

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Barnwell County
Doyet A, Early, III, Circuit Court Judge

ORIGINAL
RECEIVED

MAY 27 2016

SC SUPREME COURT

TUNZY SANDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001970

RETURN OPPOSING THE STATE'S MOTION
TO STRIKE PETITION FOR WRIT OF CERTIORARI,
APPENDIX, AND SUPPLEMENTAL APPENDICES FOR
FAILURE TO COMPLY WITH RULE 210(c), SCACR

Petitioner Tunzy Sanders respectfully requests this Court deny the State's motion to strike the petition for writ of certiorari, appendix, and supplemental appendix. In support of his request to deny the State's motion to strike, Petitioner responds as follows:

PCR Counsel Shurling's December 16, 2014 Letter to this Court

1. Respectfully, this Court should reconsider its **January 23, 2015** order (hereinafter the "Order") and permit itself to evaluate the contents of Counsel Shurling's **December 16, 2014** letter to this Court. *See* Rule 240(i),(j), SCACR.

2. Counsel Shurling's conflict of interest was first raised by Senior Assistant Attorney General David Spencer at Petitioner's evidentiary hearing, where he brought to the PCR court's attention that Counsel Shurling was retained by Petitioner's sister Brenda Sanders,

who had also served as his lead trial attorney. With its motion to strike, the State now is attempting to bury the conflict of interest it was so concerned about.

3. Moreover, as will be discussed *infra*, Petitioner had no advocate at the time the Order was issued due to Counsel Shurling's efforts to be appointed as outside appellate counsel. Finally, when this Court issued the Order it could have not have appreciated the enormity of Counsel Shurling's conflict of interest or the severity of Brenda Sanders' mental illness and its centrality to Petitioner's post-conviction relief proceedings.

Counsel Shurling's Conflict of Interest

4. On appeal, Petitioner argues that, under the unusual facts of this case, Counsel Shurling had an active conflict of interest as she was retained by lead trial counsel Brenda Sanders to allege that Sanders was ineffective. Petitioner further contends that the brief waiver colloquy conducted by Counsel Shurling, rather than the PCR court, at the end of Petitioner's evidentiary hearing **was untimely and inadequate to establish that Petitioner knowingly waived the conflict of interest.** See *Carter v. State*, 293 S.C. 528, 362 S.E.2d 20 (1987); see also *United States v. Nicholson*, 611 F.3d 191, 205 (4th Cir. 2010).

5. At the time of Petitioner's evidentiary hearing on **August 20, 2013**, Brenda Sanders was in the throes of her mental illness and would soon face removal from the bench with all of the attendant professional and financial ramifications. Supp. App. 3 - 101. She was suffering from paranoid delusions that rendered her incapable of accurately interpreting reality and caused her to lash out at anyone whom she deemed a threat. *Id.*

6. Under these circumstances Brenda Sanders would have been a hostile, difficult attorney to investigate for ineffectiveness. The task becomes impossible if Sanders is also paying

PCR counsel's retainer and even more so when the retainer agreement was only finalized on the day of the evidentiary hearing. App. 550, l. 6 - 551, l. 18;

7. **At the evidentiary hearing, the State raised the conflict of interest.** App. 533, ll. 2-18. The PCR court expressed deep skepticism of Counsel Shurling's arrangement with Brenda Sanders. App. 546, ll. 17-24. "That doesn't smell right to me." App. 551, l. 18; *see also Jordan v. State*, 406 S.C. 443, 447, 752 S.E.2d 538, 539-540 (2013) (counsel retained by Petitioner was ineffective for simultaneously representing Petitioner and his girlfriend in charges arising out of the same incident.).

8. Counsel Shurling was acutely aware of the appearance of a conflict of interest. *Cf: Gonzales v. State*, 412 S.C. 478, 772 S.E.2d 557 (Ct. App. 2015 (counsel not ineffective due to conflict of interest because counsel did not identify conflict of interest)). She mollified these concerns by assuring the court at length that she had not treated Brenda Sanders any differently than she did any other trial attorney that she was trying to have found ineffective. App. 541, l. 24 - 558, l. 8. The PCR court, relying completely on Counsel Shurling's guarantees, ruled that there was no conflict of interest and allowed her to proceed. *Id.*

9. However, in her December 16, 2014 letter, Counsel Shurling admitted that she did, in fact, treat Brenda Sanders differently, directly contradicting her earlier averments to the PCR court. In the letter she also claimed to have been "greatly surprised" by Counsel Sanders' "vague testimony" at the evidentiary hearing that was "not consistent with what she had previously told me." Given Brenda Sanders' paranoid and hostile reaction to the Michigan Judicial Tenure Commission's investigation, it seems totally implausible that Counsel Shurling would not have experienced a similar response when investigating her effectiveness as Petitioner's attorney.

Petitioner was Without Representation when the Order was Issued.

10. The State claims in its motion to strike that Counsel Shurling was relieved of her representation immediately after filing the notice of appeal on **September 18, 2014**. This is both factually and legally incorrect.

11. Following the filing of the notice of appeal, Counsel Shurling sought to be appointed for Petitioner's appeal. *See Attachment A (Counsel Shurling's Letter Dated October 20, 2014)*. She argued that the Office of Appellate Defense had a conflict of interest because Petitioner had raised allegations of ineffective assistance of appellate counsel against former Chief Appellate Defender Joseph Savitz. *Id.* She also claimed that the complexity of the case and the "sensitive" matter of the Brenda Sanders' mental illness meant that she should be allowed to retain the case. *Id.*

12. Even after the motion to appoint her as outside counsel with access to indigent defense funds was denied on **December 8, 2014**, Counsel Shurling continued to push to be appointed to Petitioner's appeal. Her December 16, 2014 letter is the best record of these efforts.

13. While she was fighting to retain Petitioner's case, she was neglecting her obligation to protect Petitioner's interests. As Petitioner's attorney, Counsel Shurling was not relieved of her representation until the Office of Indigent Defense was formally appointed. *See* Rule 264, SCACR; *See also In Re Anonymous Member of the Bar*, 303 S.C. 306, 308, 400 S.E.2d 483, 484 (1991) (the our Supreme Court has held that an attorney who is retained solely for the purpose of trial of a non-indigent criminal defendant must serve and file a timely Notice of Appeal as required by Rule 203, SCACR, and continue to represent the client until relieved by Court because **counsel is required to take all necessary steps as may be reasonably practicable to protect the client's interests under Rule 1.16 of the Rules of Professional**

Conduct); *see also* Rule 602(e)(4), SCACR (provides that “**retained counsel shall assist in representing the accused in any manner necessary to properly establish the indigency of the accused and properly perfect the appeal.**”) (*emphasis added*).

14. Petitioner’s completed affidavit of indigency, a pre-requisite to representation by the Office of Appellate Defense, was not received and approved until **February 9, 2015**. *See Attachment B (Office of Indigent Defense Memorandum)*. Counsel Shurling did not turn over her file to the Office of Appellate Defense until **February 19, 2015**. *See Attachment C (Counsel Shurling’s Letter Dated February 19, 2015)*.

15. Her prolonged efforts to be appointed to Petitioner’s appeal, and compensated for the appointment with indigent defense funds, delayed the start of present counsel’s representation. Interestingly, Counsel Shurling’s December 16, 2014 letter speculates on the various ways that she could raise the issue of Brenda Sanders’ mental illness, but only if this information “alters the Court’s view” of whether she should be appointed as outside appellate counsel. Regrettably, Counsel Shurling did not respond to the State’s motion to strike her letter from consideration on appeal or otherwise take steps to protect her client’s interests. Thus, Petitioner was effectively unrepresented when the Order was issued.

16. Present Counsel was unaware of the existence the Order until receiving the State’s motion to strike and would not knowingly disregard an order of this Court. Present Counsel was appointed on **March 11, 2015**. *See Attachment D (Client Introduction Letter Dated March 11, 2015)*.

17. The protracted delay between the filing of the notice of appeal on **September 8, 2014** and the appointment of present counsel on **March 11, 2015** precluded Petitioner from

responding to either the State's motion to strike Counsel Shurling's December 16, 2014 letter or the relating Order.

18. During this critical stage, when the first allegations of Brenda Sanders' mental illness were coming to light because of her suspension without pay from the bench, **Petitioner was without an advocate.**

Conclusion

19. In January of 2015 this Court could not have anticipated the implications of Counsel Shurling's conflict of interest, the importance of Brenda Sanders' suspension from the bench, or the later discovery of Brenda Sanders' debilitating mental illness to Petitioner's appeal.

20. Accordingly, this Court should not exclude from its consideration this highly relevant letter, **addressing an issue raised by the State at the evidentiary hearing**, based on a ruling on a motion submitted by the State *ex ante* to Petitioner's appeal during a period of time **when Petitioner was without counsel.** For these reasons the State's motion to strike Counsel Shurling's December 16, 2014 letter should be denied.

Michigan Judicial and Administrative Opinion Concerning Brenda

21. The majority of the Appendices pages that the State seeks to strike consist of Michigan judicial and administrative opinions regarding lead trial counsel Brenda Sanders' mental illness and that illness' impact on her effectiveness as a judge. This Court may rely on the case law of other jurisdictions.

22. Moreover, these rulings are highly relevant to Petitioner's appeal from the PCR Court's order of dismissal. The opinions contain extensive findings regarding Brenda Sanders' credibility and professional judgment that conflict with the findings of the PCR court.

23. Within a year and a half of Petitioner's evidentiary hearing, three levels of Michigan judicial authorities: a retired Circuit Court judge serving as a special master, the

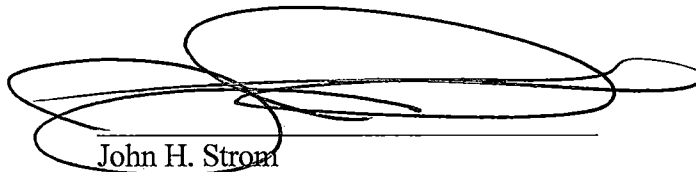
Michigan Judicial Tenure Commission, and the Michigan Supreme Court, concluded that Brenda Sanders was suffering from paranoid delusions that rendered incapable of properly interpreting reality and unfit to remain on the bench. App.787 - 808.

24. Furthermore, many of events that evidenced her mental illness, including the letter written to the U.S. Attorney's Office that spurred the Michigan investigation, took place around the time of Petitioner's evidentiary hearing. Supp. App. 3 - 101. By contrast, the PCR court found the reasons Brenda Sanders gave at the evidentiary hearing for seeking a bench trial and her reasoning for other tactical decisions, were objectively reasonable. App. 766 - 768; *See Roseboro v. State*, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995) (counsel must articulate a valid reason for employing a certain strategy to avoid a finding of ineffectiveness, and where counsel articulates a strategy, it is measured under an objective standard of reasonableness").

25. Therefore, the opinions of the Michigan Supreme Court, Michigan Judicial Tenure Commission, and the special master should be considered by this Court as they are directly relevant to the PCR court's credibility findings in the Order of Dismissal and the State's motion to strike these documents should be denied.

WHEREFORE, Counsel for Petitioner would respectfully request that this Court deny the appellant's Motion to Strike.

Respectfully submitted,



John H. Strom
Appellate Defender

Attorney for Petitioner

This 26th day of May, 2016

Attachment A

LAW OFFICE OF



TARA DAWN SHURLING, PA

Attorney and Counselor at Law

3614 Landmark Drive

Suite A

Columbia, South Carolina 29204

(803) 738-8622

(Fax) (803) 738-1600

E-Mail: tdslaw@shurlinglaw.com

October 20, 2014

The Honorable Daniel E. Shearouse
South Carolina Supreme Court Clerk
Post Office Box 11330
Columbia, South Carolina 29211-1330

Re: Tunzy Sanders, #255493 v. State of South Carolina; 2006-CP-06-106.

Dear Mr. Shearouse:

On September 18, 2014 a Notice of Appeal in the above captioned PCR matter was filed by the Supreme Court having been mailed for filing on September 16, 2014. Inasmuch as I had already obtained the PCR hearing transcript, the Petition for Writ of Certiorari would be due today. I was originally hired for a PCR appeal. After it became apparent that the Court Reporter could not produce a complete transcript of the PCR hearing held in this case, the matter was remanded for reconstruction of the missing portions of the record. Subsequently this Honorable Court granted the Applicant a *de novo* proceeding after the PCR judge, J. Michael Baxley, ruled that the record could not be adequately reconstructed. The Applicant's sister and I subsequently entered into an amended fee agreement applying the fees originally paid for the PCR appeal to my efforts to win the client a *de novo* PCR hearing and toward representing him in that *de novo* action after it was granted. That amended fee agreement expressly excluded representation in any subsequent PCR appeal unless an addition and separate fee was paid for the PCR appeal.

This PCR case included allegations of ineffective assistance of counsel against Joseph Savitz, now retired, who perfected the Applicant's direct appeal while in the Appellate Division of the South Carolina Commission on Indigent Defense. Mr. Savitz appeared at the *de novo* PCR hearing held in this matter.

I have discussed this appeal with Bob Dudek at SCCID, and he advises that the Appellate Division will petition to conflict out of representing this individual due to the claims against Mr. Savitz. He further advised, however, that he was uncertain what action this Honorable Court would take on their petition inasmuch Mr. Savitz is no longer with their agency. I am writing to ask that all appellate deadlines be stayed in this matter pending the filing of the conflict petition by SCCID and this Court's ruling thereon. I would ask that SCCID be conflicted out of representing Mr. Sanders for the following reasons:

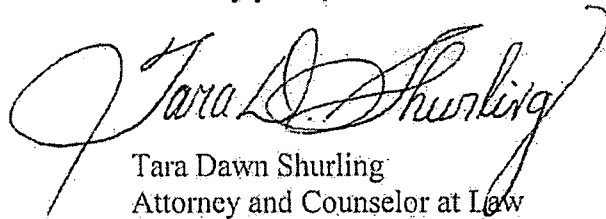
- Mr. Savitz was formerly the Chief Attorney for the Appellate Division of South Carolina Commission on Indigent Defense;
- Mr. Savitz was not only the current Chief Attorney's boss, but it is my understanding he is also his close friend;

The Honorable Daniel E. Shearouse
October 20, 2014
Page 2 of 2

- This is an extremely complex case with many allegations with which I am already very familiar, and which I would be in the position to present to the Court for review more easily than any other lawyer starting from scratch should this Honorable Court appoint me in this matter. While I am not volunteering for this PCR appeal, I am always willing to serve at the pleasure of the Court.

Given these factors, I believe it would be in Applicant's best interests for SCCID to be relieved as counsel in this matter. I will await further instruction from the Court. For now, I remain,

Sincerely yours,



Tara Dawn Shurling
Attorney and Counselor at Law

TDS/sg

cc: ~~Robert Michael Dudek, Chief Attorney, Appellate Division of SCCID~~
David Spencer, Assistant Attorney General
Daniel Gourley, Assistant Attorney General
The Honorable Brenda Sanders (sister of Applicant)
Tunzy Sanders, #255493

Attachment B

3. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or form of self-employment?
Yes _____ No

b. Rent payments, interest or dividends?
Yes _____ No

c. Pensions, annuities or life insurance payments?
Yes _____ No

d. Gifts or inheritance?
Yes _____ No

e. Any other sources?
Yes _____ No

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months. _____

4. Do you own cash, or do you have any money in a checking or savings account?
Yes _____ No

If the answer is "yes," state the total amount of the cash owned. \$ _____

5. Do you own any real estate, stocks, bonds, notes or other valuable property (excluding ordinary household furnishings and clothing)? Yes _____ No

If the answer is "yes," describe the property and state the appropriate value of the items owned. _____

6. What kind of motor vehicle do you own? N/A

Is it paid for? Yes _____ No _____

If not, what are the monthly payments? \$ _____

7. How much do you owe (on liens, mortgages, other encumbrances or debts)? N/A

I do solemnly swear that the account by me delivered into this Court does contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, which I, or any person in trust for me, have or at the time of my possession had, or am, or was, in respect, entitled to, in possession, remainder or reversion and that I have not at any time since charges were made against me or before, directly or time since charges were made against me or before, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned herein.

I understand that the State shall file a claim against me in an amount equal to the cost for representation, but that such claim shall not constitute a lien against my property, unless, the claim is reduced to judgment by the Order of the Court after giving me at least thirty days' notice.

Under penalty of perjury, I certify that the information give by me on this affidavit is true and correct, and I understand that I will be subject to civil and/or criminal penalties if I knowingly furnish false information.

I am financially unable to employ counsel.

This 1st day of October, 2014.
1st October 2014
Tunzy A Sanders
Tunzy A. Sanders
Defendant

I understand that I am entitled to at least thirty days' notice before a claim against me may be reduced to judgment, and I do hereby waive the right to such notice.

This _____ day of _____, _____.

Defendant

SUBSCRIBED AND SWORN to before
me this 1st day of October, 2014.

Debbie R McCasky
NOTARY PUBLIC FOR SOUTH CAROLINA

My commission Expires: 4-10-24

Attachment C

LAW OFFICE OF



TARA DAWN SHURLING, PA

Attorney and Counselor at Law

3614 Landmark Drive

Suite A

Columbia, South Carolina 29204

(803) 738-8622

(Fax) (803) 738-1600

E-Mail: tdslaw@shurlinglaw.com

February 19, 2017

Ms. Kimberly McCall
Legal Services Coordinator
South Carolina Commission on Indigent Defense
Division of Appellate Defense
The Keenan Bldg., Fourth Floor
1330 Lady Street
Columbia, SC 29201

Re: Tunzy A.Sanders, 255493 v. State of South Carolina; 2006-CP-06-106

Dear Ms. McCall:

Enclosed you will find a copy of the Notice of Appeal I served and filed in the above-captioned matter. In addition to the Notice of Intent to Appeal, you will find the following materials enclosed in this package (These documents are already in the format of an Index for the Appendix). I will be happy to email this to you so your office can cut and paste for the Index.

- Trial Transcript January 11, 1999
4 volumes combined into one copy/bound
- Final Brief of Appellant dated 1/18/2000
- Final Brief of Respondent dated 1/17/2000
- Supreme Court Opinion No. 25163 filed July 3, 2000
Reversed and Remanded
- Petition for Rehearing dated July 13, 2000.....
- Letter Denying Petition for Rehearing dated August 7, 2000
- Remittitur dated August 7, 2000

Ms. Kimberly McCall

February 19, 2015

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Trial Transcript February 5-8, 2001 before Judge James R. Barber, III.....
98-GS-06-180
99-GS-06-78
99-GS-06-79
Volume I 218 pages both the .pdf file & bound copy repeats cover thru page 36 at beginning
Vol II Pg 219-435

Final Brief of Appellant dated December 10, 2002.....

Final Brief of Respondent dated December 17, 2002.....

S. C. Court of Appeals Opinion No. 3684 filed October 20, 2003 Affirmed

Petition for Rehearing dated January 5, 2004

S. C. Court of Appeals Order Denying Petition for Rehearing dated February 19, 2004.....

Petition for Writ of Certiorari dated May 20, 2004

Return to Petition for Writ of Certiorari dated June 21, 2004.....

Supreme Court Letter Denying Petition for Writ of Certiorari dated May 18, 2005

S. C. Court of Appeals Remittitur dated May 19, 2005

Filed PCR Application 2006-CP-06-106 With Appendix filed May 11, 2006.....
Appendix - Answers to Question 10 and Question 11 of Application for PCR attached.
(Appendix is 22 pages)

Amended Appendix – Application for PCR 2006-CP-06-0106 filed June 8, 2006

State's Return dated June 13, 2007

Clerk of Court records.....

SCDC Records.....

Partial PCR hearing transcript held on August 8, 2007 before Judge Baxley.....
This is also **Attachment C** to the Renewed Petition to Remand
to the Ct of Common Pleas filed 1/30/12

Order of Dismissal on 2006-CP-06-106 filed October 4, 2007

PCR Application w/ Appendix attached filed on June 6, 2009

2009-CP-06-00146 for Austin Review

State's Return and Motion to Dismiss (except for belated PCR appeal)
dated September 19, 2009

Transcript of PCR hearing held on January 29, 2010
2009-CP-02-0146 requesting Austin Review of 2006-CP-02-0106
before Judge William Jeffrey Young

Order Granting Belated Appeal Pursuant to Austin v. State filed Marcy 30, 2010
2009-CP-06-0146
This is Attachment A to the Renewed Petition to Remand to the Ct of Common Pleas
filed 1/30/12

Petition to Remand to the Court of Common Pleas filed March 29, 2014

Return to Petition to Remand to the Court of Common Pleas for *De Novo* Hearing
dated April 6, 2011

S Ct Order Granting Motion to Remand to The Honorable J. Michael Baxley.....
for Purpose of Reconstruction Only filed May 13, 2011, denied *de novo* hearing.

Transcript of PCR Hearing held September 27, 2011 (Reconstruction Hearing)
before Judge J. Michael Baxley 2009-CP-02-0146

PCR Hearing Exhibits BARNWELL Clerk of Court will not send us

Applicant's Exhibit 1 Temporary Order – Form 4 NEED

Applicant's Exhibit 2 USPS Certified Mail Receipt NEED

Applicant's Exhibit 3 Subpoena to Rema Ghatt-Thomas NEED

Applicant's Exhibit 4 Affidavit of Rema Ghatt-Thomas NEED

Respondent's Exhibit 1 Lance Boozer's Notes from trial NEED

Return to the Supreme Court in Response to Remand of Case 2006-CP-02-0106
to Reconstruct a Missing Portion of the 2006-CP-06-0106 PCR Transcript
dated October 27, 2011.....
This is an Attachment B to the Renewed Petition to Remand
to the Ct of Common Pleas filed 1/30/12

Renewed Petition to Remand to the Court of Common Pleas filed January 30, 2012
2009-CP-02-0146 requesting Austin Review of 2006-CP-02-0106

Ms. Kimberly McCall
February 19, 2015
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Return to Renewed Petition to Remand to Court of Common Pleas
dated February 10, 2012

Supreme Court Order granting petition to remand for *de novo* hearing
filed March 23, 2012.

State's request to limit what can be litigated at hearing is denied. Whereby vacates order of 9/18/07
denying and dismissing petitioner's first PCR Application and order dated March 23, 2010

Amended PCR Application filed August 22, 2013 2006-CP-06-0106

Second Amended Application filed August 21, 2013 2006-CP-06-0106

Transcript of PCR Hearing Held on August 20, 2013

Clerk's Records, SCDC Records

See Above prior to the 8/8/07 Partial PCR Hearing transcript

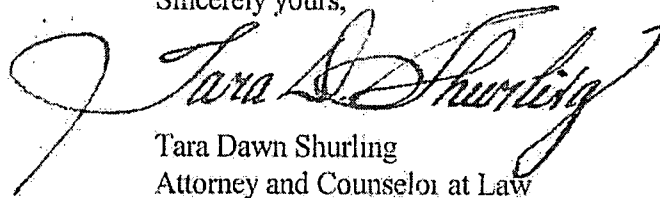
Order of Dismissal filed August 19, 2014

Applicant's Memorandum in Support of PCR Application
in Form of a Proposed Order filed October 6, 2014

Notice of Appeal filed September 18, 2014

I am asking that you sign the receipt attached to these materials for my records. Please advise me if there is anything further I might do to assist with the appeal in this case. I have already discussed this case at length with Bob Dudek. I still plan to file a motion to reopen this PCR and to stay this appeal with leave to have that motion heard. PLEASE take good care of these records. I may need to get copies of some of them back if a hearing is granted on my motion. For now, I remain,

Sincerely yours,

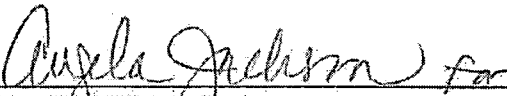


Tara Dawn Shurling
Attorney and Counselor at Law

TDS/sm
Enclosures
Cc: Bob Dudek, Chief Appellate Defender

Ms. Kimberly McCall
February 19, 2015
Page 5

BY SIGNATURE BELOW, I HEREBY ACKNOWLEDGE RECEIPT OF THE MATERIALS
ADDRESSED HEREIN.

 for 2/19/15
KIMBERLY MCCALL Date

Legal Services Coordinator
South Carolina Office of Appellate Defense

Attachment D



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

March 11, 2015

Mr. Tunzy A. Sanders, #255493
Allendale Correctional Institution
PO Box 1151, Hwy. 47
Fairfax, SC 29827

Re: Your case

Dear Mr. Sanders:

I am the lawyer who will be handling your case in the Supreme Court. I will be reviewing the record of the proceedings at the PCR court to see what legal errors to present to the Supreme Court on your behalf. I will submit these in the form of a petition for writ of certiorari.

When I file the petition, I will send you a copy of all relevant hearing transcripts and material in the form of an appendix. Only information that was in front of the PCR judge can be included in the appendix.

You must be patient while the court considers your case. The process is very slow, but there is nothing I can do to speed up the process. It may be a few months before I submit a petition to the Supreme Court and at least a year after that before the Court decides your case. **Some cases take even longer.** You will be notified when the Court makes a decision and letters asking the status of your case do not speed up the process.

Please keep these points in mind. The Supreme Court can only consider the information that was before the PCR court. Any new information cannot be brought to their attention at this point. In addition, the issue must have been addressed in the PCR court's order of dismissal before it can be raised to the Supreme Court.

The court decides the case based on the written material submitted by the attorney general's office and me. It very rarely sets oral arguments, which are an opportunity for me to focus its attention on the information in the petition. If you are in prison, you cannot attend.

Mr. Tunzy A. Sanders, #255493

Page 2

March 11, 2015

In addition, we are not able to visit our clients personally but feel free to call collect.

Be assured that I will try my best to find reversible error. I will submit the best petition I possibly can to the Supreme Court.

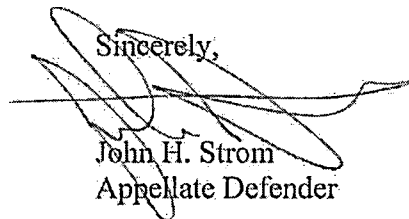
I receive a tremendous amount of mail and I may not be able to respond to all letters. However, you are free to telephone me collect. An SCDC Telephone Privilege Request has already been submitted for the following number: (803) 734-1330. **Please record your full name on the recording. We cannot accept a collect call with a nickname or partial name.**

This is the preferred method of us communicating. Regardless, rest assured if you write me a letter about your case, I will read it and carefully consider it as I decide which issue or issues to submit to the appellate court. Please note that the decision about which issues to submit is mine. Only if I submit a "no merits" or Johnson petition, stating that I could not find any good issues, will the court let you submit your own legal arguments.

Finally, if you are transferred to another facility or released, you must write and let me know where you are. The Department of Corrections will not notify us of your new address.

I hope this letter answers some of the questions you may have at this time. Again, please do not hesitate to contact me by letter if you have any questions or I may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Strom", written over a horizontal line.

John H. Strom
Appellate Defender

JHS/rdf

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

**INDIGENT/APPELLATE DEFENSE
PLEASE PRINT**

TELEPHONE PRIVILEGE REQUEST

All information requested on this form must be provided. After you have filled out the form, mail it to the address on the reverse side of this form. If you are the inmate's attorney, please see the reverse side of this form for additional instructions.

Inmate: Please fill out this block before you mail this form to the person who you want to be added to your telephone list.

INMATE NAME: Tunzy A. Sanders **INMATE SCDC NUMBER:** #255493

INSTITUTION TO WHICH ASSIGNED: Allendale Correctional Institution **UNIT/ROOM#:**

I wish to be added to the telephone list of the above inmate so that I can receive collect phone calls from this inmate. My name, relationship to the inmate, telephone number, telephone service provider, physical address, and mailing address are listed below. I understand that no toll-free numbers or cellular telephone numbers are allowed.

Name of Requestor (First and Last)	Relationship to Inmate (e.g., mother, friend, attorney)	Telephone Number (Include Area Code)	Local Telephone Service Provider Name
John H. Strom	Attorney	(803) 734-1330	State of SC - CIO

Physical Address (Required by the South Carolina Department of Corrections):

1330 Lady Street, Suite 401
(STREET NUMBER, STREET NAME OR RURAL ROUTE AND BOX NUMBER)

Columbia SC 29201
(CITY, STATE, AND ZIP CODE)

Mailing Address (Required by Sprint/If different from address above)

PO Box 11589, Columbia, SC 29211-1589
(POST OFFICE BOX NUMBER, CITY, STATE, AND ZIP CODE)

Both addresses are required if applicable. A Post Office box alone is not acceptable. A physical address is mandatory:

By completing this form I am stating that I understand and agree to the following:

1. I am the party to whom the residential telephone service is billed or an acceptable agent for that party.
2. I agree to pay all costs associated with accepting collect telephone calls from the above inmate.
3. I will always be quoted the rate prior to acceptance and charges do not begin until I accept the telephone call.
4. It is always my choice to accept or refuse a call.
5. Since inmate telephone privileges are a privilege not a right of the inmate, I understand that any fraudulent information that I provide in connection with this form or any efforts to defraud the phone company or to commit fraud using this phone system may result in loss of or restricted use of these privileges for the inmate.
6. I understand that all calls are subject to monitoring and recording with the exception of an inmate's attorney who has provided a request to the South Carolina Department of Corrections General Counsel. (Attorneys, please see reverse side for more information.)
7. If you are no longer representing inmate and wish to be removed from the inmate's calling list, you must submit in writing, on agency letterhead your request to be removed from calling list to General Counsel, South Carolina Department of Corrections.


(SIGNATURE OF RESPONSIBLE PARTY)

3/12/15
(DATE)

Data Entry Performed by: _____ on _____

I do solemnly swear that the account by me delivered into this Court does contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, which I, or any person in trust for me, have or at the time of my possession had, or am, or was, in respect, entitled to, in possession, remainder or reversion and that I have not at any time since charges were made against me or before, directly or time since charges were made against me or before, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned herein.

I understand that the State shall file a claim against me in an amount equal to the cost for representation, but that such claim shall not constitute a lien against my property, unless, the claim is reduced to judgment by the Order of the Court after giving me at least thirty days' notice.

Under penalty of perjury, I certify that the information give by me on this affidavit is true and correct, and I understand that I will be subject to civil and/or criminal penalties if I knowingly furnish false information.

I am financially unable to employ counsel.

This 1st day of October, 2014.
1st October 2014
Tunzy A Sanders
Tunzy A. Sanders
Defendant

I understand that I am entitled to at least thirty days' notice before a claim against me may be reduced to judgment, and I do hereby waive the right to such notice.

This _____ day of _____, _____.

Defendant

SUBSCRIBED AND SWORN to before
me this 1st day of October, 2014.

Debbie R. McCasky
NOTARY PUBLIC FOR SOUTH CAROLINA

My commission Expires: 7-10-24



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

MEMORANDUM

TO: Robert M. Dudek
Chief Appellate Defender

FROM: Kimberly McCall
Administrative Coordinator

RE: Indigency Determination

DATE: 2-9-15
~~12-19-14~~



CASE NAME: Tunzy Sanders v. State

APPROVED FOR OFFICE TO PERFECT APPEAL: RMD

NOT APPROVED FOR OFFICE TO PERFECT APPEAL: _____

Robert M. Dudek

Comments:

STATE OF SOUTH CAROLINA)

COUNTY OF BARNWELL)

ORIGINAL

AFFIDAVIT OF INDIGENCY

Case Name 2006-CP-06-0106

Criminal Case No. _____

Current Address: 1057 REVOLUTIONARY TRAIL FAIRFAX, SC 29827

Are you incarcerated? Yes (If "Yes") Where? ALLendale C.I
 No

What were you convicted of? MURDER, ATTEMPTED A.R., CON. TO ROB

What was your sentence? 35 20 5

Are you appealing from
_____ a trial, _____ a guilty plea a post-conviction relief hearing?

In what county was this trial/hearing/guilty plea held? BAMBERG

Presiding Judge's name? JUDGE EARLY

Date of trial/guilty plea or post-conviction relief hearing Aug. 20, 2013

Were you represented by
_____ a court-appointed attorney _____ public defender or retained counsel?

Name of attorney/public defender? TARA D. SHURDING

If retained, how much did you pay for attorney fees? \$ 25K

If you still owe money to your attorney, how much? \$ NONE that I'm AWARE of!



1. Are you presently employed? Yes _____ No

a. If "yes," state the amount of your salary or wages per month, and give the name and address of your employer. _____

b. If "no," state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month. That was 18 yrs. ago. DIVE-NARCO in Williston, SC and I think MIN. WAGE

2. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support. _____

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAY 27 2016

SC SUPREME COURT

Certiorari to Barnwell County

Doyet A. Early, III, Circuit Court Judge

TUNZY A. SANDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001970

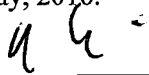
CERTIFICATE OF SERVICE

I certify that a true copy of the return opposing the state's motion to strike petition for writ of certiorari, appendix, and supplemental appendices for failure to comply with rule 210(c), SCACR in this case have been served on David Spencer, Esquire this 27th day of May, 2016.


John H. Strom
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 27th day
of May, 2016.


_____(L.S.)
Notary Public for South Carolina

My Commission Expires: May 12, 2025.