

Telephone  
(803) 818-5700

Facsimile  
(803) 818-5701



# Faulkner Law Firm LLC

616 E. Liberty Street  
P.O. Box 1030  
York, SC 29745

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January 13, 2017

The Honorable Jenny Abbott Kitchings  
Clerk of the South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**RECEIVED**

JAN 19 2017

SC Court of Appeals

RE: *Samuel Earl Jeter #00344686 v. State of South Carolina*  
Case No.: 2015CP4400225

Dear Ms. Kitchings:

Please find enclosed the original and one copy of the Notice of Appeal, Motion to File *In Forma Pauperis*, a copy of the order that is the subject of the appeal, and Proof of Service in the above referenced matter. Please file these documents with your office and return the copies to me in the enclosed self-addressed stamped envelope.

By copy of this letter, I am also serving the Defendant's counsel.

If you have any questions concerning this matter, please do not hesitate to contact me at (803) 818-5700.

With kind regards, I am

Yours very truly,

Beth Ramsey Faulkner  
Attorney

BRF/tsh

Enc.: As Noted.

cc: Justin J. Hunter, Esq.  
Samuel Earl Jeter

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JAN 24 2017

S.C. SUPREME COURT

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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM UNION COUNTY  
COURT OF COMMON PLEAS

ROGER L. COUCH, CIRCUIT COURT JUDGE

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2015-CP-44-225

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Samuel Earl Jeter  
Appellant

vs.

State of South Carolina  
Respondent

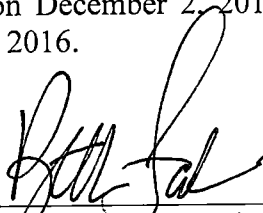
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NOTICE OF APPEAL

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Samuel Earl Jeter appeals the Order of Dismissal in this Post-Conviction Relief action issued by the Honorable Roger L. Couch on December 2, 2016. Appellant received written notice of entry of this order on December 19, 2016.

January 13, 2017  
York, South Carolina

  
Beth Ramsey Faulkner  
Faulkner Law Firm, LLC  
P.O. Box 1030  
616 E. Liberty Street  
York, South Carolina 29745  
(803) 818-5700  
Attorney for Appellant

Other Counsel of Record:

Justin J. Hunter, Esq.  
PO Box 11549  
Columbia, SC 29211  
Attorney for Respondent

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JAN 10 2017

SC Court of Appeals

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JAN 24 2017

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM UNION COUNTY  
COURT OF COMMON PLEAS

ROGER L. COUCH, CIRCUIT COURT JUDGE

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2015-CP-44-225

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Samuel Earl Jeter  
Appellant

vs.

State of South Carolina  
Respondent

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JAN 24 2017

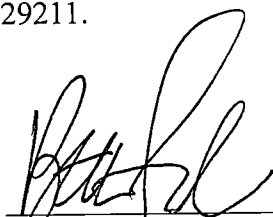
S.C. SUPREME COURT

**PROOF OF SERVICE**

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I certify that I have served the Notice of Appeal by depositing a copy of it in the United States Mail, postage prepaid on January 13, 2017 addressed to the attorney of records, Justin J. Hunter, Esq., PO Box 11549, Columbia, SC 29211.

January 13, 2017  
York, South Carolina



Beth Ramsey Faulkner  
Faulkner Law Firm, LLC  
P.O. Box 1030  
616 E. Liberty Street  
York, South Carolina 29745  
(803) 818-5700  
Attorney for Appellant

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JAN 19 2017

SC Court of Appeals

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF UNION )  
 )  
 Samuel Earl Jeter, )  
 S.C.D.C. No. 344686, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 OF THE SIXTEENTH JUDICIAL CIRCUIT

2015-CP-44-225

ORDER OF DISMISSAL

FILED FOR RECORD  
 2016 DEC 15 AM 10 25  
 CLERK OF COURT  
 UNION, SC

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Samuel Earl Jeter (Applicant) on May 15, 2015.

I. PROCEDURAL HISTORY

Applicant was indicted at the November 2010 term of the Union County General Sessions for Criminal Sexual Conduct with a Minor, 2nd Degree (2009-GS-44-261). Applicant was also indicted at the January 2011 term of the Union County Court of General Sessions for Lewd Act Upon a Child Under the Age of Sixteen Years (2011-GS-44-190). Applicant proceeded pro se and on February 2, 2011 underwent a bench trial before the Honorable John C. Hayes, III. He was found guilty on both charges and sentenced to imprisonment for twenty years for criminal sexual conduct and a concurrent term of imprisonment for fifteen years for lewd act. Applicant did not appeal his sentence or conviction.

PCR Application

In his application for post-conviction relief, Applicant alleges he is being held unlawfully for the following reasons:

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JAN 19 2017

SC Court of Appeals

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 p1*

A TRUE COPY  
 DEC 15 2016  
 CLERK OF COURT

1. Ineffective Assistance of Counsel
  - a. Counsel failed to protect Applicant's rights when counsel moved before the court to be relieved as counsel
2. Applicant did not waive his right to a direct appeal under White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

Respondent made its Return and Motion to Dismiss on or about May 11, 2016. A Conditional Order of Dismissal was signed by the Honorable Daniel D. Hall on May 24, 2016 and filed June 6, 2016. In this Order, Judge Hall conditionally dismissed this action for being filed over three years beyond the expiration of the one-year statute of limitations.

On November 7, 2016, a hearing was held at the Moss Justice Center in York, South Carolina. Applicant was present and represented by Beth Faulkner, Esquire. Justin Hunter, of the South Carolina Office of the Attorney General represented Respondent. At this hearing, Respondent made a motion to dismiss, based on the expiration of the statute of limitations. This Court had before it the Union County Clerk of Court records, Applicant's PCR application, Respondent's Return and Motion to Dismiss, and the Court's Conditional Order of Dismissal.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

### *Statute of Limitations*

The Court finds that this application for post-conviction relief must be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996).

Handwritten signature and initials, possibly "D. Hall" and "02".

Applicant was convicted of the offenses he challenges on February 2, 2011. He therefore had until February 2, 2012, to file his application. This application was filed on May 15, 2015, over three years after the statutory filing period had expired.

Summary dismissal of a PCR application is appropriate when the application is filed after the statutory filing period. Leamon v. State, 363 S.C. 432, 611 S.E.2d 494 (2003). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings...that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, Applicant failed to file within the time mandated by the Post-Conviction Procedure Act and Applicant's post-conviction relief application must be summarily dismissed.

*Waiver of right to direct appeal*

Applicant alleged that he did not knowingly and intelligently waive his right to a direct appeal. He testified that the trial judge never told him at the conclusion of the trial that he had ten days to file 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). Therefore, where an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision, will review

*AYL*  
*03*

the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected. To waive a direct appeal, a defendant must make a knowing and intelligent decision not to pursue the appeal. Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986); White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

This Court finds that Applicant's allegation is without merit. This Court finds that Applicant assumed the obligation of representing himself when he relieved his counsel to proceed pro se. This Court finds that Applicant should have been aware of his right to an appeal as he represented himself. This Court also finds that neither Applicant's former trial counsel nor the trial judge owed him a duty to inform him of his right to a direct appeal. Accordingly, this allegation must be dismissed.

#### 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, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

#### V. CONCLUSION

Based on the foregoing facts, the Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Applicant failed to demonstrate that Counsel's performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt 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, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 2nd day of December, 2016.

  
\_\_\_\_\_  
ROGER COUCH  
Presiding Judge  
Sixteenth Judicial Circuit

Spartanburg, South Carolina

STATE OF SOUTH CAROLINA  
 COUNTY OF UNION  
 Samuel Earl Jeter,  
 Plaintiff(s),  
 -vs-  
 South Carolina State of,  
 Defendant(s).

**F I L E D**

JUL - 6 2015

TIME 12:23 PM

WILLIAM F. GAULT, C.C.P. & G.S.

IN THE COURT OF COMMON PLEAS  
 SIXTEENTH JUDICIAL CIRCUIT  
 CASE NO.: 2015CP4400225  
 APPOINTMENT OF COUNSEL OR GAL  
 (Select one.)

ORDER  
 AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Post-Conviction Relief (PCR)/habeas case | <input type="checkbox"/> Adoption                               | <input type="checkbox"/> Juvenile          |
| <input type="checkbox"/> SVP case                                 | <input type="checkbox"/> Custody and/or Visitation              | <input type="checkbox"/> Abuse and Neglect |
| <input type="checkbox"/> Minor Name Change                        | <input checked="" type="checkbox"/> Other: Post Convict Rel 500 |  |

It appears Samuel Earl Jeter, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on:
- counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- court appointed counsel has obtained, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- Other: .

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JAN 19 2017

Therefore, it is ordered that **Beth Faulkner** hereby is appointed as (Select one.)

- counsel     lead counsel (if capital PCR case)     guardian ad litem

for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved

**SC Court of Appeals**

(If Death Penalty PCR Case) It is further ordered that, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED  
 July 6, 2015

*William F. Gault/dw*  
 Circuit Judge     Clerk of Court

Plaintiff Attorney:		<b>A TRUE COPY</b>
Beth Faulkner		
PO Drawer 300		
York, SC 29745		
Defendant Attorney:		JUL - 6 2015
Justin James Hunter		<i>William F. Gault</i> CLERK OF COURT
PO Box 11549		
Columbia, SC 29211-1549		

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at [www.secid.sc.gov](http://www.secid.sc.gov), and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

**Faulkner Law Firm, LLC**

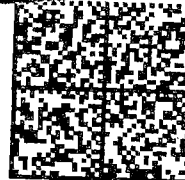
**BETH RAMSEY FAULKNER**  
Attorney & Counselor at Law  
P.O. Box 1030  
York, South Carolina 29745


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JAN 10 2017

**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk of the South Carolina Court of  
Appeals  
Post Office Box 11629  
Columbia, SC 29211



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