

William Gregg, #274507
BRCI Moultrie A-1084
4460 Broadliver Road
Columbia South Carolina, 29210

April 28 2016

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

RECEIVED

MAY 02 2016

S.C. SUPREME COURT

RE: Gregg v. State of South Carolina
Case No. 2015-CP-43-2446

Dear Mr. Shearouse:

On April 8, 2016 an order was filed in the above referenced case by The Honorable Brooks P. Goldsmith granting me an appeal of the dismissal of my application for post-conviction relief pursuant to Austin v. State 409 S.E.2d 395 (S.C. 1991). However, it appears that my appointed counsel, Timothy L. Griffith Esquire, has not yet filed the Notice of appeal with your office, and likely has not seen to the appointment of appellate counsel with SCID.

With that in mind, the lawyer representing me in this case prior to Griffith failed to

file a 59 (e). and he did not file the Notice of appeal or see to the appointment of appellate counsel. what's more, This Court would not accept my pro se Notice of appeal, and the remittal was returned to the Lowell Court.

Therefore, I am respectfully requesting any assistance you can offer to resolve this matter. Regarding the Attached order
with kindest regards,
I am

RECEIVED

MAY 02 2016

CC. The Honorable Brooks P. Goldsmith
Timothy Lee Griffith, Esquire
Daniel Gouley.

S.C. SUPREME COURT

Timothy Lee Griffith, Esquire
360 W. Westmark Blvd Second Floor
Sumter S.C. 29150

Office of Attorney General
State of South Carolina
Daniel Gouley Asst. Atty General
P.O. box 11549
Columbia S.C. 29211-1549

William Gregg
William Gregg #274507
BRCI Moultrie A. 1084
4460 Broadriver Road
Columbia S.C. 29210

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

RECORDED

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP4302446

William Gregg

2016 APR -8 AM 10:09

South Carolina State of

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

CERTIFIED TRUE COPY
OF ORIGINAL FILED

[Signature]
DEPUTY CLERK OF COURT

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Clerk of Court

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; Other: _____
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other: _____

RECEIVED

MAY 02 2016

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

S.C. SUPREME COURT

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: **See attached Order.**

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.**

Circuit Court Judge

2131
Judge Code

4/8/2016
Date

For Clerk of Court Office Use Only

This judgment was entered on _____, 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:

William #274507 Gregg Broad River Correctional Inst/MI-A
1084 4460 Broadriver Road Columbia, SC 29210
Timothy Lee Griffith 360 W. Wesmark Blvd Second Floor
Sumter, SC 29150

Douglas Gentry
~~Alan McCrory Wilson~~ PO Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

James C. Campbell

Court Reporter

James C. Campbell - 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.



RECORDED

2016 APR -7 PM 3:05

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

ALAN WILSON
ATTORNEY GENERAL

April 5, 2016

The Honorable James C. Campbell
Clerk of Court, Sumter County
Sumter County Judicial Center
215 N. Harvin Street
Sumter, SC 29150

Re: William Gregg, #274507 v. State of South Carolina
2015-CP-43-2446

Dear Mr. Campbell:

Enclosed please find the original **Order Granting an Appeal Pursuant to Austin v. State**, signed by the Honorable Brooks P. Goldsmith, in the above-captioned case for filing in your office. Please forward a **time stamped copy** back to our office for our files.

Sincerely,

Julie A. Coleman
Assistant Attorney General

JAC/cc
Enclosure(s)

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

RECORDED

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2016 APR -7) PM 3:00

William Gregg, #274507,

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

2015-CP-43-2446

Applicant,

v.

**ORDER GRANTING AN APPEAL
PURSUANT TO AUSTIN V. STATE¹**

State of South Carolina,
Respondent.

CERTIFIED TRUE COPY
OF ORIGINAL FILED
[Signature]
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

This matter comes before the Court by way of an application for post-conviction relief filed November 2, 2015. The Respondent made its Return on December 30, 2015, requesting an evidentiary hearing solely on the issue of whether Applicant was entitled to an appellate review of his first post-conviction relief action pursuant to Austin. An evidentiary hearing on the matter was convened on March 18, 2016, at the Sumter County Courthouse. Applicant was present at the hearing and represented by Timothy Griffith, Esquire. Assistant Attorney General Daniel Gourley of the South Carolina Office of the Attorney General represented the Respondent.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. Applicant was indicted at the October 2007 term of the Sumter County Grand Jury for (1) Murder, (2) Possession of a Firearm During Crime of Violence, and (3) Possession with Intent to Distribute Heroin (2007-GS-43-0796). Christopher Hart, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable R. Ferrell Cothran, Jr., on July 28-30, 2008. Applicant was found guilty of

¹ Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

Murder and Possession of a Firearm During Crime of Violence.² Applicant was sentenced to thirty-five (35) years imprisonment for Murder and a concurrent term of five (5) years imprisonment for Possession of a Firearm During Crime of Violence. Applicant did not appeal his conviction and sentence.

Applicant subsequently filed for post-conviction relief on October 27, 2008 (2008-CP-43-2479). In his application, Applicant asserted claims of ineffective assistance of counsel, due process violation, and prosecutorial misconduct. An evidentiary hearing was convened on December 17, 2014, at the Sumter County Courthouse before the Honorable J. Cordell Maddox, Jr. Applicant was present at the hearing and was represented by John S. Keffer, Esquire. By written Order filed May 16, 2015, Judge Maddox denied and dismissed Applicant's post-conviction relief action.

Applicant submitted a *pro-se* notice of appeal to the South Carolina Supreme Court on August 21, 2015. The South Carolina Supreme Court dismissed the appeal due to Applicant's failure to establish that it had been timely served under Rule 243(b) and 203(b). The Remittitur was issued October 16, 2015.

ALLEGATIONS

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:³

1. Ineffective Assistance of PCR Counsel
 - a. Failure to file an appeal from the denial of his first PCR application.

² As a result of a pre-trial motion by the defense, the charge of Possession with Intent to Distribute Heroin was not tried during this trial.



FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant alleges that he was denied the right to appeal the dismissal of his previous post-conviction relief application. Pursuant to Austin, a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of his prior application. Prior to the start of the evidentiary hearing, the State indicated to this Court that they would be consenting to the grant of an Austin appeal. The State explained that they were consenting based off of their discussion with prior PCR Counsel, a review of the various documents filed by Applicant to the South Carolina Supreme Court, and discussion with Applicant's current PCR Counsel.

After review of the facts and circumstances surrounding the waiver of the Applicant's right to appeal the denial of his post-conviction relief application, this Court finds that the Applicant is entitled to appeal the denial of his first post-conviction relief application (2008-CP-43-2479) pursuant to Austin v. State. This Court finds that Applicant did not voluntarily waive his right to appeal the post-conviction relief court's denial and dismissal of his prior post-conviction relief action.

[Signature to follow]

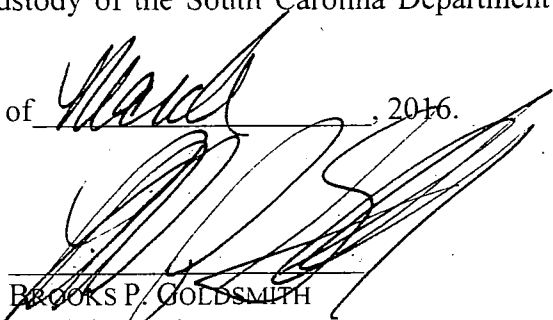
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Based upon the foregoing, this Court finds that the granting of an appeal of the Applicant's first post-conviction relief action (2008-CP-43-2479) pursuant to Austin v. State is warranted.

IT IS THEREFORE ORDERED:

1. That the Applicant be granted an appeal of case 2008-CP-43-2479 pursuant to Austin v. State; and
2. That the Applicant remain in the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 30 day of March, 2016.



BROOKS P. GOLDSMITH
Presiding Judge
Third Judicial Circuit

_____, South Carolina.

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SUMTER)

RECORDED

THIRD JUDICIAL CIRCUIT

2016 APR -7 PM CASE NO.: 2015-CP-43-2446

WILLIAM GREGG, #274507)

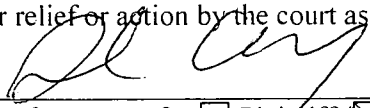
JAMES C. CAMPBELL
Plaintiff
SUMTER COUNTY, S.C.

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

vs.)

STATE OF SOUTH CAROLINA)

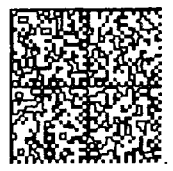
Defendant.)

Plaintiff's Attorney: Timothy Lee Griffith, Bar No. _____ Address: 360 W Wesmark Blvd, Second Floor Sumter, South Carolina 29150 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Daniel Gourley, Bar No. _____ Address: PO Box 11549 Columbia, SC 29211 Phone: _____ Fax _____ E-mail: _____ Other: _____
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES / <input checked="" type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	March 25, 2016 Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: \$ _____ <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

William ~~Malloy~~ # 214507
BRI Mailbox A-1084
4460 Broadview Road
Columbia SC 29210

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



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