

**VOLUME II of II**

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

**Jan 17 2023**

—————  
Certiorari to Richland County

**S.C. SUPREME COURT**

Honorable Grace Gilchrist Knie, Circuit Court Judge  
—————

PEREZ A. BROOKS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-000590  
—————

APPENDIX  
—————

TAYLOR D GILLIAM  
Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

D. RUSSELL BARLOW  
Assistant Attorney General  
P.O. Box 11549  
Columbia, SC 29211-1549

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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to believe the trial court would have ruled differently had trial counsel objected when this testimony was offered. Applicant has not shown deficiency or prejudice.

***Failure to move to suppress Applicant's blood and urine test results.***

Applicant claims trial counsel failed to move to exclude his blood and urine test results. However, trial counsel did move to exclude Applicant's blood results during a pretrial hearing. (Tr.p.155). While the argument was intertwined with a *Jackson v. Denno* hearing focusing on Applicant's statements to police, trial counsel also contested whether applicant gave consent for the blood draw. Trial counsel argued police should have been required to secure a search warrant. (Tr.p.158). The trial court ruled both the statements and blood results admissible. (Tr.p. 162, lines 21–24). This Court finds Applicant has failed to show trial counsel was ineffective in this regard.

***Failure to move for a mistrial or continuance after Applicant's bond was revoked during trial***

Applicant alleges trial counsel was ineffective for failing to move for a mistrial or continuance after his bond was revoked following the first day of trial. He claims the jail did not provide the correct type of seizure medication. Trial counsel was not deficient. There is no indication Applicant suffered a seizure at the jail that night, nor did he suffer any other adverse consequences. Trial counsel opposed Applicant being taken into custody and convinced the court to order the jail to accept Applicant's seizure medication. Applicant has not shown deficiency or prejudice.

***Failure to meet with Applicant a sufficient number of times and failure to explain the maximum possible penalties.***

Applicant claims trial counsel failed to meet with him a sufficient number of times and failure to explain the maximum possible penalties. Trial counsel testified at the evidentiary hearing that he met with applicant roughly a "couple dozen" times, and that he did explain the maximum

possible penalties to Applicant. This Court finds trial counsel's testimony credible. Furthermore, Applicant did not offer any evidence of how additional preparation or communication would have resulted in a different outcome. *See Jackson v. State*, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998) (where PCR applicant failed to present any evidence of what counsel could have discovered or what other defenses he would have requested counsel pursue had counsel more fully prepared for the trial, applicant failed to show his counsel's lack of preparation prejudiced him); *Skeen v. State*, 325 S.C. 210, 214–15, 481 S.E.2d 129, 132 (1997) (finding applicant was not entitled to post-conviction relief where there was no evidence presented at the PCR hearing to show how additional preparation would have had any possible effect on the result of the trial). The Court denies relief on this ground.

***Failure to retain Applicant's defense file.***

Applicant claims trial counsel was ineffective for failing to retain his defense file. Trial counsel testified he gave the hard copy of his file to Applicant's wife so that she could pursue a direct appeal. He retained an electronic copy of his file, but it was lost when his hard drive crashed. Applicant has failed to show trial counsel's actions affected his trial performance or caused Applicant to plead guilty. Applicant was not prejudiced because counsel's handling of the file after trial did not influence his decision to plead guilty, and there was no evidence presented that it prevented him from pursuing a direct appeal.

**CONCLUSION**

Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. The Court finds trial counsel's representation was neither deficient nor prejudicial. The Court further finds Applicant voluntarily pled guilty, and that Applicant failed to show a reasonable probability

that he was incompetent at the time of his plea. The Court notes Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. Post-conviction relief is denied and the application for post-conviction relief be dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 6<sup>th</sup> day of April, 2022.



GRACE GILCHRIST KNIE,  
Presiding Judge  
Fifth Judicial Circuit



**WITNESSES**

(S) J.P. WILSON  
- S C Highway Patrol

McFadden

**ARREST WARRANT NUMBER**

G746090

**ACTION OF GRAND JURY**

**TRUE BILL**

Foreperson of Grand Jury  
Date:

JUN 1 1 2014

**VERDICT**

504

Foreperson of Petit Jury  
Date:

**DOCKET NO. 2014-GS-40-03853**

**The State of South Carolina**

County of

Richland

**COURT OF GENERAL SESSIONS**

**JUNE TERM 2014**

147

**THE STATE  
vs.**

**Perez Antwan Brooks**

**Indictment for  
FELONY DUI - DEATH**

SC Code: 56-05-2945(A)(2)

CDR Code: 0395

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**SCANNED**  
CERTIFIED TRUE COPY  
ORIGINAL FILED  
with Wm G. Brooks  
C.C.C.P.&G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA

STATE OF SOUTH CAROLINA )  
 COUNTY OF RICHLAND )

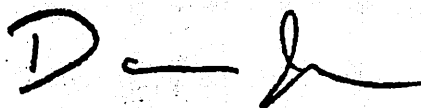
**INDICTMENT**

At a Court of General Sessions, convened on June 11, 2014, the  
 Grand Jurors of Richland County present upon their oath:

FELONY DRIVING UNDER THE INFLUENCE - DEATH

That Perez Antwan Brooks did in Richland County on or about May 2, 2014, drive a motor vehicle while under the influence of alcohol, drugs, or a combination of both, and did an act forbidden by law and/or neglected a duty imposed by law in the driving of the vehicle, which act or neglect proximately caused the death of LAMONT HAMPTON, in violation of Section 56-05-2945(A)(2), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAN JOHNSON, SOLICITOR

CERTIFIED TRUE COPY  
 OF ORIGINAL FILED,  
*Yeanette Williams*  
 C.C.P.&G.S.  
 RICHLAND COUNTY  
 SOUTH CAROLINA

STATE OF SOUTH CAROLINA

COUNTY OF Richland  
STATE, VS.  
Perez Antwan Brooks  
AKA:  
Race: BLACK Sex: M Age: 31  
DOB: [REDACTED] SS# [REDACTED]  
Address: [REDACTED] East Moore Street  
City, State, Zip: Sumter, SC 29150  
DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS4003853  
A/W#: G746090  
Date of Offense: 5/2/2014  
S.C. Code § : 56-05-2945(A)(2)  
CDR Code #: 0395

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
In disposition of the said indictment comes now the Defendant who was  
TO: Felony DUI (Death)

CONVICTED OF or  PLEADS

in violation of § 56-05-2945(A)(2) of the S.C. Code of Laws, bearing CDR Code # 0395  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC)  §17-25-45  
w/minor 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: [Signature] 100618 [Signature] 65024  
Golson, Josh SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 20 days/months/years or  under the Youthful Offender Act not to exceed — years  
and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment  
of \$ —; plus costs and assessments as applicable\*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.  
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic  
Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
Total: \$ — plus 20% fee: \$ —  
Payment Terms: —  
 Set by SCDPPPS —

PTUP —  
— days/hours Public Service Employment  
Obtain GED   
Attend Voc. Rehab. or Job Corp. —  
May serve W/E beginning —  
Substance Abuse Counseling   
Random Drug/Alcohol testing   
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ — beginning —  
\$ — paid to Public Defender Fund  
Other: —

Recipient: —

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% <u>—</u> (paid in installments)	\$
TOTAL	\$

3% — (paid in installments)  
CERTIFIED TRUE COPY  
OF ORIGINAL FILED  
Janelle M. Brade  
C.C.C.P.&G.S.  
RICHLAND COUNTY  
Court Reporter  
SCCA/217 (07/2016)

Appointed PD or appointed other counsel.  
Proviso 61.6 requires \$500 be paid to Clerk  
during probation and shall be collected before  
any other fees.  
Presiding Judge [Signature]  
Judge Code: —  
Sentence Date: 25 MAY 17

SCANNED

WITNESSES

(S) J.P. Wilson  
- SC Highway Patrol

*Herring*

ARREST WARRANT NUMBER

DP16019

ACTION OF GRAND JURY

TRUE BILL

*Anthony P. Whalens*  
Foreperson of J. Date: JAN 20 2016

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2016-GS-40-00587

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

147

THE STATE

vs.

Perez Antwan Brooks

Indictment for  
HOMICIDE / RECKLESS HOMICIDE,  
DEATH RESULTS WITHIN 3 YRS. CAUSED  
BY INJURY FROM VEHICLE

SC Code: 56-05-2910

CDR Code: 3097

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

*Perez A. Brooks*

hereby appear in my own proper person and plead guilty to the within indictment or to

*P. Brooks*  
Defendant

Witness: *[Signature]*  
C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY  
OF ORIGINAL FILED BY  
*Jeanette Williams*  
C.C.C.P.&G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA  
JAN 20 2016  
CLERK



COUNTY OF Richland
STATE VS.
Perez Antwan Brooks
AKA:
Race: BLACK Sex: M Age: 31
DOB: SS#:
Address: East Moore St
City, State, Zip: Sumter, SC 29150
DL#: SID#:

INDICTMENT/CASE#: 2016GS4000587
A/W#: DP16019
Date of Offense: 5/2/2014
S.C. Code § : 56-05-2910
CDR Code #: 3097

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Homicide / Reckless Homicide, death results within 3 yrs, caused by injury from vehicle

in violation of § 56-05-2910 of the S.C. Code of Laws, bearing CDR Code # 3097
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: Without Negotiations or Recommendation Negotiated Sentence, Recommendation by the State.

ATTEST: Josh Golson, SC Bar# 100618 Defendant
Perez Antwan Brooks, Defendant
Reginald J. [Signature], Attorney for Defendant
65021 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment
of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(D) (Vehicle Assessment) \$40/ea, 3% in County (if paid in increments)

SCANNED

TO: Jeannette Wines, C.C.C.P.&G.S.
RICHLAND COUNTY
Clerk of Court and
Court Reporter
SOUTH CAROLINA

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
Presiding Judge
Judge Code:
Sentence Date: 05/14/17