

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County
Robin B. Stillwell, Circuit Court Judge

CEDRIC EMMANUEL PERKINS,

PETITIONER,

v.

STATE OF SOUTH CAROLINA

RESPONDENT.

PRO SE PETITION FOR WRIT OF CERTIORARI

CEDRIC EMMANUEL PERKINS
Tyger River Correctional Institution
200 Prison Road
Euree, S.C. 29335

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ISSUES PRESENTED

1. Did the PCR court err in finding that Drug Court Counsel provided effective assistance of counsel where counsel failed to demonstrate to the Drug Court the United States Constitutional violation and State Constitutional violation when the Drug Court breached the Waivers and Agreement when the 13th Circuit Solicitors office used the Pharmchem Sweat Patch which was not authorized by the Waivers and Agreement to violate Petitioner from the Drug Court Program?
2. Did the PCR court err in finding that Drug Court Counsel provided effective assistance of counsel where counsel failed to object to the Drug Court for altering Petitioner's suspended sentence to a non-suspended sentence?
3. Did the PCR court err in finding that Drug Court Counsel provided effective assistance of counsel where counsel failed to demonstrate, investigate and show to the Drug Court the computation of time Petitioner has served according to South Carolina statute?

ISSUES PRESENTED

4. Did the PCR court err in finding that Drug Court Counsel provided effective assistance of counsel where counsel failed to argue the due process violation when the 13th Circuit Solicitor's Office violated Petitioner's due process rights; when the 13th Circuit Solicitor's Office breached the Waivers and Agreement they negotiated with Petitioner in resolving his criminal offense by Drug Court enrollment?
5. Did the PCR court err in finding that Appellate Counsel provided effective assistance of counsel where counsel failed to properly raise and phrase the abuse of discretion issue on appeal when the Drug Court allowed the 13th Circuit Solicitor's Office to breach the Waivers and Agreement when they used the Pharmchem Sweat Patch to violate Petitioner from the Drug Court Program when the Pharmchem Sweat Patch was not authorized by the Waivers and Agreement as a drug testing device?
6. Did the 13th Circuit Solicitor's Office violate Petitioner's due process rights when they renege on Petitioner's suspended sentence and changed it to a non-suspended sentence in violation of South Carolina Statute 44-53-375 and without the prerequisites of the United States Constitution to amend?

ISSUES PRESENTED

7. Did the PCR Counsel violate Petitioner's due process rights when he refused to file a Rule 59(e) Motion pursuant to Rule 59, SCRPC that Petitioner requested?

STATEMENT

On April 2, 2002, Petitioner Cedric Emmanuel Perkins was indicted by the Greenville County Grand Jury for possession with intent to distribute crack cocaine (PWID).

On September 13, 2002, Petitioner plead guilty to 10 yrs. suspended to Drug Court before the Honorable Charles B. Simmons Jr.

On April 26, 2004, Petitioner along with two codefendants appeared before Judge Simmons for a Drug Court Termination Hearing.

On June 11, 2004, Petitioner was terminated from the Drug Court Program and sentence to 10 yrs.

On August 23, 2007, Petitioner's timely Notice of Appeal was perfected by Kenneth Gibson.

On September 18, 2008, Petitioner filed a Petition for Writ of Habeas Corpus in the United States District Court for the District of South Carolina.

On May 13, 2009, Petitioner filed his PCR Application requesting relief.

On February 23, 2011, an evidentiary hearing was held at

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the Greenville County Courthouse before the Honorable Robin B. Stilwell.

On March 24, 2011, Judge Stilwell denied Petitioner's PCR relief.

ARGUMENT

1. The PCR court erred in finding that Drug Court Counsel provided effective assistance of counsel where counsel failed to demonstrate to the Drug Court the violation of the United States Constitution art. I, § 10 and South Carolina State Constitution art. 1§4 when the Waivers and Agreement, signed by the 13th circuit solicitor's office and Petitioner, precludes the Pharmchem Sweat Patch as a drug testing device, impairing the obligations of the Waivers and Agreement, however minute or immaterial, to terminate Petitioner from the Drug Court Program. App. 1244-1245, In-7; *Player v. Chandler*, 299 S.C. 101, 382 S.E.2d 891 (1987); *Ellis v. Taylor*, 316 S.C. 245, 247, 499 S.E.2d 487, 488 (1994).
2. The PCR court erred in finding that Drug Court Counsel provided effective assistance of counsel where counsel failed to object to the altering of Petitioner's suspended sentence to a non-suspended sentence violating

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U.S. EA Const. Amend. 6. *Hollman v. State*, 331 S.C. 441, 674 S.E. 2d 171 (S.C. 2009). South Carolina statute §44-53-375(B)(1) is a parolable and suspendable sentence. When Petitioner plead into Drug Court he was sentenced to 10yrs. suspended to Drug Court. Petitioner's sentencing sheet has §44-53-375(B)(1) on it which is the only suspendable sentence. App. 300; *State v. Bennett*, 375 S.C. 165, 650 S.E. 2d 490 (S.C. App. 2007); *State v. DeAngelis*, 257 S.C. 44, 183 S.E. 2d 906 (1991). In *State v. DeAngelis*, 257 S.C. 44, 183 S.E. 2d 906 (1991) the court held "ambiguity or doubts relative to a sentence should be resolved in favor of the accused." *Id.* at 50, 183 S.E. 2d at 909.

3. The PCR court erred in finding that Drug Court Counsel provided effective assistance of counsel where Counsel failed to demonstrate, investigate, show and present to the Drug Court the computation of time Petitioner has served according to §24-13-40 and Drug Court sentencing sheets which states that Petitioner served 158 days. App. 182, ln. 2-11, 983, 987-998; *Lounds v. State*, 380 S.C. 454, 650 S.E. 2d 646 (S.C. 2008). Accordingly, §24-13-40 states "the computation of time . . . shall be reckoned from the date of the imposition of the sentence". Drug Court Counsel failed to show the suspended portion of Petitioner's

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sentence is part of Petitioner's "term of imprisonment".
Thompson v. S.C. Dept. of Public Safety, 335 S.C. 52, 515
S.E. 2d 761 (S.C. 1999); Moore v. Patterson, 203 S.C. 90, 26 S.E.
2d 319 (1943); Mims v. State, 273 S.C. 740, 259 S.E. 2d 602
(1979); Sanders v. MacDougall, 244 S.C. 160, 135 S.E. 2d 336 (1964).
In Picklesimer v. State, 254 S.C. 596, 176 S.E. 2d 536 (1970)
the court held "the sentence is the total of the part
served at the prison and at home".

4. The PER court erred in finding that Drug Court counsel provided effective assistance of counsel where counsel failed to argue the due process violation when the 13th Circuit Solicitor's office violated Petitioner's due process rights when they breached the Waivers and Agreement they negotiated with Petitioner in resolving his criminal offense by Drug Court enrollment. The 13th Circuit Solicitor's Office expressly excluded "Pharmchem Sweat Patch" as a drug testing device authorized by the Waivers and Agreement that Petitioner and the 13th Circuit Solicitor's office executed, yet the 13th Circuit Solicitor's office used the "Pharmchem Sweat Patch" as a drug testing device to terminate Petitioner's Drug Court enrollment in violation of the Waivers and Agreement. App. 1244-1245; Santobello v. New York, 92 S.Ct. 495 (1971); U.S.C.A. Const. Amend.

ARGUMENT

5. The PER court erred in finding that Appellate counsel provided effective assistance of counsel where counsel failed to properly raise and phrase the abuse of discretion issue on appeal when the Drug Court allowed the 13th Circuit Solicitors Office to breach the Waivers and Agreement when they used the Pharmchem Sweat Patch to terminate Petitioner from the Drug Court Program as the Pharmchem Sweat Patch was not listed as a drug testing device authorized by the Waivers and Agreement violating Petitioner's Constitutional right that prohibits impairing the obligation of contracts, however, minute or immaterial. App 1244-1245, In. 7; *Martin v. Saye*, 145 S.E. 186 (1928); U.S.C.A. Const. art. 1, § 10; S.C. Const. art. 1, § 4. *State v. Allen*, 370 S.C. 88, 634 S.E. 2d 653 (S.C. 2006) (finding an abuse of discretion occurs when the trial court's ruling is based upon an error of law). *Southerland v. State*, 337 S.C. 610, 524 S.E. 2d 833 (S.C. 1999).
6. The 13th Circuit Solicitors Office violated Petitioner's due process rights when the 13th circuit solicitors office reneged on Petitioner's suspended sentence, exposing Petitioner to a greater potential sentence, and changed it to a non-suspended sentence without the prerequisites of the 6th amend. of the United States Constitution. South Carolina Statute § 44-53-375 (B)(1) is a paroleable

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and suspendable sentence while § 44-53-375(b)(2) is a non-parolable and non-suspendable sentence. The 13th Circuit Solicitor's Office reneged on his sentencing agreement made in connection with a plea bargain. App. 777, In. 20-22, 800; Santobello v. New York, 92 S.Ct. 495 (1971).

7. The PCR Counsel was erred when he violated Petitioner's due process rights at the time he refused to file a Rule 59(e) Motion pursuant to Rule 59, SCRCP, that Petitioner requested so that all of Petitioner's issues would be ruled upon with fact findings and conclusion of law as well as reserved for appeal. SCRCP Rule 59(e); State v. Marlar, 653 S.E.2d 266; See Exhibits 1, 2, 3.

DEFICIENT PERFORMANCE

1. Drug Court counsel's performance was deficient, as it fell below an objective standard of reasonableness. Drug Court counsel failed to demonstrate to the Drug Court the violation of U.S. CA. const. art. 1, § 10 and S.C. const. art. 1, § 4 by the use of the Pharmchem Sweet Patch which was not authorized by the Waivers and Agreement signed by the 13th Circuit Solicitor's office and Petitioner which impaired

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obligations of the Waivers and Agreement, however minute or immaterial. Drug Court Counsel's deficient performance fails to acknowledge that the U.S.C.A. const. art. 1, §10 and S.C. const. art. 1, §4 prohibits impairing the obligations of Contracts. App. 1244-1245, In. 7; *Player v. Chandler*, 299 S.C. 101, 382 S.E. 2d 891 (1989); *Ellis v. Taylor*, 316 S.C. 245, 247, 499 S.E. 2d 487, 488 (1994).

2. Drug Court Counsel's performance was deficient, as it fell below an objective standard of reasonableness. Drug Court Counsel failed to object to the altering of Petitioner's suspended sentence to a non-suspended sentence at Drug Court Termination Hearing in violation of U.S.C.A. const. 6 amend. *Hollman v. State*, 381 S.C. 491, 674 S.E. 2d 171 (S.C. 2009). Drug Court Counsel's deficient performance allowed Drug Court to alter Petitioner's suspended sentence and failed to prove that §44-53-375(B)(1) is the only legal sentence that Petitioner plead to when he plead to 10yrs. suspended to Drug Court. The sentencing sheet has §44-53-375(B)(1) and suspended on it. App 80. Drug Court Counsel was aware that Petitioner's sentence was a suspended sentence. App 777, In. 20-22. The South Carolina Supreme Court ruled that Petitioner's suspended sentence was enforced. App. 675; *State v. Bennett*, 375 S.C.

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1165, 650 S.E.2d 490 (S.C. 2007); State v. DeAngelo, 257 S.C. 44, 183 S.E.2d 906 (1971).

3. Drug Court Counsel's performance was deficient, as it fell below an objective standard of reasonableness. Drug Court Counsel failed to demonstrate, investigate and present § 24-13-40 and Drug Court sentencing sheets to the Drug Court. Lounds v. State, 330 S.C. 454, 670 S.E.2d 646 (S.C. 2008). Drug Court Counsel failed to show the computation of time Petitioner has served according to § 24-13-40 and the Drug Court sentencing sheets which states that Petitioner served 158 days in actual detention. App. 782, In. 271, 883, 887-898. Accordingly, § 24-13-40 states "In every case in computing the time served by a prisoner, full credit against the sentence shall be given for time served prior to trial and sentencing". In Picklesimer v. State, 254 S.C. 596, 176 S.E.2d 536 (1970) the court held "the sentence is the total of the part served at the prison and at home". Drug Court Counsel failed to show the suspended portion of Petitioner's sentence is part of Petitioner's "term of imprisonment". Thompson v. SC Dept. of Public Safety, 335 S.C. 52, 565 S.E.2d 761 (S.C. 1999); Moore v. Patterson, 203 S.C. 90, 26 S.E.2d 319 (1945); Mims v. State, 273 S.C. 740, 259 S.E.2d 602 (1979); Sanders v.

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MacDougall, 244 S.C. 160, 135 S.E. 2d 836 (1964). Due to Drug Court Counsel's deficient performance to acquire the time Petitioner has served in Drug Court, Petitioner has served 100% of the 10yr. sentence.

4. Drug Court Counsel's performance was deficient, as it fell below an objective standard of reasonableness. Drug Court Counsel failed to argue the 13th Circuit Solicitor's office violation of Petitioner's due process rights when the 13th Circuit Solicitor's office breached the Waivers and Agreement they negotiated with Petitioner. The 13th Circuit Solicitor's office expressly excluded "Pharmchem Sweat Patch" as a drug testing device authorized by the Waivers and Agreement that Petitioner and the 13th Circuit solicitor executed, yet the 13th Circuit Solicitor's office used the "Pharmchem Sweat Patch" as a drug testing device to terminate Petitioner from the Drug Court Program in violation of the Waivers and Agreement negotiated between the parties. The 13th Circuit Solicitor's office renege on the Waivers and Agreement made in connection with the plea bargain that was negotiated between the parties. Santobello v. New York, 42 S.Ct. 495 (1971); U.S.C.A. Const. 14 amend. Accordingly, the PCR Court erred in finding that Petitioner

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Failed to meet his burden of proving Counsel should have argued a violation of his due process rights. App. 762, In. 4-22; Santobello, 92 S.Ct. at 502 (finding "where the prosecution has broken the plea agreement, it may be appropriate to permit the defendant to enforce the plea bargain").

5. Appellate Counsel's performance was deficient, as it fell below an objective standard of reasonableness. Drug Court Counsel failed to properly raise and phrase the abuse of discretion issue on appeal when the Drug Court allowed the 13th Circuit solicitor's office to breach the Waivers and Agreement Signed by the parties, however minute or immaterial, when they used the "Pharmchem Sweat Patch" to violate Petitioner from the Drug Court Program when the "Pharmchem Sweat Patch" was not listed as a drug testing device authorized by the Waivers and Agreement. *Martin v. Saye*, 145 S.E. 2d 186 (1928). Appellate Counsel failed to acknowledge to the Drug Court that the U.S.C.A. Const. art. 1 § 10 and S.C. Const. art. 134 prohibits impairing the obligation of contracts when the 13th Circuit solicitor's office breached the Waivers and Agreement when they used the unauthorized "Pharmchem Sweat Patch". *Southerland v. State*, 337 S.C. 610, 524

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S.E. 2d 833 (S.C. 1999); State v. Allen, 370 S.C. 88, 634 S.E. 2d 653 (S.C. 2006) (finding an abuse of discretion occurs when the trial court's ruling is based upon an error of law). Accordingly, the PCR Court erred in finding that Drug Court Counsel was well aware of the facts and issues in the case. App. 795.

6. The 13th Circuit Solicitor's office performance was deficient, as it fell below an objective standard of reasonableness. Drug Court Counsel failed to object to the 13th Circuit Solicitor's office violation of Petitioner's due process rights when the 13th Circuit Solicitor's office reneged on Petitioner's suspended sentence and changed it to a non-suspended sentence, exposing Petitioner to a greater potential sentence, made in connection with the plea bargain without the prerequisites of the 6th amend. App. 777, ln. 20-22; 800; Santobello v. New York, 92 S.Ct. 495 (1971).

7. The PCR Council's performance was deficient, as it fell below an objective standard of reasonableness. PCR Counsel's performance was ineffective when Counsel refused Petitioner's request to file a Rule 59(e) Motion pursuant to Rule 59, SERCP so that all of

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Petitioner's issues would be ruled upon with fact findings and conclusion of law as well as reserved for appeal. *State v. Marlak*, 653 S.E.2d 266.

PREJUDICE

1. Drug Court Counsel's deficient performance prejudiced Petitioner because Counsel's failure to acknowledge that the United States Constitution art. 1, §10 and South Carolina Constitution art. 1, §4 prohibits impairing the obligation of contracts "so undermine the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Butler v. State*, 286 S.C. at 442, 334 S.E.2d at 814 (1985) (quoting *Strickland v. Washington*, 466 U.S. at 642 (1984)). Therefore, the PCR court erred in finding Drug Court Counsel provided effective assistance of Counsel because "there is a reasonable probability that, but for [trial] Counsel's unprofessional errors, the result of the proceeding would have been different." App. 787-792; *Cherry v. State*, 300 S.C. at 118, 386 S.E.2d at 625 (internal citations omitted); See *Strickland*, 466 U.S. 608.

PREJUDICE

2. Drug Court Counsel's deficient performance prejudiced Petitioner because Counsel's failure to object to the altering of Petitioner's suspended sentence to a non-suspended sentence at Drug Court Termination Hearing "so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (quoting Strickland, 466 U.S. at 692). Therefore, the PER court erred in finding Drug Court counsel provided effective assistance of Counsel because "there is a reasonable probability that, but for [trial] Counsel's unprofessional errors, the result of the proceeding would have been different." App. 777, In 20-22; Cherry, 300 S.C. at 118, 386 S.E.2d at 625 (internal citations omitted); See Strickland, 466 U.S. 668.

3. Drug Court Counsel's deficient performance prejudiced Petitioner because Counsel's failure to demonstrate, investigate and present §24-13-40 and Drug Court Sentencing Sheets "so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Butler, 286 S.C. at 442, 334 S.E.2d 814 (quoting Strickland, 466 U.S. at 692). Therefore, the PER court erred in finding Drug Court Counsel provided effective assistance of Counsel because "there is a

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reasonable probability that, but for [trial] counsel's unprofessional errors, the result of the proceeding would have been different." App. 782, ln. 2-11; Cherry, 300 S.C. at 118, 386 S.E.2d at 625 (internal citations omitted); See Strickland, 466 U.S. 668.

4. Drug Court Counsel's deficient performance prejudiced Petitioner because Counsel's failure to argue the 13th Circuit solicitor's office violation of Petitioner's due process rights "so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (quoting Strickland, 466 U.S. at 642). Therefore, the PCR erred in finding Drug Court Counsel provided effective assistance of Counsel because "there is a reasonable probability that, but for [trial] counsel's unprofessional errors, the result of the proceeding would have been different." App. 762, ln. 4-22; Cherry, 300 S.C. at 118, 386 S.E.2d at 625 (internal citations omitted); See Strickland, 466 U.S. 668.

5. Appellate Counsel's deficient performance prejudiced Petitioner because counsel's failure to properly raise and phrase the unauthorized use of the Pharmehem Sweet

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Patch" so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Butler, 286 S.C. at 442, 334 S.E. 2d at 814 (quoting Strickland, 466 U.S. at 692). Therefore, the PCR court erred in finding Appellate Counsel provided effective assistance of counsel because "there is a reasonable probability that, but for [trial] Counsel's unprofessional errors, the result of the proceeding would have been different." App. 776; Cherry, 300 S.C. at 118, 386 S.E. 2d at 625 (internal citations omitted); see Strickland, 466 U.S. 668.

6. Drug Court Counsel's deficient performance prejudiced Petitioner because counsel's failure to object to the 13th Circuit Solicitor's office for renegeing on Petitioner's suspended sentencing agreement made in connection with a plea bargain "so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Butler, 286 S.C. at 442, 334 S.E. 2d at 814 (quoting Strickland, 466 U.S. at 692). Therefore, the PCR Court erred in finding Drug Court Counsel provided effective assistance of counsel because "there is a reasonable probability that, but for [trial] Counsel's unprofessional errors, the result of the proceeding would have been different." App. 777, In. 20-22, 800; Cherry, 300 S.C. at 118,

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386 S.E.2d at 625 (internal citations omitted); See Strickland, 466 U.S. 668.

7. PCR Counsel's deficient performance prejudiced Petitioner because Counsel's failure to file a Rule 59(e) Motion pursuant to Rule 59, SCRPC that Petitioner requested "so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (quoting Strickland, 466 U.S. at 692). Therefore, the PCR court erred in finding Petitioner's Rule 59(e) Motion was untimely filed because "there is a reasonable probability that, but for [trial] Counsel's unprofessional errors, the result of the proceeding would have been different." See Exhibits #1, #2, #3; Cherry, 300 S.C. at 118, 386 S.E.2d at 625 (internal citations omitted); See Strickland, 466 U.S. 668.

CONCLUSION

Based on the foregoing reasons, Cedric Perkins' Petition for Writ of Certiorari should be granted to allow full briefing on the issue.

Respectfully Submitted

Cedric Perkins

Cedric Perkins #302720

Tyger River Correctional Institution

200 Prison Road

Enoree, S.C. 29335

This 1st day of May, 2012.

Walden Correctional Institution
4340 Broad River Road
Columbia, South Carolina 29210

April 26, 2011

Richey & Richey, PA
Attorneys at Law
Post Office Box 10916
Greenville, South Carolina 29603

Re: Cedric Perkins, SCDC # 302720 vs. The State of
South Carolina Case No. 2009-CP-23-4128

Dear Mr. Richey,

I received your letter April 25, 2011 with
Judge Stilwell's Order of Dismissal and the Notice of Appeal.

I would like for you to file a Rule 59(e) motion
so that all of my issues will be preserved for appeal.
Thank you for your assistance in this matter.

Sincerely
Cedric Perkins #302720

cc: File

clerk of court

PCR

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2009CP2304128

Cedric Perkins #302720 vs. State Of South Carolina

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.
- 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: _____

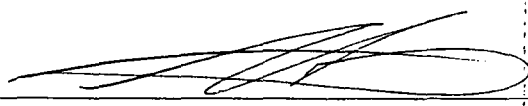
FILED CLERK OF COURT
GREENVILLE COUNTY SC
2011 JUN 23 4 11 12

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Applicant's Rule 59(e) Motion is respectfully **DENIED** as it was not timely filed pursuant to Rule 59, SCRPC.

Dated at Greenville, South Carolina, this 22 June 2011.

Court Reporter:



PRESIDING JUDGE - ROBIN B. STILWELL

This judgment was entered on the 23rd June, 2011, and a copy mailed first class this 23rd June, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

✓ Cedric Perkins #302720 ,
Rodney Wade Richey Richey & Richey, PA P.O. Box 10916
Greenville, SC 296030916

ATTORNEY(S) FOR THE PLAINTIFF(S)

State Of South Carolina ,

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

RICHEY AND RICHEY

ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

RODNEY W. RICHEY
LOLA S. RICHEY

POST OFFICE BOX 10916
GREENVILLE, SOUTH CAROLINA 29603

(864) 467-0503
(864) 467-0646 FAX

May 4, 2011

Cedric Emmanuel Perkins, SCDC#302720
Walden Correctional Institute
4340 Broad River Road
Columbia, SC 29210


RE: Cedric Emmanuel Perkins, SCDC #302720 vs. The State of South Carolina
Case No: 2009-CP-23-4128

Dear Mr. Perkins:

This letter is in response to your April 26, 2011 letter regarding a Rule 59e motion. I have reviewed the order and I was at the hearing. I believe all the issues that are necessary were preserved. Therefore, I will not be filing a 59e motion. As you know, I have filed the Notice of Appeal in your case. This concludes our representation in this matter and we have closed your file.

RICHEY AND RICHEY, P.A.

Yours truly,



Rodney Richey

RWR/tlg
enclosure