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October 11, 2013

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OCT 11 2013

S.C. Supreme Court

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

Re: John Stanford Johnson v. The State

Dear Mr. Shearouse:

Please accept the pro se petition filed by the above named individual in response to the Johnson petition I recently filed with the Court in the case. Petitioner inadvertently mailed this to our office.

If you have further questions, do not hesitate to contact me.

Sincerely,

Wanda H. Carter
Deputy Chief Appellate Defender

WHC/smf

Enclosure

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO ORANGEBURG COUNTY
CARMEN T. MULLEN, CIRCUIT COURT JUDGE

2011-CP-38-1239

APPELLATE CASE No. # 2013-000082

JOHN STANFORD JOHNSON (PETITIONER)

Vs.

STATE OF SOUTH CAROLINA (RESPONDENT)

PRO SE PETITION

WANDA H. CARTER
DEPUTY CHIEF APPELLATE DEFENDER

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE
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* OTHER COUNSEL OF RECORD
MEGAN HARRIGAN, ESQ.
P.O. BOX 11549
COLUMBIA, S.C. 29211

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SC OFFICE OF
APPELLATE DEFENSE

ISSUE PRESENTED

WAS PETITIONER'S GUILTY PLEAS INVOLUNTARILY ENTERED (ESPECIALLY FOR DORCHESTER COUNTY) WHERE TRIAL COUNSEL (MS. MELISSA GAY) RENDERED THE ACTUAL (INEFFECTIVE ASSISTANCE OF COUNSEL)?

STATEMENT

PETITIONER WAS ARRESTED IN DORCHESTER COUNTY IN 2008; HE WAS INDICTED IN 2008 FOR "MALICIOUS INJURY TO REAL PROPERTY" EVIDENTLY HE WAS RELEASED ON BOND WHICH IS HOW HE RECEIVED ANOTHER ARREST IN 2010. HE WAS INDICTED FOR RECEIVING STOLEN GOODS (< GREATER THAN) \$2000. HE WAS SUBSEQUENTLY RELEASED FROM DORCHESTER COUNTY DETENTION CENTER. JOHNSON WAS LATER ARRESTED IN ORANGEBURG COUNTY IN 2010 WHEREIN HE WAS INDICTED FOR BURGLARY 1ST, AND (2) COUNTS OF BURGLARY 2ND. HE WAS UNABLE TO GET RELEASED FROM ORANGEBURG COUNTY DETENTION CENTER. HE WAS ABLE TO RETAIN MS. MELISSA GAY FOR THE DORCHESTER COUNTY INDICTMENT(S) PRIOR TO THE ORANGEBURG COUNTY ARREST(S). HE RETAINED CHARLIE (III) WILLIAMS AS COUNSEL FOR THE ORANGEBURG COUNTY INDICTMENT(S), AND ON 2-24-11 THERE WERE ARRANGEMENTS MADE WHEREBY PETITIONER PLEAD GUILTY TO ALL CHARGES FROM DORCHESTER/ORANGEBURG COUNTIES BEFORE JUDGE DICKSON. HE WAS SENTENCED TO TEN (10) YEARS, AND 30 DAYS ON THE REDUCED CHARGE OF RECEIVING STOLEN GOODS.

ARGUMENT

Petitioner Johnson's guilty plea(s) were entered involuntarily [especially for Dorchester County] where criminal defense counsel (Ms. Gay) rendered the actual ineffective assistance of counsel coercing petitioner to accept offer and failing to pursue criminal direct appeal. There is no indication in the record that a motion for change of venue was made in Dorchester County Court of General Sessions but the criminal trial judge in Orangeburg County stated, "You have the right to have the two Dorchester cases heard in Dorchester County." (App. p. 8, ll. 5-6) after he indicated, "if I accept your plea today and sentence you today you'd have ten days from today's date to file any notice of intent to appeal?" (App. p. 8, ll. 1-3). Petitioner testified at the application for post-conviction relief (APCR) evidentiary hearing, "At the time when I plead to the ten years, Ms. Gay wasn't even in the courtroom." (App. p. 64, ll. 21-22). Which is why petitioner claims the guilty plea(s) were coerced where he stated, "ain't nothing was negotiated with me." (App. p. 64, ll. 17-18). *Stalk v. State*, 652 S.E.2d 402 (S.C. App. 2007); *State v. Dingle*, 659 S.E.2d 101 (2008); *Pelzer v. State*, 672 S.E.2d 790 (S.C. App. 2009); *Kolle v. State*, 690 S.E.2d 73 (2010) and *Heiden v. State*, 713 S.E.2d 611 (2011).

Johnson related to the question "Did you ask her, I would like you to appeal these sentences?" (App. p. 66 l. 25 thru p. 67 l. 1). "A. Yes, ma'am." (App. p. 67 l. 2). Of course, Ms. Gay responded to the question "if a client ask you to file an appeal that you do file an appeal?" (App. p. 79 ll. 7-8). "No. I don't have any reason to believe I deviated from that." (App. p. 79 ll. 7-8). He stresses the "plea was never negotiated with" him. (App. 55 l. 23) It follow, he was denied the actual effective assistance of criminal defense counsel.

This _____ day of september 2013.

Respectfully submitted,

/s/ _____

FOR: [REDACTED] NAME: [REDACTED]

*(NOTE) - THIS IS A DUPLICATE OF WHAT I FORWARDED TO THE SUPREME COURT ON MY BEHALF
HOW IS IT TO YOU? DO YOU LIKE IT?