

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

March 12, 2012

Mr. Edmond Stanley Adams III #265717
Evans Correctional Institution
610 Highway #9, West
Bennettsville, SC 29512

Re: Adams, Edmond Stanley III v. The State

Dear Mr. Adams:

This responds to your letter of March 8, 2012.

Your petition for writ of certiorari is currently awaiting consideration by the Court. Due to the volume of pending cases, it is impossible for me provide you with any indication of when the Court may act on this matter.

Very truly yours,

Daniel E. Shearouse
DES

CLERK

DES/jj

cc: Assistant Attorney General Brian T. Petrano (Robert Corney)

To The Honorable Daniel E. Shearouse.

3-8-12

Please Change my address, and Forward
all my mail To The address on The Envelope. Second, please give me an
update on my writ Certiorari, The Case number is 2006-CP-40-7169.
I have not recieved anything from The Court on this matter.

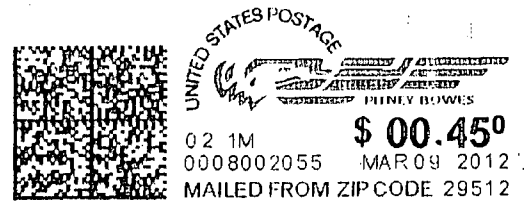

E.S. Adams

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MAR 18 2012

S.C. SUPREME COURT

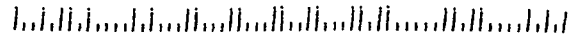
Edmond S. Adams, III 265717
Evans C.I., Rm. F4D-219
610 Highway #9 West
Bennettsville SC 29512

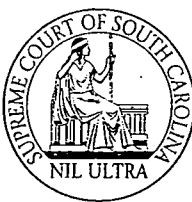


Supreme Court of South Carolina
P.O. Box 11330
Columbia SC 29211

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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

November 18, 2011

Mr. Edmond Stanley Adams III #265717
Evans Correctional Institution
610 Highway #9, West
Bennettsville, SC 29512

Re: Adams, Edmond Stanley III v. The State

Dear Mr. Adams:

This responds to your letter of November 14, 2011.

The petition for writ of certiorari is currently awaiting consideration by the Court. Due to the volume of pending cases, it is impossible for me provide you with any indication of when the Court may act on this matter.

Very truly yours,



CLERK

DES/jj

cc: Assistant Attorney General Brian T. Petrano

Case NO: 2006-CP-400-7169
(PCR)

11-14-11

Dear Mr. Shearouse,

I hope you are doing okay. I have not written you in a long time. All I want is to whether my case is still pending, up for review or what. Things are scary silent.

Please give me a update,

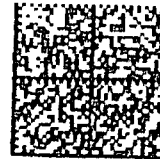
E. S. Adams III

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S.C. SUPREME COURT
S.C. SUPREME COURT

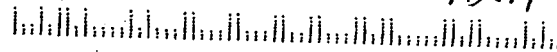
Mr. Edmond S. Adams III, #265717
Evans C.I., Rm. MB-110
610 Highway #9 West
Bennettsville, SC 29512

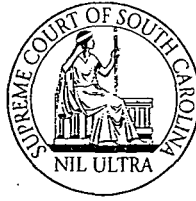


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The Supreme Court of South Carolina

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 13, 2011

Mr. Edmond Stanley Adams, III, #265717
Evans Correctional Institution
610 Highway #9, West
Bennettsville, SC 29512

Re: Adams, Edmond Stanley III v. The State

Dear Mr. Adams:

The following Order has been endorsed on your Motion for Bond in the above entitled case on appeal.

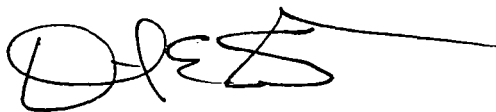
“Motion denied.

s/ Jean H. Toal C.J.
For the Court

September 13, 2011.”

By copy of this letter we are advising opposing counsel of the action of the Court in this matter.

Very truly yours,



CLERK

DES/dmh

cc: Assistant Attorney General Brian T. Petrano

The State OF South Carolina
In The Supreme Court

Appeal From Richland County
Court OF Common Pleas

James R. Borber, Presiding Judge

Cause NO: 2006-CP-400-7169

RECEIVED

SEP 13 2011

S.C. SUPREME COURT

Edmond Stanley Adams, III

Petitioner

"VS."

State OF South Carolina
Respondent

Motion For Bond

Comes now Mr. Edmond S. Adams, III and I would show unto This Honorable Court respectfully The Following:

I would move This Court For a bond pending appeal based on The following particulars To wit:

(A). The Respondent in this case has basically Conceded The appeal. For The sake OF Clarity and particularity The Respondent has failed to answer Several arguments that were ruled upon on the merits by The PCR Court.

Respondent, Not The P.R. Court is and has in "Return To Petition writ of Certiorari" page 17 States That all but two issues are not properly before the Court because they are/were essentially direct appeal issues. Never That was NOT the defense asserted at The PCR hearing. The Respondent is attempting to change race horses in The middle of The race. It appears That because respondent cannot muster an argument That would not sound grossly ridiculous to The arguments presented to This Court, The only alternative is not to answer The claims at all. The Lower Court only ruled That ground 11-A-3 was procedurally barred. Therefore all other claims and arguments should be entertained on the merits. Stare decisis dictate That This Court will not uphold The findings of The PCR Court if The findings are not supported by probative evidence, Holland vs. State, 322 S.C. 111, 470 S.E. 2d. 378 (1996), and it is my inclination That The probative evidence is from The arguments and evidence adduced at The PCR hearing. It is The province of The Lower Court to procedurally bar a claim from there Court to obstruct This Court from hearing a claim on The merits, That is Not The Function of The Respondent.

In all reality The Respondent only addressed two issues on appeal when 14 issues were raised, Thus Conceding The remaining issues.

Petitioner suppose to have a Full bite of The apple, Not a Nibble.

(B). The Petitioner is not a Flight risk. Petitioner has no record of running from Justice at all.

(C). The Petitioner would live with his mother, and comply with any conditions imposed by This Court, even house arrest, ect.

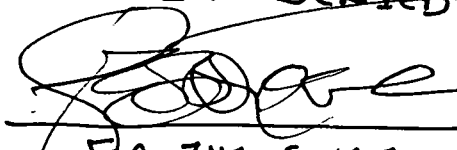
(D). The Petitioner has done 13 years, and The State only wanted 10 years. Petitioner did not plead guilty, and went to trial and lost, but a 10 year plea was offered to petitioner.

- (E). Petitioner is in The process of Seeking employment And Can have a job as a condition For a bond if needed.
- (F). When Petitioner went To trial in 2000, DNA evidence was per se New and Now DNA evidence in a case such as This one is a Key Factor For a Conviction. Because There is "NO" DNA evidence in this Case at all it defies Logic and Science that The Petitioner could have done everything that is started in This case. The States witness From SLED, even Stated there is No DNA evidence to prove that petitioner even touched The alleged victim in This case.
- (G). There has been a multitude of violations in this case that are not being Litigated do to Shortcomings, to wit; (1). Petitioner being arrested in his home without an arrest warrant, on the authority of The Solicitor, not a Judge. (2). The judge taking Several jurors off The jury panel that petitioner picked and replaced them with jurors that he wanted. (3) The Solicitor told the jury that A Juror Lied to get on the jury panel. (4) The Solicitor told the jury that Petitioner raped another woman, and petitioner Never was convicted of that. (5). The Petitioners trial preparation papers was taken From him by Detention Center officers. (6). The Doctors said Petitioner was not competent to stand trial, and Petitioner was taken to trial anyway. (7) The tapes of the trial were destroyed so Petitioner could not correct the transcript. For The reasons stated petitioner Prays That This Court will grant him a reasonable bond.
- I SO MOVE

MOTION DENIED.

9-12-11

Date


C.J.
For the Court
September 13, 2011
(3).

Mr. Edmond S. Adams, III

Mr. Edmond S. Adams, III #00265717
Evans C.I., Rm. MO-219-A
610 Highway 9 West
Bennettswine SC 29512

The State OF South Carolina
In The Supreme Court

Appeal From Richland County
Court OF Common Pleas

James R Barber, Presiding Judge
Case No. 2006-CP-400-7169

Edmond Stanley Adams, III

Petitioner

"VS."

State OF South Carolina
Respondent

Certificate OF Service

I Mr. Edmond S. Adams, III do hereby Certify That on The date hereunder, I did give The Evans C.I. mail-room clerk an exact copy of The foregoing "Motion For a Bond" with sufficient first class postage attached and addressed as follows:

Office of The S.C. Attorney General
P.O. Box 11549
Columbia SC 29211-1549

9-12-11

Date

Mr. Edmond S. Adams, III

Edmond S. Adams, III 265717

Evans C.I., Rm. Mo. 219-A

610 Highway 9 West

Bennettsville SC 29512

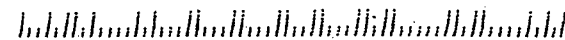
Edmond S. Adams, III 265717
Evans C.I., Rm. MO-219-A
610 Highway 9 West
Bennettsville SC 29512



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Supreme Court of South Carolina
P.O. Box 11330
Columbia SC 29211

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ALAN WILSON
ATTORNEY GENERAL

March 24, 2011

RECEIVED

MAR 24 2011

S.C. Supreme Court

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

Re: Edmond S. Adams, 265717 v. State of South Carolina
2006-CP-40-7169

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Return to Petition for Writ of Certiorari in the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this Return today.

Sincerely,

Brian T. Petrano
Assistant Attorney General

Enclosures

cc: Edmond S. Adams, III, 265717

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable James R. Barber
Richland County
Trial Court Case No. 2006-CP-40-07169

ORDER

For good cause shown, the request for an extension until April 4, 2011 to serve and file the amended Petition for Writ of Certiorari with corrected citations to the 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 and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

March 14, 2011

cc: Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano

E STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

JAMES R. BARBER, CIRCUIT COURT JUDGE

CASE NO: 2006-CP-400-7169

EDMOND STANLEY ADAMS, III
PETITIONER

"VS"

STATE OF SOUTH CAROLINA
RESPONDENT

MOTION TO EXTEND TIME TO FILE WRIT OF CERTIORARI

Comes now, Mr. Edmond S. Adams, III and I would show unto this Honorable Court respectfully the following;

petitioner has put the writ certiorari in final form to comport with the new appendix, and the brief has been given to the Evans C.I. property control officer to be mailed out for the purpose of obtaining copies to adhere to the rules of this court, Likewise in an abundance of caution I would ask this court for another extension of time to make sure the writ of certiorari is timely filed to protect my lifes blood. The brief should be before the court within the next 10 days, however I would ask for 20 day's not knowing the schedule of my mother who will get the copies.

I SO MOVE

3-10-11
DATE

Edmond S. Adams III
EDMOND S. ADAMS, III 265717
EVANS C.I., RM. F2B-270
610 HIGHWAY #9, WEST
BENNETTSVILLE, SC 29512

RECEIVED

MAR 14 2011

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

JAMES R. BARBER, CIRCUIT COURT JUDGE

CASE NO: 2006-CP-400-7169

EDMOND STANLEY ADAMS, III
PETITIONER

"VS"

STATE OF SOUTH CAROLINA
RESPONDENT

CERTIFICATE OF SERVICE

I Mr. Edmond S. Adams, III do hereby certify that on the date hereunder ~~I did~~ deposit a copy of the motion to extend time to file writ of certiorari in the Evans C.I. mail system, with sufficient first class postage attached and addressed as follows:

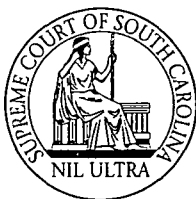
Office of the S.C. Attorney General
P.O. BOX 11549

COLUMBIA S.C. 29211-1549

3-10-11

DATE

Edmond S. Adams, III
EDMOND S. ADAMS, III 265717
EVANS C.I., RM. F2B-270
610 HIGHWAY #9, WEST
BENNETTSVILLE, SC 29512



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 19, 2011

Edmond Stanley Adams III #265717
Evans Correctional Institution
610 Highway #9, West
Bennettsville, SC 29512

Re: Adams, Edmond Stanley III v. The State

Dear Mr. Adams:

The following Order has been endorsed on your Motion for Extension of Time in the above entitled case on appeal.

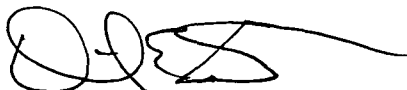
“Extension granted until March 14, 2011.

Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

January 19, 2011.”

Very truly yours,



CLERK

DES/jj

cc: Assistant Attorney General Brian T. Petrano

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

JAMES R. BARBER, PRESIDING JUDGE

CASE NO: 2006-CP-400-7169

RECEIVED

JAN 18 2011

S.C. SUPREME COURT

EDMOND S. ADAMS, III
Petitioner

"VS"

STATE OF SOUTH CAROLINA
Respondent

NOTICE OF MOTION AND MOTION
FOR AN EXTENSION OF TIME

Comes Now, Mr. Edmond S. Adams, III and I would show unto this Honorable Court respectfully the following;

Petitioner is housed at the Evans C.I. in the Waxsaw housing unit and at this present time, the Unit is on lockdown status for Unknown reasons to petitioner. Under these circumstances petitioner cannot purchase the necessary supplies needed to complete the task of preparing the writ of certiorari by the deadline imposed by this court.

Furthermore, Once the writ of certiorari is completed by the petitioner, petitioner will need to mail the writ out for the purpose of getting copies to comply with the rules of this of this court. The copying will be done by third parties, therefore more time will be needed. Under the circumstances prevailing, petitioner request a 60 day extension of time to complete the writ of certiorari, I SO MOVE.

1-12-2011

Edmond S. Adams III
Edmond S. Adams, III #265717
Evans C.I., Rm. F4B-119
610 Highway 9 West
Bennettsville SC 29512

EXTENSION GRANTED UNTIL
MARCH 14, 2011.

John H. Ford
For the Court

By 
Clerk

January 19, 2011

THE STATE OF SOUTH CAROLINA...
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

JAMES R. BARBER, PRESIDING JUDGE

CASE NO: 2006-CP-400-7169

EDMOND S. ADAMS, III
Petitioner

"VS"

STATE OF SOUTH CAROLINA
Respondent

CERTIFICATE OF SERVICE

I, Mr. Edmond S. Adams, III do hereby certify that on the date hereunder, I did deposit a copy of the foregoing "Notice of motion, and motion for an extension of time" in the Evans C.I. mail-box, with sufficient first class postage attached and addressed as follows:

OFFICE OF THE S.C. ATTORNEY GENERAL
P.O. BOX 11549
COLUMBIA S.C. 29211-1549

1-12-2011
DATE

Edmond S. Adams III
EDMOND S. ADAMS, III #265717
EVANS C.I., RM. F4B-119
610 HIGHWAY 9 WEST
BENNETTSVILLE, SC 29512

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,
 v.
State of South Carolina, Respondent.

ORDER

Petitioner filed a pro se notice of appeal and petition for a writ of certiorari in this matter.¹ By order dated July 20, 2010, petitioner was directed to supplement the appendix with missing documents. The Commission on Indigent Defense, Division of Appellate Defense was associated or the purpose of assisting petitioner in preparing a supplemental appendix. However, petitioner subsequently notified this Court that he did not want assistance from the Division of Appellate Defense and that he had retained counsel, Bernice M. Jenkins, to assist him. Ms. Jenkins recently served and filed an amended appendix on petitioner's behalf.

Ms. Jenkins now moves to be relieved as counsel. She states petitioner has informed her he wishes to proceed pro se. She also states

¹ By order dated July 17, 2009, petitioner was warned of the dangers and disadvantages of proceeding pro se.

circumstances have developed in the course of her representation of petitioner that have caused an irremediable breakdown in the attorney-client relationship and prevent her from providing effective assistance of counsel. Finally, she states petitioner instructed her to move to withdraw as counsel. Ms. Jenkins and petitioner have also signed and submitted a Consent Order to be Relieved as Counsel stating petitioner has informed Ms. Jenkins he wishes to proceed pro se and no longer desires to have an attorney represent him in this matter. The consent order states Ms. Jenkins was retained for the limited purpose of compiling the amended appendix. Finally, the consent order states petitioner consents to Ms. Jenkins being relieved from representation of petitioner in this matter. The motion to be relieved as counsel is granted, as is petitioner's request to proceed pro se.

The State also moves to hold the time limits for serving and filing a return to the petition for a writ of certiorari in abeyance until petitioner corrects the citations to the appendix in the petition for a writ of certiorari. Petitioner has not filed a return to the motion. The motion is granted. Petitioner shall, within thirty days of the date of this order, serve and file a corrected petition for a writ of certiorari in accordance with Rule 243(d), SCACR. The corrected petition shall include references to page numbers in

the amended appendix instead of page numbers in the original version of the appendix. This shall be the only correction made to the petition for a writ of certiorari.

The State shall have thirty days from the date of service of the corrected petition for a writ of certiorari to serve and file a return to the petition. The State should be prepared to serve and file its return within that time period and without any extensions, as it has previously received three extensions of time to file the return in this matter.

IT IS SO ORDERED.


C. J.
FOR THE COURT

Columbia, South Carolina

December 22, 2010

cc: Bernice Marie Jenkins, Esquire
Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

DEC -9 2010

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas

S.C. Supreme Court

ORIGINAL

The Honorable James R. Barber, III, Circuit Court Judge

Case No. 2006CP4007169

Edmond Stanley Adams, ... Petitioner,

v.

State of South Carolina, ... Respondent.

**MOTION TO HOLD TIME LIMITS FOR THE RETURN TO PETITION
FOR WRIT OF CERTIORARI IN ABEYANCE WHILE THE
PETITIONER CORRECTS THE PETITION FOR WRIT OF
CERTIORARI WITH THE REQUIRED CORRECTED CITATIONS TO
THE NEW APPENDIX PER RULE 243(e)(3), SCACR**

Edmond Stanley Adams, III, 265717

Pro Se

Lieber C.I., Rm. SA-62

P.O. Box 205

Ridgeville, SC 294712

AND

Bernice M. Jenkins, Esquire

PO BOX 41436

North Charleston, SC 29423

(843) 225-3554

ATTORNEYS FOR PETITIONER

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

STATEMENT OF THE CASE

The Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Petitioner was indicted at the November 1998 term of the Court of General Sessions for Richland County for criminal sexual conduct – first degree (98-GS-40-34469), armed robbery (98-GS-40-34470) and kidnapping (98-GS-40-34471). On March 29, 2000, he proceeded *pro se* at his trial with Joseph McCulloch, Esquire, as assisting counsel, after which he was found guilty of criminal sexual conduct – first degree, armed robbery and kidnapping. He was sentenced by the Honorable James C. Williams, Jr., to confinement for a period of twenty-five (25) years for criminal sexual conduct – first degree, fifteen (15) years consecutive for armed robbery and twenty-five (25) years consecutive for kidnapping.

A timely Notice of Appeal was filed and the Petitioner argued his appeal *pro se*, the Petitioner requested assistance in perfecting the Record on Appeal. Accordingly, the Law Offices of Tara Dawn Shurling, Esquire, ultimately perfected the Record on Appeal for the *pro se* appellant. The South Carolina Court of Appeals affirmed Petitioner's conviction and sentence. State v. Adams, Op. No. 2005-UP-520 (S.C. Ct. App. filed September 15, 2005). Following denial of a Petition for Rehearing en banc on November 17, 2005, the South Carolina Court of Appeals issued its Remittitur dated December 22, 2005.

The Petitioner filed his PCR application on December 4, 2006. He appeared before the Honorable James R. Barber, III on March 17, 2008 and waived his right to appointed PCR counsel. The PCR hearing was on March 19, 2008 before the Honorable James R. Barber, III. Judge Barber issued an Order of Dismissal on May 19, 2008. The Applicant filed a Rule 59(e), SCRCP motion on June 6, 2008. On June 13, 2008, the Respondent replied to the Petitioner's post-trial motion. On July 14, 2008, by way of a "Form 4" order, Judge Barber denied the Petitioner's Rule 59(e) motion. The Petitioner filed a Notice of Appeal on June 18, 2009 indicating that he received the Order denying his Rule 59(e) motion on June 5, 2009. This Court issued an Order on July 17, 2009 warning the Petitioner of the dangers of proceeding *Pro Se* for his PCR appeal. The Petitioner filed his Petition for Writ of Certiorari and Appendix on February 2, 2010. The Respondent requested that the Court hold the time limits for the Return to the Petition for Writ of Certiorari in abeyance while the Petitioner corrected the Appendix. This Court agreed and issued an order dated July 20, 2010 associating the Commission on Indigent Defense to assist in compiling the transcript and allowing 30 days to submit a corrected appendix. The Petitioner then retained private counsel [Bernice M. Jenkins, Esquire] to assist in compiling the appendix. The corrected appendix was not timely filed and this Court dismissed the case on November 15, 2010. In response to Petitioner's motion to reinstate, this Court reinstated the case and directed the Petitioner to file the corrected appendix by

December 6, 2010. The corrected appendix was sent on December 6, 2010.

This motion follows.

ARGUMENT

THE TIME LIMITS FOR THE RETURN TO PETITION FOR WRIT OF CERTIORARI SHOULD BE HELD IN ABEYANCE WHILE THE PETITIONER CORRECTS THE PETITION FOR WRIT OF CERTIORARI WITH THE REQUIRED CORRECTED CITATIONS TO THE NEW APPENDIX PER RULE 243(e)(3), SCACR

On July 17, 2009, this Court issued an Order cautioning the Petitioner that if he represented himself he would still be required to be in “full compliance with all applicable rules.” The Respondent submits that the Petition for Writ of Certiorari, as submitted on February 12, 2010, is inadequate and is not in compliance with Rule 243(e)(3), SCACR.¹ Rule 243(e)(3), SCACR states:

(3) A direct and concise argument in support of the petition. The argument on each question shall include citation of authority and specific reference to pertinent portions of the lower court record. The total length of a petition shall not exceed twenty-five pages.

Rule 243(e)(3), SCACR (emphasis added).

Specifically, the Petition for Writ of Certiorari contains reference to page numbers of the *original version* of the appendix. The Petition for Writ of Certiorari does not correctly reference the correct/updated pages of the new appendix.

¹ Rule 243 replaces the former Rule 227, SCACR.

CONCLUSION

For the reasons stated above, this Court should hold the time limits for the Return to Petition for Writ of Certiorari in abeyance and require the Petitioner to correct the defect(s) of the Petition for Writ of Certiorari.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

P.O. Box 11549
Columbia, SC 29211
(803) 734-3737

By: 

ATTORNEYS FOR THE RESPONDENT

Columbia, South Carolina
December 9, 2010

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Richland County
Honorable James R. Barber, III, Circuit Court Judge

Edmond S. Adams, III, 265717,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

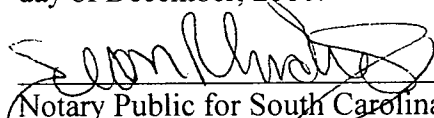
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion to Hold Time Limits for the Return to Petition for Writ of Certiorari in Abeyance While the Petitioner Corrects the PWC to the New Appendix Per Rule 243(e)(3), SCACR has been served upon opposing counsel, Edmond S. Adams, III, by mailing two (2) copies addressed to: Lieber C.I., Rm. SA-62, Post Office Box 205; Ridgeville, S C 294712; and opposing counsel, Bernice M. Jenkins, Esquire, by mailing two (2) copies addressed to; P O Box 41436; North Charleston, S C 29423; with postage prepaid, this 9th day of December, 2010.



BRIAN T. PETRANO
ATTORNEY FOR RESPONDENT

SWORN to before me this 9th
day of December, 2010.

 (L.S.)
Notary Public for South Carolina.

My Commission Expires: ~~My~~ Commission Expires
January 30, 2013

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

ORIGINAL

James R. Barber, Circuit Court Judge

Case No. 2006-CP-400-7169

Edmond Stanley Adams, III. Petitioner,

v.

State of South Carolina. Respondent,

MOTION TO BE RELIEVED AS COUNSEL

NOW COMES undersigned counsel, Attorney Bernice M. Jenkins, and respectfully requests that this Court permit her to withdraw from representation of the Appellant, Edmond Stanley Adams III, in the above referenced matter. Counsel says further:

1. Undersigned counsel filed the Amended Appendix on the Appellant's behalf on December 6, 2010 and also filed a Motion for Reinstatement on November 17, 2010 on behalf of the Appellant.
2. The Appellant has informed me that he wishes to proceed *pro se*.

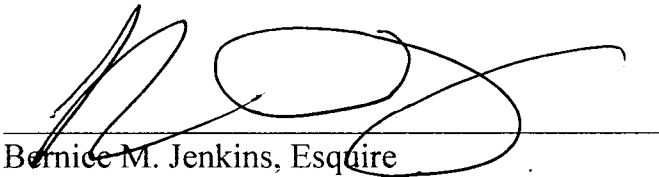
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DEC 14 2010

SUPREME COURT

3. Circumstances have developed in the course of the representation that have caused an irremediable breakdown in the attorney client relationship which prevent counsel from providing effective assistance of counsel. In addition the Appellant has instructed undersigned counsel to file this withdrawal.

WHEREFORE, undersigned counsel respectfully requests that this Court permit her to withdraw from representation of the defendant in this case.



Bernice M. Jenkins, Esquire

December 13, 2010
Charleston, South Carolina

Brian T. Petrano, Esquire
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, SC 29211

Mr. Edmond Adams, #265717
Evans Correctional Institute, Rm. F2B 117
610 Highway Nine West
Bennettsville, SC 29512

**THE STATE OF SOUTH CAROLINA
In the Supreme Court**

**APPEAL FROM RICHLAND COUNTY
Court of Common Pleas**

James R. Barber, Circuit Court Judge

Case No. 2006-CP-400-7169

Edmond Stanley Adams, III, #00265717..... Petitioner,

v.

State of South Carolina..... Respondent,

CONSENT ORDER TO BE RELIEVED AS COUNSEL

Client has informed attorney that he wishes to proceed in this matter *pro se* and no longer desires attorney to represent him. Attorney was retained for the limited purpose of compiling the Appendix in this matter.

Client consents to attorney being relieved from all representation in the South Carolina Supreme Court. Now therefore, it is

ORDERED that Bernice M. Jenkins, Esquire, be and she hereby is relieved as counsel.

AND IT IS SO ORDERED!

South Carolina Supreme Court

December , 2010

Charleston, South Carolina

I SO MOVE:

I CONSENT:



Bernice M. Jenkins, Esquire
Attorney for the Petitioner



Edmond S. Adams III.
Petitioner

LAW OFFICE OF BERNICE M. JENKINS, L.L.C.

ATTORNEY & COUNSELOR AT LAW

POST OFFICE BOX 41436

NORTH CHARLESTON, SOUTH CAROLINA 29423

(843) 225-3554 • FAX: (843) 225-3765

EMAIL: bjenkinslaw@yahoo.com



BERNICE M. JENKINS
ATTORNEY AT LAW

December 13, 2010

The Honorable Daniel E. Shearhouse
Clerk, South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

Re: Edmond Stanley Adams III. v. State of South Carolina
Case no.: 2006-CP-400-7169

Dear Mr. Shearhouse:

Please find attached the Attorney for the Appellants Motion and Consent Order to be Relieved as Counsel. By Copy of this letter I am serving opposing Counsel.

Should you have any questions or need additional information, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Bernice M. Jenkins".

Bernice M. Jenkins, Esquire

BMJ
Enclosures
Brian T. Petrano, Esq.

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DEC 14 2010

S.C. SUPREME COURT



HENRY McMASTER
ATTORNEY GENERAL

December 9, 2010

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DEC - 9 2010

S.C. Supreme Court

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

Re: **Edmond S. Adams, 265717 v. State of South Carolina**
2006-CP-40-7169

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Motion to Hold Time Limits for th Return to Petition for Writ of Certiorari in Abeyance While the Petitioner Corrects thee Petition for Writ of Certiorari with the Required Corrected Citations to the New Appendix Per Rule 243(e)(3), SCACR in the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this Motion today.

Sincerely,

Brian T. Petrano
Assistant Attorney General

Enclosures

cc: Edmond S. Adams, III
Bernice M. Jenkins, Esquire

LAW OFFICE OF BERNICE M. JENKINS, L.L.C.

ATTORNEY & COUNSELOR AT LAW

POST OFFICE BOX 41436

NORTH CHARLESTON, SOUTH CAROLINA 29423

(843) 225-3554 • FAX: (843) 225-3765

EMAIL: bjenkinslaw@yahoo.com



BERNICE M. JENKINS

ATTORNEY AT LAW

December 6, 2010

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DEC - 7 2010

S.C. Supreme Court

The Honorable Daniel E. Shearhouse
Clerk, South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

Re: Edmond S. Adams III v. the State of South Carolina
Case no.: 2006-CP-400-7169

Dear Mr. Shearhouse:

Please find enclosed two copies of the Amended -Appendix in the above referenced matter.

Should you have any questions or need additional information, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Bernice M. Jenkins".

Bernice M. Jenkins, Esquire

BMJ
Enclosures
Brian T. Petrano, Esquire

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,
v.
State of South Carolina, Respondent.

ORDER

By order dated November 15, 2010, this matter was dismissed due to petitioner's failure to serve and file an amended appendix per this Court's previous order of July 20, 2010. Counsel for petitioner now moves to reinstate the appeal. Counsel asserts an error in calendaring led to the failure to serve and file the amended appendix and that the amended appendix is now complete and can be served and filed immediately upon reinstatement of this matter. The State has not filed a return to the motion. The motion is granted. Counsel for petitioner shall serve and file the amended appendix within five days of the date of this order.

IT IS SO ORDERED.

Columbia, South Carolina

December 1, 2010

cc: Bernice Marie Jenkins, Esquire
Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano


FOR THE COURT

C. J.

ORIGINAL

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

James R. Barber, Circuit Court

Case No. 2006-CP-400-716

Don -
Wait 10 days
or return or
just re-instate
appeal? This
SEE IF
STATES
CAPSES

Edmond Stanley Adams, III.

v.

State of South Carolina. Respondent,

MOTION TO REINSTATE APPEAL

Petitioner, Edmond Stanley Adams, III., pursuant to Rule 260, S.C.A.C.R. and in accordance with Rule 262, S.C.A.C.R., hereby move this Honorable Court to reinstate his appeal. In support thereof, Charleston County would respectfully show as follows:

1. The Petitioner Edmond Stanley Adams, III. filed an Application for Post-Conviction Relief dated December 4, 2006.
2. The Petitioner retained counsel on August 17, 2010 for the limited purpose of compiling the Appendix. The Petitioner's prior *pro se* submission of the Appendix was deemed not to be consistent with the South Carolina Rules of Appellate Practice and the Court ordered that an amended appendix be filed. At all other times the Petitioner appeared *pro se*.
3. On August 27, 2010, Counsel for the Petitioner filed a motion for an extension of

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S.C. SUPREME COURT

time to file the Appendix to compile all necessary documents, which was granted.

4. On October 8, 2010, Counsel for the Petitioner filed another motion for extension of time to file the Appendix due to the fact Counsel had received over 2000 additional documents which needed to be reviewed to determine whether they needed inclusion in the Appendix. This case has a voluminous amount of documents filed by the parties.

5. Counsel for the Petitioner admits that it did not file the Appendix on or before November 8, 2010 because due to an error in calendaring within it's office it believed that the Appendix was not due until November 18, 2010. Counsel for the Petitioner did not know that the error had been made until it received the Notice of Dismissal on November 16, 2010. Counsel respectfully asks this court not to hold the Petitioner liable for an error made by counsel. The Appendix has been completed and was scheduled to be served on all parties on November 16, 2010 and can be served upon all parties immediately upon information that the appeal has been reinstated.

6. On November 15, 2010, this Court issued its Order of Dismissal dismissing the appeal filed by the Petitioner for failure to comply with Rule 243 (c).

WHEREFORE, Petitioner, Edmond Stanley Adams, III., moves this Court pursuant to Rule 231, S.C.A.C.R. to reinstate his appeal. The Petitioner respectfully alleges that good cause has been shown and that notice is provided to all parties, and requests leave of this Court to issue an order reinstating the Petitioner's appeal.


Bernice M. Jenkins, Esquire
Post Office Box 41436

Charleston, SC 29423
Attorney for the Petitioner

November 17, 2010
Charleston, South Carolina

Brian T. Petrano, Esquire
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, SC 29211

Mr. Edmond Adams, #265717
Evans Correctional Institute, Rm. F2B 117
610 Highway Nine West
Bennettsville, SC 29512

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

James R. Barber, Circuit Court Judge

Case No. 2006-CP-400-7169

Edmond Stanley Adams, III. Petitioner,

v.

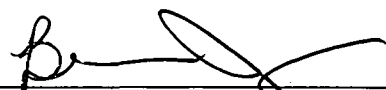
State of South Carolina. Respondent,

CERTIFICATE OF SERVICE

I certify that I served the **MOTION TO REINSTATE APPEAL** by depositing a
copy of the same in the United States Mail, postage prepaid, on November 17, 2010,
addressed to the attorneys of record and pro se litigants as follows:

Brian T. Petrano, Esquire
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, SC 29211

Mr. Edmond Adams, #265717
Evans Correctional Institute, Rm. F2B 117
610 Highway Nine West
Bennettsville, SC 29512

A handwritten signature in black ink, appearing to read 'Bernice M. Jenkins', is written over a horizontal line.

Bernice M. Jenkins, Esquire
Post Office Box 41436
Charleston, SC 29423
Attorney for the Petitioner

November 17, 2010
Charleston, South Carolina

LAW OFFICE OF BERNICE M. JENKINS, L.L.C.

ATTORNEY & COUNSELOR AT LAW

POST OFFICE BOX 41436

NORTH CHARLESTON, SOUTH CAROLINA 29423

(843) 225-3554 • FAX: (843) 225-3765

EMAIL: bjenkinslaw@yahoo.com



BERNICE M. JENKINS

ATTORNEY AT LAW

November 17, 2010

The Honorable Daniel E. Shearhouse
Clerk, South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

Re: Edmond S. Adams III v. the State of South Carolina
Case no.: 2006-CP-400-7169

Dear Mr. Shearhouse:

Enclosed please find the original and six (6) copies of Appellants' Motion to Reinstate Appeal in the above-referenced appeal, along with the Certificate of service. I would appreciate it if you would kindly accept the original for filing and acknowledge your receipt of the same by date-stamping the extra copy and returning it to me in the enclosed envelope. By copy of this letter, I am serving all counsel of record.

Should you have any questions or need additional information, please do not hesitate to call.

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NOV 18 2010

S.C. SUPREME COURT

Sincerely,

Bernice M. Jenkins, Esquire

BMJ

Enclosures

Brian T. Petrano, Esquire

Mr. Edmond Adams, #265717

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable James R. Barber
Richland County
Trial Court Case No. 2006-CP-40-07169

ORDER of DISMISSAL

The above entitled case is pending on appeal in this Court. Due to the failure of petitioner to serve and file an amended appendix in the above matter, as provided for in Rule 243(c) of the South Carolina Appellate Court Rules, and as ordered by this Court's order dated July 20, 2010,

IT IS ORDERED that the above captioned appeal be and hereby is dismissed. Pursuant to Rule 221(b) of the South Carolina Appellate Court Rules, the remittitur in the case will be sent to the Clerk of Court for Richland County after fifteen (15) days, exclusive of the date of filing this Order.

JEAN H. TOAL, CHIEF JUSTICE

BY 
CLERK

Columbia, South Carolina

November 15, 2010

cc: Bernice Marie Jenkins, Esquire
Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano
Division of Appellate Defense

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable James R. Barber
Richland County
Trial Court Case No. 2006-CP-40-07169

ORDER

For good cause shown, the request for an extension until November 8, 2010 to serve and file the amended 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 and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY


Clerk

Columbia, South Carolina

October 15, 2010

cc: Bernice Marie Jenkins, Esquire
Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano



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 15, 2010

Bernice Marie Jenkins, Esquire
The Law Ofc of Bernice M. Jenkins
P.O. Box 41436
Charleston, SC 29423-1436

Re: Adams, Edmond Stanley III v. The State

Dear Ms. Jenkins:

Enclosed is your extension order. Also enclosed is your check #1144 in the amount of \$25.00. There are no filing fees for post-conviction relief appeals.

Very truly yours,



CLERK

DES/jj

cc: Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable James R. Barber
Richland County
Trial Court Case No. 2006-CP-40-07169

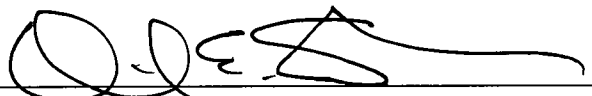
ORDER

For good cause shown, the request for an extension until November 8, 2010 to serve and file the amended 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 and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY


Clerk

Columbia, South Carolina

October 15, 2010

cc: Bernice Marie Jenkins, Esquire
Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

James R. Barber, Circuit Court Judge

Case No. 2006-CP-400-7169

Edmond Stanley Adams, III. Petitioner,

v.

State of South Carolina. Respondent,

MOTION TO EXTEND TIME TO FILE AND SERVE THE APPENDIX

The undersigned hereby moves for an extension of time to file and serve the Appendix in this case. The undersigned was retained as counsel for the Petitioner on August 12, 2010 for the limited purpose of compiling the Appendix. Counsel is in the process of compiling all documents needed for the Appendix, and has received over 2500 pages of documents which she is in the process of sifting through, and therefore respectfully asks this Court to grant an additional 30 day extension of time to complete the Appendix.

RECEIVED

OCT 13 2010

S.C. SUPREME COURT



Bernice M. Jenkins, Esquire
Post Office Box 41436
Charleston, SC 29423

Attorney for the Petitioner

October 8, 2010
Charleston, South Carolina

Other Counsel of Record:

Brian T. Petrano, Esquire
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, SC 29211

Robert M. Dudek, Esquire
Office of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

LAW OFFICE OF BERNICE M. JENKINS, L.L.C.

ATTORNEY & COUNSELOR AT LAW

POST OFFICE BOX 41436

NORTH CHARLESTON, SOUTH CAROLINA 29423

(843) 225-3554 • FAX: (843) 225-3765

EMAIL: bjenkinslaw@yahoo.com



BERNICE M. JENKINS

ATTORNEY AT LAW

October 8, 2010

The Honorable Daniel E. Shearhouse
Clerk, South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

Re: Edmond S. Adams III v. the State of South Carolina
Case no.: 2006-CP-400-7169

Dear Mr. Shearhouse:

I am writing to request a 30 day extension of time to file the Appendix in the above referenced matter. I am enclosing \$25 for the filing fee. I would appreciate it if you would kindly accept the original for filing and acknowledge your receipt of the same by date-stamping the extra copy and returning it to me in the enclosed envelope. By copy of this letter, I am serving all counsel of record.

Should you have any questions or need additional information, please do not hesitate to call.

Sincerely,

Bernice M. Jenkins, Esquire

BMJ

Enclosures

Brian T. Petrano, Esquire

Robert M. Dudek, Esquire

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OCT 13 2010

S.C. SUPREME COURT

LAW OFFICE OF BERNICE M. JENKINS, LLC

5401 WILD FERN CT.

NORTH CHARLESTON, SC 29420-6860

07-09

DATE

10/8/2010

1144

67-448/539 SC
2911

PAY
TO THE
ORDER OF

SC Supreme Court

\$ 25.00

taxes fee 1/10

DOLLARS

Bank of America

ACH/R/T 053904483

FOR

Adams

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CHARLESTON SC 294
TUE 12 OCT 2010 22:15:04



LAW OFFICE OF

BERNICE M. JENKINS, L.L.C.

ATTORNEY & COUNSELOR AT LAW

POST OFFICE BOX 41436

NORTH CHARLESTON, SOUTH CAROLINA 29423

The Honorable Daniel E. Shearhouse
Clerk, South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

v.

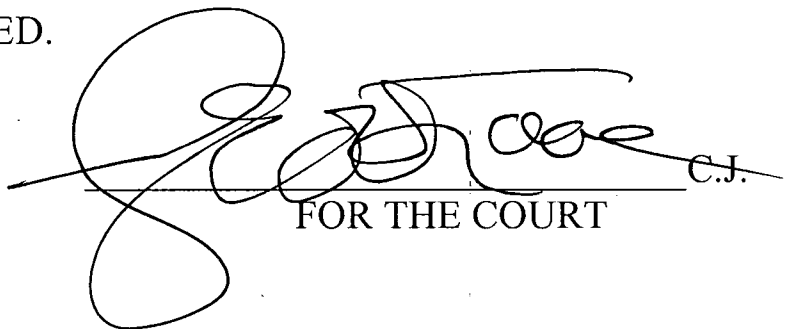
State of South Carolina, Respondent.

The Honorable James R. Barber
Richland County
Trial Court Case No. 2006-CP-40-07169

ORDER

The motion for an extension filed by Bernice M. Jenkins, Esquire, is granted. Further, since Mr. Jenkins is now representing petitioner in this matter, the Division of Appellate Defense shall no longer be associated in this matter and is hereby relieved from the requirements of this Court's order of July 20, 2010.

IT IS SO ORDERED.


C.J.
FOR THE COURT

August 27, 2010

Columbia, South Carolina

cc: Appellate Defense

Edmond Stanley Adams III #265717

Assistant Attorney General Brian T. Petrano

Bernice M. Jenkins, Esquire

LAW OFFICE OF BERNICE M. JENKINS, L.L.C.

ATTORNEY & COUNSELOR AT LAW

POST OFFICE BOX 41436

NORTH CHARLESTON, SOUTH CAROLINA 29423

(843) 225-3554 • FAX: (843) 225-3765

EMAIL: bjenkinslaw@yahoo.com



BERNICE M. JENKINS

ATTORNEY AT LAW

August 19, 2010

The Honorable Daniel E. Shearhouse
Clerk, South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

Re: Edmond S. Adams III v. the State of South Carolina
Case no.: 2006-CP-400-7169

Dear Mr. Shearhouse:

I am writing to request a 45 day extension of time to file the Appendix in the above referenced matter. I am enclosing \$25 for the filing fee. I would appreciate it if you would kindly accept the original for filing and acknowledge your receipt of the same by date-stamping the extra copy and returning it to me in the enclosed envelope. By copy of this letter, I am serving all counsel of record.

Should you have any questions or need additional information, please do not hesitate to call.

Sincerely,

Bernice M. Jenkins, Esquire

BMJ
Enclosures
Brian T. Petrano, Esquire
Robert M. Dudek, Esquire

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AUG 23 2010

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

James R. Barber, Circuit Court Judge

Case No. 2006-CP-400-7169

Edmond Stanley Adams, III. Petitioner,

v.

State of South Carolina. Respondent,

MOTION TO EXTEND TIME TO FILE AND SERVE THE APPENDIX

The undersigned hereby moves for an extension of time to file and serve the Appendix in this case. The undersigned was retained as counsel for the Petitioner on August 12, 2010 for the limited purpose of compiling the Appendix. Counsel has not received all documents associated with this matter and is in the process of compiling all documents needed for the Appendix, and therefore respectfully asks this Court to grant a 45 day extension of time to complete the Appendix.



Bernice M. Jenkins, Esquire
Post Office Box 41436
Charleston, SC 29423
Attorney for the Petitioner

August 19, 2010

RECEIVED

AUG. 23 2010

S.C. SUPREME COURT

Charleston, South Carolina

Other Counsel of Record:

Brian T. Petrano, Esquire
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, SC 29211

Robert M. Dudek, Esquire
Office of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

James R. Barber, Circuit Court Judge

Case No. 2006-CP-400-7169

Edmond Stanley Adams, III. Petitioner,

v.

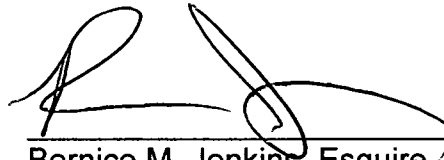
State of South Carolina. Respondent,

CERTIFICATE OF SERVICE

I certify that I served the **MOTION FOR EXTENSION OF TIME TO FILE THE APPENDIX** by depositing a copy of the same in the United States Mail, postage prepaid, on August 19, 2010, addressed to the attorneys of record and pro se litigants as follows:

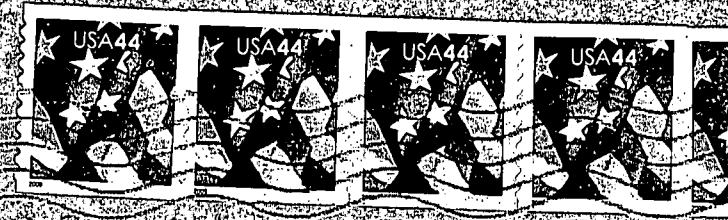
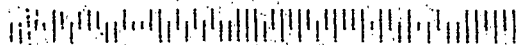
Brian T. Petrano, Esquire
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, SC 29211

Robert M. Dudek, Esquire
Office of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

A handwritten signature in black ink, appearing to read 'Bernice M. Jenkins', is written over a horizontal line.

Bernice M. Jenkins, Esquire
Post Office Box 41436
Charleston, SC 29423
Attorney for the Petitioner

August 19, 2010
Charleston, South Carolina



CHARLESTON SC 29401

THU AUG 24 2012



LAW OFFICE OF

BERNICE M. JENKINS, L.L.C.

ATTORNEY & COUNSELOR AT LAW

POST OFFICE BOX 41436

NORTH CHARLESTON, SOUTH CAROLINA 29423

The Honorable Daniel E. Shearhouse
Clerk, South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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
Joseph L. Savitz, III, Senior Appellate Defender

August 19, 2010

RECEIVED

AUG 19 2010

S.C. SUPREME COURT

Daniel E. Shearouse
Clerk, S C Supreme Court
P O Box 11330
Columbia, SC 29211

Re: Edmond Stanley Adams v. State of South Carolina

Dear Mr. Shearouse:

This Court forwarded a letter to me from Mr. Adams stating that he has retained counsel. He specifically mentioned Bernice Jenkins of Charleston. Mr. Adams informed me that he did not want our office involved in his case -- even just compiling documents -- because he thought we had tampered with his transcript on his direct appeal.

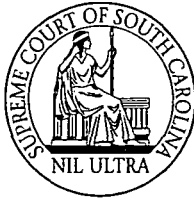
I obviously do not know how our office could have tampered with his transcript. Nonetheless, I understand he has requested an extension of time in an effort to assure that our office is not involved in assisting him with his pro-se appendix.

If Mr. Adams can retain counsel it is the position of this office that he is not indigent. We will obviously comply with whatever the Court wants us to do given this recent development. Pursuant to this Court's Order dated July 20, 2010, this office is now requesting to be relieved from obtaining transcripts, documents, and exhibits and paying for his copying expenses since he has informed the Court he has retained counsel.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

RMD/lf
cc: Attorney General's Office
Edmond Stanley Adams



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

August 17, 2010

Bernice Marie Jenkins, Esquire
The Law Office of Bernice M. Jenkins
P.O. Box 41436
Charleston, SC 29423-1436

Re: Adams, Edmond Stanley III v. The State

Dear Ms. Jenkins:

Enclosed is a motion received from Mr. Adams. Since he now indicates that you represent him in this matter, we are marking our records to reflect that you are his counsel of record in this matter.

Further, since you now represent him, no action will be taken on his pro se motion. If it is appropriate to seek an extension of time to serve and file the appendix, that motion will have to be filed by you as his counsel. 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).

Very truly yours,

Clerk

Enclosure

cc: Assistant Attorney General Brian T. Petrano
Edmond Stanley Adams III #265717
Appellate Defense

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

JAMES R. BARBER, PRESIDING JUDGE

CASE NO: 2006-CP-400-7169

EDMOND STANLEY ADAMS, III
Petitioner

"VS"

RECEIVED

AUG 16 2010

STATE OF SOUTH CAROLINA
Respondent

S.C. SUPREME COURT

NOTICE OF MOTION AND MOTION
FOR AN EXTENSION OF TIME

Comes now, Mr. Edmond S. Adams III, and I would show unto this Honorable Court respectfully the following:

By order of this court dated July 20th 2010, this court gave the petitioner 30 days to prepare his appendix to perfect the appeal sub judice.

Petitioner is respectfully asking this court to grant an additional 45 days to perfect this appeal.

The reasons for this additional time is supported by the fact's to wit:

[A]. The petitioner and the S.C. Appellate Court defense Comm. has disclosed a conflict of interest. Several of the petitioners claims in this appeal are against the S.C. Appellate Defense Comm, and the integrity of the appeal would be at risk if the appellate defense is allowed to participate in this appeal.

[B] Petitioner has filed and litigated a civil action against the S.C. Appellate Defense Comm. in the Richland County Court of Common Pleas.

[C] Petitioner has retained Counsel to aid him in this matter, to wit; BERNICE M. JENKINS TEL NO. 843-225-3554, and she has the arduous task of gathering a multitude of documents from different places, and correcting the page numbers in the brief to be in conjunction with the corrected appendix.

[D] Petitioner has been moved from the Lieber C.I. to the Evans C.I. which has made matters more difficult from him to perfect this appeal and meet with his lawyer.

Furthermore, The Evans C.I. will not allow the petitioner to mail out documents to his counsel as he pleases, do the legal mail process suppressing any out going legal mail without an order to report which is the most unconstitutional mailing process that I have ever witness.

[E] The Respondent in this case has been granted several extensions of time throughout this case, and the petitioner only ask that this court grant him the [s]ame type of relief to perfect this appeal.

Likewise the respondent will not be prejudiced at all by an extension of time in this hypercritical matter.

Likewise on the ipso facto that petitioner has retained counsel in this complex case, this court should recognize that an extension of time is needed in this case, furthermore I sayeth not. I SO MOVE.

8-16-2010

DATE

Edmond S. Adams III

EDMOND S. ADAMS, III #265717

EVANS C.I. RM. F2B 117

BENNETTSVILLE S.C. 29512

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

JAMES R. BARBER, PRESIDING JUDGE

CASE NO: 2006-CP-400-7169

EDMOND STANLEY ADAMS, III
Petitioner

"VS"

STATE OF SOUTH CAROLINA
Respondent

CERTIFICATE OF SERVICE

I Mr. Edmond S. Adams, III do hereby certify that on the date
hereunder I did deposit an exact copy of the foregoing
Notice of motion and motion for an extension of time in the Evans
C.I. mail-box with sufficient first class postage attached and
addressed as follows:

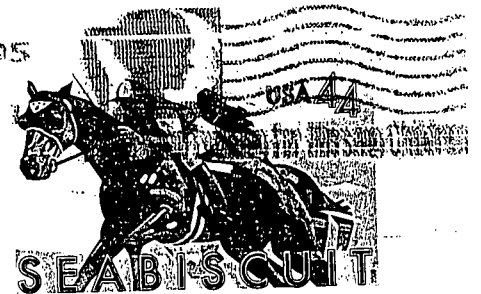
Office of the S.C. ATTORNEY GENERAL, P.O. BOX 11549 Cola S.C.
29211-1549
OFFICE OF APPELLATE DEFENSE, P.O. BOX 11589 COLA SC 29211-1589
ATTN: ROBERT M. DUDEK
ATTORNEY AT LAW BERNICE M. JENKINS P.O. BOX 41436 CHARLESTON
S.C. 29423

8-16-2010
DATE


Edmond S. Adams, III #265717
Evans C.I., Rm. F2B 117
610 Highway Nine West
Bennettsville S.C. 29512

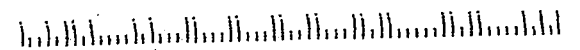
Mr. Edmond S. Adams, III, #265717
Evans C.I., Rm. F2B 117
610 Highway Nine West
Bennettsville S.C. 29512

FLORENCE SC 295
16 AUG 2010 PM 2



South Carolina Supreme Court
P.O. Box 11330
Columbia S.C. 29211

2521131330



The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

V.

State of South Carolina, Respondent.

ORDER

This matter is before the Court by way of a notice of appeal from an order of the circuit court denying and dismissing petitioner's application for post-conviction relief (PCR) and an order denying petitioner's subsequent Rule 59(e), SCRCF, motion. Petitioner, who proceeded pro se before the circuit court, and who is proceeding pro se, per his request, in this Court, has filed a petition for a writ of certiorari and an appendix. Petitioner has raised fourteen issues in his petition.

The State has now filed a motion to hold the time limits for filing its return to the petition in abeyance while petitioner supplements the appendix with documents required by Rule 243(f), SCACR. The State asserts the appendix filed by petitioner does not contain the entire lower court record, which was substantial, nor does it contain a copy of the final order,

the Rule 59(e) motion or the order denying that motion.

By way of return, petitioner asserts the State's motion was filed for purposes of delay. However, petitioner also states that he is "willing to do anything that this [C]ourt deems just and proper to perfect [his] appeal." He states he has exhausted his funds; therefore, outside counsel will need to assist him in supplementing the appendix because the South Carolina Department of Corrections will not assist him in perfecting the appeal.

Rule 243(c), SCACR, states that the appendix to a petition for a writ of certiorari to review a PCR matter shall include the entire lower court record, a copy of the final order entered after the PCR proceeding, and an index setting forth the principal matters in the appendix. Petitioner does not deny that the appendix he has filed in this matter is not complete.

Accordingly, we grant the State's motion to hold the time limits for filing its return to the petition for a writ of certiorari in abeyance until petitioner files a supplemental appendix that complies with Rule 243(f). Petitioner shall have thirty days from the date of this order to serve and file a supplemental appendix.

Since petitioner proceeded pro se in the circuit court, he should be well aware of what comprises the record before that court. However, in an

effort to assist petitioner, we hereby associate the Commission on Indigent Defense, Division of Appellate Defense, for the limited purpose of obtaining and paying for any necessary transcript(s) and records necessary to complete the appendix in this matter and providing copies of the supplemental appendix. Petitioner shall communicate with the Division of Appellate Defense for the purpose of coordinating these services.

IT IS SO ORDERED.


FOR THE COURT

Columbia, South Carolina

July 20, 2010

cc: Appellate Defense
Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUN 24 2010

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable James R. Barber, III, Circuit Court Judge

ORIGINAL

Case No. 2006CP4007169

Edmond Stanley Adams, ... Petitioner,

v.

State of South Carolina, ... Respondent.

MOTION TO HOLD TIME LIMITS FOR THE RETURN TO PETITION
FOR WRIT OF CERTIORARI IN ABEYANCE WHILE THE
PETITIONER SUPPLEMENTS THE APPENDIX WITH THE
REQUIRED DOCUMENTS PER RULE 243(f), SCACR

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

Edmond Stanley Adams, III, 265717
Pro Se

SALLEY ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

Lieber C.I., Rm. SA-62
P.O. Box 205
Ridgeville, SC 294712

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

ATTORNEYS FOR PETITIONER

ATTORNEYS FOR RESPONDENT

STATEMENT OF THE CASE

The Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Petitioner was indicted at the November 1998 term of the Court of General Sessions for Richland County for criminal sexual conduct – first degree (98-GS-40-34469), armed robbery (98-GS-40-34470) and kidnapping (98-GS-40-34471). On March 29, 2000, he proceeded *pro se* at his trial with Joseph McCulloch, Esquire, as assisting counsel, after which he was found guilty of criminal sexual conduct – first degree, armed robbery and kidnapping. He was sentenced by the Honorable James C. Williams, Jr., to confinement for a period of twenty-five (25) years for criminal sexual conduct – first degree, fifteen (15) years consecutive for armed robbery and twenty-five (25) years consecutive for kidnapping.

A timely Notice of Appeal was filed and the Petitioner argued his appeal *pro se*, the Petitioner requested assistance in perfecting the Record on Appeal. Accordingly, the Law Offices of Tara Dawn Shurling, Esquire, ultimately perfected the Record on Appeal for the *pro se* appellant. The South Carolina Court of Appeals affirmed Petitioner's conviction and sentence. State v. Adams, Op. No. 2005-UP-520 (S.C. Ct. App. filed September 15, 2005). Following denial of a Petition for Rehearing en banc on November 17, 2005, the South Carolina Court of Appeals issued its

Remittitur dated December 22, 2005.

The Petitioner filed his PCR application on December 4, 2006. He appeared before the Honorable James R. Barber, III on March 17, 2008 and waived his right to appointed PCR counsel. The PCR hearing was on March 19, 2008 before the Honorable James R. Barber, III. Judge Barber issued an Order of Dismissal on May 19, 2008. The Applicant filed a Rule 59(e), SCRCF motion on June 6, 2008. On June 13, 2008 the Respondent replied to the Petitioner's post-trial motion. On July 14, 2008, by way of a "Form 4" order, Judge Barber denied the Petitioner's Rule 59(e) motion. The Petitioner filed a Notice of Appeal on June 18, 2009 indicating that he received the Order denying his Rule 59(e) motion on June 5, 2009. This Court issued an Order on July 17, 2009 warning the Petitioner of the dangers of proceeding *Pro Se* for his PCR appeal. The Petitioner filed his Petition for Writ of Certiorari and Appendix on February 2, 2010. This Motion follows.

ARGUMENT

THE TIME LIMITS FOR THE RETURN TO PETITION FOR WRIT OF CERTIORARI SHOULD BE HELD IN ABEYANCE WHILE THE PETITIONER SUPPLEMENTS THE APPENDIX WITH THE REQUIRED DOCUMENTS PER RULE 243(f), SCACR

On July 17, 2009, this Court issued an Order cautioning the Petitioner that if he represented himself he would still be required to be in “full compliance with all applicable rules.” The Respondent submits that the Appendix, as submitted, is wholly inadequate and is not in compliance with Rule 243(f), SCACR.¹ Rule 243 (f), SCACR states:

(f) Content of Appendix. The Appendix shall contain:

- (1) The entire lower court record.
- (2) A copy of the final order entered after the post-conviction proceeding.
- (3) An index setting forth the principal matters contained in the Appendix. This index shall be in the same form required for a Record on Appeal under Rule 210(e).

Rule 243(f), SCACR.

The Respondent submits that the Appendix does not contain the entire lower court record. The lower court record was substantial - as stated by the PCR Court:

This Court had before it the records of the Richland County Clerk of Court, the transcript of the proceedings against the Applicant, the Applicant's records from the South Carolina Department of Corrections, and numerous other motions, orders, and other documents from throughout the Applicant's trial and subsequent appeal.

(Order of Dismissal, p. 1 – 2).

In addition, the Appendix does not contain the Final Order from the

¹ Rule 243 replaces the former Rule 227, SCACR.

PCR court, the Petitioner's Rule 59(e), SCRCF motion, or the Order denying the Rule 59(e), SCRCF motion.²

² The Respondent submits that although the Appendix is numbered volumes 1 – 6, the Respondent never received a copy of volume 5.

CONCLUSION

For the reasons stated above, this Court should hold the time limits for the Return to Petition for Writ of Certiorari in abeyance and require the Petitioner to supplement the Appendix with the required materials.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

P.O. Box 11549
Columbia, SC 29211
(803) 734-3737

By: 

ATTORNEYS FOR THE RESPONDENT

Columbia, South Carolina
June 24, 2010

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Richland County
Honorable James R. Barber, III, Circuit Court Judge

RECEIVED

JUN 24 2010

S.C. SUPREME COURT

Edmond S. Adams, 265717,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

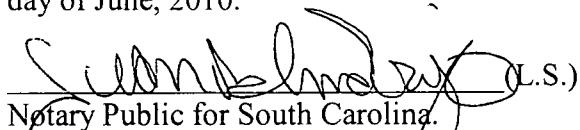
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion to Hold Time Limits for the Return to Petition for Writ of Certiorari in Abeyance While the Petitioner Supplements the Appendix with the Required Documents Per Rule 243(f), SCACR of the above matter has been served upon opposing counsel, Edmond S. Adams by mailing two (2) copies addressed to: Lieber Correctional Institution; Post Office Box 205; Ridgeville, SC 29472; with postage prepaid, this 24th day of June, 2010.



BRIAN T. PETRANO
ATTORNEY FOR RESPONDENT

SWORN to before me this 24th
day of June, 2010.

 (L.S.)
Notary Public for South Carolina.

My Commission Expires: ~~My Commission Expires~~
January 30, 2013

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
COURT OF COMMON PLEAS

JAMES R. BARBER, III CIRCUIT COURT JUDGE

CASE NO. 2006-CP-40-07169

RECEIVED

JUL 08 2010

S.C. SUPREME COURT

EDMOND S. ADAMS, III.....PETITIONER

"VS"

STATE OF SOUTH CAROLINA.....RESPONDENT

RESPONSE TO THE RESPONDENTS MOTION TO
HOLD APPEAL IN ABEYANCE

Comes now, Edmond S. Adams, III and I would show unto this court respectfully the following:

The respondent in this case sub judice has requested (3) three continuances. It appears from the language on the previous motions from the respondents and the orders from the court that the respondents wanted extentions to prepare there brief on this case predicated on filing a return to the petition for writ of certiorari.

Insofar the respondent now has abandoned it's original request and or position, and has shift the burden and delay of this appeal to the petitioner based on the appendix.

I am sure that this court can agree with me that if there was a problem with the appendix, then surely the respondent could have

alerted this court of this matter several weeks ago.

I dont know what kind of tricks the respondent is up to,
however in any event I want my appeal perfected.

With that being said, I am willing to do anything that this court
deems just and proper to perfect my appeal. I must inform this
court that I have exhausted all my funds preparing and sending
my case to this court, therefore outside counsel will need to
assist me in any copying of transcript and copies because
SCDC will not assist me in finalizing my appeal.

Tara Dawn shurling was counsel who prepared the record on appeal
for me and she surely can aid in this matter if the court so
pleases.

I dont know exactly what the respondent wants from me, however I
will comply to any mandate or order given by this court in this
court.

My appendix does not in any form keep the respondents from filing
an answer in this case.

RESPECTFULLY SUBMITTED

7-6-10

DATE

Edmond S. Adams III

Edmond S. Adams, III #265717

Lieber C.I.

P.O. Box 205

Ridgeville S.C. 29472

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
COURT OF COMMON PLEAS

JAMES R. BARBER, III CIRCUIT COURT JUDGE

CASE NO. 2006-CP-40-07169

EDMOND S. ADAMS, III.....PETITIONER

"VS"

STATE OF SOUTH CAROLINA.....RESPONDENT

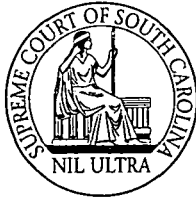
CERTIFICATE OF SERVICE

I Mr. Edmond S. Adams, III do hereby certify that on the date hereunder, I did give the Lieber C.I. mail room clerk an exact copy of the foregoing "RESPONSE TO THE RESPONDENTS MOTION TO HOLD APPEAL IN ABEYANCE" with sufficient first class postage attached and addressed as follows:

OFFICE OF THE S.C. ATTORNEY GENERAL
P.O. BOX 205, RIDGEVILLE S.C. 29472

7-6-10
DATE

Edmond S. Adams, III
Edmond S. Adams, III #265717
Lieber C.I.
P.O. Box 205
Ridgeville S.C. 29472



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

June 25, 2010

Assistant Attorney General Brian T. Petrano
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: Adams, Edmond Stanley III v. The State

Dear Counsel:

This will acknowledge receipt of your Motion to Hold Time Limits in Abeyance While Petitioner Supplements the Appendix in the above entitled matter.

By copy of this letter, Mr. Adams is requested to file an original return to this motion no later than July 7, 2010, pursuant to Rule 240(e). Upon receipt of the return, the matter will be taken under consideration and you will be notified as soon as action has been taken.

The time limits for further filings will be held in abeyance pending the Court's decision.

Very truly yours,

Daniel E. Shearouse
DS

CLERK

DES/jj

cc: Edmond Stanley Adams III #265717



HENRY McMASTER
ATTORNEY GENERAL

June 24, 2010

RECEIVED

JUN 24 2010

S.C. SUPREME COURT

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

Re: Edmond S. Adams, 265717 v. State of South Carolina
2006-CP-40-7169

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Motion to Hold Time Limits for the Return to Petition for Writ of Certiorari in Abeyance While the Petitioner Supplements the Appendix with the Required Documents Per Rule 243(f), SCACR of the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this Motion today.

Sincerely,

Brian T. Petrano
Assistant Attorney General

Enclosures

cc: Edmond S. Adams, # 265717

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable James R. Barber
Richland County
Trial Court Case No. 2006-CP-40-07169

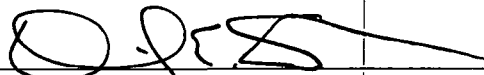
ORDER

For good cause shown, the request for an extension until July 6, 2010 to serve and file the Return to the Petition for Writ of Certiorari in this matter is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must show the existence of extraordinary circumstances, state what measures are being taken to insure that no further extension will be required, and be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

June 7, 2010

cc: Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano

STATE OF SOUTH CAROLINA
In The SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

RECEIVED

JUN - 4 2010

S.C. SUPREME COURT

The Honorable JAMES R. BARBER, III, Circuit Court Judge

Case No. 2006-CP-40-7169

Edmond Stanley Adams,.....Petitioner,

v.

State of South Carolina,.....Respondent.

(3)

MOTION FOR EXTENSION OF TIME TO SERVE AND FILE
RESPONDENT'S RETURN TO PETITION FOR WRIT OF CERTIORARI

COMES NOW the Respondent above named, by and through the undersigned counsel, making its motion to Relax Rule 243(g), SCACR, would show unto this Court:

I.

The Respondent has requested and received two (2) previous extensions requesting 30 days additional time to file the Return to Petition for Writ of Certiorari. This Court informed the Respondent that the Respondent's filings were due by June 4, 2010.

The Respondent respectfully requests another extension to file the Return to Petition for Writ of Certiorari. The Respondent has been working diligently to properly handle all (non-capital) PCR matters on behalf of the State for the 5th circuit. The Respondent is currently drafting proposed orders from the last term of

PCR court for the 5th circuit. The Respondent is currently preparing for the upcoming June term of PCR court with The Honorable Alison Renee Lee presiding. The Respondent will be in court with Judge Lee for three (3) days prior to the current due date for this case.

Accordingly, and not for the purpose of delaying the Petitioner, the Respondent respectfully requests an extension of time to properly research for and prepare the State's Return to the Petition for Writ of Certiorari.

The Respondent also notes that this Petitioner's request to go *pro se* was granted by this Court. The Petitioner is currently in custody. Accordingly, the Respondent has not sought his consent to this request.

II.

In view of the foregoing, it is respectfully requested that this Court relax Rule 243(g), SCACR, and allow the Respondent another extension of time to file the Return to the Petition for Writ of Certiorari.

WHEREFORE, it is respectfully requested that this Motion be granted.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

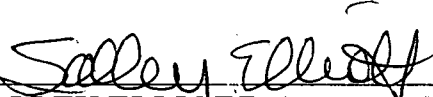
By: 

ATTORNEYS FOR THE RESPONDENT

In compliance with:

In Re: Extensions in Criminal and Post-Conviction Relief Cases, (S.C. Sup. Ct. order dated March 18, 2009) (Davis Adv. Sh. No. 13 at 1).

A 3rd request requires that the attorney's "immediate supervisor" consent to the request.


SALLEY ELLIOTT, Assistant Deputy Attorney General does hereby consent.

Columbia, South Carolina
May 28, 2010

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Richland County
Honorable James R. Barber, III, Circuit Court Judge

EDMOND S. ADAMS, 265717,

Petitioner,

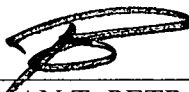
v.

STATE OF SOUTH CAROLINA,

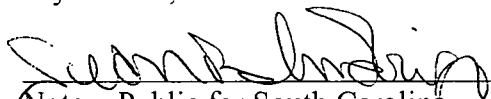
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion for Extension of Time to Serve and File Respondent's Return to Petition for Writ of Certiorari has been served upon opposing counsel, Edmond S. Adams, by mailing two (2) copies addressed to: Lieber Correctional Institution; Post Office Box 205, Room 205; Ridgeville, SC 29472; with postage prepaid, this 4th day of June, 2010.


BRIAN T. PETRANO
ATTORNEY FOR RESPONDENT

SWORN to before me this 4th
day of June, 2010.

 (L.S.)
Notary Public for South Carolina.
My Commission Expires: ~~My Commission Expires~~
January 30, 2013



HENRY McMASTER
ATTORNEY GENERAL

June 4, 2010

RECEIVED

JUN - 4 2010

S.C. SUPREME COURT

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

RE: Edmond S. Adams, 265717 v. State of South Carolina
2006-CP-40-7169

Dear Mr. Shearouse:

The Return to Petition for Writ of Certiorari in the above appeal is due to be served and filed on today. However, this is to respectfully request a 30-day extension until July 6, 2010 in which to serve and file this Return.

This extension request is not intended for the purpose of delay. Rather, this extension request is necessitated by a heavy workload.

Sincerely,

Brian T. Petrano
Assistant Attorney General

BTP:jri

cc: Edmond S. Adams, # 265717

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable James R. Barber
Richland County
Trial Court Case No. 2006-CP-40-07169

ORDER

For good cause shown, the request for an extension until June 4, 2010 to serve and file the Return to the Petition for Writ of Certiorari 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 and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY *Drenda A. Shesky*

Columbia, South Carolina *Chief Deputy* Clerk

May 6, 2010

cc: Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano

STATE OF SOUTH CAROLINA
In The SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Barber, Circuit Court Judge

Case No. 2006CP4007169

RECEIVED

MAY - 5 2010

S.C. SUPREME COURT

EDMOND STANLEY ADAMS,.....Petitioner,

v.

State of South Carolina,.....Respondent.

MOTION FOR EXTENSION OF TIME TO SERVE AND FILE
RESPONDENT'S RETURN TO PETITION FOR WRIT OF CERTIORARI

COMES NOW the Respondent above named, by and through the undersigned counsel, making its motion to Relax Rule 243(g), SCACR, would show unto this Court:

I.

An extension request was previously filed requesting 30 days additional time to file the Return to Petition for Writ of Certiorari. By Order dated March 17, 2010, this Court informed the Respondent that the Respondent's filings were due by May 5, 2010.

The Respondent respectfully requests another extension to file the Return to Petition for Writ of Certiorari. The Respondent has been working diligently to properly handle all (non-capital) PCR matters on behalf of the State for the 5th circuit. The Respondent is currently drafting proposed orders from the last term of PCR court for the 5th circuit. The Respondent is currently preparing for the upcoming May 31, 2010 term of PCR court with The Honorable Alison Renee Lee presiding. The Respondent is also

working on, or has submitted briefs/returns, on behalf of the State, for the following PCR appeals: John Heyward and Brandon Sims.

Accordingly, and not for the purpose of delaying the Petitioner, the Respondent respectfully requests an extension of time to properly research for and prepare the State's Return to the Petition for Writ of Certiorari.

II.

In view of the foregoing, it is respectfully requested that this Court relax Rule 243(g), SCACR, and allow the Respondent another extension of time to file the Return to the Petition for Writ of Certiorari.

WHEREFORE, it is respectfully requested that this Motion be granted.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

By: 

ATTORNEYS FOR THE RESPONDENT

May 5, 2010

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Richland County
Honorable James R. Barber, Circuit Court Judge

EDMOND S. ADAMS, 265717,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

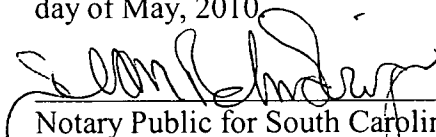
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion for Extension of Time to Serve and File Respondent's Return to Petition for Writ of Certiorari has been served upon, Edmond S. Adams, # 265717 by mailing a copy addressed to: Edmond S. Adams, # 265717; Lieber Correctional Institute; Post Office Box 205; Ridgeville, SC 29472; with postage prepaid, this 5th day of May, 2010.



BRIAN T. PETRANO
ATTORNEY FOR RESPONDENT

SWORN to before me this 5th
day of May, 2010

 (L.S.)
Notary Public for South Carolina.
My Commission Expires: My Commission Expires
January 30, 2013



HENRY McMASTER
ATTORNEY GENERAL

May 5, 2010

RECEIVED

MAY - 5 2010

S.C. SUPREME COURT

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

Re: Edmond S. Adams, 265717 v. State of South Carolina
2006-CP-40-7169

Dear Mr. Shearouse:

Enclosed please find the Motion for Extension of Time to Serve and File Respondent's Return to Petition for Writ of Certiorari in the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this Brief today.

Sincerely,

Brian T. Petrano
Assistant Attorney General

Enclosures

cc: Edmond S. Adams, # 265717

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable James R. Barber
Richland County
Trial Court Case No. 2006-CP-40-07169

ORDER

The request for an extension until May 5, 2010 to serve and file the Return to the Petition for Writ of Certiorari 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

March 17, 2010

cc: Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano



HENRY McMASTER
ATTORNEY GENERAL

March 17, 2010

RECEIVED

MAR 17 2010

S.C. SUPREME COURT

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

RE: Edmond S. Adams, 265717 v. State of South Carolina
2006-CP-400-7169

Dear Mr. Shearouse:

The Return to Petition for Writ of Certiorari in the above appeal is due to be served and filed on today. However, this is to respectfully request a 30-day extension until April 16, 2010 in which to serve and file this Return.

This extension request is not intended for the purpose of delay. Rather, this extension request is necessitated by a heavy workload.

Sincerely,

Brian T. Petrano
Assistant Attorney General

BTP/jri

cc: Edmond S. Adams, III, # 265717
SC Office of Appellate Defense

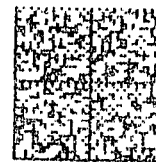
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, Rm. SA-62

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S.C. 29472

FIRST CLASS



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S.C. Supreme Court

P.O. Box 11330

Cola. S.C. 29211

S. Adams, #265717
, Rm. SA-62

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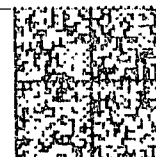
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S.C. Supreme Court

P.O. Box 11330

Colo. S.C. 29211

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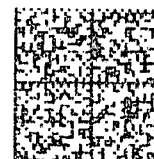
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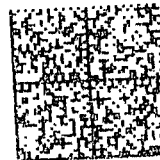
nd D. Adams, III, #260711

P.I., Rm. 5A-62

205

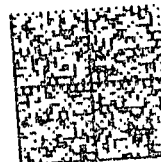
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FEB 12 2010

MAIL ROOM
LIEBER C.I.

S.C. Supreme Court

P.O. Box 11330

Cola. S.C. 29211



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 29, 2010

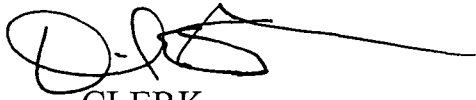
Edmond Stanley Adams III #265717
Lieber Correctional Institution
P. O. Box 205
Ridgeville, SC 29472

Re: Adams, Edmond Stanley III v. The State

Dear Mr. Adams:

This responds to your letter of January 27, 2010. Based on information in your letter dated December 22, 2009, we have set the due date for your Petition for Writ of Certiorari and Appendix as February 15, 2010. Please pay close attention to the guidelines and format for filing documents with this Court.

Very truly yours,



CLERK

DES/jj

cc: Assistant Attorney General Brian T. Petrano

S.C. SUPREME COURT
P.O. BOX 11330
COLUMBIA S.C. 29211

RECEIVED

JAN 29 2010

RE: EDMOND S. ADAMS "VS" STATE OF SOUTH CAROLINA
CASE NO: 2006-CP-400-7169

S.C. SUPREME COURT

To The Supreme Court:

My Challenge to the transcription of my transcript was denied. I am not happy that I did not get to hear the tape myself, and I believe this is a 6th Amendment violation to the U.S. CONSTITUTION.

In any event, I am letting this court know that I am preparing my brief in this PCR appeal matter.

Please inform me in writing as to the court deadline in preparing my brief, so that there will be no controversy in this matter. Thank you for your time in this matter, and I will be awaiting your letter.

1-27-10

DATE

E. S. Adams III

EDMOND S. ADAMS, III #265717

LIEBER C.I. RM. SA-62

P.O. BOX 205

RIDGEVILLE S.C. 29472

Karen E. Tracy
109 Loggerhead Drive
Columbia S.C. 29229

RE: EDMOND S. ADAMS III "VS" STATE
MATTER: PCR TRANSCRIPT

Dear Mrs. Tracy,

I know your busy, so I will get straight to the point.

I know that you have been put on notice that I am challenging the transcription of the transcript in my case.

I remember the important parts of my PCR hearing and I cannot find in your record that their is no transcript of my waiver hearing.

To refresh your memory, it was during the Faretta "VS" California hearing arguments, when the judge was saying there was no transcripts in the case.

I cannot find this language, and this is why my challenge is forthwith.

Please inform me as to your findings in this hypersensitive matter.

1-6-10

Date

Edmond S. Adams III

Edmond S. Adams, III #265717

Lieber C.I. RM. SA-62

P.O. BOX 205

Ridgeville S.C 29472

RECEIVED

JAN 11 2010

S.C. SUPREME COURT



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 8, 2009

Edmond Stanley Adams III #265717
Lieber Correctional Institution
P. O. Box 205
Ridgeville, SC 29472

Re: Adams, Edmond Stanley III v. The State

Dear Mr. Adams:

This responds to your letter dated December 22, 2009, to this Court and a separate letter to Court Administration dated December 22, 2009. Please be advised that any challenge to the accuracy of a transcript must be made as provided by Rule 607(i) of the South Carolina Appellate Court Rules (SCACR) and Section XIII C of the Court Reporter Manual. See attached.

Very truly yours,



CLERK

cc: Assistant Attorney General Brian T. Petrano
Court Administration

SUPREME COURT OF SOUTH CAROLINA
P.O. BOX 11330
COLUMBIA S.C. 29211

CASE NO: 2006-CP-400-7169
MATTER : PCR APPEAL

RE: EDMOND STANLEY ADAMS III "VS" STATE OF SOUTH CAROLINA

Dear Honorable Daniel E. Shearouse,

I have received my transcript on or about
December 16th 2009.

I have read the transcript, and I am not happy with the
transcription, therefore I am challenging the validity of the
transcription.

I am sending the proper documentation to the S.C. Court
Administration, informing them of my challenge.

I am a few days somewhat late of informing you as to when I
received the transcript, however I had to obtain envelopes.
Thank you for your time and diligence in this matter.

12-22-09

DATE

E. S. Adams III

EDMOND S. ADAMS, III 265717

LIEBER C.I. RM. SA-62

P.O. BOX 205

RIDGEVILLE S.C. 29472

CC: OFFICE OF THE S.C. ATTORNEY GENERAL

RECEIVED

DEC 29 2009

S.C. SUPREME COURT

S.C. COURT ADMINISTRATION
1015 SUMTER STREET, SUITE 200
COLUMBIA S.C. 29201-3739

RE: EDMOND STANLEY ADAMS, III "VS" STATE OF SOUTH CAROLINA
CASE NO: 2006-CP-400-7169
MATTER: PCR APPEAL

To The Court Administration,

Happy holidays, and I hope that
everybody is okay.

I am informing you respectfully that I recieved my transcript
from Karen Tracy on or about December 16th 2009 from my PCR
hearing.

I am respectfully informing you that I wish to challenge the
transcription of the transcript.

Please inform me via mail as to how you wish to proceed in this
hypersensitive matter.

I will be awaiting your letter.

12-22-09

DATE

E. S. Adams III

EDMOND S. ADAMS, III 265717

LIEBER C.I. RM. SA-62

P.O. BOX 205

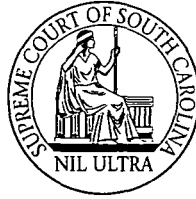
RIDGEVILLE S.C. 29472

CC: OFFICE OF THE S.C. ATTORNEY GENERAL
S.C. SUPREME COURT

RECEIVED

DEC 29 2009

S.C. SUPREME COURT



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 2, 2009

Edmond Stanley Adams III #265717
Lieber Correctional Institution
P. O. Box 205
Ridgeville, SC 29472

Re: Adams, Edmond Stanley III v. The State

Dear Mr. Adams:

We are in receipt of the copy of your letter to Court Reporter Karen Tracy dated September 24, 2009 which was sent to the Court of Appeals. Please be advised that your appeal is pending at the Supreme Court, not the Court of Appeals. Please notify this Court of the date on which you receive the transcript so that we can calendar the due date for the Petition for Writ of Certiorari and Appendix. All correspondence regarding your appeal should be sent to the address shown above.

Very truly yours,

CLERK

DES/jj

cc: Assistant Attorney General Brian T. Petrano

Karen Tracy
109 Loggerhead Drive
Columbia S.C. 29229

[COPY]

9/24/2009

RECEIVED

RE: Edmond S. Adams "VS" State of South Carolina

SEP 25 2009

CASE NO: 2006-CP-400-7169

SC Court of Appeals

Dear Mrs. Tracy,

I have received your last letter and I have good news.

I will be sending you a postal money order for the transcripts in this case on October 1st, 2009. The money order will be for 578.00 dollars total.

To make sure that we are on point on the dates of the matter, the date of the waiver hearing was on or about March 12th, 2008, and the actual hearing was on March 19th, 2008 in front of James R. Barber.

As soon as you receive payment, please send the transcripts to me at the Lieber C.I..

Thank you Miss Tracy, for your time and diligence.

9-24-09

DATE

Edmond S. Adams III
Edmond S. Adams, III #265717
Lieber C.I. RM. SA-62
P.O. BOX 205
Ridggeville S.C. 29472

RECEIVED

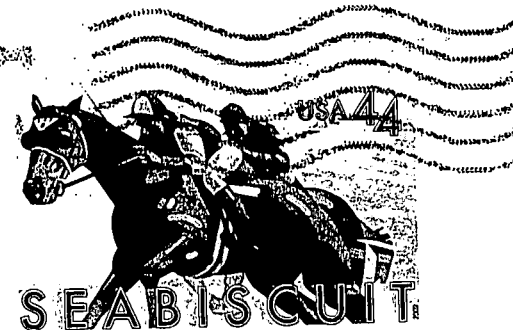
SEP 30 2009

S.C. SUPREME COURT

EDMOND S. ADAMS, III #265717
Lieber C.I., RM. SA-62
P.O. Box 205
Ridgeville S.C. 29472

CHARLESTON SC 294

24 SEP 2009 PM 2



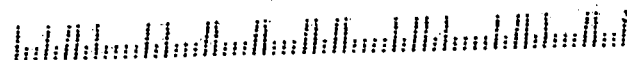
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SEP 24 2009

MAIL ROOM
LIEBER C.I.

S.C. COURT OF APPEALS
P.O. BOX 11629
COLUMBIA S.C. 29211

29211+1629



Karen E. Tilly
109 Loggerhead Dr.
Columbia SC 29229

8-25-09

Re: Edmond S. Adams III "VS." State
PCR Case : 2006-CP-40-7169

RECEIVED

AUG 23 2009

Dear Mrs. Tracy,

S.C. SUPREME COURT

I hope that you are doing well.

After a year of playing games with the
Attorney Generals office, I am ready to
litigate my appeal.

Last year you wrote me a letter, explaining
the cost, and fees.

I believe you have already done the transcripts,
and I need to know exactly of how much
money I need to send you.

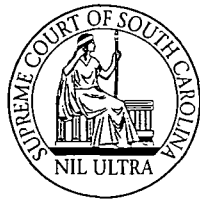
At this present time my concern is how can
I pay you.

For the sake of clarity, I have money,
However can my friend money gram you your
money? or do I need S.C.O.C. to cut
you a check?

Please let me know so I can pay you asap.
Thank you, and if you have any concerns or
problems, write me.

cc. Attorney Gen., Court Adm.

Court reporter; Supreme Court Edmond S. Adams III



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

August 13, 2009

Edmond Stanley Adams III #265717
Lieber Correctional Institution
P. O. Box 205
Ridgeville, SC 29472

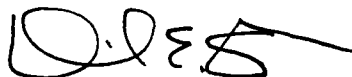
Re: Adams, Edmond Stanley III v. The State

Dear Mr. Adams

We are in receipt of your letters of July 31, 2009 and August 12, 2009 and in accordance, we are marking our records to reflect that you now represent yourself.

Since you intend to proceed with this appeal pro se, the fact that you are not an attorney does not relieve you of the responsibility to perfect your appeal in accordance with the South Carolina Appellate Court Rules. Please pay close attention to the guidelines and format for filing documents with this Court.

Very truly yours,



CLERK

DES/jj

cc: Appellate Defense
Assistant Attorney General Brian T. Petrano

RECEIVED

AUG 13 2009

S.C. SUPREME COURT

Mr. Edmond S. Adams, 265717
Lieber C.I., Rm. SA-62
P.O. Box 205
Ridgeville, S.C. 29472

RE: Edmond S. Adams vs. State of South Carolina
Case No. 2006-CP-40-7169
Matter: PCR Appeal / Writ of Cer

To The Clerk of Court,

On July 16, 2009 I wrote a letter to the Honorable Chief Justice Jean H. Toal explaining my problems about The Appeal process. I received an order from her dated July 17th, 2009 asking me if I wanted to represent myself on Appeal.

I have informed This Court, as well as The Office of The Attorney General, that I wish to proceed Pro. Se. on Appeal.

However I have not received any Communication from The Court Thence From, And I am waiting to get the O. Kay to act as Counsel in acquiring The Transcript, ect.

Please inform me in writing as to The Status of This matter, so I will know what steps I need to take next.

8-12-09

Date

S/ E. S. Adams III

E. S. Adams,

cc/file. Office of The S.C. Attorney General

RECEIVED

AUG 04 2009

OFFICE OF
CHIEF JUSTICE

Edmond S. Adams III #265717

Lieber C.I., Rm. SA-62

P.O. Box 205

Ridgeville S.C. 29472

RECEIVED 31st, 2009

AUG 04 2009

Matter: Edmond S. Adams III "V.S.C. SUPREME COURT
State of South Carolina"

Case No: 2006-CP-40-7169

To The Honorable Chief Justice Jean Hofer Toal,

I am in receipt of your order dated July 17th, 2009.

In reply to that order, I am respectfully
informing you that I choose to represent
"myself" on this appeal.

Likewise "I" will pay for my transcript and
begin preparations for this process.

Thank you for your diligence and
understanding in this hypersensitive matter.

Mr. Edmond S. Adams III

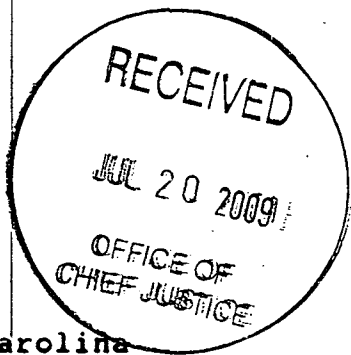
cc: Office of The S.C. Attorney General

RECEIVED

JUL 21 2009

MR. Edmond S. Adams, III, # 265717
Lieber C.I., Rm. SA-62
P.O. Box 205
Ridgeville SC 29472

S.C. SUPREME COURT



RE: Edmond S. Adams "VS." State of South Carolina
CASE NO. 2006-CP-40-7169

Dear Honorable Chief Justice Jean Hoefer Toal

I am writing you in grave concern that my Litigation has been frozen. I sent my Notice of Appeal to the Clerk of the Supreme Court on June 18th, 2009. (see attached documents) I have not received any notification from the Supreme Court that my appeal is filed, and my Letter for an update is unanswered. I am very concerned about this matter because my future litigation hinges on my appeal which has become somewhat complicated.

For the sake of clarity, I wrote the Attorney Generals office a letter for an update on the status of my PCR Case, because it was taking so long. The Attorney General wrote me back and informed me that my PCR case was over and the clerk of court sent the order to me on July 18th, 2008 (see attached documents).

However, I never received the order of dismissal, and all Legal mail is signed for at this prison. Inasmuch the A.G. office always sends a criminal defendant a copy of the order of dismissal out of an abundance of caution, but none was sent to me. The rule of Law is not when the clerk of court sends out an order, but when I receive the order for the purpose of appeal, Rule 203 (b) (1) SCACR:

Upchurch vs. Upchurch, 367 S.C. 16 (2006)

I did timely file my appeal from the date I received the order of dismissal on June 5th, 2009 Furthermore, The court reporter has not answered my last two letters for me to obtain my transcript. Looking at the Corpus of this matter, I feel That my Litigation is frozen, and That The State is trying to keep me from getting a full bite of the PCR apple by trying to cheat me out of my appeal. Thank you for your time.

Edmond S. Adams, III
Edmond S. Adams, III,

7-16-2009

Date

cc: Attorney General

The Supreme Court of South Carolina

Edmond Stanley Adams III, Petitioner,

v.

State of South Carolina, Respondent.

ORDER

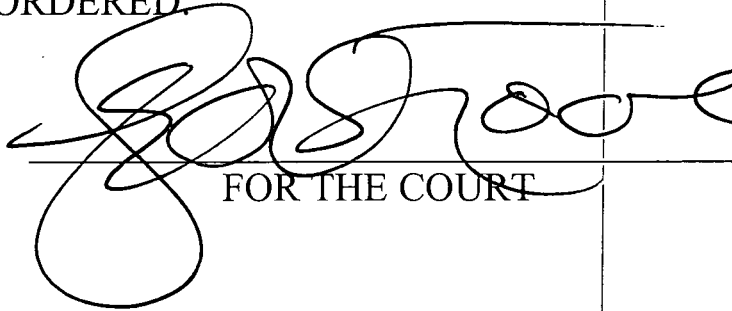
Petitioner has filed a notice of appeal from an order denying his application for post-conviction relief. Petitioner proceeded *pro se* below and filed his notice of appeal *pro se*.

Because petitioner has not informed the Court that he has retained counsel, we take this opportunity to warn petitioner of the dangers and disadvantages of proceeding *pro se*. If petitioner chooses to proceed *pro se*, this Court will require full compliance with all applicable rules. Petitioner is certain to be unlearned in other aspects of the law as well. Representation by an attorney trained in the law would be highly beneficial, and we strongly encourage petitioner to retain the services of counsel if he chooses to file a petition for a writ of certiorari.

If petitioner claims to be indigent, he may request a determination of his indigency status from the South Carolina Commission on Indigent Defense, Division of Appellate Defense, pursuant to Rule 602(e)(4), SCACR. If petitioner is determined to be indigent, the Division of Appellate Defense shall represent petitioner. If petitioner is determined not to be indigent, he may retain counsel.

Petitioner shall, within twenty days of the date of this order, inform the Court whether he will continue to proceed *pro se* or with the assistance of counsel.

IT IS SO ORDERED.


C.J.
FOR THE COURT

Columbia, South Carolina

July 17, 2009

cc: Appellate Defense
Edmond Stanley Adams III #265717
Assistant Attorney General Brian T. Petrano

STUBP

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

JUDGMENT IN A CIVIL CASE

CASE NO: 2006CP4007169

Edmond Stanley #265717 Adams

vs.

State of South Carolina

Plaintiff

Defendant

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.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a),
 SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other:
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy:
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____

IT IS ORDERED AND ADJUDGED:

☒ See attached order;☐ Statement of Judgment by the Court:

Dated at Columbia, South Carolina, this _____ day of _____, 2008.

PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 2008, and a copy mailed first class this
3 day of June, 2008, to attorneys of record or to parties (when appearing pro se) as follows:

Edmond Stanley #265717 Adams
 Edmond Stanley #265717 Adams

ATTORNEY(S) FOR THE PLAINTIFF(S)

State of South Carolina
 State of South Carolina

ATTORNEY(S) FOR THE DEFENDANT(S)

s/BARBARA A. SCOTT

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

2008 JUN -2 IN THE COURT OF COMMON PLEAS

CLARINA A. SCOTT
C.C.S. & C.S.

2006-CP-40-7169

Edmond Stanley Adams, III, 265717)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed December 4, 2006. The Respondent made its Return on February 14, 2007. An evidentiary hearing into the matter was convened on March 19, 2008 at the Richland County Courthouse. The Applicant was present at the hearing and represented himself *pro se*¹. Brian T. Petrano of the South Carolina Attorney General's Office represented the Respondent.

At the hearing, the Applicant testified on his own behalf in part, presented arguments in part and responded to the Respondent's examinations in part. This Court had before it the records of the Richland County Clerk of Court, the transcript of the proceedings against the Applicant, the Applicant's records from the

¹ The Applicant appeared before this Court on March 17, 2008 and knowingly and voluntarily waived any option he had to have appointed counsel for his PCR matters. *per* Rule 71.1 (d), SCRCP. At the Applicant's request, the Court allowed him to represent himself at the hearing. The Court fully advised the Applicant of his right to counsel and the dangers of self-representation on his post conviction relief application. See Whitehead v. State, 310 S.C. 532, 426 S.E.2d 315 (1992). The Applicant stated he understood the consequences.

South Carolina Department of Corrections, and numerous other motions, orders, and documents from throughout the Applicant's trial and subsequent appeal.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted at the November 1998 term of the Court of General Sessions for Richland County for criminal sexual conduct – first degree (98-GS-40-34469), armed robbery (98-GS-40-34470) and kidnapping (98-GS-40-34471). He proceeded *pro se* at his trial with Joseph McCulloch, Esquire, as assisting counsel. On March 29, 2000, the Applicant proceeded to trial after which he was found guilty of criminal sexual conduct – first degree, armed robbery and kidnapping. He was sentenced by the Honorable James C. Williams, Jr., to confinement for a period of twenty-five (25) years for criminal sexual conduct – first degree, fifteen (15) years consecutive for armed robbery and twenty-five (25) years consecutive for kidnapping.

A timely Notice of Appeal was filed. The Applicant requested assistance in perfecting the Record on Appeal. Accordingly, the Law Offices of Tara Dawn Shurling, Esquire, ultimately perfected the Record on Appeal for the *pro se* appellant. The Applicant argued his appeal *pro se*. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Adams, Op. No. 2005-UP-520 (S.C. Ct. App. filed September 15, 2005). Following denial of a Petition for Rehearing en banc on November 17, 2005, the South Carolina Court of Appeals issued its Remittitur dated December 22, 2005.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

- 1) "I would contend that my waiver of trial counsel was not freely, knowingly, voluntarily and intelligently given to the court;"
- 2) "I would contend that my waiver of appellate court counsel was not freely, knowingly, voluntarily, and intelligently given to the appellate court;"
- 3) "I would contend that I was denied assistance of counsel on appeal to prepare my briefs;"
- 4) "I would contend that I was denied assistance of trial counsel to aid me in preparing my defense for trial;"
- 5) "I would contend that I was denied access to the court to perfect my appeal;"
- 6) "I would contend that my federal and state constitutional rights were violated by an inordinate delay on appeal"
- 7) "I would contend that my federal and state constitutional rights were violated when I was pro se on appeal was not allowed to review the tapes of my criminal trial to correct my transcript;"
- 8) "I would aver that the S.C. Court of Appeals lacked subject matter jurisdiction to adjudicate my appeal;"
- 9) "I would contend that the court reporter violated my 6th and 14th Amendment rights to the United States Constitution;"
- 10) "I would contend that my 6th and 14th Amendment rights to the United States Constitution and my rights under Article I §§ 3 and 14 to the S.C. Constitution was violated by the law library being inadequate to prepare my briefs and arguments on appeal;"
- 11) "I would contend that I was denied assistance of counsel to consult with prior to my competency hearing;"
- 12) "I would contend that I was denied effective assistance of trial counsel at my pre-trial hearing;"
- 13) "I would contend that I was denied effective assistance during voir dire;"

14) "I would aver that I was denied effective assistance of counsel during the sentencing phase of my trial;"

15) "I would contend that I was denied effective assistance of counsel on my direct appeal during the rehearing stage;"

16) "I would contend that I was denied effective assistance of counsel on appeal, when my paid counsel abandoned me on appeal;" and

17) "I would contend that I was denied due process of the law by not being advised by counsel or the court or by any other means that I would take my case to the U.S. Supreme Court if I was denied relief on appeal."

At the evidentiary hearing, while consolidating some of the repetitive claims, the Applicant specifically waived some; and the Applicant proceeded, for the most part, on the allegations as stated in his application for post-conviction relief.

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 and arguments presented 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 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; 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, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (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). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991).

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. As discussed above, the Applicant has failed to carry his burden in this action. Therefore, this Court finds that the application must be denied and dismissed.

Ineffective waiver of the right to trial counsel (11-A-1), (11-A-2), (11-A-3)

The Applicant alleges that he did not voluntarily waive his right to trial counsel. The Applicant argued that his waiver was involuntary because he only elected to proceed *pro se* because no lawyer would conduct a meaningful investigation on his behalf to prepare a defense for trial. An order signed by me (as Chief Administrative Judge) dated August 13, 1999 ordered that the case be tried by October 31, 1999 (ROA pp. 891-892 (the order)). That order also referenced a psychiatric evaluation in March and May of 1999. In that order, Applicant was allowed to represent himself while a public defender with the Richland County Public Defender's office serving as legal advisor. However, pursuant to an order dated September 9, 1999, I (as Chief Administrative Judge) noted that Applicant had filed a lawsuit against the Richland County Public Defender's office and a grievance against his legal advisor and Applicant requested that the advisor be relieved. As Chief Administrative Judge I granted Applicant's request. [ROA pp. 893-894 (order of Judge Barber (as Chief Administrative Judge))]. Orders of September 29, 1999 and October 13, 1999 referenced evaluations of Applicant regarding his competency while designating a trial in October, 1999 (ROA pp. 895-896 (the orders)).

By order dated April 6, 2000 Mr. Joseph McCulloch was appointed as standby counsel for the Applicant. The Order further sets out the numerous appointments of counsel for Applicant. Mr. Adams was initially appointed an attorney with the Richland County Public Defender's office following Applicant's arrest. Subsequently, that attorney was relieved and a private attorney was appointed. On February 23, 1999, that private attorney was relieved and Mr. Tommy Evans of the Richland County Public Defender's office was appointed to assist Applicant. On September 28, 1999 Mr. Evans was relieved and Applicant was permitted to proceed *pro se*. On October 18, 1999 Applicant requested appointment of new counsel. That request was granted on October 22, 1999 with the appointment of Mr. Hemphill Pride. The order reflects that on November 16, 2009 Applicant's and at Mr. Pride's request, Mr. Pride was relieved. In December, 1999, Mr. Marvin Mullis was appointed to represent Applicant. Mr. Mullis was thereafter relieved in January, 2000 after his services were deemed unsatisfactory by Applicant. At that time, Applicant elected to represent himself. On January 13, 2000, Ms. Debra Chapman was appointed advisory counsel. In February, 2000 she was relieved. Subsequently, Mr. McCulloch was appointed to assist Applicant. (ROA pp. 899-908 (Order of Judge Williams dated April 6, 2000)).

Prior to Applicant's trial, the trial judge on March 29, 2000 heard Applicant's motion for a speedy trial. In reviewing the motion, the Court noted the manner in which the case had proceeded, particularly noting mental health evaluations, a doctor who was to testify had suffered a heart attack, numerous attorneys had been

appointed to represent Applicant only to be subsequently fired from the case, and Applicant himself filed a motion for a continuance just prior to the April 10 trial, which motion was later withdrawn. The trial judge in denying Applicant's motion determined that there were no unreasonable basis why the case had not proceeded and that there had been no showing of prejudice by Applicant (March 29, 2000 transcript, ROA p. 67, line 19 - p. 84, line 3).

Regardless, there was no error in that Applicant, during the March 29, 2000, hearing prior to his April 10, 2000 trial, asked for another continuance on the ground that he was unable to "put on a meaningful defense" (ROA p. 85, lines 14-19). The trial judge again referenced the numerous attorneys that had been appointed to represent Applicant and denied any further continuance (ROA p. 86, line 13 - p. 90, line 10).

This Court notes that the Applicant seemed satisfied with an attorney serving as "advisory counsel," but that the Applicant specifically rejected having Mr. Joseph McCulloch being appointed as counsel. For example, the Applicant at first requested to have McCulloch as the Applicant's "assistant," but later accepted and presented no objections to the trial court's assignment of McCulloch as "advisory counsel" only (ROA p. 36-45, Pretrial transcript p. 95-104).

THE COURT: NOW THE ORDER APPOINTING MR. MCCULLOCH HAS BEEN EFFECTIVE FOR SOME TIME AND I THINK MR. MCCULLOCH HAS BEEN ASSISTING FOR SOME WEEKS, ALTHOUGH IT WAS ONLY IN RESPONSE TO MR. MCCULLOCH'S REQUEST THAT I ISSUED THE ORDER SETTING OUT EXACTLY WHAT HIS RESPONSIBILITIES ARE. BUT, AND

YOU AGREE, THAT MY ORDER DOES REFLECT THE FULL GRANTING OF YOUR REQUEST, DOES IT NOT?

MR. ADAMS: IT DOES, SIR.

THE COURT: ALL RIGHT, SIR,. AND I UNDERSTAND THE LATENESS OF THAT ORDER, BUT WE NEED TO UNDERSTAND THAT MR. MCCULLOCH WAS APPOINTED QUITE SOME TIME PRIOR TO THAT ORDER AND HAS BEEN ASSISTING YOU SINCE MS. CHAPMAN WAS RELIEVED. ISN'T THAT RIGHT?

MR. ADAMS: YES

Trial transcript p. 20 L. 8-22.

THE COURT: MR. ADAMS, YOU WERE ADVISED BY ME IN JANUARY HOW FOOLISH IT IS FOR YOU TO TRY TO DEFEND YOURSELF.

MR. ADAMS: NO. I DON'T HAVE A PROBLEM - - -

THE COURT: BUT YOU HAVE INSISTED -- YOU HAVE INSISTED THAT YOU WANT TO DEFEND YOURSELF.

MR. ADAMS: I DO.

Pretrial transcript p. 167 L. 24 -- p. 168 L. 4, ROA p. 86 L. 24 -- p. 87 L.4.

The Applicant, on numerous occasions expressed his satisfaction in representing himself -- "LADIES AND GENTLEMEN OF THE JURY, I'M NOT GUILTY OF THESE PENDING CHARGES AGAINST ME. I'VE ELECTED TO REPRESENT MYSELF BECAUSE NOBODY CAN TELL YOU WHAT HAPPENED THAT NIGHT BETTER THAN ME. BECAUSE I WAS THERE." Trial transcript p. 113 L. 11-15.

MR. ADAMS: IF IT WOULD PLEASE THE COURT, I WOULD ALSO LIKE TO KNOW WHEN WOULD BE A PROPER TIME IF I MAY DISCLOSE TO THE COURT [JURY] THE DUE PROCESS OF MY CLIENT. AND I WANT EVERYBODY IN HERE TO KNOW THAT I'M NOT CRAZY. I'M USING MY CLIENT AS MYSELF BECAUSE I'M REPRESENTING MYSELF PRO SE.

Trial transcript p. 25, ROA p. 92.

This Court also finds the several orders signed by me while Chief Administrative Judge for the Court of General Sessions for the Fifth Circuit (ROA p. 891-892, 893-894) determined the Applicant was competent to stand trial and represent himself, was aware of the consequences of self-representation and had voluntarily elected to proceed *pro se* and conduct himself accordingly.

In addition, the Applicant alleges that his waiver of the right to trial counsel was not knowing and voluntarily made because no record exists to demonstrate he was warned of the dangers of self representation. This Court finds the allegation that the Applicant was not warned of the dangers of self-representation to be completely without merit. At the PCR hearing, the Applicant at times testified, and at times argued his case. This Court notes that the Applicant was very careful to not testify under oath that he was never warned of the dangers of self-representation, the Applicant only narrowly alleges that no transcript exists to demonstrate that he was properly warned. This Court acknowledges, based on the record and the representations made by the State at the PCR hearing, that a transcript of the pre-trial proceedings of the Applicant's waivers of the right to trial counsel and warnings of the dangers of self-representation are most probably unavailable². Nevertheless, this Court does have an Order signed by the trial judge,

² See also, Rule 607(i), SCACR. This Court notes that Rule 607(i), SCACR was amended, effective date August 6, 2003, to require a Court Reporter to retain the primary and backup tapes of proceedings for five (5) years (when no transcript has been requested), at the time of the Applicant's proceedings, the rule required a mere (3) years. Accordingly, any request for transcripts for pre-trial waiver of right to trial counsel proceedings would most likely be futile.

at the request of the Applicant and his advisory counsel, which specifically outlines the role of the advisory counsel (ROA p. 899-908³). The Order appointing advisory counsel also contains extensive findings of facts and conclusions of law that the Applicant knowingly and voluntarily waived his right to counsel on more than one occasion after being warned multiple times of the dangers of self-representation. Once again, this Court finds any allegations regarding any ineffectiveness of the Applicant's waiver of the right to trial counsel to be wholly without merit.

Even though no concise "Order Appointing Standby Counsel" is contained in the Record on Appeal which specifically finds that the Applicant knowingly and voluntarily waived his right to trial counsel with a full understanding of the dangers of self-representation, this Court points out the PCR testimony of Joseph McCulloch, "Advisory Counsel" to the Applicant during his trial, who opines that the Applicant did not indicate that his age, educational level, and physical and emotional health in anyway negatively impacted his ability to represent himself. Advisory counsel testified that the Applicant seemed experienced with the legal system and had been involved (successfully) in prior criminal charges. Advisory counsel also testified that the Applicant was clearly aware of the nature of the charges and had had numerous competent attorneys representing himself prior to electing to proceed *pro se*. Mr. McCulloch testified that the Applicant knew the Rules of procedure and that he (advisory counsel) was available to answer any

³ Order Appointing Standby Counsel, by Chief Administrative Judge James C. Williams, Jr. dated April 6, 2000, filed April 10, 2000. Also introduced as State's exhibit #3 at the PCR hearing.

questions of the Applicant, and that the decision to proceed *pro se* did not appear to be intended to delay or manipulate the proceedings. Advisory counsel further testified that the Applicant was aware of the issues needed to be raised so as to defend himself against the charges. Advisory counsel further testified, and the record reflects, that the exchanges between the trial court and the Applicant went beyond *pro forma* replies. Advisory counsel testified that the Applicant's waiver of the right to counsel was not made due to coercion or mistreatment. Regarding these other factors, as well as a full review of the entire record of both the trial and subsequent appeal, this Court finds that the Applicant was sufficiently apprised of the dangers of self-representation. Gardner v. State, 351 S.C. 407, 570 S.E.2d 184, (2002)⁴.

With respect to the allegation that the Applicant's waiver of trial counsel was unconstitutional because the trial court could not simultaneously question his competence and find him competent to waive his right to trial counsel, this Court finds such claim to be a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised this issue at trial or on appeal. His failure to do so has waived

⁴ See Watts v. State, 347 S.C. 399, 556 S.E.2d 368 (2001); Wroten Prince: Bridwell v. State, 306 S.C. 518, 413 S.E.2d 30 (1992).

this allegation as a ground for relief. However, because the Applicant also raises issues of ineffectiveness of his *pro se* appeal, an analysis of the trial court's purported denial of his constitutional rights is included (despite this Court's summary dismissal of the Applicant's direct appeal issues).

The Applicant alleges that because a Blair⁵ hearing was conducted, his waiver of the right to trial counsel was ineffective as the trial court cannot question his competence while simultaneously find him competent to stand trial and/or waive his right to trial counsel. While no transcripts exist within the record of the several competency hearings, there are several orders regarding the Applicant's competency (ROA p. 891-895). This Court notes in the Order Appointing Advisor and Setting Date Certain, dated August 13, 1999 and filed August 16, 1999:

According to Dr. Renee S. Kohanski M.D., of the William S. Hall Psychiatric Institute the defendant was diagnosed as having a Psychotic, Bipolar and Personality Disorder with Narcissistic, and Paranoid Features. Although the defendant has been so diagnosed, the defendant is competent to stand trial, criminally responsible and has the capacity to conform his conduct to the requirements of the law."

ROA p. 891-892.

Dr. Kohanski does later opine that the Applicant is not competent to stand trial; however, her evaluation acknowledges that the trial court may still find him competent (ROA p. 898). This Court also notes that according to the pretrial orders and the transcripts contained in the record, the Applicant was evaluated on several occasions and ultimately found to be competent with the final competency hearing

⁵ State v. Blair, 276 S.C. 644, 282 S.E.2d 596 (1986).

having occurred with the assistance of appointed counsel Doug Truslow (ROA p. 896). During the trial, prior to jury selection, the following took place:

THE COURT: ALL RIGHT, SIR, NOW. THE DOCTORS -- ARE THEY GOING TO TESTIFY THAT THE DEFENDANT IS COMPETENT TO STAND TRIAL?

MS. CAMPBELL: YOUR HONOR, AT THIS TIME, THEY CANNOT GIVEN [SIC] AN OPINION BECAUSE MR. ADAMS REFUSED TO SPEAK TO THEM. SO TO GIVE YOU A HISTORY OF THIS, THEY INITIALLY SAW HIM AT WILLIAM S. HALL AND FOUND HIM COMPETENT TO STAND TRIAL, BUT NOTED IN THE REPORT THAT HE MIGHT DETERIORATE DURING THE STRESS OF THE TRIAL.

SUBSEQUENT TO THAT, THEY SAW HIM AGAIN ON OCTOBER 18TH. THEY CAME TO COURT AND TESTIFIED BEFORE JUDGE KINARD. THEY TESTIFIED THAT THEY FELT HE HAD DETERIORATED SOMEWHAT. MR. ADAMS TOOK THE STAND AND JUDGE KINARD FOUND THAT HE WAS COMPETENT AT THAT POINT. SINCE THEN, THEY'VE HAD NO FURTHER CONTACT.

OUT OF AN ABUNDANCE OF CAUTION, I BOUGHT THEM TO COURT TODAY SHOULD THEY BE ABLE TO TALK TO MR. ADAMS AND HAVE A FURTHER EVALUATION. HOWEVER, YOUR HONOR, THEY CANNOT ADD ANYTHING FURTHER TO -- SINCE THE LAST FINDING.

THE COURT: ALL RIGHT. DID YOU UNDERSTAND THAT, OF COURSE, MR. ADAMS, THAT THE DOCTORS INFORMED THE SOLICITOR THAT YOU WOULD NOT COOPERATE WITH THEM, IS THAT TRUE?

MR. ADAMS: YES, THAT IS CORRECT. I WOULD NOT TALK TO THEM OR IN ANY WAY, IN PART OF IN WHOLE, COMMUNICATE WITH THEM BASED ON THE FACT THEY HAVE SHOWN ME EXTREME PREJUDICE. THEY TRIED TO PUT ME ON MEDICATION.

I DO HAVE THE PLEADINGS, YOUR HONOR, AFTER BEING IN YOUR COURTROOM SEVERAL TIMES THAT I HAVE IMMACULATE COURTROOM PERFORMANCE. I'VE CONDUCTED MYSELF AS AN OFFICER OF THIS COURT AND WHEREFORE I FEEL THAT MY COMPETENCY UNDER RULE 601 OF THE

SOUTH CAROLINA RULES OF EVIDENCE HAS NOT BEEN SHOWN.

THE COURT: ALL RIGHT SIR. AND YOU WOULD STIPULATE THAT THE TWO DOCTORS, AND WHO ARE THEY, COUNSEL, WOULD YOU PLACE THEIR NAMES ON THE RECORD?

MS. CAMPBELL: YES, YOUR HONOR. IT'S DR RENEE KOHANSKI AND DR. STEPHEN SHEA.

THE COURT: ALL RIGHT. MR. ADAMS, WOULD YOU STIPULATE THAT IF DR. KOHANSKI AND DR. SHEA WERE PUT UNDER OATH AND PUT ON THE STAND, THEY WOULD TESTIFY THAT YOU DID NOT COOPERATE, DID NOT PROVIDE THEM ANY ADDITIONAL INFORMATION THIS MORNING AND THEREFORE, YOU WOULD WAIVE THEIR TESTIMONY?

MR. ADAMS: YES, SIR.

THE COURT: AND YOU UNDERSTAND WHAT I'M SAYING. I COULD HAVE THEM GET UP AND SAY YOU DIDN'T COOPERATE, BUT YOU'VE ADMITTED THAT, RIGHT, SIR?

MR. ADAMS: YES, I ADMIT THAT.

THE COURT: AND, UH, YOU ARE NOT RAISING THE ISSUE OF YOUR COMPETENCY AT THIS TIME. YOU FEEL LIKE YOU ARE FULLY COMPETENT TO GO FORWARD.

MR. ADAMS: YES, SIR, I DO SIR.

THE COURT: ALL RIGHT, SIR, AND I WILL NOTE FOR THE RECORD THAT IN MY MANY CONVERSATIONS WITH MR. ADAMS, I HAVE HAD NO REASON TO SUSPECT HIS COMPETENCY. I HAVE EXPRESSED TO HIM MY RESERVATIONS ABOUT HIS WISDOM IN CHOOSING TO REPRESENT HIMSELF.

BUT THAT IS HIS RIGHT AND I FIND THAT HE HAS FULLY WAIVED THAT RIGHT TO HAVE REPRESENTATION AND THERE'S, SINCE NO EITHER IN HIS MIND NOR IN THE COURT'S MIND CONCERNING HIS COMPETENCY, SINCE HE HAS BEEN PREVIOUSLY FOUND COMPETENT BY THIS COURT AND SINCE HE DID NOT COOPERATE WITH THE DOCTORS SO THEY CANNOT ADD ANYTHING, THEN IN EFFECT, MR. ADAMS, HAS STIPULATED TO WHAT THEIR TESTIMONY WOULD BE. SO THE DOCTORS WILL BE EXCUSED. THANK YOU VERY MUCH FOR COMING.

Trial transcript p.20 L. 23 - p. 23 L. 16.

This Court further notes the dialog between the Applicant and the trial court during the pretrial hearings when the Applicant again asserts his competence and the competency hearing is referenced. The Applicant did not object, but rather agreed with, the Solicitor's reference to the October 18, 1999 competency hearing that found the Applicant to be competent.

At the PCR hearing the Applicant made reference to one of the competency evaluation reports suggesting the Applicant may not be competent; however a hearing was held after that report and the Applicant was found to be competent. Additionally, the Applicant addressed the evaluation report during his pretrial hearings:

THE COURT: I BELIEVE THE DOCTOR SAID YOU WERE NOT COMPETENT.

MR. ADAMS: THE DOCTOR WAS LYING. THAT'S HOW COME I'M NOT THERE. THAT'S WHY SHE'S SUED FOR \$175 MILLION, FOR PLAYING GAMES WITH ME. THE DOCTOR IS THE ONE WHO NEEDS A MENTAL EXAM, BUT SHE DON'T EVEN KNOW THAT A PERSON HAS A SIXTH AMENDMENT RIGHT TO CONSULT WITH COUNSEL. AND SHE'S SUPPOSED TO BE A DOCTOR.

Pretrial transcript, p. 131 L. 12-19, ROA p. 72 L. 12-19.

See also, Pretrial transcript, p. 131-167, ROA p. 72-78. Rather than show prejudice from having the competency hearing(s), the Applicant specifically stated it was in his advantage: "I WALKED IN TO A [COURT]ROOM, AND THERE THEY [DOCTORS] ARE AGAIN, BUT IT GAVE ME AN OPPORTUNITY TO SERVE THEM WITH A LAWSUIT, SO I THANK MS. CAMPBELL FOR THAT." Post trial

transcript p. p. 33 L. 16-19, ROA p. 887 L. 16-19. This Court finds that the trial court did not question the Applicant's competency in any matter inconsistent with the trial court's acquiescence to the Applicant's competency to waive his right to trial counsel and proceed *pro se*. Accordingly, any allegation(s) that the Applicant's waiver of the right to counsel was "Unconstitutional" because the trial court conducted a competency evaluation is wholly without merit.

Ineffective waiver of right to appellate counsel (11-B-1), (11-B-2), (11-C-1)

The applicant argues that because the appellate court did not warn the Applicant of the dangers of proceeding *pro se* on appeal, his waiver of the right to appellate counsel is therefore ineffective and he is entitled to have his sentence vacated and therefore a new trial. In support of his argument, the Applicant relies on Snook v. Wood, 89 F.3d 605, (C.A.9 (Wash.),1996). While ignoring the non-controlling nature of a Ninth Circuit Habeas case, this Court fully acknowledges the conceptual reliance contained in Snook, in that a criminal defendant must be warned of the dangers of *pro se* representation in order to legitimize any waiver of the right to appellate counsel. In Snook, the Ninth Circuit Court of Appeals ultimately confirmed the lower court's findings that Snook was not properly warned of the dangers of self-representation:

With regard to the waiver of counsel on appeal issue, the district court held an evidentiary hearing to determine whether Snook knowingly, intelligently, and voluntarily waived his right to counsel on direct appeal. On October 6, 1995, the district court issued a written order stating:

[U]nder the applicable law, there has been no showing at all of a knowing, voluntary, and intelligent waiver of Petitioner's right to the assistance of counsel on appeal of his aggravated murder conviction. No one ever talked to Snook, a 24 or 25 year-old man, with a limited education, with psychological problems, and who had been sentenced to death, about the dangers and potential consequences of self-representation. Snook did not have the background and experience in legal matters in 1977-80 to represent himself in a capital appeal of all appealable issues in this case.

Snook v. Wood, 89 F.3d 605, 609 (C.A.9 (Wash.),1996).

Even applying the same analysis used in Snook, this Court finds the Applicant's claims to be without merit. The Snook court stated:

In Balough⁶ and Hendricks⁷, we recognized "that a limited exception may exist whereby a district court's failure to discuss each of the elements in open court will not necessitate automatic reversal when the record as a whole reveals a knowing and intelligent waiver." Balough, 820 F.2d at 1488. In such cases, "we will look to the particular facts and circumstances surrounding that case, including the background, experience and conduct of the accused to determine whether the waiver was knowing and intelligent despite the absence of a specific inquiry on the record." Id. (quotations omitted). Nevertheless, before a defendant can make a knowing and intelligent waiver of counsel on appeal, the defendant must "be made aware of the dangers and disadvantages of self-representation," if not by the court, then by some other source. Faretta, 422 U.S. at 835, 95 S.Ct. at 2541⁸.

Snook v. Wood, 89 F.3d 605, 613 (C.A.9 (Wash.),1996).

Unlike Snook, the Applicant represented himself *pro se* at trial. It is clear from the record, and as stated above, the Applicant was warned on numerous occasions of the

⁶ U.S. v. Balough, 820 F.2d 1485 (C.A.9 (Cal.),1987).

⁷ Hendricks v. Zenon, 993 F.2d 664 (9th Cir.1993).

⁸ Faretta v. California, 422 U.S. 806,95 S.Ct. 2525 (U.S.Cal. 1975).

dangers of self-representation. Pretrial transcript p. 167 L. 24 – p. 168 L. 4, ROA p. 86 L. 24 – p. 87 L.4. ROA p. 891-892, 893-894. ROA p. 899-908.

Trial transcript p.20 L. 23 – p. 23 L. 16. Additionally, this Court notes the additional factors used in finding that the Applicant was aware of the dangers of representing himself *pro se* per Gardner v. State, 351 S.C. 407, 570 S.E.2d 184, (2002). The Applicant has failed to demonstrate that a criminal defendant needs to be warned again by the appellate court of the dangers against self-representation in order to validate his waiver of the right to appellate counsel after proceeding *pro se* at trial.

This Court additionally looks to State v. Roberts, 364 S.C. 583, 614 S.E.2d 626 (2005) in finding that the Applicant's claim is without merit. While our State Supreme Court found that Roberts was not entitled to proceed *pro se* on direct appeal, their reasoning was based on the fact that "[Robert]'s request to proceed *pro se* was not made in a timely fashion." State v. Roberts, 364 S.C. 583, 589, 614 S.E.2d 626, 629 (S.C.,2005). In Roberts, the appellant requested to proceed *pro se* only after the Office of Appellate Defense served and filed the initial brief for Roberts.

After an exhaustive analysis the South Carolina State Supreme Court stated that:

Appellant clearly does not have a federal constitutional right to proceed *pro se* in this appeal from his criminal conviction. We also find there is no state constitutional provision which confers such a right. We agree with the Florida, New Hampshire and Alabama Supreme Courts that language such as that contained in Art. I, § 14 of the South Carolina Constitution does not apply to appeals. **However, the Court**

may, in its discretion, allow an appellant to proceed pro se in an appeal from a criminal conviction.

State v. Roberts, 364 S.C. 583, 588-589, 614 S.E.2d 626, 629 (S.C., 2005) *emphasis added*.

Accordingly, this Court acknowledges that the Applicant moved the appellate court to be allowed to proceed *pro se* on appeal. States exhibit #1⁹ and #2¹⁰. The Applicant's "Motion to Proceed *Pro Se* on Appeal" was granted by the South Carolina Court of Appeals on September 15, 2000. See, Application for Post Conviction Relief p. 23. In the handwritten documents submitted to the appellate court(s), the Applicant insisted on representing himself *pro se* on appeal. The Applicant's motions/affidavits included the following (among others) assertions:

"(1) I, Mr. E. S. Adams III, am the Appellant Pro. se. in the above Captioned matter."

"(2) In Conformity with Rule 602 (e)(6) of The SCACR I have Forthwith A motion To This Court so I can obtain an order Saying that I am indigent and Competent To represent myself on my Appeal."

"(5) I am very much Competent to represent myself on this Appeal."

"(6) I represented myself at Trial and did A very Good Job."

"(7) I am also Pro. se. in several actions."

Edmond Stanley Adams, III. "Affidavit To Support Motion by Mr. Edmond Stanley Adams, III Esq." Dated January 4, 2001.

"(1) Hence That The Appellant hereto Captioned asserted and exercised his Constitutional Rights To represent himself pro. se. at his criminal Trial. See U.S. Const. Amend VI., S.C. Const. Art. I § 14, code

⁹ Affidavit by Edmond Stanley Adams, III. "Affidavit To Support Motion by Mr. Edmond Stanley Adams, III Esq." Dated January 4, 2001.

¹⁰ Motion by Edmond Stanley Adams, III. "Notice of Motion and Motion To proceed pro. se. on appeal." Dated August 14, 2000 and received by the South Carolina Office of the Attorney General August 17, 2000.

of Laws of S.C. 17-23-60 and The precedent Faretta vs. California 422 U.S. 806, 834 N. 46 (1975)"

"(2) Hence That The Appellant demonstrated That he can effectively Function in The Judicial areana [sic]."

"(4) Hence that The Appellant Appealed [sic] his Conviction Pro. se. and is The only Attorney of Record in this Appeal."

"(5) Hence That pursuant To Rule 235(a)&(b) and 236 (c) of The SCACR The Appellant is Still The Attorney For himself/Guardian at [sic] Litem."

"(7) Hence The Appellant wishes To proceed Pro. se. in his Appeal whetherby [sic] Submitting or sending Forth his own Brief pointing out reversible err."

"(8) Hence That pursuant To Rule 1.2 of The SCACR (Scope of Representation) I have The Ultimate Authority in my Case."

"(9) Hence That do [sic] to A Conflict of interest with The S.C. Appellate Court Commission I wish To proceed pro.se. in This Appeal at This Time."

"(10) Hence I do not want The S.C. Appellate Court Defense Commission involved in my case in part or in whole."

"(1) Hence That I am The "only" Attorney of Record in these hereto Captioned Captioned [sic] cases."

"(2) Hence That I have not Filed "any" motions in any Court to relinquish my Pro. se. Rights."

"(7) Hence That I have reviewed several Briefs From The S.C. Appellate Court Defense Commission because I am A Jail house Attorney."

"(8) Hence That I am not impressed with there [sic] work at all."

"(9) Hence To insure my lifes blood and my Brief is done in the correct Form For A reversal I want to Forthwith my own Brief and handle my own Appeal."

"(10) Hence at This Time I wish to proceed on Appeal Pro. se. to insure my Rights are protected. Further more I Sayeth Not."

Edmond Stanley Adams, III. "Notice of Motion and Motion To proceed pro. se. on appeal." Dated August 14, 2000 and received by the South Carolina Office of the Attorney General August 17, 2000.

This Court finds that the Applicant knowingly and intelligently waived his right to appellate counsel and was apprised of the dangers of proceeding *pro se*. The

Applicant never objected to the introduction of the handwritten motions and affidavits submitted as State's exhibit #1 and #2, which clearly demonstrate the Applicant's intent to proceed *pro se* on appeal. Additionally, as stated above, this Court finds that the Applicant was fully aware of the dangers of proceeding *pro se* and his waiver of the right to appellate counsel was not ineffective and any allegations to the contrary are wholly without merit.

One of the Applicant's claims for PCR relief is that his waiver of counsel on appeal was unconstitutional because he waived his right to appointed appellate counsel to keep the S.C. Appellate Commission from interfering with his case when he attempted to obtain private appellate counsel and that he was never found, by the Appellate Court, to be indigent. Present in the court room during the PCR hearing, the Applicant's mother verified the Applicant's assertion that a \$500 retainer was accepted by private counsel for the purposes of appeal but that said private counsel rendered no aid (PCR allegation 11-Q-1). *See also*, Application for Post- Conviction Relief, p. 24. This Court finds that the Applicant has repeatedly requested to take advantage of his indigent status throughout his trial (several appointed attorneys, court appointed investigators, free service of process, etc.), his appeal (Office of Appellate Defense paid the court reporter, Tara D. Shurling was appointed by the appellate court to perfect the Record on Appeal), and the Applicant requested to proceed without paying the filing fees for the PCR. This Court finds no merit whatsoever in the Applicant's convoluted argument that he is entitled to PCR

relief because he did not properly waive the right to appellate counsel because (either by request or not) appellate counsel assisted in his appeal.

Denial of free access to the courts (11-E-1)

The Applicant alleges that by charging the Applicant for copies as well as postage he was denied free access to the courts. As explained above, the Applicant knowingly and voluntarily waived his right to counsel. The Office of Appellate Defense paid for the Applicant's transcript and the appellate court appointed Tara D. Shurling, Esquire to help the Applicant perfect the Record on Appeal. The Applicant has demonstrated no prejudice whatsoever from the policies of the Applicant's penal institutions and the fact that copying and postage may have required funds. This Court finds the Applicant's claims to be without merit.

Unconstitutional delay on appeal (11-F-1)

The Applicant alleges that because his direct appeal was not finally adjudicated until December 22, 2005 his right to a "speedy remedy on appeal" was denied. This Court finds that any "delay" in adjudicating the Applicant's appeal was necessary, due to the number of motions filed by the Applicant and the requisite time to address those issues. This Court understands that the Applicant has every "right" to have the appeals court address his issue(s). However the records before this Court indicate the final filing was on or about April 29, 2005 and the appeals court made their ruling on September 15, 2005. The Applicant has not demonstrated any aspect of the direct appeal that indicates an extraordinary or unnecessary delay by the State. Accordingly, this Court finds the Applicant's claims

to be without merit. Maner v. Maner, 278 S.C. 377, 384, 296 S.E.2d 533, 537 (S.C.,1982).

Unconstitutional violations concerning the trial transcript (11-G-1), (11-I-1)

The Applicant presented arguments and exhibits at the PCR hearing purporting to demonstrate that the court reporter improperly destroyed the primary and/or backup tapes from the trial. The Applicant also questioned advisory counsel as to whether advisory counsel would find it shocking that the trial transcript did not include portions concerning the Applicant's *pro se* jury voir dire.

First, this Court notes that challenges to the authenticity or inadequacies of the appellate record are direct appeal issues. State v. Ladson, 373 S.C. 320, 644 S.E.2d 271 (S.C. App. 2007), State v. Serrette, 375 S.C. 650, 654 S.E.2d 554 (S.C. App. 2007). This allegation raises a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant did or could have raised this issue at trial (on remand) or on appeal. Because his arguments were either unsuccessful before the appellate court or were not presented does not render PCR a substitute for direct appeal issues.¹¹

¹¹ Error! Main Document Only. The Court of Appeals subsequently issued an order dated September 13, 2002 finding that based upon a review of the transcript provided, there was no support for

Additionally, on August 23, 2002 the Applicant served his Initial Brief of Appellant and Designation of Matter for his direct appeal. Upon such filing the Applicant has asserted the issues for appellate review and designated those materials he deems necessary for review. Rule 208 and 209, SCACR. By inference, any materials, which he would claim were not properly presented in his transcript of record, are now no longer necessary for the appeal. Pursuant to Rule 211(b)(2), SCACR, no other changes may be made to a Final Brief filed with the appellate court other than obvious typographical errors and misspellings contained in the Initial Brief. This Court relies on, as evidence, the Court Reporter's Certification that the transcript "is a true, accurate, complete transcript of record." Trial transcript p. 1574. Regardless, there has been no attempt to reconstruct the lower court's record. If there was any insufficient or incomplete record which precluded appellate review the Applicant could/should have attempted a reconstruction. By not doing so the Applicant has failed to demonstrate that either reconstruction is impossible or effective appellate review was precluded. Draper v. Washington, 372 U.S. 487, 496-498 (1963). China v. Parrott, 251 S.C. 329, 334, 162 S.E.2d 276 278 (1968) ("Where there is disagreement as to what the record on appeal should contain, the duty and responsibility of settling the question rests upon the trial judge.") Accordingly, the letter dated July 26, 2002, from trial Judge James C. Williams, Jr. indicates that

Adams' complaints of alterations, missing objections or missing testimony. Furthermore, Adams had already filed his initial brief and designation of matter.

the trial court was satisfied with the record and the unavailability of the tapes. Application for Post-Conviction Relief p. 31.

This Court is also not persuaded that Applicant is entitled to relief merely because the court reporter sent the transcript to the party that paid for it, despite the fact that the Applicant was *pro se* on appeal. The Applicant demonstrated no prejudice or clear violation of any existing law concerning the allegation that the court reporter sent the transcript to the party who paid for it. Finally, even if the Applicant satisfied his burden of proof and was able to demonstrate that the court reporter improperly destroyed the backup tapes, the Applicant has failed to demonstrate any prejudice, i.e. inadequacy of the record. Advisory counsel testified that he would be shocked/surprised if the trial transcript did not properly memorialize the Applicant's Batson¹² challenges during jury voir dire as well the Applicant's objection(s) and motion(s) for mistrial concerning the Solicitor's closing remarks. This Court notes that the Applicant's Batson challenges and challenges to the Solicitor's closing remarks are memorialized in the trial transcript and the Court of Appeals addressed the issue. State v. Adams, Op. No. 2005-UP-520 (S.C. Ct. App. filed September 15, 2005) [parts VI-IX]. ROA p. 102-146, 792-854, Trial transcript p. 39-96, 1449 - 1516. *See also*, Post trial transcript ROA p. 855.

Ineffective waiver of counsel during pre-trial and post-trial stages (11-K-1), (11-L-1), (11-M-1), (11-N-1), (10-O-1), (11-P-1)

¹² Batson v. Kentucky, 476 U.S. 79, 89 (1986).

The Applicant alleges that he is entitled to relief due to failure of the trial court to appoint counsel, or in the alternative, waive his right to counsel during the Blair hearing, Voire Dire, sentencing, the rehearing stage on appeal and on remand from appellate court to General Sessions. The Applicant has failed to demonstrate any prejudice whatsoever entitling him to relief even assuming his allegations were legitimate.

This Court finds no merit whatsoever in the Applicant's claim that he was not represented by counsel during the Blair hearing. As Chief Administrative Judge, I signed an Order, dated October 13, 1999, appointing Doug Truslow to represent the Applicant at the final competency evaluation hearing (ROA p. 896).

During the Voire Dire, the Applicant had "Advisory Counsel." The role of "Advisory Counsel" during the trial was exactly what the Applicant requested. Pretrial transcript p. 167 L. 24 - p. 168 L. 4, ROA p. 86 L. 24 - p. 87 L.4. The trial court specifically asked the Applicant just prior to jury selection if the Order appointing "Advisory Counsel" reflected the full granting of the Applicant's request and the Applicant stated "[I]t does, Sir." Trial transcript p. 20 L. 8-22. If that is not sufficient, immediately prior to jury selection the trial court also confirmed that the Applicant had waived his right to counsel and was proceeding *pro se*.

THE COURT: ON THIS ISSUE -- ALL RIGHT, SIR. NOW, LET, JUST LET THE RECORD REFLECT THAT MR. ADAMS HAS CHOSEN TO REPRESENT HIMSELF. THIS COURT HAS HAD A NUMBER OF CONVERSATIONS WITH MR. ADAMS AS WELL AS PRIOR COURTS DETERMINED THAT HE HAS FULLY, KNOWINGLY AND INTELLIGENTLY WAIVED HIS RIGHT TO AN ATTORNEY.

Trial transcript p. 18 L. 17-22.

Accordingly, this Court finds no merit whatsoever that the Applicant's waiver of the right to counsel was ineffective at the jury selection phase.

During the sentencing stage there is no requirement for the trial judge to appoint counsel or obtain another waiver, for a *pro se* defendant during the sentencing phase of the criminal trial.

In United States v. Holmen, 586 F.2d 322 (4th Cir.1978) the court found it was error not to allow appellant to withdraw his waiver of counsel and have counsel appointed at the sentencing stage. However, in Holmen, the sentencing stage was a separate proceeding unlike the continued proceeding in the instant case involving a sequestered jury.

State v. Reed, 332 S.C. 35, 44, 503 S.E.2d 747, 751 (1998).

The Applicant was sentenced immediately following the jury verdict, not as a separate proceeding as in Reed. Trial transcript, p. 1573. Accordingly, this Court finds that the Applicant has failed to demonstrate he is entitled to relief because the trial court should have conducted another waiver of the right to counsel (or simply appointed counsel) at the sentencing phase. Neither has the Applicant demonstrated to this Court that was in any way prejudiced during the sentencing phase even if he were not afforded a right to counsel (which he waived).

The Applicant's allegation that he is entitled to relief because he was not appointed counsel, or waived the right to appointed counsel on appeal, as stated above, is completely without merit. The Applicant motioned the appellate court to appear *pro se* on appeal, simply because the Applicant elected to pursue a motion

for rehearing with the appeal court while his direct appeal was pending did not vest the appellate court of jurisdiction and the Applicant has failed to demonstrate that he entitled to separate waivers of the right to counsel throughout the various stages of his appeal.¹³

Finally, the Applicant alleges he is entitled to relief because “he was not advised that he could appeal his case to the U.S. Supreme Court upon his denial of appellate relief.” This Court finds no merit whatsoever in the Applicant’s above claim. The Applicant has failed to demonstrate any source or authority indicating a *pro se* criminal appellant is entitled to be advised that he can request review by the United State’s Supreme Court following a denial during direct appeal of a criminal conviction in a State’s Supreme Court.

This Court finds Applicant’s testimony is not credible, while also finding Applicant’s advisory counsel’s testimony is credible. Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that counsel failed to render reasonably effective assistance under prevailing professional norms. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by counsel’s performance.

¹³ This Court notes that the only “remand” during the appeal was for the trial court to address the alleged transcript issue(s), that the appellate court never remitted jurisdiction pending the appeal.

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. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. The Applicant's waivers of the right to counsel were all effective. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them, including but not limited to 11-Q-1, 11-J-1, 11-H-1. As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this Order, this Court finds Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that Applicant waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are dismissed with prejudice. 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 issue at the hearing indicates a voluntary

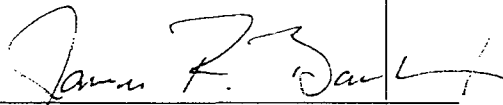
and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by Applicant 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 PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant and counsel are directed to Rules 203, 206, and 227 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal 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 19TH day of MAY, 2008.



The Honorable James R. Barber, III.
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina.



HENRY McMASTER
ATTORNEY GENERAL

June 4, 2009

Edmond Stanley Adams, III, #265717
Lieber C.I. Rm. SA-62
P.O. Box 205
Ridgeville, SC 29472

Re: PCR 2006CP4007169

Mr. Adams:

I received your letter, dated June 1, 2009, requesting information about the status of your PCR.

As you know, on July 18, 2008 the PCR Court denied your Rule 59(e), SCRCP motion to alter or amend. Following the order denying your Rule 59(e) motion the State's file was closed and sent to archives. I have attached a copy of the order denying your Rule 59(e) motion that the Clerk mailed to both parties. The Richland County Clerk of Court's records indicate that you [and I] were mailed a copy of the order on July 18, 2008 at approximately 10:04 AM – your address is listed as "Adams, Edmond Stanley #265717 Lieber Correctional Institution P O Box 205 Ridgeville SC 29472." *See attached.*

Sincerely,

Brian T. Petrano

Assistant Attorney General

cc. The Honorable James R. Barber, III

Enc.

BTP

Office Of the Attorney General Attn: Brian T. Petrano P.O. Box 11549 Columbia SC 29211-1549	
Case No: <u>2006-CP-40-7122</u> PCR Matter:	
Dear Mr. Petrano, ET AL:	
I am writing you this letter to grave concern in reference to the status of my PCR case. I forthwith my action to alter and amend the courts judgement in this case on and I received your reply on or about June 16th 2008.	
I have not heard anything whatsoever from your office or from the Court, and several months have passed. If you can provide me with any information related to this matter. Please inform me of the progress in this matter.	
6-1-09 Date	 Edmond S. Adams, III, #265717 Lieber C.I. Rm. SA-62 P.O. Box 205 Ridgeville SC 29472

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS
Edmond S. Adams, III

JUDGMENT IN A CIVIL CASE

CASE NO. 2006 -CP- 40 - 7169
STATE OF SC

PLAINTIFF(S)

DEFENDANT(S)

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.
- ☐ **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:

Motion to Alter or Amend The Judgment is denied without
oral argument.

Dated at Columbia, South Carolina, this 14th day of July, 20 08.

James F. Belt
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 18th day of July, 20 08 to attorneys of record or to parties (when appearing pro se) as follows:

pro se

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

BARBARA A. SCOTT
CLERK OF COURT



Richland County
Fifth Judicial Circuit
Public Index Search

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Edmond Stanley #265717 Adams vs State of South Carolina

Case Number: 2006CP4007169 Court Agency: Richland County Common Pleas Filed Date: 12/04/2006
Case Type: Common Pleas Case Sub Type: Post Convict Rel 500 File Type: PCR
Status: Dismissed Assigned Judge:
Disposition: Dismissed by Court - not Rule 403 Disposition Date 06/02/2008 Disposition Judge: Barber, James R III
Original Source Doc:
Judgment Number:

[Parties](#) [Judgments](#) [Actions](#) [Associated Cases](#)
[Tax Map Information](#)

Parties

Name	Address	Rate	Sex	Date of Birth	Party Type Description	Status
Adams, Edmond Stanley #265717	Lieber Correctional Institution P O Box 205 Ridgeville SC 29472				Plaintiff	Active
Adams, Edmond Stanley #265717	Lieber Correctional Institution P O Box 205 Ridgeville SC 29472				Plaintiff Pro Se	Active
Adams, Edmond Stanley #265717	Lieber Correctional Institution P O Box 205 Ridgeville SC 29472				Plaintiff Pro Se	Active
Adams, Edmond Stanley #265717	Lieber Correctional Institution P O Box 205 Ridgeville SC 29472				Plaintiff	Active
Petrano, Brian T	Assistant Attorney General P O Box 11549 Columbia SC 29211				Defendant Attorney	Active
State of South Carolina					Defendant	Active
State of South Carolina					Defendant	Active
Petrano, Brian T	Assistant Attorney General P O Box 11549 Columbia SC 29211				Defendant Attorney	Active

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Richland County
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Edmond Stanley #265717 Adams vs State of South Carolina

Case Number: 2006CP4007169 Court Agency: Richland County Common Pleas Filed Date: 12/04/2006
Case Type: Common Pleas Case Sub Type: Post Convict Rel 500 File Type: PCR
Status: Dismissed Assigned Judge:
Disposition: Dismissed by Court - not Rule 403 Disposition Date 06/02/2008 Disposition Judge: Barber, James R III
Original Source Doc:
Judgment Number:

[Parties](#) [Judgments](#) [Actions](#) [Associated Cases](#)
[Tax Map Information](#)

Actions

Name	Description	Action Type	Begin Date	Completion Date
State of South Carolina	Transcript	Filing	02/26/2007 - 11:18:41	06/02/2008 - 11:18:41
Adams, Edmond Stanley #265717	Order of Dismissal J/ Barber	Order	06/02/2008 - 10:59:49	06/02/2008 - 10:59:49
Adams, Edmond Stanley #265717	Motion/Alter or Amend	Motion	06/09/2008 - 14:38:02	
Adams, Edmond Stanley #265717	Certificate Of Service	Filing	06/09/2008 - 14:38:23	
Adams, Edmond Stanley #265717	Return & Motion To Dismiss To Alter Or Amend Denial Of PCR	Filing	06/16/2008 - 16:48:39	
Adams, Edmond Stanley #265717	Affidavit Of Service By Mail	Filing	06/16/2008 - 16:49:10	
Adams, Edmond Stanley #265717	Form Order Motion to Alter or Amend DENIED J/Barber	Order	07/19/2008 - 10:04:29	

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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Court of Common Pleas

James R. Barber, Presiding

Case No. 2006-CP-40-7169

State of South Carolina,

RESPONDENT.

"VS"

Edmond S. Adams,

PETITIONER.

NOTICE OF APPEAL

Edmond S. Adams appeal the judgement of Circuit Court judge James R. Barber dated July 14th, 2008. Petitioner received written notice of entry of the Order on June 5th, 2009.

6-18-09

Edmond S. Adams

Edmond S. Adams, # 265717
Lieber C.I., Rm S-A-62
P.O. Box 205
Ridgeville SC 29472

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Court of Common Pleas

James R. Barber, Presiding

Case No. 2006-CP-40-7169

State of South Carolina,

RESPONDENT.

"VS"

Edmond S. Adams,

PETITIONER.

PROOF OF SERVICE

I Mr. Edmond S. Adams do hereby certify that on the date hereunder I did give the Lieber C.I. Mail-Room Clerk an exact copy of the foregoing Notice of Appeal with sufficient First Class Postage attached, and addressed as Follows:

Richland County Clerk of Court
1701 Main St.
Columbia SC 29202

And

Office of the S.C. Attorney General
P.O. Box 11549
Columbia SC 29211-1549

6-18-09
Date

Edmond S. Adams
Edmond S. Adams, # 265717
Lieber C.I. SA-62
P.O. Box 205
Ridgeville SC 29472

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County
Court of Common Pleas

James R. Barber, Presiding

Case No. 2006-CP-40-7169

State of South Carolina,

RESPONDENT.

"VS"

Edmond S. Adams,

PETITIONER.

AFFIDAVIT OF EDMOND S. ADAMS

I, Edmond S. Adams, First being duly SWORN depose and Say's.

- (1). I am the Petitioner Pro. Se. in this hereunder Captioned Case.
- (2). I Did Not receive The Order of Dismissal From The Clerk Of Court dismissing my 59 (e) Motion.
- (3). I received The Order From The Office of The Attorney General Office on June 5th, 2009 When My letter of concern was addressed about The delay in the adjudication of the Motion.
- (4). I did not sign for Legal Mail at the Lieber C.I., From The Clerk of Court with the Order of Dismissal enclosed.

SWORN BEFORE ME THIS

18th DAY OF June, 2009.

Chryna P Walker
Notary For S.C.

My Commission Expires: 4/4/2011

Edmond S. Adams
Edmond S. Adams, # 265717

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS
Edmond S. Adams, III

JUDGMENT IN A CIVIL CASE

CASE NO. 2006-CP-40-7169
STATE OF SC

PLAINTIFF(S)

DEFENDANT(S)

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.
- ☐ **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:

Motion to Alter or Amend The Judgment is denied without
oral argument.

Dated at Columbia, South Carolina, this 14th day of JULY, 2008.

James F. Scott
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 18th day of July, 2008 to attorneys of record or to parties (when appearing pro se) as follows:

pro se

ATTORNEY(S) FOR THE PLAINTIFF(S)

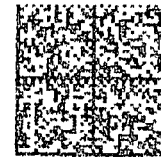
ATTORNEY(S) FOR THE DEFENDANT(S)

BARBARA A. SCOTT
CLERK OF COURT

1
Rm. SA-62
205

10 S.C. 29472

FIRST CLASS



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South Carolina Supreme Court
P.O. Box 11330
Columbia S.C. 29211