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July 25, 2013

Mr. Dan Shearouse  
Clerk of the S.C. Supreme Court  
ATTN: Debbie Hopkins  
S.C. Court Administration  
P.O. Box 11330  
Columbia, S.C. 29211

**RECEIVED**

JUL 29 2013

**S.C. SUPREME COURT**

RE: Kenneth Justus vs. State of S.C.  
Case No. 11-CP-18-1933

Dear Ms. Hopkins,

Please find enclosed an Order of Dismissal in the above-named case. Inasmuch as this petitioner is deceased, you may now close your file in this matter.

Please feel free to call me with any questions. Thank you for your attention to this matter.

Sincerely,

  
Jeffrey P. Bloom

cc: Anthony Mabry, Asst. Attorney General  
L. Lesesne Hendricks Jr., Esq.

FORM 4

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

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2011CP1801933

Kenneth Harry Justus

CERTIFIED COPY  
2013 JUL 23 4:05 PM  
South Carolina State Of

*Cheryl*  
CLERK OF COURT  
DORCHESTER COUNTY

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for:  Plaintiff  Defendant  
 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.  See Page 2 for additional information.
- 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)

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.

**RECEIVED**

Kristi Harrington  
Circuit Court Judge

2151  
Judge Code

7-18-13  
Date

JUL 29 2013

For Clerk of Court Office Use Only

This judgment was entered on 7-23-2013, and a copy mailed first class or placed in the appropriate attorney's box on 7-23-2013, to attorneys of record or to parties (when appearing pro se) as follows:

Robert Michael Dudek 1330 Lady St., Ste 401 Columbia, SC 29201  
Jeffrey P. Bloom 1911 Pickens St. Columbia, SC 29201  
Lewis Lesesne Hendricks Jr. PO Box 665 Easley, SC 296410665

J. Anthony Mabry PO Box 11549 S.C. Attorney General's Office Columbia, SC 29211

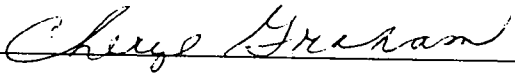
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ATTORNEY(S) FOR THE PLAINTIFF(S)

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ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

  
Cheryl Graham - Clerk of Court

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )  
 )  
KENNETH JUSTUS )  
SCDC #6029 )  
APPLICANT )  
 )  
VS. )  
 )  
THE STATE OF )  
SOUTH CAROLINA, )  
RESPONDENT )

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT  
Case No. 11-CP-18-1933

ORDER OF DISMISSAL

2013 JUL 23 PM 4:05  
CLERK OF COURT  
DORCHESTER COUNTY

This matter comes before me for the purpose of a final order of dismissal in this capital-PCR (Post-Conviction Relief) case. The Applicant died on May 21, 2013, rendering this matter moot as a matter of law. The undersigned Circuit Court Judge is assigned this case by the S.C. Supreme Court and has statewide jurisdiction of this matter. The State is represented by Assistant Attorney General Anthony Mabry. The Applicant is represented by attorneys Jeffrey P. Bloom of Columbia, S.C., and L. Lesesne Hendricks, Jr., of Easley, S.C.

A brief recitation of the procedural background of this case is set forth as follows. The incident occurred on July 26, 2005. On August 1, 2005, an arrest warrant was issued and the Applicant was charged with murder. On August 11, 2005, the State served Notice of Intent to Seek the Death Penalty. On December 11, 2008, the Applicant entered a guilty plea in the Dorchester County General Sessions Court. On December 15 through 16, 2008, the trial court held a sentencing hearing. On December 23, 2008, the trial court sentenced the Applicant to death. Applicant's guilty plea and sentence were affirmed on direct appeal. *State v. Justus*, 392 S.C. 416, 709 S.E.2d 668 (May 9, 2011), *cert. den.*, *Justus v. South Carolina*, 132 S.Ct. 1095 (Jan. 17, 2012). On October 4, 2011, Applicant

*HLA*  
7/18/13

filed an Application for Post-Conviction Relief (hereinafter, "Application"). On or about November 16, 2011, the State filed its Return to the Application (with an extension to file such Return as agreed to by Applicant's counsel at that time). On February 24, 2012, the S.C. Supreme Court assigned the undersigned Circuit Court Judge jurisdiction of this case. On March 20, 2012, this Court held an appointment hearing at the Charleston County Courthouse, and appointed attorneys Bloom and Hendricks. On April 24, 2012, this Court issued a Scheduling Order. On January 17, 2013, Applicant filed a First Amended Application for PCR. On February 15, 2013, Applicant filed a Second Amended Application for PCR. Both of these amended petitions were filed within the timelines as set by this Court in its original Scheduling Order. The State was granted an extension by Applicant's counsel to file any amended Answer or reply. On April 11, 2013, this Court held a status conference, and scheduled this matter for an evidentiary hearing to commence on November 12, 2013, at the Dorchester County Courthouse. On May 21, 2013, the Applicant died. Both counsel for the State and the Applicant have obtained a copy of the death certificate to verify same.

Therefore, this matter is dismissed as a matter of law since a post-conviction relief action is personal to an applicant and does not survive the applicant's death. *See generally*, S.C. Code §17-27-10 et. seq. This Order is issued pursuant to Rule 41(b), S.C. Rules of Civil Procedure (Dismissal of action by order of the court).

IT IS THEREFORE ORDERED that this capital-PCR action is hereby dismissed.

AND IT IS SO ORDERED.

Date: July 18, 2013  
Charles, S.C.

  
Hon. Kristi Lea Harrington  
Designated Circuit Court Judge