

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
William P. Keesley, Presiding Judge

Appellate Case No. 2019-000617
Lower Court Case No. 2015-CP-02-00711

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SEP 04 2019

S.C. SUPREME COURT

GARY JERRELL MEANS, JR., 359700

Applicant,

v.

THE STATE OF SOUTH CAROLINA,

Respondent.

PETITION TO REINSTATE PCR APPEAL

NOW COMES the Petitioner in the above captioned Post-Conviction Relief Appeal, acting by and through undersigned Counsel, asking that his appeal be reinstated pursuant to Rule 260(a), SCACR. By Order of this Honorable Court dated August 20, 2019, this appeal was dismissed for failure to order the PCR hearing transcript and/or failure to submit a properly executed Affidavit of Indigency. Undersigned Counsel has been diligently attempting to resolve the question of Petitioner's representation for this appeal since she mailed Petitioner's Notice of Appeal in this matter for filing on April 10, 2019, in order to preserve Petitioner's right to appeal the denial of his PCR Application in the Circuit Court.

This Court has attempted to resolve the matter by writing the Petitioner and warning that his appeal was subject to dismissal if he did not take steps to either retain counsel or return an Affidavit of Indigency in order to qualify for court-appointed counsel.

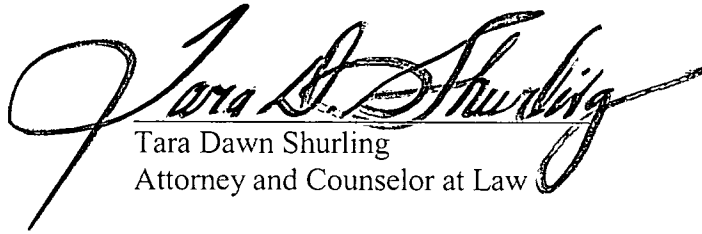
Undersigned counsel was retained by a third party family member to represent Petitioner in his circuit court PCR action only. Undersigned Counsel has not heard from Petitioner since the letter from this Honorable Court was sent to him. His family has repeatedly indicated that they had not made a final decision concerning hiring undersigned counsel for the appeal and that the third party family member who paid for the circuit court action has yet to decide whether he was willing to pay for Petitioner's representation on appeal.

Petitioner has a long history of mental illness. Counsel believes that he has meritorious issues on appeal and that the appeal would clearly not be frivolous. Counsel ordered a transcript of the PCR hearing held in this matter on October 31, 2018, and subsequently received this record which was used in preparation of Memorandum in Support filed in the circuit court following the evidentiary hearing. In the transmittal letter sent to this Honorable Court along with the Notice of Appeal on April 10, 2019, counsel expressly advised the Court that she had, "*already received the transcript of the PCR hearing held in this case and understand that the time limits for this appeal would therefore be set from the date this NOA is filed.*"

Undersigned Counsel believes this Petitioner to have a meritorious appeal from the denial of his PCR Application. She is deeply concerned that Petitioner may lack the ability to understand Counsel's previous admonitions concerning this important issue and/or previous correspondence from this Honorable Court . For these reasons PCR Counsel asks that this PCR appeal be reinstated and that Petitioner be given one last chance to make necessary arrangements for counsel on appeal. Should the Court see fit to grant this consideration, PCR Counsel will go see this client one more time and attempt to get this issue resolved as quickly as possible. Wherefore, Petitioner asks that his PCR appeal be reinstated and that undersigned Counsel be given fifteen (15) days to resolve the matter of Petitioner's request for court-appointed counsel on appeal.

Signature on following page.

Respectfully submitted,



Tara Dawn Shurling
Attorney and Counselor at Law

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ATTORNEY FOR APPLICANT

This 4th day of September, 2019
Other Counsel of Record:

Johnny Ellis James
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211
Phone No. (803) 734-3737

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS

GARY JERRELL MEANS, JR.)

2015-CP-02-00711

Applicant,)

CERTIFICATE OF SERVICE

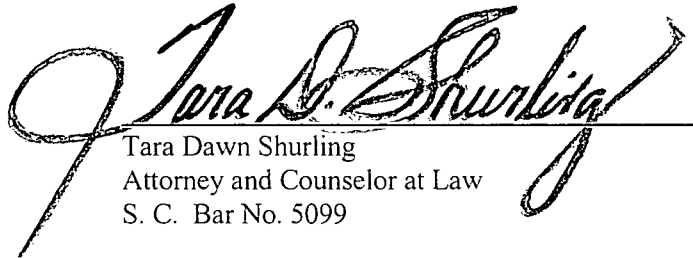
v.)

STATE OF SOUTH CAROLINA,)

Respondent.)
_____)

The undersigned attorney hereby certifies that one copy of the Petition to Reinstate Appeal from the Order of Dismissal in the above captioned Post-Conviction Relief matter, filed January 17, 2019, as well as his appeal from the subsequent Order granting in part and denying in part his Motion to Alter or Amend, pursuant to Rule 59(e), SCRPC, filed March 12, 2019. Opposing counsel, Johnny J. James, Jr., Assistant Attorney General, has been served with this Petition U.S. Mail on September 4, 2019, at the following address:

Johnny E. James, Jr., Assistant Attorney General
Office of the Attorney General
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Columbia, SC 29211
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