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MAR 31 2016

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**SC SUPREME COURT**

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Honorable Edgar W. Dickson, Circuit Court Judge

Case No. 2011-CP-32-0910

Alan Bruce Carruthers #326809.....Petitioner/Appellant,  
vs.

State of South Carolina.....Respondent.

NOTICE OF APPEAL

Alan Bruce Carruthers, # 326809 appeals the Honorable Edgar W. Dickson, March 7, 2016, order denying Petitioner's motion to Alter or Amend the Judgment of judgment of dismissal of post-conviction relief to the Respondent, filed September 23, 2015: Undersigned counsel received notice of entry of the order dismissing the motion to Reconsider by regular USPS mail on March 20, 2016. A copy of the orders on appeal are attached to this notice filed with the Appellate Court.

Respectfully submitted,



Catherine T. Johnson, Esq.  
701 Gervais St. Ste. 150-318  
Columbia, SC 29201

March 31, 2016.

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In The Supreme Court

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PROOF OF SERVICE

I, Catherine Townes Johnson certify that I have today served the within notice of appeal upon the Respondent by depositing a copy of it in the United States Mail, postage prepaid, addressed to his attorney of record, Patrick Schmeckpeper at PO Box 11549 Columbia, SC 29211. I further certify that all parties required by SCRCF Rule 203 to be served have been served this 22nd day of March, 2016.



Catherine T. Johnson, Esq.  
701 Gervais St. Ste. 150-318  
Columbia, SC 29201

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MAR 31 2016

ORIGINAL

SC SUPREME COURT

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LEXINGTON )  
 )  
 Alan Bruce Carruthers, #326809, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT

CASE NO.: 2011-CP-32-0910

ORDER

FILED  
 2016 MAR -7 A 11:50  
 BETTIE A. GARNING  
 CLERK OF COURT  
 LEXINGTON, SC

This matter comes before this Court by way of a post-conviction relief (PCR) application filed by Alan Bruce Carruthers (Applicant) on March 7, 2011. An evidentiary hearing into the matter was convened on August 14, 2013, at the Lexington County Courthouse. Applicant was present at the hearing and was represented by Catherine Johnson, Esquire. Respondent was represented by Assistant Attorney General Walt Whitmire, Esquire, of the South Carolina Attorney General's Office. This Court issued an Order dated September 18, 2015, and filed September 23, 2015, denying the application for post-conviction relief.

Applicant filed a motion pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure on November 5, 2015, in which he asks this Court to alter or amend its Order dismissing his PCR application. Respondent made its return to the motion, requesting this motion be denied.

Based upon careful reconsideration of the evidence in this case, including Applicant's motion, supporting memorandum, and oral argument, this Court is not persuaded to alter or amend its judgment. The Order of Dismissal issued by this Court contains the required findings

of fact and conclusions of law as required by Section 17-27-80 of the South Carolina Code (2014) and Rule 52(a) of the South Carolina Rules of Civil Procedure.

**IT IS THEREFORE ORDERED** that Applicant's motion be and hereby is denied and dismissed.

IT IS SO ORDERED.



EDGAR W. DICKSON  
Presiding Judge

Orangeburg, South Carolina  
Feb. 26, 2016

FILED  
2016 MAR - 7 A 11:50  
BETTY A. CANNING  
CLERK OF COURT  
LEXINGTON, SC

ORIGINAL

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	ELEVENTH JUDICIAL CIRCUIT
	)	
Alan Bruce Carruthers,	)	C.A. No. 2011-CP-32-0910
S.C.D.C. No. 326809	)	
	)	
Applicant,	)	
	)	
v.	)	<b>ORDER OF DISMISSAL</b>
	)	<b>(with prejudice)</b>
State of South Carolina,	)	
	)	
Respondent.	)	

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on March 7, 2011. Respondent filed its responsive pleadings. An evidentiary hearing into the matter was convened on August 14, 2013 at the Lexington County Courthouse. Applicant was present at the hearing and was represented by Catherine Johnson, Esq. Respondent was represented by Walt Whitmire, Esq., of the Office of the Attorney General.

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. Applicant was indicted at the October 2006 term of the Lexington County Grand Jury for Criminal Sexual Conduct with a Minor 1st Degree (2006-GS-32-3422). Applicant was represented by Ralph S. Kennedy, Esq. On February 28, 2008, Applicant pled as indicted. The Honorable Thomas G. Cooper sentenced the Applicant to confinement for a period of thirty (30) years.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Carruthers, Op. No. 2010-UP-301 (S.C. Ct. App. filed June 8, 2010); The

Remittitur was issued on June 24, 2010.

### ALLEGATIONS

In his original Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

Ineffective assistance of counsel:

- (a) failure to investigate victim's credibility and account of the offense;
- (b) failure to investigate the evidentiary value of the photograph found in the notebook;
- (c) failure to make a motion to suppress evidence obtained outside of the scope of the search warrant;
- (d) failure to adequately advise on terms and conditions of the plea offer; in the alternative failure to make a motion to compel with the terms and conditions of the plea offer;
- (e) failure to object to the State's recitation of the facts of Applicant's guilt and submission of the State's evidence at the plea hearing;
- (f) failure to present an adequate mitigation case at the plea hearing;
- (g) failure to continue the representation where counsel had a conflict of interest that resulted from his loyalty to the solicitor's office.

### SUMMARY OF THE PLEA HEARING

At the guilty plea hearing, Applicant was apprised of the constitutional waiver of rights necessary for a valid guilty plea. (Plea Tr. p.4). Counsel notified the Plea Judge of Applicant's mental health history and stated that he had no reason to question Applicant's competency. Counsel also notified the Plea Judge that Applicant understood his waiver of rights. (Plea Tr. p.6). The Plea Judge apprised Applicant of the extent of his exposure to incarceration. (Plea Tr. p.8). Subsequently, Applicant waived all relevant constitutional rights. (Plea Tr. p.9).

The solicitor presented the facts of the offense. Applicant began a process of grooming the victim where he lured her to a nearby abandoned building. The severity of abuse graduated. (Plea Tr. p.14). The victim disclosed the abuse and underwent a forensic interview. (Trial Tr. p.15). Thus, police obtained a search warrant and searched Applicant's residence and found child

pornography and fruits of the crime that corroborated the victim's account. (Plea Tr. p.16). Nude pictures of the victim were recovered by the police from Applicant. (Plea Tr. p.19). As a result of the abuse, the victim was admitted to a psychiatric ward. (Plea Tr. p.22).

Counsel notified the Plea Judge of efforts on Applicant's case and that he agreed "wholeheartedly" with Applicant's decision to plead guilty in light of the overwhelming evidence of guilt. (Plea Tr. pp.25-27). Counsel outlined the terms of the plea agreement. (Plea Tr. p.27). Next, Counsel told the Plea Judge that Applicant indisputably admits to one count of sexual battery but denies multiple instances of penetration. (Plea Tr. p.28).

Applicant admitted his guilt and explained his conduct to the Plea Judge. (Plea Tr. p.31). He further ensured the Plea Judge that he was satisfied with counsel, he was not coerced to plead guilty, and that he did not need additional time to meet with counsel. (Plea Tr. pp.12-13).

The Plea Judge sentenced Applicant to a term of (30) years imprisonment for CSC with a minor, first-degree.

## **SUMMARY OF TESTIMONY AND EVIDENCE FROM THE PCR HEARING**

### ***(a) Applicant's testimony***

Applicant testified in support of the allegations in his PCR Application. Applicant testified that he pled guilty because counsel promised him that he would be transferred to a Federal institution near his home commonwealth of Massachusetts in conjunction with promising him that counsel would "mitigate a ten year sentence." Applicant testified that he would have given different answers and assurances to the Plea Judge in retrospect because of the sentence he received. Applicant disputed counsel's representations on the identity of Applicant in inculpatory photographs. He posited that the photographs in question had been "falsified." Applicant testified that he viewed and discussed the photographs in question, and other State's

evidence, with counsel prior to his plea. When viewing the evidence, Applicant explained that he had problems with his vision; however, he stated that the photographs did not implicate him in criminal sexual conduct. Applicant testified that he told counsel that he only possessed illegal child pornography of strangers. He lamented that he should have spoken up on the matter at his guilty plea hearing.

As a matter of personal opinion, Applicant testified that the police exceeded the scope of the search warrant in extending the search to the "outbuilding." Applicant introduced several exhibits on the matter. Applicant again opined that he understood that this was a "hot case" in his condemnation that counsel failed to independently investigate his case. Last Applicant testified that he received ineffective assistance of counsel "much worse than he thought" because counsel was an excellent attorney and held a stellar reputation within the halls of the county detention center.

***(b) Counsel's testimony***

At the PCR hearing, counsel testified to his course of conduct during the representation. By order of appointment and substitution, counsel took over Applicant's case. He reviewed over two thousand (2000) pages of discovery that related to Applicant's numerous charges in counsel's investigation and evaluation of the State's evidence. Counsel noted that he spent well over a hundred (100) plus hours of labor on the case. Counsel testified that he scrutinized the search warrants and saw no meritorious suppression defenses. He did not believe the execution of the warrant was improper. Applicant introduced numerous exhibits on the matter and extensively questioned counsel on his performance here. Furthermore, counsel noted that the police collected damaging evidence against Applicant in locations where he had no objectively reasonable expectation of privacy.

At first, Applicant communicated his innocence on the CSC charges and his desire to proceed to trial; Applicant did not want to entertain plea negotiations with the State. However, counsel testified that Applicant changed course once he reviewed a particular photograph from the State's evidence that displayed the victim and a male's genitals. Counsel explained that they had spent substantial time at that consultation viewing the volumes upon volumes of the State's evidence. He noted that once Applicant saw the distasteful photograph, he wanted to immediately confess and plead guilty; he didn't even want to view the rest of the State's evidence sitting in front of them that day. However, Applicant changed course after counsel advised him of the implications of confessing his guilt to police.

Counsel testified that he went to great lengths in discussing a plea with Applicant. Counsel was adamant that he never directly or indirectly misadvised Applicant on the sentencing exposure at issue. Counsel noted that Applicant was a very intelligent man and they discussed numerous consequences and implications of pleading guilty. Counsel testified that at the plea hearing he made ethical and accurate representations to the Plea Judge. Counsel testified that the Solicitor's recitation of the State's case was accurate and supported by the evidence. Based on counsel's communications with Applicant and observations of his demeanor at the plea hearing, counsel testified that Applicant did not waiver in his decision to plead guilty and accept guilt. Counsel explained his mitigation strategy that focused on Applicant's wife, family, and his remorse. Counsel testified that he did everything that he could have done for Applicant.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to

observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

As a matter of general impression, this Court finds Applicant has entirely failed to produce credible evidence in support of his allegations. Court finds that Applicant was not deprived of effective assistance of counsel. Applicant has not persuaded the court that he was pressured or misled by his attorney. The Court finds that Applicant's plea was freely and voluntarily given, and in any case was not prejudiced by the attorney's performance. The Court finds counsel credible, and does not find Applicant credible. Counsel's decisions to go forward with the plea in the manner that he did, and not to object to the adequacy of the factual basis therefor or object to the introduction of photographic evidence, were reasonable in the circumstances, and did not fall below professional norms of reasonableness. The Court finds that no prosecutorial misconduct took place; the prosecutor's statements were a candid expression of an objectively honest view of the case.

#### **EFFECTIVE ASSISTANCE OF COUNSEL**

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove 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 v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action.

A.

This Court finds Applicant's allegation "(a) Ineffective assistance of counsel: failure to investigate victim's credibility and account of the offense" to be without merit. "Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citations omitted). "A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation

fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial." Kolle v. State, 386 S.C. 578, 588, 690 S.E.2d 73, 78 (2010). Despite counsel's convincing testimony on the extent of his investigation and labor on Applicant's case, this Court finds the allegation itself is facially defective. See Miller v. Johnson, 200 F.3d 274, 282 (5th Cir. 2000) (A conclusory allegation of ineffectiveness raises no constitutional issue because a petitioner must show how counsel was deficient and how there was prejudice). Regardless, this Court finds Applicant's convictions were supported by graphic overwhelming evidence of his guilt. See Franklin v. Catoe, 346 S.C. 563, 570 n. 3, 552 S.E.2d 718, 722 n. 3 (2001) (finding overwhelming evidence of guilt negated any claim that counsel's deficient performance could have reasonably affected the result of defendant's trial). Therefore, this allegation is readily denied and dismissed with prejudice.

This Court finds Applicant's allegation "(b) Ineffective Assistance of counsel: failure to investigate the evidentiary value of the photograph found in the notebook" is without merit. The thrust of the allegation solely rests upon Applicant's testimony that the photograph of the male's genitals with the victim, among other photographs, did not implicate Applicant for CSC. This Court finds Applicant's testimony to be incredible and myopic in the context of the other corroborating identification evidence of Applicant's perversion and horrific exploitation of the child victim. In contrast, this Court finds counsel's textured testimony on the matter to be convincing and dispositive. Regardless, the allegation is doomed because it was solely supported by incredible PCR testimony from Applicant. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (Failure to conduct an independent investigation does not constitute

ineffective assistance of counsel when the allegation is supported only by mere speculation as to result). Therefore, this allegation is readily denied and dismissed with prejudice.

This Court finds Applicant's allegation "(c) Ineffective Assistance of counsel, failure to make a motion to suppress evidence obtained outside of the scope of the search warrant" to be without merit. "The Fourth Amendment to the United States Constitution protects the people's right to be free from unreasonable searches and seizures. U.S. Const. amend. IV; cf. S.C. Const. art. I, § 10." State v. Robinson, 410 S.C. 519, 526, 765 S.E.2d 564, 568 (2014). At its core, the Fourth Amendment "stands [for] the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion." Id. (citing Silverman v. United States, 365 U.S. 505, 511, 81 S.Ct. 679, 5 L.Ed.2d 734 (1961)). In contrast to counsel's credible testimony and rationale on the matter supported by record, Applicant has wholly failed to meet his most basic burden to produce credible evidence that he even had a privacy interest in the abandoned structure of which he lacked a possessory interest. See State v. Flowers, 360 S.C. 1, 5, 598 S.E.2d 725, 728 (Ct.App.2004). Therefore, this allegation is readily denied and dismissed with prejudice.

## B.

This Court finds Applicant fell well short of meeting his burden to prove "(d) Ineffective Assistance of Counsel, failure to adequately advise on terms and conditions of the plea offer; in the alternative failure to make a motion to compel with the terms and conditions of the plea offer." Specifically, the voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea, and also from the record of the PCR hearing." Roddy v. State, 339 S.C. 29, 33, 528 S.E.2d 418, 420 (2000). "A guilty plea acts as a waiver of

all non-jurisdictional defects and defenses, including claims of constitutional violations.”  
Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981).

This Court finds Applicant’s testimony that his guilty plea was rendered involuntary because counsel misadvised him on irrelevant matters related to the Federal Bureau of Prisons to be incredible; this Court also finds Applicant’s testimony that counsel apparently promised him that he would receive a ten year sentence if he pled guilty to be dubious and self-serving. In contrast, this Court finds counsel’s testimony that Applicant made the certain decision to plead after viewing the State’s disturbing photographic evidence to be credible and convincing. Alternatively, Applicant signed a sentencing sheet prior to the plea that announced the structure of his plea in certain plain terms. See James v. State, 377 S.C. 81, 85, 659 S.E.2d 148, 150 (2008) (“The plea sheet is instructive because it contains a written manifestation of Respondent’s desire to plead guilty and was executed by Respondent immediately prior to the plea hearing”). Therefore, this allegation is readily denied and dismissed with prejudice.

C.

This Court finds Applicant’s allegation “(e) Ineffective Assistance of Counsel, failure to object to the State’s recitation of the facts of Applicant’s guilt and submission of the State’s evidence at the plea hearing” to be wholly without merit.<sup>1</sup> This Court finds counsel’s testimony that he had no reasonable basis to object to the State’s presentation of the factual basis of the plea to be credible. Importantly, Applicant has provided this Court with no compelling, let alone credible, justification to allow Applicant to depart from the presumption of truthfulness in his

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<sup>1</sup>This Court notes Applicant erroneously confused a general failure to object to inadmissible evidence, as at issue here, failure to object to a solicitor’s purportedly unfounded representations with the commonly misunderstood and incorrectly pled PCR allegation of prosecutorial misconduct. See State v. T.J.M., \_\_\_ A.3d \_\_\_, 2015 WL 144929, \*8 (2015); the Court recognizes the New Jersey Attorney General’s request that the courts not use the term “prosecutorial misconduct” unless there is a violation of the Rules of Professional Conduct.

statements and assurances to the Plea Judge. See Crawford v. United States, 519 F.2d 347 (4th Cir.1975) (Statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements). This Court notes Applicant's testimony that he remained silent at the plea hearing because he expected to get a more favorable sentence to be entirely inadequate here but otherwise telling to show the general global lack of credibility in Applicant's PCR action. See Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 371 (1997) (Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made). Therefore, this allegation is readily denied and dismissed.

**D.**

This Court finds Applicant fell well short of meeting his burden to prove the allegation "(f) Ineffective assistance of counsel, failure to present an adequate mitigation case at the plea hearing." "Generally, what motion to make is within the exclusive province of counsel." Leavitt v. Arave, 646 F.3d 605,611 (9th Cir. 2011). "Counsel is not required to file a reconsideration motion to rehash a position once rejected." U.S. v. Tajeddini, 945 F.2d 458, 463 (1st Cir. 1991). This Court finds counsel's course of action here was well within the realm of valid trial strategy. Furthermore, this Court finds Applicant is all but per se precluded from making a sufficient showing of prejudice under Strickland's second prong here in light of Applicant's status as a repeat pedophile in conjunction with the unspeakable torture manifested upon the child victim from his acts of predatory perversion.



**E.**

This Court summarily dismisses Applicant's allegation "(g) ineffective assistance of counsel, failure to continue the representation where counsel had a conflict of interest that resulted from his loyalty to the solicitor's office." "To establish a violation of the Sixth Amendment right to effective counsel due to a conflict of interest arising from multiple representation, a defendant who did not object at trial must show an actual conflict of interest adversely affected his attorney's performance." Thomas v. State, 346 S.C. 140, 143, 551 S.E.2d 254, 256 (2001). "An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant's." Staggs v. State, 372 S.C. 549, 551, 643 S.E.2d 690, 692 (2007). "To be valid, a waiver of a conflict of interest must not only be voluntary, it must be done knowingly and intelligently." United States v. Swartz, 975 F.2d 1042, 1048-49 (4th Cir.1992). This Court finds counsel's testimony credible and Applicant's opinion on the matter to be irrelevant and unfounded. Therefore, this allegation is summarily denied and dismissed with prejudice.

**CONCLUSION**

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-

conviction relief. Rule 71.1(g), SCRCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 18<sup>th</sup> day of September, 2015.



EDGAR W. DICKSON  
Presiding Judge  
Eleventh Judicial Circuit

Orangeburg, South Carolina

SEP 23 4 11 PM  
CLERK OF COURT

FORM 4

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2011CP3200910

Alan Bruce Carruthers  
 #326809

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for:  Plaintiff  Defendant  
 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.  See Page 2 for additional information.
- 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 JUDGMENT 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 (List amount(s) below)

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.

9/28/2015

Circuit Court Judge

Judge Code

Date

**For Clerk of Court Office Use Only**

This judgment was entered on 29 Sept 2015, and a copy mailed first class or placed in the appropriate attorney's box on \_\_\_\_\_, to attorneys of record or to parties (when appearing pro se) as follows:

Catherine Townes Johnson  
625 Taylor St. 2Nd Floor Columbia, SC 29201

Patrick Schemeckpeper  
PO Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/mh

*sent by email/mh*  
Court Reporter

Beth A. Carrigg - Clerk of Court

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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