



ORIGINAL

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Edgar W. Dickson, Circuit Court Judge

Case Number: 2012-CP-32-01074

Alphonso Simmons,Respondent,

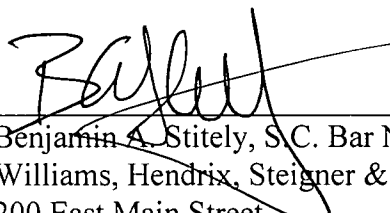
v.

State of South Carolina Petitioner.

NOTICE OF INTENT TO APPEAL

Alphonso Simmons appeals the Order issued by the Honorable Edgar W. Dickson, dated April 9, 2014, filed April 14, 2014, and received by his appointed attorney on April 25, 2014, dismissing Applicant's Post Conviction Relief application. A copy of said Order of Dismissal is attached hereto.

May 2, 2014


Benjamin A. Stitely, S.C. Bar No. 75339
Williams, Hendrix, Steigner & Brink, P.A.
200 East Main Street
Post Office Box 849
Lexington, South Carolina 29072
(803) 359-1550

Other Counsel of Record:

J. Walt Whitmore, Asst. Attorney General
Alan Wilson, Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Edgar W. Dickson, Circuit Court Judge

Case Number: 2012-CP-32-01074

Alphonso Simmons, Respondent,

v.

State of South Carolina Petitioner.

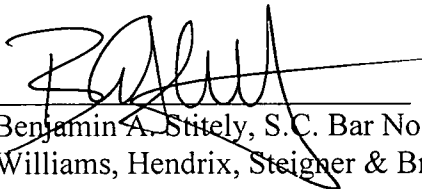
PROOF OF SERVICE

I certify that on May 2, 2014, I have served the within **Notice of Intent to Appeal** upon the individual(s) named below by placing a copy of same in the United States Mail postage prepaid and return address clearly indicated to the address(es) listed below:

J. Walt Whitmore, Asst. Attorney General
Alan Wilson, Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

I further certify that all parties required to be served have been served.

May 2, 2014


Benjamin A. Stitely, S.C. Bar No. 75339
Williams, Hendrix, Steigler & Brink, P.A.
200 East Main Street
Post Office Box 849
Lexington, South Carolina 29072
(803) 359-1550

ORIGINAL

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON 2014 APR 14 9 12: 20) FOR THE ELEVENTH JUDICIAL CIRCUIT

Alphonso Simmons, #279349,)
BETH A. CARRIGG)
CLERK OF COURT)
Applicant, LEXINGTON, SC)

Case No. 2012-CP-32-01074

v.)

ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on March 8, 2012. Respondent made its Return on August 6, 2012. An evidentiary hearing into the matter was convened on August 13, 2013, at the Lexington County Courthouse. Applicant was present at the hearing and was represented by Ben Stitely, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. The Applicant was indicted at the 2008 term of the Lexington County Grand Jury for one count of Robbery While Armed With a Deadly Weapon (2008-GS-32-654) and one count of Burglary 2nd Degree (2008-GS-32-655). Elizabeth Fullwood, Esquire and Casey Cornwell, Esquire represented him. The Applicant proceeded to trial and was found guilty. On April 15, 2008, the Honorable Thomas A. Russo sentenced the Applicant to confinement for forty-five years.

A notice of appeal was filed at the South Carolina Court of Appeals. Katherine H. Hudgins, Esquire of the South Carolina Commission on Indigent Defense perfected the appeal. The Court of Appeals affirmed the Applicant's conviction and sentence. State v. Simmons, Op. No. 2011-UP-212 (S.C. Ct. App. filed May 11, 2011).

ALLEGATIONS

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following allegations:

1. Ineffective Assistance of Counsel.
 - a. Failure to object to prosecutor's demonstrative evidence
 - b. Failure to call certain witnesses
 - c. Failure to have Applicant subjected to a mental examination.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant called trial counsel, Elizabeth Fullwood (Counsel Fullwood), Casey Cornwell (Counsel Cornwell) and also testified on his own behalf. This Court also had before it a copy of trial transcript, the Lexington County Clerk of Court records, the Applicant's appellate records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return. Additionally, PCR Counsel introduced SCDC medical records during the evidentiary hearing.¹

During the evidentiary hearing, Counsel Fullwood testified she has been practicing criminal law since 1979. Counsel Fullwood stated she was appointed in this case in 2005. Counsel Fullwood testified that she met with Applicant multiple times. Counsel Fullwood stated she reviewed the elements of the offenses, possible punishments, the State's burden of proof, and the discovery material. Counsel Fullwood stated Applicant appeared to comprehend everything

¹ The SCDC medical records were not introduced for purpose of saying the Applicant had mental condition, but were instead introduced to see if Counsel had considered them as part of her trial preparation.



that was discussed and Counsel Fullwood stated she saw no indication that Applicant suffered from any type of mental illness. Counsel Fullwood stated Applicant asked various questions during their discussions and she addressed those questions. Counsel Fullwood further stated none of Applicant's family members expressed concerns about Applicant's mental competency. Counsel Fullwood further stated that the SCDC medical records are from 2012-2013 and a years after the conclusion of the trial. Counsel Fullwood stated Applicant had multiple escape attempts and by all accounts an intelligent person. Counsel Fullwood ultimately concluded that she had no reason to question Applicant's mental capacity.

Counsel Fullwood stated Applicant never gave her any leads or witnesses to investigate. Counsel Fullwood stated Applicant told her he did not commit the crime. Counsel Fullwood further stated that she discussed potential trial strategies including attacking the identification and the alleged statement. Counsel Fullwood further stated it was part of her strategy not to call any witnesses or present any evidence in order to preserve the right to have the final closing argument. Counsel Fullwood stated it was a strong circumstantial case. Counsel Fullwood stated Applicant ultimately received a thirty year sentence to run concurrent with the other sentences he was previously serving.

Counsel Fullwood testified that it was alleged that the Applicant used the drive through window to enter the store. Counsel Fullwood stated there was finger print found on the drive through window; however it did not match Applicant. Counsel Fullwood stated she argued this fact to the jury and pointed out that the fingerprint actually belonged to a McDonald's employee. Counsel Fullwood stated she felt she argued the point as best she could. Counsel Fullwood stated her strategy was to attack the identification of Applicant. Specifically, Counsel Fullwood stated the witness only had a few moments to look at Applicant and it was Counsel Fullwood's

strategy to argue to the jury that it was not enough time to positively identify Applicant. Counsel Fullwood stated she challenged the identification by requesting a Neil v. Biggers, 93 S.Ct. 375, 409 U.S. 188 (1972) ^{pre-trial hearing.} Counsel Fullwood stated she argued that the pictures were not similar in facial characteristics, that color photos of higher quality could have been used and that the photos used weren't original photo copies. Counsel Fullwood stated there was no other way to challenge the identification of the Applicant.

Additionally, Counsel Fullwood stated she did not call any hand writing expert's because the State was unable to prove that Applicant was the one who wrote a letter to the officer stating he was willing to confess to the crime. Counsel Fullwood testified she did not use a footprint expert because no one had the evidence in their custody.

Counsel Fullwood stated Applicant had multiple previous convictions. Specifically, Counsel Fullwood stated Applicant was convicted ^{of} various charges in Richland County which occurred on April 19, 2004. Counsel Fullwood stated the crimes Applicant proceeded to trial on in Lexington County took place on April 16, 2004. Counsel Fullwood explained that there was a three day time period between the two crimes occurring, they were in different locations, and there were different victims. Counsel Fullwood stated she argued successfully to the trial judge that because the Richland County crime actually took place three days after the Lexington county crime, Applicant should not be facing life without the possibility of parole. Counsel Fullwood agreed that the sentences Applicant received were within the statutory guidelines.

Counsel Fullwood stated she made a pretrial motion to suppress the statements made by Applicant to Detective Russell. Counsel Fullwood stated that in her opinion they were not statements, but still attempted to suppress them. Counsel Fullwood stated she felt she argued the motion as best she could and could not think of any other way to argue the motions hearing.

Counsel Fullwood stated the Judge ultimately denied her motion to suppress.

Counsel Fullwood stated she had no basis to object to the indictment. Counsel Fullwood stated Applicant was true bill indicted and that there was sufficient probable cause to charge Applicant. Counsel Fullwood further stated had there been something improper in the indictment, the State could merely amend the indictments. Counsel Fullwood stated there was no need for a preliminary hearing and requesting a preliminary hearing would have been of no consequence. Counsel Fullwood stated she could not recall any type of sign remaining in the court room. Counsel Fullwood further stated had she seen a sign she would have objected to it.

Following Counsel Fullwood's testimony, Counsel Cornwell was called to testify by the Applicant. Counsel Cornwell stated he was second chair in Applicant's case. Counsel Cornwell stated he aided in opening and closing arguments. Counsel Cornwell testified that he may have crossed examined various witnesses, but did not have a specific recollection. Counsel Cornwell stated he had maybe five trials before Applicant's. Counsel Cornwell stated he had been with the Lexington Public Defender's office for approximately one year prior to Applicant's trial. Counsel Cornwell stated he attended some of the meeting with Counsel Fullwood and Applicant. Counsel Cornwell stated it was their strategy to have him do the opening and closing's because the Jury may not like Counsel Fullwood after her cross-examination of various witnesses. Counsel Cornwell stated they explained this strategy to the Applicant.

Following Counsel Cornwell's testimony, Applicant testified on his own behalf. Applicant testified he met with his Counsels one time prior to his trial. Applicant recalled going over discovery and possible defenses with them. Applicant stated he gave them various witness and leads to investigate. Applicant stated he requested a preliminary hearing but did not get one. Applicant testified that he did not write a letter to Detective Russell nor did he give any type of

statement. Applicant testified he never voluntarily spoke to Detective Russell. Applicant stated his comment to Detective Russell that "it was fun while it lasted" was taken out of context at the trial. Applicant explained that he was stating the trip of the jail was fun. Applicant stated the Solicitor took a sign of an easel and rested it against a wall facing the jury. Applicant stated he had no evidence to show that the Solicitor left a sign up during the trial.

Applicant stated he graduated high school, but did not attend college. Applicant stated he has had various jobs in the fast food industry. Applicant stated he was institutionalized when he was twelve of thirteen years old. Applicant stated he was in the SCDC unit for mood disorder and psychotic features. Applicant stated the symptoms he is currently suffering from are the same symptoms he suffered from as a child. Applicant testified that he never told his attorneys that he suffered from any mental illness.

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 at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Specifically, this Court finds that Counsel's testimony is very credible while Applicant's testimony is less credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

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, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating 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." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). 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." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

INEFFECTIVE ASSISTANCE OF COUNSEL

Appointed trial counsel failed to object to demonstrative evidence.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to object to demonstrative evidence is without merit. Applicant stated counsel should have objected to the Solicitor leaving a sign in the view of the jury. Counsel stated she could not recall any sign being left in the view of the jury. Counsel further stated had she seen a sign, she would have objected to it. This Court finds Applicant's testimony less than credible, while Counsel's testimony credible. This Court further finds Applicant has failed to present any evidence that there was some type of sign displayed to the jury. This Court finds Counsel's actions were reasonable in the circumstances, and did not fall below professional norms of

reasonableness. Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Furthermore, Applicant has failed to show he was prejudiced such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

Therefore, this Court finds this allegation should be denied and dismissed with prejudice.

Counsel failure to call certain witnesses

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to call various witness is without merit. Counsel testified it was her trial strategy not to present any evidence or call any witnesses in order to preserve the opportunity to have last closing argument. Where counsel articulates valid reasons for employing a certain strategy, counsel's choice of tactics will not be deemed ineffective assistance. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 530 (1992). See also Dempsey v. State, 363 S.C. 365, 610 S.E.2d 812 (2005) and McLaughlin v. State, 352 S.C. 476, 575 S.E.2d 841 (2003). Furthermore, prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). The Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). Therefore, this Court finds this allegation should be denied and dismissed with prejudice.

Counsel was ineffective for failing to subject Applicant to a mental evaluation

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to subject him to a mental evaluation is without merit. A defendant must be mentally competent to stand trial to assist counsel in his defense. Drope v. Missouri, 420 U.S. 62 (1975).

In determining if counsel is ineffective for failing to request a competency hearing, an applicant must show that a reasonable probability exists that he would be found incompetent at the time of this trial or plea. Jeter v. State, 308 S.C.230, 417 S.E.2d 594 (1992). Counsel may reasonably rely on his own perceptions in deciding if a client is competent to stand trial. *Id.* Counsel Fullwood testified that she met with Applicant multiple times. Counsel Fullwood stated she reviewed the elements of the offenses, possible punishments, the State's burden of proof, and the discovery material. Counsel Fullwood stated Applicant appeared to comprehend everything that was discussed and Counsel Fullwood stated she saw no indication that Applicant suffered from any type of mental illness. Counsel Fullwood stated Applicant asked various questions during their discussions and she addressed those questions. Counsel Fullwood further stated none of Applicant's family members expressed concerns about Applicant's mental competency. Counsel Fullwood further stated that the SCDC medical records are from 2012-2013 and a years after the conclusion of the trial. Counsel Fullwood stated Applicant had multiple escape attempts and by all accounts an intelligent person. Counsel Fullwood ultimately concluded that she had no reason to question Applicant's mental capacity.

Furthermore, Applicant stated he never told his counsels that he suffered from any type of mental illness. *See* Thornes v. State, 310 S.C. 306, 426 S.E.2d 764 (1993) (finding trial counsel was not ineffective for failure to interview the victim who already gave a damaging statement to the police - counsel, "unless clairvoyant, could not have reasonably known that any additional benefit would accrue to his client"). This Court finds Counsel's actions were

reasonable in the circumstances, and did not fall below professional norms of reasonableness. Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Furthermore, Applicant has failed to show he was prejudiced such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Therefore, this Court finds this allegation should be denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

Except as discussed above, this Court finds that the Applicant affirmatively waived the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an

Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 9th day of April, 2014.



EDGAR W. DICKSON,
Presiding Judge
Second Judicial Circuit

Orangelus, South Carolina

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

2014 APR 14 P 12:20

FILED



STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

CASE NO.: 2012-CP-32-01074

ALPHONSO SIMMONS, #279349)
Plaintiff,)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

vs.)

STATE OF SOUTH CAROLINA)
Defendant.)

FILED
2014 APR 14 P 12:20
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

Plaintiff's Attorney: Jennifer Butler, Bar No. _____ Address: 4610 Lelia's Court Columbia, SC 29206 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Daniel Gourley, Bar No. _____ Address: PO Box 11549 Columbia, SC 29211 Phone: _____ Fax _____ E-mail: _____ Other: _____
---	--

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

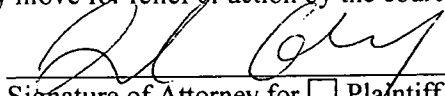
SECTION I: Hearing Information

Nature of Motion: _____
Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for Plaintiff / Defendant

March 17, 2014
Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT: \$ _____
 EXEMPT: (check reason) Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCP)
 Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE CODE _____
Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2012CP3201074

Alphonso L Simmons
 #279349 Jr

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (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. See Page 2 for additional information.
- 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: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

4/23/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on **24th of April 2014**, to attorneys of record or to parties (when appearing pro se) as follows:

Benjamin Allen Stitely Williams, Hendrix, Steigner & Brink,
P.A PO Box 849 Lexington, SC 29071

State of South Carolina ,
John Walter Whitmire PO Box 11549 Columbia, SC
292111549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg

Beth A. Carrigg - Clerk of Court

Court Reporter

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

WILLIAMS, HENDRIX, STEIGNER & BRINK, P.A.

ATTORNEYS AT LAW

POST OFFICE BOX 849

LEXINGTON, SOUTH CAROLINA 29071-0849

(803) 359-1550

Fax: (803) 359-4543 (803) 359-7460

1-800-922-6293

RECEIVED

MAY 05 2014

Robert T. Williams, Sr.
Jonathan R. Hendrix, Sr.
Carolyn B. Steigner
W. Lisa Brink

Daun C. Steigner
Benjamin A. Stitely
David K. Allen
Michelle L. Boykin

S.C. SUPREME COURT

May 2, 2014

J. Walt Whitmire, Assis. Attorney General
Alan Wilson, Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549

Re: Alphonso Simmons #279349 v. State of South Carolina
Case No.: 2012-CP-32-01074

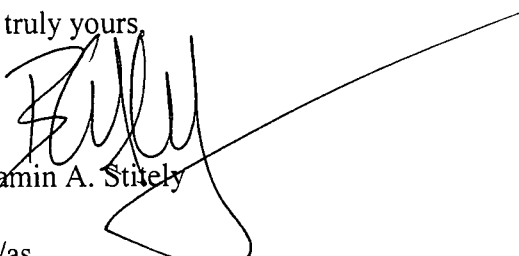
Dear Walt and Alan:

Please find enclosed a copy of the Notice of Intent to Appeal relative to the above referenced case which I hereby serve upon you.

If you have any questions, please give me a call.

With kindest regards, I am

Very truly yours,


Benjamin A. Stitely

BAS/as

cc: The Honorable Daniel Sherouse, Clerk of the Supreme Court
Alphonso Simmons
S.C. Commission on Indigent Defense

Located in historic downtown Lexington at 206 East Main Street



WILLIAMS, HENDRIX, STEIGNER & BRINK, P.A.

ATTORNEYS AT LAW

POST OFFICE BOX 849
LEXINGTON, SOUTH CAROLINA 29071-0849

(803) 359-1550
Fax: (803) 359-4543 (803) 359-7460
1-800-922-6293

PCR

Robert T. Williams, Sr.
Jonathan R. Hendrix, Sr.
Carolyn B. Steigner
W. Lisa Brink

Daun C. Steigner
Benjamin A. Stitely
David K. Allen
Michelle L. Boykin

May 2, 2014

RECEIVED

MAY 05 2014

The Honorable Daniel Sherouse, Clerk
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

S.C. SUPREME COURT

Re: Alphonso Simmons, #279349 v. State of South Carolina
Case No.: 2012-CP-32-01074

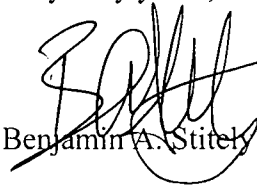
Dear Mr. Sherouse:

Please find enclosed one (1) original and seven (7) copies of the Notice of Intent to Appeal in the above case. Please clock in one copy and return to this office. Also enclosed is the original and two (2) copies of the Proof of Service. If you would be so kind as to return a copy of this as well, I would greatly appreciate it. I am enclosing a self-addressed, stamped envelope for your convenience. Since I was appointed to represent Mr. Simmons on his PCR action, I am including a copy of this Notice of Intent as well as the pertinent documents to the S.C. Commission on Indigent Defense.

If you have any questions, please give me a call. Thank you for your assistance.

With kindest regards, I am

Very truly yours,



Benjamin A. Stitely

Enclosures

cc: J. Walt Whitmire, Assis. Attorney General
Alan Wilson, Attorney General
Alphonso Simmons
S.C. Commission on Indigent Defense (w/ Order of Appointment of Counsel)

Located in historic downtown Lexington at 206 East Main Street



UNITED STATES POSTAGE
\$05.490
APR 28 2014
MAILED FROM ZIP CODE 29072

WILLIAMS, HENDRIX, STEIGNER & BRINK, P.A.
ATTORNEYS AT LAW
P.O. BOX 849
LEXINGTON, S.C. 29071

The Honorable Daniel Sherouse, Clerk
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211