

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO LEXINGTON COUNTY

COURT OF COMMON PLEAS

THE HONORABLE R. KNOX McMAHON, CIRCUIT COURT JUDGE

CASE NO. 2006-CP-32-4563

LINWOOD CARSON, JR., 263672, PETITIONER,

v.

STATE OF SOUTH CAROLINA..... RESPONDENT.

PETITION SUPPLEMENT APPENDIX

MR. LINWOOD CARSON, JR. 263672
EVANS C.I. F-4-B-212
610 HYW 9 WEST
BENNETTSVILLE, SC 29512

Exhibit 1

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW
930 RICHLAND STREET
P.O. BOX 8416
COLUMBIA, SOUTH CAROLINA 29202-8416

COPY

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
ELIZABETH ZECK*
BENJAMIN P. MUSTIAN
MICHAEL R. BURCHSTEAD
ANDREW J. MACLEOD

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

TRACEY C. GREEN
ALAN WILSON
SPECIAL COUNSEL

*ALSO ADMITTED IN TX

January 20, 2010

VIA FIRST CLASS MAIL

Lynwood Carson, Jr.
SCDC#263672
Sycamore Unit A-2
Kershaw Broad River Correctional Institution
4848 Goldmine Hwy.
Kershaw, SC 29067

Re: PCR proceeding styled, Linwood Carson, Jr. v. State of South Carolina, Docket
No. 2006-CP-32-4563

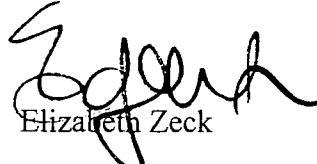
Dear Mr. Carson:

As you know, we are still awaiting a ruling from Judge McMahon following the hearing on September 4, 2009. The State has finally submitted its proposed order, a copy of which is enclosed. Obviously, Assistant Attorney General A. West Lee has a different recollection of Gene Stockholm's testimony than we do, so the judge will just have to decide between these competing versions based on his own recollection.

Now that the State has finally weighed, I am hopeful that we will get a decision from Judge McMahon in the next few weeks. Of course, I will let you know immediately as soon as I hear anything.

Very truly yours,

Willoughby & Hoefel, P.A.


Elizabeth Zeck

EZ/cf
Enclosures

Copy Request May 10, 2010

~~Sept 2, 2010~~ This letter is concerning my PCR case number
 C-2006-GP-32-4563, that was held before Judge McMahon
 on ~~Sept 3, 2010~~ 2009. The Judge McMahon issued
 a dismissal order dated ~~March 2, 2010~~ You filed a
 59(e) Motion to Alter and/or Amend on ~~March 15,~~
 I have yet to receive an answer to this
 59(e) Motion, it has been nearly two (2) months.

I am asking you to contact the Judge McMahon
 and advise him of the delay in ruling on my
 59(e) Motion and advise him to rule promptly.

I want a ruling ~~one way or the other~~ so I
 can have my PCR granted or to pursue an appeal
 writ of certiorari to the Court of Appeals.
 I thank you for any assistance you can give me
 in get my 59(e) Motion ruled upon expeditiously.

I also request you ^{please} provide me a copy
 of the PCR transcript. To refresh your memory,
 one of the important issues we raised on the 59(e)
 Motion was a challenge to the Judge Mahan
 recollection of what my testimony was at the PCR
 hearing and what my original trial counsel's testimony
 was at the PCR hearing. Our position is that
 Judge Mahan recollection of the PCR testimony is

This letter is important
 Cause it shows my
 attempts to communicate
 on getting a copy of
 my transcript!

error by Judge McMahan. Because Judge McMahan relied on this error, he ~~erroneously~~ erroneously denied my PCR application.

The PCR transcript is very important and I need a copy as soon as possible.

I thank you for your time and energy on these matters.

Sincerely,

Exhibit 4

Mr. Linwood Carson Jr. #263672
Stamson Corr. Inst. W-4 12-C
4546 Broad River Rd.
Columbia, SC 29210

July 20, 2010

RE: PCR proceeding Linwood Carson v. State
Docket No. 2006-CP-324563

Dear Ms. C. Pantari:

As you know my name is L. Carson you were my Court reporter on Sept. 3, 2009. I would like to know when it was transcribed, and if it's available? If so could you please tell me, how many pages it is? As well how much would it cost to have a copy sent to me as soon as possible.

Thank you kindly!

Mr. Linwood Carson Jr. #18672
Staverson Corr. Inst. W-4 12-C
4546 Broad River Rd.
Colley, SC 29210

July 21, 2010

RE: PCR proceeding styled, Linwood Carson v. State
Docket No. #2006-CR-32-4563

Dear Ms. Zeck

I am writing you in regards of the letter I received 7/9/10, which of course was delayed, cause of the wrong address. I wrote you in March informing you the new address. Judge McMahon presided on my case in Sept. 3, 2009, as he ruled in March. That's a space of six months. I doubt his memory is vivid enough to recall my testimony, or Mr. Stockholm's. That's the biggest issue I'm having with the case. That's also one of the reason I am trying to get a copy of my transcript, "Cause I know that's not my testimony that the state switched up." An it should interest you too, that's if you still fighting for me? Cause this supports my issues, bias decision, not according to the law. "Mr. Stockholm testified he misled me with the 85%". I am also aware that there's no guarantees if successful in my motion, however I was hoping that we'd be able to use these issues - errors for leverage for re-sentencing to a concurrent sentence. Davis v. State

But if the worst case scenario would be re-training me, it can't be any worse than it is, cause they also gave me the max on all my charges. An besides Judge McMahon would be able to re-sentence me, nor hear me if it was to be a trial. Cause it would be bias decision Conflict of interest. Which makes it unethical to do so! An why is it you're so doubtful now? Have you given up on my case, cause it's pro-b work? A copy of my hearing transcript should be available now! I'm praying that you continuously fight this matter with me, giving me some type of relief, cause it's obvious they've railroad me. "Cause I couldn't afford proper representation!"

Thank you kindly!
Lynn Carson
July 21, 2010

Mr. Linwood Carson Jr. #263672
Stevenson Corr. Inst. Ward 4 12-C
4546 Broad River Rd.
Cola, SC. 29210

Exhibits 7

COPY

August 9, 2010

RE: Case Status up-date. Carson v. State, 2006-CP-35-4563

Dear: Ms. Zeck

I'm writing you today for a Case Status up-date. I wrote you 5/10/10 asking for a copy of my PCR transcript. you filed a (59)e motion on my behalf, or I would like to know if Judge McMahon has made a ruling on this motion as of this date? In reference to the letter you sent me 6/30/10 saying you had requested a copy of my transcript, I took upon myself to inquire about it, cause I had a family member willing to help me. But it turn out to be to expensive for them to handle! I've enclosed a ~~copy~~ copy from Ms. L. Coconut Partzari response for your viewing! As she stated it hasn't been transcribed, nor has anyone requested a copy as of yet." I would like to know why not? Which clearly supports our arguing motion, that Judge McMahon is not ruling according to law, he's ruled with the state copied proposal, "that Mr. Lee has revised-fabricated my testimony as well Mr. Stockholms. For Victory purpose! That I tried to bring to your attention prior in my letters 1/25/10-1/27/10, so that you'd be able to address or rectify it to keep from such outcome. However this should help our case, cause it shows the judge had too

COPY

rule from the states proposed copy, "an it also indicate possibly prosecutorial misconduct." It's impossible otherwise! An also point out, that the State Attorney General didn't file in a timely fashion, nor where there a Certificate of Service to indicate a time. I'd like for you too please consider raising this issue for me, as well. I ask that you please make a PCR copy available for me, as well review it yourself, too confirm our argument in the case. "I look forward too hearing your response in this matter!"

Thank you kindly!
 Lumbard Carson Jr.
 July 9, 2010

Sworn to and subscribed before me.
 this 7th day of August, 2010

Alenia Belin Cook
 Notary Public for South Carolina

My Commission expires: 10-01-2018

Exhibits 9

L. Coconut Pantseri
309 Willow Winds Drive
Columbia, SC 29210

S.C.I. MAILROOM

AUG 02 2011

Mr. Linwood Carson, Jr., #263672
Stevenson Correctional Institute, W-4, 12-C
4546 Broad River Road
Columbia, SC 29210

COLUMBIA SC 290
30 JUL 2010 9AM S I



COPY

29210+4034

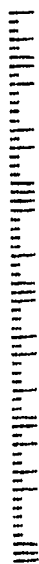




Exhibit 10

COPY

State of South Carolina
The Circuit Court of the Eleventh Judicial Circuit

L. Coconut Pantsari
Circuit Court Reporter

July 28, 2010

309 Willow Winds Drive
Columbia, SC 29210
coconutp@bellsouth.net

Registered Professional
Reporter

Mr. Linwood Carson, Jr. , #263672
Stevenson Correctional Institute, W-4, 12-C
4546 Broad River Road
Columbia, SC 29210

In Re: Carson v. State

Dear Mr. Carson:

I have received your request for the Transcript of Record in the above-referenced case. Such transcripts cost \$3.25 per page. I have checked my records and have estimated that this record is approximately 55 pages at \$3.25 per page, for a total cost of \$178.75.

As of this date, this record has not been ordered by anyone, nor has it been transcribed.

I see from your address that you are an inmate in the Department of Corrections. Please note that court reporters are not required by State or Federal law to provide free transcripts. It is also my understanding that no State agency is required to provide free transcripts, so I am not able to refer you to any other source.

Upon receipt of your certified check or money order (no personal checks) in the amount of \$178.75, I will forward the transcript to you. I am given 60 days in which to prepare the record. Extensions of time may be granted if necessary. My 60 days will not commence until receipt of payment.

Sincerely

L. Coconut Pantsari

L. Coconut Pantsari
Official Court Reporter

August 9, 2011

Dear Ms. Zack

I am truly glad to finally get a response from you, however I'm sure you were aware, that I had tried several times prior to contact you. An being that you sent the transcripts 8/5/11, I have went over it, found alot of discrepancies in it. That I'd like to put on record' like when they're trying to flip things, about the 85% me not objecting to it. Which I clearly stated in my motion prior to the hearing, "that alot of Crooked stuff is going on in my case". An the judge ruled against me, without inquiring further, "so I was lost - scared at that point." An did not know who to trust.' Besides that I can show you, that judge McMeahon just rubber stamps the states proposal, instead of ruling with the facts of the hearing. Cause we know the State changed interpretations, as well testimony. I ask that you subpoena copies of the sign out log of Lexington County Jail for 10/05-1/06, as well the sign in log for for attorneys 1/06. Cause it supports my reasons for not accepting (Ms. McPhersons) plea offer, an her unwillingness to do her job, as well that (Mr. Stockholm) lied on the stand per jury. I want this entered as exhibits too collaborate my testimony, I've enclosed my findings in trans. I look to see you to further discuss!

Thank you kindly!
 J. Carver

CERTIFIED TRUE COPY
 of original

10th AUGUST 2011
 De
 E. J. Wood

Notary Public for South Carolina
 My Commission Expires: May 30, 2017

AUG 29 2011

MCI MAIL ROOM

Exhibits 12

August 29, 2011

Dear Ms. Beck

I am writing you in regards of my PCR motion, after going over my transcript, I sent you a letter prior showing you more relevant issues. Am asking you to Subph. the sign in log for Lexington County Jail, as well their transport sign out log. I feel the need to send you the enclosed copies of a statement I'd like to be put on record, in case this case happens to progress to the Supreme Court, it supports all my issues as well the facts in my case. I'd like to get your advise on this, on another move I'm anticipating making, but I'd like to get your input on the matter before I do it? So if you could find the time to pay me a visit to further discuss, it would be greatly appreciated. I am in Colo now so it's not a long journey! Do you have a date for the hearing?

Thank you kindly!

J. Curran Jr

My Closing Statement I would like to make on record

With all due respect to you - the Court I'd like to note on record, that on Sept. 3, 09 you (Honorable: Mc Mahon) gave both parties ten days to submit their proposal order. My attorney (Ms. Zack) did hers in the timely manner. However the State failed to comply to these order, contacting my attorney 3 months later requesting a copy of our proposal. I was never given an attention, nor is one on file. I should have won by default, cause the State failed to comply to the judge's order. Giving me a favorable ruling! But then the State goes to try to hide that fact, by not enclosing a Certificate of Service notice in his proposal order, as well he deliberately change my testimony as (Mr. Stockholm) to meet his perception of the case. Like the 85% issue, me not objecting or saying anything. That was my attorney's duty, he's the one that misadvised me! Besides as I state prior at the hearing, I was scared-last at that point. Being they had threaten me with life, as the judge had just denied my motion. That my attorney had crossed me out on top. When I did tried to defend myself, by blakely stating a whole lot of Crooked stuff is going on in my case! Yet six months later, the Court has rubber stamped the States fabricated proposal, cause it wasn't true facts of the hearing, as the transcript was not completed at that time either. Leading me to believe I'm fighting the State - judge in my case! But yet the States trying to make me liable, for refusing (Ms. McPherson) prior plea, which in essence it's irrelevant, cause she did not take me before a judge nor misadvised me. (Mr. Stockholm) did as has acknowledge it on record too! Killers sentence is not this harsh! So I ask the Court to please consider re-sentencing me to time served or something a little more lenient considering the

Circumstances Surrounding My Case, Giving Me the opportunity to redeem myself, and move forward with my life.

(Question Mr. Stockholm)

1. When did you initially meet my Client (Mr. Carson)?
Jan 12, 06 the day I was served notice of life!
2. Isn't it common for the State to drop lesser Charges to Seal Conviction? So it's also possible the other two Charges where dropped, as my Client has stated prior to notice of life being served!
3. When did you give my Client this plea offer? An where were you? It's the catch to get him to perjury himself, as well prove him wrong on the timing Jan 12, 06!
4. Did you tell my Client after they pick the jury, the judge would hear his motion to dismiss you? But you know the judge wouldn't do such absurd move, after going thru the selection of jury, that was the method you use to force the plea, Cause you wasn't prepared.
5. How could you say, he got the same plea 15^{YRS}, and was better off? I am not better off! An hypothetically speaker had I took the prior plea I would have been, besides I would have went before another judge.

Thank you kindly!

J. Carson

CERTIFIED TRUE COPY
of original

29th August

Elizabeth W...
Notary Public for South Carolina

My Commission Expires May 30, 2017

Exhibit 15

Sept 18, 2011

Dear Mrs. Carigg -- 263672

I am writing concerning my P.C.R. Case # 2006-CP-32-04563, wondering whether my motion to amendment has been filed in your office. Cause my attorney (Ms Elizabeth Zeck) filed it March 15, 2010, but I have you to hear anything else in regards of the matter. After several attempts by letters to her for a update or hearing date? All in vain! So I ask that you please, look up my case, an if possible give me any information you may have on it. All your help is truly appreciated.

2006CP3204563

Thank you kindly!
Luzmar Caranay
Sept 18, 2011

South Carolina Court Administration
South Carolina Supreme Court
1015 Sumter St. Suite 200
Columbia, S.C. 29201
Telephone # (803)-734-1800

FILED
2011 SEP 20 A 11:16
BETH A. O'NEILL
CLERK OF COURT
LEXINGTON, SC

COUNTY OF LEXINGTON
ELEVENTH JUDICIAL CIRCUIT

Exhibit #16



LEXINGTON COUNTY JUDICIAL CENTER
205 EAST MAIN STREET-SUITE 128
LEXINGTON, S.C. 29072

GENERAL SESSIONS
FAMILY COURT
COMMON PLEAS

TELEPHONE: 803 785-8394

FAX: 803 785-2215

BETH A. CARRIGG
CLERK OF COURT

9/20/2011

Mr. Carson # 263672 (Case No. 2006CP3204563)

We have received your inquiry:

Your charge is: Pending Dismissed Bench Warranted A Conviction

Your charges (s) on file here have been faxed to SCDC; they clear up detainers.

Your motions must be filed through your attorney.

X A copy of enclosed has been forwarded to:
XX Your Attorney Solicitor's Office Public Defender's Office
(Please contact your attorney or the above office to inquire about your case.)

XXX For matters concerning PCRs, please contact the Attorney General's Office at: (803) 734-3737. Post Office Box 11549, Columbia, South Carolina 29211, Attention: Lena Pelishenko

To obtain a transcript, write to SC Court Administration, 1015 Sumter Street, Suite 200, Columbia, SC 29201. You will need to have the case number, judge's name, and date of trial. If you have questions, call (803) 734-1800.

This office cannot help you in this matter.

SCDC calculates credit for time served.

This office does not provide legal advice or legal forms.

There is no record of warrant # _____ for _____ on file in this office. You will need to contact the arresting agency.

You need to contact the charging agency to get pending warrants served on you.

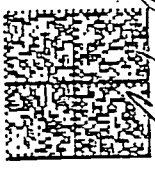
XX Please speak or write your attorney concerning legal matters for your PCR.

Other: _____

C: Lena Pelishenko, South Carolina Attorney General's Office

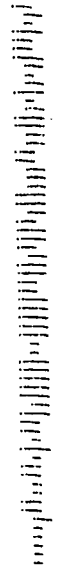
Mr. Linwood Carson Jr #263672
Evans Corr. Inst. Washaw #4223
610 Hwy. 9 West
Barnesville, SC 29512

UNITED STATES POSTAGE
02 1M
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JAN 11 2013
\$ 00.45⁰
MAILED FROM ZIP CODE 29512



Clerk for the Supreme Court of S.C.
Mr. Daniel Shearouse
P.O. Box 11330
Columbia, SC 29211-1330

PERMITTED MAIL USE ONLY



State of South Carolina
County of Lexington

In the Court of Common Pleas
Eleventh Judicial Circuit

Linwood Carson Jr. #263672
Pro-Se Applicant

RECEIVED

CASE NO.: 2006-CP-32-4563

VS

JAN 14 2013

Motion to Comply with established
Law and Civil Rules of Procedures
Concerning order denying or granting
Applicant's Motion to Alter or Amend
pursuant to rule 59(e).

State of South Carolina
Respondent

~~S.C. SUPREME COURT~~

*NOT ACCEPTED
FOR FILING
HTK Counsel*

The applicant, Linwood Carson Jr., #263672, Pro SE, in the above captioned post-conviction relief matter, moving Pro-SE under Section 40-5-80 (2002), requesting respectfully that this Honorable Court comply with South Carolina rules 50, 52, 59, or 60(a) SCRPC, concerning his 59(e) Motion to Alter or Amend his Order denying him relief to preserve proper review of his Claim to South Carolina Supreme Court. In support of this respectful request Pro-SE, applicant would show unto this Honorable Court the following.

Pursuant to the provisions of Section 4, Article V, of the present day South Carolina Constitution, The South Carolina Supreme Court Justice Order, that upon the filing by any party of a post-trial Motion, in jury or non-jury actions under rules 50, 52, 59 or 60(a) SCRPC, the party shall within (10) days provide a copy of the trial judge, it is further ordered that all post-trial motions shall be disposed promptly by written order of the trial judge, but, no later than (60) days after the filing of such motion, The Chief Judge for administrative purpose in each Circuit shall assure compliance with this Administrative of the Supreme Court. The applicant like to bring to Honorable Court attention, that on March 15, 2010 applicant's Counsel (Ms. Elizabeth Zeck) mailed him a copy of the 59(e) motion to alter or amend that she filed in a timely manner on applicant's behalf. And he assumes she forwarded a copy to all parties in this matter. The last time applicant heard from his Counsel June 30, 2010 (see attached letter from Counsel). However, since then applicant has written his Counsel (Ms. Zeck) on several occasions trying to find out the status of his 59(e) motion or any updates in that regard, and she has refused to respond to any of his letters. It's been almost two years now, without a rehearing on it or anything else regarding this case leaving him to believe she has

*Carson
Linwood*

abandoned him concerning the case. Which leads him to write the Clerk of Court (Ms. Beth A. Carrigg) regarding his 59(e) motion to alter or amend, the G-S Clerk (Ms. Carrigg) forward the Applicant a letter September 20, 2011 advising him to speak with his Counsel concerning that matter. The applicant further states that his counsel did address these issues before the Court, during applicant's PCR hearing September 3, 2009, and she also addressed these issues in Applicant's 59(e) motion to alter or amend. See Davie vs State, 381SC601, 607, 675 SE.2d.416,424 (2009). The applicant further states South Carolina Supreme Court states the Honorable Court has (60) days to properly dispose of applicant's 59(e) motion, and it has been well past that. I look forward to hearing from your office concerning this matter.

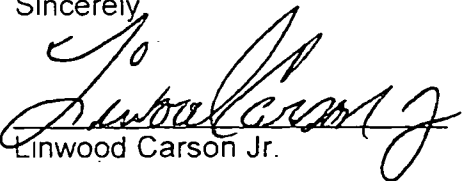
Sincerely,

Linwood Carson Jr.

Exhibit #150

CERTIFICATE OF SERVICE

State of South Carolina
County of Lexington

Linwood Carson Jr. #263672
Applicant

CASE NO.: 2006-CP-32-4563

VS

State of South Carolina
Respondent

The above-named applicant, Linwood Carson Jr., #263672, would hereby certify that a true and Correct Copy of the enclosed Motion to Comply with established Law and Civil rules of procedures concerning order denying or granting applicant's Motion to Alter or Amend pursuant to rule 59(e).

Along with Certificate of Service has been sent to named individuals below indicating the same, sent by United States mail, postage prepaid, and addressed to the individuals below as follows:

On this 11th day of January 2013.

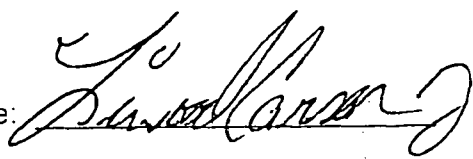
Beth A. Carrigg, Clerk
Lexington County Clerk of Court
For the Common Pleas
205 East Main Street
Lexington, SC 29072


Honorable: Knox McMahon, Judge
Lexington County Courthouse
205 East Main Street
Lexington, SC 29072

Alan Wilson, Attorney General
Office of the SC Attorney Generals
Post Office Box 11549
Columbia, SC 29211-1549

Daniel E. Shearouso, Clerk
For the Supreme Court of SC
Post Office Box 11330
Columbia, SC 29211

Elizabeth Zeck, Esq.
Attorney at Law
930 Richland Street
Post Office Box 8416
Columbia, SC 29202-8416

Signature: 

Sworn to and Subscribed before me
This 11th day of January 2013
 (Seal)

My Commission Expires Feb. 9th, 2000

Exhibit 21

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW
930 RICHLAND STREET
P.O. BOX 8416
COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
TRACEY C. GREEN
BENJAMIN P. MUSTIAN
ELIZABETH ZECK*
ELIZABETHANN LOADHOLT CARROLL
CHAD N. JOHNSTON
JOHN W. ROBERTS

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

February 8, 2013

*ALSO ADMITTED IN TX

VIA FIRST CLASS MAIL

Linwood Carson, Jr.
SCDC#263672
Evans Correction Inst. Waxhaw, F4 #223
610 Hwy. 9 West
Bennettsville, SC 29512

Re: PCR proceeding styled, Linwood Carson, Jr. v. State of South Carolina, Docket
No. 2006-CP-32-4563

Dear Mr. Carson:

The Lexington County Clerk's office forwarded the "Motion to Comply" you recently attempted to file with the Court. Although this document was not accepted for filing, it did have a good effect.

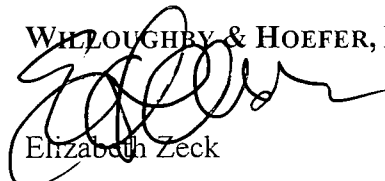
The copy sent to the Attorney General's office was received by a newly hired attorney in the PCR section. Apparently, due to personnel changes, there is quite a case backlog in that office. This new attorney, Walt Whitmire, has taken up the file in your case and prepared the enclosed Return to Motion to Alter or Amend the Order of Dismissal. He has also agreed to work with me to get the long-pending March 2010 motion for reconsideration scheduled for a hearing by Judge McMahon.

I do not know whether Judge McMahon is likely to change his ruling dismissing your PCR claim, but at least we are now likely to get ruling in the very near future.

I will let you know when we have a firm date for on the motion for reconsideration. Since this motion must be based on the record of the September 2009 hearing and the rules of procedure preclude the offering of any new evidence, I will plan to meet with you on the day of the hearing.

Very truly yours,

WILLOUGHBY & HOEFER, P.A.



Elizabeth Zeck

EZ/sw

Exhibit #22

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
TRACEY C. GREEN
BENJAMIN P. MUSTIAN
ELIZABETH ZECK*
ELIZABETHANN LOADHOLT CARROLL
CHAD N. JOHNSTON
JOHN W. ROBERTS

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

February 8, 2013

*ALSO ADMITTED IN TX

VIA FIRST CLASS MAIL

The Honorable Beth Carrigg
Lexington County Clerk of Court
205 East Main Street, Suite 146
Lexington, South Carolina 29072

RE: PCR proceeding styled, Linwood Carson, Jr. v. State of South Carolina,
Docket No. 2006-CP-32-4563

Dear Ms. Carrigg:

I am in receipt of your letter of January 17, 2013 forwarding Applicant Linwood Carson's "Motion to Comply" which he sent to the Court on or about January 15, 2013.

Mr. Carson accurately recites the procedural posture of this case, namely that a timely Motion to Alter or Amend Judgment pursuant to Rule 59(e), SCRPC, was filed by this law firm on Applicant's behalf on or about March 15, 2010. Over a year later, on or about April 6, 2011, court reporter L. Coconut Pantsari prepared the official transcript of the PCR hearing held on September 3, 2009, which transcript was provided to the parties, including Applicant, in or around July 2011. From that time until Mr. Carson's attempted filing, no action has occurred in this case.

Apparently prompted by Mr. Carson's attempted filing, the State has finally submitted its Return to the Motion to Alter or Amend the Order of Dismissal, nearly 18 months after receipt of the transcript and nearly three years after the filing of the Rule 59(e) Motion.

Given the lengthy pendency of his Rule 59(e), Mr. Carson respectfully requests that this Court set hearing on this motion at the earliest possible time. I am authorized to represent to the Court that the State joins in this request. Accordingly, we stand ready to work with Assistant Attorney General Walt Whitmire to find a mutually convenient hearing date, noting that since this is a motion for reconsideration, it must be heard by the Hon. R. Knox McMahan, who issued the challenged Order of Dismissal.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)
) ELEVENTH JUDICIAL CIRCUIT
))
Linwood Carson Jr., 263672) CASE NO. 2006-CP-35-4563
Pro-Se,)
Applicant,)
))
-v-s-) APPLICANT'S MOTION IN OPPOSITION
) TO THE RESPONDENT'S RETURN AND
State of South Carolina,) MOTION FOR SUMMARY JUDGEMENT
))
Respondent.)
_____)

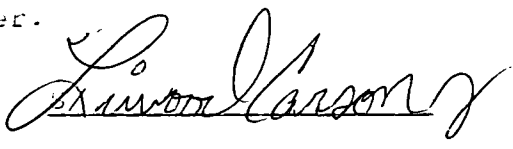
Now Comes The Applicant in the above captioned Linwood Carson Jr. would like to show this Honorable Court the following . That on February 13, 2013 the applicant received a letter from his PCR attorney Ms. Elizabeth Zeck after he filed a pro-se motion to comply with established Laws. That he also served all parties involved in the matter. Which she then forward him a copy of a Return Motion as Summary Judgment Motion from the Assistant Attorney General (Mr. John Whitmire) that was forwarded to her office on February, 5 2013. Which he ask the Honorable Court for Summary Judgement concerning, the applicant's 59 (e) Motion to Alter or Amend filed March, 15 2010 with the Honorable Court. The Applicant futner states that after his 59(e) Motion to Alter or Amend was filed by the Court on March, 15 2010, he did not hear anything else from his attorney (Ms. Elizabeth Zeck) concerning this matter, nor did he hear anything from the Court regarding the matter. Which the Honorable Court had Sixty (60) days to rule on the applicant's 59(e) Motion to Alter or Amend, According to S.C. Rule Civil Procedure Rule 50, 52, 59, or 60(a) the applicant futner states this Motion has been pending for (3) years with the Court. Which violates the applicant's Constitutional Rights, See Article 1 § 3 S.C. Constitution and the 14 Amendment to the U.S. Constitution, Due Process. Because the Counselor for the Respondent (Mr. John W. Whitmire) office waived their right to

file a return to the applicant's 59(e) Motion to Alter or Amend. They also waived their right to ask the Honorable Court for Summary Judgement concerning the Applicant 59(e) Motion to Alter or Amend. Because according to rule 227 of S.C. Rule of Civil Procedures, Counselor had (30) days to file his return and ask for Summary Judgement with the Court, Counselor was also in violation of rule 240 (c) of S.C. rules of civil procedure. Which shall apply to a return. Failure of a party to timely file a return may be deemed and a consent by that party to relief sought in the Motion or petition. This was a motion "The Return", also rule 240 (g) of S.C. Civil procedure should apply. Failure of the moving party to perform any act required by this rule may be deemed an abandonment of the Motion or Petition in this "Case", it was abandonment of the Motion "The Return". Also see Hudson v. Hudson 290 S.C. 215, 349 S.E.2d. 341 (1986). The Applicant further points out to the Court that Counselor for the Respondent failed to "ask" for an enlargement of time. see S.C. Rules of Civil Procedure Rule 6 Time (o) Enlargement. This Rule states that Counselor for the Respondent must petition the Court for a thirty (30) days "extension", which Counselor can be allowed up to three (3) extension. But the Counselor must be given written order by the administrative Judge of each Circuit, and the Order must say for good cause having been shown the time for serving and filing the Return to the application for Post-Conviction relief. The above entitled action is tolled until the time has elapsed for the Respondent would have to respond. In the Instant case the Respondent's Counsel never filed for Summary Judgement, nor, did the Respondent's Counsel served the Applicant with a copy of such. This Violated the Applicant's Constitutional Rights, see Article 1 § 3 S.C. Constitution, and the 14th Amendment of the United States Constitution, Due Process. The Applicant further points out that the Attorney General's Office never Petitioner the Court for Enlargement or Time, The Respondents just took it upon themselves to ignore the "Law" and rules of Civil procedures. As of this day the Attorney General's Office has not been granted an enlargement of time nor did the Attorney

General's office ask the Honorable Court for such orders. This is why the Applicant is asking the Honorable Court for sanction. Because the Attorney General's Office never filed their return, and the Summary Judgment motion should be Stricken from their defense. The Applicant ask the Honorable Court to Order Counsel for the Respondent (Mr. John W. Whitmire), to forward him and the Court a copy of the Order. Where their Office was granted an enlargement of time by the Honorable Court, to serve and file their return to the 59(e) Motion to Alter or Amend on March, 15 2010. The Applicant further states he'd like the Court to Order Counsel for the Respondent (Mr. John W. Whitmire) to forward his copy of his Motion for Enlargement of Time, That should have been filed and Granted by the Honorable Court during 2010 Sessions. Can be Afforded the Procedural Due Process, He is Entitled to said Motion before this Honorable Court

CONCLUSION

The Applicant ask that a hearing be held, to Address these issues. Based on the facts of Default on the States behalf, Cause they had (30) Days to file a Return and ask for Summary Judgment. According to Rule 227 of S.C. Rules of Civil Procedures, "Not make their own Rule" see 240 (c), 240 (g) of Civil Procedures. Failure of a party to timely file a return may be deemed an abandonment of the Motion or Petition in the case. Applicant should be granted the relief he's seeking Davie v. State his case should be Reversed and Remanded for re-sentencing. The Court should also take into consideration of the prior fifteen years concurrent offer and direct[ed] that any sentence applicant receives should not exceed the original twenty-three year sentence. Applicant further ask this Court for such other and further relief as is just and proper.

THIS 7 DAY OF March, 2013 

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
 COUNTY OF LEXINGTON))
) ELEVENTH JUDICIAL CIRCUIT
)
 Linwood Carson Jr., 263672) CASE NO. 2006-CP-35-4563
 Pro-Se,)
 Applicant,)
)
 -vs-)
)
 State of South Carolina,)
) CERTIFICATE OF SERVICE
 Respondent.)
) CASE NO. 2006-CP-34-4563

The Above named applicant Linwood Carson Jr., 263672, would hereby Certify that a true copy of the enclosed Applicant's Motion in Opposition to the Respondent's Return and Motion for Summary Judgement. Concerning Order Denying or granting Applicant's Motion to Alter or Amend Pursuant to Rule 59(e). The Applicant is also advising his Attorney (Ms. Elizabeth Zeck) to file this Motion on his behalf with Lexington County Clerk of Court. And to serve all Parties that this matter concerns a copy, and to forward the applicant a copy back for his records. Along with a Certificate of Service has been sent to the named individuals below indicating the same, sent by United States Mail, Postage prepaid, and Addressed to the individuals as follows:

On This 7 Day of March 2013.

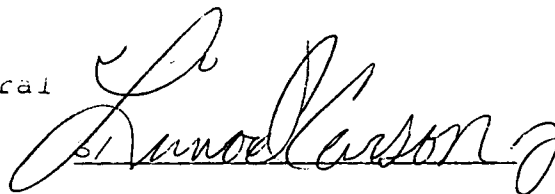
Elizabeth Zeck, Esq
 Attorney at Law
 P.O. Box 8416
 Columbia, SC 29202
 -8416

Daniel E. Shearouse, Clerk
 For the Supreme Court of S.C.
 P.O. Box 11330
 Columbia, SC 29211

Beth A. Carrigg, Clerk
 Lexington County
 Clerk of Court
 205 East Main Street
 Lexington, SC 29072

Hon. Knox McManan, Judge
 Lexington County Courthouse
 205 East Main Street
 Lexington, SC 29072

Alan Wilson, Attorney General
 Office of the S.C. Attorney General
 P.O. Box 11549
 Columbia, SC 29211-1549



Sworn to and Subscribed Before me

This 7 Day of March, 2013.

Joseph D. Thomas
 Notary Public for South Carolina
 My Commission Expires: Sept 19, 2019

Copy Purpose

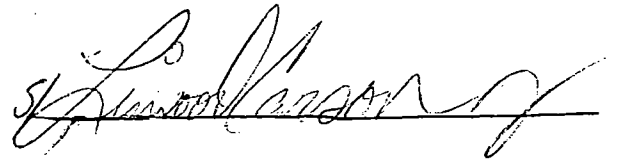
Exhibit 27 Mr. Linwood Carson Jr. #2636;
Evans Corr. Inst. Warhaw #5,
610 Hwy. 9 West
Barnetville, SC. 29512

March 12, 2013

RE: PCR proceeding styled, Linwood Carson Jr. v. State of South Carolina, No. 2006-CP-32-4563

Dear Mr. Zack

I am writing you in reference to your letter I received to February 8, 2013 dated March 6, 2013 with that copied motion from the Attorney General's office (Mr. John Whitmire) asking the Court to dismiss my motion. But yet your letter February 8, 2013 states (Mr. Whitmire) had agreed to work with you, getting a long pending motion on a hearing for this case, but yet at the same time he filed that motion to dismiss "Conspiracy". You allowed it by not properly representing me, nor filing my motion to comply to established law that I sent you on Jan. 12, 2013. An my motion in opposition to the respondents return and motion for summary judgement. That I forward you all parties a copy of the motions that the matter concerned on March 7, 2013. The Attorney General's office was in default, and the Court was in sanction. So I am asking you to appeal this ruling, and please send me a filed copied notice for my record, as well a copy of that motion to comply that you should've filed on my behalf, "when the Clerk of Court refused it from me". I look forward to your response.



Sworn to and Subscribed before me
This 13 day of March 2013.

My Commission Expires _____

Exhibit 28

Mr. Linwood Carson Jr. #2636
Evans Corr. Inst. Kershaw Co.
610 Hwy. 9 West
Bennettsville, SC 29512

March 19, 2013

VIA First Class Mail
The Honorable Beth A. Carrigg
Arlington County Clerk of Court
705 East Main St. Suite 146
Arlington, SC 29072

RE: Freedom Information Act Request, S.C. Code Ann 30-4-10, et. Seq.

Dear Ms. Carrigg

Could you please send me a copy of my motion to comply with established law (No. 2006-CP-32-4563) that I forward to your office to be filed, and a copy of my opposition motion that I sent to you March 7, 2013 for my records. I look forward to your response, it would be greatly appreciated!

Thank you kindly!
Linwood Carson Jr.

Certificate of Service

Exhibit 29

The petitioner, Pro. Se., would hereby Certify that a true and Correct Copy of his letter asking the Clerk of Court (Ms. Beth A. Carrigg) to Send him a copy of his motion to Comply, that he forward to her office Jan., 2013, and a copy of the opposition he also sent March 7, 2013, is being served on the Clerk of Court (Ms. Carrigg) that this matter concerns. And a Certificate of Service has been forward via the United States postal Service, postage prepaid and addressed as below. On this 19th day of March, 2013.

The Honorable Beth A. Carrigg
Lexington County Clerk of Court
205 East Main St. Suite 146
Lexington, SC. 29072

So
Linwood Carson Jr.
Mr. Linwood Carson Jr. #263672
Evans Corr. Inst. Wayhaw #212
610 Hwy. 9 West
Bennettsville, SC. 29512

Sworn to and Subscribed before me
this 19th day of March, 2013

Diane S.
Notary Public of South Carolina

My Commission Expires 2-1-2023

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

Exhibits 30

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
TRACEY C. GREEN
BENJAMIN P. MUSTIAN
ELIZABETH ZECK*
ELIZABETHANN LOADHOLT CARROLL
CHAD N. JOHNSTON
JOHN W. ROBERTS

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

*ALSO ADMITTED IN TX

March 13, 2013

VIA FIRST CLASS MAIL

Linwood Carson, Jr.
SCDC#263672
Evans Correction Inst. Waxhaw, F4 #223
610 Hwy. 9 West
Bennettsville, SC 29512

Re: PCR proceeding styled, Linwood Carson, Jr. v. State of South Carolina,
Docket No. 2006-CP-32-4563

Dear Mr. Carson:

I am in receipt of your Motion in Opposition to the Respondent's Return and Motion for Summary Judgment which I understand you also send to the Court Clerk of Lexington County for filing. It is my understanding that the trial court loses jurisdiction over this matter upon the entry of its February 25th order denying the motion to alter or amend, so it will not act upon this motion.

However, I have interpreted your direct filing of this motion as an indication that you wish to continue to challenge the order dismissing your PCR proceeding. The proper procedural avenue to accomplish this is to file an appeal, which I have done on your behalf. Copies of the Notice of Appeal and the applicable filing letters are attached. This is my last obligation as your court-appointed counsel in the PCR proceeding.

As I have explained previously, you will be represented on appeal by the Appellate Division of the South Carolina Commission on Indigent Defense. I am forwarding this letter, together with the motion you recently sent to the court, to the attorney likely to be assigned to your case so that she may address your outstanding concerns about your case.

(Continued . . .)

Mr. Linwood Carson
March 13, 2013
Page 2

While I regret that your PCR petition was unsuccessful, I still feel we did the best we could with the facts available and wish you the best of luck with your appeal.

Very truly yours,

WILLOUGHBY & HOEFER, P.A.



Elizabeth Zeck

Enclosures
EZ/srw

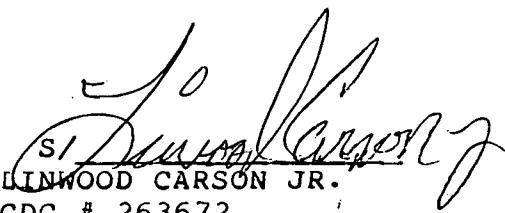
CERTIFICATE OF SERVICE

THE PETITIONER, PRO SE, WOULD HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF HIS APPENDIX ALONG WITH HIS EXHIBITS, IS BEING SERVED ON ALL PARTIES THAT THIS MATTER CONCERNS, AND A CERTIFICATE OF SERVICE HAS BEEN FORWARDED VIA THE UNITED STATES POSTAGE, POSTAGE PREPAID AND ADDRESSED AS FOLLOWS THIS 23 DAY OF May, 2013, SEE EXHIBIT (1-31 LC.), WHICH THE PETITIONER ASK THE HONORABLE COURT TO PLEASE FILE THESE DOCUMENTS ON HIS BEHALF. THE PETITIONER ALSO ASK THAT HIS APPOINTED APPELLATE COUNSELOR ADDRESSED THESE DOCUMENTS WITH HIS ARGUMENTS FOR WRIT OF CERTIORARI, THAT'S BEFORE THIS HONORABLE COURT

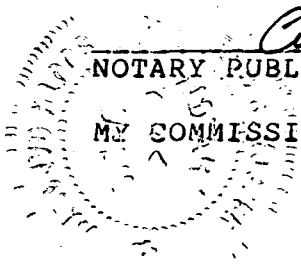
S.C. SUPREME COURT
HONORABLE DANIEL E. SHEAROUSE
CLERK OF COURT
P.O. BOX 11330
COLUMBIA, SC 29211

ATTORNEY GENERAL'S OFFICE
MR. JOHN W. WHITIRE, ESQ
P.O. BOX 11549
COLUMBIA, SC 29211

APPELLATE DEFENDER DIVISION
MR. ROBERT DUDEK
P.O. BOX 11589
COLUMBIA, SC 29211-1589


LINWOOD CARSON JR.
SCDC # 263672
EVANS C.I.
610 HWY 9 WEST
BENNETTSVILLE, SC
29512

SWORN AND SUBSCRIBED TO BEFORE ME
THIS 23rd DAY OF May, 2013.


Chris A. Hagan
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: Feb. 9th, 2020