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JUN 10 2024

S.C. SUPREME COURT

June 7, 2024

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**RE: *Carnie Norris v. Curtis Earley (formerly Williams)*; C/A No. 8:21-3353-MGL-BM
Carnie Norris v. State; Appellate Case No. 2024-000216 (S.C. Court of Appeals)
Carnie Norris v. State; Appellate Case No. 2019-000334 (S.C. Supreme Court)
Carnie Norris v. State; PCR No. 2012-CP-42-04651 (circuit court)**

Please be advised that the Honorable Mary Geiger Lewis, United States District Court Judge, has directed the Respondent in a federal habeas corpus action to serve her June 6, 2024 Memorandum Opinion and Order "on Norris's appellate PCR counsel and the state's trial court and appellate PCR counsel" by today's date. (Attachment 1 at p. 10). The State's counsel appearing in the PCR matter in the Court of Common Pleas are listed first followed by counsel appearing in the PCR appeal in the South Carolina Court of Appeals and the Supreme Court of South Carolina as listed on CTRACK. We are also providing a copy of this communication and Judge Lewis's Order to the Clerk of the Supreme Court of South Carolina, the Clerk of the South Carolina Court of Appeals, and Norris's original PCR counsel. A copy of this letter with attachments, along with a Certificate of Service, will be filed in the district court.

The PCR court granted relief, the State appealed, and the Court of Appeals has reversed that grant of relief. The district court indicates that Norris may have an argument on the timeliness of the State's Rule 59(e), SCRCP, motion to alter or amend the PCR order granting relief and the subsequent notice of appeal, which perhaps deprived the appellate court of jurisdiction under state law. (Attachment 1, Order at 5-7). The district court concludes, however, that "the timeliness questions presented by Norris here are a determination for the Supreme Court of South Carolina to make in the first instance." (Attachment 1, Order at 9).

We bring to Norris's PCR appellate counsel's attention the following language included in the order: "Norris's counsel should ensure these timeliness argument[s] are presented to the South Carolina Supreme Court immediately and without delay." (Attachment 1, Order at p. 9).

Further, as the direction stems from a question as to whether the State's motion to alter or amend was timely served, we bring to your attention Rule 59(e), SCRCP:

A motion to alter or amend the judgment shall be *served* not later than 10 days after receipt of written notice of the entry of the order.

(emphasis added).

We also bring to your attention that the State's motion to alter or amend was first served on applicant's counsel, Mr. Rucker, on September 12, 2017. (Attachment 2). The State asserted in the motion to alter or amend that it had received the filed signed order granting relief on September 8, 2017. (Attachment 2, Motion at p. 1). However, in the original motion and certificate of service, the case number incorrectly listed 2014 for the year instead of 2012. The Spartanburg County Clerk of Court thus returned the motion and certificate or about September 15, 2017, noting "wrong case #." (Attachment 3). The filing was resubmitted with the corrected case number on September 19, 2017. (Attachment 4).

Respectfully,

s/Julianna E. Battenfield
Assistant Attorney General

s/Melody J. Brown
Senior Assistant Deputy Attorney General

cc: The Honorable Patricia A. Howard (with attachments)
The Honorable Jenny Abbott Kitchings (with attachments)
John Brandt Rucker, Esq. (PCR hearing counsel) (with attachments)
Meyoshia Sharice Bethea, Esq. (via federal court electronic filing)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Carnie Norris,) C/A No. 8:21-cv-3353-MGL-BM
)
Petitioner,)
)
v.)
)
Curtis Earley, Warden,)
)
Respondent.)
_____)

CERTIFICATE OF SERVICE

I, **Julianna E. Battenfield**, do hereby certify that pursuant to the Memorandum Opinion and Order Denying Petitioner's Motion to Alter or Amend by the Honorable Mary G. Lewis, I have this date served the letter regarding the Memorandum Opinion and Order and also a copy of the Order itself in the foregoing action on the following parties by depositing one copy of the same in the U.S. Mail and addressed as follows:

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[continued]

The undersigned additionally notes a courtesy copy of the letter with a copy of the order was also provided to the South Carolina Appellate Courts and Mr. Norris' original PCR counsel addressed as follows:

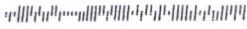
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The 7th day of June 2024.

s/Julianna E. Battenfield
Assistant Attorney General



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