

# Lowcountry Law Office

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March 10, 2018

The Honorable Daniel E. Shearhouse  
Clerk, Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211

RECEIVED

MAR 14 2018

S.C. SUPREME COURT

RE: William Seabrook v. State of SC; Case #: 2016-CP-10-2908  
Darryl Mungin v. State of SC; Case #: 2016-CP-10-6560  
Gerald Edwards v State of SC; Case #: 2016-CP-10-2515

Dear Mr. Shearhouse:

Enclosed for filing is the Notice of Appeal (original and clocked copy) in the above Post-Conviction Relief (PCR) cases. Also enclosed are the following:

- (1) Proof of Service of the Notice of Appeal on the Respondent;
- (2) The Order of Dismissal; and
- (5) A Request for Representation on Appeal.

The Applicant(s) – Appellant(s) were represented by me as indigent, pursuant to my contract with the South Carolina Commission on Indigent Defense (SCCID) to handle PCR cases. By copy of this letter, I am forwarding a duplicate set of documents to the SCCID.

The Request for Representation on Appeal and the Affidavit in Support, thereof, are signed by me as attorney for the Applicant(s) – Appellant(s). Should you need anything further, do not hesitate to contact me.

Thank you for your time and attention to this matter.

Sincerely,



Rodney D. Davis  
South Carolina Bar #: 12396  
4000 Faber Place Drive, Suite 300  
Charleston, SC 29405  
(843) 323-4353  
[Davis@LowcountryLawOffice.com](mailto:Davis@LowcountryLawOffice.com)

✓ Enclosure(s). As stated above.  
RDD/mmt

cc: Justin J. Hunter, Assistant Attorney General  
Paula Murdoch, Appellate Division, SCCID

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Michael G. Nettles

Case #: 2016-CP-10-6560

Darryl Mungin,

Appellant.

v.

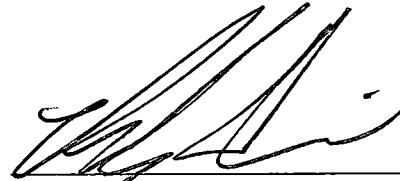
State of South Carolina,

Respondent.

NOTICE OF APPEAL

Darryl Mungin appeals the denial of his Post Conviction Relief (PCR) application and his conviction in this case. On December 5, 2017, the Honorable Michael G. Nettles granted the Respondent's Motion to Dismiss but granted the Applicant a review of direct appeal issues pursuant to White v. State, 208 S.E.2d 35, 263 S.C. 110 (1974). Counsel for the Appellant received a copy of the filed Order of Dismissal and Grant of Appellate Review, on or about February 12, 2018.

March 5, 2018



Rodney D. Davis  
Attorney for Appellant  
4000 Faber Place Drive, Suite 300  
Charleston, SC 29405  
Davis@LowcountryLawOffice.com

CC:  
Justin J. Hunter, Assistant Attorney General  
Paula Murdoch, South Carolina Commission on Indigent Defense

RECEIVED

MAR 14 2018

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Michael G. Nettles

Case #: 2016-CP-10-6560

Darryl Mungin,

Appellant.

v.

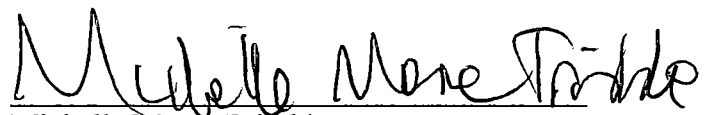
State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State by mailing a copy, via US Mail, to the address of record, Justin J. Hunter, P.O. Box 11549, Columbia, South Carolina 29211-1549, on March 6, 2018.

March 6, 2018



Michelle Moore Trimble  
Paralegal to Rodney D. Davis  
4000 Faber Place Drive, Suite 300  
Charleston, SC 29405  
(843) 323-4353  
Davis@LowcountryLawOffice.com  
Attorney for Appellant

RECEIVED

MAR 14 2018

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Michael G. Nettles

Case #: 2016-CP-10-6560

Darryl Mungin,

Appellant.

v.

State of South Carolina,

Respondent.

NOTICE OF APPEAL

Darryl Mungin appeals the denial of his Post Conviction Relief (PCR) application and his conviction in this case. On December 5, 2017, the Honorable Michael G. Nettles granted the Respondent's Motion to Dismiss but granted the Applicant a review of direct appeal issues pursuant to White v. State, 208 S.E.2d 35, 263 S.C. 110 (1974). Counsel for the Appellant received a copy of the filed Order of Dismissal and Grant of Appellate Review, on or about February 12, 2018.

March 5, 2018



Rodney D. Davis  
Attorney for Appellant  
4000 Faber Place Drive, Suite 300  
Charleston, SC 29405  
Davis@LowcountryLawOffice.com

CC:

Justin J. Hunter, Assistant Attorney General  
Paula Murdoch, South Carolina Commission on Indigent Defense

FILED  
2018 MAR -8 PM 2:22  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Michael G. Nettles

Case #: 2016-CP-10-6560

Darryl Mungin,

Appellant.

v.

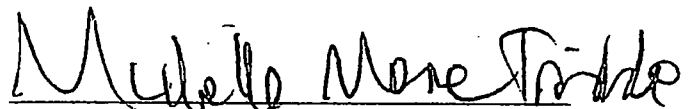
State of South Carolina,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State by mailing a copy, via US Mail, to the address of record, Justin J. Hunter, P.O. Box 11549, Columbia, South Carolina 29211-1549, on March 6, 2018.

March 6, 2018



Michelle Moore Trimble  
Paralegal to Rodney D. Davis  
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Davis@LowcountryLawOffice.com  
Attorney for Appellant

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CLERK OF COURT  
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STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )  
)  
Darryl Jerrard Mungin, )  
S.C.D.C. #255562 )  
)  
Applicant, )  
)  
v. )  
)  
State of South Carolina, )  
)  
Respondent. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
OF THE NINTH JUDICIAL CIRCUIT

2016-CP-10-6560

**ORDER OF DISMISSAL AND  
GRANT OF APPELLATE REVIEW  
PURSUANT TO WHITE V. STATE<sup>1</sup>**

2018 FEB - 1 AM 10: 21  
FILED  
JULIE J. ANDERSON  
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed December 7, 2016. An evidentiary hearing into the matter was convened on Tuesday, December 5, 2017, at the Charleston County Courthouse in Charleston, South Carolina before the Honorable Michael G. Nettles. Applicant was present at the hearing and represented by Rodney Davis, Esquire. Justin Hunter, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on his own behalf. Michael R. Loignon, Esquire, also testified. This Court also had before it a copy of Applicant's PCR application and amendment, the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's appellate records, Respondent's Return, and the plea transcript.

At the outset of the trial, Applicant's counsel made a motion to be relieved as counsel, stating that communication with Applicant had broken down. This Court questioned Applicant about his relationship with Mr. Davis and whether he wished to proceed *pro se* or remain with Mr. Davis. Applicant informed the Court he wished to have Mr. Davis continue his representation and this Court denied the motion to relieve and motion to continue the case.

<sup>1</sup> 263 S.C. 110, 108 S.E.2d 35 (1974)

## I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. Applicant was indicted at the February 2016 term of the Charleston County Grand Jury for first degree burglary (2016-GS-10-0620), second degree domestic violence (2016-GS-10-0622), and obtaining goods by false pretenses (third or subsequent property crime) (2016-GS-10-0624). Assistant Public Defender Michael R. Loignon, Esquire, represented Applicant. Assistant Solicitor Andrew Evans, Esquire, prosecuted the case.

On May 31, 2016, Applicant appeared with his counsel before the Honorable Thomas L. Hughston, Jr. and pled guilty to second degree burglary as a lesser included offense of first degree burglary, to second degree domestic violence as indicted, and to obtaining goods by false pretenses (third or subsequent property offense) as indicted. Judge Hughston sentenced Applicant to imprisonment for ten years, provided at upon the service of five years the balance would be suspended with five years' probation for the burglary charge. Applicant was sentenced to imprisonment for one year for domestic violence and five years for obtaining goods by false pretenses. All sentences were to run concurrently.

On August 4, 2016, Applicant's counsel filed a notice of appeal. The South Carolina Court of Appeals dismissed Applicant's appeal on October 31, 2012, as it was not timely served upon the State. The remittitur was sent on August 31, 2016.

### **Allegations**

In his 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"
  - a. "Violation of sentencing guidelines"

2. "Malicious and vindictive prosecution"
  - a. "Coerced into pleading guilty"

Applicant filed an amendment, adding the following grounds for relief:

1. Applicant's attorneys provided ineffective assistance of counsel by advising the Applicant to forego his Constitutional Right to a jury trial and plead guilty.
2. Applicant's attorneys provided ineffective assistance of counsel by promising a sentence if the Applicant entered a guilty plea.
3. Applicant's attorneys provided ineffective assistance of counsel by failing to fully investigate the case prior to the guilty plea.
4. Applicant's attorneys provided ineffective assistance of counsel by failing to meet with the Applicant a sufficient amount to adequately advise the Applicant and prepare for a resolution.
5. Applicant's attorneys provided ineffective assistance of counsel by failing to discuss strategy for a trial including potential defenses.
6. Applicant's attorneys provided ineffective assistance of counsel by failing to withdraw the guilty plea after the Applicant's comments to the Court, the Applicant's prior comments to his attorneys, and the victim's recantation of the facts.
7. Applicant's attorneys provided ineffective assistance of counsel by failing to perfect the appeal of the conviction.

## 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. SUMMARY OF THE TESTIMONY AT PCR HEARING**

#### **Applicant's Testimony**

Applicant testified he was originally represented by Megan Gentry before Michael Loignon. He testified Ms. Gentry met with him three to four times in jail and focused on a plea. He testified she did not discuss trial strategy or defenses with him.

Applicant testified he already had the State's discovery when Mr. Loignon (hereinafter "Counsel") met with him. He testified they met four to five months before his plea and met a total of two to three times but also spoke over the phone. He testified he is not sure if they discussed the elements of the charges Applicant was facing. Applicant testified he was told of the possibility of a life sentence and other punishments. He testified he told Counsel he did not want to plead guilty and Counsel did not give him trial advice or advice about a guilty plea. He also

testified Counsel did not discuss possible defenses.

Applicant testified he and Counsel discussed three witnesses in his case. He testified one never gave a statement and another refused to give a statement. He testified their last names were Butler, Rivers, and Nelson and Counsel should have investigated them. He also testified Counsel should have investigated the victim's mental issues. Applicant further testified the victim recanted and he did not withdraw his plea after her recantation.

Applicant testified he knew he was going to court to plead guilty but had never heard of an Alford<sup>2</sup> plea before that day. He testified everything seemed to already be lined up and he was told to just sign some papers. Applicant further testified promises were not made regarding his sentencing but Counsel said he would ask for a probationary sentence. Applicant testified he felt pressured to plead guilty and five of his family members were killed a week before the plea.

#### **Counsel Michael Loignon's Testimony**

Counsel testified he took the case in March 2016 and met with Applicant four or five times. He testified they discussed the charges, penalties, detail of the case, and possible resolutions. He testified they discussed trial strategy and what each witness would say. Counsel further testified he spoke with Applicant via video four days prior to the plea to discuss the State's offer.

Counsel testified he spoke with the victim, Ms. Clarissa Butler and his investigator did as well. He testified she gave a written statement. He further testified she did not completely recant during the guilty plea but simply said the incident did not happen exactly the way it was portrayed. He testified he did not talk to the two other witnesses in the case because he could not get in touch with them. Counsel testified he sent his investigator to their location but was unsuccessful.

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<sup>2</sup> 400 U.S. 25 (1970).

Counsel testified Applicant changed his mind every day on how he wanted to proceed with the case. He testified he told Applicant he was not guilty then they could go to trial or pursue an Alford plea, which he explained meant the jury could find Applicant guilty based on the State's facts but he would not be admitting guilt. Counsel testified he could not recall when the Alford plea was discussed but he discussed the offer with Applicant four days before the offer was made. He testified Applicant was ready to reject the offer but ultimately accepted it.

Counsel testified he filed a Motion to Reconsider which was denied a month and a half later. He testified he had protection from court during that period of time and filed the notice of appeal late. He testified any appeal would not be meritorious.

#### **IV. 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**

Applicant's attorneys provided ineffective assistance of counsel by advising the Applicant to forego his Constitutional Right to a jury trial and plead guilty.

Applicant alleged that Counsel was ineffective for advising him to forego his constitutional rights to a jury trial and plead guilty. This Court finds Counsel was not ineffective in his advice to Applicant about foregoing his trial rights. This Court finds the record as a whole shows Applicant voluntarily waived his jury trial rights. The plea judge informed Applicant he

had an absolute right to a jury trial and asked Applicant if he would like a jury trial on the charges. Transcript 4, ll. 21-23. Applicant replied that he did not want a jury trial and wished to plead guilty. Transcript 4-5. Applicant further informed the plea court he was really guilty, was not promised anything to plead guilty, and was pleading guilty of his own free will. Transcript 5. This Court finds Applicant understood the Alford plea and the sentences he was facing and finds Counsel advised Applicant of the possible options to resolve his charges including a jury trial, guilty plea, or Alford plea. This Court finds no deficiencies in Counsel's advice and finds Applicant has failed to prove the advice was deficient or that he pled guilty based on incorrect advice.

This Court further finds Applicant has failed to prove that he was prejudiced by Counsel's actions in this regard. Applicant has failed to prove that but for Counsel's advice, he would rather proceed to trial on his charges, including the original first-degree burglary charge for which he faces up to a life sentence. As Applicant has failed to provide credible evidence that he would have proceeded to trial but for Counsel's actions, this Court finds this allegation must be dismissed.

Applicant's attorneys provided ineffective assistance of counsel by promising a sentence if the Applicant entered a guilty plea.

Applicant alleged Counsel was ineffective for promising a certain sentence if he pled guilty. This Court finds Applicant has failed to prove that Counsel was deficient in this regard. Applicant testified he was told of the possibility of a life sentence and other punishments. Applicant further testified promises were not made regarding his sentencing but Counsel said he would ask for a probationary sentence. He failed to provide credible testimony that Counsel promised him a certain sentence. This Court finds Counsel testified he discussed the possible penalties with Applicant. The record reflects the trial judge informed Applicant of the possible

sentences he was facing on all charges. Transcript 3-4. Most importantly, the record reflects Applicant informed the Court that no one had promised him anything or threatened him in any way to get him to plead guilty. Transcript 5. See Wolfe v. State, 485 S.E.2d 367, 371, 326 S.C. 158, 165 (1997) (Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made).

This Court further finds Applicant has failed to prove he was prejudiced by Counsel's actions in this regard. This Court finds Applicant has failed to provide any evidence that but for Counsel's promise of a certain sentence, he would not have pled guilty but would have proceeded to trial. As Applicant has failed to prove that Counsel was ineffective, this Court finds the allegation must be dismissed.

Applicant's attorneys provided ineffective assistance of counsel by failing to fully investigate the case prior to the guilty plea.

Applicant alleges Counsel was ineffective for failing to fully investigate Applicant's case by fully investigating the witnesses and the victim's mental issues. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012). "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)).

This Court finds Applicant has failed to prove that Counsel was ineffective for failing to investigate. This Court finds Counsel conducted a proper investigation utilizing a private

investigator. Counsel testified he spoke with the victim, Ms. Clarissa Butler and his investigator did as well. This Court finds Counsel actively pursued the other witnesses through his investigator but was unsuccessful in contacting them. This Court finds Counsel's actions were not deficient in this regard. This Court finds Applicant has failed to show how Counsel's investigation was deficient and he has further failed to show what further investigation would have revealed.

This Court further finds Applicant has failed to prove he was prejudiced by Counsel's actions in this regard. This Court finds Applicant has failed to provide any evidence that but for Counsel's investigation, he would not have pled guilty but would have proceeded to trial. As Applicant has failed to prove that Counsel was ineffective, this Court finds the allegation must be dismissed.

Applicant's attorneys provided ineffective assistance of counsel by failing to meet with the Applicant a sufficient amount to adequately advise the Applicant and prepare for a resolution.

This Court finds Applicant has failed to prove that Counsel was ineffective for failing to meet with Applicant. This Court finds Counsel met with Applicant many times in person and through video. Counsel testified he met with Applicant four or five times where they discussed the charges, penalties, details of the case, and possible resolutions. Counsel also testified they discussed trial strategy and what each witness would say. Counsel further testified he spoke with Applicant via video four days prior to the plea to discuss the State's offer. This Court finds Counsel adequately met with Applicant prior to the plea and fully informed Applicant of the charges he was facing, the allegations against him, and defense strategy. Applicant has failed to provide credible evidence to show that Counsel provided insufficient advice because they did not meet a sufficient amount of times and has failed to show how more meetings would have helped his case.

This Court further finds Applicant has failed to prove he was prejudiced by Counsel's actions in this regard. This Court finds Applicant has failed to provide any evidence that if he had met with Counsel more often, he would not have pled guilty but would have proceeded to trial. As Applicant has failed to prove that Counsel was ineffective, this Court finds the allegation must be dismissed.

Applicant's attorneys provided ineffective assistance of counsel by failing to discuss strategy for a trial including potential defenses.

Applicant alleged Counsel was ineffective for failing to discuss trial strategy and possible defenses. This Court finds Applicant has failed to prove that Counsel was deficient in this regard. Counsel testified he met with Applicant and discussed the charges, penalties, detail of the case, and possible resolutions. Counsel also testified they discussed trial strategy and what each witness would say. Counsel spoke with the victim and investigated the other witnesses. This Court finds Counsel did discuss trial strategy and Applicant has failed to show that his conduct was deficient. He has failed to show that Counsel's advice was deficient or that he pled guilty pursuant to deficient advice.

This Court further finds Applicant has failed to prove he was prejudiced by Counsel's actions in this regard. This Court finds Applicant has failed to provide any evidence that but for Counsel's advice concerning defense strategy, he would not have pled guilty but would have proceeded to trial. As Applicant has failed to prove that Counsel was ineffective, this Court finds the allegation must be dismissed.

Applicant's attorneys provided ineffective assistance of counsel by failing to withdraw the guilty plea after the Applicant's comments to the Court, the Applicant's prior comments to his attorneys, and the victim's recantation of the facts.

This Court finds Applicant has failed to prove that Counsel was ineffective for failing to withdraw the guilty plea. Applicant alleges the victim recanted her story and Counsel should

have withdrawn Applicant's guilty plea as a result thereof. This Court finds although it is common for victims of domestic violence to later recant their story, the victim in this case did not recant but simply described the argument that took place. This Court agrees with Counsel that the victim did not completely recant during the guilty plea hearing but simply said the incident did not happen exactly the way it was portrayed by the solicitor. Counsel was not deficient for failing to withdraw the plea, especially considering two other witnesses were available to testify about the allegations against Applicant.

This Court further finds Applicant has failed to prove he was prejudiced by Counsel's actions in this regard. This Court finds Applicant has failed to provide any evidence that Applicant wanted to withdraw his plea and proceed to a trial on all of his original charges. As Applicant has failed to prove that Counsel was ineffective, this Court finds the allegation must be dismissed.

Applicant's attorneys provided ineffective assistance of counsel by failing to perfect the appeal of the conviction.

Applicant alleged Counsel was ineffective for failing to perfect the appeal from his guilty plea. Counsel testified he filed a Motion to Reconsider which was denied a month and a half later. He testified he had protection from court during that period of time and filed the notice of appeal late. Respondent represented to the Court that it would agree Applicant did not knowingly and voluntarily waive his right to a direct appeal as the appeal was filed beyond the appropriate time.

This Court agrees that Applicant did not waive his right to a direct appeal. In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal if requested or comply with the procedure required by Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967). White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). Where the post-conviction relief judge

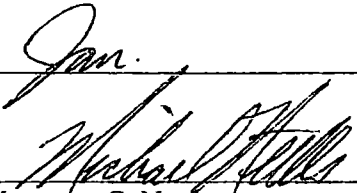
determines that the applicant did not freely and voluntarily waive his appellate rights, the applicant may petition the South Carolina Supreme Court for review of direct appeal issues pursuant to White v. State, See Rule 227(g) (1), SCACR; Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986).

This Court affirmatively finds Applicant did not knowingly and voluntarily waive his right to a direct appeal. The Court concludes that Applicant is entitled to a belated review of his convictions. A petition for belated review pursuant to White v. State can remedy Applicant's lack of a direct appeal opportunity.

**IT IS THEREFORE ORDERED:**

1. That this current Application for Post-Conviction Relief be dismissed with prejudice.
2. That the Applicant is granted a belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). Within thirty days of service of this Order, counsel for Applicant must file a Notice of Appeal to secure the appropriate review of the Applicants' convictions. Counsel and the Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986) and South Carolina Appellate Court Rule 227(g) for the appropriate procedure for securing belated appellate review.
3. That Applicant be remanded to the custody of Respondent

AND IT IS SO ORDERED this 23 day of Jan., 2018.

  
MICHAEL G. NETTLES  
Presiding Judge  
Ninth Judicial Circuit

Florence, South Carolina



ALAN WILSON  
ATTORNEY GENERAL

January 25, 2018

The Honorable Julie J. Armstrong  
Charleston Clerk of Court  
100 Broad St Ste 106  
Charleston, SC 29401-2210

Re: Darryl Mungin, #255562 v. State of South Carolina  
2016-CP-10-6560

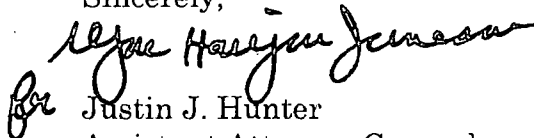
Dear Ms. Armstrong:

Enclosed please find the original Order of Dismissal and Grant of Appellate Review Pursuant to White v. State signed by the Honorable Michael G. Nettles, 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.

Sincerely,

  
Justin J. Hunter

Assistant Attorney General

JJH/jaj

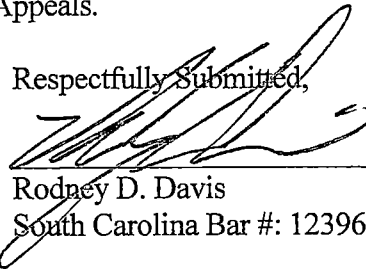
STATE OF SOUTH CAROLINA	)	IN THE SUPREME COURT OF SOUTH CAROLINA
	)	
COUNTY OF CHARLESTON	)	Case #: 2016-CP-10-6560
	)	
DARRYL MUNGIN,	)	
	)	
Applicant.	)	REQUEST FOR REPRESENTATION ON APPEAL
	)	
-versus-	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

On behalf of the request of the above-named Applicant, to be represented by the South Carolina Commission of Indigent Defense, Appellate Division (SCCID), the undersigned attorney would show unto this Honorable Court that:

1. He is the attorney for the Applicant-Appellant in the above captioned case. The Applicant-Appellant was in custody during and taken into custody immediately following the Post Conviction Relief (PCR) hearing and was not available to personally sign this request;
2. The Applicant-Appellant was represented by the undersigned attorney as an indigent, pursuant to a contract with the SCCID;
3. The Applicant-Appellant has been informed that he may request assistance from the SCCID Appellate Division in perfecting his appeal;
4. A timely Notice of Intent to Appeal has been filed on the Applicant-Appellant's behalf;
5. The Applicant-Appellant has been informed that nothing requires SCCID Appellate Division to pursue this appeal unless that office's Chief Attorney is satisfied that there is arguable merit to this appeal and that he cannot afford to hire an attorney.

At this time, the Applicant-Appellant requests the aid of the SCCID Appellate Division in perfecting his appeal to the South Carolina Court of Appeals.

Respectfully Submitted,



\_\_\_\_\_  
 Rodney D. Davis  
 South Carolina Bar #: 12396


Charleston, South Carolina.  
3/5, 2018

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )

CASE #: 2016-CP-10-6560

VERIFICATION

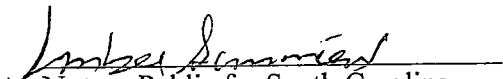
PERSONALLY appeared before me, Rodney D. Davis, being first duly sworn, deposes and says that he has read the foregoing *Request for Representation on Appeal* to be filed on behalf of the Applicant-Appellant, **Darryl Mungin**, and the same is true of his knowledge except those matters alleged on information and belief, and as to those matters, he believes them to be true.



---

Rodney D. Davis  
South Carolina Bar #: 12396

SWORN to and subscribed to me this  
5 day of March, 2018.



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Notary Public for South Carolina  
My Commission expires 8/16/2026



*RD*

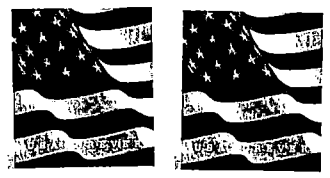
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**The Honorable Daniel E. Shearhouse**  
Clerk, Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211