

PETITIONER'S SUPPORTING APPENDIX

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY

COURT OF COMMON PLEAS

DANIEL D. HALL, CIRCUIT COURT JUDGE

LOWER COURT CASE NO. 2014-CP-23-01895

APPELLATE CASE NO. 2015-002251

George Cleveland III, PETITIONER

S.C.J.C. No. 357770

v.

STATE OF SOUTH CAROLINA, RESPONDENT.

PETITIONER'S SUPPORTING APPENDIX

George Cleveland III #357770
TURBEVILLE CORRECTIONAL INST.
1578 CLARENCE COKER Hwy.
TURBEVILLE, S.C. 29162.

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2015-002251

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The Supreme Court of South Carolina

George Cleveland, III, Petitioner,


v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

ORDER

Petitioner has filed a "Motion for Leave to File Table of Contents/Authorities as Timely and File Supplemental Record to [Petitioner's] Filed P.C.R. Appendix" and an "Omnibus Motion" in which he requests the same relief. The motions are granted and the table of contents and authorities and the supplemental record will be considered with the petition for a writ of certiorari and appendix already on file with this Court.



C.J.

FOR THE COURT

Columbia, South Carolina

May 17, 2016

cc:

Karen Christine Ratigan, Esquire
George Cleveland, III
SC Appellate Defense

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Daniel D. Hall, Circuit Court Judge

Appellate Case No. 2015-002251

George Cleveland, III,..... Petitioner,

v.

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

MOTION TO STRIKE

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, counsel for Respondent moves for this Court to strike the second Petition for Writ of Certiorari and Appendix filed by Petitioner. In support of this motion, Respondent would present the following facts:

1. On November 5, 2013, Petitioner pled guilty to two counts of removing a vehicle identification number, two counts of possession of a stolen vehicle, and one count of obtaining goods under false pretenses. The Honorable Edward W. Miller sentenced Petitioner to an aggregate sentence of 10 years suspended upon the service of 6 years and 5 years probation. Petitioner did not appeal.

2. Petitioner filed an application for post-conviction relief on April 3, 2014. Petitioner proceeded pro se and a hearing was held on February 18, 2015. In an order filed April 7, 2015, the Honorable Daniel D. Hall denied and dismissed the application. Judge Hall denied Petitioner's Rule 52(b), SCRCF motion in an order filed September 25, 2015 and Rule 59(e), SCRCF motion in an order filed January 27, 2016.

3. Petitioner filed the Petition for Writ of Certiorari and Appendix in March 2016 (the Petition was dated March 21, 2016). Petitioner filed a second Petition for Writ of Certiorari and Appendix – raising different issues – in April 2016 (the Petition was dated April 15, 2016).

4. Though this Court issued an order on May 17, 2016 in which it allowed “the table of contents and authorities and the supplemental record [to] be considered with the petition for writ of certiorari and appendix already on file with this Court,” this Court has not granted Petitioner the right to file a second Petition for Writ of Certiorari (or an Appendix associated with that Petition). Accordingly, Respondent submits this second Petition and Appendix must be stricken and the appeal be allowed to proceed upon the Petition for Writ of Certiorari filed in March 2016.

WHEREFORE, counsel for Respondent requests this Court (1) strike the second Petition for Writ of Certiorari and Appendix filed by Petitioner in April 2016 and (2) hold time limits for the filing of the Return to Petition for Writ of Certiorari in abeyance until the motion is ruled upon.

Respectfully submitted,

ALAN WILSON
Attorney General

KAREN C. RATIGAN
Senior Assistant Attorney General
S.C. Bar # 68331

Post Office Box 11549
Columbia, S.C. 29211
(803) 734-3737

By: Karen Ratigan
ATTORNEYS FOR RESPONDENT

May 25, 2016

The Supreme Court of South Carolina

George Cleveland III, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

ORDER

The request for an extension to serve and file the Return to the State's Motion to Strike is granted and extended until June 15, 2016. Pursuant to the order of the Supreme Court of South Carolina dated March 18, 2009 (www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01), any further extension request must be based on a showing of good cause.

FOR THE COURT

BY *Drenda J. Shealy*
Chief Deputy CLERK

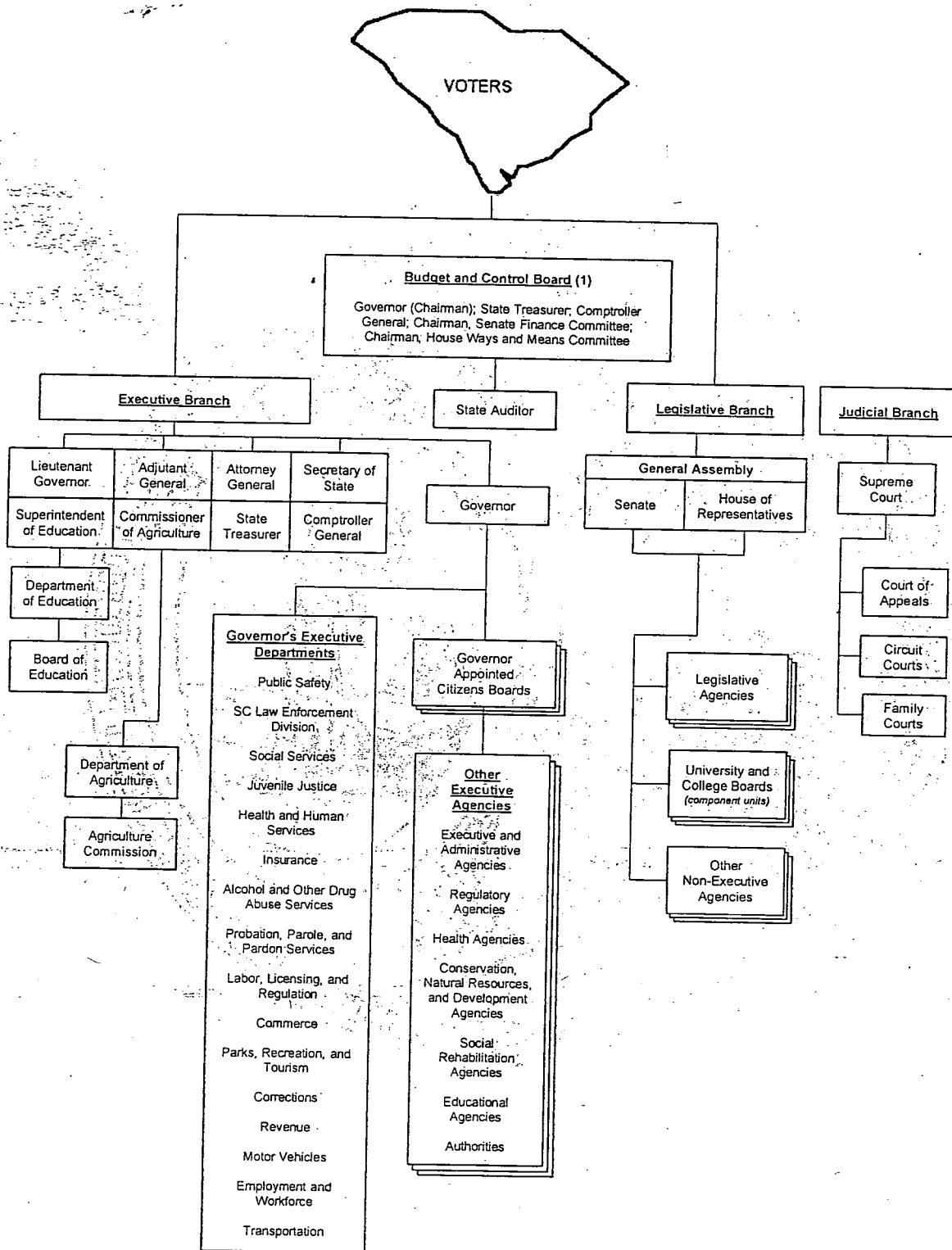
Columbia, South Carolina

June 8, 2016

cc:

Karen Christine Ratigan, Esquire
George Cleveland, III, #357770
SC Appellate Defense

Organizational Chart



(1) Effective July 1, 2015, the Budget and Control Board was restructured into 2 separate agencies: The Department of Administration and the State Fiscal Accountability Authority.

AGENCY NAME:	Attorney General's Office		
AGENCY CODE:	E20	SECTION:	059



Fiscal Year 2014-15 Accountability Report

SUBMISSION FORM

AGENCY MISSION:

The mission of the Attorney General's Office is to serve the citizens of the State of South Carolina by providing legal representation of the highest quality to state government entities, by supporting the law enforcement communities and the legal and judicial branches through the legislative process, and by honorably and vigorously carrying out the constitutional and statutory responsibilities of the Attorney General.

Please identify your agency's preferred contacts for this year's accountability report.

	<u>Name</u>	<u>Phone</u>	<u>Email</u>
PRIMARY CONTACT:	Adam Piper	803-734-3778	apiper@scag.gov
SECONDARY CONTACT:	Kimberly Buckley	803-734-3771	kbuckley@scag.gov

I have reviewed and approved the enclosed FY 2014-15 Accountability Report, which is complete and accurate to the extent of my knowledge.

AGENCY DIRECTOR
(SIGN/DATE):

Alan Wilson

(TYPE/PRINT NAME):

Alan Wilson, Attorney General

BOARD/CMSN CHAIR
(SIGN/DATE):

(TYPE/PRINT NAME):

Alaska Supreme Court Suspends Former Deputy Attorney General

by Christopher Zoukis

FORMER ALASKA DEPUTY ATTORNEY General and prosecutor Patrick Gullufsen, 66, was suspended from the practice of law for 18 months in July 2013 after a Superior Court found he had "blatantly lied" about forensic analysis of DNA evidence during the 2010 trial of Jimmy Eacker, who was found guilty of murder.

Eacker's conviction was tossed out in early 2011 when Superior Court Judge Anna Moran determined that Gullufsen's conduct amounted to a "flagrant, regardless or negligent disregard of the State's obligation under the Alaska Constitution."

Eacker later pleaded guilty to a lesser charge of manslaughter and was sentenced to 20 years in prison.

According to court records, Eacker was identified as the chief suspect by a "cold case" squad investigating a 1982 murder. While he was a key suspect in the 1980s, it was not until 2006 that an evidence custodian came across DNA evidence from the case and had it tested. Gullufsen used the DNA evidence

to suggest to the jury that blood and semen at the crime scene proved Eacker's guilt.

However, he failed to tell the jury — or the defense — that a state expert said the evidence was not reliable due to its age and how it was stored, that it had been contaminated by a technician's own DNA, and, perhaps most importantly, that the DNA profile did not match Eacker's. Gullufsen had stonewalled Eacker's defense attorney who requested information about the DNA test by claiming it had not been completed prior to trial.

Gullufsen retired from the Alaska Department of Law in 2010, and that agency is assessing whether "additional corrective steps are warranted," such as a review of other cases involving the former prosecutor, who admitted to "misleading the court" in the Eacker murder trial.

Since Gullufsen had already retired, the suspension will have little effect. ❑

Sources: www.prosecutorialaccountability.com, www.adn.com

Philadelphia Prosecutor Busted for Filing False Police Report Against Ex-Boyfriend

by Christopher Zoukis

ASSISTANT DISTRICT ATTORNEY LYNN M. Nichols, 47, assigned to the homicide unit in Philadelphia, was arrested on October 4, 2013 for filing a false police report as part of a scheme to seek revenge against an ex-boyfriend.

Nichols, a 22-year veteran of the District Attorney's office, resigned following her suspension for ethical violations related to the scheme.

Her troubles involved a pickup truck driven by her ex-boyfriend that was owned by another woman, who had reported it stolen. In October 2012, to protect her boyfriend, Nichols convinced a Philadelphia police officer to remove the truck from the National Crime Information Center's database of stolen vehicles.

A year later, months after breaking up with her boyfriend, Nichols went to the

home of the truck's owner and told her she knew where it had been stored for the last year. The two conspired to get revenge against Nichols' ex. Nichols called 911 from the woman's home phone, pretended to be the woman's sister and filed a false police report claiming the vehicle had been stolen that day.

When the officers who took the report left, Nichols called a police department in New Jersey and said she had information that the "stolen" truck might be at a specific address. Officers located the pickup and determined it had not been stolen that day due to its condition. When they contacted the woman who owned the vehicle, she quickly confessed and admitted Nichols had put her up to the scheme.

Philadelphia District Attorney Seth Williams released a statement praising Nichols for her "long and successful career," but said "[w]e must maintain the highest standards of conduct in [the District Attorney's] office, and the legal process must take its course."

Nichols pleaded guilty to a misdemeanor charge of criminal mischief. She was sentenced on July 18, 2014 to one year of probation and \$884 in restitution; charges of false reporting and obstruction of justice were dropped as part of the plea deal. She also has been suspended from practicing law by the Pennsylvania Supreme Court. ❑

Sources: www.nbcphiladelphia.com, www.philly.com, www.metro.us

Lone Wolf of Arkansas
 Lone Wolf of Arkansas is offering a Training program designed to be taken as a correspondence course while incarcerated and applied when released. As a Freight Agent for Lone Wolf, you will earn commission on loads of freight. Contact us for more details. S.A.S.M.

Lone Wolf of Arkansas
 1015 Townsend Drive
 Pocahontas, AR 72455
 1-870-222-0270
lonewolfbusiness.com

Missouri Prisoner Exonerated in 1983 Prison Murder; Brady Violations Cited

by Christopher Zoukis

REGINALD "REGGIE" GRIFFIN, 53, WAS sentenced to death for the July 12, 1983 stabbing of James Bausley in a yard at the Moberly Correctional Center (then known as the Missouri Training Center for Men). In August 2011, the Missouri Supreme Court vacated Griffin's conviction after finding the state had withheld evidence related to another prisoner who was likely involved in the murder.

That prisoner, Jeffrey Smith, was found with a sharpened screwdriver while attempting to leave the yard shortly after Bausley was killed. Smith was convicted of unlawful use of a weapon. The state Supreme Court found the prosecution had violated its *Brady* obligations by failing to disclose that information to Griffin, which would have bolstered his "alternate perpetrator" defense at trial. See: *State ex rel. Griffin v. Denney*, 347 S.W.3d 73 (Mo. 2011), cert. denied.

The 2011 vacatur of Griffin's conviction was not the first time the Missouri Supreme Court had ruled in the case; it had previously vacated Griffin's death sentence after finding the state wrongly relied on the criminal record of another prisoner with the same name as Griffin during the penalty phase of the trial. Griffin then received a life sentence and was removed from death row.

Another prisoner, Doyle Franks, was also convicted in connection with Bausley's death; he admitted that he had killed Bausley and Griffin was not involved. A second co-defendant acquitted at trial had likewise denied that Griffin was involved.

In 2006, Paul Curtis, a prisoner who testified that he saw Griffin kill Bausley, admitted to state investigators that his testimony was false. He did not see Griffin commit the stabbing, but lied at trial in exchange for benefits such as a transfer to another prison, money and a TV set.

Remarkably, state prosecutors made no mention of Curtis' recantation during Griffin's habeas corpus proceedings in 2011. When questioned about that non-disclosure at a November 2012 hearing, Assistant Attorney General Stephen Hawke told a judge that since the habeas proceedings

were of a civil nature rather than criminal, the rules requiring pre-trial disclosure of exculpatory evidence did not apply. He said the state was under no obligation to disclose the evidence.

Although the state initially indicated it would retry Griffin for Bausley's murder, the charges were dropped in October 2013 after prosecutors indicated they did not have sufficient evidence to convict him. Griffin had previously been released from prison on bond pending the state's decision

to retry him.

"Thirty years of life – essentially stolen by shoddy investigation and prosecution – cannot be returned to Reggie," said Rita Linhardt with Missourians for Alternatives to the Death Penalty. "Restitution is in order. At least he is alive and finally truly free." ❏

Sources: *Associated Press*, www.huffingtonpost.com, www.sfgate.com, www.moberlymonitor.com

Florida Prosecutor Suspended for Ex Parte Contact with Judge During Murder Trial

by Christopher Zoukis

A FLORIDA PROSECUTOR WHO ENGAGED in-text messages, cell phone calls and dinner dates with the judge presiding over a capital murder trial has been suspended for two years by the Florida Supreme Court. The judge who engaged in the *ex parte* communications resigned and was later disbarred.

Former Broward County Assistant State Attorney Howard M. Scheinberg received the two-year suspension in June 2013 after appealing from the Florida Bar's recommendation of a one-year penalty for his inappropriate contact with the judge, which violated Florida's Rules of Professional Conduct. In imposing the harsher sanction, the Supreme Court cited "the serious nature of his misconduct, and the harm it caused to the administration of justice." See: *Fla. Bar v. Scheinberg*, 129 So.3d 315 (Fla. 2013).

Scheinberg had exchanged some 471 text messages and 949 cell phone calls with Broward Circuit Court Judge Ana I. Gardiner, 52, during lengthy proceedings in the 2007 capital murder trial of Omar Loureiro, whom Gardiner sentenced to death.

The state's first female Hispanic judge, Gardiner, was disciplined by the Florida Judicial Qualifications Commission (JQC), which regulates, investigates and prosecutes Florida judges. A JQC panel found Gardiner had lied during the

ensuing investigation and she resigned in 2010.

Beyond their *ex parte* texts and phone calls during Loureiro's murder trial, Scheinberg and Gardiner were spotted by another prosecutor, Sheila Alu, having dinner together and allegedly discussing the trial. Gardiner and Scheinberg denied they had spoken about the case.

As a result of their misconduct, Loureiro was granted another trial with a new prosecutor and a different judge. He was subsequently sentenced to life in prison, his conviction was overturned by a state appellate court in October 2013, and the case remanded for yet another trial.

Gardiner was disbarred by the Florida Supreme Court on June 5, 2014 based on her "significant personal and emotional relationship" with Scheinberg during Loureiro's first trial. She was also ordered to pay \$8,117.18 in costs.

"Considering Gardiner's dishonest conduct and the harm that her actions have caused to the administration of justice in a capital first-degree murder case, we conclude that disbarment is the appropriate sanction," the Court wrote. See: *Fla. Bar v. Gardiner*, 2014 Fla. LEXIS 1805 (Fla. June 5, 2014). ❏

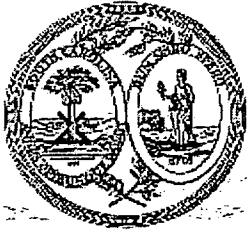
Sources: <http://blogs.findlaw.com>, www.huffingtonpost.com, *Sun-Sentinel*

NOTICE OF MOTION SCHEDULING

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STATE OF
SOUTH CAROLINA

May 12, 2016



Motion "MDISMS - Motion to Dismiss" for Case: 2015CP4005732 -
George #357770 Cleveland III vs Bryan P Stirling , defendant, et al has
been added to the following Motions Roster:

960 - MOTION ROSTER JUNE 2, 2016 COURTROOM 2E

This hearing of this motion has been scheduled for 6/2/2016 at 2:00 PM.

The above referenced case is scheduled for a Motion Hearing before Judge DeAndrea G. Benjamin in Courtroom 2-E. The Plaintiff's Attorney is to notify the Defendant in writing of the time and date of all Default and Damages Hearings. All requests for continuances must be in writing with a \$25.00 filing fee and received by the Chief Administrative Judge prior to the hearing. A request for a continuance does not guarantee that a case will be continued. Please notify the Court in writing if the Motions are resolved prior to the hearing. Please file any briefs or memorandum the Wednesday before the week of the hearing. ALL ATTORNEYS MUST SEND A PROPOSED ORDER OR MEMORANDUM OF LAW BY Wednesday, May 25, 2016 FOR THE MOTION HEARING THAT IS BEING HEARD ON HARD COPY AND DISK:to mailto:DBenjaminlc@sccourts.org

Mail Notice To:

George #357770 Cleveland
Turbeville Correctional Institution
P O Box 252
Turbeville, SC 29162

Court Info:

Richland County Common Pleas
Richland County Judicial Center
1701 Main Street
Columbia, SC 29201-9201

Judge Alison R. Lee
Chief Administrative Judge
Fifth Judicial Circuit

AFFIDAVIT IN SUPPORT OF RETURN

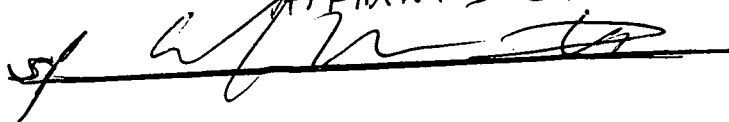
APPELLATE CASE NO.

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2015-002291

1. I, George Cleveland, III, swears under the penalty of perjury, the following is true and correct to the best of my knowledge:
2. On June 02, 2016, the S.C.D.C transported me to the oconee county Detention Center in WAHALLA, S.C. with intermediate lay-overs at Kirkland Correctional Institution in Columbia S.C. for an P.C.R. hearing scheduled for Monday June 06, 2016 at the oconee county courthouse in WAHALLA, S.C. I had no advanced notice of this hearing from the Attorney General's office; but prepared to argue my case at the Richland county courthouse scheduled for June 02, 2016 at 2 P.M. in George Cleveland, III v. BRYAN P. STIRLING; CA No. 2015-CP-400-5732.
3. Turbeville Correctional Institution's staff prohibited me from taking extra clothing, boxers, socks, ink pen, or hygiene items, i.e. soap, deodorant, toothpaste.

WITNESSED to and subscribed before me, this
15th day of JUNE, 2016.
Vickie Lynne Dalton (L.S.)
Notary Public for South Carolina

AFFIANT'S SIGNATURE


My Commission Expires: May 24, 2026



ALAN WILSON
ATTORNEY GENERAL

May 6, 2016

Mr. George Cleveland III, #00357770
Turbeville Correctional Institution
P.O. Box 252
Turbeville, SC 29162

Re: George Cleveland III, #00357770 v. State of South Carolina
2014-CP-37-0718

Dear Mr. Cleveland:

Enclosed please find a copy of your Post-Conviction Relief Application, South Carolina Department of Corrections Records, Oconee County Clerk Records, a filed return and transcript in your above mentioned Post-Conviction Relief case.

Sincerely,

Deonna Rogers
PCR Legal Assistant

DR

Enclosures:
Post-Conviction Relief application
South Carolina Department of Corrections
Oconee County Clerk records
Filed return and transcript

Practice Type

Law firm	41.16%	Less than 1%:
Solo practice	28.08%	Corporate/general counsel
Public defender	20.45%	Guardian <i>ad litem</i>
Prosecutor	7.74%	Mediator/arbitrator/commissioner
Other government	1.39%	Not practicing

Sources of Complaints

Client	60.52%	Less than 1%:
Opposing Party	17.83%	Public Official/Agency/Law Enforcement
Attorney	4.85%	Fee Disputes Board
Bank	4.47%	Litigation Witness/Victim
Family/Friend of Client	3.00%	Family/Friend of Victim
Court Rptr./Med.Prov./3d Party Payee	2.51%	Disciplinary Counsel
Citizen	1.31%	Self-Report
Anonymous	1.30%	Ward
Judge	1.09%	Family/Friend of Ward
		Family/Friend of Opposing Party
		Family/Friend/Business Assoc. of Lawyer
		Employee of Lawyer

Case Type

Criminal	42.29%
Domestic	11.92%
Personal Injury	7.63%
Real Estate	6.94%
General Civil	5.77%
Debt Collection/Foreclosure	5.25%
Probate	4.72%
Post-Conviction Relief	3.55%
Not Client Related	2.28%
Workers Compensation	2.12%
Employment	1.32%
Bankruptcy	1.17%
Social Security/Federal Benefits	1.06%

Less than 1%:

- Professional Malpractice
- Corporate/Commercial/Business
- Immigration
- Homeowners' Assn Dispute
- Landlord/Tenant
- Property/Contract Dispute
- Regulatory
- Tax
- Intellectual Property

Alleged Misconduct

Neglect	28.82%
Dishonesty/Deceit/Misrepresentation	21.12%
Inadequate Communication	17.55%
Trust Account Misconduct	8.91%
Failure to Deliver Client File	3.63%
Discovery Abuse/Litigation Misconduct	3.62%
Failure to Pay Third Party	2.70%
Conflict of Interest	2.26%
Improper Fees	2.15%
Advertising Misconduct	2.04%
Incivility	1.93%
Unauthorized Practice	1.54%
Lack of Competence	1.10%

Less than 1%:

- Declining/Terminating Representation
- Scope of Representation
- Inadequate Nonlawyer Supervision
- Failure to Pay Fee Dispute
- Personal Conduct (not client-related):
 - Criminal Conduct
 - Real Estate Misconduct
 - Probate Conduct
 - Business Transaction Conduct
 - Bar Admissions/Disciplinary Matter