

THE STATE OF SOUTH CAROLINA
In the Supreme Court

POST CONVICTION RELIEF APPEAL FROM HORRY COUNTY
Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

PCR Case Number: 2014-CP-26-07915

Theodore Wills, Jr., Applicant

v.

The State of South Carolina, Respondent.

NOTICE OF APPEAL

Counsel of Record:

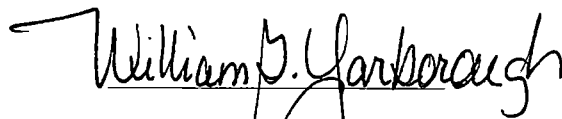
Alan Wilson, South Carolina Attorney General
Julie A. Coleman, Assistant Attorney General
Assistant Attorney General
PO Box 11549
Columbia, SC 29211-1549

Applicant Theodore Wills, Jr., appeals the decision of the Fifteenth Judicial Circuit's Court of Common Pleas, taken from the attached Order (*See Order*), filed on January 5, 2018, and respectfully requests that this Honorable Court allow him the opportunity to file an appeal.

A copy of this Notice has been served upon Attorney General Alan Wilson and Assistant Attorney General Julie A. Coleman by U.S. Mail.

THEREFORE, the Applicant, Theodore Wills, Jr., respectfully moves this Honorable Court to grant the appeal.

Respectfully submitted,

A handwritten signature in black ink that reads "William G. Yarborough". The signature is written in a cursive style with a long horizontal stroke at the beginning.

William G. Yarborough
Attorney for the Applicant
522 North Church Street
Greenville, SC 29601
(864) 331-1612
SC Bar No.: 10271

Greenville, SC
January 10, 2018

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In the Supreme Court

POST CONVICTION RELIEF APPEAL FROM HORRY COUNTY
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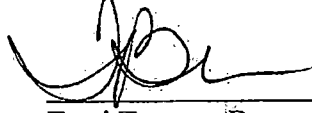
The State of South Carolina, Respondent.

AFFIDAVIT OF SERVICE

I, Traci Trouton-Burr, certify on this date, January 10, 2018, I served a Notice of Appeal in this action, dated January 10, 2018, on Alan Wilson, South Carolina Attorney General and Julie A. Coleman, Assistant Attorney General by mailing it to him/her at his/her work address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

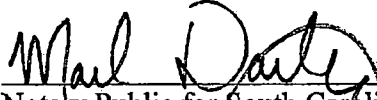
Alan Wilson, South Carolina Attorney General
Julie A. Coleman, Assistant Attorney General
Assistant Attorney General
PO Box 11549
Columbia, SC 29211-1549

Respectfully submitted,



Traci Trouton-Burr
Paralegal to William G. Yarborough, Esquire

SWORN TO before this 10
Day of January, 2018



Notary Public for South Carolina

My Commission expires: 10/9/23

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY)	
Theodore Wills Jr.,)	Case No.: 2014-CP-26-07915
S.C.D.C. No. 239761,)	
)	
Applicant,)	
)	ORDER OF DISMISSAL
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	

FILED
 HORRY COUNTY
 2018 JAN -5 PM 2:18
 HONORABLE CLAVIS
 CLERK OF COURT
 HORRY COUNTY, SC

This matter comes before the Court by way of an application for post-conviction relief filed by Theodore Wills Jr. ("Applicant") on December 1, 2014. Respondent made its return on or about February 2, 2016. The Court convened an evidentiary hearing into the matter on Tuesday, September 19, 2017, at the Horry County Courthouse in Conway, South Carolina. Applicant was present at the hearing and represented by William G. Yarborough, III, Esquire. Johnny Ellis James Jr., of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's trial counsel, William I. Diggs, Esq. ("Counsel"), and Scott Hixson, Esq., of the Fifteenth Circuit Solicitor's Office ("Hixson"), also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original trial transcript, the records of the Horry County Clerk of Court regarding the subject convictions, Applicant's direct appeal records, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. Applicant was indicted at the April 2006 term of the Horry County Grand Jury for murder (2006-GS-26-01652). William I. Diggs, Esq. represented Applicant, and Bradley C. Richardson, of the Fifteenth Circuit Solicitor's Office, prosecuted the case. On October 1, 2007, Applicant proceeded to trial before the Honorable Steven H. John and a jury. The jury found Applicant guilty as indicted on October 3, 2007. On October 29, 2007, Judge John sentenced Applicant to imprisonment for a term of 40 years.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Joseph L. Savitz, III, Esq., who raised the following issue:

The trial judge committed reversible error by allowing Wills' statement into evidence, since it resulted from a proffer agreement with the State and was thus inadmissible under Rule 410, SCRE.

By opinion decided September 22, 2010, the South Carolina Court of Appeals affirmed Applicant's convictions. State v. Wills, 390 S.C. 139, 700 S.E.2d 266 (Ct. App. 2010). By and through counsel Robert M. Dudck, Esq., Applicant petitioned the Supreme Court of South Carolina for a writ of certiorari, which was granted by order dated February 13, 2012. By and through counsel Lanelle Cantey Durant, Esq., Applicant thereafter briefed the Supreme Court as to the following issue:

Whether the Court of Appeals erred by ruling the trial judge did not commit reversible error by allowing Petitioner Wills' statement into evidence, since it resulted from a proffer agreement with the State and was thus inadmissible under Rule 410, SCRE.

The parties proceeded to oral arguments on December 6, 2012. The Supreme Court affirmed the Court of Appeals on July 16, 2014. State v. Wills, 409 S.C. 183, 762 S.E.2d 3 (2014). The Remittitur was issued on August 22, 2014.

Present Application

In his post-conviction relief application, as amended by filing on June 1, 2017, Applicant alleges he is being held unlawfully for the following reasons:

1. "The plea agreement was null and void after the material breach of the terms and thus Applicant's alleged admissions in conjunction with the plea agreement are inadmissible per se and were improperly admitted at trial."
 - a. "The terms of the plea agreement should be construed strictly against the State as the drafter. The terms stated that the agreement would be rendered null and void upon violation of the agreement. By claiming that Applicant violated the agreement and then withdrawing it, the State nullified the entire agreement including the waiver provision. Thus, the Applicant's alleged admissions should have been excluded under Rule 410 since the terms of the agreement were nullified and no longer controlling."
2. "The Government improperly used the Applicant's alleged admissions in its case-in-chief when such admissions are only usable as impeachment evidence."
 - a. "The government used the Applicant's alleged admissions in its case-in-chief when such evidence should only be usable as impeachment evidence."
3. "The State wrongfully used unreliable polygraph test results to obtain the only substantive evidence against the Applicant, claiming that the Applicant had violated the agreement by being untruthful without identifying any specific statements where the Applicant had deceived the State."
 - a. "The State wrongfully used unreliable polygraph test results to obtain the only substantive evidence against the Applicant. The State claimed that the Applicant had made deceptive statements but never identified the deception which rendered the plea agreement proceeding fundamentally unfair to the Applicant."
4. "The withdrawal of the plea agreement due to the unreliable polygraph results was patently unfair to the Applicant, especially considering that the State later used the same polygraph evidence as the only evidence against Applicant."
 - a. "The withdrawal of the plea agreement due to the unreliable polygraph results was patently unfair to the Applicant, especially considering that the State later used the same polygraph evidence as the only evidence against Applicant. The State withdrew the agreement alleging that the Applicant's statements were false only to present those same statements later to the jury as true. This turnabout produced a patently unfair proceeding for the Applicant that impaired the integrity of the judicial process and resulted in a miscarriage of justice."

5. "There was insufficient evidence of the Applicant's guilt since the State's only evidence was the Applicant's alleged admissions which were admitted improperly. Thus, the trial court erred in denying the Applicant's motion for a directed verdict in violation of the Applicant's 4th and 14th Amendment due process rights.
 - a. "The only substantive evidence against the Applicant was his alleged admissions which were wrongfully admitted. Due to the lack of evidence, the trial court erred in denying the Applicant's motion for a directed verdict in violation of his due process rights under the 4th and 14th Amendments."
6. "Ineffective assistance of counsel pursuant to Strickland v. Washington."
 - a. "Trial counsel was ineffective pursuant to Strickland v. Washington for failing to object to an erroneous jury charge regarding implied malice."

II. 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 records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

A. Respondent's Partial Motion to Dismiss

At the outset of the evidentiary hearing, Respondent motioned to dismiss the first five allegations, restated above, arguing that they comprised direct appeal issues and claims of actual innocence not cognizable in a post-conviction relief action. Applicant argued that the application should be read *in toto*, and that the allegations should be read entirely under the umbrella of Applicant's final, general allegation of ineffective assistance of counsel. Consistent with its ruling from the bench at the evidentiary hearing, this Court agrees with Applicant, and finds that the interests of justice are best served by reading the Application *in toto*. Accordingly, Respondent's partial motion to dismiss is **DENIED**.

B. Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, he or she must prove “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.” Butler at 442, 334 S.E.2d 441 (quoting Strickland v. Washington, 466 U.S. 668, 686 (1984)). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Id.

“[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Butler at 442, 334 S.E.2d 441 (quoting Strickland at 690). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989). “Judicial scrutiny of counsel’s performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” Strickland, 466 U.S. at 689; Edwards v. State, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011). “[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel’s performance was deficient. Under this

prong, attorney performance is measured by its "reasonableness under professional norms." Cherry at 117, 386 S.E.2d at 625 (citing Strickland at 688). Second, counsel's 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." Cherry at 117-18, 386 S.E.2d at 625 (citing Strickland at 694). The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. Strickland at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. at 696-97.

IAC Allegation #1 – Misadvice to Proffer, Failure to Argue Against Use of Statements

Reading the application *in toto*, Applicant argues that Counsel misadvised Applicant to enter into the proffer agreement and failed to adequately and effectively argue that the use of his proffered statements against him at trial was improper. The law applicable to this question is, as noted by Respondent at the evidentiary hearing, set forth by the holdings on Applicant's own direct appeal. "[A]greements between defendants and the State should be interpreted 'in accordance with general contract principles.'" State v. Wills, 390 S.C. 139, 700 S.E.2d 266 (Ct. App. 2010). While Rule 410 of the South Carolina Rules of Evidence generally render inadmissible any statements made in the course of plea discussions, a defendant may waive the protections afforded by Rule 410. State v. Wills, 409 S.C. 183, 185, 762 S.E.2d 3, 4 (2014).

By letter dated August 25, 2005, Assistant Solicitor Scott Hixson offered Applicant the opportunity to enter into a proffer agreement with the State. Appx. 185-87, State v. Wills, App.

Case No. 2010-178266. The terms of that proffer provided that Applicant would "submit himself to agent(s) of the State for the purpose of debriefing regarding this matter and all other matters materially bearing on this matter[.]" and that Applicant would "submit himself to a polygraph examination(s) to verify all information provided to the State at the election of the State." Id. Further, the proffer established that if the responses given by Applicant during the polygraph returned an indication of deception, the terms of the proffer would be null and void and any statements made by Applicant could be used against him by the State for any legal purpose. Id. In exchange for his cooperation, Applicant's statements would not be used against him, he would not be subject to any further charges in connection with the subject of the proffer, and the State would take it into consideration in determining an appropriate sentencing recommendation. Id. Applicant and Counsel both signed the proffer on August 26, 2005. Id. Applicant met that same day with Det. Troy Allen Large, of the Horry County Police Department, and proffered a statement in the presence of Counsel and Hixson.

Applicant thereafter submitted to a polygraph examination on September 19, 2005. Tr. 44, ll. 2-3. In an extensive pre-trial Jackson v. Denno hearing, Special Agent Ricky W. Charles, of the South Carolina Law Enforcement Division, testified that the results of the polygraph examination indicated that Applicant "showed deception on the test." Tr. 67, ll. 9-11. In particular, S/A Charles testified that Applicant was deceptive to questions regarding who actually shot the victim:

Q: Agent Charles, with regard to Question R-4, are you lying about Mark Willard shooting Julian Lee in that field, what was the examinee's response?

A: He answered, no.

Q: And what were you able to discern from that answer?

A: When we numerically evaluated the chart we determined that he was deceptive to that question when he answered no.

Q: And in response to R-6 did you shoot Julian Lee what was the examinee's response?

A: He answered, no.

Q: And were you able to determine whether the defendant was showing deception or not on that question?

A: Numerically when the charts were evaluated it was determined that he was deceptive with that question.

Q: Finally to speed things up, with regard to question R-8 and R-10, are you lying about Donnell Green throwing that gun used in the shooting in the water? Twelve is, did you lie about being paid by the Johnson brothers to shoot Julian Lee, what were the defendant's responses with regard to those questions?

A: He answered, no, to both.

Q: And were you able to determine anything with regard to that question?

A: No, numerically both of those were scored inconclusive or no opinion.

Tr. 70-71. Counsel argued against the use of the proffered statement in the case in chief on grounds that "the proffer agreement itself doesn't really tell [Counsel] or [Applicant] that this statement is going to be introduced during the trial, the course of the trial for the jury to hear."

Tr. 125, ll. 7-10. Counsel argued the proffer was ambiguous and that the ambiguity should be "construed strictly against the State." Tr. 125, ll. 15-17. Counsel further contended that the voluntariness of the statement was inextricably intertwined with the validity of the interpretation of the polygraph itself, and that, despite ample opportunity, the State never bothered to attempt a second polygraph examination. Tr. 125-27. The trial court ultimately ruled that the proffered statement could come in, but that no reference to the polygraph examination would be permitted.

Tr. 131-36. The recording of Applicant's statement was introduced as an exhibit during the State's case-in-chief and published to the jury. Tr. 229-31.

At the evidentiary hearing, Counsel testified that his understanding of the agreement was that if Applicant was truthful, all of the charges would be dropped and that the State would, with Applicant's assistance, prosecute the others involved in the killing. Counsel reported that the State gave him assurances the proffered statement would not be used against Applicant. Counsel felt that the State breached the agreement. Counsel recalled that he argued the statement could be used only for impeachment purposes.

On cross-examination, Counsel expressed his belief that Applicant had been truthful, as well as his belief that the offer presented would have been the best possible outcome for his client. Counsel felt at the time that the deal was very good. Counsel indicated that he, with other clients, had entered into many other proffers in his 34 years as a practicing attorney, but could recall no other instances of a breach in proffer. When asked if he considered independently conducting a polygraph examination on his client, Counsel noted that Applicant was incarcerated prior to trial and that, consequently, such a venture was not possible. Counsel noted that Applicant was a "normal person" who did not suffer from any mental problems. Notably, Counsel affirmed that he would still today advise clients to enter into proffer agreements. On re-direct by Applicant, Counsel noted that the issue Applicant faced had been new ground and that hindsight is twenty-twenty.

Applicant testified that both Counsel and the solicitor indicated the proffer would help him, and that he could be truthful, open, and honest in his statements. Applicant was surprised the State took him to trial for murder after the proffer. Counsel told Applicant that the State would not be able to use the proffered statements against him. Applicant maintained that he

never lied and was honest throughout the process. Applicant claimed that nobody told him he would have to take a polygraph. Applicant affirmed that he was never offered and never took a second polygraph examination.

Hixson testified that the State made the offer of a proffer because the case was thin. Hixson recalled telling Applicant not to "straddle the fence" in his statements. Hixson recalled that Counsel was present during the proffer, and that Applicant was initially dishonest at the outset of the proffer. Upon warning, Hixson further recalled, Applicant became surprisingly forthright, admitted to getting money, and effectively made himself a witness. Hixson was surprised upon learning that Applicant failed the polygraph examination. Hixson denied making any firm promises as to the resolution of the case. On cross-examination, Hixson firmly denied pledging to not prosecute Applicant for murder. Hixson denied that he had been seeking to take advantage of Applicant and, at the time, believed Counsel had made a stroke of genius.

As to Counsel's decision to advise Applicant to enter into the proffer agreement, the Court finds no deficiency on the part of Counsel. Looking back, the decision to enter into the proffer agreement obviously did not inure to Applicant's benefit, but proper analysis of an allegation of ineffective assistance of counsel requires this Court to make every effort to set aside the distorting effect of hindsight and consider the decisions of counsel based on the information and circumstances available to him at the time they are made. Strickland, 466 U.S. at 689. Proffer agreements are a common element of plea negotiations premised upon cooperation between defendants and the State. The testimony from Counsel, Applicant, and Hixson was consistent that the deal was very advantageous to Applicant and that all were surprised that he failed the polygraph examination. There were no indications that the cooperating agreement was likely to fail, either due to some dishonesty apparent to Counsel or due to some mental or

emotional disability on the part of Applicant. Counsel thoughtfully and strategically considered the potential benefit the proffer presented to his client and advised his client appropriately. Accordingly, this Court can find no deficiency on the part of Counsel in his advice to Applicant to enter into the agreement, nor prejudice therefrom, and Applicant's request for relief based upon that advice is **DENIED**.

As to Counsel's arguments against the admissibility of the statements in the State's case-in-chief, this Court finds that Counsel effectively and zealously argued against their admissibility for any purpose other than impeachment, secured a complete ruling from the trial judge, and preserved an unanswered question in South Carolina law for appeal. Applicant advances a number of strong and compelling arguments against the admissibility of his proffered statement, not all of which were advanced in so complete a manner at trial. However, each of Applicant's arguments were explicitly considered by the Supreme Court of South Carolina on direct appeal, as evidenced by now-Chief Justice Beatty's vociferous dissent, in which Justice Hearn concurred. See State v. Wills, 409 S.C. 183, 185-206, 762 S.E.2d 3, 4-15 (2014). The arguments advanced by Applicant were not adequate to turn the opinion in the Supreme Court and, as such, this Court cannot now conclude that they would have done so at the trial level. Accordingly, the Court finds no deficiency on the part of counsel, nor prejudice therefrom, and Applicant's request for relief by way of this allegation is **DENIED**.

IAC Allegation #2 – Failure to Object to Jury Instruction on Implied Malice

Applicant alleges that Counsel was ineffective for failing to object to the trial court's instructions to the jury regarding the implication of malice from the use of a deadly weapon. On October 12, 2009, the Supreme Court of South Carolina held "that where evidence is presented that would reduce, mitigate, excuse or justify a homicide (or assault and battery with intent to

kill) caused by the use of a deadly weapon, juries shall not be charged that malice may be inferred from the use of a deadly weapon. State v. Belcher, 385 S.C. 597, 612, 685 S.E.2d 802, 810 (2009). However, the Supreme Court recognized its decision in Belcher represented “a clear break from our modern precedent,” and circumscribed the holding to apply only to Belcher and “for all cases which are pending on direct review or not yet final where the issue is preserved.” Id. Belcher does not apply retroactively to convictions challenged on post-conviction relief. Id., 385 S.C. at 613, 685 S.E.2d at 810.

At trial, the court instructed the jury as follows:

Regarding inferred malice[,] that is shown from conduct which shows a total disregard for human life. Inferred malice can also arise when the deed is done with a deadly weapon. A deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily harm. Whether or not an instrument has been used as a deadly weapon depends upon the facts and circumstances of each case.

Tr. 284-85 (formatting omitted). Counsel did not object.

At the evidentiary hearing, Counsel testified that the charge was good law at the time of trial, which took place from October 1-3, 2007. This Court agrees, not only because Belcher is not retroactive, but because there was no evidence presented at trial to reduce, mitigate, excuse, or justify the homicide. The victim was simply murdered, with no hide nor hair of evidence to show that it was done in self-defense or that lesser-included charge was appropriate. Accordingly, the Court finds no deficiency on the part of Counsel, nor prejudice therefrom, and Applicant's request for relief by way of this allegation is **DENIED**.

III. CONCLUSION

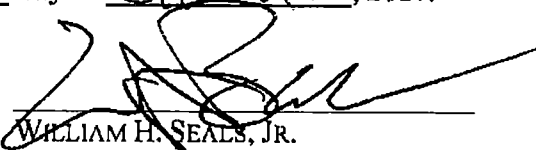
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel 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 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 19 day of December, 2017.


WILLIAM H. SEALS, JR.
Presiding Judge
Fifteenth Judicial Circuit


_____, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

Theodore Wills, Jr., #239761)

Plaintiff)

v.)

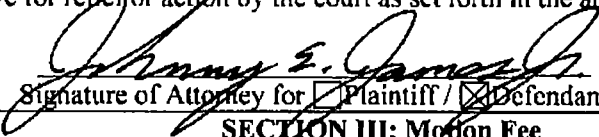
State Of South Carolina)

Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.
2014-CP-26-7915

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: William G. Yarborough, Iii, Bar No. 10271 Address: 522 N. Church St. Greenville, SC 29601 phone: (864) 331-1612 fax: (864) 370-0022 e-mail: other:	Defendant's Attorney: Johnny E. James Jr, Bar No. 100260 Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTION I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Estimated Time Needed: Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> 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 <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	
December 14, 2017 Date submitted	
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: <input checked="" type="checkbox"/> EXEMPT:	
(check reason) <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> 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: <input type="checkbox"/> Other:	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE: _____ CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
<input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	

FILED
 CLERK OF COURT
 HORRY COUNTY
 2018 JAN - 11 - 11 21 13 PM 2018



ALAN WILSON
ATTORNEY GENERAL

December 14, 2017

The Honorable William H. Seals, Jr.
Presiding Judge, 15th Judicial Circuit
103 North Main Street
Marion, SC 29571

FILED
CLERK OF COURT
HORRY COUNTY, SC
2018 JAN -5 PM 2:18
ELMIS

Re: Theodore Wills, Jr., #239761 v. State of South Carolina
2014-CP-26-7915

Dear Judge Seals:

Enclosed please find the proposed **Order of Dismissal** in the above-captioned case.

If this Order meets your approval, please sign and return to me in the enclosed envelope, and I will forward to the Horry County Clerk of Court to be filed and served. If you have any questions, please do not hesitate to contact me.

Sincerely,

Johnny E. James, Jr.
Assistant Attorney General

JFJ/mm
Enclosure

cc: William G. Yarborough, III, Esquire



ALAN WILSON
ATTORNEY GENERAL

January 2, 2018

The Honorable Renee N. Elvis
Clerk of Court, Horry County
Post Office Box 677
Conway, SC 29528-0677

FILED
Horry County
2018 JAN -5 PM 2:18
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Re: Theodore Wills, Jr., #239761 v. State of South Carolina
2014-CP-26-7915

Dear Ms. Elvis:

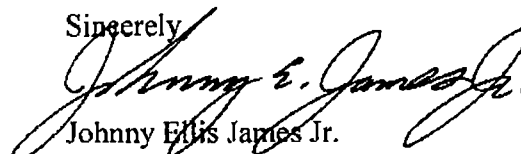
Enclosed please find the original **Order of Dismissal** signed by the Honorable William H. Seals, Jr., in the above-captioned case, for filing in your office.

Pursuant to Rule 71.1(f), of the South Carolina Rules of Civil Procedure, please "provide notice of entry of judgment and serve a copy of the order or judgment to the parties as provided in Rule 77(d), SCRPC."

In addition, please forward proof of service and a time stamped copy back to our office for our file.

Should you have any questions, please do not hesitate to call me at (803) 734-3737.

Sincerely


Johnny Ellis James Jr.
Assistant Attorney General

JFJ/mm

Enclosure

Law Office of William G. Yarborough III
522 North Church Street
Greenville, SC 29601

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

