





ALAN WILSON  
ATTORNEY GENERAL

April 18, 2012

RECEIVED

APR 18 2012

S.C. Supreme Court

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

Re: Clarence Robinson, #335542 v. State of South Carolina  
2010-CP-10-1101

(3)

Dear Mr. Shearouse:

The Brief of Respondent in the above appeal is due to be served and filed today. I would respectfully request a 30-day extension in which to serve and file this.

This extension request is not intended for the purpose of delay, but is necessitated by my heavy workload.

Sincerely,

Julie K. Keeney  
Assistant Attorney General

In compliance with:

*In Re: Extensions in Criminal and Post-Conviction Relief Cases*, (S.C. Sup. Ct. order dated March 18, 2009) (Davis Adv. Sh. No. 13 at 1).

SALLEY W. ELLIOTT

Senior Assistant  
Deputy Attorney General

LaNelle C. Durant, Esquire

Attorney for Respondent





ALAN WILSON  
ATTORNEY GENERAL

March 19, 2012

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MAR 19 2012

S.C. Supreme Court

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

**Re: Clarence Robinson, #335522 v. State of South Carolina**  
**2010-CP-10-1101**

(2)

Dear Mr. Shearouse:

The Return to the Petition for a Writ of Certiorari in the above appeal is due to be served and filed today. I would respectfully request a 30-day extension in which to serve and file this Return.

This extension request is not intended for the purpose of delay, but is necessitated by my heavy workload.

Sincerely,

Matthew J. Friedman  
Assistant Attorney General

MJF/arh

cc: LaNelle Durant, Esquire



ALAN WILSON  
ATTORNEY GENERAL

March 19, 2012

RECEIVED

MAR 19 2012

S.C. Supreme Court

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

**Re: Clarence Robinson, #335542 v. State of South Carolina**  
**2010-CP-10-1101**

Dear Mr. Shearouse:

The Brief of Respondent in the above appeal is due to be served and filed today. I would respectfully request a 30-day extension in which to serve and file this.

This extension request is not intended for the purpose of delay, but is necessitated by my heavy workload.

Sincerely,

Matthew J. Friedman  
Assistant Attorney General

MJF/arh

cc: LaNelle C. Durant, Esquire





ALAN WILSON  
ATTORNEY GENERAL

February 17, 2012

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

RECEIVED

FEB 22 2012

S.C. Supreme Court

**Re: Clarence Robinson, #335522 v. State of South Carolina**  
**2010-CP-10-1101**

Dear Mr. Shearouse:

The Return to the Petition for a Writ of Certiorari in the above appeal is due to be served and filed today. I would respectfully request a 30-day extension in which to serve and file this Return.

This extension request is not intended for the purpose of delay, but is necessitated by my heavy workload.

Sincerely,

Matthew J. Friedman  
Assistant Attorney General

MJF/arh

cc: LaNelle Durant, Esquire



ALAN WILSON  
ATTORNEY GENERAL

February 17, 2012

RECEIVED

FEB 22 2012

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

S.C. Supreme Court

**Re: Clarence Robinson, #335542 v. State of South Carolina**  
**2010-CP-10-1101**

Dear Mr. Shearouse:

The Brief of Respondent in the above appeal is due to be served and filed today. I would respectfully request a 30-day extension in which to serve and file this.

This extension request is not intended for the purpose of delay, but is necessitated by my heavy workload.

Sincerely,

Matthew J. Friedman  
Assistant Attorney General

MJF/arh

cc: LaNelle C. Durant, Esquire



ORIGINAL

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

\_\_\_\_\_  
Appeal from Charleston County  
Kristi Lea Harrington, Circuit Court Judge  
\_\_\_\_\_

RECEIVED

DEC - 2 2011

S.C. Supreme Court

CLARENCE ROBINSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

\_\_\_\_\_  
MOTION FOR AN EXTENSION OF TIME  
IN WHICH TO FILE THE PETITION FOR  
WRIT OF CERTIORARI AND APPENDIX  
\_\_\_\_\_

(3)

Counsel for Clarence Robinson respectfully requests a **final extension of thirty (30) days until January 2, 2011** in which to file the petition for writ of certiorari and appendix in this case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a third request for an extension. In support of this request, counsel shows:

- (1) The petition for writ of certiorari and appendix are due to be served and filed today, December 2, 2011.
- (2) Counsel for Mr. Robinson respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to

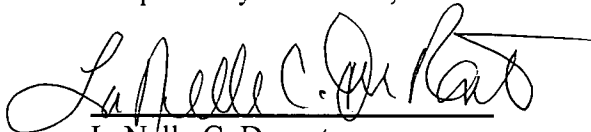
manage her caseload, counsel hopes that no further extension requests will be required.

- (3) On November 30, 2011, counsel filed a motion for reconstruction of the record in the case of Willie Richardson v. State. On November 28, 2011, counsel filed the initial brief of appellant and designation of matter in the case of State v. Timothy Lemacks. On November 23, 2011, counsel filed the petition for writ of certiorari to the Court of Appeals and appendix in the case of State v. Lloyd Wright. On November 21, 2011, counsel filed the initial brief of appellant and designation of matter in the case of State v. Andrew Harrelson. On November 18, 2011, counsel filed the petition for writ of certiorari and appendix in the case of Bryant James v. State. On November 16, 2011, counsel had an oral argument in the case of The State v. Reginald Latimore in the Supreme Court. On November 10, 2011, counsel filed a motion to remand for ruling on 59(e) motion in the case of Jerry Galbreath v. State. On November 2, 2011, counsel had an oral argument in the case of State v. Tarus Henry in this Court and filed the initial brief of appellant and designation of matter in the case of State v. Marcus Evans. On October 31, 2011, counsel filed the petition for writ of certiorari and appendix in the case of Lyndraos Green v. State and had an oral argument in the case of In the Matter of the Care and Treatment of Gilbert Gonzalez in this Court. On October 24, 2011, counsel filed the petition for writ of certiorari to the Court of Appeals and the appendix in the case of State v. Brian Garris and the petition for writ of certiorari and appendix in the case Antonio Bradley v. The State.

- (4) Counsel has not had time to complete the Petition for Writ of Certiorari and appendix in this case. As a result, counsel respectfully asks this Court for an additional 30 day extension of time to file the petition. Counsel understands that the Court has granted one previous extensions in this case. Counsel is striving to limit the number of extensions requested.
- (5) Counsel makes this request in good faith and not for purpose of delay.
- (6) Counsel for the Attorney General's office consents to this request as shown by signature below.

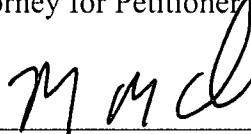
WHEREFORE, the undersigned counsel would respectfully request **a final thirty day extension until January 2, 2011**, in which to file the petition for writ of certiorari and appendix in this case based upon the above exigent circumstances.

Respectfully submitted,



LaNelle C. Durant  
Appellate Defender


Attorney for Petitioner



Robert M. Dudek  
Chief Appellate Defender

This 2<sup>nd</sup> day of December, 2011

I consent:

  
Matthew J. Friedman, Esquire

# The Supreme Court of South Carolina

Clarence Robinson, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable Kristi Lea Harrington  
Charleston County  
Trial Court Case No. 2010-CP-10-01101

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## ORDER

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For good cause shown, the request for an extension until December 2, 2011 to serve and file the Petition for Writ of Certiorari and Appendix is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause and must be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

November 3, 2011

cc: Appellate Defender LaNelle C. DuRant  
Assistant Attorney General Matthew J. Friedman

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Charleston County

Krisi Lea Harrington, Circuit Court Judge

---

RECEIVED

NOV 2 2011

S.C. Supreme Court

CLARENCE ROBINSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

---

MOTION FOR AN EXTENSION OF TIME  
IN WHICH TO FILE THE PETITION FOR  
WRIT OF CERTIORARI AND APPENDIX

---

(2)

Counsel for Clarence Robinson respectfully requests an extension of thirty (30) days in which to file the petition for writ of certiorari and appendix in this case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a second request for an extension. In support of this request, counsel shows:

- (1) The petition for writ of certiorari and appendix are due to be served and filed today, November 2, 2011.
- (2) Counsel for Mr. Robinson respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to

manage her caseload, counsel hopes that no further extension requests will be required.

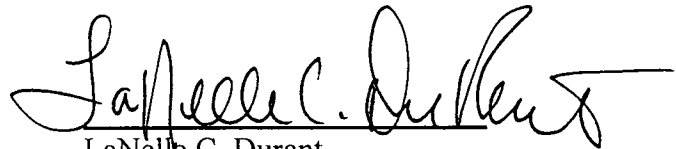
- (3) Counsel has an oral argument in the case of State v. Tarus Henry in the Court of Appeals and is preparing to file the initial brief of appellant and designation of matter in the case of State v. Marcus Evans today, November 2, 2011. On October 31, 2011, counsel filed the petition for writ of certiorari and appendix in the case of Lyndraos Green v. State and had an oral argument in the case of In the Matter of the Care and Treatment of Gilbert Gonzalez in the Court of Appeals. On October 24, 2011, counsel filed the petition for writ of certiorari to the Court of Appeals and the appendix in the case of State v. Brian Garris and the petition for writ of certiorari and appendix in the case Antonio Bradley v. The State in the Supreme Court. On October 19, 2011, counsel had an oral argument in the case of State v. Phillip Miller in this Court. On October 18, 2011, counsel had an oral argument in the case of State v. Marcus Hyman in the Supreme Court. On October 13, 2011, counsel filed the motion for certification, consolidate his case co-defendant, and incorporate the *Amicus Curiae Brief* in the case of State v. Bryan Phillips in the Supreme Court. On October 10, 2011, counsel filed the petition for writ of certiorari and appendix in the case Stacy Howard v. State and the brief of petitioner in the case of In the Matter of the Care and Treatment of Bobby Manigo in the Supreme Court. On September 26 – 28, 2011, counsel attended the South Carolina Public Defenders Association Conference in Myrtle Beach, SC.
- (4) Counsel has not had time to complete the Petition for Writ of Certiorari and appendix in this case. As a result, counsel respectfully asks this Court for an

additional 30 day extension of time to file the petition. Counsel understands that the Court has granted one previous extensions in this case. Counsel is striving to limit the number of extensions requested.

- (5) Counsel makes this request in good faith and not for purpose of delay.
- (6) Counsel for the Attorney General's office has been informed of this request.

WHEREFORE, the undersigned counsel would respectfully request a thirty day extension in which to file the petition for writ of certiorari and appendix in this case based upon the above exigent circumstances.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "LaNelle C. Durant", with a long horizontal flourish extending to the right.

LaNelle C. Durant  
Appellate Defender

Attorney for Petitioner

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Appeal from Charleston County  
Kristi Lea Harrington, Circuit Court Judge

---

CLARENCE ROBINSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

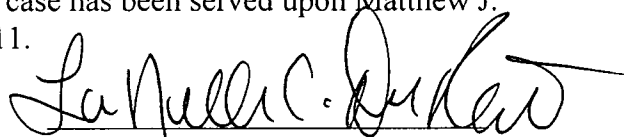
RESPONDENT

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CERTIFICATE OF SERVICE

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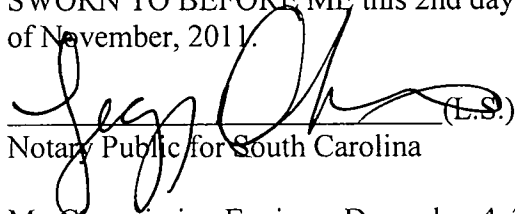
I certify that a true copy of the motion for an extension of time in which to file the petition for writ of certiorari in the above case has been served upon Matthew J. Friedman, this 2nd day of November, 2011.



LaNelle C. Durant  
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 2nd day  
of November, 2011.



(L.S.)  
Notary Public for South Carolina

My Commission Expires: December 4, 2017.





# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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

October 3, 2011

RECEIVED

OCT - 3 2011

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

S.C. Supreme Court

Re: Clarence Robinson v. The State

Dear Mr. Shearouse:

The petition for writ of certiorari and appendix in this case are due to be served and filed with the Court October 3, 2011. However, because of my heavy workload at this time, I am requesting an extension for 30 days, in which to serve and file the petition.

By copy of this letter, I am informing Matthew Friedman, of the Attorney General's Office, of my request.

Sincerely,

LaNelle C. Durant  
Appellate Defender

LCD/pds

cc: Matthew Friedman, Esquire



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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) 734-1343  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

August 8, 2011

RECEIVED

AUG - 8 2011

S.C. Supreme Court

The Honorable Daniel E. Shearouse  
Clerk, S.C. Supreme Court  
Post Office Box 11330  
Columbia, SC 29211

Dear Mr. Shearouse:

The following case falls under the 60 day rule for appeals, and the date we received the transcript is listed to the side.

Clarence Robinson v. State of South Carolina

8/4/2011

I would appreciate you beginning our time limits from the above date, and if you need additional information, or have any questions please contact me.

Thank you for your assistance in this matter.

Sincerely,

Sharon A. Graham  
Administrative Coordinator

BRENDA COOLEY  
CIRCUIT COURT REPORTER  
POST OFFICE BOX 24  
SULLIVAN'S ISLAND, SC 29482

RECEIVED

FEB 22 2011

February 12, 2011

S.C. Supreme Court

Ms. Sharon A. Graham  
Administrative Coordinator  
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

RE: Clarence Robinson v State of South Carolina  
Case No. 10-CP-10-01101  
Presiding Judge: The Hon. Kristi Lea Harrington

Dear Ms. Graham:

Thank you for your letter of February 1, 2011 requesting the transcript referenced above. By copy of this letter I am forwarding your letter to Desiree Allen, South Carolina Court Administration, 1015 Sumter Street, Suite 200, Columbia, South Carolina, 29201 for production of the transcript as I am retiring and have resigned my position as circuit court reporter.

With kindest regards, I am

Sincerely,

Brenda Cooley

cc: Desiree Allen w/enclosure

The Hon. Daniel E. Shearhouse ✓  
Clerk of Court  
South Carolina Supreme Court  
Supreme Court Building  
1231 Gervais Street  
Columbia, South Carolina 29201

Office of the Attorney General  
State of South Carolina  
Post Office Box 11549  
Columbia, South Carolina 29211-1549



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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

February 1, 2011

RECEIVED

FEB - 1 2011

S.C. Supreme Court

Ms. Brenda C. Cooley  
Circuit Court Reporter  
PO Box 24  
Sullivan's Island, SC 29482

Dear Ms. Cooley:

Our office has been requested to perfect the appeal arising out of:

Clarence Robinson v. State of South Carolina      Case #:      10-CP-10-01101

County: Charleston      Date of Trial: November 18, 2010

Presiding Judge: Kristi Lea Harrington

It is my understanding that you were the court reporter at this time. That being the case, I request that you send this office the original trial transcript along with your bill. If you send a copy to this office, please bill us accordingly. To ensure prompt payment of this bill, please prepare it on the enclosed CID FORM 3500 (Substitution for SCCA DI-4) and include the original criminal case number (Indictment number) where the space is provided.

We request that the lines on the paper be numbered from 1-25, and that you include in the transcript any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments. We have found that even if there are no objections, we need to review both opening and closing arguments for appeal.

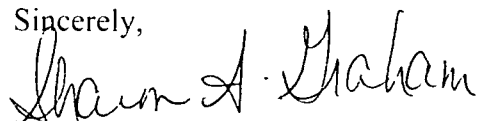
If you are aware of the existence of co-defendants not listed in the prior captioned case, please contact us prior to transcribing the transcript. In this manner, we can consult our records to ensure that in ordering a transcript, a duplication has not occurred. In addition, if the Attorney General's Office has already requested an original transcript, please notify us.

Ms. Brenda C. Cooley  
February 1, 2011  
Page Two

I am sorry for any inconvenience this may cause, but I appreciate your assistance in this matter. If you have any questions, or problems, please contact me.

Thank you for your kind cooperation in this matter.

Sincerely,

A handwritten signature in black ink that reads "Sharon A. Graham". The signature is written in a cursive style with a large initial 'S'.

Sharon A. Graham  
Administrative Coordinator

cc: S.C Supreme Court  
Attorney General's Office

# Nelson Mullins

**Nelson Mullins Riley & Scarborough LLP**  
Attorneys and Counselors at Law  
151 Meeting Street / Sixth Floor / Charleston, SC 29401-2239  
Tel: 843.853.5200 Fax: 843.722.8700  
www.nelsonmullins.com

Tiarna Harman  
Tel: 843.534.4252  
tiarna.harman@nelsonmullins.com

January 18, 2011

The Honorable Julie J. Armstrong  
Clerk of Court  
Charleston County Courthouse  
100 Broad Street, #106  
Charleston, SC 29401

RECEIVED

JAN 20 2011

RE: Clarence Robinson v. State of South Carolina  
Case No. 2010-CP-10-1101  
Our File No. 32668/01579

S.C. SUPREME COURT

Dear Ms. Armstrong:

Pursuant to SCACR 203(d), we enclose and provide to you a copy of the Notice of Appeal filed in the South Carolina Supreme Court on January 12, 2011 in the above referenced matter.

By copy of this letter to the Clerk of the Supreme Court, and to counsel of record, we are hereby providing them with a copy of this communication. Moreover, we are copying the Office of Appellate Defense, so that they may handle the appellate process as the scope of my appointment has concluded.

Very truly yours,



Tiarna Harman

TH:midley  
Enclosure

cc: (w/o enc)

The Honorable Daniel E. Shearouse  
Matthew J. Friedman, Esq.

Office of Appellate Defense:

Joseph L. Savitz, III, Senior Appellate Defender  
Marlana D. Belton, Administrative Specialist I

CC:  
AG  
AT  
GS  
SDL

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
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Clarence Robinson, #335542, )  
 )  
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Applicant, )  
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 )  
v. )  
 )  
State of South Carolina, )  
 )  
 )  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
2010-CP-10-1101 BY

**FILED**  
2010 DEC 23 AM 9:38  
JULIE J. ARMSTRONG  
CLERK OF COURT

**ORDER GRANTING WHITE V. STATE  
APPEAL AND DENYING ALL OTHER  
ALLEGATIONS**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed February 9, 2010. The Respondent made its Return on July 14, 2010. An evidentiary hearing into the matter was convened on November 18, 2010 at the Charleston County Courthouse. The Applicant was present at the hearing and was represented by Tiarna Harman, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

The Applicant and Stephen Harris, Esquire, testified at the PCR hearing. This Court had before it the records of the Charleston County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, the appellate records, the PCR application, and the Respondent's Return thereto.

**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Charleston County. The Applicant was indicted at the May 2008 term of the Charleston County Grand Jury for armed robbery (2008-GS-10-3832) and possession of a firearm during commission of a violent crime (2008-GS-

1085  
JLH

10-3845). Stephen Harris, Esquire, represented the Applicant. Applicant proceeded to trial on June 22-25, 2009, after which a jury found him guilty as indicted. The Honorable Deadra L. Jefferson sentenced the Applicant to confinement for twelve (12) years for armed robbery and five (5) years for possession of a firearm. The sentences were to run concurrently.

Trial counsel filed a Notice of Appeal on Applicant's behalf on July 7, 2009. By Order of Dismissal dated July 17, 2009, the Court of Appeals dismissed the appeal based on Applicant's failure to timely serve the notice of appeal on opposing counsel.

### ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel in that counsel filed a late appeal. Applicant is entitled to a belated appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).
2. At the PCR hearing, Applicant alleged ineffective assistance of counsel for letting the jury convict Applicant for a pistol that was not in his possession.

### 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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Trial counsel testified that he represented Applicant at trial. He testified that he discussed the right to appeal with Applicant and filed a Notice of Appeal. Counsel asserted that he did not believe the weekend counted as part of the maximum ten (10) days to file so he inadvertently filed the Notice of Appeal twelve (12) days after the conviction.

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KUH

### Ineffective Assistance of Counsel

Applicant alleges that he received ineffective 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, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The applicant must overcome this presumption in order to receive relief. Cherry, 386 S.E.2d 624.

Courts use a two-pronged test to evaluate 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.” Id. at 625 (citing Strickland, 466 U.S. 668). 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.” Id. at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

Regarding the Applicant’s claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney

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demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

Accordingly, this Court finds Applicant has failed to prove the first prong of Strickland, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by counsel's performance. Applicant's complaints concerning counsel's performance are without merit and are denied and dismissed.

#### **White v. State Appeal**

Counsel has indicated that Applicant asked him to file a direct appeal and he inadvertently failed to file a timely Notice of Appeal. The State agreed that the Applicant is entitled to a review of direct appeal issues as permitted by White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). In White v. State, our Supreme Court determined that, where the post-conviction relief judge finds the applicant did not freely and voluntarily waive his appellate rights, the applicant may petition the South Carolina Supreme Court for review of direct appeal issues. Based upon the agreement of the parties, this Court concludes the Applicant is entitled to a review of his convictions pursuant to White v. State. In order to secure this review, however, the Applicant must appeal from this Order.

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KLT

### All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

### CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, with the exception of the White v. State issue, this application for PCR must be denied and dismissed with prejudice.

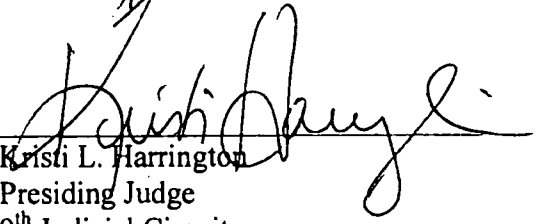
This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

586

**IT IS THEREFORE ORDERED:**

1. That the Applicant is granted review of direct appeal issues pursuant to White v. State;
2. That the other allegations in the application for post-conviction relief be denied and dismissed with prejudice; and
3. That the Applicant be remanded to the custody of the Respondent.

**AND IT IS SO ORDERED** this 15<sup>th</sup> day of December, 2010.

  
\_\_\_\_\_  
Kristi L. Harrington  
Presiding Judge  
9<sup>th</sup> Judicial Circuit

Marsh Canon South Carolina.

# Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

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Tiarna Harman

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January 11, 2011

RECEIVED

JAN 12 2011

S.C. SUPREME COURT

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

RE: Clarence Robinson v. State of South Carolina  
Case No. 2010-CP-10-1101  
Our File No. 32668/01579

Dear Mr. Shearouse:

Enclosed please find the original and one copy of the Notice of Appeal regarding to the above-referenced matter. We ask that you file the original and return a clocked-in copy to us in the envelope provided herewith.

By copy of this letter to the Clerk of Court for Charleston County and counsel of record, we are hereby serving them with a copy of this pleading.

With kind regards, I remain

Very truly yours,



Tiarna Harman

TH:mridley

Enclosures

cc: The Honorable Julie J. Armstrong  
Matthew J. Friedman, Esq.

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

RECEIVED

Kristi L. Harrington, Circuit Court Judge

JAN 12 2011

S.C. SUPREME COURT

Case No. 2010-CP-10-1101

State of South Carolina, ..... Respondent,

v.


Clarence Robinson, #335542, ..... Appellant.

NOTICE OF APPEAL

Pursuant to South Carolina Rule of Appellate Practice 203, Appellant Clarence Robinson ("Robinson") hereby gives Notice of Appeal to the Supreme Court of South Carolina from the Order of Judge Kristi Lea Harrington in the Charleston County Circuit Court of South Carolina, entered on December 15, 2010 and received by Robinson through mail on December 23, 2010, in the above-captioned case. See Order, attached as Exhibit A. As set forth more fully in the Order, Robinson is entitled to a direct appeal in the Supreme Court pursuant to *White v. State*, 263 S.C. 110, 108 S.E.2d 135 (1974). This appeal is timely because it is made within thirty days of the receipt of the Order.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: \_\_\_\_\_



Tiarna Harman  
SC Bar No. 76144  
E-Mail: tiarna.harman@nelsonmullins.com  
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(843) 853-5200

*Attorneys for Clarence Robinson*

Charleston, South Carolina

January 11, 2011

Other counsel of record:

Matthew J. Friedman, Esq.  
Assistant Attorney General  
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P. O. Box 11549  
Columbia, SC 29211-1549  
(803) 734-3970  
*Attorneys for State of South Carolina*

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Kristi L. Harrington, Circuit Court Judge

Case No. 2010-CP-10-1101

State of South Carolina, ..... Respondent,

v.

Clarence Robinson, #335542, ..... Appellant.

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S.C. SUPREME COURT

PROOF OF SERVICE

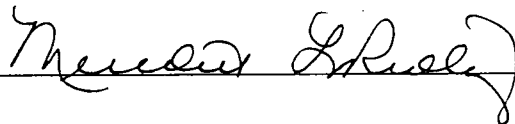
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Clarence Robinson, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

NOTICE OF APPEAL

Counsel Served:

Matthew J. Friedman, Esq.  
Assistant Attorney General  
Rembert C. Dennis Building  
P. O. Box 11549  
Columbia, SC 29211-1549



RECEIVED

JAN 12

S.C. SUPREME COURT

Meredith Ridley  
Administrative Assistant

January 11, 2011

**Nelson  
Mullins**

Nelson Mullins Riley & Scarborough LLP  
Attorneys and Counselors at Law  
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*Clarence  
Robinson*

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

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