

Date: \_\_\_\_\_

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

**RECEIVED**  
DEC -2 2016  
S.C. SUPREME COURT

Dear Mr. Shearouse:

I am writing you due to my inability to properly obtain my constitutional right of access to the courts, via my Court-appointed counsel, as it relates to the seemingly ignored filing of a Notice of Appeal in Sumter County (see enclosed 'Exhibit A').

My PCR was dismissed by Judge James and clock-stamped on October 8<sup>th</sup>, 2015. I desired to preserve my issues and appeal but was frustratingly unable to reach PCR counsel (see letter labeled 'Exhibit B'). Given this, I had a pro se Motion / Notice of Appeal sent to James C. Campbell, Sumter Clerk of Court, within the required 30-day time period and it was clocked-stamped November 4, 2015 (Exhibit A). I received no return clock-stamped copy or notice of appeal copy as requested. All of my attempts to reach my PCR counsel to find out the status or a hearing date were unsuccessful. He completely disappeared after my PCR hearing and in doing so has utterly failed his duties under lawyer conduct in SCACR. Even so, he has left me in a state of legal limbo as I am not an attorney.

I continue to take it upon myself to try to find out the status of my case and how to proceed. Confirming its entry and now re-confirming that there was no action of any kind taken by copied PCR counsel Cornwell to present my issues and / or file a 59(E) even after my pro se filing, your office confirmed the Sumter County's reception / filing of notice of appeal on November 4<sup>th</sup> (see enclosed letter 'Exhibit C'). Then, receiving no communication for several more months regarding the filing of my Motion / Notice of Appeal by either the Sumter Clerk of

Court or PCR Counsel, I wrote your office once more (see 'Exhibit D'). Lastly, I wrote James Campbell, Sumter Clerk of Court, requesting the status of appeal and the long-awaited clock-stamped copy of my initial Notice of Appeal from November of 2015 (see enclosed 'Exhibit E').

I've been especially prejudiced because one of my main issues in my PCR, the failing of my trial counsel to hire an expert witness to refute the State's assertions, was then ruled upon just two months later in the Court of Appeal's reversal / remand in *Mangal v. State* (Opinion No. 5372§, December 30, 2015).

Sincerely,

---

William Welch

"Exhibit A"

November 2, 2015

William R. Welch, 208451  
Lee Corr Inst / F 6 1246  
990 Wisacky Hwy  
Bishopville, SC 29010

RECORDED

2015 NOV -4 PM 2:16

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

Honorable James C. Campbell  
Clerk of Court, Sumter County  
Sumter County Judicial Center  
215 N. Harvin Street  
Sumter, S C 29150

Re: William R. Welch, 208451, v. State of South  
Carolina, 2013-CP-43-1169

Dear Clerk,

Please find enclosed for filing in your Court of Common Pleas my original NOTICE OF APPEAL in the above reference case. As this matter is subject to the Administrative Judge in your Circuit, and his ruling on the matter, will you please be so courteous as to return to me a clocked, file-stamped copy of this letter and my NOTICE OF APPEAL?

Thank you for your assistance in this important appeal matter.

SI-William R. Welch  
William R. Welch, Applicant

STATE OF SOUTH CAROLINA ]  
COUNTY OF SUMTER ]

IN THE COURT OF COMMON PLEAS  
FOR THE THIRD JUDICIAL CIRCUIT

William R. Welch, 208451, ]  
Applicant, ]

Case No. 2013-CP-43-1169

Vs. ]

NOTICE OF APPEAL

State of South Carolina, ]  
Respondent. ]

RECORDED  
2015 NOV -4 PM 2:16  
JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY S.C.

NOW COMES the Applicant, William R. Welch, and this Court for leave to proceed in this appeal matter or, in the alternative, for this Court to issue an Order compelling Applicants PCR attorney, Casey Cornwell, to fully comply with Rule 203, SCACR, Austin-v. State, 305 S.C. 453 (1991), and Rule 71.1(g), SCRCF, by performing the action of serving and filing a NOTICE OF APPEAL on Applicants behalf. Applicant is in receipt of these Rules and supporting case law, and acknowledges Judge James' direction to South Carolina Appellate Caourt Rule 243 for appropriate procedures for appealing the ORDER OF DISMISSAL in the present case. HOWEVER, Applicant wishes to inform this Court that Applicants PCR counsel, Casey Cornwell, has, to date, disregarded and/or neglected to notify Applicant by mail of the ORDER OF DISMISSAL, and therefore has failed to render his duty of discovering if Applicant wishes to appeal the dismissal or not. Hence, the basis for this motion and notice is to prevent PCR counsel from allowing the thirty day statute of appeal limitation to expire, which would force Applicant into an involuntary waiver of his appeal right.

**THEREFORE, Applicant seeks this Court will accept this NOTICE OF APPEAL as sufficient in the present case, or, in the alternative, direct attorney Casey Cornwell to prepare, serve, and file an acceptable NOTICE OF APPEAL in Applicants behalf.**

Applicant is aware of the hybrid representation dictum in the South Carolina judiciary, and for that reason asks this Court to provide a remedy whereby Applicant can exercise his appeal rights without being unduly subjected to any time bar procedural defaults by and through attorney delay. Applicant asks this Court, at a minimum, to toll the appeal time statute until such time as Applicants desired appeal from the present ORDER OF DISMISSAL can be filed and served on the necessary parties.

**FOR THE GRANT OF THIS APPEAL does Applicant pray.**

s/ William R. Welch

William R. Welch, Applicant  
Lee Corr Inst / F 6 1246  
990 Wisacky Hwy  
Bishopville, S C 29010

This 2 day of November, 2015  
Bishopville, South Carolina

Greetings Sir

208451

April 15. 15

My name is William Welch On ~~sep 28-15~~ in Sumter County I had my PCR hearing.

The sitting Judge was Judge George James. The attorney for me was F Casey D Cornwell.

I received an order of Dismissal on Sep 28-15

My Question(s) is as follows:

- HAS a petition for a writ of Certiorari been filed on my behalf or any other Appeal... s9 e

I haven't been able to contact Mr. Cornwell by mailings or phone.

Sir I thank you for your time

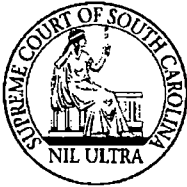
I am William Welch \_\_\_\_\_

William R. Welch <sup>208451</sup> v. state of S.C

2013-CP-43-1169

F Casey D. Cornwell told me I didn't need witnesses or expert services because no matter what the Judge would let me go. I was denied relief because, no expert services or witnesses to explain the medical report(s). I was cheated by Cornwell.

"Exhibit C"



## 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  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499

November 12, 2015

Mr. William R. Welch #208451  
Lee Correctional Institution  
990 Wisacky Highway  
Bishopville, South Carolina 29010

Re: *Welch v. State*, 2013CP4301169

Dear Mr. Welch:

This responds to your letter dated November 10, 2015. While the public case index for Sumter County shows an entry for a notice of appeal on November 4, 2015, this Court has not received a notice of appeal in this matter.

If a notice of appeal has in fact been served on the State's counsel, then your counsel should ensure that a copy of that notice of appeal is filed with this Court within ten (10) days of the date of this letter.

Very truly yours,

CLERK

cc: Office of the Attorney General  
Fulton Casey Dale Cornwell, Esquire

"Exhibit D"



## 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  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499

March 16, 2016

Mr. William R. Welch # 208451  
Lee Correctional Institution  
990 Wisacky Highway  
Bishopville, South Carolina 29010

Re: William R. Welch v. The State  
2013-CP-43-01169

Dear Mr. Welch:

This will acknowledge receipt of your letter dated March 7, 2016. We have checked the records in this office and the records at the Court of Appeals and do not find where any appeal has been filed in your behalf in the above matter. We are forwarding a copy of your letter to your counsel of record for any assistance he may be able to give you.

Very truly yours,

CLERK

Enclosure

cc: Fulton Casey Dale Cornwell, Esquire (with copy of correspondence)  
Office of the Attorney General

"Exhibit E"

RECORDED

September 13, 2016

2016 SEP 15 PM 2:30

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

James C. Campbell  
Clerk of Court  
215 N. Harvin Street, Rm. 303  
Sumter, SC 29150

Re: Receipt and Action Taken on 59(E) Motion

Dear Honorable James C. Campbell:

In early November of 2015, I sent to your attention a 59(E) Motion in an effort to preserve issues not ruled upon at my PCR hearing. I also requested that a clock-stamped copy be returned. My case number is **2013-CP-43-1169**.

With almost a year having passed, I am writing you to confirm your receipt of said Motion, the status of said Motion (to include any action taken related to it), and a clock-stamped copy of the motion as initially requested.

Thank you in advance for your prompt assistance and reply.

Sincerely,

William R. Welch

Mr. William Welch  
SCDC #208451

CC: File

Trial Counsel recalled that there was a family gathering where both Applicant and victim were present. Trial Counsel stated that Applicant and victim were riding on a four-wheeler in the woods and Applicant allegedly touched victim while they were in the woods. Trial Counsel stated that victim was taken to hospital by her family the following day. Trial Counsel noted that Dr. Clanton the doctor found no injury and prescribed Monistat for a yeast infection. Trial Counsel stated it was his strategy to show that the victim's alleged injuries or irritation could have resulted from simply riding the four-wheeler through the woods. Trial Counsel stated that he did not hire an expert to review the videotape or examine the victim. Trial Counsel stated that he tried to point out the various inconsistencies between the victim's statements on the video and her trial court testimony.

Ernest Finney III

**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. Specifically, this Court finds Trial Counsel's testimony credible and Applicant's testimony not credible. 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).

**INEFFECTIVE ASSISTANCE OF COUNSEL**

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, (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.

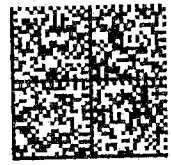
*Ineffective assistance of counsel for failing to call expert to present an alternative theory to the State's theory that the victim was sexually assaulted.*

The Court finds that Applicant's allegation that he received ineffective assistance of counsel for failing to hire an expert to present an alternative theory to the State's case is meritless. Initially, this Court notes Applicant did not call an expert at the PCR hearing to explain what alternative theory might have been available. As a result of Applicant's failure to present any expert testimony on this issue, this Court finds Applicant cannot show any prejudice. See Dempsey v. State, 363 S.C. 365, 370, 610 S.E.2d 812, 815 (2005) (finding that, as the

#

F-6-B-1246

cky HWY  
11e. SC 29010



UNITED STATES POSTAGE  
PITNEY BOWES  
02 1P \$ 001.36<sup>0</sup>  
0000880020 NOV 30 2016  
MAILED FROM ZIP CODE 29010

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