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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO HORRY COUNTY
Court of Common Pleas

The Honorable H. Steven DeBerry, IV, Post-Conviction Relief Judge

Case No. 2022-CP-26-4334

Justin Tyler Young,.....Respondent,

v.

State of South Carolina,.....Petitioner.

NOTICE OF APPEAL

The State of South Carolina appeals the Honorable H. Steven DeBerry’s order granting post-conviction relief that was filed on July 17, 2023. The State filed a timely Motion to Reconsider, Alter, or Amend Pursuant to Rule 59(e), SCRPC, which was denied through an order filed on September 5, 2023. The State received written notice of entry of that order on September 8, 2023. Copies of both of the orders being appealed are attached.

October 6, 2023,

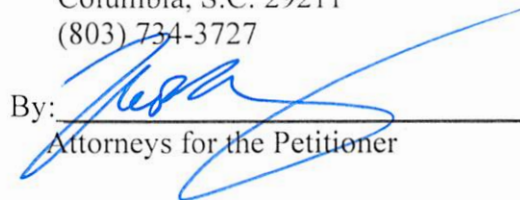
Respectfully submitted,

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By: 
Attorneys for the Petitioner

STATE OF SOUTH CAROLINA)
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 COUNTY OF HORRY)
)
)
 JUSTIN TYLER YOUNG #321679)
 Vs.)
)
 STATE OF SOUTH CAROLINA)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTEENTH JUDICIAL CIRCUIT
 CASE NO. 2022-CP-26-04334

ORDER

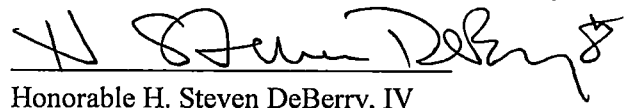
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 HORRY COUNTY
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 RENEE NEWELL
 CLERK OF COURT
 HORRY COUNTY, SC

1. This matter comes before this Honorable Court on Monday, November 28, 2022 before the Honorable H. Steven DeBerry, IV as the presiding judge.
2. Steven W. Fowler, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.
3. In Applicant’s application for Post Conviction Relief, filed July 8, 2022, the Applicant stated the following grounds for his allegations that he is being held in custody unlawfully:
 - A. *“The Judge in the original case sentenced me to ATU (Addiction Treatment Unit) but I’m serving 15 years.”*
 - B. *“The Judge sentenced me to ATU, but SCDC has me doing 15 years and they say the court is to blame.”*
4. The Applicant Justin Tyler Young #321679 and his attorney in the underlying probation hearing, Scott A. Graustein (hereinafter “Graustein”), both provided testimony by direct and cross examination.
5. During the hearing, Graustein was proven ineffective as legal counsel pursuant to Strickland v. Washington, 466 U.S. 668 (1984).
6. In the underlying probation hearing, Graustein failed to make clear to the presiding Judge that the Applicant would receive an active sentence of 15 years in the South Carolina Department of Corrections (hereinafter “SCDC”) if Applicant’s probation was revoked.
7. This served as prejudicial to the Applicant in that legal representation was ineffective.
8. Applicant has therefore met his requisite burden of proof of establishing ineffective assistance of counsel during this hearing and is entitled to post-conviction relief.

THEREFORE, the following is granted:

1. The Applicant’s application for Post Conviction Relief is granted; and
2. This matter is remanded to the Court of General Sessions, State of South Carolina for a probation revocation hearing.

IT IS SO ORDERED


 Honorable H. Steven DeBerry, IV
 Presiding Judge

This is the 12th day of July, 2023

Florence, South Carolina

