

# RBL

RUSSELL B. LONG  
ATTORNEY AT LAW

RECEIVED

APR 28 2015

S.C. Supreme Court

Russell B. Long  
Michael J. Schwartz, Associate  
5307 North Kings Highway  
Myrtle Beach, South Carolina 29577

O 843.449.1222  
F 843.497.0562  
E-mail: rblongpa@sccoast.net

## AMMENDED CORRECTED LETTER

April 23, 2015

The Supreme Court Of South Carolina  
Attention: Daniel Shearouse, Clerk Of Court  
Post Office Box 11330  
Columbia SC 29211

RE: Billy Alford vs. State  
Appellate Case No. 2015-000786  
Lower Court Case No. 2012-CP-26-05785

Dear Mr. Shearouse:

I am in receipt of your letter dated April 17, 2015. Enclosed please find a copy of the Order on appeal that you requested. The affidavit of service is dated April 16, 2014 and we received it in our office April 17, 2014.

Please advise should you need anything further.

Thank you for your kind assistance.

Very truly yours,



Russell B. Long

RBL/nsm

Enclosure: Order, Affidavit Of Service

# RBL

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ALAN WILSON  
ATTORNEY GENERAL

RECEIVED

APR 28 2015

S.C. Supreme Court

April 16, 2014

Russell Blake Long, Esquire  
5307 N. Kings Hwy.  
Myrtle Beach, SC 29577

Re: Billy L. Alford v. State of South Carolina  
2012-CP-26-5785

Dear Mr. Long:

Enclosed please find a filed copy of the Order of Dismissal signed by Judge James, in the above-captioned case.

Sincerely,

Joshua L. Thomas  
Assistant Attorney General

JLT/nb

Enclosure

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )  
 )  
 )  
 )  
BILLY L. ALFORD )  
 )  
vs )  
 )  
STATE OF SOUTH CAROLINA, )  
 )  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS

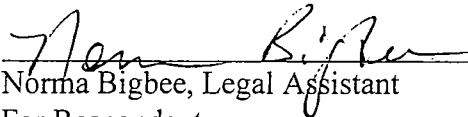
2012-CP-26-5785

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a filed copy of the Order of Dismissal in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Russell Blake Long, Esquire**  
**5307 N. Kings Hwy.**  
**Myrtle Beach, SC 29577**

DATED this 16<sup>th</sup> day of April, 2014.

  
Norma Bigbee, Legal Assistant  
For Respondent

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Billy L. Alford, )

Case No. 2012-CP-26-5785

Applicant, )

v. )

**ORDER OF DISMISSAL**  
(Failure to Prosecute)

State of South Carolina, )

Respondent. )  
\_\_\_\_\_ )

2014 APR 10 PM 1:20  
DELANE HUGGINS-WARD  
CLERK OF COURT  
HORRY COUNTY

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed July 27, 2012. Respondent made a timely return on or about October 2, 2012.

In June 2011, the Horry County Grand Jury indicted Applicant for second degree assault and battery (2011-GS-32-2121). Paola C. Pinzon, Esquire, represented Applicant. On November 9, 2011, Applicant pled guilty as indicted. The Honorable Edward B. Cottingham sentenced Applicant to eighteen (18) months. Judge Cottingham suspended the sentence to time served, and Applicant is not currently incarcerated from this plea.

The Court convened an evidentiary hearing into the application on December 16, 2013, at the Horry County Courthouse. Russell B. Long, Esquire, appeared on behalf of Applicant. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented Respondent. Respondent did not appear at the hearing. The Honorable Steven H. John continued the hearing to allow Respondent to file a motion to dismiss for failure to prosecute. Respondent filed said motion on February 21, 2014.

The Court convened a hearing on Respondent's motion to dismiss on March 20, 2014. Mr. Long and Mr. Thomas were present on behalf of their respective parties. Again, Applicant

did not appear at the scheduled hearing. Applicant's attorney informed the Court Applicant had failed to contact him regarding this action. Applicant's attorney further informed the Court he had on numerous occasions attempted to contact Applicant. Respondent moved to dismiss this matter due to Applicant's failure to prosecute.


Applicant has the burden of prosecuting his action, and the trial court may properly dismiss an action for plaintiff's neglect in proceeding with his cause. See. e.g. Don Shevey & Spires, Inc. v. American Motors Realty Corp., 279 S.C. 58, 301 S.E.2d 757 (1983). In spite of his attorney's gratuitous efforts to contact him, Applicant has failed to pursue this action. Therefore, this Court finds Respondent's motion should be granted and hereby dismisses this matter with prejudice.

**IT IS THEREFORE ORDERED:**

1. The above captioned application is **DISMISSED WITH PREJUDICE** for Applicant's failure to prosecute.

AND IT IS SO ORDERED this 2 day of April, 20 14.

  
\_\_\_\_\_  
THE HONORABLE GEORGE C. JAMES, JR.  
Presiding Judge

  
\_\_\_\_\_  
South Carolina.

# RBI

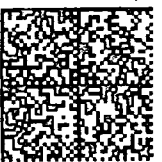
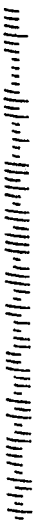
**RUSSELL B. LONG**  
ATTORNEY AT LAW

5307 North Kings Highway  
Myrtle Beach, South Carolina 29577

COLUMBIA  
COLUMBIA  
SC 29204-115  
27 APR '15  
PM 2:1

The Supreme Court Of South Carolina  
Attention: Daniel Shearouse, Clerk Of Court  
Post Office Box 11330  
Columbia SC 29211

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