

# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

April 19, 2012

Stanley Linder #137337  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville, SC 29512

Re: Linder, Stanley v. The State

Dear Mr. Linder:

Your counsel has submitted a Petition for Writ of Certiorari indicating that this appeal is without merit and moves to be relieved as your counsel. Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). The records of this Court reflect that counsel served you with a copy of the Petition & Appendix on April 17, 2012.

You may, within forty-five (45) days of the date of this letter, file with this Court a pro se response to the Petition filed by your counsel. In this response, you may raise and argue any issues you believe the Court should consider in this appeal. Upon receipt of your pro se response or the expiration of forty-five (45) days, the matter will be submitted to the Court for its consideration.

If you do decide to file a pro se response, the response must be either typewritten or legibly hand printed, and must have at least a one inch margin on all sides. Further, you will need to only submit one copy of your response, and this copy **should not** be stapled or bound in any manner.

Very truly yours,

*Daniel E. Shearouse*  
DS

CLERK

DES/jj

cc: Appellate Defender Robert M. Pachak  
Assistant Attorney General Ashleigh Wilson

03/05/2012

TO: Daniel E. Shearouse  
P.O. Box 11330  
Columbia, SC 29211

From: Stanley Linder #137337  
EVANS CORR. INST.  
P.O. Box 2951202  
Bennettsville, SC 29512

RECEIVED

MAR 06 2012

S.C. SUPREME COURT

Re: NO communication from Appellate Attorney:

Dear Mr. Shearouse,

Please Pardon me one more time Sir and to let you know I have received your letter you've wrote me Jan. 26, 2012 Post Mark date, Sir, at this state of confinement I has took under consideration and your advise to be patient,

Mr. Shearouse I believe you do not know and can't ever immasin the type of living environment I live in here at EVANS facility here in this "Cherokee Unit." I know you don't have any control over these Issue Sir but IF I don't let you know whats not taking Place with my case you'll may never know, and won't be able to help me. This MAY I'll be fifty five (55) years old and are being seriously punished for crimes I didn't do I'm living in a Dorm that don't have air condition, (Cherokee Unit) when I open the window for some type of air all types of insects come in covering my bed.

Sorry to mention about the spiders! they're all over the place, I'd been bit'en more than twice; fire ants will put sores on your feet IF you don't wear socks.

1 of 2

I never seen these type of bugs in my life! Similar To Sandknats. Bearly gets recreation its worst than the County Jail, But I am being Punished for Crimes I didn't do. Evidently I could had been home with my elderly mother on an Appellate bond under certain conditions, I'd made The request and no one seems to care, you are the only Party who will respond if I write you and Mr. Dudek wrote me and stated " IF you have any questions to feel free to contact my office." Well I did three times and He never wrote back. Mr. Shearouse what is going on! I'd

Been denied Justice, treated wrongfully ever since I were incarcerated by blind Justice, I was told The Appellate Defense is rand by the Supreme Court, But please have someone to hear my case, finally, Colleton County tampered with my forced guilty plea transcript, so I know they'll do the same with this one, I believe this is the reason why it is taking — so long.

Thank you again Mr. Shearouse, I still don't believe what Mr. Harris Beach and his investigator quote/unquote to me, "This is Colleton County, They have there own Laws, They can do what they won't too!" But so far, it seem like they're right! Harris Beach, Colleton County Chief P.D.

Sincerely: *Stonley Linder*

C.C.

2 of 2

Please have someone let me know what is going on.

Stanley Linker #137337  
Evans Correctional Inst.  
6010 Hwy 91 West  
Bennettsville, SC, 29512

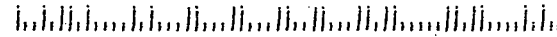


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Supreme Court of South Carolina  
Daniel E. Shearouse  
P. O. Box 11330  
Columbia, SC, 29211

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29211\$1330





# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332

Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1343  
Facsimile: (803) 734-1397

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

February 21, 2012

The Honorable Daniel E. Shearouse  
Clerk, S.C. Supreme Court  
Post Office Box 11330  
Columbia, SC 29211

RECEIVED

FEB 21 2012

S.C. Supreme Court

Dear Mr. Shearouse:

The following case falls under the 60 day rule for appeals, and the date we received the transcript is listed to the side.

Stanley Linder v. State of South Carolina

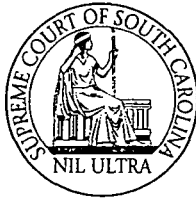
2/21/2012

I would appreciate you beginning our time limits from the above date, and if you need additional information, or have any questions please contact me.

Thank you for your assistance in this matter.

Sincerely,

Loriene French  
Legal Services Coordinator



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

January 20, 2012

Mr. Stanley Linder, #137337  
Evans Correctional Institution  
610 Highway 9 West  
Bennettsville, SC 29512

Re: Linder, Stanley v. The State

Dear Mr. Stanley:

This responds to your letter dated January 18, 2012. As Mr. Dudek has already advised you, Appellate Defense cannot proceed with the filing of the petition for a writ of certiorari and appendix until the transcript is delivered by the court reporter.

Unfortunately, due to the volume of the requests, it is not uncommon for court reporters to receive several extensions. As soon as Appellate Defense receives the transcript in this matter, it will advise this Court. Until then, I ask for your patience.

Very truly yours,



CLERK

cc: Assistant Attorney General Matthew J. Friedman  
Appellate Defense

RECEIVED

JAN 9 0 2012

Stanley Linder

137337

S.C. SUPREME COURT

EVANS Corrections

{ Supreme Court of S.C. }  
{ Mr. Daniel E. Shearouse }

610 HWY 9, W.

Bennettsville, SC 29512

Date: 01-18-2012

Dear Mr. Shearouse,

I apologize for this interruption of your good work in office, to bring to your attention A letter that I'd wrote to Mr. Robert M. Dudek, and a copy of a letter he had wrote me back in November.

Mr. Shearouse I'm affraid that maybe "The Supreme Court of S.C." may have to take stand in my case or take over this case because maybe "The Supreme - Court of S.C." is the only high court in South Carolina who is not propitious to Colleton County's injustice and negligence. To this day I haven't heard from no Appellate Defense Attorney.

Thank you sir for your time as I continue to seek Justice in My Case, Please find enclosed copies,

And Happy New Year.

Sincerely: Stanley Linder

Mr. Shearouse I would like to think The Appellate Defense would be honestly justified in this case, But remembering all the blind Justice from The Magistrate Courts and Lower Courts, I won't hesitate to contact you.

S.C.C.I.D. P.O. Box 11589  
Columbia, S.C. 29211  
Mr. Robert M. Dudek

Stanley Linder #137337  
Evans Correctional Inst.  
610 Hwy. 9 W.  
Bennettsville, SC  
29512

Date: 01-16-012

Dear Mr. Dudek,

I am responding to your letter I'd received from you on November 18, 2011. You've explain to me that the "Reporter-Court reporter" is the holdup of you're being unable to proceed in which you have not received the transcript from "The court reporter". You cannot proceed the case,

And that you are waiting on the transcript, I do need to remind you sir that it has been nine (9) months since I'd had the PCR Evidentiary hearing! Should there more be lower court "default" is why this important material is being refrained? It is believe that this office should had received the transcript by now.

Furthermore, you said an attorney has been assigned to my my case, however, I haven't heard from him or her to this day, certainly I would hope he or she would contact client soon as possible.

Thank you sir: sincerely: Stanley Linder  
C.C.

( Please disregard this letter if I am <sup>contacted</sup> discovered by, at your receiving of this letter )



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

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

November 14, 2011

Stanley Linder, #137337  
Evans Correctional Institution  
610 Hwy. 9 West  
Bennettsville, SC 29512

Re: Your letter

Dear Mr. Linder:

Thank you for your letter postmarked October 31, 2011. Our office cannot review your case until, first, we receive your transcript from the court reporter, and, second, your case has been assigned an attorney. After you receive a letter from your new attorney you will be able to discuss the matter of an appeal bond with him or her.

Should you have any further questions, please do not hesitate to contact our office.

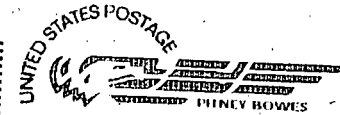
Sincerely,

Robert M. Dudek  
Chief Appellate Defender

RMD:cms

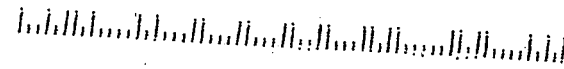
➔

Stanley Linder #137337  
EVANS Correctional Inst.  
W 10 Hwy 9 West  
Bennettsville, SC, 29512



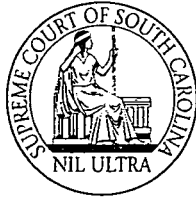
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Mr. Daniel E. Shearous  
Supreme Court of South Carolina  
Clerk of Court  
Post Office BOX 11330  
Columbia, S.C. 29211



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# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

October 11, 2011

Mr. Stanley Linder #137337  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville, SC 29512

Re: Linder, Stanley v. The State

Dear Mr. Stanley:

This responds to your *pro se* request for bail. Since you are represented by the Division of Appellate Defense in this matter, no action will be taken on this *pro se* filing. Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010); Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

Very truly yours,



CLERK

cc: Appellate Defense  
Assistant Attorney General Matthew J. Friedman

The Supreme Court of South Carolina :  
Daniel E. Shearouse, Clerk of Court :  
Post office Box 11330  
Columbia, S.C. 29211

Stanley Linder 137337  
EVANS Correctional Inst.  
610 Hwy. 91 west  
Bennettsville, SC, 29512

**RECEIVED** Date: 10-05-2011

OCT 11 2011

Re: Request For Bail

**S.C. SUPREME COURT**

Dear Clerk,

Please Pardon me one more time to interrupt you and your find work as containing to "The Appellate Court RULE - 240 and 243, of the bail pending Appellate Review:"

I Promise to make this prose letter as briefly as possible by simply Requesting to The Supreme Court for a reasonable bail states if so a "Personal Recondance bond!" Evidently Clerk, you did acknowledge how mean and dishonest the Lower Courts mistreated Appellate, and how hard you had work to get the opposing agencies to acted in my case. You almost fined them because of nealgience, Colleton County don't bother with drug dealers and traffickers, but the innocent working citizens.

however, IF I am given bail, I am no threat to my community or society. Drug dealers who plot to have me put away may believe I am a cop informant, Mr. Shearouse, I'll tell you. (The drug dealers are working for the Colleton County deputys,) in Colleton county, "Sled or U.S. Marshalls" will have to bust these above the law citizens. IF possible I can help all face Justice!

When I was Arrested they found a "U.S. Marshall" phone number in my wallet. Thats why I am where I am now, with NO evidence on me. Someone in the Justice Department had need to know about this. MY Feoncc, former feoncc and her family are husue dealers. But Thank God it's over now, They will get caught one day

---

Mr. Clerk You Probably don't care to know about the way Colleton County are handling there bussness down there, but as A hight Profile Person Such as youz made me feel better to let you know.

But all I want to do is get out; get my CDL drivers license back, And when ever I am free to go "Over The Road" I will.

Thank you somuch Clerk for everything you'd done in helping me seek Justice,

You will be honord by alot of people. I just want to do what Jesus would do.

The Right Thing:

Thank you so much and The Supreme Court of South Carolina.  
God bless you and yours

Respectfully Submitted

Stanley D Linders

Stanley Linder 137337  
Cherokee A 255  
Co 10 Hwy 9 west  
Bennettsville, SC, 29512



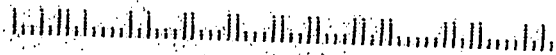
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The Supreme Court of S.C.  
Daniel E. Shearouse  
Clerk of Court  
P.O. Box 11330  
Columbia, S.C. 29211

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The Supreme Court of South Carolina:  
Daniel E. Shearouse  
Clerk of Court:  
P.O. Box 11330  
Columbia, S.C. 29211

Stanley Linder 137337  
EVANS Correctional Inst,  
Bennettsville, S.C. 29512

Date: 09/08/2011

Re: Judge: Circuit Court David Craig Brown

Dear Mr. and Honorable: Shearouse,

I Thank you Sir so much for what you do and done in helping me seek some what justice from these very Mean and dis obedient Courts in South Carolina.

I've received your letter on the seventh (7) of September 2011. It's A Shame and just don't make since that The Supreme Court has to Push These Lower Court and Surprisingly also "The Appellate Defense" to move in my appeal. Hadden been me contacting you from the begining. I would still be awaiting to return for The PCR Evidentiary Hearings.

Please be advised I'd seek "Justice" by The Disciplinary Counsel and The Commission on Judicial Conduct, to file a Complaint about The deficient Judge: "David Craig Brown" When they realized it was Judge D.C. Brown, Mr. Turner - of Assist. Disciplinary Counsel Dismissed my Complaint. So However, Mr. Shearouse,

I am tired of dealing with unjust Professionals, I'm getting nowhere, But you same to make me believe I will seek "Justice" in this Corrupted Case, I do believe you a man of Loyalty and honor,

Please find enclosed letter against Mr. Judge: David C. Brown To The United States' Executive Department For "Justice".

If you Mr. Shearouse and The South Carolina Supreme Court Will assure me that you will see that I will find Justice in This Case, I will wait because of you,

Thank you Mr. Shearouse, Godbless you

( Please contact me at your earliest convenience IF you believe I should wait. )

State of South Carolina  
County of Colleton  
Stanley Linder, Petitioner:  
V.  
State of South Carolina  
Respondent:

In The Court of Common Pleas:

Case #, Number: 2009-CP-15-830:

Our Case Number: C 286:

Notice to Report misconduct

IN OFFICE: IN COURT:

Statement To Case / Conclusion:

Greetings, Judge David Craig Brown,

Comes now The above Petitioner to bring clarity to your decision of the Post Conviction Relief evidentiary Hearing on April 21, 2011.

The Record would show that during session it was found that the Petitioner's Previous Attorney, "Mr. Harris Beach" defendant, did in fact committed perjury upon The Court while under oath!

Which it self evidently Proves for the Court his ineffectiveness.

Should reflect that your Honor did in fact warned Mr. Beach that he is under "Oath". However, This court unjustly Rule

In favor of Mr. Beach, or should I say the state, and

Continue to confined Petitioner to an evident miscarriage of Justice. The Pititioner tried to seek "Justice" through

[The Disciplinary Counsel] and [The Commission on Judicial Conduct] But they too refused to come against Mr. Beach or should I say The State.

Accordingly The Pititioner Refused to except any more "INJUSTICE" From any other court Pretaining to South Carolina.

I will never forget Mr. Beach and his investigator said, (Quote) This is Colleton County, They has their own <sup>Laws</sup> ~~rules~~, They can do what they want too," (unquote), so far they are Right,

As of Now, Puts this court on notice that IF, This court does not meet The Relief Pititioner sought in his appeal within (5) Five days of this Notice He will be forced to disclosed

**RECEIVED**

SEP 10 2011

S.C. SUPREME COURT

Your conduct of Court to "The Executive Department  
of The United States of America."

Article I. &

Please see Article II, of The United States  
Constitution, Executed on Stanley Linder 2011

X \_\_\_\_\_

Signature :

Sworn and subscribed before me

This \_\_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_

Notary Public

My Commission Expires \_\_\_\_\_

C.C.

**RECEIVED**

SEP 10 2011

**D.C. SUPREME COURT**

Stanley Linder 137337  
EVANS Correctional INST.  
610 Hwy. West  
Bennettsville, S.C. 29512

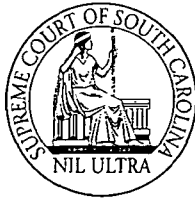


Supreme Court of South Carolina  
Daniel E. Shearouse  
Clerk of Court  
P.O. Box 11330  
Columbia, S.C. 29211

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# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

September 1, 2011

Division of Appellate Defense  
South Carolina Commission  
on Indigent Defense  
P O Box 11589  
Columbia, SC 29211

Re: Linder, Stanley v. The State

Dear Counsel:

Enclosed is a *pro se* letter received from Mr. Linder. Since your office now represents Mr. Linder, no action will be taken on this *pro se* letter. Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010); Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

Very truly yours,

CLERK

Enclosure

cc: Assistant Attorney General Matthew J. Friedman  
Mr. Stanley Linder, #137337

RECEIVED

AUG 17 2011

Stanley Linder 137337  
 Evans Correctional Inst.  
 P. O. Box 2951202  
 Bennettsville, S.C. 29512

## S.C. SUPREME COURT

Date: 08/21/2011

The Supreme Court of South Carolina:  
 Daniel E. Shearouse, Clerk of Court:  
 P.O. Box 11330  
 Columbia, S.C. 29211

PCR Case No: 2009-CP-15-830  
 Our Case No: C 286

Dear Mr. Shearouse,

Thank you for allowing me to be able to adhere and follow up a case that is unconstitutional motivated and to the fact that appellate is wrongfully incarcerated under South Carolina Code of Law Ann. § 17-25-10, I would think that you would not blame me for researching this case to find that I am literally "kidnapped" by Colleton County South Carolina for ransoming the federal government. Please notice in the PCR Evidentiary Hearing I'd proved with out a doubt their are NO rules, motion in this entire case. But forced to incriminate my self by forcing a guilty plea is unconstitutional by the Federal and state constitution; to where appellate was denied sense of justice or due process, and equal protection of law under the fifth, sixth, and fourteenth amendme, (sic) to the United States constitution. Following the petitioner being unlawful in prisonment under Ann. § 17-25-10 Code of Law of S.C.

Following the coercion and manipulated guilty Pleads under indictments and charges, foreseeable numbers 85-GS-46-1325, 85-GS-46-1326 and 85-GS-1327 of documents.

Subject matter jurisdiction, however, should had been raised at anytime. Weinhauser V. State, 334 S.C. 327, 513 S.E. 2d 846 (1999).





# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

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

August 30, 2011

RECEIVED

AUG 30 2011

S.C. Supreme Court

Ms. Vivian Cross  
Circuit Court Reporter  
PO Box 492  
Goose Creek, SC 29445

Dear Ms. Cross:

Please provide us with the following transcript:

Stanley Linder v. State of South Carolina      Case #:      09-CP-15-00830

County: Colleton      Date of Trial: April 21, 2011

Presiding Judge: D. Craig Brown

To ensure prompt payment, please sign and complete the enclosed CID FORM 3500 and include the original criminal case number (Indictment number) where the space is provided.

Please number the lines on the paper from 1-25, and include any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments.

If you are aware of any co-defendants or if the Attorney General's Office has already requested a transcript, please let us know.

Sincerely,

Sharon A. Graham  
Administrative Coordinator

cc: S.C. Supreme Court  
Attorney General's Office

PCR

J.D. BRYAN  
ATTORNEY & COUNSELOR AT LAW

STREET ADDRESS:  
209 EAST WASHINGTON STREET  
WALTERBORO, SOUTH CAROLINA

TELEPHONE:  
843-549-9455

MAILING ADDRESS:  
POST OFFICE BOX 1111  
WALTERBORO, S.C. 29488

Tue, Aug 2, 2011

Daniel E. Shearouse  
Clerk of the South Carolina Supreme Court  
P.O. Box 11330  
Columbia, S.C. 29211

Re: Stanley Linder, #137337, v. State  
Case No. 2009-CP-15-830.

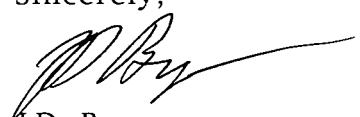
Our Case No: C 286.

Dear Sir:

Please find enclosed a Notice of Appeal in the above case. Also enclosed are the following:

1. Proof of Service of the Notice of Appeal on the respondent, the State of South Carolina.
2. Copy of the order which is to be challenged on appeal.
3. An Order appointing me to represent the appellant in the lower court. The Office of Indigent Defense will be taking over this case.
4. A copy of the letter to the Office of Indigent Defense, setting forth the date of the hearing (there was only one).

Sincerely,

  
J.D. Bryan

cc: client  
Attorney General  
Office of Appellate Defense  
file

JDB/ns  
enclosures

RECEIVED

AUG 05 2011

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM COLLETON COUNTY  
Court of Common Pleas.

Honorable D. Craig Brown, Circuit Judge

CASE NUMBER 2009-CP-15-830.

Stanley Linder, #137337, .....Appellant,

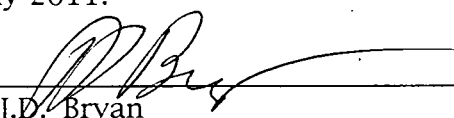
v.

The State of South Carolina,.....Respondent.

NOTICE OF APPEAL (PCR).

Stanley Linder hereby appeals to the Supreme Court for the State of South Carolina from the Order of the Honorable D. Craig Brown, dated 9 May 2011, denying Post-Conviction Relief. Appellant received written notice of entry of the Amended order on 25 July 2011.

Tue, Aug 2, 2011.

  
\_\_\_\_\_  
J.D. Bryan  
P.O. Box 1111  
209 East Washington Street.  
Walterboro, S.C. 29488  
(843) 549-9455

Other counsel of record are:

Matthew J. Friedman,  
Assistant Attorney General  
Rembert C. Dennis Building  
PO Box 11549  
Columbia, SC 29211  
Attorney for the Respondent.

RECEIVED

AUG 05 2011

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM COLLETON COUNTY  
Court of Common Pleas.

Honorable D. Craig Brown, Circuit Judge

CASE NUMBER 2009-CP-15-830.

Stanley Linder, #137337, .....Appellant,

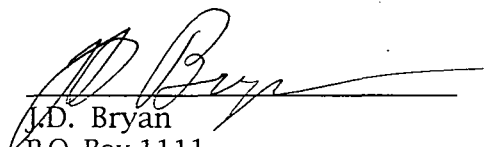
v.

The State of South Carolina,.....Respondent.

Proof of Service.

I certify that I have served the Notice of Appeal on the above-named Respondent, by depositing a copy thereof in the United States Mail, postage prepaid, to its attorney of record, Matthew J. Friedman, Assistant Attorney General, Rembert C. Dennis Building, PO Box 11549, Columbia, SC 29211, on Tue, Aug 2, 2011,.

Tue, Aug 2, 2011.

  
J.D. Bryan  
P.O. Box 1111  
Walterboro, S.C. 29488  
(843) 549-9455  
Counsel for the Appellant.

STATE OF SOUTH CAROLINA )

COUNTY OF COLLETON )

Stanley Linder, #137337, )

Applicant, )

v. )

State of South Carolina, )

Respondent. )

IN THE COURT OF COMMON PLEAS

2009-CP-15-830

**ORDER OF DISMISSAL**

PATRICIA C. GRANT  
COLLETON COUNTY  
COMMON PLEAS  
21 MAY 13 AM 10:02

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed September 17, 2009. The Respondent made its Return on February 19, 2010. An evidentiary hearing into the matter was convened on April 21, 2011 at the Colleton County Courthouse. The Applicant was present at the hearing and was represented by J.D. Bryan, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

Applicant testified on his own behalf at the PCR hearing. Applicant's plea counsel, Harris Beach, Esquire, also testified at the hearing. This Court had before it the records of the Colleton County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, the PCR application, Respondent's Return thereto, and a letter from counsel to Applicant.

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Colleton County Clerk of Court. The Applicant was indicted at the June 2008 term of the Colleton County Grand Jury for two counts of incest (2008-GS-15-546, 547), two counts of criminal sexual conduct (CSC) - 3<sup>rd</sup> degree (2008-GS-15-323,

324), and two counts of CSC with a minor - 2<sup>nd</sup> degree (2008-C:S-15-298, 299). Harris Beach, Esquire, represented the Applicant. On April 1, 2009, the Applicant pled guilty as indicted. The Honorable Edgar W. Dickson sentenced him to confinement for eleven (11) years for each count of CSC with a minor - 2<sup>nd</sup> degree and ten (10) years for each other offense. The sentences were to run concurrently. The Applicant did not appeal his conviction or sentence.

**ALLEGATIONS**

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel in that counsel
  - a. Failed to move to have the indictments quashed.
  - b. Failed to file discovery motion.
  - c. Only met with Applicant four (4) times in twelve (12) months.

At the hearing, Applicant alleged ineffective assistance of counsel for failure to quash the indictments. Applicant also alleged that counsel and the investigator told him that he would get thirty (30) years to life if he went to trial.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Applicant testified that he only met with counsel four times during the 11 months he was in jail. He asserted that counsel failed to file a discovery motion. He contended that he wanted

to go to trial, but counsel and his investigator told him he would get thirty (30) years to life at trial. Applicant testified that counsel failed to move to quash the indictments. He asserted that the witnesses were not there on the day of trial, but counsel told him that the victims were there.

Plea counsel testified that he met with Applicant about six times prior to the plea hearing. He testified that there were no problems with the indictments. Counsel testified that he filed for discovery and reviewed the materials with Applicant. He testified that he did not tell Applicant that he would get thirty (30) years to life if he went to trial. Counsel asserted that it was Applicant's decision to plead guilty after counsel informed him of the consequences of the plea and the sentencing ranges for the offenses.

#### Ineffective Assistance of Counsel

The Applicant alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The applicant must overcome this presumption in order to receive relief. Cherry, 386 S.E.2d 624.

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel.

First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Id. at 625 (citing Strickland, 466 U.S. 668). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 625. When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe, 345 S.C. at 20, 546 S.E.2d at 419 (citations omitted).

This Court finds that counsel's testimony was credible. This Court finds that counsel is a trial practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to

prove, Applicant's constitutional rights, Applicant's version of the facts, and possible defenses or lack thereof.

The record reflects that Applicant understood the nature of the charges and the possible punishments. At the plea hearing, he indicated that he was satisfied with counsel and that no one threatened him or promised him anything to get him to plead guilty. He told the court that he was pleading guilty of his own free will. He also agreed with the State's version of the facts and apologized to the Court. This Court finds that Applicant's plea was entered voluntarily and intelligently with a full understanding of the consequences. This Court finds that it was Applicant's decision to plead guilty.

Regarding Applicant's claims of ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with Applicant, reviewed the discovery with him, conducted a proper investigation, and was thoroughly competent in his representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds that counsel was not ineffective for failing to move to quash the indictments. Counsel testified that there were no problems with the indictments. This Court finds that Applicant fully understood the nature of the charges against him. "[A]n indictment passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily

understood." State v. Tumbleston, 376 S.C. 90, 98, 654 S.E.2d 649, 853 (S.C. Ct. App. 2007) (citations omitted). Here, the indictments outline the nature of the offenses in plain language. The Applicant was on notice of the charges against him. Counsel and Applicant sufficiently discussed the elements of each charge, and counsel believed that Applicant understood the nature of the offenses.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in his representation of the Applicant. The Applicant failed to show that counsel's performance was deficient. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by plea counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

#### All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, including unlawful sentence and prosecutorial misconduct, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

#### CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and

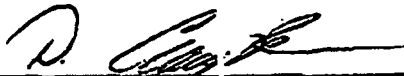
sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

**IT IS THEREFORE ORDERED:**

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 9<sup>th</sup> day of July, 2011.

  
 \_\_\_\_\_  
 D. Craig Brown  
 Presiding Judge  
 14<sup>th</sup> Judicial Circuit

Florence, South Carolina.

STATE OF SOUTH CAROLINA )  
COUNTY OF COLLETON ) **IN THE COURT OF (Select one.)**  
)  COMMON PLEAS  FAMILY COURT  
) 14TH JUDICIAL CIRCUIT  
STANLEY LINDER #137337, ) **CASE NO.: 2009-CP-15-830**  
**Plaintiff(s),** ) **APPOINTMENT OF COUNSEL OR GAL**  
**-vs-** ) **(Select one.)**  
STATE OF SOUTH CAROLINA, )  ORDER  
**Defendant(s).** )  AMENDED ORDER

**TYPE OF CASE/PROCEEDING: (Check one.)**

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Post-Conviction Relief (PCR)/habeas case | <input type="checkbox"/> Adoption                  | <input type="checkbox"/> Juvenile          |
| <input type="checkbox"/> SVP case  | <input type="checkbox"/> Custody and/or Visitation | <input type="checkbox"/> Abuse and Neglect |
| <input type="checkbox"/> Minor Name Change                                   | <input type="checkbox"/> Other:                    |  |

It appears that STANLEY LINDER, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: *(Select only one.)*


- counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: \_\_\_\_\_
- counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- court appointed counsel has obtained \_\_\_\_\_, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other:

Therefore, it is ordered that JOHN D BRYAN, P O BOX 1111, WALTERBORO SC 29488,  
 counsel  lead counsel *(if capital PCR case)*  guardian ad litem  
hereby is appointed as *(Select one.)*  
for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

*(If Death Penalty PCR Case)* It is further ordered that \_\_\_\_\_, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 13TH DAY OF AUGUST, 2010.

  
 Circuit Judge  Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at [www.sccid.sc.gov](http://www.sccid.sc.gov), and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

J.D. BRYAN  
ATTORNEY & COUNSELOR AT LAW

STREET ADDRESS:  
209 EAST WASHINGTON STREET  
WALTERBORO, SOUTH CAROLINA

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WALTERBORO, S.C. 29488

Tue, Aug 2, 2011

Joe Savitz  
Chief Appellate Attorney/ Division Director  
S.C. Office of Appellate Defense  
P.O. Box 11433  
Columbia, S.C. 29211-1433

Re: Stanley Linder, #137337, v. State  
Case No. 2009-CP-15-830.

Our Case No: C 272.

Dear Sir:

This is to notify you that I have filed a notice of appeal in the above case, held in Walterboro before the Honorable D. Craig Brown. I was appointed by the Court to represent Mr. Linder. Please feel free to contact me if you need any further assistance. Pursuant to the Supreme Court Rule, the hearings on the matter were as follows:

Hearing One:

1. Date of Hearing: 21 April 2011
2. Place of Hearing: Colleton County Courthouse
3. Presiding Judge: D. Craig Brown
4. Name of Court Reporter: Vivian H. Cross
5. Brief description of the nature of trial or hearing: Post Conviction Relief

Hearing Two:

There were no other hearings.

Please find enclosed a copy of (1) the letter to Daniel E. Shearhouse, Clerk, S.C. Supreme Court, and (2) the notice of appeal and proof of service, as well as (3) a copy of the Order appointing me to represent the Appellant, (4) a copy of the cover letter to the Attorney General, and (5) copies of the Order.

With highest personal regards, I remain

Sincerely,



J.D. Bryan

cc: client  
clerk, S.C. Supreme Court  
file

enclosures

J.D. BRYAN  
ATTORNEY & COUNSELLOR AT LAW  
P.O. Box 1111  
WALTERBOFO, S.C. 29488



*Stanley  
Lender*

The Hon. Daniel E. Shearouse  
Clerk of the South Carolina  
Supreme Court  
P.O. Box 11330  
Columbia, S.C. 29211

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