

The Supreme Court of South Carolina

Timothy Blassingame, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable R. Lawton McIntosh
Oconee County
Trial Court Case No. 2010-CP-37-00531

ORDER

For good cause shown, the request for an extension until May 18, 2012 to serve and file the Return to the Petition for Writ of Certiorari is granted.

Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY *Luenda J. Shealy*
Clerk

Columbia, South Carolina

April 19, 2012

cc: Appellate Defender Susan B. Hackett
Assistant Attorney General Kaelon E. May



ALAN WILSON
ATTORNEY GENERAL

April 18, 2012

RECEIVED

APR 18 2012

S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, SC 29211

RE: Timothy Blassingame v. State of South Carolina
2010-CP-37-00531

Dear Mr. Shearouse:

The Return to the Petition for Writ of Certiorari in the above appeal is due to be served and filed today. However, this is to respectfully request a 30-day extension to serve and file this Return to the Petition of Writ of Certiorari.

This extension request is not intended for the purpose of delay. Rather, this extension request is necessitated by a heavy workload and is for good cause.

Sincerely,


Kaelon E. May
Assistant Attorney General

cc: Susan B. Hackett, Appellate Defender

The Supreme Court of South Carolina

Timothy Blassingame, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable R. Lawton McIntosh
Oconee County
Trial Court Case No. 2010-CP-37-00531

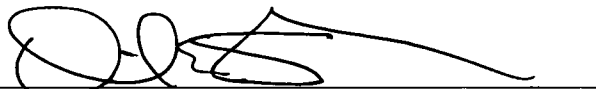
ORDER

The request for an extension until April 18, 2012 to serve and file the Return to the Petition for Writ of Certiorari is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

March 20, 2012

cc: Appellate Defender Susan B. Hackett
Assistant Attorney General Kaelon E. May



ALAN WILSON
ATTORNEY GENERAL

March 19, 2012

RECEIVED

MAR 19 2012

S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, SC 29211

RE: Timothy Blassingame v. State of South Carolina
2010-CP-37-00531

Dear Mr. Shearouse:

The Return to the Petition for Writ of Certiorari in the above appeal is due to be served and filed today. However, this is to respectfully request a 30-day extension to serve and file this Return to the Petition of Writ of Certiorari.

This extension request is not intended for the purpose of delay. Rather, this extension request is necessitated by a heavy workload and is for good cause.

Sincerely,

Kaelon E. May
Assistant Attorney General

cc: Susan B. Hackett, Appellate Defender

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Oconee County

R. Lawton McIntosh, Circuit Court Judge

RECEIVED

JAN 30 2012

S.C. Supreme Court

TIMOTHY BLASSINGAME,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

(2)

**PETITION FOR EXTENSION TO FILE
PETITION FOR WRIT OF CERTIORARI
AND APPENDIX**

The undersigned counsel would respectfully request a thirty-day extension in which to file the petition for writ of certiorari and appendix in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following exigent circumstances:

1. The petition for writ of certiorari and appendix in this case are due to be served and filed today, having been extended by one prior order of this Court.

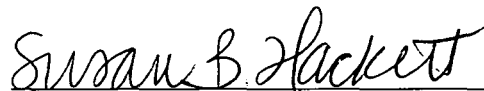
2. Counsel filed the brief of petitioner in the case of Jamul Ratub El v. State in the Supreme Court on January 19, 2012. Counsel filed the initial brief of appellant and designation of matter in the case of State v. John Herndon in the Court of Appeals on January 17, 2012. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Christopher Jerome Shippy in the Court of Appeals on January 9, 2012. Counsel filed the petition for writ of habeas corpus in the original jurisdiction in the case of Kerry Garner v. State in the Supreme Court on January 4, 2011. Counsel filed

the petition for writ of certiorari and accompanying appendix in the case of Jason Orlando Riley v. State in the Supreme Court on January 3, 2012. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Leo Corderrel Gadsden v. State in the Supreme Court on December 20, 2011. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Thomas E. Gilliland in the Court of Appeals on December 15, 2011. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Quashon G. Middleton in the Court of Appeals on December 9, 2011. Counsel filed the initial brief of appellant and designation of matter in the case of State v. John Hunter Lambert, IV in the Court of Appeals on December 5, 2011. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Melvin J. Nelson, Jr. v. State in the Supreme Court on December 2, 2011. In November, 2011, Counsel filed the petitions for writ of certiorari and accompanying appendices in the cases of Mikey M. Caldwell v. State and Gordon L. Smith v. State in the Supreme Court. Additionally in November, 2011, Counsel filed the initial briefs of appellant and designations of matter in the cases of State v. Johnny William Crockett, State v. Thomas Michael Smith and State v. Wayne Wells in the Court of Appeals. Also, Counsel had an oral argument in the case of State v. Bentley Collins in the Court of Appeals in November, 2011.

3. This request is made in good faith, and not for purposes of delay.

WHEREFORE, the undersigned counsel would respectfully request a thirty-day extension in which to file the petition for writ of certiorari and appendix in this case. Counsel requests that the time limits for filing the petition for writ of certiorari be held in abeyance pending a ruling on this motion.

Respectfully submitted,



Susan B. Hackett
Appellate Defender

January 30, 2012

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Oconee County

R. Lawton McIntosh, Circuit Court Judge

TIMOTHY BLASSINGAME,

PETITIONER,

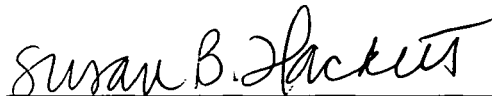
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

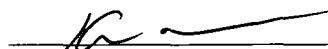
The undersigned attorney hereby certifies the petition in which to file the petition for writ of certiorari and appendix in the above referenced case has been served upon Kaelon May, Esquire, Assistant General, Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201, this 30th day of January, 2012.



Susan B. Hackett
Appellate Defender

ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me
this 30th day of January, 2012.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 2, 2013.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

December 28, 2011

Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RECEIVED

DEC 28 2011

S.C. Supreme Court

Re: Timothy Blassingame v. State of South Carolina

Dear Mr. Shearouse:

The petition for writ of certiorari and appendix in the above-referenced case are due to be served and filed today. Because of my present workload, I respectfully request a thirty-day extension of this deadline. No prior extensions have been requested in this case.

By copy of this letter, I am informing Kaelon E. May, Esquire, of the Office of the Attorney General, of this extension request.

Thanking you for your cooperation and assistance in this matter.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH/kam

cc: Kaelon E. May



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

October 27, 2011

The Honorable Daniel E. Shearouse
Clerk, S.C. Supreme Court
Post Office Box 11330
Columbia, SC 29211

RECEIVED

OCT 27 2011

S.C. Supreme Court

Dear Mr. Shearouse:

The following case falls under the 60 day rule for appeals, and the date we received the transcript is listed to the side.

Timothy Blassingame v. State of South Carolina

10/27/2011

I would appreciate you beginning our time limits from the above date, and if you need additional information, or have any questions please contact me.

Thank you for your assistance in this matter.

Sincerely,

Loriene French
Legal Services Coordinator

Norton, Ballenger & Denny, P.A.

ATTORNEYS AT LAW

POST OFFICE BOX 490
30 SHORT STREET
WALHALLA, SC 29691

TELEPHONE (864) 638-2930
FACSIMILE (864) 638-2922

BRADLEY A. NORTON
KEITH G. DENNY

KAREN F. BALLENGER

August 10, 2011

RECEIVED

AUG 12 2011

S.C. SUPREME COURT

The Daniel e. Shearhouse, Clerk of Court
South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

RE: Timothy Blassingame v. State of South Carolina; 2010-CP-387-0531; Amended Notice of Appeal

Dear Mr. Shearhouse;

Please find the enclosed the following:

- Original and two (2) copies of the Amended Notice of Appeal; please return two (2) clocked copies;
- Original and two (2) copies of the Proof of Service; please return two (2) clocked copies;
- One (1) copy of the Order Denying Applicants Motion To Alter or Amend.

If I can answer any questions or provide any additional information, please feel free to contact me and I will be glad to assist.

Very truly yours,

NORTON, BALLENGER & DENNY, P.A.



Keith G. Denny
Attorney at Law

cc: Timothy Blassingame

Enclosure(s): As stated above

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2010-CP-37-531

Timothy Blassingame

Appellant,

v.

State of South Carolina,

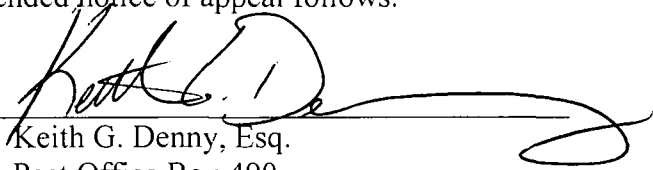
Respondent.

AMENDED NOTICE OF APPEAL

Timothy Blassingame appeals the Order of the Honorable R. Lawton McIntosh dated May 19, 2011 and rehearing denied by Order dated June 27, 2011. Appellant's attorney received written notice of entry of the Order denying rehearing on June 27, 2011. On July 1, 2011, the Appellant's attorney filed a Notice of Appeal. On July 14, 2011, the Appellant's attorney received a written notice of entry of Order denying motion to alter and amend with an attached written Order. This amended notice of appeal follows.

August 9, 2011

Walhalla, S.C.



Keith G. Denny, Esq.
Post Office Box 490
30 Short Street
Walhalla, S.C. 29691
Phone: 864-638-2930
Fax: 864-638-2922
Attorney for Appellant

Other Counsel of Record:

Ms. Mary Shannon Williams
S.C. Attorney General's Office
P.O. Box 11549
Columbia South Carolina 29211-1549

RECEIVED

AUG 12 2011

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2010-CP-37-531

Timothy Blessingame

Appellant,

v.

State of South Carolina,

Respondent.

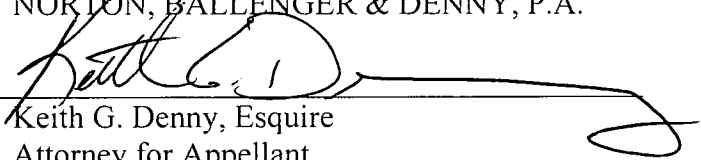
PROOF OF SERVICE

I hereby certify that on August 10, 2011, I mailed, first-class with postage prepaid a copy of the **AMENDED NOTICE OF APPEAL** to the following address(es):

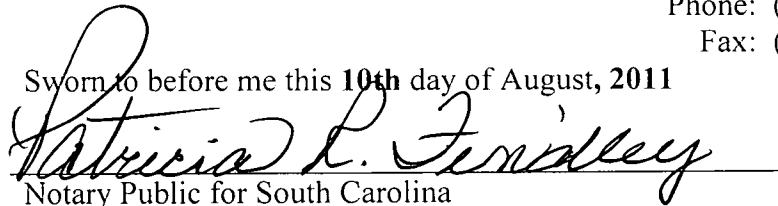
Ms. Mary Shannon Williams
State of South Carolina
Office of the Attorney General
Rembert C. Dennis Building
P.O. Box 11549
Columbia, SC 29211-1549

Walhalla, South Carolina
August 10, 2011

NORTON, BALLENGER & DENNY, P.A.


Keith G. Denny, Esquire
Attorney for Appellant
30 Short Street
Walhalla, SC 29691
Phone: (864) 638-2930
Fax: (864) 638-2922

Sworn to before me this **10th** day of August, **2011**


Notary Public for South Carolina

My Commission Expires: 05/14/2013

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF OCONEE

CASE NO: 2010CP3700531

IN THE COURT OF COMMON PLEAS

Timothy Blassingame vs. South Carolina - State Of

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; Statement of Judgment by the Court:

Order Denying Applicants Motin to Alter or Amend

Dated at Walhalla, South Carolina, this 28th day of June, 2011.

Court Reporter:

S/ R. LAWTON McINTOSH

PRESIDING JUDGE - R Lawton McIntosh

This ^{Order} judgment was entered on the 14th day of July, 2011, and a copy ^{Boxed} mailed first class this 14th day of July, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

^{Boxed} Keith G Denny P O Box 490, Walhalla, SC 29691

Mary Shannon Williams Attorney General's Office
P O Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beverly H. Whitfield

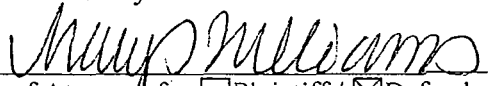
Beverly H. Whitfield - Clerk of Court / *HL*

STATE OF SOUTH CAROLINA)
)
 COUNTY OF OCONEE)
)
 Timothy Blasingame)
 Plaintiff)
)
 v.)
)
 State Of South Carolina)
 Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.
 2010-CP-37-0531

MOTION AND ORDER INFORMATION
 FORM AND COVER SHEET

Plaintiff's Attorney: Keith G. Denny, Bar No. Address: Post Office Box 490 Walhalla SC 29691 phone: (864) 638-2930 fax: (864) 638-2922 e-mail: other:	Defendant's Attorney: Mary S. Williams, Bar No. Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Estimated Time Needed: Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	June 10, 2011 Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: <input checked="" type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support (check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: <input type="checkbox"/> Other:	
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE _____ CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: <u>EXEMPT</u> Date Filed: _____	
<input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	

FILED
 OCONEE, SC
 JUL 14 10 1:42
 REVENUE FIELD

STATE OF SOUTH CAROLINA)
)
 COUNTY OF OCONEE)
)
 Timothy Blassingame, #213064,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 TENTH JUDICIAL CIRCUIT

2010-CP-37-0531

FILED OCONEE, SC
 DEVENYI WINTERFIELD
 2011 JUL 14 PM 1:11

**ORDER DENYING APPLICANT'S MOTION
 MOTION TO ALTER OR AMEND**

This post-conviction relief matter came before the Court for an evidentiary hearing at the Oconee County Courthouse on March 14, 2011. The Applicant was present in court and represented by Keith Denny, Esquire, and the State was represented by Mary S. Williams, Assistant Attorney General. After taking the matter under advisement, this Court issued an Order of Dismissal dated May 19, 2011, and filed May 26, 2011. The Order was mailed to Applicant on May 26, 2011, and he filed a timely Motion to Alter or Amend the Judgment on June 3, 2011.

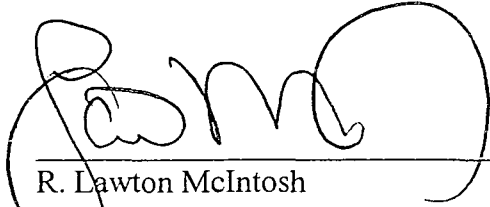
The Applicant asks the court to reconsider its rulings on the following issues: (1) ineffective assistance of counsel in failing to object to the solicitor's comments and testimony of Officer Crum, (2) failure to object to portions of the solicitor's closing argument, and (3) failure to call additional witnesses. Having carefully reviewed the entire record in this matter, this Court finds that no basis for altering or amending is prior ruling.¹ Therefore, this Court hereby denies the Applicant's Rule 59 Motion in its entirety, and affirms the previous Order of Dismissal.

This Court advises that if the Applicant desires to secure appellate review of this Order and the

¹ The Court, in its discretion, has considered this matter based upon the motions submitted by the parties and the post-conviction relief file, since oral argument will not aid the Court in reaching its decision. See Rule 59(f), SCRCP.

Order of Dismissal, a notice of appeal must be filed and served **within thirty (30) days** of the service of this Rule 59 Order. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of appeal has been timely filed.

AND IT IS SO ORDERED this 28 day of June, 2011.

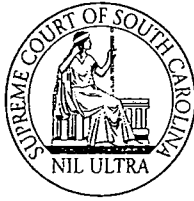


R. Lawton McIntosh
Presiding Judge
Tenth Judicial Circuit Court

Anders South Carolina

FILED OCOONEE, SC (D)
REVERLY M. WHITEFIELD
2011 JUL 14 P 1:42

A TRUE COPY
JUL 14 2011
CLERK OF COURT - OCOONEE COUNTY



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

August 8, 2

Jimi Blass.

Keith Denny

864-638-2830

Keith G Denny, Esquire
Keith G. Denny, P.A.
30 Short St.
Walhalla, SC. 29691

Re: Blassingame, Timothy v. The State, 20

Dear Mr. Denny:

This responds to your motion to proceed in forma pauperis. In this motion, you allege that you were appointed to represent Mr. Blassingame before the circuit court because he was indigent and that he remains indigent at this time.

No filing fees are required in a PCR appeal. Further, if your client is indigent, the Division of Appellate Defense will provide representation, and that office will order any necessary transcripts. Therefore, your motion is unnecessary and no action will be taken on it. Instead, you should assist your client with obtaining representation from the Division of Appellate Defense. Rule 71.1(g), SCRPC ("If an applicant represented by counsel desires to appeal, counsel shall serve and file a Notice of Appeal as required by Rule 243, SCACR, and shall continue to represent the applicant on appeal unless automatically relieved under Rule 602, SCACR, or allowed to withdraw under Rule 264, SCACR. If the applicant is indigent, counsel shall assist the applicant in obtaining representation by the Division of Appellate Defense of the Office of Indigent Defense.").

Very truly yours,

CLERK

cc: Appellate Defense
Assistant Attorney General Kaelon E. May

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2010-CP-37-531

Timothy Blassingame

v.

State of South Carolina,

RECEIVED

JUL 28 2011

S.C. Supreme Court

Appellant,

Respondent.

MOTION TO PROCEED IN FORMA PAUPERIS

Attorney Keith G. Denny was appointed on May 24, 2010 to represent the Plaintiff (now Appellant) in his Post-Conviction Relief action. Exhibit A – Order dated May 24, 2010. The Appellant was, and currently remains, indigent as he is currently incarcerated in the South Carolina Department of Corrections. Exhibit B

Therefore, the Appellant, by and through appointed counsel, moves this Court to allow the Appellant to proceed in this matter in forma pauperis. Furthermore, the Appellant moves this Court to order that the State pay for the transcripts from the hearings in this matter.

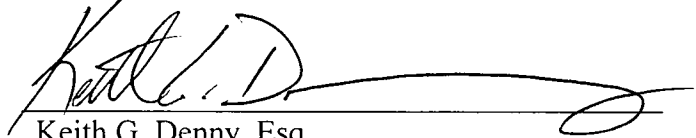
RECEIVED
JUL 05 2011
SC Court of Appeals

I SO MOVE!

NORTON & BALLENGER, P.A.

July 1, 2011

Walhalla, S.C.

A handwritten signature in black ink, appearing to read "Keith G. Denny", written over a horizontal line.

Keith G. Denny, Esq.

Post Office Box 490

30 Short Street

Walhalla, S.C. 29691

Phone: 864-638-2930

Fax: 864-638-2922

Attorneys for Appellant Timothy Blassingame

EXHIBIT A

STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE)

IN THE COURT OF (Select one.)

COMMON PLEAS FAMILY COURT

TENTH JUDICIAL CIRCUIT

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

TIMOTHY BLASSINGAME,)

CASE NO.: 2010CP3700531

Plaintiff(s),)

APPOINTMENT OF COUNSEL OR GAL)

-vs-)

(Select one.)

STATE OF SOUTH CAROLINA,)

ORDER

Defendant(s).)

AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

- Post-Conviction Relief (PCR)/habeas case
- SVP case
- Minor Name Change
- Adoption
- Custody and/or Visitation
- Other:
- Juvenile
- Abuse and Neglect

It appears that TIMOTHY BLASSINGAME, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: _____
- counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- court appointed counsel has obtained _____, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other: _____

counsel lead counsel (if capital PCR case) guardian ad litem

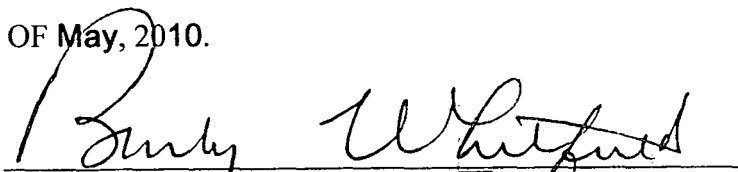
Therefore, it is ordered that Keith Denny, 30 Short Street, Walhalla, S.C. 29691 phone 864-638-2930, hereby is appointed as (Select one.)

for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

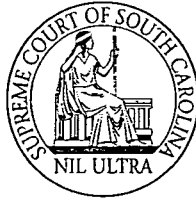
(If Death Penalty PCR Case) It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 24 DAY OF May, 2010.


 Circuit Judge Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

August 8, 2011

Timothy Blassingame #213064
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Re: Blassingame, Timothy v. The State

Dear Mr. Blassingame:

Please be advised that the Notice of Appeal filed *pro se* from the written order of The Honorable Lawton McIntosh dated June 10, 2011, will be combined with the Notice of Appeal previously filed in this matter by your counsel, Keith Denny, Esquire.

Very truly yours,



CLERK

DES/jj

cc: Appellate Defense
Keith G Denny, Esquire
Assistant Attorney General Kaelon E. May

July 2011

The Supreme Court of South Carolina
DANIEL E. SHEAROUSE,
CLERK OF COURT
P.O. Box 11330
Columbia, S.C. 29211

RE: Timothy Blessingame v. State of South Carolina; Case #2010-CP-37-00531

Dear Clerk,

Would you be so kind to send me a stamp clock of the Notice of Appeal that should have been filed for the above-caption, your help will be greatly appreciated.

RECEIVED
AUG 03 2011
S.C. SUPREME COURT

X Timothy Blessingame

Timothy Blessingame #213044

MCCJ. FI-A, Rm#256

386 Redemption Way

McCormick, S.C. 29899

(cc. filed)

Certificate of Service

This is to certify that Timothy Blessingame #213064 did mail to the Honorable Daniel E. Shearouse, Clerk of Court of the S.C. Supreme Court a letter requesting a stamp clock copy of a Notice of Appeal that was supposed to have been filed by PCR Counsel Keith G. Denny, Esq. A copy of the letter was placed in the mail by the Notary Public From McCormick, C. I. ON This 26 day of July 2011, and mailed to P.O. Box 11330, Columbia, S.C. 29211 with postage prepaid.

Sworn and Subscribed before me

This 26 day of July 2011

Joyce L. Young
Notary Public for South Carolina

MY Commission Expires

8 28 2011

Timothy Blessingame
Timothy Blessingame #213064
M.E.C.I. Fl-A, Rm #256
386 Redemption Way
McCormick, S.C. 29859

RECEIVED

AUG 02 2011

S.C. SUPREME COURT

(cc. filed)

Timothy Blessingame # 213064
M&C.I. Fl-A, Rm # 256
386 Redemption Way
McCormick, S.C. 29899

1231 *Yerwin*
St.

The Supreme Court of South Carolina
The Honorable DANIEL E. SHEAROUSE,
CLERK OF COURT
P.O. Box 11330
Columbia, S.C. 29211

RECEIVED
JUL 26 2011
MCCI
MAIL ROOM

The South Carolina Court of Appeals

Timothy Blassingame, #213064,

Appellant,

v.

State of South Carolina,

Respondent.

The Honorable R. Lawton McIntosh
Oconee County
Trial Court Case No. 2010-CP-37-00531

RECEIVED

JUL 28 2011

S.C. Supreme Court

ORDER

The appeal in the above captioned matter is transferred to the South Carolina Supreme Court under the filing provisions of Rule 243 of the South Carolina Appellate Court Rules.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE
For The Court

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc: Keith G. Denny, Esq.
Chief Appellate Defender Robert M. Dudek
Assistant Attorney General Mary S. Williams
The Honorable Daniel Shearouse

FILED

7/28/11 [Signature]

Norton & Ballenger, P.A.
ATTORNEYS AT LAW

POST OFFICE BOX 490
30 SHORT STREET
WALHALLA, SC 29691

TELEPHONE (864) 638-2930
FACSIMILE (864) 638-2922

BRADLEY A. NORTON
KEITH G. DENNY

KAREN F. BALLENGER

July 1, 2010

The Honorable Tanya Gee, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
JUL 05 2011

RE: Timothy Blassingame v. State of South Carolina; 2010-CP-387-0531

SC Court of Appeals

Dear Ms. Gee;

Please find the enclosed the following:

- Original and four (4) copies of the Notice of Appeal; please return two (2) clocked copies;
- Original and four (4) copies of the Proof of Service; please return two (2) clocked copies;
- Original and six (8) copies of the Motion To Proceed In Forma Pauperis; please return two (2) clocked copies;
- One (1) copy of the Order of Dismissal; and
- One (1) copy of the Order Denying Rehearing.

Mr. Blassingame is indigent and I was court appointed pursuant to guidelines for counsel for the indigent pursuing post-conviction relief. As referenced above, a motion has been filed to proceed in forma pauperis. If the motion is denied, a filing fee will be promptly provided.

If you have any questions, please feel free to contact me.

Very truly yours,

NORTON & BALLENGER, P.A.



Keith G. Denny
Attorney at Law

RECEIVED

JUL 28 2011

S.C. Supreme Court

cc: Timothy Blassingame

Enclosure(s): As stated above

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2010-CP-37-531

Timothy Blassingame

State of South Carolina,

v.

RECEIVED
JUL 05 2011

SC Court of Appeals

Appellant,

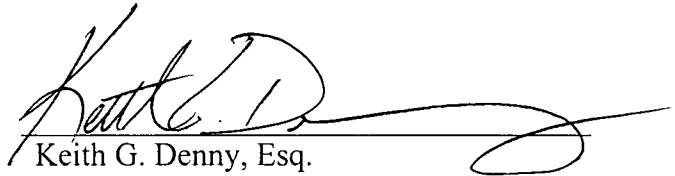
Respondent.

NOTICE OF APPEAL

Timothy Blassingame appeals the Order of the Honorable R. Lawton McIntosh dated May 19, 2011 and rehearing denied by Order dated June 27, 2011. Appellant's attorney received written notice of entry of the Order denying rehearing on June 27, 2011.

July 1, 2010

Walhalla, S.C.



Keith G. Denny, Esq.
Post Office Box 490
30 Short Street
Walhalla, S.C. 29691
Phone: 864-638-2930
Fax: 864-638-2922
Attorney for Appellant

Other Counsel of Record:

Ms. Mary Shannon Williams
S.C. Attorney General's Office
P.O. Box 11549
Columbia South Carolina 29211-1549

RECEIVED

JUL 28 2011

S.C. Supreme Court

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

JUL 28 2011

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

S.C. Supreme Court

R. Lawton McIntosh, Circuit Court Judge

Case No. 2010-CP-37-531

Timothy Blessingame

Appellant,

v.

State of South Carolina,

Respondent.

PROOF OF SERVICE

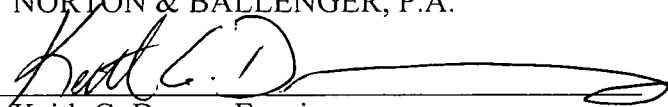
I hereby certify that on July 1, 2011, I mailed, first-class with postage prepaid a copy of the **NOTICE OF APPEAL** to the following address(es):

Ms. Mary Shannon Williams
State of South Carolina
Office of the Attorney General
Rembert C. Dennis Building
P.O. Box 11549
Columbia, SC 29211-1549


RECEIVED
JUL 05 2011
SC Court of Appeals

Walhalla, South Carolina
July 1, 2011

NORTON & BALLENGER, P.A.


Keith G. Denny, Esquire
Attorney for Appellant
30 Short Street
Walhalla, SC 29691
Phone: (864) 638-2930
Fax: (864) 638-2922

Sworn to before me this 1st day of July, 2011


Notary Public for South Carolina

My Commission Expires: 4/26/2014

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2010CP3700531

Timothy Blassingame vs. South Carolina - State Of

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; Statement of Judgment by the Court:

Order of Dismissal

Dated at Walhalla, South Carolina, this 19th day of May, 2011.

Court Reporter:

S/ R. LAWTON McINTOSH

PRESIDING JUDGE - R Lawton McIntosh

This ^{Order} judgment was entered on the 26th day of May, 2011, and a copy ^{Boxed} mailed first class this 26th day of May, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Keith G Denny P O Box 490 Walhalla, SC 29691

ATTORNEY(S) FOR THE PLAINTIFF(S)

Mary S Williams Attorney General's Office P. O.
Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Beverly H. Whitfield

Beverly H. Whitfield - Clerk of Court *hsh*

STATE OF SOUTH CAROLINA)
)
 COUNTY OF OCONEE)
)
 Timothy Blassingame, #213064,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2010-CP-37-0531

ORDER OF DISMISSAL

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2011 MAY 26 A 8:52

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 30, 2010. The Respondent made its Return on or about August 4, 2010. An evidentiary hearing into the matter was convened on March 14, 2011, at the Oconee County Courthouse. The Applicant was present at the hearing and was represented by Keith Denny, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Robert S. Sprouse, Esquire ("Counsel"). Applicant also presented testimony from Assistant Solicitor Lindsay Simmons, Major Steve Pruitt of the Oconee County Detention Center, Justin Diggs, and Jonathan Bryson. This Court had before it the records of the Oconee County Clerk of Court, the trial transcript, the appellate records, the Applicant's records from the South Carolina Department of Corrections, and exhibits introduced at hearing.

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of the Oconee County Clerk of Court. Applicant was indicted for Distribution of Crack Cocaine (Cocaine Base) 3rd Offense (2009-GS-37-

0820). Robert S. Sprouse, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Alexander S. Macaulay. Applicant was found guilty and sentenced to thirty (30) years imprisonment.

A Notice of Appeal was filed. Applicant's appeal was dismissed by the South Carolina Court of Appeals in a written order dated April 15, 2010. The Remittitur was sent on May 7, 2010.

In his application for post-conviction relief (PCR), Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Prosecutorial misconduct
2. "Illegal use of evidence, violation of chain of custody, Rule 6 and 36."
3. Brady violation.
4. "Admission of false testimony + bolstering of state's witnesses + vouching for state's witness, improper comments."
5. "6th Amendment and due process violations, discrimination of jury venire because his race was excluded."
6. Ineffective assistance of counsel.
 - a. "Failure to object to untimely witness list."
 - b. "Failure to object to preserve for appellate review."
 - c. "Failure to object to State's evidence that was not in the record."
 - d. "Failure to object to discriminatory jury venire."
 - e. "Failure to subpoena witness and enter exculpatory evidence."
 - f. "Failure to investigate case and chain of custody."

In an Amended PCR Application Brief filed February 23, 2011, Applicant set forth the following additional grounds:

1. "Prosecutorial misconduct as evidenced by the prosecutor's improper comment."
2. "Conflict of interest as evidenced by trial counsel's failure to subpoena witnesses and enter exculpatory evidence."

In an Amended PCR Application Brief filed February 25, 2011, Applicant set forth the following additional grounds:

1. "Trial counsel failed to enter favorable impeaching evidence."
2. "Trial counsel failed to investigate favorable impeaching evidence."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. ' 17-27-80.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300

S.C. at 117, 385 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Failure to Object to Racial Composition of Jury Panel

Applicant argues that Counsel should have challenged the racial composition of the jury venire because only three (3) of the thirty-six (36) potential jurors were black. Of the three (3), only one (1) was drawn during jury selection, and the juror was selected as an alternate. Assistant Solicitor Lindsay Simmons ("Simmons") has been employed in the Tenth Circuit since 2005. Simmons stated that having only three (3) black jurors in a jury pool would not be unusual in Oconee County. Simmons believed that there were probably about a dozen black jurors on any master list, but having only three (3) to seven (7) black jurors in any given jury pool would not be out of the ordinary. Counsel also stated that he did not consider the racial composition of the jury pool to be atypical. Counsel stated that in a typical jury pool of sixty (60) to seventy (70) potential jurors, typically only eight (8) or nine (9) would be black. Counsel noted that the three (3) black jurors did not come up in random jury selection. Counsel stated that he did not feel this was prejudicial to Applicant.

Based on the evidence before this court, I find that Applicant has failed to meet his burden of demonstrating that Counsel's failure to challenge the jury pool on the basis of racial composition was unreasonable under professional norms. Both Simmons and Counsel, attorneys experienced in

practicing in the area, stated that such a makeup was not unusual. As stated in State v. Patterson, 324 S.C. 5, 21, 482 S.E.2d 760, 767-68 (1997):

In order to establish a prima facie violation of the fair cross-section requirement, the defendant must show that 1) the group excluded is a “distinctive” group in the community; 2) the representation of this group in venires from which juries are selected is not fair and reasonable in relation to the number of such persons in the community; and 3) this underrepresentation is due to a systematic exclusion of the group in the jury selection process.

While a racial group may be a distinctive group, Applicant has failed to demonstrate that the number of black jurors in the jury pool was not “fair and reasonable in relation to the number of such persons in the community” or that there was a “systematic exclusion of the group in the jury selection process.” See State v. Ravenell, 387 S.C. 449, 459, 692 S.E.2d 554, 560 (Ct. App. 2010). Therefore, I find further that Applicant has failed to demonstrate prejudice in that had such a challenge been made, there is no evidence that it would have been successful.

Failure to Object to Comments by Solicitor

Applicant asserts that Counsel failed to object to comments by the solicitor at trial. Applicant specifically points to the solicitor’s arguments at p. 156, lines 2-8 and at p. 158 where the solicitor argues regarding confidential informant James Walker’s (“Walker”) credibility. Applicant argues that these passages constitute improper vouching. “A solicitor’s argument based on the record and its reasonable inferences is not error.” State v. Caldwell, 300 S.C. 494, 505, 388 S.E.2d 816, 822 (1990). “A solicitor may not vouch for the credibility of a State’s witness based on personal knowledge or other information outside the record.” Matthews v. State, 350 S.C. 272, 276, 565 S.E.2d 766, 768 (2002). Counsel stated that he did not believe that the solicitor’s comments constituted improper vouching and were not objectionable. I agree. I find that the solicitor did not

vouch in this matter but based her closing comments upon evidence in the record or inferences reasonably arising from that evidence. For example but not exclusively, I refer to Officer Crum's testimony found at pages 54, 55, 57, 59, 60, 63, 66, 67, 74, 75 and 83, also Mr. Walker's testimony found at pages 87, 88, 89, 92, 95, 98, 101 and 102. Therefore, I find Counsel's performance well within reasonable professional norms in this regard. Moreover, any objection would have been fruitless.

Chain of Custody

Applicant argues that Counsel should have objected to the drug evidence on the basis of chain of custody. Applicant's claim is based on testimony by Walker that he handed the narcotics from the transaction to Officer John Michael Crum ("Crum"). Both Crum and Officer Timothy Hunnicutt ("Hunnicutt") testified that Walker handed the narcotics to Hunnicutt and that Hunnicutt passed them to Crum. (Tr. p. 66, lines 14-16; p. 113, lines 1-17.) Applicant argues that the discrepancy between the testimony of Walker and that of Hunnicutt and Crum compromises the chain of custody. Such discrepancy raises an issue of credibility, not admissibility. See State v. Mathis, 359 S.C. 450, 465-466, 597 S.E.2d 872, 880-881 (Ct. App. 2004). I find Counsel's failure to object in this instance not unreasonable under professional norms.

Witness List/Prosecutorial Misconduct

Applicant further asserts that Counsel should have objected when the solicitor provided the State's witness list on the day trial commenced. Applicant relies on Rule 5(e)(2), SCCrimP. Rule 5(e), SCCrimP, addresses a notice of alibi. Alibi was not an issue in this case. Moreover, Counsel was aware of the witnesses that would be called in support of the State's case. When Counsel assumed representation, the solicitor and investigating officer Crum met with Counsel and reviewed

the State's evidence. Counsel was given an opportunity to observe the audio and visual recordings in the case. The solicitor stated that she provided Counsel with all names in the discovery and that Counsel had access to everything remotely relevant. Counsel confirmed that there were no surprises on the witness list. Based on the foregoing, I find Counsel's performance to be well within reasonable professional norms. Further, Applicant has pointed to no evidence or witness which would have been procured but for the alleged shortcoming. Therefore, I find that Applicant has failed to demonstrate ineffective assistance of counsel. I also find no evidence of vindictiveness which would support a claim of prosecutorial misconduct.

Failure to Present James Walker's Written Statement

Applicant asserts that Counsel erred in failing to enter the written statement of confidential informant James Walker ("Walker") into evidence. Walker, Applicant's cousin, testified at trial that Applicant gave him crack cocaine. Walker stated that, while they were in prison together, Applicant had asked him to write a statement denying that Applicant was the person he had received crack cocaine from. (Tr. p. 95, lines 3-20.) At trial, Walker disavowed the written statement and affirmed his trial testimony. (Tr. p. 95, line 21 – p. 96, line 10; p. 105, lines 11-19.) Counsel cross-examined Walker on the subject. (Tr. p. 101-103.) Counsel testified at PCR hearing that he placed the Walker's statement on an overhead projector so that the jury could see the document during his cross-examination. Counsel stated that the solicitor did not object to the statement for some minutes. Counsel stated that he chose not to enter the statement into evidence so as not to lose last argument, especially since the jury had seen the statement while it was displayed.

I find Counsel's performance to be well within reasonable professional norms. Counsel articulated a valid reason for choosing not to place the statement into evidence. See for example

Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992) (where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel). Moreover, any failure in this regard was harmless inasmuch as the jury saw the document and Walker testified to recanting his statement and his reasons for doing so.

Failure to Call Additional Witnesses

At PCR hearing, Applicant presented three (3) additional witnesses who he believes should have been called on behalf of the defense at trial. Walker testified at trial that he had copied a statement written by Applicant at Applicant's request. Walker stated that he complied because he "didn't want to lay in the cell knowing that my life could be in danger." (App. p. 95, lines 13-14. See also p. 103, lines 8-10.) Walker testified that he made complaints to jail staff. (App. p. 102, lines 20-25.) Applicant asserts that the testimony from additional witnesses - Major Steve Pruitt of the Oconee County Detention Center ("Pruitt") and former Oconee County inmates Justin Diggs ("Diggs") and Jonathan Bryson ("Bryson") - would have impacted the outcome of his trial.

Pruitt provided records of where Applicant and Walker were housed at the Oconee County Detention Center ("OCDC"). Walker was in Cell A from July 31, 2009, until October 2, 2009. Applicant was in Cell A from September 26, 2009 until October 29, 2009. Therefore, the two were in Cell A together from September 26, 2009, until October 2, 2009, a little less than one week. Walker's written statement is dated September 28, 2009.

Bryson and Diggs testified that they did not see any threats made to Walker by Applicant. Bryson estimated that Walker was in a cell with them for about three (3) months. Bryson stated that he saw Walker write a statement but did not see any coercion. Diggs stated that he, Applicant, and Walker were housed together for three (3) to four (4) months and that the group would play cards

together. Diggs and Bryson admitted their criminal convictions and that they did not observe Walker and Applicant the entire time. Notably, their estimates of time incarcerated together vary significantly from the jail's records. I find the testimony of Bryson and Diggs lacking credibility.

Counsel noted that Walker's testimony did not make mention of any specific threat made but rather was a blanket statement that he was afraid of consequences if he did not comply with Applicant's request to write the statement. Counsel did have concerns over an incident alleged to have occurred the weekend before trial wherein Applicant made a threatening call to Walker through a three-way phone call. (Tr. pp. 26-34.) It was agreed that incident would not be raised at trial. Counsel also noted that Applicant had not mentioned Diggs or Bryson as potential witnesses in their meetings. Counsel reported that Applicant told him that Walker wrote the statement to "make things right." After listening to the testimony presented at PCR hearing, Counsel still felt that preserving last argument was more important than the testimony offered from Pruitt, Diggs, and Bryson, especially since Walker did not testify about any specific threat. Counsel attacked Walker's credibility on cross-examination through, *inter alia*, evidence of drug use and his criminal record.

I find Counsel's performance in this regard not unreasonable under professional norms. I further find that even if Counsel should have known of and called the witnesses, the outcome of trial would not likely have been affected. Therefore, I find Applicant has failed to carry his burden in this regard.

Failure to Object to Testimony by Officer Crum and Walker

Applicant also argues that Counsel should have objected to testimony by Officer Crum that Walker said "thank you, thank you, I appreciate that," because the testimony was not accurate. Counsel stated that this statement was not grounds for an objection but provided fodder for an

argument on credibility. Counsel pointed out the inconsistency in his closing argument. (Tr. p. 165, lines 2-8.) Applicant also points to testimony by Walker about what was said on the video. (See for example Tr. p. 92, lines 16-17.) Counsel felt that any discrepancies between the testimony and the actual tape were factual disputes, and he used the audio tape as impeachment. The tape was played for the jury multiple times. I find Counsel's performance well within reasonable professional norms in this regard.

Other Allegations

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

CONCLUSION

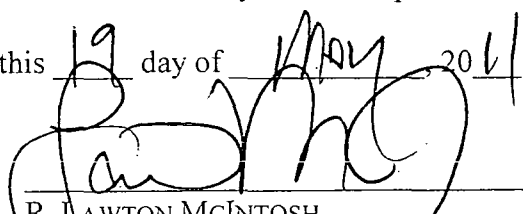
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order to secure the appropriate appellate review. His attention is also directed to Rule 243, SCACR, for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be DENIED AND DISMISSED WITH PREJUDICE; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 19 day of May 2011.


R. LAWTON MCINTOSH

10 of 10

A TRUE COPY
MAY 26 2011

2011 MAY 26 A 8:52

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

Presiding Judge
Tenth Judicial Circuit

_____, South Carolina.

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2010CP3700531

Timothy Blassingame vs. State of South Carolina

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: _____

FILED O'CONNOR, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2011 JUN 27 A 10:30

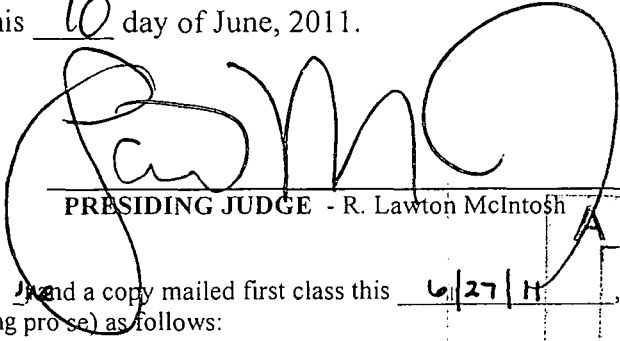
NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Hearing not Ordered. Plaintiff's Motion for Reconsideration is Denied

Dated at Anderson, South Carolina, this 10 day of June, 2011.

Court Reporter:


PRESIDING JUDGE - R. Lawton McIntosh

This judgment was entered on the 6/27/11 and a copy mailed first class this 6/27/11 to attorneys of record or to parties (when appearing pro se) as follows:

A TRUE COPY
JUN 27 2011
TS

Keith G. Denny P.O. Box 490; Walhalla, SC 29691
ATTORNEY(S) FOR THE PLAINTIFF(S)

Mary Shannon Williams, AG P.O. Box 11549, Columbia, SC 29211-1549
ATTORNEY(S) FOR THE DEFENDANT(S)

Beverly H. Whitfield
Beverly Whitfield - Clerk of Court / *TS*