

Helena Seamouth, ATTORNEY
8847 Plowden Mill Rd
Aicohu, S.C. 29001

July 7, 2015

RECEIVED

JUL 08 2015

Mr. Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, S.C. 29211

S.C. SUPREME COURT

Re: Charles Junious v. South Carolina, 2013-CP-14-507
Order Granting an Appeal pursuant to
Austin v. State

Dear Mr. Shearouse:

Enclosed on behalf of Mr. Charles Junious,
332874, please find the following
materials to appeal his case:

1. Certified order granting an appeal pursuant to Austin v. State, signed by the Honorable George C. James, Jr. on June 17, 2015, and filed in the Court of Common Pleas, Clarendon County, South Carolina, Third Judicial Circuit, on June 26, 2015, by the Honorable Beulah Roberts, Clerk of Court;

Letter to Mr. Daniel Shearouse

Page 2

July 7, 2015

2. Notice of Appeal dated July 7, 2015,
3. Proof of Service of Notice of Appeal dated July 7, 2015
4. Order of Appointment of Counsel dated January 8, 2014, and
5. Copy of postdated envelope dated June 30, 2015, Office of the Clerk of Court, Clarendon County Court, addressed to me which enclosed a copy of the enclosed order granting the appeal.

Please consider these materials to constitute the filing of the Notice of Appeal for Mr. Charles Junious #332874, in accordance with Rule 243 of the Rules of the South Carolina Supreme Court. Please docket Mr. Junious' appeal.

letter to Mr. Daniel Shearouse

Page Three

July 7, 2015

Mr. Charles Junious, # 332874, is incarcerated at the Lee Correctional Institution, 900 Wisacky Hwy, Bishopville, S.C. 29010, and is indigent. Mr. Junious will require an attorney through the office of the South Carolina Commission on Indigent Defense. (Please see attached order of appointment dated January 8, 2014).

Also, please find enclosed a self-addressed envelope, postage prepaid addressed to me. Please send me a stamped copy of the Notice of Appeal.

Please excuse the hand written letter as I am out of town at the present time.

Should you have any questions, please call or send an email 703-626-6536, seamour@sprynet.com. Thank you.

Respectfully,

Helene Seamour



WRIT OF CERTIORARI OR IN THE ALTERNATIVE A NOTICE OF APPEAL FROM AN ORDER OF DISMISSAL OF AN APPLICATION FOR POST CONVICTION RELIEF BY THE COURT OF COMMON PLEAS

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

APPEAL FROM CLARENDON COUNTY
W. Jeffrey Young, Circuit Court Judge

JUL 08 2015

S.C. SUPREME COURT

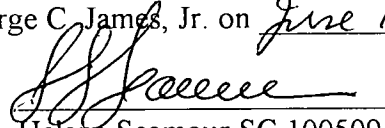
Case No. 2009-CP-14-0574

Charles Junious, Petitioner,
v.
State of South Carolina, Respondent.

WRIT OF CERTIORARI OR IN THE ALTERNATIVE A NOTICE OF APPEAL

Charles Junious appeals his guilty plea and sentence in this case. The plea was accepted and the sentence was imposed by the Honorable r. Ferrell Cothran, Jr., on January 26, 2009. The petitioner did not file a direct appeal from his plea and sentence. This appeal is taken from the order of the Honorable W. Jeffrey Young, dated May 11, 2012, which dismissed the petitioner's application for post conviction relief. This appeal is filed pursuant to the holding in Austin v. State, 305 S.C 453, 409 S.E. 2d 395 (1991). Petitioner's counsel did receive written notice of the consent order under Austin, entered by the Honorable George C. James, Jr. on June 17.

_____, 2015.


Helena Seamour SC 100509
8847 Plowden Mill Rd.
Alcolu, SC 29001
703-726-6536
Attorney for Appellant

Other Counsel of Record:
Daniel Gourley, Assistant Attorney General
South Carolina Office of the Attorney General
P.O. Box 11549
Columbia, South Carolina 29211
803-734-3970
Attorney for Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Charles Junious, #332874,)

2013-CP-14-507

Applicant,)

vs. CERTIFIED TRUE COPY OF ORIGINAL FILED IN THIS OFFICE PURSUANT TO AUSTIN V. STATE

State of South Carolina,
DATE

6/26/15

Respondent
Beulah B. Roberts

CLERK OF COURT
CLARENDON COUNTY, SC

2015 JUN 26 PM 3:12

BEULAH B. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC

This matter comes before the Court by way of an application for post-conviction relief (PCR) dated December 13, 2013. The Respondent made its return and motion to dismiss all claims except for failure to file an appeal from the denial of his PCR action on April 14, 2014. An evidentiary hearing on the matter was convened on April 15, 2015 at the Sumter County Courthouse. The Applicant was present at the hearing and represented by Helena Seamour, Esquire. Daniel Gourley, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Court had before it the guilty plea transcript, the Clarendon County Clerk of Court records, and the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, the Respondent's return, and South Carolina Supreme Court records.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. The Applicant was indicted at the March 2008 term of the Clarendon County Grand Jury for two counts of Murder, Burglary First Degree, Possession of a Firearm During Commission of Violent Crime, and Unlawful Carrying of a Pistol (2008-GS-14-0095). Applicant was represented by Shaun

Kent, Esquire. On January 26, 2009, the Applicant pled guilty but mentally ill before the Honorable R. Ferrell Cothran, Jr., Applicant was sentenced to life imprisonment for each count of Murder, life imprisonment for Burglary First Degree, five (5) years imprisonment for Possession of a Firearm During Commission of Violent Crime, and one (1) year imprisonment for Unlawful Carrying of a Pistol. Applicant did not appeal his conviction and sentence.

Applicant subsequently filed for post-conviction relief on October 6, 2009 (2009-CP-14- 0574). In his application, Applicant asserted claims of ineffective assistance of counsel and mental incompetency. An evidentiary hearing was convened on March 19, 2012, at the Sumter County Courthouse before the Honorable W. Jeffrey Young. Applicant was present at the hearing and was represented by William H. Johnson, Esquire. By written Order filed July 21, 2012, Judge Young denied and dismissed Applicant's post-conviction relief action.

Thereafter, Applicant filed a *pro se* Notice of Appeal, which was dismissed by the South Carolina Supreme Court for failure to timely serve and file. The Remittitur was issued on January 9, 2014

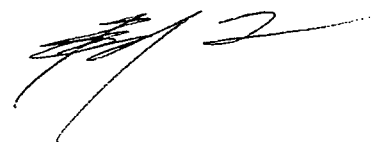
ALLEGATIONS

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

1. "Trial Counsel rendered inadequate assistance for not letting his client no about an Direct Appeal."
2. "Trial Counsel waived applicant Insanity Defense."
3. "Constitutional Violations."
4. "Post-Conviction Relief Counsel rendered ineffective assistance for not advising client that his post-conviction relief application was denied. Petitioner hopes to seek an belated appeal of the denial of his initial PCR.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicant alleges that he was denied the right to appeal the dismissal of his previous post-conviction relief application. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395



(1991), a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application.

After review of the facts and circumstances surrounding the waiver of the Applicant's right to appeal the denial of allegations in the Applicant's post-conviction relief application, the parties have consented to the granting of an appeal pursuant to Austin v. State of the Applicant's first post-conviction relief application (2009-CP-14-0574). The parties agree that the Applicant did not voluntarily waive his right to appeal the post-conviction relief court's denial and dismissal of the Applicant's application for post-conviction relief. Prior PCR Counsel, William Johnson, indicated the Applicant did not freely and voluntarily waive the right to appeal his first application for post-conviction relief and that he failed to file a timely Notice of Appeal of the application.

Based upon the foregoing, this Court finds that the granting of an appeal of the Applicant's first PCR (2010-CP-43-1449) pursuant to Austin v. State is warranted. It is appearing the below listed individuals all consent to the granting of a PCR appeal in this matter.

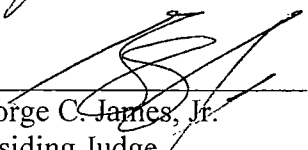
IT IS THEREFORE ORDERED:

1. That the Applicant remain in the custody of the South Carolina Department of Corrections and/or the South Carolina Parole and Community Corrections Department if under the supervision of either agency; and
2. That the Applicant be granted an appeal of case 2009-CP-14-0574 pursuant to Austin v. State.

AND IT IS SO ORDERED this 17 day of June, 2015.



State of South Carolina.



George C. James, Jr.
Presiding Judge
Third Judicial Circuit

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)
)
 CHARLES JUNIOUS, #332874)
) Plaintiff,)
 vs.)
)
 STATE OF SOUTH CAROLINA)
) Defendant.)

IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT
 CASE NO.: 2013-CP-14-507

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney: Helena Seamour, Bar No. _____ Address: 8847 Plowden Mill Rd., Alcolu, SC 29001 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Daniel Gourley, Bar No. _____ Address: PO Box 11549 Columbia, SC 29211 Phone: _____ Fax _____ E-mail: _____ Other: _____
--	--

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: _____
 Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant June 16, 2015
Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$ _____
 EXEMPT: (check reason)

- Rule to Show Cause in Child or Spousal Support
- Domestic Abuse or Abuse and Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRPC)
- Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____
 Other: _____

BEULAH D. BOWERS
 CLERK OF COURT
 2015 JUN 26 PM 3:12

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE CODE _____
 Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____



ALAN WILSON
ATTORNEY GENERAL

June 22, 2015

The Honorable Beulah G. Roberts
Clerk of Court, Clarendon County
Post Office Box 136
Manning SC 29102

BEULAH G. ROBERTS
CLERK OF COURT
CLARENCON COUNTY
2015 JUN 26 PM 3:12

Re: Charles Junious, #332874 v. State of South Carolina
2013-CP-14-507

Dear Ms. Roberts:

Enclosed please find the original **Order Granting an Appeal Pursuant to Austin v. State**, signed by The Honorable George C. James, Jr., in the above-captioned case, for filing in your office. Please forward a **time stamped copy** back to our office for filing.

Sincerely,

Daniel Gourley
Assistant Attorney General

DG/cc
Enclosure(s)

cc: Helena Seamour, Esquire

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2013CP1400507

Charles E Junious vs. State of South Carolina

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; Statement of Judgment by the Court:

(Please see Attached order.)

Dated at Manning, South Carolina, this 26th Day of June, 2015 .

Court Reporter:

PRESIDING JUDGE -

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

Helena Seamour
8847 Plowden Mill Road
Alcolu, SC 29001

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Shane P. [Signature]

Deputy ~~Beulah Roberts~~ Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

IN THE COURT OF (Select one.)

COMMON PLEAS FAMILY COURT

) Third JUDICIAL CIRCUIT

Charles E. Junious,)
Plaintiff(s),)

) CASE NO.: 2013-CP-14-507

-vs-

) APPOINTMENT OF COUNSEL OR GAL)

(Select one.)

State of South Carolina,)
Defendant(s).)

ORDER

AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

Post-Conviction Relief (PCR)/habeas case

Adoption

Juvenile

SVP case

Custody and/or Visitation

Abuse and Neglect

Minor Name Change

Other:

2014 JAN 08 AM 11:36

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC

It appears that _____, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: _____
- counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- court appointed counsel has obtained _____, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other: Post-Conviction Relief.

Therefore, it is ordered that Helena Daphne Seamour, hereby is appointed as (Select one.)

counsel lead counsel (if capital PCR case) guardian ad litem

for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

(If Death Penalty PCR Case) It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 8th DAY OF January, 2014.

CERTIFIED COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE 1/29/15

Beulah B. Roberts

Circuit Judge

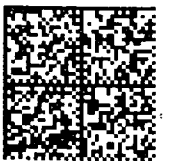
Clerk of Court

Beulah B. Roberts
CLERK OF COURT

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

Office of Clerk of Court
CLARENDON COUNTY
BEULAH G. ROBERTS
PO BOX 136
MANNING, SC 29102

COLUMBIA
SC 290
30 JUN '15
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0001381744 JUN 30 2015

Helena Seamour
Attorney At Law
8847 Plowden Mill Rd
Alcolu, SC 29001

29001939147



