

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No.: 2015CP022458

RECEIVED

SEP 22 2016

S.C. SUPREME COURT

State of South Carolina,

Respondent,

v.

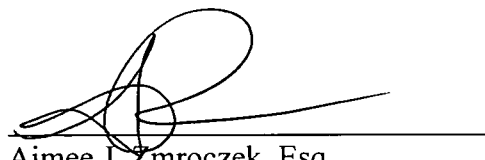
William H. McCladdie,

Appellant.

NOTICE OF APPEAL

William McCladdie, #364614, pursuant to the Order of Dismissal filed on August 22, 2016 and received by counsel on August 22, 2016 which granted a belated review of direct appeal issues pursuant to *White v. State*, 263 S.C. 110, 108 S.E.2d 35 (1974).

September 22, 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:  
Julie Coleman, Esq.  
PO Box 11549  
Columbia, SC 29211  
Counsel for Respondent

THE STATE OF SOUTH CAROLINA  
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William H. McCladdie,

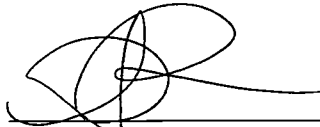
Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Julie Coleman by depositing a copy of it in the United States Mail, postage prepaid, on September 22, 2016, addressed to her office at:

PO Box 11549  
Columbia, SC 29211

September 22, 2016



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

STATE OF SOUTH CAROLINA )  
COUNTY OF AIKEN )  
)  
)  
)  
William H. McCladdie, #364614, )  
)  
)  
Applicant, )  
)  
v. )  
)  
State of South Carolina, )  
)  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE SECOND JUDICIAL CIRCUIT

2015-CP-02-02458

**ORDER OF DISMISSAL AND  
GRANT OF APPEAL PURSUANT TO  
WHITE V. STATE**

This matter comes before the Court by way of an Application for post-conviction relief (PCR) filed October 19, 2015. Respondent made its Return on December 18, 2015.

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was true bill indicted at the July 2015 term of the Aiken County Grand Jury for burglary – first degree (2015-GS-02-01103); possession of tools capable of being used in crime (2015-GS-02-0104); possession of a stolen vehicle (2015-GS-02-01105). Michael B. McMillian, Esquire represented Applicant. On July 8, 2015, Applicant was found guilty on all charges. The Honorable Doyet A. Early, III. Judge Early sentenced Applicant to fifteen year term of imprisonment for burglary – first degree, five year term of imprisonment for possession of tools capable of being used in a crime, and ten year term of imprisonment for possession of a stolen vehicle with all sentences running concurrently.

FILED 8.22.16  
Shirley Hodard  
J.C.C.P. & G.S.  
Wanda K. Hoyle  
Clerk of Court  
M.E.  
#1

Applicant filed a notice of appeal. On August 19, 2015, The South Carolina Court of Appeals dismissed the notice of appeal for untimely service. The remittitur was returned to the circuit court on September 28, 2015.

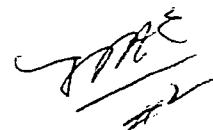
II.

This Court agrees that Applicant did not waive his right to a direct appeal. In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal if requested or comply with the procedure required by Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967). White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). Where the post-conviction relief judge determines that the applicant did not freely and voluntarily waive his appellate rights, the applicant may petition the South Carolina Supreme Court for review of direct appeal issues pursuant to White v. State, See Rule 227(g) (1), SCACR; Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986).

This Court affirmatively finds the Applicant did not knowingly and voluntarily waive his right to a direct appeal. The Court concludes that the Applicant is entitled to a belated review of his convictions. A petition for belated review pursuant to White v. State can remedy Applicant's lack of a direct appeal.

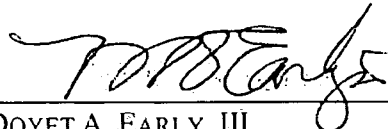
**IT IS THEREFORE ORDERED:**

1. That this current Application for Post-Conviction Relief be dismissed with prejudice.
2. That the Applicant is granted a belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). Within thirty days of service of this Order, counsel for Applicant must file a Notice of Appeal to secure the appropriate review of Applicant's convictions. Counsel and the Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986) and South Carolina Appellate Court Rule 227(g) for the appropriate procedure for securing belated appellate review.

Handwritten signature and initials, possibly "JAE" and "#2", in the bottom right corner of the page.

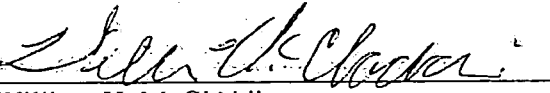
3. That Applicant be remanded to the custody of Respondent.


AND IT IS SO ORDERED


  
DOYET A. EARLY, III  
Chief Administrative Judge  
Second Judicial Circuit

8/10, 2016  
Sumner, South Carolina

WE CONSENT:

  
William H. McCladdie  
Applicant

  
Julie A. Coleman, Esquire  
Assistant Attorney General  
Attorney for the Respondent

  
Aimee Zimroczek, Esquire  
Attorney for the Applicant

*10/16*

**FORM 4**

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2015CP0202458

William Herbert McCladdie		South Carolina State Of	
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<b>PLAINTIFF(S)</b>	<b>DEFENDANT(S)</b>
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.  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	8/22/2016
		Date

**For Clerk of Court Office Use Only**

This judgment was entered on 8-22-16, and a copy mailed first class or placed in the appropriate attorney's box on 8-22-16, 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

Julia Amanda Coleman PO Box 11549 Columbia, SC 29211

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ATTORNEY(S) FOR THE PLAINTIFF(S)

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ATTORNEY(S) FOR THE DEFENDANT(S)



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Court Reporter

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Liz Godard - Clerk of Court

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**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.

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