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SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

 ORIGINAL

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

August 14, 2013

The Honorable Claire V. Allen
Deputy Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED

AUG 14 2013

SC COURT OF APPEALS

Re: Ricardo Johnson v. State
Appellate Case No. 2008-100491

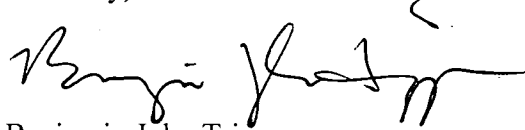
Dear Ms. Allen:

I received your letter of August 6, 2013 requesting an update on our efforts to secure the PCR transcript from May 22, 2008 in the case of Ricardo Johnson v. State, appellate case no. 2008-100491.

After I confirmed with Mary Williams at the Attorney General's office that the office does not have such a transcript, I believe that no PCR hearing occurred in this case on that date. A PCR hearing occurred on the prior day, and that transcript begins on page 352 of the appendix in this case. The hearing was to determine whether Petitioner was adequately advised of his right to appeal a previous PCR decision. As shown on page 356 of the appendix, in the course of the hearing, the PCR judge stated an intention to continue the hearing until the following day to take more testimony. However, as shown on page 373 of the appendix, the attorney for the State ultimately consented to Petitioner appealing the previous PCR decision. Thus, the parties appear to have consented off the record to the relief sought, thereby obviating the need for testimony on the following day.

Mary Williams at the Attorney General's office has the same understanding, as shown by the attached copy of her letter from August 12, 2013. If I can be of any further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin John Tripp". The signature is fluid and cursive, with a prominent initial "B" and a long, sweeping tail.

Benjamin John Tripp
Appellate Defender

cc: Megan Harrigan, Esquire
Mary S. Williams, Esquire



ALAN WILSON
ATTORNEY GENERAL

August 12, 2013

RECEIVED

The Honorable Claire V. Allen
Deputy Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

AUG 14 2013

COURT OF
APPELLATE JUSTICE

Re: Ricardo Johnson v. State of South Carolina
Appellate Case No. 2008-100491
Lower Court Case No. 2007-CP-38-0740

Dear Ms. Allen:

In response to the Court's inquiry regarding a transcript from May 22, 2008, in the above-referenced case I have reviewed the Attorney General's closed files. I do not find a transcript in those files. However, I found in the file the attached report by Lance Boozer, the Assistant Attorney General at the time of the hearing. Mr. Boozer's report of the May 21, 2008, hearing indicates that "after counsel's testimony, State consented to belated appeal;..." I have also reviewed the May 21, 2008, transcript (Appx. pp. 352-372) and the order granting belated review (Appx. pp. 373-376). Based on Mr. Boozer's report, the items included in the appendix, and my experience, I believe the most likely scenario would be that the State consented to the belated appeal following the hearing, thereby eliminating the necessity of additional witness testimony, and notified Applicant's counsel off record. In order to determine if this may have been the case, I have e-mailed Joshua Koger, Esquire, the Applicant's PCR attorney, to see if he has notes or recollection which would assist us in this matter.

Sincerely,

Mary S. Williams
Assistant Attorney General
SC Bar No. 76192



ALAN WILSON
ATTORNEY GENERAL

MSW/ck

Encl.

1. Attorney's Report of Trial or Hearing

cc: Benjamin John Tripp, Esquire

Attorney's
Report of Trial or Hearing

To be prepared by the attorney and submitted to the Attorney General and Chief Deputy each time an attorney appears in any court.

Attorney: Lance S. Boozer Section: PCR

Other AAG(s) appearing: N/A

Opposing counsel: Josh Koger

Case name: Ricardo Johnson

Day & date of appearance: May 21, 2008 Time: 11:45 am

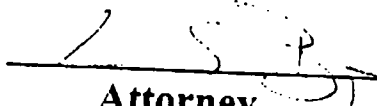
Court: Circuit County: Orangeburg

Judge: James C. Williams, Jr.

Type of trial or hearing: PCR
(eg. Jury trial, bench trial, motions(s), jury selection, guilty plea, sentencing, appellate argument, roster meeting, post-conviction relief hearing.)

Description of event, issues and result
Evidentiary hearing held on issue of belated PCR appeal; after counsel's testimony, State consented to belated appeal; no appealable issues

May 27, 2008
Date


Attorney

Distribution
Origin Attorney General
Copies - Chief Deputy
Legal file