

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadre L. Jefferson

STATE OF SOUTH CAROLINA,

RESPONDENT

V.

WALTER DOUGLAS BARCLAY,

PETITIONER

Appellate Case No. 2012-212639

PETITIONER'S MOTION FOR TRANSPORT ORDER

Petitioner Walter Douglas Barclay, through his undersigned attorney, hereby moves that this Court issue an order directing the South Carolina Department of Corrections to transport appellant to the South Carolina Court of Appeals for Oral Argument in the above-captioned case set for April 10, 2014 at 12:00 PM in Courtroom Number 1. Petitioner offers the following in support of this motion:

1. Walter Douglas Barclay, SCDC # 348431, is currently confined at the MacDougall Correctional Institution, 1516 Old Gilliard Road, Ridgeville, South Carolina. The appellant-petitioner has been confined since a 12 year year prison term was imposed November 1, 2011

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SC Court of Appeals

following his conviction for felony DUI.¹

2. Appellant's post-trial motions, including his motion for a new trial, were denied by Circuit Judge Deadre W. Jefferson in an Order dated July 18, 2012. This direct appeal followed.

3. Appellant would like to attend the Oral Argument scheduled for April 10, 2014 at 12:00 Noon and seeks an order directing SCDC officials to transport him from MacDougall Correctional Institution to his hearing at the South Carolina Court of Appeals at least 30 minutes before the scheduled time for his case to be argued on April 10, 2014. (Counsel was directed to arrive thirty minutes before the time set for the argument to begin).

4. Appellant is a sixty two year old first offender with no prior convictions for a violent offense and his presence in the courtroom would not likely pose any danger to the community or risk of flight. (Affidavit of Walter Douglas Barclay In Support of Petition for Appeal Bond from his Motion for Appeal Bond is attached without other attachments submitted with that motion). Upon information and belief, SCDC provides security for inmates they transport from SCDC facilities to court appearances and elective medical care appointments throughout South Carolina.

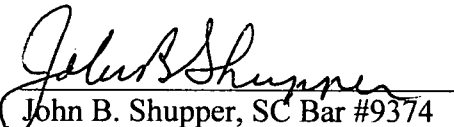
5. Appellant is not indigent and would pay the cost of SCDC transporting him to this hearing if this Court deems it necessary for appellant to be treated like an inmate being provided "elective" medical care outside SCDC at his own expense, despite the fact that the sole purpose of this trip is to attend the Oral Argument related to the above-captioned appeal at the South Carolina Court of Appeals building in Columbia.

6. Counsel has discussed this motion with Assistant Attorney General Christina J. Catoe, Esquire, who indicated she takes no position and leaves the matter to the discretion of this Court.

¹ Petitioner was convicted by a jury of causing the death of Alvaro Garcia but was acquitted of felony DUI involving great bodily injury to the passenger Jose Davila. Sentence was imposed immediately after the jury's verdicts on November 1, 2011.

For the reasons set forth above, appellant respectfully moves this Court to issue an Order directing the South Carolina Department of Corrections to transport Walter Douglas Barclay, SCDC #348431, from MacDougall Correctional Institution to the South Carolina Court of Appeals on April 10, 2014 no later than 11:30 AM so he may be present for Oral Argument.

Respectfully submitted:


John B. Shupper, SC Bar #9374
Attorney at Law
P.O. Box 90623
Columbia, South Carolina 29290
Phone: (803) 606-7859
ATTORNEY FOR APPELLANT

March 26th, 2014

**AFFIDAVIT OF WALTER DOUGLAS BARCLAY
IN SUPPORT OF PETITION FOR APPEAL BOND**
Appellate Case No.: 2012-212639

I, Walter Douglas Barclay, do hereby swear the following statements are true to the best of my recollection:

1. I am 62 years old and competent to make statements under oath;
2. On December 8, 2008 I was charged with felony dui after my Chevrolet Silverado pick-up truck and a Geo Prizm driven by Alvaro Garcia collided at a bend in Point of Pines Road, a narrow oak-lined road on Edisto Island. Alvaro Garcia perished at the accident site and his passenger, Jose Davila, was injured;
3. I was released from jail after posting a \$100,000.00 surety bond on December 9, 2008;
4. I resided with my partner of 38 years, Dr. Rebecca Borders, in our home at 8101 Lachicotte Street on Edisto Island before and after my release on bond in 2008. I would return to live with Dr. Borders if I am released on bond during the pendency of this appeal;
5. I enrolled in St. Andrews Presbyterian College in Laurinburg, North Carolina in 1969 and lived in Laurinburg until 1973 when I moved to Gibson, North Carolina on the North Carolina-South Carolina border. I bought a lumber yard in Laurinburg in 1974 and another in Lumberton that I owned and operated until 1979. Rebecca Borders and I moved to the South Carolina side of Gibson in 1976. I purchased and restored the home we had rented in Marlboro County in 1980. I farmed soybeans and other crops in the Bennettsville area and worked on some restoration projects for the next nine years. My partner, Rebecca, opened her medical practice on Edisto Island in 1989. We have lived and worked on Edisto Island since 1989. I sold our home and farmland in Marlboro County and eventually bought a 47.5 acre farm on Edisto Island;
6. I worked with Allan MacDonald, a cabinet maker, after moving to Edisto Island in 1989. We rented and equipped a barn to serve as a wood working shop on Edisto for several years. We eventually purchased a five acre tract on Edisto where we built a structure to serve as our cabinet making shop. I built custom cabinets in our shop on Steamboat Landing Road before and after my release on bond on December 9, 2008. I would resume working in that shop on Edisto if released on bond during this appeal;
7. Dr. Borders and I reside in the home we jointly own on a 17.9 acre tract at 8101 Lachicotte Street on Edisto Island. We also jointly own a 47.5 acre farm on two tracts at 1810 Clark Road where we keep our animals. Titles to these jointly owned properties were transferred to the "Walter D. Barclay-Rebecca J. Borders Trust" after the trust was established in August, 2009. We have no children and included the farm property in

"Trust B". Paragraph (3)(a) on page 9 of the trust agreement reflects our mutual desire that: "upon the death of the surviving spouse, the remaining property of Trust B shall be paid over and distributed free of trust to The Parklands Foundation, Inc. for the Charleston County Park and Recreation Commission for establishment of a county park or recreational facility for Edisto Beach". [Page 9 of the 26 page trust agreement containing this provision, along with copies of the cover page and signature page, are attached with copies of listings from the Charleston County RMC-Deeds Office website];

- 8. I obeyed all terms of my original bond from December 9, 2008 to October 24, 2011. I reported to court for trial at the call of my case on October 24, 2011;
- 9. My original bond ended after my trial began October 24, 2011 but I was released on a second \$100,000.00 surety bond on the third day of trial, October 26, 2011. I reported to court each day until verdicts were reached and sentence was imposed on November 1, 2011 (copies of bond forms are attached);
- 10. I was acquitted of felony dui for causing great bodily injury to Jose Davila but convicted of felony dui for causing the death of Alvaro Garcia. My trial counsel moved to defer sentencing so a pre-sentence investigation could be conducted, as I had no history of felony arrests or convictions. The motion was denied and a 12 year "no parole" prison term was imposed on November 1, 2011. I have now served 21 consecutive months in prison, more than the one year mandatory minimum prison term required by statute;
- 11. I know my driver's license remains suspended as a result of my conviction. I would not operate a motor vehicle under any circumstances if released on bond during this appeal;
- 12. I would abide by all conditions of any bond that might be set by the Court, including but not limited to electronic monitoring or other special conditions. If the Court allows me to be released on bond but later affirms my conviction, I would promptly report to any law enforcement agency or correctional facility upon receipt of a directive to do so.

Walter Douglas Barclay 348431
 Walter Douglas Barclay, SCDC #348431
 MacDougall Correctional Institution

Sworn and subscribed before me
 this 11 day of March, 2013.

[Signature]
 NOTARY PUBLIC FOR SOUTH CAROLINA
 My Commission Expires: March 9, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

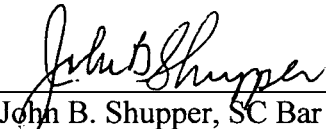
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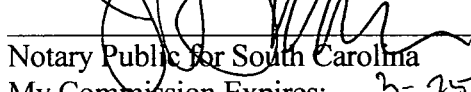
APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of Petitioner's Motion for a Transport Order in the above referenced case has been served upon Christina J. Catoe, Esquire, by hand delivery at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 27th day of March, 2014.


John B. Shupper, SC Bar #9374
Attorney at Law
P.O. Box 90623
Columbia, South Carolina 29290
Phone: (803) 606-7859
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 27 day of March, 2014


(L.S.)
Notary Public for South Carolina
My Commission Expires: 3-25-2029

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