

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from York County

John C. Hayes, III, Circuit Court Judge

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MAR 13 2014

S.C. Supreme Court

DUVAL M. COOPER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001428

SUPPLEMENTAL APPENDIX

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present at his trial and that, at the very least, he was notified by the language in his bond paperwork of the possibility of his trial continuing in his absence.

Our Supreme Court has found that "[t]he deliberate absence of a defendant who know that he stands accused in a criminal case and that his trial will begin during a specific period of time indicates nothing less than an intention to obstruct the orderly processes of justice." Ellis v. State, 267 S.C. 257, 261, 227 S.E.2d 304, 306. The Court finds that Applicant's failure to appear was deliberate, and his subsequent complaint regarding the trial moving on in his absence is nothing more than an attempt to disrupt the judicial process. In the colloquy of trial counsel with the trial court, it is clear that trial counsel made every reasonable effort to contact Applicant in order to give him notice of his potential trial dates, and when Applicant was given a specific date on which his case could be tried, stopped communication with trial counsel and refused to supply useful contact information. As referenced above, Applicant testified in his PCR hearing that he could not attend trial, because his life was being threatened by those with connections in the area. It is also worth noting that from January 2006 until the time of his arrest in New York, some four years later, there is no evidence of any contact by Applicant with the Court or with trial counsel. The Court finds, based on this testimony, that Applicant has made it clear that, even if he had more specific notice of the trial, and even if trial counsel had objected to the trial going forward in Applicant's absence, Applicant would not have made an appearance at trial.

The Court finds that trial counsel's representation of Applicant was effective, and even if trial counsel was deficient in failing to move for a continuance or object to the trial going forward without Applicant's presence, Applicant was not prejudiced, as he waived his right to be present for trial by his conduct.