

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED
Jun 28 2022
S.C. SUPREME COURT

Certiorari to Richland County
Honorable L. Casey Manning, Circuit Court Judge

GARY A. WHITE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001270

APPENDIX

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A careful examination into the file of this case would disclose that there existed a motion to produce documents and for responses/objections to the served interrogatories. Although the issue was vaguely addressed in the Final Order, it does not foreclose the fact that there has been raised a question of an actual conflict of interest which would undermine such a position. Cunningham v. Anderson County, 402 S.C. 434, 741 S.E.2d 545 (Ct.App. 2013)(summary judgment is a drastic remedy and must not be granted until the opposing party has had a full and fair opportunity to complete discovery). To have granted summary dismissal at this stage of the proceedings, leads to a guessing game and ambush, relating to the discovery rules. Scott v. Greenville Housing Authority, 353 S.C. 630, 579 S.E.2d 151 (Ct.App. 2003)(Gist and gravamen of discovery rules mandate full and fair disclosure to prevent trial from becoming a guessing game and ambush for either party).

Furthermore, the public defenders office is an adverse party and is susceptible to the statutory provisions relating as to any waiver of the client-attorney privilege. S.C. Code Ann. §17-27-130 (1976). This waiver gives this Applicant the right to move forward in a discovery settings and be afforded the opportunity to substantiate his claims. The failure to move forward with the discovery proceedings, as provided by statutory provisions and applicable rules of court is a deprivation of the confrontation rule. Failing to permit these types of proceedings effectively cuts the legs out from under Applicant's rights to a fair and impartial proceeding, and places an inability on the part of Applicant to meet his preponderance of the evidence of his case.

ISSUE #3

The purpose of the order that was promulgated by this State's Supreme Court, was to ensure that Applicant's such as this one, were provided a procedure and mechanism in which to assert their rights and/or claims. In Re Pilot Model Post-Conviction Relief Docket Management, 413 S.C. 470, 776 S.E.2d 373 (2015)(Mem).

In the matter of Pilot Model, the Supreme Court specifically created or implemented an effective manner of resolution, as a means of administering justice, and ensuring that all pro se applicant's would be guaranteed an evidentiary hearing. And as this record before this Court has demonstrated, this Applicant has had to act pro se during the course of all these proceedings.

In the Scheduling Conference request, this Applicant has sought to have all claims and issues made a matter of record so that he may overcome the "plain error rule", where an issue not raised in the lower court, cannot be presented to an appellate court. E.g. Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998)("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to an ruled upon by the trial judge to be preserved for appellate review"); Long v. Dunlap, 87 S.C. 8, 68 S.E. 801 (1910); Gaffney v. Peeler, 21 S.C. 55 (1884); and Rule 210(c), SCACR.

It is well established that South Carolina appellate courts do not recognize the "plain error rule", under which a court in certain circumstances is allowed to consider and rectify an error not raised below by the party. Dykema v. Carolina

Emergency Physicians, P.C., 348 S.C. 549, 554, 560 S.E.2d 894, 896 (2002); and Kennedy v. South Carolina Retirement System, 349 S.C. 531, 564 S.E.2d 322 (2001). There exists a mandatory preservation requirement that makes it doubly important that litigants generally be freely allowed to file first a written Rule 59(e) motion.

On September 14, 2020, Applicant served a [second] motion for leave to amend the PCR application in the PCR proceedings of August 5, 2009, an issue which had been raised relating to the testimonial evidence of Mr. Morris. Mr. Morris was to testify at trial as to this Applicant's purported involvement in this case of Armed Robbery. When Judge Hayes issued an Order of Dismissal, in the August 5, 2009, PCR application, as to this issue, Applicant was denied, with prejudice, due to the fact that Mr. Morris could not be located to corroborate a statement as to the falsification and fraudulent intent of his testimony during the trial. So, the claim was improperly dismissed.

Furthermore, Applicant had raised the doctrine of extrinsic fraud, under the mechanism of Rule 60(b)(3), of the South Carolina Rules of Civil Procedure, SCRPC. ("(3) fraud, misrepresentation, or other misconduct of an adverse party"). The extrinsic fraud arose during the trial where falsified facts were utilized to convict this Applicant. And, at the time of the initial PCR, Applicant could not get PCR counsel to locate Mr. Morris. But, as the facts of the second PCR amendment pleading allege, and attorney whom Applicant retained by written agreement, got in touch with Mr. Morris and verified the validity of the affidavit/statement presented a genuine material fact in dispute.

We must be mindful of the fact that the issue did not exist until the precedences set and/or clarified in Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018); and State v. Dean, 427 S.C. 92, 823 S.E.2d 243 (Ct.App. 2019). Their timeliness and their applicability to this case and its issues, plus the manner in which Applicant has of demonstrating the reliability of the statement, where such could not be previously established, presents a claim that has great merit. Without its presentment within the Scheduling Conference, and placed upon the record, it will surely cause Applicant an inability to argue and preserve thwee matter. Applicant is of the belief there is great merit in these two claims and he should be awarded the relief sought within the Scheduling Conference demand.

ISSUE #4

The Respondents have asserted an affirmative defense, (set of), to cease the presentment of the claims sought within this PCR arena. They argue that th|| statute of limitations, found in S.C. Code Ann. §17-27-45(a), is applicable to the facts of this case, where it should have been raised in the one-year time period. The problem with their analogy is a simple one ... as stated and argued in the discovery pleadings, and Affidavit, on several occasions after trial, Applicant diligently attempted to obtain a copy of the case/manual file, that had been amassed

during his criminal proceedings. At no time was the public defenders office responsive, either in denying or objecting to the request), to these formal requests.

After speaking with an inmate paralegal, Applicant would discover that his failure to receive a response was due to the fact that he had never served the formal request for a complete copy of the case/manual file by Certified Mail. (See Receipt No. #7019 0160 0000 3728 0893). This service was at approximately February 20, 2020, and would lead to the service of documents sought to be inspected for purposes of additional issues and claims that could arise.

We must be mindful of the fact that Applicant has no control over when or how the public defenders office conducts its affairs. And furthermore, he must rely on the United States mail Service to attempt to attempt to provide any and all information that could lead to any further potential claims. Also, Applicant filed the claim within the one-year time limit as provided by §17-27-45(a), where the Conflict Memorandum was discovered.

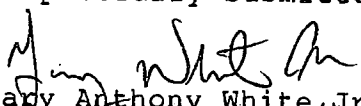
Applicant is of the stance, and position, that he has met the applicable standards of law, and should be granted relief in the manner that would provide him with a Scheduling Conference so as to develop the record, and cause him to meet the burden of proof in these matters.

CONCLUSION

WHEREFORE, Applicant prays this Honorable Court (1) grant the relief to him in the form of a Scheduling Conference to create a record; or (2) grant Applicant the relief of altering/amending its final decision as to ordering a new trial.

August 17, 2020

Respectfully Submitted,


Gary Anthony White, Jr.
Q4-B-101 #309726
Perry Correctional Institution
430 Oaklawn Road
Pelzer, South Carolina
29669

PRO SE APPLICANT

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
 COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT

Gary Anthony White, Jr.,)
 #309726,)
 Applicant,)

#2018-CP-40-0514

vs.)

CERTIFICATE OF SERVICE

State of South Carolina,)
 Respondents.)

2021 AUG 24 PM 2:00
 DEAN...
 5.0.0.4.000

I, Gary Anthony White, Jr. #309726, the pro se Applicant, hereby certify that I have served: (1) Notice Of Motion And Motiion To Alter/Amend Judgment, Pursuant To Rule 59(e), SCRCP; (2) Exhibit of Certified Receipt; and (3) Certificate Of Service, upon Respondents counsel of record depositing a copy of the same in the United States Mail, First Class postage affixed thereon, and addressed as follows:

CERTIFICATE OF SERVICE ADDENDUM SHEETS
PAGE (2), Gary Anthony White, Jr. #309726
August 17, 2021

The Honorable L. Casey Manning,
Circuit Court Judge, Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina
29202-0192;

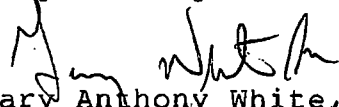
CLERK OF COURTS OFFICE, RICHLAND COUNTY
FOR THE FIFTH JUDICIAL CIRCUIT
Jeanette W. McBride, Clerk
Post Office Box 2766
Columbia, South Carolina; and

ATTORNEY GENERALS OFFICE OF SOUTH CAROLINA
Yeeman E. Klein, Esquire
Post Office Box 11549
Columbia, South Carolina
29211-1549.

CERTIFICATE OF SERVICE ADDENDUM SHEETS
PAGE (3), Gary Anthony White, Jr. #309726
August 17, 2021

August 17, 2021

Respectfully Submitted,



Gary Anthony White, Jr.
Q4-B-107 #309726
Perry Correctional Institution
430 Oaklawn Road
Pelzer, South Carolina
29669

PRO SE APPLICANT

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
 Gary A. White, Jr., #309726,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2018-CP-40-0514

**RETURN TO APPLICANT'S MOTION
 TO ALTER OR AMEND JUDGMENT**

2021 SEP 21 AM 11:55
 RECEIVED
 CLERK OF COURT
 FIFTH JUDICIAL CIRCUIT
 RICHLAND COUNTY

Respondent, by and through undersigned counsel, making it Return to Applicant's Motion to Alter/Amend Judgment Pursuant to Rule 59(e), SCRCP" filed on August 24, 2021 would respectfully show this court:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC). In July 2004, the Richland County Grand Jury indicted Applicant for two counts of armed robbery (2004-GS-40-3016; 3018 and kidnapping (2004-GS-40-3017). Public Defenders Lanelle Durant and Stacey Owings represented Applicant. Assistant Solicitors Vanessa Cooper and Dolly Garfield prosecuted the case. On June 14-16, 2005, Applicant proceeded to trial before the Honorable James R. Barber. The jury found Applicant guilty as indicted. Judge Barber sentenced Applicant to imprisonment for life without parole.

Applicant filed a timely notice of appeal. Aileen P. Clare of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on January 16, 2007. On January 29, 2007, appellate counsel filed a petition for rehearing on

¹ Applicant's motion indicates he received the Final Order of Dismissal August 8, 2021. Pursuant to Rule 59(e), SCRCP, this motion was due to be filed on or before August 18, 2021. Therefore, the motion should be denied as untimely. However, notwithstanding Respondent's procedural objection, Respondent will also address the motion on the merits.

Applicant's behalf. The Court of Appeals denied rehearing on March 22, 2007. Applicant appealed the Court of Appeals' decision.

On April 23, 2007, Appellate Defender Lanelle Durant filed a petition for writ of certiorari in our Supreme Court. Respondent filed a Return on May 23, 2007. The South Carolina Supreme Court granted certiorari on November 19, 2007. The South Carolina Supreme Court heard argument on February 4, 2009, and on April 27, 2009, the court issued an opinion affirming in result the court of appeals. On May 12, 2009, appellate counsel filed a petition for rehearing, which our Supreme Court denied on May 28, 2009. The case was remitted back to the circuit court on May 28, 2009.

First PCR (2009-CP-40-5549)

Applicant subsequently filed an application for PCR on August 5, 2009, in which he alleged the following grounds for relief:

1. New Discovered Evidence
2. Ineffective Assistance of Trial Counsel
3. Ineffective Assistance of Trial Counsel
4. Co-defendant Anthony Morris retracted his trial testimony by way of a sworn statement. The statement itself weakens the States case against Mr. White.
5. Trial Counsel was ineffective by allowing the State to present evidence in case on a charge that was dismissed at the start of trial.
6. Trial counsel was ineffective by failing to pursue objection of jury charge hand of one hand of all. By fail to pursue objection, counsel allowed the jury to give the charge without making a ruling on objected charged.

Respondent filed its Return on May 10, 2010. An evidentiary hearing into the matter convened on October 18, 2010, at the Richland County Courthouse before the Honorable J. Mark Hayes, II. Applicant was present at the hearing and represented by Mark E. Schnee, Esquire. Assistant Attorney General Brian Petrano, of the South Carolina Attorney General's Office, represented the State. On August 31, 2011, Judge Hayes issued the order of dismissal denying Applicant's application for post-conviction relief. Applicant appealed.

Appellate Defender David Alexander perfected the appeal by filing a *Johnson* petition for a writ of certiorari on September 12, 2012. On December 19, 2013, by written order the Supreme Court of South Carolina denied the petition. The remittitur was issued on January 6, 2014. Petitioner submitted a letter to the court on January 2, 2014, which the court construed as a motion to recall the remittitur. The court granted the motion to recall the remittitur on January 16, 2014. Thereafter, Petitioner submitted a *pro se* brief. In an order dated May 7, 2014, the court indicated that “[a]fter careful consideration of petitioner’s *pro se* petition, we adhere to our previous ruling.” The court reissued the remittitur on May 21, 2014.

Federal Habeas Action (1:15-cv-365-DCN-SVH)

Applicant filed a *pro se* Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 on January 21, 2015. Applicant set forth the following grounds for relief:

- Ground One: The Trial Court Erred by denying Appellants objection to the States Expert Witness, a dog-handler, without requiring the State to Establish the Underlying Reliability of dog tracking as a scientific or technical field.
Supporting Facts: See Attached Argument Ground 1 A, B, C.
- Ground Two: Newly discovered Evidence
Supporting Facts: See: App. p. 634 – 676 which Petitioner re-argue See A-1 – D
- Ground Three: Ineffective Assistance of Counsel
Supporting Facts: See Attached Arguments A, B, C, D Etc.
- Ground Four: Newly discovered Evidence
Supporting Facts: (2.) Refer Back to Ground #2 I am arguing Ground 2 to support Ground 4, and I further argue that due to *Martinez v. Ryan* 132 S.Ct 1309 P.C.R. Counsel Ineffectiveness in failing to subpoena co-defendant Anthony Morris and Trial Counsel Lanelle Durant.

Respondent filed its Return and Motion for Summary Judgment on March 30, 2015. On June 23, 2015, the Honorable Shiva V. Hodges issued the Report and Recommendation that the

State's motion for summary judgment be granted and Applicant's petition be denied. Applicant filed his objection to the Report and Recommendation on July 10, 2015.

On July 15, 2015, the Honorable David C. Norton, United States District Judge reversed the Magistrate's Report and Recommendation granting the State's Motion for Summary Judgment and remanded the case. On January 29, 2016, the Honorable Shiva V. Hodges issued another Report and Recommendation that the State's motion for summary judgment be granted and Applicant's petition be denied. On March 15, 2016, the Applicant filed his objection to the Report and Recommendation. On March 21, 2016, the Honorable David C. Norton, United States District Judge adopted the Magistrate's Report and Recommendation granting the State's motion for summary judgment and dismissing the Applicant's petition.

II. CURRENT ACTION

On January 24, 2018, Applicant filed an application for post-conviction relief in which he alleged the following:

1. Ineffective Assistance of Counsel for not investigating sentence enhancement"
 - a. "According two state law conviction from Kentucky could not be used for enhancement"

On March 30, 2020, Applicant filed an amended application for post-conviction relief. In his amended application, Applicant raised the following additional grounds:

2. Newly discovered evidence such that "an actual conflict of interest existed and was not disclosed to [Applicant]."
 - a. Counsel was ineffective for failure to disclose this
 - b. PCR Counsel was ineffective for failure to investigate and present this claim
3. Fraud upon the court
 - c. "Sampson, Chehoski, Durant [and] Owings deliberately hid and refused to disclose the subject matter of [the conflict of interest] claim[.]"

Respondent made its Return and motion to dismiss on June 19, 2020. This Court issued a Conditional Order of Dismissal on June 26, 2020, provisionally denying and dismissing the

application with prejudice. Applicant filed an objection August 14, 2020, and mailed again April 21, 2021. After reviewing Applicant's response in its entirety, this Court issued a Final Order of Dismissal filed July 20, 2021. On August 24, 2021, Applicant filed a "Motion to Alter/Amend Judgment." This Return follows.

III. APPLICANT'S MOTION TO ALTER OR AMEND

In his "Motion to Alter/Amend Judgment," Applicant argues the failure to disclose what he alleges is an "actual conflict of interest" was a fatal error on the part of trial counsel. Applicant continues to allege the existence of a conflict memorandum provided as part of requested discovery is evidence of what he alleges constitutes the possibility of a conflict of interest which is not "totally foreclosed" by the fact that Applicant's codefendant was represented by an attorney of the private bar. Applicant argues this should be sufficient enough to warrant an evidentiary hearing because there are "attorneys in private practice that are contractually bound to represent indigent defendants for the Public Defender's Office." Applicant further alleges that due to this possibility, any firm which contracts with the public defender's office can lead to an actual conflict of interest and Applicant reiterates his belief that an actual conflict has been established.

Applicant further raises issues concerning motions filed to produce documents and for responses to served interrogatories. Applicant alleges the public defender's office is an adverse party and due to his ability to waive attorney-client privilege under S.C. Code Ann. § 17-27-130 (1976) "This waiver gives this Applicant the right to move forward in a discovery settings and be afforded the opportunity to substantiate his claims." He further argues the inability to move forward with discovery is a deprivation of the confrontation rule, and that his request for a scheduling conference to have all claims and issues made a matter of record to overcome "the plain error rule" deprived him of the ability to preserve the matter for appeal. Applicant concludes by

arguing the statute of limitations found in S.C. Code Ann. § 17-27-45(a) is inapplicable because Applicant alleges he made diligent attempts to obtain copies of the “case/manual file” that was amassed during his proceedings and the public defender’s office was not responsive due to what Applicant claims he later learned was a failure on his part to not serve a formal request by certified mail.

Respondent submits this Court’s Final Order of Dismissal filed July 20, 2021, contains the required findings of facts and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003) and Rule 52(a), SCRCF. This Court fully ruled on all issues properly presented through Applicant’s post-conviction relief application, and amendments thereto, and Applicant’s “Motion to Alter/Amend Judgment Pursuant to Rule 59(e), SCRCF” should be denied. As each properly raised allegation was addressed fully in this Court’s Conditional and Final Orders, Applicant’s assertions are without merit and the motion should be denied in full.

IV. CONCLUSION

WHEREFORE, having made its Return to the motion, Respondent requests the relief requested in the motion be denied and that said motion be dismissed.

Respectfully submitted,

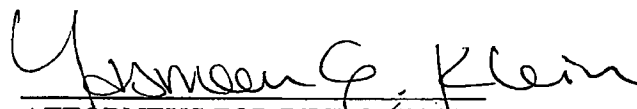
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Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

YASMEEN E. KLEIN
Assistant Attorney General

By:


ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

September 7, 2021

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

2018-CP-40-0514

GARY A. WHITE, JR., #309726)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent,)

CERTIFICATE OF SERVICE BY MAIL

21 SEP 21 AM 11:55
RECEIVED
CLERK OF COURT
COURT OF COMMON PLEAS
RICHLAND COUNTY
SOUTH CAROLINA

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return to Applicant's Motion to Alter or Amend Judgment in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Gary A. White, Jr., #309726 (Q4B-0101-B)
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

DATED this 17th day of September, 2021.



Katie Wade, Legal Assistant
For Respondent

Gary Anthony White, Jr.
Q4-B-101 #309726
Perry Correctional Institution
430 Oaklawn Road
Pelzer, South Carolina
29699

PRO SE APPLICANT

The Honorable L. Casey Manning,
Chief Administrative Judge
For The Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina
29202-0192

2021 SEP 29 AM 11:50

RE: SUPPLEMENTAL RESPONSE TO RESPONDENTS RETURN
White v. State, #2018-CP-40-0514

Judge Manning,

Please permit this correspondence to serve as a supplemental response to Respondents Return, due there existing an outstanding Motion To Alter/Amend Judgment, Pursuant To Rule 59(e), SCRCF", which this Applicant served August 18,2021; due to the recently served matters of Respondents and there has been included an issue that this Applicant believes deserves rebuttal. Applicant would respectfully demand that this honorable Court take under consideration the following position of this Applicant as regards the stance taken by Respondents relating to

the failure to timely file the issue of "timeliness".

Please further take notice that, as the record before this Court would demonstrate that such an issue is not disputed by either party as is relevant to the dates associated with the receipt and the date the Alter/Amend motion was placed into the "prison legal mail" system. The motion has been timely and properly and recorded as is consistent with Rule 59(e), of the South Carolina Rules of Civil Procedure, SCRPC. Applicant does not wish to enter the appellate courts having not challenged nor taken a position, contrary to that of the Respondent's in this matter. Applicant would also request that all claims and issues raised in the PCR motion to Alter/Amend Judgment motion be contained and incorporated herewith and preserved for judicial consideration by this Court, and any further appellate stages.

In the Respondents "Return To Applicants Motion To Alter Or Amend Judgment", they have taken the stance that there has occurred a [procedural] violation dealing with the 10-day filing requirement. It is evident that the Respondents believe these matters should be dismissed as untimely. Such a demand on their part does not comport to well-established standards of law.

Rule 59(e), SCRPC, provides: "MOTION TO ALTER OR AMEND JUDGMENT. A motion to alter or amend judgment shall be served not later than 10 days, after receipt of written notice of the entry of the order." (emphasis added).

A careful examination of Rule 59(e) provides that the mandatory ten day period does not begin to run until such time that the written order has been served upon this Applicant. And as the record shows, August 8, 2021, was the date in which the written order, (Respondents Return, page 1, fn.1), was actually served upon Applicant at this designated facility. August 18, 2021, was the date tha the Alter/Amend motion was "filed" with the Clerks Office. Respondents would tempt this Court to dismiss this matter as procedurally defaulted. Applicant takes the following position as relates to these circumstances.

This Applicant was unsure this Court had comprehended all the issues and there has occurred a failure to have this Court rule upon several issues that are still outstanding. For instance, there was filed a second motion to amend, (that has been totally disregarded); and a motion to compel discovery filed due to the Public Defenders Office not complying with discovery pleadings, and these discovery submissions or demands were relevant to the issues within this current PCR application. It is well settled that South Carolina appellate courts do not recognize the "plain error rule", where a court in certain circumstances is permitted to consider and rectify an error not raised in the lower courts by this Applicant. Elam v. S.C. Dep't. of Transp., 361 S.C. 9, 23, 602 S.E.2d 772 (2004)(relying on Dykemia v. Carolina Emergency Physicians, 348 S.C. 549, 554, 560 S.E.2d 894, 896 (2002); and Kennedy v. S.C. Ret. Sys., 349 S.C. 531, 564 S.E.2d 322 (2001)). There exists a mandatory preservation requirement that makes it doubly important that this Applicant is generally free to be allowed to file a first, a written Rule 59(e) motion.

To view the Respondents position as the only reasonable interruption relating to Rule 59(e), would lead to one of two circumstances:(1) create a trap to this litigant because of an abnormal interruption or construction, (see Gamble v. State, 298 S.C. 176, 379 S.E.2d 118 (1989)(stating rules applicable to post-conviction relief actions should not be construed in a manner which would operate as a trap for the unwary or to deprive an applicant of the adjudication on the merits of his petition); and (2) such interruption would deprive Applicant of the very core of due process principles. A careful reading of Rule 59(e) states: "after receipt of written notice of the entry of the order." The Respondents have recognized that the written order was received on August 8, 2021; and was posted in the "prison

legal mail" system, on August 18, 2021. Applicant would take the stance it was "filed" with the courts within the proscribed ten day time period required by the Rule.

Applicant would take the position that the "mail box rule" applies to instant matter. The United States Supreme Court (USSC) adopted Houston v. Lack, 487 U.S. 266 (1988). A situation arose where Houston had filed or mailed a notice of appeal from an adverse proceeding. The USSC adopted the "mail box rule" in an effort to permit "prisoners" to file pleadings or motions on the date their custodians received them for service. DeLong v. Dickhaut 715 F.3d 382, 385-86 (1st Cir. 2013)(prisoner's pro se notice of appeal timely because notice placed in prison's internal; mail system within 30-day deadline); United States v. Moore, 24 F.3d 624, 626 (4th Cir. 1994)(prison mail rule valid for both pro se and represented appellant's who are incarcerated). As the record before this Court adamantly demonstrates, this Applicant is an inmate and incarcerated within a State Correctional facility.

When the Mail Room personnel receives the legal mail, the immediately and automatically [date] stamp the reverse side of the envelope(s). This clearly demonstrates that the Rule 59(e) motion was "timely" filed with this court. In re Williams, 759 F.3d 66, 69 (D.C. Cir. 2014)(prisoners pro se motion timely because given to prison officials before the deadline); United States v. Smotherman, 838 F.3d 736, 738 (6th Cir. 2016)(prisoner's notice of appeal timely and considered filed on the day it was delivered to prison authorities for forwarding to Clerk of Court); Curtis v. Blake, 381 S.C. 189, 672 S.E.2d 576 (200((was "made" timely when placed in the mail on the tenth day after a trial). Furthermore, the "mail box rule" applies to Rule 59(e) proceedings. Brown v. Taylor, 829 F.3d 365, 368-70 (5th Cir. 2016)(prisoner's pro se Rule 59(e) motion timely because prison mail ox rule apples to Rule 59(e) motions). All evidence

which has been presented clearly demonstrates that Applicant properly followed all the procedures associated with these matters, (i.e., placed the motion in the prison mail system on or before the last day of filing ... certified that a copy had been served, by Certificate of Service, on all parties (consistent with Rule 11(a), SCRCP) ... First Class postage affixed thereon ... prepaid or evidence (such as a postmark or date stamp) showing that the motion ... was deposited and ... postage was prepaid). Hoston, 487 at 275-76. Please take notice of the reverse side of the envelope in which the Rule 59(e) motion was served in, and the Certificate of Service attached thereto.

Applicant responds to this issue regarding the misinterruption of the "mail box rule" and its applicability to this case and Rule 59(e). Respondents seem to do all they can do, by tempting this Court with misleading accusations and tricks to undermine due process and the ends of justice. Applicant would respectfully demand that this Court accept this formal correspondence, in lieu of a more formal pleading, as a response to Respondents allegations; and to have this Court to take judicial recognition upon all matter, claims and issues presently before it, consistent with S.C. Code Ann. §17-27-80 ("The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented").

Applicant has been awaiting a Scheduled Conference Hearing relating to all these matters. In Re Pilot Model Post-Conviction Relief Docket Management, 413 S.C. 470, 776 S.E.2d 373 (2015)(Mem). Especially in light of the fact that this Applicant has been proceeding pro se in these matters and should be afforded judicial determination and notice, in open forum, in all these matters. Also, Applicant should have been afforded or appointed competent counsel to assist in these matters that are

presently before this Court. Rule 71.1(d), SCRCP; Whitehead v. State, 310 S.C. 532, 426 S.E.2d 315 (1992); Gary v. State, 347 S.C. 627, 557 S.E.2d 662 (2001); and Al-Shabazz v. State, 338 S.C. 354, 364, 527 S.E.2d 742, 747 (2000).

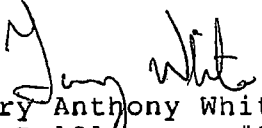
If this Applicant may be of any further assistance to this Court, in these matters, please do not hesitate to contact him. Thank you for this Court's time and attention to these matters.

September 27, 2021

Respectfully Submitted,

rds/GAW

cc: FILE
CLERK
KLEIN
MANNING


Gary Anthony White, Jr.
Q4-B-101 #309726
Perry Correctional Institution
430 Oaklawn Road
Pelzer, South Carolina
29669

PRO SE APPLICANT

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
)	
Gary A. White, Jr., #309726,)	Case No.: 2018-CP-40-0514
)	
Applicant,)	
)	
v.)	ORDER DENYING APPLICANT'S
)	MOTION PURSUANT TO RULE 59(e),
State of South Carolina,)	SCRPC
)	
Respondent.)	
)	

This matter comes before the Court by way of Applicant's "Motion to Alter/Amend Judgment Pursuant to Rule 59(e), SCRPC," filed August 24, 2021, asking this Court to alter or amend its Final Order of Dismissal denying Applicant's application for post-conviction relief.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC). In July 2004, the Richland County Grand Jury indicted Applicant for two counts of armed robbery (2004-GS-40-3016; 3018 and kidnapping (2004-GS-40-3017). Public Defenders Lanelle Durant and Stacey Owings represented Applicant. Assistant Solicitors Vanessa Cooper and Dolly Garfield prosecuted the case. On June 14-16, 2005, Applicant proceeded to trial before the Honorable James R. Barber. The jury found Applicant guilty as indicted. Judge Barber sentenced Applicant to imprisonment for life without parole.

Applicant filed a timely notice of appeal. Aileen P. Clare of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on January 16, 2007. On January 29, 2007, appellate counsel filed a petition for rehearing on Applicant's behalf. The Court of Appeals denied rehearing on March 22, 2007. Applicant appealed the Court of Appeals' decision.

On April 23, 2007, Appellate Defender Lanelle Durant filed a petition for writ of certiorari in our Supreme Court. Respondent filed a Return on May 23, 2007. The South Carolina Supreme Court granted certiorari on November 19, 2007. The South Carolina Supreme Court heard argument on February 4, 2009, and on April 27, 2009, the court issued an opinion affirming in result the court of appeals. On May 12, 2009, appellate counsel filed a petition for rehearing, which our Supreme Court denied on May 28, 2009. The case was remitted back to the circuit court on May 28, 2009.

i. First PCR (2009-CP-40-5549)

Applicant subsequently filed an application for PCR on August 5, 2009, in which he alleged the following grounds for relief:

1. New Discovered Evidence
2. Ineffective Assistance of Trial Counsel
3. Ineffective Assistance of Trial Counsel
4. Co-defendant Anthony Morris retracted his trial testimony by way of a sworn statement. The statement itself weakens the States case against Mr. White.
5. Trial Counsel was ineffective by allowing the State to present evidence in case on a charge that was dismissed at the start of trial.
6. Trial counsel was ineffective by failing to pursue objection of jury charge hand of one hand of all. By fail to pursue objection, counsel allowed the jury to give the charge without making a ruling on objected charged.

Respondent filed its Return on May 10, 2010. An evidentiary hearing into the matter convened on October 18, 2010, at the Richland County Courthouse before the Honorable J. Mark Hayes, II. Applicant was present at the hearing and represented by Mark E. Schnee, Esquire. Assistant Attorney General Brian Petrano, of the South Carolina Attorney General's Office, represented the State. On August 31, 2011, Judge Hayes issued the order of dismissal denying Applicant's application for post-conviction relief. Applicant appealed.

Appellate Defender David Alexander perfected the appeal by filing a *Johnson* petition for a writ of certiorari on September 12, 2012. On December 19, 2013, by written order the Supreme Court of South Carolina denied the petition. The remittitur was issued on January 6, 2014. Petitioner submitted a letter to the court on January 2, 2014, which the court construed as a motion to recall the remittitur. The court granted the motion to recall the remittitur on January 16, 2014. Thereafter, Petitioner submitted a *pro se* brief. In an order dated May 7, 2014, the court indicated that “[a]fter careful consideration of petitioner’s *pro se* petition, we adhere to our previous ruling.” The court reissued the remittitur on May 21, 2014.

ii. Federal Habeas Action (1:15-cv-365-DCN-SVH)

Applicant filed a *pro se* Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 on January 21, 2015. Applicant set forth the following grounds for relief:

- Ground One: The Trial Court Erred by denying Appellants objection to the States Expert Witness, a dog-handler, without requiring the State to Establish the Underlying Reliability of dog tracking as a scientific or technical field.
Supporting Facts: See Attached Argument Ground 1 A, B, C.
- Ground Two: Newly discovered Evidence
Supporting Facts: See: App. p. 634 – 676 which Petitioner re-argue See A-1 – D
- Ground Three: Ineffective Assistance of Counsel
Supporting Facts: See Attached Arguments A, B, C, D Etc.
- Ground Four: Newly discovered Evidence
Supporting Facts: (2.) Refer Back to Ground #2 I am arguing Ground 2 to support Ground 4, and I further argue that due to *Martinez v. Ryan* 132 S.Ct 1309 P.C.R. Counsel Ineffectiveness in failing to subpoena co-defendant Anthony Morris and Trial Counsel Lanelle Durant.

Respondent filed its Return and Motion for Summary Judgment on March 30, 2015. On June 23, 2015, the Honorable Shiva V. Hodges issued the Report and Recommendation that the

State's motion for summary judgment be granted and Applicant's petition be denied. Applicant filed his objection to the Report and Recommendation on July 10, 2015.

On July 15, 2015, the Honorable David C. Norton, United States District Judge reversed the Magistrate's Report and Recommendation granting the State's Motion for Summary Judgement and remanded the case. On January 29, 2016, the Honorable Shiva V. Hodges issued another Report and Recommendation that the State's motion for summary judgment be granted and Applicant's petition be denied. On March 15, 2016, the Applicant filed his objection to the Report and Recommendation. On March 21, 2016, the Honorable David C. Norton, United States District Judge adopted the Magistrate's Report and Recommendation granting the State's motion for summary judgement and dismissing the Applicant's petition.

CURRENT ACTION

On January 24, 2018, Applicant filed an application for post-conviction relief in which he alleged the following:

1. Ineffective Assistance of Counsel for not investigating sentence enhancement"
 - a. "According two state law conviction from Kentucky could not be used for enhancement"

On March 30, 2020, Applicant filed an amended application for post-conviction relief. In his amended application, Applicant raised the following additional grounds:

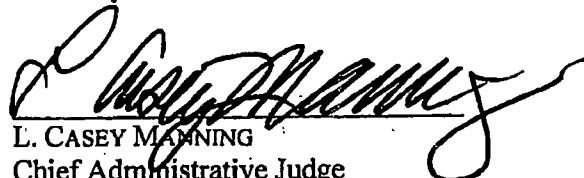
2. Newly discovered evidence such that "an actual conflict of interest existed and was not disclosed to [Applicant]."
 - a. Counsel was ineffective for failure to disclose this
 - b. PCR Counsel was ineffective for failure to investigate and present this claim
3. Fraud upon the court
 - c. "Sampson, Chehoski, Durant [and] Owings deliberately hid and refused to disclose the subject matter of [the conflict of interest] claim[.]"

Respondent made its Return and motion to dismiss on June 19, 2020. This Court issued a Conditional Order of Dismissal on June 26, 2020, provisionally denying and dismissing the application with prejudice. Applicant filed an objection August 14, 2020, and mailed again April 21, 2021. After reviewing Applicant's response in its entirety, this Court issued a Final Order of Dismissal filed July 20, 2021. Thereafter, on August 24, 2021, Applicant filed a "Motion to Alter/Amend Judgment."

APPLICANT'S MOTION TO ALTER OR AMEND

This Court has carefully reviewed the record and considered the arguments presented, and this Court is not persuaded to alter or amend its judgment. This Court finds Applicant failed to present any sufficient reason why this Court should alter, amend, or reconsider its findings of facts and conclusions of law set forth in the Orders of Dismissal in this matter. Applicant has further failed to show he is entitled to an evidentiary hearing. It is therefore ordered that Applicant's motion to alter or amend judgment pursuant to Rule 59(e), SCRCP, is DENIED.

AND IT IS SO ORDERED this 27 day of September, 2021.


L. CASEY MANNING
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina

RECEIVED

DEC 16 2021

S.C. SUPREME COURT

WITNESSES

(S) INV. GLENN BULLOCK - CPD

[Handwritten signature]

ARREST WARRANT NUMBER

H669699

ACTION OF GRAND JURY

TRUE BILL

[Handwritten signature]

Foreperson of Grand Jury

Date: **JUL 21 2004**

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2004-GS-40-3016

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

JULY TERM 2004

104

THE STATE

vs.

GARY WHITE JR.

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

CDR Code: 0139

Class FEL-A(V)

After being fully advised as to my

legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment of to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY OF ORIGINAL FILED
[Handwritten signature]
RICHLAND COUNTY SOUTH CAROLINA

1030

WITNESSES

(S) INV. GLENN BULLOCK - CPD

5

ARREST WARRANT NUMBER

669695

ACTION OF GRAND JURY

TRUE BILL

Jan R

representative of Grand Jury
date:

JUN 21 2004

VERDICT

representative of Petit Jury
date:

706

DOCKET NO. 2004-GS-40-3018

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

JULY TERM 2004

104

THE STATE
vs.

GARY WHITE JR.

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

CDR. Code: 0139

Class FEL-A(V)

After being fully advised to my

legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead
guilty to the within indictment of

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Janelle W. Partridge
C.C.C. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

1032

WITNESSES

(S) INV. GLENN BULLOCK - CPD

[Handwritten signature]

ARREST WARRANT NUMBER

H669697

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

JUL 21 2004

VERDICT

Foreperson of Petit Jury

Date:

702

DOCKET NO. 2004-GS-40-3017

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

JULY TERM 2004

104

THE STATE

vs.

GARY WHITE JR.

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code:0095

Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment of

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY

FILED

[Handwritten signature]

C.C.C.P. & G.S.

RICHLAND COUNTY

SOUTH CAROLINA

1034

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)


INDICTMENT

At a Court of General Sessions, convened on July 21, 2004, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Gary White Jr. did in Richland County on or about April 19, 2004, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, J. Gwen Anthony, by any means whatsoever without authority of law. All in violation of § 16-3-910, Code of Laws of South Carolina (1976) as amended.

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



Warren B. Giese, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE

INDICTMENT/CASE#: 04 -GS- 40 - 3018

VS. Gary A. White, Jr.

AW#: H-669695
Date of Offense: 4/19/04
S.C. Code §: 16-11-330(A)
CDR Code #: 0111319

CASE RESTORED
 SENTENCE
 PLEA TRIAL

AKA: _____
Race: B Sex: M Age: _____
DOB: _____ SS#: _____
Address: _____
City, State, Zip _____
DL# _____ SID# _____

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Armed Robbery

in violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0111319

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST

Thomas D. Cox
Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of _____ days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

set by SCDPPPS

PTUP _____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.

Recipient:		
*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$3.75	\$
TOTAL		\$ 128.75

Barbara A. Scott
Clerk of Court/Deputy Clerk

Court Reporter: R. Richardson

PRESIDING JUDGE

Judge Code:

Sentence Date:

James Z. Dault
CERTIFIED TRUE COPY
Jeanette W. Yarde
C.C.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE

INDICTMENT/CASE#:

vs
Gary A. White, Jr.

04 -GS- 40 - 3016
AW#: H-669699
Date of Offense: 4/19/04
S.C. Code §: 16-11-330(A)
CDR Code #: 0 1 1 1 3 1 9

AKA: _____
Race: _____ Sex: _____ Age: _____
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____

CASE RESTORED
SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Armed Robbery

In violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0 1 1 3 1 9

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

[Signature]
Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of LIFE days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE James P. Ball

Judge Code: 01-1-1-1-0

Sentence Date: 04/19/04

[Signature]
TRUE COPY
OF ORIGINAL FILED
S.C.C.P. & G.S.
RICHLAND COUNTY
SCCA 2170 (2003)
SOUTH CAROLINA

Recipient:		
*Fine:		\$
§ 14-1-206 (Assessments 107.5%)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	3.75	\$
TOTAL		\$ 128.75

Barbara A. Scott
Clerk of Court/Deputy Clerk
Court Reporter: R. Richardson

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF STATE

Richland

VS.

Gary A. White, Jr.

AKA: Race: Sex: M Age: DOB: 8/21/81 SS#: Address: City, State, Zip DL# SID#

INDICTMENT/CASE#: 04 GS- 40 3017 A/W#: H669697 Date of Offense: 4/19/04 S.C. Code §: 16-3-910 CDR Code #: 0101915

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Kidnapping

in violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0101915

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered Total: \$ plus 20% fee: \$ Payment Terms: set by SCDPPPS

PTUP days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol Testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

Table with columns for Recipient, *Fine, and amount. Rows include various assessment codes like §14-1-206, §14-1-211(A)(1), §14-1-211(A)(2), §56-5-2995, §35.13, §73.3, §33.7, §50-21-114, §56-5-2942(J), and 3% to County.

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

Barbara A. Scott Clerk of Court/ Deputy Clerk K. Richardson Court Reporter

PRESIDING JUDGE [Signature] Judge Code: 0111110 Sentence Date: CERTIFIED TRUE COPY

Jeannette W. [Signature] C.C.C.P. & G.S. RICHLAND COUNTY S.C.C.A. 211 (7/2003) SOUTH CAROLINA