



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

May 12, 2017

The Honorable M. Hope Blackley
PO Box 3483
Spartanburg SC 29304-3483

REMITTITUR

Re: Robert S. Horton v. State
Lower Court Case No. 2013CP4203065
Appellate Case No. 2015-001608

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,

CLERK

cc:

Alicia A. Olive, Esquire
Susan Barber Hackett, Esquire

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Robert S. Horton, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-001608

Appeal From Spartanburg County
The Honorable J. Derham Cole, Circuit Court Judge
The Honorable Roger L. Couch, Post-Conviction Relief Judge

Memorandum Opinion No. 2017-MO-005
Submitted April 3, 2017 – Filed April 26, 2017

AFFIRMED

Assistant Appellate Defender Susan Barber Hackett, of
Columbia, for Petitioner.

Attorney General Alan Wilson and Assistant Attorney
General Alicia A. Olive, both of Columbia, for
Respondent.

PER CURIAM: Petitioner seeks a writ of certiorari from the denial of his
application for post-conviction relief (PCR).

We deny the petition on Petitioner's Question II. Because there is sufficient evidence to support the PCR judge's finding that petitioner did not knowingly and intelligently waive his right to a direct appeal, we grant certiorari on petitioner's Question I and proceed with a review of the direct appeal issue pursuant to *Davis v. State*, 288 S.C. 290, 342 S.E.2d 60 (1986).

Petitioner's conviction and sentence are affirmed pursuant to Rule 220(b)(1), SCACR, and the following authorities: *State v. Boiter*, 302 S.C. 381, 396 S.E.2d 364 (1990) (finding evidence of a prior *false* accusation of abuse by a *complainant* may be probative of the complainant's credibility if (1) made by the complainant, (2) demonstrated to be false, and (3) recent enough in time so as to be of sufficient probative value).

AFFIRMED.

BEATTY, C.J., KITTREDGE, HEARN, FEW and JAMES, JJ., concur.