

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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SEP 21 2015

CERTIORARI TO RICHLAND COUNTY  
The Honorable Robert E. Hood, Circuit Court Judge

**S.C. Supreme Court**

Lower Court Case No. 2013-CP-40-2293  
Appellate Case No. 2015-000424

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DAVID CARMICHAEL

RESPONDENT,

v.

STATE OF SOUTH CAROLINA

PETITIONER.

---

APPENDIX

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Chief Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent Defense  
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ATTORNEYS FOR PETITIONER

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come forward and make allegations about what happened to them. You can use any and all of the evidence before you to corroborate each and every one of these victims and I would ask you to do so."

*See, Trial transcript, page 834 line 25 through page 835 line 8.*

"But this case has a whole unique flavor to it because this is the case of a grand conspiracy, a grand conspiracy that was initiated by little girls who were 11 and 12 by the time they told what happened to them in elementary school, who were clever and cunning enough to frame this poor man, David Carmichael, Jr. Uncle Junior. They were clever and cunning enough to anticipate that even when the police became involved that the police would just become complicit in the conspiracy, and when they questioned him they just didn't give him enough time to come up with the church is jealous. And they were clever enough to know that six years later - excuse me, five years later that another young woman who was 13, she would have been seven at the time they reported it, would decide that, "Oh, great idea for Uncle Junior," this clever, cunning, lying little girl would then join in the conspiracy and, Oh my God, just happen to come up with allegations that is just happened to mirror what he did before."

*See, Trial transcript, page 845, line 10 through page 846 line 2.*

In proving her case, the Solicitor used the fact that the Applicant was alleged of committing a lewd act by three separate girls in three separate unrelated instances to enhance her case and bolster the credibility of her victims. She did this by using the testimony of each victim to corroborate the testimony of the other victims and argue that any disbelief of any victim would tantamount to accusing the victims of participating in a "conspiracy."

In sum, this Court finds that trial counsel was ineffective for not requesting a severance when these three indictments were called to trial at the same time. Counsel's deficiency prejudiced the Applicant by allowing the State to contaminate the trial by allowing unrelated allegations to be used against each other to strengthen the State's case and bolster the credibility of the victims. As a result, this Court finds that evidence exists

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 and accordingly the Applicant's Application for Post-Conviction Relief must be granted. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, (1984).

#### CONCLUSION

Based on the foregoing, this Court finds and concludes that the Application has established deprivations that would require this court to grant his application.

#### IT IS THEREFORE ORDERED:

1. That this current Application for Post-Conviction Relief be granted on the claims of ineffective assistance of counsel for failure to sever trials.
2. That this current Application for Post-Conviction Relief be denied on the claims of ineffective assistance of counsel for failure to investigate and for failure to file an appeal.

AND IT IS SO ORDERED this 18 day of December, 2014.



\_\_\_\_\_  
The Honorable Robert E. Hood  
Presiding Judge

Columbia, South Carolina

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

CASE NUMBER: 2013CP4002293

David L #352788 Carmichael

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
---------------------	--

**DISPOSITION TYPE (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:

**ORDER INFORMATION**

This order  ends  does not end the case.  
Additional Information for the Clerk :

**INFORMATION FOR THE PUBLIC INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge \_\_\_\_\_ Judge Code \_\_\_\_\_ Date \_\_\_\_\_

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this 30 December 2014 to attorneys of record or to parties (when appearing pro se) as follows:

David L #352788 Carmichael

Kristy Grafton Goldberg

Megan Harrigan Jameson

David L #352788 Carmichael

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

Clerk of Court \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

David L. Carmichael, #352788, )

Case No. 2013-CP-40-2293

Applicant, )

**MOTION TO RECONSIDER**

v. )

State of South Carolina, )

Respondent. )

Respondent, pursuant to Rules 59(a) and (e), SCRCPP, would respectfully show unto this Court:

**I.**

This matter came before the Court by way of an Application for Post-Conviction Relief filed April 16, 2013. The Court convened an evidentiary hearing into the matter on September 5, 2014, at the Richland County Courthouse. Applicant was present at the hearing and represented by Kristy G. Goldberg, Esquire. By order filed December 30, 2014, the Court granted relief on one of three grounds raised in the Application. Respondent received a copy of this order on January 9, 2015.

**II.**

Respondent respectfully asks this Court to reconsider its judgment granting Applicant post-conviction relief. In the order granting relief, the Court found trial counsel ineffective for failing to move to sever Applicant's trials. However, the Court may have overlooked the fact trial counsel testified he strategically chose, in consultation with Applicant, to proceed on all charges simultaneously. See Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992) ("Where, as here, counsel articulates a valid reason for employing certain strategy, such conduct

will not be deemed ineffective assistance of counsel.” (citing Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992))). Trial counsel testified he believed the risk of seeking separate trials outweighed the benefits of proceeding on all charges at once. Specifically, he expressed concerns about Applicant being convicted in the first trial, and having the conviction used against him at a later trial. Even assuming a severance may have been granted in this case, trial counsel did not act unreasonably by determining the prior incidents could be admissible in separate trials as prior bad acts or prior convictions. See Strickland v. Washington, 466 U.S. 668, 693 (1984) (“Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another.”).

Under Rule 404(b), SCRE, prior incidents are admissible as evidence of a common scheme or plan if there is a “close degree of similarity” between them. State v. Beekman 405 S.C. 225, 231, 746 S.E.2d 483, 487 (2013). (citing State v. Wallace, 384 S.C. 428, 683 S.E.2d 275 (2009)). Factors to be considered in determining the degree of similarity include the age of the victims, the relationship between Applicant and the victims, the location of the incident, the use of coercion or threats, and the manner of the incident. Id. at 232, 746 S.E.2d at 487.

Here, the other incidents would have been admissible in separate trials because they are similar in most significant respects. The victims were all significantly younger than Applicant. Although the Court indicated it agreed with Applicant’s argument that the third victim was post-pubescent, Applicant presented no evidence to that effect at the evidentiary hearing. He also presented no explanation for why the pre/post pubescent distinction is relevant in this or any other scenario.

The relationship between Applicant and the victims was almost identical in all three cases: Applicant gained access to the victims through personal relationships with their parents

cultivated through church membership. See Childs v. State, 339 S.E.2d 311, 313 (Ga. Ct. App. 1985) (“In the instant case, it appears that the appellant had a scheme to prey upon every available female child within his family circle, and the prior incidents related by the two witnesses were extremely similar to the offenses for which he was tried and convicted.”). Although the location of the incident with each victim varied, there were similarities. Incidents with the first two victims occurred when they were left in Applicant’s care. The third incident with the second victim happened while Applicant’s sister slept nearby. This behavior is similar to Applicant’s reported behavior with the third victim, where the conduct occurred while her father was in the same car. Respondent submits lewd acts committed in a house and lewd acts committed in a car are indistinguishable when the alleged inappropriate behavior was otherwise similar. Furthermore, the fact only one victim alleged Applicant made use of threats or coercion is not dispositive. Beekman, 405 S.C. at 232, 746 S.E.2d at 487 (“We recognize that Stepson reported Beekman's use of threats and coercion while Stepdaughter did not[.]”). As outlined above, the manner of the incidents was strikingly similar. In light of the vast similarities between the types of Applicant’s charged conduct, Applicant’s prior bad acts regarding each victim would be admissible in separate trials under Rule 404(b), SCRPC, as evidence of a common scheme or plan.

Testimony of these other incidents would also be admissible because their prejudicial effect does not substantially outweigh their probative value. Id. at 230, 746 S.E.2d at 486 (citing State v. Gilliam, 373 S.C. 601, 646 S.E.2d 872 (2007); Rule 403, SCRE). The testimony regarding other incidents was extremely probative to corroborate Applicant’s *modus operandi* when engaging in these inappropriate behaviors. See State v. Clasby, 385 S.C. 148, 158-59, 682 S.E.2d 892, 898 (2009) (allowing admission of testimony about uncharged crimes as “extremely

probative” where there was otherwise no physical evidence to corroborate the victim’s testimony). As such, testimony about the other incidents would have been inadmissible in separate trials.

Trial counsel also testified he believed use of the prior allegations at a separate trial would be more damaging if introduced as a prior conviction. Prior convictions are admissible when the probative value is not substantially outweighed by the danger of unfair prejudice. Rule 609(a)(1), SCRE; State v. Scriven, 339 S.C. 333, 344, 529 S.E.2d 71, 76 (Ct. App. 2000). As noted above, testimony regarding Applicant’s prior conduct would be extremely probative in a subsequent trial. Clasby, 385 S.C. at 158-59, 682 S.E.2d at 898. This probative value is not substantially outweighed simply because introduction of a prior conviction may prejudice Applicant in the jury’s eyes. See United States v. Kelly, 510 F.3d 433, 437-38 (4th Cir. 2007) (in a prosecution for traveling in interstate commerce to engage in illicit sexual conduct, upholding introduction of prior conviction for attempted rape as not unfairly prejudicial because “it tends to prove [the defendant’s] propensity to molest young children.” (citing United States v. Gabe, 237 F.3d 954 (8th Cir. 2001))). Because these other incidents would have been admissible at separate trials as either prior bad acts or prior convictions, trial counsel’s decision to proceed with a joint trial was reasonable under the circumstances. Respondent would respectfully ask this court to reconsider its ruling on this issue.

### III.

Respondent also respectfully asks this Court to reconsider its ruling because it has adopted a narrow interpretation of the standard for granting severances in sexual abuse cases that is contrary to the weight of authority from both our appellate courts and courts across the country. See State v. Jalette, 382 A.2d 526, 532 (R.I. 1978) (acknowledging the general

recognition “that courts have extended a greater latitude of proof as to like occurrences when considering sexual offenses than has been permitted in the trial of other criminal charges.” (citations omitted). The overwhelming majority of decisions from our appellate courts have found joinder of trials was appropriate in sexual abuse cases. See, e.g., Beekman 405 S.C. 225, 746 S.E.2d 483; Clasby, 385 S.C. 148, 682 S.E.2d 892; State v. Wallace, 384 S.C. 428, 683 S.E.2d 275 (2009); State v. McGaha, 404 S.C. 289, 744 S.E.2d 602 (Ct. App. 2013); State v. Grace, 350 S.C. 19, 564 S.E.2d 331 (Ct. App. 2002).

The trial court could have properly declined to sever these charges. “Charges can be joined in the same indictment and tried together where they 1) arise out of a single chain of circumstances; 2) are proved by the same evidence, 3) are of the same general nature; and 4) no real right of the defendant has been prejudiced.” Beekman 405 S.C. at 229, 746 S.E.2d at 486. The Court indicated it agreed with Applicant’s arguments that the charges relating to each of the three victims do not arise out of a single chain of circumstances because they are not closely related in time, place, or manner. However, the Court was not required to construe the requirement of a single chain of circumstances to require temporal and geographical proximity. See id. at 231, 746 S.E.2d at 486 (declining to interpret a “restrictive reading of the phrase ‘a single chain of circumstances’”). In State v. McGaha, the South Carolina Court of Appeals determined sexual abuse of two separate victims arose out of a single chain of circumstances where the victims had the same relationship with the defendant, were of similar ages, the duration of the abuse was similar, and the defendant gained access to the victims through similar means. McGaha, 404 S.C. at 295, 744 S.E.2d at 605. Here, Applicant was a close family friend of each of the three victims. He had access to each victim by virtue of a close relationship developed through church membership. The first victim was between the ages of four and nine,

the second victim was between the ages of seven and eleven, and the third victim was age thirteen. Although there is some disparity in the ages of the victims, all were clearly much younger than Applicant. All were clearly children, regardless of their physical development.<sup>1</sup> The duration of each incident was also similarly brief, with Applicant never committing more than an inappropriate touching on any of the victims. See Grace, 350 S.C. at 24 n.1, 564 S.E.2d at 334 n.1 (upholding joint trial where defendant's *modus operandi* was similar for each occurrence). In light of the similarity of the incidents in this case, Respondent submits these incidents arose out of a "single chain of conduct" as our courts have interpreted that phrase. See Wallace, 384 S.C. at 434 n.1, 683 S.E.2d at 278 n.1 ("Requiring a 'connection' between the crime charged and the bad act evidence is simply a requirement that the two be factually similar and does not add an additional layer of analysis.").

Similarly, the incidents were all of the "same general nature." Applicant gained access to each victim through his relationship with the victims' families. Each victim reported similar types of behavior from Applicant. The first victim alleged three instances of inappropriate contact from Applicant. The first incident involved Applicant inappropriately touching the first victim's vagina. The second incident involved Applicant touching the first victims' chest area and making inappropriate comments. The third incident involved Applicant unzipping the first victim's pants and reaching into her underwear while Applicant's sister slept in the next room. The second victim alleged Applicant pulled her pants down and put her hand on his penis while she was asleep. Finally, the third victim reported Applicant, during a car ride, reached into the back seat of the car while she was sleeping and attempted to reach into her underwear. These

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<sup>1</sup> Again, Respondent notes Applicant presented no evidence of the physical development of any of the victims and no evidence of the relevance of physical development to these issues.

incidents are sufficiently similar to satisfy the requirement that the charged crimes be of the same general nature.

Furthermore, similar evidence was provided regarding each incident. Although the corroborating witnesses were different for each victim, there was overlap in the investigation of the cases. In the case of the first and second victims, the same officer investigated each case. The second and third victims were examined by the same medical doctor. Thus, each case was capable of being proven by the overlapping evidence. See Beekman, 405 S.C. at 231, 746 S.E.2d at 487 (noting the “great overlap of evidence”). Similarly, Applicant’s defense to the charges involved the victims making claims in retaliation for some perceived slight from Applicant. See State v. McClellan, 283 S.C. 389, 392, 323 S.E.2d 772, 774 (1984) (other incidents admissible where defendant “gave to each the same explanation for his actions”).<sup>2</sup>

Applicant has also not demonstrated he was prejudiced by the joint trial because it did not result in “the admission of prior bad act evidence that would have otherwise been inadmissible.” Beekman, 405 S.C. at 230, 746 S.E.2d at 486. As noted above, the other incidents would have been admissible as prior bad acts in joint trials. Furthermore, Applicant was not prejudiced simply because the solicitor attempted to discredit Applicant’s defense in her closing argument. The solicitor would have made similar arguments even if the charges were tried separately.

Because our jurisprudence allows a wider degree of latitude in joining sexual abuse crimes for prosecution, this is simply not a case where the trial court would have abused its discretion in denying a motion for severance. Thus, Applicant has not shown he was prejudiced by trial counsel’s tactical decision to proceed with a joint trial. Strickland, 466 U.S. 695 (“The

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<sup>2</sup> The Court’s Order indicates Respondent argued the defense was similar because it was a defense of denial, which is common. (Order p. 13-14). Respectfully, Respondent submits its argument was more nuanced than that. Respondent contends Applicant’s defense was similar in that he attempted to portray himself as the victim of a conspiracy in each incident. Applicant hoped the jury would believe the victims each fabricated separate stories about his inappropriate behavior in retaliation for Applicant’s involvement in church activities.

assessment of prejudice should proceed on the assumption that the decision maker is reasonably, conscientiously, and impartially applying the standards that govern the decision.”). Accordingly, Respondent respectfully asks this Court to reconsider its judgment.

IV.

WHEREFORE, Respondent respectfully requests the Court to amend the final judgment to reflect a finding that trial counsel was not ineffective in proceeding with a joint trial.

Respectfully submitted,

ALAN WILSON  
Attorney General

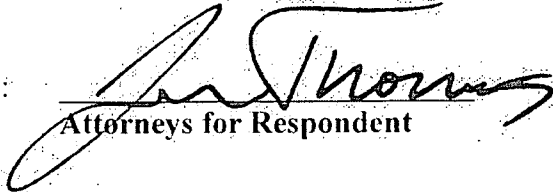
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By:   
Attorneys for Respondent

Jan. 12, 2015

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 DAVID L. CARMICHAEL, #352788 )  
 Plaintiff, )  
 vs. )  
 )  
 STATE OF SOUTH CAROLINA )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 FIFTH JUDICIAL CIRCUIT  
 CASE NO.: 2013\_CP-40-2293  
**MOTION AND ORDER INFORMATION  
 FORM AND COVERSHEET**

Plaintiff's Attorney: Kristy G. Goldberg, Bar No. _____ Address: 1720 Main Street, Ste 301, Columbia SC 29201 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Josh L. Thomas, Bar No. 100777 Address: PO Box 11549 Columbia SC 29211 Phone: _____ Fax _____ E-mail: _____ Other: _____
--	---

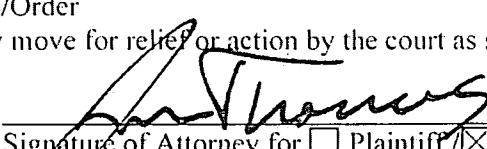
MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)  
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)  
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

**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

1/12/2015  
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: \_\_\_\_\_

<p align="center"><b>JUDGE'S SECTION</b></p> <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
---	---------------------------------

**CLERK'S VERIFICATION**

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

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

DAVID L. CARMICHAEL )  
SCDC # 352788, )  
Applicant, )

2013-CP-40-2293

vs. )

APPLICANT'S RESPONSE TO STATE )  
MOTION TO RECONSIDER )

STATE OF SOUTH CAROLINA, )  
Defendant. )

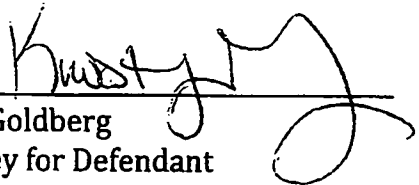
RICHLAND COUNTY  
FILED  
2015 JAN 14 PM 4:52  
JEANNETTE W. MCORRIS  
C.C.P. & G.S.

This matter comes before the Court by way of an Application for post-conviction relief (PCR) filed April 16, 2013. The Respondent made its Return on or about September 12, 2013. Applicant thereafter filed an Amended Application on August 15, 2014. The matter was scheduled for an evidentiary hearing on September 5, 2014 at the Richland County Courthouse. By order filed December 30, 2014, the Court granted relief on one of three grounds raised in the Application. Applicant received a copy of this order on January 6, 2015 and served the Respondent with a copy of said order on January 7, 2015. It appears the final order was received by the Respondent on January 9, 2015

The Respondent has filed a Motion to Reconsider pursuant to Rule 59(e), SCRPC. The Applicant would hereby ask that this Court respectfully deny the Respondent's motion based upon the following:

1. The State has not alleged any technical error by the court that needs to be corrected;
2. The State has not alleged any substantial new factual or legal argument that was not originally argued by the State during the evidentiary hearing or in their proposed order to the Court;
3. The Court's ruling in the initial Order is sound.

Based on the foregoing, the Applicant would ask that this Court stand by its original order granting Post-Conviction Relief.

  
\_\_\_\_\_  
Kristy Goldberg  
Attorney for Defendant

Kristy Goldberg  
Law Office of Kristy Goldberg, LLC.  
1720 Main Street, Suite 301  
Columbia, SC 29201  
803-252-2299  
803-799-4059 (fax)  
kristy@kristygoldberglaw.com

Columbia, South Carolina  
This 14<sup>th</sup> day of August, 2014

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
2013-CP-40-02293

DAVID CARMICHAEL )  
SCDC # 352788, )  
Applicant, )

vs. )

CERTIFICATE OF SERVICE

STATE OF SOUTH CAROLINA, )  
Defendant. )

RICHLAND COUNTY  
FILED  
2015 JAN 14 PM 4:59  
JEANNETTE W. HOBBS  
C.C.P. & G.S.

I certify that on this date I served the Amended Application for Post-Conviction Relief in this case on The State of South Carolina by delivering a copy of this application to the Office of the Attorney General via U.S. mail at Post Office Box 11549, Columbia, South Carolina 29211-1549.



Kristy Goldberg  
Attorney for Defendant

Kristy Goldberg  
Law Office of Kristy Goldberg, LLC.  
1720 Main Street, Suite 301  
Columbia, SC 29201  
803-252-2299  
803-799-4059 (fax)  
kristy@kristygoldberglaw.com

Columbia, South Carolina

This 14<sup>th</sup> day of January 2015

CASE NUMBER: 2013-CP-40-2293

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: \_\_\_\_\_

Attorney for :  Plaintiff  Defendant or  Self-Represented Litigant

**DISPOSITION TYPE (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 Dismissed without prejudice
- 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:

2015 JAN 20 AM 11:18  
 RICHLAND COUNTY  
 FILED  
 JEFFREY W. HICKS, CLERK  
 C.C.P. & C.S.

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk : State's Motion to Reconsider is Denied.

**INFORMATION FOR THE PUBLIC INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge Pettol Judge Code 2164 Date January 20, 2015

**For Clerk of Court Office Use Only**

This judgment was entered on the 23 day of Jan, 2015 and a copy mailed first class or placed in the appropriate attorney's box on this 23 day of Jan, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Kristi Goldberg

Josh Thomas

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

Clerk of Court Jeanette W. McBride