

The Supreme Court of South Carolina

Darrell Efird,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable John C. Hayes, III
York County
Trial Court Case No. 2009-CP-46-03273

ORDER

For good cause shown, the request for an extension until May 2, 2012 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 *Suzanne J. Shealy*
Clerk

Columbia, South Carolina *Chief Deputy*

April 6, 2012

cc: Darrell Efird #322883
Division of Appellate Defense
Assistant Attorney General J. Rutledge Johnson

DARRELL EFIRD, #322883
PERRY C.I., Q3B-112
430 OATLAWN ROAD
PETZER, S.C. 29669

TO: THE HONORABLE CLERK OF COURT
FOR THE SUPREME COURT OF SOUTH CAROLINA
P.O. BOX 11330
COLUMBIA, S.C. 29211

RE: ENCLOSED: "MOTION FOR EXTENSION OF TIME"
CASE: EFIRD V. THE STATE
PETITION FOR WRIT OF CERTIORARI
PCR CASE: 2009-CP-46-03273

(2)

DEAR CLERK:

PLEASE FILE THE ENCLOSED "MOTION FOR EXTENSION OF TIME"
WITH THE COURT AND DOCKET THE MATTER FOR DISPOSITION.

I THANK YOU SINCERELY FOR YOUR TIME AND ASSISTANCE
IN THIS MATTER ON MY BEHALF.

VERY RESPECTFULLY REQUESTED,

Darrell Efird, #322883
DARRELL EFIRD, #322883
PETITIONER, PRO SE

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO YORK COUNTY .
THE HONORABLE JOHN C. HAYES, III., CIRCUIT COURT JUDGE

DARRELL EFIRD,

PETITIONER, PRO SE

V.

THE STATE OF SOUTH CAROLINA,

RESPONDENT.

MOTION FOR EXTENSION OF TIME

DARRELL EFIRD, # 322883

PERRY C.I., Q3B-112

430 OAKLAWN ROAD

PETZER, S.C. 29669

PETITIONER, PRO SE

The Petitioner, Darrell E. Fird, would show this Court that he has been hindered and denied access to the prison law library at the Perry Correctional Institute for reasons beyond his ability to manage or control.

Specifically, the Petitioner is only permitted access to the prison law library on one (1) day per week for a total of two (2) hours due to his mandatory work schedule as the Institution's canteen operator. The Petitioner has not been able to access the prison law library more than four (4) hours over the past thirty (30) days due to prison administrative actions in the form of; (a) random unit "disruption lock-downs," (b) punitive and security unit lock-downs in response to incidents within the unit where the Petitioner is housed, and (c) educational building closings due to personnel shortage or other non-disclosed security reasons.

Wherefore, the Petitioner declares his imperative need for more than four (4) hours access to the law library, that he has been permitted over the past thirty (30) days, in order to complete a meaningful Petition for Writ of Certiorary that is composed of numerous issues preserved by the PCR court's final order.

Therefore, the Petitioner, due to conditions of prison confinement that are beyond his control, that have hindered and interfered with his very meager ability to access the prison law library, moves this Honorable Court to Grant this Motion for Extension of Time.

The Petitioner believes that he can complete a meaningful Petition if this Motion is granted and as such there should be no further need for an Extension of Time beyond this last request.

This 30 day of March, 2012.

Darrell E. Fird #322883

DARRELL EFIRD, # 322883

PETITIONER, PRO SE

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO YORK COUNTY
THE HONORABLE JOHN C. HAYES, III., CIRCUIT COURT JUDGE

DARRELL EFIRD, # 322883

PETITIONER, PRO SE

V.

THE STATE OF SOUTH CAROLINA,

RESPONDENT.

PROOF OF SERVICE

I, DARRELL EFIRD, HERBY CERTIFY THAT I HAVE SERVED THE ATTACHED "MOTION FOR EXTENSION OF TIME" UPON THE RESPONDENT BY DEPOSITING A DUPLICATE OF SAME IN THE U.S. MAIL, POSTAGE PREPAID AND ADDRESSED AS FOLLOWS:

TO: MR. HARRISON D. BRANT, ESQUIRE
S.C. OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 11549
COLUMBIA, S.C. 29211-1549

THIS 30 DAY OF MARCH, 2012.

Darrell Efird, #322883
DARRELL EFIRD, # 322883
PETITIONER, PRO SE

DARRELL EFIRD, # 322883

PERRY C.I., Q3B-112

430 OAKLAND ROAD

Pelzer, S.C. 29669

RECEIVED

MAR 30 2012

P.C.I. MAILROOM

To:

THE HONORABLE CLERK, FOR THE
SUPREME COURT OF SOUTH CAROLINA
P.O. Box 11330
Columbia, S.C. 29211

The Supreme Court of South Carolina

Darrell Efird,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable John C. Hayes, III
York County
Trial Court Case No. 2009-CP-46-03273

ORDER

The request for an extension until April 2, 2012 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.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY *Arenda J. Shealy*
Clerk

Columbia, South Carolina *Chief Deputy*

March 2, 2012

cc: Darrell Efird #322883
Division of Appellate Defense
Assistant Attorney General Harrison Brant

RECEIVED

MAR 01 2012

S.C. SUPREME COURT

Darrell Efird, #322883

Perry C.I., 038-112

430 OAKLAWN ROAD

Pelzer, S.C. 29669

TO: THE HONORABLE CLERK FOR THE
SUPREME COURT OF SOUTH CAROLINA
P.O. Box 11330
Columbia, S.C. 29211

RECEIVED

MAR 01 2012

S.C. SUPREME COURT

Date: February 27, 2012

RE: ENCLOSED: MOTION FOR EXTENSION OF TIME AND PROOF OF
SERVICE FOR FILING - EFIRD, DARRELL V. THE STATE
CERTIORARI TO YORK COUNTY

DEAR CLERK:

PLEASE ACCEPT AND FILE THE ENCLOSED PRO SE MOTION FOR
EXTENSION OF TIME AND PROOF OF SERVICE ASSOCIATED THEREWITH.

PLEASE FILE AND DOCKET THIS MOTION IN MY BEHALF AND
KNOW THAT I AM SINCERELY GRATEFUL FOR YOUR TIME AND
ASSISTANCE.

VERY RESPECTFULLY,

Darrell Efird, # 322883

DARRELL EFIRD, # 322883

PETITIONER, PRO SE

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO YORK COUNTY

THE HONORABLE JOHN C. HAYES, III, CIRCUIT COURT JUDGE

DARRELL EFIRD,

PETITIONER, PRO SE

V.

THE STATE OF SOUTH CAROLINA,

RESPONDENT.

MOTION FOR EXTENSION OF TIME

RECEIVED

MAR 01 2012

S.C. SUPREME COURT

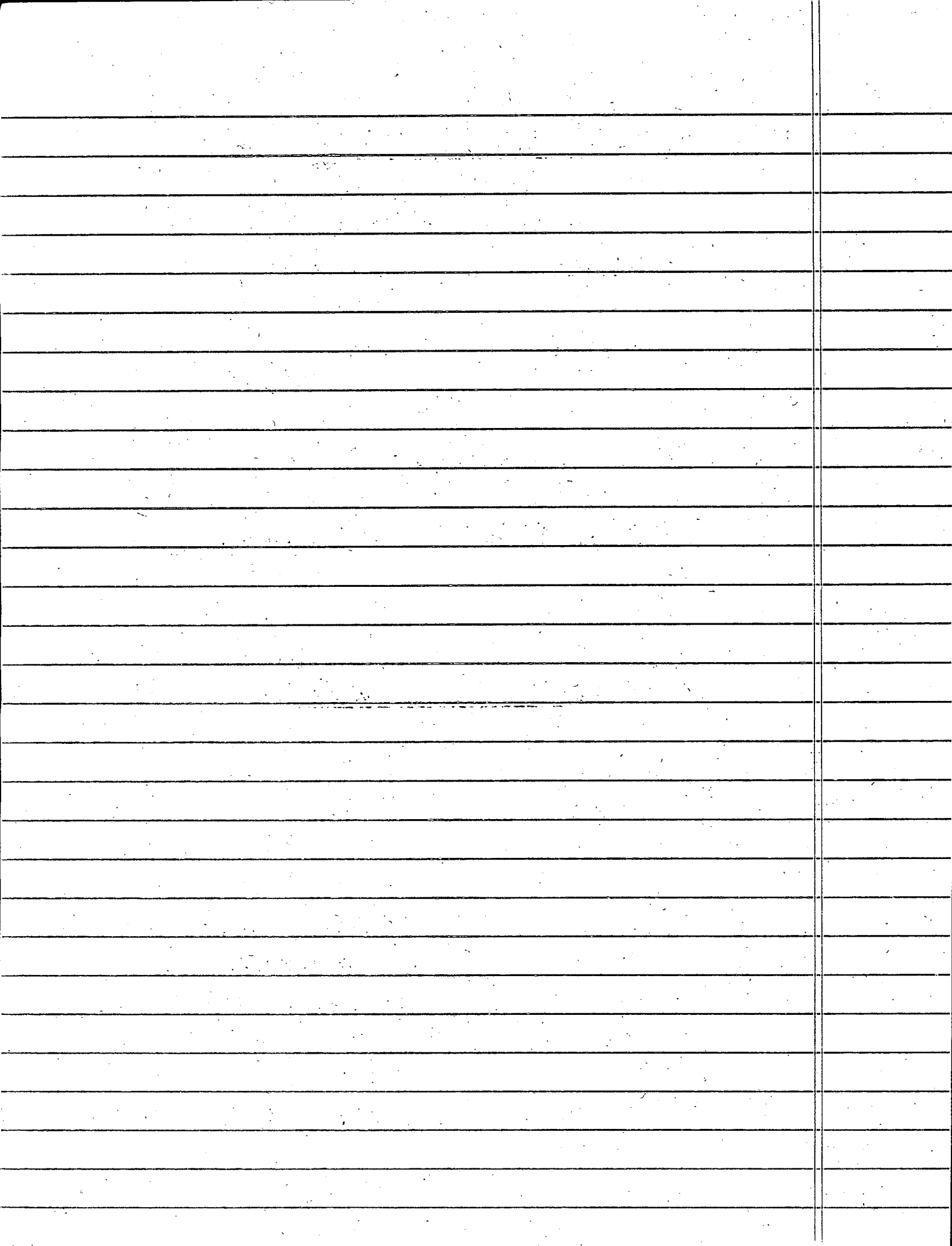
DARRELL EFIRD, #322883

PERRY C.I., Q3B-112

430 OAKLAWN ROAD

Pelzer, S.C. 29669

PETITIONER, PRO SE

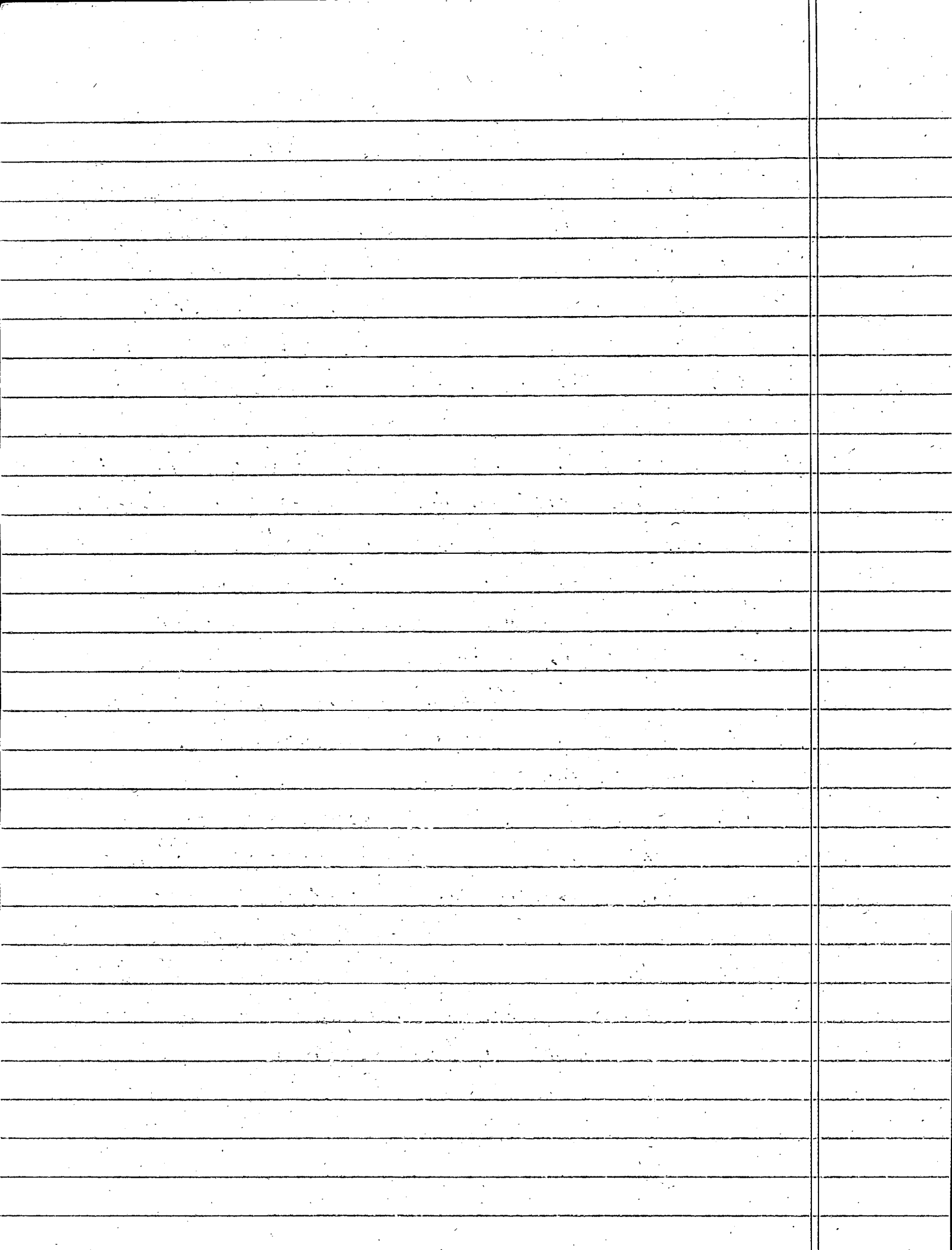


By letter from this Court dated January 31, 2012, the Petitioner, Darrell Efird, SCDC # 322883, was granted leave to proceed pro se in a Petition for Writ of Certiorari (Appeal) from the adverse lower court decisions relative to his Post-Conviction Relief. In that letter from this Court, the Petitioner was informed that he had thirty (30) days to submit his pro se Petition which began to run from the date of that letter.

The Petitioner declares that, due to conditions of confinement at the Perry Correctional Institute, that are beyond his ability to manage or control, he is unable to access the prison's law library sufficiently to develop a meaningful Petition.

Specifically, the Petitioner submits that he is allowed access to the prison's law library on one (1) day per week for two (2) hours if room is available in the library which only permits eight (8) inmates access at any given time.

Moreover, "disruption lock-downs" instituted at random by prison administrators prevent the Petitioner's access to the law library on the day his housing unit is assigned to access the library, which means the Petitioner may have only two (2) to four (4) hours access to the law library to research, develop and compile his arguments through a thirty (30) day period, and such is what has actually occurred for this Petitioner since being permitted to proceed pro se.



Therefore, the Petitioner requests and moves this Honorable Court to grant this Motion For Extension Of Time in order to provide the Petitioner a meaningful opportunity to develop and prepare his Petition within the adverse conditions of prison confinement.

This 27th day of February, 2012.

Darrell Efid, # 322883

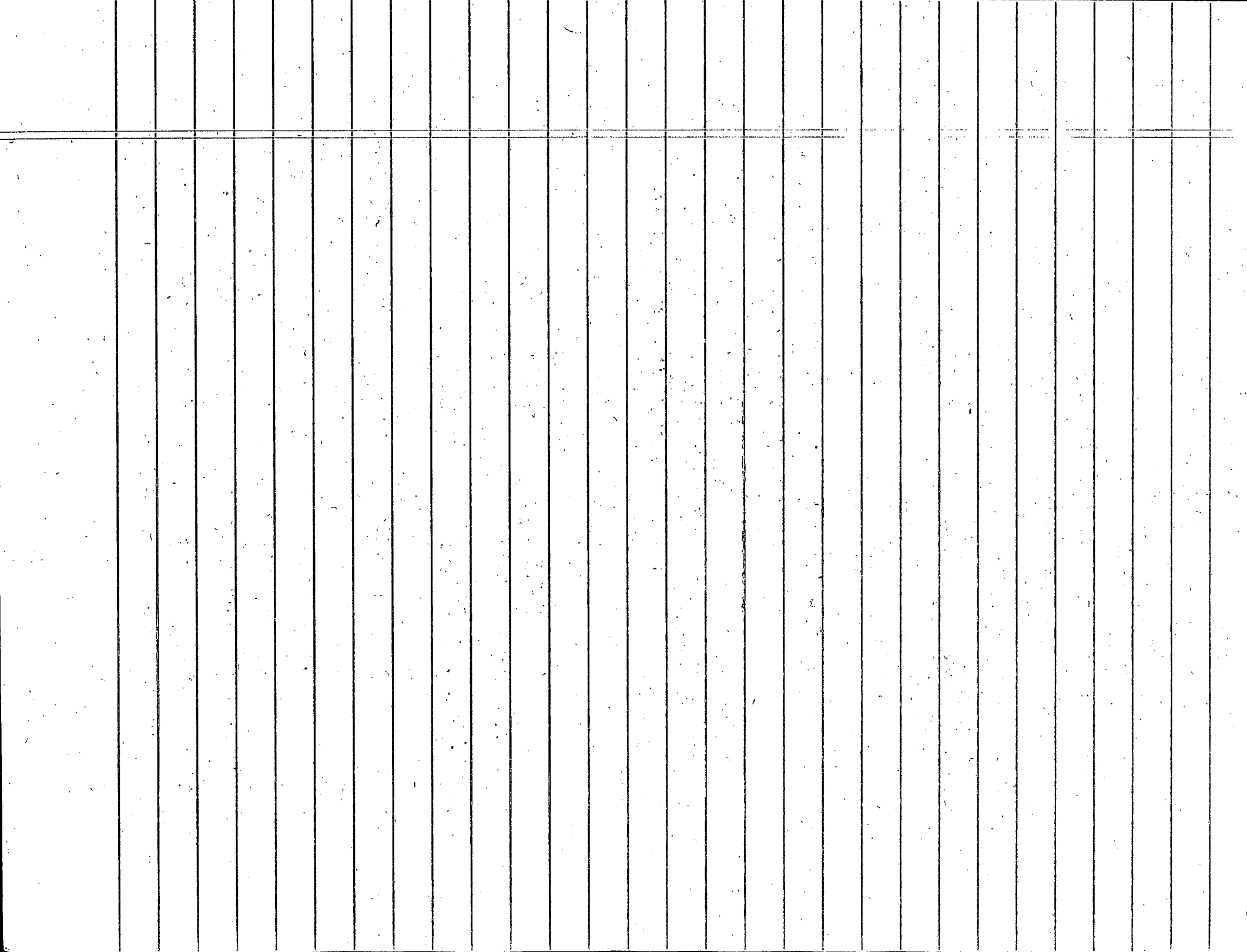
DARRELL EFIRD, # 322883

PETITIONER, PRO SE

Sworn and subscribed to before me
this 27th day of February, 2012.

Stewart T. Milcoveley
Notary Public For South Carolina

My Commission Expires: November 7, 2016



Therefore, the Petitioner requests and moves this Honorable Court to grant this Motion For Extension Of Time in order to provide the Petitioner a meaningful opportunity to develop and prepare his Petition within the adverse conditions of prison confinement.

This 27th day of February, 2012.

Darrell Efid, #3228883

DARRELL EFIRD, #322883

PETITIONER, PRO SE

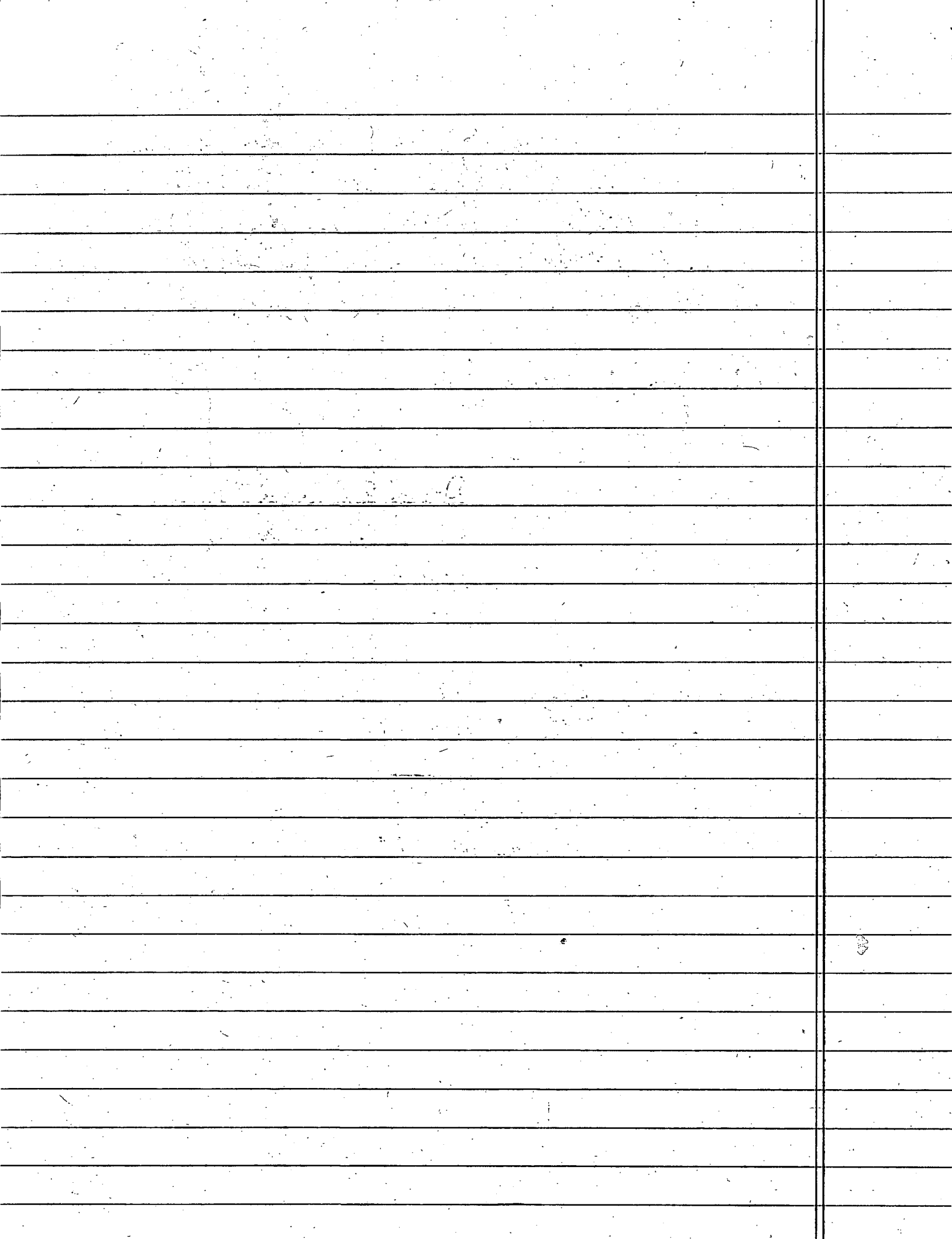
Sworn and subscribed to before me

this 27th day of February, 2012.

Allen T. Mulvaney

Notary Public for South Carolina

My Commission Expires: November 7, 2016



State Of South Carolina

In The Supreme Court

CERTIORARI TO YORK COUNTY

The Honorable John C. Hayes, III, Circuit Court Judge

DARRELL EFIRD,

PETITIONER, pro se

v.

The State Of South Carolina,

RESPONDENT.

PROOF OF SERVICE

I, Darrell Efird, hereby certify that I have served the attached "Motion For Extension Of Time" upon the Respondent by depositing a duplicate of same in the U.S. Mail, postage prepaid, addressed as follows:

TO: MR. HARRISON D. BRANT, ESQUIRE

S.C. Office of the Attorney General

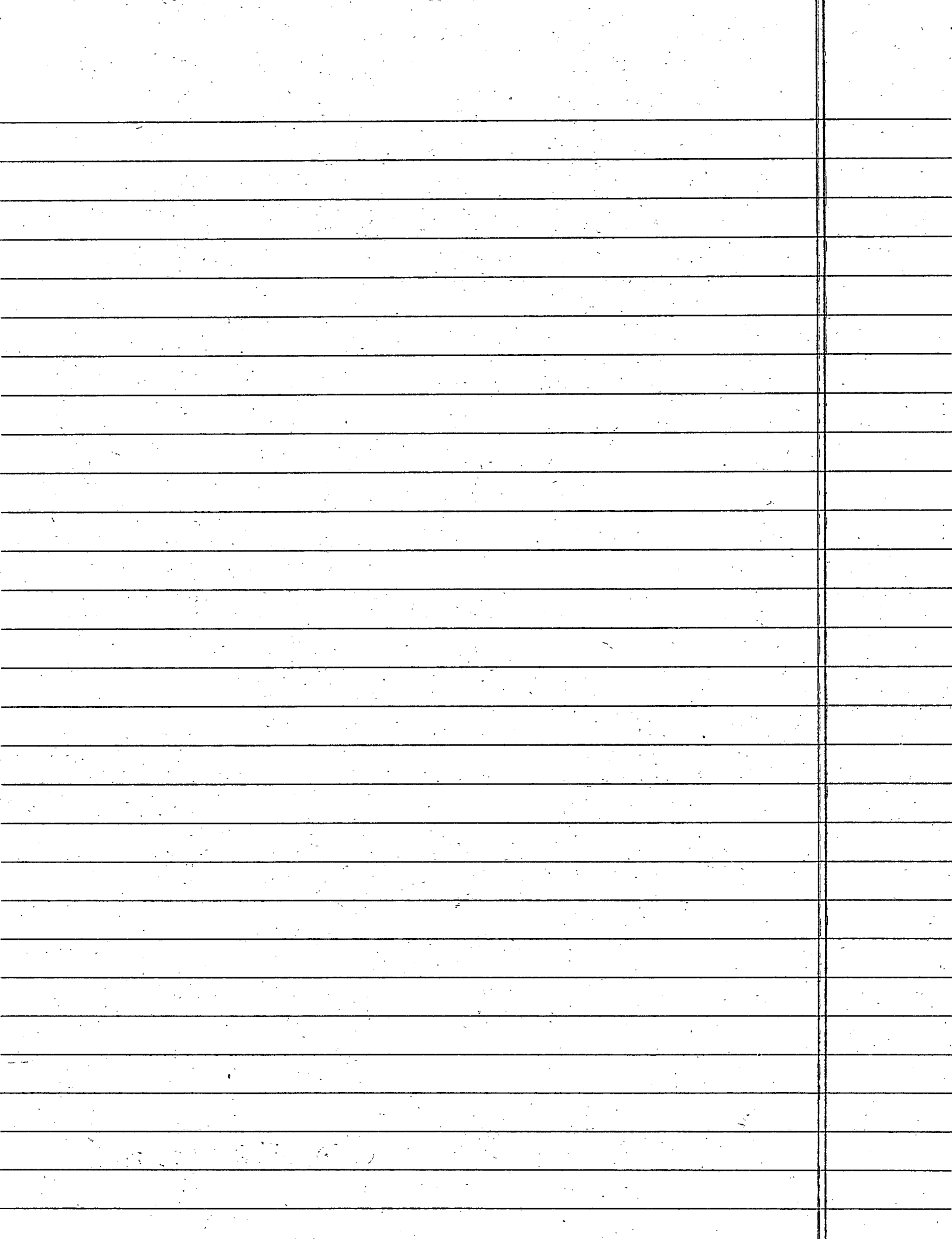
P.O. Box 11549

Columbia, S.C. 29211-1549

This 27 day of February, 2012.

Darrell Efird, # 322883

DARRELL EFIRD, # 322883



DARRELL EFIRD, #322883

PERRY C.I., Q3B-112

430 OAKLAWN ROAD

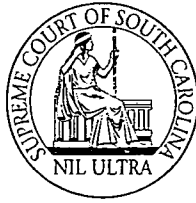
PELZER, S.C. 29669

RECEIVED

FEB 27 2012

P.C.I. MAILROOM

To: THE HONORABLE CLERK, FOR THE
SUPREME COURT OF SOUTH CAROLINA
P.O. BOX 11330
COLUMBIA, S.C. 29211



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

January 31, 2012

Darrell Efird #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Efird, Darrell v. The State

Dear Mr. Efird:

In response to your correspondence to this Court dated January 26, 2012 we are marking our records to reflect that you now represent yourself.

Since you intend to proceed with this appeal *pro se*, the fact that you are not an attorney does not relieve you of the responsibility to perfect your appeal in accordance with the South Carolina Appellate Court Rules. Please pay close attention to the guidelines and format for filing documents with this Court. As the Court's order of January 12, 2012 outlined, the Appendix in this matter has already been filed. You will have thirty (30) days from the date of this letter to submit your *pro se* Petition for Writ of Certiorari.

Very truly yours,

CLERK

DES/jj

cc: Appellate Defender Elizabeth A. Franklin-Best
Assistant Attorney General Harrison Brant

January 26, 2012

Supreme Court of South Carolina Clerk of Court
c/o Daniel E. Shearouse
P.O. Box 11330
Columbia, S.C. 29211

RECEIVED

JAN 30 2012

9:8: SUPREME COURT

Re: Notification: Acceptance of pro se Representation
Case: Efird, Darrell v. The State

Dear Mr. Shearouse:

Per the Order issued by your Court on January 12, 2012, I hereby serve Notice of Acceptance for pro se representation.

I am aware of the dangers and disadvantages of self-representation. However, rather than allow an attorney to waive or abandon issues preserved for Appeal, I will choose to be pro se.

Please Notify the Court of My decision, and know I am grateful for your time and assistance in this matter.

Respectfully submitted,
Darrell Ray Efird, #322883
Darrell Ray Efird, #322883
Perry C.I., Q3B/Room112
430 Oaklawn Rd.
Pelzer S.C. 29669

SWORN TO AND BEFORE ME
this 26th day of January 2012

Steve T. Munday

Notary Public For South Carolina
My Commission Expires: January 7, 2016

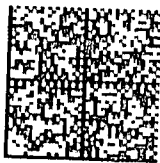
cc: file
Elizabeth A. Franklin-Best
Appellate Defender

Darrell Ray
Perry C.I.,
430 Oaklawn
Pelzer S.C.

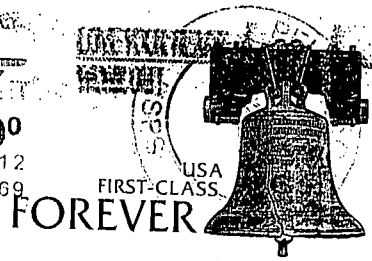
CERTIFIED MAIL



7008 1140 0000 3062 5001



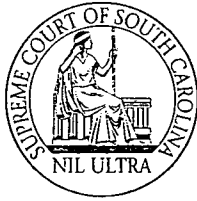
GREENVILLE SC 29601
02 1M \$ 05.30⁰
0008004983 JAN 26 2012
MAILED FROM ZIP CODE 29669



Supreme Court of South Carolina
Clerk of Court
c/o Daniel E. Shearouse
P.O. Box 11330
Columbia, S.C. 29211

29211+9999





The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

January 12, 2012

Darrell Efird #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Efird, Darrell v. The State

Dear Mr. Efird:

Enclosed is the order issued in the above entitled matter.

By copy of this letter and order, we are advising all interested parties of the action by the Court.

Very truly yours,

Daniel E. Shearouse
85

CLERK

DES/jj

cc: Appellate Defender Elizabeth A. Franklin-Best
Assistant Attorney General Harrison Brant

The Supreme Court of South Carolina

Darrell Efird,

Petitioner,

v.

State of South Carolina,

Respondent.

ORDER

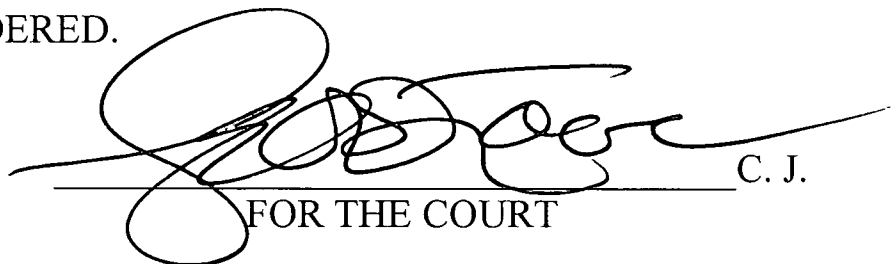
Petitioner moves to relieve his counsel and proceed pro se in this matter. Petitioner may proceed pro se as long as he knowingly and intelligently waives his right to counsel. See Faretta v. California, 422 U.S. 806 (1975); State v. Brewer, 328 S.C. 117, 492 S.E.2d 97 (1997). However, it is not apparent from petitioner's motion that he is fully aware of the dangers and disadvantages of proceeding pro se. We therefore take this opportunity to warn petitioner that if he chooses to proceed pro se, this Court will require full compliance with all applicable rules and procedures, and failure to comply with such rules and procedures could result in the dismissal of the petition and forfeiture of the right to discretionary review. Petitioner is certain to be unlearned in other aspects of the law as well. Representation by an attorney trained in the law would be highly beneficial, and we strongly

encourage petitioner to proceed with representation by appointed counsel.

After considering this information, petitioner shall, within twenty (20) days of the date of this order, notify this Court whether he wishes to proceed pro se or be represented by appointed counsel. If petitioner fails to notify this Court of his intentions within twenty (20) days, he will continue to be represented by his current counsel.

If petitioner chooses to proceed pro se, the petition for a writ of certiorari and the return that have been filed in this case will not be considered and petitioner and the State will be given an opportunity to file a substitute petition and return. However, the appendix that has been filed will be utilized. If petitioner chooses to proceed pro se, the Commission on Indigent Defense, Division of Appellate Defense, shall remain associated for the limited purpose of providing copies of the petition and any briefs that may be necessary.

IT IS SO ORDERED.


C. J.
FOR THE COURT

Columbia, South Carolina

January 12, 2012

The State Of South Carolina
In The Supreme Court

ORIGINAL

Certiorari To York County
John C. Hayes III, Circuit Court Judge
Case Number: 2009-CP-46-32272

Darrell Efird,

Petitioner,

-v-

The State Of South Carolina,

Respondent,

Motion To Relieve Counsel

And

Request For Leave to Proceed Pro Se

Darrell Efird #322883
Petitioner, Acting Pro SE
Perry Corr, Inst.
430 Oaklawn Rd.
Pelzer, S.C. 29669.

Case For This Motion

The Petitioner, Darrell Efird, SCDC #322883, Is currently represented on Appeal from a Post-Conviction Relief action("PCR") by Elizabeth A. Franklin Best. Appellate defense Counsel employed by the South Carolina Commission on Indigent Defense.

Attorney Best filed and served a Merits petition for a Writ Of Certiorari with the Court's on June 29, 2011. The petitioner received service of that petition on July 1, 2011 through the prison's internal legal mail delivery system where He is currently housed.

As of July 1, 2011 the Petitioner became aware that Appellate Attorney Best, chose of Her own volition to waive or abandon Six (6) of the ten (10) issues preserved for Appeal with the PCR Court's final Order. (See Appendix at P.P. 637-648).

The Petitioner was shocked and quite upset that Attorney Best Omitted several issues that He took great pains^{to} ensure were presented to and preserved by the PCR Court final Order.

Subsequently, the Petitioner and His Sister corresponded and communicated with Attorney Best, to determine Why She failed to raise Six(6) of the issues preserved -And- Why She actually chose to raise One issue that was clearly Not Preserved. (SEE "Maligned Defense Counsel" issue in Petition for Writ Of Certiorari, at P. 6 (statement #2)).

After several attempts to confer His desire that No preserved issues be waived or abandoned, and after sending materials and documents to Attorney Best that support the Merits of His arguments and beliefs, Attorney Best wrote the Petitioner and informed Him That She would not make any Effort to Amend or Supplement the petition She filed and served on June 29, 2011.

Attorney Best also advised that I consider filing a Motion to Relieve Counsel and request for leave to Proceed Pro Se, as the only method of raising and exhausting each of the issues preserved at PCR. (SEE Attachment #1, Correspondence from Attorney Best, dated November 4, 2011.).

Summary And Conclusion

Wherefore, based on the fact that, the Petitioner has not knowingly, voluntarily and intelligently Agreed to waive or abandon any issues preserved within the PCR Court's final Order, but rather, the decision to waive or abandon six of the ten issues preserved was made by an Appointed Appellate defense Attorney, Without the benefit of Petitioner's input and consultation prior to the filing of the Actual Petition for Writ Of Certiorari, the Petitioner is compelled by Circumstances beyond His control to make this Motion in order to ensure that "All" issues having merit are raised and exhausted.

Further, unless this Court grants this Motion, the Petitioner will become trapped within this State's "hybird representation" barrier that will act against the Petitioner's substantive and procedural Due Process Right toward a meaningful opportunity for review of His preserved claims through presentment to the State's highest Court.

Therefore, the Petitioner respectfully moves this Court to Grant this Motion To Proceed PRO Se to develop and present a new or Amended Petition for Writ Of Certiorari that includes and presents the meritorious issues preserved through the PCR Court's final Order.

The Petitioner also request that the Appellate Defense Office be Ordered to remain Associated with the Petitioner for the Sole Purpose of copying, binding, filing and serving the New or Amended Petition developed by the Petitioner. The Appendix compiled by Attorney Best may be Supplemented as Necessary to support the Petitioner's developed arguments, After this Motion to relieve Counsel, is granted.

Submitted this 21 day of November, 2011.

S/ Darrell Efir #322883.
Darrell Efir #322883
Petitioner.

The State Of South Carolina
In The Supreme Court

Certiorari To York county
John C. Hayes III, Circuit Court Judge
Case Number: 2009-CP-46-3273

Darrell Efird #322883

Petitioner,

-v-

The State Of South Carolina,

Respondent,

Certificate Of Service

The Prtitioner, Darrell Efird, Certifies that He has Served His "Motion To Relieve Counsel And ReQuest For Leave To Proceed Pro Se" upond all parties required by Rule to be served through the U.S. Mail, Postage Prepaid, Addressed As Follows:

Elizibeth A. Franklin Best Esquire
S.C. Office of Appellate Defense
1330 Lady Street, Suite 401
Columbia, S.C. 29201-3332

Harrison D. Brant, Esquire
Office Of The Attorney General
P.O.Box 11549
Columbia S.C. 29211-1549

On this 21 day Of November :2011.

st Darrell Efird #322883
Darrell Efird #322883
Petitioner.



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

November 4, 2011

Mr. Darrell Efird, #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Your case

Dear Mr. Efird,

I am in receipt of your materials, dated October 25, 2011. Contrary to the message you left on my voicemail, I have not received these matters before. I do not intend to file these materials. As I have explained to you—on a couple of occasions now, and also in discussions with your sister—I have gone forward on the only issue that I believe is preserved and otherwise meritorious. I have a duty not to file frivolous issues before the Court. I also have an ethical duty to represent you to the best of my ability. Given those two imperatives, I cannot file these materials. I believe these additional claims to be without merit, and trust me when I tell you it is NOT in your best interest to file this packet in the Supreme Court while your case is on discretionary review. The Supreme Court can simply deny your case without giving any reason at all. Given their abundant discretion, it does not serve your interests to file materials which are without merit. I have made a copy of the materials you have sent, and I am returning your originals.

I would never recommend that anyone represent themselves in a matter of this seriousness, but, if you are so convinced that I am not acting in your best interests, you may consider filing a motion to be allowed to proceed *pro se*, and file your own materials. Again, I am not suggesting you do this, but you should be aware that that **may** be an option for you. I don't know—that matter would be between you and the Court. In any event, I do not intend to continue responding to your bullying phone calls and threats to report me to Disciplinary Counsel. At this point, I know that you understand why I have filed the petition raising this issue and why I am not raising others. You are very

aware of the status of your case, and I will—consistent with my duties—inform you of any progress in your case.

Sincerely,

A handwritten signature in black ink, appearing to read 'EAFB'. The letters are stylized and connected, with a long horizontal stroke extending from the end of the signature.

Elizabeth A. Franklin-Best
Appellate Defender

EAF/cms



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

 ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

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

December 7, 2011

The Honorable Daniel E. Shearouse
South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

Re: Efird, Darrell v. The State

Dear Mr. Shearouse,

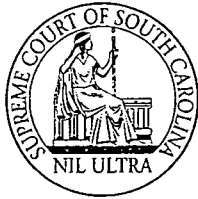
Please accept this letter in lieu of a formal return to Mr. Efird's motion. I have spoken to Mr. Efird on multiple occasions. While I do not believe it is in Mr. Efird's best interests to proceed *pro se*, in my opinion he makes his request knowingly and voluntarily. I neither endorse nor oppose his request.

Sincerely,

Elizabeth A. Franklin-Best
Appellate Defender

EAF/cms

cc: Harrison Brant



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 1, 2011

Darrell Efird #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Efird, Darrell v. The State

Dear Mr. Efird:

This will acknowledge receipt of your Motion to Relieve Counsel and Proceed Pro Se in the above entitled matter.

By copy of this letter, opposing counsel and Ms. Best are requested to file an original and six (6) copies of a return to this motion (a copy of which is attached) no later than December 12, 2011, pursuant to Rule 240(e). Upon receipt of the return, the matter will be taken under consideration and you will be notified as soon as action has been taken.

The time limits for perfecting the appeal will be held in abeyance pending the Court's decision.

Very truly yours,



CLERK

DES/jj

cc: Appellate Defender Elizabeth A. Franklin-Best
Assistant Attorney General Harrison Brant

Darrell Efird, #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer S.C. 29669

November 21, 2011.

Daniel E. Shearouse
Clerk of Court for The Supreme Court
P.O. Box 11330
Columbia, S.C. 29211

Re: Darrell Efird, #322883 -v- State
Case No: 2009-CP-46-3273

Dear Mr. Shearouse,

Please file the Motion To Relieve Counsel and Request for Leave To Proceed Pro-Se, with the South Carolina Supreme Court. Then send filed stamped copies out where Needed.

Thank you for your assistance.

RECEIVED

NOV 29 2011

S.C. SUPREME COURT

Sincerely,

1s/ Darrell Efird, #322883.

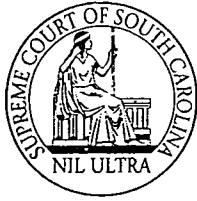
Darrell Efird, #322883
Petitioner.

Cc: File
Darrell Efird, #322883
Elizabeth A. Franklin-Best, Esquire
Harrison D. Brant, Esquire

From: Darrell Ray Efird, #322883
Perry C.I., Q3B/room 112
430 Oaklawn Rd.
Pelzer, SC. 29669

TO: Daniel E. Shearouse
Clerk of Court of the Supreme C
P.O. Box 11330
Columbia, S.C. 29211

RECEIVED
NOV 2 12 00
P.C.T.



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

November 14, 2011

Mr. Darrell R. Efird, #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Efird, Darrell v. The State

Dear Mr. Efird:

This responds to your letter of November 8, 2011 with attachments that you sent to Chief Justice Toal. Since you are represented by counsel in this matter, no action will be taken on these pro se documents. Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010); Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989). I am forwarding a copy of your letter and attachments to your counsel so that she can be aware of your concerns.

Very truly yours,



CLERK

Enclosure

cc: Assistant Attorney General Harrison Brant
Appellate Defender Elizabeth A. Franklin-Best

Mr. Darrell R. Efird, #322883
Perry C.I., Q-3-B-112
430 Oaklawn Road
Pelzer S.C. 29669

Date: November 08 2011.

The Supreme Court Of South Carolina
C/O Chief Justice Jean H. Toal
P.O. Box 11330
Columbia, S.C. 29211

RECEIVED

RE: Issues To Be Raised On Appeal

NOV 14 2011

Dear Honorable Jean Toal,

S.C. SUPREME COURT

At this time Appellant would like to bring to Your Honor's attention the issues that needs to be raised on My Appeal. Appellant has a defective search warrant issue that was preserved in P.C.R. Court that needs to be raised on His Appeal. The Rule 3. (A)&(B) "Unsigned search warrant, and Rule 3(C) issues are interlocked with each other. These are a winning issue hands down.

Under State V. Covert, 628 S.E.2d 482(Ct.App.2006) and under Your Honor's order on Rule 3.(C) S.C.R.C.I.M.P. of October 23,2002. Also Appellant asks Your Honor to look at the newly discovered evidence. Evidence showing Appellant should never have been incarcerated under State Statutes Of South Carolina Codes Of Law.

"Look at the attachment facts that I have sent along with this Letter"

SEE: Letters to obtain Certified copy of the search warrant, Motion to amend application for P.C.R., Order on Rule 3(C), Copy of Rule 3(A)&(B), Arguement indictments, Motion to amend Writ Of Certiorari, Arrest Warrant & Affidavits, and item #25 time line.

I know under Case Law that Appellant Defense does not have to raise every issue on Appeal. But it does look like counsel should argur the best issues. I belive I have a Liability intrest and property intrest in these best issues being raised.

I request You to Review all My research and Order Appellate Defense to submit these as the Main issues.

At this time I wait for Your response on these issues, the arguement, the order on Rule 3.(C), defective search warrant, and newly discovered evidence on affidavits.

Thank You very much for Your Honor's time.

Respectfully submitted,

/s/ Danell R. Egid

Subscribed And Sworn To Before Me

This 8th day of November, 2011.

Stewart Melantley

Notary Public for South Carolina.

My Commission Expires: November 7, 2016

Cc: File
Cindy Ramsey
116 Pennhurst Road.
spring city PA.
19475.

July 17 2009

Exhibit E

Clerk of Court - York County
David Hamilton
P.O. Box 649
York, S.C. 29745

RE: State v Darrell R. Eford
Case No. 2007-GS-46-1992-1994

Dear Mr. Hamilton:

Please be advised that I am writing your office to ask if you could extend me the courtesy of providing me a certified copy of the "Search Warrant and affidavit" from your case file in the above referenced case. These documents are a critical part to my PCR proceedings.

I would appreciate any assistance regarding this matter.

Sincerely Yours

RECEIVED

JUL 17 2009

P.C.I. MAILROOM

18 Darrell R Eford # 322883
Darrell R. Eford # 322883
Priny Correctional Inst.
430 OAKLAWN Road Q313
Pelzer S.C. 29669

c. file



CLERK OF COURT'S OFFICE

Post Office Box 649; York, South Carolina 29745

August 3, 2009

Darrell R. Efird #322883
Perry Corr Inst Q3B
430 Oaklawn Road
Pelzer SC 29669

The exhibit you want a copy of was not entered as evidence, it was marked for identification purposes only. You must contact your attorney Jim Boyd, or Assistant Solicitor Mindy Hervey, regarding the search warrant.

General Sessions Division

August 12, 2009

Ms. Mindy Hervey
Assistant Solicitor
York County Solicitors Office
1675-1A York Hwy.
York, S.C. 29745

Re: ~~State v.~~ Darrell R. Efird
Indictment Nos: 2007-GS-43-1992-1996

Dear Ms. Hervey:

Please be advised that I am writing your office seeking a copy of a "search warrant" that is in your files regarding the above referenced cases. I contacted the York County Clerk's Office for a copy of this document; however, I was informed by the clerk that the "search warrant" in question was not entered as evidence at my trial, but rather was marked for identification purposes only by the Solicitor during my trial. Therefore, I am requesting a copy of the "search warrant and Affidavit" so I can initiate my PCR action.

Thank you for any and all consideration concerning this matter.

Sincerely Yours

/s/ Darrell R. Efird #322883
Darrell R. Efird #322883
Perry Correctional Institution
430 Oaklawn Road-Q3B/219
Pelzer, S.C. 29669

cc: file

RECEIVED

AUG 12 2009

P.C.I. MAILROOM

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Darrell Efird, #322883,

Applicant,

vs.

The State,

Respondent.

) IN THE COURT OF COMMON PLEAS
) THE SIXTEENTH JUDICIAL CIRCUIT
) CASE NO. 2009-CP-46-3272-3

MOTION TO AMEND
APPLICATION FOR POST
CONVICTION RELIEF

DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

2010 AUG 31 AM 9:55

FILED-RECEIVED

RECEIVED

NOV 14 2011

S.C. SUPREME COURT

The State,

Respondent.

TO: STATE OF SOUTH CAROLINE, BY AND THROUGH ITS COUNSEL,
THE ATTORNEY GENERAL:

Pursuant to Rule 15 of the South Carolina Rules of Civil Procedure, the applicant, through his counsel, moves to amend his application for post-conviction relief, as follows:

1. The Applicant was denied the right to effective assistance of trial counsel by counsel's failure to move to suppress evidence (written contract) obtained under a defective search warrant.

When a defendant alleges that counsel's failure to articulate a defective search warrant under S.C. Code §17-13-140 he must show that such claim is meritorious and that verdict would have been different absence evidence that should have been excluded. See e.g., Sikes v. State, 488 S.E.2d 560 (1994); State v. Covert, 628 S.E.2d 482 (Ct. App. 2006).

In this case, the State executed a search warrant on applicant's home to obtain a "written contract document signed by Applicant and the Minor victim (his daughter)" that was used by the Solicitor to corroborate the minor victim's testimony against the applicant. Consequently, the search warrant was never signed by any "issuing judicial officer". See Exhibits A, A-1 (Search Warrant) and Exhibit B (Return).

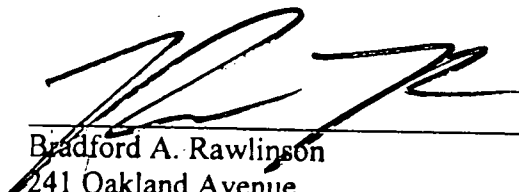
In Covert, Supra, our Supreme Court held that the "search warrant statute under §17-13-140 contains requirements different from those mandated by the Fourth Amendment, and is in some ways "more strict" than the federal constitution". State v. McKnight, 352 S.E.2d 471 (1987). "While we have recognized a 'good faith' exception

to the statute's requirements where the officers make a good faith attempt to comply with the statute's affidavit procedures, McKnight, Supra, explaining State v. Sachs, 216 S.E2d 501 (1975), we have left open the question whether a good faith exception would be applied where 'the officer reasonably believe the warrant is valid when the search is made, but subsequently determined to be invalid'. McKnight, Supra. Here we do not reach the question whether there exists a good faith exception to the statute where a defective warrant is issued, since under South Carolina law an unsigned warrant is not a warrant, and is not capable of being issued within the meaning of §17-13-140. See also Davis v. Sanders, 19 S.E 138 (1894).

Here, the Solicitor used the "written contract" in its case in chief to improperly corroborate the minor victim's testimony and to extensively cross examine applicant to prove its case. Even proper corroboration testimony that is merely cumulative to victim's testimony in criminal sexual conduct enhances the devastating impact of improper corroboration. See, e.g., Jolly v. State, 443 S.E.2d 566 (S.C. 1994)

Finally, as there was no physical or forensic evidence connecting applicant to the crimes and the case was primarily a swearing contest, trial counsel's failure to move to suppress the "written contract" was ineffective assistance of counsel that prejudiced applicant's defense and right to fair trial. See Cobbs v. State, 408 S.E2d 223 (S.C. 1991); see also Strickland v. Washington, 104 S.Ct. 2052 (1984).

Respectfully Submitted,



Bradford A. Rawlinson
241 Oakland Avenue
P.O. Box 36365
Rock Hill, SC 29732
(803) 366-0333
ATTORNEYS FOR APPLICANT

Rock Hill, SC

Dated this 30 day of August, 2010



STATE OF SOUTH CAROLINA

County of York

SEARCH WARRANT

Date March 21, 2006

Officer Any Lawful Officer

*“Kevin Covert V. The State” Opinion No. 26632
Heard January 21, 2009 - Filed April 13, 2009
Jackson V. Demmo 378 U.S. 368 84 S.Ct. 1775, 12 L. Ed. 2d 908 (1964)*

Exhibit A

Exhibit A-1

STATE OF SOUTH CAROLINA

COUNTY OF York

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-100
March 14, 1979

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF York

it appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A Vinyl house located at 111 Wilson Street, Fort Mill South Carolina in the county of York. The house is located in front of a Beige Mobile Home. The House is Beige in color with Green Shutters and a Green Roof. The house has a Brown Swing on the front porch and a Green and White Swing in the front Yard.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Large Blue Dildo, Pink Smooth Dildo, a glow in the dark Dildo with ripples, any Vibrators. Any Documents between the Victim and Suspects.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

_____, S. C.

_____, 20

Signature of Indee

(L. S.)



Exhibit B

RETURN

I received the attached Search Warrant 3-21, 20 06, and have executed it as follows:
On 3-22, 20 06 at 12:45 o'clock PM, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with _____
Name of person searched or "at the place of search" with _____
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

1 Written Contract Document Signed by Darrell, Christine
and Tabitha EFIRD.

This inventory was made in the presence of Carson Neely
AND Arnando P. Carter

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 3rd
day of April, 20 06
Lyann Bequith (L. S.)
Signature of Judge

Arnando P. Carter
(Signature of Officer Executing Warrant)

1:33 pm



South Carolina Judicial Department

- What's New
- Supreme Court
- Court of Appeals
- Trial Courts
- Calendar
- Opinions & Orders
- Bar Admissions
- Court Rules
- Forms
- Links
- Automation Project
- CDR Codes
- Annual Reports
- Statistical Trends
- Search

The Supreme Court of South Carolina

RE: Filing Indictments With the Clerk of Court

ORDER

Rule 3(c), SCRCrimP, requires solicitors to file indictments with the Clerk of Court. In some counties, solicitors are retaining the original indictments which have been returned by the grand jury until the proceedings are concluded. This local practice leads to problems and confusion in some cases. Accordingly, effective the date of this order, all original indictments which have been returned by the grand jury shall immediately be filed with the Clerk of Court.

IT IS SO ORDERED

s/Jean H. Toal
 Chief Justice Jean H. Toal

Columbia, South Carolina
 October 23, 2002

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2009 NOV 20 AM 9:12
 MARC KITCHENS

Rules Of Criminal Procedure

Rule 3. [A]

#Transmittal to Clerk.

Magistrates, municipal Judges, and other officials authorized to issue warrants shall, in all cases within the jurisdiction of the Court of General Sessions, forward to the Clerk of the Court of General Sessions, all documents pertaining to the case including, but not limited to, the arrest warrant and bond, within fifteen (15) days from the date of arrest in the case of an arrest warrant and date of issuance in the case of other documents. Transmittal shall be pursuant to procedures now or hereafter promulgated by the office of South Carolina Court Administration.

Rule 3. [B].

#Transmittal to Solicitor.

The Clerk of the Court of General Sessions shall forward a copy of any arrest warrant received pursuant to paragraph (A) above to the solicitor within two (2) business days from date of receipt from the issuing official.

It's Applicants Proposition that these procedural errors by the State not complying with Rule 3.[C] of The South Carolina Rules Of Criminal Procedural, Is a violation of His Due Process Procedural and Substantive.

Rule 3. [C] S.C.R.C.I.M.P. Reads as follows.
Action on Warrant.

Within [90] Days after receipt of an Arrest warrant from the Clerk of Court, the solicitor shall take action on the warrant by (1) preparing an indictment for presentment to the grand jury, which indictment shall be filed with the Clerk of Court, assigned a criminal case number, and presented to the Grand Jury; (2) formally dismissing the warrant, noting on the face of the warrant the action taken; or (3) making other affirmative disposition in writing and filing such action with the Clerk of Court.

These Indictments do not display an imprint of ever being filed in the Office of the Clerk of Court, "Pursuant to Rule 3. [C] S.C.R.C.I.M.P.

"Thus Being Procedurally Impugn"

In as much, Rule 3.[C], S.C.R.C.I.M.P. On its face mandates that [An Indictment] Must be filed with the Clerk of Court.

There's no S.C. Case Law on point with Applicant's proposition that not filing the [Indictment] Is a Jurisdiction defect and on that [IPSO FAC TO] This Court can look to other Jurisdiction for persuasive authority.

Ellis V. Oliver, 335 S.C.352, 566 S.E.2d 268 [S.C.App.1999]

Cothran V. Brown, 350 S.C. 352, 566 S.E.2d 548 [S.C.App.2002]

THEREFORE, With this legal frame work firmly in place it is Applicants Proposition that the precedent case.

Sharp V. Johnson 107 F. 3d At 290 [No.30][5th cir 1997]

Stands on all fours in this matter, and amplifies Applicants Proposition that the process in which the State has errantly violated Applicants Due-Process Procedural and Substantive rights.

Accordingly, In "Sharp" The Court stated in HAEC VERBA; Jurisdiction is conferred upon the Trial Court by the filing of an Indictment, It is the filing of an indictment [Just as Rule 3.[C] Not its reading which In vest the Trial Courts with Jurisdiction, citing Santons V. State 834 S.W.2d at 953 [Tex.App1992],

FURTHERMORE In U.S. V. Hill 210 F.3d 881 [8th cir.2000] That Court Stated in Relevant part, The filing of Valid Indictment is a Prerequisite to the Courts Jurisdiction.ID. at 884.

This Prerequisite is also mandated in the State of South Carolina pursuant to Section [5] ART.1.of the Constitution...

-HOWEVER there is not any sufficient Justification for up setting long standing precedent here. We are after all dealing with an issue of Statutory interpretation and the claim to adhere to case Law is Generally powerful once a decision has settled Statutory meaning.

SEE, Patterson V. Mclean credit union, 491 U.S.164,172-73[1989]

NEVERTHELESS, It is a fundamental concept of "LAW" That the Circuit Court cannot Promulgate "It's Own Court Rules because in both of the circumstances, The Province of our Legislators would be invaded, And our Constitution would Become "VOID"

Applicant contends that pursuant to the Precedents set forth in Anderson V. Jones, as well as Rule 3[C] Stands on all fours That the Egregious Official conduct in this case Thus far is Arbitrary in the Constitutional Sense confessedly, The core of the concept of Due Process procedural and Substantive is Protection against Arbitrary action of Government quoting, Wolff V. McDannel 418 U.S. 539, 558, 94 S.C.T. 2963 41L.ED 2d 935[1974], And only the most egregious Official conduct can be said to be Arbitrary in the Constitutional sense.

Applicant respectfully directs this Courts attention to the following Supreme Court precedents.

The Supreme Court has concluded that a State Court decision is Contrary to clearly established Supreme Court percedent when, The State Court arrives at a conclusion opposite to that reached by the Supreme Court on question of Law or the State Court decides a case Differently...

The Court has on a set of materially indistinguishable facts, Williams V. Taylor, 529 U.S. 362, 413 [2000].

A State Court decision rests on a unreasonable Application of clearly Established Supreme Court precedent when the Court Identifies the Correct Governing Legal Principle from the Courts decision but unreasonably applies that principle to the Prisoner [S] case

ID. See Bell V. Jarvis, 236 f. 3d 149, 158, 163 [4th cir. 2000] En. banc. cert. denied. 1225 Cr. 74 [2001].

NEVERTHELESS, The Fourteenth Amendment forbids the Government to infring Fundamental Liberty Interests at all, No matter what process is provided, Unless the Infringement Is Narrowly Tailored to serve a compelling State Intrest, Washington V. Glucksberg, 521 U.S. 702, 117 S, Ct. 2258, 2268 138 L, Ed. 2d 772 [1197] Quoting Reno V. Flores, 507 U.S. 292, 302, 113, S.C.T. 1439, 123 L. Ed. 2d.1 [1993] Ellipsis in original Herndon V. Chapel Hill Carrboro City Bd of Educ, 89 F. 3d 174, 177 [4th cir 1996], Cert, Denied, ___ U.S. ___, 117 S.C.T. 949 136 L.Ed.2d.837 [1997]

MOREOVER, The Law requirs the Presentment of a Grand Jury as a condition precedent to the Trial of a Crime. The Grand Jury being Constituent of the Court, and without its proper presentment, The Court has No Jurisdiction of the Cause, State V. Hann, 196 S.C. 211, 12 S.E.2d 720, 725 [1940]

State V. Bynes, 304 S.C.65, 403, S.E. 2d 126 [S.C.App.1991]

State V. Lazarus, 83 S.C. 215, 65, S.E. 2d 270 [1909]

THEREFORE AND BECAUSE of these egregious procedural Errors, The Circuit Court could have no Jurisdiction over this matter.

DOCKET NO. 2007-GS-46- 01992

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

WITNESSES

CSO Carter

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

June 14, Term 2007

I hereby appear in my own proper person and plead guilty to the within indictment or to

sh

ARREST WARRANT NUMBER

I-150439

Defendant

THE STATE

vs.

Witness:

ACTION OF GRAND JURY

TRUE BILL

DARRELL EFIRD

C.C.C. PLS. AND G.S.

OM Hampshiri

Foreperson of Grand Jury
Date: 6-14-07

VERDICT

Guilty
Mully

Foreperson of Petit Jury

Date: 7/12/07

Indictment for

CRIMINAL SEXUAL CONDUCT
WITH A MINOR, 2ND DEGREE

SC Code: 16-03-655
CDR Code: 397

CERTIFIED TRUE COPY
2009 JUL 31 AM 9:45
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

WITNESSES

YCSUICarter

DOCKET NO. 2007-GS-46- 01993

The State of South Carolina

County of York

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

June 14, Term 2007

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

I-150441

Defendant

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

TRUE BILL

THE STATE

vs.

DARRELL EFIRD

Foreperson of Grand Jury

Date: 6-14-07

VERDICT

Indictment for
CRIMINAL SEXUAL CONDUCT
WITH A MINOR, 2ND DEGREE

Foreperson of Petit Jury

Date: 7/12/07

SC Code: 16-03-655
CDR Code: 397

CERTIFIED TRUE COPY
2009 JUL 31 AM 9:45
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

WITNESSES
CSO\Carter

sh

ARREST WARRANT NUMBER
J-150442

ACTION OF GRAND JURY
~~WILL~~
DM Hampton
Foreperson of Grand Jury
Date: 6-14-07

VERDICT
Guilty
Matt [Signature]
Foreperson of Petit Jury
Date: 7/12/07

DOCKET NO. 2007-GS-46- 01994

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS
June 14, Term 2007

THE STATE
vs.
DARRELL EFIRD

Indictment for
CRIMINAL SEXUAL CONDUCT
2ND DEGREE
SC Code: 16-03-653
CDR Code: 161

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:
C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
2007 JUL 31 AM 9:45
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on June 14, 2007, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT, 2nd DEGREE

The defendant, Darrell Efird, did in York County, South Carolina, between 2002 and 2005, willfully and unlawfully and feloniously without just cause commit criminal sexual conduct in the second degree by engaging in sexual battery, to wit: sexual intercourse and/or cunnilingus and/or fellatio and/or digital penetration and/or anal penetration and/or vaginal penetration by use of aggravated coercion against will and consent of the victim, Tabitha Efird to accomplish the sexual battery, this in violation of Section 16-3-653, S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

CSO\Carter

h

ARREST WARRANT NUMBER

-150444

ACTION OF GRAND JURY

TRUE BILL

DM Hampshire
oreperson of Grand Jury
ate: 6-14-07

VERDICT

ABHAN

Mark Oll
oreperson of Petit Jury
ate: 7/12/07

DOCKET NO. 2007-GS-46-01995

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

June 14, Term 2007

THE STATE

vs.

DARRELL EFIRD

Indictment for

ATTEMPT TO COMMIT CRIMINAL SEXUAL
CONDUCT IN THE FIRST DEGREE

SC Code: 16-03-652
CDR Code: 160

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
2009 JUL 31 AM 9:45
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

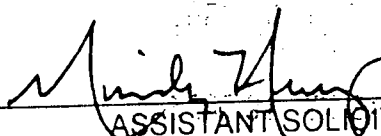
INDICTMENT

At a Court of General Sessions, convened on June 14, 2007, the Grand Jurors of York County present upon their oath:

ATTEMPT TO CRIMINAL SEXUAL CONDUCT 1st DEGREE

The defendant, Darrell Efird, did in York County, South Carolina, between January 1, 2005 and December 31, 2005, willfully, feloniously, and unlawfully without just cause and against the will and consent of the victim, Tabitha Efird, attempt to commit criminal sexual conduct in the first degree, to wit: the use of aggravated force and/or extortion to accomplish a sexual battery: to wit: sexual intercourse in violation of Section 16-3-652(a)(b) S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

DOCKET NO. 2007-GS-46- 01996

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

WITNESSES

CSO/Carter

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

June 14, Term 2007

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

150456

Defendant

THE STATE

vs.

Witness:

DARRELL RAY EFIRD

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

TRUE BILL

Indictment for

INCEST

SC Code: 16-15-20
CDR Code:0090

VERDICT

Guilty

CERTIFIED TRUE COPY
2009 JUL 31 AM 9:45
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Foreperson of Grand Jury
Date: 6-14-07

Foreperson of Petit Jury
Date: 7/12/07

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

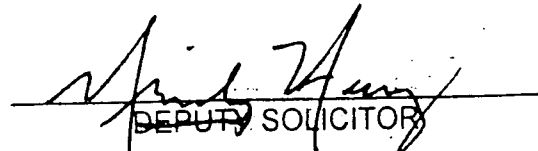
INDICTMENT

At a Court of General Sessions, convened on June 14, 2007 the Grand Jurors of York County present upon their oath:

INCEST

That on or about or during the time period of 2002 through 2006, Defendant Darrell Ray Efird did willfully and unlawfully commit the crime of Incest, in that the Defendant Darrell Ray Efird did engage in carnal intercourse upon and with the victim, his minor daughter Tabitha Nicole Efird (Date of Birth: July 14, 1986). The Defendant Darrell Ray Efird is the father of said minor victim. Said incident occurred within York County, South Carolina. All in violation of Section 16-15-20 of the Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR
Assistant

October 25, 2011

Division of Appellate Defense
c/o Elizabeth A. Franklin-Best
P.O. Box 11589
Columbia, S.C. 29211-1589

Re: Darrell Ray Efird, #322883 v. STATE
Motion to Amend Writ of Certiorari.

Dear Mrs. Franklin-Best:

Appellant is instructing Attorney for Petitioner: Elizabeth A. Franklin-Best to amend issues and add newly discovered evidence on Writ of Certiorari which was sent to Appellate Defense on September 08, 2011 from Perry C.I. mailroom. Also Amendment is being resent to Appellate Defender on this 25th day of October 2011.

Attorney for Petitioner is being instructed to take "Amended Application for Writ of Certiorari" and correct Presentation, but leave core values of amendment. When done send to Attorney General's Office in c/o Jennifer A. Kinzeler, Esq., South Carolina Clerk of Court in c/o Daniel E. Shearouse, Petitioner Darrell Ray Efird, and Petitioner's Power of Attorney Cindy Ramsey.

Respectfully submitted,

/s/ Darrell Ray Efird, #322883

Darrell Ray Efird, #322883
Perry C.I., Q3B/112
430 Oaklawn Road
Pelizer, S.C. 29669

SUBSCRIBED AND SWORN TO BEFORE ME
this 25th day of October, 2011

Steven T. Melanick

Notary Public for South Carolina

My Commission Expires: January 7 2016

RECEIVED

OCT 25 2011

MAIL ROOM

cc: file

Jennifer A. Kinzeler, Esq.
Daniel E. Shearouse
Cindy Ramsey

ISSUE PRESENTED

Appellant request this Honorable Court to take Judicial Notice of adjudicated facts of Incompleteness of: Volume One and Two; Appendix, and PCR Transcript. To send Appellant back to lower court for a second PCR with new counsel. Or include all requested items listed on Amended Petition for Writ of Certiorari Brief filed by S.C.C.I.D. Attorney Elizabeth Franklin-Best. To take Judicial Notice of Adjudicated facts of U.S.C.A. Const. Amendment (4); Code 1976, S.C. code of Law section 17-13-140 (Unlawful Search and Seizure) as it pertains to this case:

ARGUMENT

The "Petition for Writ of Certiorari" Brief prepared by S.C.C.I.D. Attorney Elizabeth Franklin-Best, is inaccurate by use of an incomplete Volume One and Two: Appendix (Item #01, 1 & 2, Ln. 14-15). There are no "Exhibits" found in either Appendix that are listed. So this Honorable Court has to assume Appellant's Attorney failed to obtain said "Exhibits". Giving strength to Appellant's Motion to Amend Petition for Writ of Certiorari to be in the Record on Appeal.

(Item #3-6) This Honorable Court can see that error in Appellant's case started in the Lower Courts, showing Ineffective Assistance of Counsel in the Lower Courts through to the Higher Courts.

(Item #13-15) This Honorable Court Knows all warrants are to be filed with the Clerk of Court of the County the warrant was served in. (Item #14) Appellant would ask this Honorable Court; was there ever a "Search Warrant". If so the Appellant ask this Honorable Court; was there ever a "Search Warrant". If so the Appellant would ask the Court to demand the York County Clerk of Court's office to produce a stamped (Received) (2006 MAR 27 PM 1:08), (David Hamilton), (? , & G.S.), (York County, S.C.). As are (Item #20-24) "Arrest Warrant" Stamped Certified True Copy. S.C. Code of Law Section 17-13-140.

(Item #20-24) This Honorable Court Can see from Sworn "Affidavit" dates for each South Carolina Code of Laws, that no laws were broken. (Item #20-23) Have sworn dates of 09-01-02. Victims age on that date was (16y. & 2m.) (Item #25) which does not fall under section 16-3-655 S.C. Code of law. (Item #24) Have sworn date of 03-21-06. Victim's age on that date was (19y. & 6m. & 7d.) closer to (20) than (19). The judgment of this Honorable Court should lean to Appellant due to the wording of facts of sworn "Affidavit." **The body of "Affidavit"** contains two statutes; S.C. Code of Law section 16-3-655 & 16-15-20. Brown v. State, 343 S.C.

342, 540 S.E.2d 864 (1) Statutes (k) 189: When the ms of a statute are clear and unambiguous, the Supreme Court must apply them according to their literal meaning. Statutes (k) 188: In construing a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Further showing this Court Ineffectiveness of Counsel from the Lower Courts.

Appellant ask this Honorable Court to recognize Appellant is unlawfully incarcerated. Therefore, Appellant ask the Court to expedite his release from S.C.D.C.

(Item #3) Shows that "Exhibit" No. S-1. (Item #4) is on page 516 (Item #5). Appeal Counsel should have brought this to the Lower Courts attention, that contract is unsigned.

(Item #6) Shows a conflict of what County trial took place. Was it York or Cherokee County? A question as to the accuracy of transcript should have been brought to the Lower Courts attention.

(Item #7-11) This Honorable Court can see that a vital piece of evidence is missing; the "signed search warrant". Appellant after receiving said "search warrant" from first Appeal Attorney (Item #12). Appellant received (Item #7-9).

(Item #13-15) This Honorable Court can see that Appellant made all efforts to verify authenticity of said "search warrant" (Item #13). Appellant then received (Item #14). Appellant than proceeded to take the next step (Item #15). Appellant received no reply since Aug. 12, 2009. Appellant informed first Appeal Attorney, Ms. Tricia A. Blanchette by phone. (Item #16) Appellant was informed by phone conversation that Appellant would have to proceed to the next Court.

(Item #17) This Honorable Court can see from "Complaint" that PCR Attorney was ineffective and uncooperative.

(Item #18) Appellant moved to assist Appellate Defense Attorney in his case. After (3) phone calls with Attorney, and telling Attorney by phone call not to file any briefs, and that I was filing (Item #17).

(Item #19) Appellant needed paperwork to finish "Complaint". This Honorable Court can see that (8) days later after filing "complaint", Appellant Defense filed her "Petition of Writ of Certioari", even after being told by Appellant not to.

ARREST WARRANT

J-150439

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

AFFIDAVIT

Personally appeared before me the affiant Amanda P. Carter who

being duly sworn deposes and says that defendant Darrell Efird

did within this county and state on or about 09/01/2002 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of York)

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

RECEIVED
2006 MAR 27 PM 1:08
200600008108

HAMILTON
& G.S.
COUNTY, SC

0397

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws, Section 16-3-655, Criminal Sexual Conduct with a Minor, 2nd degree, by having sexual intercourse with 15 year old minor victim, Tabith Nicole Efird. The incident occurred at the victim suspects residence at 212 Lee Street, 1950 Holbrook Road and 111 Wilson Street, Fort Mill, South Carolina in the County of York. The incidents did occur during the Fall of 2002 thru 2003.

Police Investigation

Amanda P. Carter

Signature of Affiant

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Affiant's Address York County Sheriff's Dep
York, SC 29745-7428

Affiant's Telephone (803)628-3059

CERTIFIED TRUE COPY
2006 JUL 31 AM 9:45
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/1/2002 defendant Darrell Efird

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)

on 03/21/2006)

Judge's Address Moss Justice Center
York, SC 29745-7423)

Judge's Telephone (803)628-3029)

Issuing Court: Magistrate Municipal Circuit

Lynn Horton Benfield
Signature of Issuing Judge)

Lynn Horton Benfield)

Judge Code: 5806)

STATE OF SOUTH CAROLINA
 County/ Municipality of
York

THE STATE

against

Darrell Efird

Address: 111 Wilson Street
Fort Mill, SC 29715-

Phone: _____ SSN: _____

Sex: M Race: W Height: _____ Weight: _____

DL State: SC DL #: 3139257

DOB: 10/13/1959 Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: Amanda P. Carter

Offense: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Offense Code: 0397

Code/Ordinance Sec: 16-03-0655(C)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DARRELL EFIRD
on 3-22-06

Amanda M. Wallace
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Item # 20

ARREST WARRANT

J-150441

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE
against

Darrell Efirid

Address: 111 Wilson Street
Fort Mill, SC 29715-

Phone: _____ SSN: _____

Sex: M Race: W Height: _____ Weight: _____

DL State: SC DL #: 3139257

DOB: 10/13/1959 Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: Amanda P. Carter

Offense: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Offense Code: 0397

Code/Ordinance Sec: 16-03-0655(C)

This warrant is **CERTIFIED FOR SERVICE** in the
 County/ Municipality of _____
The accused _____
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DARRELL EFIRD
on 3-22-06

Alexander M. Nicks
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Personally appeared before me the affiant Amanda P. Carter who

being duly sworn deposes and says that defendant Darrell Efirid

did within this county and state on or about 09/01/2002 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of York)

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

RECEIVED
27 MAR 27 PM 1:08
FAMILIAL
& C.S.
COUNTY, SC

0397

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws, Section 16-3-655, Criminal Sexual Conduct with a Minor, 2nd degree, by having sexual intercourse with 15 year old minor victim, Tabith Nicole Efirid. The incident occurred at the victim suspects residence at 212 Lee Street, 1950 Holbrook Road and 111 Wilson Street, Fort Mill, South Carolina in the County of York. The incidents did occur during the Fall of 2002 thru 2003.

Police Investigation

Signature of Affiant

Amanda P. Carter

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Affiant's Address York County Sheriff's Dept

York, SC 29745-7428

Affiant's Telephone (803)628-3059

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC
2009 JUL 31 AM 9:45
CERTIFIED TRUE COPY

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/1/2002 defendant Darrell Efirid

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution; or as soon thereafter as is practicable
Sworn to and subscribed before me)

on 03/21/2006)

Lynne Horton Benfield (L.S.))
Signature of Issuing Judge

Lynne Horton Benfield)

Judge Code: 5806)

Judge's Address Moss Justice Center

York, SC 29745-7423

Judge's Telephone (803)628-3029

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Item # 21

ARREST WARRANT

J-150442

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE
against

200600008708

Darrell Efird

Address: 111 Wilson Street
Fort Mill, SC 29715-

Phone: _____ SSN: _____

Sex: M Race: W Height: _____ Weight: _____

DL State: SC DL #: 3139257

DOB: 10/13/1959 Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: Amanda P. Carter

Offense: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Offense Code: 0397

Code/Ordinance Sec: 16-03-0655(C)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant DARRELL EFIRD

on 3-22-06

Alexander M. Wallace

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
York)

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 516

Personally appeared before me the affiant Amanda P. Carter who

being duly sworn deposes and says that defendant Darrell Efird

did within this county and state on or about 09/01/2002 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of York)

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

HAMILTON
& G.S.
COUNTY, SC

0397

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws, Section 16-3-655, Criminal Sexual Conduct with a Minor, 2nd degree, by performing oral sex on 15 year old minor victim, Tabith Nicole Efird. The incident occurred at the victim/suspects residence at 212 Lee Street, 1950 Holbrook Road and 111 Wilson Street, Fort Mill, South Carolina in the County of York. This did occur during Fall of 2002 thru 2005.

Police Investigation

Signature of Affiant

Amanda P. Carter

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
York)

Affiant's Address York County Sheriff's Dep

York, SC 29745-7428

Affiant's Telephone (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/1/2002 defendant Darrell Efird

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before me

on 03/21/2006

Lynne Horton Benfield (L.S.)

Signature of Issuing Judge

Lynne Horton Benfield

Judge Code: 5806

Judge's Address Moss Justice Center

York, SC 29745-7423

Judge's Telephone (803)628-3029

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

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CERTIFIED TRUE COPY
2009 JUL 31 AM 9:47
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Item # 22

ARREST WARRANT

J-150444

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE
against

Darrell Efirid

Address: 111 Wilson Street
Fort Mill, SC 29715-

Phone: _____ SSN: _____

Sex: M Race: W Height: _____ Weight: _____

DL State: SC DL #: 3139257

DOB: 10/13/1959 Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: Amanda P. Carter

Offense: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Offense Code: 0397

Code/Ordinance Sec: 16-03-0655(C)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DARRELL EFIRD
on 3-22-06

Alexander M. Welliver
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

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ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Personally appeared before me the affiant Amanda P. Carter who

being duly sworn deposes and says that defendant Darrell Efirid

did violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of York)

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

0397

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws, Section 16-3-655, Criminal Sexual Conduct with a Minor, 2nd degree, by performing oral sex on 15 year old minor victim, Tabith Nicole Efirid. The incident occurred at the victim/suspects residence at 212 Lee Street, 1950 Holbrook Road and 111 Wilson Street, Fort Mill, South Carolina in the County of York This did occur during Fall of 2002 thru 2003.

Police Investigation JD

Signature of Affiant

Amanda P. Carter

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Affiant's Address York County Sheriff's Dept

York, SC 29745-7428

Affiant's Telephone (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/1/2002 defendant Darrell Efirid

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 03/21/2006

Lynne Horton Benfield (L.S.)
Signature of Issuing Judge

Lynne Horton Benfield

Judge Code: 5806

Judge's Address Moss Justice Center

York, SC 29745-7423

Judge's Telephone (803)628-3029

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC
2009 JUL 31 AM 9:47
CERTIFIED TRUE COPY

Item # 23

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

RECEIVED
MAR 27 2006 10:08
MAR 27 2006 10:08

HAMILTON
CLERK OF COURT
YORK COUNTY, SC

ARREST WARRANT

J-150456

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

AFFIDAVIT

STATE OF SOUTH CAROLINA

County/ Municipality of York

Personally appeared before me the affiant Amanda P. Carter who

being duly sworn deposes and says that defendant Darrell Ray Efirid

did within this county and state on or about 03/21/2006 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of York)

In the following particulars:

DESCRIPTION OF OFFENSE Sex / Incest

0090

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws by having carnal intercourse with his daughter, Tabitha Nicole Efirid from the age of 15 until the age of 19. The incident did occur at the victim/suspect residence at 212 Lee Street, 1950 Holbrook road and 111 Wilson Street, Fort Mill South Carolina in the County of York. All against the peace and dignity of this State and such laws made and provided for.

police investigation

Signature of Affiant

Amanda P. Carter

2009 JUL 31 AM 9:47
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

STATE OF SOUTH CAROLINA

County/ Municipality of York

Affiant's Address York County Sheriff's Dept
York, SC 29745-7428

Affiant's Telephone (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/21/2006 defendant Darrell Ray Efirid

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Incest

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 03/21/2006

Lynne Horton Benfield (L.S.)

Signature of Issuing Judge
Lynne Horton Benfield

Judge Code: 5806

Judge's Address Moss Justice Center

York, SC 29745-7423

Judge's Telephone (803)628-3029

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

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ORIGINAL

ORIGINAL

Item # 24

RECEIVED
MAR 27 PM 3:08
HAMILTON
& G.S.
CLERK OF COURT
YORK COUNTY, SC

STATE OF SOUTH CAROLINA
 County/ Municipality of York

THE STATE 200600008108
against

Darrell Ray Efirid
Address: 111 Wilson Street
Fort Mill, SC 29715-

Phone: _____ SSN: _____
Sex: M Race: W Height: _____ Weight: _____
DL State: SC DL #: 3139257
DOB: 10/13/1959 Agency ORI #: SC0460000
Prosecuting Agency: York County Sheriff
Prosecuting Officer: Amanda P. Carter
Offense: Sex / Incest

Offense Code: 0090
Code/Ordinance Sec: 16-15-0020

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DARRELL EFIRD
on 3-22-06

Amanda P. Carter
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

Signature of Issuing Judge

Lynne Horton Benfield

Judge Code: 5806

Item "25

(7)th ~~month~~

Tabitha Efind: Born on July 14, 1986
7/14/1986

86 - Born

87 - 1 year old

88 - 2

89 - 3

90 - 4

91 - 5

92 - 6

93 - 7

94 - 8

95 - 9

96 - 10

97 - 11

98 - 12

99 - 13

2000 - 14

01 - 15

July 13,

02 - 16

July 14

03 - 17

04 - 18

05 - 19

06 - 20

07 - 21

08 - 22

09 - 23

10 - 24

11 - 25

From: Darrell Ray Efird, # 322883
Perry C.I., Q1B/209
430 Oaklawn Road
Pelzer, S.C. 29669

TO: The Supreme Court of South Carolina
c/o Chief Justice Jean Toal
Post Office Box 11330
Columbia, S.C. 29211

RECEIVED

NOV 08 2011

P.C.I. MAILROOM



ALAN WILSON
ATTORNEY GENERAL

October 21, 2011

RECEIVED

OCT 21 2011

S.C. Supreme Court

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

**RE: Darrell Efird v. State of South Carolina
2009-CP-46-3273**

Dear Mr. Shearouse:

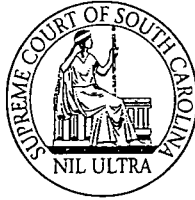
I am enclosing the original and six (6) copies of the Return to Petition for Writ of Certiorari in the above case.

Sincerely,

Harrison D. Brant
Assistant Attorney General

HDB:cey
Enclosures

cc: Elizabeth A. Franklin-Best, Esquire
Trisha Allen, Victim Services



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

September 22, 2011

Assistant Attorney General Harrison Brant
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: Efird, Darrell v. The State

Dear Counsel:

The following Order has been endorsed on your Petition to Relax Rule 243(g) and Request for Extension in the above entitled case on appeal.

“Granted.

Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

September 22, 2011.”

Please be advised your Return to Petition for Writ of Certiorari is due to be served and filed within thirty (30) days of the date of this letter.

Very truly yours,

CLERK

DES/jj

cc: Appellate Defender Elizabeth A. Franklin-Best

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

The Honorable John C. Hayes, III, Circuit Court Judge SEP 21 2011

ORIGINAL

RECEIVED

S.C. Supreme Court

DARREL R. EFIRD,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

PETITION TO RELAX RULE 243(g), SCACR,
AND REQUEST FOR EXTENSION

(2)

COMES NOW, Respondent, above named, by and through the undersigned counsel, making its Petition to Relax Rule 243(g) and Request for Extension, and would show unto this Court:

I.

Respondent's Return to Petition for Writ of Certiorari in the above captioned matter was due to be filed and served on September 14, 2011. Through inadvertence, the matter was improperly calendared. The undersigned intended to request an additional extension in this matter due a heavy work load. This extension request is not intended for the purpose of delay.

II.

In view of the foregoing, it is respectfully requested that this Court relax Rule 243(g), SCACR, and allow Petitioner a thirty (30) day extension to file and serve its Return to the Petition for Writ of Certiorari.

III.

WHEREFORE, it is respectfully requested that this petition be granted.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

HARRISON D. BRANT
Assistant Attorney General

By:



ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

September 21, 2011

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

The Honorable John C. Hayes, III, Circuit Court Judge

DARREL R. EFIRD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

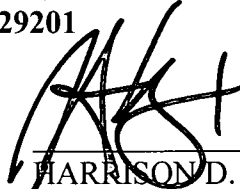
RESPONDENT.

AFFIDAVIT OF SERVICE

PERSONALLY APPEARED before me Harrison D. Brant, Assistant Attorney General, who being duly sworn, deposes and says:

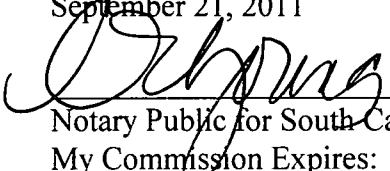
- (1) That he is one of the attorneys for Respondent herein.
- (2) That there exists regular communication by mail throughout the State of South Carolina and that this is a proper circumstance for service by mail.
- (3) That he served a copy of the foregoing PETITION TO RELAX RULE 243(g), SCACR, AND REQUEST FOR EXTENSION on opposing counsel by depositing same in the U.S. Mail, postage prepaid, addressed as follows:

ELIZABETH A. FRANKLIN-BEST, ESQUIRE
1330 LADY STREET, SUITE 401
COLUMBIA, SC 29201



HARRISON D. BRANT

SWORN TO before me this
September 21, 2011


Notary Public for South Carolina
My Commission Expires: 10/28/2014



ALAN WILSON
ATTORNEY GENERAL

September 21, 2011

The Honorable Daniel E. Shearouse
Clerk of the Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

RECEIVED

SEP 21 2011

S.C. Supreme Court

Re: Darrell Efird v. State of South Carolina

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Petition to Relax Rule 243(g), SCACR, and Request for Extension for filing in your office.

Sincerely,

Harrison D. Brant
Assistant Attorney General

cc: Elizabeth A. Franklin-Best, Esquire

The Supreme Court of South Carolina

Darrell Efird,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable John C. Hayes, III
York County
Trial Court Case No. 2009-CP-46-03273

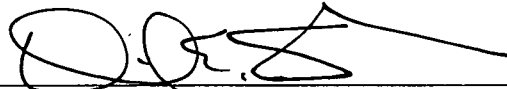
ORDER

The request for an extension until September 14, 2011 to serve and file the Return to the Petition for Writ of Certiorari 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.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

August 19, 2011

cc: Appellate Defender Elizabeth A. Franklin-Best
Assistant Attorney General Harrison Brant



ALAN WILSON
ATTORNEY GENERAL

August 15, 2011

RECEIVED

AUG 18 2011

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

S.C. Supreme Court

RE: Darrell Efird, #322883 v. State of South Carolina
2009-CP-46-3273

Dear Mr. Shearouse:

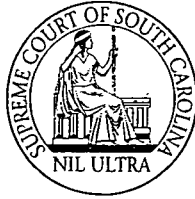
The Return to Petition for Writ of Certiorari in the above appeal is due to be served and filed today. However, this is to respectfully request a 30-day extension to serve and file this Return to Petition of Writ of Certiorari.

This extension request is not intended for the purpose of delay. Rather, this extension request is necessitated by a heavy workload.

Sincerely,

Harrison D. Brant
Assistant Attorney General

cc: Appellate Defense



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

August 4, 2011

Darrell Efird #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Efird, Darrell v. The State

Dear Mr. Efird:

This responds to your filing dated July 27, 2011. Since you are represented by counsel in this matter, no action will be taken on your pro se letter. Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

Any concerns you have about this matter should be raised to the Division of Appellate Defense. The address for that Office is P.O. Box 11589, Columbia, SC 29211, and their phone number is 803-734-1343.

Very truly yours,

Daniel E. Shearouse
DS

CLERK

DES/jj

cc: Appellate Defender Elizabeth A. Franklin-Best
Assistant Attorney General Harrison Brant

July 27, 2011

Darrell R. Efird, #322883
Perry C.I., Q1B/209
430 Oaklawn Road
Pelzer, S.C. 29669

RECEIVED

AUG 01 2011

Re; Darrell R. Efird v. STATE
Case No.; 2009-CP-46-3273

S.C. SUPREME COURT

Dear Honorable Court

Please excuse the state of Appellant's copies he had no control of their making and had no recourse but to use them. A Perry C.I. officer does all making of copies.

To this Honorable Court I give this quote from Socrates who said, "Four things belong to a judge, to hear courteously, to answer wisely, to consider soberly, and to decide impartially."

Thank you for your assistance.

Respectfully submitted,

Darrell Ray Efird, # 322883

Darrell Ray Efird, # 322883

cc; file

RECEIVED

AUG 02 2011

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From York County
Jona C. Hayes, III, Circuit Court Judge

RECEIVED

AUG 02 2011

DARRELL RAY EFIRD,

PETITIONER,

S.C. SUPREME COURT

v.

STATE OF SOUTH CAROLINA,

RESPONDENT,

RECEIVED

AUG 02 2011

DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL

S.C. SUPREME COURT

The Appellant in the above entitled case respectfully request the Supreme Court Pursuant on Appeal/Petition for Writ of Certiorari, include this Designation of Matter through Attorney of Record Elizabeth Franklin-Besc.

PURSU. TO RULE 201 NOTICE OF ADJUDICATED FACTS:

Appellant requests this Honorable Court to take Judicial Notice of Adjudicated facts of Incompleteness of: Volume One and Two: Appendix, and PCR Transcript. To stay any and all decision on my Petition for Writ of Certiorari Brief filed by S.C.C.I.D. Attorney, Elizabeth Franklin-Best. To take Judicial Notice of Adjudicated facts of U.S.C.A. Const. Amendment (4); Code 1976, S.C. Code of Laws § 17-13-140 (Unlawful Search and Seizure) as it pertains to this case:

ARGUMENT

The "Petition for Writ of Certiorari" Brief prepared by S.C.C.I.D. Attorney Elizabeth Franklin-Best, is inaccurate by use of an incomplete Volume One and Two: Appendix (Item # 1 & 2, Ln. 14-15). There are no "Exhibits" found in either Appendix that are listed. So the Honorable Court has to assume Appellant's Attorney filed to obtain said "Exhibits". Giving strength to Appellant's Motion of "Designated of Matter to be included in the Record on Appeal" pursuant to Rule's 201 & 209, Pro Se.

(Item #3-6) This Honorable Court can see that error in Appellant's case started in the Lower Courts, showing Ineffective Assistance of Counsel in the Lower Courts through to the Higher Courts.

(Item #13-15) This Honorable Court knows all warrants are to be filed with the Clerk of Court of the County the warrant was served in. (Item #14) Appellant would ask this Honorable Court; was there ever a "Search Warrant". If so the Appellant would ask the Court to demand the York County clerk of Court's Office to produce a stamped (Received) (2006 MAR 27 PM 1:08), (David Hamilton), (? , & G.S), (York County, S.C.). As are (Item # 20-24) "Arrest Warrant" & "Affidavit" stamped Certified true copy. S.C. Code of Law section 17-13-140.

(Item #20-24) This Honorable Court can see from sworn "Affidavit" dates for each South Carolina Code of Laws, that no laws were broken. (Item #20-23) have sworn date of 09-01-02. Victim's age on that date was (16 y. & 2 m.) (Item #25) which does not fall under section 16-3-655 S.C. Code of Law. (Item #24) have sworn date of 03-21-06. Victim's age on that date was (19 y. & 6 m. & 7 d.) closer to (20) than (19). The judgment of this Honorable Court should lean to appellant due to the wording of facts of sworn Affidavit". The body of "Affidavit" contains two statutes; S.C. Code of Law section 16-3-655 & 16-15-20. Brown v. State, 343 S.C.

342, 340 S.E.2d 86 (2001) Statutes (k) 189: When the terms of a statute are clear and unambiguous, the Supreme Court must apply them according to their literal meaning. Statutes (k) 188: In construing a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Further showing this Court Ineffectiveness of Counsel from the Lower Courts.

Appellant ask this Honorable Court to recognize Appellant is unlawfully incarcerated. Therefore, Appellant ask the Court to expedite his release from S.C.D.C.

(Item #3) Shows that "Exhibit" No. S-1. (Item #4) is on page 510 (Item #5). Appeal Counsel should have brought this to the Lower Courts attention, that contract is unsigned.

(Item #6) Shows a conflict of what County trial took place. Was it York or Cherokee County? A question as to the accuracy of transcript should have been brought to the Lower Courts attention.

(Item #7-11) This Honorable Court can see that a vital piece of evidence is missing; the "signed search warrant". Appellant after receiving said "search warrant" from first Appeal Attorney (Item #12). Appellant received (Item #7-9).

(Item #13-15) This Honorable Court can see that Appellant made all efforts to verify authenticity of said "search warrant" (Item #13). Appellant then received (Item #14). Appellant then proceeded to take the next step (Item #15). Appellant received no reply since Aug. 12, 2009. Appellant informed first Appeal Attorney, Ms. Fricia A. Blanchette by phone. (Item #16) Appellant was informed by phone conversation that Appellant would have to proceed to the next Court.

(Item #17) This Honorable Court can see from "Complaint" that PCR Attorney was ineffective and uncooperative.

(Item #18) Appellant moved to assist Appellate Defense Attorney in his case. After (3) phone calls with Attorney, and telling Attorney by phone call not to file any briefs, and that I was filing (Item #17).

(Item #19) Appellant needed paperwork to finish "Complaint". This Honorable Court can see that (8) days later after filing "complaint", Appellant Defense filed for "Petition of Writ of Certiorari", even after being told by Appellant not to.

(Item #7, #8, & #17: Cor. Sep. 13, 2010 & Feb. 2, 2011 to Mr. Rawlinson, Cor. Feb 2, 2011 to Mr. Schiller III, Cor. Feb. 14, 2011 & June. 13, 2011 to Ms. Franklin-Best, #2b: pg. 613 Ln. 1-25, pg. 614 Ln. 1-22, pg. 618 Ln. 20-25, pg. 619 Ln. 1-25, & pg. 620 Ln. 1-4) Appellant would ask this Honorable Court to note: The date's of issue for item numbers (7) & (9) which show an issue date of (3/21/2006). The Court can review (Item #2b: pg. 613 Ln. 1-25, pg. 614 Ln. 1-22, pg. 618 Ln. 20-25 & pg. 619 Ln. 1-20) and see the conflict of dates. See e.g. Sikes v. State, 448 S.E.2d 560 (1994); State v. Covert, 628 S.E.2d 482 (Ga. App. 2006).

Appellant was informed by Mr. Rawlinson that Mr. Boyd presented to Ms. Kinzeler on day of PCR hearing with a signed affidavit and signed search warrant. Appellant was shown signed search warrant but not affidavit, and no copy was given to Appellant. (Item #17: Cor. Sep. 13, 2010 to Mr. Rawlinson, Cor. Feb 2, 2011 to Mr. Rawlinson, Cor. Feb 2, 2011 to Mr. Schiller III Cor. Feb. 14, 2011 to Ms. Best, & Cor. June 13, 2011 to Ms. Best). Appellant made effort to obtain a copy of said signed search warrant. Appellant has yet to receive a copy. This honorable Court knows since the original search warrant was not filed with Clerk of Court for York County, then there is no valid search warrant. See State v. Houlcomb, 195 S.E.2d 601 (S.C. 1972), Sorin Equipment Co. Inc. v. The Firm, Inc., 474 S.E.2d 319 (S.C. App. 1996), State v. York, 156 S.E.2d 326 (1967), Gantt v. State, 580 S.E.2d 113 (S.C. 2003), and State v. Johnson, 512 S.E.2d 795 (S.C. 1999).

(Item #12 & item #2b: pg. 625 Ln. 15-25, pg. 626 Ln. 1-7, pg. 631 & pg. 632 Ln. 1-16) Appellant ask this Honorable Court to see Matthew v. State, 565 S.E.2d 766 (2002). Defense counsel cannot assert trial strategy as a defense to ineffective assistance claim for failure to object to comments which constitute an error of law and are inherently prejudicial.: (S) Criminal Law (K) 64.13 (Item #12, 631, & 632 Ln. 1-16) Appellant would ask this honorable Court to recognize Ms. Blanchette's own hand writing. From this one statement this Court should assume Ms. Blanchette asked for the total file. With that said both search warrants should have been in the file. Appellant received only the unsigned search warrant. As this honorable Court can see Mr. Boyd has further perjured himself in the Lower Courts. State v. Houlcomb, Supra; Sorin Equipment Co. Inc. v. The Firm, Inc., Supra.

(Item #2, #26: pg. 584 Ln. 25, pg. 588 Ln. 16 & pg. 632 Ln. 15, Item #27 & Item #28). As stated earlier in first paragraph of argument this Honorable Court can see the inaccuracies as stated. (Item #26: pg. 584 Ln. 25, pg. 588 Ln. 16 & pg. 632 Ln. 15 & Item #28) Appellant wishes to direct this Court to one word being substituted; {unassigned for unsigned}. The word assigned has a total different meaning in the Law than the word signed in the Law. This Honorable Court needs to demand the "Official Court Reporter" tapes for Jury Trial & PCR Hearing, to verify transcripts. (Item #2, #27, & #28). If this Honorable Court would review these items they will see that the (NO.) APPL. 1 (DPS.) Court Schedule (EVD) P.19 copy is missing from "Appendix Volume Two of Two" and PCR Transcript. When this Honorable Court reviews Court Reporter's PCR tapes they will see that two different Court schedules were discussed. Since neither one is in Appendix how can "Appellant Defense" mount a proper defense or this Court to make a proper ruling. Respectfully, he ask this Court to grant his "Designation of Matter to Be Included in The Record On Appeal."

(Item #29) This Honorable Court can review (Item #29: pg. 0-1, & 0-2) can see even my sister tried to obtain the said signed search warrant. Cindy Ramsey has power of Attorney for Appellant. (Item #29: pg. 0-3, & 0-4) This Court can see that Judge Hayes, did review Appellant's case; judgments made. (Item #29: pg. 1-11) This Court can see where Judge Hayes initialed each page at the bottom, and then signed the last page. (Item #29: pg. 8, 9, & 10) This Court can see even after questioning the last & first part in (pg. 8 & 9, last part in (pg. 10) by marking sections and making notes. (Item #26: pg. 618 Ln. 20-25, pg. 619, pg. 620 Ln. 1-4, pg. 625 Ln. 15-25, pg. 626 Ln. 1-6, pg. 631, pg. 632 Ln. 1-16) State v. Covert, Supra (Item #29: pg. 10) this Honorable Court should ask how can Judge Hayes say that Applicant's allegations are without merit.

(Item #29: pg. 12-14) this Court sees again that Judge Hayes denies Applicant's issue regarding the search warrant issue. State v. Covert, Supra.

Appellant ask the question why?

CONCLUSION

Appellant respectfully request this Honorable Court to Rule on the above issues "SUA SPONTA", vacate my convictions or remand back to the Lower Court with instructions to set fourth a specific ruling based on the Findings of Facts and Conclusions of Law. Based on the merits of the evidence and testimony on Record raised presented and preserved at the September 2, 2010 PCR hearing; Based on presented facts in Formal Complaint filed June 28, 2011. Presented exhibit, and correspondences.

Respectfully submitted,

Darrell Ray Ebird #322883
Darrell Ray Ebird, #322883
Perry Correctional
Institution Q-1 B-209
430 Oaklawn Road
Pelzer, S.C. 29669

Sworn To And Subscribed Before

Me this 27th Day of July 2011.

Stuart M. M... ..
Notary Public For South Carolina

My commission Expires: August 7, 2016

Clark's Office-Supr. Court
Supreme Court Bldg.,
P.O. Box #1930
Columbia, S.C. 29210

July __, 2011

Dear Clerk:

Please file this Motion of "Designation of Matter to be included in the Record on Appeal" pursuant to Rule's 201 & 209, with the petition for writ of certiorari brief submitted by Mrs. Elizabeth Franklin-Best on June 29, 2011. Darrell Ray Efrid v. State of S.C.

Also, please send me confirmation of the file number of the enclosed Motion.

Darrell Ray Efrid #322883
Darrell Ray Efrid, #322883
Perry Correctional
Institution, Q-1 B-209
430 Oaklawn Road
Palmer, S.C. 29669

Sworn To And Subscribed Before

Me this 27th Day Of 2011.

Thomas M. Massey
Notary Public For South Carolina

My Commission Expires: December 7, 2016

AFFIDAVIT OF TRUTH

I Darrell Ray Efland, being first duly sworn deposed, and say, and declare by signature that the facts in this Motion of Designation of Matter to be included in Record on Appeal. Along with the facts and evidences presented are true, correct and complete to the best of my knowledge and belief.

All matters within this Motion are relevant to said issues because the S.C.C.I.D. Attorney Elizabeth A. Franklin-Best, failed to adequately perfect an Appeal for Writ of Certiorari and present any and all evidence to give the Court a clear and concise picture of the events presented in the issues that would allow for a true and just decision.

Respectfully,

Darrell Ray Efland, #322883
Darrell Ray Efland, #322883
Perry Correctional
Institution Q-1 8-09
430 Oaklawn Road
Palmer, S.C. 29069

Sworn To And Subscribed Before

Me This 27th Day Of July 2011.

Steven T. Munday
Notary Public For South Carolina

My Commission Expires: December 7, 2016

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From York County
John C. Hayes, III, Circuit Court Judge

DARRELL RAY EFIRD,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

CERTIFICATE OF SERVICE

The undersigned Appellant Darrell Ray Efird, moving Pro Se hereby certifies that a true copy of the Motion of Designation of Matter to be included in the Record on Appeal for the initial Petition for Writ of Certiorari Brief in the above referenced case been served on the South Carolina Supreme Court Clerk at Post Office Box 11320 Columbia, S.C. 29211; mailed from Perry Correctional Institution mail room on this _____ day of _____, 2016 AD.

Respectfully,

Darrell Ray Efird # 322883
Darrell Ray Efird, #322883
Perry Correctional
Institution Q-1 3-209
420 Oaklawn Road
Pelzer, S.C. 29669

Sworn To and Subscribed Before

Me this 27th Day Of July 2016.

Stuart M. Mowley
Notary Public For South Carolina

My Commission Expires: November 7, 2016

E-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-1	CONTRACT	62.	82
S-2	POEM . . . . .	. . . . .	183
D-1	POEM . . . . .	. . . . .	172
D-2	CARD . . . . .	. . . . .	175
D-3	STATEMENT BY DOCTOR SHULTZ. . . . .	. . . . .	305
C-1	JUROR NOTE #1 . . . . .	. . . . .	485
C-2	JUROR NOTE #2 . . . . .	. . . . .	485
C-3	JUROR NOTE #3 . . . . .	. . . . .	485
C-4	JUROR NOTE #4 . . . . .	. . . . .	485

REPORTER'S NOTE: ALL EXHIBITS WERE FILED WITH THE YORK COUNTY CLERK OF COURT.

CLOSING ARGUMENTS

MS. HERVEY: 402-410 429-457

MR. BOYD: 410-429

CHARGE OF THE COURT 458-479

VERDICT OF THE JURY 486-487

SENTENCE OF THE COURT 495-496

CERTIFICATE OF REPORTER 497

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E-X-A-M-I-N-A-T-I-O-N

<u>WITNESS</u>	<u>BY:</u>	<u>PAGE:</u>
DARRYL EFIRD	MR. RAWLINSON	5-33
	MS. KINZELER	33-41
MR. JAMES BOYD	MS. KINZELER	42-51
		58-59
	MR. RAWLINSON	51-58

* * * * *

E-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
APPL.1	COURT SCHEDULE		P.19
RESP.1	AFFIDAVIT		P.45

REPORTER'S NOTE: ALL EXHIBITS WERE FILED WITH THE YORK COUNTY CLERK OF COURT'S OFFICE.

Item # 3

VERDICT OF THE JURY.....486
SENTENCE OF THE COURT.....495
CERTIFICATE OF REPORTER.....498

INDICTMENTS.....499

SENTENCING SHEETS.....511

CONTRACT.....516

CERTIFICATE OF COUNSEL.....517

E-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-1	CONTRACT	62.	82
S-2	POEM	183
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C-4	JUROR NOTE #4	485

REPORTER'S NOTE: ALL EXHIBITS WERE FILED WITH THE YORK COUNTY CLERK OF COURT.

CLOSING ARGUMENTS

MS. HERVEY: 402-410 429-457

MR. BOYD: 410-429

CHARGE OF THE COURT 458-479

VERDICT OF THE JURY 486-487

SENTENCE OF THE COURT 495-496

CERTIFICATE OF REPORTER 497

Item 5

000516

FROM :

FAX NO. :

Apr. 07 2006 08:36AM P10

03-14-2006 12:16 CARE VICTIM ASSISTANCE 0439535546

PAGES

Tabitha/Christine can revise at any time
For Tabitha:

These are the conditions for which Tabitha is entitled from Darrell Ray Efrid (her father):

- 1) \$50.00 a week during spring semester of 2006
- 2) Agreement to pay back ALL loans for her bachelor degree
- 3) For her to receive a car within two years of this date
- 4) For her cell phone to be paid for each month and stays on during the next two and half years
- 5) Agreement of no unusual contact
- 6) No THREATS of any kind or nature
- 7) Agreement that the parties will not be anywhere alone together
- 8) Discussion with Psychiatrist (DMLT)
- 9) Will tell Mom if anything happens
- 10) All information pertaining to this matter stays between the three of us as long as these rules are followed.
- 11) From this day forward this matter will not be discussed or argued about between the three of us

*Quintinus
06-11/19/2006
-802*

**If any of these rules are broken then there will be legal consequences against him for any actions.

Christine/Tabitha can revise at any time
For Christine:

These are the conditions for which Christine is entitled to from Darrell Ray Efrid (her husband):

- 1) Funding for place of residency
- 2) Funding for the remainder of her schooling
- 3) The Ford Freestar Van to be paid for by Darrell
- 4) No unwanted physical contact
- 5) No THREATS of any kind or nature
- 6) My cell phone is to remain on and paid for by Darrell
- 7) My internet is to remain on and paid for by Darrell
- 8) Agreement that it will be up to me to decide about our marriage
- 9) All information pertaining to this matter stays between the three of us as long as these rules are followed.
- 10) From this day forward this matter will not be discussed or argued about between the three of us

**If any of these rules are broken then there will be legal consequences against him for any actions.

COUNTY OF York
 STATE VS.
Darrell Efird
 AKA: _____
 Race: W Sex: M Age: 47
 DOB: _____ SS#: _____
 Address: _____
 DL#: 3139257 SID#: _____

INDICTMENT/CA# 2007GS4601996
 A/W#: J150456
 Date of Offense: 03-21-2006
 S.C. Code § : 16-15-0020
 CDR Code #: 0090

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Sex / Incest

in violation of § 16-15-0020 of the S.C. Code of Laws, bearing CDR Code # 0090
 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: _____
 Solicitor: _____
 Defendant: Darrell R Efird
 Attorney for Defendant: James C. Boyd

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 1 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.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §7-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 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	\$ 100.00
§ 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	\$ 25.00
§ 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)		\$
TOTAL		\$ 125.00

PTUP _____
 _____ days/hours Public Service Employment
 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.

David Hamilton
 Clerk of Court/ Deputy Clerk
 Court Reporter: Wanda Nelson

PRESIDING JUDGE James C. Boyd
 Judge Code: 11193
 Sentence Date: 7-12-07

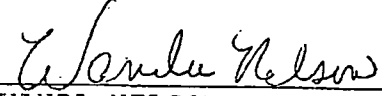
STATE OF SOUTH CAROLINA)
)
) C-E-R-T-I-F-I-C-A-T-E
)
 COUNTY OF CHEROKEE)

I, WANDA NELSON, OFFICIAL COURT REPORTER, CERTIFIED VERBATIM REPORTER AND NOTARY PUBLIC, DO HEREBY CERTIFY THE FOREGOING HEARING WAS TRANSCRIBED UNDER MY SUPERVISION AND THAT THE FOREGOING FOUR HUNDRED AND NINETY-EIGHT (498) PAGES CONSTITUTE A VERBATIM TRANSCRIPTION OF THE PROCEEDING HEREIN.

I DO FURTHER CERTIFY THAT THE PERSONS WERE PRESENT AS STATED.

I DO FURTHER CERTIFY THAT I AM NOT OF COUNSEL FOR OR IN THE EMPLOYMENT OF ANY OF THE PARTIES TO THIS ACTION, NOR DO I HAVE ANY INTEREST, FINANCIAL OR OTHERWISE, IN THE OUTCOME HEREOF.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME, THIS 16TH DAY OF DECEMBER, 2007.



 WANDA NELSON,
 OFFICIAL COURT REPORTER
 CERTIFIED VERBATIM REPORTER
 AND NOTARY PUBLIC IN AND FOR
 THE STATE OF SOUTH CAROLINA.

MY COMMISSION EXPIRES:
 12/06/2010

1 THE COURT: All right let's do that. Let's ask the victim
2 and her family if you will leave first and then everyone
3 else remain seated until they are out. We are going to
4 stand down and I would ask that everyone else remain seated
5 for five minutes and give the others a chance to depart and
6 then everybody else then is free to go. Thank you.

7 (COURT RECESSES AT 5:50 P.M.)

8 - END OF TRANSCRIPT -
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STATE OF SOUTH CAROLINA

County of York

SEARCH WARRANT

Date March 21, 2006

Officer Any Lawful Officer

"Kevin Covert v. The State" Opinion No. 26632
Heard January 21, 2009 - Filed April 13, 2009

Jackson v. Denno 378 U.S. 368, 84 S.Ct 1775, 12 L. Ed. 2d 908 (1964)

STATE OF SOUTH CAROLINA

COUNTY OF York

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-100
March 16, 1973

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF York

it appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure
under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A Vinyl house located at 111 Wilson Street, Fort Mill South Carolina in the county of York. The house is located in front of a Beige
Mobile Home. The House is Beige in color with Green Shutters and a Green Roof. The house has a Brown Swing on the front porch
and a Green and White Swing in the front Yard.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize
such property if found:

DESCRIPTION OF PROPERTY

Large Blue Dildo, Pink Smooth Dildo, a glow in the dark Dildo with nipples, any Vibrators. Any Documents between the Victim and
Suspects.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy
of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such
search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person
in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy
shall be attached to a prominent place on such premises.

S. C.

Signature of Judge

(L. S.)

RETURN

I received the attached Search Warrant 3-21, 20 06, and have executed it as follows:
On 3-22, 20 06 at 12:45 o'clock PM, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with _____
Name of person searched or "at the place of search" with
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

1 Written Contract Document Signed by Darrell, Christine
and Tabitha EFIRD.

This inventory was made in the presence of Carson Neely
AND Amanda P. Carter

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 3rd
day of April, 20 06

Lyann Benjume (L.S.)
Signature of Judge

1:33 pm

Amanda P. Carter
(Signature of Officer Executing Warrant)

STATE OF SOUTH CAROLINA

County of York

SEARCH WARRANT

Date March 21, 2006

Officer Any Lawful Officer

Item #10

RETURN

I received the attached Search Warrant 3-21, 20 06, and have executed it as follows:

On 3-22 20 06 at 12:45 o'clock PM, I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with _____

Name of person searched or "at the place of search" with _____
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

1 Written Contract Document Signed by Darrell, Christine and Tabitha EFIRD.

This inventory was made in the presence of Carson Neely
AND Armande P. Carter

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 3rd
day of April, 20 06
Raymond Benjumea (L.S.)
Signature of Judge

1:33 pm

Armande P. Carter
(Signature of Officer Executing Warrant)

Item # 12

EXHIBIT: J

Mailing Address:
Post Office Box 12725
Columbia, South Carolina 29211



Office Address:
1330 Lady Street, Suite 209
Columbia, South Carolina 29201

LAW OFFICE OF TRICIA A. BLANCHETTE

June 16, 2009

Darrell Efird #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

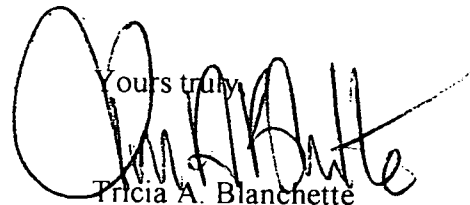
Dear Darrell:

Enclosed please find a copy of the Remittitur, which I received from the Court today. The sending of the Remittitur to the lower court concludes your direct appeal.

I spoke with your sister yesterday, and I informed her that I have been working on your recent research request. I have enclosed two cases that you requested. So far, 4 cases are not in my research subscription, so I will attempt to get those cases from the SC Bar website. I also will not be sending you a copy of State v. Sanders and Lollis v. Manning since both cases have been overturned.

As to your question regarding perjury, it is my understanding that the Court can instruct the Solicitor's Office to pursue a perjury charge or the Solicitor's Office can pursue a perjury charge on their own. It is my understanding that a perjury charge and/or investigation must go through the Solicitor's Office.

I will send you the rest of the cases you requested as soon as I obtain a copy of them. I do have two prison visits this week, but I hope to complete your request this week.

Yours truly,

Tricia A. Blanchette
Attorney at Law

*Based upon your
phone call, I'm enclosing
a search warrant +
arrest warrants.*

Phone: 803-988-0008 Facsimile 803-988-8070

Email: BlanchetteLaw@Gmail.com

July 17 2009

Exhibit E
Item #13

Clerk of Court - York County
David Hamilton
P.O. Box 649
York, S.C. 29745

RECEIVED

JUL 12 2009

RE: State v Darrell R. Eford
Case No. 2007-GS-46-1992-1994

Dear Mr. Hamilton:

Please be advised that I am writing your office to ask if you could extend me the courtesy of providing me a certified copy of the "Search Warrant and Affidavit" from your case file in the above referenced case. These documents are a critical part to my PCR proceedings.

I would appreciate any assistance regarding this matter.

Sincerely Yours

RECEIVED

JUL 17 2009

P.C.I. MAILROOM

18 Darrell R Eford #322883
Darrell R. Eford #322883
Priny Correctional Inst.
430 OAKLAND Road Q313
Pelzer S.C. 29669

c. file

Item # 14

Exhibit F



CLERK OF COURT'S OFFICE

Post Office Box 649; York, South Carolina 29745

August 3, 2009

Darrell R. Efird #322883
Perry Corr Inst Q3B
430 Oaklawn Road
Pelzer SC 29669

The exhibit you want a copy of was not entered as evidence, it was marked for identification purposes only. You must contact your attorney Jim Boyd, or Assistant Solicitor Mindy Hervey, regarding the search warrant.

General Sessions Division

Item # 15

Exhibit: G

August 12, 2009

Ms. Mindy Hervey
Assistant Solicitor
York County Solicitors Office
1675-1A York Hwy.
York, S.C. 29745

Re: **State v. Darrell R. Efird**
Indictment Nos: 2007-GS-43-1992-1996

Dear Ms. Hervey:

Please be advised that I am writing your office seeking a copy of a "search warrant" that is in your files regarding the above referenced cases. I contacted the York County Clerk's Office for a copy of this document; however, I was informed by the clerk that the "search warrant" in question was not entered as evidence at my trial, but rather was marked for identification purposes only by the Solicitor during my trial. Therefore, I am requesting a copy of the "search warrant and Affidavit" so I can initiate my PCR action.

Thank you for any and all consideration concerning this matter.

Sincerely Yours

/s/ Darrell R. Efird #322883
Darrell R. Efird #322883
Perry Correctional Institution
430 Oaklawn Road-Q3B/219
Pelzer, S.C. 29669

cc: file

RECEIVED

AUG 12 2009

P.C.I. MAILROOM

Mailing Address:
Post Office Box 12725
Columbia, South Carolina 29211



Office Address:
1330 Lady Street, Suite 209
Columbia, South Carolina 29201

LAW OFFICE OF TRICIA A. BLANCHETTE

July 14, 2009

Darrell Efirid #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Dear Darrell:

As you requested, I reviewed my 14 pages of Transcript notes and numerous pages of case notes for issues I spotted from the Transcript that related to PCR. Please know that this is not an exhaustive list, but it is merely a list of notes that I made as I was preparing your direct appeal. I have included some page citations and summarized my notes below:

1. All statements were not introduced at trial,
2. Attorney didn't object or attempt to suppress introduction of contract (82),
3. Didn't capitalize on inconsistent testimony b/t wife and daughter, specifically regarding who came up with the terms of the contract,
4. No investigation into boyfriend/ RA,
5. Attorney failed to thoroughly investigate the online information regarding daughter,
6. Didn't look into trip to Maine beyond questions on cross and one witness,
7. Court limited scope of experts testimony to general knowledge (193), attorney failed to
- * object when she made specific references to daughter and offered opinion testimony,
- * 8. Attorney should have further addressed the fact that the expert didn't interview/examine daughter (255-9),
9. Did attorney investigate or properly prepare for testimony of Francis Smith (272),
10. Stipulates to favorable evidence from pediatrician along with evidence regarding latex allergy, should have called her as favorable witness for defense (305),
11. Didn't properly prepare defendant for questions regarding contract or for testimony regarding meeting at Denny's

Please know that this is just a summary from my notes and is not in a format that should be presented to the Court. I am providing this to you as a resource for your personal preparation. Please feel free to contact me with any additional questions.

Yours truly,

Tricia A. Blanchette
Attorney at Law

Phone: 803-988-0008 Facsimile 803-988-8070

Email: BlanchetteLaw@Gmail.com

STATE OF SOUTH CAROL.

SIXTEENTH JUDICIAL CIRCUIT

COUNTY OF YORK

Case No.: 2009-CP-46-3273

DARRELL RAY EFIRD,

Complainant,

FORMAL COMPLAINT

vs.

BRADFORD A. RAWLINSON, ESQUIRE

Respondent.

I Darrell R. Efird, Complainant wish to file a formal complaint against Bradford A. Rawlinson Esquire, Complainant's argument will show Rawlinson did not provide thorough and effective representation within the range of competence required in Post Conviction Relief cases.

ARGUMENT

1. Per the November 4, 2009 correspondence to Rawlinson a "Telephone Privilege Request Form" was sent to him. Which he failed to complete an allowing us to communicate expediently.
2. Per personal visit with Rawlinson on Tuesday, January 19th, no actions were taken on Rawlinson's part to carry out all request made by Complainant during the meeting:
 - A. A oral request was made by Complainant to Rawlinson to send Complainant all laws pertaining to search warrants. Specific reference to search warrants being signed, chain of custody and per signature of the officer on the Return. Do they have to be in Court to testify.
 - B. Per request from Complainant's power of attorney (Cindy Ramsey), Rawlinson was to subpoena Trici A. Blanchette. Blanchette was Complainant's Direct Appeal Counsel. During personal visit Complainant inquired about request. Complainant was told it was taken care of. Blanchette was not at PCR hearing. Even though per correspondence January 28, 2010 and June 16, 2009, shows the importance of Blanchette to be at hearing.
 - C. A oral request was made by Complainant to Rawlinson to send Complainant all laws pertaining to Grand Jury proceedings. Rawlinson sent no information, and during visit refused to discuss indictment issues.
3. Per the feoruary 10 & 24, 2010 correspondence to Rawlinson, he was given a list of people to subpoena. I will give each name, than the importance of each one.
 - A. Christine Efird: She gave Mr. Boyd (trial counsel), the unsigned search warrant that was left at premises. Christine was arrested on the same day as Complainant. In the statement made by Tabitha Efird (Complainant's daughter), claimed Christine knew about the molestation from the beginning that was supposedly going on. Rawlinson was suppose to obtain this statement. Per oral request made during personal visit to be used as an Amendment to PCR Application.
 - B. S.J. Searclaw: Christine Efird's public defender at Christine's preliminary hearing. Mindy Hervey (trial prosecutor) denied there were

two statements. Bear could verify there was a statement used in Christine's preliminary hearing.

C. Amanda P. Carter: Only signature of officer executing warrant on return. This verified by Carter's signature, she was the only one who did the search. Carter was not at trial hearing. Carter could have verified that a copy of unsigned search warrant was left at Complainant's place of residents.

D. Carson Neely: Neely testified in Court by reading the statement as the only evidence in Christine's preliminary hearing. Could have testified trial prosecutor was withholding evidence.

E. Michelle Owens: Owens would of testified that the South Carolina Court Administrations calendar shows there was no Grand Jury held at York on the 14th day of June, 2007. Owens would have stated the facts that the Laws of South Carolina for the Grand Jury convenes for service upon the General Sessions Court only.

F. Mindy Hervey: Would have been asked did she submit bills of indictments to the Grand Jury. Rawlinson was asked during personal visit with Complainant to research and verify where and what Hervey was doing on the 14th of June, 2007. If she was in trial court or somewhere else. If so, she could not have submitted bills of indictments to the Grand Jury while in attendance in General Sessions Court.

G. Lynne Benfield: Was the Magistrate who signed the Return. Would have been asked to verify the date he signed the Return for inventory. That according to Section 17-13-160 form, the bottom paragraph states. "A written inventory of all property seized pursuant to this search warrant shall be made to (left blank) within ten days of the date of this warrant, such inventory to be signed by the officer executing this warrant." As stated earlier Rawlinson was suppose to investigate this issue.

H. O.M. Hampshur: Signed the indictments as the fore-person of the Grand Jury. Rawlinson was asked by Complainant during personal visit to investigate Hampshur. Can it be shown on the docket on June 14, 2007, that Hampshur was a juror on the Grand Jury. To see if he would tell the truth about being on the Grand Jury for June 14, 2007.

4. Per the February 10 & 24, 2010 correspondence to Rawlinson, was again asked to do research on search warrant laws, indictment proceedings, send copies of all case laws being used in PCR, the double jeopardy clause, and all materials used in Complainant's jury trial. Rawlinson did not comply with the request made by Complainant.

5. Per conversations between Complainant and Cindy Ramsey the understanding was Rawlinson was going to do as little as possible. Ignoring all request from Complainant and in the end he did not subpoena or call anyone in the Court room on Complainant's behalf. Ramsey and Complainant both were told by Rawlinson that he was going to subpoena only those he felt needed to be subpoena.

6. Per many conversations with Cindy Ramsey Complainant became desperate to get Rawlinson to at least subpoena Michelle Owens. So Complainant sent the April 21, 2010 correspondence requesting again copies and information. Even as far as requesting only one person Rawlinson had to subpoena. Rawlinson still did not comply.

7. Per June 30, 2010 correspondence to the Honorable J. C. Hayes, Complainant asked for help in requiring Rawlinson to comply with all request made by Complainant. As you see by Judge Hayes reply, he made no order to move Rawlinson to comply. Rawlinson still did not subpoena Michelle Owens.

8. Per July 12 & 21, 2010 correspondence, Complainant requested the Return from the State for PCR and Full Discovery per Uniform Post-Conviction Procedure Act. Rawlinson sent no copies of signed or unsigned search warrants, affidavits, transcripts, police reports, chain of custody, clerk of court's office court schedule for 2007, or a signed copy of the contract used in trial court. Complainant informed him during personal visit, he only had a copy of search warrant with no signatures on it.

9. Per the January 11, 2010 correspondence to Mr. Bennett J. Sculler, III; Rawlinson's boss. Complainant never received a confirmation from the York Clerk of Court or Rawlinson that the Amended Application had been on his behalf. Which Complainant then notified Jennifer A. Kinzeler on July 12, 2010, that Rawlinson was given Amended Application to submit for PCR. At PCR hearing Rawlinson handed me a Amended Application he had done. See Amended Application enclosed.

10. Rawlinson should have had Moss Justice Center call him as soon as Complainant got there and then came to see Complainant. For reasons of:

A. To make sure Complainant had everything needed for his PCR hearing.

B. To make sure Complainant was properly housed and in a cell by himself so he could properly prepare for his case. Not in incoming booking cells for people off the street. Where they put him in a cell with (7) other men by the ingoing door to the back cell blocks. Then booked him and those with him in the cell, one every hour until they were through. They started at 10:00pm and booked Complainant at 2:00am in the morning. Not allowing Complainant to get any sleep.

C. To go over last minute evidence the Attorney General's office gave him. Then together we could have made a well thought of decision. Whether to reschedule the hearing or ask the Judge not to allow the last minute evidence to be presented.

11. During the hearing Rawlinson did not fulfill his legal obligations by not doing the things that I could not do or did not know the proper procedure or looked like I did not understand the procedure to follow to its fullest extent. Like getting all my exhibits entered correctly during the hearing.

12. Per the September 13, 2010 correspondence, Complainant requested copies of the Affidavit, signed search warrant and the two pages of the court schedule for January - December 2007, from the York Clerk of Court that Rawlinson did not give Complainant copies for his file during PCR hearing.

13. Per conversation with Cindy Ramsey, Complainant was informed that Judge Hayes had denied his PCR on or about September 30, 2010. Then Complainant put Judge Hayes on notice that Rawlinson was not providing thorough and effective representation. Correspondence sent November 8, 2010. Complainant then received notice from Rawlinson on November 12, 2010 stating PCR was denied and he was done with my case, leading Complainant to assume that Rawlinson was not going to file a Notice of Appeal per Rule 71, SCRPC,

and S.C. Supreme Court precedent.

14. Per the November 17, 2010 correspondence, Complainant informed Rawlinson, per Rule 7E, and S.C. Court precedent, he had not completed his representative duties until a proper and timely Appeal of the PCR Court's denial and dismissal had been filed. Complainant did not receive a timely response to his request. So, Complainant filed his Pro Se "Notice of Intent to Appeal, by way of Petition for Writ of Certiorari". Complainant believed Rawlinson would have allowed Complainant's time to run out.

15. Per the November 30, 2010 correspondence from Daniel E. Shearouse, reminding Rawlinson to finish his responsibilities, only then did Rawlinson move forward to file Complainant's Appeal, per the December 1, 2010 correspondence. But he still did not send copies of information requested earlier.

16. Per February 2, 2011 correspondence, Complainant once again request the Affidavit, signed search warrant, and the two pages of the Court schedule from the clerk of court's office that Jennifer A. Kinzeler gave to him at my PCR hearing. Rawlinson still refuses to send me the requested copies. Even after sending a notice to Mr. Schiller, Rawlinson's boss. See February 2, 2011 correspondence to Bennett Joseph Schiller, III.

CONCLUSION

WHEREFORE, for the reasons stated above, this office should request all of Complainant's exhibits that he intended to enter into evidence, it should be put into record of his PCR hearing, allowing the Appellate Defense to use in his Petition for Writ of Certiorari. Or, a new PCR hearing should be given to Complainant with a more competent counsel.

Respectfully Submitted,

This 21, Day

of June 2011.

Darrell Ray Ebird, # 322883
Darrell Ray Ebird, #322883
Perry C.I., Q1B/209
430 Oaklawn Road
Pelzer, S.C. 29669

cc: file

RECEIVED

JUN 21 2011

P.C.I. MAILROOM

The State Of South Carolina
Office of Disciplinary Counsel

FORMAL COMPLAINT
Leslie A. Coggiola

Case No.: 2009-CP-40-3273

Darrell Ray Efrid

Complainant,

vs.

Bradford A. Rawlinson, Esquire

Respondent.

PROOF OF SERVICE

[Darrell Ray Efrid Certify and verify under the penalty of perjury
that the foregoing is true and correct, 28 U.S.C. § 1746.

Respectfully Submitted,

Darrell Ray Efrid, #322883

This 21 Day

of June 2011

Darrell Ray Efrid #322883
Perry C.I. Q-1 B-209
430 Oaklawn Road
Pelzer, S.C. 29669

RECEIVED

JUN 21 2011

P.C.I. MAILROOM

cc: file

Sworn To and Subscribed before me

on 21st Day of June 2011.

Stuart T. McLaughlin
Notary Public For South Carolina

My Commission Expires: January 7, 2016

Darrell Ray Efrid #322883
Darrell Ray Efrid, #322883
Complainant

November 4, 2009

Schiller Law Firm
Post Office Box 36365
Rock Hill, South Carolina, 29732
Attn: Bradford A. Rawlinson

RE: Post Conviction Relief

Dear Mr. Rawlinson

I would like to introduce myself to you. I know with the charges I have it makes it hard to believe in me I do not fault anyone for that reason. I would question the innocence of someone with these charges. I do not just ask you to believe me but too talk to my ex-wife, sister, and friends. Then let God guide you on how you represent me.

Here is the "Telephone Privilege Request form" you asked for. Also here are some correspondence for you to look at. The one to Ms. Hervey as you see was sent in Aug. But still to this day I have not received a reply from her. As you can see by the two pages from my transcript the contract was Exhibit Number One. This was obtain by a search warrant that was not signed. Also the officer that did the search was not at the trial.

I hope you are doing well and look forward to talking to you soon.

EX-WIFE: Christine Efid
11 1/2 Wilson Street
Fort Mill, S.C. 29715
Phone: (803) 802-0507

Sister: Cindy Ramsey
114 Pennhurst Road
Spring City, PA. 19475
Phone: (610) 948-8190

Friends: Joseph & Heidi Cabatit
4322 Galette Lane
Fort Mill, SC. 29707
Phone: (803) 547-1865

Sincerely,
Darrell Efid # 322383
Darrell Efid # 322383

RECEIVED
JUN 21 2011
P.C.I. MAILROOM



CLERK OF COURT'S OFFICE

P.O. Box 649, York, South Carolina 29745

2009 09 17
803-366-0333

September 17, 2009

Bennett J Schiller, III
Schiller Law Firm
1176 Ebenezer Road
Rock Hill, SC 29732

Re: Post Conviction Relief Re-Appointment – Darrell R Efird 322883

Dear Mr. Schiller:

Enclosed please find a copy of the Order appointing you as counsel to represent the above named individual for a Post Conviction Relief.

Clerk of Court
Civil Division

cc: Kevin Brackett, Solicitor
Daniel Griggs, Attorney General
Darrell R. Efird, Inmate

RECEIVED
JUN 21 2011
P.C.I. MAILROOM

STATE OF SOUTH CAROLINA
COUNTY OF YORK

Darrell R Efird,
Plaintiff(s),

-vs-

State Of South Carolina,
Defendant(s).

IN THE COURT OF COMMON PLEAS
JUDICIAL CIRCUIT
CASE NO.: 2009CP4603273
APPOINTMENT OF COUNSEL OR GAL
(Select one.)

ORDER
 AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

- Post-Conviction Relief (PCR) habeas case
- SVP case
- Minor Name Change
- Adoption
- Custody and/or Visitation
- Other: Post Convict Rel 500
- Juvenile
- Abuse and Neglect

It appears State Of South Carolina, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: **Attorney suspended from SC Bar for non payment of dues**
- counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- court appointed counsel has obtained , Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other: .

Therefore, it is ordered that Bennett J. Schiller III, hereby is appointed as (Select one.)

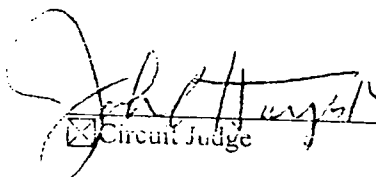
- counsel
- lead counsel (if capital PCR case)
- guardian ad litem

for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

(If Death Penalty PCR Case) It is further ordered that , Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED
September 15th 2009


 Circuit Judge Clerk of Court

Plaintiff Attorney:

Darrell R Efird # 322883	Christine Latona
Perry Correctional Inst Q3B-219	717 East Boulevard
430 Oaklawn Road	Charlotte, NC 28203
Pelzer, SC 29669	

Defendant Attorney:

Daniel Griggs	<u>Bennett J. Schiller, III</u>
Office Of The Attorney General	<u>Schiller Law Firm</u>
P.O. Box 11549	<u>1174 Ebenezer Rd</u>
Columbia, SC 292111549	<u>Rock Hill, SC 29732</u>

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.



Bennett J. Schiller III
www.theschillerlawfirm.com
Telephone: 803-366-0333
Facsimile: 803-366-0339

October 27, 2009

Darrell Efird
SCDC #: 322883
Q3B204
430 Oaklawn Road
Pelzer, SC 29669

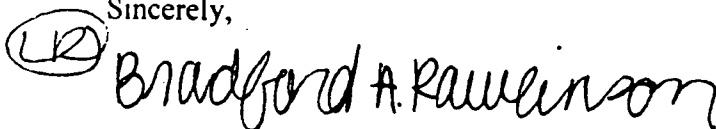
Dear Mr. Efird,

I have been appointed to represent you on your Post Conviction Relief Application. I am in the process of contacting the Attorney General's Office so that I may begin to review your materials. They have informed me, however, that your case may not be scheduled for sometime due to the number of PCRs that have been filed.

I will be in contact with you as your case develops. As I begin to review your file, please do not hesitate to write if you feel that there are facts which may be important during this process. Also please be kind enough to send me a form so that I might set up a phone account as that may be necessary for us to communicate during this period.

I hope you are doing well and I look forward to providing you with thorough and effective representation.

Sincerely,



Bradford A. Rawlinson
Schiller Law Firm

RECEIVED
JUN 21 2011
P.C.I. MAILROOM



Bennett J. Schiller III
Bradford A. Rawlinson
www.theschillerlawfirm.com
Telephone: 803-366-0333
Facsimile: 803-366-0339

January 13, 2010

VIA FACSIMILE (864) 243-4700

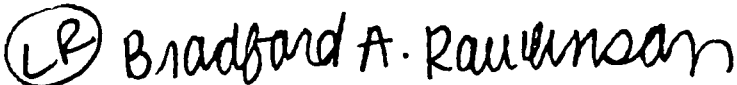
Perry Correctional Institution
ATTN: Operations
430 Oaklawn Road
Pelzer, SC 29669

RE Darrell Efird
Inmate Number: 322883

To Whom It May Concern:

I write to confirm my representation of Darrell Efird (Inmate #322883) and my appointment with him on Tuesday, January 19th at Perry Correctional Institution at 2:00 P.M. Please contact my office if you have any questions.

Sincerely,



Bradford A. Rawlinson
Schiller Law Firm

BAR/lr

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P.C.I. MAILROOM

TELECOPY COVER SHEET

CONFIDENTIALITY NOTICE

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is PRIVILEGED, CONFIDENTIAL and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original to us by mail without making a copy. Thank you.

If there is a problem with transmission or if all pages are not received, please call (803) 366-0333 for retransmission.

TO: Operations
FAX #: (864) 243-4700

COMPANY: Perry Correctional Institution

FROM: Lindsey Rumford / Bradford A. Rawlinson
FAX #: +1 (803) 366-0339
DATE: January 13, 2010

RE: Darrell Efird
Inmate Number: 322883

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Number of pages including this cover page: 2

Comments:

Attached please find a letter regarding my appointment with Darrell Efird for January 19 at 2:00 P.M. Contact me with any questions or concerns. Thank you.



Bennett J. Schiller III
Bradford A. Rawlinson
Joel T. Hamilton
www.theschillerlawfirm.com
Telephone: 803-366-0333
Facsimile: 803-366-0339

January 28, 2010

Darrell Efird
SCDC #: 322883
Q3B204
430 Oaklawn Road
Pelzer, SC 29669

RE Your Case

Dear Mr. Efird:

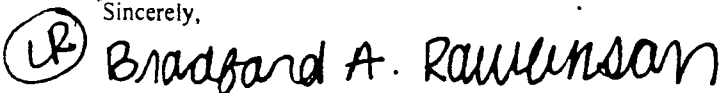
I write to inform you that your Post-Conviction Relief hearing has been continued to the week of August 10, 2010. There have been a number of issues that has caused this to occur. First, the judge that was to hear your case, the Honorable John Hayes, will be delayed in another civil trial on Monday, February 1, 2010. Because of this fact, our hearing had to be moved to another day next week. Scheduling problems have occurred with each day, however. Tuesday, Thursday, and Friday currently have the maximum amount of hearings already scheduled. I, Mr. Boyd, Tricia Blanchette, and the Assistant Attorney General who is handling the case tried unsuccessfully to coordinate our schedules for Wednesday, but were unsuccessful. Furthermore, it would be unlikely that another hearing could have been scheduled for that day.

Additionally, the next term of PCR court for in the Sixteenth Circuit is being held under Judge Alford, who was the trial judge in your case. It would obviously be improper for him to hear your PCR, and if it were to be scheduled during this term, I would have to move for a continuance for that reason. As such, we are forced to wait until the next PCR term in the Sixteenth Circuit that Judge Hayes will be presiding over. That term is the week of August 10, 2010.

I would like to express my regret in having to inform you of this situation. I do, however, view this situation as a potential bonus for your PCR application. I have been working hard on your case this past week, and in fact, had talked to Tricia Blanchette about your case today. This situation only gives us more time to prepare and think through the issues that we will ultimately allege grants you the right to a new trial.

As the date for the hearing becomes finalized and draws nearer I will be in contact. Until then, please know that I will continue to review your case and will contact you if I have any questions. Please do not hesitate to write if you feel there are additional grounds that you want me to consider in your PCR application.

Sincerely,

 Bradford A. Rawlinson

Bradford A. Rawlinson
Schiller Law Firm

BAR/1r

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JUN 2 2011

P.C.I. MAIL

Mailing Address:
Post Office Box 12725
Columbia, South Carolina 29211



Office Address:
1330 Lady Street, Suite 209
Columbia, South Carolina 29201

LAW OFFICE OF TRICIA A. BLANCHETTE

June 16, 2009

Darrell Efird #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

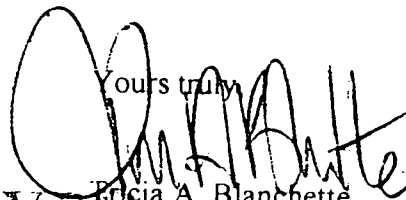
Dear Darrell:

Enclosed please find a copy of the Remittitur, which I received from the Court today. The sending of the Remittitur to the lower court concludes your direct appeal.

I spoke with your sister yesterday, and I informed her that I have been working on your recent research request. I have enclosed two cases that you requested. So far, 4 cases are not in my research subscription, so I will attempt to get those cases from the SC Bar website. I also will not be sending you a copy of State v. Sanders and Lollis v. Manning since both cases have been overturned.

As to your question regarding perjury, it is my understanding that the Court can instruct the Solicitor's Office to pursue a perjury charge or the Solicitor's Office can pursue a perjury charge on their own. It is my understanding that a perjury charge and/or investigation must go through the Solicitor's Office.

I will send you the rest of the cases you requested as soon as I obtain a copy of them. I do have two prison visits this week, but I hope to complete your request this week.

Yours truly,

Tricia A. Blanchette
Attorney at Law

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JUN 21 2011

P.C.I. MAILROOM

Phone: 803-988-0008 Facsimile 803-988-8070

Email: BlanchetteLaw@Gmail.com

*Based upon your
phone call, I'm enclosing
a search warrant +
arrest warrants.*

February 10, 2010

Bradford Rawlinson
P.O. Box 36365
Rock Hill, SC 29732

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JUN 21 2011

P.C.I. MAILROOM

RE: State V. Darrell R. Efird
Case No.: 2009-CP-46-3272

Dear Mr. Rawlinson

Please be advised that am writing you to request that you subpoena the following people: Christine Efird, B.J. Bearclaw, Amanda P. Carter, Carson Neely, David Hamilton (C.C. of York County), Mindy Hervey, L. Benfield (Person who signed the Return) and O M Hampshur (Foreperson of Grand Jury Date: 6-14-2007).

Please question these items of intrest: Was the person who signed the Return a judicial officer? If so what kind? (SC code of law section 17-13-140). From time of search to inventory of property was (12) days. Paperwork to show where inventory was. Was the chain of evidence broken? What is an Assistant Solicitor? Why are there two different signatures on the indictments?

Please send me a copy of all case law used in my PCR and the "Double Jeopardy Clause."

Please request the Assistant Solicitor (Mindy Hervey) to send all statements taken and all material used in my Jury trial, per Freedom of information act.

Sincerely,
Darrell R. Efird, SCDC # 322883
Darrell R. Efird, SCDC # 322883

cc: file
cc: Cindy Ramsey

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FEB 11 2010

P.C.I. MAILROOM

February 24, 2010

Bradford Rawlinson
P.O. Box 36365
Rock Hill, SC 29732

Ms Michelle Owens is
the change I need you to
make on who to subpoena
from the South Carolina Supreme
Court Administration Columbia SC
to talk about the Court
Schedule Exhibit; C & C-1.

Darrell R. Efind
#322883

RE: State V. Darrell R. Efind
Case No.: 2009-CP-46-3272

2/24/2010

cc: file
cc: Cindy Ramsey

Dear Mr. Rawlinson

Please be advised that am writing you to request
that you subpoena the following people: Christine Efind,
B.J. Bearclaw, Amanda P. Carter, Carson Neely, Michelle Owens (S.C. Supreme
Court Administration), Mindy Hervey, L. Benfield (Person who
Singed the Return) and OM Hampshur (Foreperson of
Grand Jury Date: 6-14-2007).

Please question these items of intrest: Was the
person who signed the Return a judicial officer? If so
what kind? (SC code of law section 17-13-140). From
time of search to invetory of property was (12) days.
Paperwork to show where invetory was. Was the chain of
evidence broken? What is an Assistant Solicitor? Why are
there two diffrent signatures on the indictments?

Please send me a copy of all case law used in my PCR
and the "Double Jeopardy Clause."

Please request the Assistant Solicitor (Mindy Hervey)
to send all statements taken and all material used in my
Jury trial, per freedom of infomation act.

Sincerely,
Darrell R. Efind, SCDC #322883
Darrell R. Efind, SCDC #322883

cc: file
cc: Cindy Ramsey

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JUN 21 2011

P.C.I. MAILROOM

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FEB 24 2010

P.C.I. MAILROOM

~~MAXI940D~~

~~SCDC OFFENDER MANAGEMENT SYSTEM~~

~~07/01/11~~

~~DISCIPLINARY SYSTEM~~

~~0039231~~

~~SCDC ID: 00222369~~

~~INMATE INFRACTION HISTORY~~

~~NEAR, GREGORY A~~

~~CARR LOC. PERRY~~

~~OFFENDER TYPE: ADULT STRAIGHT SENTENCE~~

INFRACTION	INFRACTION	HEARING	TOT	SUS	GT	DISPOSITION
DESCRIPTION	DATE	DATE	SEG	TO	LOST	
OUT OF PLACE	04/01/09	/ /	00000	00000	00000	CONVICTED
INTERFERING WITH COUNT	01/12/09	/ /	00000	00000	00000	CONVICTED
USE/POSS OF TATTOO BARBAR	11/26/08	/ /	00000	00000	00000	CONVICTED
MUTILATION	11/26/08	/ /	00000	00000	00000	CONVICTED

~~***END OF LIST***~~

~~PAGE 0001~~

~~INMATE DISCIPLINARY HISTORY DISPLAYED...~~

~~PF11 QUIT PF10-MAIN MENU PF7-BACKWARD PF8 FORWARD CLEAR PREVIOUS SCREEN~~

STATE OF SOUTH CAROLINA

COUNTY OF York

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-100
March 16, 1979

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF York

it appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A Vinyl house located at 111 Wilson Street, Fort Mill South Carolina in the county of York. The house is located in front of a Beige Mobile Home. The House is Beige in color with Green Shutters and a Green Roof. The house has a Brown Swing on the front porch and a Green and White Swing in the front Yard.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Large Blue Dildo, Pink Smooth Dildo, a glow in the dark Dildo with ripples,, any Vibrators. Any Documents between the Victim and Suspects.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

_____, S. C.

_____, 20 _____

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JUN 21 2011

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JUN 21 2011

P.C.I. MAILROOM

RETURN

I received the attached Search Warrant 3-21, 20 06, and have executed it as follows:
On 3-22, 20 06 at 12:45 o'clock PM, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with _____
Name of person searched or "at the place of search" with _____
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

1 Written Contract Document Signed by Darrell, Christine and Tabitha EFIRD.

This inventory was made in the presence of Carson Neely
AND Armande P. Carter

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 3rd
day of April, 20 06
Loren Benjett (L.S.)
Signature of Judge

1:33 pm

Armande P. Carter

(Signature of Officer Executing Warrant)

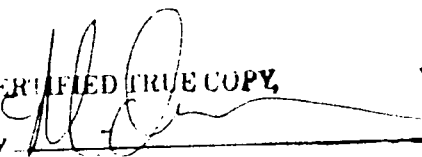
**Terms of Circuit and Family Court
June 2007**

Circuit Number	6/4/2007	6/11/2007	6/18/2007	6/25/2007
16	General Sessions York Alford, Lee MCGILBERRY 4, 5, 6, 7 BARRETT 8 General Sessions York Goodstein, Diane RICH	Common Pleas York Milling, John MCGILBERRY 11 BARRETT 12, 13 NO CR NEEDED 14, 15 General Sessions Union Newman, Clifton BROOM Common Pleas Non- Jury 14 York Kimball, S. MCGILBERRY 14	General Sessions York Alford, Lee MCGILBERRY General Sessions York Patterson, Larry BARRETT 18, 19 NO CR NEEDED 20, 21, 22	Common Pleas Non- Jury Alford, Lee MCGILBERRY 25, 26, 27, 28 NO CR NEEDED 29 Common Pleas York Hayes, John C. RICH 25, 26, 27, 28 NO CR NEEDED 29 Common Pleas Non- Jury 25, 26, 27, 28 York Kimball, S. BROOM 25, 26, 27, 28

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JUN 21 2011

P.C.I. MAILROOM

CERTIFIED TRUE COPY,
 By 
 South Carolina Court Administration

FOCUS™ Terms 14-9-170

Search Within: Circuit Rules (1-1)

Source Court Rules & ALS > SC - Code of Laws of South Carolina Annotated, Constitution, 1700 > 14-9-170. Grand jury.

S.C. Code Ann. § 14-9-170

SOUTH CAROLINA CODE OF LAWS ANNOTATED BY LEXISNEXIS(R)

*** THIS DOCUMENT IS CURRENT THROUGH THE 2007 REGULAR SESSION ***
*** THE MOST CURRENT ANNOTATION IS DATED DECEMBER 15, 2008 ***

TITLE 14. COURTS
CHAPTER 9. COUNTY COURTS

GO TO SOUTH CAROLINA ARCHIVE DIRECTORY

S.C. Code Ann. § 14-9-170 (2007)

§ 14-9-170. Grand jury.

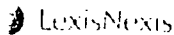
The grand jury as drawn in accordance with law for service upon the court of general sessions in each of the counties shall constitute the grand jury for the county court and shall meet with the county court at each of its terms, except the term next succeeding each session of the circuit court, at which term the grand jury need not meet with the county court.

History:

1962 Code § 15-617; 1952 Code § 15-617; 1942 Code § 87; 1932 Code § 87; Civ. P. '22 § 34; Civ. C. '12 § 3859; Civ. C. '02 § 2762; 1900 (23) 322.

NOTES:

Source Court Rules & ALS > SC - Code of Laws of South Carolina Annotated, Constitution, 1700 > 14-9-170. Grand jury. > § 14-9-170. Grand jury.
Date/Time Thursday, January 15, 2009 10:58 AM EST



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JUN 21 2011

P.C.I. MAILROOM

SC - South Carolina Code of Laws Annotated by LexisNexis
§ 14-9-210. Indictments for county court cases by grand jury of court of general sessions.

Terms 14-9-210

Select for FOCUS™ or Delivery

S.C. Code Ann. § 14-9-210

SOUTH CAROLINA CODE OF LAWS ANNOTATED BY LEXISNEXIS(R)

Practitioner's Toolbox

*** THIS DOCUMENT IS CURRENT THROUGH THE 2007 REGULAR SESSION ***
*** THE MOST CURRENT ANNOTATION IS DATED DECEMBER 15, 2008 ***

Case Notes
History

TITLE 14. COURTS
CHAPTER 9. COUNTY COURTS

TO THE SOUTH CAROLINA ARCHIVE DIRECTORY

S.C. Code Ann. § 14-9-210 (2007)

§ 14-9-210. Indictments for county court cases by grand jury of court of general sessions.

The county solicitor shall prepare and, through the presiding judge of the court of general sessions, submit to the grand jury, while in attendance upon the court of general sessions, bills of indictment in all cases pending in the county court in which the punishment may exceed a fine of one hundred dollars or imprisonment for thirty days, when such cases have not been previously acted on by the grand jury. The grand jury shall act thereon and report its action to the presiding judge of the court of general sessions and said judge shall direct the clerk of the court of general sessions to report the same to the presiding judge of the county court at its next ensuing term. All cases in which bills of indictment are so found shall stand for trial by the county court as though found by the grand jury while in attendance upon the county court.

History:

1962 Code § 15-621; 1952 Code § 15-621; 1942 Code § 89; 1932 Code § 89; Civ. P. '22 § 36; Civ. C. '12 § 3861; Civ. C. '02 § 2764; 1900 (23) 322.

NOTES:

LexisNexis (R) Notes:

Case Notes:

1. Defendant, who successfully appealed two municipal court charges, failed to prove that her conviction in general sessions court of pointing a weapon, a violation of [§ 16-23-20], stemming from the same conduct as the municipal court charges, was vindictive prosecution in violation of her [§ 14-9-210] process rights, because under [§ 14-9-210] and [§ 14-9-210], it is the solicitor's duty to prosecute criminal charges, including procurement of the proper indictment from the grand jury, the pointing offense had been charged at the same time as the municipal court offenses, and in directly indicting defendant for assault with intent to kill the solicitor had been unaware of the disposition of the municipal court charges.

RECEIVED
JUN 21 2011
P.C.I. MAILROOM

April 21, 2010

Bradford Rawlinson
P.O. Box 36365
Rock Hill, SC 29732

Re: State V. Darrell R. Efird
Case No: 2009-CP-46-3272

Dear Mr. Rawlinson

I know you have other cases, but could you please give me an update on getting the copies I asked for. Did you receive a replay from the Assistant Solicitor Ms. Mindy Hervey? If not what actions can you take on my behalf? What do I need to do to obtain what I asked for?

Since I can not call you to talk about my case. I have come to the conclusion that the only person you need to subpoena is Ms. Michelle Owens from the South Carolina Supreme Court Administrations Office.

Please be advised that my sister has a copy of all the paperwork that I have. She will be sending copies of all PCR paperwork to 60 minutes, Dateline NBC, the President of the U.S.A., and family & friends (who will be coming to my hearing).

Sincerely,
Darrell R. Efird
Darrell R. Efird, SCDC# 322883

cc: file
cc: Cindy Ramsey

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JUN 21 2010

P.C.I. MAIL

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APR 21 2010

P.C.I. MAILROOM

June 30, 2010

Honorable John C. Hayes
State Justice Center
1075 1st, York, Pa.
York, Pa. 17403

Re: Darrell R. Egan #322883 v. State
Case No.: 2009-CR-16-0272

Dear Judge Hayes:

Please be advised that I have been informed by my PCR Counsel, Bradford Paulson, that my PCR hearing will be held during the second week in August 2010. I am alleging a subject-matter jurisdiction issue in my PCR application, and I have asked Mr. Paulson to subpoena Michael Greas from the S.C. Court Modernization Record Department as a witness to verify my jurisdiction issue. However, Mr. Paulson has informed me that he will not raise my jurisdiction issue, and that he will not subpoena Mr. Greas as a witness for my PCR hearing.

Judge Hayes, I am not knowingly and voluntarily waiving my jurisdictional issue, and, by this letter, I am seeking your assistance in raising this issue at my hearing to preserve my right to "one bite at the apple".

Thank you for your kind attention on this matter.

Sincerely Yours,

Darrell R. Egan #322883
Darrell R. Egan #322883
Perry Correctional Institution
400 Oaklawn Road-738/204
Palmer, Pa. 17069

cc: PCR #322883

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JUN 2 2011

P.C.I. MAIL ROOM

JUL 1 2011
P.C.I. MAIL ROOM



State of South Carolina
The Circuit Court of the Sixteenth Judicial Circuit

John C. Hayes, III
Judge

Moss Justice Center, 2nd Floor
1675-1H York Highway
York, SC 29745-7434
Phone: (803) 628-3047
Fax: (803) 628-3055
jhayesj@sccourts.org

July 12, 2010

Mr. Darrell R. Efird, #32283
Perry Correctional Inst.
430 Oaklawn Road - Q3B/204
Pelzer, SC 29669

Dear Mr. Efird:

I received your letter of June 30, 2010 regarding your PCR matter. I am filing the original with the Clerk of Court and forwarding a copy to Jennifer Kinzeler of the Attorney General's Office and to Mr. Rawlinson.

Yours very truly,

A handwritten signature in cursive script that reads "John C. Hayes, III".

John C. Hayes, III

JCHIII/ijk

Cc: York County Clerk of Court (w/enc.)
Jennifer A. Kinzeler (w/enc.)
Bradford A. Rawlinson, Esq. (w/enc.)

RECEIVED

JUN 21 2010

P.C.I. MAILROOM

July 12, 2010

Mr. Bradford Rawlinson
P.O. Box 36365
Rock Hill, S.C. 29732

Re: State v. Darrell
Case No: 2009-CP-46-3272

Dear Mr. Rawlinson:

Please be advise that I am requesting a copy of the Report from the State for P.C.R and Full Discovery, including all police reports, chain of custody, warrants, affidavit, indictments, also any other evidence pertaining to my case. Per Uniform Post-Conviction Procedure Act.

Sir if you feel that you are not capable of handling this case because of my charges. Please feel free to relieve yourself from my case. If ~~roles~~ the roles were reversed I don't know what I would do. I would like to think I would do the right thing. So I ask you to let God guide you in your decision.

Thank you for your Kind attention to this matter.

Sincerely Yours,

/s/ Darrell Ebird # 322883

Darrell Ebird #322883
Perry C.I., Q3B-204
430 Oaklawn Road
Pelzer, S.C. 29669

cc: file
cc: Cindy Ramsey
cc: Office of Disciplinary Counsel
Lashley H. Soggin

RECEIVED

JUL 12 2010

P.C.I. MAILROOM

RECEIVED

JUN 21 2011

P.C.I. MAILROOM

July 21, 2010

Schiller Law Firm
c/o Mr. Bradford Rawlinson
P.O. Box 36365
Rock Hill, S.C. 29732

RE: Darrell R. Efird #322883 v. State
Case No.: 2009-CP-46-3272

Dear Mr. Rawlinson:

I realize I sent the last letter to the other office location. So I am sending this letter just in case you did not get my letter. It was sent July 12, 2010.

Please be advise that I am requesting a copy of the Return from the State, for P.C.R. and Full Discovery, including, all police reports, chain of custody, warrants, affidavit, indictments, transcripts, also any other evidence pertaining to my case. Per Uniform Post-Conviction Procedure Act.

Sir if you feel that you can not represent me to the best of your ability because of my charges. Please feel free to relive yourself from my case. If the roles were reversed I don't know what I would do. I would like to think I would do the right thing. So I ask you to let God guide you in your decision.

I talked to my sister on 18th she said you had all intention to win my case. Then please send me what I askd for and subpoena Ms. Michell Owens from the South Carolina Supreme Court Administrations Office.

Tell me what you found out about the other statement that was made against my wife, Christine Efird. Did you speak to Carson Neely, Amanda, P. Carter, and B.J. Bearclaw. Are you going to subpoena these people on my behalf.

Sincerely Yours,

/s/ Darrell R. Efird #322883

Darrell R. Efird #322883
Perry C.I., Q3B/204
430 Oaklawn Road
Pelzer, S.C. 29669

RECEIVED

JUN 21 2011

P.C.I. MAILROOM

cc: file
cc: Cindy Ramsey
cc: Office of Disciplinary Counsel
Lesley M. Coggiola

RECEIVED

JUL 21 2010

P.C.I. MAILROOM

January 11, 2010

Mr. Bennett J. Schiller III
Post Office Box 26365
Rock Hill, S.C. 29732

Re: Darrell Ebird, #322883 v. The State (Amended PCR)
Case No. 2009-CP-46-3272

Dear Mr. Schiller:

Enclosed please find my original Amended Application for Post-Conviction Relief (PCR) for submission on my behalf to the courts so all my available grounds can be heard at my PCR hearing.

Thank you for your kind attention to this matter.

Sincerely Yours

1/s/ Darrell Ebird # 322883
Darrell Ebird, #322883
Perry Correctional Institution
430 Oaklawn Road-Q37
Pelzer, S.C. 29669

cc: Applicant's File

RECEIVED

JUN 21 2010

P.C.I. MAILROOM

11

JUL 12 2010

P.C.I. MAILROOM

[Signature]

RECEIVED

JAN 11 2010

P.C.I. MAILROOM

STATE OF SOUTH CAROLINA

COURT OF YORK

Case No.: 2009-07-16-3272

Parcel #122933,

APPEAL FROM
POST-CONVICTION REVIEW

vs.

The State,

Respondent.

The Applicant, through his undersigned attorney, moves the Honorable Court to grant leave to amend the application for post-conviction relief (PCR) to include the following available grounds:

1. The Applicant was denied the right to effective assistance of trial counsel by counsel's failure to move to suppress evidence (written contract) obtained under a defective search warrant.

When a defendant alleges that counsel's failure to articulate a defective search warrant under S.C. Code §17-13-140 he must show that such claim is meritorious and that verdict would have been different because evidence that should have been excluded. See e.g., Stokes v. State, 418 S.E.2d 560 (1991); State v. Coverly, 628 S.E.2d 192 (S.C. App. 2006).

In this case, the state executed a search warrant on Applicant's home to obtain a "written contract document signed by Applicant and the 'minor victim' (his daughter) that was used by the solicitor to corroborate the minor victim's testimony against the Applicant. Consequently, the search warrant was never signed by any "issuing judicial officer. See Exhibits A, V-1 (Search Warrant) and Exhibit 2 (Receipt). In Coverly, our Supreme Court held that "the search warrant statute under §17-13-140 contains requirements different from those mandated by the Court's Meridian precedent, and is in some ways more strict, than the former constitutional provision." State v. Coverly, 352 S.E.2d 171 (1997). "While we have recognized a good faith exception to statutes, requirements where the officers make a good faith attempt to comply with the statute's effective provisions, Coverly, State v. Coverly, 352 S.E.2d 501 (1975), we have left open the question whether a good faith exception would be applied where the officers reasonably believe the warrant is valid when it is issued, but subsequently determined to be unconstitutional to the state's benefit."

"In fact, we do not reach the question whether there exists a good faith exception to the statute where a defective warrant is issued, since under Carolina law an assigned warrant is not a warrant, and is not capable of being issued within the meaning of 517-13-140. See also DAVIS V. SANDERS, 19 S.E. 133 (1904).

Here, the solicitor used the "written contract" in this case in order to im-

properly corroborate the minor victim's testimony and to extensively cross ex-

amine applicant to prove this case. Even proper corroboration testimony that is

merely cumulative to victim's testimony in criminal sexual conduct prosecution can-

not be harmless because it is precisely this cumulative effect which enhances the

debatable impact of improper corroboration. See, e.g., JOLLY V. STATE, 443 S.E.2d

566 (S.C. 1994).

Finally, as there was no physical or forensic evidence connecting applicant

to the crimes and the case was primarily a swearing contest, trial counsel's failure

to move to suppress the "written contract" was ineffective assistance of counsel

that prejudiced applicant's defense and right to a fair trial. See COBB V. STATE,

403 S.E.2d 223 (S.C. 1991); see also STROCKLAND V. WASHINGTON, 104 S.Ct. 2052 (1994).

Respectfully Submitted

BY:

Annabeth J. Schiller III

Post Office Box 36365

Rock Hill, S.C. 29732

Attorney for Applicant

This _____ day

of _____, 2010

ED

2011

P.C.T. MAILROOM

July 12, 2010

Mr. Darrell Eford #322883
P.C.I. Q3B-204
430 Oaklawn Road
Pelzer, SC. 29669

Jennifer A. Kinzeler, Esquire
In care of P.C.R. Division
P.O. Box 11540
Columbia, S.C. 29210

Re: Notice of Amendment P.C.R. Case No. : 2009-CP-46-3272

Dear Mrs. Kinzeler:

In January 2010 my P.C.R. attorney, Bradford Rawlinson was given Amendment and Exhibits to amend for me. Since then he has been very uncooperative about my case. Enclosed is those Amendment and Exhibits to put your office on notice that I will be arguing these issues when my P.C.R. hearing is set.

Thank you for your valuable time on this matter.

Sincerely, Yours

Darrell Eford # 322883
Darrell Eford #322883

cc: Applicant; Office

RECEIVED
JUN 21 2011
P.C.I. MAILROOM

RECEIVED

JUL 12 2010

P.C.I. MAILROOM

Mr. Bradford Rawlinson

P.O. Box 36365

Rock Hill, S.C. 29732

Dear Sir:

It is with deep emotion and turmoil I write this letter to you. I feelhelpless, concerned, and lost in how to help my bother.

I so apologize for my words and actions to you. I am sure you have a large work load and many cases before you that take away your energy and strength. I am sure you take your job with the greatest of Importance.

I pray for wisdom and guidance for you. I wish you the best as well as trusting my brother's case to you and I am very sure you will do your best.

If I may do something to help you or assist you, please know you can count on me. I would be glad to help in any way you need. I can be reached at 610-715-4521. Many prayers are with you.

Sincerely,



Cindy E. Ramsey, POA for Darrell R. Efird

July. 23, 2010

PS Darrell asked on the phone the other night if I would remember to encourage you to file a **59E**, at the PCR Hearing, regardless of the decision of the Judge. Thank you for your help in this matter.

RECEIVED

JUN 21 2011

P.C.I. MAIL ROOM



Bennett J. Schiller III
Bradford A. Rawlinson
Joel T. Hamilton
www.theschillerlawfirm.com
Telephone: 803-366-0333
Facsimile: 803-366-0339

July 27, 2010

Ms. Cindy Ramsey
114 Pennhurst Road
Spring City, PA 19475

RE State v. Darrell R. Efirid
Case #: 2009-CP-46-3272

Dear Ms. Ramsey:

Thank you for your letter dated July 23, 2010. I can assure you I did not take any of your words or actions personal. I recognize that this is a very emotional time for you and your family.

Please be assured that I am going to do my best for Darrell. While we may disagree on how best to approach the case, please know that this disagreement should not be construed as disinterest on my part. I understand the gravity of this proceeding and I respect our system of justice too much to give Darrell a half-hearted effort.

Again, no apologies are needed. In fact, I freely admit that I could have handled myself in a more restrained manner. For my part, I will chalk our exchange up to two people who care about getting one job done—providing Darrell with a chance at a new trial.

Thank you again for the letter and I will be in touch soon as Darrell's hearing approaches.

With kind regards,



Bradford A. Rawlinson
Schiller Law Firm

BAR/sm

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JUN 21 2011

P.C.I. MAILROOM

January 11, 2010

Mr. Bennett J. Schiller III
Post Office Box 36365
Rock Hill, S.C. 29732

Re: Darrell Efird, Z322883 v. The State (Amended PCR)
Case No. 2009-CP-46-3272

Dear Mr. Schiller:

Enclosed please find my original Amended Application for Post-Conviction Relief (PCR) for submission on my behalf to the court; so all my available grounds can be heard at my PCR hearing.

Thank you for your kind attention to this matter.

Sincerely Yours

/s/ Darrell Efird #322883
Darrell Efird, #322883
Perry Correctional Institution
430 Oaklawn Road-Q3B
Pelzer, S.C. 29669

cc: Applicant's File

RECEIVED

JUN 21 2011

P.C.I. MAIL ROOM

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
Darrell Ebird, #322833,)
Applicant,)
vs.)
The State,)
Respondent.)

IN THE COURT OF COMMON PLEAS

Case No.: 2009-CP-46-3272

AMENDED APPLICATION FOR
POST-CONVICTION RELIEF

RECEIVED
JUN 21 2011
P.C.J. MAILROOM

The Applicant, through his undersigned Attorney, move the Honorable Court to grant leave to Amend the Application for Post-Conviction Relief (PCR) to include the following available grounds:

1. The Applicant was denied the right to effective assistance of trial counsel by counsel's failure to move to suppress evidence (written contract) obtained under a defective search warrant.

When a defendant alleges that counsel's failure to articulate a defective search warrant under S.C. Code §17-13-140 he must show that such claim is meritorious and that verdict would have been different absence evidence that should have been excluded. See e.g., Sikes v. State, 448 S.E.2d 560 (1994); State v. Covert, 628 S.E.2d 482 (Ct. App. 2006).

In this case, the state executed a search warrant on applicant's home to obtain a "written contract Document signed by Applicant and the Minor victim (his daughter)" that was used by the solicitor to corroborate the minor victim's testimony against the applicant. Consequently, the search warrant was never signed by any "issuing judicial officer. See Exhibits A, A-1 (Search Warrant) and Exhibit B (Return).

In Covert, Supra, our Supreme Court held that "the search warrant statute under §17-13-140 contains requirements different from those mandated by the Fourth Amendment, and is in some ways 'more strict' than the federal constitution". State v. McKnight, 352 S.E.2d 471 (1987). "While we have recognized a 'good faith' exception to statute's requirements where the officers make a good faith attempt to comply with the statute's affidavit procedures, McKnight, Supra, explaining State v. Sachs, 215 S.E.2d 501 (1975), we have left open the question whether a good faith exception would be applied where 'the officer reasonably believe the warrant is valid when the search is made, but subsequently determined to be invalid'". McKnight, Supra.

Here, we do not reach the question whether there exist a good faith exception to the statute where a defective warrant is issued, since under South Carolina law an unsigned warrant is not a warrant, and is not capable of being issued within the meaning of §17-13-140. See also Davis v. Sanders, 19 S.E. 138 (1894).

Here, the solicitor used the "written contract" in its case in chief to improperly corroborate the minor victim's testimony and to extensively cross examine applicant to prove its case. Even proper corroboration testimony that is merely cumulative to victim's testimony in criminal sexual conduct prosecution cannot be harmless because it is precisely this cumulative effect which enhances the devastating impact of improper corroboration. See, e.g., Jolly v. State, 443 S.E.2d 566 (S.C. 1994).

Finally, as there was no physical or forensic evidence connecting applicant to the crimes and the case was primarily a swearing contest, trial counsel's failure to move to suppress the "written contract" was ineffective assistance of counsel that prejudiced applicant's defense and right to a fair trial. See Cobbs v. State, 408 S.E.2d 223 (S.C. 1991); see also Strickland v. Washington, 104 S.Ct. 2052 (1984).

Respectfully Submitted

This _____ day
of _____, 2010

BY: _____
Bennett J. Schiller III
Post Office Box 36365
Rock Hill, S.C. 29732
Attorney for Applicant

RECEIVED

JUN 21 2011
P.C.I. MAILROOM

September 13, 2010

Schiller Law Firm
C/O Mr. Bradford Rowlinson
P.O. Box 35355
Rock Hill, S.C. 29732

RE: Darrell R. Eford #322383 v. State
Case No.: 2009-CP-46-3272

Dear Mr. Rowlinson:

Please be advised that I am requesting a copy of the Affidavit and signed Search Warrant issued in my case. Plus the two pages of the Court Schedule for January-December 2007 from the clerk of court's office that Jennifer A. Kinzeler gave to you at my PCR hearing.

Thank you for your kind attention to this matter.

Sincerely Yours,

/s/ Darrell R. Eford #322383
Darrell R. Eford #322383
Perry Correctional Inst.
430 Oaklawn Road
Pelzer, S.C. 29669

cc: Cindy Ramsey
Office of Disciplinary Counsel
Lesley M. Coggiola
file

RECEIVED
JUN 21 2011
PCL

November 08, 2010

Honorable John C. Hayes
Moss Justice Center
1675 1-H, York Hwy.
York, S.C. 29745

RE: Darrell R. Eflord #322883 v. State
Case No: 2009-CF-46-3003

Dear Judge Hayes

Please be advised that I have not been informed by my PCR Counsel, Bradford Rawlinson, the decision you have given on my case. Also I requested a copy of the Affidavit, signed Search Warrant, and the two pages of the Court Schedule for January-December "2007" from the York clerk of court's office that Jennifer A. Kinzeler gave Mr. Rawlinson the day of my hearing. This request was made September 13, 2010. Here is a copy of that request.

Thank you for your kind attention to this matter.

Sincerely Yours,

Darrell R. Eflord #322883

Darrell R. Eflord #322883
Perrin, C.I., Q3B/204
430 Oaklawn Rd.
Perrin, S.C. 29669

RECEIVED

JUN 21 2011

P.C.I. MAILROOM

cc: file

Cindy Ramser
Office of Disciplinary Counsel
Lesley M. Cappiola

RECEIVED

NOV 08 2010

P.C.I. MAILROOM



State of South Carolina
The Circuit Court of the Sixteenth Judicial Circuit

John C. Hayes, III
Judge

Moss Justice Center, 2nd Floor
1675-1H York Highway
York, SC 29745-7434
Phone: (803) 628-3047
Fax: (803) 628-3055
jhayesj@sccourts.org

November 15, 2010

Mr. Darrell R. Efid, #322883
Perry Correctional Inst.
430 Oaklawn Road
Pelzer, S.C. 29669

Dear Mr. Efid:

I am forwarding your November 8, 2010 letter to your attorney, Bradford Rawlinson.

Yours very truly,

A handwritten signature in cursive script that reads "John C. Hayes, III".

John C. Hayes, III

JCHIII/fjk

Cc: Bradford A. Rawlinson, Esq. (w/enc.)

RECEIVED
JUN 21 2011
P.C.I. MAILROOM



Bennett J. Schiller III
Bradford A. Rawlinson
Joel T. Hamilton
www.theschillerlawfirm.com
Telephone: 803-366-0333
Facsimile: 803-366-0339

November 12, 2010

Darrell Efird
Perry Correctional Institution
SCDC # 322883
430 Oaklawn Road
Pelzer, SC 29669

Dear Darrell:

I regret to inform you that your application for Post-Conviction Relief has been denied as well as my Motion to Reconsider or Alter Judgment. At this time, there appears to be no further action that my office can take in state court and we are closing your file.

I have included a copy of the order denying my last motion. I wish you the best of luck in the future and please let me know if I can do anything to assist you in the future.

With kind regards,

Bradford A. Rawlinson
Schiller Law Firm

BAR/sm

Enclosure

cc: Cindy Ramsey

RECEIVED
JUN 21 2011
P.C.I. MAILROOM

DERRILL E FIRD, # 322883

PERRY C.I., Q3B

430 OAKLAWN ROAD

PETZER, S.C. 29669

November 17, 2010

TO: MR. BRADFORD A. RAWLINSON, ESQUIRE

P.O. Box 36365

Rock Hill, S.C. 29732

RE: RESPONSE TO YOUR CORRESPONDENCE DATED NOVEMBER 12, 2010,

CASE NO.: 2009-CP-46-3273, YORK COUNTY, PCR.

DEAR MR. RAWLINSON:

IN YOUR LETTER DATED NOVEMBER 12, 2010, YOU INFORMED ME THAT MY APPLICATION FOR POST-CONVICTION RELIEF AND YOUR MOTION TO RECONSIDER OR ALTER JUDGEMENT HAD BEEN DENIED. FURTHER YOU ADVISED THAT, "... THERE APPEARS TO BE NO FURTHER ACTION THAT MY OFFICE CAN TAKE IN STATE COURT AND WE ARE CLOSING YOUR FILE. "

BY WAY OF RESPONSE, PLEASE BE ADVISED THAT BY RULE 71, SCRPC, AND S.C. SUPREME COURT PRECEDENT, YOU HAVE NOT COMPLETED YOUR REPRESENTATION DUTIES UNTIL A PROPER AND TIMELY APPEAL OF THE PCR COURT'S DENIAL AND DISMISSAL HAS BEEN FILED, BY WAY OF "NOTICE OF INTENT TO PETITION FOR WRIT OF HABEAS CORPUS" WITH THE SUPREME COURT.

FURTHER, THAT NOTICE OF APPEAL MUST BE PROPERLY FILED AND SERVED WITHIN THIRTY (30) DAYS OF THE PCR COURT'S DENIAL OF YOUR RULE 59(e), SCRPC MOTION.

Therefore, I hereby respectfully request that you file AND
SERVE a proper notice of appeal in my behalf.

Also, I respectfully request a copy of the following:

- (1) Final Order of Denial and Dismissal (PER);
- (2) Rule 59(e), Motion to Alter or Amend.

Once you have complied with my request, I will agree that
your representation is complete.

In anticipation for your compliance, I wish to thank
you for your time, effort and assistance.

THIS 18 day of November, 2010

Darrell R. Efind # 322883

Darrell R. Efind, # 322883

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NOV 18 2010

P.C.I. MAILROOM

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NOV 18 2010

P.C.I. MAILROOM

P.C.I.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO YORK COUNTY
JOHN C. HAYES, III, Circuit Court Judge
CASE No. : 2009-CP-46-3273

DARRELL R. EFIRD, # 322583,

PETITIONER,

V.

THE STATE OF SOUTH CAROLINA,

RESPONDENT.

NOTICE OF INTENT TO APPEAL
By Way Of
PETITION FOR WRIT OF CERTIORARI

THE PETITIONER, DARRELL R. EFIRD, # 322583, COMES WITH THIS
PRE SE "NOTICE OF INTENT TO APPEAL" THE FINAL JUDGEMENT ISSUED
FROM POST-CONVICTION RELIEF PURSUANT TO RULES 201 AND 227(a),
SCACR, AND S.C. CODE ANN. § 17-27-100 (2003).

THE PETITIONER WILL "SHOW CAUSE" AS FOLLOWS, TO WIT:

(1) On November 15, 2010, the Petitioner received correspondence from his court-appointed Post-Conviction Relief attorney, Mr. Bradford A. Ralston, P.O. Box 36365 Rock Hill, S.C. 29732.

In that November 15, 2010, correspondence, the Petitioner was notified that the Honorable John C. Hayes, III, had denied and dismissed, on September 20, 2010, the Application for Post Conviction Relief that was heard on September 2, 2010.

Also, in that November 15th, correspondence, the Petitioner was notified that Judge Hayes, on October 26, 2010, denied a Rule 59(e), SCRPC, Motion to Alter or Amend the judgment rendered on September 20, 2010.

Disturbingly, the November 15th, correspondence from the Petitioner's attorney also informed that: "... there appears to be no further action that my office can take in state court and we are closing your file."

On October 26, 2010, the Petitioner has yet forwarded a copy of the "Final Order" issued by the PCR Court. Nor has Counsel provided the Petitioner with a copy of the Rule 59(e), SCRPC, Motion that he filed in Petitioner's behalf.

CONCLUSION:

Therefore, it appears that the Petitioner's Appointed Post-Conviction Relief Attorney, has been and continues to be, in the least, "untimely" with his notices to the Petitioner, AND "UNWARE" of his duty to properly file a "Notice of Intent to Appeal" the final judgment issued by the PCR Court, AND initiate the transfer of representation to the Office of Indigent Appellate Defense.

The Petitioner believes his "Notice of Intent to Appeal" must be filed AND served within thirty (30) days from the Denial of the Rule 59(e), SCRCP, Motion on October 29, 2010. Thus, by Petitioner's count, this "Notice" is due on November 28, 2010.

Being as NATIONAL holidays surround the November 28th due date, being prudent, the Petitioner has taken the initiative to develop and file-serve this "Notice" in order to avoid a procedural bar AND preserve his right to Appeal.

Wherefore the Petitioner submits this "Notice of Intent to Appeal" to the Court.

This 22 day of November, 2010.

RECEIVED

NOV 22 2010

P.C.I. MAILROOM

Darrell R. Efin # 322883

DARRELL R. EFEN, # 322883

Petitioner, acting pro se

REC'D
JUN 21 2011
P.C.I. MAILROOM

cc:file

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

CERTIORARI TO YORK COUNTY

John C. Hayes, III, Circuit Court Judge

Case No.: 2009-CP-46-3273

RECEIVED

NOV 22 2010

POST MAILROOM

Darrell R. Eford, # 322883,

Petitioner,

RECEIVED

JUN 21 2011

P.C.I. MAILROOM

THE STATE OF SOUTH CAROLINA,

Respondent.

CERTIFICATE OF SERVICE

The Petitioner hereby certifies that he has served the parties listed herein with a duplicate of his pro se "Notice of Intent to Appeal, by way of Petition for Writ of Certiorari," by depositing same in the U.S. mail postage prepaid, addressed as follows:

(1) Jennifer A. Kinzler, Esquire
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211-1549

(2) The Honorable David Hamilton,
Clerk for York County Courts
P.O. Box 649
York, S.C. 29745-0649

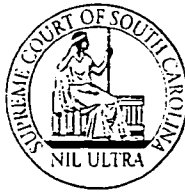
Deposited in the U.S. Mail on this
22 day of November, 2010.

Darrell R. Eford # 322883

DARRELL R. EFORD, # 322883

Petitioner, acting pro se

cc: file



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

November 30, 2010

Bradford Alexander Rawlinson, Esquire
1080 W. Oak Dr.
Rock Hill, SC 29732

Bennett Joseph Schiller, III, Esquire
Schiller Law Firm
P.O. Box 36365
Rock Hill, SC 29732

RECEIVED
JUN 21 2011
P.C.I. MAIL ROOM

RE: Darrell R. Efird v. State, 2009-CP-46-03273

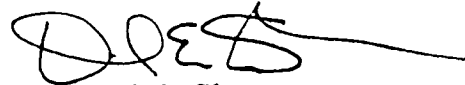
Dear Counsel:

Please be advised that your client has served and filed a pro se notice of appeal in this PCR case.¹ I remind you that you remain his counsel of record in this matter and that, if he is indigent, you will need to assist him in obtaining representation from the Division of Appellate Defense. Rule 71.1(g), SCRC ("If an applicant represented by counsel desires to appeal, counsel shall serve and file a Notice of Appeal as required by Rule 243, SCACR, and shall continue to represent the applicant on appeal unless automatically relieved under Rule 602, SCACR, or allowed to withdraw under Rule 264, SCACR. If the applicant is indigent, counsel shall assist the applicant in obtaining representation by the Division of Appellate Defense of the Office of Indigent Defense.").

¹ The case management system for York County indicates that the petitioner is represented by Mr. Schiller, while Mr. Efird indicates in the notice of appeal that he is represented by Mr. Rawlinson. Therefore, I am sending this letter to both counsel since I am uncertain as to who represents Mr. Efird.

Petitioner has not included a copy of the final order and the order regarding the post-trial motion. I ask that you please provide this Court with a copy of these orders within ten (10) days of the date of this letter.

Sincerely,



Daniel E. Shearouse

cc: Office of the Attorney General

Mr. Darrell R. Efird, #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

RECEIVED
MAY 1 2011
11:00 AM



Bennett J. Schiller III
Bradford A. Rawlinson
Joel T. Hamilton
www.theschillerlawfirm.com
Telephone: 803-366-0333
Facsimile: 803-366-0339

December 1, 2010

Darrell Efir
Perry Correctional Institution, Q3B
SCDC # 322883
430 Oaklawn Road
Pelzer, SC 29669

Dear Darrell:

As you know, the Court has denied your PCR. I am filing a Notice of Appeal and forwarding the same to Appellate Defense in Columbia, SC. I have attached a copy of these filing to this letter.

Appellate Defense will handle your appeal. I will no longer be handling your matter from this point on. If I may be of assistance, please contact my office. Thank you.

With kind regards,

A handwritten signature in cursive script that reads 'Bradford A. Rawlinson'.

Bradford A. Rawlinson
Schiller Law Firm

BAR/sm

Enclosure

RECEIVED
JUN 21 2011
P.C.I. MAILROOM

February 2, 2011

RECEIVED

JUN 21 2011

P.C.I. MAILROOM

Schillo Law Firm
C/o Mr. Bradford Rawlinson
P.O. Box 36365
Rock Hill, S.C. 29732

RECEIVED

FEB 02 2011

P.C.I. MAILROOM

RE: Darrell R. Efind # 322883 v. State
Case No: 2009-CP-46-3273

Dear Mr. Rawlinson

In my letter on September 13, 2010 I requested a copy of the Affidavit and signed search warrant. Plus the two pages of the Court Schedule for January - December 2007 from the clerk of court's office that Jennifer A. Kinzeler gave to you at my PCR hearing.

Now in both your November 30 December 2010 letters I quote "If I may be of assistance, please contact my office." & "Please let me know if I can do anything to assist you in the future." On that note please send me the items I asked for.

If I do not hear from you in (10) days I will be writing a letter to Ms. Coggiola. Giving her a copy of all letters I have written during my PCR battle with the state.

Thank you for your kind attention to this matter.

Item #18
February 14, 20 .

Division of Appellate Defense
C/o Elizabeth A. Franklin - Best
Post Office Box 11589
Columbia, S.C. 29211-1589

RE: Darrell R. Efird, #322383
Case No.: 2009-CP-46-3273

Dear Mrs. Best

In case this letter reaches you before I talk to you on the phone. I would ask that you do not form any preconceived ideals of who I am by my charges. Please take the time to talk to my sister, friends, and my SCDC record. Enclosed are address and phone numbers, also SCDC record. I know we will never meet so neither one of us can truly know the other. I have talked to other inmates to get some ideal of who you are and how well you do your job. Each inmate told me that you fight for the cases you handle. I am sending you the "Judgment in a Civil Case order and the SCDC Offender Management System Record are the two things I need you to copy and send back.

I did not receive a copy of the 59(e) ^{Search Motion} ~~order~~ from Mr. Rawlinson. Could you please send me a copy of the PCR transcripts and a copy of the 59(e) ^{SCRCP} motion he filed. Also please speak to Mr. Rawlinson about what happen at my PCR hearing. The Attorney Generals office produced a signed search warrant and an affidavit, pluse a schedule for York County court from Januray - December of (2007). These were given to him right before my

P.C.I. MAILROOM

FEB 14 2011

RECEIVED

Cindy Ramsey

cc: file

Sincerely Yours,
 /s/ Darrell R. Efford, #322883
 Darrell R. Efford, #322883
 Ferry C.I., Q1B/209
 430 Oaklawn Road
 Pelzer, S.C. 29669

PCR hearing. That is what Mr. Ramsey told me in the meeting right before court started. As you will see from the correspondence that I am sending you. I had asked for the Return and Full Discovery they had. I was not given a copy of the signed search warrant, Affidavit, or the Court schedule before or even after my PCR hearing. Is this not a Brady violation by the Attorney General's office. You can speak to Mr. Tommy Thomas and Tricia Blanche who were my first applicant lawyers. That at no time was a signed search warrant, Affidavit, or York County Court schedule ever given to them. I am putting something together for you to look at as soon as I can. I have been moved to the new side of the CBU dorm (Character Based Unit) and have set goals to becoming a better man. I also work (7) days a week in the Ice House. Thank you for your kind attention to this matter.

Item #19

Darrell R. Efird, 43 33
Perry C.I., Room 209
430 Oaklawn Road
Pelzer, S.C. 29669

June 1 2011

RECEIVED

JUN 15 2011

P.C.I. MAILROOM

Elizabeth A. Franklin-Best
P.O. Box 11539
Columbia, S.C. 29211-1589

RE: DARRELL RAY EFIRD, #322883 V. STATE
D.O.B. 10-13-59 S.S. NO.: 243-08-5762
CASE NO.: 2009-CP-46-3273

Dear Ms. Franklin-Best:

Please consider this letter as a formal request that you send me my complete and unabridged case file in the above referenced case(s) in which you are representing me.

Please send all Motions, Briefs, Court Orders, all Transcripts and any other letters, and other legal documents concerning the aboved referenced case, to include all paperwork I (Appellant) sent to Ms. Franklin-Best.

If you can-not or will not fulfill this request, please send me the name and mailing address of whom I can appeal your decision to honor this request. If you can honor only part of this request, please send me the name and mailing address of whom I need to contact to obtain my complete and unabridge case file in the above referenced case.

If you choose to refuse to honor this request, please send me the legal authority which allows you that choice. See Matter of Haddock, 321 S.E.2d 601 (S.C. 1984). Client's file belongs to client and should be returned at client's request. Supreme Ct. Rules, Rule 32, Code of Prof. Resp., DR6-101 (A)(3); Rules of Disciplinary Procedure; § 7 Subd. A (3). I see no reason why I should not receive my case file within ten (10) working days.

Please file this with your office and return a clocked in copy for my file.

Thank you for your assistance.

Respectfully submitted,

cc: file

Henry B. Richardson, Jr.

Darrell R. Efird, #322883
Darrell Ray Efird, #322883

Darrell R. Efird, #322883)
Appellant,)
)
)
v.)
)
)
State of South Carolina,)
Respondent.)
_____)

STATE OF SOUTH CAROLINA

VERIFICATION

Darrell R. Efird, # 322883, being duly sworn, says he is the Petitioner herein, and that he has read the foregoing Petition and knows the contents therein stated to be true of his own knowledge, except as to those matters therein stated to be alleged on information and belief, and to those matters he believes them to be true.

Darrell R. Efird, #322883
Darrell R. Efird, #322883

Sworn to And Subscribed Before

Me this 13th Day Of June 2011.

Steven R. Milantley
Notary Republic For South Carolina

My Commission Expires: November 7, 2016

RECEIVED

JUN 13 2011

P.C.I. MAILROOM

CC: File

Henry R. Richardson, Jr.

ARREST WARRANT

J-150439

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE
against

Darrell Efirid

Address: 111 Wilson Street
Fort Mill, SC 29715-

Phone: _____ SSN: _____

Sex: M Race: W Height: _____ Weight: _____

DL State: SC DL #: 3139257

DOB: 10/13/1959 Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: Amanda P. Carter

Offense: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Offense Code: 0397

Code/Ordinance Sec: 16-03-0655(C)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of _____
The accused
s to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DARRELL EFIRID
on 3-22-06

Michelle M. Wickert
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

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ORIGINAL

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
York)

Personally appeared before me the affiant Amanda P. Carter who
being duly sworn deposes and says that defendant Darrell Efirid
did within this county and state on or about 09/01/2002 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of York)
in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws, Section 16-3-655, Criminal Sexual
Conduct with a Minor, 2nd degree, by having sexual intercourse with 15 year old minor victim, Tabith Nicole Efirid. The incident
occurred at the victim suspects residence at 212 Lee Street, 1950 Holbrook Road and 111 Wilson Street, Fort Mill, South Carolina
in the County of York. The incidents did occur during the Fall of 2002 thru 2003.

Police Investigation

Signature of Affiant

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
York)

Affiant's Address York County Sheriff's Dep
York, SC 29745-7428
Affiant's Telephone (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/1/2002 defendant Darrell Efirid
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me)

on 03/21/2006)

Lynne Horton Benfield (L.S.))
Signature of Issuing Judge)

Lynne Horton Benfield)

Judge Code: 5806)

Judge's Address Moss Justice Center
York, SC 29745-7423

Judge's Telephone (803)628-3029

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

RECEIVED

2006 MAR 27
2006 MAR 27
200600008108

HAMILTON
& G.S.
COUNTY, SC

0397

CERTIFIED TRUE COPY
2006 JUL 31 AM 9:45
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Item # 20

ARREST WARRANT

J-150441

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE

against

Darrell Efirid

Address: 111 Wilson Street
Fort Mill, SC 29715-

Phone: _____ SSN: _____

Sex: M Race: W Height: _____ Weight: _____

DL State: SC DL #: 3139257

JOB: 10/13/1959 Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: Amanda P. Carter

Offense: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Offense Code: 0397

Code/Ordinance Sec: 16-03-0655(C)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused
s to be arrested and brought before me to be
fealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DARRELL EFIRD
on 3-12-06

Alvin M. Nether
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Personally appeared before me the affiant Amanda P. Carter who

being duly sworn deposes and says that defendant Darrell Efirid

did within this county and state on or about 09/01/2002 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of York)

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws, Section 16-3-655, Criminal Sexual Conduct with a Minor, 2nd degree, by having sexual intercourse with 15 year old minor victim, Tabith Nicole Efirid. The incident occurred at the victim suspects residence at 212 Lee Street, 1950 Holbrook Road and 111 Wilson Street, Fort Mill, South Carolina in the County of York. The incidents did occur during the Fall of 2002 thru 2003.

Police Investigation

Signature of Affiant

Amanda P. Carter

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Affiant's Address York County Sheriff's Dept

York, SC 29745-7428

Affiant's Telephone (803)628-3059

CERTIFIED TRUE COPY
2009 JUL 31 AM 9:45
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/1/2002 defendant Darrell Efirid

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)

on 03/21/2006)

Lynne Horton Benfield (L.S.)
Signature of Issuing Judge

Lynne Horton Benfield)

Judge Code: 5806)

Judge's Address Moss Justice Center

York, SC 29745-7423

Judge's Telephone (803)628-3029

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

ORIGINAL

Item # 21

ARREST WARRANT

J-150442

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE
against

200600008108

Darrell Efird

Address: 111 Wilson Street
Fort Mill, SC 29715-

Phone: _____ SSN: _____
Sex: M Race: W Height: _____ Weight: _____
DL State: SC DL #: 3139257
DOB: 10/13/1959 Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff
Prosecuting Officer: Amanda P. Carter

Offense: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Offense Code: 0397
Code/Ordinance Sec: 16-03-0655(C)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of _____
The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant DARRELL EFIRD on 03 22-06

Gloria M. Wallace
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
York)

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant Amanda P. Carter who
being duly sworn deposes and says that defendant Darrell Efird
did within this county and state on or about 09/01/2002 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of York)
in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

HAMILTON
& G.S.
COUNTY, SC

0397

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws, Section 16-3-655, Criminal Sexual Conduct with a Minor, 2nd degree, by performing oral sex on 15 year old minor victim, Tabith Nicole Efird. The incident occurred at the victim/suspects residence at 212 Lee Street, 1950 Holbrook Road and 111 Wilson Street, Fort Mill, South Carolina in the County of York This did occur during Fall of 2002 thru 2005.

Police Investigation

Signature of Affiant

Amanda P. Carter

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
York)

Affiant's Address York County Sheriff's Dep
York, SC 29745-7428
Affiant's Telephone (803)628-3059

CERTIFIED TRUE COPY
2009 JUL 31 AM 9:47
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/1/2002 defendant Darrell Efird
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before me

on 03/21/2006
Lynne Horton Benfield (L.S.)
Signature of Issuing Judge
Lynne Horton Benfield
Judge Code: 5806

Judge's Address Moss Justice Center
York, SC 29745-7423
Judge's Telephone (803)628-3029
Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Item # 22

ARREST WARRANT

J-150444

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE
against

20060008108

Darrell Efirid

Address: 111 Wilson Street
Fort Mill, SC 29715-

Phone: _____ SSN: _____

Sex: M Race: W Height: _____ Weight: _____

DL State: SC DL #: 3139257

DOB: 10/13/1959 Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: Amanda P. Carter

Offense: Sex / Criminal sexual conduct with minor - victim
under 16 yrs of age - Second degree

Offense Code: 0397

Code/Ordinance Sec: 16-03-0655(C)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DARRELL EFIRD
on 3-22-06

Oliver M. Woodson
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Personally appeared before me the affiant Amanda P. Carter who

being duly sworn deposes and says that defendant Darrell Efirid

did violate the criminal laws of the State of South Carolina (or ordinance of York)

on or about 09/01/2002 violate the criminal laws of the

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

YORK COUNTY, SC

0397

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws, Section 16-3-655, Criminal Sexual Conduct with a Minor, 2nd degree, by performing oral sex on 15 year old minor victim, Tabith Nicole Efirid. The incident occurred at the victim/suspects residence at 212 Lee Street, 1950 Holbrook Road and 111 Wilson Street, Fort Mill, South Carolina in the County of York This did occur during Fall of 2002 thru 2003.

Police Investigation

Signature of Affiant

Amanda P. Carter

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Affiant's Address York County Sheriff's Dept

York, SC 29745-7428

Affiant's Telephone (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/1/2002 defendant Darrell Efirid

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)

on 03/21/2006)

Lynne Horton Benfield (L.S.))

Signature of Issuing Judge)

Lynne Horton Benfield)

Judge Code: 5806)

Judge's Address Moss Justice Center

York, SC 29745-7423

Judge's Telephone (803)628-3029

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

CERTIFIED TRUE COPY
2009 JUL 31 AM 9:47
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Item # 23

ARREST WARRANT

J-150456

STATE OF SOUTH CAROLINA

County/ Municipality of

York

THE STATE

200600008108

against

Darrell Ray Efird

Address: 111 Wilson Street

Fort Mill, SC 29715-

Phone: SSN:

Sex: M Race: W Height: Weight:

DL State: SC DL #: 3139257

DOB: 10/13/1959 Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: Amanda P. Carter

Offense: Sex / Incest

Offense Code: 0090

Code/Ordinance Sec: 16-15-0020

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant DARREN EFIRD

on 3-22-06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Personally appeared before me the affiant Amanda P. Carter who

being duly sworn deposes and says that defendant Darrell Ray Efird

did within this county and state on or about 03/21/2006 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of York)

In the following particulars:

DESCRIPTION OF OFFENSE Sex / Incest

0090

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That the defendant did willfully and unlawfully violate the South Carolina Code of Laws by having carnal intercourse with his daughter, Tabitha Nicole Efird from the age of 15 until the age of 19. The incident did occur at the victim/suspect residence at 212 Lee Street, 1950 Holbrook road and 111 Wilson Street, Fort Mill South Carolina in the County of York. All against the peace and dignity of this State and such laws made and provided for.

police investigation

Signature of Affiant

Amanda P. Carter

STATE OF SOUTH CAROLINA)

County/ Municipality of)

York)

Affiant's Address York County Sheriff's Dept

York, SC 29745-7428

Affiant's Telephone (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/21/2006 defendant Darrell Ray Efird

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of York) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Incest

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)

on 03/21/2006)

Signature of Issuing Judge (L.S.))

Lynne Horton Benfield)

Judge Code: 5806)

Judge's Address Moss Justice Center

York, SC 29745-7423

Judge's Telephone (803)628-3029

Issuing Court: X Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

CERTIFIED TRUE COPY
2009 JUL 31 AM 9:47
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Item # 24

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

ORIGINAL

AFFIDAVIT

Item # 25

Exhibit D

(7)th ~~month~~

Tabitha E Fird' Born on July 14, 1986
7/14/1986

86 - Born

87 - 1 year old

88 - 2

89 - 3

90 - 4

91 - 5

92 - 6

93 - 7

94 - 8

95 - 9

96 - 10

97 - 11

98 - 12

99 - 13

2000 - 14

01 - 15

July 13,

02 - 16

July 14

03 - 17

04 - 18

05 - 19

06 - 20

07 - 21

08 - 22

09 - 23

10 - 24

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

10

1 solicitor's argument of my lack of remorse was ineffective
2 assistance of counsel that prejudiced my defense and right
3 to a fair trial since a persecutor may prosecute with
4 earnestness and vigor and in deed he or she should do so.
5 But while he or she may strike hard blows he or she is not
6 at liberty to strike foul ones. It is as much his or her
7 duty to refrain from improper methods calculated to produce
8 a wrongful conviction as it is to use every legitimate
9 means to bring about a just one. Since the definition for
10 remorse is repentance or sorrowful for one's misconduct
11 this prejudiced my defense by allowing the solicitor to
12 give an improper argument that swayed the jurors that I had
13 something to be -- excuse me -- that I had something to be
14 remorseful about. The argument implied that I was an
15 empty, emotionless and deceiving person who would not
16 acknowledge my guilt. And that was on Transcript Page 447,
17 Line 25 and on Page 448, Line 5.

18 Q. All right. And you've also made -- You've also taken
19 the position that the search warrant used to -- First let
20 me back up. In your opinion what was the most important
21 piece of evidence in this trial?

22 A. The signature; the search warrant that I had was not
23 signed or dated.

24 Q. And in terms of the evidence that was presented at
25 trial; in terms of what they used to convict - - -

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

9

1 assist in the solution of some pressing social problem.
2 Solicitor's closing argument was on Transcript Page 433,
3 Line 19 through 24.

4 Q. Okay. And the last argument you've made about the
5 solicitor's improper remarks in her closing statement can
6 be found on the Transcript Page 447, Lines 25 through --
7 It's blank on my sheet but - -

8 A. 448 through Line 5.

9 Q. So and you've made the argument that she improperly
10 commented on your lack of remorse?

11 A. Yes, sir.

12 Q. Did you observe any outward sign from the jury that
13 they were influenced by that?

14 A. Yes, sir, just by their facial expression.

15 Q. Okay. And why have you taken this position in your
16 application for post conviction relief?

17 A. Yes, sir. Mr. Boyd's failure to object to solicitor's
18 argument of lack of remorse was ineffective assistance of
19 counsel that prejudiced my defense and right to a fair
20 trial - -

21 THE COURT: Try not to go quite so fast because this
22 lady is taking it down.

23 A. Yes, sir, I'm sorry. I get a little nervous.

24 THE COURT: I can certainly understand that.

25 A. I will start over. Mr. Boyd's failure to object to

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

11

1 A. Oh yes, sir, the - -

2 Q. - - - what was in your opinion what was the most
3 important piece of evidence?

4 A. The only thing they had was the contract.

5 Q. Okay. And how was that contract retrieved?

6 A. It was retrieved by a search warrant, an invalid
7 search warrant.

8 Q. Okay. And why do you take the position that it was an
9 invalid search warrant?

10 A. The search warrant I received from Patricia Babcock
11 which was -- Patricia Blanchett which was supposed to have
12 come straight from Mr. Boyd was unsigned and undated.

13 Q. Your Honor, may I approach?

14 THE COURT: Yes, sir.

15 Q. Mr. Efird, do you recognize that document?

16 A. Yes, sir.

17 Q. And could you tell the court what that document is;
18 what you are holding in your hand?

19 A. Yes, sir. This is a search warrant for York County
20 for my address where they came in and searched my house.
21 Ms. Carter came in and searched my house with another
22 gentleman, another officer. At the bottom of this search
23 warrant there is no date or a signature of a judicial
24 official.

25 Q. Okay. And did you receive that at any time from any

1 of your counsel both in your trial counsel or your appeal
2 counsel?

3 A. I received this from my appellate counselor.

4 Q. And where did -- And where do you believe that your
5 appeal counsel got that - -

6 A. I was told all the information - - I'm sorry. I was
7 told all the information she received came from Mr. Boyd.

8 Q. Okay. And so you've taken the position that there is
9 no other possible scenario -- Well do you remember there
10 being a signed search warrant entered into evidence during
11 the trial of the case?

12 A. No, sir.

13 Q. Do you ever remember Mr. Boyd talking about the search
14 warrant?

15 A. No, sir.

16 Q. Did you all have any talks about admissibility of the
17 contract because of a possible motion to suppress?

18 A. No, sir, but at that time I did not know the law.

19 Q. You've also made in your application for post
20 conviction relief you've also said that the judge made
21 specific -- The judge made an order in terms of the expert
22 witness.

23 A. Yes, sir. But -- Excuse me. I would like to speak a
24 little bit more on the search warrant issue if I may? Yes,
25 sir. Since under South Carolina law an unassigned warrant

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

11

1 A. Oh yes, sir, the - -

2 Q. - - - what was in your opinion what was the most
3 important piece of evidence?

4 A. The only thing they had was the contract.

5 Q. Okay. And how was that contract retrieved?

6 A. It was retrieved by a search warrant, an invalid
7 search warrant.

8 Q. Okay. And why do you take the position that it was an
9 invalid search warrant?

10 A. The search warrant I received from Patricia Babcock
11 which was -- Patricia Blanchett which was supposed to have
12 come straight from Mr. Boyd was unsigned and undated.

13 Q. Your Honor, may I approach?

14 THE COURT: Yes, sir.

15 Q. Mr. Efird, do you recognize that document?

16 A. Yes, sir.

17 Q. And could you tell the court what that document is;
18 what you are holding in your hand?

19 A. Yes, sir. This is a search warrant for York County
20 for my address where they came in and searched my house.
21 Ms. Carter came in and searched my house with another
22 gentleman, another officer. At the bottom of this search
23 warrant there is no date or a signature of a judicial
24 official.

25 Q. Okay. And did you receive that at any time from any

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

13

1 is not a warrant and it is not capable of being issued. I
2 ask, Your Honor, if he - Do you have a copy of the search
3 warrant?

4 THE COURT: That I don't see in my -- I'm looking for
5 it but I don't see a copy of that in my paperwork.

6 MS. KINZELER: Your Honor, it wasn't part of the court
7 records for me to give to you. We have to come in and
8 hear.

9 The COURT: All right.

10 BY THE APPLICANT:

11 A. All right when a defendant is contesting the legality
12 of a search because of defect under warrant statute he only
13 shows that the state is attempting to introduce evidence
14 against him rather than that he has had legitimate
15 expectation of privacy in connection with searched
16 premises. That's under the US Constitution Constitution
17 Amendment 4; Code 1976, Section 17-13-140. The Davis
18 requirement that a warrant must be signed by the issuing
19 judicial official in order to be complete in a common law
20 decision predicated on public policy considerations. The
21 signature is the assurance that a judicial official has
22 found that law enforcement has made the requisite -- Excuse
23 me -- requisite probable cause showing and serves as notice
24 to the citizen upon whom the warrant is served that it is a
25 validly issued warrant. Without the signature it is merely

1 an unfinished paper.

2 MS. KINZELER; Your Honor, I just want to object and
3 see if maybe Mr. Efird could cite the statutes in the cases
4 rather than read them and Your Honor could look them up or
5 we can have him continue to read the law. But I think we
6 are just here about his allegations and he can cite to the
7 law he is relying on rather than reading it.

8 THE COURT: Well it appears to me he's reading from
9 his application.

10 Is that correct?

11 A. Yes, sir, these are notes from my memorandum that I
12 have.

13 The COURT: I'm going to -- I don't know that he has
14 the cites and we are not going to stop and let him go get
15 them. I think he's telling us what he's got and you'll
16 just have to figure the rest of it out.

17 MS. KINZELER: Okay. Thank you, Your Honor.

18 THE COURT: Go ahead.

19 A. Thank you, sir. The solicitor extensively cross
20 examined me on each item on the contract.

21 Excuse me, Your Honor, let me start over.

22 This prejudiced my defense by allowing the solicitor
23 to use the written contract in chief to improperly
24 corroborate my daughters's testimony. The solicitor
25 extensively cross examined me on each item of the contract

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

13

1 is not a warrant and it is not capable of being issued. I
2 ask, Your Honor, if he - Do you have a copy of the search
3 warrant?

4 THE COURT: That I don't see in my -- I'm looking for
5 it but I don't see a copy of that in my paperwork.

6 MS. KINZELER: Your Honor, it wasn't part of the court
7 records for me to give to you. We have to come in and
8 hear.

9 The COURT: All right.

10 BY THE APPLICANT:

11 A. All right when a defendant is contesting the legality
12 of a search because of defect under warrant statute he only
13 shows that the state is attempting to introduce evidence
14 against him rather than that he has had legitimate
15 expectation of privacy in connection with searched
16 premises. That's under the US Constitution Constitution
17 Amendment 4; Code 1976, Section 17-13-140. The Davis
18 requirement that a warrant must be signed by the issuing
19 judicial official in order to be complete in a common law
20 decision predicated on public policy considerations. The
21 signature is the assurance that a judicial official has
22 found that law enforcement has made the requisite -- Excuse
23 me -- requisite probable cause showing and serves as notice
24 to the citizen upon whom the warrant is served that it is a
25 validly issued warrant. Without the signature it is merely

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

15

1 grilling me with the questions that no matter how I
2 answered them the solicitor made them seem like they had no
3 merit or truth. All the answers I gave about the contract
4 and that I signed the contract was extensively argued to
5 demonstrate my assumed guilt to the jury. So without the
6 written contract the solicitor had no physical or forensic
7 evidence connecting me to the crimes making their case a
8 swearing contest between my daughter and myself.

9 Q. Okay.

10 A. Also I would like to speak about the affidavit.

11 Q. We're getting there.

12 A. Okay.

13 Q. Now do you have any other basis of saying that that
14 contract should have been excluded?

15 A. Yes, sir. I had asked for the affidavit to have a
16 search warrant drawn up and signed you had to have a State
17 of South Carolina requires an affidavit. I sent in to the
18 Clerk of Court I have exhibits here that I listed asking
19 for that affidavit a certified copy of it. I received a
20 response from the Clerk of Court saying that I would have
21 to ask Ms. Mindy Hervey or Jim Boyd for the copy of that.
22 I sent a letter I have the stamped copy of that to Ms.
23 Hervey asking for that certified copy and have not received
24 a response yet as of today.

25 Q. And so of all the material you've gotten in this case

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

16

1 you have never seen an affidavit?

2 A. No, sir, I have not.

3 Q. Have we gone over what the state has sent me?

4 A. Yes, sir.

5 Q. And I've been down to your institution on two separate
6 occasions; correct?

7 A. Yes, sir, that's correct.

8 Q. And we went over all the material that the state has
9 sent me; correct?

10 A. Yes, sir, you sent me a copy of everything.

11 Q. And did you see an affidavit listed in that material?

12 A. No, sir, not at any time.

13 Q. Did you see a signed search warrant in that material?

14 A. No, sir, not at any time.

15 Q. Did you see the search warrant that you've identified
16 that is unassigned in that material?

17 A. Yes, sir, I did.

18 Q. All right. Now going back to the expert testimony.

19 A. Yes, sir.

20 Q. The judge made a ruling outside the presence of the
21 jury that the expert can only testify to general knowledge.
22 In your opinion did she ever make any specific comment
23 about you?

24 A. Yes, sir.

25 Q. In what way?

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

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1 could I be charged with attempt CSC 1st degree if
2 Indictment 1-9-9-6 alleges I was engaging in incest with
3 the same time period of 2005 which means consent?

4 Now, Your Honor, I would like to move over to
5 Indictment 1-9-9-6 for the sufficiency of this indictment.
6 Mr. Boyd's failure to object to sufficiency of the charges
7 in the indictment was ineffective assistance of counsel
8 that prejudiced my defense and a right to a fair trial.
9 Since the indictment charges me with incest during the time
10 period of 2002 through 2006 however from January 1st of
11 2002 until July 13th of 2002 Tabitha was a minor who was at
12 least fourteen years old but less than sixteen years old
13 which precludes this portion on my charge. The body of the
14 indictment contains two statutes 16-15-20 and 16-3-655.

15 Your Honor, that would cover all the sufficiency I
16 have on my indictments.

17 BY MR. RAWLINSON:

18 Q. Mr. Efird, do you have anything else that you would
19 like to say to the Court?

20 A. Well we just basically touched on the affidavit. I
21 would like to cover that a little more if that's alright
22 with His Honor.

23 THE COURT: Please.

24 A. Mr. Boyd's failure to challenge the illegal search and
25 seizure claim to suppress the written contract was

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

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1 ineffective assistance of counsel that prejudiced my
2 defense -- I'm sorry I'm going too fast -- and a right to a
3 fair trial since under South Carolina code of law a warrant
4 shall be issued only upon the affidavit before evidence
5 resulting from an arrest or search authorized by a warrant
6 upon affirmation may be admitted the State must demonstrate
7 a good faith attempt to comply with the statute requiring
8 that a warrant be issued only upon affidavit. Since there
9 was no affidavit given to my appellate lawyer there must
10 not have been sufficient facts to form the basis of a
11 judgment by the issuing officer this probable cause exist
12 -- did not exist. The prejudice of my defense allowed the
13 solicitor to introduce the contract as State's Exhibit One.
14 Allowing the solicitor to use the written contract in chief
15 to improperly corroborate my daughter's testimony since
16 they had no physical or forensic evidence connecting me to
17 the crimes.

18 Your Honor, also we just lightly touched over my
19 reason for the indictments not being constitutional. If I
20 may I would like to go in depth a little bit further on
21 that?

22 Q. Sure.

23 A. Mr. Boyd's failure to object and move to dismiss
24 indictments charging an unconstitutional Grand Jury
25 proceeding was ineffective assistance of counsel that

DARRELL EFIRD: CROSS EXAMINATION BY MS. KINZELER

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1 A. No, ma'am, not according to law.

2 Q. Okay. Now with regard to the search warrant issue.

3 You and Mr. Rawlinson had a conversation about that and you

4 referred to documents that Mr. Rawlinson got from the State

5 which would probably have been me because I sent them to

6 him. Do you recall sending me a letter with some

7 attachments?

8 A. Yes I do.

9 Q. May I approach?

10 THE COURT: Yes.

11 Q. Does this look like what you sent to me?

12 A. Yes this is the letter I sent you.

13 Q. Okay. I will take it back and I ask you a question

14 about it. Do you have a copy of this?

15 A. Yes I do.

16 Q. Okay. And in there there is a search warrant

17 attached; is that right?

18 A. Yes, ma'am.

19 Q. So the search warrant that we've been talking about so

20 far is the one that you sent to me that I sent to your

21 attorney; is that right?

22 A. I gave my attorney a copy of the search warrant.

23 Q. Okay.

24 MADAME COURT REPORTER: Just a minute, Madame Attorney

25 General.

DARRELL EFIRD: CROSS EXAMINATION BY MS. KINZELER

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1 Sir, I'm going to take this. I'm afraid you are going
2 to get that exhibit in your file.

3 A. Okay.

4 MADAME COURT REPORTER: Thank you.

5 A. All right. If I may look through my paperwork I have
6 the dates stamped from Perry on the search warrant that I
7 sent you.

8 Q. That's okay. I just want to clarify you got that
9 search warrant you had - -

10 A. That was not signed.

11 Q. Okay. And you've never seen a signed search warrant
12 is that your position?

13 A. No, ma'am.

14 Q. Okay. With regard to the contract was it not part of
15 your trial strategy with Mr. Boyd to present the contract
16 as evidence of your defense that the allegations were made
17 up?

18 A. According to Matthew versus State defense counsel
19 cannot assert trial strategy as a defense to ineffective
20 assistance claims for failure to object to comments which
21 constitute an error of law and are inherently prejudicial.
22 That's under criminal law Key 641-13.

23 Q. Okay so just this one question and it's just yes or
24 no. Was the use of the contract during trial part of your
25 trial strategy with Mr. Boyd? It either was or it wasn't.

JAMES BOYD: DIRECT EXAMINATION BY MS. KINZELER

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1 Q. I mean his version of the events?

2 A. Oh yes.

3 Q. And there's been a discussion about a contract. Can
4 you sort of fill the Court in a little bit about the
5 substance of what that contract said?

6 A. Well basically what had happened there was an argument
7 between Mr. Efird and his wife concerning money; financial
8 situation. His daughter was there and at that point while
9 they were having the argument she came in and made the
10 allegation the initial allegation to them that he had
11 engaged in improper sexual conduct with her. Basically
12 that led to them meeting I believe at a Denny's restaurant
13 all three of them and drawing up a contract which basically
14 set forth that the daughter would receive certain financial
15 -- I believe she would receive fifty dollars a week and she
16 would be provided a car have a phone bill paid and some
17 other financial things. And also his wife would receive --
18 Be entitled to certain things and they would all keep quite
19 about these allegations.

20 Q. And we heard testimony today that that contract was
21 found as a result of the execution of a search warrant?

22 A. That's correct. There was a search warrant issued and
23 it was found I believe in a safe in the home.

24 Q. May I approach, Your Honor.

25 THE COURT: Yes, ma'am.

JAMES BOYD: DIRECT EXAMINATION BY MS. KINZELER

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1 Q. Mr. Boyd, I would just ask if you can identify this
2 search warrant?

3 A. This appears to be a copy of the search warrant.

4 Q. Does it also include in there the affidavit for the
5 search warrant?

6 A. It does.

7 Q. Does it appear to you that the magistrate signed both
8 the affidavit and the search warrant itself?

9 A. Yes. Yes the affidavit was signed by the Judge on
10 March 22nd 2006. And the search warrant itself the
11 authorization for the search was signed by the magistrate
12 Lynn Benefield.

13 Q. Your Honor, I move this in as Respondent's One.

14 THE COURT: Mr. Rawlinson?

15 MR. RAWLINSON: No objection.

16 THE COURT: In without objection. Have it marked and
17 give me copy.

18 (WHEREUPON: RESPONDENT'S
19 EXHIBIT NUMBER ONE IDENTIFIED AND MARKED, ENTERED INTO
20 EVIDENCE.)

21 BY MS. KINZELER:

22 Q. In determining whether or not you could file a motion
23 to suppress the contract that was found as a result of the
24 search warrant did you determine whether or not there were
25 any defects you could challenge in that search warrant?

JAMES BOYD: DIRECT EXAMINATION BY MS. KINZELER

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1 A. In looking at it I did not see -- It appeared to me to
2 be. The affidavit supported the reason for the search it
3 seemed to be properly executed so I saw no reason to try to
4 challenge the search.

5 Q. So the contract is found and you can't move to
6 suppress it based on the search warrant. Can you tell the
7 court a little bit about how you all developed your trial
8 strategy and your discussions about that with Mr. Efird?

9 A. Yes. Basically not only was the contract found but I
10 think there would have been discussion about the contract
11 because everybody talked about the contract including Mr.
12 Efird. I mean he acknowledged that there had been a signed
13 paper. Basically and what I had informed Mr. Efird in
14 these kind of cases there has been an allegation basically
15 it's going to boil down to her credibility the alleged
16 victim's credibility his credibility and the -- We need to
17 have some motivation for her to make these allegations and
18 basically if we couldn't establish motive there was going
19 to be -- He would have a real problem refuting the
20 allegations. I think the contract gave us some idea of the
21 potential motive she had for doing it being a financial
22 motive that it occurred -- Basically these allegations came
23 up at a time when she was going to the College of
24 Charleston her grades had fallen drastically at the College
25 of Charleston. I believe she had lost a scholarship. She

JAMES BOYD: DIRECT EXAMINATION BY MS. KINZELER
CROSS EXAMINATION BY MR. RAWLINSON

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1 Q. Do you recall renewing motions for a directed verdict
2 and a motion for a new trial?

3 A. I did at the end that's correct.

4 Q. And it's my understanding those motions were all
5 denied. Is that your recollection?

6 A. They were.

7 Q. I think that's all I have. Thank you.

8 THE COURT: Mr. Rawlinson.

9 MR. RAWLINSON: I beg the Court's indulgence for one
10 moment.

11 CROSS EXAMINATION

12 JAMES BOYD BY MR. RAWLINSON:

13 Q. Good morning, Mr. Boyd.

14 A. Good morning.

15 Q. Or good afternoon. Did you and you may have already
16 answered this so excuse me if this question seems
17 duplicative. Did you discuss with Mr. Efird the possible
18 down falls, I know that you all talked about the possible
19 benefits of the contract, but did you all discuss the
20 possible down falls of having that contract admitted?

21 A. Not in -- I don't think we talked about it in the
22 context that it wasn't going to be admitted. We talked
23 about it in the context of what the state was going to
24 show. They were going to have an entirely different
25 interpretation of it than we had of it and that they were

JAMES BOYD: CROSS EXAMINATION BY MR. RAWLINSON

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1 going to use it as basically to show an admission on his
2 part. As far as I mean I didn't see any way the contract
3 wasn't going to come in. I mean it was relevant it was
4 seized as a result of a lawful warrant. I didn't see any
5 way to keep it out so my strategy was to try to use it to
6 our advantage.

7 Q. In terms of the Solicitor's closing argument in terms
8 of vouching what -- I guess what do you understand vouching
9 to be?

10 A. Well again I didn't follow exactly what each one was
11 that he was saying. The - -

12 Q. I can give you a quote if you want.

13 A. Okay. That's fine.

14 MS. KINZELER: Your Honor, may I approach just to give
15 him a copy of the transcript?

16 THE COURT: Certainly.

17 (NOTE: ATTORNEY GENERAL KINZELER HANDING DOCUMENTS TO
18 WITNESS JAMES BOYD.)

19 BY MR. RAWLINSON:

20 Q. Could you turn to 457, Lines 3 and 4?

21 A. Okay.

22 Q. Solicitor Mindy Hervey says, "Their version is
23 unreasonable and full of holes. Her's is consistent
24 cohesive and true."

25 Would you characterize a solicitor stating that a

JAMES BOYD: CROSS EXAMINATION BY MR. RAWLINSON

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1 Q. Do you recall after the trial Mr. Efird obviously
2 appealed the jury's verdict?

3 A. That's correct.

4 Q. Do you recall ever having any conversations with Ms.
5 Blanchett?

6 A. Ms. Blanchett? I don't know who that is.

7 Q. Patricia Blanchett Mr. Efird's appellate counsel.

8 A. No I don't recall having any conversations with her.
9 She may have contacted -- May have but I don't recall it.
10 She may have contacted my office. We normally send down a
11 number of documents when appellate defense takes over a
12 case to them but I don't recall any particular
13 conversations.

14 Q. So it's your normal course in your office to send a
15 copy of your file to appellate counsel once they've been
16 - -

17 A. Not the whole total file. If they ask for it I will
18 send it. But I have a list and I don't remember what
19 everything that's on it but they want for purposes of
20 appeal and we usually go down that list and go ahead and
21 send those items. I know they want written motions that
22 type of thing we send those things down. But you know she
23 may have requested the entire file I don't remember.

24 Q. Would it be usual for appellate counsel to want a copy
25 of the search warrant?

JAMES BOYD: CROSS EXAMINATION BY MR. RAWLINSON
REDIRECT EXAMINATION BY MS. KINZELER

58

1 A. No that would not be unusual.

2 Q. Okay. Do you have -- At any time during the course of
3 this case were you ever presented with a search warrant
4 that was unsigned?

5 A. Yes I do have an unassigned search warrant in my file.

6 Q. How did you receive this unsigned search warrant?

7 A. I'm not sure. I either got it -- Well it's two
8 possible ways I either got it through discovery or I got it
9 from Mr. Efird that it was given to him by the officers.
10 But one of those two ways I'm not sure.

11 Q. I guess you know hind sight is twenty twenty but in
12 retrospect do you find it somewhat unusual that you have a
13 search warrant in your file one signed and one not signed?

14 A. Not necessarily. I've seen that in other files in
15 other cases. Sometimes you get a copy of an unassigned one
16 for some reason.

17 Q. I beg the Court's indulgence.

18 (PAUSE.)

19 Nothing further, Your Honor.

20 THE COURT: Redirect?

21 MS. KINZELER: I do have a few follow ups, Your Honor.

22 REDIRECT EXAMINATION

23 JAMES BOYD BY MS. KINZELER:

24 Q. With regard to the closing argument I do just want to
25 point you to two of the four excerpts that were cited in

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

19

1 figure something out.

2 A. Yes, sir.

3 THE COURT: I'm not sure what but we're working mighty
4 hard.

5 MR. RAWLINSON: May I approach, Your Honor?

6 THE COURT: Yes, sir.

7 BY MR. RAWLINSON:

8 Q. Mr. Efird, the document I just handed you is that the
9 document that you've been referring to?

10 A. Yes, sir.

11 Q. And where did you receive that copy from?

12 A. I received this copy from the South Carolina Court
13 Administration out of Columbia, South Carolina.

14 Q. And is it a true certified copy?

15 A. Yes, sir, it is.

16 Q. I move to admit this into the record, Your Honor.

17 MS. KINZELER: I don't have an objection, Your Honor.

18 THE COURT: In without objection. Do you have a copy
19 for me?

20 MR. RAWLINSON: Yes, Your Honor.

21 THE COURT: Be Number One; right?

22 (WHEREUPON: APPLICANT'S EXHIBIT NUMBER ONE IDENTIFIED
23 AND MARKED, ENTERED INTO EVIDENCE.)

24 A. Sir, were you ever given a copy - -

25 THE COURT: Wait just a second. He will ask you a

DARRYL EFIRD: DIRECT EXAMINATION BY MR. RAWLINSON

20

1 question.

2 A. Yes, sir.

3 (NOTE: COPY MADE OF APPLICANT'S EXHIBIT NUMBER ONE
4 AND HANDED TO THE COURT.)

5 BY MR. RAWLINSON:

6 Q. Mr. Efird, what is that document that you've been
7 referring to? What is it in your opinion that it shows?

8 A. It shows on June the 14th of 2007 there was no general
9 session court.

10 Q. Okay. And you've read and could you give us the
11 statute you've been reading from?

12 A. Yes, sir, I sure can. Hang on one second. This is
13 Section 14-9-170. The Grand Jury has drawn in accordance
14 with law pursuant upon the Court of General Sessions that
15 each of the counties shall institute the Grand Jury for the
16 county court and shall meet with the county court at each
17 of it's terms. This term shall exceed each sessio in each
18 session of the Circuit Court at which term the Grand Jury
19 will need not meet for the common court. Also Section 14-
20 9-210 the County Solicitor shall prepare and through the
21 presiding judge of the court of General Sessions shall
22 submit the Grand Jury while in attendance upon the Court of
23 General Sessions bills of indictments and all cases
24 pertaining to -- Excuse me -- Pending in the county court
25 in which the punishment may be exceeded.

CERTIFICATE

I, THE UNDERSIGNED WANDA NELSON, CERTIFIED VERBATIM OFFICIAL COURT REPORTER FOR THE SIXTEEN JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA, ON THE 2ND DAY OF SEPTEMBER, 2010.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

Wanda Nelson

WANDA NELSON, CVR
OFFICIAL COURT REPORTER

DATE: 6-3 / 2011

Item # 29

York County Common Pleas

Clerk : David Hamilton
#2 South Congress Street
York, SC 29745
(803) 628-3036

Received From: Ramsey, Cindy

Date : 6/29/2011

Paying for: Ramsey, Cindy,

RECEIPT # 286420

Clerk: ALEXANDERL

Payment Type: Cash \$55.20

Reference #

Total Paid 55.20

Comment:

FILED-RECEIVED
STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS
DAVID HAMILTON
C.C.C.P. & G.S.
YORK COUNTY, SC

JUDGMENT IN A CIVIL CASE
CASE NO: 2009CP4603273

Darrell R Efir vs. **State Of South Carolina**

CHECK ONE:

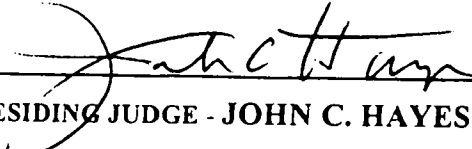
- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
 - 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: _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

PCR Heard and Taken Under Advisement

Dated at York, South Carolina, this 7th day of September, 2010.

Court Reporter: **WANDA NELSON**


PRESIDING JUDGE - JOHN C. HAYES, III.

This judgment was entered on the 3rd day of September, 2010, and a copy mailed first class this 3rd day of September, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

Bradford A. Rawlinson Schiller Law Firm 1176 Ebenezer Road Rock Hill, SC 29732

Jennifer A. Kinzeler Office Of The Attorney
General P.O. Box 11549 Columbia, SC 292111549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

David Hamilton - Clerk of Court

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2009CP4603273

Darrell R Efird vs. State Of South Carolina

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.
- 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: _____

IT IS ORDERED AND ADJUDGED:

See attached order;

Statement of Judgment by the Court:

ORDER

Dated at York, South Carolina, this 20th day of September, 2010.

Court Reporter:

s/ JOHN C. HAYES, III.

PRESIDING JUDGE - JOHN C. HAYES, III.

This judgment was entered on the 23rd day of September, 2010, and a copy mailed first class this 23rd day of September, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

**Bradford A. Rawlinson Schiller Law Firm 1176
Ebenezer Road Rock Hill, SC 29732**

**Jennifer A. Kinzeler Office Of The Attorney
General P.O. Box 11549 Columbia, SC
292111549**

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

SCRPC APP-24/FORM 4

David Hamilton - Clerk of Court

Item # 29

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)
)
 Darrell Efird, #322883,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SIXTEENTH JUDICIAL CIRCUIT
 Case No.: 2009-CP-46-3273

FILED-RECEIVED
 2010 SEP 23 AM 10:05
 DAVID HAMILTON
 C.C.P. & G.S.
 YORK COUNTY, SC

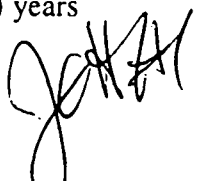
ORDER

Respondent filed an application for Post Conviction Relief (PCR) August 31, 2010. The Court heard this matter on September 2, 2010. The attorney for the State of South Carolina was Jennifer A. Kinzeler, and the attorney for the Applicant was Bradford A. Rawlinson.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. Applicant was indicted at the June 2007 term of the York County Grand Jury for two counts of criminal sexual conduct with a minor, 2nd degree (2007-GS-46-1994), attempt to commit criminal sexual conduct in the first degree (2007-GS-46-1995), and incest (2007-GS-46-1996). James W. Boyd represented the Applicant.

On July 12, 2007, the Applicant proceeded to trial and was convicted by a jury of two counts of criminal sexual conduct with a minor, 2nd degree (2007-GS-46-1992, 2007-GS-46-1993), criminal sexual conduct, 2nd degree (2007-GS-46-1994), the lesser included offense of assault and battery of a high and aggravated nature for the attempt to commit criminal sexual conduct in the first degree charge, (2007-GS-46-1995), and incest (2007-GS-46-1996).

The Honorable Lee S. Alford sentenced the Applicant to confinement for twenty (20) years for criminal sexual conduct with a minor, 2nd degree (2007-GS-46-1992), twenty (20) years



Item #29

for criminal sexual conduct, 2nd degree, ten (10) years for assault and battery of a high and aggravated nature, and one (1) year for incest, sentences running concurrently, and ten (10) years for the criminal sexual conduct with a minor, 2nd degree (2007-GS-46-1993) running consecutive to the twenty (20) year sentence for criminal sexual conduct, 2nd degree.

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. Efirid, Unpublished Op. No. 2009-UP-248 (S.C. Ct./App. Filed May 28, 2009). The Remittitur was issued on June 15, 2009.

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

Ineffective assistance of counsel:

- a. Failure to move to dismiss his indictments that were "sham legal processes,"
- b. Failure to object and move to dismiss indictments "containing double jeopardy offenses,"
- c. Failure to object to sufficiency of charges in his indictments,
- d. Failure to object to Solicitor's vouching of key witnesses in closing argument,
- e. Failure to object to Solicitor's "Golden Rule" argument in closing,
- f. Failure to object to Solicitor's closing argument appealing to passion and prejudice of the jury,
- g. Failure to object to Solicitor's closing argument on Applicant's lack of remorse,
- h. Failure to move to suppress evidence obtained upon defective search warrant,
- i. Failure to object to Solicitor's proffer of specific references to victim from its expert witness.

Item # 29

Applicant who filed an amended application in which he alleged ineffective assistance of Counsel based on counsel's failure to move to suppress a written contract discovered pursuant to a search warrant.

In a PCR proceeding, the applicant bears the burden of establishing that he is entitled to relief. Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). First, a PCR applicant must show that his counsel's performance was deficient such that it falls below an objective standard of reasonableness. Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 693 (1984); Alexander v. State, 303 S.C. 539, 541, 402 S.E.2d 484, 485 (1991). Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989), citing Strickland.

Second, an applicant must show there is a reasonable probability, but for counsel's unprofessional errors, the result of the proceeding would have been different. Strickland, 466 U.S. at 687, 104 S.Ct. at 2064, 80 L.Ed.2d at 693; Alexander, 303 S.C. at 541-42, 402 S.E.2d at 485. The Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, Id. Applicant must overcome this presumption in order to receive relief. Cherry, Id.

The Court interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Rule 71.1(e), SCRCP; 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

Item #29

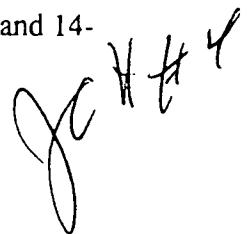
just result.” Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. at 441, 334 S.E.2d at 813.

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, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used 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.

Defects in the language of an indictment do not divest an otherwise proper court of subject matter jurisdiction over a case. U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). A circuit court has subject matter jurisdiction to convict a defendant of an offense if there is an indictment that sufficiently states the offense, the defendant waives presentment, or the offense is a lesser-included offense of the crime charged in the indictment. State v. Wilkes, 353 S.C. 462, 464-465, 578 S.E.2d 717, 719 (2003), citing Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001).

Applicant alleges the indictments on which he was tried were not properly presented to the York County Grand Jury. Applicant predicates this argument on Sections 14-9-170 and 14-



Item #29

9-210 of the South Carolina Code of Laws, 1976 as amended. Reliance on these statutes is misplaced as these sections pertain only to county courts, not circuit courts. County courts were abolished July 1, 1979 and to the undersigned's recollection York County never had a county court other than a family court.

In further support of his claim that the Grand Jury which true billed his indictment, was not properly convened, Applicant has entered in the record the terms of the General Sessions Court for York County for 2007 which shows no York Court County General Sessions Court was scheduled for the week in which his case was presented to the Grand Jury, June 14, 2007. Applicant also points to the language in the indictment which states "[a]t a court of General Sessions, convened on June 14, 2007." The Applicant's argument here is that on June 14, 2007, no General Sessions Term was scheduled for York County.

As to the latter issue, the Court notes that the cited language does not say "at a Term of General Sessions," but simply says "[a]t a court of General Sessions." The South Carolina Constitution states:

The Grand Jury of each county . . . shall consist of eighteen members, twelve of whom must agree in a matter before it can be submitted to the Court."
Art. V, § 22, Constitution of the State of South Carolina.

Notably, the Constitution places absolutely no restriction on when a Grand Jury may meet.

Section 14-7-1520, S.C. Code of Laws, 1970, as amended, provides that Grand Jurors are to attend sessions:

. . . the first day of the first week of criminal court in the county or at such other time as the clerk of court may designate (emphasis added).

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It is clear from the above that Applicant's attack on the Grand Jury's return of true bill on his indictments has no merit.

Applicant alleges that trial counsel was ineffective for failing to object to Solicitor's vouching of key witnesses in closing argument. Solicitor argued in closing argument that "Their [Defendant's] version is unreasonable and full of holes. Her [victim's] story is consistent, cohesive, and true." (TR p. 457, LL 3-4). Solicitor's argument was improper because Solicitor may not vouch for the truthfulness of a witness. However, the Applicant was not prejudiced by his trial counsel not objecting to the statement. Trial counsel testified that he did not object because he did not believe the Solicitor's statement was vouching. Even if trial counsel should have objected, Applicant was not prejudiced because the record wholly supports the jury's verdict.

Additionally, in order to be entitled to a new trial for improper closing arguments, the test is whether "the Solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). The Court affirmatively finds the Solicitor's comments did not so infect Applicant's trial with unfairness so as to make his resulting conviction a denial of due process.

Applicant alleges trial counsel was insufficient for failing to object to Solicitor's "Golden Rule" argument in the closing. Solicitor argued in her closing, "Put yourself in her [the victim's] shoes." (TR p. 436, L 20). Trial counsel testified that he did not object because did not want to bring the jury's attention to the statement during closing arguments. Trial counsel further testified that he risked being overruled by the trial judge which he thought could bring more attention to the Solicitor's argument as opposed to diffusing its impact on the jury. Moreover, trial counsel committed no error in failing to object to the Solicitor's statement because the

argument was not calculated to suggest that the jury should put themselves in the victim's shoes as to the crime. Rather, the Solicitor asked the jury to put themselves in the victim's position as to the traumatic experience of the victim having to testify against her father about his horrific sexual abuse of her. These type statements are not improper and, therefore, the Applicant was not prejudiced by them.

In order to be entitled to a new trial for improper closing arguments, the test is whether "the Solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). The Court affirmatively finds the Solicitor's comments did not so infect Applicant's trial with unfairness so as to make his resulting conviction a denial of due process.

Applicant alleges that trial counsel was ineffective for failing to object to Solicitor's closing argument because it appealed to the passion and prejudice of the jury. At trial, Solicitor argued, "But the reality is is that child abuse happens in our community and it happens a lot more than people are willing to believe. It used to be a dark little corner and only a few people came out of there[.]" (TR p. 433, LL 19-22). Trial counsel testified that he did not recall these statements made by Solicitor. Trial counsel was not ineffective for failing to object because the Applicant was not prejudiced as these statements did not rise to the level of appealing to the passion and prejudice of the jury.

Again, in order to be entitled to a new trial for improper closing arguments, the test is whether "the Solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). The Court affirmatively finds the Solicitor's comments did not so infect Applicant's trial with unfairness so as to make his resulting conviction a denial of due process.

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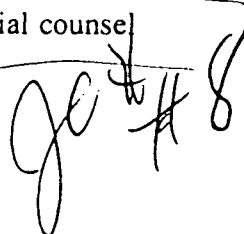
Item #29

Applicant alleges that trial counsel was ineffective for failing to object to Solicitor's closing argument which commented on Applicant's lack of remorse. In her closing, Solicitor argued, "Does he [the Applicant] get up on that stand does he show the awe and confusion and fear that he claims that is in his heart? Or does he sit there stoic, denial, lying, and blank like his wife?" (TR p. 448, LL 2-5). Solicitor's argument appears proper in regard to the credibility of the Applicant, and it does not appear to refer to Applicant's lack of remorse. Thus, trial counsel was not ineffective for failing to object because Solicitor's statements were not prejudicial.

In order to be entitled to a new trial for improper closing arguments, the test is whether "the Solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). The Court affirmatively finds the Solicitor's comments did not so infect Applicant's trial with unfairness so as to make his resulting conviction a denial of due process.

While not specifically raised by Applicant, the Court is aware that an argument is often made that while one or two errors alone do not rise to the level of ineffectiveness or prejudice, the cumulative effect of several errors creates either ineffectiveness or prejudice. To allay such argument, the Court specifically finds that even when viewed cumulatively, the alleged errors, to the extent the allegations constitute error, did not so infect Applicant's trial with unfairness as to make Applicant's resulting convictions a denial of due process.

Applicant alleges that trial counsel was ineffective for failing to move to suppress evidence obtained upon a defective search warrant. Applicant testified that the search warrant was not signed, therefore, making it insufficient. Applicant also testified that the search warrant resulted in the police finding a contract, the terms of which indicated the Applicant was paying the victim to keep quiet about the crimes committed with which he was charged.

Trial counsel


testified that the search warrant was proper and could not be challenged. While Applicant claims the search warrant was unsigned, trial counsel testified that it was in fact signed and not objectionable. As a result, Applicant has failed carry his burden on this allegation.

Not true Boyd stated there was an unsigned and a signed certificate that he received - should show in the transcript

Applicant alleges trial counsel was ineffective for failing to object to Solicitor's proffer of specific references to victim from its expert witness. At trial, the trial judge limited the expert witness's testimony to testifying "generally about in so far as educating the jury as to information that they have in general why certain things happen or do not happen and whether it's consistent or inconsistent." (TR p. 193, LL 15-18). The trial judge explained that the expert could not give ultimate opinions or make opinions as to the particular facts in the case. The record reveals that expert testified within the trial judge's guidelines. Thus, trial counsel was not ineffective.

Not True! See minutes/transcript!

Applicant also alleges trial counsel was ineffective for not objecting to the trial judge's Allen Charge. The record reveals that the Allen Charge by the trial judge was proper. Further, Applicant at his PCR hearing did not explain or give a reason for why the Allen Charge was improper. Thus, trial counsel was not ineffective for failing to object to the Allen Charge because trial counsel had no reason to object.

Applicant alleges trial counsel was ineffective for failing to object or move to dismiss the indictments based on a violation of his protection against double jeopardy. A review of the several indictments reveal that some time frames overlap, but indictments are notice documents and the state must prove the alleged offenses to a jury's satisfaction beyond a reasonable doubt.

The victim testified that the Applicant is her father (TR p. 120, LL 22-23)¹ and that she was born on July 14, 1986 (TR p.121, LL 3-4). The victim testified the Applicant started touching her inappropriately when she was four (4) years old (TR p. 130, LL 11-18). Victim

¹ Reference is to Trial Transcript.

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testified that Applicant had vaginal intercourse with her when she was eight (8) (TR 132, LL 2-7). Also, victim testified that the sexual intercourse continued and that around twelve (12) years of age, Applicant started using condoms (TR p. 133, LL 11-19). Victim testified that Applicant would have sex with her "at least once a week" (TR 135, L 22 through 136, L1).

The victim turned sixteen (16) on July 14, 2002. The indictments alleged Applicant committed Criminal Sexual Conduct prior to that time, "between 2001 and 2002" 07-GS-46-1992; "between 2002 and 2003" and when victim "was at least fourteen (14) years of age but who was less than sixteen (16) years of age" 07-GS-46-1993. Both of these indictments allege victim was a minor at the time of the alleged sexual activity.

Indictment 07-GS-46-1994 alleges Criminal Sexual Conduct, second degree "by use of aggravated coercion against will and consent of the victim." Indictment 07-GS-46-1995 alleges attempt to commit Criminal Sexual Conduct in the first degree by use of "aggravated force" and "extortion." Indictment 07-GS-46-1996 alleges Incest based on carnal intercourse by Applicant with his daughter.²

Trial counsel was not ineffective in not pursuing a claim of double jeopardy as no such claim existed.

Applicant specifically raised by amended motion ineffectiveness of trial counsel in failing to move to suppress a contract discovered pursuant to the search warrant discussed herein above. Initially, it should be pointed out that the Court has found counsel was not ineffective in failing to move to suppress evidence obtained pursuant to the search warrant.

As to the contract issue, trial counsel testified that he was relying on the contract as a trial strategy, a claim Applicant did not dispute. Trial Counsel's trial strategy as to the contract was

Applicant did not know that search warrant was unsigned until he was imprisoned.
² At Applicant's hearing concerning Indictment 07-GS-46-1991, the trial judge granted a directed verdict as to this indictment so any issue regarding it is moot. See TR p. 290, LL14-18 and TR p. 295, LL 13-18.

JCH
H&L

Item #29

that the victim and her mother were testifying against Applicant as to these allegations because both had a financial interest in keeping quiet as to the allegations and apparently did so until the victim felt Applicant was renegeing on the contract (TR p. 414, L 23 through p. 418, L 19).

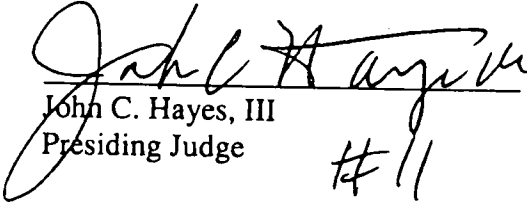
Where, as here trial counsel articulates a valid reason for employing a certain strategy, such conduct is not deemed ineffective assistance of counsel. See Caprood v. State, 338 S.C. 103, 525 S.E.2d 514 (Sup. Ct. 2000).

Applicant's allegations are without merit and therefore his Application for Post Conviction Relief is denied and dismissed with prejudice.

Applicant has thirty (30) days to seek Certiorari from the South Carolina Supreme Court after receipt of this Order.

IT IS SO ORDERED.

^{20th}
September 15, 2010
York, South Carolina


John C. Hayes, III
Presiding Judge #11

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2009CP4603273

Darrell R Efird vs. State Of South Carolina

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.
- 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: _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

ORDER

Dated at York, South Carolina, this 26th day of October, 2010.

Court Reporter:

s/ JOHN C. HAYES, III.

PRESIDING JUDGE - JOHN C. HAYES, III.

This judgment was entered on the 29th day of October, 2010, and a copy mailed first class this 29th day of October, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

**Bradford Rawlinson Schiller Law Firm 1176
Ebenezer Road Rock Hill, SC 29732**

**Jennifer A. Kinzeler Office Of The Attorney
General P.O. Box 11549 Columbia, SC
292111549**

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

SCRPC APP-24/FORM 4

David Hamilton - Clerk of Court

Item #29

SCRCP APP-24/FORM 4

David Hamilton - Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
Darrell R. Efird,)
Applicant,)
vs.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

C.A. No.: 2009-CP-46-3273

ORDER

DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

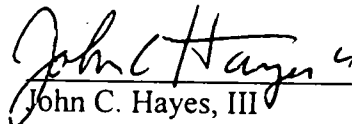
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This court issued its Order denying Applicant's Application for Post Conviction Relief and dismissing same with prejudice on September 20, 2010. Applicant has timely filed a motion pursuant to Rule 59(e) SCRPC requesting the Court to alter or amend said Order.

The Court finds the September 20, 2010 Order adequately, fully and correctly disposed of Applicant's argument regarding the search warrant issue.

Wherefore, Applicant's Rule 59(e) SCRPC Motion is DENIED.

IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge

October 26th, 2010
York, South Carolina

430 Oaklawn Road
Pelzer, S.C. 29669

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P.C.I. MAILROOM

TO: Clerk of Court for the Supreme Court
C/o Daniel E. Shearouse
Post Office Box 11330
Columbia, S.C. 29211

The Supreme Court of South Carolina

Darrell Efird,

Petitioner,

v.

State of South Carolina,

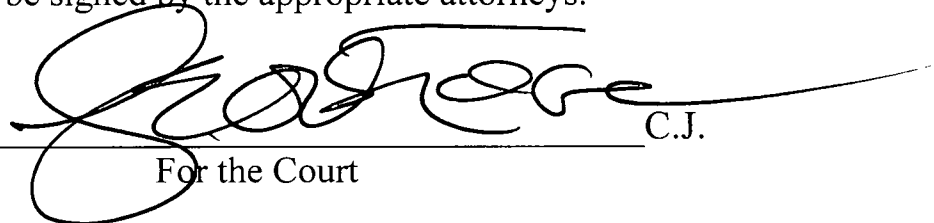
Respondent.

The Honorable John C. Hayes, III
York County
Trial Court Case No. 2009-CP-46-03273

ORDER

Petitioner seeks an extension until July 6, 2011 to serve and file the Petition for Writ of Certiorari and Appendix, and asserts that extraordinary circumstances justify this extension. The opposing party consents to the extension. The request for an extension is granted. Pursuant to this Court's order dated March 18, 2009, any further extension request must show the existence of extraordinary circumstances, state what actions are being taken to insure that no further extensions will be required, and be signed by the appropriate attorneys.

IT IS SO ORDERED.


C.J.
For the Court

Columbia, South Carolina

June 9, 2011

cc: Appellate Defender Elizabeth A. Franklin-Best
Assistant Attorney General Harrison Brant

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JUN - 6 2011

S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from York County

Honorable John C. Hayes, III, Circuit Court Judge

DARRELL EFIRD,

PETITIONER,

V.

THE STATE,

RESPONDENT.

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

(4)

Counsel for Darrell Efird respectfully petitions this Court for a **final 30 days** to file the petition for writ of certiorari and appendix on behalf of her client. In support of this petition, counsel shows:

1. The petition for writ of certiorari and appendix is due today. The Court has granted three previous extensions.
2. Counsel respectfully submits that good cause exists to warrant the granting of an additional extension of time.
3. Specifically, counsel, because of her substantial caseload, has not had the time to complete her client's case, consistent with her duty to provide effective assistance of counsel as guaranteed by the U.S.C.A. 6, 14. See Evitts v. Lucey, 469 U.S. 387 (1985) (to be effective appellate counsel must give assistance of such quality as to make

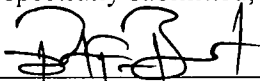
appellate proceedings fair). *See also* Ezell v. State, 345 S.C. 312, 548 S.E.2d 852 (2001); Southerland v. State, 337 S.C. 610, 524 S.E.2d 833 (1999); South Carolina Bar Ethics Advisory Committee, Advisory Op. 04-12 (2004) (citing the 2002 ABA maximum caseload standards of 25 appeals). *See generally* Polk County v. Dodson, 454 U.S. 312 (1981); Gideon v. Wainwright, 372 U.S. 335 (1963). Counsel has prioritized her caseload to complete the cases with the largest number of extensions first.

4. Counsel diligently works to keep up with her case load. Counsel presently working on the death penalty case of State v. Bayan Aleksey. The Appendix in this case is over 6,000 pages long, and there are at least 97 exhibits involved. Counsel and co-counsel have been to the Courthouse in Orangeburg in an attempt to ensure that all exhibits are in the appendix and they have met with the client on death row to go over the exhibit list. A second trip to the Courthouse was needed to ensure all exhibits have been located. Many conversations were had with the client to ensure counsel and co-counsel had all of the exhibits in this case. The Appendix had to be completely re-indexed given the missing documents that were located. Counsel and co-counsel are arguing at least ten separate grounds of ineffective assistance of counsel, and they will be making a motion today or tomorrow, with Mr. Zelenka's kind consent, to exceed the 25 page limit, but to file a certiorari petition of not more than 90 pages. Counsel and co-counsel continue to work on this case. On May 9, 2011 counsel filed the initial brief of appellant and designation of matter in State v. Phillip Coker. On May 11, 2011 counsel filed the brief of appellant and designation of matter in State v. Miguel Angel Ontiveroes. On May 12, 2011 counsel filed the petition for writ of certiorari and appendix in Rafael Escalante v. State. On May 17, 2011 counsel filed the initial brief of appellant and designation of matter in State v. Latisha Cochran and the petition for writ of certiorari and appendix in Kevin A. Reilly vs. State.

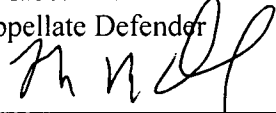
5. In the month of June, counsel is assigned to file 23 briefs and cert petitions.
6. As indicated by the signature below, the Attorney General's Office does not oppose the request.
7. Counsel makes this request in good faith and not for purposes of delay.

Respectfully, counsel requests a **final 30 day extension** in which to file her client's petition for writ of certiorari and appendix.


Respectfully submitted,



Elizabeth A. Franklin-Best
Appellate Defender

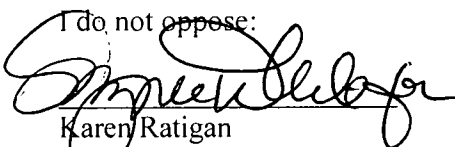


Robert M. Dudek
Chief Appellate Defender



T. Patton Adams
Executive Director/
J. Hugh Ryan, III
General Counsel

June 6, 2011

I do not oppose:


Karen Ratigan

The Supreme Court of South Carolina

Darrell Efird,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable John C. Hayes, III
York County
Trial Court Case No. 2009-CP-46-03273

ORDER

For good cause shown, the request for an extension to serve and file Petition for Writ of Certiorari and Appendix is granted and extended until June 6, 2011. Pursuant to this Court's order dated March 18, 2009, any further extension request must show the existence of extraordinary circumstances, state what actions are being taken to insure that no further extension will be required, and be signed by the appropriate attorneys.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY *Dwenda J. Shealy*
Chief Deputy Clerk

Columbia, South Carolina

May 9, 2011

cc: Appellate Defender Elizabeth A. Franklin-Best
Assistant Attorney General Harrison Brant

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

ORIGINAL

Appeal from York County

RECEIVED

Honorable John C. Hayes, III, Circuit Court Judge

MAY - 6 2011

DARRELL EFIRD,

S.C. Supreme Court

PETITIONER,

(3)

V.

THE STATE,

RESPONDENT.

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

Counsel for Darrell Efird respectfully petitions this Court for an additional 30 days to file the petition for writ of certiorari and appendix on behalf of her client. In support of this petition, counsel shows:


1. The petition for writ of certiorari and appendix is due today. The Court has granted two previous extensions.
2. Counsel respectfully submits that good cause exists to warrant the granting of an additional extension of time.
3. Specifically, counsel, because of her substantial caseload, has not had the time to complete her client's case, consistent with her duty to provide effective assistance of counsel as guaranteed by the U.S.C.A. 6, 14. *See Evitts v. Lucey*, 469 U.S. 387 (1985) (to be effective appellate counsel must give assistance of such quality as to make

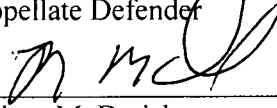
appellate proceedings fair). *See also* Ezell v. State, 345 S.C. 312, 548 S.E.2d 852 (2001); Southerland v. State, 337 S.C. 610, 524 S.E.2d 833 (1999); South Carolina Bar Ethics Advisory Committee, Advisory Op. 04-12 (2004) (citing the 2002 ABA maximum caseload standards of 25 appeals). *See generally* Polk County v. Dodson, 454 U.S. 312 (1981); Gideon v. Wainwright, 372 U.S. 335 (1963). Counsel has prioritized her caseload to complete the cases with the largest number of extensions first.

4. Counsel diligently works to keep up with her case load.
5. In the month of May, counsel is assigned to file **28** briefs and certs.
6. As indicated by the signature below, the Attorney General's Office does not oppose the request.
7. Counsel makes this request in good faith and not for purposes of delay.

Respectfully, counsel requests a 30 day extension in which to file her client's petition for writ of certiorari and appendix.

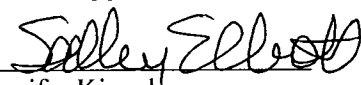
Respectfully submitted,


Elizabeth A. Franklin-Best
Appellate Defender


Robert M. Dudek
Chief Appellate Defender

May 6, 2011

I do not oppose:


Jennifer Kinzeler

The Supreme Court of South Carolina

Darrell Efird,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable John C. Hayes, III
York County
Trial Court Case No. 2009-CP-46-03273

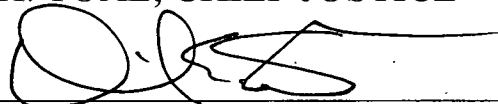
ORDER

For good cause shown, the request for an extension until May 6, 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

April 7, 2011

cc: Appellate Defender Elizabeth A. Franklin-Best
Assistant Attorney General Harrison Brant

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from York County

Honorable John C. Hayes III, Circuit Court Judge

 ORIGINAL

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APR - 6 2011

S.C. Supreme Court

DARRELL EFIRD,

PETITIONER,

V.

THE STATE,

RESPONDENT.

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

(2)

Counsel for Darrell Efird respectfully petitions this Court for an additional 30 days to file the petition for writ of certiorari and appendix on behalf of her client. In support of this petition, counsel shows:

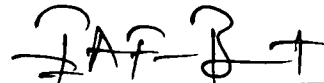
1. The petition for writ of certiorari and appendix is due today. The Court has granted one previous extension.
2. Counsel respectfully submits that good cause exists to warrant the granting of an additional extension of time.
3. Specifically, counsel, because of her substantial caseload, has not had the time to complete her client's case, consistent with her duty to provide effective assistance of counsel as guaranteed by the U.S.C.A. 6, 14. *See Evitts v. Lucey*, 469 U.S. 387 (1985) (to be effective appellate counsel must give assistance of such quality as to make

appellate proceedings fair). *See also* Ezell v. State, 345 S.C. 312, 548 S.E.2d 852 (2001); Southerland v. State, 337 S.C. 610, 524 S.E.2d 833 (1999); South Carolina Bar Ethics Advisory Committee, Advisory Op. 04-12 (2004) (citing the 2002 ABA maximum caseload standards of 25 appeals). *See generally* Polk County v. Dodson, 454 U.S. 312 (1981); Gideon v. Wainwright, 372 U.S. 335 (1963). Counsel has prioritized her caseload to complete the cases with the largest number of extensions first.

4. Counsel diligently works to keep up with her case load.
6. In the month of April, counsel is assigned to file 21 briefs and certs.
7. Counsel makes this request in good faith and not for purposes of delay.

Respectfully, counsel requests a 30 day extension in which to file her client's petition for writ of certiorari and appendix.

Respectfully submitted,



Elizabeth A. Franklin-Best
Appellate Defender

April 6, 2011

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from York County

Honorable John C. Hayes III, Circuit Court Judge

DARRELL EFIRD,

PETITIONER,

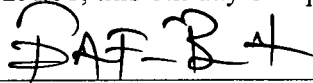
V.

THE STATE,

RESPONDENT.

CERTIFICATE OF SERVICE

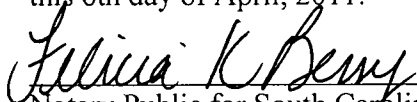
The undersigned attorney hereby certifies that a true copy of the petition for extension of time in which to file the petition for writ of certiorari and appendix in the above referenced case has been served upon Jennifer Kinzeler, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 6th day of April, 2011.



Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 6th day of April, 2011.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: June 21, 2020 .

The Supreme Court of South Carolina

Darrell Efird, Petitioner,

v.

State of South Carolina, Respondent.

The Honorable John C. Hayes, III
York County
Trial Court Case No. 2009-CP-46-03273

ORDER

The request for an extension until April 6, 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.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

March 8, 2011

cc: Appellate Defender Elizabeth A. Franklin-Best
Assistant Attorney General Harrison Brant



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL 

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

March 7, 2011

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

RECEIVED

MAR 07 2011

S.C. Supreme Court

Re: Darrell Efird v. State of South Carolina

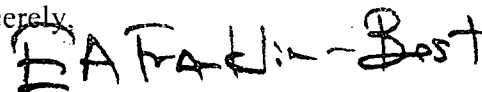
Dear Mr. Shearouse:

The petition for writ of certiorari and appendix in the above-referenced case are due to be served and filed today. Because of my present workload, I respectfully request a thirty-day extension of this deadline. No prior extensions have been requested in this case.

By copy of this letter to Assistant Attorney General Jennifer Kinzeler, I am informing her of this request.

Thank you for your assistance in this matter.

Sincerely,



Elizabeth A. Franklin-Best
Appellate Defender

EAF/fkb

cc: Jennifer Kinzeler, 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
Joseph L. Savitz, III, Senior Appellate Defender

January 5, 2011

RECEIVED

JAN 05 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.

Darrell Efird v. State of South Carolina

1/5/2011

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



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
Joseph L. Savitz, III, Senior Appellate Defender

December 13, 2010

Ms. Wanda S. Nelson
Circuit Court Reporter
1428 Dove Landing Road
York, SC 29745

Dear Ms. Nelson:

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

Darrell Efird v. State of South Carolina Case #: 09-CP-46-03273.

County: York Date of Trial: September 2, 2010

Presiding Judge: John C. Hayes, III

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.

RECEIVED

DEC 13 2010

SC Court of Appeals

RECEIVED

DEC 15 2010

S.C. Supreme Court

Ms. Wanda S. Nelson
December 13, 2010
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,


Lorie French
Legal Services Coordinator

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



Bennett J. Schiller III
Bradford A. Rawlinson
Joel T. Hamilton
www.theschillerlawfirm.com
Telephone: 803-366-0333
Facsimile: 803-366-0339

December 1, 2010

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DEC 03 2010

S.C. SUPREME COURT

Daniel E. Shearouse
Clerk of South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

RE: Darrell Efird #322883 vs. State of South Carolina
Case No.: 2009-CP-46-3273

Dear Mr. Shearouse:

Enclosed for filing is an original Notice of Appeal in the above referenced case.
Also included are the following:

- (1) Proof of Service of the Notice of Appeal on the Respondent;
- (2) Order of Dismissal from Mr. Efird's PCR (Exhibit 1); and
- (3) Order of Dismissal from Mr. Efird's Motion to Amend (Exhibit 2).

Please be advised that Appellate Defense has been notified and will assume responsibility for his case. Thank you.

Respectfully Submitted,

Bradford A. Rawlinson
Schiller Law Firm

BAR/sm

Enclosure

Cc: Appellate Defense
Jennifer Kinzeler, Esq.

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

Case No.: 2009-CP-46-3273

Darrell R. Efirid.....Appellant,

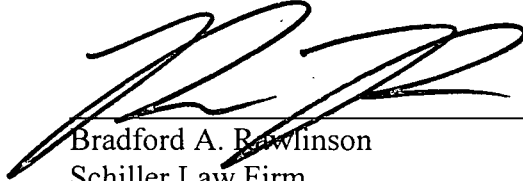
v.
State of South Carolina.....Respondent.

NOTICE OF APPEAL

Appellant Darrell Efirid appeals the Order of the Honorable John C. Hayes, III, dated September 20, 2010, which dismissed Appellant's Application for Post-Conviction Relief. Appellant received written notice of the entry of the Order on September 29, 2010, attached as Exhibit 1. Appellant further Appeals the 2nd Order of the Honorable John C. Hayes, III, dated October 29, 2010, which dismissed Appellant's Motion to Alter or Amend Final Judgment. Appellant received written notice of the entry of the 2nd Order on November 3, 2010, attached as Exhibit 2.

Respectfully submitted,

SCHILLER LAW FIRM



Bradford A. Rawlinson
Schiller Law Firm
241 Oakland Avenue
(803) 366-0333
Attorney for Appellant

RECEIVED

DEC 0 9 2010

S.C. SUPREME COURT

Rock Hill, South Carolina
This 1 day of December, 2010

Other Counsel of Record:
Jennifer Kinzeler, Esq.
Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

Case No.: 2009-CP-46-3273

Darrell R. Efir.....Appellant,

v.

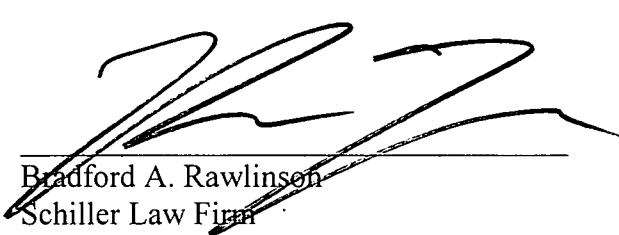
State of South Carolina.....Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Jenifer Kinzeler, Esquire, by depositing a copy of the same in the United States Mail, postage prepaid, on December 1, 2010, addressed to the attorney of record at the address indicated below:

Jennifer Kinzeler, Esq.
Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549

December 1, 2010



Bradford A. Rawlinson
Schiller Law Firm
241 Oakland Avenue
(803) 366-0333
(803) 366-0339
Attorney for Appellant

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF YORK

CASE NO: 2009CP4603273

IN THE COURT OF COMMON PLEAS

Darrell R Efird vs. State Of South Carolina

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.
- 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: _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

ORDER

Dated at York, South Carolina, this 26th day of October, 2010.

Court Reporter:

s/ JOHN C. HAYES, III.

PRESIDING JUDGE - JOHN C. HAYES, III.

This judgment was entered on the 29th day of October, 2010, and a copy mailed first class this 29th day of October, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

Bradford Rawlinson Schiller Law Firm 1176
Ebenezer Road Rock Hill, SC 29732

Jennifer A. Kinzeler Office Of The Attorney
General P.O. Box 11549 Columbia, SC
292111549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

SCRPC APP-24/FORM 4

David Hamilton - Clerk of Court

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
Darrell R. Efird,)
)
)
Applicant,)
)
)
vs.)
)
State of South Carolina,)
)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

C.A. No.: 2009-CP-46-3273

ORDER


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2010 OCT 29 PM 2:58
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

This court issued its Order denying Applicant's Application for Post Conviction Relief and dismissing same with prejudice on September 20, 2010. Applicant has timely filed a motion pursuant to Rule 59(e) SCRPC requesting the Court to alter or amend said Order.

The Court finds the September 20, 2010 Order adequately, fully and correctly disposed of Applicant's argument regarding the search warrant issue.

Wherefore, Applicant's Rule 59(e) SCRPC Motion is DENIED.

IT IS SO ORDERED.



John C. Hayes, III
Presiding Judge

October 26th, 2010
York, South Carolina

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF YORK

CASE NO: 2009CP4603273

IN THE COURT OF COMMON PLEAS

Darrell R Efird vs. State Of South Carolina

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.
- ACTION DISMISSED (CHECK REASON):**
 - Rule 12(b), SCRCP;
 - Rule 41(a), SCRCP (Vol. Nonsuit);
 - Rule 43(k), SCRCP (Settled);
 - Other:
- ACTION STRICKEN (CHECK REASON):**
 - Rule 40(j) SCRCP;
 - Bankruptcy;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other: _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

ORDER

Dated at York, South Carolina, this 20th day of September, 2010.

Court Reporter:

s/ JOHN C. HAYES, III.

PRESIDING JUDGE - JOHN C. HAYES, III.

This judgment was entered on the 23rd day of September, 2010, and a copy mailed first class this 23rd day of September, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

✓ **Bradford A. Rawlinson Schiller Law Firm 1176**
Ebenezer Road Rock Hill, SC 29732

Jennifer A. Kinzeler Office Of The Attorney
General P.O. Box 11549 Columbia, SC
292111549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

SCRCP APP-24/FORM 4

David Hamilton - Clerk of Court

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)
)
 Darrell Efird, #322883,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 SIXTEENTH JUDICIAL CIRCUIT
 Case No.: 2009-CP-46-3273

DAVID RAWLINSON
 C.C.P. & S.S.
 YORK COUNTY, SC

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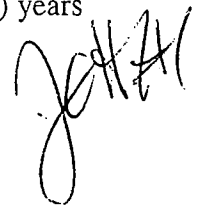
ORDER

Respondent filed an application for Post Conviction Relief (PCR) August 31, 2010. The Court heard this matter on September 2, 2010. The attorney for the State of South Carolina was Jennifer A. Kinzeler, and the attorney for the Applicant was Bradford A. Rawlinson.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. Applicant was indicted at the June 2007 term of the York County Grand Jury for two counts of criminal sexual conduct with a minor, 2nd degree (2007-GS-46-1994), attempt to commit criminal sexual conduct in the first degree (2007-GS-46-1995), and incest (2007-GS-46-1996). James W. Boyd represented the Applicant.

On July 12, 2007, the Applicant proceeded to trial and was convicted by a jury of two counts of criminal sexual conduct with a minor, 2nd degree (2007-GS-46-1992, 2007-GS-46-1993), criminal sexual conduct, 2nd degree (2007-GS-46-1994), the lesser included offense of assault and battery of a high and aggravated nature for the attempt to commit criminal sexual conduct in the first degree charge, (2007-GS-46-1995), and incest (2007-GS-46-1996).

The Honorable Lee S. Alford sentenced the Applicant to confinement for twenty (20) years for criminal sexual conduct with a minor, 2nd degree (2007-GS-46-1992), twenty (20) years



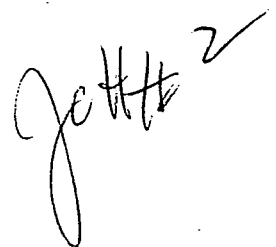
for criminal sexual conduct, 2nd degree, ten (10) years for assault and battery of a high and aggravated nature, and one (1) year for incest, sentences running concurrently, and ten (10) years for the criminal sexual conduct with a minor, 2nd degree (2007-GS-46-1993) running consecutive to the twenty (20) year sentence for criminal sexual conduct, 2nd degree.

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. Efirid, Unpublished Op. No. 2009-UP-248 (S.C. Ct. App. Filed May 28, 2009). The Remittitur was issued on June 15, 2009.

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

Ineffective assistance of counsel:

- a. Failure to move to dismiss his indictments that were "sham legal processes,"
- b. Failure to object and move to dismiss indictments "containing double jeopardy offenses,"
- c. Failure to object to sufficiency of charges in his indictments,
- d. Failure to object to Solicitor's vouching of key witnesses in closing argument,
- e. Failure to object to Solicitor's "Golden Rule" argument in closing,
- f. Failure to object to Solicitor's closing argument appealing to passion and prejudice of the jury,
- g. Failure to object to Solicitor's closing argument on Applicant's lack of remorse,
- h. Failure to move to suppress evidence obtained upon defective search warrant,
- i. Failure to object to Solicitor's proffer of specific references to victim from its expert witness.



Applicant who filed an amended application in which he alleged ineffective assistance of Counsel based on counsel's failure to move to suppress a written contract discovered pursuant to a search warrant.

In a PCR proceeding, the applicant bears the burden of establishing that he is entitled to relief. Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). First, a PCR applicant must show that his counsel's performance was deficient such that it falls below an objective standard of reasonableness. Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 693 (1984); Alexander v. State, 303 S.C. 539, 541, 402 S.E.2d 484, 485 (1991). Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989), *citing Strickland*.

Second, an applicant must show there is a reasonable probability, but for counsel's unprofessional errors, the result of the proceeding would have been different. Strickland, 466 U.S. at 687, 104 S.Ct. at 2064, 80 L.Ed.2d at 693; Alexander, 303 S.C. at 541-42, 402 S.E.2d at 485. The Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, Id. Applicant must overcome this presumption in order to receive relief. Cherry, Id.

The Court interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their 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

Handwritten signature and initials, possibly "JCH" or similar, with a large number "3" written to the right.

just result.” Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. at 441, 334 S.E.2d at 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, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used 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.

Defects in the language of an indictment do not divest an otherwise proper court of subject matter jurisdiction over a case. U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). A circuit court has subject matter jurisdiction to convict a defendant of an offense if there is an indictment that sufficiently states the offense, the defendant waives presentment, or the offense is a lesser-included offense of the crime charged in the indictment. State v. Wilkes, 353 S.C. 462, 464-465, 578 S.E.2d 717, 719 (2003), citing Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001).

Applicant alleges the indictments on which he was tried were not properly presented to the York County Grand Jury. Applicant predicates this argument on Sections 14-9-170 and 14-

9-210 of the South Carolina Code of Laws, 1976 as amended. Reliance on these statutes is misplaced as these sections pertain only to county courts, not circuit courts. County courts were abolished July 1, 1979 and to the undersigned's recollection York County never had a county court other than a family court.

In further support of his claim that the Grand Jury which true billed his indictment, was not properly convened, Applicant has entered in the record the terms of the General Sessions Court for York County for 2007 which shows no York Court County General Sessions Court was scheduled for the week in which his case was presented to the Grand Jury, June 14, 2007. Applicant also points to the language in the indictment which states "[a]t a court of General Sessions, convened on June 14, 2007." The Applicant's argument here is that on June 14, 2007, no General Sessions Term was scheduled for York County.

As to the latter issue, the Court notes that the cited language does not say "at a Term of General Sessions," but simply says "[a]t a court of General Sessions." The South Carolina Constitution states:

The Grand Jury of each county . . . shall consist of eighteen members, twelve of whom must agree in a matter before it can be submitted to the Court."
Art. V, § 22, Constitution of the State of South Carolina.

Notably, the Constitution places absolutely no restriction on when a Grand Jury may meet.

Section 14-7-1520, S.C. Code of Laws, 1970, as amended, provides that Grand Jurors are to attend sessions:

. . . the first day of the first week of criminal court in the county or at such other time as the clerk of court may designate (emphasis added).

It is clear from the above that Applicant's attack on the Grand Jury's return of true bill on his indictments has no merit.

Applicant alleges that trial counsel was ineffective for failing to object to Solicitor's vouching of key witnesses in closing argument. Solicitor argued in closing argument that "Their [Defendant's] version is unreasonable and full of holes. Her [victim's] story is consistent, cohesive, and true." (TR p. 457, LL 3-4). Solicitor's argument was improper because Solicitor may not vouch for the truthfulness of a witness. However, the Applicant was not prejudiced by his trial counsel not objecting to the statement. Trial counsel testified that he did not object because he did not believe the Solicitor's statement was vouching. Even if trial counsel should have objected, Applicant was not prejudiced because the record wholly supports the jury's verdict.

Additionally, in order to be entitled to a new trial for improper closing arguments, the test is whether "the Solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). The Court affirmatively finds the Solicitor's comments did not so infect Applicant's trial with unfairness so as to make his resulting conviction a denial of due process.

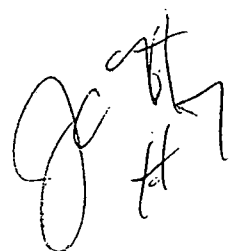
Applicant alleges trial counsel was insufficient for failing to object to Solicitor's "Golden Rule" argument in the closing. Solicitor argued in her closing, "Put yourself in her [the victim's] shoes." (TR p. 436, L 20). Trial counsel testified that he did not object because did not want to bring the jury's attention to the statement during closing arguments. Trial counsel further testified that he risked being overruled by the trial judge which he thought could bring more attention to the Solicitor's argument as opposed to diffusing its impact on the jury. Moreover, trial counsel committed no error in failing to object to the Solicitor's statement because the

argument was not calculated to suggest that the jury should put themselves in the victim's shoes as to the crime. Rather, the Solicitor asked the jury to put themselves in the victim's position as to the traumatic experience of the victim having to testify against her father about his horrific sexual abuse of her. These type statements are not improper and, therefore, the Applicant was not prejudiced by them.

In order to be entitled to a new trial for improper closing arguments, the test is whether "the Solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). The Court affirmatively finds the Solicitor's comments did not so infect Applicant's trial with unfairness so as to make his resulting conviction a denial of due process.

Applicant alleges that trial counsel was ineffective for failing to object to Solicitor's closing argument because it appealed to the passion and prejudice of the jury. At trial, Solicitor argued, "But the reality is is that child abuse happens in our community and it happens a lot more than people are willing to believe. It used to be a dark little corner and only a few people came out of there[.]" (TR p. 433, LL 19-22). Trial counsel testified that he did not recall these statements made by Solicitor. Trial counsel was not ineffective for failing to object because the Applicant was not prejudiced as these statements did not rise to the level of appealing to the passion and prejudice of the jury.

Again, in order to be entitled to a new trial for improper closing arguments, the test is whether "the Solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). The Court affirmatively finds the Solicitor's comments did not so infect Applicant's trial with unfairness so as to make his resulting conviction a denial of due process.

Handwritten signature or initials, possibly "J. H." or similar, written in black ink.

Applicant alleges that trial counsel was ineffective for failing to object to Solicitor's closing argument which commented on Applicant's lack of remorse. In her closing, Solicitor argued, "Does he [the Applicant] get up on that stand does he show the awe and confusion and fear that he claims that is in his heart? Or does he sit there stoic, denial, lying, and blank like his wife?" (TR p. 448, LL 2-5). Solicitor's argument appears proper in regard to the credibility of the Applicant, and it does not appear to refer to Applicant's lack of remorse. Thus, trial counsel was not ineffective for failing to object because Solicitor's statements were not prejudicial.

In order to be entitled to a new trial for improper closing arguments, the test is whether "the Solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." State v. Hamilton, 344 S.C. 344, 362, 543 S.E.2d 586, 596 (2001). The Court affirmatively finds the Solicitor's comments did not so infect Applicant's trial with unfairness so as to make his resulting conviction a denial of due process.

While not specifically raised by Applicant, the Court is aware that an argument is often made that while one or two errors alone do not rise to the level of ineffectiveness or prejudice, the cumulative effect of several errors creates either ineffectiveness or prejudice. To allay such argument, the Court specifically finds that even when viewed cumulatively, the alleged errors, to the extent the allegations constitute error, did not so infect Applicant's trial with unfairness as to make Applicant's resulting convictions a denial of due process.

Applicant alleges that trial counsel was ineffective for failing to move to suppress evidence obtained upon a defective search warrant. Applicant testified that the search warrant was not signed, therefore, making it insufficient. Applicant also testified that the search warrant resulted in the police finding a contract, the terms of which indicated the Applicant was paying the victim to keep quiet about the crimes committed with which he was charged. Trial counsel

testified that the search warrant was proper and could not be challenged. While Applicant claims the search warrant was unsigned, trial counsel testified that it was in fact signed and not objectionable. As a result, Applicant has failed carry his burden on this allegation.

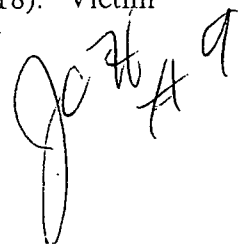
Applicant alleges trial counsel was ineffective for failing to object to Solicitor's proffer of specific references to victim from its expert witness. At trial, the trial judge limited the expert witness's testimony to testifying "generally about in so far as educating the jury as to information that they have in general why certain things happen or do not happen and whether it's consistent or inconsistent." (TR p. 193, LL 15-18). The trial judge explained that the expert could not give ultimate opinions or make opinions as to the particular facts in the case. The record reveals that expert testified within the trial judge's guidelines. Thus, trial counsel was not ineffective.

Applicant also alleges trial counsel was ineffective for not objecting to the trial judge's Allen Charge. The record reveals that the Allen Charge by the trial judge was proper. Further, Applicant at his PCR hearing did not explain or give a reason for why the Allen Charge was improper. Thus, trial counsel was not ineffective for failing to object to the Allen Charge because trial counsel had no reason to object.

Applicant alleges trial counsel was ineffective for failing to object or move to dismiss the indictments based on a violation of his protection against double jeopardy. A review of the several indictments reveal that some time frames overlap, but indictments are notice documents and the state must prove the alleged offenses to a jury's satisfaction beyond a reasonable doubt.

The victim testified that the Applicant is her father (TR p. 120, LL 22-23)¹ and that she was born on July 14, 1986 (TR p.121, LL 3-4). The victim testified the Applicant started touching her inappropriately when she was four (4) years old (TR p. 130, LL 11-18). Victim

¹ Reference is to Trial Transcript.



testified that Applicant had vaginal intercourse with her when she was eight (8) (TR 132, LL 2-7). Also, victim testified that the sexual intercourse continued and that around twelve (12) years of age, Applicant started using condoms (TR p. 133, LL 11-19). Victim testified that Applicant would have sex with her "at least once a week" (TR 135, L 22 through 136, L1).

The victim turned sixteen (16) on July 14, 2002. The indictments alleged Applicant committed Criminal Sexual Conduct prior to that time, "between 2001 and 2002" 07-GS-46-1992; "between 2002 and 2003" and when victim "was at least fourteen (14) years of age but who was less than sixteen (16) years of age" 07-GS-46-1993. Both of these indictments allege victim was a minor at the time of the alleged sexual activity.

Indictment 07-GS-46-1994 alleges Criminal Sexual Conduct, second degree "by use of aggravated coercion against will and consent of the victim." Indictment 07-GS-46-1995 alleges attempt to commit Criminal Sexual Conduct in the first degree by use of "aggravated force" and "extortion." Indictment 07-GS-46-1996 alleges Incest based on carnal intercourse by Applicant with his daughter.²

Trial counsel was not ineffective in not pursuing a claim of double jeopardy as no such claim existed.

Applicant specifically raised by amended motion ineffectiveness of trial counsel in failing to move to suppress a contract discovered pursuant to the search warrant discussed herein above. Initially, it should be pointed out that the Court has found counsel was not ineffective in failing to move to suppress evidence obtained pursuant to the search warrant.

As to the contract issue, trial counsel testified that he was relying on the contract as a trial strategy, a claim Applicant did not dispute. Trial Counsel's trial strategy as to the contract was

² At Applicant's hearing concerning Indictment 07-GS-46-1991, the trial judge granted a directed verdict as to this indictment so any issue regarding it is moot. See TR p. 290, LL14-18 and TR p. 295, LL 13-18.

that the victim and her mother were testifying against Applicant as to these allegations because both had a financial interest in keeping quiet as to the allegations and apparently did so until the victim felt Applicant was renegeing on the contract (TR p. 414, L 23 through p. 418, L 19).

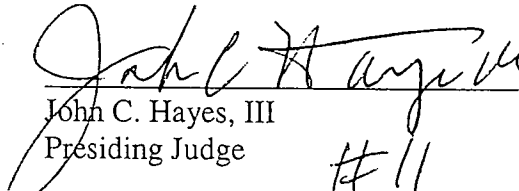
Where, as here trial counsel articulates a valid reason for employing a certain strategy, such conduct is not deemed ineffective assistance of counsel. See Caprood v. State, 338 S.C. 103, 525 S.E.2d 514 (Sup. Ct. 2000).

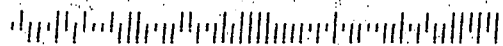
Applicant's allegations are without merit and therefore his Application for Post Conviction Relief is denied and dismissed with prejudice.

Applicant has thirty (30) days to seek Certiorari from the South Carolina Supreme Court after receipt of this Order.

IT IS SO ORDERED.

^{20/15}
September 15, 2010
York, South Carolina


John C. Hayes, III
Presiding Judge #11

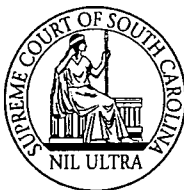


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*Darrell
Gard*

Daniel E. Shearouse
Clerk of South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

November 30, 2010

Bradford Alexander Rawlinson, Esquire
1080 W. Oak Dr.
Rock Hill, SC 29732

Bennett Joseph Schiller, III, Esquire
Schiller Law Firm
P.O. Box 36365
Rock Hill, SC 29732

RE: Darrell R. Efird v. State, 2009-CP-46-03273

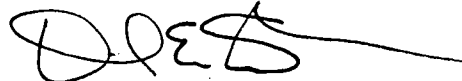
Dear Counsel:

Please be advised that your client has served and filed a pro se notice of appeal in this PCR case.¹ I remind you that you remain his counsel of record in this matter and that, if he is indigent, you will need to assist him in obtaining representation from the Division of Appellate Defense. Rule 71.1(g), SCRCP ("If an applicant represented by counsel desires to appeal, counsel shall serve and file a Notice of Appeal as required by Rule 243, SCACR, and shall continue to represent the applicant on appeal unless automatically relieved under Rule 602, SCACR, or allowed to withdraw under Rule 264, SCACR. If the applicant is indigent, counsel shall assist the applicant in obtaining representation by the Division of Appellate Defense of the Office of Indigent Defense.").

¹ The case management system for York County indicates that the petitioner is represented by Mr. Schiller, while Mr. Efird indicates in the notice of appeal that he is represented by Mr. Rawlinson. Therefore, I am sending this letter to both counsel since I am uncertain as to who represents Mr. Efird.

Petitioner has not included a copy of the final order and the order regarding the post-trial motion. I ask that you please provide this Court with a copy of these orders within ten (10) days of the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. E. Shearouse', with a long horizontal flourish extending to the right.

Daniel E. Shearouse

cc: Office of the Attorney General

Mr. Darrell R. Efird, #322883
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO YORK COUNTY
JOHN C. HAYES, III, CIRCUIT COURT JUDGE

RECEIVED

CASE NO.: 2009-CP-46-3273

NOV 29 2010

DARRELL R. EFIRD, # 322883,

S.C. SUPREME COURT
PETITIONER

V.

THE STATE OF SOUTH CAROLINA,

RESPONDENT.

NOTICE OF INTENT TO APPEAL
BY WAY OF
PETITION FOR WRIT OF CERTIORARI

THE PETITIONER, DARRELL R. EFIRD, # 322883, COMES WITH THIS PRO SE "NOTICE OF INTENT TO APPEAL" THE FINAL JUDGEMENT ISSUED FROM POST-CONVICTION RELIEF PURSUANT TO RULES 201 AND 227 (a), SCACR, AND S.C. CODE ANN. § 17-27-100 (2003).

THE PETITIONER WILL "SHOW CAUSE" AS FOLLOWS, TO WIT:

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20 SUPREME COURT

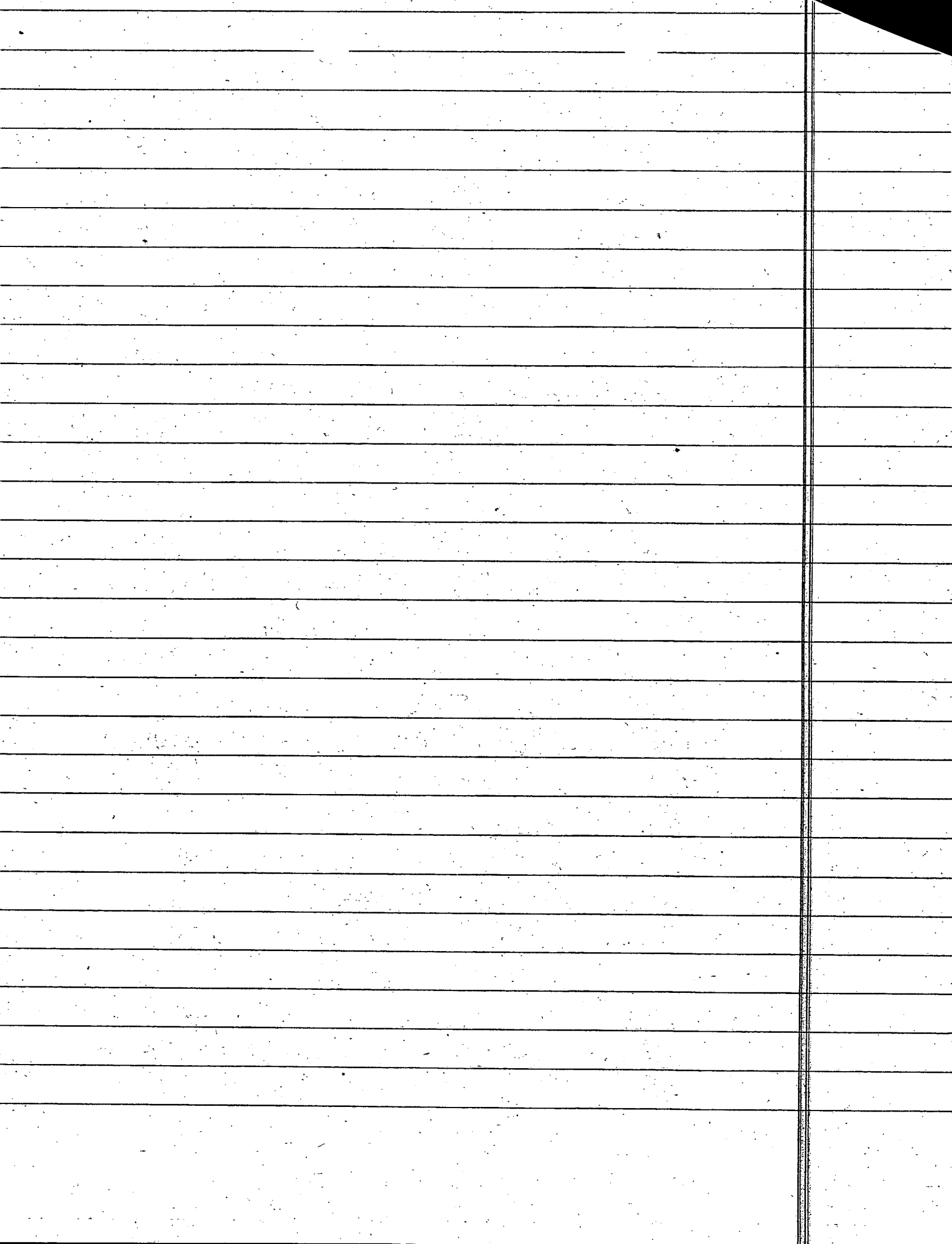
(1) On November 15, 2010, the PETITIONER RECEIVED CORRESPONDENCE FROM HIS COURT-APPOINTED POST-CONVICTION RELIEF ATTORNEY, MR. BRADFORD A. RAWLINSON, P.O. BOX 36365, ROCK HILL, S.C. 29732.

In that November 15, 2010, CORRESPONDENCE, THE PETITIONER WAS NOTIFIED THAT THE HONORABLE JOHN C. HAYES, III, HAD DENIED AND DISMISSED, ON SEPTEMBER 20, 2010, THE APPLICATION FOR POST-CONVICTION RELIEF THAT WAS HEARD ON SEPTEMBER 2, 2010.

Also, in that November 15TH, CORRESPONDENCE, THE PETITIONER WAS NOTIFIED THAT JUDGE HAYES, ON OCTOBER 26, 2010, DENIED A RULE 59(e), SCRPC, MOTION TO ALTER OR AMEND THE JUDGEMENT RENDERED ON SEPTEMBER 20, 2010.

Disturbingly, the November 15TH, CORRESPONDENCE FROM THE PETITIONER'S ATTORNEY ALSO INFORMED THAT; "... THERE APPEARS TO BE NO FURTHER ACTION THAT MY OFFICE CAN TAKE IN STATE COURT AND WE ARE CLOSING YOUR FILE."

(2) Post-Conviction Relief Counsel, Mr. Rawlinson, has not forwarded a copy of the "Final Order" issued by the PCR COURT. Nor has Counsel provided the Petitioner with a copy of the Rule 59(e), SCRPC, Motion that he filed in Petitioner's behalf.



CONCLUSION:

THEREFORE, it appears that the Petitioner's appointed Post-Conviction Relief Attorney has been and continues to be, in the least, "untimely" with his notices to the Petitioner, and "unaware" of his duty to properly file a "Notice of Intent to Appeal" the final judgment issued by the PCR Court, and initiate the transfer of representation to the Office of Indigent Appellate Defense.

The Petitioner believes his "Notice of Intent to Appeal" must be filed and served within thirty (30) days from the denial of the Rule 59(e) SCRPC Motion on October 29, 2010. Thus, by Petitioner's court, this "Notice" is due on November 28, 2010.

Being as national holidays surround the November 28th due date, being prudent, the Petitioner has taken the initiative to develop and file-serve this "Notice" in order to avoid a procedural bar and preserve his right to Appeal.

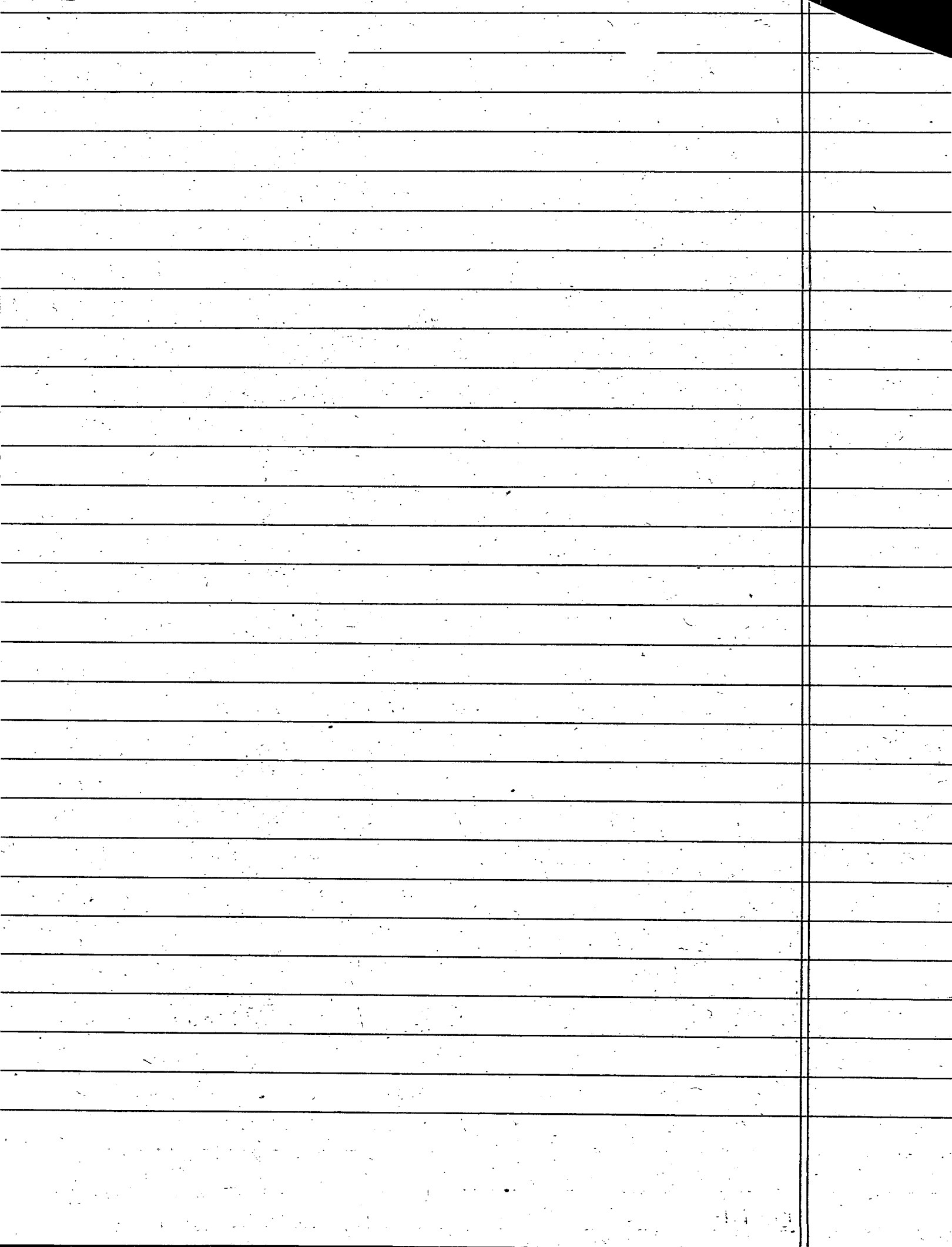
Wherefore, the Petitioner submits this "Notice of Intent to Appeal" and "Cause" in support thereof.

THIS 22 day of November, 2010.

Darrell R. Efid #322883

DARRELL R. EFID, #322883

Petitioner, acting pro se



THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO YORK COUNTY
JOHN C. HAYES, III, CIRCUIT COURT JUDGE
CASE No. : 2009-CP-46-3273

DARRELL R. EFIRD, # 322883, PETITIONER,

V.

THE STATE OF SOUTH CAROLINA, RESPONDENT.

CERTIFICATE OF SERVICE

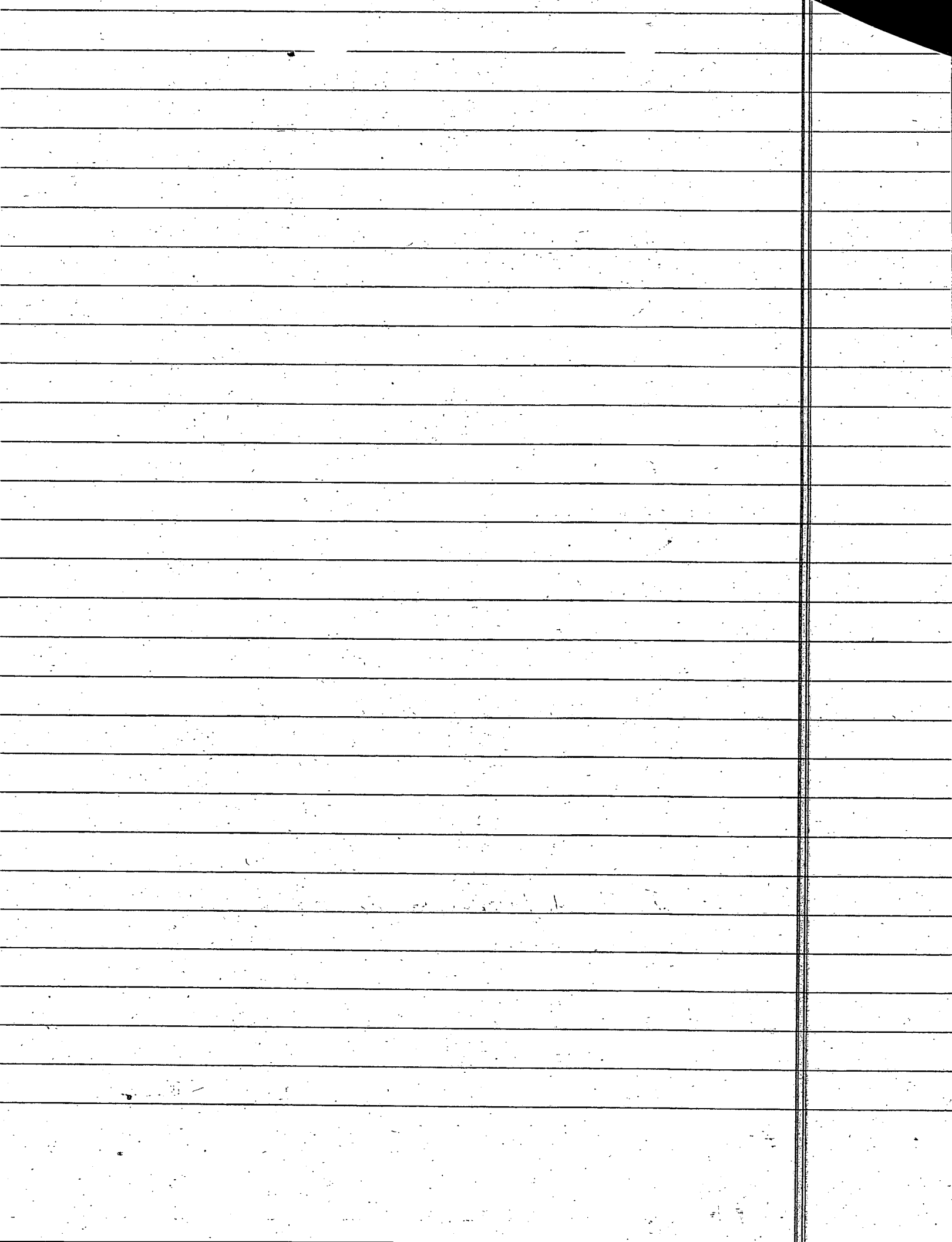
THE PETITIONER hereby certifies that he has served the parties listed herein with a duplicate of his pro se, "NOTICE OF INTENT TO APPEAL, by way of PETITION FOR WRIT OF CERTIORARI," by depositing same in the U.S. mail, postage prepaid, addressed as follows:

- | | |
|-----------------------------------|----------------------------------|
| (1) JENNIFER A. KINZELER, ESQUIRE | (2) THE HONORABLE DAVID HAMILTON |
| Office of the Attorney General | Clerk for York County Courts |
| P.O. Box 11549 | P.O. Box 649 |
| Columbia, S.C. 29211-1549 | York, S.C. 29745-0649 |

Deposited in the U.S. Mail on this
22 day of November, 2010.

Darrell R. Efird # 322883
Darrell R. Efird, # 322883
Petitioner, acting pro se

cc: file



Errol R. Eford, # 322883

by C.I., Unit Q3B

OAKLAWN ROAD

242, S.C. 29669

To: THE HONORABLE CLERK, for the

RECEIVED

SUPREME COURT OF SOUTH CAROLINA

P.O. Box 11330

NOV 22 2010

P.C.I. MAILROOM

Columbia, S.C. 29211-1330