

The Supreme Court of South Carolina

Kevin Herriott, Petitioner,

v.

The State of South Carolina, Respondent.

Appellate Case No. 2024-000376

and,

Kevin Herriott, Petitioner,


v.

The State of South Carolina, Respondent.

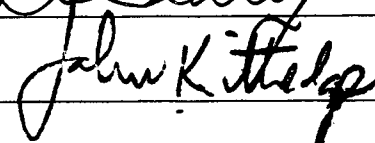
Appellate Case No. 2024-000429

ORDER

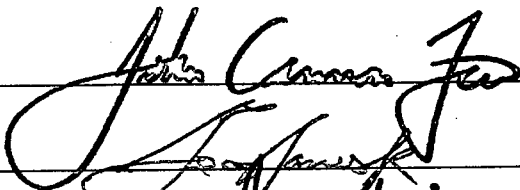

Petitioner has filed a petition for a writ of mandamus in each of the above cases. This Court declines to consider these petitions under Rule 245 of the South Carolina Appellate Court Rules. Accordingly, these appellate cases are dismissed.



John K. Heltz C.J.

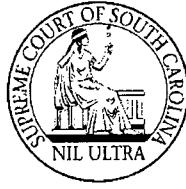


J.


J.

J.
D. Hamlin
J.

Columbia, South Carolina
May 21, 2024

cc: Office of the Attorney General
Kevin Herriott, 313862
The Honorable Jenny Abbott Kitchings



The Supreme Court of South Carolina

PATRICIA A. HOWARD
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

June 17, 2024

Mr. Kevin Herriott
McCormick Correctional Inst.
389 Redemption Way
McCormick, SC 29899

Re: Kevin Herriott v. State of South Carolina
Appellate Case No. 2024-000429 & 2024-000376

Dear Mr. Herriott:

This will acknowledge your Notice of Appeal and Petition for Reconsideration in the above cases which was received in this office on June 17, 2024.

Pursuant to Rule 221, SCACR, no petition for rehearing (or reconsideration) is allowed from an order declining to entertain a matter under Rule 245. Accordingly, this case ended on May 21, 2024, and no action will be taken on your petition.

Sincerely,

Patricia A. Howard

CLERK

cc: Alan McCrory Wilson

The South Carolina Court of Appeals

The State, Respondent,

v.


Kevin Herriott, Appellant.

Appellate Case No. 2019-000969

ORDER

On March 4, 2024, Appellant filed a motion to compel, asking for this court to issue an order requiring his former lawyers to "surrender the case/work file, the two (2) created in representing the Appellant" to him. Appellant explained he intends to use the materials to request leave to supplement the record on appeal. After careful consideration, we deny Appellant's motion to compel.

On March 15, 2024, Appellant moved to hold this appeal in abeyance pending a ruling from the South Carolina Supreme Court on his petition for a writ of mandamus. Appellant explained his petition for writ of mandamus relates to this court's consideration of his appeal. After careful consideration, we grant Appellant's motion to hold the appeal in abeyance pending the supreme court's ruling on his petition for writ of mandamus. Appellant must provide this court with an update on the status of the pending petition for writ of mandamus within thirty days of the date of this order and every thirty days thereafter.


FOR THE COURT

Columbia, South Carolina

cc:

Kevin Herriott, #T97826, 313862

Alan McCrory Wilson, Esquire

Ernest Adolphus Finney, III, Esquire

Mark Reynolds Farthing, Esquire

FILED
Apr 30 2024



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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May 22, 2024

Kevin Herriott, #T97826, 313862
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899

Re: The State v. Kevin Herriott
Appellate Case No. 2019-000969

Dear Mr. Herriott:

The Court has received your recent correspondence titled Appellant's Written Objections that appears to be an attempt to rehear the Court's order dated April 30, 2024. Pursuant to Rule 221(c), SCACR, no further action will be taken on this filing.

According to our records, the South Carolina Supreme Court has dismissed your petition for writ of mandamus. Our Court will now continue with consideration of your records and briefs.

Very truly yours,

A handwritten signature in black ink, reading "Catherine Harrison, deputy". The signature is fluid and cursive.

CLERK

cc: Alan McCrory Wilson, Esquire
Ernest Adolphus Finney, III, Esquire
Mark Reynolds Farthing, Esquire

LEGAL INDEX
MAIL ROOM

APPENDIX B

THE STATE OF SOUTH CAROLINA)
COUNTY OF LEE)
THE STATE OF SOUTH CAROLINA)
v.)
Kevin Herriott SCDC # 312862,)
DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
Warrant/Indictment Nos.: 2018A3110100194,
2018A3110100195

REQUEST AND MOTION
UNDER RULE 5 FOR DISCOVERY
Motion pursuant to Brady
And written objection under Rule 6

TO SOLICITOR OF THE THIRD JUDICIAL CIRCUIT and any agency of law enforcement or of the State with this case:

NOW COMES the Defendant, by and through counsel, pursuant to Rule 5 & 6 of the South Carolina Rules of Criminal Procedure, and requests the Solicitor to permit the Defendant through counsel to inspect, copy and photograph, within thirty (30) days of the date of this Motion and at least ten (10) days prior to the first day of the term of Court during which the Solicitor shall call the case for trial, the following items, with the express provision that the duty of the Solicitor to respond to this request shall be a continuing one in the event that any such materials shall come into existence or become available after the initial disclosures:

- A. Any written or recorded statement made by the Defendant;
- B. The substance of any statements made by the Defendant;
- C. A copy of the Defendant's prior record;
- D. All books, papers, documents, photographs, videos, tangible objects, buildings or places, or copies or portions thereof, which are material to the defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the Defendant;
- E. All results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody or control of the prosecution, the existence of which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at trial;
- F. The statement of any witness or prospective prosecution witness;
- G. Anything else that the Defendant may be entitled to pursuant to Rule 5 and/or the principles established in Brady v. Maryland 373 U.S. 83, 83 S.Ct. 1194 (1963);
- H. A true copy of the indictment herein, with all the markings upon it as may have been made by the action of a Grand Jury.

The Defendant herewith moves the Court for orders compelling the Solicitor to comply with this request. This request and motion apply to any material, items, testimony and evidence, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution or any agent of the State, and the Defendant asserts that all material requested herein, if it exists, is material to the preparation of the defense in this case.

Further, pursuant to Rule 6, the Defendant objects to the introduction of the identity of any evidence or substance without the testimony of the qualified analyst who personally tested the evidence or substance and the testimony of all individuals who were involved in the chain of custody of the evidence or substance.

E. Thompson Kinney
Attorney for Defendant
E. Thompson Kinney
Lee County Public Defender
Post Office Box 339
Manning, SC 29102
(803)464-1687 /fax (803)425-7377

August 01, 2018.

* * * Communication Result Report (Aug. 1. 2018 12:06PM) * * *

2)

Date/Time: Aug. 1. 2018 12:05PM

File	No. Mode	Destination	Pg(s)	Result	Page Not Sent
2363	Memory TX	Lee Solic. Fax	P. 1	OK	

Reasons for error:
 1) Hang up on line fail
 2) No answer
 3) Exceeded max. E-mail size

E. 2) Busy
 E. 4) No facsimile connection

THE STATE OF SOUTH CAROLINA
 COUNTY OF LEE

THE STATE OF SOUTH CAROLINA

Kevin Harriott SCDC # 313862

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS
 THIRD JUDICIAL CIRCUIT
 Warrant/Indictment No.: 2018A3110100194,
 2018A3110100195

REQUEST AND MOTION
 UNDER RULE 5 FOR DISCOVERY
 Motion pursuant to Brady
 And written objection under Rule 6

TO SOLICITOR OF THE THIRD JUDICIAL CIRCUIT and any agency of law enforcement or of the State with this case:

NOW COMES the Defendant, by and through counsel, pursuant to Rule 5 & 6 of the South Carolina Rules of Criminal Procedure, and requests the Solicitor to permit the Defendant through counsel to inspect, copy and photograph, within thirty (30) days of the date of this Motion and at least ten (10) days prior to the first day of the term of Court during which the Solicitor shall call the case for trial, the following items, with the express provision that the duty of the Solicitor to respond to this request shall be a continuing one in the event that any such materials shall come into existence or become available after the initial disclosures:

- A. Any written or recorded statement made by the Defendant;
- B. The substance of any statements made by the Defendant;
- C. A copy of the Defendant's prior record;
- D. All books, papers, documents, photographs, videos, tangible objects, buildings or places, or copies or portions thereof, which are material to the defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the Defendant;
- E. All results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody or control of the prosecution, the existence of which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at trial;
- F. The statement of any witness or prospective prosecution witness;
- G. Anything else that the Defendant may be entitled to pursuant to Rule 5 and/or the principles set forth in *Brady v. Maryland* 373 U.S. 83, 83 S.Ct. 1104 (1963);
- H. A true copy of the indictment herein, with all the markings upon it as may have been made by the action of a Grand Jury.

The Defendant herewith moves the Court for orders compelling the Solicitor to comply with this request. This request and motion apply to any material, items, testimony and evidence, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution or any agent of the State, and the Defendant asserts that all material requested herein, if it exists, is material to the preparation of the defense in this case.

Further, pursuant to Rule 6, the Defendant objects to the introduction of the identity of any evidence or substance without the testimony of the qualified analyst who personally tested the evidence or substance and the testimony of all individuals who were involved in the chain of custody of the evidence or substance.

E. Thompson Kinney
 Attorney for Defendant
 E. Thompson Kinney
 Lee County Public Defender
 Post Office Box 339
 Manning, SC 29102
 (803)464-1697 Fax (803)429-7377

August 01, 2018.

) IN THE COURT OF GENERAL SESSIONS
) CASE NO: 31MC-002131

)

)

)

)

)

AFFIDAVIT OF SERVICE BY E-MAIL

BY

WINDI KING

LEE COUNTY SOLICITOR'S OFFICE

SWORN TO BEFORE ME

this 1st day of August 2018

NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES:

This is to verify that I have received two (2) letters on above referenced case.

E. Thompson Kinney

DATE _____

Attachments

- 1 Email Notification
- 2 LeeCI Incident Reports
- 3 Video of Incident
- 4 Voluntary Written Statement of Sgt. Edward Lucky
- 5 Voluntary Written Statement of Inmate Kevin Herriott
- 6 Arrest Warrants

**E. Thompson Kinney
Lee County Public Defender
Post Office Box 339
Manning, SC 29102
(803)464-1687**

August 13, 2018

Mr. Kevin Herriott Scdc # 313362
C/O Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

Re: State v. Kevin Herriott
Warrant/Ticket No(s): 2018A3110100194; 2018A3110100195

Dear Mr. Herriott:

I am in receipt of discovery regarding your pending charges in Lee County. Please contact my office at the above number to make an appointment or receive a copy of the discovery regarding your charges.

If you have received this letter while incarcerated, I will schedule a time to come to the jail to discuss this information with you.

Very truly yours,
E. Thompson Kinney
E. Thompson Kinney, Esq.

/ads

Handwritten notes at the top of the page, including the date "1941" and various illegible entries.

Main body of handwritten notes, organized into several columns. A prominent diagonal line runs across the middle of the page, separating the upper and lower sections of text.

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	
COUNTY OF LEE)	
)	
STATE OF SOUTH CAROLINA)	
)	ACKNOWLEDGEMENT OF RECEIPT
VS.)	OF DISCOVERY DOCUMENTS
)	
KEVIN HERRIOTT)	
)	FILE: 31MC-002131
DEFENDANT)	
)	

TO: E. THOMPSON KINNEY, ATTORNEY FOR DEFENDANT

PURSUANT TO YOUR DISCOVERY REQUEST, ENCLOSED PLEASE FIND THE FOLLOWING DOCUMENTS RELATIVE TO THE ABOVE REFERENCED MATTER:

EVIDENCE FURNISHED BY THE STATE:	PAGES
Copy of Warrant	2
Copy of Bond Paper	2
Copy of Police Services' Investigative Report with Attachments	18
Copy of Rap Sheet	6
Copy of Indictment	1

PLEASE NOTE: THE FOLLOWING EVIDENCE IS ALSO AVAILABLE UPON WRITTEN REQUEST AND BLANK DISCS/TAPES OR BY CONTACTING OUR OFFICE IF YOU WISH TO VIEW AND/OR LISTEN TO THIS MATERIAL: Video available for viewing upon request

I ALSO ENCLOSE AND SERVE UPON YOU A COPY OF A MUTUAL RECIPROCAL DISCOVERY MOTION AND NOTICE OF INTENT TO IMPEACH BY EVIDENCE OF CRIMINAL CONVICTIONS RELATIVE TO THE ABOVE MATTER.

PLEASE ACKNOWLEDGE RECEIPT OF COPIES OF THE ABOVE DOCUMENTS AT THE BOTTOM OF THE PLACE PROVIDED BELOW AND RETURN A SIGNED COPY TO THIS OFFICE.

Bishopville, SOUTH CAROLINA

ATTORNEY FOR DEFENDANT

DATED: JULY 31, 2018

JOHN GENTRY,

Kevin E. Herriott
#313862
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

October 2, 2020

TO: E. Thompson Kinney, Esq.
Post Office Box 339
Manning, SC 29102

Timothy L. Griffith, Attorney At Law
360 West Wesmark BLVD., 2nd Floor
Sumter, South Carolina 29154

Re: Criminal Case File For
THE STATE VS. KEVIN HERRIOTT
Case No.: 31-MC-002131
18-GS-31-0120

Dear Attorneys:

This letter is to inform you that I am seeking to obtain from you my ENTIRE Case/Work File where you represented me in the above referenced action. At this time I am hereby asking that you or your office forward to me the ENTIRE Case/Work File in your possession

LEGAL MAIL ONLY

to include but not limited to all discovery materials, pretrial motions, responses, and orders. (see attach).

I have a Constitutional right to receive my case/work file under the Sixth Amendment to the Constitution. Accord Sixth Amend, U.S. CONST., see also *Spivey v. Zant*, 683 F.2d 881, 882 (5th Cir. 1982) (Habeas Corpus petitioner is entitled to former trial attorneys file and the work product doctrine does not apply to situations in which the client seeks access to documents or other tangible things created during course of attorneys representation.)

Nevertheless, neither you nor your office currently represent me; however, I plan to pursue a Federal Habeas Corpus petition attacking the constitutionality of the conviction and/or sentence. As you are aware, a motion under §2254 has a statutory limitation of one year.

Hopefully, you will act consistent with the American Bar Associations Standards and refrain from impeding my right to challenge the constitutionality of my conviction and/or sentence. That said, I'm requesting you forward the case/work file to me within the allotted timetable of Thirty (30) days.

Please forward the case/work file to me in large envelopes addressed to me and CLEARLY MARKED as Legal Mail, OPEN ONLY IN PRESENCE OF THE INMATE, at McCormick Correctional Institution, 386 Redemption Way, McCormick, South Carolina, 29899.

Thank you in advance for your cooperation in this matter.

Yours Truly,

K.E. Lovett

cc: P/File

LEGAL MAIL ONLY

PLEASE PROVIDE The FOLLOWING Below discoveries of any and all intangible and tangible documents to perfect my appeal

1) Any and all Department of Police Services (DOPS) within the Department of Corrections (DOC) :

- A) Police Services reports;
- B) Police Services documents;
- C) Police Services investigative reports;
- D) Chain of command evidence vouchers, ledgers, including but not limited to logged itemize evidence, photographs, and etc.

2) Witness Complaints, if used.

3) Search or Arrest Warrants and the Affidavits used to support them.

4) Indictments, Superseding Indictments, and/or Information.

5) Pretrial Investigations reports from SCDC (DOPS), SLED, Probation and Parole, and any other agency submittance relevant to the subject-matter.

6) Medical Records of Edward Lucky, an Correctional Officer at Lee Corr. Inst., known as the alleged victim, relevant to the subject matter.

LEGAL MAIL ONLY

7) All pretrial motions, orders, and answers or replies.

8) All communication and correspondences between attorney and client.

9) All communications from Attorney(s) Thompson, Kinney E., and Timothy L. Griffith had with the state's prosecution, included but not limited to :

- A) any and all emails
- B) any and all letters
- C) Text messaging
- D) phone records that's relevant to the subject-matter.

10) All proposed plea agreements, and stipulations.

11) Presentence Reports, objections to the Presentence Report and the Addendums.

12) Docket Sheet.

13) Trial Transcripts, Jury Selection, Opening Arguments, Trial Motion Hearings held before, during, and after trial, Jury Charge, and instructions, and closing arguments.

14) All Verdict Forms.

15) Minutes of the Grand Jury Proceeding And Attendance of Jurors.

LEGAL MAIL ONLY

16) Pretrial Transcripts of any and all hearings including but not limited to :

- A) any and all Transcripts of Competency Hearings
- B) any and all rulings, and
- C) other court proceeding relevant to the subject-matter.

17) Transcripts relating to New Trial Motions.

18) Sentencing Transcripts, Judgment and Commitment Order

19) Notice of Appeal

20) Appellate and Appellee Briefs

21) All witnesses affidavits who were not called detailing what their testimony would have been if called.

22) Affidavits from Expert Witnesses that were not used during trial, but whose testimony would have made a difference if they had testified.

23) Any and all psychiatric evaluations, reports, records, and documents of the defendant Kevin E. Herriott.

L. E. Corbett

Date _____

LEGAL MAIL ONLY

KINNEY LAW FIRM, LLC

17 E. Calhoun Street

Sumter, SC 29150

E. Thompson Kinney, Esq.
tkinney@kinneylawfirm.com

P: 803-748-1344

November 12, 2020

Kevin Herriott (00313862)
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Re: Case File Request

Dear Mr. Herriott:

I am in receipt of your letter dated October 23, 2020 where you asked for me to send you your case file.

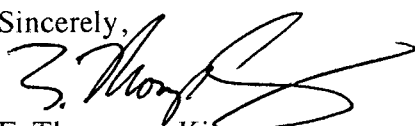
I have enclosed the contents of my file, up to the point of when I was relieved as your attorney.

As you may remember, I was relieved by the Court as your counsel in March of 2019. At that time, the Judge relieved me and Timothy Griffith was appointed as your attorney.

At that time, I gave your file to Mr. Griffith and he carried on with your representation. Therefore, there could be other information about your case in Mr. Griffith's file that you may want. His contact information is:

Mr. Timothy Lee Griffith
2338 Mount Vernon Dr
Sumter, SC 29154
tlgriffith@tlgriffith.com
(803) 607-9087

Please let me know if you have any questions.

Sincerely,

E. Thompson Kinney

Kevin E. Herriott
SCDC# 313862
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

July 24, 2023

E. Thompson Kinney
17 E. Calhoun Street
Sumter, SC 29150

Re: The State vs. Kevin Herriott
Warrant No. 5: 2018 A310100194,
2018 A3110100195, 2018 DIR 310018
Case File

Dear Mr. Kinney,

I am writing you for the sole purpose of requesting a copy of all my pro se filings that have been not been included inside of my case file that you sent on November 12, 2020, at which time you was representing me before you was withdrawn and relieved.

I am requesting for a copy of all of the motions clock stamped by the Court namely (1) motion to relieve you as my attorney, (2) motion to proceed pro se, (3) motion to quash indictments

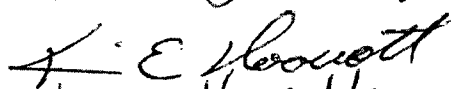
1.

~~Page~~ 49.

(4) motion requesting for discovery pertaining to the principles according to Brady v. Maryland.

I am requesting for a copy of the Lee County General Sessions Court Schedule for the month of August, 2018. Also, I am requesting a copy of the transcript of the competency hearing (Blair Hearing).

Yours Truly,


Kevin E. Herriott
Pro Se.

Note: resent letter September 22, 2023
to Lee Public Defender's Office
P.O. Box 339 - Manning, SC 29102



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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www.sccourts.org

March 01, 2024

Mr. Alan McCrory Wilson, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia SC 29211-1549

Mr. Ernest Adolphus Finney, III, Esquire
PO Box 836
Sumter SC 29151-0836

Mr. Mark Reynolds Farthing, Esquire
PO Box 11549
Columbia SC 29211-1549

Re: The State v. Kevin Herriott
Appellate Case No. 2019-000969

Dear Counsel:

Please be advised this case will be submitted to the Court on the record and briefs during the March 2024 term without oral argument.

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Harrison, deputy".

CLERK

Kevin E. Herrolt
3cdc # 313862
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

March 13, 2021

Clerk Teresa A. Brown
Clerk of Court Office
Lee County | 123 South Main Street
Post Office Box 387
Bishopville, SC 29 010

Re: The State v. Kevin E. Herrolt
Case Arrest Warrant's No.'s) 2018 A3110100194
2018 A3110100195
2018 DIR 3710018

Dear Clerk:

I am writing this office for the sole purpose of obtaining a copy of all documents that were filed by either party whether the solicitor's office and/or defense counsel's of record pertaining to the above arrest warrants.

I am specifically requesting that this office provide me a copy of all my pro se filings, case file, motions by counsel of record, any and all relevant information that the Clerk of this Court can release to the above address.

My case is pending before the South Carolina Supreme Court and South Carolina Court of Appeals and I am asking kindly to provide me access to the requested information. Thank-You And Good Day.

Yours Truly,
1st/ Kevin E. Herrolt
Kevin E. Herrolt

U.S. District Court

District of South Carolina
Notice of Electronic Filing

The following transaction was entered on 12/16/2020 at 4:31 PM EST and filed on 12/16/2020

Case Name: Herriott v. State of South Carolina, The

Case Number: 6:20-cv-03336-DCN

Filer:

Document Number: 28

Docket Text:

ORDER finding as moot [8] Motion for Order to Show Cause; affirming [20] Report and Recommendation; finding as moot [23] Motion to Compel. The Clerk is directed to send a copy of this order and the judgment to the South Carolina Court of Appeals. It is further ordered that a certificate of appealability is denied. Signed by Honorable David C Norton on 12/16/2020.(eric,)

6:20-cv-03336-DCN Notice has been electronically mailed to:

6:20-cv-03336-DCN Notice will not be electronically mailed to:

Kevin E Herriott 313862

F5A-33

McCormick Correctional Institution

386 Redemptm Highway

McCormick, SC 29889

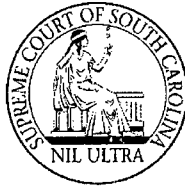
The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1091130295 [Date=12/16/2020] [FileNumber=9965060-0] [6b4ff55e8259bd7b608b4df895d362a8720e187470a98ba2f1af374d452e1417a3162e54d4d69023d8b954f05a31a54cc6063ae0a091a588a69cf012fda04571]]



The Supreme Court of South Carolina

PATRICIA A. HOWARD
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
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www.sccourts.org

March 15, 2024

Kevin Herriott, 313862
McCormick Correctional Institute
386 Redemption Way
McCormick SC 29899

Re: Kevin E. Herriott v. The State of South Carolina
Appellate Case No. 2024-000376

Dear Mr. Herriott,

This Court has received your notice of mandamus, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

Very truly yours,

Patricia A. Howard

CLERK

cc: Alan McCrory Wilson
The Honorable Jenny Abbott Kitchings

APPENDIX C



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 24, 2020

Kevin Herriott, 313862
Kirkland Correctional Institution
4344 Broad River Road
Columbia SC 29210

Re: The State v. Kevin Herriott
Appellate Case No. 2019-000969

Dear Mr. Herriott:

The Court has received your motion titled "Transfer Case Action and Certification Notice". On August 5, 2020, the South Carolina Supreme Court denied the appellant's motion to certify that was filed in their Court. Therefore, this Court will take no further action on this matter.

Very truly yours,

V. Claire Allen

CLERK

cc: Alan McCrory Wilson, Esquire
William M. Blitch, Jr., Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
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COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 19, 2020

Kevin Herriott, 313862
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899

Re: The State v. Kevin Herriott
Appellate Case No. 2019-000969

Dear Mr. Herriott:

We have confirmed the U.S. District Court for the State of South Carolina has accepted your filing as a removal action, which is currently pending with the district court. We are forwarding a copy of the district court's records to you and the State for your records. Accordingly, this appeal is held in abeyance until the removal action is resolved. You must provide a status update every 60 days.

Very truly yours,

V. Claire Allen

CLERK

cc: Alan McCrory Wilson, Esquire
William M. Blich, Jr., Esquire
Ernest Adolphus Finney, III, Esquire

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

March 31, 2022

Mr. Kevin E. Herriott
Prisoner ID T97826
PO Box 8000
Shirley, MA 01464

Re: Kevin Herriott
v. Charles Burton, Warden
No. 21-7511

Dear Mr. Herriott:

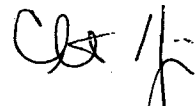
The petition for a writ of certiorari in the above entitled case was filed on January 21, 2022 and placed on the docket March 31, 2022 as No. 21-7511.

A form is enclosed for notifying opposing counsel that the case was docketed.

Sincerely,

Scott S. Harris, Clerk

by


Clayton Higgins
Case Analyst

Enclosures

The South Carolina Court of Appeals

The State, Respondent,

v.

Kevin Herriott, Appellant.


Appellate Case No. 2019-000969

The Honorable R. Ferrell Cothran, Jr.
Lee County
Trial Court Case No. 2018GS3100120

ORDER

The Court has received the request to lift the stay of this appeal. This request is Granted. The record on appeal is due to be served within thirty (30) days of the date of this order.

FOR THE COURT

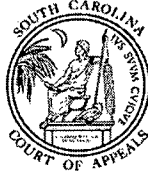
 C.J.

Columbia, South Carolina

cc:

Kevin Herriott, 313862
Alan McCrory Wilson, Esquire
William M. Blich, Jr., Esquire
Ernest Adolphus Finney, III, Esquire

FILED
Jul 08 2022



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 21, 2022

Kevin Herriott, #T97826, 313862
NCCI-Gardner
Post Office Box 466
Gardner MA 01440

Re: The State v. Kevin Herriott
Appellate Case No. 2019-000969

Dear Mr. Herriott:

Upon reviewing your record on appeal, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter, or your appeal will be dismissed:

- The document is improperly paginated. Specifically, the pages of your record on appeal are not sequentially numbered.
- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

V. Claire Allen

CLERK

cc: Alan McCrory Wilson, Esquire
William M. Blich, Jr., Esquire
Ernest Adolphus Finney, III, Esquire

The South Carolina Court of Appeals

The State, Respondent,

v.

Kevin Herriott, Appellant.

Appellate Case No. 2019-000969

ORDER

After careful consideration, Respondent's motion to strike is granted. Within twenty days of the date of this order, Appellant shall file a final Appellant's brief that complies with Rule 211(b), SCACR, which requires that the final brief be identical to the initial brief, other than (1) the references should be revised to include citations to the record on appeal; and (2) the party may correct typographical errors. To the extent Appellant wants to attach materials to his final brief that were not included in the record on appeal, Appellant must make a motion to amend the record on appeal and only content that complies with Rule 210(c), SCACR will be permitted to be included.


FOR THE COURT

Columbia, South Carolina

cc:

Kevin Herriott, #T97826, 313862
Alan McCrory Wilson, Esquire
William M. Blitch, Jr., Esquire
Ernest Adolphus Finney, III, Esquire

FILED
Oct 06 2022



ALAN WILSON
ATTORNEY GENERAL

October 27, 2022

VIA ELECTRONIC FILING

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: The State v. Kevin E. Herriott
Appellate Case No. 2019-000969

Dear Ms. Kitchings:

The State received a copy of Appellant's Motion for Leave to Hold Case in Abeyance and filing labeled Objections. Please accept this letter in lieu of a formal return. The State does not believe there is any reason to hold the appeal in abeyance nor to allow deviation from Rule 211, SCACR, pursuant to his objections. The State received a copy of a new Final Brief of Appellant on October 25, 2022. The State is currently reviewing the new Final Brief of Appellant to determine whether it complies with Rule 211, SCACR or whether a subsequent motion to strike is warranted.

Sincerely,

William M. Blitch, Jr.
Senior Assistant Deputy Attorney General
Bar Number 15608

cc: Kevin E. Herriott, #313862
Victim Advocacy Division

The South Carolina Court of Appeals

The State, Respondent,

v.

Kevin Herriott, Appellant.

Appellate Case No. 2019-000969

ORDER

Appellant's motion for an extension of time to serve and file a reply brief is granted. He must file any reply brief within ten days of the date of this order.

Appellant's motion for reconsideration of this court's October 6, 2022 order granting Respondent's motion to strike is denied. *See* Rule 240(i) ("The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal."). Appellant's motion to hold this appeal in abeyance is denied.



FOR THE COURT

Columbia, South Carolina

cc:

Kevin Herriott, #T97826, 313862

Alan McCrory Wilson, Esquire

William M. Blich, Jr., Esquire

Ernest Adolphus Finney, III, Esquire

FILED
Jan 04 2023

APPENDIX D

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEE COUNTY
Court of General Sessions

The Honorable R. Ferrell Cothran, Jr., Circuit Court Judge

Indictment No(s):
2018A3110100194, 2018A3110100195

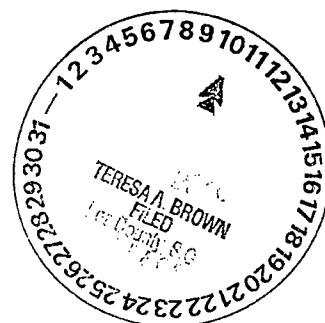
The State,

Respondent,

v.

Kevin Herriott,

Appellant.



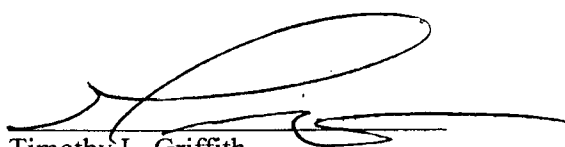
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on **John Gentry**, Esquire by personally delivering a copy of it to Respondent's attorney of record, John Gentry, at his office at Post Office Box 309, Bishopville, South Carolina 29010, on June 5, 2019.

June 5, 2019

I received a copy of the Notice of Appeal
on this ____ day of _____, 2019

John Gentry, Esquire


Timothy L. Griffith
360 W. Wesmark Blvd.
Sumter, SC 29154
Telephone: (803) 607-9087
Attorney for Appellant

(IN THE COURT OF GENERAL SESSIONS
(FOR THE 3rd Judicial Circuit

CASE #:
2018-GS-31-0120

Notice of Direct Appeal

The State of South Carolina,
Respondent.

Appellant Herriott submits the intention to appeal for the basis on grounds, Ineffective Assistance of Counsel; lack of Subject Matter Jurisdiction on all three (3) Charging Indictments supporting arrest warrants and affidavits); violating Appellants Constitutional rights 6th Amendment, Specific advice, compulsory process for obtaining witnesses in his favor, assistance of counsel for his defense, lack of investigation 14th Amendment due process of law, equal protection clause; 5th Amendment, indictment clause; Brady Material, non-disclosure by the State

Wherefore, the Appellant ask this Court to review, seek, and order granting Motion to Notice of Direct Appeal.

HERRIOTT-313862

Respectfully Submitted,

K. Herriott

Kevin E. Herriott, #313862
Cypress Unit Cell 87-RH4
Kershaw Correctional Institution
4848 Goldmine HWY
Kershaw, SC 29067

June 05, 2019

Certificate of Service

I, Kevin E. Herriott, do hereby Certify that on ____ day of June, 2019 I have served the foregoing motion to Notice of Direct Appeal upon General Sessions, Clerk, at 123 South Main Street, PO Box 387, Bishopville, SC 29010-0387 depositing a true copy of the same in the United States Mail, prepaid postage.

CC//FILED Timothy L. Griffith, Attorney at Law
John Gentry, Assistant Solicitor

Teresa A. Brown, Clerk
Clerk of Court
Lee County
P.O. Box 387
Bishopville, SC 29010

DRAFT

Re: The State v. Kevin Herriott
2018-GS-31-0120

Dear Clerk:

I am writing in regards to ^{above} reference due to filing an direct appeal
on the 07th day of June, 2019. I wrote to this address named below:

General Sessions
123 SOUTH Main Street
P.O. Box 387
Bishopville, SC 29010-387

I am asking for an update on the status of the filing of Direct Appeal and would
preserve the right to perfect the appeal. I ask for an application to file
as an indigent to obtain Transcript of Trial and the Blair Hearing Transcript
June 04, 2019
January 20, 2019
April 2, 2019

LEGAL

HERRIOTT-313862

The South Carolina Court of Appeals

The State, Respondent,

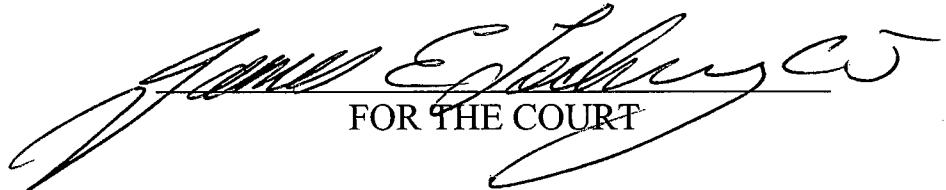
v.

Kevin Herriott, Appellant.

Appellate Case No. 2019-000969

ORDER

Appellant filed a motion seeking to relieve counsel and proceed pro se. On February 1, 2020, this court warned Appellant of the dangers and disadvantages of self-representation pursuant to *Faretta v. California*, 422 U.S. 806 (1975). Appellant has now responded, noting he voluntarily, knowingly, and intelligently wishes to waive the right to counsel. Accordingly, the request to relieve counsel is granted. Attorney Laura Mary Caudy is hereby relieved as counsel for Appellant, and Appellant shall proceed pro se.


FOR THE COURT

Columbia, South Carolina

cc:

Kevin Herriott, 313862

Alan McCrory Wilson, Esquire

William M. Blich, Jr., Esquire

Lara Mary Caudy, Esquire

FILED

February 28, 2020