



LAW OFFICE OF
JEREMY A. THOMPSON
LLC

February 23, 2015

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211-1330

RE: Darryl Louis, #279494 v. State of South Carolina; 2012-CP-10-2655

Dear Mr. Shearouse:

Enclosed please find the original and one copy of my Notice of Appeal in the above-captioned action. I would appreciate your filing the original, clocking the copy, and returning the clocked copy to me in the envelope provided. I will be continuing my representation of the Petitioner on appeal. I would note that Judge Nicholson issued a written Order Granting an Appeal Pursuant to Austin v. State in this case which was filed with the Charleston County Clerk of Court's Office on January 20, 2015. A copy of that Order is also enclosed. With my thanks for your assistance in this matter and my best regards, I am,

Yours sincerely,


Jeremy A. Thompson
Attorney and Counselor at Law

JAT/
Enclosures

cc: Ashleigh R. Wilson, Assistant Attorney General (w/ Notice of Appeal)
Darryl Louis, #279494 (w/ Notice of Appeal)
Robin Sanders (w/ Notice of Appeal)

RECEIVED

FEB 24 2015

S.C. Supreme Court

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Presiding Judge

2012-CP-10-2655

RECEIVED

FEB 24 2015

S.C. Supreme Court

DARRYL LOUIS, #279494,

Petitioner,

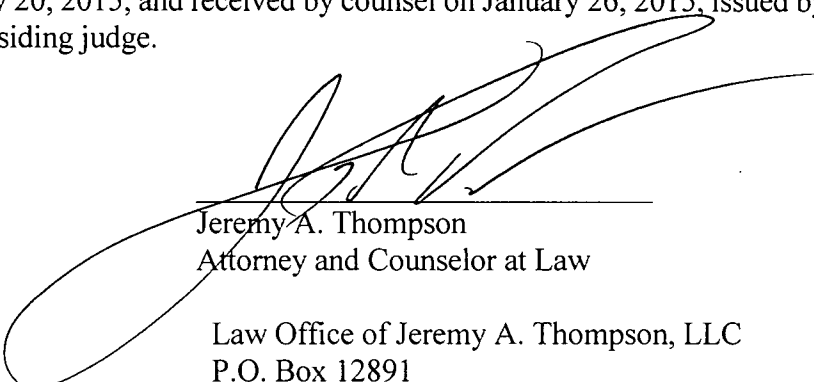
v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Darryl Louis, #279494, appeals the Order of Dismissal denying his Application for Post-Conviction Relief filed January 20, 2015, and received by counsel on January 26, 2015, issued by the Honorable J.C. Nicholson, presiding judge.



Jeremy A. Thompson
Attorney and Counselor at Law

Law Office of Jeremy A. Thompson, LLC
P.O. Box 12891
Columbia, SC 29211
803-779-2555 Phone
803-779-2556 Fax
jeremyatlaw@yahoo.com E-mail

ATTORNEY FOR PETITIONER

This 23rd day of February, 2015.

Other Counsel of Record:
Ashleigh R. Wilson, Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211
Attorney for Respondent
(803) 734-3737

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Presiding Judge

2012-CP-10-2655

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FEB 24 2015

S.C. Supreme Court

DARRYL LOUIS, #279494,

Petitioner,

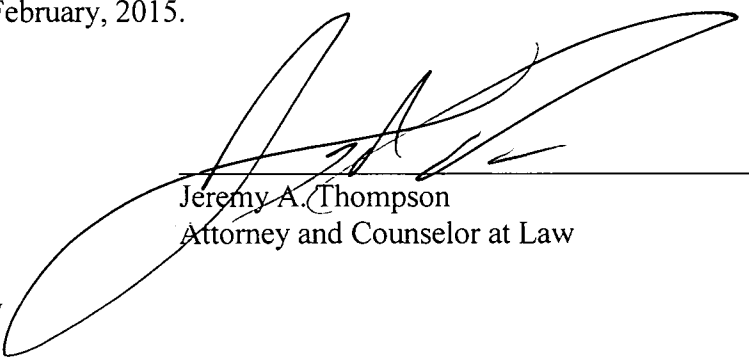
v.

STATE OF SOUTH CAROLINA,

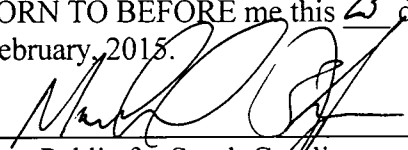
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Petitioner's Notice of Appeal in the above-entitled case has been served upon opposing counsel, Ashleigh R. Wilson, Assistant Attorney General, P.O. Box 11549, Columbia, SC 29211, by mailing in an envelope properly addressed with postage prepaid on this 23rd day of February, 2015.


Jeremy A. Thompson
Attorney and Counselor at Law

SWORN TO BEFORE me this 23 day
of February, 2015.



Notary Public for South Carolina

(L.S.)

My Commission Expires: 7/10/2022

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
)
Darryl K. Louis, #279494,)
)
)
Applicant,)
)
)
vs.)
)
State of South Carolina,)
)
)
Respondent.)
)
_____)

IN THE COURT OF COMMON PLEAS

2012-CP-10-2655

FILED
2015 JAN 20 PM 1:54
JULIA ANNIS IRONS
CLERK OF COURT
BY _____

**ORDER GRANTING AN APPEAL
PURSUANT TO AUSTIN V. STATE**

Presiding Judge: The Honorable J.C. Nicholson
Applicant's Attorney: Jeremy Thompson, Esquire
Respondent's Attorney: Ashleigh R. Wilson, Esquire
Original PCR Counsel: Charles T. Brooks, III, Esquire
Date of Hearing: December 10, 2014
Court Reporter: Joy Rueger

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 20, 2012. The Respondent made its return and motion to dismiss on March 31, 2014. A conditional order of dismissal was signed by the Honorable Stephanie McDonald on April 23, 2014. Counsel filed a response to the conditional order of dismissal amending the application for post-conviction relief and waiving all claims other than post-conviction relief counsel's failure to file an appeal. On June 23, 2014, Judge McDonald issued an order calling for a hearing to address whether the Applicant's first PCR counsel failed to file an appeal and deeming withdrawn all other claims raised by the Applicant in his second application. An evidentiary hearing on the matter was convened on December 10, 2014 at the Charleston County Courthouse. The Applicant was present at the hearing and represented by Jeremy Thompson,

Esquire. Ashleigh R. Wilson, Esquire of the South Carolina Office of the Attorney General represented the Respondent. Also present was Charles T. Brooks, III, Esquire who represented the Applicant on his first post-conviction relief application.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicant alleges that he was denied the right to appeal the dismissal of his previous post-conviction relief application. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application.

After review of the facts and circumstances surrounding the waiver of the Applicant's right to appeal the denial of allegations in the Applicant's post-conviction relief application, the parties in this matter have consented to the granting of an appeal pursuant to Austin v. State of the Applicant's first post-conviction relief application (2008-CP-10-6010). The parties agreed at the Applicant's evidentiary hearing on December 10, 2014 that the Applicant did not voluntarily waive his right to appeal the post-conviction relief court's denial and dismissal of the Applicant's application for post-conviction relief. Charles T. Brooks, III, Esquire, who represented the Applicant on his first PCR application, has indicated to the Respondent that he inadvertently failed to file a timely Notice of Appeal of the Applicant's first PCR application.

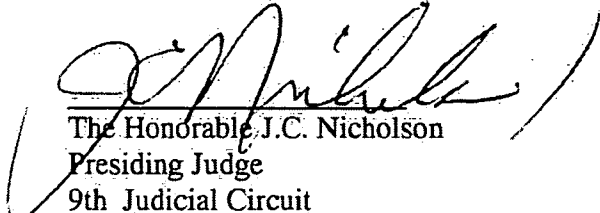
Based upon the foregoing, this Court will accept the consent of the parties and finds that the granting of an appeal of the Applicant's first PCR proceeding (2008-CP-10-6010) pursuant to Austin v. State is warranted.

[Order continues on the following page.]

IT IS THEREFORE ORDERED:

1. That the Applicant remain in the custody of the South Carolina Department of Corrections and/or the South Carolina Parole and Community Corrections Department if under the supervision of either agency; and
2. That the Applicant be granted an appeal of case 2008-CP-10-6010 pursuant to Austin v. State.

AND IT IS SO ORDERED this 13 day of JAN, 2015.


The Honorable J.C. Nicholson
Presiding Judge
9th Judicial Circuit

Charleston, South Carolina.




LAW OFFICE OF
JEREMY A. THOMPSON
LLC

P.O. Box 12891, Columbia, SC 29211

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211-1330



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