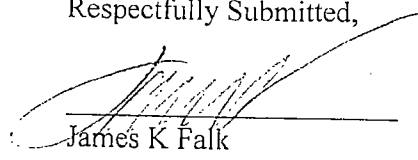
Undersigned counsel moves that he be relived from further representation of Applicant in this action. This motion is made at Applicant's request.

As grounds for this motion counsel states:

On June 23<sup>rd</sup>, 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.

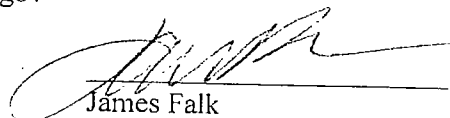
Respectfully Submitted,



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

**RECEIVED**

**FEB 17 2022**

**S.C. SUPREME COURT**

Gregory Penick 312332  
Evers of F4A27T  
610 Hwy a west  
Benedictville SC 295

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7018 1130 0000 7679 3665

Patricia Howard  
Supreme Court of South Carolina, Clerk  
P.O. Box 11330  
Columbia, SC 29211

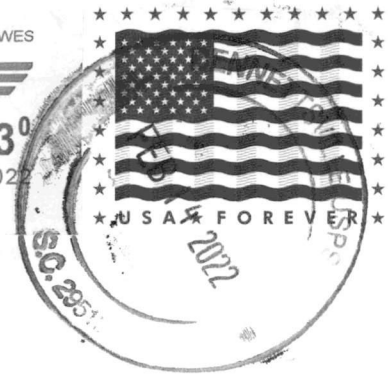
COLUMBIA



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