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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) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

November 5, 2015

The Honorable Jenny Abbott Kitchings
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
NOV 05 2015
SC Court of Appeals

Re: Shedrick Wigfall v. State of South Carolina
Appellate Case No. 2015-001190

Dear Ms. Kitchings:

The Honorable Jasper Cureton issued an order on October 28, 2015 granting Mr. Wigfall's motion to reinstate his appeal. In that order Judge Cureton gave the Office of Appellate Defense thirty days to screen this matter for possible representation.

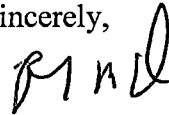
I have reviewed the March 19, 2015 order of the Honorable Frank R. Addy, Jr. granting the state's motion to dismiss this matter. Judge Addy determined that "this is not a declaratory judgment action, but a collateral attack on his sentencing and the action is barred by the statute of limitations. Plaintiff has also failed to state facts sufficient to constitute a cause of action." Order of Judge Addy at 2. Judge Addy also determined that because Mr. Wigfall was seeking to have his guilty plea vacated and to be released from custody this was not an action for a writ of mandamus. Order at 3. Judge Addy also rejected Mr. Wigfall's argument that his lawyers were not qualified to represent him pursuant to S.C. Code 16-3-26(B) (1). Order at 4.

On October 14, 2014 my previous administrative coordinator, Kimberly McCall, informed Mr. Wigfall in writing that we could not represent him in his appeal of his state habeas corpus proceeding because it was not an appeal from a post-conviction relief action. She informed Mr. Wigfall that any appointment of counsel in this matter would have to come directly from your Court.

Consequently, after having reviewed the lower court order, and the documents in our possession, our office will not represent Mr. Wigfall in this appeal since it has been ruled a time barred statute of limitations post-conviction relief action. In essence, Judge Addy ruled this case seeks to avoid the PCR statute of limitations by labeling it another type of action, and it is a petition for writ of habeas corpus.

If you have any questions or concerns regarding this decision, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'RMD', written in a cursive style.

Robert M. Dudek
Chief Appellate Defender

RMD/blw

cc: Salley W. Elliott, Esquire
Shedrick Wigfall