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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

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September 26, 2012

Via U. S. Mail and Email Delivery

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

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Motte L. Talley, Assistant Director
Court Administration, S.C. Judicial Department
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RE: *Louis Michael Winkler, Jr. v. State of South Carolina*
Case Number: 2011-CP-26-03907

Gentlemen:

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.

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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), SCRPC; 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), SCRPC, for lack of jurisdiction.

This letter shall serve as the final report from this court of the status of this case.

With kindest regards, I remain

Very truly yours,



Benjamin H. Culbertson

The Honorable Daniel E. Shearouse, Clerk of Court, S.C. Supreme Court
Motte L. Talley, Assistant Director, Court Administration, S.C. Judicial Department
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BHC/bhc

pc: Hon. Melanie Huggins-Ward, Horry County Clerk of Court
Emily C. Paavola, Esquire
John R. Mills, Esquire
Alphonzo Simon, Jr., Asst. Attorney General
J. Gregory Hembree, Solicitor

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