

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Casey Manning, Circuit Court Judge

Case No. 2009-CP-40-2144

RECEIVED

FEB 22 2012

S.C. Supreme Court

Timothy Green # 324607,

Petitioner,

v.


The State of South Carolina,

Respondent.

NOTICE OF APPEAL

Timothy Green appeals the order dismissing his post conviction relief action filed by the Honorable Casey Manning on January 20, 2012. Appellant received written notice of entry of this order on January 24, 2012.

February 22, 2012



Tristan M. Shaffer
Post Office Box 176
Chapin, South Carolina 29036
(803) 575-0384
Attorney for Petitioner

Other Counsel of Record:
Brian Petrano
South Carolina Attorney General's Office
1000 Assembly Street Room 519
Columbia, South Carolina 29201
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(803) 734-3970

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The State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on The State of South Carolina by personally delivering a copy of it to the Attorney General's Office at 1000 Assembly Street Columbia Room 519, South Carolina 29201, on February 22, 2012.

February 22, 2012


Tristan M. Shaffer
Post Office Box 176
Chapin, South Carolina 29036
(803) 575-0384
Attorney for Petitioner

Timothy Earl Green # 324607
LEE CI Sumter n 2227
990 Wisacky Hwy.
Bishopville, SC 29010

PCR

RECEIVED
February 21, 2012 FEB 24 2012

S.C. SUPREME COURT

Honorable Daniel E. Shearouse
Clerk of Supreme Court
Po Box 11330
Columbia, SC 29211

Re: Green v. State, Case no. 2009-CP-40-02144, Appeal
See as submitted, Pro Se.

Dear Mr. Shearouse,

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following, (1) Proof of service of notice of appeal on respondent, (2) a copy of the order of dismissal to be challenged on appeal, (3) no filing fees are necessary due to this being a criminal appeal of conviction by a collateral attack to convictions on PCR (4) This appeal is being filed with the Supreme Court because of Rule 227, SCACR. And see Rule 203(d), SCACR = when an appeal can be filed with the Supreme Court.

Mr. Shearouse I do thank you in advance for your attention and time given to my appeal matters. If you would, please mail me a copy of my notice of appeal and proof of service with your seal for my files. Thank you kindly.

S/ Timothy Green

The State of South Carolina
In the Supreme Court

Appeal from Richland County
Court of Common Pleas

The Honorable L. Casey Manning Cir. Ct. Judge

CASE NO. 2009-CP-40-02144

Timothy Earl Green, Petitioner,

State of S.C., v. Respondent,

Notice of Appeal

Timothy Earl Green # 324607, Appeals The order of The Honorable L. Casey Manning, Dated January 20, 2012, which Denied him Relief in Post Conviction Relief in the Court of Common Pleas. Petitioner Received a Copy of the order on January 27, 2012 by signing for legal mail at Institution.

S/ Timothy E Green

The State of South Carolina
In The Supreme Court

Appeal from Richland County
Court of Common Pleas

The Honorable L. Casey Manning Cir. Ct. Judge

CASE NO. 2009-CP-40-02144

Timothy Earl Green, Petitioner,

v

State of S.C., Respondent,

PROOF OF SERVICE

I Certify that I have served the notice of Appeal on Brian T. Petrano, Esq. By depositing a copy of it in the United States Mail, Postage Prepaid, on February 22, 2012 addressed to him at, PO Box 11549, Columbia, SC 29211-1549, By personally delivering all copies of it to the Postal Directors at Lee CI for mail out verification on this 22nd Day of February.

Timothy Green

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

CASE NUMBER: 2009CP4002144

Timothy #324607 Green

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (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 _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 24 January 2012 to attorneys of record or to parties (when appearing pro se) as follows:

Timothy #324607 Green
Tristan M Shaffer

Brian T Petrano

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Janette W. McBride

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
)
 Green, Timothy Earl, 00324607,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2009CP4002144

ORDER OF DISMISSAL

RICHLAND COUNTY
 FILED
 2012 JAN 20 PM 3:17
 JEANETTE W. BRIDGEMAN
 C.C.P. & G.S.

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 23, 2009. The Respondent made its Return on May 11, 2009. An evidentiary hearing into the matter was convened on November 16, 2011 at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Tristan M. Shaffer, Esquire. Brian T. Petrano of the South Carolina Attorney General's Office represented the Respondent. The Applicant previously appeared before this Court on March 2, 2011 and this Court granted then appointed counsel, Mark Barham's, request to be relieved. The request was based on a December 21, 2010 letter the Applicant sent to multiple recipients in which the Applicant expressed concerns of corruption and/or conspiracy.



At the hearing, the Applicant testified on his own behalf. The Applicant's plea counsel, Carolyn Gripp, Esquire also testified. This Court had before it the records of the Richland County Clerk of Court, the transcript of the proceedings against the Applicant, and the Applicant's records from the South Carolina Department of Corrections.

The Applicant is presently incarcerated following an October 17, 2007 guilty plea before the Honorable G. Thomas Cooper, Jr. The Applicant was charged with murder and armed robbery (2005GS4006546 and 2005GS4006547). He received thirty years for the murder and a concurrent ten year sentence for the armed robbery.

Direct Appeal

The Applicant appealed his plea; he ultimately withdrew that appeal on January 13, 2009.

In the PCR application, the Applicant made the following allegations:

²POST CONVICTION ADDITIONAL PAGE 1-4

PRO SE ISSUES SUBMITTED

#1. TRIAL COURT DEPRIVED APPLICANT OF DUE PROCESS AND EQUAL PROTECTION WHEN IT DID NOT RULE UPON THE PRO SE MOTION TO HAVE TRIAL COUNSEL RELIEVED DUE TO A CONFLICT OF INTEREST AND THE INTERRUPTIONS THAT THE TRIAL COUNSEL PLACED INTO THE ATTORNEY/CLIENT PRIVILEGES, SEE ATTACHED DOCUMENTS FOR EXPLANATION;

#2. COUNSEL INEFFECTIVE FOR NOT EXERCISING APPLICANT'S TRIAL RIGHTS WHEN COUNSEL FAILED TO PREPARE FOR TRIAL AND INVESTIGATE TRIAL MATTERS, TRIAL COUNSEL INEFFECTIVE WHEN IT INTERFERED WITH THE ADVERSE PROCESS WHEN COUNSEL DID NOT ASSIST APPLICANT WITH UNDERSTANDING THE EVIDENCE PROCESS AS IN HAVING IT EXPLAINED TO HIM;

#3. COUNSEL INEFFECTIVE WHEN FAILED TO DISCLOSE THE BRADY MOTION MATERIALS TO HIM AS COUNSEL FOUND THE EXCUSES NOT TO DO SO, WHEREAS THE COUNSEL FILLED THE POSITION AS THE SOLICITOR WHEN SHE DECIDED TO WAIVE ALL OF APPLICANT'S PERSONAL RIGHTS TO A TRIAL AND STATUTORY RIGHTS TO AN EVALUATION TO TRIAL ISSUES TO HIS CRIMINAL CASE MATTERS;

#4. COUNSEL INEFFECTIVE WHEN FAILED TO HAVE THE APPLICANT'S CO-DEFENDANT STATEMENTS AUTHENTICATED PURSUANT TO THE RULES OF EVIDENCE AND KNOWING THAT IN ORDER FOR THE APPLICANT TO PRESENT EVIDENCE TO THE TRIAL COURT IN HIS FAVOR IT MUST BE ACCORDINGLY TO THE RULES OF EVIDENCE AS APPLICABLE;

#5. COUNSEL FAILED TO FILE PRE-TRIAL AND POST TRIAL MOTIONS SUCH: PRE-TRIAL MOTION ACCORDINGLY TO SC CODE ANN. §17-19-20, AND 30, FOR THE PURPOSES OF HAVING THE INDICTMENTS QUASHED, DISMISSED, AND OR CHARGES REDUCED IN THE SITUATED EFFECTS ACCORDINGLY TO THE MANDATES AS: S.C. CONST. ART. I, §11, STATE V. GENTRY, 363 S.C. 93, 610 S.E.2d 494 (2005);U.S. V. COTTON, 535 U.S. 625, 122 S. Ct. 1781 (2002)= CHALLENGES TO ITS SUFFICIENCY MUST BE MADE IN ACCORD. WITH §17-19-90(2003);

#6. COUNSEL INEFFECTIVE WHEN SHE FAILED TO EXAMINE THE FORENSIC RESULT REPORTS, FAILED TO INVESTIGATE THE FINDING OF THE POLICE INVESTIGATION AS TO WHAT THE ACTUAL FINDINGS WAS FROM HANDPRINTS, ECT., AND COUNSEL FAILED TO EXAMINE THE TIME OF DEATH THAT THE SOLICITOR TESTIFIED TO AND WITHOUT COUNSEL CROSS EXAMINED ON THE RECORDS;

1.

#7. COUNSEL INEFFECTIVE WHEN SHE FAILED TO GET THE APPLICANT A COMPETENCY EXAMINATION DUE TO THE FIRST HAND EXPRESSED EMOTIONAL STRESSES HE DISPLAYED TOWARDS HER AND ACCORDINGLY TO THE STATEMENTS SHE WAS GIVEN PRIOR TO THE PAPERWORK THAT WAS DISCLOSED TO HER ABOUT THE APPLICANT, COUNSEL INEFFECTIVE WHEN SHE FAILED TO FOLLOW THE McNAUGHTEN MANDATES IN THE REGARDS TO §17-24-10, 20, AND 30, DICTATED BY §44-17-510, AND 530 U.S. SUPREME COURT;

#8. TRIAL COUNSEL INEFFECTIVE WHEN FAILED TO ADVISE APPLICANT OF HIS CONSTITUTIONAL RIGHTS IN RE TO CRAIG V. M.D., SUPRA. RIGHTS..

#9. TRIAL COUNSEL INEFFECTIVE FOR FAILURES TO VISIT WITH THE APPLICANT ON AN APPROPRIATE BASIS/SCHEDULES DUE TO THE NATURE OF THE CHARGES AGAINST HIM, THE COUNSEL WAS FURTHER INEFFECTIVE WHEN THE COUNSEL ALLOWED THE STATE TO NOT ASSIGN A CO-COUNSEL TO THE APPLICANT'S CASE MATTERS TO BE REPRESENTED BY;

#10. TRIAL COUNSEL INEFFECTIVE WHEN SHE DID UNAUTHORIZED COMMUNICATION WITH THE SOLICITOR'S OFFICE AS IN HOW SHE CONTINUED TO KEEP THE SOLICITOR'S OFFICE AWARE OF ALL CONFIDENTIAL FILINGS THAT APPLICANT FILED TO THE CLERK UP UNTIL THE DOCUMENT THAT WAS FILED BY THE APPLICANT REQUESTING FOR THE CLERK TO CONTACT THE SOLICITOR FOR HIM, AND COUNSEL VIOLATED THE PROFESSIONAL CONDUCT RULES IN REGARDS TO HAVING ALL PRO SE FILED MATTERS TO THE CLERK OF COURT EXPOSED TO THE SOLICITOR'S OFFICE WITHOUT THE AUTHORIZATIONS OF IT.

#11. TRIAL COUNSEL INEFFECTIVE WHEN SHE FAILED TO EXPEDITE LITIGATION ACCORDINGLY TO THE CRIMINAL PROCEDURES AND CIVIL BY EXERCISING THE APPLICANT'S RIGHTS AS APPLICABLE TO HIS CRIMINAL CASE MATTERS BEFORE THE FIFTH CIRCUIT GENERAL SESSIONS COURT, SEE AS EXPLAINED IN THE REGARDS TO THE PROVISIONS OF THE RULES OF PROFESSIONAL CONDUCT, SEE RULE 407, SCACR,:RULE 3.2, and RULE 8.4:

POST CONVICTION ADDITIONAL & EXPLANATIONS 3,4,5 w/EXHIB.

ISSUES & EVIDENTIARY EXPLAINING

1.>THE COURT FAILED TO FOLLOW THE WELL SETTLED LAWS BY OUR STATE'S SUPREME COURT IN THE CITES OF SEE: STATE V. STUCKY, 333 S.C. 56, 58, 508 S.E.2d 564 (1998): THE RULE AGAINST HYBRID REPRESENTATION DO NOT BAR PRO SE MOTION TO RELIEVE COUNSEL.

2.>SEE APPLICANT DID NOT SUBMITTED A KNOWINGLY AND VOLUNTARILY WAIVERS TO THE RECORDS ACCORDINGLY TO HOW THE TRIAL COUNSEL PLEAD THE APPLICANT AS HAVING HIM TO ACCEPT THE COURTS SENTENCING IMPOSED TO HIM DUE TO THE NON UNDERSTANDINGS THAT WAS THE RESULTS OF HIS CASE MATTERS, HE HAD A RIGHT TO FACE HIS ACCUSERS AND HE HAD A RIGHT TO CROSS EXAMINE ALL WITNESSES WHOM THE SOLICITOR STATED THAT HE WOULD GET TO TESTIFY AGAINST HIM, THE TRIAL COUNSEL DID NOT CROSS THE SOLICITOR WHEN HE MADE STATEMENTS AGAINST THE APPLICANT IN THE REGARD TO TIME OF DEATH, SEE VIOLATION TO HIS US CONST. 6th and 14th AMEND. RIGHTS,

3.>THE PCR APPLICANT IS CLEARLY SAYING THAT THE SC SUPREME COURT HAS SAID IN MANY CASES THAT A TRIAL COUNSEL CAN NOT WAIVE A PERSONAL RIGHT OF THE DEFENDANT/CLIENT/APPLICANT AND IF SUCH WAIVERS ARE UPON THE COURT THE COURT MUST FOLLOW THE PROCEDURAL THAT MUST BE IN ORDER TO SUBSTANTIATE THE WAVIER BY THE ACCEPTABLE PROBATED STANDARDS,

4.>RULES OF EVIDENCE IS THE SELFEXPLANATORY OF THE ISSUE, WHEREAS THE APPLICANT HAVE THE COURT TO EVALUATE/REVIEW THIS PARTICULAR ISSUE IN THE MULTIPLE FASHIONS DUE TO THE NUMEROUS MATTERS THAT ARE INVOLVED WITH THIS ISSUE.

5.>SEE AS EXPLAINED IN THE ISSUES PRO SE PRESENTED, ACCORDINGLY TO THE RULES OF THE SC SUPREME COURT MANDATES CITED IN SUBMITTED CASELAW AND THE PCR STATUTORY RIGHTS AS APPLICABLE,

6.>THE APPLICANT TAKES THE POSITIONS THAT HE HAS THE RIGHTS TO HAVE THE EXPERT TO TESTIFY TO THE FINDINGS OF THE EVIDENCE PRESENTED TO THE FORENSIC DEPARTMENT OF SLED, SEE RULE OF EVIDENCE 701, SCRE,

7.>THE APPLICANT ALSO NOTES THAT THE PCR COURT IS TO EVALUATE/REVIEW THIS ISSUE IN THE MULTIPLE FASHIONS DUE TO THE NUMEROUS ISSUES INVOLVED WITHIN IT,

HAVING IT TO BE SUBMITTED THAT THE TRIAL COUNSEL AS A OFFICER OF THE COURT IN CERTAIN CAPACITY OWED THE APPLICANT A DUTIES AS HAVING THE COURT TO ORDER AN EVALUATION FOR COMPETENCY TESTS, AND ACCORDINGLY TO THE U.S. SUPREME COURT MANDATES ISSUED IN THE §44-17-510, and 530 AS IT IS THE RIGHT OF THE APPLICANT TO HAVE THIS MATTER PURSUED BY HIS COUNSEL IN THE FACTUALLY TIME AS APPLICABLE. SEE AS SUPPORTED BY THE LAW MANDATES CITED,

8.>APPLICANT ABSOLUTUELY SUBMIT THAT ACCORDINGLY TO THE US AND SC CONSTITUTIONS HE HAS A RIGHT TO CONFRONT HIS ACCUSER(S) AND HE HAS A RIGHT TO CROSS EXAMINE ANY WITNESSES WHO OFFERS EVIDENCE AGAINST HIM IN THE COURT OF LAW, THE RULE OF EVIDENCE AS WELL STATES THAT THE APPLICANT HAD A RIGHT TO CROSS AND CONFRONT ALL WITNESSES AND THE COUNSEL DID NOT EXERCISED THIS STATUTORY RIGHT THAT HE DID NOT INTELLIGENTLY GAVE A KNOWING WAIVERS DUE TO THE FACTS THAT APPLICANT HAD THE DESIRES TO EXERCISE TRIAL RIGHTS AND TRIAL COUNSEL INSTE AD USED TRICKERY AND UNETHICAL METHODS TO DO SO, SEE THE U.S CONST. 6th and 14th AMEND. al.,

9.>IT IS STATED IN THE MANDATES OF WELL SETTLED CASE COLE V. PEYTON, 389 F.2d 244 (4th Cir. 68);MUZULLO V. M.D., 561 F.3d 540 (4th Cir.77), all as supported BY STRICKLAND COURT, MUST CONFER WITH CLIENT ABOUT CHARGES FOR PREPARATIONS WITHOUT UNDUE DELAYS AND BE PROMPT IN ADVISING CLIENT ABOUT THE DEFENSES THAT HAS BEEN PREPARED AND SUBMITTED FOR COURT TRIAL,

10.>TRIAL COUNSEL VIOLATED THE RULES FOR THE ADVERSE PROCESS AND ACCORDINGLY TO THE U.S. V. CRONIC MANDATES THE COUNSEL CAUSED A CONFLICT WITHIN THIS MATTER AS FORGOING AND HERE IT IS A CONFLICT OF INTEREST, HAVING SO SHOWN THE COUNSEL HAD A TYPE OF EXPARTE COMMUNICATIONS THAT WERE ILLEGAL AND NO JUSTIFICATIONS COULD BE SHOWN TO HAVE THE COMMUNICATIONS APPROPRIATE BECAUSE THE APPLICANT WANTED A TRIAL AND NOT A PLEA, AND HAVING BEEN MADE AWARE OF THE POTENTIAL DESIRES AND REQUESTED INFORMATION MOVES ON BEHALF OF THE APPLICANT HE DID NOT MAKE NO PROGRESS IN HAVING THE CORRECT JUSTICE ADMINISTERED IN HIS CASE MATTERS, SEE DOCUMENTS OF CLERK DATE STAMPED,

11.>APPLICANT TAKES THE POSITION IN THIS ISSUE BY WAY OF THE CLEAR AND SOUNDED RIGHT TO HAVE THE CORRECT LITIGATION COMMENCED TO THE COURT DURING HIS CASE

MATTERS AND AS THE RECORDS WILL CLEARLY SHOW THE COUNSEL DID NOT GIVE A COMPETENT AND STERN THOUGHT TO INITIATE PRE-TRIAL MOTIONS THAT WOULD HAVE MADE IT AVAILABLE FOR THE APPLICANT TO RECEIVE THE ENTITLED LEGAL EVALUATIONS TO HIS TRIAL ISSUES TO BE BEFORE THE COURT AND TO HAVE HIS STATUTORY RIGHTS PLACED BEFORE THE COURT, AND AS IT STATES IN THE PROVISIONS OF THE (SCRPC)=SC RULES OF PROFESSIONAL CONDUCT, RULE 407, SCACR; RULE 3.2, AND RULE 8.4, THAT OF WHICH IS WELL SETTLED AND DECIDED BY THE SUPREME COURT IN SC., SEE TRIAL COUNSEL DID NOT PURSUE TO PERFORM HER OWED DUTIES TO THE APPLICANT IN HIS CRIMINAL CASE MATTERS ACCORDINGLY TO THE STATED MANDATES AND PROVISIONS SUBMITTED,

NOTICE OF PRO SE FILED PCR MOTIONS§§§

A>>THE PRO SE PCR APPLICANT DO EXPLICITLY EXERCISE HIS STATUTORY RIGHTS TO INVOKE A DISCOVERY IN HIS PCR MATTERS AND THIS DISCOVERY IS INVOKED AGAINST THE FOLLOWING RECORDS CUSTODIANS AND KEEPERS: SLED OF RICHLAND CO. AND SC LAW ENFORCE. DIV.; SOLICITOR'S OFFICE, THE CO-DEFENDANTS' CASE FILES OF THE ATTORNEY GENERAL OFFICE, AND ALL RECORDS FROM THE ATTORNEY GENERAL OFFICE IN THE CASE MATTERS OF STATE V. TIMOTHY GREEN ALL OF WHICH WILL BE IN THE ACCORDANCE TO THE APPLICABLE RULE, RULE 26, SCRCP, KEEPING THE INTEGRITY OF JUSTICE FAIR AS IT IS THE RIGHT OF THE PCR APPLICANT TO HAVE FAIRNESS APPLIED TO HIS PCR CASE MATTERS AT EVERY STAGE OF THE PROCESS. SEE AS COMPELLED,

AA>> THE PRO SE PCR APPLICANT MAKES IT KNOWN EVEN BEFORE THE ATTORNEY GENERAL ISSUES THE ORDER TO THE CLERK OF COURT THAT HE IS DEMANDING THAT THE RIGHTS TO HAVE RULE 71.1(d), SCRCP, FOLLOWED AND PURSUED IN THIS CASE MATTERS FOR PCR, THE APPLICANT MAKES IT EXCLUSIVELY KNOWN AND DEMANDS THAT THE RESPONDENT WILL NOT OPPOSE HIM IF THE POTENTIAL PCR COUNSEL FAILS TO AMENDS ALL OTHER ISSUES TO HIS PCR AND IT IS FURTHER STATED THAT THE RESPONDENT UNDER NO CIRCUMSTANCES WILL PLACE ANY SUCH WAIVERS THAT APPLICANT DID SUCH TO HAVE A RIGHT WAIVED TO HAVE ISSUE REVIEWED AT THE PCR EVIDENT. HEAR., BECAUSE HE DOSE NOT AND HE IS NOT UNDER NO CIRCUMSTANCES ALLOWING NOR AUTHORIZING THE PCR COUNSEL TO WAIVE ISSUES TO BE EVALUATED BY THE PCR COURT, SEE AS PERSONAL RIGHTS AND NOT WAIVED UNDER NO CIRCUMSTANCES WHATSOEVER, §§' <

>THE ATTACHED DOCUMENTS ARE EXHIBITS 1 -THRU- 10 FOR THE PURPOSES OF PROVIDING PROOF TO ISSUES SUBMITTED.<

At the evidentiary hearing, Applicant instead proceeding on an argument relating to a "trial tax." The Applicant provided this Court and the Respondent with copies of North Carolina v. Pearce, 395 S.C. 711 (1969) and Bordenkircher v. Hayes, 434 U.S. 357 (1978). The Applicant's argument was that counsel was ineffective for advising the Applicant to plea as indicted to avoid a longer sentence if he was convicted following a trial.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (1985).

Plea counsel testified that she recalled her representation of the Applicant and that she had reviewed the plea transcript. Plea counsel explained that the facts of the case were relatively simple, that this was a murder/robbery planned in relation to the co-defendant's birthday. Plea counsel explained that she and the Applicant met several times for a few hours and that they discussed the case and whether he should go to trial or plea guilty. Plea counsel explained that the Applicant was cooperative and that she used that in mitigation. Plea counsel explained that the photos of the crime scene were gruesome and that although she would have made a prejudice objection to during trial, they (the photos) would have been damaging to the defense, i.e. mere presence and/or self-defense. Plea counsel explained that originally she thought this could be a death penalty case, but that the Applicant's prior record was clean and they never received a death penalty notice. Plea counsel explained that there were two (2) statements from each defendant, DNA, money with the victim's ID, an eyewitness, etc. Plea counsel

explained that her opinion was that they would not be successful at trial. Plea counsel explained that a "trial tax" is when a sentencing court might be vindictive and sentence a defendant to more time solely because the defendant proceeded to trial and did not plead guilty. Plea counsel explained that she was originally shooting for a plea to voluntary manslaughter so that the Applicant would not have to serve a day-for-day murder sentence. Plea counsel explained that they were noticed for trial and they were prepared for trial. Plea counsel explained that the State informed her that if they went to trial they (the State) would ask for the maximum; whereas, if the Applicant agreed to plea guilty they (the State) would take no position as to sentencing. Plea counsel explained that in a chambers meeting, the State indicated that the co-defendant probably deserved more time and that they (the State) were not opposed to the minimum [thirty (30) year] sentence for this Applicant. Plea counsel explained that this was simply what the State was discussing and not necessarily what Judge Cooper would be doing. Plea counsel explained that she did ultimately advise the Applicant to accept a plea in part because she thought a life sentence was possible following a trial. Plea counsel explained that accomplice liability was not a very probable defense and that the Applicant was reluctant to plea and was similarly reluctant to go to trial. Plea counsel explained that the planned defense was not much more than mere presence, that they would try to impeach the co-defendant (if he testified) with his own

statement(s), and that they had some, albeit weak, splatter evidence.¹ Plea counsel explained that self-defense was also a possible angle. Plea counsel explained that the Applicant did not ask her to withdraw the plea. Finally, plea counsel explained that the co-defendant's statement (App. #1) only really helped as to the armed robbery, not so much as to the murder.

The Applicant testified that he did not plan on going with the co-defendant to murder the victim. The Applicant explained that plea counsel did not have all of the evidence because the co-defendant said that he (the Applicant) kicked the victim, but there was no shoe/blood evidence. The Applicant explained that plea counsel informed her that there was no real benefit of going to trial because 99% chance he would be convicted. The Applicant explained that he was incorrectly charged via hands-of-one when he never kicked the victim. The Applicant testified to this Court that he wanted to go to trial. The Applicant explained that he was essentially threatened by the co-defendant to participate in the crime(s), the Applicant conceded that his statements never indicated such a thing.

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the 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

¹ Applicant's #1, co-defendant Harris' statement was introduced.

as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991).

Courts use a two-pronged test 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, 385 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. As discussed above, the Applicant has failed to carry his burden in this action. Therefore, this Court finds that the application must be denied and dismissed.

Beyond his review of the undisputed procedural history, this Court finds Applicant's testimony is not credible. Plea counsel's testimony is credible. Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that counsel failed to render reasonably effective assistance under prevailing professional norms. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by counsel's performance.

The Applicant's claim that he wanted a jury trial was not credible. The Applicant's case was ready for trial, the jury had been selected, and the jury was only dismissed because he plead guilty. (Guilty plea transcript, p. 5 L. 18, p. 52 – 56). Similarly, the Applicant's claim that he was in anyway coerced or forced by the co-defendant to participate in the crimes was not credible.

The Applicant's remaining claim is that he received ineffective assistance of counsel because counsel failed to object to the imposition of a "trial tax" had the Applicant proceeded to trial. In the case at hand, there is no evidence that the trial court indicated that it would sentence the Applicant more harshly solely if he exercised his right to a jury trial. "We rule a sentencing judge may *NOT* improperly consider a defendant's decision to proceed with a jury trial. ...We caution the Bench that a trial judge abuses his or her discretion in sentencing when the judge

considers the fact that the defendant exercised the right to a jury trial." State v. Follin, 352 S.C. 235, 257-58, 573 S.E.2d 812, 824 (Ct. App. 2002). This is not to say that a sentencing court cannot sentence similarly situated defendants differently if one proceeds to trial and the other a plea. "[A]t trial the judge may gather a fuller appreciation of the nature and extent of the crimes charged. The defendant's conduct during trial may give the judge insights into his moral character and suitability for rehabilitation." Alabama v. Smith, 490 U.S. 794, 801, 109 S. Ct. 2201, 2206, 104 L. Ed. 2d 865 (1989). In the case at hand, it is not incorrect to imagine that after a trial and the facts of this senseless murder and the associated cover-up were revealed in full detail, a sentencing court may consider a harsher sentence as compared to one received following the relative sterility of a guilty plea proceeding. The basic information needed to satisfy the requirements of plea colloquy will be far less than that brought out in a full trial. Id.

Plea counsel explained that the State indicated in a chambers meeting that the State was going to ask for the maximum if the case went to trial, but that if the Applicant' pled guilty, the State would probably not affirmatively oppose a request for the minimum sentence, i.e. thirty (30) years.

A guilty plea may justify leniency, *Brady v. United States, supra*; a prosecutor may offer a "recommendation of a lenient sentence or a reduction of charges" as part of the plea bargaining process, *Bordenkircher v. Hayes*, 434 U.S. 357, 363, 98 S.Ct. 663, 667, 54 L.Ed.2d 604 (1978), and we have upheld the prosecutorial practice of threatening a defendant with increased charges if he does not plead guilty, and following through on that threat if the defendant insists on his right to stand trial, *ibid.*; we have recognized that the same mutual interests that

support the practice of plea bargaining to avoid trial may also be pursued directly by providing for a more lenient sentence if the defendant pleads guilty, *Corbitt v. New Jersey*, 439 U.S. 212, 221-223, 99 S.Ct. 492, 498-499, 58 L.Ed.2d 466 (1978).

Alabama v. Smith, 490 U.S. 794, 802-03, 109 S. Ct. 2201, 2206, 104 L. Ed. 2d 865 (1989).²

The Applicant has not satisfied his burden of proof and demonstrated that counsel's performance was deficient, nor has he demonstrated any prejudice (there is no credible testimony that the plea was involuntary based on any supposed deficient performance). Similarly, the Applicant failed to present any evidence of actual (versus a presumption of) vindictiveness on the part of the sentencing judge by sentencing the Applicant to the minimum sentence following a guilty plea.

² The Smith Court further clarified, "[a]s we explained in *Texas v. McCullough*, "the evil the [*Pearce*] Court sought to prevent" was not the imposition of "enlarged sentences after a new trial" but "vindictiveness of a sentencing judge." Smith, at 794, citing Texas v. McCullough, 475 U.S. 134, 138, 106 S. Ct. 976, 978, 89 L. Ed. 2d 104 (1986) and North Carolina v. Pearce, 395 U.S. 711, 89 S.Ct. 2072, 23 L.Ed.2d 656 (1969).
Alabama v. Smith, 490 U.S. 794, 799, 109 S. Ct. 2201, 2204, 104 L. Ed. 2d 865 (1989) sought to prevent rather

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this Order, this Court finds Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that Applicant waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are dismissed with prejudice. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue at the hearing indicates a voluntary and intentional

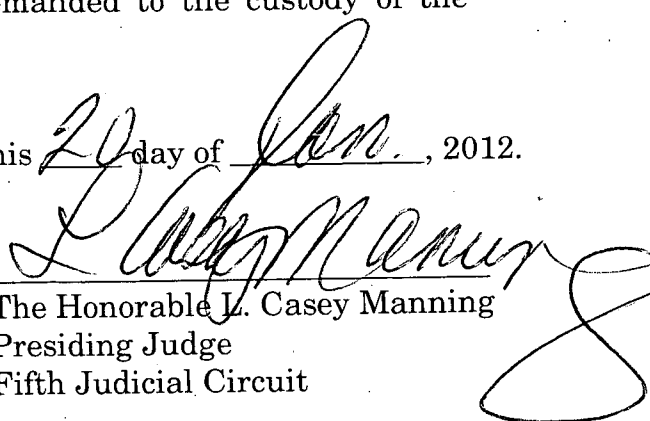
relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.


This Court cautions the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 20 day of Jan., 2012.

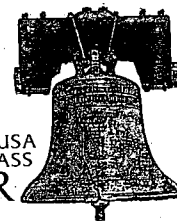

The Honorable J. Casey Manning
Presiding Judge
Fifth Judicial Circuit

, South Carolina.

Timothy Earl Green #324607
LEE CI Sumter n 2227
990 Wisacky Hwy.
Bishopville, SC 29010

AMS

USA
FIRST-CLASS
FOREVER



The Supreme Court of S.C
Honorable Daniel E. Shearouse
Clerk of Supreme Court
Po Box 11330
Columbia, S.C 29211

*
Short Title: Green, Timothy Earl v. The State #324607

Type : Petition For Certiorari - PCR

Case # : 2012208630

Court : Supreme Court

Date Filed : 02-22-2012

Appeal From : Richland

2009-CP-40-02144 . The Honorable L. Casey Manning

1/20/2012

~~Direct~~
Apr. 5

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE, CLERK OF COURT

Post Office Box 11330

Columbia, South Carolina 29211

Timothy Earl Green #324607

Lee Correctional Institution

990 Wisacky Highway

Bishopville, SC 29010



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

April 4, 2012

Ms. Daphne D. Helms
Circuit Court Reporter
556 Heron Glen Drive
Columbia, SC 29229

Dear Ms. Helms:

Please provide us with the following transcript:

Timothy Earl Green v. State of South Carolina Case #: 09-CP-40-02144

County: Richland Date of Trial: November 16, 2011

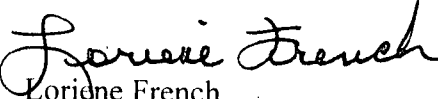
Presiding Judge: L. Casey Manning

To ensure prompt payment, please sign and complete the enclosed CID FORM 3500 and include the original criminal case number (Indictment number) where the space is provided.

Please number the lines on the paper from 1-25, and include 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.

If you are aware of any co-defendants or if the Attorney General's Office has already requested a transcript, please let us know.

Sincerely,


Lorie French
Legal Services Coordinator

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

RECEIVED
APR - 4 2012
S.C. Supreme Court



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

RECEIVED

JUN 15 2012

S.C. SUPREME COURT

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

June 13, 2012

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.

Timothy Earl Green v. State of South Carolina

6/13/2012

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,

Lorienne French
Legal Services Coordinator

RECEIVED

JUN 13 2012

SC Court of Appeals



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

August 13, 2012

RECEIVED

AUG 13 2012

S.C. Supreme Court

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

Re: Timothy Earl Green v. State of South Carolina

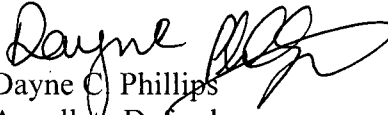
Dear Mr. Shearouse:

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 Robert Corney, I am informing him of this request.

Thank you for your assistance in this matter.

Sincerely,


Dayne C. Phillips
Appellate Defender

DCP/fkb

cc: Robert Corney, Esquire

The Supreme Court of South Carolina

Timothy Earl Green, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-208630

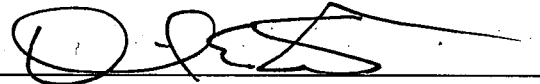
The Honorable L. Casey Manning
Richland County
Trial Court Case No. 2009CP4002144

ORDER

The request for an extension to serve and file the Petition for Writ of Certiorari and Appendix is granted and extended until September 13, 2012. 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



CLERK

Columbia, South Carolina

August 14, 2012

cc:

Robert Daniel Corney

Dayne C. Phillips

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

 ORIGINAL

Certiorari to Richland County
L. Casey Manning, Circuit Court Judge

RECEIVED

SEP 13 2012

TIMOTHY EARL GREEN,

PETITIONER,
S.C. Supreme Court

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

2012 - 208630 _____

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

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

1. The petition for writ of certiorari and appendix is due to be served and filed with the Court today, September 13, 2012.
2. Counsel for Mr. Green respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.
3. On September 12, 2012 counsel filed a Brief in State v. Ricky Tate in the Court of Appeals. On September 10, 2012, counsel had oral argument in State v. Brandon Clark and State

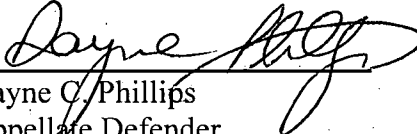
State v. Joe Pradubsri in the Court of Appeals. On September 4, 2012, counsel had a remand hearing for a new trial based on after-discovered evidence in State v. Richard Gagnon at the Horry County Courthouse. On August 31, 2012 Counsel filed the petition for writ of certiorari and appendix in Luther Brian Marcus v. State in this Court. On August 29, 2012, counsel filed the petition for writ of certiorari and accompanying appendix in Phillip Hingleton v. State in this Court. On August 24, 2012, counsel filed the initial brief of appellant and designation of matter in the case of State v. Michael Humphrey in the Court of Appeals. On August 20, 2012, counsel filed the petition for writ of certiorari and accompanying appendix in Fernando Young v. State in this Court. On August 17, 2012, counsel filed the initial brief of Appellant in State v. Richard Pilgrim and State v. Billy Miller in the Court of Appeals. On August 13, 2012 counsel filed the petition for writ of certiorari and appendix in Virgil Culbreath v. State in this Court. On August 2, 2012 counsel filed the return to petition for writ of certiorari to the Court of Appeals in State v. Adrian Eaglin. On August 1, 2012 counsel filed the petition for writ of certiorari and appendix to the Court of Appeals in State v. Anthony Williamson. On July 30, 2012 counsel filed the petition for writ of certiorari and appendix in Jabbar Straws v. State in this Court. On July 26, 2012, counsel filed the initial brief of Appellant in State v. Donald Altman in the Court of Appeals. On July 23, 2012, counsel filed the petition for writ of certiorari and appendix in Alonzo Jenkins v. State in this Court. On July 20, 2012 counsel filed the initial brief of appellant in State v. Richard Beekman in the Court of Appeals. On July 18, 2012, counsel filed the initial brief of appellant in State v. Billy Lisenby in the Court of Appeals. On July 13, 2012, counsel filed the initial brief of appellant and designation of matter in Antwan Grayson v. State in the Court of Appeals. On July 9, 2012, counsel filed the petition for writ of certiorari and appendix in Jameek J. Williams v. State in this Court. On July 6, 2012, counsel filed the petitions for writ

of certiorari and appendices in Thomas Evans v. State and Chadwick Cole v. State in this Court.

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

WHEREFORE, the undersigned counsel would respectfully request a thirty day extension, in which to file the petition for writ of certiorari and appendix in this case based upon the above exigent circumstances. Counsel requests that time limits for filing the petition be held in abeyance pending a ruling on this motion.

Respectfully submitted,


Dayne C. Phillips
Appellate Defender

Attorney for Petitioner

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County
L. Casey Manning, Circuit Court Judge

TIMOTHY EARL GREEN,

PETITIONER,

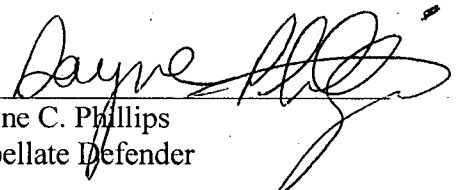
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

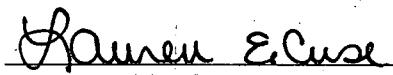
CERTIFICATE OF SERVICE

I certify that a true copy of the motion for an extension of time in which to file the petition for writ of certiorari and appendix in the above case has been served upon Robert D. Corney, Esquire, this 13th day of September, 2012.


Dayne C. Phillips
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 13th day
of September 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: August 23, 2014.

The Supreme Court of South Carolina

Timothy Earl Green, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-208630

ORDER

For good cause shown, the request for an extension to serve and file the Petition for Writ of Certiorari and Appendix is granted and extended until October 15, 2012. 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 and must be signed by the appropriate attorneys.

FOR THE COURT

BY *Frenda J. Shealy*
Chief Deputy CLERK

Columbia, South Carolina

September 14, 2012

cc:

Robert Daniel Corney

Dayne C. Phillips

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County

L. Casey Manning, Circuit Court Judge

RECEIVED

OCT 17 2012

TIMOTHY EARL GREEN,

PETITIONER
S.C. Supreme Court

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellant Case No: 2012-208630

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

Counsel for Timothy Earl Green respectfully requests a **final extension of thirty (30) days until November 14, 2012** in which to file the petition for writ of certiorari and appendix in this case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a third request for an extension. In support of this request, counsel shows:

1. The petition for writ of certiorari and appendix is due to be served and filed with the Court today, October 15, 2012.
2. Counsel for Mr. Green respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.

3. On October 15, 2012, counsel filed the petition for writ of certiorari and appendix in Norman J. Hayes v. State in the Supreme Court. On October 12, 2012 counsel filed the initial brief of appellant and designation of matter in State v. Kristopher Wilmont Berry in the Court of Appeals. On October 9, 2012, counsel filed the petition for writ of certiorari and appendix in James Wilkinson v. State with this Court. On October 5, 2012, counsel filed the initial brief of appellant and designation of matter and record on appeal in State v. Chanton Edjuan Smith in the Court of Appeals. On October 4, 2012, counsel also had oral arguments in State v. Rushan Counts in the Court of Appeals. On October 1, 2012, counsel filed the petition for writ of certiorari and appendix in James Russell v. State with this Court. On September 28, 2012, counsel filed the petition for writ of certiorari and appendix in Tashon Sampson v. State with this Court. On September 24-26, 2012, counsel attended the South Carolina Public Defenders Conference. On September 21, 2012, counsel filed the initial brief of appellant and designation of matter in State v. Tristan Check and State v. Matthew Frazier in the Court of Appeals. On September 18, 2012 counsel filed the petition for writ of certiorari in Andre Lee Reed v. State in the Supreme Court. On September 17, 2012, counsel filed the petition for writ of certiorari in Cecil Simmons v. State as well as his petition for writ of certiorari pursuant to Austin v. State and appendix with this Court. On September 13, 2012 counsel filed the petition for writ of certiorari and appendix in Kevin Cook v. State with this Court. On September 12, 2012 counsel filed a Brief in State v. Ricky Tate in the Court of Appeals. On September 10, 2012, as substitute counsel, counsel had oral arguments in State v. Brandon Clark and State v. Joe Pradubsri in the Court of Appeals. On September 4, 2012, counsel had a remand hearing for a new trial based on after-discovered evidence in State v. Richard Gagnon at the Horry County Courthouse. On August 31, 2012 Counsel filed the petition for writ of certiorari and appendix in Luther Brian Marcus v. State with this Court. On August 29, 2012, counsel filed the petition for

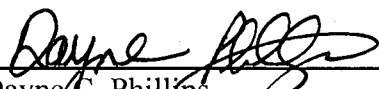
writ of certiorari and accompanying appendix in Phillip Hingleton v. State with this Court. On August 24, 2012, counsel filed the initial brief of appellant and designation of matter in the case of State v. Michael Humphrey in the Court of Appeals. On August 20, 2012, counsel filed the petition for writ of certiorari and accompanying appendix in Fernando Young v. State with this Court. On August 17, 2012, counsel filed the initial brief of Appellant in State v. Richard Pilgrim and State v. Billy Miller in the Court of Appeals.

4. Counsel makes this request in good faith and not for purpose of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

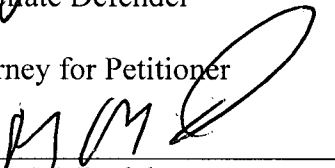
5. Counsel for the Attorney General's office consents to this request as shown by signature below.

WHEREFORE, the undersigned counsel would respectfully request a **final thirty (30) day extension until November 14, 2012** in which to file the petition for writ of certiorari and appendix in this case based upon the above exigent circumstances.

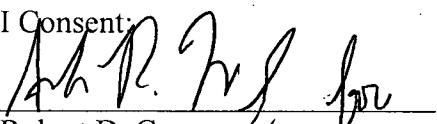
Respectfully submitted,


Dayne C. Phillips
Appellate Defender

Attorney for Petitioner


Robert M. Dudek
Chief Appellate Defender

This 15th day of October, 2012.

I Consent:

Robert D. Corney

The Supreme Court of South Carolina

Timothy Earl Green, Petitioner,

v.

State of South Carolina, Respondent.

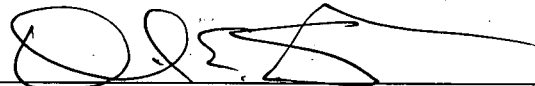
Appellate Case No. 2012-208630

ORDER

For good cause shown, the request for an extension to serve and file the Petition for Writ of Certiorari and Appendix is granted and extended until November 14, 2012. 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 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.

FOR THE COURT

BY



CLERK

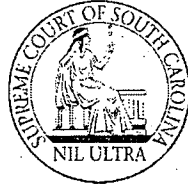
Columbia, South Carolina

October 18, 2012

cc:

Robert Daniel Corney

Dayne C. Phillips



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
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

November 14, 2012

Timothy Earl Green, #324607
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

Re: Timothy Earl Green v. The State
Appellate Case No. 2012-208630

Dear Petitioner:

Your counsel has submitted a petition for writ of certiorari indicating that this appeal is without merit and moves to be relieved as your counsel. *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988). The records of this Court reflect that counsel served you with a copy of the Petition and Appendix.

You may, within forty-five (45) days of the date of this letter, file with this Court a *pro se* response to the petition filed by your counsel. In this response, you may raise and argue any issues you believe the Court should consider in this appeal. Upon receipt of your *pro se* response or the expiration of forty-five (45) days, the matter will be submitted to the Court for its consideration.

If you do decide to file a *pro se* response, the response must be either typewritten or legibly hand printed, and must have at least a one inch margin on all sides. Further, you will need to only submit one copy of your response, and this copy should not be stapled or bound in any manner.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

cc: Robert Daniel Corney
Dayne C. Phillips

2012-208630

1/23/13

Mr. Shearouse,

With all due of respect, I'm writing to you to see if my Petitioner Pro se brief has been filed in the Supreme Court. It was sent out on 12/17/12 and I haven't receive a copy back saying its been found. Thank You for your attention to this matter.

Sincerely,

Timothy Green

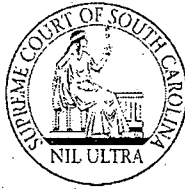
Timothy Green.

1/23/13

No pro se response has been filed in this case -

1/28/13

Docket Office



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

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

www.sccourts.org

February 22, 2013

Timothy Earl Green, #324607
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

Re: Timothy Earl Green v. The State
Appellate Case No. 2012-208630

Dear Mr. Green:

This responds to your correspondence of February 19, 2013. The petition for writ of certiorari filed by your counsel is currently awaiting consideration by the Court. Due to the volume of pending cases, it is impossible for me provide you with any indication of when the Court may act on this matter.

Very truly yours,

CLERK

cc: Robert Daniel Corney, Esquire
Dayne C. Phillips, Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No.: 2009-CP-40-02144

RICHLAND COUNTY
FILED
2012 DEC 27 AM 8:14
JEANETTE W. McBRIDE
C.C.P. & G.S.

Timothy Earl Green, #324607, Appellant,

v.

State of South Carolina, Respondents.

PETITIONER'S PRO SE BRIEF

TIMOTHY EARL GREEN
PETITIONER

S.C.D.C. No. 00324607
Lee Correctional Institution
Sumter North 2227
990 Wisacky Highway
Bishopville, South Carolina 29010

PRO SE PETITIONER

December 17, 2012

Honorable Jeanette W. McBride
Clerk or Court
Richland County
Post Office Box 2766
Columbia, South Carolina 29202

RE.: Timothy Earl Green v. State of South Carolina
C/A No.: 2009-CP-40-02144

2012 DEC 27 AM 8:14
JEANETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

Dear Madam Clerk:

Will you **PLEASE BE ADVISED** and **TAKE NOTICE** that I am writing to you in regards to the above referenced matter.

Enclosed you will find for you to file , the Original (plus two (2) copies) of the Applicant's Motion to Alter, or Amend Judgment, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. You will also find the Certificate of Service showing that the Respondents have been served a copy of the enclosed Motion.

By copy of this letter, the Applicant requests that his Counsel of Record, Dayne C. Phillips of the South Carolina Commission on Indigent Defense, be relieved as counsel and of his duties and that the Applicant be allowed to move his case along, Pro-Se. Furthermore, counsel take no further action on the Applicant's behalf.

Additionally, the Applicant requests that you forward a copy of this letter, along with a copy of the clock-stamped Motion back to him for Record Filing and Keeping. A Self-Addressed Stamped Envelope is enclosed as well for those copies.

Thank you for your attention and assistance in this matter. I look forward to hearing from you or your office in these regards, Madam Clerk.

With Kindest Regards. I So Remain,

Sincerely,

Timothy Earl Green
Applicant

TEG/

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No.: 2009-CP-40-02144

RICHLAND COUNTY
FILED
2012 DEC 27 AM 8:14
JEANETTE W. McBRIDE
C.C.P. & G.S.

Timothy Earl Green, #324607, Appellant,

v.

State of South Carolina, Respondents.

PROOF OF SERVICE

I, Timothy E. Green, do hereby certify that I have served the Petitioner's Pro Se Brief on Salley W. Elliott by depositing a copy of it in the United States Mail, postage prepaid, on December 17, 2012, addressed to his Attorney of Record, specifically addressed to Salley W. Elliott, Assistant Attorney General, Office of the Attorney General, Post Office Box 11549, Columbia, South Carolina 29211.

/s/ Timothy Green
Timothy Earl Green
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina 29010
Pro Se Petitioner

December 17, 2012

Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
PO Box 11330
Columbia SC 29211

March 28, 2013

Re: Timothy Earl Green (Appellate Case No. 2012-208630)

Dear Mr. Shearouse:

On March 27, 2013 I receive a letter from my counsel advising me that the letter is Curtis M. Harvis Jr. sent counsel letters containing that he's taking full responsibility for the murder of Mr. Bush. Also counsel said that he is unaware of whether Petitioner Timothy Earl Green filed a pro se petition. On March 28, 2013 I sent counsel a copy of my pro se petition so he can be aware that I filed a petition. Also I'm sending you three clock stamp copies so the courts can make and inform decision to this matter.

If you have any questions concerning this matter, please do not hesitate to contact me.

RECEIVED

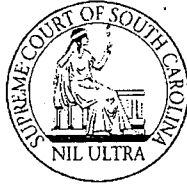
APR 02 2013

S.C. SUPREME COURT

Sincerely,

Timothy Green

Timothy E Green



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

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

www.sccourts.org

April 03, 2013

Mr. Timothy Earl Green, #324607
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

Re: Timothy Earl Green v. The State
Appellate Case No. 2012-208630

Dear Mr. Green:

This responds to your correspondence dated March 28, 2013.

Please be advised that your time to submit a *pro se* response to the *Johnson* petition submitted by your counsel expired on December 31, 2012. In January 2013, this office advised you that no *pro se* response had been received by this Court.

From your latest correspondence, it appears that you may have filed your *pro se* response with the circuit court rather than with this Court. Also, it does not appear that you have provided this Court with a complete copy of your *pro se* response.

If you want this Court to consider your *pro se* response to the *Johnson* petition,

it must be filed with this Court within fifteen (15) days of the date of this letter. Be sure to include all of the pages of your response.

Very truly yours,

A handwritten signature in black ink, appearing to be 'D. S.', with a long horizontal line extending to the right.

CLERK

cc: Robert Daniel Corney, Esquire
Dayne C. Phillips, Esquire

March 4, 2013

Dear Mr. Shearouse:

On March 1, 2013 my counsel received a clock stamp pro se petition that I filed December 27, 2012 in Richland County. March 2, 2013 I called counsel, asking did he received my pro se. He told me yes and that he sent it to the courts. I was wondering could I get a copy of my petition with a clock stamp saying that it has been filed in the courts and ready to be heard. To add with the clock stamp from Richland County

Sincerely

Timothy Green

Timothy Green #324607

RECEIVED

APR 08 2013

S.C. SUPREME COURT

2012-208630

The Supreme Court of South Carolina

RE: TRANSFER OF CASES FROM SOUTH
CAROLINA SUPREME COURT TO THE COURT OF
APPEALS

ORDER

Pursuant to Rule 243(l), SCACR, the following post-conviction relief cases are hereby transferred to the South Carolina Court of Appeals:

Appellate Case Number

Case Name

1.	2012-212734	Ricky Lee Hatcher v. State
2.	2012-209540	Jerome Curtis Buckson v. State
3.	2012-207809	Nathaniel Suber v. State
4.	2012-207247	Charles McCormick v. State
5.	2012-206670	Luther Brian Marcus v. State
6.	2011-204374	Herman Belton v. State
7.	2011-202768	LaVelle Weaver v. State
8.	2011-195210	Tonnie Baldwin v. State
9.	2012-213472	Ricky Dean Duncan v. State
10.	2012-213423	Jose Antonio Anzaldo v. State
11.	2012-213326	Jeremy T. Durant v. State
12.	2012-213323	Adrian Franklin v. State
13.	2012-213322	Carlos Gonzales v. State
14.	2012-213312	Eric LaGeorge Mouzon v. State
15.	2012-213235	Robert Edgar Upchurch v. State
16.	2012-213200	William Outlaw v. State
17.	2012-213167	Jeremy J. Jeter v. State
18.	2012-213133	Sherman Boyd v. State
19.	2012-213131	Waddell McGhee v. State
20.	2012-213130	Ken Lucero v. State
21.	2012-213072	Giles Belcher v. State
22.	2012-212964	Marques A. Durant v. State
23.	2012-212912	Robert L. Foster v. State

24.	2012-212911	Jimmy Belton v. State
25.	2012-212909	James E. Kennedy v. State
26.	2012-212880	Marvin Mims v. State
27.	2012-212848	Rodddregus Wells v. State
28.	2012-212793	Jeffery Augustine v. State
29.	2012-212751	Robert Bostic v. State
30.	2012-212702	Samuel Emanuel Stokes v. State
31.	2012-212701	Farid A. Mangal v. State
32.	2012-212698	Marquita Smith v. State
33.	2012-212676	Whelthy McKune v. State
34.	2012-212671	John W. Floyd v. State
35.	2012-212608	Adrian Allen v. State
36.	2012-212602	Oscar Fortune v. State
37.	2012-212589	Clarence Collins v. State
38.	2012-212576	Edward Whitner v. State
39.	2012-212557	Luis Ozorio v. State
40.	2012-212553	Stephens Smalls v. State
41.	2012-212552	Lawerence K. Smith, Jr. v. State
42.	2012-212550	Marcus J. Parker v. State
43.	2012-212521	Eugene Santiago v. State
44.	2012-212506	Lakendrick K. Leverette v. State
45.	2012-212504	Nicolas Brown v. State
46.	2012-212418	James Edward Roseboro v. State
47.	2012-212417	Alex Brice Graham v. State
48.	2012-212416	Jovon Brown v. State
49.	2012-212414	Islam Dunn v. State
50.	2012-212412	Donna Marie Redding v. State
51.	2012-212410	Gary Michael Piper v. State
52.	2012-212409	Raymond Kelley v. State
53.	2012-212402	Octavious C. Neeley v. State
54.	2012-212399	Walter Durham v. State
55.	2012-212398	Jomer Hill v. State
56.	2012-212397	Steven D. Denton v. State
57.	2012-212396	Martina R. Putnam v. State
58.	2012-212316	Theodore Kyinoo v. State
59.	2012-212314	Antwon Garrett v. State
60.	2012-212310	Charles Gory v. State
61.	2012-212308	George N. Moses v. State
62.	2012-212306	Michael Shane Johnson v. State
63.	2012-212305	Herman D. McKnight v. State
64.	2012-212301	Elkin Perez v. State
65.	2012-212179	Alton Docherty v. State
66.	2012-212177	Craig M. Brannon v. State
67.	2012-212175	Favian Alfonzo Hayes v. State

68.	2012-212173	Dwayne Housey v. State
69.	2012-212164	William D. Hoyles v. State
70.	2012-212163	Sherman Graham v. State
71.	2012-212161	Roger Nickeya Johnson v. State
72.	2012-212153	Sintari A. Summers v. State
73.	2012-212149	James J. Abercrombie v. State
74.	2012-212147	Lawrence Reyes Waller v. State
75.	2012-212117	Vincent A. Pitts v. State
76.	2012-212097	Damion Curry v. State
77.	2012-212094	Desmond Briggs v. State
78.	2012-212093	Jose Eloy Tello v. State
79.	2012-212092	Charles Ray Dean v. State
80.	2012-212091	David L. Bacchus v. State
81.	2012-212086	Chas Lamous Smith v. State
82.	2012-212084	Kevin King v. State
83.	2012-212083	Heyward Robinson v. State
84.	2012-212080	Antonio M. Williams v. State
85.	2012-212075	Donques Hood v. State
86.	2012-212074	Donald Wetherall v. State
87.	2012-212073	Antonio Barton v. State
88.	2012-212072	Wayne Morris Hibbert v. State
89.	2012-211647	Sherman Dewalt v. State
90.	2012-211629	Myra Christenbury v. State
91.	2012-211390	John Douglas Alexander v. State
92.	2012-211388	Benjamin Garrick v. State
93.	2012-211386	Jason Moulton v. State
94.	2012-211291	James A. McClellan v. State
95.	2012-211288	James Marion Branham v. State
96.	2012-211093	Sterling Green v. State
97.	2012-211091	Darryl Frierson v. State
98.	2012-211087	Christopher Ray Nolan v. State
99.	2012-210227	James Clayton Helms v. State
100.	2012-210226	Timothy T. Kinard v. State
101.	2012-210213	Walter C. Kelly v. State
102.	2012-210209	Vincent L. Neumon v. State
103.	2012-210168	Lisa Ann Blakeney v. State
104.	2012-209535	Trico D. Thompson v. State
105.	2012-209533	George R. Lindsey, Jr. v. State
106.	2012-209530	John Lewis Mills v. State
107.	2012-209507	David Bryant Richards v. State
108.	2012-209506	Norman J. Hayes v. State
109.	2012-208888	Cedric T. Smith v. State
110.	2012-208639	Darian G. Reddish v. State
111.	2012-208631	Thomas Osborne v. State
112.	2012-208630	Timothy Earl Green v. State

113.	2012-208629	Dorothy Harden v. State
114.	2012-208626	Ruben Ramirez v. State
115.	2012-208013	Virgil Lee Culbreath v. State
116.	2012-208009	Jose N. Alvarenga v. State
117.	2012-207807	Harold Lee Greer Jr. v. State
118.	2012-207561	Dwayne R. Clark v. State
119.	2012-207560	Nathan Luckett v. State
120.	2012-207554	James C. Cobbett, III v. State
121.	2012-206673	Angela M. Vaughn v. State
122.	2012-206649	James L. Farrow v. State
123.	2012-206047	Fernando F. Young v. State
124.	2012-205987	Lazarus M. Brannon v. State
125.	2011-203247	Michael Lathan v. State
126.	2011-203229	Tobias Chano Lee v. State
127.	2011-202771	Harrison Sanders v. State
128.	2011-202766	Helen Marie Douglas v. State
129.	2011-201592	Joseph Morrison, III v. State
130.	2012-213492	Kenneth Epps v. State
131.	2011-199421	Dominique D. Moore v. State
132.	2011-199420	Donald Carter v. State
133.	2011-199419	Quandelle J. Wilson v. State
134.	2011-199412	Carmen Latrice Rice v. State
135.	2011-196598	Dayvonn A. Valentine v. State
136.	2011-190110	Luzenski Allen Cottrell v. State
137.	2013-000410	Lindy L. Jones v. State
138.	2013-000365	Samuel Abiodun v. State
139.	2012-213324	Terrance A. Baker v. State
140.	2012-213158	James Corbett v. State
141.	2012-213515	Odis D. State
142.	2012-212825	Johnny L. Friazer v. State
143.	2012-212750	Jeremy McPhail v. State
144.	2012-212699	Jovian McRant v. State
145.	2012-212503	John Barbare v. State
146.	2012-212170	Mark Lowery v. State
147.	2012-212088	Andre Martin v. State
148.	2012-211088	Kevin L. Grant v. State
149.	2011-202772	Antonio Glover v. State
150.	2011-203631	Michael Bohannon v. State

IT IS SO ORDERED.


 _____ C.J.
 FOR THE COURT

Columbia, South Carolina

July 29, 2013

cc: Chief Appellate Defender Robert M. Dudek
Deputy Chief Appellate Defender Wanda H. Carter
Appellate Defender Robert M. Pachak
Appellate Defender Kathrine H. Hudgins
Appellate Defender LaNelle C. DuRant
Appellate Defender Susan B. Hackett
Appellate Defender Benjamin J. Tripp
Appellate Defender Carmen V. Ganjehsani
Appellate Defender David Alexander
Assistant Deputy Attorney General Salley W. Elliott
Assistant Attorney General John W. Whitmire
Assistant Attorney General Tyson A. Johnson
Assistant Attorney General Suzanne H. White
Assistant Attorney General Ashleigh R. Wilson
Assistant Attorney General Megan E. Harrigan
Assistant Attorney General Karen C. Ratigan
Assistant Attorney General Daniel F. Gourley
Assistant Attorney General David A. Spencer
Assistant Attorney General J. Rutledge Johnson
John Benjamin Aplin, Esquire
Tricia Blanchette, Esquire
J. Falkner Wilkes, Esquire
John R. Ferguson, Esquire
Tara D. Shurling, Esquire
Joel F. Stroud, Esquire
Thomas W. Dunaway, III, Esquire
Beattie B. Ashmore, Esquire
John D. Dalgado, Esquire
Franklin G. Shuler, Esquire
Paul Archer, Esquire
Dwight C. Moore, Esquire
Tommy Thomas, Esquire
James R. Snell, Esquire
Ricky Dean Duncan
Jose Antonio Anzaldo
Jeremy T. Durant
Adrian Franklin
Robert E. Upchurch
Jeremy J. Jeter
Sherman Boyd

Waddell McGhee
Giles Belcher
Marques A. Durant
Robert L. Foster
James E. Kennedy
John W. Floyd
Adrian A. Allen
Lakendrick K. Leverette
Nicolas Brown
Alex B. Graham
Islam Dunn
Raymond Kelley
Walter Durham
Charles Gory
Herman D. McKnight
Alton Docherty
William D. Hoyles
Sherman Graham
Sintati A. Summers
James J. Abercrombie
Desmond Briggs
Heyward Robinson
Donques Hood
Sherman Dewalt
John D. Alexander
Benjamin Garrick
Timothy E. Green
Jose N. Alvarenga
Michael Lathan
Dayvonn A. Valentine
Lindy L. Jones
Terrance A. Baker
James Corbett
Brain Less
Johnny L. Frazier
Jeremy McPhail
Mark Lowery
Michael Bohannan
Jeffery Augustine
Kenneth Epps
The Honorable Jenny Kitchings

The South Carolina Court of Appeals

Timothy Earl Green, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-208630

ORDER

This matter is before the Court on a petition for a writ of certiorari following the denial of Petitioner's application for post-conviction relief.

Petitioner's counsel asserts that the petition is without merit and requests permission to withdraw from further representation. Petitioner has filed a pro se petition.

After careful consideration of the entire appendix as required by *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988), we deny the petition and grant counsel's request to withdraw.

Thomas C. Hoff

J.

Paul W. Thomas

J.

U. Ke

J.

Columbia, South Carolina

FILED

March 11, 2014

cc: Robert Daniel Corney
Carmen Vaughn Ganjehsani
Timothy Earl Green, #324607



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
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March 27, 2014

The Honorable Jeanette W. McBride
PO Box 2766
Columbia SC 29202-2766

REMITTITUR

Re: Timothy Earl Green v. The State
Lower Court Case No. 2009CP4002144
Appellate Case No. 2012-208630

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Robert Daniel Corney, Esquire
Carmen Vaughn Ganjehsani, Esquire
Timothy Earl Green, #324607
The Honorable L. Casey Manning

South Carolina Court of Appeals

Jenny Abbott Kitchings

P.O. Box 11629

Columbia S.C. 29211

April 1, 2014

Dear Mrs. Kitchings:

On March 27, 2014 I've receive a letter from the courts remitting my case 2009-CP-4002144, Appellate Case No. 2012-208630 to the lower courts or tribunal. I was wondering who's my appointed lawyer please.

Very truly yours

Timothy Green #324607

[s] Timothy Green

Lee Ct. Flo/s 2227

990 Wisacky Hwy

Bishopville SC 29010.

RECEIVED

APR 03 2014

SC Court of Appeals



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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April 11, 2014

Timothy Earl Green, #324607
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

Re: Timothy Earl Green v. The State
Appellate Case No. 2012-208630

Dear Mr. Green:

The Court is in receipt of your letter dated April 1, 2014, inquiring as to who is your appointed attorney. Pursuant to the order issued by this Court, dated March 11, 2014, attorney Carmen Vaughn Ganjehsani was granted withdrawal as representing counsel. Attached is a copy of the order.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Robert Daniel Corney, Esquire
Carmen Vaughn Ganjehsani, Esquire