

TERRANCE GRIFFIN #327735
LEE C.I.
990 WBACKY HWY.
BISHOPVILLE, SC 29010
APRIL 27, 2016

RECEIVED

MAY 04 2016

THE SUPREME COURT OF S.C.
DANIEL E. CHEAROUSE,
CLERK OF COURT
P.O. BOX 11330
COLUMBIA, SC 29211

S.C. SUPREME COURT

RE: APPELLATE CASE NO. 2016-000776
TERRANCE GRIFFIN V. STATE

DEAR SIR/MADAM:

PLEASE FIND ENCLOSED THE APPELLATE'S ABOVE WRITTEN EXPLANATION AS TO WHY THE LOWER COURT'S DETERMINATION WAS IMPROPER, WRITTEN ARGUMENT & CITATION, AND APPELLATE'S COPY OF THE PROCEDURAL HISTORY, OPPOSING RESPONDENT'S CONDITIONAL ORDER OF DISMISSAL STATING "THE APPLICANT DID NOT APPEAL HIS CONVICTION(S) OR SENTENCE." UPON FILING WITHIN THIS OFFICE & COURT APPELLATE REQUEST A CLOCK-STAMPED COPY OF HIS TYPE ARGUMENT.

SINCERELY,
TERRANCE GRIFFIN
TERRANCE GRIFFIN

CC: JAMES RUTLEDGE JOHNSON,
ASSISTANT DEPUTY ATTORNEY GENERAL

RECEIVED

MAY 04 2016

ISSUE NUMBER ONE

WAS THE LOWER COURT'S DECISION TO DISMISS PETITIONER'S APPLICATION, DUE TO THE EXPIRATION OF THE STATUTE OF LIMITATIONS IMPROPER

S.C. SUPREME COURT

Petitioner accerts that the lower court's decision to summary dismiss his post conviction application, due to the expiration of the statute of limitations was improper, in that the statute of limitations does not apply to petitioner's case. The record of the lower court show that the grounds for relief raised in petitioner's application, filed 1-10-14 were never presented, nor heard by the lower court. The errors raised in petitioner's application were due to the deficient performance of state appointed counsel, and had counsel provided petitioner with adequate and effective assistance petitioner's grounds for relief could have been heard.

Petitioner would not have been deprived of his Due Process right to fundamental fairness, and petitioner could have possibly received the requested relief. However, due to State Appointed Counsel's failure to preserve petitioner's grounds for relief in prior proceedings, petitioner has yet to have his issues heard. Through due diligence, as of January, 2013, petitioner discovered the prosecutor reneged on the terms of the plea agreement, which gave petitioner one (1) year from the date of actual discovery to file for P.C.R.. Petitioner was in compliance with the standards set forth by the South Carolina Courts in the case of COATS -vs- STATE, 575 S.E.2d 557 (S.C.2003), TILLEY -vs- STATE, 334 S.C. 24, 511 S.E.2d 689 (1999), ODOM -vs- STATE, 523 S.E.2d 758 (S.C.1999), WILSON -vs- STATE, 348 S.C. 215, 559 S.E.2d 581 (2002) and S.C. Code Ann. §17-27-45(c) of the P.C.R. Act.

ISSUE NUMBER TWO

WAS THE LOWER COURT'S DECISION TO DISMISS PETITIONER'S APPLICATION DUE TO THE INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL, IMPROPER.

During guilt phase petitioner, while being represented by William T. Smith, Esq., (state appointed counsel) entered a non-negotiated, nor recommended plea agreement with the state. SEE: EXHIBIT A.1&2. However, once the plea agreement was entered during the closing arguments the prosecutor (Jennifer K. Sheely) reneged on the terms of the agreement, by recommending petitioner receive the maximum sentence. SEE: EXHIBIT B. Mr. Smith, Failed to object to the prosecutor's recommendation, which prejudiced the petitioner's case, and violated petitioner's 6th and 14th amendment rights to effective assistance of counsel and due process of law.

In the case of STATE -vs- GATES, 299 S.C. 92, 382 S.E.2d 886 (1989) "South Carolina case law clearly recognizes that a defendant has a right to enforce a plea agreement.

The U.S. Supreme Court has held that when prosecution breaches a promise with respect to executed plea agreement, defendant pleads guilty on false promise and hence his conviction cannot stand. SANTOBELLO -vs- N.Y., 92 S.Ct. 495 (1971).

In SMITH -vs- STATE, 407 S.C. 270, 754 S.E.2d 900 (S.C.APP.2014) the S.C. Court of Appeals held that plea counsel's failure to object to solicitor's recommendation at sentencing for maximum sentence in violation of plea agreement that it would not make no recommendation regarding sentence, was deficient performance of counsel. JORDAN -vs- STATE, 297 S.C. 52, 374 S.E.2d 683; THOMPSON -vs- STATE, 340 S.C. 112 (2000).

~~Petitioner contends that plea counsel's deficient performance during guilt stage has prejudiced petitioner's case and violated petitioner's 6th and 14th amendment rights to effective assistance of counsel and due process of law. This~~

issue was overlooked by the lower court and the record clearly supports evidence of probative value which would entitle petitioner to relief and render an improper decision by the lower court.

Trial (plea) counsel's deficient performance deprived petitioner of a fair trial.

~~Terrance Griffin~~
TERRANCE GRIFFIN

APPELLATE CASE NO. 2016-000776
 APPLICANT'S EXHIBIT A. 1
 APRIL 27, 2016

STATE OF SOUTH CAROLINA)
 COUNTY OF Charleston)
 STATE VS.)
TERRANCE GRIFFIN)
 AKA:)
 Race: B Sex: Age: 21)
 DOB: 02-02-1987 SS#:)
 Address: HANOVER ST.)
CHARLESTON, SC 294030000)
 DL#: SID#:)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 2008GS1001102
 A/W#: K147555
 Date of Offense: 11/21/2006
 S.C. Code § : 16-03-0010.0020
 CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Voluntary Manslaughter

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (Defendant initial)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Shelby Jennifer Krieger Defendant W. Ted Smith Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. Since Dec 21, 2006
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

Recipient: _____
 *Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %)	\$	_____
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ _____
§ 56-5-2995 (DUI Assessment)	\$12	\$ _____
§ 35.13 (Public Def/Prob)	\$500	\$ _____
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ _____
§ 50-21-114(BUI Breath Test Fee)	\$50	\$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	\$	\$ <u>3.75</u>
TOTAL	\$	\$ <u>128.75</u>

Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____
 Appointed PD or appointed other counsel §35.13 TP Requires \$500 be paid to Clerk during probation.

Don Wilk
 Clerk of Court/ Deputy Clerk
 Court Reporter: Tina Behles

PRESIDING JUDGE: W. Ted Smith
 Judge Code: 2701/1670
 Sentence Date: 4/14/08
 SCCA/217 (10/2007)

1 understand any of my questions, I want you to stop me
2 and ask your lawyer questions if you need to or talk
3 to them.

4 So if you answer my questions, I'm going to assume
5 that you fully understood the questions and, further,
6 that your responses are truthful.

7 Is that agreeable, Mr. Terrance Griffin?

8 DEFENDANT T. GRIFFIN: Yes, sir.

9 THE COURT: Is that agreeable with you, Mr. Javerus
10 Griffin?

11 DEFENDANT J. GRIFFIN: Yes, sir.

12 THE COURT: Solicitor, other than permitting the
13 plea to voluntary manslaughter, a lesser included of-
14 fense, are there any other recommendations or any other
15 agreements?

*16 SOLICITOR: No, Your Honor.

17 THE COURT: Is that your understanding, Mr.
18 Terrance Griffin?

19 DEFENDANT T. GRIFFIN: Yes.

20 THE COURT: Is that your understanding, Mr.
21 Javerus Griffin?

22 DEFENDANT J. GRIFFIN: Yes, sir.

23 THE COURT: Are each of you satisfied fully with
24 your lawyer? Do you have any complaints at all about
25 the way he's handled your case, or anything you want

APPLICANT'S EXHIBIT ~~CONFIDENTIAL~~ TCEI. 29

000776

1 of a man on the floor or on his knees begging for
 2 assistance and in some way getting from inside the house
 3 on his knees to the outside to be left to die on a cold,
 4 rainy day. And with the victim -- with the Defendants
 5 locking him out of the closest place for shelter by dead
 6 bolting that back lock and hiding the shoes that he had
 7 on and the hat and moving the bike so no one would be
 8 able to detect that he had been there earlier.

9 Your honor, I believe the mother would like to speak
 10 to you, address you briefly.

11 THE COURT: Okay.

12 MS. SHEALY: And obviously, when coming to this
 13 resolution, I indicated to the defense attorneys that I
 14 thought that -- that concession made on the State's part
 15 was the actual pleading to the voluntary and that we
 16 would be asking for 30 years. I have a letter, which I
 17 have provided a copy of to the defense attorneys from Mr.
 18 Matthews' daughter. She lives in San Antonio, Texas. If
 19 I may hand that up, your honor.

20 THE COURT: Certainly.

21 MS. SHEALY: She and her sister both live in Texas
 22 and were unable to come today, your honor. But he was 52
 23 years old when he died, two days away from turning 53.
 24 He had done two years in college. On Friday when this
 25 was originally scheduled, his current employer Tom Delito

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM CHARLESTON COUNTY

Honorable Roger M. Young, Jr, Circuit Court Judge

TERRANCE GRIFFIN,

APPELLANT,

- - VS - -

THE STATE OF SOUTH CAROLINA,

RESPONDENT.

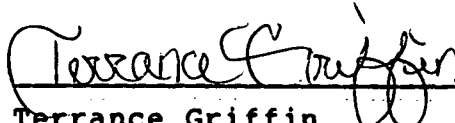
APPELLANT CASE NO: 2016-000776

CERTIFICATE OF SERVICE

The appellant in the above action, do hereby declare under the penalty of perjury, that on this date, he has served a copy of APPELLANT'S RESPONSE to the lower court's FINAL ORDER, by placing a copy of same in the Institutional Mailroom Supervisor's hands, for depositing in the U.S. Mail, with first class postage affixed, and addressed as indicated below:

DATE: APRIL 27, 2016

OFFICE OF THE ATTORNEY GENERAL
State of South Carolina
P.O. Box 11549
Columbia, SC. 29211


Terrance Griffin
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC. 29010

PROCEDURAL HISTORY APRIL 27, 2016
APPELLATE CASE NO. 2016-000770

Berkeley County
219 N. Hwy. 52, Suite E
P.O. Box 1687
Moncks Corner, SC 29461
(843) 899-2777
(843) 899-2701 Fax
Patricia A. Kennedy
Chief County Public Defender

Ninth Circuit Public Defender
Berkeley & Charleston Counties

D. Ashley Pennington, Circuit Defender
publicdefender@charlestoncounty.org
(843) 958-1850

Charleston County
O.T. Wallace Building
101 Meeting Street, 5th Floor
Charleston, SC 29401-2214
(843) 958-1850
(843) 958-1860 Fax
Lorelle D. Proctor
Chief County Public Defender

August 25, 2008

Mr. Kenneth Richstad
Clerk
The South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

FILE COPY

Dear Mr. Richstad:
Subject: Terrance Griffin Case #200893806

I am in receipt of your letter dated August 19, 2008. The notice of appeal filed on Mr. Griffin's behalf on June 10, 2008 outlined that the appeal was requested pursuant to *Weathers v. State*, 319 SC 59, 459 S.E. 2d 838 (1985) and *State v. Thrift*, Opinion No. 26481, May 12, 2008.

It is my opinion that there are no preserved legal issues; however, after consultation with my client and with his family, they requested that an appeal be filed. Pursuant to *Weathers* and *Thrift* I believe it is my obligation to file the appeal as requested.

I have forwarded a copy of this letter to Mr. Griffin so that he may respond with any grounds that he deems necessary for the appeal.

Respectfully,



W. Ted Smith
Assistant Public Defender

PROCEDURAL HISTORY APRIL 27, 2016

APPELLATE CASE NO. 2016-000776

Ninth Circuit Public Defender

Berkeley County
219 N. Hwy. 52, Suite E
P.O. Box 1687
Moncks Corner, SC 29461
(843) 899-2777
(843) 899-2701 Fax
Patricia A. Kennedy
Chief County Public Defender

Berkeley & Charleston Counties

D. Ashley Pennington, Circuit Defender
publicdefender@charlestoncounty.org
(843) 958-1850

Charleston County
O.T. Wallace Building
101 Meeting Street, 5th Floor
Charleston, SC 29401-2214
(843) 958-1850
(843) 958-1860 Fax
Lorelle D. Proctor
Chief County Public Defender

August 25, 2008

Mr. Terrance Griffin
#00327735
Lee Correctional Institute
990 Wisacky Highway
Bishopville, SC 29010

FILE COPY

Dear Mr. Griffin:
Subject: Terrance Griffin Case #200893806

I received a letter from the Court of Appeals regarding your appeal. They asked for an explanation of the grounds for appeal. I sent the enclosed letter explaining that while I did not believe that there were legal issues preserved for appeal that I did file the appeal based on my conversations with you and your family.

If you or your family have any grounds which you feel are necessary for your appeal then you need to forward them to the below address immediately. Please reference your appeal's case number noted above in your letter.

Mr. Kenneth Richstad
Clerk
The South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

This issue is extremely time sensitive so please respond directly to the Court of Appeals.

Respectfully,



W. Ted Smith
Assistant Public Defender

PROCEDURAL HISTORY APRIL 27, 2016
APPELLATE CASE NO. 2016-000776
APPLICANT'S EXHIBIT D CASE NO. 2014-CP-10-0161
JUNE 7, 2015
The South Carolina Court of Appeals

The State,

Respondent,

v.

Terrance Griffin,

Appellant.

The Honorable R. Markley Dennis, Jr.
Charleston County
Trial Court Case No. 2008-GS-10-01102

REMITTITUR

No Petition for Reinstatement having been filed in the above matter since issuance of this Court's Order dated October 20, 2008,

IT IS SO ORDERED that the above appeal be and hereby is remitted to the Clerk of Court for Charleston County.

V. Claire Allen, Deputy, Clerk

Columbia, South Carolina

11/6/2008

Original to: The Honorable Julie Armstrong

cc: Chief Appellate Defender Joseph L. Savitz, III
Terrance Griffin # 327735
William Ted Smith, Jr., Esquire
Assistant Deputy Attorney General Salley W. Elliott
The Honorable R. Markley Dennis, Jr.

22
SOL
GS

PROCEDURAL HISTORY APRIL 27, 2014
APPELLATE CASE NO. 2010-000776
COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA

County of Charleston Berkeley

TERRANCE GRIFFIN

Applicant / Petitioner

vs.

State of South Carolina,

Respondent.

Case No. 2009 - CP - 10-3480

FILED
JULIE J. ARMSTRONG
CLERK OF COURT
FEB 11 PM 4:05
BY ORDER

This post-conviction relief case came before the court for a hearing. Having now heard this matter, the court orders as indicated herein

1. The application for post-conviction relief is hereby: denied granted under advisement; A formal order will be filed (see below - No.6)

2. Motion(s) was/were heard in this case and the court orders: The motion to dismiss and/or for summary judgment is hereby granted denied under advisement, based upon the statute of limitations and/or the successive nature of the application or other reason as follows:

3. A conditional order of dismissal was previously filed in this case. Upon review of the matter, the court finds:

 Good cause as to why the case should not be dismissed has been shown in response to the order of dismissal; therefore, a hearing on the merits of the application shall be scheduled.

 The court has considered the response to the conditional order of dismissal and finds that good cause has not been shown or no response has been filed to the conditional order of dismissal; Therefore, the application is hereby dismissed.

4. The application was freely, voluntarily, and intelligently withdrawn as indicated on the record; Therefore, this case is dismissed with prejudice without prejudice.

5. Other:

6. The court further orders:

 The Attorney General Applicant's counsel is directed to submit to the court a proposed order and to serve the order on opposing counsel within days.

 Both sides are directed to submit proposed orders to the court and to serve the orders on each other within days.

 The court does not request proposed orders.

IT IS SO ORDERED.

Date: 2/11/10
Charleston, S.C.

Court Reporter: Amanda K. Haffenden

Attorney for Plaintiff: Mark A. Peper

Attorney for Defendant: Matthew J. Friedman

[Signature]
Presiding Judge

2134
Code

MARK A. PEPPER, ESQ.
MARK@PEPPERLAWFIRM.COM



THE PEPPER LAW FIRM, PA
1637 SAVANNAH HWY., STE. 202
CHARLESTON, SC 29407
843.225.2520 (O)
843.225.2554 (F)

January 8, 2013

VIA LEGAL MAIL

WWW.PEPPERLAWFIRM.COM

Terrance Griffin (Inmate # 327735)
Lieber Correctional Institute
Ashley A-31
Post Office Box 205
Ridgeville, SC 29472

Re: State of South Carolina v. Terrance Griffin

Dear Terrance:

I hope this correspondence finds you doing well. I appreciate your correspondence and am hope that you are having a great New Year so far as well. I understand that you would like another copy of your Plea Agreement transcript and I am enclosing it with this letter. However, as I have sent this on at least two prior occasions, this is the last copy that I will be able to justify mailing to you. In addition, per my letter to you dated October 20th, 2011, I have sent you a copy of your entire file with all documentation that our office has regarding your original trial (along with Ted Smith's file which was forwarded to our office), your Motion to Reconsider and your PCR. I hope you understand that I would not withhold any documents pertaining to your case and I simply am out of paperwork to mail to you.

Per your request for your PCR transcript, our office is not provided with a copy of this transcript. However, I have attached instructions on how to request this transcript pursuant to Rule 607 and highlighted the relevant areas. Please be advised that there are fees associated with requesting this transcript. For your convenience, I have included the name and address of the Court Reporter with whom you will need to make this request to:

Amanda K. Haffenden
Post Office Box 424
Summerville, SC 29484

I wish you the best of luck and hope to hear good news from you in the future. As always, please do not hesitate to contact me with any other questions or concerns.

With best regards, I am

Sincerely,

Elizabeth R. Lawrence
Paralegal to Mark A. Peper

Enclosures as stated.

TERRANCE GRIFFIN #3257735
LEC CT. F2-1242
99D WEAVER HWY.
BISHOPVILLE, SC 29010

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL E. SHEAROUSE,
CLERK OF COURT
P.O. BOX 113300
COLUMBIA, SC 29211

LEGAL MAIL ONLY