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May 3, 2013

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MAY - 3 2013

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

S.C. Supreme Court

Re: Ricky Dale Gilstrap v. State of South Carolina
Appellate Case No. 2011-190808

Dear Mr. Shearouse:

I received a letter from this Court asking me to advise whether Petitioner Ricky Dale Gilstrap had fully served his sentences imposed on October 6, 2009. The Court also advised that the Department of Corrections website now indicates that Mr. Gilstrap is being held on a sentence that began in March 2012. I respond as follows:

I first want to advise the Court that Mr. Gilstrap did not begin a sentence on March 2012, but rather Ricky Dale Gilstrap, Jr., his son, began the March 2012 sentence as indicated on the Department of Corrections website.

Mr. Gilstrap was released from custody on May 17, 2012. He is still, however, on parole for the forgery counts until August 24, 2014 and on probation for the drug possession until May 16, 2015.

This Court has explicitly held that a person need not be in state custody to seek post-conviction relief. Jackson v. State, 331 S.C. 486, 489 S.E.2d 915 (1997) A PCR case may be heard after a prisoner has fully completed his sentence. Jones v. State, 322 S.C. 101, 470 S.E.2d 110 (1996). He need only show that he suffers continuing effects from his conviction. Jackson, supra.

Although Mr. Gilstrap is no longer in custody, his sentence is not complete. He is still subject to invasive, involuntary state surveillance and control. Mr. Gilstrap is still under supervision, so he will be directly affected by his conviction until at least May 2015. That should be sufficient under Jackson and Jones.

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Therefore, we are of the belief that Mr. Gilstrap's matter is not moot and he continues to ask for a new trial as set forth in his Petition for a Writ of Certiorari.

Please contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Ganjehsani', with a horizontal line extending from the end.

Carmen V. Ganjehsani
Assistant Appellate Defender

CVG

cc: Karen Ratigan, Esquire
Ricky Dale Gilstrap