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# EXHIBIT

Q

ABANDONMENT OR WITHDRAWAL  
DUE TO CONFLICT OF INTEREST

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**Melissa J. Kimbrough**  
ATTORNEY AT LAW

RECEIVED  
MAR 11 2004

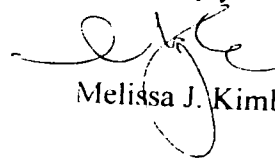
March 11, 2004

Honorable G. Thomas Cooper, Jr.  
Richland County Courthouse  
1701 Main Street  
Columbia, S.C. 29201

Dear Judge Cooper:

I am writing to advise you that I have written to Mr. Demirrio. I do have an open file on his case, but had never received correspondence from him nor, to-date, a Return from the State. If you have any further questions, please contact me.

Very truly yours,



Melissa J. Kimbrough

/mk

# Melissa J. Kimbrough

ATTORNEY AT LAW

February 8, 2006

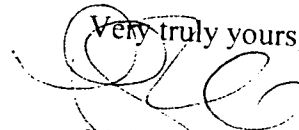
Mr. Hammid Demirrio, SCDC 115800  
BRCI  
4460 Broad River Rd  
Columbia, S.C. 29210

Dear Mr. Demirrio:

Enclosed please find an objection to conditional order of dismissal filed on your behalf on today's date. While I realize you previously filed a motion to relieve counsel, the Court issued a conditional order of dismissal, and the only way to protect your interests in proceeding is by having me file an objection on your behalf within the twenty day time period allowed by the Court. I included in the objection your request for a hearing to reconstruct the record.

I will advise you of any action taken by the Court.

Very truly yours,



Melissa J. Kimbrough

/mk

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS

03-CP-40-5340

Hammid Demimirio, #115800, )  
Applicant, )

APPLICANT'S RESPONSE TO  
CONDITIONAL ORDER OF DISMISSAL

v. )

State of South Carolina, )  
Respondent. )

Applicant by and through Counsel hereby objects to the conditional order of dismissal signed by this Court on January 31, 2005. Applicant is serving a life sentence for murder stemming from a guilty plea proceeding. Applicant was represented by Jon Popowski and Joy Goodwin, Esquires. Applicant was denied his right to a direct appeal and filed an application for post-conviction relief seeking a review of his conviction. At the time of Applicant's guilty plea there was no statute of limitations in effect for post-conviction relief actions, and Applicant was unaware of his right to appeal. Therefore, Applicant did not waive his appellate rights and now seeks to assert them. While a transcript is unavailable, it is possible to reconstruct the record of his plea proceeding and the Applicant now moves this Court to allow a reconstruction hearing (See Applicant's attached Motion for Transcript Reconstruction). If a reconstruction hearing is granted, and the record recreated, then the State's interests will in no way be harmed or impaired by the delay. Moreover, trial counsel are local and could easily testify as to their recollections of the plea proceedings.

Applicant hereby moves this Court to rescind its Conditional Order of Dismissal and order a hearing to reconstruct the record of the plea proceedings.

Respectfully submitted:



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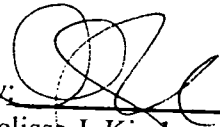
Melissa J. Kimbrough, Esquire  
1720 Main Street, Ste. 106  
Columbia, S.C. 29201  
(803) 765-2796.

This 8<sup>th</sup> day of February, 2006.

Hammid Demirrio,	)	
Applicant	)	03-CP-40-5340
	)	
V.	)	
	)	Certificate of Service
State of South Carolina,	)	
Defendant-Appellant	)	
	)	

I hereby certify by my signature below that a copy of Applicant's Response to Conditional Order of Dismissal was sent to the following by first-class mail on today's date:

Robert L. Brown, Esquire  
Office of the South Carolina Attorney General  
P.O. Box 11549  
Columbia, S.C. 29211-1549

Served By:   
Melissa J. Kimbrough, Esquire  
1720 Main Street, Ste. 106  
Columbia, S.C. 29201.  
(803) 765-2796

This 8th day of February, 2006.

**Melissa J. Kimbrough**  
ATTORNEY AT LAW

February 8, 2006

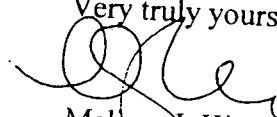
Honorable J. Ernest Kinard, Jr.  
Judge, Richland County  
1701 Main Street  
Columbia, S.C. 29201

Re: *Hammid Demmirio v. State of South Carolina, 03-CP-40-5340*

Dear Judge Kinard:

Enclosed please find Applicant's Response to Conditional Order of Dismissal in the above-referenced case. I am providing a copy of the same to the Attorney General. Please feel free to contact me if you have any questions concerning this matter.

Very truly yours,



Melissa J. Kimbrough

/mk

cc: Assistant Attorney General Robert Brown

# Melissa J. Kimbrough

ATTORNEY AT LAW

February 16, 2005

Hammid Demmirio, #115800  
Broad River Corr. Inst. Cong. 128  
4460 Broad River Rd.  
Columbia, S.C. 29210

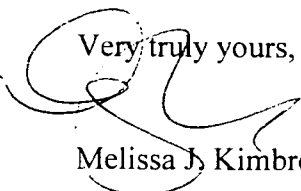
Dear Mr. Demmirio:

I am in receipt of your recent letter. First, I need to tell you that I believe your tone was very inappropriate. If you believe you cannot work with me in this matter, I will gladly asked to be relieved from your case and have substitute counsel appointed.

As for your request that I contact Court Administration for a copy of indictments issued on 9/17/1987, I did so and "Jean" told me they do not have this information. In your case, you pleaded guilty and thus a true billed indictment was not even required to give the court subject matter jurisdiction. When you plead guilty you waive your right to have the grand jury decide your case. However, as indicated on the indictment, your case was true billed.

I will gladly amend your PCR application to allege a *White v. State* claim. I have enclosed a copy of your disciplinary infraction record from DOC. Finally, after our meeting, I researched the question of which statute controlled the time with regard to your murder sentence, and it appears that your case fell within the thirty-year parole eligibility grouping.

Very truly yours,

  
Melissa J. Kimbrough

# Melissa J. Kimbrough

ATTORNEY AT LAW

June 21, 2004

Mr. Hamid Demirrio, ID#115800  
Evans Correctional Inst.  
610 Highway 9 West  
Bennettsville, S.C. 29512

Dear Mr. Demmirio:

I am writing to update you on your case. I just received the state's Return, and have reviewed the same. There are no transcripts available in your case because it has been so long since you pled guilty. By law court reporters must keep tapes for three years; in your case it has been sixteen years since you plea guilty.

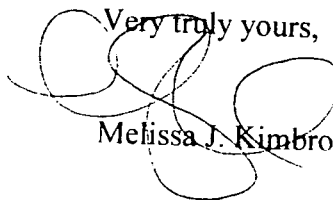
I have reviewed the indictments in your case and fail to see how the trial court lacked subject matter jurisdiction. Please elaborate why you believe this to be the case. As for the grand jury information you requested, I have done this in the past and it has never amounted to anything helpful for the applicant. So long as the grand jury issued a true bill in your case, which they did, then the indictment is proper.

The only issue which might be available to you is the failure of trial counsel to advise you of your right to appeal. The relief would be a belated appeal.

I will schedule an appointment time to speak with you in the near future.

I hope everything is going well for you under the circumstances.

Very truly yours,



Melissa J. Kimbrough

/mk

# Melissa J. Kimbrough

ATTORNEY AT LAW

March 11, 2004

Mr. Hamid Demmirio, #115800  
610 Highway #9 West  
Bennettsville, S.C. 29512

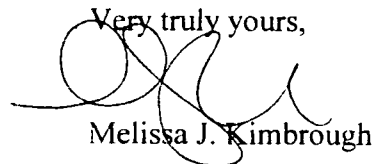
Dear Mr. Demirrio:

I am writing in response to your recent inquiry as to whether I am your appointed counsel. In short, the answer is yes. I checked your file and to-date I have no correspondence from you. It appears from your recent letter to Judge Cooper that you have tried to send letters; but I have none of them.

As for your inquiry about receiving a transcript, I have none to provide you with as of this date. I am still awaiting the State's Return, which might include that document. However, since your trial occurred in 1987, I doubt that a transcript is even available at this point, unless one has previously been transcribed. I have been advised that, as a general rule, court reporters do not keep tapes for more than three (3) years. I will advise you as soon as I have the State's Return.

In the meantime, if you have any questions, please feel free to contact me.

Very truly yours,



Melissa J. Kimbrough

/mk

# Melissa J. Kimbrough

ATTORNEY AT LAW

January 3, 2006

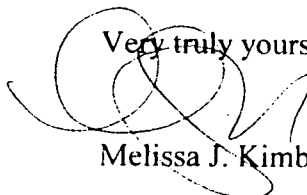
Mr. Hammid Demirrio, SCDC 115800  
BRCI, Congaree 128  
4460 Broad River Rd.  
Columbia, S.C. 29210

Dear Mr. Demirrio:

I am writing in response to your recent letter. As for the legal issues in your case and briefing of issues, this is something that the lawyer is responsible for and I do not need for you to provide me with caselaw, etc. In my experience, I am better equipped to draft pleadings and briefs than are clients in a prison setting because I have access to computerized research and keep current in the law. However, if you wish to represent yourself, I will gladly make a motion to be relieved as counsel and then you can file whatever motions, amendments, etc. that you wish.

Please advise me if you wish to proceed pro se and I will file the appropriate motion. I hope all is going well for you under the circumstances.

Very truly yours,



Melissa J. Kimbrough

/mk

Handwritten: 1-7-06

# Melissa J. Kimbrough

ATTORNEY AT LAW

January 19, 2006

Mr. Hammid Demmirrio, SCDC 115800  
BRCI, Cong. 128  
4460 Broad River Rd.  
Columbia, S.C. 29210

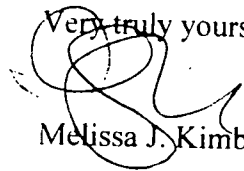
Dear Mr. Demmirrio:

I am in receipt of your motion. I will contact the Clerk of Court and make the appropriate motion to be relieved as counsel. If this motion is granted, then I will gladly provide everything in my file to that attorney for your case. If the motion is not granted, then I would ask that you respond to my December 20, 2005 letter in which I asked you to provide to me the facts that you want included in the motion to reconstruct the record.

Finally, as for the new five year storage period for transcripts, you need to understand this law only applies to those case occurring after it went into effect. Because your case pled eighteen years ago, the new five year period does not apply to your case.

I will advise you of any decision by the Court.

Very truly yours,



Melissa J. Kimbrough

MK/nes

*RECEIVED IDE 20<sup>th</sup>  
Signed on the 23<sup>rd</sup>*

# Melissa J. Kimbrough

ATTORNEY AT LAW

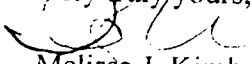
June 9, 2005

Hammid Demmirio, #115800  
Broad River Correctional Institution  
Cong. 128  
4460 Broad River Rd.  
Columbia, S.C. 29210

Dear Mr. Demmirio:

I am writing to request of you any additional information you would like to present in your application. As of today's date, the only claim I have for your amended application is the claim for a belated direct review. I will await your response before filing the amended application.

Very truly yours,

  
Melissa J. Kimbrough

/mk

*quest 6-14-05*

Mr Hamid Demmirio #115800  
Broad River Corr. Inst. Cong.128  
4460 Broad River Road  
Columbia, South Carolina 29210

Ms. Melissa Kimbrough  
1720 Main Street  
Columbia, S.C. 29201

February 14, 2005

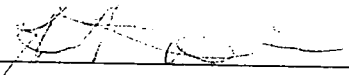
Dear Ms.Kimbrough:

I'm composing and forwarding you this correspondence to ask you to do the below followings. Firstly, within your letter you'd forwarded me back in June 21,2004, you stated,"The only issue which might be available to me is the failure of trial counsel to advise me of my right to appeal. The relief would be a belated appeal". Therefore, I am requesting that you draw up a motion and amend it with my P.C.R. regarding that direct and belated appeal pursuant to State v. Wilson,559 S.E.2d 581(2002) because in my case, I'd asked my then attorneys to fail such papers, but they failed.

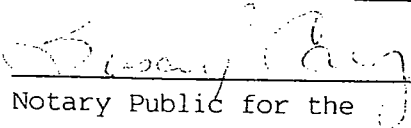
Within that same letter, your response to me asking you to find out some information regarding the grand jury that might be of some assistance, but your response was,"I have done this in the past and it has never amounted to anything helpful for the applicant". So I am asking you once again Ms.Kimbrough, please contact the Court of Administration and ask that office to Fax/forward you a copy/printout of all indictment numbers of everyone that was indicted along with any special term that were also held in the 5th Circuit of General Session on the 17th of September 1987. And the name of the foreperson and his witnesses under the Freedom of Information Act pursuant to S.C. Code Ann.30-4-10 et.Seg.

When you paid me a visit on January 11,2005, I also asked you to forward me a copy of my disciplinary sheet that you have

on file and I'm still awaiting on that information. I trust that you will adhere the above said mention and forward me any and all correspondences.

X   
\_\_\_\_\_  
Hamid Demmirio

Signed and Sworn this 11<sup>th</sup> day of Feb 2005

  
\_\_\_\_\_  
Notary Public for the  
State of South Carolina

5-1-06  
\_\_\_\_\_  
My Commission  
Expires

Mr. Hamid Demmirio #115800  
Broad River Corr. Inst. Cong. 128  
4460 Broad River Road  
Columbia, S.C. 29210

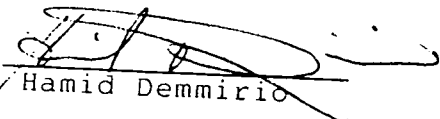
January 4, 2005

Ms. Melissa Kimbrough  
1720 Main St. Suite 303  
Columbia, S.C. 29201

Dear Ms. Kimbrough:

Before I begin this notation, I must humbly thank God for 2005 and for keeping all of us safe in all aspects. The reason I'm writing you Ms. Kimbrough is to provide you with some information concerning my case you probably didn't know; which I have enclosed. When I spoke with you last July 2004, I told you that I was incarcerated at Broad River Corr. Inst. in Columbia, S.C. At that time, I also told you that it's imperative that <sup>we</sup> see one another wherefore we can go over some odds-n-ends. Your replied by telling me that you will love to see me, but right now is a bad time because you are involved with or handling a capital murder case. Later, I asked my sister to call you on my behalf and inquire about when will it be a feasible for you to pay me a visit? The reason I asked my sister, Ms. Chappelle Williams, to call you is because I am unable to speak with you telephonically and that I need to see you. Your response to her was, "I'm not at liberty to discuss nor provide you with any information because you're not my client". My sister and I both can relate to that. Having said the above, may you please organize, arrange, or enhance the paperwork if necessary and forward me a copy of your finalization?

\* It's been six(6) months since we last spoke with one another !

S/   
Hamid Demmirio

Mr. Hamid Demmirio #115800  
Broad River Corr. Inst. Cong. 128  
4460 Broad River Road  
Columbia, S.C. 29210

February 16, 2006

RE: Hamid Demmirio v. State  
P.C.R. #2003-CP-40-5340

Ms. Melissa J. Kimbrough  
Attorney at Law  
1720 Main Street, Suite 106  
Columbia, S.C. 29201

Dear Ms. Kimbrough:

I am in receipt of the Applicant's Response to Conditional Order of Dismissal, that you prepared and filed in my case. I thank you for doing this in order to protect my rights; however, I have a few questions, which I would like answered.

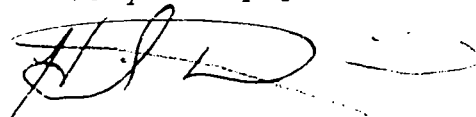
First, I've noticed a typographical error in regard to the date the Conditional Order of Dismissal was signed by the Court; January 31, 2005, which should be January 31, 2006. Could this cause a problem? If so, please amend the Response to reflect the correct date.

Secondly, I've also noticed that you did not cite any law cases to back my issues, why? - Since the State is arguing the statute of limitations and laches, wouldn't it be wise to show these arguments do not apply to PCRAS that raises issues of Belated Direct Appeals, White v. State, 208 S.E. 2d 35 (1974), or Subject Matter Jurisdiction, State v. Gentry, 610 S.E. 2d 494 (2005) SMJ can be raised at anytime and cannot be waived. As to reconstruction of the record, China v. Parrott, 162 S.E. 2d 276 (1968) could be cited to back this proposition. Moreover, the motion to reconstruct and motion to relieve you have not been heard and/or ruled upon; therefore, before my case can be dismissed, shouldn't the motions be resolved first? If I am right, please amend the above cases, etc., to an amended response before the twenty days expires.

Please file my Brief. In closing, in your professional opinion, do you think the court will dismiss or do I a chance at winning at least one of my issues?

Thank you very much for your time and I look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink, appearing to be 'H. Demmirio', written over a horizontal line.

Hamid Demmirio

cc: personal file hd

Mr. Hamid Demmirio  
115800 Cong. 128 BRCI  
4460 Broad River Rd.  
Columbia, S.C. 29210

June 26, 2007

Esquire, Melissa J. Kimbrough  
Attorney At. Law  
1720 Main St., Ste. 106  
Columbia, S.C. 29201

RE : Motion Hearing CASE NO# 2003-CP-40-5340 ; Subpoena of Grand  
Jury Impanelment Documents records and Files

Dear Miss. Kimbrough :

Your office has been contacted regarding the above subject matter. As you are well aware of the fact that the court has continued to place my case on hold for numerous years now, and during such time I have been blessed to have discovered new evidence which by due diligence could not have been discovered by me before and/or during the proceeding of my jury trial, solely due to ineffective assistance of legal counsel that was rendered to me.

The 'after discovered evidence' that I have found regards "due process of law violations" that exist in my present case at hand waiting to be heard in the Richland County Court of Common Pleas, and the case in question which I will now bring to your undivided attention is [Evans V. State, S.C. , 611 S.E. 2d 510 (S.C. 2005)]. In 'EVANS' the S.C. Supreme Court ruled it possible for a criminal defendant and/or petitioner "RIGHT" to review the Grand Jury Impanelment Documents and records relevant to possibly challenge the process of the criminal indictment which may have been defected, which is one of the main claims in my case.

I remind you of the fact that my criminal indictment fails to have passed the muster test due to have been passed in order for my indictment to be a proper judicial document to have allowed the court jurisdiction over my case, and it is evident "that there was no person(s) to have appeared before the state Grand Jury in my case. It is further evident without any contesting that my indictment was defected as to the language defined within its narrative as defining the language in full measure as defined under S.C. Code Ann §16-3-20. Therefore, it is

1. of 2.

---

June 26, 2007

Columbia, South Carolina

2. OF 2.

Mr. Hamid Demmirio #115800  
Broad River Corr. Inst. Cong. 128  
4416.0 Broad River Road  
Columbia, S.C. 29210

March 7, 2005

Ms. Melissa Kimbrough  
1720 Main St., Suite 303  
Columbia, S.C. 29201

Dear Melissa:

Before I begin this notation, I must take this time to humbly Almighty God for another day; a day that wasn't promised to neither of us.

Having said the above, please allow me to continue. The letter you forwarded me last month along with my disciplinary printout raised a few of my eyebrows. Reason being is, within that letter, you informed me that my language was unfitting toward you.

In retrospect Melissa, I can't recall me ever undermining, defaming, or disrespecting your character or status. If you're referring to the thick muscular bands in my larynx; which I don't have control over then I am extremely sorry and apologetic!

On the other hand if it's no disturbance, my you please forward me the below cases because this library isn't stock with them?

- 1) St. v. Wilson, 89 S.E. 301 (1915)
- 2) Patton v. U.S. 50 S.Ct. 253 (1930)
- 3) St. v. Coleman, 8 S.Ct. 237 (1876)
- 4) St. v. Bowers, 43 S.E. 656 (1903)
- 5) St. v. Williams, 690 S.W.2d 517 (TENN. 1985)

In closing, I anticipate on seeing  
you with some news, good or  
bad.

Sincerely, *H.T. Rin*  
*H.T. Rin*

Signed AND SWORN this 7<sup>th</sup> day of March 2005.

*H.T. Rin*

Notary Public for the  
STATE of South Carolina

October 24, 2008

My Commission  
EXPIRES

RECEIVED

MAR 03 2004

*BP*

Mr. Hamid Demmirio #115800  
610 Highway #9 West  
Bennettsville, S.C. 29512

March, 2004

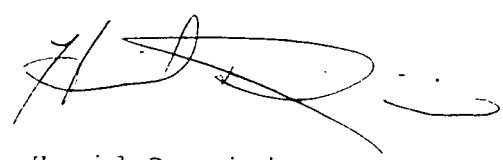
Dear Honorable Cooper:

I'm writing to you concerning a very sensitive and important issue. October 2003, I filed a Post Conviction Relief (PCR). Later the following month in November, I'd received two (2) letters from Richland County Judicial Center. One of those letters dated November 4, 2003 was from Ms. Jeanette VanGinhoven from the Attorney General's Office, and the other was from Ms. Melissa Kimbrough, Attorney at Law dated November 18, 2003 informing me that she will be handling my case.

At this time, I wrote to Ms. Kimbrough not once but twice telling her that I am pleased that she's taking this case and that I need her assistance in helping me obtain my Transcript and other favorable materials that's relevant to my appeal. Unfortunately, I never received a reply from either letter I forwarded her!

Therefore, I am kindly asking you to intervene to fine out whether or not Ms. Kimbrough is in fact my counsel?

Sincerely,



Hamid Demmirio

**Melissa J. Kimbrough**  
ATTORNEY AT LAW

RECEIVED  
MAR 11 2004  
JP

March 11, 2004

Honorable G. Thomas Cooper, Jr.  
Richland County Courthouse  
1701 Main Street  
Columbia, S.C. 29201

Dear Judge Cooper:

I am writing to advise you that I have written to Mr. Demirrio. I do have an open file on his case, but had never received correspondence from him nor, to-date, a Return from the State. If you have any further questions, please contact me.

Very truly yours,



Melissa J. Kimbrough

/mk

RECEIVED  
MAR 11 2004

MR. HANZID DEMMIRIO 715800  
LIEBER CORR. INST. EA-8  
POST OFFICE BOX 205  
RIDGEBVILLE, S.C. 29472

**RECEIVED**

NOV 12 2015

MAILROOM  
LIEBER CI

THE SUPREME COURT OF SOUTH CAROLINA  
ATTN: MR. DANIEL E. SHEAROUSE, CLERK OF COURT  
POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

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