



WALLER LAW GROUP

September 5, 2017

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

RECEIVED

SEP 07 2017

S.C. SUPREME COURT

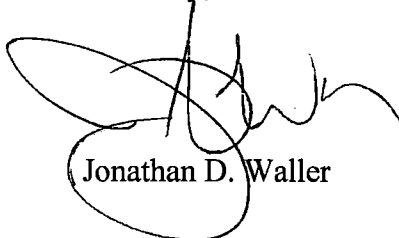
Re: Eddie Blash, Jr. vs. State of South Carolina  
C/A No: 2014-CP-21-0850

Dear Mr. Shearouse:

Please find enclosed one (1) original and one (1) copy each of Applicant's Notice of Appeal and Certificate of Service in the above referenced case. I would appreciate you filing the original and returning the clocked copies in the enclosed envelope.

I was appointed to represent Mr. Blash in this matter and am also enclosing a copy of the Order of Dismissal. If you have any questions, please do not hesitate to ask. My telephone number is 803-520-7278.

Sincerely,



Jonathan D. Waller

Cc: Lindsey A. McCallister, South Carolina Office of Attorney General

Enclosures

STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM FLORENCE COUNTY  
Paul M. Burch, Circuit Court Judge

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2014-CP-21-00850

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Eddie Blash, Jr., #277603,

Appellant,

v.

STATE OF SOUTH CAROLINA,

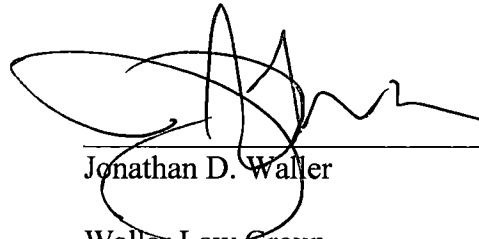
Respondent.

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NOTICE OF APPEAL

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Eddie Blash, Jr., #277603, appeals the Order of Dismissal denying his Application for Post-Conviction Relief filed August 17, 2017, issued by the Honorable Paul M. Burch, Presiding Judge, Twelfth Judicial Circuit, as well as his conviction for Indictment No. 2000-GS-21-839, as ordered by Judge Burch in the same Order.



Jonathan D. Waller

Waller Law Group  
SC Bar No.: 76290  
1116 Blanding Street  
Suite 2B  
Columbia, SC 29201  
803-520-7278 (phone)  
jonathan@wallergroupsc.com  
ATTORNEY FOR PETITIONER

This 5 day of September, 2017.

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S.C. SUPREME COURT

Other Counsel of Record:  
Lindsey A. McCallister, Assistant Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3319

STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM FLORENCE COUNTY  
Paul M. Burch, Circuit Court Judge

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2014-CP-21-00850

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SEP 07 2017

Eddie Blash, Jr., #277603,

Appellant,

S.C. SUPREME COURT

v.

STATE OF SOUTH CAROLINA,

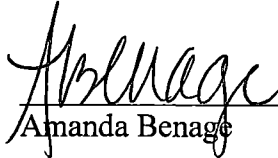
Respondent.

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CERTIFICATE OF SERVICE

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The undersigned hereby certifies that one copy of the Appellant's Notice of Appeal in the above-entitled case has been served upon opposing counsel, Lindsey A. McCallister, Assistant Attorney General, by mailing in an envelope properly addressed with postage prepaid on this 5 day of September 2017, to her office located at P.O. Box 11549, Columbia, SC 29211.

  
Amanda Benage

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FORM 4

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2014CP2100850

Eddie Blash Jr		South Carolina State Of	
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<b>PLAINTIFF(S)</b>	<b>DEFENDANT(S)</b>
<b>Submitted by:</b>	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:

2017 AUG 18 AM 9:35  
 DORIS POULOS CHARA  
 CCJP & GS  
 FLORENCE COUNTY, S.C.  
**FILED**

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.**

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

Circuit Court Judge

Judge Code

8/18/2017

Date

**For Clerk of Court Office Use Only**

CERTIFIED: A TRUE COPY  
*Doris Poulos Chara*  
 CLERK OF COURT C.P. & G.S.  
 FLORENCE COUNTY, S.C.

This judgment was entered on **August 17, 2017**, and a copy mailed first class or placed in the appropriate attorney's box on **August 18, 2017**, to attorneys of record or to parties (when appearing pro se) as follows:

**Eddie Blash Jr # 277603**  
P. O. Box 205 Ridgeville, SC 29472  
**Jonathan D Waller** 1315 Blanding Street Columbia, SC  
29201

**Lindsey Ann McCallister** PO Box 11549 Columbia, SC  
29211-1549

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

---

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

*Doris P. O'Hara*

---

**Court Reporter**

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**Doris Poulos O'Hara - Clerk of Court**

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**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), SCRCF.

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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 FLORENCE )  
 )  
 Eddie Blash, Jr., #277603, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 TWELFTH JUDICIAL CIRCUIT

Case No. 2014-CP-21-0850

**ORDER OF DISMISSAL  
 GRANTING WHITE V. STATE  
 APPEAL**

DORIS BOULOS O'HARA  
 CLERK C.P. & G.S.  
 FLORENCE COUNTY, SC

2017 AUG 17 PM 1:38

**FILED**

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed April 3, 2014. Respondent made its Return and Motion to Dismiss All Claims but White v. State on September 9, 2015. The Court convened an evidentiary hearing into the matter on March 14, 2017, at the Florence County Courthouse. Applicant was present at the hearing and represented by Jonathan Waller, Esquire. Lindsey A. McCallister, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the evidentiary hearing, Applicant testified on his own behalf. Respondent also presented testimony from trial counsel, Henry M. Anderson, Jr., Esquire (Counsel). The Court also had before it a copy of the sentencing transcript, the Florence County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

Prior to the commencement of the evidentiary hearing, the Respondent renewed its motion to dismiss all claims but White v. State, for a belated appeal. While counsel for Applicant argued in opposition to the Respondent's motion, he acknowledged that Applicant had previously had a full PCR hearing and that any claims other than the White v. State claim had

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*DWB*  
 Clerk of Court  
 Clerk of Court C.P. & G.S.  
 FLORENCE COUNTY, S.C.

either been previously ruled upon or Applicant had the opportunity to have them ruled upon. Based on the Respondent's motion and argument from counsel, this Court granted Respondent's Motion to Dismiss All Claims but White v. State.

### **I. PROCEDURAL HISTORY**

The Applicant is presently confined in SCDC pursuant to orders of commitment from the Florence County Clerk of Court. Applicant was indicted at the June 2000 term of the Florence County Grand Jury for trafficking cocaine over 400 grams (2000-GS-21-839). Henry M. Anderson, Jr., Esquire represented the Applicant.

The State proceeded to trial on August 16, 2001, and the jury found the Applicant guilty as indicted. The Honorable B. Hicks Harwell sentenced the Applicant to a term of thirty (30) years imprisonment. The Applicant did not appeal. Applicant file a pro-se Application for Post Conviction Relief on August 16, 2002 in which he alleged he was being held unlawfully based on ineffective assistance of counsel because Counsel failed to file a timely notice of appeal.

An evidentiary hearing was held in Florence County on October 14, 2004, before the Honorable James E. Brogdon, Jr. By Order dated December 15, 2004, Judge Brogdon found that Applicant had been denied his right to a direct appeal and granted him both the ability to pursue a direct appeal pursuant to White v. State as well as thirty (30) days to file an amended PCR application. Applicant amended his application to include a claim of ineffective assistance of counsel for failure to object to the testimony of a witness.

At a subsequent hearing on December 12, 2007, the Honorable Thomas A. Russo denied and dismissed Applicant's Application with prejudice but noted that Applicant was still entitled to his belated direct appeal. Upon appeal, the South Carolina Supreme Court held that

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Applicant's sentence was imposed in violation of his constitutional rights. The sentence was reversed and remanded for re-sentencing, with the Remittitur being issued April 16, 2012.

Applicant was re-sentenced, following a hearing, by the Honorable Thomas A. Russo on May 8, 2012 to a term of twenty-eight (28) years imprisonment. Applicant attempted to file a notice of appeal of his new sentence on May 11, 2012, complaining that Judge Russo erred in imposing a similar sentence that was above the mandatory minimum. On October 12, 2012, the South Carolina Court of Appeals notified Applicant that his notice of appeal was deficient because he did not provide a proof of service on the state's counsel. Applicant submitted proof of service, dated October 18, 2012; thereafter, on November 1, 2012, the South Carolina Court of Appeals dismissed the appeal as untimely. Applicant filed a petition for rehearing and on February 11, 2013, the Court of Appeals denied the petition. The Remittitur was issued on March 20, 2013. Applicant appealed the Court of Appeals' dismissal to the South Carolina Supreme Court, which was dismissed as untimely on April 12, 2013.

On July 2, 2013, Applicant filed a petition for writ of habeas corpus in the United States District Court under 28 U.S.C. § 2254. On December 31, 2013, Respondent filed a motion for summary judgment and a return and memorandum. On January 2, 2014, the Court filed an Order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975). Applicant filed a response on March 6, 2014. Applicant raised one ground: "Dismissal of notice of appeal, dismissal reconsideration motion by the Court of Appeals. Petition for rehearing is denied by the Supreme Court of South Carolina and Court of Appeals." On April 25, 2014, the Honorable Jacquelyn D. Austin issued a Report and Recommendation, recommending that Respondent's motion for summary judgment be granted and the petition be denied. On May 22, 2014, the Honorable

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Richard Gergel issued an Order adopting the Report and Recommendation and granting Respondent's motion for summary judgment.

## **II. ALLEGATIONS**

In his application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel

## **III. SUMMARY OF TESTIMONY**

During the evidentiary hearing, Applicant testified he was resentenced by Judge Russo following the Supreme Court overturning his previous sentence. He testified that he and Counsel met briefly prior to the resentencing but that they did not have much time to discuss the resentencing or prepare for the resentencing. Applicant testified that he did not feel that counsel was prepared for the hearing and that there were no witnesses or anyone to speak on his behalf. Applicant testified that Counsel asked Judge Russo to consider the minimum sentence in his resentencing of Applicant. Applicant also addressed Judge Russo and asked for leniency. Applicant testified that following Judge Russo's sentence, he and Counsel were able to speak briefly before he was transported. He testified that during that meeting with counsel, he asked Counsel to file an appeal of the sentence on his behalf. Applicant testified that following his meeting with Counsel, he was unable to communicate with counsel and did not have any communication with Counsel for a lengthy period of time. However, on cross examination, Applicant acknowledged he did have the ability to send letters and access to mail, as he was able to send his pro se notice of appeal within three days of the resentencing hearing. He testified that

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following his conversation with Counsel, he was under the impression that Counsel would be filing an appeal on his behalf and that he did not contemplate having to file his own appeal. However, Applicant also testified he did not attempt to write or call Counsel after resentencing regarding the status of an appeal, even though he was aware that notice had to be filed within ten days. Applicant testified that he attempted to file an appeal on his own, but that it was late because it was not timely served on the State, and it was dismissed by the Court of Appeals. Applicant testified that Counsel had failed to file an appeal following his conviction at trial as well.

After the conclusion of Applicant's testimony, the State presented testimony from Counsel. Counsel testified he recalled representing Applicant and reviewed his file prior to the PCR hearing. Counsel testified he was retained to represent Applicant. Counsel testified he met with Applicant both prior to the resentencing and immediately after. Counsel testified that he presented mitigation to Judge Russo and asked that the mandatory minimum be considered in light of that mitigation, but also acknowledged that the sentencing range of 25 years to 30 years did not leave much room. Counsel testified that he did not recall Applicant specifically asking him to file an appeal.

#### **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. As an initial matter, this Court finds both Counsel's

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testimony and Applicant's testimony credible.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003):

**A. Appeal**

This Court finds Applicant did not knowingly and intelligently waive his right to a direct appeal. Counsel must ensure that a criminal defendant is made fully aware of his appeal rights. White v. State, 263 S.C. 110, 118, 208 S.E.2d 35, 39 (1974). In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure required by Anders v. California, 386 U.S. 738 (1967). Id. Where the post-conviction relief judge determines that the applicant did not freely and voluntarily waive their appellate rights, the applicant may petition the South Carolina Supreme Court for review of direct appeal issues pursuant to White v. State. See Rule 243(i)(1), SCACR; Davis v. State, 288 S.C. 290, 291 n.1, 342 S.E.2d 60, 60 n.1 (1986) ("Even where the post-conviction relief judge makes this finding, he may not grant relief on this basis. Instead, the applicant must petition this Court for a White v. State review.").

In the present case, Applicant testified that Counsel was specifically asked to file an appeal on Applicant's behalf following his re-sentencing and that Applicant was under the impression that Counsel would do so. Counsel testified he did not specifically remember Applicant requesting an appeal. Applicant testified that upon learning that Counsel had not filed an appeal on his behalf, Applicant attempted to do so on his own, however it was dismissed as untimely because the State was not served. It does not appear that Applicant knowingly and intelligently waived his right to appeal; therefore, he is entitled to pursue a belated appeal

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pursuant to the procedure outlined in White v. State. As such, the Court finds Applicant did not knowingly and voluntarily waive his appellate rights and is entitled to an appeal from his conviction. Applicant's lack of an appeal can be remedied pursuant to White v. State.

#### **B. 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, this Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby deemed to have been abandoned.

#### **V. CONCLUSION**

Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice. This Court, however, concludes Applicant is entitled to petition for review of direct appeal issues from the conviction pursuant to White v. State.

#### **IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief be denied and dismissed with prejudice;
2. Within thirty (30) days of service of this Order, counsel for Applicant must file a notice of appeal to secure the appropriate review of Applicant's conviction. Counsel and Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986), and Rule 243(i), SCACR, for the appropriate procedure for securing appellate review; and

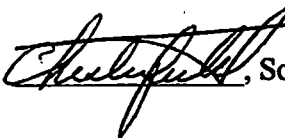
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3. That Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 18<sup>th</sup> day of July, 2017.



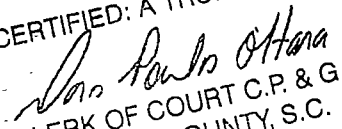
PAUL M. BURCH  
Presiding Circuit Judge  
Twelfth Judicial Circuit

, South Carolina

**FILED**

2017 AUG 17 PM 1:38

DORIS POULOS O'HARA  
CCCP & GS  
FLORENCE COUNTY, SC

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FLORENCE COUNTY, S.C.







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