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December 3, 2017

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DEC 11 2017

S.C. SUPREME COURT

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

RE: Phillip Andrew Bridges, #370924 v. State of South Carolina  
2017-CP-30-219

Dear Mr. Shearouse:

Please find enclosed a Notice of Appeal along with the accompanying Order for the above-referenced matter. By way of this letter I am copying the Office of Appellate of Defense, as I was appointed to represent Mr. Bridges.

Best regards,

Ashley A. McMahan  
Attorney at Law

ah:AAM

cc: Phillip A. Bridges  
Justin J. Hunter, Asst. Attorney General  
Lancaster County Clerk of Court  
Office of Appellate Offense

STATE OF SOUTH CAROLINA  
In The Supreme Court

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DEC 11 2017

APPEAL FROM LAURENS COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

The Honorable R. Scott Sprouse, Circuit Court Judge

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Case No. 2017-CP-30-219

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Phillip Andrew Bridges, #370294,.....Petitioner,

v.

State of South Carolina,.....Respondent.

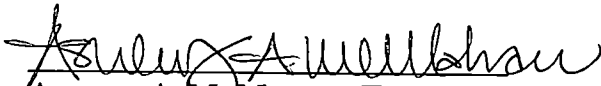
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NOTICE OF APPEAL

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Applicant, Phillip Andrew Bridges, #370294, appeals the order of the Honorable R. Scott Sprouse, dated November 21, 2017, and filed November 27, 2017.

12/3/17, 2017

  
ASHLEY A. McMAHAN, ESQUIRE  
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ATTORNEY FOR APPLICANT

Opposing Counsel:  
Justin J. Hunter, Asst, Attorney General  
S.C. Attorney General's Office  
PO Box 11549  
Columbia, SC 29211-1549

STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM LAURENS COUNTY  
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**PROOF OF SERVICE**

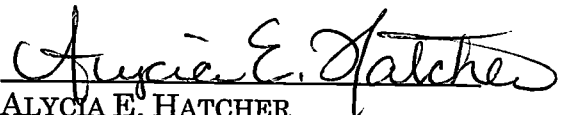
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I, Alycia E. Hatcher, certify that I have served the within Notice of Appeal on Respondent by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Justin J. Hunter, Asst, Attorney General  
S.C. Attorney General's Office  
PO Box 11549  
Columbia, SC 29211-1549

I further certify that all parties required by Rule to be served have been served.

December 3, 2017

  
ALYCIA E. HATCHER  
PARALEGAL INTERN  
MAC | VANCE ATTORNEYS, LLC  
PO Box 5501  
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803-219-1110

STATE OF SOUTH CAROLINA )  
COUNTY OF LAURENS )

IN THE COURT OF COMMON PLEAS  
OF THE EIGHTH JUDICIAL CIRCUIT

Philip Andrew Bridges, )  
SCDC# 370294, )

2017-CP-30-219

Applicant, )

**ORDER OF DISMISSAL**

v. )

State of South Carolina, )

Respondent. )

LYNN W. LANCASTER  
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LAURENS COUNTY  
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed March 22, 2017. An evidentiary hearing into the matter was convened on Wednesday, October 11, 2017, at the Laurens County Courthouse in Laurens, South Carolina before the Honorable R. Scott Sprouse. Applicant was present at the hearing and represented by Ashley A. McMahan, Esquire. Justin Hunter, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on his own behalf. Chip Howe and Thomas Adducci, Esquires, also testified. This Court also had before it a copy of Applicant's PCR application and amendment, the records of the Laurens County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Respondent's Return, and the plea transcript.

**I. PROCEDURAL HISTORY**

Applicant is confined with the South Carolina Department of Corrections pursuant to orders of commitment of the Laurens County Clerk of Court. Applicant was indicted on the July 2009 term of the Laurens County Grand Jury for trafficking methamphetamine (2009 GS 30-825). Applicant was represented by Thomas Adducci, Esquire. On December 2009 Applicant pled guilty before the Honorable Alexander S. Macaulay to the lesser included offense

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Lynn W. Lancaster  
2017 NOV 27 2 10 PM  
LAURENS COUNTY  
CLERK OF COURT

of PWID methamphetamine. Pursuant to a recommendation, he was sentenced to imprisonment for five years. Applicant's sentence was set to run concurrently to two five-year terms of imprisonment imposed in Greenville County on June 24, 2016 for manufacturing methamphetamine, 2nd offense (2013-GS-23-10011) and possession of methamphetamine, 3rd offense (2013-GS-23-10010) Applicant did not appeal his plea or conviction.

### Allegations

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

1. Ineffective Assistance of Counsel as to Claude H. Howe, III, Esquire:
  - a. "Counsel failed to file a motion for a speedy trial. Applicant's case was pending for approximately seven years."
  - b. "Failed to request the Solicitor to dismiss charges once the charges against Greg Bridges and Junior Woods were dismissed."
  - c. "Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence."
2. Ineffective Assistance of Counsel as to Thomas J. Adducci, Esquire:
  - a. "Counsel failed to file a motion for a speedy trial since Applicant's case was pending for approximately seven years."
  - b. "Counsel failed to argue what the co-defendant had gotten as a sentence in Applicant's sentencing phase of his guilty plea, co-defendant has taken responsibility for the crime, and the Applicant was merely present at the residence at the time. See State v. Dennis, 321 SC 413, 486 S.E.2d 674 (Ct App 1996)."
  - c. "Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence."
  - d. "Counsel told Applicant he could not have a jury trial. But for counsel's statement that Applicant could not have a trial, Applicant would not have pled guilty and would have insisted on going to trial."

### II. APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the

application alleges ineffective assistance of counsel 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, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order 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. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject

convictions, the plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief and amendment, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

**Ineffective Assistance of Counsel as to Claude H. Howe, III, Esquire**

*Counsel failed to file a motion for a speedy trial. Applicant's case was pending for approximately seven years.*

Applicant alleged that Mr. Howe was ineffective for failing to file a motion for a speedy trial. He testified that he asked Mr. Howe to file this motion in 2011 but it was never filed. Applicant testified that he was incarcerated in SCDC on another charge in 2011 and found out about filing a speedy trial motion while in prison. Mr. Howe testified that he represented Applicant from 2009 until July 2015. He testified that he was not sure if he ever filed a speedy trial motion. Mr. Howe testified that Applicant's case took so long to come to fruition because of a backlog of cases and a change in administration at the Solicitor's Office, and because he could not locate Applicant for a some time.

This Court finds that Applicant has failed to carry his burden of proving that Mr. Howe was ineffective for failing to file a motion for a speedy trial. This Court finds that Mr. Howe lacked the opportunity to communicate with Applicant about his case through no fault of Mr. Howe. Mr. Howe provided credible testimony that he could not locate Applicant for some time and Applicant was in and out of SCDC during his representation. This Court finds that it was not unreasonable for Mr. Howe to not file a speedy trial motion when he could not locate his client. Additionally, Applicant's SCDC records indicate that he was incarcerated from August 15, 2011 to June 1, 2012, which contributed to Mr. Howe's inability to move forward with Applicant's case.

This Court further finds that Applicant has failed to show that he was prejudiced by Mr. Howe's failure to file a motion for a speedy trial. He has failed to show resulting prejudice to his case and has failed to show that a speedy trial motion would have been successful had it been filed. Accordingly, this allegation must be dismissed.

*Failed to request the Solicitor to dismiss charges once the charges against Greg Bridges and Junior Woods were dismissed.*

Applicant alleged that Mr. Howe was ineffective for failing to ask that his charges be dismissed once the charges against his brother, Greg Bridges, and Junior Woods were dismissed. He testified that he was at Greg Bridges' house playing a computer game when the police came in and found a methamphetamine operation and charged him and his brother with trafficking methamphetamine. Applicant also testified that his brother pled guilty and received an eighteen month sentence. Mr. Howe testified that he was not aware of the disposition of Applicant's brother's case and could not recall if Applicant's brother took all responsibility for the drugs.

This Court finds that Applicant has failed to show that Mr. Howe was deficient for failing to request that Applicant's charges be dismissed. This Court finds that Mr. Howe did not act unreasonably in failing to make a motion as he was not aware of the disposition of other defendants' cases. This Court would also note that Applicant's version of events contradicts the State's version of events that Applicant agreed with during his plea hearing.

This Court further finds that Applicant has failed to show that he was prejudiced by Mr. Howe's actions as he has failed to provide any evidence that would show that a motion to dismiss his charges would have been successful. Accordingly, this allegation must be dismissed.

*Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence.*

Applicant alleged Mr. Howe was ineffective for failing to present a letter from Greg Bridges where Greg admitted responsibility for the drugs found at the house. He testified that

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this letter was written on January 18, 2011. Applicant did testify however that he did not discuss this letter with Mr. Howe. Mr. Howe testified that he never saw this letter and it was not in his file. He testified that he could not recall if Applicant's brother took all responsibility for the drugs. He further testified that he did not believe the letter would make a difference because the solicitor would have still taken Applicant to trial on the trafficking methamphetamine charge.

This Court finds that Applicant has failed to meet his burden of showing that Mr. Howe was deficient for failing to show the solicitor a letter written by his brother wherein his brother took responsibility for the drugs at his house. This Court finds, based on Mr. Howe's and Applicant's testimony, that there is no credible evidence that Mr. Howe saw this letter or that Applicant discussed it with him. Thus Mr. Howe cannot be deficient for failing to introduce evidence that he did not know existed.

Furthermore, this Court finds that Applicant has failed to show that he was prejudiced by Mr. Howe's actions, as he has failed to show that the outcome would have been different had Mr. Howe presented this letter to the solicitor. This Court would also note that Applicant did not mention this letter during the plea hearing. This Court finds that there is no evidence that the State would have dropped Applicant's charges or that the letter would have an impact on his sentencing. Accordingly, this allegation must be dismissed.

**Ineffective Assistance of Counsel as to Thomas J. Adducci, Esquire**

*Counsel failed to file a motion for a speedy trial since Applicant's case was pending for approximately seven years.*

Applicant alleged that Mr. Adducci was ineffective for failing to file a motion for a speedy trial. He testified that he asked his counsel to file this motion but it was never filed. Applicant testified that he was incarcerated in SCDC on another charge in 2011 and found out about filing a speedy trial motion while in prison.

Mr. Adducci testified that he began representing Applicant in 2015. He testified that Applicant failed to appear for roll call in February 2015 and a bench warrant was issued for his arrest. Mr. Adducci testified that he had no contact with Applicant and was unable to locate him for some time. He testified that he first made any sort of contact with someone associated with Applicant was when Applicant's brother called him on September 29, 2016. He testified that Applicant was arrested in Greenville and the Greenville Detention Center saw that there was a hold in Laurens County. Mr. Adducci testified that he did not file a speedy trial motion because he had no idea where Applicant was until September 29, 2016, and the plea took place three months later.

This Court finds that Applicant has failed to prove that Mr. Adducci was deficient for failing to file a motion for a speedy trial. This Court finds Mr. Adducci provided credible testimony that he did not file a speedy trial motion because he was unable to locate Applicant and was unsuccessful in making contact with Applicant or his family members during most of his representation until Applicant was arrested in Greenville in September 2016. This Court finds that it was not unreasonable for Mr. Adducci to not file a speedy trial motion when he was unable to locate his client, despite his efforts. This Court finds that Mr. Adducci acted reasonably in attempting to locate Applicant was not deficient for failing to file a speedy trial motion.

This Court further finds that Applicant has failed to show that he was prejudiced by Mr. Adducci's failure to file a speedy trial motion. This Court would note that once Mr. Adducci was able to locate Applicant after Applicant's Greenville arrest, he was able to negotiate a plea deal with the State and Applicant pled guilty three months later. Applicant has failed to show that a speedy trial motion would have been successful had it been filed. Accordingly, this allegation must be dismissed.

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*Counsel failed to argue what the co-defendant had gotten as a sentence in Applicant's sentencing phase of his guilty plea, co-defendant has taken responsibility for the crime, and the Applicant was merely present at the residence at the time.*

Applicant alleged that Mr. Adducci was ineffective for failing to argue at Applicant's plea hearing the sentence that his brother received, the fact that his brother took responsibility for the crime, and the fact that Applicant was merely present. He testified that he did not discuss with Mr. Adducci what sentence his brother received for pleading guilty, and testified that he only recently realized what sentence his brother received when he read his brother's letter. Applicant testified that he did not discuss anything with Mr. Adducci prior to pleading guilty and did not discuss what would be offered in mitigation.

Mr. Adducci testified that he could not recall if Applicant's brother took all responsibility for the crime. He testified that he never saw a letter from Applicant's brother that indicated he took responsibility. He testified that he knew Applicant's brother pled guilty.

This Court finds that Applicant has failed to meet his burden of proving that Mr. Adducci was deficient for failing to argue to the plea court what sentence Applicant's brother had received, that his brother had taken responsibility for the crime, and that Applicant was merely present at the scene. "Strickland does not require counsel investigate every conceivable line of mitigating evidence or require the submission of such evidence in every case." Wiggins v. Smith, 539 U.S. 510, 533 (2003). This Court finds that Mr. Adducci provided credible testimony that he never saw a letter from Applicant's brother that indicated the brother took responsibility for the crime. This Court finds that there is no evidence that Applicant's sentence was affected by Mr. Adducci's failure to raise these issues in mitigation. This Court would also note that Applicant failed to make any of this information known to the court when he addressed the plea court during mitigation and when he agreed with the State's version of the facts that he was not merely

present during the crime. This Court finds Mr. Adducci's actions were not unreasonable, especially considering he was able to negotiate a five-year plea, backdated to the start date of an unrelated conviction. Applicant has failed to show that Mr. Adducci's actions during mitigation were deficient.

This Court further finds that Applicant has failed to meet his burden of proving that he was prejudiced by Mr. Adducci's failure to raise certain issues in mitigation. Applicant did not provide ample evidence that he would have proceeded to trial but for Mr. Adducci's failure to argue to the plea court what sentence Applicant's brother had received, that his brother had taken responsibility for the crime, and that Applicant was merely present at the scene. Accordingly, this allegation must be dismissed.

*Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence.*

Applicant alleged Mr. Adducci was ineffective for failing to present a letter from Greg Bridges where Greg admits responsibility for the drugs found at the house. He testified that this letter was written on January 18, 2011. Applicant testified that Mr. Adducci did not know about this letter.

Mr. Adducci testified that he could not recall if Applicant's brother took all responsibility for the crime. He testified that he never saw a letter from Applicant's brother that indicated he took responsibility. He testified that he knew Applicant's brother pled guilty. Mr. Adducci testified that he was not sure if any letter would have caused the State to change their position. Mr. Adducci further testified that they discussed the fact that Applicant's brother pled guilty, but he could not recall Applicant ever telling him that he was innocent of the charges.

This Court finds that Applicant has failed to meet his burden of proving that Mr. Adducci was deficient for failing to present the solicitor with a letter from Applicant's brother wherein his

brother admitted responsibility for the crime. This Court finds that Mr. Adducci provided credible testimony that he never saw a letter from Applicant's brother. This Court finds that Mr. Adducci is not deficient for not presenting a letter that he had never seen before.

Furthermore, this Court finds that Applicant has failed to show that he was prejudiced by Mr. Adducci's actions, as he has failed to show that the outcome would have been different had Mr. Adducci presented this letter to the solicitor. This Court would also note that Applicant did not mention this letter during the plea hearing, which corroborates Mr. Adducci's assertion that he had no knowledge of the letter. This Court finds that there is no evidence that the State would have dropped Applicant's charges or that the letter would have an impact on his sentencing. Accordingly, this allegation must be dismissed.

*Counsel told Applicant he could not have a jury trial. But for counsel's statement that Applicant could not have a trial, Applicant would not have pled guilty and would have insisted on going to trial.*

Applicant alleged that Mr. Adducci was ineffective for telling him that he could not have a jury trial. He alleged that he would not have pled guilty but would have insisted on going to trial had Mr. Adducci not told him otherwise. Applicant testified that he pled guilty because he was tired of having this outstanding charge hang over his head and Mr. Adducci told him that he could get the State to drop the charge down from trafficking. He testified that they discussed the theory of the hand of one is the hand of all. Applicant testified that he was not guilty and thought the charge would be dismissed.

Mr. Adducci testified that he told Applicant that he could have a jury trial but it would be on his indicted offense for trafficking methamphetamine and not the lesser included offense of PWID methamphetamine to which he was offered to plead guilty. He testified that he asked the State to dismiss the charge, but it would not oblige. He testified that he emailed the assistant solicitor handling the case in October and November 2016 to negotiate a plea deal and ultimately

the assistant solicitor agreed to a recommended sentence that would run concurrent to the SCDC sentence. Applicant was already serving from Greenville. Mr. Adducci testified that he asked the solicitor to transport Applicant from SCDC so they could resolve this charge. He testified that Applicant was transported to Laurens County in December and they reviewed the discovery, Applicant's constitutional rights, and the State's plea offer. He testified that Applicant decided to plead guilty to a recommended five-year sentence that would be backdated to the start of Applicant's current SCDC incarceration, and the sentence would not add one day to his current SCDC incarceration. Mr. Adducci testified that Applicant was aware that he did not have to plead guilty that day, but this was an option to clear up the Laurens County hold.

This Court finds that Applicant has failed to meet his burden of proving that Mr. Adducci was deficient for telling him that he could not have a jury trial. This Court finds that Mr. Adducci provided credible testimony that he informed Applicant that he had the right to a jury trial on the indicted offense of trafficking methamphetamine, and not on the lesser included offense to which he was offered to plead guilty. This Court finds that Mr. Adducci also provided credible testimony that he discussed with Applicant his constitutional rights upon his transportation to Laurens County. This Court further finds that the plea judge informed Applicant during the plea hearing that by pleading guilty he was giving up constitutional rights, including the right to a jury trial. See Guilty Plea Transcript, p. 6, ll. 4-19.

This Court further finds that Applicant has failed to prove that he would have gone to trial but for Mr. Adducci's advice that Applicant could not have a jury trial. Applicant raised no concerns during the plea hearing when the plea judge informed him that he had the right to a jury trial. Additionally, although Applicant testified that he pled guilty because Mr. Adducci told him he could not have a jury trial, this Court finds that this testimony is contradicted by Applicant's

additional testimony that he pled guilty because he was tired of having this outstanding charge hand over his head and Mr. Adducci told him that he could get the State to drop the charge down from trafficking. As Applicant has failed to prove that he would have proceeded to trial but for Mr. Adducci's alleged errors, this allegation must be dismissed.

#### IV. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate either counsels' performances were 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.

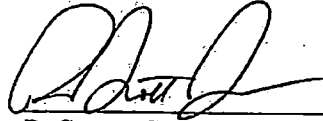
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, 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 will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 21 day of November, 2017.



R. SCOTT SPROUSE  
Presiding Judge  
Eighth Judicial Circuit

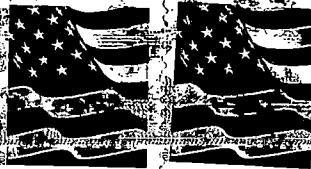
Wallace, South Carolina

A TRUE COPY OF ORIGINAL  
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The Honorable Daniel E. Shearouse  
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