

The Supreme Court of South Carolina

Alonzo Jenkins,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable Edgar W. Dickson
Dorchester County
Trial Court Case No. 2010-CP-18-01147

ORDER

The request for an extension until May 23, 2012 to serve and file the Petition for Writ of Certiorari and Appendix is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

April 25, 2012

cc: Appellate Defender Dayne C. Phillips
Assistant Attorney General Mary S. Williams



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

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

April 23, 2012

RECEIVED

APR 24 2012

Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

S.C. Supreme Court

C

Re: Alonzo Jenkins v. State of South Carolina

Dear Mr. Shearouse:

The petition for writ of certiorari and appendix in the above-referenced case are due to be served and filed today. Because of my present workload, I respectfully request a thirty-day extension of this deadline. No prior extensions have been requested in this case.

By copy of this letter to Assistant Attorney General Mary Williams, I am informing her of this request.

Thank you for your assistance in this matter.

Sincerely,


Dayne C. Phillips
Assistant Appellate Defender

DCP/fkb

cc: Mary Williams, Esquire



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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1330 Lady Street, Suite 401
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Telephone: (803) 734-1343
Facsimile: (803) 734-1397

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

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February 22, 2012

FEB 22 2012

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

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.

Alonzo Jenkins v. State of South Carolina

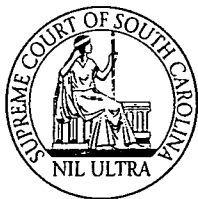
2/22/2012

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. Alonzo M. Jenkins, #320083
Evans Correctional Institution
610 Highway 9 West
Bennettsville, SC 29512

Re: Alonzo M. Jenkins v. State, 2010-CP-18-001147

Dear Mr. Jenkins:

This responds to your letter to Chief Justice Toal dated January 17, 2012. Please be advised that the Chief Justice cannot assist you with this matter.

On December 19, 2011, the Division of Appellate Defense had to reorder the transcript of the PCR hearing. Apparently, the initial request was directed to a court reporter that was not present at the hearing. Due to the number of requests, it is not uncommon for court reporters to seek several extensions to deliver the transcript. I ask for your patience as Appellate Defense waits for the transcript to be delivered.

Very truly yours,

CLERK

cc: Office of the Attorney General
Appellate Defense

RECEIVED

JAN 20 2012

S.C. SUPREME COURT

Alonzo M. Jenkins

TYRRELL U-7 Rm. 103

200 PRISON RD

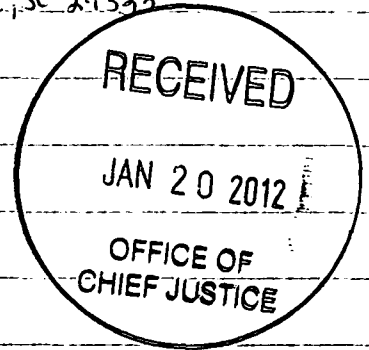
EWING, SC 29335

Ms. Jean Toal, Chief Justice

P. O. Box 11330

Columbia, SC 29211

Jan 17, 2012



RE: State of South Carolina V. Alonzo M. Jenkins

2010-CP-18-1147

Dear Ms. Toal,

I am addressing this correspondence to you in concern to my pending appeal. I have been told by Ms. French of the South Carolina Commission of Indigent Defense that I have not been assigned a lawyer because she has not received a copy of my transcript. My transcript has been ordered over 4 months ago and I have not been notified of any extension or exception to the original 60 day deadline. I have addressed my concerns to Ms. French on several occasions without response. I am not being kept up to date with the ongoing of my case and communication has not been properly maintained. Through this lack of communication it is my opinion that my intentions are not being expressed and my best interest maintained. I have addressed this matter through all other avenues known to me and I can only hope that through you this matter shall be properly addressed. Thank you.

Alonzo M. Jenkins, Jr.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
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Facsimile: (803) 734-1397

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

December 19, 2011

RECEIVED

DEC 19 2011

S.C. Supreme Court

Ms. Cheri L. Young
Circuit Court Reporter
P O Box 1154
Aiken, SC 29802

Dear Ms. Young:

Please provide us with the following transcript:

Alonzo Jenkins v. State of South Carolina Case #: 10-CP-18-01147

County: Dorchester Date of Trial: December 9, 2011

Presiding Judge: Edgar W. Dickson

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,


Lorie French
Legal Services Coordinator

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



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
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Facsimile: (803) 734-1397

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

December 19, 2011

RECEIVED

DEC 19 2011

S.C. Supreme Court

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

Re: Alonzo Jenkins v. State of South Carolina

Dear Mr. Shearouse:

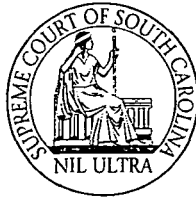
I have had to reorder the transcript in the above-captioned case for the December 9, 2011, hearing. The first request was done in a timely manner, but the court reporter has informed us that she did not take the proceedings. I would respectfully request that you start our time schedule for ordering the transcript from today's date.

If you have any questions concerning this matter, please do not hesitate to contact me. Thank you for your assistance in this matter.

Sincerely,

Lorie French
Legal Services Coordinator

cc: Attorney General's Office



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

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

Re: Jenkins, Alonzo v. The State, 2010-CP-18-01147

Dear Counsel:

Enclosed is correspondence from your client dated October 5, 2011. Since your office now represents him in this matter, no action will be taken on this *pro se* correspondence. 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). If it is appropriate to seek any relief from this Court, that relief will have to be sought by your office.

Sincerely,

Daniel E. Shearouse

Enclosure

cc: Assistant Attorney General Mary S. Williams
Mr. Alonzo Jenkins, #320083

Alonzo M. Jenkins

TYRRI U-7 Rm 103 320083

200 PRISON RD

The Supreme Court of South Carolina

Enoree, SC 29335

Daniel E. Shearouse, Clerk of Court

Post Office Box 11330

Columbia, SC 29211

Oct. 5, 2011

RECEIVED

RE: Alonzo M. Jenkins V. State of South Carolina

OCT 11 2011

2010-CP-18-1147

S.C. SUPREME COURT

Dear Mr. Shearouse,

This is a direct response to your correspondence dated September 12, 2011 in reference to a motion to Alter or Amend Judgement that I filed on my own behalf. At the time that this motion was submitted I was not assigned or appointed counsel to assist me in the Appeal of the foregoing matter. Enclosed please find the only correspondence that I received notifying me of a final order in the above referenced matter. I have enclosed three (3) exhibits that supports the fact that I received notice of the final order on August 10, 2011 and that at the time that the Motion to Alter or Amend Judgement was filed I did not have counsel in the above referenced matter. Exhibit (A) is the photocopy of the envelope in which the other two exhibits ((B) and (C)) were contained. If you take notice of the post mark in the top right hand corner it is dated August 4, 2011. On the same document (exhibit (A)) in the mid-left of the photocopy is an institutional stamp

which is a reflection of the date in which the institution received this correspondence, it is dated August 9, 2011. I did not receive any other notification of any final order before this date. The date and dates of all legal correspondences that I received and also when I received them can be verified through the Tiger River Correctional Institutional Mail Room per your inquire or request. Furthermore, Exhibit (B) is a copy of the correspondence from Ms. Millonzi stating that she is not appointed to represent me in the appeal of the above referenced matter. Though this correspondence is dated July 18, 2011, it was not received by me until August 19, 2011. Exhibit (C) is proof of service for my notice of Appeal. This is included to show proof that I did not receive notice of a decision in this matter before August 10, 2011. I received this along with exhibits (A) and (B). Counsel or the state can not show proof that would void my claim of not receiving notice of any final order before August 10, 2011. As to date I have not been contacted by the courts or counsel stating that I am currently being represented. The exhibits that I have presented and submitted are proof that the motion to Alter or Amend Judgment was timely and properly filed in the form of an Pro SE motions. For the reasons that I have presented I formally request that my motion to Alter or Amend Judgment be heard. I am grateful for your time and patiently await your response.

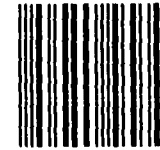
Respectfully Submitted

Alonzo M. Jenkins Sr.
Alonzo M. Jenkins Sr.

The Law Office of Kristin K. Millonzi
Post Office Box 305
Sullivan's Island, SC 29482



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GERARD C
WARDEN'S OFFICE

Alonzo M. Jenkins
320083 TVRC1 U 9231
200 Prison Rule
Enoree, SC 29335

AMC

RECEIVED

OCT 11 2011

S.C. SUPREME COURT

Exhibit (A)

The Law Office of Kristin K. Millonzi

Post Office Box 305
Sullivan's Island, SC 29482

843-654-1094 P

843-278-5107 F

July 18, 2011

kristin.millonzi@gmail.com

Alonzo M. Jenkins
320083 TVRCIU 9231
200 Prison Rule
Enoree, SC 29335

RE: Alonzo Jenkins #320083 vs. State of South Carolina
Case No.: 10-CP-18-1147

Dear Mr. Jenkins:

Please be advised that the Court has denied your PCR. That is very unfortunate, and I am greatly disappointed for you and your family. However, I feel that we did as good a job as possible in presenting the arguments that we prepared.

I am filing a Notice of Appeal and forwarding the same to Appellate Defense in Columbia, SC. I have attached a copy of these filings to this letter.

Appellate Defense will handle your appeal. I will no longer be handling your matter from this point on. I thank you for allowing me to work with you on this case.

I wish you the best of luck in pursuit of a new trial through your appeal of this Order of Dismissal.

With Kindest Regards,


Kristin K. Millonzi

Cc: **Alonzo Jenkins #320083**

Exhibit (b)

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

EDGAR W. DICKSON, Circuit Court Judge

Case No. 2010-CP-18-1147

Alonzo Jenkins.....Appellant,

v.

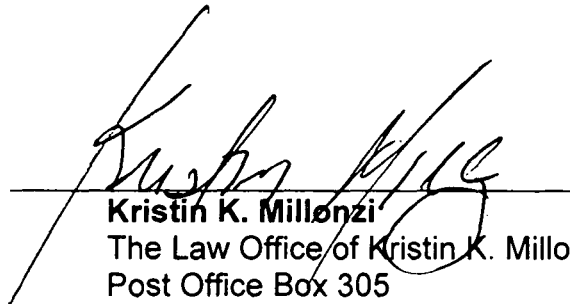
State of South Carolina.....Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Karen C. Ratigan, Esquire, by depositing a copy of the same in the United States Mail, postage prepaid, on July __, 2011, addressed to the attorney of record at the address indicated below:

Karen C. Ratigan, Esq.
Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549

August
~~July 4~~, 2011



Kristin K. Millonzi
The Law Office of Kristin K. Millonzi
Post Office Box 305
Sullivan's Island, S.C. 29482
(843).654-1094
Kristin.Millonzi@gmail.com

Exhibit(C)

RECEIVED

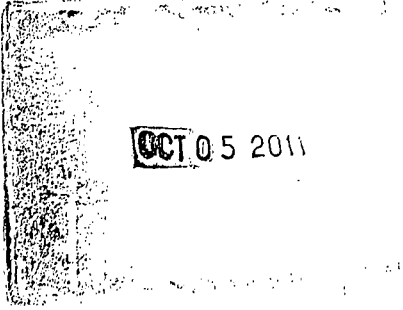
OCT 11 2011

S.C. SUPREME COURT

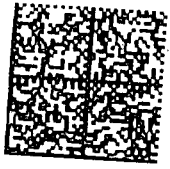
Jim Alorzo Jenkins

TYRCE U-7 #103#320083

200 PRISON RD 1
EUREE, SC 29335



OCT 05 2011



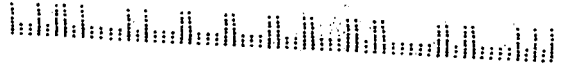
UNITED STATES POSTAGE
DINNEY BOWLES

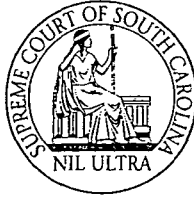
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MAILED FROM ZIP CODE 29335

THE Honorable Danieta E. Henhouse
The Supreme Court of South Carolina
Clerk of Court
P.O. Box 11330
Columbia, SC 29211

LEGAL MAIL

29211+1330





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 12, 2011

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

Re: Jenkins, Alonzo v. The State, 2010-CP-18-01147

Dear Counsel:

Enclosed is a *pro se* motion that your client has sent to this Court. Since your office now represents him in this matter, no action will be taken on this *pro se* motion. 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). Further, since his counsel below states in the notice of appeal that he received written notice of entry of the order on appeal on July 1, 2011, it would appear that this motion is untimely. Rule 59(e), SCRPC ("A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.").

Sincerely,

Daniel E. Shearouse

Enclosure

cc: Assistant Attorney General Mary S. Williams
Mr. Alonzo Jenkins, #320083

THE STATE OF South Carolina
In the Supreme Court

Alonzo M. Jenkins
Appellant

v.

State of South Carolina
Respondant

In THE Supreme Court
Appeal From Dorchester County

Court of Common Pleas
EDGAR W. Dickson
Circuit Judge

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AUG 23 2011

Case No. 2010-CP-18-1147

S.C. SUPREME COURT

Motion to Alter or Amend Judgement

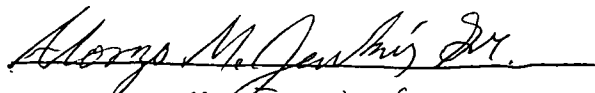
In pursuant to rule 59(E) of the South Carolina Rules of Civil Procedure, I the Appellant in the foregoing moves to have judgement based on the following. The South Carolina Code of laws requires a Judge in a PCR Hearing to make an conclusion of law as well as Relevant Findings of Fact when making a ruling in a case. In the above mentioned matter the Honorable Dickson did not rule as well as make a finding of facts and an conclusion of law on every issue that was presented. The Honorable Dickson in his order of Dismissal did not address all matters raised in Appellant's PCR Application as well as the issues raised through the Supportive Brief that was submitted into evidence at the evidentiary hearing. In the Order of Dismissal the Honorable Dickson stated that evidence was not submitted for all other issues, so the issues so the issues were waived. In truth the appellant did in fact raise all issues as well as presented evidence to support his claims by way of Supportive Brief that was submitted at the evidentiary hearing with no opposition by the State. Based on the above mentioned reasons the appellant formally requests that the Judgement be amended to reflect a ruling and finding of facts on all issues presented.

LEGAL MAIL

Jenkins, Alanzo
#320083


Certificate of Service

The undersigned certifies that the Motion to Alter or Amend Judgement which this certificate is affixed was served on The Honorable Daniel E. Sheenouse, Clerk of South Carolina Supreme Court, P. O. Box 11330, Columbia, SC 29211, by depositing a copy of the same in a postage paid envelope, properly addressed in a official depository on this 18 day of August 2011


Alonzo M. Jenkins SR.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746

that I deposited A motion to Alter or amend Judgement in FYRCI mail Box on this 18 day of August


Alonzo M. Jenkins SR

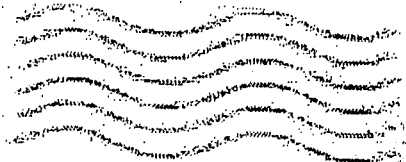
LEGAL MAIL

Jenkins, Alvin
320083

Jenkins, A 320083 nfm

TURLE SML #26
200 PRISON RD
EUREE, SC 29335

COLUMBIA, SC 29211
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LEGAL MAIL

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SEP 01 2011

MAIL ROOM

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

29211+1330





SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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

September 8, 2011

RECEIVED

SEP - 8 2011

Ms. Bonnie H. Kelly
Circuit Court Reporter
P O Box 50614
Columbia, SC 29250-0614

S.C. Supreme Court

Dear Ms. Kelly:

Please provide us with the following transcript:

Alonzo Jenkins v. State of South Carolina Case #: 10-CP-18-01147

County: Dorchester Date of Trial: September 8, 2010

Presiding Judge: Diane Schafer Goodstein

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,


Loriène French
Legal Services Coordinator

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



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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

RECEIVED

September 8, 2011

SEP - 8 2011

S.C. Supreme Court

Ms. Harry A. Walker
Circuit Court Reporter
P O Box 127
Rowesville, SC 29133-9133

Dear Ms. Walker:

Please provide us with the following transcript:

Alonzo Jenkins v. State of South Carolina Case #: 10-CP-18-01147

County: Dorchester Date of Trial: December 9, 2010

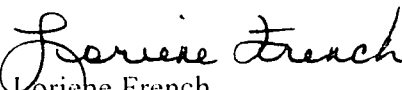
Presiding Judge: Edgar W. Dickson

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,


Lorie French
Legal Services Coordinator

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

The Law Office of Kristin K. Millonzi

Post Office Box 305
Sullivan's Island, SC 29482

843-654-1094 P
843-278-5107 F

July 18, 2011

kristin.millonzi@gmail.com

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

**RE: Alonzo Jenkins #320083 vs. State of South Carolina
Case No.: 10-CP-18-1147**

Dear Mr. Shearouse:

Enclosed for filing is an original Notice of Appeal in the above referenced case. Also included are the following:

- (1) Proof of Service of the Notice of Appeal on the Respondent; and
- (2) Order of Dismissal from Mr. Jenkins's PCR (Exhibit 1).

Mr. Jenkins is an indigent party, and Appellate Defense has been notified and will assume responsibility for his case.

Respectfully Submitted,


Kristin K. Millonzi

Cc: **Alonzo Jenkins #320083**

RECEIVED

AUG 08 2011

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

EDGAR W. DICKSON, Circuit Court Judge

Case No. 2010-CP-18-1147

Alonzo Jenkins.....Appellant,

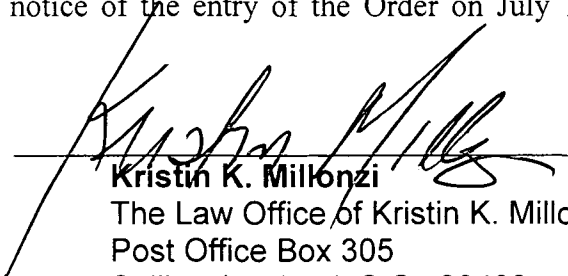
v.

State of South Carolina.....Respondent.

NOTICE OF APPEAL

Appellant Alonzo Jenkins appeals the Order of the Honorable Edgar W. Dickson, dated June 30, 2011, which dismissed Appellant's Application for Post-Conviction Relief. Appellant received written notice of the entry of the Order on July 1, 2011, attached as Exhibit 1.

July __, 2011



Kristin K. Millonzi
The Law Office of Kristin K. Millonzi
Post Office Box 305
Sullivan's Island, S.C. 29482
(843) 654-1094
Kristin.Millonzi@gmail.com

Other Counsel of Record:
Mary Shannon Williams
Assistant Attorney General
Post-Conviction Relief Section (1st, 2nd and 3rd Judicial Circuits)
South Carolina Office of the Attorney General
P. O. Box 11549
Columbia, SC 29211

RECEIVED

AUG 08 2011

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

EDGAR W. DICKSON, Circuit Court Judge

Case No. 2010-CP-18-1147

Alonzo Jenkins.....Appellant,

v.

State of South Carolina.....Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Karen C. Ratigan, Esquire, by depositing a copy of the same in the United States Mail, postage prepaid, on July __, 2011, addressed to the attorney of record at the address indicated below:

Karen C. Ratigan, Esq.
Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549

August 4
~~July~~ __, 2011



Kristin K. Millonzi
The Law Office of Kristin K. Millonzi
Post Office Box 305
Sullivan's Island, S.C. 29482
(843) 654-1094
Kristin.Millonzi@gmail.com

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)
)
 Alonzo Jenkins, #320083,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2010-CP-18-1147

ORDER OF DISMISSAL

FILED - RECORDS
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 CLERK OF COURT
 DORCHESTER COUNTY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 27, 2010. The Respondent made its Return dated July 26, 2010. An evidentiary hearing into the matter was convened on December 9, 2010, at the Orangeburg County Courthouse. The Applicant was present at the hearing and was represented by Kristin Millonzi, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Mary LeMatty, Esquire ("Counsel"). This Court had before it the records of the Dorchester County Clerk of Court, the guilty plea transcript, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of the Dorchester County Clerk of Court. Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. Applicant was indicted at the March 2008

term of the Dorchester County Grand Jury for Armed Robbery (2008-GS-18-0314). Mary Lematty, Esquire, represented the Applicant. On September 9, 2008, Applicant pled guilty as indicted. The Honorable Kristi Harrington sentenced him to the negotiated sentence of ten (10) years, and a charge of Kidnapping was *nolle prossed* pursuant to the plea.

A Notice of Appeal was filed, and an Anders brief was submitted on Applicant's behalf. The South Carolina Court of Appeals dismissed the appeal. State v. Jenkins, Op. No. 2010-UP-187 (S.C. Ct. App. filed March 4, 2010). A Petition for Rehearing was denied on April 22, 2010. The Remittitur was issued on May 27, 2010.

In his application for post-conviction relief (PCR), Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Subject matter jurisdiction.
 - a. "Courts lacked jurisdiction for failing to adhere to a request for preliminary hearing."
2. Ineffective assistance of counsel.
 - a. "... failing to call witnesses on my behalf."
 - b. "...not raising and objecting to the Judge presiding over the case."
 - c. "...not supplying me with a full copy of my motion of discovery."
 - d. "...failing to properly investigate my case by questioning witnesses and requestioning the victim."
3. Trial judge conflict of interest.
 - a. "Conflict of interest is brought up because of the judge being a former employee of the solicitor."
4. Involuntary plea.
 - a. "The plea was involuntary because there was no establishment of conduct."
 - b. "This plea was also involuntary because it failed to apprise the defendant as to what he was called upon to answer."
5. Trial judge error.
 - a. "Trial judge error occurred when trial judge participated in plea bargain trial transcript pages 16 line 19-22 / pg 18 line 8-12 / pg 19 line 9-13."



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. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80.

Ineffective Assistance of Counsel/Involuntary Guilty Plea

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). 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, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 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, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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, supra). 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland). With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

An Applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial, Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, the Applicant's claim



of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

Failure to Consult Regarding Elements and Evidence

Applicant stated that he only received discovery materials approximately thirty (30) minutes before his plea and was therefore unable to review all of the evidence in the case. Applicant further contends that Counsel failed to advise him of the elements of Armed Robbery. Applicant felt that he was guilty "to some extent" but contends that his plea was rendered involuntary by Counsel's deficiencies. Applicant stated generally that if he knew he had defenses he would have proceeded with trial.

Counsel testified that she did discuss the elements of the offense of Armed Robbery with Applicant and what the State would have to prove in order for him to be convicted. Counsel opined based on her review of the evidence that the plea offer was fair. Counsel noted that the offered plea reduced Applicant's sentence exposure from sixty (60) years to the ten (10) year minimum for Armed Robbery. Counsel further noted that Applicant would likely be convicted at trial based on a positive identification and Applicant having been found in a neighborhood near the store with gloves matching the description of those worn by one of the assailants as well as cell phones taken from the store and cash. Counsel explained that the complaining witness would testify that the other two participants in the robbery had guns, and Applicant would likely be found guilty pursuant to the theory of "hand of one, hand of all."

Based on the foregoing, I find Counsel's performance to be within reasonable professional norms. I find Counsel's testimony that she discussed evidence and the offense of Armed Robbery

with Applicant to be credible. I further find that Counsel articulated her sound reasoning and advice regarding the potential outcome of a trial. Moreover, Applicant has failed to meet his burden of showing that additional evidence Counsel should have reviewed or that additional advice Counsel should have rendered would have affected the outcome of the proceeding. Applicant has pointed to no specific defense that could have been tendered nor any specific evidence which would have affected his decision to plead guilty. Therefore, I find that Applicant has failed to meet his burden of demonstrating prejudice. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) (no prejudice where claim of failure to investigate is supported only by mere speculation as to the result); Arnette v. State, 306 S.C. 556, 413 S.E.2d 803 (1992) (counsel not ineffective in failing to advise of defense of accident where evidence did not support the defense). For these reasons, I find that Counsel was not ineffective with regard to her consultation with Applicant regarding the charged offense and the application of the facts to the elements of the offense.

Other Allegations

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

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 advises Applicant that he must file a notice of intent to appeal within thirty (30)

days from the receipt of this Order to secure the appropriate appellate review. His attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

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 8th day of July, 20 11.



EDGAR W. DICKSON
Presiding Judge
First Judicial Circuit

Orangeburg, South Carolina.

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

Alonzo Jenkins, 320083)

Plaintiff)

v.)

State Of South Carolina)

Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.
2010-CP-18-1147

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

FILED - RECORDED
2011 JUL 21 AM 9:49
CLERK OF COURT
DORCHESTER COUNTY

Plaintiff's Attorney: Kristin Millonzi, Bar No. Address: Post Office Box 305 Sullivans Island SC 29482 phone: (843) 654-1094 fax: (843) 278-5107 e-mail: other:	Defendant's Attorney: Mary S. Williams, Bar No. Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
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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 June 24, 2011
Date submitted

SECTION III: Motion Fee

PAID - AMOUNT:
 EXEMPT: Rule to Show Cause in Child or Spousal Support
 (check reason) 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

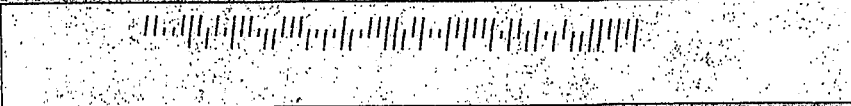
Motion Fee to be paid upon filing of the attached order.
 Other:

JUDGE _____
 CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____



MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____



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Alexis Jenkins

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



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