

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County
The Honorable Benjamin H. Culbertson, Circuit Court Judge

Court of Common Pleas Case No. 2011-CP-26-3907
(Capital PCR Action)
Appellate Case No. 2014-000904

RECEIVED

JUN - 3 2015

S.C. Supreme Court

LOUIS MICHAEL WINKLER, JR.,

Respondent/Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Petitioner/Respondent.

SECOND SUPPLEMENTAL APPENDIX

EMILY C. PAAVOLA, ESQ.
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite #101
Columbia, South Carolina 29201

JOHN R. MILLS, ESQ.
The Law Offices of John R. Mills
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RESPONDENT/PETITIONER

ATTORNEYS FOR
PETITIONER/RESPONDENT

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Date: April 10, 2012

Hon. Melanie Huggins
Clerk of the Court
P.O. Box 677
Conway, SC 29528

Re: *Louis Michael Winkler, Jr. v. State of South Carolina*
Case Number: 2011-CP-26-03907

Dear Ms. Huggins:

Enclosed please find Applicant's Motion to Alter PCR Scheduling Order, Proposed Order, and More Definite Statement of Paragraph 10 & 11(b)(1).

I have also enclosed conformed copies and a postage paid envelope. Please return the copies once they have been file stamped.

Do not hesitate to contact me if you have any questions or concerns.

Sincerely,



John R. Mills
Attorney

Enclosures

cc: Hon. Benjamin Culbertson
Al Simon, Assistant Attorney General
Emily Paavola, Esq.

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF HORRY)	
)	Case No. 2011-CP 26-03907
Louis Michael Winkler Jr.)	
Applicant,)	
)	
vs.)	MOTION TO ALTER
)	PCR SCHEDULING ORDER
State of South Carolina,)	
)	
Respondent.)	
_____)	

Applicant, Louis M. Winkler, through counsel, respectfully moves this Court to alter the scheduling order entered in this case, upon his showing of good cause. *See* S.C. Code Ann. § 17-27-160(C) (West 2012). The current scheduling order requires Mr. Winkler to file the Final Amended Application for Post-Conviction Relief (hereafter, “PCR application”) by May 1, 2012. Despite efforts to diligently investigate this case, for unforeseen circumstances beyond their control, undersigned counsel are not in a position to formulate, in good faith, all claims for post-conviction relief by the May 1st deadline. For the reasons stated below, Mr. Winkler requests a continuance of 180 days to file his final amended PCR application, and adjustments to the other scheduled dates accordingly.

FACTS AND PROCEDURAL HISTORY

On June 24, 2011, this Court appointed undersigned counsel to represent Mr. Winkler in his post-conviction relief proceedings. This Court entered an amended scheduling order requiring Mr. Winkler to file and serve an initial amended PCR application by February 2, 2012, a final PCR application by May 1, 2012, and prepare for a merits hearing scheduled for June 18, 2012.

Since appointment, undersigned counsel have diligently pursued an investigation. Through an investigation of Mr. Winkler's family and personal history, counsel identified potential brain damage as an uninvestigated source of mitigating information that could be relevant to a claim of ineffective assistance of counsel.

To pursue this potential claim, counsel received approval from this Court for a positron emission tomography ("PET") scan of Mr. Winkler's brain and a quantitative analysis of the scan. This Court determined that neuroimaging and its analysis were "reasonable and necessary" steps in counsel's investigation of all potentially meritorious claims for post-conviction relief. The analysis of the imaging requires both a magnetic resonance image and a PET scan. Ex. 1 (University of Pennsylvania outline of Required Procedures). A PET scan produces a three-dimensional image of the brain using radioactive glucose. For the scan to produce a reliable result, the person scanned must have normal blood glucose levels. Ex. 2 (February 7, 2012 Letter from David Bachman, MD). Normal fasting glucose levels are around 100 mg/dl. If the glucose levels are not in the normal range, the PET scan will not be reliable. *Id.*

When Mr. Winkler went to the Medical University of South Carolina, he was unable to have a PET scan. Prior to performing the scan, Mr. Winkler's blood glucose concentration was tested. *Id.* On the morning of the scan, Mr. Winkler tested at 272 mg/dl, almost three times the upper end of the normal range. *Id.* The attending physician for the scan reported that Mr. Winkler was almost certainly suffering from untreated diabetes. *Id.* Counsel for Mr. Winkler immediately informed the staff at Lieber Correctional Institute and the Department of Corrections of the issue and requested that Mr. Winkler receive treatment. Ex. 3 (February 14, 2012 Letter from Counsel to Ms. Joan Doudy reflecting contents of conversation from prior week).

Mr. Winkler has initiated treatment for his, now confirmed, diabetes. Ex. 4. His blood sugar levels, however, are still well above normal. *Id.* (showing recent blood glucose concentration levels between 168 and 263). Mr. Winkler is “tolerating all meds well.” *Id.* His blood sugar concentration, however, will require approximately six to eight weeks of attentive treatment to return to normal. Ex. 2. At present, Mr. Winkler’s blood glucose contraction remains “outside of the normal range,” such that it is not possible to perform an accurate and reliable PET scan. Ex. 4 (April 4, 2012 Letter from David Bachman, MD).

Once Mr. Winkler’s blood sugar returns to normal, he will be able to obtain a PET. *Id.* After that imaging is complete, it will take the laboratory that this Court has found appropriate to have quantitatively analyze the images approximately six weeks to produce a result. Ex. 5 (April 5, 2012 Letter from Michael Keutmann). Depending on those results, counsel will most likely need to conduct additional investigation with lay witnesses, interview trial counsel, and consult with other experts.

Counsel has also diligently pursued documentary evidence related to potential claims. Nonetheless, some agencies have been slow in responding to Mr. Winkler’s request for records. For example, on January 31, 2012 counsel initially requested Mr. Winkler’s jail records. Ex. 6 (January 31, 2012 Letter to J. Ruben Long Detention Center). After a lack of a response, counsel for Mr. Winkler submitted a subpoena for the same. Ex. 7. Similarly, Mr. Winkler’s requests for his late father’s medical records have gone unanswered. Ex. 8. Counsel has also subpoenaed these records, but, as of this date, they have not been produced. Ex. 9. Counsel have diligently pursued documentary evidence related potential claims, but delay in responding to Mr. Winkler’s requests have delayed the investigation.

The social history investigation has also produced information suggesting that Mr. Winkler may suffer from one or more mental health disorders with an etiology originating on his father's side of the family. Investigation into this aspect of Mr. Winkler's history continues produce an impediment because the overwhelming majority of Mr. Winkler's paternal family is now deceased. Furthermore, before their death, many of the paternal family members moved to other states scattered throughout the country. Thus, obtaining information and collecting records related this topic is more time consuming than it would be otherwise.

Mr. Winkler requests 180 days to continue investigating and preparing his case for hearing. As explained above, this request reasonably allows for approximately 8 weeks to get Mr. Winkler's blood sugar levels under control, 2 to 3 weeks to re-schedule and make arrangements for the PET scan, 6 weeks for the lab to complete its analysis of the PET scan, and 8 weeks for counsel to complete the investigation once the results of the analysis are known.

ARGUMENT

Upon a showing of good cause, a capital post-conviction applicant is entitled to a continuance to investigate his case and prepare it for hearing. S.C. Code Ann. § 17-27-160(C) (West 2012).

Competence requires counsel to make "inquiry into and analysis of the factual and legal elements" of each claim. S.C. Rule of Professional Conduct R. 1.1, cmt.; *see also Williams v. Taylor*, 529 U.S. 420 (2000) (holding that federal law barring review of certain claims did not apply to a capital petitioner because, through no fault of his own, he was unable to develop facts in state court); ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7(B) (2003).

As explained in the South Carolina Rules of Professional conduct, because of “what is at stake”—Mr. Winkler’s life—competence in this case requires greater diligence than in “matters of lesser consequence.” S.C. Rule of Professional Conduct R. 1.1 cmt. The U.S. Supreme Court has consistently required the same: greater diligence in capital cases. In these cases, the heightened “need for reliability in the determination that death is the appropriate punishment” (*Woodson v. North Carolina*, 428 U.S. 280, 305 (1976)) requires that the sentencing body receive the fullest information possible concerning the defendant’s life and characteristics. *See Lockett v. Ohio*, 438 U.S. 586, 605 (1978 (plurality opinion) (holding that preventing the sentencer in a capital case from considering the defendant’s characteristics “creates the [unacceptable] risk that the death penalty will be imposed in spite of factors which may call for a lesser severe penalty.”).

Thus, capital defense counsel have a duty to vigorously investigate and present mitigating evidence, including investigation into “all reasonably available evidence to rebut any aggravating evidence that may be introduced by the prosecutor.” *Wiggins v. Smith*, 539 U.S. 510, 524 (2003); *see also Sears v. Upton*, 130 S. Ct. 4259, 3264 (2010); *Williams v. Taylor*, 529 U.S. 362, 393 (2000). Mitigating evidence includes all information about a person’s background and characteristics. *See Lockett*, 438 U.S. at 608. Thus, mitigation investigation requires inquiry into a wide array of topics, including, but not limited to, the defendant’s medical and mental health history, educational history, and family and social history. *See Porter v. McCollum*, 130 S. Ct. 447, 553 (2009) (per curium); ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7(A), cmt., 10.11(A) (2003). This heightened duty of competence extends to post-conviction counsel. *Martinez v. Ryan*, No. 10-1001, ___ U.S. ___, ___ S. Ct. ___,

2012 WL 912950 (March 20, 2012) (holding that ineffective assistance of post-conviction counsel constitutes “cause” to excuse an otherwise procedurally defaulted claim).

This Court is obligated to provide Mr. Winkler with a meaningful opportunity to obtain and present evidence to support his claims. For example, in *Coleman v. Alabama*, the petitioner moved for a new trial in state court claiming that, based on a long standing practice in the county where he was convicted, African-Americans were arbitrarily and systematically excluded from the grand jury that issued his indictment and the petit jury that convicted him. 377 U.S. 129, 129-30 (1964). The state court held a hearing on the motion, but sustained all objections to questions regarding the claim of jury discrimination. *Id.* at 130. Following the hearing, the court denied the petitioner’s motion and the state supreme court affirmed the conviction, holding that the claim of jury discrimination was not supported by the evidence. *Id.* The United States Supreme Court granted certiorari. The Supreme Court held this result was error because the record showed that the state court had not provided the petitioner an opportunity to obtain and present evidence to support his claim. *Id.* at 133 (“this Court must reverse on the ground that the defendant offered to introduce witnesses, to prove the allegations and the court declined to hear any evidence upon the subject.”) (internal quotations omitted). This Court must afford Mr. Winkler adequate time to investigate his claims and a reasonable opportunity to obtain the expert services that this Court has already determined are reasonable and necessary.¹

Here, undersigned counsel have been diligent in pursuing investigation in Mr. Winkler’s case, but have encountered obstacles beyond their control. For the reasons stated above, counsel request that this Court continue the scheduled dates 180 days. A revised proposed scheduling

¹ The Supreme Court has specifically acknowledged that certain claims cannot be supported by adequate factual development without access to expert assistance. *See, e.g., Panetti v. Quarterman*, 551 U.S. 930, 949-50 (2007); *Ford v. Wainwright*, 477 U.S. 399, 427 (1986); *Ake v. Oklahoma*, 470 U.S. 68, 82 (1985).

order is attached to this motion. The additional time is necessary in order to permit counsel for Mr. Winkler to fully develop and be prepared to present evidence relevant to all potentially meritorious grounds for post-conviction relief.

CONCLUSION

Mr. Winkler has shown good cause to continue the scheduling order by 180 days.

Respectfully submitted,


COUNSEL FOR MR. WINKLER

EMILY C. PAAVOLA

Death Penalty Resource & Defense Center
900 Elmwood Avenue
Suite 101
Columbia, SC 29201
(803) 765-1044

JOHN R. MILLS

Attorney at Law
201 W. Main Street
Suite 301
Durham, NC 27701
(919) 251-6259

EXHIBIT 1



Ruben C. Gur, PhD
Professor, Departments of Psychiatry, Radiology & Neurology
Director, Brain Behavior Laboratory and the Center for Neuroimaging in Psychiatry

MRI. A magnetic resonance imaging (MRI) study should be done with a field strength of at least 1.5 tesla. Scanning should include a T1-weighted 3-dimensional 1x1x1mm (no skips) acquisition sequence (such as MPRAGE or a 3D spoiled-gradient procedure) to allow segmentation of gray matter (GM) and white matter (WM) for volumetric analysis. If feasible, scanning should also include a dual-echo sequence (proton density and T2-weighted) with slice thickness of no more than 5mm and in-plane resolution of no worse than 1x1mm, no skip, and covering at least the entire supratentorial volume. This could be needed for robust segmentation of brain parenchyma from cerebrospinal fluid (CSF). The raw data needs to be saved in a standard (e.g., DICOM) format and downloadable for postprocessing by specialized software. Of course, the scans can be supplemented by any other clinically indicated scans as deemed necessary by the referring neuropsychiatrist or neurologist or by the performing neuroradiologist. Furthermore, the scans should receive clinical readings, although these are not necessarily expected to detect diffuse volume reduction of the kind we can document with quantitative volumetric analysis.

PET. A resting baseline positron emission tomography (PET) study using ligands such as 18F-fluoro-d-2-deoxyglucose (FDG) for measuring local cerebral metabolic rates for glucose (CMRgl). Ideally, the PET studies should be quantitative, with good estimation of the input function using arterial (or "arterialized") blood samples. This is necessary to have quantitative assessment of CMRgl in physiological units (milliliter per 100 grams of tissue per minute). Such quantitative data will allow for a better estimate of the nature of the pathology and possibly determine its origin. Perhaps more importantly from the clinical perspective, such data will allow for a better prognosis of whether an ongoing pathological process may be kindling. However, it is acknowledged that not all PET centers are capable of this procedure, and that non-quantitative measures (such as region-to-whole brain ratios of raw counts) are likely sufficient to document abnormalities. As with the structural studies, the scans should be supplemented by any other clinically indicated scans as deemed necessary by the referring neuropsychiatrist or neurologist or by the performing nuclear medicine physician. Furthermore, the scans should receive clinical readings, although again these are not necessarily expected to detect diffuse abnormalities of the kind we are proposing to document with quantitative analysis. Also, as with MRI, the raw data should be saved in a standard (e.g. DICOM) format and downloadable for post-processing.

EXHIBIT 2



MUSC Health

NEUROSCIENCES

February 7, 2012

John R. Mills
Attorney
201 W. Main Street
Suite 301
Durham, NC 27701

RE: Louis Winkler
DOB 03/24/60

Dear Mr. Mills,

As you are aware, we were unable to complete the court-ordered brain PET scan for your client, Mr. Winkler. Prior to performing PET scans, blood tests are performed to ensure that the patient's blood glucose concentration does not interfere with the fludeoxyglucose used to produce the PET images. If the patient has an abnormal blood glucose concentration, then the imaging will not produce a reliable result.

A test of Mr. Winkler's blood on the morning of the scan showed his blood glucose concentration to be 272 mg/dl. Normal blood glucose concentrations for fasting individuals are usually no more than 100 mg/dl. Mr. Winkler's glucose concentration strongly suggests that he has untreated diabetes and that he needs treatment. Such a high concentration is very unlikely to be the result of eating, and Mr. Winkler reported compliance with the dietary restrictions, including fasting.

Assuming that Mr. Winkler immediately starts treatment for diabetes, it normally takes six to eight weeks of attentive treatment for glucose concentration to return to the normal range. After his glucose concentration returns to normal, we would be happy to reschedule him for PET imaging.

Sincerely,

David L. Bachman, MD
Professor of Neurosciences
Medical University of South Carolina
96 Jonathan Lucas St
CSB- Suite 301
Charleston, SC 29425
Office: 843-792-6941

EXHIBIT 3

John R. Mills

201 W. Main Street, Suite 301 • Durham, NC 27701
Phone: 919 251 6259 • Fax: 919 237 9254 • E-Mail: john@jrmillslaw.com
Web: jrmillslaw.com

Date: February 14, 2012

VIA FACSIMILE

Ms. Joan Doudy
South Carolina Department of Corrections
803-896-1999

Re: Louis Michael Winkler

Dear Ms. Doudy:

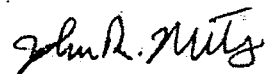
Pursuant to our conversation last week, I am writing to provide you with Dr. David Bachman's letter describing Mr. Winkler's present health.

As we discussed, Mr. Winkler was seen by Dr. Bachman late last month. Dr. Bachman was unable to perform the planned PET scan on Mr. Winkler because Mr. Winkler had elevated sugar levels which strongly suggest he has untreated diabetes. Until Mr. Winkler's diabetes is treated and his sugar levels are returned to the normal range, Dr. Bachman will be unable to perform a PET scan.

I am writing to request that Mr. Winkler receive testing and treatment for his blood sugar treatment as soon as possible.

Please do not hesitate to contact me if you have any questions or concerns.

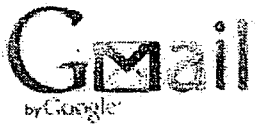
Sincerely,



John R. Mills
Attorney

Enclosures

cc: Hon. Benjamin Culbertson
Emily Paavola, Esq.




John Mills <john.r.mills@gmail.com>

Fax Delivery Successful to 18038961999

1 message

MyFax <NoReply@myfax.com>
To: john.r.mills@gmail.com

Tue, Feb 14, 2012 at 4:21 PM



Successful fax sent from MyFax.

<p>Fax for Free. <u>Tell a friend about MyFax today.</u></p> <p>Have a question? <u>support@myfax.com</u></p>	<p>Fax Delivery Number: <u>18038961999</u></p> <p>Fax Recipient: To:winkler douby</p> <p>Sent at: 02/14/2012 04:21:10 PM (GMT-5:00)</p> <p>Pages: 3</p> <p>Duration: 99</p> <p>Cost: 0.0000 USD</p> <p>Tax - GST: 0.0000 USD</p> <p>Tax - PST: 0.0000 USD</p> <p>Total Cost: 0.0000 USD</p> <p>Customer Number: 4756722</p> <p>Reference Number: 455633922</p> <p>Billing Code: 4756722</p> <p>Remote CSiD: <u>8038961999</u></p>
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Thank you for using **myfax**.

EXHIBIT 4

MUSC

MEDICAL UNIVERSITY
OF SOUTH CAROLINA

**MEMORY DISORDERS
CLINIC**
96 JONATHAN LUCAS ST • STE 309
PO BOX 250606
CHARLESTON • SC 29425

Ph (843) 792-3221
FAX (843) 792- 8626

John R. Mills
Attorney
201 W. Main Street
Suite 301
Durham, NC 27701

April 4, 2012

RE: Louis Winkler
DOB: 03/24/60

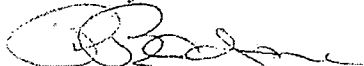
Dear Mr. Mills:

On February 7, I previously wrote to explain that Mr. Winkler's blood glucose concentration needed to be near the normal range before a PET scan could be conducted. Normal blood glucose levels for fasting individuals are usually no more than 100 mg/dl.

Based on my review of Mr. Winkler's medical summary from the Department of Corrections that you have provided, it appears that Mr. Winkler has finally begun treatment for his diabetes. However, his blood sugar appears to remain far enough outside of the normal range that we cannot perform an accurate study. Until his blood sugar is brought closer to the normal range, the imaging will not produce a reliable result.

After Mr. Winkler's glucose has sufficiently improved, we would be happy to reschedule him for PET imaging. Please keep me informed of his progress.

Sincerely,



David L. Bachman, MD
Department of Neurosciences
Medical University of South Carolina

MDCP881D
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
SCDC HEALTH SERVICES: MEDICAL SUMMARY

03/28/12
C045560

SCDC# 6027

WINKLER, LOUIS MICHAEL

PAGE 1

- ** ENCOUNTER: 223 DIABETIC CLINIC 03/28/12 12:27 LIEBER COMP
NOON BS 192 2 UNITS REGULAR INSULIN TO LEFT ARM.
SIGNED OFF ON 03/28/12 @ 12:28 BY JAMES M BRANDFASS, REGISTERED NURSE I
- ** ENCOUNTER: 222 DIABETIC CLINIC 03/28/12 6:54 LIEBER COMP
0500 REFUSED FSBS
SIGNED OFF ON 03/28/12 @ 6:55 BY SHARON D GARVIN-SHULER, MEDICAL ASSISTANT T
SIGNED OFF ON 03/28/12 @ 7:43 BY ELIZABETH A HOLCOMB, NURSE PRACTITIONER III
- ** ENCOUNTER: 221 MENTAL HEALTH CLINIC 03/27/12 13:12 LIEBER CCC
S: WM WITH A HX OF MOOD D/O NOS AND ANXIETY D/O NOS WHO WAS SEEN AT HIS CELL
DOOR. IM REPORTS THAT HE IS DOING WELL AND VOICES NO COMPLAINTS AT THIS TIME.
TOLERATING ALL MEDS WELL. NO SIDE EFFECTS. NO SI OR HI ENDORSED.
O: MSE - APPEARS TO HAVE JUST WOKEN UP FROM SLEEP. NAD. MOOD "OK". AFFECT N
ORMAL RANGE
A:
1. MOOD D/O NOS
2. ANXIETY D/O NOS
P:
1. CONT WITH GABAPENTIN 600 MG PO QAM, 600 MG PO QNOON AND 900 MG PO QPM.
2. RTC 3 MOS
SIGNED OFF ON 03/27/12 @ 13:15 BY PHILIP SINATO, PSYCHIATRIST
- ** ENCOUNTER: 220 DIABETIC CLINIC 03/27/12 6:47 LIEBER COMP
0500. REFUSED FSBS. STATES HE ONLY TAKES FSBS TWICE DAILY-NOON AND PM.
SIGNED OFF ON 03/27/12 @ 6:49 BY BRENDA F FOGLE, REGISTERED NURSE I
SIGNED OFF ON 03/27/12 @ 7:25 BY ELIZABETH A HOLCOMB, NURSE PRACTITIONER III
- ** ENCOUNTER: 219 PPD 03/27/12 6:36 LIEBER COMP
PPD GIVEN IN LEFT ARM ON 3-23-12 AND READ ON 3-26-12 AT 0 MM. LOT #C3764AA
EXPIRES 09.03.13.
SIGNED OFF ON 03/27/12 @ 6:36 BY LUANNE W MAUNEY, REGISTERED NURSE II
- ** ENCOUNTER: 218 DIABETIC CLINIC 03/26/12 16:55 LIEBER COMP
PM BS 263. 6 UNITS REGULAR INSULIN TO LEFT ARM.
SIGNED OFF ON 03/26/12 @ 16:56 BY JAMES M BRANDFASS, REGISTERED NURSE I
THOMAS E BYRNE MD
SIGNED OFF ON 03/26/12 @ 19:32 BY THOMAS E BYRNE, PHYSICIAN II
- ** ENCOUNTER: 217 DIABETIC CLINIC 03/26/12 13:03 LIEBER COMP
NOON BS 168. 2 UNITS REGULAR INSULIN TO RIGHT ABD.
SIGNED OFF ON 03/26/12 @ 13:04 BY JAMES M BRANDFASS, REGISTERED NURSE I
- ** ENCOUNTER: 216 MENTAL HEALTH CLINIC 03/26/12 8:39 LIEBER COMP
3/21/12
INC NOTE;
I/M WAS SCHEDULED TO BE SEEN TODAY FOR I/C SESSION UNABLE TO BE SEEN DUE TO
SECURITY REASON. WILL F/U NEXT WEEK.
TANYA MCCANTS, HSCII
SIGNED OFF ON 03/26/12 @ 8:40 BY TANYA F MCCANTS, HUMAN SERVICES COORD II

EXHIBIT 5



Department of Psychiatry
Neuropsychiatry Section

April 5, 2012

To whom it may concern:

The University of Pennsylvania Brain Behavior Laboratory has contracted with Mr. Louis Michael Winkler's attorney to conduct analyses of volumetric MRI and PET and to produce a comprehensive report. Conducting the analyses normally takes approximately six to eight weeks from the time the images are received.

After conducting the analyses, it is customary for Dr. Ruben Gur to consult with the attorneys requesting the analysis and report, which can take an additional week or two to arrange.

If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

Michael Kobel Keutmann

Digitally signed by Michael Kobel Keutmann
DN: cn=Michael Kobel Keutmann,
o=University of Pennsylvania,
ou=Neuropsychiatry,
email=michaelk@upenn.edu, c=US
Date: 2012.04.05 10:18:48 -0500

Michael Kobel Keutmann, MSED
Medical-Legal Coordinator

EXHIBIT 6

John R. Mills

201 W. Main Street, Suite 301 • Durham, NC 27701
Phone: 919 251 6259 • Fax: 919 237 9254 • E-Mail: john@jrmillslaw.com
Web: jrmillslaw.com

Date: January 31, 2012

J. Reuben Long Detention Center
Attn: Records
4150 J. Reuben Long Avenue
Conway, SC 29526

Re: Jail and Medical Records of Louis Michael Winkler Jr.

Dear Sir or Madam:

I am writing to request the records of Louis Michael Winkler Jr. I represent Mr. Winkler in a case with strict timelines, and your help would be much appreciated.

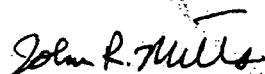
I am interested in all records related to Mr. Winkler, including incident reports, visitation logs, mail logs, medical records, psychological or psychiatric records, and any other records related to Mr. Winkler.

Mr. Winkler's date of birth is [REDACTED] 1960. His Social Security number is [REDACTED]. His South Carolina Driver's License number is [REDACTED]. I have enclosed a copy of a release of confidential information signed by Mr. Winkler.

If you have any questions, please do not hesitate to call me.

Thanks for your help.

Sincerely,



John R. Mills
Attorney

Enclosure

AUTHORIZATION FOR RELEASE
OF CONFIDENTIAL INFORMATION AND RECORDS

I, Louis M. Winkler, Jr., Date of Birth, /60, Social Security # by this release or a photocopy thereof, authorize and request J. Reuben Long Detention Center, to release to attorneys Emily Paavola and/or John Mills or any of their employees, or their designated representative, any and all information and/or records relating to me including but not limited to, academic, adoption, correctional, employment, law enforcement, medical, military, psychological, psychiatric, probation, and rehabilitation (including alcohol and drug rehabilitation) records.

This document also authorizes you to discuss otherwise confidential information with the above-mentioned legal representatives. In consideration of such disclosure, I hereby release you (in your individual and/or institutional capacity) from any and all liability arising from the disclosure of otherwise confidential information.

You are specifically authorized to photocopy these records and to release copies to the above-mentioned legal representatives.

Signed: Louis M Winkler Jr

EXHIBIT 7

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF HORRY

Louis Michael Winkler, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

South Carolina, Defendant

Case Number: 2011-CP-26-03907

Pending in Horry County

TO: Susan Safford, J. Ruben Long Detention Center; 4150 J. Ruben Long Ave.; Conway, SC 29526

YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME , AM
---------------------	--------------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

1. All records related Louis Michael Winkler, Jr. DOB: [REDACTED], 1960; SSN: [REDACTED]. This requests includes classification documents, visitation logs, mail logs, medical records, psychological and psychiatric records, and any other records related to Mr. Winkler.

PLACE Law Offices of John R. Mills; 201 W. Main Street; Suite 301; Durham, NC 27701.	DATE AND TIME April 20, 2012, 9:30 AM
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YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM
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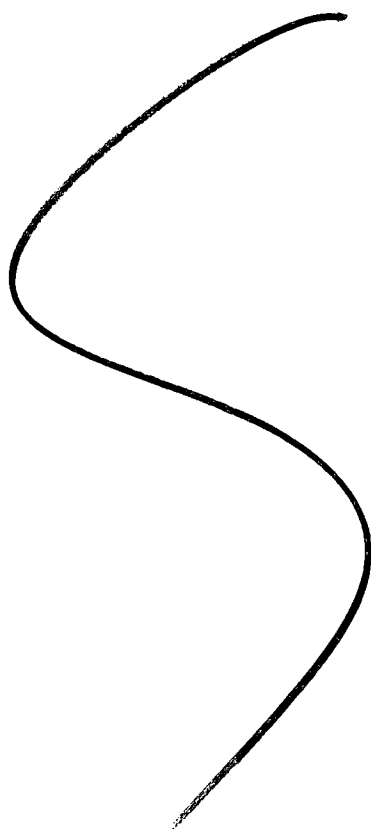
ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

John R. Mills (Signature) 4/4/12 (Date) John R. Mills (Print Name)

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number :
919-251-6259

201 W. Main Street; Suite 301; Durham, NC 27701



PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS
	PLACE J. Ruben Long Detention Center; 4150 J. Ruben Long Ave; Conway, SC 29526. Attorney General's Office; P.O. Box 1159; Columbia, SC 29211	<input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$
SERVED ON Susan Safford; Al Simon		MANNER OF SERVICE Certified Mail
SERVED BY John R. Mills		TITLE Attorney

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 4/4/2012

John R. Mills
SIGNATURE OF SERVER

201 W. Main Street, Suite 301; Durham, NC 27701
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,


the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

John Mills <john.r.mills@gmail.com>

 Fax Delivery Successful to 18433650348

MyFax <NoReply@myfax.com>
To: john.r.mills@gmail.com

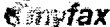
Wed, Apr 4, 2012 at 10:02 AM



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Have a question?
support@myfax.com

Fax Delivery Number:	18433650348
Fax Recipient:	To: Winkler subpoena j ruben long
Sent at:	04/04/2012 10:02:35 AM (GMT-4:00)
Pages:	5
Duration:	210
Cost:	0.0000 USD
Tax - GST:	0.0000 USD
Tax - PST:	0.0000 USD
Total Cost:	0.0000 USD
Customer Number:	4756722
Reference Number:	470500212
Billing Code:	4756722
Remote CSID:	

Thank you for using .

DURHAM MAIN POST OFFICE
DURHAM, North Carolina
277019998
3631970701 -0095
04/05/2012 (919)683-8061 09:37:52 AM

Product Description	Sale Qty	Receipt Unit Price	Final Price
CONWAY SC 29526 Zone-2 First-Class Letter 0.90 oz. Expected Delivery: Sat 04/07/12			\$0.45
Return Rcpt. (Green Card) Certified			\$2.35 \$2.95
Label #:	70112970000302501976		
Issue PVI:			\$5.75
COLUMBIA SC 29211 Zone-3 First-Class Letter 0.80 oz. Expected Delivery: Sat 04/07/12			\$0.45
Certified			\$2.95
Label #:	70112970000302501983		
Issue PVI:			\$3.40
Total:			\$9.15

Paid by:
VISA \$9.15
Account #: XXXXXXXXXXXX6671
Approval #: 143571
Transaction #: 451
23 903100931

Order stamps at usps.com/shop or call 1-800-Stamp24. Go to usps.com/clicknship to print shipping labels with postage. For other information call 1-800-ASK-USPS.

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Clerk: 10

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TELL US ABOUT YOUR RECENT
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YOUR OPINION COUNTS

Customer Copy

7011 2970 0003 0250 1976

7011 2970 0003 0250 1983

CENTRAL MAIL RECEIPT

CONWAY SC 29526

Postage \$0.45 0701

Certified Fee \$2.95

Return Receipt Fee (Enhancement Required) \$2.35

Restricted Mailway Fee (Enhancement Required)

Total Postage & Fees \$5.75

Post Office: MPO DURHAM NC USPS 27701-9998 04/05/12

Send To: Susan Safford

Street, Apt. No.: 4160 J. Rubin Way Ave

PO Box No.: Conway SC 29526

City, State, ZIP+4: Conway SC 29526

CENTRAL MAIL RECEIPT

COLUMBIA SC 29211

Postage \$0.45 0701

Certified Fee \$2.95

Return Receipt Fee (Enhancement Required) \$2.35

Restricted Mailway Fee (Enhancement Required)

Total Postage & Fees \$5.75

Post Office: MPO DURHAM NC USPS 27701-9998 04/05/12

Send To: Al Simon

Street, Apt. No.: PO Box 1152

PO Box No.: Columbia SC 29211

City, State, ZIP+4: Columbia SC 29211

EXHIBIT 8

John R. Mills

201 W. Main Street, Suite 301 • Durham, NC 27701
Phone: 919 251 6259 • Fax: 919 237 9254 • E-Mail: john@jrmillslaw.com
Web: jrmillslaw.com

Date: January 31, 2012

Brandon Regional Hospital
Attn: Medical Records
119 Oakfiled Drive
Brandon, FL 33511
FAX: 727-773-3799

Re: Medical Records of Louis Michael Winkler Sr.

Dear Sir or Madam:

I am writing to request the medical records of Louis Michael Winkler Sr. They are related to a case with strict timelines, and your help would be much appreciated.

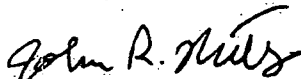
I am interested in all medical records of Mr. Winkler. Any records related to his treatment there, including a record of his records being destroyed (or a letter confirming that you found no records), would be much appreciated.

Mr. Winkler's date of birth is [REDACTED] 1929. His date of death is April 3, 2011. His Social Security number is [REDACTED]. I have enclosed a copy of a release of confidential information signed by his son, Louis Michael Winkler, Jr. I have also enclosed a copy of Mr. Winkler Sr.'s death certificate.

If you have any questions, please do not hesitate to call me.

Thanks for your help.

Sincerely,



John R. Mills
Attorney

Enclosures

John R. Mills

201 W. Main Street, Suite 301 • Durham, NC 27701

Phone: 919 237 6259 • Fax: 919 237 9254 • E-Mail: john@jrmillslaw.com

Web: jrmillslaw.com

**AUTHORIZATION FOR RELEASE OF
CONFIDENTIAL INFORMATION AND RECORDS**

To: Brandon Regional Hospital

Re: Louis Michael Winkler Sr.

I, Louis Michael Winkler Jr., by this release or a photocopy or facsimile transmission thereof, authorize and request you to release to the Death Penalty Resource and Defense Center and the Law Offices of John R. Mills ("Law Offices"), or their representative or agent, any and all information and/or records relating to Louis Michael Winkler Sr. including (but not limited to) academic, adoption, correctional (including all prison and jail records), employment (including worker's compensation and unemployment), medical (including psychological), social security (including earnings information), juvenile, law enforcement (including arrest and incident reports), financial (including banking, tax and savings and loan records), military, probation, and social service records (including child protective services) as well as any and all files, reports, oral or written communications, memoranda and notes prepared, received and/or maintained in connection with prior or pending civil, juvenile or criminal litigation, and any other correspondence or documents.

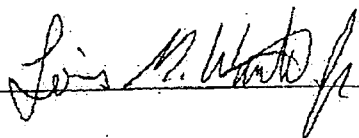
This document expressly allows and authorizes you to disclose and discuss with Law Offices or its representative any information including, but not limited to, otherwise confidential information received from, provided to and/or exchanged with Louis Michael Winkler Sr. and/or any and all past or present doctors, experts, lawyers, law enforcement officers, witnesses, prosecutors, judges, probation officers, correctional officers, counselors or any other individuals, pertaining to all matters including, but not limited to the subject, substance and outcome of any communications pertaining to the preparation, litigation, negotiation, settlement and/or disposition of any and all litigation in which Louis Michael Winkler Sr. was a party, witness or potential witness. In consideration of such disclosure, I hereby release you (in your individual and professional capacity) from any and all liability arising from the disclosure of otherwise confidential information.

I understand that this authorization is given for the purpose of collecting information pertaining to Louis Michael Winkler Sr. for use in legal custody proceedings, including openly filing the information in court, and that I can revoke this authorization by writing to the Law Offices or

any of its representatives of my desire to revoke it. I allow the Law Offices or a representative or agent thereof to re-disclose the information obtained with this release to any individuals or entities in relation to the legal custody proceedings, including but not limited to openly filing the information in court.

You are specifically authorized to photocopy records and to release copies to the Law Offices or its representative. I have the authority to consent to release of this information because I am the next of kin of Louis Michael Winkler Sr., who is my father. (DOB: [REDACTED] 1929; DOD: April 3, 2011)

Signature: _____



Date: _____

12-28-11

EXHIBIT 9

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF HORRY

Louis Michael Winkler, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

South Carolina, Defendant

Case Number: 2011-CP-26-03907

Pending in Horry County

TO: Brandon Regional Hospital, HCA--Hospital Corporation of America; Leah A. 119 Oakfield Drive; Brandon, FL 33511; Fax: 727-773-4950

YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM	
	DATE AND TIME	AM

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME	AM
---------------------	---------------	----

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects:

1. All records related to Louis Michael Winkler Sr. DOB: [REDACTED] 1929. DOD: April 3, 2011. I request all hospital records on Mr. Winkler, including his chart, any testing performed on Mr. Winkler and the results of such testing, billing records, memoranda, or any other materials related to Mr. Winkler.

PLACE Law Offices of John R. Mills; 201 W. Main Street; Suite 301; Durham, NC 27701.	DATE AND TIME April 20, 2012, 9:30 AM
---	---------------------------------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME	AM
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ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF. SHALL SET FORTH FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature <i>John R. Mills</i> Indicate if Attorney for Plaintiff or Defendant Attorney's Address and Telephone Number: 919-251-6259 201 W. Main Street Suite 301 Durham NC 27701	Date March 29, 2012	Print Name John R. Mills
--	------------------------	-----------------------------

PROOF OF SERVICE

SERVED	DATE	3/29/2012	FEES AND MILEAGE TENDERED TO WITNESS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO AMOUNT \$
	PLACE	Leah A. and Prentice Hall Corporation	
SERVED ON Prentice Hall Corporation; 110 North Magnolia Street; Tallahassee, FL 32301 AND Brandon Regional Hospital, HCA--Hospital Corporation of America; Leah A. 119 Oakfield Drive; Brandon, FL 33511; Fax: 727-773-4950			MANNER OF SERVICE Certified Mail
SERVED BY John R. Mills			TITLE Attorney

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 3/29/2012


SIGNATURE OF SERVER

201 W. Main Street, Suite 301; Durham, NC 27701
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information; or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

7011 2000 0002 2696 0422

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only - No Insurance Coverage Provided)

For delivery information, visit usps.com

OFFICIAL USE

Postage	\$	12.95	10
Certified Fee		12.35	
Return Receipt Fee (Endorsement Required)		10.00	
Restricted Delivery Fee (Endorsement Required)		15.95	
Total Postage & Fees	\$		



Sent To: Prentice Hall Corp.
 Street, Apt. No. or PO Box No. 118 N. Magnolia Street
 City, State, ZIP+4 Tallahassee, FL 32301

7011 2000 0002 2696 0422

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only - No Insurance Coverage Provided)

For delivery information, visit usps.com

OFFICIAL USE

Postage	\$	12.95	10
Certified Fee		12.35	
Return Receipt Fee (Endorsement Required)		10.00	
Restricted Delivery Fee (Endorsement Required)		15.95	
Total Postage & Fees	\$		



Sent To: Brandon Regional Hospital All Med
 Street, Apt. No. or PO Box No. 119 Oakfield Dr.
 City, State, ZIP+4 Brandon, FL 33511

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Mattan Hutt</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Mattan Hutt</i> C. Date of Delivery APR 02 2012</p>
<p>1. Article Addressed to:</p> <p><i>Prentice Hall Corporation 110 N. Magnolia St. Tallahassee, FL 32301</i></p>	<p>D. Is delivery address different from item 1? If YES, enter delivery address below: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7011 2000 0002 2696 0422</p>

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Jeff Meek</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Jeff Meek</i> C. Date of Delivery APR - 2 2012</p>
<p>1. Article Addressed to:</p> <p><i>Brandon Regional Hospital Attn: Medical Records, Leah A. 119 Oakfield Dr. Brandon FL 33511</i></p>	<p>D. Is delivery address different from item 1? If YES, enter delivery address below: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7011 2000 0002 2696 0439</p>

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY)	
)	Case No. 2011-CP 26-03907
Louis Michael Winkler Jr.)	
Applicant,)	
)	
vs.)	SCHEDULING ORDER
)	
State of South Carolina,)	
)	
Respondent.)	

Pursuant to the Order of the South Carolina Supreme Court dated 5/25/2011 and Code of Laws of South Carolina 1976 § 17-27-160(C), a status conference was convened in this case on 7/7/2011 at 10:00 a.m. in the chambers of the undersigned judge at the Georgetown County Judicial Center, 333 Cleland Street, Georgetown, South Carolina. Attorneys Emily C. Paavola and John R. Mills appeared on behalf of the applicant and Assistant Attorney General Alphonzo Simon, Jr. appeared on behalf of the respondent. At this status conference, a Scheduling Order dated 7/7/2011 was issued in this case. On 12/8/2011 this Court granted applicant's Motion to Alter the Scheduling Order and set the initial date for filing an Amended Application for Post-Conviction Relief for 2/2/2012. The Amended Order did not alter the hearing date.

Currently before this Court is a motion by the applicant's attorneys to alter the Scheduling Order dated 12/2/2011. For the reasons set forth in the applicant's Motion to Alter the Scheduling Order is **GRANTED** as set for the below.¹

The following schedule is hereby set in this case:

¹ This motion was decided without oral arguments.

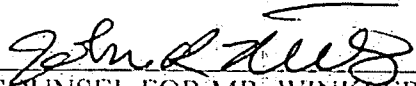
1. Petitioner shall file and serve his Final Amended Application for Post-Conviction Relief, if any, by **October 28, 2012**.
2. Respondent shall file and serve its Return to Amended Applications for Post-Conviction Relief within 30 days of receipt of the amended application.
3. Parties shall complete discovery by **November 28, 2012**. Any party desiring discovery shall serve discovery requests and/or notice of depositions within sufficient time to allow the opposing party to comply with the said discovery by **November 28, 2012**.
4. Any and all motions regarding discovery in this case shall be filed with a supporting brief and simultaneously submitted to the undersigned judge and served on opposing counsel. Opposing counsel may file/submit/serve a brief in opposition to the motion within 14 days of receipt of the motion. All motions regarding discovery shall be decided on briefs without oral arguments.
5. Any and all pre-trial motions, saving and excepting motions regarding discovery, shall be filed with a supporting brief and simultaneously submitted to the undersigned judge and served on opposing counsel. Opposing counsel may file/submit/serve a brief in opposition to the motion within 14 days of receipt of the motion. All pre-trial motions subject to this section shall be decided on briefs without oral arguments unless a party requests a hearing for oral arguments at the time the party files/serves/submits his brief.
6. The merits hearing in this case shall be held on or before **December 15, 2012**. A "day certain" hearing date shall be scheduled by the undersigned judge upon receipt of the circuit court's schedule for July 1, 2012 through December 31, 2012. The merits hearing in this case is continued beyond the 180-day scheduling requirements set forth in **South Carolina Code of Laws 1976 § 17-27-160(C)** for the following good causes:
 - a. Applicant has had, until recently, untreated and undiscovered diabetes which prevents him from undergoing testing this Court determined to be appropriate and which is required for an analysis this Court also determined to be appropriate.
 - b. Despite diligent efforts, applicant has been unable to obtain records relevant to his mitigation investigation. Counsel requires time to possibly enforce subpoenas and to conduct follow-up investigation based on the records obtained.
 - c. Applicant has discovered evidence that he may suffer from one or more mental health disorders with an etiology originating on his father's side of the family. Investigation into this aspect of Mr. Winkler's history continues produce an

impediment because the overwhelming majority of Mr. Winkler's paternal family is now deceased. Furthermore, before their death, many of the paternal family members moved to other states scattered throughout the country.

AND IT IS SO ORDERED.

Benjamin H. Culbertson
Presiding Judge

Respectfully submitted,


COUNSEL FOR MR. WINKLER

EMILY C. PAAVOLA

Death Penalty Resource & Defense Center
900 Elmwood Avenue
Suite 101
Columbia, SC 29201
(803) 765-1044

JOHN R. MILLS

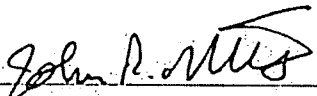
Attorney at Law
201 W. Main Street
Suite 301
Durham, NC 27701
(919) 251-6259

Certificate of Service

I hereby certify that a copy of Mr. Winkler's Motion to Alter Scheduling Order, Proposed Scheduling Order, and More Definite Statement of Paragraph 10 & 11(b)(1), all dated April 10, 2012, have been duly served upon Mr. Al Simon, Assistant Attorney General, by deposit in the United States mail, first-class and postage prepaid to the following addresses:

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

This is the 10th day of April, 2012.



John R. Mills
Law Offices of John R. Mills

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 Louis Michael Winkler, Jr.,)
)
 Applicant,)
)
 vs.)
)
 State of South Carolina,)
)
 Respondent.)
)

IN THE COURT OF COMMON PLEAS
 FIFTEENTH JUDICIAL CIRCUIT
 CASE NUMBER: 2011-CP-26-3907

2012 APR 24 PM 2:54
 MELANIE HUGGINS-WARD
 CLERK OF COURT

ORDER DENYING MOTION
 TO ALTER PCR SCHEDULING ORDER

Before the court is the applicant's Motion to Alter PCR Scheduling Order. This motion is decided on the grounds set forth in the applicant's written motion only, without oral arguments or responsive brief from the respondent.

On 6/24/2011 the applicant was deemed indigent and appointed two attorneys, Emily C. Paavola and John R. Mills. On 7/7/2011 a status conference was held in this case and a scheduling order was issued that set the merits hearing "on or before 7/1/2012." At the status conference, the trial of this case was continued beyond the 180-day scheduling requirements set forth in Code of Laws of South Carolina 1976 §17-27-160(C) to give applicant's attorneys ample time to investigate matters they deemed vital to the applicant's case. At the status conference, all attorneys were advised that the trial would not be scheduled until the South Carolina Court Administration Department issued the court schedule for the first six months of 2012. The scheduling order also mandated that the applicant file and serve his Initial Amended Application for Post-Conviction Relief by 12/1/2011, his Final Amended Application for Post-Conviction Relief by 5/1/2012, and that discovery was to be completed by 6/1/2012. All agreed that the trial of this case would be scheduled after 6/1/2012.

By order dated 9/21/2011, this case was set for a date certain trial commencing 6/18/2012. By order dated 12/8/2011, the scheduling order was amended to give the applicant until 2/1/1012 to file an Initial Amended Application for Post-Conviction Relief.

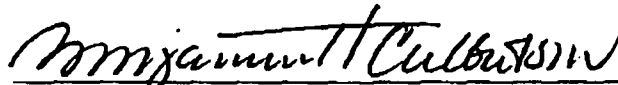
The applicant now seeks to amend the scheduling order to extend all dates of the scheduling order by another 180 days. The applicant argues that additional time is needed because he has not been able to obtain a positron emission tomography ("PET") scan because of his diabetes which, prior to being taken to the hospital for his PET scan, went undiagnosed. Applicant's attorneys argue that a PET scan is necessary to determine the applicant's "potential brain damage." Applicant further argues that some agencies have been slow to release documentary evidence pertaining to the applicant and that additional investigation is needed to determine whether the applicant has "mental health disorders."

Although the applicant's attorneys state that they have been diligently pursuing these investigations, the court feels that the applicant has had ample time to formulate his pleadings and prepare for the trial of this case. Applicant's attorneys were appointed nine months ago, the trial date was scheduled seven months ago and, now, approximately two months prior to trial, the applicant seek an additional 180 days to amend his pleadings and prepare for trial. The court feels that the applicant's attorneys have had ample opportunity to investigate matters pertaining to the applicant's "potential brain damage" and "mental health disorder." Further, the applicant has not filed any motions to compel production of documents and, according to the subpoenas attached to this motion, did not subpoena documents until March and April, 2012. Therefore, the applicant's Motion to Alter PCR Scheduling Order should be denied.

NOW, THEREFORE, based upon the above, it is hereby

ORDERED, that the applicant's Motion to Alter PCR Scheduling Order is DENIED.

AND IT IS SO ORDERED



Benjamin H. Culbertson
Presiding Judge

April 20, 2012
Conway, SC



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

FILED
HORRY COUNTY
2012 APR 24 PM 2:53
MELANIE HUGGINS-WARD
CLERK OF COURT

CLERK OF COURT

Benjamin H. Culbertson
Resident Circuit Judge

P. O. Box 479 (zip code 29442)
401 Cleland St. (zip code 29440)
Georgetown, South Carolina
Telephone: (843) 545-3030
Facsimile: (843) 545-3282
Email: bculbertsonj@sccourts.org

April 20, 2011

Via Email and U.S. Mail Delivery

Emily C. Paavola, Esquire
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201

Email: Emily@deathpenaltyresource.org

John R. Mills, Esquire
Attorney at Law
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Email: John@jrmillslaw.com

Alphonzo Simon, Jr., Asst. Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Email: asimon@scag.gov

J. Gregory Hembree, Solicitor
Office of the Solicitor, 15th Judicial Circuit
P.O. Box 1276
Conway, SC 29528

Email: hembree1@horrycounty.org
psnowden@horrycounty.org

RE: *Louis Michael Winkler, Jr. v. State of South Carolina*
Case Number: 2011-CP-26-03907

Dear Attorneys:

Please find enclosed a copy of the Form 4 and Order Denying Motion
Scheduling Order.

FILED
HORRY COUNTY
2012 APR 24 PM 2:53
MELANIE HUGGINS-WARD
CLERK OF COURT

Emily C. Paavola, Esquire
John R. Mills, Esquire
Alphonzo Simon, Jr., Asst. Attorney General
J. Gregory Hembree, Solicitor

April 20, 2012
Page Two

By copy of this letter and enclosure to the Clerk of Court, I am forwarding the original Form 4 and order for filing.

With kindest regards, I remain

Very truly yours,



Benjamin H. Culbertson

BHC/bhc

Enclosures (a/s)

pc: Melanie Huggins-Ward, Clerk of Court

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF HORRY
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NO. 2011-CP-26-3907

2012 APR 24 PM 2:54
 MELANIE HUGGINS-WARD
 CLERK OF COURT

Louis Michael Winkler, Jr.
 PLAINTIFF(S)

State of South Carolina
 DEFENDANT(S)

Submitted by: Benjamin H. Culbertson, Presiding Judge	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
---	--

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	\$ N/A
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Benjamin H. Culbertson
 Benjamin H. Culbertson, Circuit Court Judge

2148
 Judge Code

April 20, 2012
 Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Emily C. Paavola

John R. Mills

Alphonzo Simon, Jr.

J. Gregory Hembree

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: None (no oral arguments).

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County
The Honorable Benjamin H. Culbertson, Circuit Court Judge

Court of Common Pleas Case No. 2011-CP-26-3907
(Capital PCR Action)
Appellate Case No. 2014-000904

RECEIVED

JUN - 3 2015

S.C. Supreme Court

LOUIS MICHAEL WINKLER, JR.,

Respondent/Petitioner,

vs.

STATE OF SOUTH CAROLINA,

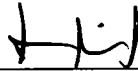
Petitioner/Respondent.

PROOF OF SERVICE

I, Alphonso Simon, Jr., of counsel for the Petitioner/Respondent, certify that I served two (2) copies of the Second Supplemental Appendix via U.S. mail to each of his attorneys of record, Emily C. Paavola, Esq., Death Penalty Resource and Defense Center, 900 Elmwood Avenue, Ste. #101, Columbia, South Carolina 29201, and John R. Mills, Esq., Law Offices of John R. Mills, 3145 Geary Blvd., #213, San Francisco, California 94118 on June 3, 2015.

I further certify that all parties required by Rule to be served have been served.

This 3rd day of June, 2015.



ALPHONSO SIMON, JR.
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305