

7-16-12

MR. SHEAROUS This A motion

LETTER FOR MY APPELLATE COUNSEL

RECEIVED

JUL 20 2012

WANDA H. CARTER. At my TRIAL S.C. SUPREME COURT

My ATTORNEY did A DIRECT VERDICT OF ACQUITTAL ON ALL OF 11 indictment

MS WANDA H. CARTER ONLY did ONE OF DIRECT VERDICT OF ACQUITTAL, ON THE OTHER 10 DIRECT VERDICT OF ACQUITTAL

SHE motion FOR to BE REVERSED AND REMAND FOR A NEW TRIAL Why SHE did NOT ENTERED ALL 11 DIRECT VERDICT OF ACQUITTAL

SERVED A COPY of this motion LETTER TO WANDA H. CARTER AND put it ON RECORD

RECEIVED

JUL 20 2012

S.C. SUPREME COURT

you

FRANK Zuerfick

FRANK FURTICK #231667
K.N. 1231T
lec. C.i.
990 WISACKY HWY
bishopville. S.C. 29010

AMS

SUPREME COURT OF
SOUTH CAROLINA
DANIEL E. SHEAROUSE,
CLERK OF COURT
P.O. BOX 11770
Columbia, South Carolina, 29211

SCDC

AUG 5 2012

MAIL ROOM



ALAN WILSON
ATTORNEY GENERAL

August 5, 2011

RECEIVED

AUG - 5 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: **Frank Furtick, 231663 v. State of South Carolina**
2008-CP-40-4869

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Brief of Respondent 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: Wanda H. Carter, Esquire



ALAN WILSON
ATTORNEY GENERAL

August 4, 2011

RECEIVED

AUG - 4 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: **Frank Furtick, 231663 v. State of South Carolina**
2008-CP-40-4869

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: Wanda H. Carter, Esquire



ALAN WILSON
ATTORNEY GENERAL

August 4, 2011

RECEIVED

AUG - 4 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: Frank Furtick, Jr., 231663 v. State of South Carolina
2008-CP-40-04869

Dear Mr. Shearouse:

Enclosed please find the original and thirteen (13) copies of the Brief of Respondent 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: Wanda H. Carter, Esquire

333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379
S.E.2d 907 (1989).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Brian T. Petrano", is written over a horizontal line.

FOR THE COURT

J

Columbia, South Carolina

July 12, 2011

cc: Assistant Attorney General Brian T. Petrano
Deputy Chief Appellate Defender Wanda H. Carter
Frank Furtick #231663

MR. RICHARD B. NESS

6-29-11

MY NAME IS FRANK FURTIK; SCDC# 231663 I'M CURRENTLY HOUSED AT THE LEG CORRECTIONAL INSTITUTION. I'M REQUESTING YOUR INTERVENTION BECAUSE IT APPEARS THAT THE DEPUTY CHIEF APPELLATE DEFENDER WANDA H. CARTER HAVE NO INTENTION OF RESOLVING THIS LEGAL MATTER FAVORABLE FOR ME. ON 10-25-07 I WAS FOUND GUILTY OF MURDER. ONE COUNT OF KIDNAPPING. 2 COUNT OF ARMED ROBBERY. AND 2 COUNT OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE DURING THE OCTOBER 2007 TERM OF RICHLAND COUNTY GENERAL SESSIONS COURT. I WAS SENTENCED TO LIFE ON THE MURDER AND 30 YEARS FOR EACH ARMED ROBBERY AND TEN YEARS FOR EACH AGGRAVATED ASSAULT. I WAS REPRESENTED AT TRIAL BY DANIELLE PAYNE AND LAUREN MOBLEY. COUNSEL DID NOT PUT IN NOTICE OF APPEAL. ON JULY 7, 2008 I HAD FILED A PCR WITH RICHLAND COUNTY OFFICE OF THE CLERK OF COURT. IN MS WANDA H. CARTER BRIEF TO SUPREME COURT. SHE STATED A HEARING WAS CONVENED ON APRIL 1, 2009. AT THE RICHLAND COUNTY GENERAL SESSIONS COURT BEFORE JUDGE L. CASEY MANNING. DURING THE HEARING, THE ISSUE OF PETITION REQUEST FOR A BELATED DIRECT APPEAL WAS ADDRESSED.

ON APRIL 26, 2009, JUDGE MANNING 6-29-11
 ISSUED A CONSENT ORDER GRANTING PETITIONER
 A BELATED DIRECT APPEAL PER WHITE V. STATE.
 263 S.C. 110, 208 S.E.2d 35. PETITIONER FILED A
 RULE 59(E) MOTION. BUT JUDGE MANNING
 DENIED THAT MOTION. PETITIONER WAS REPRESENTED
 AT THE PCR HEARING BY TARA DAWN SHURLING.
 PETITIONER APPEALED JUDGE MANNING'S ORDER.
 IN HER BRIEF SHE DID NOT STATE THAT
 ON APRIL 1, 2009 THAT WAS A MOTION HEARING
 TO HAVE TARA DAWN SHURLING RELIEVED AS
 SUBSTITUTE COUNSEL. ON APRIL 1, 2009 JUDGE MANNING
 GRANT THAT PETITIONER. IT WAS NOT A BELATED
 APPEAL HEARING. THAT WHY I HAVE FILED A
 RULE 59(E) MOTION. I HAVE ALSO FILED A
 MOTION WITH OFFICE OF DISCIPLINARY COUNSEL
 CC: MS. TIFFANY RICHARDSON. ON TARA DAWN SHURLING.
 ON MARCH 10, 2010, I HAVE RECEIVED A LETTER FROM
 ATTORNEY CHARLIE J. JOHNSON, JR. STATE THAT MR.
 BRIAN PATRANO, ASSISTANT ATTORNEY GENERAL, INFORMED
 HIM THAT A PCR HEARING WILL NOT BE REQUIRED.
 PROPOSED CONSENT ORDER WAS SENT TO JUDGE L. CASEY
 MANNING, BACK IN SEPTEMBER 2009, FOR HIS REVIEW
 AND SIGNATURE.

2. BRIAN PATRANO STATED I HAVE WAIVED MY RIGHT TO
 RAISE ANY OTHER PCR ALLEGATIONS.

3. At the PCR HEARINGS. THE APPLICANT 6-29-77
EXPRESSED HIS SATISFACTION WITH AFFORDED AN
OPPORTUNITY TO PURSUE A BELATED DIRECT APPEAL
AND WAS NOT CONCERNED WITH PRESENTING ANY
AMENDMENT TO HIS APPLICATION NOR DID HE MANIFEST
ANY OTHER ALLEGATIONS WHATSOEVER. STATEMENT OF
2.3. BY BRIAN PATRANO ASSISTANT ATTORNEY GENERAL.

CONCLUSION OF HER BRIEF.

BASED ON THE FOREGOING. A DIRECTED VERDICT
SHOULD BE ENTERED ON THE ARMED ROBBERY
CONVICTION AT ISSUE AND THE REMAINING CONVICTION
SHOULD BE REVERSED AND HIS CASE REMANDED
TO THE GENERAL SESSIONS COURT FOR A NEW
TRIAL. SIR SHE DID NOT MENTION THE
FACT THAT THE STATE DID NOT PROVE
NONE OF THE ELEMENTS ON THE OTHER
CONVICTION. I NEED HER OFF OF MY
CASE AS SOON AS POSSIBLE. AND TO BE
APPOINTED A LAWYER FROM THE SIDE BAR.
MS. WANDA H. CARTER ARE VIOLATE MY DELE PROCESS
RIGHT. A RIGHT TO EFFECTIVE ASSISTANCE OF
COUNSEL. THAT ARE GUARANTEED BY THE SIX
AMENDMENTS. THANK YOU FOR YOUR ATTENTION
AND CONSIDERATION.

SINCERELY, Frank Zurich #231663

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County

L. Casey Manning, Circuit Court Judge

RECEIVED

JUN - 6 2011

S.C. Supreme Court

FRANK FURTICK, JR.,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

**PETITION FOR EXTENSION TO FILE
PETITION FOR WRIT OF CERTIORARI
AND APPENDIX**

(4)

The undersigned counsel would respectfully request a **final fourteen-day extension, until June 20, 2011**, in which to file the petition for writ of certiorari and appendix in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following exigent circumstances:

1. The petition for writ of certiorari and appendix in this case are due to be served and filed today, having been extended by three prior orders of this Court.
2. Counsel will be filing the petition for writ of certiorari and accompanying appendix in the case of Ricky Brannon v. State today. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Michael Hilton v. State on May

31, 2011. Counsel filed both the petition for writ of certiorari and accompanying appendix in the case of State v. Leroy Adams Brown (in the COA) and the brief of appellant in the case of State v. Clifford Johnson on May 25, 2011. Counsel filed the petitions for writ of certiorari and accompanying appendices in the cases of Phillip Miles Miller v. State and David Anthony v. State on May 23, 2011. Counsel filed the brief of petitioner in the case of Vincente Christino v. State on May 20, 2011. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Jabari Lee on May 16, 2011. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Xavier Miguel v. State on May 11, 2011. Counsel filed the petitions for writ of certiorari and accompanying appendices in the cases of Travis J. Williams v. State and Antwan Donaldson v. State on May 5, 2011. In April, 2011, counsel filed the petitions for writ of certiorari and accompanying appendices in the cases of Paul Gray v. State, Daniel Shannon v. State, Gerald Evans v. State, Francis O. Campbell v. State, Antonio M. McClam v. State, Francis Simmons v. State, Corey Londre Bryant v. State, Courtney Lyles v. State and Rosemond Jovan Graves v. State. Also in April, 2011, Counsel filed the return to petition for writ of certiorari in the case of Anthony King v. State. Additionally, Counsel filed the initial briefs of appellant and designations of matter in the cases of State v. Michael Lackey and State v. Melinda Richmond in April, 2011.

3. This request is made in good faith, and not for purposes of delay.

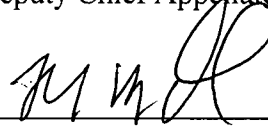
4. As indicated by his consent below, counsel for the state graciously consents to or does not oppose this request.

WHEREFORE, the undersigned counsel would respectfully request a **final fourteen-day extension, until June 20, 2011**, in which to file the petition for writ of certiorari and appendix in this case. Counsel requests that the time limits for filing the petition for writ of certiorari be held in abeyance pending a ruling on this motion.

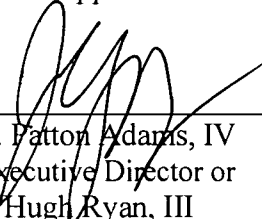
Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender



Robert M. Dudek
Chief Appellate Defender



T. Patton Adams, IV
Executive Director or
J. Hugh Ryan, III
General Counsel

June 6, 2011

I DO NOT OPPOSE:



Brian Petrano

MR. SHEAROUSE ON JANUARY 2nd 2011

05-10-11

I HAVE RECEIVED A LETTER FROM WANDA H. CARTER, DEPUTY CHIEF APPELLATE DEFENDER. STATED THAT SHE WAS MY LAWYER WHO WILL BE HANDLING MY CASE IN THE SUPREME COURT. IT FURTHER READ THAT SHE WILL DECIDE WHICH ISSUE OR ISSUES TO SUBMIT TO THE APPELLATE. I DON'T FEEL THAT ARE FAIR. MY ISSUE I HAVE SENT TO HER IS REVERSIBLE ERROR. THAT SHE SAY SHE DIDN'T RECEIVE. ANY GOOD AND FAIR LAWYER WILL USE THOSE ISSUE. I DON'T UNDERSTAND WHY SHE LIE ABOUT NOT RECEIVE MY ISSUE. SHE STATED THAT SHE WAS MY LAWYER. IT HER JOB TOO LIE TO HER CLIENT? I CALL ON THE TELEPHONE TO TALK WITH HER SHE ACT LIKE IF SHE DIDN'T WANT TO TALK TO ME. SO I WANT YOU TO REVIEW SOME OF MY ISSUE THAT SHE SAY SHE DIDN'T GOT OK.

2.
 1. TRIAL JUDGE IMPEACH DEFENDANT RIGHT TO BE PRESENT
 AT ALL STAGES OF THE PROCEEDINGS. HAVING PRIVATE
 COMMUNICATING WITH DELIBERATION JURY. BY NOTES THAT WAS
 NOT DONE IN OPEN COURT. FED. R. CRIM. P. 413(A). RULES
 OF COURT. U.S. V. NEFF, 10 F. 3d. 1321. BILLINGSLEY, 766 F.2d
 AT 1020 OR ROGERS OPINION 683 F.2d. AT 1058. U.S. V. RONDER
 C.A. 2, N.Y. (1982). 639 F.2d. 931. DUE PROCESS GUARANTEE OF FIFTH
 AND FOURTEENTH AMENDMENT. AND COMMON LAW RIGHT OF PRESENCE

2. TRIAL LAWYER FAIL TO OBJECT THAT STATE MAY NOT
 SHIFT BURDEN ON ELEMENT OF MURDER. PROSECUTION
 MUST BE HOLD TO IT HEAVY BURDEN OF PROOF BEYOND A
 REASONABLE DOUBT. MALICE MUST BE SHOWN TO CONVICT ONE OF
 MURDER. MULLANEY V. WILBUR. 421 U.S. 684 95 S.Ct. 1881-446 Ed.
 2d 508 (1975). SANDSTROM V. MONTANA. 442 U.S. 510. 99 S.Ct. 2450.
 61 L.Ed.2d 39 (1979) PATTERSON V. NEW YORK. 432 U.S. 197. 210.97
 S.Ct. 2319. 53 L.Ed.2d 281 (1977).
 JONES V. UNITED STATES. 526 U.S. 227. 119 S.Ct. 1215. 143 L.Ed.
 2d 711 (1999). IN RE WINSHIP. 397 U.S. 358. 364. 90 S.Ct.
 1068. 1072. 1077. 25 L.Ed.2d 368 (1970).

RECEIVED

MAY 12 2011

S.C. SUPREME COURT

3.

LAWYER FAIL to motion the Victims medical RECORD.

DOVE V. STATE. 523 S.E. 2d 459-461 (1999).

TRIAL LAWYER told JURY that THEY client was
GUILTY OF some of the CHARGE. WHEN I have PLEAD
not Guilty. MY Right was VIOLATE. A Right to a FAIR TRIAL
Provided by the SIXTH AMENDMENT. A Right to Hold
the STATE to PROOF beyond A REASONABLE doubt. WILEY
47 F.2d At 650. STATE V. HARBISON 337. S.E. 2d 504.

TRIAL LAWYER FAIL to informed me of Right to AN APPEAL
TRIAL LAWYER FAIL to Put in Notice of APPEAL. CHERRY V.
STATE 300 S.C. 115. 386 S.E. 2d 624 (1984).

THE GOVERNMENT FAILS to sustain its BURDEN OF
PROOF. THAT THE DUE PROCESS CLAUSE REQUIRES THE
STATE to PROVE beyond A REASONABLE doubt EVERY ELEMENT
OF THE CRIME WITH WHICH A DEFENDANT IS CHARGED.
FAILS ON ANY ELEMENT THE DEFENDANT MUST BE
ACQUITTED. SUPREME COURT CASE.

SINCERELY. Frank Smith #231663

The Supreme Court of South Carolina

Frank Furtick, Jr.,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable L. Casey Manning
Richland County
Trial Court Case No. 2008-CP-40-04869

ORDER

For good cause shown, the request for an extension to serve and file Petition for Writ of Certiorari and Appendix is granted and extended until June 6, 2011. Pursuant to this Court's order dated March 18, 2009, any further extension request must show the existence of extraordinary circumstances, state what actions 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 *Wanda J. Shealy*
Chief Deputy Clerk

Columbia, South Carolina

May 9, 2011

cc: Assistant Attorney General Brian T. Petrano
Deputy Chief Appellate Defender Wanda H. Carter

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

ORIGINAL

Certiorari to Richland County
L. Casey Manning, Circuit Court Judge

RECEIVED

MAY - 6 2011

S.C. Supreme Court

FRANK FURTICK, JR.,

PETITIONER, (3)

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

**PETITION FOR EXTENSION TO FILE
PETITION FOR WRIT OF CERTIORARI
AND APPENDIX**

The undersigned counsel would respectfully request a thirty-day extension in which to file the petition for writ of certiorari and appendix in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following exigent circumstances:

1. The petition for writ of certiorari and appendix in this case are due to be served and filed today, having been extended by two prior orders of this Court.
2. Counsel is working on the petition for writ of certiorari and accompanying appendix in the case of Xavier Miguel v. State due next week. Counsel filed the petitions for writ of certiorari and accompanying appendices in the cases of Travis J. Williams v. State and Antwan Donaldson v. State yesterday, May 5, 2011. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Paul Gray v. State on April 28, 2011. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Daniel Shannon v. State on April 26, 2011. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Gerald Evans v.

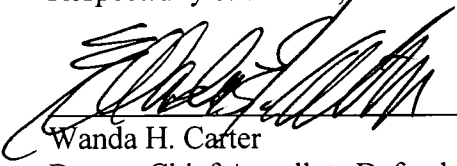
State on April 25, 2011. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Francis O. Campbell v. State yesterday, April 20, 2011. Additionally, Counsel filed the petitions for writ of certiorari and accompanying appendices in the case of Antonio M. McClam v. State and Francis Simmons v. State and Corey Londre Bryant v. State on April 19, 2010. Counsel filed the return to petition for writ of certiorari in the case of Anthony King v. State on April 15, 2011. Counsel filed the initial briefs of appellant and designations of matter in the cases of State v. Michael Lackey and State v. Melinda Richmond on April 7, 2011. Counsel filed the petitions for writ of certiorari and accompanying appendices in the cases of Courtney Lyles v. State and Rosemond Jovan Graves v. State on April 6, 2011.

3. This request is made in good faith, and not for purposes of delay.

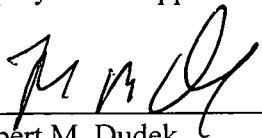
4. As indicated by his consent below, counsel for the state graciously consents to or does not oppose this request.

WHEREFORE, the undersigned counsel would respectfully request a thirty-day extension in which to file the petition for writ of certiorari and appendix in this case. Counsel requests that the time limits for filing the petition for writ of certiorari be held in abeyance pending a ruling on this motion.

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender



Robert M. Dudek
Chief Appellate Defender

May 6, 2011

I DO NOT OPPOSE:



Brian Petrano

The Supreme Court of South Carolina

Frank Furtick, Jr.,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable L. Casey Manning
Richland County
Trial Court Case No. 2008-CP-40-04869

ORDER

For good cause shown, the request for an extension until May 6, 2011 to serve and file the Petition for Writ of Certiorari and Appendix is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

April 7, 2011

cc: Assistant Attorney General Brian T. Petrano
Deputy Chief Appellate Defender Wanda H. Carter

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

Certiorari to Richland County
L. Casey Manning, Circuit Court Judge

APR - 6 2011

S.C. Supreme Court

FRANK FURTICK, JR.,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

**PETITION FOR EXTENSION TO FILE
PETITION FOR WRIT OF CERTIORARI
AND APPENDIX**

(2)

The undersigned counsel would respectfully request a thirty day extension in which to file the petition for writ of certiorari and appendix in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following exigent circumstances:

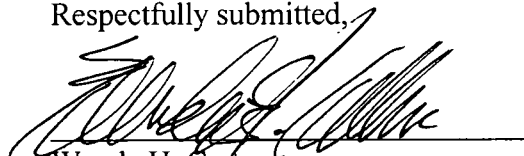
1. The petition for writ of certiorari and appendix in this case are due to be served and filed today, having been extended by one prior order of this Court.
2. Counsel will be filing the petitions for writ of certiorari and accompanying appendices in the cases of Courtney Lyles v. State and Rosemond Jovan Graves v. State today. In addition, Counsel will be filing on the initial briefs of appellant and designations of matter in the cases of State v. Michael Lackey and State v. Melinda Richmond tomorrow, April 7, 2011. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Rafael Horlbeck on March 30, 2011. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Ronald Jenkins v. State on March 25, 2011. Counsel filed the petition for writ of

certiorari and accompanying appendix in the case of Michael Turner v. State on March 23, 2011. Counsel filed the petition for writ of certiorari in the case of Emmett Kelly v. State Monday, March 21, 2011. Counsel filed the petitions for writ of certiorari and accompanying appendices in the cases of Ernesto Ortiz v. State and Beryl Ray Johnson v. State on March 18, 2011. Additionally, Counsel filed the initial brief of appellant and designation of matter in the case of State v. Kenwood Bright on March 14, 2011. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Nicholas Macklen on March 10, 2011. Counsel filed the petitions for writ of certiorari and accompanying appendices in the cases of Devario Marshatt Simpson v. State, Walter Martez Thomas v. State, Vaughn Williams v. State, Terry J. Hardin v. State, and Darrell Keith Emory v. State on Monday, March 7, 2011. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of James Matthews v. State on March 2, 2011.

3. This request is made in good faith, and not for purposes of delay.

WHEREFORE, the undersigned counsel would respectfully request a thirty-day extension in which to file the petition for writ of certiorari and appendix in this case. Counsel requests that the time limits for filing the petition for writ of certiorari be held in abeyance pending a ruling on this motion.

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

April 6, 2011

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County
L. Casey Manning, Circuit Court Judge

FRANK FURTICK, JR.,

PETITIONER,

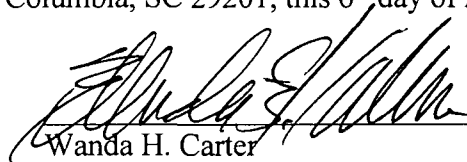
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

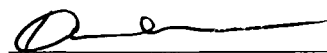
The undersigned attorney hereby certifies the petition in which to file the petition for writ of certiorari and appendix in the above referenced case has been served upon Brian Petrano, Esquire, Assistant General, Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201, this 6th day of April, 2011.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me
this 6th day of April, 2011.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 2, 2013 .

The Supreme Court of South Carolina

Frank Furtick, Jr.,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable L. Casey Manning
Richland County
Trial Court Case No. 2008-CP-40-04869

ORDER

The request for an extension until April 6, 2011 to serve and file the Petition for Writ of Certiorari and Appendix is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

March 8, 2011

cc: Assistant Attorney General Brian T. Petrano
Deputy Chief Appellate Defender Wanda H. Carter



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

March 7, 2011

RECEIVED

MAR 07 2011

S.C. Supreme Court

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

Re: Frank Furtick, Jr. v. State of South Carolina

Dear Mr. Shearouse:

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

By copy of this letter, I am informing Brian Petrano, Esquire, of the Office of the Attorney General, of this extension request.

Thanking you for your cooperation and assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Wanda H. Carter", is written over a faint, larger version of the signature.

Wanda H. Carter
Deputy Chief Appellate Defender

WHC/kam

cc: Brian Petrano



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) 734-1343
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

January 12, 2011

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

Dear Mr. Shearouse:

The following case falls under the 60 day rule for appeals, and the date we received the transcript is listed to the side.

Frank Furtick, Jr. v. State of South Carolina

1/6/2011

I would appreciate you beginning our time limits from the above date, and if you need additional information, or have any questions please contact me.

Thank you for your assistance in this matter.

Sincerely,

Loriene French
Legal Services Coordinator

RECEIVED

JAN 12 2011

S.C. Supreme Court



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

September 15, 2010

RECEIVED

SEP 15 2010

S.C. SUPREME COURT

Ms. Crystal Holmes
Circuit Court Reporter
P O Box 611
Columbia, SC 29202

Dear Ms. Holmes:

Our office has been requested to perfect the appeal arising out of:

Frank Furtick, Jr. v. State of South Carolina Case #: 08-CP-40-04869.

County: Richland Date of Trial: April 1, 2009

Presiding Judge: L. Casey Manning

It is my understanding that you were the court reporter at this time. That being the case, I request that you send this office the original trial transcript along with your bill. If you send a copy to this office, please bill us accordingly. To ensure prompt payment of this bill, please prepare it on the enclosed CID FORM 3500 (Substitution for SCCA DI-4) and include the original criminal case number (Indictment number) where the space is provided.

We request that the lines on the paper be numbered from 1-25, and that you include in the transcript any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments. We have found that even if there are no objections, we need to review both opening and closing arguments for appeal.

If you are aware of the existence of co-defendants not listed in the prior captioned case, please contact us prior to transcribing the transcript. In this manner, we can consult our records to ensure that in ordering a transcript, a duplication has not occurred. In addition, if the Attorney General's Office has already requested an original transcript, please notify us.

Ms. Crystal Holmes
September 15, 2010
Page Two

I am sorry for any inconvenience this may cause, but I appreciate your assistance in this matter. If you have any questions, or problems, please contact me.

Thank you for your kind cooperation in this matter.

Sincerely,

Loriene French
Legal Services Coordinator

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

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

AUG 20 2010

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. SUPREME COURT

L. Casey Manning, Circuit Court Judge

Case No. 2008-CP-40-04869

JEANETTE W. McBRIDE
C.C.P. & G.S.

2010 AUG 20 PM 12:26

RICHLAND COUNTY
FILED

Frank Furtick, #00231663 Petitioner,
v.
State of South Carolina, Respondent.

NOTICE OF APPEAL

Frank Furtick appeals the Order denying his Motion to Reconsider Order Granting Belated Direct Appeal. On April 26, 2010 a Consent Order Granting a Belated Direct Appeal was filed. Counsel received a copy of the Consent Order Granting a Belated Direct Appeal on May, 10 2010. Based on letters received from Petitioner indicating that he did not agree to waive all other potential PCR issues, Counsel filed a Motion to Reconsider pursuant to SCRCPP Rule 59(e) on May 19, 2010 specifically asking the Circuit Court modify the Order to allow Petitioner to raise new PCR issues after the belated direct appeal is complete. The Rule 59(e) motion was denied on August 2, 2010. Petitioner was mailed notice of the denial on August 16, 2010. Counsel for Petitioner received the copy of the Order on August 17, 2010. Please also allow this Notice to also serve as notice of intent to appeal the original conviction and sentence pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

August 20, 2010



Mark Schnee
The Schnee Law Firm
1720 Main Street, Suite 202
Columbia, SC 29201
(803)771-0075
Attorney for Petitioner

Other Counsel of Record:
Brian Petrano

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

RECEIVED

AUG 20 2010

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2008-CP-40-04869

RICHLAND COUNTY
FILED
2010 AUG 20 PM 12:26
JEANETTE W. McBRIDE
C.C.P. & G.S.

Frank Furtick, #00231663, Petitioner,

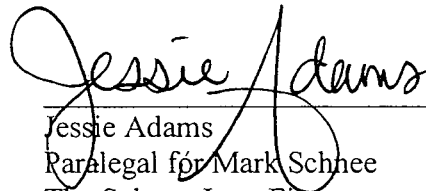
v.

State of South Carolina, Respondent..

PROOF OF SERVICE

I hereby certify that a true copy of the Notice of Intent to Appeal in the above-referenced case has been served upon opposing counsel by delivering same this date to his office at the Office of the Attorney General, P.O. Box 11549, Columbia, South Carolina, 29211.

August 20, 2010



Jessie Adams
Paralegal for Mark Schnee
The Schnee Law Firm
1720 Main Street, Suite 202
Columbia, SC 29201
(803)771-0075
Attorney for Petitioner

Other Counsel of Record:

Brian Petrano
Assistant Attorney General
Office of the Attorney General
P.O. Box 11549

240

BOOK 88 PAGE 335

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 Furtick, Jr., Frank, # 00231663,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 2008CP4004869

CONSENT ORDER GRANTING
 BELATED DIRECT APPEAL

2010 APR 26 AM 10:51
 JENNIFER W. McBRIDE
 C.P. & G.S.
 RICHLAND COUNTY
 FILED

This matter comes before this Court by way of an application for post-conviction relief (PCR) filed July 7, 2008. The Respondent made its Return on or about March 4, 2009.

I.

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 represented by DANIELLE PAYNE and LAUREN MOBLEY. On October 25, 2007, after a jury trial with the Honorable G. Thomas Cooper, the Applicant was convicted and sentenced to the following:

Grand Jury Term	Indictment Number	Charged Offense	Sentence Received	Sentenced to Lesser Offense
CDR	S.C. Code §	*Potential Sentence*	Offense Description	
6-06	2006GS403575	0013 17-25-0030 * 10 * Assault / Assault and battery of a high and aggravated nature (ABHAN)	10 CC	No
6-06	2006GS403576	0013 17-25-0030 * 10 * Assault / Assault and battery of a high and aggravated nature (ABHAN)	10 CC	No
6-06	2006GS403911	0116 16-03-0020 * 30 - L/D * Murder / Murder (victim: Louise Dodds) sentence is not per 17-25-45	LWOP	No
8-06	2006GS403572	0095 16-03-0910 * 30 * Kidnapping / Kidnapping (victim: Elizabeth Thaggard) not prosessed due to life sent.	not pros	No
6-06	2006GS403573	0139 16-11-0330(A) * 10-30 * Robbery / Armed Robbery (victim: Barbara Marlow)	30 CC	No
6-06	2006GS403574	0095 16-03-0910 * 30 * Kidnapping / Kidnapping (NOT GUILTY)	ACQUITE	No
6-06	2006GS403570	0014 16-03-0620 * 20 * Assault / Assault and battery with Intent to Kill (ABWIK) (victim: Louise Dodds)	LIFE	No
8-06	2006GS403571	0139 16-11-0330(A) * 10-30 * Robbery / Armed Robbery (victim: Elizabeth Thaggard)	LIFE	No
6-06	2006GS403567	0479 16-13-0030(B)(2) * 10 * Larceny / Grand Larceny, value \$5,000 or more - not prosessed due to life sent.	not pros	No
6-06	2006GS403568	0095 16-03-0910 * 30 * Kidnapping / Kidnapping (victim: Louise Dodds) Guilty, but no sentence per 16-3-910	N/A	No
6-06	2006GS403569	0139 16-11-0330(A) * 10-30 * Robbery / Armed Robbery (victim: Louise Dodds)	30 CC	No
NOTES: Regarding 2006GS403568: The Applicant was found guilty of kidnapping, but cannot receive a sentence for kidnapping due to conviction of murder for the same victim (S.C. Code 16-3-910).			TOTAL LWOP	POSSIBLE

A timely Notice of Appeal was NOT filed on Applicant's behalf.

II.

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

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) COUNSEL FAILED TO FILE A DIRECT APPEAL

(b) _____

(c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) COUNSEL FAILED TO FILE AN APPEAL

(b) FROM CONVICTION

(c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9)

(a) WILL AMEND AT A LATER DATE
5 ISSUES OR LESS

(b) _____

(c) _____

18. State clearly the relief you seek in filing this application.

REVERSE AND REMAND FOR A NEW TRIAL
OR GRANTING OF A BELATED APPEAL - WHITE V. STATE

19. Are you now under restraint? _____

III.

At the PCR hearing, the Respondent consented to a belated direct appeal because their interview of trial counsel had indicated that the Applicant did request an appeal and that due to a clerical error a notice of appeal was not properly filed.

At the PCR hearing the Applicant and his then appointed counsel (Tara Dawn Shurling) moved to have new counsel appointed due to communication issues.¹ It was at this point that counsel for the Respondent indicated their willingness to consent to the belated direct appeal particularly because that was the only allegation in the application. This Court ordered that Ms. Shurling be relieved and that new counsel be appointed. Attorney Charlie J. Johnson Jr. of the private bar was appointed by the Clerk on August 26, 2009.

Trial counsel must ensure that a criminal defendant is made fully aware of his appeal rights. White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure required by Anders v. California.² White, Id. Where the post-conviction relief judge determines that the applicant did not freely and voluntarily waive their appellate rights, the applicant may petition the South Carolina Supreme Court for review of direct appeal issues pursuant to White v. State. See Rule 227(g)(1), SCACR; Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986).³

At the PCR hearing, the Applicant expressed his satisfaction with being afforded an opportunity to pursue a belated direct appeal and was not concerned with presenting any amendment to his application nor did he manifest any other allegations whatsoever.

¹ Originally the Clerk had appointed attorney Reid B. Smith, however Ms. Shurling was substituted by consent.
² 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed. 2d 493 (1967).

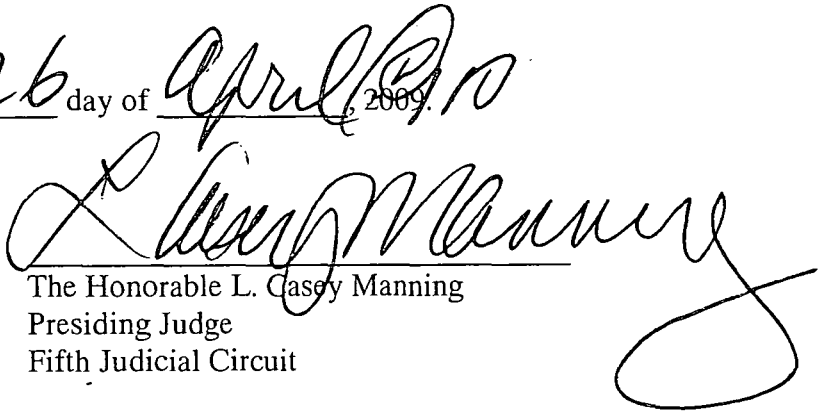
³ "Even where the post-conviction relief judge makes this finding, he may not grant relief on this basis. Instead, **the applicant must petition this Court for a White v. State review.**" [Emphasis added]. Davis, 288 S.C. at 291, n. 1, 342 S.E.2d at 60.

IV.

IT IS THEREFORE ORDERED:

1. That the Applicant be granted a belated direct appeal pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974);
 - a. Within thirty days of service of this Order, counsel for the Applicant must file a Notice of Appeal to secure the appropriate review of the Applicants' convictions. Counsel and the Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986) and South Carolina Appellate Court Rule 243(g) for the appropriate procedure for securing belated appellate review.
2. That the Applicant has waived his right to raise any other PCR allegations; and
3. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 26 day of April, 2009.



The Honorable L. Casey Manning
 Presiding Judge
 Fifth Judicial Circuit

 South Carolina

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2008CP-40-04869

Frank Furhick, 00231663

The State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

RICHLAND COUNTY
FILED
2010 AUG -2 PM 2:59
JEANETTE M. McBRIDE
C.D.P. & G.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 _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Defendant's Motion to Reconsider Order Granting Belated Direct Appeal is Denied.

Dated at Columbia, South Carolina, this 2 day of August, 2010.

[Signature]
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 16th day of August, 2010 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

[Signature]
CLERK OF COURT