

# OFFICE OF THE PUBLIC DEFENDER

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**Eleventh Judicial Circuit**  
Lexington, Saluda, Edgefield,  
and McCormick Counties

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Circuit Public Defender

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Tri-County Public Defender  
Post Office Box 1852  
McCormick, SC 29835  
Telephone (864) 852-9555  
Fax (864) 852-9554

October 12, 2015

Mr. Eric Marsh - SCDC#: 354716  
Broad River Correctional Institution  
4460 Broad River Rd.  
Columbia, SC 29210

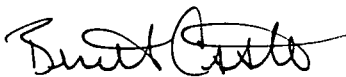
Dear Mr. Marsh,

I received your most recent letter and I wanted to send you a response. I noticed that your letter was dated October 1<sup>st</sup>, however I did not receive it until October 9<sup>th</sup>. I can only assume this is due to the flooding situation in the Columbia area.

I wish to confirm that I did file an appeal on your behalf because you requested that I do so. In addition, I also included a letter stating that I am filing this appeal on your behalf, but I did not believe any issues existed that were appropriate for an appeal. Ultimately, the Court of Appeals contacted you and asked you to state any reasons that you feel your case should have been appealed. The Court of Appeals received your response and it was forwarded to a review panel. The review panel reviewed the issues you raised and ultimately dismissed this appeal. Enclosed you will find the paperwork as it relates to this appeal.

Please know that it was a pleasure to represent you in this matter and I wish you good luck in your future endeavors.

Sincerely,



Bennett Elliot Casto  
Tri-County Public Defender

To The South Carolina Supreme Court  
Daniel E. Shearouse  
clerk of court

Oct. 19, 2015

I write today to request that all documents be filed on my behalf for court records. I wish to say that I don't believe there is error for the remittitur dated September 17, 2013 for case no. 2013-000642 Lower Court Case no. 2011-GS-40-01996. I feel that this remittitur does not apply to my Lexington county case. But Lexington is using this same case number. The documents within this letter is more records to show that everything was done in a timely manner. This is an attachment to what was sent on Oct. 1, 2015. Please send me a respondent that all information sent on Oct. 1 and Oct. 19, 2015 has been filed with your courts. Please send to required parties that this information has been filed. Thank you for all the help that your office has provided.

Yours Truly

Inmate No. 354716  
Eric Marsh

**RECEIVED**

OCT 26 2015

S.C. SUPREME COURT

**RECEIVED**

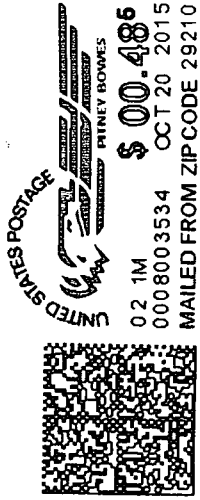
OCT 26 2015

SC Court of Appeals

**LEGAL MAIL**

Eric Marsh # 354716  
BRCI  
4460 Broad River Rd,  
Columbia SC, 29210

COLUMBIA  
SC 290  
21 OCT '15  
PM 11



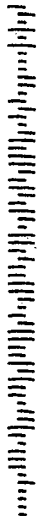
The Supreme Court of South Carolina  
Daniel E. Shearouse Clerk of Court  
Post Office Box 11330  
Columbia SC 29211

RECEIVED

OCT 20 2015

BRCI  
MAILROOM

2521133030



In The Court of Common Pleas  
For The Eleventh Judicial Circuit  
2014-CP-32-4261

request of Hearing For Respondents To  
Return And Motion To Dismiss

015. for Post-conviction relief (PCR) application filed  
sh to request a hearing in response to the Return  
date of October 12, 2015 from Tri-County Public  
Applicant at the time of plea on March 20, 2013  
-GS-32-00965 Att. Bennett Casto confirms that  
on-firms that it was reviewed and ultimately dismissed.  
Remittitur dated June 20 2013 sent to Richland  
. This same remittitur was sent back to the court  
remittitur dated September 17, 2013 reflected the  
1996 Appellate case NO. 2013-000642. As you may  
NO. 2013-000642. As a result to this claim. Both  
d both filed in Richland County. There is no err  
September 17, 2013. There is no remittitur in  
ity (PCR) transcript before Judge Robert E. Hood.  
eral mes Ashleigh Wilson state that the (PCR)  
hland county conviction. But under this (PCR)  
Richland County and Lexington cases and Attorneys,  
marsh) stated for the record that the Lexington  
are not doing all of them together. The court's  
2, 2014. Both The Judge and the Att. Generals  
Lexington County Appeal was still in affect at  
Marsh appealed the order of Dismissal of this  
per 31, 2014 is when notice of entry of this order,  
on November of 2014 and filed stamp dated  
of the Lexington county clerk of court. I wish  
Before Judge G. Thomas Cooper on March 20,  
transcript of this plea, the court address inr.  
NO. 2013-GS-32-00965 has not been indicted?  
correct.) There was no indictment with this

+ ask that my (PCR) be granted and a Attorney be assign. There is no records to show  
that I did not file in a timely manner. Between the date of the Richland County

(PCR) where it's stated by the Courts, Att. General and applicant's Attorney that at this time the Lexington Appeal was still in effect. There has been no remittitur on record for Lexington Clerk of court. The remittitur date September 17, 2013 is for Appellate case no. 2013-000642 Lower Court case no. 2011-BS-40-01796 not the Lexington County case of 2013-BS-32-00965 (Warrant No. M-302915) A letter dated on October 30, 2014 by The Supreme Court of South Carolina, on September 10, 2015. The Supreme Court of South Carolina did so stated that Appellate Court case no. 2013-000642 apparently did not involve the Lexington County Case of 2013-BS-32-00965, so with this I wish to request a hearing to show that Procedure Act S.C. Code § 17-27-10 to -160 (2014) and Section 17-27-45(A) was not a failure to comply with filing Procedures of the uniform Post-Conviction Procedure Act. This (PCR) was filed within the statute of limitations. There has been a great confusion with this Lexington county case but there is countless records that their was and appeal filed on March 26, 2013 by Att. Costo and the Att General's office acknowledgement of this appeal still in effect as of SEPTEMBER 2, 2014. All on record before The Honorable Robert E Hood Judge, Page 3,4,5 of the Richland County PCR Hearing, Transcript. I ask that this (PCR) be granted on my behalf or grant me a hearing to address this issue. An a Attorney be assigned.

Respectfully submitted

Eric Marsh # 354716  
Applicant

Please send me a Court Stamp copy  
stating that every thing has been filed.

SWORN or AFFirmed to and subscribed before me this  
20th day of October, 2015

Susan H. Frye  
Notary Public

Commission Expires  
March 5, 2018

My Commission Expires: \_\_\_\_\_

1 THE COURT: All right. We're on the record  
2 in 2013-CP-40-6380, Eric Duane Marsh versus the State of  
3 South Carolina.

4 Mr. Marsh, good morning.

5 He is present, represented by Ms. Good, and the State  
6 is represented by Ashleigh Wilson.

7 Ms. Wilson, why don't you get us started, and then  
8 we'll go from there.

9 MS. WILSON: Thank you, Your Honor. Ashleigh Wilson  
10 for the State of South Carolina. This is Eric Duane Marsh  
11 versus the State.

12 Mr. Marsh was indicted May 2011 for one count of  
13 criminal sexual conduct with a minor second degree, and  
14 that was indictment number 2011-GS-40-1996. And as a  
15 corollary to that, he pled guilty to that March 20, 2013,  
16 and along with that, he also pled guilty to a -- almost  
17 identical Lexington County conviction.

18 We're here today solely only the Richland County  
19 conviction. He was represented during his guilty plea by  
20 Mr. Ted Lupton. He was represented on the Lexington plea  
21 by a public defender named Bennett Castro.

22 He pled guilty pursuant to North Carolina versus  
23 Alford for his Richland County charges, and he just pled  
24 without being under Alford for the Lexington County  
25 charges.

1           But anyway, he pled before Judge Cooper on  
2           March 11th, 2013, and he was sentenced to a 15-year  
3           sentence. He filed his application for post conviction  
4           relief in October, on October 18th, 2013. It was amended  
5           by his counsel on April 24th, 2014.

6           The State filed its return, and in his application,  
7           he alleges -- well, in his original application, he  
8           alleges ineffective assistance of counsel for counsel's  
9           failure to give effective assistance of counsel at  
10          critical stages including protecting his due process  
11          rights.

12          In his amended application, he alleged counsel was  
13          ineffective for failing to properly investigate his case  
14          and misadvising him regarding sentencing for his plea.

15          After his plea, Mr. Marsh filed an appeal which was  
16          dismissed by the Court on June 5th, 2013, and the  
17          remittitur on that was issued September 17th, 2013.

18          In his application, he requests a new trial and the  
19          vacation -- vacation to set aside his guilty plea. We  
20          would just ask that Ms. Good note for the record the  
21          allegations that he is going to proceed on today.

22          THE COURT: Okay.

23          MS. GOOD: And, Your Honor, just for the record, the  
24          Lexington appeal, I believe, is still pending, so that's  
25          why we are not doing all of them together.

1 THE COURT: Correct.

2 MS. GOOD: At this time, Your Honor, we're going  
3 forward on trial counsel misadvised as to sentencing for  
4 his plea, and basically all the issues surrounding the  
5 advice given to him to make him plea. We are not going  
6 forward on the failure to properly investigate the case.

7 THE COURT: Great.

8 MS. GOOD: At this time, we'd call Eric Marsh to the  
9 stand.

10 THE COURT: All right. Please come forward.

11 All right. Mr. Marsh, please raise your right hand.

12 ERIC MARSH, after being duly sworn,  
13 testified as follows:

14 THE COURT: All right.

15 DIRECT EXAMINATION:

16 BY MS. GOOD:

17 Q All right. Mr. Marsh, you just heard Ms. Wilson say  
18 that you pled on March 20, 2013 to CSC with a minor second  
19 degree, and you received 15 years, correct?

20 A Yes.

21 Q Okay. And who was your attorney for that plea?

22 A Mr. Theodore Lupton.

23 Q Okay. Prior -- do you know when he was appointed to  
24 your case?

25 A June 2012.

The South Carolina Court of Appeals

RECEIVED  
JUN 9 2013  
BY:

The State, Respondent,

v.

Eric Marsh, Appellant.

Appellate Case No. 2013-000642

ORDER

Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.

  
FOR THE COURT

Columbia, South Carolina

cc:

- Theodore Nichols Lupton
- Robert Michael Dudek
- Margaret Fent Bodman
- Salley W. Elliott
- Bennett E. Casto

FILED

June 5, 2013