

FALK LAW FIRM, LLC.

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July 2 2018

RECEIVED

JUL 06 2018

Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

S.C. SUPREME COURT

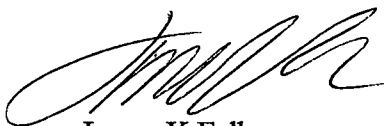
Re: JoAnna Marsh 338813 v State, 2017-CP-26- 5305

Dear Clerk Shearouse:

Please find the enclosed Notice of Appeal, Proof of Service, and Order Granting Relief Pursuant to Austin v State, in the above Horry County PCR action. Please return a clocked copy of the Notice of Appeal and Proof of Service in the enclosed SASE.

Should you have any additional questions please do not hesitate to contact my office.

With best regards, I am,



James K Falk

Thank you for your assistance.

Cc:

Johnny James Jr. Esq.

JoAnna Marsh 338813.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Honorable Larry Hyman, Jr. Circuit Court Judge

Case No.: 2017-CP-26-05305

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JUL 06 2018
S.C. SUPREME COURT

JoAnna Marsh 338813.....Petitioner

v.

State of South Carolina.....Respondent

NOTICE OF APPEAL

The Petitioner JoAnna Marsh appeals the June 15 2018 order of Larry Hyman Jr. granting an Appeal Pursuant to Austin v State. Undersigned counsel received notice of entry of the order on July 2, 2018. A copy of the order on appeal is attached to this notice.

Respectfully submitted



James Falk
Falk Law Firm
PO Box 1058
Charleston, SC 29402
Attorney for Petitioner

July 2, 2018

Other counsel of Record
Johnny James Jr. , Esq
S.C. Attorney General's Office
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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JUL 06 2018

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Honorable Roger Larry Hyman Jr. Circuit Court Judge

S.C. SUPREME COURT

Case No.: 2017-CP-26-5305

JoAnna Marsh 338813.....Petitioner

v.

State of South Carolina.....Respondent

PROOF OF SERVICE

I, James K Falk, certify that I have today served the within notice of appeal upon the Respondent by depositing a copy of it in the United States Mail, postage prepaid, addressed to the attorney of record Johnny James Jr. Esq. S.C. Attorney General's Office PO Box 11549 Columbia, SC 29211. I further certify that all parties required by Rule to be served have been served this July 2 3018.



James Falk
Falk Law Firm
PO Box 1058
Charleston, SC 29402
Attorney for Petitioner

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTEENTH JUDICIAL CIRCUIT
)

JoAnna Marsh,
S.C.D.C. No. 338813,

) Case No.: 2017-CP-26-05305
)

Applicant,

) **ORDER GRANTING RELIEF**
) **PURUSANT TO AUSTIN V. STATE**
)

v.

State of South Carolina,

Respondent.

CLERK OF COURT
HORRY COUNTY, SC

2018 JUN 22 PM 1:34

HORRY COUNTY

This matter comes before the Court by way of an application for post-conviction relief filed by JoAnna Marsh ("Applicant") on August 21, 2017. Respondent made its return on or about October 26, 2017. The Court convened an evidentiary hearing into the matter on Monday, May 21, 2018,¹ at the Horry County Courthouse in Conway, South Carolina. Applicant was present at the hearing and represented by James K. Falk, Esq. Johnny Ellis James Jr., of the South Carolina Attorney General's Office, represented Respondent.

Respondent informed the Court that communications with prior PCR counsel Steven W. Fowler, Esq. led Respondent to believe that it had no evidence to contest that Applicant was not timely informed of the entry of the order denying relief in the prior PCR action, and thus was not afforded an opportunity to either request an appeal or knowingly, intelligently, and voluntarily waive her right to an appeal. Respondent then conceded Applicant was entitled to relief pursuant to Austin v. State, 305 S.C. 453, 409 S.W.2d 395 (1991). Accordingly, because Respondent concedes the issue, this Court **GRANTS** Applicant relief pursuant to Austin v. State for appellate review of the order denying relief filed March 10, 2016 (2014-CP-26-01836).

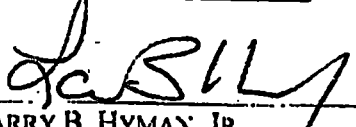
¹ This Court also notes an evidentiary hearing was initiated, but not completed, on Wednesday, February 21, 2018, before the Honorable Steven H. John. The matter was continued at that time, and this Court confirmed Judge John's intention to relinquish jurisdiction with that continuance.

This Court notifies the Applicant that she 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, an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR 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. Applicant petition for appellate review of 2014-CP-26-01836 pursuant to Austin v. State;
2. Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 15 day of June, 2018.


LARRY B. HYMAN, JR.
Presiding Judge
Fifteenth Judicial Circuit

Conway, South Carolina

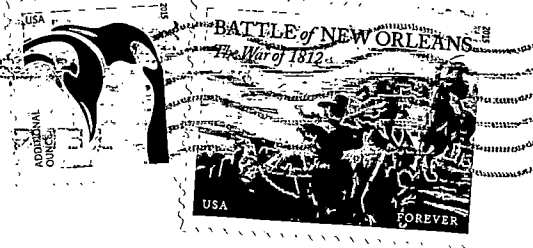
FALK LAW FIRM

PO Box 1058

Charleston, SC 29402

CHARLESTON

03 JUL 2018



Clerk of Court

Supreme Court of South Carolina

P.O. Box 11330

Columbia, SC 29211

29211-133030

