

## A. J. Z. Law Firm, LLC

---

Mailing Address  
P.O. Box 11961  
Columbia, SC 29211

Phone: (803) 400-1918  
Toll Free: (844)-501-1661  
Fax: (803) 403-8005

Physical Address  
2003 Lincoln Street  
Columbia, South Carolina 29201

Aimee J. Zmroczek, Attorney  
[aimee@ajzlawfirm.com](mailto:aimee@ajzlawfirm.com)

Christina Metze, paralegal  
[christina@ajzlawfirm.com](mailto:christina@ajzlawfirm.com)

August 18, 2016

The Supreme Court of South Carolina  
ATTN: Daniel Shearouse, Clerk of Court  
PO Box 11330  
Columbia, SC 29211

**RECEIVED**

AUG 22 2016

**SC SUPREME COURT**

RE : Laquarius J. Brannon v. State of SC  
2014CP3203717

Dear Mr. Shearouse:

Enclosed please find a Notice of Appeal along with a Certificate of Service and a copy of the Orders being appealed. Also enclosed is a copy which I request you stamp as "filed" and return to me in the enclosed stamped envelope.

Thank you for your assistance in this matter.

Yours very truly,



Christina Metze  
Paralegal

cc: Johanna C. Valenzuela  
Beth Carrigg, Lexington County Clerk of Court  
Laquarius Brannon

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

---

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

---

Case No.: 2014CP3203717

---

RECEIVED

AUG 22 2016

SC SUPREME COURT

Laquarius J. Brannon,

Appellant.

v.

State of South Carolina,

Respondent,

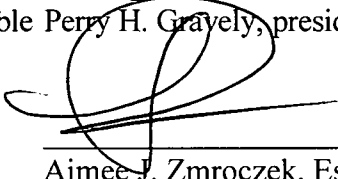
---

NOTICE OF APPEAL

---

Laquarius J. Brannon, #338615, appeals the Order of Dismissal denying his Application for Post-Conviction Relief filed June 1, 2016, and received by counsel on June 6, 2016, and the Order Denying Rule 59(E) Motion filed August 12, 2016, and received by counsel on August 17, 2016, issued by the Honorable Perry H. Gravely, presiding Judge.

August 18, 2016



---

Aimee J. Zmroczek, Esq.  
P.O. Box 11961  
Columbia, South Carolina 29211  
Telephone: 803-400-1918  
Fax: 803-403-8005  
ajzlawfirm@gmail.com  
Attorney for Appellant

Other Counsel of Record:  
Johanna C. Valenzuela, Esq.  
PO Box 11549  
Columbia, SC 29211  
Counsel for Respondent

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

Case No.: 2014CP3203717

RECEIVED  
AUG 22 2016  
SC SUPREME COURT

Laquarius J. Brannon,

Appellant.

v.

State of South Carolina,

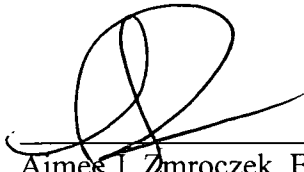
Respondent,

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Johanna C. Valenzuela by depositing a copy of it in the United States Mail, postage prepaid, on August 18, 2016, addressed to her office at:

PO Box 11549  
Columbia, SC 29211

August 18, 2016

  
\_\_\_\_\_  
Aimee J. Zmroczek, Esq.  
P.O. Box 11961  
Columbia, South Carolina 29211  
Telephone: 803-400-1918  
Fax: 803-403-8005  
ajzlawfirm@gmail.com  
Attorney for Appellant

STATE OF SOUTH CAROLINA )  
COUNTY OF LEXINGTON )

IN THE COURT OF COMMON PLEAS )  
Case No. 2014-CP-32-03717 )

Laquarius J. Brannon, )  
S.C.D.C. #338615 )

Applicant, )

vs. )

State of South Carolina, )

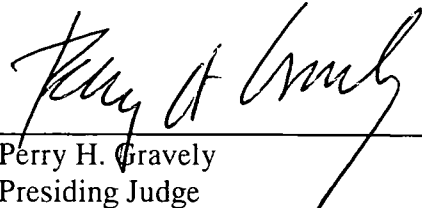
Respondent. )

ORDER

**ORIGINAL**

This matter comes before the Court upon Applicant's Motion to Reconsider the Order dismissing his Post-Conviction Relief claim, filed by and through counsel on June 16, 2016. After fully considering said Motion, this Court finds no need for oral argument in this matter, and the Motion to Reconsider is DENIED;

AND IT IS SO ORDERED!

  
Perry H. Gravely  
Presiding Judge

Pickens, South Carolina

July 28, 2016

BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON, SC

2016 AUG 12 A 11:01

FILED

**FORM 4**

**STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON  
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2014CP3203717**

Laquarius J Brannon #339615	State of South Carolina
--------------------------------	-------------------------

**PLAINTIFF(S)**

**DEFENDANT(S)**

<b>Submitted by:</b>	<b>Attorney for:</b> <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> 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.  See Page 2 for additional information.
- 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 JUDGMENT 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 (List amount(s) below)

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 8/12/2016
---------------------	------------	-------------------

**For Clerk of Court Office Use Only**

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on **15th of August 2016**, to attorneys of record or to parties (when appearing pro se) as follows:

**Aimee Jendrzewski Zmroczek**  
A.J.Z. Law Firm, LLC PO Box 11961 Columbia, SC 29211

**Johanna Catalina Valenzuela**  
PO Box 11549 Columbia, SC 29211-1549

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

**ATTORNEY(S) FOR THE DEFENDANT(S)**

**Beth A. Carrigg/mh**

**Court Reporter**

**Beth A. Carrigg - Clerk of Court**

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

---

---

---

---

---

---

---

---

**ORIGINAL**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )  
 )  
Laquarius J. Brannon, )  
S.C.D.C. No. 338615 )  
 )  
Applicant, )  
 )  
v. )  
 )  
State of South Carolina, )  
 )  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE ELEVENTH JUDICIAL CIRCUIT

C.A. No. 2014-CP-32-3717

FILED  
JUL - 1 P 2:13  
CLERK OF COURT  
LEXINGTON COUNTY  
SOUTH CAROLINA

**ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 13, 2014. Respondent made its return and motion to dismiss on September 23, 2015. An evidentiary hearing was held on April 18, 2016, at the Lexington County Courthouse. Applicant was present and represented by Aimee J. Zmroczek, Esquire. Johanna C. Valenzuela, Esquire, of the South Carolina Office of the Attorney General represented Respondent.

Applicant and his plea counsel, Dayne C. Phillips, Esquire, testified at the hearing. The Court had before it Applicant's guilty plea transcript, the Lexington County Clerk of Court records, the South Carolina Department of Corrections records, the PCR application, and the Return.

**PROCEDURAL HISTORY**

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Lexington County Clerk of Court. Applicant was indicted at the March 2012 term of the Lexington County Grand Jury for burglary first degree (2012-GS-32-0537),

kidnapping (2012-GS-32-0538) and armed robbery (2012-GS-32-0539). Dayne Phillips, Esq., represented Applicant. On December 17, 2013, Applicant pleaded guilty as indicted. The Honorable Robert Hood sentenced Applicant, pursuant to negotiations, to a term of thirty years imprisonment for burglary, first degree; thirty years imprisonment for kidnapping; and thirty years for armed robbery. These sentences were to be served concurrently. Applicant did not appeal his plea or concurrent sentences.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

#### **Ineffective Assistance of Counsel**

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing SCRCP 71.1(e)).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel’s ineffective performance. See Strickland v. Washington, 466 U.S. 668, 688, 692, 104 S. Ct. 2052, 2065, 2067 (1984) (“[T]he defendant must show that counsel’s representation fell below an objective

standard of reasonableness [and] . . . any deficiencies in counsel's performance must be prejudicial to the defense in order to constitute ineffective assistance under the Constitution.”); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006) (“PCR applicant must prove: (1) that counsel failed to render reasonably effective assistance under prevailing professional norms; and (2) that the deficient performance prejudiced the applicant's case.”). 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 pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58–59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted).

And when an applicant claims he was not competent to enter his guilty plea, he “bears the burden of proof and is required to show by a preponderance of the evidence he was incompetent at the time of his plea.” Ramirez v. State, 413 S.C. 351, 367, 776 S.E.2d 101, 110 (Ct. App. 2015) (quoting Jeter v. State, 308 S.C. 230, 232, 417 S.E.2d 594, 596 (1992)). In Jeter, the South Carolina Supreme Court outlined the test of competency to enter a plea as requiring the accused “have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him.” Id., 308 S.C. at 232, 417 S.E.2d at 596. In holding that Jeter had failed to meet his burden, the court noted plea counsel testified he and the applicant had discussed the case and his options “on several occasions” before the applicant's plea and also noted that the applicant's family never raised their concerns about the applicant's competency to the defense attorney. Id., 308 S.C. at 233, 417 S.E.2d at 596.

In determining guilty plea issues, the PCR court should consider the guilty plea transcript as well as evidence at the PCR hearing. Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

This Court will now address each allegation of ineffective assistance of counsel:

Applicant alleged his attorney failed to investigate his school records, which would have revealed Applicant had a learning disability. Applicant claimed he did not understand the concept of 30 years or life in prison when his attorney explained the plea offer to him prior to pleading guilty.

At this stage in the PCR hearing, Applicant asked to replace his current PCR counsel and moved for a continuance. The State objected, and the Court found the motion was not being made at an appropriate time and denied the motion to continue. Applicant then elected to stop testifying, and the State did not have an opportunity to cross-examine Applicant. The State moved to dismiss the case pursuant to SCRCP 41(b) for failure to prosecute, and the Court reserved ruling and proceeded with the hearing.

Plea counsel testified he met with Applicant at least six times during his representation of Applicant and the prior public defender met with Applicant at least four times prior to Mr. Phillips taking over the representation. Plea counsel explained that although discovery motions were filed and served prior to him taking over the case, he re-sent Applicant a copy of the discovery and reviewed the discovery with him throughout the representation. Plea counsel also went over the minimum and maximum sentencing ranges and the elements and sent a letter memorializing this conversation. Plea counsel noted he secured a four thousand dollar *ex parte* funding order from the Court for a private investigator. The investigator met with the Applicant, but he was no longer needed once Applicant accepted the plea offer. Plea counsel explained

Applicant never indicated he was interested in a trial and rather focused the majority of his questions on how to reduce his plea offer.<sup>1</sup>

Plea counsel noted Applicant did not “open up” to him and did not talk to him very much; however, neither Applicant nor his family ever raised any concern nor discussed any possible learning disabilities with plea counsel. Plea counsel was never concerned Applicant did not understand what he was discussing with him or that Applicant was not able to assist in his own defense. Plea counsel explained that if Applicant or his family had mentioned a learning disability, plea counsel would have noted that reference in his file and would have sent Applicant to be evaluated. At the plea, counsel coordinated having Applicant’s mother and sister present to testify before the plea judge and neither testified or referenced any concern with Applicant’s mental capacity.

Plea counsel summarized the State’s evidence against the Applicant as follows: the rape victims identified Applicant in a photo line-up and knew his nickname of “Peanut.” The statements of Applicant and the co-defendants were all similar and tried to minimize their own role in the events. There was also a palm print or fingerprint that matched Applicant. Plea counsel testified that as part of his advice to Applicant, he explained that his statements could be challenged at trial.

Initially, this Court notes Applicant confirmed to the plea judge he wanted to plead guilty to his charges after the plea judge informed Applicant of his charges, the associated maximum sentences, and the negotiated offer of thirty years (Plea transcript, pp. 6, 9, 16). Applicant

---

<sup>1</sup> However, when the State informally offered to reduce the offer for the first co-defendant to provide a cooperating statement—to the surprise of plea counsel—none of the co-defendants, to include the Applicant, accepted that offer. Applicant indicated to plea counsel that he had to go

informed the plea judge he was not under the influence of any alcohol or drugs that day and had never been treated for any mental health issues. (Plea transcript p. 6). Applicant also told the plea judge he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and was not coerced in any way. (Plea transcript, pp. 12, 17-18). Applicant did not dispute the State's recitation of the facts in his case. (Plea transcript, pp. 20-24, 25).

As to the request for a continuance, this Court finds Applicant's motion for a continuance in the middle of the hearing to be untimely. See Richardson v. State, 377 S.C. 103, 106, 659 S.E.2d 493, 495 (2008) ("A mere disagreement between an applicant and his counsel as to how to proceed with the PCR application, including the allegations to be raised, is not sufficient cause, in itself, to require the PCR judge to replace or to offer to replace court appointed counsel with another attorney. Many times, such as in the case at hand, an applicant does not understand the PCR process, including the fact that the allegations that can be raised are limited by law. Counsel should not be relieved, and the process delayed, because an applicant is dissatisfied with counsel's legitimate refusal to pursue allegations that are meritless and/or not proper in PCR." (internal citations omitted)).

This Court also finds the Applicant failed to meet his burden of proving plea counsel was ineffective or that he suffered any prejudice. While Applicant has raised the issue that he had a learning disability, this claim does not relate to competency. See Jeter, 308 S.C. at 232, 417 S.E.2d at 596 (holding the test of competency to enter a plea is that the accused must "have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against

---

to the Department of Corrections anyway and did not want anyone to know he was a "snitch."

him"). Further, aside from Applicant's own claim of suffering from a learning disability, Applicant presented no evidence of a learning disability. The Court notes plea counsel testified he met with Applicant and discussed his case several times prior to Applicant's plea and notes Applicant's mother, who would have been familiar with Applicant's mental capacity, testified at the plea and never raised this concern. (Plea transcript, pp. 27-28). See Jeter, 308 S.C. at 233, 417 S.E.2d at 596 (holding the applicant had failed to meet his burden where plea counsel testified he and the applicant had discussed the case and his options "on several occasions" before the applicant's plea and also noted the applicant's family never raised their concerns about the applicant's competency to the defense attorney). This Court also finds plea counsel's testimony that a potential learning disability was never raised to him or observed by him to be credible.

As to the claim that plea counsel failed to investigate, plea counsel testified he met with Applicant several times, secured a funding order and hired a private investigator, and also coordinated to have family members present to testify at Applicant's plea hearing. This Court finds plea counsel's testimony credible and finds there was sufficient investigation. This Court also finds Applicant failed to meet his burden of proving he suffered any prejudice because the State had overwhelming evidence of Applicant's guilt. See, e.g., Rosemond v. Catoe, 383 S.C. 320, 325, 680 S.E.2d 5, 8 (2009) (holding no prejudice occurred, even if trial counsel was deficient, where there was otherwise overwhelming evidence of the defendant's guilt).

#### **All Other Allegations**

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to

present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

**CONCLUSION**

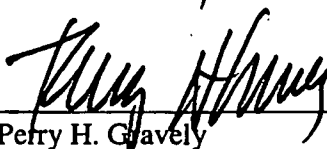
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.


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

**IT IS THEREFORE ORDERED:**

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 31<sup>st</sup> day of May, 2016.

  
\_\_\_\_\_  
Perry H. Gravelly  
Presiding Judge  
Eleventh Judicial Circuit

 \_\_\_\_\_, South Carolina.

**FORM 4**

**STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON  
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2014CP3203717**

Laquarius J Brannon #339615	State of South Carolina
--------------------------------	-------------------------

**PLAINTIFF(S)**

**DEFENDANT(S)**

<b>Submitted by:</b>	<b>Attorney for:</b> <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> 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.  See Page 2 for additional information.
- 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 JUDGMENT 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 (List amount(s) below)

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.**

6/1/2016

Circuit Court Judge

Judge Code

Date

**For Clerk of Court Office Use Only**

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on 2nd of June 2016, to attorneys of record or to parties (when appearing pro se) as follows:

**Aimee Jendrzejewski Zmroczek**  
A.J.Z. Law Firm, LLC PO Box 11961 Columbia, SC 29211

**Johanna Catalina Valenzuela**  
PO Box 11549 Columbia, SC 29211-1549

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

**ATTORNEY(S) FOR THE DEFENDANT(S)**

**Beth A. Carrigg/mh**

**Court Reporter**

**Beth A. Carrigg - Clerk of Court**

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

---

---

---

---

---

---

---

---

A. J. Z. Law Firm, LLC  
P.O. Box 11961  
Columbia, SC 29211

The Supreme Court of South Carolina  
ATTN: Daniel Shearouse, Clerk of Court  
PO Box 11330  
Columbia, SC 29211

