

FORM 1
NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

JAN - 6 2012

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

S.C. Supreme Court

The Honorable R. Lawton McIntosh, Circuit Court Judge

Case No. 2009-CP-32-2714

The State of South Carolina,

Respondent,

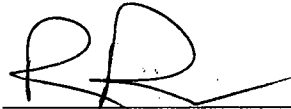
v.

Kevin D. Cook,

Appellant.

NOTICE OF APPEAL

Kevin D. Cook appeals the dismissal of his Post-Conviction Relief action. Mr. Cook was represented by appointed counsel, James O'Connor, at the Post-Conviction Relief hearing, which was held in front of the Honorable R. Lawton McIntosh on February 2, 2011. A final Order of Dismissal was received by Appellant's appointed counsel on December 20, 2011.



Richard J. Breibart, Esquire
Attorney for Appellant

Other Counsel of Record:
A. West Lee, Esquire
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3970
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

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JAN - 6 2012

The Honorable R. Lawton McIntosh, Circuit Court Judge **S.C. Supreme Court**

Case No. 2009-CP-32-2714

The State of South Carolina,

Respondent,

v.

Kevin D. Cook,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the Respondent by hand delivering a copy of it to The Honorable Alan Wilson, attorney for the Respondent, on January 5, 2012 to the South Carolina Attorney General's Office at 1000 Assembly Street, Room 519, Columbia, South Carolina 29201.

LAW OFFICE OF RICHARD J. BREIBART, LLC


Ken Kelly, Assistant for
Richard J. Breibart, Esquire
Law Offices of Richard J. Breibart, LLC
201 W. Main Street, Suite B
Lexington, South Carolina 29072
(803) 359-7996

Lexington, South Carolina

January 6, 2012

Hand Delivered

The Honorable Daniel Shearhouse
South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

RECEIVED

JAN - 6 2012

S.C. Supreme Court

RE: State of South Carolina v. Kevin Cook
2009-CP-32-2714

Dear Mr. Shearhouse:

Please find enclosed a Notice of Appeal in the above-captioned matter. Also enclosed are the following:

- (1) Proof of service of the notice of appeal on the Attorney General's office;
- (2) A copy of the Order of Dismissal in Mr. Cook's Post-Conviction Relief case; and
- (3) Orders of appointment and related motion.

This appeal is being filed with the Supreme Court pursuant to Rule 243 of the South Carolina Rules of Appellate Procedure.

Associates from my firm were appointed to represent Mr. Cook in a Post-Conviction Relief case. I have enclosed the Order appointing M. David Scott, Esquire, an associate employed by firm at the time of his appointment, and the Motion and Order substituting James B. O'Conner, Esquire, an associate employed by firm at the time of the hearing on this matter.

A copy of this Notice of Appeal has been sent to the SCCID-Division of Appellate Defense.

Yours truly,

LAW OFFICES OF RICHARD J. BREIBART, LLC

A handwritten signature in black ink, appearing to be 'RJB', written over a horizontal line.

Richard J. Breibart, Esquire

RJB/cc

Enclosures

cc: The Honorable Alan Wilson
1000 Assembly Street, RM 519
Columbia, SC 29201
Attorney for Respondent

SC Commission on Indigent Defense-Division of Appellate Defense

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2009CP3202714

RECEIVED
FEB 12 2010

Kevin D Cook vs. State Of South Carolina

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
 - Rule 12(b), SCRPC;
 - Rule 41(a),
 - SCRPC (Vol. Nonsuit);
 - Rule 43(k), SCRPC (Settled);
 - Other:
- ACTION STRICKEN (CHECK REASON):**
 - Rule 40(j) SCRPC;
 - Bankruptcy;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other: _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Court Reporter: _____

PRESIDING JUDGE -

This judgment was entered on the n/a, and a copy mailed first class this 10th day of February, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

M. David Scott
PO Box 310 Lexington, SC 29071
James Brian O'Connor
P.O. Box 2444 Lexington, SC 29071

A West Lee
Office Of The SC Attorney General
P O Box 11549 Columbia, SC 292111549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/lc

Beth A. Carrigg - Clerk of Court

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Kevin Cook, #268901

Plaintiff

v.

State Of South Carolina

Defendant.

IN THE COURT OF COMMON PLEAS **COPY**

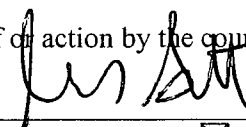
FILED

CASE NO.
2009-CP-32-02714

2010 JAN 28 P 4: 15

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

BETH A. GARRIGG
CLERK OF COURT
LEXINGTON SC

Plaintiff's Attorney: M. David Scott, Bar No. Address: P.O. Box 310, Lexington, SC 29071 phone: (803) 359-7996 fax: (803) 951-4619 e-mail: other:	Defendant's Attorney: A. West Lee, Bar No. Address: P.O. Box 11549, Columbia, SC 29211 phone: (803) 734-3970 fax: (803) 253-6283 e-mail: other:
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Estimated Time Needed: Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief of action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant	1/28/10 Date submitted
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support (check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: <input type="checkbox"/> Other:	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE _____ CODE: _____ Date: _____
CLERK'S VERIFICATION	
Date Filed: _____ Collected by: _____ <input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	

COPY

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

)
FILED IN THE COURT OF COMMON PLEAS
)

Kevin Cook, #268901,

2010 JAN 28 P 4:15

Case No.: 2009-CP-32-02714

Applicant,

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

v.

**MOTION TO BE RELIEVED AND TO
SUBSTITUTE COUNSEL**

State of South Carolina,

Defendant.

COMES NOW the undersigned attorney, M. David Scott, who moves the Court for an Order relieving him as counsel in the above-referenced matter. The basis for this Motion is that the undersigned is leaving private practice and the Law Office of Richard J. Breibart, LLC to become employed by the South Carolina Judiciary. Pursuant to his new job, the undersigned cannot represent Applicant or parties in pending cases before any Court in South Carolina. The Applicant, Kevin Cook, has been informed of this situation and by his signature below consents to this Motion and the relief requested herein.

Moreover, Mr. Scott has made arrangements with attorney James B. O'Connor, presently an associate with the Law Office of Richard J. Breibart, LLC. Mr. O'Connor has agreed to take over representation of Applicant Cook in this matter. Cook has been informed of this and likewise consents to the substitution of counsel and agrees to be represented by James O'Connor. By way of background, Mr. Scott was appointed by the Court to represent Applicant Cook in this matter; he has not been retained. The Movant knows of no prejudice which will befall the Applicant if this Motion is granted. At this point, the case is still in its relatively early stages and has not been set for trial.

For the reasons set forth above, the undersigned moves that M. David Scott be relieved and that James B. O'Connor be substituted as counsel of record for Applicant Kevin Cook in the above-captioned matter.

FILED

2010 JAN 28 P 4:16

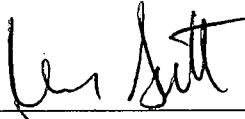
BETH A. CARRIG
CLERK OF COURT
LEXINGTON SC

Respectfully submitted,



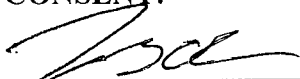
M. David Scott
Attorney for Applicant

MOVANT:



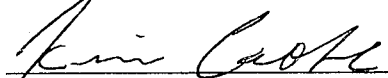
M. David Scott

I SO CONSENT:



James B. O'Connor

I SO CONSENT:



Kevin Cook, Applicant

COPY FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

2010 FEB -2 A II:5

Kevin Cook, #268901,

Applicant,

Case No.: 2009-CP-32-02714

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

v.

CONSENT ORDER

State of South Carolina,

Defendant.

This matter comes before the Court on motion of counsel for Applicant Kevin Cook. For good cause shown, with the consent of the Applicant, the Court hereby orders that M. David Scott be relieved as counsel of record for Kevin Cook in this matter and that James B. O'Connor be substituted as counsel of record. By his signature on the attached Motion filed with this Court, Applicant Kevin Cook agrees to this relief.

IT IS SO ORDERED this 2ND day of February, 2010.

R. Knox McMahon
R. Knox McMahon
Chief Administrative Judge, 11th Circuit

COPY

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

FILED

Kevin Cook, #268901,

Appellant,

v.

State of South Carolina,

Defendant.

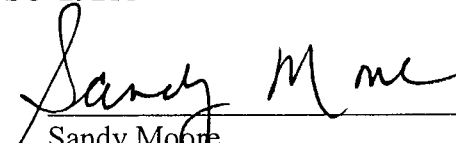
2010 JAN 28 5:41b Case No.: 2009-CP-32-02714

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

CERTIFICATE OF SERVICE

I, Sandy Moore, the undersigned employee of The Law Office of Richard J. Breibart, attorney for Applicant do hereby certify that I have served a copy of the foregoing **Motion to be Relieved and to Substitute Counsel**, in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

A. West Lee
Assistant Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211


Sandy Moore

Columbia, South Carolina
January 27, 2010

28

Common Pleas
Clerk : Beth A. Carrigg
Lexington County Judicial Center
Lexington, SC 29072
(803) 785-8212

Received From: Scott, M. David

Date : 1/28/2010
 RECEIPT # 129301

Paying for: Lexington, SC 29071
 Cook, Kevin D

Clerk: vwhite

Transaction Type: Payment

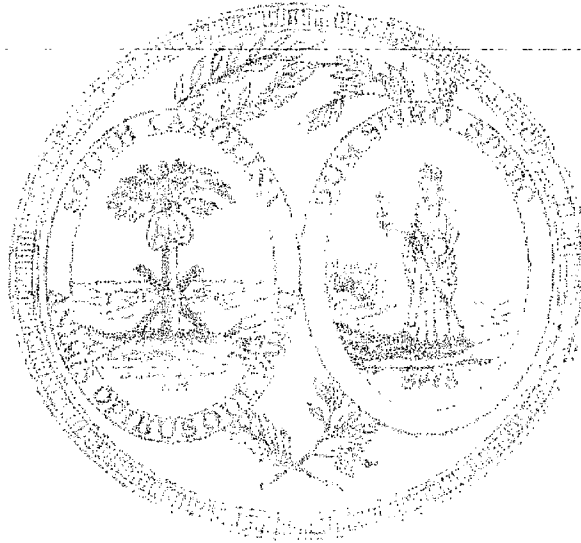
Payment Type: Check \$25.00

Reference # 24906

Comment:

Total Paid \$25.00

<u>Case #</u>	<u>Caption</u>	<u>Previous Balance</u>	<u>Amount Paid</u>	<u>Balance Due</u>
2009CP3202714	Kevin D Cook VS State Of South Carolina	\$25.00	\$25.00	\$0.00



Total Cases: 1	\$25.00	\$25.00	\$0.00
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STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
Kevin Cook)
263901) Applicant)
)
STATE OF SOUTH CAROLINA)
)
Respondent)
)

IN THE COURT OF COMMON PLEAS
DOCKET NO. 2009-CP-32-2714
ORDERING APPOINTING COUNSEL
POST CONVICTION RELIEF APPLICATION

The Applicant has filed an application for post-conviction relief pursuant to Section 17-27-20, South Carolina Code of Laws, and it appears that the Applicant is indigent.

In accordance with the order and direction of the Court in such case, IT IS ORDERED that *M. David Scott*, Esquire, *201 W. Main Street* (Address) *Suite B Lexington SC 29073*, Telephone No. *803-359-7996*, is appointed to represent the Applicant in this proceeding.

The trial attorney was *Allyson Carbaugh*.
The court reporter at the trial was *Joy Holton*.

Attention is directed to a publication of the Post Conviction Relief Subcommittee of the Young Lawyers Division, Post Conviction Relief Proceedings in South Carolina, South Carolina Bar, 1990.

Beth A. Curry
Clerk of Court for LEXINGTON County

Lexington, South Carolina
Sept 2, 20*09*

White Copy - Original Yellow Copy - To Attorney Pink Copy - To SC Attorney General



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

January 17, 2012

RECEIVED

JAN 17 2012

S.C. Supreme Court

Ms. Rema Gantt Thomas
Circuit Court Reporter
806 Yacht Club Pointe
Chapin, SC 29036-9998

Dear Ms. Thomas:

Please provide us with the following transcript:

Kevin D. Cook v. State of South Carolina Case #: 09-CP-32-02714

County: Lexington Date of Trial: February 2, 2011

Presiding Judge: R. Lawton McIntosh

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,


Lorlene French
Legal Services Coordinator

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

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2009CP3202714

Kevin D Cook	State Of South Carolina
PLAINTIFF(S)	DEFENDANT(S)

Submitted by:	Attorney for: <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.
- 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(a), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confer, 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 orders follow)

Statement of Judgment by the Court.

ORDER INFORMATION

This order ends does not end the case.

(Additional Information for the Clerk)

BOX 5

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 (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 in the fine 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.**

	2155	12/19/2011
Circuit Court Judge	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on 16th day of December 2011, and copy mailed first day or placed in the appropriate attorney's box on 19th day of December 2011. Transmits of record or to parties (when appearing pro se) as follows:

James Brian O'Connor P.O. Box 2444 Lexington, SC 29071

Kaelon May Office Of The SC Attorney General P O Box 11539 Columbia, SC 292111549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/wh

Beth A. Carrigg - Clerk of Court

Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
)
)
Kevin D. Cook, # 268901,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT

2009-CP-32-2714

ORDER OF DISMISSAL

FILED

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed June 11, 2009. The Respondent made its Return on December 15, 2009. An evidentiary hearing into the matter was convened on February 2, 2011, at the Lexington County Courthouse. The Applicant was present at the hearing and was represented by Jim O'Connor, Esquire. The Respondent was represented by A. West Lee of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Allyson Carbaugh, Esquire ("counsel"). This Court also had before it a copy of the transcript of the proceedings against the Applicant, the records of the Lexington County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections.

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. The Applicant was indicted at the July 2008 term of the Lexington County Grand Jury for Kidnapping, Armed Robbery and Burglary – First Degree (2008-GS-32-2040/2041/2042). He was represented by Allyson Carbaugh, Esquire, on the charges. On

September 23, 2008, the Applicant pled guilty to before the Honorable G. Thomas Cooper, and was sentenced to twenty (20) year terms of imprisonment for Kidnapping and Armed Robbery, as well as a fifteen (15) year term of imprisonment for the lesser offense of Burglary -- Second Degree, all sentences to run concurrently. The Applicant did not appeal his guilty plea or sentence.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - i. "I did not know I had a right to appeal my guilty plea."
2. Involuntary Guilty Plea
 - i. "Applicant asserts that he pled guilty under duress."
3. "Applicant's substantive due process was violated."

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).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a 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).

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.

With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to

trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Ineffective Assistance of Counsel

Applicant has alleged that his plea was not entered voluntarily and knowingly as counsel coerced him into pleading guilty. As stated above, an Applicant in PCR that pleads guilty on counsel's advice may only collaterally attack the voluntary and knowing nature of his guilty plea by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe, supra. Therefore, this allegation is essentially a claim of ineffective assistance of counsel that rendered a guilty plea involuntary. Applicant has also alleged he entered his plea under duress.

At the PCR hearing, Applicant testified counsel had advised him he would probably receive sentences between ten (10) and twelve (12) years on the charges under the terms of the plea because she knew the plea judge. Applicant went on to say, had he known he was going to receive twenty (20) year sentence, he would not have pled but rather would have insisted on proceeding to trial. Applicant articulated that he was aware of the state's recommendation of a twenty (20) year capped sentence and went on to say that counsel had discussed the meaning of a

recommended sentence, including the idea that the judge did not have to follow the recommendation and could exceed the recommended term if he saw fit.

Counsel testified she was appointed to represent Applicant on the charges roughly three (3) months after Applicant's arrest, after which she met with Applicant several times at the Lexington County Detention Center to discuss the charges he was facing. During those meetings, counsel reviewed the facts giving rise to the charges with Applicant, the potential sentences Applicant was facing including a potential life sentence on the Burglary charge, and Applicant's constitutional rights including the right to a jury trial. Counsel testified Applicant had been very forthcoming with his version of the facts giving rise to the charges, and based on those discussions there was very little in dispute with the facts set forth by the state and the evidence. Counsel stated she did tell Applicant she would request the judge impose a ten (10) to twelve (12) year sentence, but denied ever promising or guaranteeing Applicant any such sentence. Counsel went on to say it was ultimately Applicant's decision to enter this plea and, had Applicant insisted on proceeding to trial, she would have been prepared to do so.

I find Counsel's testimony to be credible. Conversely, I find Applicant's testimony to not be credible. Counsel advised Applicant of the relevant issues regarding the charges he was facing, including the facts giving rise to the charges, Applicant's constitutional rights, the potential sentences he was facing, the meaning and implication of a recommended sentence, and the consequences of rejecting this plea to advance to trial. Counsel gave Applicant all the information and advice to make an intelligent and voluntary decision on whether to enter this plea. Applicant readily admits he was aware of the sentence he could receive based on the state's recommendation, but is now unhappy with the sentence he received as he held out hope for a ten to twelve year sentence. (*wishful thinking regarding sentencing does not equal a*

misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made. Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 371 (1997).) Applicant has failed to prove any duress or coercion was wielded upon him such to make his plea involuntary or to render counsel's representation ineffective.

Based on the facts above, I find that Applicant did not prove by a preponderance of the evidence that counsel was ineffective in his representation. Further, I find that Applicant's guilty plea was entered knowingly and voluntarily after being fully and adequately advised by competent counsel acting within the range of competence demanded of attorneys in criminal cases.

Direct Appeal

Applicant's second contention is counsel was ineffective in failing to advise him of, or otherwise carry out, Applicant's direct appeal. Applicant contends that based on this deficiency, he is entitled to a belated direct appeal pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974).

Applicant testified at the PCR hearing that counsel had filed an appeal on his behalf, but Applicant later agreed to withdraw it after counsel advised him he would receive a longer sentence if the action was granted. Applicant concedes counsel did review the right to appeal with him, but alleges he withdrew the appeal because he was afraid of a longer sentence based on his discussions with counsel. Counsel conversely testified that the actual matter filed after Applicant's plea was a motion to reconsider, not a direct appeal. She agreed she never filed an appeal on Applicant's behalf, as Applicant never expressed an interest in appealing after she advised him of that right. Further, counsel testified she had counseled Applicant to withdraw his

motion to reconsider after learning from the solicitor of an additional, highly-incriminating piece of evidence not introduced at the plea that the State planned to bring to the judge's attention if Applicant pursued the motion. Counsel ultimately stated that, had Applicant expressed an interest in appealing his plea or sentence, she would have done so on his behalf.

In Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029, 145 L.Ed.2d 985 (2000), the United States Supreme Court found that counsel does not always have to consult with a defendant regarding an appeal. Counsel must only consult with a defendant about an appeal in two situations: (1) where a rational defendant would want to appeal, as when there are non-frivolous grounds for an appeal, or (2) where a defendant reasonably demonstrated to counsel that he was interested in an appeal. Id. Courts must take into account all information counsel knew or should have known in making this determination. Id. Based on the testimony at trial and a thorough review of the record, I find Applicant has failed to carry his burden in proving this allegation. Further, I find counsel's testimony on the subject to be credible. Counsel fully advised Applicant of his right to appeal, after which Applicant never requested or exhibited a desire to appeal his plea. Additionally, Applicant failed to set forth any non-frivolous grounds for appeal which a rational defendant would have pursued. Therefore, I find this allegation is without merit and must be dismissed.

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. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

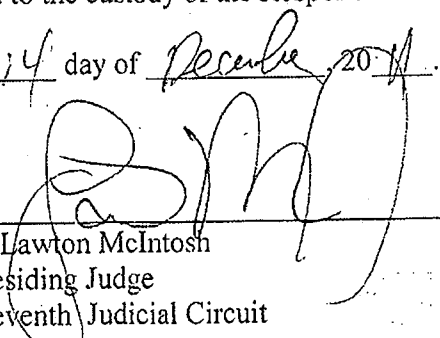
Except as discussed above, this Court finds that the Applicant failed to raise any other allegations cognizable in PCR at the hearing and has, thereby, waived them. The Applicant's failure to address these issue at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court advises 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), SCRCP, 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. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

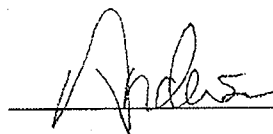
IT IS THEREFORE ORDERED:

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 14 day of December, 2011.



R. Lawton McIntosh
Presiding Judge
Eleventh Judicial Circuit


_____, South Carolina.

FILED



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

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

RECEIVED

APR 16 2012

April 16, 2012

S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk, S.C. Supreme Court
Post Office Box 11330
Columbia, SC 29211

Dear Mr. Shearouse:

The following case falls under the 60 day rule for appeals, and the date we received the transcript is listed to the side.

Kevin D. Cook v. State of South Carolina

4/16/2012

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,

Loriene French
Legal Services Coordinator



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

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

RECEIVED

APR 18 2012

April 18, 2012

The Honorable Daniel E. Shearouse
Clerk, S.C. Supreme Court
Post Office Box 11330
Columbia, SC 29211

S.C. Supreme Court

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.

Kevin D. Cook v. State of South Carolina

4/16/2012

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,

Loriene French
Legal Services Coordinator

*Duplicate of
Apr. 16, 2012
letter.*



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

June 7, 2012

RECEIVED

JUN - 8 2012

S.C. Supreme Court

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

Re: Kevin D. Cook v. State of South Carolina

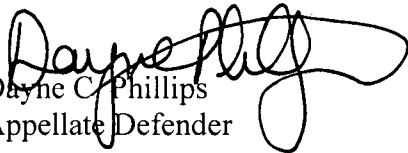
Dear Mr. Shearouse:

The petition for writ of certiorari and appendix in the above-referenced case are due to be served and filed on **June 15, 2012**. 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 Kaelon May, I am informing her of this request.

Thank you for your assistance in this matter.

Sincerely,


Dayne C. Phillips
Appellate Defender

DCP/fkb

cc: Kaelon May, Esquire

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

 ORIGINAL

Certiorari to Lexington County
R. Lawton McIntosh, Circuit Court Judge

KEVIN COOK,

RECEIVED

PETITIONER, JUL 16 2012

V.

S.C. Supreme Court

STATE OF SOUTH CAROLINA,

RESPONDENT

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

Counsel for Kevin Cook 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:

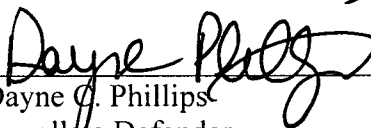
1. The petition for writ of certiorari and appendix is due to be served and filed with the Court today, July 16, 2012.
2. Counsel for Mr. Cook respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.
3. On 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 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. On July 9, 2012

counsel filed the petition for writ of certiorari and appendix in Jameek J. Williams v. State in this Court. On today, counsel will file the initial brief of appellant and designation of matter in Antwan Grayson v. State in the Court of Appeals. 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. On July 9, 2012 counsel filed the petition for writ of certiorari and appendix in Jameek J. Williams v. State. On June 21, 2012 counsel filed the petition for writ of certiorari in the Court of Appeals in State v. Nathaniel Murray. On June 20, 2012 counsel filed the petition for writ of certiorari and appendix in Douglas Rice v. State in this Court. On June 18, 2012 counsel filed the petition for writ of certiorari and appendix in Ivan A. Lee v. State in this Court. On June 14, 2012, counsel filed the petition for writ of certiorari and appendix in Preston Costa v. State in this Court. On June 6, 2012, counsel had an oral argument in State v. Tremaine Rashon Wray in the Court of Appeals. On June 4, 2012 counsel had an oral argument in State v. Kasseem Stephens in the Court of Appeals. On June 1, 2012, counsel filed the initial brief of appellant and designation of matter in State v. Ashley Moore in the Court of Appeals.

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 Lexington County
R. Lawton McIntosh, Circuit Court Judge

KEVIN COOK,

PETITIONER,


V.

STATE OF SOUTH CAROLINA,

RESPONDENT

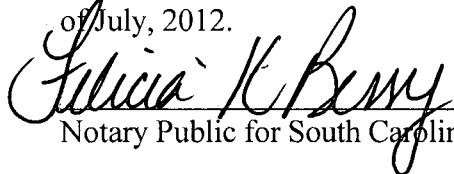
CERTIFICATE OF SERVICE

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 Kaelon May, Esquire, this 16th day of July, 2012.


Dayne C. Phillips
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 16th day
of July, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: June 21, 2020.

The Supreme Court of South Carolina

Kevin D. Cook, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-206048


The Honorable R. Lawton McIntosh
Lexington County
Trial Court Case No. 2009CP3202714

ORDER

The request for an extension to serve and file the Petition for Writ of Certiorari and Appendix is granted and extended until July 16, 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

June 11, 2012

cc: Kaelon Elizabeth May
Dayne C. Phillips

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

 ORIGINAL

2012-
206048

Certiorari to Lexington County
R. Lawton McIntosh, Circuit Court Judge

KEVIN COOK,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

RECEIVED

AUG 16 2012

S.C. Supreme Court

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

Counsel for Kevin Cook respectfully requests an extension of a **final** 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 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 on August 16, 2012.
2. Counsel for Mr. Cook 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. Counsel is preparing to file 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 to the Court of Appeals and appendix 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 will filed initial

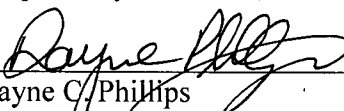
brief of Appellant in State v. Donald Altman in the Court of Appeals. On July 23, 2012, counsel filed the petition for writ of certiorari and appendix in Alonzo Jenkins v. State in this Court. On July 20, 2012 counsel filed the initial brief of appellant in State v. Richard Beekman in the Court of Appeals. 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 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. On July 9, 2012 counsel filed the petition for writ of certiorari and appendix in Jameek J. Williams v. State in this Court. On today, counsel will file the initial brief of appellant and designation of matter in Antwan Grayson v. State in the Court of Appeals. 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. On July 9, 2012 counsel filed the petition for writ of certiorari and appendix in Jameek J. Williams v. State.

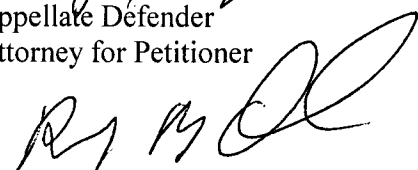
4. Counsel makes this request in good faith and not for purpose of delay.

5. As indicated by signature below, Kaelon Mays, of the South Carolina Attorney General's Office, does not oppose this request.

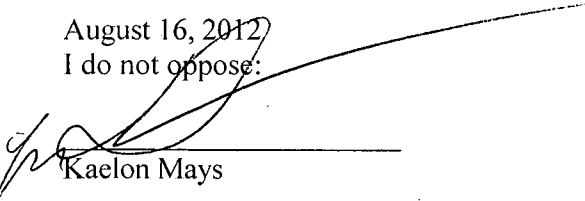
WHEREFORE, the undersigned counsel would respectfully request a **final** thirty day extension, in which to file the petition for writ of certiorari and appendix in this case based upon the above exigent circumstances. Counsel requests that time limits for filing the petition be held in abeyance pending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

Respectfully submitted,


Dayne C. Phillips
Appellate Defender
Attorney for Petitioner


Robert M. Dudek
Chief Appellate Defender

August 16, 2012
I do not oppose:


Kaelon Mays

The Supreme Court of South Carolina

Kevin D. Cook, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-206048

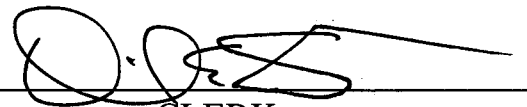
The Honorable R. Lawton McIntosh
Lexington County
Trial Court Case No. 2009CP3202714

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 August 16, 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



CLERK

Columbia, South Carolina

July 17, 2012

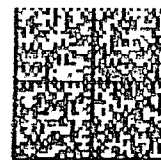
cc:

Kaelon Elizabeth May

Dayne C. Phillips

Kevin Cooke # 268901
Lieber C.I. Max A-114
Box 205
Ridgeville SC 29472

FIRST CLASS

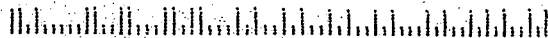


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MAILED FROM ZIP CODE 29472

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

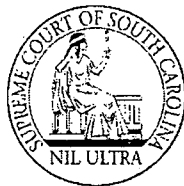
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OCT 17 2012
MAIL ROOM
LIEBER C.I.



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

September 14, 2012

Kevin D. Cook, 268901
Lieber Correctional Institution
P O Box 205
Ridgeville SC 29472

Re: Kevin D. Cook v. The State
Appellate Case No. 2012-206048

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,

Daniel L. Shearouse
85

CLERK

cc: Kaelon Elizabeth May
Dayne C. Phillips

The Supreme Court of South Carolina

Kevin D. Cook, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-206048

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 September 17, 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 Srenda J. Shealy
Chief Deputy Clerk

Columbia, South Carolina

August 17, 2012

cc: Kaelon Elizabeth May
Dayne C. Phillips

Daniel Shearouse

Oct. 16, 2012

Clerk of Court


Brenda F. Shealy
Chief Deputy Clerk

RECEIVED

OCT 30 2012

S.C. SUPREME COURT

Dear Sir(s),

My name Kevin Cooke, and I am writing you to make sure you received my paperwork. On about October 3, 2012 I sent a copy of the Supplemental Petition for Writ of Certiorari for my case, to the Supreme Court of South Carolina. I just want to be sure that you received them. Can you please send me something to let me know that you have it on file? Thank you  very much for your help.

Kevin Cooke

2012-206048

Mailed cover of
pro se response
to her on 10/30/12.

557

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

1. 2010-178866 Darrell Efrid v. State
2. 2011-193110 Preston Costa v. State
3. 2011-193113 McCenia Amouri Dials v. State
4. 2011-193527 Tyrone Ransom v. State
5. 2011-193709 Reginald Davis v. State
6. 2011-195226 Marty Craig McKinsey v. State
7. 2011-196591 Juan-Ramos v. State
8. 2011-196599 Phillip Antonio Byrd v. State
9. 2011-197706 Victor C. Penny v. State
10. 2011-197707 Daniel B. Stratten v. State
11. 2011-197708 Kimjaro Presley v. State
12. 2011-198349 Troy Robinson v. State
13. 2011-198472 Richard Bernard Moore v. State
14. 2011-199414 Bobby Shay Rathburn v. State
15. 2011-199417 Tyrone Lewis Jr. v. State
16. 2011-199927 Anthony Williams v. State
17. 2011-200190 Christopher J. Hickman v. State
18. 2011-200548 Quentes S. Wells v. State
19. 2011-201107 Demetrius Lewis v. State
20. 2011-201129 Chan Bun v. State
21. 2011-201146 Thaddeuss Starks v. State
22. 2011-201589 Adam Bickham v. State
23. 2011-202767 Fredrick Alphonso Irby v. State
24. 2011-202769 Drew John Monahan v. State

25. 2011-202770 Michael D. Day v. State
26. 2011-202773 Richard F. Whelchel v. State
27. 2011-204347 Lance Lyles v. State
28. 2011-204375 Russell Fred Spitzer v. State
29. 2011-204386 Darrell L. Goss v. State
30. 2011-204847 Kenaz Collier v. State
31. 2011-204966 Clarence Bamberg v. State
32. 2012-205988 Chadrick Cole v. State
33. 2012-206006 Richard Stegall v. State
34. 2012-206007 Dustin Tiller v. State
35. 2012-206008 Frankie Lee Bryant III v. State
36. 2012-206048 Kevin D. Cook v. State
37. 2012-206227 Tashon Sampson v. State
38. 2012-206228 Douglas L. Rice v. State
39. 2012-206648 Tippy Marie Retana v. State
40. 2012-206672 Vante R. Birch v. State
41. 2012-207129 Keith R. Bradley v. State
42. 2012-207131 David A. Fowler v. State
43. 2012-207133 James F. Russell v. State
44. 2012-207147 Cecil Allen Simmons v. State
45. 2012-207246 Andre Lee Reed v. State
46. 2012-207555 Steven R. Johnson v. State
47. 2012-207626 Archie Hoover v. State
48. 2012-207627 Stanley Bradley v. State
49. 2012-207628 Marcus Martin v. State
50. 2012-207816 Darrell Gleaton v. State
51. 2012-207817 Evelyn Buckle v. State
52. 2012-208011 James Wilkinson v. State
53. 2012-208012 Kenneth L. Young v. State
54. 2012-20826 Wiley Post James v. State
55. 2012-208047 Korrell Battle v. State
56. 2012-208666 Larry Mitchell v. State
57. 2012-208667 Wilbur G. Moses Jr. v. State
58. 2012-208889 Dennis L. Snipes v. State
59. 2012-208906 Tommie Watts v. State
60. 2012-209526 Kareem Wiley v. State
61. 2012-209532 Brian Powell v. State
62. 2012-209536 Phillip A. Hingleton v. State
63. 2012-209537 John P. Hendrix v. State
64. 2012-210228 Clark Inabinett v. State

65. 2012-210669 Sean D. Wells v. State
66. 2012-210670 Christian Harris v. State
67. 2012-210671 James Matthews v. State
68. 2012-210672 Jason D. Parker v. State
69. 2012-211090 Nathaniel Caldwell III v. State
70. 2012-211269 Nancy E. VonCannon v. State
71. 2012-211289 Christopher M. Vaughn v. State
72. 2012-211296 Douglas Thompson v. State
73. 2012-211389 Teddie Lee Grant v. State
74. 2012-211391 Jerod Juan Cook v. State
75. 2012-211592 Michael Freeman v. State
76. 2012-211874 Ackief Pauling v. State
77. 2012-212070 Vondell Sanders v. State
78. 2012-212076 Fredy Sibrian v. State
79. 2012-212079 Jamal Lindsey v. State
80. 2012-212090 DeRoyick Montgomery v. State
81. 2012-212099 Clinton F. Stephens v. State
82. 2012-212155 Terrance Tompkins v. State
83. 2012-212162 Wayne Cooley v. State
84. 2012-212227 Montavis K. Gaines v. State
85. 2012-212300 Alfred Redwine v. State
86. 2012-212303 Tyquan Jared Amir Jones v. State
87. 2012-212304 Harry N. Charles II v. State
88. 2012-212312 Tyrone A. Ravenell v. State
89. 2012-212315 Matthew William Gilliard III v. State
90. 2012-212317 Michael Anthony York v. State
91. 2012-212353 Donald Hurlbert v. State
92. 2012-212400 West Webb Mitchem v. State
93. 2012-212401 Kieve Malik Smith v. State
94. 2012-212408 Derrick F. Williams v. State
95. 2012-212411 Jason Maness v. State
96. 2012-212505 Floyd Randolph Granger III v. State
97. 2012-212520 Kimberly Taylor v. State
98. 2012-212580 Brandon Lav'ar Johnson v. State
99. 2012-212591 Robert Young v. State
100. 2012-212592 Joseph A. Dozier v. State
101. 2012-212649 Tony Lynn v. State
102. 2012-212733 Leon Billups v. State
103. 2012-212737 Harry H. Jones v. State
104. 2012-212780 Boyce Lee Nesbitt v. State

105. 2012-212783 Clarence Miller v. State
106. 2012-212785 Albert Spann v. State
107. 2012-212811 Devin Gantt v. State
108. 2012-212826 Frank Green Jr. v. State
109. 2012-212831 Stephen Paul Casillo v. State
110. 2012-212869 Jose M. Maldonado v. State
111. 2012-212877 Little Johnny Lee Mackey v. State
112. 2012-212882 Randy Bryant v. State
113. 2013-000427 Lamont Valentine Poole v. State
114. 2013-000429 Larry Prophet v. State
115. 2013-000627 Rachion Omar Robinson v. State
116. 2013-000654 Pernell Thompson v. State
117. 2013-000870 Lavar Sanders v. State
118. 2013-000872 Casio Mack Richardson v. State
119. 2012-213129 Billy Nathan Lee v. State
120. 2012-213201 Stacey Abney v. State
121. 2012-213240 Gary Waiters v. State
122. 2012-213292 Ronald Footman v. State
123. 2012-213308 Melcelus Toland v. State
124. 2012-213338 Sylvester Boone v. State
125. 2012-213420 Morris Stewart v. State
126. 2012-213562 Christopher Shell v. State
127. 2012-213573 Randy Jennings v. State
128. 2012-213619 Matthew Taylor v. State
129. 2012-213661 Robert L. Dickerson v. State
130. 2012-213667 Kamala Creighton v. State
131. 2012-213668 David Heath v. State
132. 2012-213671 Henry Lee Bradley v. State
133. 2012-213684 Christopher Dale Shirley v. State
134. 2012-213700 David Lee Rose v. State
135. 2013-000043 Steven William Roberts v. State
136. 2013-000045 Christopher Dean Johnson v. State
137. 2013-000069 Ricky Price v. State
138. 2013-000079 Anthony M. Brown v. State
139. 2013-000111 Pamela Marie Teal v. State
140. 2013-000127 (Bobby) Robert James Rippy v. State
141. 2013-000128 Travis Sentell Rice v. State
142. 2013-000137 Michael A. Williams v. State
143. 2013-000139 Timothy Stahlnecker v. State
144. 2013-000362 Stanley L. Butler v. State

145. 2012-212890 Antoine J. China v. State
146. 2012-212936 Christopher O'Neal Pringle v. State
147. 2012-213032 Angel Gonzales v. State
148. 2012-213036 David Andres Ortiz Molina v. State
149. 2012-213038 Travis D. Bellamy v. State
150. 2012-213118 Kareem J. Leaphart v. State

IT IS SO ORDERED.

 CJ.
FOR THE COURT

Columbia, South Carolina

November 22, 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

Tara D. Shurling, Esquire
Joshua Snow Kendrick, Esquire
Ernest Charles Grose, Jr., Esquire
Jeremy Adam Thompson, Esquire
Glenn Walters, Esquire
R. Bentz Kirby, Esquire
Hemphill P. Pride, III, Esquire
William Joseph Barr, Esquire
Arie D. Bax, Esquire
Bruce A. Bryholdt, Esquire
Tommy Thomas, Esquire
Teddie Lee Grant #342172
Wilbur G. Moses Jr. #244241
Michael Freeman #262416
Kevin D. Cook #268901
Phillip A. Hingleton #166888
Michael D. Day #318713
Larry Mitchell #264463
Korrell Battle #292294
Steven R. Johnson #245428
Frederick Alphonso Irby #339195
Andre Lee Reed #218837
Fredy Sibrian #338184
Tashon Sampson #261273
James Matthews #258992
Jason D. Parker #328223
Kimberly Taylor #316813
Nancy E. VonCannon #315528
Christopher M. Vaughn #339181
Travis D. Bellamy #323612
Terrance Tompkins #318169
Clinton F. Stephens #246685
Morris Stewart #343460
Tyquan Jared Amir Jones #320934
Harry N. Charles II #268775
Tyrone A. Ravenell #318711
Derrick F. Williams #331226
Albert Spann #324640
Pamela Marie Teal #343575
Wayne Cooley #168807

Jose M. Maldonado #340872
Alfred Redwine #291230
Little Johnnie Lee Mackey #294652
Travis Sentell Rice #304580
Joseph A. Dozier #255343
Gary Waiters #273876
Pernell Thompson #336975
Clarence Miller #267397
Larry Prophet #304134
Christopher Dale Shirley #339568
David Lee Rose #091858
Lemont-Valentine Poole #265389
Christopher Shell #181291
Robert L. Dickerson #113793
Floyd Randolph Granger III #339558
Brandon Lav'ar Johnson #321109
Sylvester Boone #341082
Christopher Dean Johnson #343032
Ricky Price #285743
Kareem J. Leaphart #297361
Casio Mack Richardson #339735
Devin Gantt #337539
Randy Jennings #259845
Anthony M. Brown #341644
Michael A. Williams #273114
David Heath #128440
Antoine J. China #292911
The Honorable Jenny Kitchings

The South Carolina Court of Appeals

Kevin D. Cook, Petitioner,

v.

State of South Carolina, Respondent.


Appellate Case No. 2012-206048

ORDER

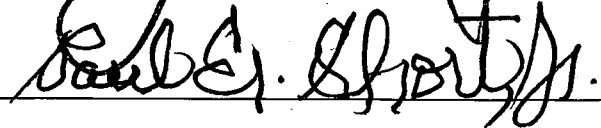
This matter is before the Court on a petition for a writ of certiorari following the denial of Petitioner's application for post-conviction relief.

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.



C.J.



J.



J.

Columbia, South Carolina

FILED
July 17, 2014
27

cc: Carmen Vaughn Ganjehsani, Esquire
John Walter Whitmire, Esquire
Salley W. Elliott, Esquire
John W. McIntosh, Esquire
Alan McCrory Wilson, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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July 17, 2014

Kevin D. Cook, #268901
Lieber Correctional Institution
P O Box 205
Ridgeville SC 29472

Re: Kevin D. Cook v. The State
Appellate Case No. 2012-206048

Dear Mr. Cook:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Carmen Vaughn Ganjehisani, Esquire
John Walter Whitmire, Esquire
Salley W. Elliott, Esquire
John W. McIntosh, Esquire
Alan McCrory Wilson, Esquire
The Honorable R. Lawton McIntosh



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

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August 05, 2014

The Honorable Beth Carrigg
205 E Main St Ste 146
Lexington SC 29072-3557

REMITTITUR

Re: Kevin D. Cook v. The State
Lower Court Case No. 2009CP3202714
Appellate Case No. 2012-206048

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: Carmen Vaughn Ganjehsani, Esquire
John Walter Whitmire, Esquire
Salley W. Elliott, Esquire
John W. McIntosh, Esquire
Alan McCrory Wilson, Esquire
Kevin D. Cook, #268901
The Honorable R. Lawton McIntosh