

**FORM 4**

**STATE OF SOUTH CAROLINA  
COUNTY OF YORK  
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2017CP4603261**

William T Coleman		South Carolina State Of	
-------------------	--	-------------------------	--

<b>PLAINTIFF(S)</b>	<b>DEFENDANT(S)</b>
Submitted by: <b>The Court</b>	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**       Rule 12(b), SCRPC;                       Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);                       Other: Order of Dismissal
- ACTION STRICKEN (CHECK REASON):**       Rule 40(j) SCRPC;       Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;       Other: \_\_\_\_\_
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;       Reversed;       Remanded;       Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order; (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

**INFORMATION FOR THE JUDGMENT INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

**Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

*s/R. Lawton McIntosh*

2155

9/2/2021

Circuit Court Judge

Judge Code

Date

**For Clerk of Court Office Use Only**

This judgment was entered on **September 20, 2021**, and a copy mailed first class or placed in the appropriate attorney's box on **September 20, 2021**, to attorneys of record or to parties (when appearing pro se) as follows:

**William T Coleman** 237 Clinton Avenue Rock Hill, SC  
29730

**Michael Jacob Neubauer** Rembert C. Dennis Bldg. 1000  
Assembly St Columbia, SC 29201

---

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

---

**ATTORNEY(S) FOR THE DEFENDANT(S)**

**Court Reporter**

David Hamilton

**David Hamilton - Clerk of Court**

---

**Court Reporter:**

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.**

---

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

---

---

---

STATE OF SOUTH CAROLINA )  
 COUNTY OF YORK )  
 )  
 William Coleman, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FOR THE SIXTEENTH JUDICIAL CIRCUIT

2017-CP-46-03261

ORDER OF DISMISSAL

FILED-RECEIVED  
 2021 SEP 20 PM 1:12  
 DAVID HAMILTON  
 C.C.C.P. & GS  
 YORK COUNTY, SC

This matter comes before the Court by way of an application for post-conviction relief filed by Applicant William Coleman on November 2, 2017. The State (Respondent) filed a Return on June 29, 2018, requesting an evidentiary hearing. An evidentiary hearing into this matter was convened on June 29, 2021, at the Moss Justice Center in York, South Carolina before the Honorable R. Lawton McIntosh. Applicant was present at the hearing and initially represented by Matthew Burgess, Esquire. Assistant Attorney General Michael Neubauer of the South Carolina Attorney General’s Office appeared on behalf of Respondent.

At the start of the hearing, Applicant moved to relieve counsel Burgess and proceed *pro se*. The Court conducted a colloquy with Applicant to ensure he was aware of his right to counsel in this proceeding, he understood the advantages of counsel and the risks of proceeding *pro se*, and that despite these risks, he wanted to proceed *pro se*. Following this colloquy, Applicant’s motion to relieve counsel was granted. Applicant was given an opportunity to examine Mr. Burgess’ file to prepare for his evidentiary hearing. Following a brief recess, Applicant indicated he was prepared to proceed with his evidentiary hearing.

At the hearing, Applicant testified on his own behalf. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof of

establishing any constitutional or statutory violations or deprivations to entitle him to relief. Accordingly, this Court denies and dismisses this application with prejudice. Specific findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code of Laws are set forth below.

### **PROCEDURAL HISTORY**

Applicant was arrested on Mach 7, 2017, for shoplifting (value \$2,000 or less) and issued a citation by the City of Rock Hill. (Uniform Traffic Ticket #20172260076901). His ticket listed his date of trial as April 3, 2017. He was not represented by an attorney on this charge. Applicant did not appear and a bench trial was held in his absence before the Honorable Jane Modla on April 3, 2017. He was found guilty and sentenced to thirty days in jail and a fine of \$2,125. This judgment was entered April 4, 2017. Applicant filed a Motion to Reconsider on June 21, 2017, and this Motion was denied when Applicant failed to appear in court for his scheduled hearing. Applicant filed another Motion to Reconsider which was denied again on July 11, 2017, by the Honorable Ray Long. Applicant then filed a Motion to Rescind Bench Warrant. Applicant was given a date of August 7, 2017, to appear in court, at which time the Honorable Jane Modla denied the Motion. The original sentence was imposed August 7, 2017.

Applicant was arrested on March 24, 2017, for driving under suspension, 3<sup>rd</sup> offense, and issued a citation by the City of Rock Hill. (Uniform Traffic Ticket #20172280062407). His ticket listed the date of his trial as May 31, 2017. He was not represented by an attorney on this charge. Applicant did not appear and a bench trial was held in his absence before the Honorable Ray Long on May 31, 2017. He was found guilty and sentenced to ninety days in jail and a fine of \$2,100. Applicant filed a Motion to Reconsider which was denied by the Honorable Ray Long on July 10, 2017, and the original sentence was imposed on August 7, 2017. Applicant did not appeal his

convictions or sentences.

### **ALLEGATIONS RAISED**

In his post-conviction relief application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "Because I was unlawfully convicted. I showed for court, June, July, and on the August 7<sup>th</sup> they slapped me in cuffs saying that I missed my court dates in May? Like where do they do that at?"
2. "I should have received a fair trial not a bench warrant. I was never a fugitive, I got locked up for showing up. Probably to spare the officer embarrassment for charging me with DUS 3<sup>rd</sup> while I was issued a valid route restricted to drive to and from work. And to spare the embarrassment of charging me with shoplifting when I didn't steal a thing...."

As requested relief, Applicant states he is seeking "for the court to vacate the charges and sentence, clear my record of any conviction imposed by the Rock Hill Municipal Court, and \$300,000 for wrongful incarceration and loss of business. Immunity from arrest from Rock Hill Police.<sup>1</sup>"

### **RELEVANT TESTIMONY**

#### *Applicant's Testimony*

At the evidentiary hearing, Applicant testified he did not have any representation for either of his charges. Applicant testified he did not have a trial for either charge. Applicant testified he was given court dates, and showed up for each date however his case was never heard. Applicant testified he arrived late for multiple court appearances, including the court appearance on August 7, 2017. Applicant testified he was running late to his court appearance on August 7, 2017, and he called the courthouse to inform them he would be late. Applicant testified he was told this would

---

<sup>1</sup> Applicant was informed at his evidentiary hearing that his request for a monetary award and immunity from arrest and/or prosecution are not valid forms of relief for post-conviction relief. Applicant insisted the Court was allowed to award monetary damages in civil matters, however the Court denied Applicant's request.

be fine, and he should still appear for court that day. Applicant testified when he arrived at the courthouse, he was arrested and told the court had already convicted and sentenced him. On cross-examination, Applicant testified he showed up to court in May, June, July, and August, however Applicant did not remember the exact dates he showed up to the courthouse. Applicant testified he is currently enrolled in college, and did not have a history of mental or physical health issues which would affect his ability to understand the charges he was facing. Applicant testified he has prior experience with the legal system, and has represented himself in court in the past. Applicant testified he was never represented by legal counsel for these specific charges. When asked, Applicant testified he was not given a public defender. Applicant testified he did not attempt to contact the public defender's office. Applicant testified he did not hire private counsel because he could not afford one. Applicant testified he was aware of the charges he was facing and the possible penalties. Applicant testified he was not appointed stand-by counsel, and reiterated that he was not appointed a public defender. Applicant testified he was not a lawyer, and was not aware he would be required to comply with the court rules at a trial. When asked if he was aware of legal defenses he could raise Applicant reiterated he was not a lawyer. Applicant further testified he does not remember if he physically appeared at the courthouse on May 31, 2017, stating he cannot remember specific dates.

Applicant was further questioned by the Court and testified he thinks he appeared for his scheduled trial date of April 3, 2017, however he is not certain. Applicant testified he agrees with the trial judge, who noted that Applicant failed to appear for his April 3, 2017 trial date. Applicant stated he was late to court on multiple occasions, however Applicant testified he was never an hour late, but would be up to thirty to forty minutes late. Applicant testified he was multiple hours late

on August 7, 2017, stating he had to wait on his ride to drive from Charleston to Rock Hill to take him to the courthouse.

### **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses, evaluated their credibility, and weighed the testimony and evidence accordingly in its discussion below. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, the application for post-conviction relief, the amended application for post-conviction relief, and the legal arguments made by the attorneys. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. § 17-27-80 (2003).

#### **Denied Right to Counsel**

Applicant alleges he was denied his right to counsel. Applicant specifically alleges he was not provided assistance of a public defender, nor was he given the opportunity to obtain. This Court finds this allegation to be without merit.

An accused has the right to the assistance of counsel. State v. Justus, 392 S.C. 416, 418, 709 S.E.2d 668, 670 (2011) (citing U.S. Const. amend. VI; Gideon v. Wainwright, 372 U.S. 335 (1963)). A defendant may waive his right to counsel, but he must do so knowingly and intelligently. Faretta v. California, 422 U.S. 806 (1975). A defendant may waive counsel “by an affirmative, verbal request” or a defendant’s actions may constitute a “waiver of counsel.” State v. Roberson, 382 S.C. 185, 187, 675 S.E.2d 732, 733 (2009). Although a specific inquiry by the judge expressly addressing the disadvantages of a *pro se* defense is preferred, the ultimate test is not the trial judge’s advice but the accused’s understanding. State v. Cash, 309 S.C. 40, 42, 419 S.E.2d 811, 813 (Ct. App. 1992) (citing Wroten v. State, 301 S.C. 293, 391 S.E.2d 575 (1990)). In the absence

of an inquiry by the judge, courts look to the record to determine if the accused had a sufficient background to understand the disadvantages of self-representation. Id. (citing Bridewell v. State, 306 S.C. 518, 413 S.E.2d 30 (1992)). Factors the courts have considered in determining if an accused had sufficient background to understand the disadvantages of self-representation include:

- (1) the accused's age, educational background, and physical and mental health;
- (2) whether the accused was previously involved in criminal trials;
- (3) whether he knew of the nature of the charge and of the possible penalties;
- (4) whether he was represented by counsel before trial or whether an attorney indicated to him the difficulty of self-representation in his particular case;
- (5) whether he was attempting to delay or manipulate the proceedings;
- (6) whether the court appointed stand-by counsel;
- (7) whether the accused knew he would be required to comply with the rules of procedure at trial;
- (8) whether he knew of legal challenges he could raise in defense to the charges against him;
- (9) whether the exchange between the accused and the court consisted merely of *pro forma* answers to *pro forma* questions; and
- (10) whether the accused's waiver resulted from either coercion or mistreatment.

State v. Cash, 309 S.C. 40, 43, 419 S.E.2d 811, 813 (Ct. App. 1992).

This Court finds that Applicant has a sufficient background and understanding of the legal process to understand the disadvantages of self-representation, and Applicant voluntarily waived his right to counsel. Applicant testified he was currently in college and did not have any mental or physical health issues which would affect his understanding. Applicant testified he has previously represented himself in court for different charges, and was aware of the charges he was facing and the possible penalties he could face if convicted. Applicant testified he has been through the legal process, and was aware of the legal challenges he could raise in defense to the charges against him. Applicant testified he was not represented by counsel at any time for these charges, nor was he appointed stand-by counsel for this matter. However, Applicant testified he was aware of his right

to counsel. Applicant indicated he could not afford private counsel and did not contact the public defender's office to obtain a public defender.

Despite Applicant's assertion he was not advised of the risks of self-representation. This Court finds Applicant, voluntarily waived his right to legal counsel through his conduct. This Court finds Applicant has failed to present any evidence that he attempted to obtain representation for these charges. Applicant indicated he could not afford private counsel. Additionally, Applicant testified he did file an application with the public defender's office to obtain legal counsel, nor did he contact the public defender's office to learn how to request a public defender for his charges. Applying the Cash factors, this Court finds Applicant was aware of the disadvantages of self-representation, and voluntarily waived his right to counsel for these charges. This Court finds Applicant has failed to meet his burden of proof to establish he was denied the right to an attorney or the assistance of a public defender. This Court finds Applicant's allegation to be without merit. Therefore, this allegation is denied, and shall be dismissed with prejudice.

#### **Trial in Absentia**

Applicant alleges his due process rights were violated when he was tried in his absence. Applicant alleges he appeared for court on multiple occasions, however Applicant believes was unlawfully convicted after a trial in his absence. This Court finds this allegation is without merit.

Although the Sixth Amendment of the Constitution guarantees the right of an accused to be present at every stage of his trial, this right may be waived. State v. Bell, 293 S.C. 391, 401, 360 S.E.2d 706, 711 (1987); Ellis v. State, 267 S.C. 257, 260, 227 S.E.2d 304, 305 (1976). Nonetheless, a waiver of such an important right is permitted only in limited circumstances. City of Aiken v. Koontz, 368 S.C. 542, 547, 629 S.E.W.2d 686, 689 (2006). Therefore, before a defendant may be tried *in absentia*, the trial court must determine a defendant voluntarily waived

his right to be present at trial, making findings of fact on the record that the defendant (1) received notice of his right to be present and (2) was warned that the trial would proceed in his absence. Id. Notice of the term of court for which the trial is set constitutes sufficient notice to enable a criminal defendant to make an effective waiver of his right to be present. City of Aiken v. Koontz, 368 S.C. 542, 547, 629 S.E.2d 686, 689 (2006). The South Carolina Court of Appeals has ruled that a court may not try a criminal defendant *in absentia* unless it finds that he received notice of the trial and voluntarily chose to be absent. State v. Wrapp, 421 S.C. 531, 808 S.E.2d 821 (2017).

Applicant testified that he showed up to the courthouse in May, June, July, and August, however he alleged his case was never heard when he arrived to court. At his evidentiary hearing, Applicant introduced both of his Uniform Traffic Tickets (#20172260076901, #20172280062407), along with records showing Applicant was tried in his absence for both charges, as exhibits. Applicant, after being questioned by the Court indicated he does not remember if he appeared in court on April 3, 2017, or May 31, 2017, which were the court dates listed on Applicant's traffic tickets.

On cross-examination, Applicant testified his traffic tickets included the date, time, and place of the Applicant's trials as well as the offenses Applicant was charged with. Applicant testified he arrived to court late on multiple occasion, Applicant indicated he may have been up to thirty to forty minutes late for his scheduled court dates. Applicant further testified after filing a motion to reconsider, he was given a new court date of August 7, 2017. Applicant testified he arrived to court "really late" on August 7, 2017, stating he had to wait for his ride to drive from Charleston to Rock Hill to drive Applicant and his daughter to the courthouse. Applicant, in response to questions from the Court, indicated he was not sure if he appeared for court on April

3, 2017, stating he could not remember specific dates. Applicant testified he agreed with the trial judge, who indicated Applicant did not appear for either of his court dates.

This Court finds Applicant's allegation is without merit. Applicant was provided with notice of the date, time, and location of his scheduled court appearances, however Applicant failed on multiple occasions to appear for court on the correct dates and times. Applicant alleges he appeared to court every time he was scheduled to appear, however this court finds Applicant's testimony to not be credible. Applicant, when asked by the Court if he appeared for his hearings, stated he cannot remember specific dates but he believes he appeared. Applicant has failed to produce any evidence to suggest that he was not provided with notice of his scheduled court dates. Applicant additionally has failed to demonstrate he was not aware that he may be tried in his absence. Applicant's exhibits establish that the shoplifting trial was held in his absence by way of a bench trial on April 3, 2017 and that Applicant did not appear for this trial. Applicant additionally was tried in his absence for driving under suspension third or subsequent offense on May 31, 2017 by way of a bench trial. Applicant was provided with sufficient notice of the specific dates, and times, of his hearings. However, Applicant has admitted he cannot recall if he physically appeared for either of these court dates, and has testified he arrived late for scheduled court dates on multiple occasions, including Applicant's scheduled court date on August 7, 2017. This Court finds Applicant has failed to meet his burden of proof that he was denied his rights of due process. This Court finds Applicant voluntarily waived his right to be present at his trial. Therefore, this allegations is denied and dismissed with prejudice.

**CONCLUSION**

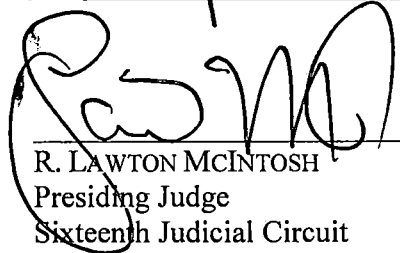
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. The application for post-conviction relief is denied and dismissed with prejudice.

AND IT IS SO ORDERED this 2 day of September, 2021.

  
\_\_\_\_\_  
R. LAWTON MCINTOSH  
Presiding Judge  
Sixteenth Judicial Circuit

Anderson, South Carolina