

Hopkins, Debbie

From: Shearouse, Daniel
Sent: Tuesday, September 24, 2019 3:21 PM
To: Hopkins, Debbie
Subject: FW: Winkler v. State (2011-CP-26-3907)
Attachments: 9-24-2019 status letter.pdf

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SEP 24 2019

S.C. SUPREME COURT

From: Culbertson, Benjamin H.
Sent: Tuesday, September 24, 2019 11:20 AM
To: Shearouse, Daniel <DShearouse@sccourts.org>; Kohn, Tonnya K. <tkohn@sccourts.org>
Cc: Elvis, Renee <elvisr@horrycounty.org>; Emily Paavola <Emily@justice360sc.org>; Hannah Freedman <hannah@justice360sc.org>; Ed Salter <ESalter@scag.gov>; Zelenka, Don <dzelenka@scag.gov>; Melody Brown <MBrown@scag.gov>; Richardson, Jimmy A. <richj@horrycounty.org>
Subject: Winkler v. State (2011-CP-26-3907)

Dear Ms. Kohn and Mr. Shearouse:

Please find attached the letter updating the status of the above referenced Capital PCR case. I am mailing the original via U. S. Mail today.

Sincerely,

Benjamin H. Culbertson

Circuit Court Judge
P.O. Box 479 (zip code 29442)
401 Cleland St. (zip code 29440)
Georgetown, South Carolina
Phone: (843) 545-3030
Fax: (843) 545-3282
Email: bculbertsonj@sccourts.org



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S.C. SUPREME COURT

State of South Carolina
The Circuit Court of the Fifteenth Judicial Circuit

Benjamin H. Culbertson
Resident Circuit Judge

P. O. Box 479 (zip code 29442)
401 Cleland St. (zip code 29440)
Georgetown, South Carolina
Telephone: (843) 545-3030
Facsimile: (843) 545-3282
Email: bculbertsonj@sccourts.org

September 24, 2019

Via U. S. Mail and Email Delivery

The Honorable Daniel E. Shearouse
Clerk of Court, S.C. Supreme Court
P.O. Box 11330
Columbia, SC 29211

Email: DShearouse@sccourts.org

Tonnya K. Kohn, Director
Court Administration, S.C. Judicial Department
1220 Senate St., Suite 200
Columbia, SC 29201-3739

Email: TKohn@sccourts.org

RE: *Louis Michael Winkler, Jr. v. State of South Carolina*
Case Number: 2011-CP-26-03907

Dear Ms. Kohn and Mr. Shearouse:

Pursuant to the Supreme Court order dated 5/25/2011 regarding the above referenced PCR action, I provide the following status of this case:

6/24/2011: The applicant was deemed indigent and entitled to court appointed counsel. This determination was based upon the applicant's Affidavit of Indigency and Request for Counsel without a formal hearing.

Emily C. Paavola, Esquire, was appointed as lead counsel for the applicant. This appointment was based upon the attorney's affidavit of qualifications as counsel and the consent of the attorneys and applicant in this case without a formal hearing.

John R. Mills, Esquire, was admitted *pro hac vice* and appointed second counsel for the applicant. The admission *pro hac vice* was based upon the attorney's application without a formal hearing. His appointment as counsel was based upon

the attorney's affidavit of qualifications as counsel and the consent of the attorneys and applicant in this case without a formal hearing.

- 7/7/2011: Status conference held in judge's chambers at Georgetown County Judicial Center. Emily C. Paavola, John R. Mills, and Alphonzo Simon, Jr. attended the status conference. A scheduling order was issued.
- 9/21/2011: By order of the undersigned dated 9/21/2011, this case is set for a date certain trial commencing at 9:30 a.m. on 6/18/2012. Further, the South Carolina Department of Corrections is ordered to transport the applicant to the trial of this case.
- 11/30/2011: Applicant makes a Motion to Alter the Scheduling Order dated 7/7/2011.
- 12/8/2011: Applicant's Motion to Alter the Scheduling Order is partially granted and partially denied. This motion is decided without oral arguments.
- An amended scheduling order dated 12/8/2011 is issued which grants the petitioner until 2/2/2012 to file and serve his Initial Amended Application for Post-Conviction Relief, if any. The Amended Scheduling Order also reflects that this case is set for date certain trial commencing 6/18/2012. All other mandates of the Scheduling Order dated 7/7/2011 remain the same under the Amended Scheduling Order.
- 1/31/2012: Applicant files First Amended Application for Post-Conviction Relief.
- 3/1/2012: State submits Return To Amended Application For Post-Conviction Relief And Motion For More Definite Statement.
- 4/5/2012: Court issues order partially granting and partially denying State's Motion For More Definite Statement.
- 4/10/2012: Applicant files a More Definite Statement to Amended Application For Post-Conviction Relief.
- Applicant files a Motion to Alter PCR Scheduling Order.
- 4/20/2012: Court issues Order Denying Motion to Alter PCR Scheduling Order.
- 5/11/2012: Respondent files its Supplement to Return to Amended Application for Post-Conviction Relief.

- 6/4/2012: Applicant submits Notice of Intent to Rely on Affidavits.
Applicant files Motion to Limit Cross Examination.
- 6/6/2012: Court issues Order Denying Motion to Limit Cross Examination.
- 6/18/2012 – 6/21/2012: Trial
- 8/15/2012: Court issues order denying post-conviction relief on applicant's conviction but granting post-conviction relief on applicant's sentencing.
- 8/28/2012: The respondent mails to the court its Motion to Alter or Amend Judgment Pursuant to Rule 59(e), SCRCP; however, the post mark on the envelope is dated 8/31/2012.
- 9/6/2012: Applicant submits his Return to Respondent's Motion to Alter or Amend Judgment.
- 9/10/2012: Applicant submits his Supplemental Return to Respondent's Motion to Alter or Amend Judgment.
- 9/12/2012: Respondent submits its Reply to Applicant's Return to Respondent's Motion to Alter or Amend Judgment.
- 9/14/2012: Respondent files Notice of Appeal with the South Carolina Supreme Court.
- 9/17/2012: Applicant files Notice of Cross Appeal with the South Carolina Supreme Court.
- 9/26/2012: The lower court issues its order involuntarily dismissing the respondent's Motion to Alter or Amend Judgment Pursuant to Rule 59(e), SCRCP, for lack of jurisdiction.
- 11/23/2016: South Carolina Supreme Court "Reversed, vacated, and remanded" case "for further proceedings."
- 6/22/2018: Status conference held in Georgetown, SC
- 4/9/2019: Order issued setting case for day certain trial commencing 7/29/2019.
- 4/10/2019: Applicant files Motion for Summary Judgment.
- 5/2/2019: Respondent files Cross Motion for Summary Judgment.

The Honorable Daniel E. Shearouse, Clerk of Court, S.C. Supreme Court
Tonnya K. Kohn, Director, Court Administration, S.C. Judicial Department
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- 5/9/2019: Applicant files Motion for Attorney Fees and Expenses.
Applicant files Motion to Authorize Funding for Expert Services.
- 5/16/2019: Applicant's Motion for Attorney Fees and Expenses is granted.
Applicant's Motion to Authorize Funding for Expert Services is granted.
- 5/29/2019: Applicant's Motion for Summary Judgment and Respondent's Cross Motion for Summary Judgment are argued and taken under advisement by the Court.
- 5/30/2019: Applicant's Motion for Summary Judgment is denied.
Respondent's Cross Motion for Summary Judgment is granted.
- 6/6/2019: Applicant files Motion to Alter or Amend Judgment.
- 6/27/2019: Applicant's Motion to Alter or Amend Judgment is denied.
- 7/19/2019: Respondent files Motion for Continuance.
- 7/22/2019: Respondent's Motion for Continuance is granted.
Case is re-scheduled for date certain trial commencing 10/28/2019.
- 8/29/2019: Applicant files Motion to Continue Evidentiary Hearing.
- 9/4/2019: Respondent consents to continuance of evidentiary hearing.
- 9/24/2019: Applicant's Motion to Continue Evidentiary Hearing is granted.
Case will be rescheduled for date certain trial upon receipt of 2020 court schedule.

With kindest regards, I remain

Very truly yours,



Benjamin H. Culbertson

BHC/bhc

The Honorable Daniel E. Shearouse, Clerk of Court, S.C. Supreme Court
Tonnya K. Kohn, Director, Court Administration, S.C. Judicial Department
September 24, 2019
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pc: Hon. Renee Elvis, Horry County Clerk of Court
Emily C. Paavola, Esquire
Hannah L. Freedman, Esquire
W. Edgar Salter, III, Sr. Assistant Attorney General
Donald J. Zelenka, Deputy Attorney General
Melody J. Brown, Sr. Assistant Deputy Attorney General
Jimmy A. Richardson, Solicitor

Louis Michael Winkler, Jr., SCDC #00006027
Kirkland Correctional Institution
4344 Broad River Rd.
Columbia, SC 29210