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JUL 24 2017

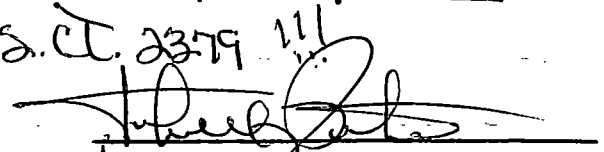
Johnell Porter # 240208 S.C. SUPREME COURT  
Broad River Court Trst.  
Monticello Unit- 124  
4460 Broad River Rd.  
Columbia, S.C. 29210

July 21, 2017

The Honorable DANIEL E. SHEAROUSE, CLERK  
South Carolina Supreme Court  
Clerk of Court's Office  
P.O. Box 11330  
Columbia, S.C. 29211

Re: Notice of Appeal  
Case No. # 2015-CP-46-1186

Dear Honorable Clerk:  
Again, the Honorable Letitia Verdine,  
on June 22, 2017, denied your inquiry, and  
both former Chief Justice McCONNORS and the  
present Chief Justice DON BRADY's Orders. The  
Notice of Appeal is filed under Houston v.  
Lack, 487 U.S. 266, 108 S.Ct. 2379 !!!

  
Johnell Porter #240208

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JUL 21 2017

The State of South Carolina  
IN THE SUPREME COURT

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JUL 24 2017

APPEAL FROM YORK COUNTY  
COURT OF COMMON PLEAS

S.C. SUPREME COURT

LETTER VERDICT, Circuit Court Judge

CASE No. # 2015-CP-46-0486

STATE OF SOUTH CAROLINA . . . . . Respondent,

v.

Johnell Porter . . . . . Appellant

"NOTICE OF APPEAL"

Johnell Porter, appeals the Order of the Honorable  
LETTER VERDICT, dated June 22, 2017, DISMISSING HIS  
NEWLY DISCOVERED EVIDENCE CLAIM WITHOUT AN  
HEARING AND BLATANTLY DENYING FORMER SOUTH  
CAROLINA SUPREME COURT'S CHIEF JUSTICE PETERSON'S  
ORDER, dated November 28, 2016, IN REGARDS TO  
THIS VERY SAME ISSUE, AND THE CHIEF JUSTICE

(2.)

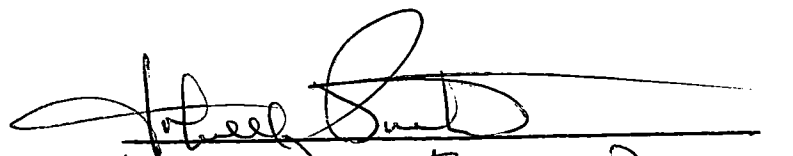
of the South Carolina Supreme Court, the Honorable Don Beatty's "Order", dated May 16, 2017. THERE IS NO FINAL DECISION OR JUDGMENT, IN REGARDS TO LEWIS v. STATE, 630 S.E. 2d 464 (2006). AGAIN, THE APPELLANT WAS NOT IN ANY COURTROOM AND NO EVIDENTIARY HEARING HAS BEEN HELD, IN REGARDS TO THE NEWLY DISCOVERED EVIDENCE CLAIM !!!

THE JUSTICE RELIEF WAS GRANTED ON JUNE 22, 2017, BUT THE NEWLY DISCOVERED EVIDENCE CLAIM HAS NEVER BEEN PROPERLY RULED ON. AS A PRO SE APPLICANT, HE HAS THE RIGHT TO BE PRESENT AT EVERY CRUCIAL STAGE OF HIS PROCEEDINGS !!!

THE APPELLANT RECEIVED WRITTEN NOTICE OF ENTRY OF THIS ORDER, ON JULY 14, 2017. WHEREBY THE NOTICE OF APPEAL, IS FILED UNDER THE MAIL-BOX RULES, IN HOUSTON v. LACK, 487 U.S. 266, 108 S.Ct. 2379.

July 21, 2017:

cc:

  
Johnell Porter #240208, Pro Se  
Broad River Court Inst.  
4460 Broad River Rd.  
Columbia, S.C. 29210

The State of South Carolina  
In The Supreme Court **RECEIVED**

JUL 24 2017

APPEAL FROM YORK COUNTY  
COURT OF COMMON PLEAS S.C. SUPREME COURT

LETTER VERDICT, CIRCUIT COURT JUDGE

CASE No. # 2015-CP-46-01186

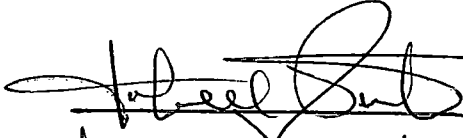
State of South Carolina ..... Respondent,

Townell Porter #240208 ..... Appellant.

"PROOF OF SERVICE"

I certify that I have served the Notice  
of Appeal on Justice T. Hunter, with the S.C. Attorney  
General's Office by depositing a copy of it in the  
U.S. Mail-box, postage prepaid, on \_\_\_\_\_ 2017,  
mailed to Post Office Box 11549, Columbia, S.C. 29211-  
1549 !!!

July 21, 2017:

  
Townell Porter, #240208, Pro Se

cc:

FORM 4

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2015CP4601186

Johnell Porter		South Carolina State Of	
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by: Justin J Hunter	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: \_\_\_\_\_
- STAYED DUE TO BANKRUPTCY**
- 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  
 AMENDED ORDER GRANTING AN APPEAL**

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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

S/ LETITIA VERDIN  
 Circuit Court Judge

2162  
 Judge Code

7/5/2017  
 Date

**For Clerk of Court Office Use Only**

This judgment was entered on **7/5/2017**, and a copy mailed first class or placed in the appropriate attorney's box on **7/5/2017**, to attorneys of record or to parties (when appearing pro se) as follows:

---

**Johnell Porter** Perry Correctional Institution Q4A 114 430  
Oaklawn Road Pelzer, SC 29669

**Justin James Hunter** PO Box 11549 Columbia, SC  
29211-1549

---

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

---

**ATTORNEY(S) FOR THE DEFENDANT(S)**

*David Hamilton*

---

**Court Reporter**

**David Hamilton - Clerk of Court**

---

**Court Reporter:**

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.**

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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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STATE OF SOUTH CAROLINA )

COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

FILED 2017 JUL -5 AM 10:39

CASE NO: 2015-CP-46-1186

JOHNELL PORTER, #240208

DAVID HAMILTON  
C.G. #11193  
Plaintiff  
YORK COUNTY, SC

**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET**

vs.

STATE OF SOUTH CAROLINA )

Defendant. )

Plaintiff's Attorney:  
Johnell Porter, #240208, Pro Se.  
Address:  
4344 Broad River Road  
Columbia, SC 29210  
Phone: \_\_\_\_\_ Fax \_\_\_\_\_  
E-mail: \_\_\_\_\_ Other: \_\_\_\_\_

Defendant's Attorney:  
Justin J. Hunter, Bar No.  
Address:  
PO Box 11549  
Columbia, SC 29211  
Phone: \_\_\_\_\_ Fax \_\_\_\_\_  
E-mail: \_\_\_\_\_ Other: \_\_\_\_\_

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

**SECTION I: Hearing Information**

Nature of Motion: \_\_\_\_\_

Estimated Time Needed: \_\_\_\_\_

Court Reporter Needed:  YES /  NO

**SECTION II: Motion/Order Type**

- Written motion attached
- Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for  Plaintiff /  Defendant

June 15, 2017  
Date submitted

**SECTION III: Motion Fee**

PAID - AMOUNT: \$ \_\_\_\_\_

EXEMPT:

(check reason)

- Rule to Show Cause in Child or Spousal Support
  - Domestic Abuse or Abuse and Neglect
  - Indigent Status  State Agency v. Indigent Party
  - Sexually Violent Predator Act  Post-Conviction Relief
  - Motion for Stay in Bankruptcy
  - Motion for Publication  Motion for Execution (Rule 69, SCRPC)
  - 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: \_\_\_\_\_
- Other: \_\_\_\_\_

**JUDGE'S SECTION**

- Motion Fee to be paid upon filing of the attached order.
- Other: \_\_\_\_\_

JUDGE CODE \_\_\_\_\_

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

**CLERK'S VERIFICATION**

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_

- MOTION FEE COLLECTED: \$ \_\_\_\_\_
- CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF YORK ) THE SIXTEENTH JUDICIAL CIRCUIT

FILED 2017 JUL -5 AM 10:39

Johnell Porter,  
S.C.D.C. No. 166280

DAVID HAMILTON  
C.C.C. # 265  
YORK COUNTY, SC

2015-CP-46-1186

Applicant,

v.

State of South Carolina,

Respondent.

**AMENDED ORDER GRANTING AN  
APPEAL PURSUANT TO  
AUSTIN V. STATE<sup>1</sup>**

This matter comes before the Court by way of an application for post-conviction relief filed April 20, 2015. Respondent made its Return on or about June 27, 2016, requesting an evidentiary hearing solely on the issue of whether Applicant was entitled to an appellate review of his first post-conviction relief action pursuant to Austin. An evidentiary hearing on the matter was convened on August 1, 2016, at the Moss Justice Center in York, South Carolina. Applicant was not present but was represented at the hearing by Nathan Sheldon, Esquire. Justin Hunter, Esquire, of the South Carolina Office of the Attorney General represented the Respondent.

**I. PROCEDURAL HISTORY**

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the York County Clerk of Court's orders of commitment. The York County Grand Jury indicted the Applicant at the June 2007 term of General Sessions for Armed Robbery (2007-GS-46-01687), entering a bank with intent to steal (2007-GS-46-01688), kidnapping (2007-GS-46-01689), possession of a firearm during the commission of a violent crime (2007-GS-46-01690), and Conspiracy to commit armed robbery (2007-GS-46-01691). Applicant appeared pro se.

<sup>1</sup> Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

# The Supreme Court of South Carolina

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Johnell Porter, Petitioner,

v.

State of South Carolina, Respondent.

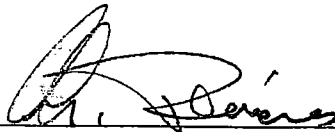
Appellate Case No. 2016-002053

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## ORDER

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Petitioner filed an application for post-conviction relief (PCR) seeking a belated review, pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), of the denial of his first PCR application and alleging newly discovered evidence. The circuit court issued an order that finds petitioner is entitled to an Austin review, but does not address the claim of newly discovered evidence. Petitioner filed a notice of appeal from the order. In response to an inquiry from the Clerk of this Court as to whether the claim of newly discovered evidence is still pending, counsel for petitioner confirmed the claim of newly discovered evidence was held in abeyance and remains pending in the circuit court. As such, the order on appeal is not a final order in this PCR matter. See S.C. Code Ann. § 17-27-80 (2014) ("The court shall make specific findings of fact, and state expressly its conclusions of law, relating to *each issue presented*. This order is a final judgment.") (Emphasis added); S.C. Code Ann. § 17-27-100 (2014) ("A final judgment entered under this chapter may be reviewed by writ of certiorari as provided by the South Carolina Appellate Court Rules."); Rule 243(a), SCACR; Rule 71.1(g), SCRCP; Lewis v. State, 368 S.C. 630, 630 S.E.2d 464 (2006). We therefore dismiss the notice of appeal without prejudice to petitioner's right to file a notice of appeal upon the issuance of a final judgment in this matter.



C.J.

FOR THE COURT

Columbia, South Carolina

---

November 28, 2016

cc:

Nathan James Sheldon, Esquire

Justin James Hunter, Esquire

Johnell Porter, #240208

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# The Supreme Court of South Carolina

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Johnell Porter, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2017-001120

Lower Court Case No. 2015CP4601186

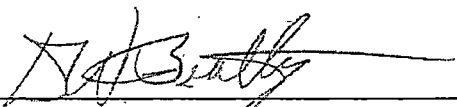
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## ORDER

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Petitioner has filed a *pro se* notice of appeal from an order which (1) granted petitioner's request to relieve counsel; (2) declined to appoint new counsel; and (3) determined that petitioner would be proceeding *pro se*.

By statute and court rule, only a final decision or judgment in a post-conviction relief case is subject to appellate review. *Lewis v. State*, 368 S.C. 630, 630 S.E.2d 464 (2006). Since no final decision or judgment has been filed in this case, the notice of appeal is dismissed without prejudice to petitioner's ability to timely serve and file a notice of appeal once a final decision or judgment is filed with the clerk of the circuit court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

  
\_\_\_\_\_  
FOR THE COURT C.J.

Columbia, South Carolina

May 16, 2017

cc: Mr. Nathan James Sheldon, Esquire  
Justin James Hunter, Esquire  
Mr. Johnell Porter

Townell Torrier 240208  
Broad River Comm Inst  
Monticello Unit - 124  
4460 Broad River Rd.  
Columbia, S.C. 29210

24 JUL 2017



**RECEIVED**

JUL 21 2017

BRCI  
MAILROOM

Att: The Honorable Daniel E. Shearouse, Clerk  
South Carolina Supreme Court  
Clerk of Court's Office  
P.O. Box 11330  
Columbia, S.C.

29211-190030

29211

**LEGAL MAIL**