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Shearouse, Daniel

From: Culbertson, Benjamin H.
Sent: Tuesday, August 21, 2012 4:45 PM
To: Shearouse, Daniel; Talley, Motte
Subject: Winkler v. State (2011-CP-26-3907)
Attachments: 8-21-2012 status letter to SC & CA.dotx

Please find attached my letter regarding the status of the above referenced PCR death penalty case.

Sincerely,

Benjamin H. Culbertson

Circuit Court Judge
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State of South Carolina
The Circuit Court of the Fifteenth Judicial Circuit

Benjamin H. Culbertson
Resident Circuit Judge

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August 21, 2012

Via U. S. Mail and Email Delivery

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

Email: DShearouse@sccourts.org

Motte L. Talley, Assistant Director
Court Administration, S.C. Judicial Department
1015 Sumter St., Suite 200
Columbia, SC 29201

Email: MTalley@sccourts.org

RE: *Louis Michael Winkler, Jr. v. State of South Carolina*
Case Number: 2011-CP-26-03907

Gentlemen:

Pursuant to the Supreme Court order dated 5/25/2011 regarding the above referenced PCR action, I provide the following status of this case:

6/24/2011: The applicant was deemed indigent and entitled to court appointed counsel. This determination was based upon the applicant's Affidavit of Indigency and Request for Counsel without a formal hearing.

Emily C. Paavola, Esquire, was appointed as lead counsel for the applicant. This appointment was based upon the attorney's affidavit of qualifications as counsel and the consent of the attorneys and applicant in this case without a formal hearing.

John R. Mills, Esquire, was admitted *pro hac vice* and appointed second counsel for the applicant. The admission *pro hac vice* was based upon the attorney's application without a formal hearing. His appointment as counsel was based upon the attorney's affidavit of

The Honorable Daniel E. Shearouse, Clerk of Court, S.C. Supreme Court
Motte L. Talley, Assistant Director, Court Administration, S.C. Judicial Department
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qualifications as counsel and the consent of the attorneys and applicant in this case without a formal hearing.

7/7/2011: Status conference held in judge's chambers at Georgetown County Judicial Center. Emily C. Paavola, John R. Mills, and Alphonzo Simon, Jr. attended the status conference. A scheduling order was issued.

9/21/2011: By order of the undersigned dated 9/21/2011, this case is set for a date certain trial commencing at 9:30 a.m. on 6/18/2012. Further, the South Carolina Department of Corrections is ordered to transport the applicant to the trial of this case.

11/30/2011: Applicant makes a Motion to Alter the Scheduling Order dated 7/7/2011.

12/8/2011: Applicant's Motion to Alter the Scheduling Order is partially granted and partially denied. This motion is decided without oral arguments.

An amended scheduling order dated 12/8/2011 is issued which grants the petitioner until 2/2/2012 to file and serve his Initial Amended Application for Post-Conviction Relief, if any. The Amended Scheduling Order also reflects that this case is set for date certain trial commencing 6/18/2012. All other mandates of the Scheduling Order dated 7/7/2011 remain the same under the Amended Scheduling Order.

1/31/2012: Applicant files First Amended Application for Post-Conviction Relief.

3/1/2012: State submits Return To Amended Application For Post-Conviction Relief And Motion For More Definite Statement.

4/5/2012: Court issues order partially granting and partially denying State's Motion For More Definite Statement.

4/10/2012: Applicant files a More Definite Statement to Amended Application For Post-Conviction Relief.

Applicant files a Motion to Alter PCR Scheduling Order.

4/20/2012: Court issues Order Denying Motion to Alter PCR Scheduling Order.

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5/11/2012: Respondent files its Supplement to Return to Amended Application for Post-Conviction Relief.

6/4/2012: Applicant submits Notice of Intent to Rely on Affidavits.
Applicant files Motion to Limit Cross Examination.

6/6/2012: Court issues Order Denying Motion to Limit Cross Examination.

6/18/2012 – 6/21/2012: Trial

8/15/2012: Court issues order denying post-conviction relief on applicant's conviction but granting post-conviction relief on applicant's sentencing.

This letter shall serve as the final report from this court of the status of this case.

With kindest regards, I remain

Very truly yours,

Benjamin H. Culbertson

BHC/bhc

pc: Hon. Melanie Huggins-Ward, Horry County Clerk of Court
Emily C. Paavola, Esquire
John R. Mills, Esquire
Alphonzo Simon, Jr., Asst. Attorney General
J. Gregory Hembree, Solicitor

Louis Michael Winkler, Jr., SCDC #00006027
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