

PETITIONER'S APPENDIX

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY

DANIEL D. HALL, CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2015-002251

LOWER COURT CASE NO. 2014-CP-23-1895

George Cleveland, III

S.C.D.C. NO. 357770,

v.

STATE OF SOUTH CAROLINA,

PETITIONER

Respondent

George Cleveland, III #357770
TURBEVILLE CORRECTIONAL INST
P.O. Box 252
TURBEVILLE, S.C. 29162

PETITIONER'S APPENDIX
APPELLATE CASE NO. 2015-002251

<u>INDEX:</u>	PAGE(S) No.
SUPREME COURT ORDER DATED: 11/05/15	1-2
SUPREME COURT ORDER DATED: 12/15/15	3
Office of the Att. Gen. letter dated: 3/05/15 addressed, and written to JUDGE HALL	4
GREENVILLE COUNTY CLERK OF COURT COPY FEE	5
APPELLATE DEFENSE letter dated: 1/12/16	6
FORM 20 FROM THE APPENDIX FORM SECTION OF THE SOUTH CAROLINA APPELLATE COURT RULES	7-8
SUPREME COURT ORDER DATED: 1/13/16	9-11
APPELLATE DEFENSE letter dated: 12/02/15	12
SUPPORTING AFFIDAVIT	13

The Supreme Court of South Carolina

George Cleveland III, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251
Lower Court Case No. 2014CP2301895

ORDER


The motion to have the State pay for the transcript in this post-conviction relief case is denied as unnecessary.

Instead, if petitioner believes that he is indigent, he should complete and submit the enclosed Affidavit of Indigency to the Division of Appellate Defense of the Office of Indigent Defense (Appellate Defense)¹ within fifteen (15) days of the date of this order. If Appellate Defense determines that it will provide representation in this matter,² it will order any transcripts that may be necessary in this

¹ The mailing address for Appellate Defense is P.O. Box 11589, Columbia, SC 29211.

² Petitioner proceeded without counsel before the circuit court. If petitioner desires to proceed *pro se* before this Court, he will need to file a motion asking this Court's permission to do so. *Cf. State v. Roberts*, 364 S.C. 583, 614 S.E.2d 626 (2005) (no state or federal right to proceed *pro se* in a criminal appeal). Any motion to proceed without counsel in this matter should not be made until after Appellate Defense determines if it will provide representation in this matter. If Appellate Defense determines that it will provide representation and this Court subsequently permits petitioner to proceed *pro se*, Appellate Defense will remain associated for the limited purpose of obtaining the transcripts and providing copies of documents

matter.


C.J.
FOR THE COURT

Columbia, South Carolina
November 5, 2015

Enclosure (Affidavit of Indigency)

cc: Karen Christine Ratigan, Esquire
Mr. George Cleveland, III, #357770

that must be served and filed in this matter.

This Court strongly encourages petitioner to be represented by counsel in this matter. Petitioner is not trained in the law, and having a lawyer who is trained in the law and familiar with the rules and procedures of this Court would be extremely beneficial. If petitioner is ultimately allowed to proceed without counsel in this matter, he will be expected to fully comply with all of the rules and procedures applicable to this matter.

The Supreme Court of South Carolina

George Cleveland, III, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

ORDER

Petitioner moves to proceed *pro se* in this matter. By order dated November 5, 2015, petitioner was warned of the dangers and disadvantages of proceeding *pro se* but indicates he still wishes to proceed without the assistance of counsel. We therefore grant the motion to proceed *pro se*. The Commission on Indigent Defense, Division of Appellate Defense, shall remain associated for the limited purpose of providing copies of the petition, appendix and any briefs that may be necessary.

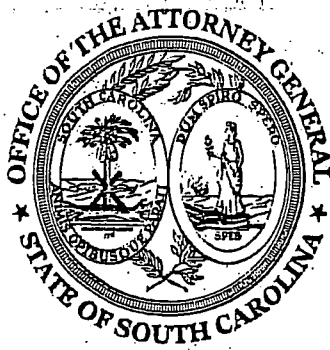

C.J.
FOR THE COURT

Columbia, South Carolina

December 15, 2015

cc:

Karen Christine Ratigan, Esquire
Robert Michael Dudek, Esquire
George Cleveland III #357770



PLAINTIFF'S EXHIBIT PAGE 4

ALAN WILSON
ATTORNEY GENERAL

March 5, 2015

The Honorable Daniel D. Hall
Moss Justice Center
1675-1J York Highway
York, SC 29745

RE: George Cleveland, III, #357770 v. State
2014-CP-23-1895

Dear Judge Hall:

Pursuant to your request, enclosed please find a proposed order of dismissal in the above-captioned Greenville County post-conviction relief case. As Mr. Cleveland is pro se, by copy of this letter, I am also mailing the proposed order to him. If you have any questions, please feel free to call: 803-734-3737.

Sincerely,

Karen C. Ratigan
Senior Assistant Deputy Attorney General

Enclosure

cc: George Cleveland, III, #357770
Evans Correctional Institution
Post Office Box 2951202
Bennettsville, SC 29512

Please be aware that as we are a public records office, all records, except those sealed by the court or are not public by law, are available for inspection in our office. You, or a representative on your behalf, may come to this office, do research, view the documents and make copies. The copy fee is \$.25 per page for regular copies and \$1.25 per certified page. Case information may also be researched on our web site: www.13th-judicial-circuit.org.

Please note that the Clerk of Court's records consist of warrants which have been served and have been transmitted to Greenville County General Sessions court as well as their related and/or subsequent filings which have been filed with the Clerk of Court's Office. We therefore do not have information on cases which are outstanding or are under the jurisdiction of another county, magistrate, or Federal court, nor can we provide copies of documents which have not been filed with our office. *The Clerk of Court can not provide copies of documents which were not filed in this office. The Clerk of Court does not have the authority to give legal advice, nor can we answer questions or provide information regarding the law or legal processes that should be directed to an attorney.*

If remitting payment, please be sure to include a copy of this letter with your payment or you may not received your copies.

Thank you,
Clerk of Court
Greenville County General Sessions



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

January 12, 2016

Mr. George Cleveland, III #357770
Turbeville Correctional Inst
P O Box 252
Turbeville, SC 29162

Re: Your Appeal – Appellate Case No. 2015-002251

Dear Mr. Cleveland:

I have enclosed the post-conviction relief hearing (PCR) transcript that this office requested for use in your appeal.

This office has been appointed to pay for costs of the post-conviction relief hearing transcript and printing of petition, appendix and any briefs that may be necessary. You need to ensure that you provide the appendix and petition for writ of certiorari to this office with sufficient time for the necessary copies for service and filing 60 (sixty) days from the date of this letter and documents.

The appendix should be in this order: Title page, index, guilty plea hearing transcript, application for post-conviction relief, state's return, post-conviction relief hearing transcript, PCR hearing exhibits, order of dismissal, indictments, sentence sheets. Please note that ONLY documents that were before the PCR judge can be included in the appendix.

Sincerely,


Lorraine French
Legal Services Coordinator

FORM 20
APPENDIX IN POST-CONVICTION RELIEF ACTIONS

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

George E. Brown, Circuit Court Judge

Case No. 2000-CP-00-0000

Thomas L. Smith, #1213456

Petitioner,

v.

State of South Carolina,

Respondent.

APPENDIX

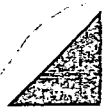
Frederick C. Roe
Post Office Box 567
Columbia, South Carolina 29000
(803) 000-0000
Attorney for Petitioner

John T. Doe
Assistant Attorney General
Post Office Box 789
Columbia, South Carolina 29000
(803) 000-0000
Attorney for Respondent

INDEX

Transcript of the Trial [Guilty Plea]1
Application For Post-Conviction Relief200
Return to the Application.....207
Transcript of the Post-Conviction Relief Hearing209
Order of Dismissal245
Clerk of Court Records255
South Carolina Department of Corrections Records290

[The remaining portion of the Appendix is composed of a copy of the documents listed in the Index.]



The Supreme Court of South Carolina

George Cleveland III, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

ORDER

Petitioner filed a *pro se* notice of appeal in this action. At that time, he requested the State of South Carolina be required to pay for the transcript of the hearing on his application for post-conviction relief (PCR). By order dated November 5, 2015, petitioner was informed the motion to require the State to pay for the transcript was unnecessary. Petitioner was instead informed that if he believed he was indigent, he should complete and submit an affidavit of indigency and submit it to the Commission on Indigent Defense, Division of Appellate Defense. The order further informed petitioner that if the Division of Appellate Defense determined it would provide representation in the matter, it would order any transcripts that may be necessary in the matter. Finally, based on the fact that he proceeded *pro se* in the lower court, petitioner was instructed that if he wished to proceed *pro se* before this Court, he would have to file a motion and any such motion should not be filed until after the Division of Appellate Defense determined whether it would provide representation in the case. The order stated that if the Division of Appellate Defense determined it would provide representation and this Court subsequently permitted petitioner to proceed *pro se*, the Division of Appellate Defense would remain associated for the limited purpose of obtaining the transcripts and providing copies of documents that must be served and filed in the matter.

By letter dated December 2, 2015, the Division of Appellate Defense informed petitioner it had determined he is eligible for representation by their office. The letter stated the Division of Appellate Defense was waiting for the court reporter to provide a copy of the transcript, which can take at least two months given the

number of extensions court reporters are allowed. On the same date, the Division of Appellate Defense ordered the transcript from the court reporter.

Thereafter, petitioner moved to relieve counsel and proceed *pro se*. By order dated December 15, 2015, petitioner's motion was granted. The order also stated the Division of Appellate Defense is to remain associated for the limited purpose of providing copies of the petition, appendix, and any briefs that may be necessary.

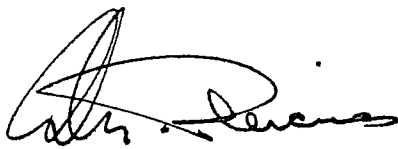
Petitioner now seeks clarification as to which documents the Division of Appellate Defense can provide to petitioner. Petitioner states that on December 9, 2015, he requested the Division of Appellate Defense provide him with copies of documents, but by letter dated December 17, 2015, the Division of Appellate Defense informed him that pursuant to this Court's order of December 15, 2015, they are only required to provide copies of the petition, appendix, and any briefs that may be necessary. Petitioner notes this Court's order of November 5, 2015, indicated the Division of Appellate Defense would pay for the transcript, but the second order does not include such language. He states he does not know if the Division of Appellate Defense has ordered the transcript of his PCR hearing. As noted above, the transcript was ordered by the Division of Appellate Defense on December 2, 2015. As petitioner was informed, it can take two months or longer for a transcript to be prepared. The Division of Appellate Defense shall provide petitioner with a copy of the transcript when it is received by their office.

Petitioner also requests the Division of Appellate Defense be required to provide the following documents: Greenville County Clerk of Court's record in the underlying PCR action; "legal copies; Blue Cover for Brief; Gray Cover for Reply Brief; And Any other legal Documents that Are Relevant to [petitioner's] arguments presented to the Greenville Count P.C.R. Court."

Section 17-27-60 provides that if a PCR applicant is unable to pay court costs and expenses of representation, including stenographic, printing and legal services, those costs and expenses shall me made available to the applicant. Petitioner has rejected legal services when he sought to relieve the Division of Appellate Defense and proceed *pro se*. The Division of Appellate Defense has provided funds for the transcript or stenographic services. The Division of Appellate Defense has been associated by this Court to provide "printing" services, which includes printing the documents to be filed with this Court. Those documents consist of petition for a writ of certiorari and an appendix. Petitioner must provide an original copy of the petition for a writ of certiorari and an original copy of the appendix to the Division of Appellate Defense and they will make the copies required to be filed pursuant to

Rule 243, SCACR. With the exception of the transcript, the Division of Appellate Defense is not required to provide copies of documents to go in the original appendix, including the records of the Greenville County Clerk of Court. Instead, the Division of Appellate Defense is only required to provide copies of the appendix compiled by petitioner.¹ The Division of Appellate Defense is also not required to provide copies of documents petitioner believes are necessary for legal research.

Finally, the petition for a writ of certiorari need not be bound. Rule 267(d), SCACR. Briefs, which do require color covers, shall *not* be filed unless the petition for a writ of certiorari is granted. Accordingly, at this juncture, the Division of Appellate Defense is not required to provide blue and gray covers to petitioner for briefs.



C.J.

FOR THE COURT

Columbia, South Carolina

January 13, 2016

cc:
Karen Christine Ratigan, Esquire
George Cleveland, III, #357770
SC Appellate Defense

¹ We take this opportunity to remind petitioner that ONLY those documents that are part of the lower court record, which includes the transcript and a copy of the final order entered after the PCR proceeding, may be included in the appendix. Rule 243(f), SCACR.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

page 12

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

December 2, 2015

Mr. George Cleveland, III, #357770
Turbeville Correctional Institution
PO Box 252
Turbeville, SC 29162

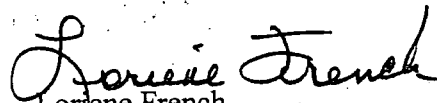
Dear Mr. Cleveland, III:

We have determined that you are eligible for representation by this office. We are waiting for the court reporter to provide us with a copy of your transcript, which will take at least two months and **probably longer** as they are allowed **several** thirty-day extensions. This office does not control the court reporters.

Your case will not be assigned to an attorney until we receive the transcript. Upon receipt of the transcript the attorney will then write you a letter explaining the appellate process and how you may assist in handling your appeal. You will receive a copy of your transcript and all documents filed in connection with your case.

Until your case has been assigned to an attorney, you may direct all correspondence to me. We look forward to representing you and hope for a favorable result.

Sincerely,


Lorie French
Legal Services Coordinator

AFFIDAVIT BY GEORGE CLEVELAND, III

APPELLATE CASE NO. 2015-002251

page 13

1. I, George Cleveland, III, SWEARS under the penalty of perjury the following is true and correct to the best of my knowledge:
2. ON JANUARY 20, 2016 AROUND 1:00 P.M. AFTER signing for, and receiving the P.I.C.R. transcript in my case prior, I called appellate defense and spoke with MRS. LORIEVE FRENCH (LEGAL SERVICES COORDINATOR) who stated they had to go by the court order of this court, confusion into what all can be part of the appendix, and confusion over printing, and copying.
3. My entire 36-page memorandum of LAW in support of GRANTING my P.I.C.R., pre-trial, and post-trial motions, and many more hand-written documents I do not have copies of because the S.C.D.C. will not allow staff to photo-copy hand-written legal documents while at EVANS, AND MACDOUGALL C.I. I need all these documents, and all other documents filed so I can also verify all documents were filed.

SWORN to and subscribed before me this
22nd day of Jan 2016
[Signature] (L.S.)
Notary Public for South Carolina

[Signature] AFFAINT'S SIGNATURE

My Commission Expires: 4-27-2016

PETITIONER'S PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY

DANIEL D. HALL, CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2015-002251

LOWER COURT CASE NO. 2014-CP-23-1895

George Cleveland, III,

S.C.D.C. NO. 357770

v.

STATE OF SOUTH CAROLINA,

Petitioner

Respondent.

PETITIONER'S PROOF OF SERVICE

George Cleveland, III #357770
Turbeville Correctional Inst.
P.O. Box 252
Turbeville, S.C. 29162

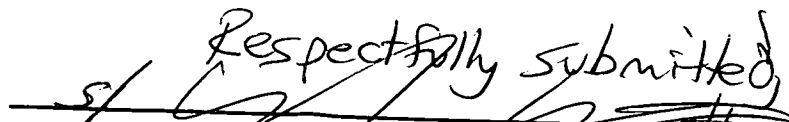
1.
PETITIONER'S PROOF OF SERVICE

I, George Cleveland, III, proceeding pro se, certifies that on the date below by and through the Turbeville Correctional Institutional Mail-Rooms properly addressed, proper postage and by United States Mail served on the Respondent the following:

Petitioner's Motion For Leave of Court to order Payment for clerk of court records;

Petitioner's supporting Appendix; and this proof of service to the following Attorney and entity:

Office of the Att. Gen.
KAREN C. RATHGAM, Esquire
P.O. Box 11549
Columbia, SC 29211

Respectfully submitted,

George Cleveland, III, #357720
Turbeville Correctional Inst
P.O. Box 252
Turbeville, S.C. 29162

Dated: JANUARY 22, 2016