

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Appeal from Cherokee County

J. Derham Cole, Circuit Court Judge  
\_\_\_\_\_

RECEIVED

FEB 21 2012

S.C. Supreme Court

LABRONTAE AGNEW,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF CHEROKEE

2008-GS-11-0424 through  
2008-GS-11-0429

\_\_\_\_\_  
 THE STATE of SOUTH CAROLINA )  
 )  
 -vs- )  
 )  
 LABRONTAE AGNEW, )  
 )  
 Defendant. )  
 \_\_\_\_\_

TRANSCRIPT OF RECORD

\_\_\_\_\_  
 THE STATE of SOUTH CAROLINA )  
 )  
 -vs- )  
 )  
 JOSHUA MANNING, )  
 )  
 Defendant. )  
 \_\_\_\_\_

2008-GS-11-606 through  
2008-GS-11-610 and  
2008-GS-11-668

April 16, 2009  
Spartanburg, South Carolina

Ordered: December 14, 2009  
Delivered: December 21, 2009

**B E F O R E:**

THE HONORABLE J. MARK HAYES, II, Presiding Judge.

**A P P E A R A N C E S:**

MR. BARRY BARNETTE, Esquire  
Deputy Solicitor for the State

MR. SCOTT ROBINSON, Esquire  
Attorney for the Defendant Labrontae Agnew

MR. BRENDAN DELANEY, Esquire  
Attorney for the Defendant Joshua Manning

Pamela Faucette  
Circuit Court Reporter

I N D E X

(No witnesses were called by the State or the Defense.)

State's Exhibits:	Marked:	Received:
1 - (Case Summary)	3	3
2 - (Photographs)	3	3
3 - (Photographs)	3	3

Defendants' Exhibits:	Marked:	Received:
(None)		

Labrontae Agnew Plea:	Page:
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1 April 16, 2009

2 (Whereupon, State's Exhibit Numbers 1 through 3 were  
3 marked for identification and admitted into evidence by  
4 stipulation of the parties.)

5 MR. BARNETTE: Labrontae Agnew and Joshua Manning?

6 (Mr. Robinson, Mr. Agnew, Mr. Delaney, and Mr.

7 Manning all stepped forward for the plea.)

8 (Off-the-Record Comments)

9 (Off-the-Record Discussion)

10 THE COURT: Yes, sir?

11 MR. BARNETTE: May it please the Court, Your Honor?

12 Your Honor, these two defendants are pleading on the same type  
13 of charges, Your Honor, the same incident. The first one is  
14 Labrontae Agnew, Your Honor.

15 He is to your -- my immediate left here. He's here  
16 with his attorney Mr. Scott Robinson. He's pleading guilty to  
17 2008-GS-11-429, which is kidnapping; 2008-GS-11-428, grand  
18 larceny more than five thousand dollars (\$5,000); 2008-  
19 GS-11-427, burglary second, violent;

20 08-GS-11-426, Your Honor, which is burglary in the  
21 first-degree; 2008-GS-11-425, which is for armed robbery. And  
22 2008-GS-11-424, which is assault and battery of a high and  
23 aggravated nature.

24 All of these have been true billed by the grand  
25 jury, Your Honor. And there is no recommendations. This is a

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

1 straight up plea, Your Honor, in this case. Your Honor, both  
2 of these cases are from Cherokee County.

3 They indicated -- both parties have indicated they  
4 want to waive their jurisdiction and plea in front of Your  
5 Honor here today. Both of these cases are set for trial  
6 Monday morning in Cherokee County.

7 The next one, Your Honor, -- the other defendant is  
8 Joshua Manning. He's to the far left in the -- with his  
9 attorney. Brendan Delaney is his attorney.

10 He's pleading to the following indictments:

11 2008-GS-11-668 [sic], assault and battery of a high and  
12 aggravated nature; 2008-GS-11-610, which is for armed robbery;

13 2008-GS-11-609, which is for kidnapping;

14 2008-GS-11-608, which is grand larceny more than 5000;

15 2008-GS-11-607, burglary 2<sup>nd</sup> violent; 2008-GS-11-606, which is  
16 burglary in the first degree.

17 This is also a straight up plea, Your Honor. There's  
18 no recommendations or negotiations in this case either. And  
19 those have all been true billed by the grand jury;

20 The same requirement on that, Your Honor, we'd ask  
21 -- they've indicated they are going to waive their  
22 jurisdiction from Cherokee County and plead in front of Your  
23 Honor here today.

24 And I'll pass these up, Your Honor.

25 (Documents handed up to the Court.)

1           **MR. BARNETTE:**   And, Your Honor, I do have some  
2 exhibits. I do have State's Exhibit 1 for both parties, which  
3 is a case summary done by Lieutenant Ramsay, the case agent in  
4 this case. It consists of two pages. I would like to  
5 supplement my facts when I give those with those case  
6 summaries, Your Honor.

7           I do have State's Exhibits 2 and 3, Your Honor,  
8 which are pictures of the victim in this case, Ms. Dipali  
9 Darji (phonetic). Basically she -- and she is present here  
10 with family members.

11           And I believe the family members would like to  
12 address the Court at the appropriate time, Your Honor, as well  
13 as the officers in this case.

14           **(Brief Pause)**

15           **MR. BARNETTE:**   And for the record, Your Honor,  
16 standing beside me is Captain Skinner and Lieutenant Ramsay.  
17 Both are from the Gaffney Police Department.

18           **(Brief Pause)**

19           **THE COURT:**   All right. You are Mr. Agnew?

20           **MR. AGNEW:**   Yes, sir.

21           **THE COURT:**   And you are Mr. Manning?

22           **MR. MANNING:**   Yes, sir.

23           **THE COURT:**   All right. Gentlemen, if you would,  
24 please raise your right hand. The clerk of Court needs to  
25 swear you in.

1           CLERK OF COURT: Do you solemnly swear or affirm  
2 the testimony you are about to give will be the truth, the  
3 whole truth, and nothing but the truth, so help you God?

4           (Both Defendants nod affirmatively.)

5           THE COURT: You need -- you need to respond out  
6 loud.

7           MR. AGNEW: Yes, ma'am.

8           MR. MANNING: Yes, ma'am.

9           (Whereupon,

10                           **LABRONTAE AGNEW AND JOSHUA MANNING**

11           having been first duly sworn, testified as follows:)

12           THE COURT: Thank you very much. All right.

13           Gentlemen, if ever during this proceeding, either of you wish  
14 to speak to your lawyer, just let me know and I'll allow you  
15 to speak to your lawyer in private.

16           Now, Mr. Agnew, you intend to plead to burglary in  
17 the second degree violent, also, burglary in the first  
18 degree, armed robbery, assault -- assault and battery of a  
19 high and aggravated nature, grand larceny value of more than  
20 five thousand dollars (\$5,000), and also kidnapping?

21           MR. AGNEW: Yes, sir.

22           THE COURT: And, Mr. Manning, you intend to plead to  
23 burglary in the first degree, burglary in the second degree  
24 violent, grand larceny value more than five thousand dollars  
25 (\$5,000), kidnapping, armed robbery, and assault and battery

1 of a high and aggravated nature?

2 MR. MANNING: Yes, sir.

3 THE COURT: All right.

4 (Brief Pause)

5 THE COURT: All right. Gentlemen, I need to let  
6 you know, we are making recording of everything that happens  
7 in here, so, whenever you speak, speak up loud enough so that  
8 the lady beside me, the court reporter, and I both can hear  
9 you.

10 And, if ever you can't hear me, let me know and I  
11 will speak up as well. How old are you, Mr. Agnew?

12 MR. AGNEW: Eighteen (18).

13 THE COURT: Mr. Manning?

14 MR. MANNING: Twenty-two (22).

15 THE COURT: How far did you go in school, Mr. Agnew?

16 MR. AGNEW: Ninth (9<sup>th</sup>) grade.

17 THE COURT: Did you ever get your GED?

18 MR. AGNEW: No. I'm working on it now.

19 THE COURT: Where were you in school when you  
20 dropped out?

21 MR. AGNEW: Gaffney High.

22 THE COURT: Mr. Manning?

23 MR. MANNING: Twelfth (12<sup>th</sup>).

24 THE COURT: Did you get a diploma?

25 MR. MANNING: No, sir.

1 THE COURT: Where were you in school?

2 MR. MANNING: Gaffney High.

3 THE COURT: And did you ever get a GED?

4 MR. MANNING: I working on it now.

5 THE COURT: Presently, are you married, single,  
6 divorced, or widowed, Mr. Agnew?

7 MR. AGNEW: Single.

8 THE COURT: Mr. Manning?

9 MR. MANNING: Single.

10 THE COURT: Do you have any children, Mr. Agnew?

11 MR. AGNEW: I have a little girl.

12 THE COURT: How old?

13 MR. AGNEW: She's one (1).

14 THE COURT: Mr. Manning?

15 MR. MANNING: Yes, sir.

16 THE COURT: How many?

17 MR. MANNING: Six.

18 THE COURT: You have six children?

19 MR. MANNING: Yes, sir.

20 THE COURT: What are their ages?

21 MR. MANNING: Five (5), four (4), four (4), three  
22 (3), and nine (9) months, and five (5) months.

23 THE COURT: Do you have a job outside the home, Mr.  
24 Agnew?

25 MR. AGNEW: No, sir.

1 THE COURT: How do you support yourself financially?

2 MR. AGNEW: My mama, I stayed with my mama.

3 THE COURT: Mr. Manning, before you were  
4 incarcerated, did you have a job outside the home?

5 MR. MANNING: Yes, sir.

6 THE COURT: What were you doing?

7 MR. MANNING: I was doing American Fabric (phonetic)  
8 work. I was sewing rugs and pillows together.

9 (Brief Pause)

10 THE COURT: How long had you had that job?

11 MR. MANNING: About six (6) months.

12 THE COURT: Ever served in the military, Mr. Agnew?

13 MR. AGNEW: No, sir.

14 THE COURT: Mr. Manning?

15 MR. MANNING: No, sir.

16 THE COURT: When you got arrested on these charges,  
17 how long were you in jail before you made bond, Mr. Agnew?

18 MR. AGNEW: Nine (9) months.

19 THE COURT: And, Mr. Manning, how long have you been  
20 in jail?

21 MR. MANNING: I never made bond.

22 MR. DELANEY: Your Honor, he was arrested on these  
23 charges on May 30<sup>th</sup>, 2008.

24 THE COURT: All right. Gentlemen, within the last  
25 24 hours, have you consumed any type of substance that is

1 adversely or negatively affecting your ability to understand  
2 what we're doing today, Mr. Agnew?

3 MR. AGNEW: No, sir.

4 THE COURT: Mr. Manning?

5 MR. MANNING: No, sir.

6 THE COURT: Have you ever been treated for any type  
7 of drug or alcohol abuse in the past, Mr. Agnew?

8 MR. AGNEW: No, sir.

9 THE COURT: Mr. Manning?

10 MR. MANNING: No, sir.

11 THE COURT: Are you satisfied with the work that  
12 your lawyer has done for you, Mr. Agnew?

13 MR. AGNEW: Yes, sir.

14 THE COURT: Mr. Manning?

15 MR. MANNING: Yes, sir.

16 THE COURT: Do you feel like you've had enough time  
17 to talk to your lawyer about the facts that are behind these  
18 charges, the legal elements of the offenses that are against  
19 you, and also any possible defenses you might have, Mr. Agnew?

20 MR. AGNEW: Yes, sir.

21 THE COURT: Mr. Manning?

22 MR. MANNING: Yes, sir.

23 THE COURT: Have you made the decision to enter the  
24 pleas today to these charges freely and voluntarily, Mr.  
25 Agnew?

1 MR. AGNEW: Yes, sir.

2 THE COURT: Mr. Manning?

3 MR. MANNING: Yes, sir.

4 THE COURT: Nobody has come to you and promised  
5 anything or threatened you in any way, Mr. Agnew?

6 MR. AGNEW: No, sir.

7 THE COURT: Mr. Manning?

8 MR. MANNING: No, sir.

9 THE COURT: I need for you to understand that under  
10 the law you are presumed innocent of all of the charges that  
11 are against you. And the law also affords you the right to  
12 have a jury trial on any or all of the charges against you.

13 At any trial that would take place, it is the State  
14 that has the burden of proof. And the State would have to  
15 convince all twelve (12) members of a jury that you are in  
16 fact guilty, beyond a reasonable doubt, of the charge or  
17 charges against you.

18 Now, in order to enter a plea, however, you have to  
19 waive or give up your right to a jury trial. Now, do you wish  
20 to give up your right to having a jury trial on all of the  
21 charges that are against you, Mr. Agnew?

22 (Brief Pause)

23 MR. AGNEW: Yes, sir.

24 THE COURT: Do you wish to speak with your lawyer?

25 (Off-the-Record Discussion)

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MR. AGNEW: Yes, sir.

THE COURT: Sir?

MR. AGNEW: Yes, sir.

THE COURT: You want to give up your right to a jury trial on all of these charges?

MR. AGNEW: (Nods affirmatively.) Yes, sir.

THE COURT: All right. You have to -- again, you have to respond out loud because she has to take down everything that's said, okay?

MR. AGNEW: Okay.

THE COURT: All right. So, I am correct that you do wish to waive your right to a jury trial on all of the charges?

MR. AGNEW: Yes, sir.

THE COURT: All right. And, Mr. Manning, do you wish to give up your right to have a jury trial on all of the charges that are against you?

MR. MANNING: Yes, sir.

THE COURT: I need for you to also understand that there are other very important Constitutional Rights that you are entitled to, but that you have to give up in order to enter a plea.

You have to give up your right to confront and cross-examine the State's witnesses. You also have to give up your right to present any evidence that you or your lawyer

1 might feel would establish some type of defense to the charge  
2 or charges against you.

3 You also have to give up your right to remain  
4 silent. And you have to give up your right of subpoena. Now,  
5 do you understand all of those rights, Mr. Agnew?

6 MR. AGNEW: Yes, sir.

7 THE COURT: Mr. Manning?

8 MR. MANNING: Yes, sir.

9 THE COURT: And you do you wish to give up all those  
10 rights and proceed with entering the plea, Mr. Agnew?

11 MR. AGNEW: Yes, sir.

12 THE COURT: Mr. Manning?

13 MR. MANNING: Yes, sir.

14 THE COURT: All right. Now, my understanding is  
15 that the facts of the same on both; is that correct?

16 MR. BARNETTE: Yes, sir.

17 THE COURT: All right, Mr. Agnew and Mr. Manning,  
18 the gentleman standing over here (indicating), if you have not  
19 met him, is a solicitor. He is going to give us the facts  
20 that are behind these cases. I need for you to, please,  
21 listen to him.

22 MR. BARNETTE: Thank you, Your Honor. This occurred  
23 on the early-morning hours of April 2<sup>nd</sup>, 2008, Your Honor.  
24 There was eight (8) defendants involved with this case:

25 John Bonner (phonetic), Joshua Manning (phonetic),

1 Labrontae Agnew, Billy Rogers (phonetic), Terry Littlejohn  
2 (phonetic), Henry Tate (phonetic), Robert Wilson, Jr.  
3 (phonetic), and Quantae Douglas (phonetic), Your Honor.

4 They met at Mr. Bonner's residence, Your Honor.  
5 They planned to commit an armed robbery of The Corner Store at  
6 seven -- 717 Providence Road (phonetic), Your Honor.

7 Basically, Mr. Bonner and several others had  
8 watched. And what happened was, they would take the money  
9 from the store. And the victim in this case, Ms. Dipali Darji  
10 (phonetic), she lived right next door at 721 Providence Road  
11 there.

12 And both of these are in the City of Gaffney in  
13 Spartanburg -- in Cherokee County, Your Honor.

14 And what they would do, they would take the money  
15 from the store and take it over to the house and stored at the  
16 house. And they wanted to do an armed robbery of her when she  
17 was taking the money from the store to the house.

18 So, that morning they went over to watch her -- or  
19 that evening. Actually, it started on April the 1<sup>st</sup> of 2008,  
20 when they went over to watch her.

21 When she closed the store that day -- or that night,  
22 she didn't bring the money over to the residence. So,  
23 basically, what they did was they had their plan.

24 They went back and talked about it and decided they  
25 were going to go inside the house. Mr. Manning went over to

1 the house, went through the window, and opened the front door.

2 They were going to wait until she went to sleep or  
3 wait till she was in bed and they were going to go back and  
4 steal -- and how I know this is talking to other co-defendants  
5 Billy Rogers, Terry Littlejohn, Henry Tate, and Ron Wilson,  
6 who have all pled to burglary first, burglary second, ABHAN,  
7 kidnapping, common law robbery, and grand larceny more than  
8 five thousand dollars (\$5,000).

9 And Quantae Douglas has also told us that he is  
10 going to cooperate. He has spoken to me through his attorney,  
11 Bill Rhoden.

12 So, all five of them was going to testify on Monday  
13 against these defendants, including the victim too.

14 What they said was, they went in -- basically, the  
15 people that went inside was Joshua Manning, Labrontae Agnew,  
16 these two folks, John Bonner, and Quantae Douglas went in.

17 Robert Wilson and Henry Tate waited -- or Terry  
18 Littlejohn waited back at the car. Henry Tate and Billy  
19 Rogers came in later.

20 When they went in, Ms. Darji was in the bedroom.  
21 She was asleep. They went in and they couldn't find the money  
22 or the keys how to get into the store.

23 So they went into her bedroom. Shots were fired in  
24 her bedroom. A knife was put to her throat.

25 She was hit multiple -- multiple times in the face,

1 in the back, on her body, to try to find out where the keys  
2 was to get -- where the money was in the house as well as into  
3 the store.

4 She does not speak -- she speaks broken English.  
5 She is Indian.

6 Eventually, they took her into the kitchen area.  
7 They kept beating on her. She tried to tell them where the  
8 keys was.

9 John Bonner with Labrontae Agnew went over to the  
10 store. They stole money there. Approximately fourteen  
11 thousand dollars (\$14,000) of money was stolen out of there,  
12 an estimate.

13 And there was twenty-five thousand (\$25,000) total  
14 from the house and from the store, as well as jewelry and so  
15 forth.

16 When they was in the store, they tripped an alarm.  
17 The alarm went off. They all ran and got into their cars.  
18 They went to 150 Trailer Park, Your Honor. And there they  
19 split up the money.

20 In this case, I know what Quantae Douglas, his split  
21 was twenty-five hundred (\$2,500) he said. So, there was a  
22 large amount split of the money among the defendants,  
23 especially the ones that went inside the house.

24 Through the investigation, Lieutenant Ramsey and the  
25 -- and Captain Skinner also, Your Honor, was involved with

1 this.

2 They tracked down and found that these folks was  
3 involved with it. Robert Wilson -- what happened later, the  
4 next day, several of them went to the Hotel six or Motel 6  
5 here on Exit 78 in Spartanburg County, off of I-85.

6 They went there to meet some girls and so forth.  
7 Robert Wilson had drove over there. He had -- in the robbery  
8 also was a card, a bank card, that was stolen from the victim  
9 in this case.

10 They had it in the car. They hid it and threw it in  
11 some bushes. He took Captain Skinner, as well as Investigator  
12 Odom over to there and they found the card.

13 We do have that for evidence, Your Honor. It has  
14 her name on it. And Mr. Wilson said that was part of the  
15 robbery also in this case.

16 I do have State's Exhibit 1 and -- well, actually  
17 it's one of four that's going to be entered on each defendant,  
18 Your Honor. I'd like to supplement the fact with that and  
19 hand it up to the Court in this case. And make that part of  
20 the facts and the record.

21 **MR. BARNETTE:** Also, State's Exhibits 2 and 3 which  
22 I've shown to the defense attorneys in this case. These are  
23 pictures of the victim in this case and the injuries that --  
24 just a sampling of the injuries that she received.

25 She had numerous bruises throughout her body, which

1 you can see the most serious injuries on her.

2 She is here. She does not want to address the  
3 Court, but she does have family members that will address the  
4 Court on her behalf.

5 And I believe -- and I know Lieutenant Ramsey would  
6 like to speak at the appropriate time. If you have any  
7 questions for the officers, they'll be glad to answer any  
8 questions you have about the case itself too.

9 THE COURT: All right.

10 MR. BARNETTE: May I approach the bench, Your  
11 Honor?

12 (Documents handed up to the Court.)

13 THE COURT: All right.

14 MR. BARNETTE: Thank you.

15 THE COURT: Were you able to hear the facts that  
16 were presented to me by the solicitor, Mr. Agnew?

17 MR. AGNEW: Yes, sir.

18 THE COURT: And Mr. Manning?

19 MR. MANNING: Yes, sir.

20 THE COURT: Do you believe that, as he stated the  
21 facts to me, that he is substantially correct, Mr. Agnew?

22 MR. AGNEW: Not all the way.

23 THE COURT: Where do you disagree with him?

24 MR. AGNEW: Just about me going in the house.

25 THE COURT: All right, sir, you're going to have to

1 speak up. We can't hear you.

2 MR. AGNEW: About me going in the house.

3 THE COURT: You didn't -- it's your testimony that  
4 you did not go into the house?

5 MR. AGNEW: Right.

6 THE COURT: And it's your testimony you did not hit  
7 the victim?

8 MR. AGNEW: I did not.

9 THE COURT: Other than that, do you believe that the  
10 solicitor is correct?

11 MR. AGNEW: Yes, sir.

12 THE COURT: All right. And, Mr. Manning, were you  
13 able to hear the solicitor when he gave me the facts?

14 MR. MANNING: Yes, sir.

15 THE COURT: Do you believe that he is substantially  
16 correct in what he stated?

17 MR. MANNING: Yes, sir.

18 THE COURT: All right.

19 (Brief Pause)

20 MR. BARNETTE: Your Honor ---

21 THE COURT: Just a moment. I'm going to look at  
22 these documents.

23 (Brief pause while the Court reviews documents.)

24 THE COURT: All right. You do understand that, on  
25 the burglary second degree violent charge, that that charge

1 carries a sentence of -- a potential sentence of up to fifteen  
2 (15) years?

3 MR. AGNEW: Yes, sir.

4 THE COURT: And understanding the possible sentence  
5 I could impose on that charge, do you wish to proceed with  
6 entering the plea?

7 MR. AGNEW: Yes, sir.

8 THE COURT: And, sir, you -- do you also understand  
9 that that charge is classified under the law as a violent  
10 offense and also as a serious offense?

11 MR. AGNEW: Yes, sir.

12 THE COURT: And you've been able to talk with your  
13 lawyer as to the consequences and ramifications of that  
14 offense being classified as a violent and serious offense?

15 MR. AGNEW: Yes, sir.

16 THE COURT: Understanding the consequences and  
17 ramifications of the classification of violent and serious, as  
18 well as the potential 15-year sentence to that charge, do you  
19 still wish to enter the plea to the charge?

20 MR. AGNEW: Yes, sir.

21 THE COURT: And, sir, you do understand that the  
22 burglary, in the first-degree charge, that that carries a  
23 sentence of between fifteen (15) years to life?

24 MR. AGNEW: Yes, sir.

25 THE COURT: And, sir, do you also understand that

1 that charge of burglary in the first-degree is also classified  
2 as a violent offense and also is classified as a most serious  
3 offense under the law?

4 MR. AGNEW: Yes, sir.

5 THE COURT: And you have been able to talk to your  
6 lawyer as to the consequences and ramifications of that  
7 offense being classified as a violent and most serious  
8 offense?

9 MR. AGNEW: Yes, sir.

10 THE COURT: And, sir, you do -- do you also  
11 understand that the armed robbery charge carries a sentence of  
12 between ten (10) to thirty (30) years?

13 MR. AGNEW: Yes, sir.

14 THE COURT: And, sir, do you also understand that  
15 that armed robbery charge is classified as a violent offense  
16 and also a most serious offense under the law?

17 MR. AGNEW: Yes, sir.

18 THE COURT: And -- and you have been able to speak  
19 with your lawyer as to the consequences and ramifications of  
20 that offense being classified as a violent and most serious  
21 offense?

22 MR. AGNEW: Yes, sir.

23 THE COURT: Understanding the possible sentence I  
24 could impose, being between ten (10) to thirty (30) years and  
25 the classification of violent and most serious, and the

1 consequences of those classifications, and you still wish to  
2 enter a plea to that charge?

3 MR. AGNEW: Yes, sir.

4 THE COURT: And, sir, you do understand that the  
5 assault and battery of a high and aggravated nature charge  
6 that that carries up to ten (10) years?

7 MR. AGNEW: Yes, sir.

8 THE COURT: And with that understanding, do you wish  
9 to enter the plea to that charge?

10 MR. AGNEW: Yes, sir.

11 THE COURT: And, sir, you do understand that the  
12 grand larceny charge -- the grand larceny value of more than  
13 five thousand dollars (\$5,000) that that charge carries up to  
14 ten (10) years at the Department of Corrections?

15 MR. AGNEW: Yes, sir.

16 THE COURT: And, with that understanding of the  
17 possible sentence that I could impose, you still wish to enter  
18 the plea to that charge?

19 MR. AGNEW: Yes, sir.

20 THE COURT: And, sir, you do understand that, on the  
21 kidnapping charge, that that charge carries up to thirty (30)  
22 years at the Department of Corrections?

23 MR. AGNEW: Yes, sir.

24 THE COURT: And, sir, you -- you do understand as  
25 well that that charge is classified as a violent and most

1 serious offense under the law?

2 MR. AGNEW: Yes, sir.

3 THE COURT: And you wish to -- and, sir, you've been  
4 able to speak with your lawyer as to the consequences and  
5 ramification's of that offense being classified as a violent  
6 and most serious offense?

7 MR. AGNEW: Yes, sir.

8 THE COURT: And understanding the ramifications of  
9 those classifications of violent and most serious, as well as  
10 the potential sentence of thirty (30) years, you still wish to  
11 enter the plea to that charge?

12 MR. AGNEW: Yes, sir.

13 THE COURT: And, Mr. Agnew, are you in fact guilty  
14 of kidnapping?

15 MR. AGNEW: Yes, sir.

16 THE COURT: Sir?

17 MR. AGNEW: Yes, sir.

18 THE COURT: And are you also in fact guilty of grand  
19 larceny value of more than five thousand dollars (\$5,000)?

20 MR. AGNEW: Yes, sir.

21 THE COURT: And are you also, Mr. Agnew, guilty of  
22 assault and battery of a high and aggravated nature?

23 MR. AGNEW: Yes, sir.

24 THE COURT: And, Mr. Agnew, are you also guilty of  
25 armed robbery?

1 MR. AGNEW: Yes, sir.

2 THE COURT: And, Mr. Agnew, are you also guilty of  
3 burglary in the first-degree?

4 MR. AGNEW: Yes, sir.

5 THE COURT: And, Mr. Agnew, are you -- are you also  
6 in fact guilty of burglary in the second degree violent?

7 MR. AGNEW: Yes, sir.

8 THE COURT: Have you been able to hear all of my  
9 questions?

10 MR. AGNEW: Yes, sir.

11 THE COURT: Have all your answers been truthful and  
12 honest?

13 MR. AGNEW: Yes, sir.

14 THE COURT: Discovery has been shared with the  
15 defense in regards to Mr. Agnew?

16 MR. BARNETTE: Yes, sir.

17 THE COURT: And, Mr. Manning, you do understand that  
18 the burglary in the first-degree charge carries -- carries  
19 between fifteen (15) years and life in the Department of  
20 Corrections?

21 MR. MANNING: Yes, sir.

22 THE COURT: And, sir, do you also understand that  
23 the burglary in the first-degree charge is classified as a  
24 violent offense under the law and also as a most serious  
25 offense under the law?

1 MR. MANNING: Yes, sir.

2 THE COURT: And you have been able to talk to your  
3 lawyer as to the consequences and ramifications of that  
4 offense being classified as both a violent and most serious  
5 offense?

6 MR. MANNING: Yes, sir.

7 THE COURT: Understanding the consequences and  
8 ramifications of those classifications, as well as the  
9 potential sentence of fifteen (15) years to life, you still  
10 wish to enter the plea to that charge?

11 MR. MANNING: Yes, sir.

12 THE COURT: And, sir, you do understand that the  
13 burglary in the second degree violent charge, that that  
14 carries a potential sentence of up to fifteen (15) years at  
15 the Department of Corrections?

16 MR. MANNING: Yes, sir.

17 THE COURT: And, sir, you do understand that that  
18 burglary in the second degree violent charge is classified as  
19 a violent offense under the law and also as a serious offense  
20 under the law?

21 MR. MANNING: Yes, sir.

22 THE COURT: And, sir, you have been able to talk  
23 your lawyer as to the consequences of that offense being  
24 classified as a violent and serious offense?

25 MR. MANNING: Yes, sir.

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THE COURT: Understanding the consequences and ramifications of those two classifications, of violent and serious, as well as the potential 15-year sentence, you still wish to enter the plea to that charge?

MR. MANNING: Yes, sir.

THE COURT: And, sir, you do understand that the grand larceny value, of more than five thousand dollars (\$5,000), that that carries a potential sentence of up to ten (10) years at the Department of Corrections?

MR. MANNING: Yes, sir.

THE COURT: And understanding the possible sentence I could impose on that charge, do you still wish to enter the plea?

MR. MANNING: Yes, sir.

(Brief Pause)

THE COURT: And, sir, you do understand that the kidnapping charge, that that carries a potential sentence of up to thirty (30) years at the Department of Corrections?

MR. MANNING: Yes, sir.

THE COURT: And, sir, you do understand that that kidnapping charge is also classified as a violent offense under the law and also as a most serious offense under the law?

MR. MANNING: Yes, sir.

THE COURT: And you have been able to talk to your

1 lawyer as to the consequences and ramifications of that  
2 offense being classified as a violent and most serious  
3 offense?

4 MR. MANNING: Yes, sir.

5 THE COURT: Understanding the possible -- and  
6 understanding the ramifications and consequences of that  
7 offense being classified as a violent and most serious  
8 offense, as well as the potential sentence of up to thirty  
9 (30) years, you still wish to enter the plea to the charge?

10 MR. MANNING: Yes, sir.

11 THE COURT: And, sir, you do understand that the  
12 armed robbery charge carries between ten (10) to thirty (30)  
13 years at the Department of Corrections?

14 MR. MANNING: Yes, sir.

15 THE COURT: And, sir, you do also -- do you also  
16 understand that that armed robbery charge is classified as a  
17 violent and most serious offense in the law?

18 MR. MANNING: Yes, sir.

19 THE COURT: And you've been able to talk to your  
20 lawyer as to the consequences a ramifications of the  
21 classification of violent and most serious to that armed  
22 robbery charge?

23 MR. MANNING: Yes, sir.

24 THE COURT: Understanding the consequences and  
25 ramifications of those classifications of violent and most

1 serious, as well as a potential sentence being somewhere  
2 between ten (10) and thirty (30) years, you still wish to  
3 enter the plea to that charge?

4 MR. MANNING: Yes, sir.

5 THE COURT: And, sir, you do under -- do you  
6 understand that the assault and battery of a high and  
7 aggravated nature charge, that that charge carries up to ten  
8 (10) years at the Department of Corrections?

9 MR. MANNING: Yes, sir.

10 THE COURT: Understanding the possible sentence I  
11 could impose on that charge, do you still wish to enter the  
12 plea to that charge?

13 MR. MANNING: Yes, sir.

14 THE COURT: Mr. Manning, are you in fact guilty of  
15 armed robbery?

16 (Brief Pause)

17 MR. MANNING: Yes, sir.

18 THE COURT: Are you also in fact guilty of  
19 kidnapping?

20 MR. MANNING: Yes, sir.

21 THE COURT: And are you also guilty of grand larceny  
22 value of more than five thousand dollars (\$5,000)?

23 MR. MANNING: Yes, sir.

24 THE COURT: And are you also guilty of burglary in  
25 the second degree violent?

1 MR. MANNING: Yes, sir.

2 THE COURT: Are you also guilty of burglary in the  
3 first-degree?

4 MR. MANNING: Yes, sir.

5 THE COURT: And are you also guilty of assault and  
6 battery of a high and aggravated nature?

7 MR. MANNING: Yes, sir.

8 THE COURT: Have you been able to hear all of my  
9 questions?

10 MR. MANNING: Yes, sir.

11 THE COURT: Have all of your answers been truthful  
12 and honest?

13 MR. MANNING: Yes, sir.

14 THE COURT: Has discovery been shared with Mr.  
15 Manning's defense?

16 MR. BARNETTE: Yes, sir. And just for the record  
17 too I know both of them are waving jurisdiction to this Court.

18 THE COURT: All right. And, Mr. Agnew, as the  
19 solicitor has announced and just stated to me, you wish to  
20 waive your jurisdiction from Cherokee County to Spartanburg  
21 County and proceed with today's proceeding?

22 (Brief Pause)

23 MR. AGNEW: Yes, sir.

24 THE COURT: And, Mr. Manning, you wish to waive  
25 jurisdiction from Cherokee County to Spartanburg County and to

1 proceed with this proceeding?

2 MR. MANNING: Yes, sir.

3 THE COURT: And you've made that decision to waive  
4 jurisdiction after consulting with your lawyer, Mr. Agnew?

5 MR. AGNEW: Yes, sir.

6 THE COURT: Mr. Manning?

7 MR. MANNING: Yes, sir.

8 THE COURT: All right. Mr. Agnew's prior record?

9 MR. BARNETTE: Yes, sir. Mr. Agnew, Your Honor,  
10 don't have a -- a adult record, a prior adult record. I  
11 believe he did have a juvenile record, but I don't think we  
12 have it available to us right now.

13 And, then, Your Honor, Mr. Manning has an assault  
14 with intent to kill. He was convicted of it in two thousand  
15 and seven (2007), Your Honor.

16 He receive five years suspended to time served,  
17 three (3) years probation. I believe he was in on a probation  
18 revocation from that charge.

19 (Brief Pause)

20 THE COURT: All right. Do we have anything from the  
21 victim before I hear from the police officers?

22 MR. BARNETTE: I believe we do.

23 (Off-the-Record Discussion)

24 MR. BARNETTE: Would you like for them to come up?  
25 Can we bring two at a time, Your Honor, if that's okay?

1 THE COURT: It's Officer -- it's the officer's call.  
2 (Off-the-Record Comments)

3 MR. BARNETTE: Okay. Your Honor, I believe Ms. Kim  
4 Keller would like to speak on her behalf to the Court.

5 THE COURT: All right. If ---

6 MR. BARNETTE: And we do have Ms. Darji. She is the  
7 victim in the case also. But I don't -- I don't think she  
8 wants to address the Court. She just wanted to be present for  
9 the pleas.

10 THE COURT: All right. You're going to address the  
11 Court?

12 MS. KELLER: I am.

13 THE COURT: All right. Ma'am, if you would, I need  
14 to let you know we are making recording of everything that  
15 happens in here. So, speak up loud so that this lady  
16 (indicating) and I can both hear you.

17 MS. KELLER: Yes, sir.

18 THE COURT: And, if you would, start by giving us  
19 your full name.

20 MS. KELLER: Kimberly B. Keller (phonetic).

21 THE COURT: Yes, ma'am, Ms. Keller, I'll be more  
22 than happy to hear from you.

23 MS. KELLER: I just basically wanted to speak on  
24 Dipali's behalf to let you know basically how this has  
25 affected her this past year.

1 She -- within a few months of it happening, she had  
2 bars -- steel bars -- installed on all her windows, on the  
3 door, around the front porch. She no longer lives in the home  
4 because even with the bars she is too scared.

5 She has moved into another residence where bars have  
6 been put around those windows and around the front for her.

7 She refuses to go out in the nighttime, after dark,  
8 by herself. I mean, she's too scared.

9 I have sat back here and held her for the past hour  
10 while she has just shook and shivered at the thought of us  
11 being in here.

12 This has just affected her in every way. I mean,  
13 her -- her relationship with our customers, with other people.  
14 I mean, just her being able to - to even communicate with  
15 other people; she is -- she's -- she's terrified on a daily  
16 basis.

17 (Brief Pause)

18 (Off-the-Record Comments)

19 THE COURT: Thank you, ma'am.

20 MR. BARNETTE: Your Honor, I believe there's one  
21 other person who wants to speak for her -- wants to speak to  
22 the Court.

23 (Individual steps forward to address the Court.)

24 THE COURT: All right, ma'am, if you would, we are  
25 making a recording of everything that happens here. So, when

1 you speak, speak up loud enough so that the -- the court  
2 reporter and I both can hear you. And start by giving us your  
3 full name.

4 MS. PATEL: Alpa Patel (phonetic).

5 THE COURT: All right. Could you spell the first  
6 name?

7 MS. PATEL: A-l-p-a.

8 THE COURT: Thank you. All right, Ms. Patel, I'll  
9 be more than happy to hear from you.

10 MS. PATEL: I would like to say about her is how  
11 seeing how her life is completely affected. We -- when we  
12 have grown up in our country, it was not like this.

13 We never grow up like this in our houses; the way  
14 they have affected her life. It is -- it is completely  
15 terrifying.

16 She can't do anything by herself right now.  
17 Everywhere she goes, I have to be with her or someone else.  
18 She always looks for it. Wherever she goes, she just  
19 completely gets scared.

20 She never had this kind of situation to deal with  
21 before. And we never had these kinds of things before.

22 Whatever they had done, they have completely taken  
23 out everything from her heart. And it's affecting to every  
24 body in her family, to the work and everything.

25 (Brief Pause)

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

1 THE COURT: Thank you, ma'am.

2 (Off-the-Record Comments)

3 MR. BARNETTE: Your Honor, I -- I have Lieutenant  
4 Ramsay and Captain Skinner. I believe Lieutenant Ramsay I  
5 know wants to speak to the Court. I don't know if Captain  
6 Skinner does or not.

7 THE COURT: All right. Gentlemen, I remind you, as  
8 I have the other people, we are making recording of everything  
9 that happens in here.

10 I know that you all are aware of that, but when you  
11 start, please, give us your full name for the record. Yes,  
12 sir?

13 LT. RAMSEY: Yes, sir. My name is Ronald Ramsey.  
14 I'd like to echo the comments of the victim and her family.

15 She is a true victim in this case. I have worked  
16 cases a lot of years and I've seen the effects, and this has  
17 really affected her life.

18 She's basically been in her own prison since this  
19 has happened. I mean, she's put bars on her windows. She  
20 locks herself in her home. So, she is a true victim in this  
21 case.

22 Mr. Agnew is young. I haven't had any dealings with  
23 him. Mr. Manning, on the other hand, I've been with the  
24 police department twelve (12) years, and since my time on the  
25 street, his moniker of "Yankee" was heard on a regular basis.

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

1           We've had a lot of interaction with him. And he's  
2           been given multiple opportunities to -- to straighten up and  
3           be a -- a good citizen and it just hasn't worked.  
4           I've watched his crimes increase in severity over the years.

5                   **(Off-the-Record Comments)**

6           **CAPTAIN SKINNER:** I'm Captain Chris Skinner from  
7           the Gaffney Police Department. Everything that Lieutenant  
8           Ramsay said is true.

9                   I've been with the department a little over twenty-  
10          one (21) years and I've never seen a victim as afraid as this  
11          victim is today. And I just don't know, she is just...

12                   I've never seen a -- a case this sad where she has  
13          locked herself in her own home and won't go anywhere. That's  
14          all I have to say, Your Honor.

15                   **MR. BARNETTE:** Thank you, Your Honor.

16                   **THE COURT:** Thank you, Gentlemen. Is there anything  
17          else from the State on either Mr. Agnew or Mr. Manning?

18                   **MR. BARNETTE:** No, sir.

19                   **(Brief Pause)**

20                   **THE COURT:** Yes, sir, Mr. Robinson?

21                   **MR. ROBINSON:** May it please the Court, Your Honor?  
22          I have with me today Labrontae's family. His mother is  
23          sitting in the second row back there and Labrontae wants to  
24          talk in the second. I don't know who in his family is going  
25          to come up today.

1 Your Honor, this is -- this is nothing less than a  
2 tragedy. I don't -- I think, not just for the victim in this  
3 case, but just in general, because this is a young man, only  
4 eighteen (18) years old.

5 He made a -- a colossal mistake by being with the  
6 wrong people at the wrong time and it was truly just a -- a  
7 tragedy for someone as young as he is to have been involved in  
8 such a monstrous crime.

9 He is -- every time I've met with him, he's very  
10 compliant. You know, he doesn't deny. The only thing I can  
11 say is he echoes the -- he's remorseful.

12 He's -- he's very con -- he's extremely contrite,  
13 about this. And his family can -- can testify to that.

14 But, in a second, he's going to address the Court  
15 and the victim in this case -- or -- or the Court to the  
16 victim.

17 But, Your Honor, we -- it's one of these cases where  
18 as a judge you have to look at all the facts and so forth and  
19 make a huge decision. It's a very momentous decision for this  
20 young man that is going to have an impact on his life for a  
21 long time because he will always have a felony on his record.

22 He will always have to live with the memory of  
23 participating in this terrible offense. And really for what?  
24 I mean, it's a -- there's a person whose life was upset like  
25 hers was and all for being -- taking part in a -- in a

1 terrible crime.

2 He's extremely sorry about this; extremely sorry  
3 about this. He's had a -- a wide range of emotions, from  
4 tearfulness to -- to just -- just not understanding how he  
5 could do such a -- participate in such a -- a crazy thing.

6 So, Your Honor, we would ask the Court, if the Court  
7 can find it to -- to look at mercy in this case. It's clearly  
8 a case of tragedy, but we would ask the Court for mercy in  
9 this case given his young age of eighteen (18).

10 And he has no prior record to speak of. I don't  
11 think that -- I'm not sure if he has a juvenile record at all.

12 (Off-the-Record Comments)

13 MR. ROBINSON: He says he doesn't have a juvenile  
14 record. I don't know if he does or not. But he has gone back  
15 to school.

16 When he got out -- when he got out on bond, he went  
17 back to school. He's enrolled in school to get his GED. And  
18 so, we would ask the Court for mercy in this case, Your Honor.

19 Mr. Agnew and I think a member of his family would  
20 also like to address the Court at the appropriate time.

21 THE COURT: Mr. Agnew, were you able to hear the  
22 statements that were just made by your lawyer?

23 MR. AGNEW: Yes, sir.

24 THE COURT: Do you agree with the statements that he  
25 made to me?

1 MR. AGNEW: Yes, sir.

2 THE COURT: Did you say that you had some other  
3 people beside the defendant that wish to address the Court?

4 MR. ROBINSON: Yes, Your Honor.

5 THE COURT: All right, ma'am, if you would, like  
6 I've told everybody else, we are making recording of  
7 everything that happens in here.

8 This lady (indicating) is a court reporter. So,  
9 when you speak, speak up loud enough so that both she and I  
10 can hear you. And, if you would, give us your full name to  
11 begin with.

12 MS. AGNEW: My name is Eleanor Agnew (phonetic).

13 THE COURT: Yes, ma'am? I'd be more than happy to  
14 hear from you.

15 MS. AGNEW: I'm Labrontae's mother, and it has  
16 really affected me too. I mean, if I could take the pain that  
17 she is going through, I would.

18 I mean, sometimes I blame myself because I wish that  
19 maybe if I had been there I could've prevented it. You know,  
20 I don't know.

21 I mean, like I say, I'm -- I'm sorry that it even  
22 happened. And I know that he is too.

23 I mean, like I said, if I could take it and all, I  
24 would.

25 (Brief Pause)

1 THE COURT: Thank you, ma'am.

2 MR. ROBINSON: And Labrontae would like to address  
3 the Court.

4 THE COURT: All right, Mr. Agnew, I'll be more than  
5 happy to hear from you from anything you'd like me to know or  
6 would want me to consider.

7 MR. AGNEW: Yes, sir. I just wanted to make a  
8 statement. I've changed. I'm going back to school of  
9 everything. I'm trying to change my life. It was a bad  
10 mistake what I did and I realize it was a bad mistake.

11 (Brief Pause)

12 MR. AGNEW: And I'm sorry to the victim.

13 MR. ROBINSON: Thank you, Your Honor. That is our  
14 presentation.

15 (Brief Pause)

16 THE COURT: Thank you, Mr. Agnew.

17 (Brief Pause)

18 THE COURT: Yes, sir, Mr. Delaney?

19 MR. DELANEY: Thank you, Your Honor. May it please  
20 the Court? Mr. Manning is twenty-two (22) years old. He's  
21 almost twenty-three (23).

22 So, he's not a whole lot older than Mr. Agnew; maybe  
23 four or five years more experience than him.

24 And he too agrees that what a colossal error in  
25 judgment he's made. He's very sorry for what he's done.

1 He's twenty-three (23) years old. He knows he's  
2 facing the majority of his life soon to be in the Department  
3 of Corrections.

4 He has children. One day, Your Honor, he would like  
5 to be able to walk out of the Department.

6 He understands the sentencing range that he's facing  
7 today, but he would ask for mercy from the Court and for the  
8 ability, at some point when he's an older man, to walk out of  
9 that prison and maybe make amends for what he's done because  
10 he understands that he has caused great harm to a number of  
11 people, especially the victim.

12 He is sorry for that. He understands that he's  
13 going to have to pay a large prize for what he's done.

14 And one day he would like to be able to realize his  
15 freedom again, not just for his personal sake, but to maybe  
16 make amends for what he's done in some form or fashion,  
17 whatever that may be down the line.

18 But he understands that -- that he messed up bad,  
19 Judge, and he's here today to ask for mercy from the Court as  
20 well as I think he would like, through the Court, to address  
21 the victim when the Court deems it appropriate.

22 And he's -- he's here -- he doesn't have any family  
23 here today, Judge.

24 **MR. MANNING:** I didn't know I was coming.

25 **THE COURT:** All right. Mr. Manning, were you able

1 to hear the statements that were just made by your lawyer?

2 MR. MANNING: Yes, sir.

3 THE COURT: Do you agree with those statements?

4 MR. MANNING: Yes, sir.

5 THE COURT: Mr. Manning, is there anything that you  
6 would like to say or would like for me to know or consider?

7 MR. MANNING: Yes, sir.

8 THE COURT: I'll be more than happy to hear from  
9 you.

10 MR. MANNING: First off, I want to apologize to  
11 everyone that was involved; the victim, the co-defendants and  
12 their families because it caused them all a lot of great pain.

13 I mean, more than this and most of all it affects my  
14 family, and they're affected by my children. They got to deal  
15 with not having me around for however long you sentence me to.

16 So, I ask Your Honor to please have mercy on me and  
17 give me a chance to be able to be part of my children's life.  
18 And you -- I mean, it's for their future. Please, just allow  
19 me to be a part of their life.

20 I mean, I made a mistake. In my whole life I mean  
21 like the officer said, I was in the streets my whole life and,  
22 you know, I made a lot of bad decisions.

23 But this is the worst decision I ever made. And I  
24 just ask that you have mercy on me and give me another chance  
25 at life.

1 I'm trying to do the right thing. I'm going to  
2 school. I mean, I was working and all, but, I mean, it still  
3 don't excuse what I've done.

4 And I just want to apologize to the victim and her  
5 family and to everybody that it caused pain. And I just ask  
6 that you have mercy on me, Your Honor.

7 (Brief Pause)

8 THE COURT: Thank you, sir.

9 MR. MANNING: Yes, sir.

10 (Pause while the Court fills out paperwork.)

11 THE COURT: In regards to both of the defendants, I  
12 will find that there is a substantial factual basis to  
13 entering all of the pleas.

14 I will find that each of the defendants has rec --  
15 has received the services from a very competent and a very  
16 able legal counsel.

17 I'll find that each of the defendant's decision to  
18 enter the plea, as well as their decision to waive  
19 jurisdiction from Cherokee to Spartanburg County, has been  
20 made freely, voluntarily, knowingly, and intellectually by  
21 them.

22 I'll find, again, that each has received the  
23 services from very competent and able legal counsel.  
24 Therefore, I will accept the pleas from both the defendants.

25 On Mr. Agnew, on indictment 2008-11-424 -- and this

1 is the assault and battery of a high and aggravated nature --  
2 the sentence of the Court is that the defendant will be  
3 confined to the State Department of Corrections for a period  
4 of ten (10) years.

5 That will run concurrent with the other charges, but  
6 on indictment 2008-GS-11-428, the sentence of the Court is  
7 that the defendant -- this is the grand larceny charge -- that  
8 the defendant will be confined to the State Department of  
9 Corrections for a period of ten (10) years.

10 That will run consecutive to the previously  
11 announced 10-year sentence for the assault and battery of a  
12 high and aggravated nature charge.

13 On indictment 2008-GS-11-426, burglary in the first  
14 degree, the sentence of the Court is that the defendant will  
15 be confined to the State Department of Corrections for a  
16 period of thirty (30) years.

17 On indictment 2008-GS-11-425, armed robbery, the  
18 sentence of the Court is that the defendant will be confined  
19 to to the State Department of Corrections for a period of  
20 thirty (30) years.

21 Indictment 2008-GS-11-429, kidnapping, the sentence  
22 of the Court is that the defendant will be confined to the  
23 State Department of Corrections for a period of thirty (30)  
24 years.

25 On all the charges he will receive credit for the

1 nine (9) months that he's already served prior to making bond.  
2 I've indicated on the sentencing sheet, in the event there  
3 comes a time that he is released on some type of supervision,  
4 there is to be no contact with the -- with the defendant -- I  
5 mean, with the victim.

6 And on the burglary second degree violent charge,  
7 the sentence of the Court is that the defendant will be  
8 confined to the State Department of correction for a period of  
9 fifteen (15) years to run concurrent with the other charges.

10 Again, nine (9) month's credit for the time that  
11 he's already served. No contact with the victim in the event  
12 that there is some type of release.

13 Good luck to you, sir.

14 **MR. ROBINSON:** Thank you, Your Honor.

15 **(Brief Pause)**

16 **THE COURT:** On Mr. Manning, on the 2008-GS-11-668,  
17 the sentence of the Court is that the defendant will be  
18 confined to the State Department corrections for a period of  
19 ten (10) years.

20 Indictment 2008-GS-11-608, which is the grand  
21 larceny charge, the sentence of the Court is that the  
22 defendant will be confined to the State Department of  
23 Corrections for a period of ten (10) years.

24 That charge will run consecutive to the other ten  
25 (10) years that was -- that was previously announced for the

1 assault and battery of a high and aggravated nature charge.

2 On indictment 2008-GS-11-609, the sentence of the  
3 Court is that the defendant will be confined to the State  
4 Department correction for a period of thirty (30) years.

5 Indictment 2008-GS-11-610, the sentence of the Court  
6 is that the defendant will be confined -- this is the armed  
7 robbery charge -- will be confined to the State Department of  
8 Corrections for a period of thirty (30) years.

9 That thirty (30) years will run consecutive to the  
10 previously announced thirty (30) year sentence.

11 On indictment 2008-GS-11-607, burglary in the second  
12 degree, the sentence of the Court is the defendant will be  
13 confined to the State Department of Corrections for a period  
14 of fifteen (15) years.

15 On indictment 2008-GS-11-606, the sentence of the  
16 Court is that the defendant will be confined to the State  
17 Department of corrections for a period of sixty (60) years.

18 He will receive credit on all of the charges since  
19 May the 30<sup>th</sup>, 2008.

20 I've indicated on the sentencing sheet that in the  
21 event that there is any type of release under supervision, he  
22 is not to have any contact with the victim.

23 Good luck to you, sir.

24 **MR. MANNING:** How much time? Oh, my Lord.

25 (Whereupon, the proceeding concluded.)

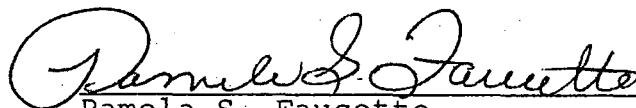
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REPORTER'S CERTIFICATE

I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 45, were transcribed by me and represent a complete and accurate transcription of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

December 21, 2009



Pamela S. Faucette  
Official Court Reporter  
Seventh Judicial Circuit

**PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF )  
 Cherokee County )  
~~South Carolina~~ )  
 Full name and prison number (if any) of Applicant. )  
 Labrontal Agnew 334342 )  
 v. )  
 State of South Carolina )

IN THE COURT OF COMMON PLEAS

APPLICATION FOR  
POST-CONVICTION RELIEF

BRANDON W. COBBE  
 2009 NOV 12  
 A 9:27  
 CLERK OF COURT  
 CHEROKEE COUNTY, S.C.

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional
2. Name and location of Court which imposed sentence Spartanburg County Court
3. Name(s) of co-defendant(s) (if any) Kwane Douglas, Terry Little, John Robert Wilson, Billy Rogers, Kendrick Tate, Joshua Manning, Tom Bonfir
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - 08-68-11425 Armed Robbery
  - 08-68-11429 kidnapping
  - (a) 08-68-11428 Grand Larceny
  - (b) 08-68-11424 Assault and Battery - High Agg Nature
  - (c) 08-68-11427 Burglary - 2nd Degree
  - 08-68-11426 Burglary - 1st Degree
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) April 16, 2009
  - (b) 30 years 85%

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 2009  
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 CLERK OF COURT  
 CHEROKEE COUNTY, S.C.  
 REVIC  
 Revised 3/2003

(c) Non eligible for Parole/Probation

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) Wasn't informed by attorney of right to appeal

(b) \_\_\_\_\_

(c) \_\_\_\_\_

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

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CLERK OF COURT  
2008 OCT 9 PM 5:59  
MARC KITCHENER

- (a) Ineffective Assistance
- (b) Due Process violation
- (c) \_\_\_\_\_

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Ineffective Assistance
- (b) Due Process violation
- (c) \_\_\_\_\_

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? ~~YES~~ NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (c) the disposition thereof:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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 2009 OCT 28 PM 1:09  
 MARC KITCHENS  
 DISTRICT



- (a) your arraignment and plea? yes
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? \_\_\_\_\_
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? \_\_\_\_\_

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. Scott D. Robinson
  - ii. 101 Hartline Ave Greenville SC, 29601
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. guilty plea
  - ii. Scott D. Robinson
  - iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

Conviction and sentence overturned or new trial

20. Are you now under sentence from any other court that you have not challenged?

no

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 HARDKITCHENS

STATE OF SOUTH CAROLINA )  
 )  
County of )

VERIFICATION

I, \_\_\_\_\_, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Labrondae Agnee

SWORN to and subscribed before me this 27  
day of Oct, 2009

[Signature] (L.S.)  
Notary Public

My Commission Expires: 5/16/10

BRANDY W. MCBEE

2009 NOV 12 A 9:28

CLERK OF COURT  
COUNTY S.C.

FILED  
CLERK OF COURT  
2009 OCT 29 PM 5:59  
MARC KITCHENS

009 CP-111099

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Labrontae Agnes Applicant

SWORN or affirmed to and subscribed before me this 27 day of Oct 2009

[Signature] Notary Public

My Commission Expires: 5/16/11

BRANDY W. MCBEE

2009 NOV 12 A 9:28

CLERK OF DISTRICT COURT COUNTY, S.C.

VOID FILED DISTRICT COURT 2009 NOV 20 PM 1:59 MARY KITCHENS



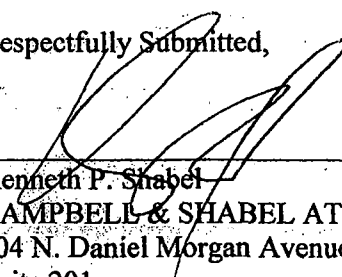
**INEFFECTIVE ASSISTANCE OF COUNSEL**

1. Counsel failed to investigate law and facts of case.
2. Counsel failed to request from the Court that the jury impose sentence under *Blackley v. Washington*. 124 S.ct.2531{2004}.
3. Counsel failed to advise applicant that he would have a jury and not a judge sentence him for the charge of burglary, first degree.
4. Counsel failed to inform applicant that he must waive his *Blackley* rights before the judge could sentence him for burglary, first degree.
5. Counsel failed to make the argument of insufficient proof of forced entry.
  - a.) Counsel gave false advice when he informed Applicant that the State had substantial proof for breaking and entering.
  - b.) Counsel failed to review Rule 5 showing the entry was not forced. *State v. Dunbar*. 318 S.E.2d16{1984}.
6. Counsel failed to inform Applicant of plea process. Applicant was not advised by counsel as to what a guilty plea entailed nor was Applicant advised of the consequences and ramifications of the plea agreement in which was entered.
7. Counsel failed to inform Applicant of the elements of the charges of grand larceny and armed robbery.
8. Counsel failed to object to the warrants issued as they were not under the correct jurisdiction.
9. Counsel failed to file a Motion to Dismiss on the charge of burglary, first degree as it was not proven by evidence that Applicant entered the dwelling. After finger print analysis and SLED examinations there were no links to the Applicant placing him in the home.
10. Counsel failed to establish the time-line of events that occurred to support the charge of burglary, second degree. Applicant upholds that Counsel should have requested a meteorologist to prove the crime was committed at "night time".
11. Counsel failed to file a motion for a psychological evaluation to be conducted on Applicant

**WHEREFORE**, Applicant prays for an Order of this Court:

- A. An Order granting a new trial on all of Applicants charges, and;
- B. For such other and further relief as this Court may deem just and proper.

Respectfully Submitted,



---

Kenneth P. Shabel  
CAMPBELL & SHABEL ATTORNEYS AT LAW  
104 N. Daniel Morgan Avenue  
Suite 201  
Spartanburg, South Carolina 29306  
864.583.0001  
864.583.1199 (Fax)

Dated: 8/13/10  
Spartanburg, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF CHEROKEE	)	
Labrontae Agnew, #334342,	)	2009-CP-11-1099
	)	
Applicant,	)	
	)	<b>RETURN</b>
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Respondent, making its Return to the application for post conviction relief (PCR) filed October 29, 2009, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Cherokee County Clerk of Court. Applicant was indicted at the May 2008 term of the Cherokee County Grand Jury for assault and battery of a high and aggravated nature (2008-GS-11-0424), armed robbery (2008-GS-11-0425), burglary, first degree, dwelling (2008-GS-11-0426), burglary, second degree (2008-GS-11-0427), grand larceny (2008-GS-11-0428), and kidnapping (2008-GS-11-0429). Scott D. Robinson, Esquire, represented the Applicant. On April 16, 2009, Applicant pled guilty as indicted. The Honorable J. Mark Hayes, II concurrently sentenced him to confinement for a period of thirty (30) years each for kidnapping, armed robbery, and burglary, first degree; fifteen (15) years for burglary, second degree; and ten (10) years each for assault and battery of a high and aggravated nature, and grand larceny more than \$5000. The Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein by reference are the records of the Cherokee

County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript.

## II.

In his current application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
2. Due process violation.

## III.

In a PCR proceeding, the applicant bears the burden of establishing that he is entitled to relief. Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). First, a PCR applicant must show that his counsel's performance was deficient such that it falls below an objective standard of reasonableness. Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 693 (1984); Alexander v. State, 303 S.C. 539, 541, 402 S.E.2d 484, 485 (1991). Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry v. State, 300 S.C. 115 at 117, 386 S.E.2d 624 at 625 (1989), *citing Strickland*.

Second, an applicant must show there is a reasonable probability, but for counsel's unprofessional errors, the result of the proceeding would have been different. Strickland, 466 U.S. at 687, 104 S.Ct. at 2064, 80 L.Ed.2d at 693; Alexander, 303 S.C. at 541-42, 402 S.E.2d at 485. The Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, Id. Applicant must overcome this presumption in order to receive relief. Cherry, Id.

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the

record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

The Applicant further alleges that he was denied due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a prima facie showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

#### V.

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

VI

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held solely on the claim of ineffective assistance of counsel.


Respectfully submitted,

HENRY DARGAN McMASTER  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

SUZANNE H. WHITE  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

March 25, 2010.

STATE OF SOUTH CAROLINA )  
COUNTY OF CHEROKEE )

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

Labrontae Agnew, )  
 )  
Applicant, )  
 )  
v. )  
 )  
State of South Carolina, )  
 )  
Respondent. )

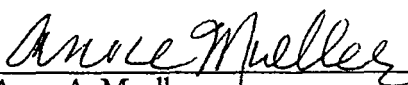
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2009-CP-11-1099

CERTIFICATE OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Kenneth P. Shabel, Esquire  
Campbell & Shabel, LLC  
P.O. Box 1793  
Spartanburg, South Carolina 29306

  
\_\_\_\_\_  
Anne A. Mueller  
Legal Assistant for the Respondent

DATED this 25<sup>th</sup> day of March, 2010.

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COMMON PLEAS COURT
COUNTY OF CHEROKEE	)	
Labrontae Agnew,	)	
	)	TRANSCRIPT OF RECORD
Plaintiff,	)	2009-CP-11-1099
	)	
-vs-	)	
	)	April 8, 2011
The State.	)	Spartanburg, South Carolina

B E F O R E :

HONORABLE J. DERHAM COLE, JUDGE

A P P E A R A N C E S :

JOHN R. HOLLAND, ESQUIRE  
Attorney for the Applicant

SUZANNE H. WHITE, ESQUIRE  
Attorney for the State

Linda D. Moffitt  
Circuit Court Reporter

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WITNESSES

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Cross-examination by Ms. White

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SCOTT ROBINSON (SW)

Direct examination by Ms. White

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Cross-examination by Mr. Holland

18

No exhibits entered into evidence.

Labrontae Agnew  
Direct examination by Mr. Holland

1 THE COURT: Are you Labrontae Agnew?

2 THE APPLICANT: Yes, sir.

3 THE COURT: Mr. Holland is your lawyer?

4 THE APPLICANT: Yes, sir.

5 THE COURT: Who is your lawyer?

6 THE APPLICANT: Kenneth Shabel -- Shaback -- Shabel.

7 THE COURT: Well, that's John Holland.

8 MR. HOLLAND: I'm in Kenneth Shabel's office.

9 THE COURT: Have you talked with him about your case?

10 THE APPLICANT: Yes, sir.

11 THE COURT: All right. Mr. Holland, are you ready to  
12 proceed on the application?

13 MR. HOLLAND: I am, Your Honor.

14 THE COURT: All right.

15 MR. HOLLAND: Call Mr. Agnew.

16 LABRONTAE AGNEW, having been  
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. HOLLAND

19 Q Mr. Agnew, please state your name for the record.

20 A Labrontae Agnew.

21 Q And in 2008 were you indicted for assault and battery  
22 of a high and aggravated nature?

23 A Yes, sir.

24 Q Armed robbery?

25 A Yes, sir.

Labrontae Agnew  
Direct examination by Mr. Holland

- 1 Q Burglary first degree?  
2 A Yes, sir.  
3 Q Burglary second degree?  
4 A Yes, sir.  
5 Q Grand larceny?  
6 A Yes, sir.  
7 Q And kidnapping?  
8 A Yes, sir.  
9 Q This was in the May term of the Cherokee County Grand  
10 Jury 2008?  
11 A Yes, sir.  
12 Q All right. And on April 16th of 2009 you pled guilty  
13 as indicted?  
14 A Yes, sir.  
15 Q And was Scott Robinson your attorney?  
16 A Yes, sir.  
17 Q Are you satisfied with Scott Robinson?  
18 A No, sir.  
19 Q Please -- did -- did Mr. Robinson take the time to go  
20 over the discovery with you?  
21 A No, sir.  
22 Q Did he go over the elements of the crimes with you?  
23 A No, sir.  
24 Q Did he properly investigate the case?  
25 A No, sir.

Labrontae Agnew  
Direct examination by Mr. Holland

1 Q What do you think he failed to do in investigating the  
2 facts of the case?

3 A He failed to inform me of what was going on with  
4 everybody in the case and stuff.

5 He told me like at the last minute like when court  
6 started, like a month, like a month before I talked to him,  
7 he told me I was going to plead, but he didn't tell me to  
8 how much or what. He wasn't telling me nothing.

9 Q Okay. And how many codefendants were there?

10 A They's seven.

11 Q Seven all together?

12 A Yeah. Eight, eight in all.

13 Q Eight in all including you?

14 A Yeah.

15 Q Okay. And did Mr. Robinson go over the minimum and  
16 maximum sentences of each crime?

17 A Yeah, yes, sir.

18 Q He did?

19 A Yeah.

20 Q All right. And were you advised that if you had a  
21 guilty plea -- did he -- did he fail to advise you that if  
22 you pled guilty you wouldn't have an opportunity to have a  
23 trial?

24 A Yes, sir.

25 Q All right. You have -- you've alleged -- have you

Labrontae Agnew  
Direct examination by Mr. Holland

1 alleged that he failed to file a motion to get you a  
2 psychological evaluation?

3 A Yes, sir.

4 Q All right. Why do you feel like you needed a  
5 psychological evaluation?

6 A To prove, to prove, to prove the time of the crime and  
7 all of that stuff, to prove that I wasn't -- I ain't out  
8 there, I didn't do that, do, do everything that they say I  
9 did in the crime.

10 Q And so you're alleging that -- are you alleging that  
11 you have mental issues and mental problems?

12 A I ain't got no mental problem.

13 Q Okay.

14 THE COURT: Did you say you did not have any?

15 THE WITNESS: No, sir.

16 THE COURT: You didn't say that?

17 THE WITNESS: Yes, sir. I do not have mental  
18 problems.

19 THE COURT: Thank you.

20 BY MR. HOLLAND

21 Q Did Mr. Robinson fail to request a meteorologist to  
22 prove that the crime was not committed at night?

23 A Yes, sir.

24 Q Anything else you think that Mr. Robinson didn't do  
25 correctly?

Labrontae Agnew  
Cross-examination by Ms. White

1 A No, sir.

2 Q How many times do you think you spoke to Mr. Robinson  
3 before you pled guilty?

4 A Let's see. Once, once face to face.

5 Q Once face to face?

6 A Face to face.

7 Q When did you first meet with him?

8 A In the county jail.

9 Q Okay. And so the second time you met him was when you  
10 pled guilty?

11 A Yes, sir.

12 Q Do you feel that he went over things enough with you?

13 A No, sir.

14 Q Did you understand what you were doing when you pled  
15 guilty?

16 A No, sir.

17 Q Are you asking for a new trial?

18 A Yes, sir.

19 Q Anything else you want to share with the Court?

20 A No, sir.

21 MR. HOLLAND: I have no further questions.

22 CROSS-EXAMINATION

23 BY MS. WHITE

24 Q Mr. Agnew, you actually pled guilty at the same time  
25 as one of your codefendants, is that right?

Labrontae Agnew  
Cross-examination by Ms. White

- 1 A Yes, ma'am.
- 2 Q Mr. Manning.
- 3 A Yes, ma'am.
- 4 Q Okay. And the Court went over with you the charges in  
5 your indictments, is that right?
- 6 A Yes, ma'am.
- 7 Q Okay. So you knew what you were facing.
- 8 A Yes, ma'am.
- 9 Q And, in fact, you said that Mr. Robinson had gone over  
10 with you the minimum and the maximum of the sentences.
- 11 A Yes, ma'am.
- 12 Q So he had also reviewed the charges with you, is that  
13 right?
- 14 A Yes, ma'am.
- 15 Q Okay. You also testified that he never reviewed the  
16 discovery with you.
- 17 A Yes, ma'am.
- 18 Q You never saw any videos or saw any witness statements  
19 of your codefendants?
- 20 A No, ma'am.
- 21 Q Okay. So he never talked with you about who was  
22 willing to testify perhaps against you or --
- 23 A No, ma'am.
- 24 Q Okay. In regards to not being aware, you said  
25 something about a psychological evaluation to prove you

Labrontae Agnew  
Cross-examination by Ms. White

1 didn't do anything. Can you explain a little more about  
 2 what you -- what you understood a psychological evaluation  
 3 would provide for you?

4 A Hey, I wasn't saying I didn't do anything. I'm  
 5 talking about the co -- the codefendants, the one, the one  
 6 that the wrote statements that said I did all of this and I  
 7 did all of that, which I didn't. I didn't do all of that.

8 Q Okay. So you did see the codefendants' statements.

9 A Na, I ain't seen the statements. He told me about it.

10 Q Okay. So he told you --

11 A Yeah, he told me.

12 Q -- what the -- what the witnesses were saying you had  
 13 done in the case.

14 A Yeah. I ain't seen no motion, discovery or no, no  
 15 tapes or none of that.

16 Q Okay. But you talked with him about it.

17 A Yeah, on the phone.

18 Q And was this in that first meeting?

19 A Na, not in the first meeting. That was on the phone.

20 Q Okay. So talked with him. You had a face-to-face  
 21 meeting in the jail.

22 A Yes, ma'am.

23 Q And then you actually had some conversations with him  
 24 on the phone.

25 A Yes, ma'am.

Labrontae Agnew  
Cross-examination by Ms. White

1 Q Okay. You agreed with the facts in the case, didn't  
2 you?

3 A Facts in the case?

4 Q Not, not all of the way. There was some -- a couple  
5 of things that you -- you said that you didn't hit the  
6 victim, right?

7 A Yes, ma'am.

8 Q Okay. And-but other than that you agreed with the  
9 solicitor.

10 A I didn't go in the house or none of that.

11 Q Okay, okay. And that's correct. On the record you  
12 put that you did not go into the house and that you didn't  
13 hit the victim, is that right?

14 A Yes, ma'am.

15 Q But most everything else they said you agreed.

16 A Yes, ma'am.

17 Q Okay. And the judge went over with you all of your  
18 rights. So you were aware of your right to go to trial on  
19 this, weren't you?

20 A Yeah.

21 Q Okay. Had you ever requested a trial, or did you  
22 always want to plead guilty?

23 A I didn't really know -- I didn't know what, what was  
24 going on really like plead guilty or, or the go to trial.  
25 I didn't really know what was going. He wouldn't inform

Labrontae Agnew  
Cross-examination by Ms. White

1 me, inform me of what was going on, so I didn't really  
2 know. So I just say I, I'll go ahead and plead guilty.

3 Q Okay. So, so you had told him that you would go ahead  
4 and plead guilty because your testimony is you really  
5 didn't know what you had to present at trial.

6 A Yes, ma'am.

7 Q Okay. You were aware that the state wasn't offering  
8 any recommendations, right, for sentences?

9 A Yes, ma'am.

10 Q Okay. And when the judge went through all of that  
11 with you and asked if you still wanted to plead guilty and  
12 if you were doing this freely and voluntarily, you did say  
13 yes, isn't that right?

14 A Yes, ma'am.

15 Q Okay. I think that's all. Oh, one more question.  
16 You did say that you were satisfied with counsel also  
17 during the plea, didn't you?

18 A Yes, ma'am.

19 Q Okay. And that you felt like you had enough time to  
20 talk with him about the facts, the elements of the offense  
21 and any possible defenses.

22 A I said that.

23 Q Okay. Was that the truth?

24 A I said that just to get it on over with.

25 Q So you lied to the Court that day under oath?

Scott Robinson  
Direct examination by Ms. White

1 A Na, I didn't. Yeah, yes, ma'am, yes, ma'am.

2 Q Okay. All right.

3 MS. WHITE: Thank you, Your Honor. Nothing more.

4 MR. HOLLAND: No redirect, Your Honor.

5 THE COURT: Step down.

6 Anything else?

7 MS. WHITE: The state would call Scott Robinson, Your  
8 Honor.

9 SCOTT ROBINSON, having been  
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MS. WHITE

12 Q Mr. Robinson, if you could, just state your name for  
13 the record for us.

14 A It's Scott Robinson.

15 Q And were you appointed or retained to represent  
16 Mr. Agnew in this case?

17 A Retained.

18 Q All right. And if you would, just kind of give us a  
19 brief overview of the facts of the case and what y'all were  
20 facing in regards to either providing a defense in the  
21 case.

22 A Okay. This was a case that involved a bunch of guys  
23 that got together and decided to rob this lady and then get  
24 her to go to her store that she had and get the money out  
25 of the store. It was planned.

Scott Robinson  
Direct examination by Ms. White

1           A bunch of different guys participated, including  
2 Labrontae, in this. He wasn't the guy that actually went  
3 in and hit anybody. That was something that he brought out  
4 in his statement to the Court when he wanted to correct the  
5 facts and so forth.

6           He got involved in this thing, I think. I don't think  
7 he understands this idea, this in South Carolina of  
8 accessory or the idea of hand of one, hand of all.

9           And what happened is as the case progressed different  
10 witnesses started coming out and different codefendants  
11 started making statements.

12           And I disagree with him regarding the number of times  
13 I met with him. I do know. And this I -- I'm pretty sure  
14 of this.

15           There was a tape, that Cherokee County does like a  
16 C.D., a D.V.D. And we went over that I'm pretty sure. And  
17 anything that anyone had said as far as codefendants, he  
18 would have been aware of that.

19           There's no question he participated with these guys.  
20 There's just a question of how much time he was going to  
21 get.

22           We were ready to go to trial. I would have gone to  
23 trial in this case if he had wanted to. He's a -- he's a  
24 fine young man. He deserves a lot, I think. But he just  
25 got into a bad situation with a bunch of guys that he had

Scott Robinson  
Direct examination by Ms. White

1 no business getting involved with.

2 Q So it's your recollection -- did you only meet with  
3 him one time and then see him a second time at the jail?

4 A Not -- this is three years ago, so I don't really have  
5 a lot of independent recollection, but I believe that I met  
6 with him more than once. But we would have gone over any  
7 of the discovery in this case. He would have had any  
8 access to anything that I had.

9 He could -- he called me several times and we spoke,  
10 but he would have had access to the information. If he had  
11 any questions, I'd have answered any questions that he had  
12 in this case.

13 Q So did you review with him each of the charges --

14 A Yes.

15 Q -- and what he was facing --

16 A Yes.

17 Q -- and the sentences?

18 A Yes.

19 Q Okay. In regards to knowing what he was getting ready  
20 to do, he's indicated that he really didn't know what was  
21 going on with the case and he just decided to plead guilty.

22 Was it your understanding that he wanted to plead  
23 guilty and not go to trial?

24 A I think that -- I think that it was kind of like  
25 the -- the Indian circling the wagon -- the wagons almost,

Scott Robinson  
Direct examination by Ms. White

1 because he had all of these codefendants that were coming  
2 out and testifying.

3 There were videos of the codefendants that come in and  
4 said such and such about this as far as his involvement and  
5 other people's involvement. And it was kind of getting to  
6 a situation where he had to make a choice as far as what he  
7 wanted to do. And I believe that he's an intelligent guy.  
8 He -- I think he made the choice that was best that he  
9 thought for him at that time.

10 Hindsight's always 20-20 of course, but at that time  
11 with the facts that he had in front of him with the  
12 codefendants kind of all circling, these guys; I think he  
13 made the choice after reviewing everything in his head as  
14 far as what he wanted to do.

15 Q So you felt confident that he understood and was  
16 pleading of his own free will essentially.

17 A I do, I do.

18 As you can tell from the transcript, I mean, he's,  
19 he's a smart guy. He actually -- when the judge or the  
20 solicitor went through the facts he actually disagreed at  
21 some points regarding hitting the lady and actually going  
22 into this place.

23 But there's no question. It's controverted that he  
24 was there, he participated. He may not have hit the  
25 person, may not have gone in, but he participated either as

Scott Robinson  
Direct examination by Ms. White

1 a lookout or someone who assisted these folks in this.

2 And also he never as far as his role in this, he never  
3 went to the police and told them this is what happened  
4 anytime afterwards. So it kind of put him in kind of a  
5 very precarious situation.

6 Q And he's mentioned something about getting an expert  
7 perhaps to determine that this was not at nighttime. Is  
8 that anything you recall discussing with him? I believe he  
9 might have said getting a metrologist to testify.

10 A I'm -- you know, honestly there's no question as to  
11 when this occurred.

12 I didn't really see the sense of getting a  
13 meteorologist to come to court. Now, if he had chosen a  
14 trial, if he had said, okay, I want to go to trial, I'm not  
15 guilty of this, that would have been a different story.  
16 Then we would have, because this was not -- this was not on  
17 the trial docket that week. And we could have done that.  
18 I don't believe it was. But I didn't -- I don't think I  
19 ever considered that.

20 If he went over it with me at any time, he may have,  
21 but it's not something that I thought was important in this  
22 case, because it's uncontroverted it all happened a certain  
23 period of time at night.

24 Q And Mr. Agnew was facing a potential life on a couple,  
25 or 30 to life perhaps on several of these charges, is that

Scott Robinson  
Direct examination by Ms. White

1 right?

2 A He had 15 to life on the burglary first. He also had  
3 the kidnapping, the armed robbery.

4 This was -- this was a very publicized case where a  
5 lady was taken. Her house was broken into. She was  
6 beaten. The house was trashed. And then she was taken  
7 into her store and forced to -- to get money for these  
8 folks.

9 And it would have been a very difficult trial because  
10 we would have to -- you'd have a lot of issues there, and  
11 I -- you could see that this could wind up being a  
12 life-without-parole kind of case. You could see that,  
13 because the charges -- the charges were very bad charges  
14 that he faced.

15 Q And he ended up receiving a sentence of 30 years, is  
16 that correct?

17 A He did. His codefendant I believe that pled the same  
18 day, I believe he got 60 years, I think. I think, I think  
19 it was consecutive sentences, I believe.

20 Q Okay. All right.

21 MS. WHITE: That's all I have at this time. Your  
22 Honor.

23 MR. HOLLAND: Thank you.

24

25

Scott Robinson  
Cross-examination by Mr. Holland

1 CROSS-EXAMINATION

2 BY MR. HOLLAND

3 Q Mr. Robinson, you don't recall how many times you met  
4 with Mr. Agnew, do you?

5 A I don't. I have no independent knowledge, I don't.

6 Q So it very well could have been one time.

7 A I don't think it was one time, because -- but I don't  
8 have any independent knowledge. I believe it was more than  
9 that because I don't think I would have -- we would have at  
10 least gone over the discovery. I know that. And he would  
11 have at least known everything about what was going on in  
12 his case.

13 And if he hadn't, we would have stopped in court that  
14 day with Judge Hayes and said we're not going to do this  
15 today, we're going to take more time. If he had asked for  
16 that, if he wanted more time to think about it, he would  
17 have had time.

18 Q But you would certainly acknowledge that when a fellow  
19 is looking at a potential life sentence you would need to  
20 meet with him more than once.

21 A I don't know if I really agree with that because if  
22 he's contacting me -- I mean, some attorneys can get a lot  
23 of information very quickly. I'm not saying that -- that  
24 if he was -- if he met with me one time, would have also  
25 called me several different times, but I have no -- I can't

Scott Robinson  
Cross-examination by Mr. Holland

1 tell you as an officer of the Court with no independent  
2 knowledge exactly how many times I met with him, but I  
3 believe it was more than once.

4 Q And didn't one of the codefendants get a Y.O.A.  
5 sentence -- the Tate boy?

6 A I am not sure to be honest with you. I don't know.  
7 All I know is that day when we did the plea on Labrontae  
8 and Joshua Manning -- Joshua Manning got 60 years, I  
9 believe.

10 Another gentleman got life without -- life without  
11 parole, I believe. They went to trial. But I don't have  
12 any independent knowledge what that person got.

13 Q And if Mr. Agnew states that he didn't -- let me  
14 rephrase that.

15 An allegation that you didn't go over the elements of  
16 each crime with him, I mean, you certainly with this being  
17 three years ago, you can't recall whether or not you went  
18 over the elements of each crime with him, can you?

19 A I am pretty -- I'm pretty sure in every, every case  
20 that I handle I take it just like it's going to trial.  
21 Every single case. No case is looked at as a plea.

22 And we would have gone over all of the elements of  
23 these cases to make sure. He had burglary, first, which is  
24 nighttime, had weapons -- the kidnapping.

25 You have a lady getting dragged from her house at

Scott Robinson  
Cross-examination by Mr. Holland

1 gunpoint into another -- into her store. You have armed  
2 robberies occurring. Obviously, you have guns. And  
3 someone's being robbed for their money.

4 The elements are right there. The elements are pretty  
5 clear. But I would have gone over those elements with him,  
6 and the discovery.

7 MR. HOLLAND: One moment, Your Honor.

8 (Pause.)

9 MR. HOLLAND: I have no further questions.

10 MS. WHITE: The state has nothing else, Your Honor.

11 THE COURT: Step down.

12 Anything further?

13 MS. WHITE: Nothing further from the state, Your  
14 Honor.

15 MR. HOLLAND: Nothing from the applicant.

16 THE COURT: All right. I'll review the record and  
17 issue an order.

18 END OF REQUESTED TRANSCRIPT OF RECORD

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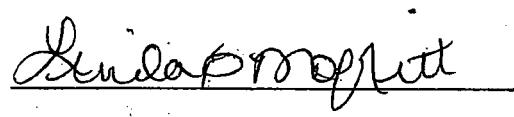
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Cherokee County, South Carolina, on the 8th day of April 2011.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 14, 2011



Linda D. Moffitt  
Circuit Court Reporter

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHEROKEE )  
 )  
 Labrontae Agnew, #334342, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 )

IN THE COURT OF COMMON PLEAS  
 SEVENTH JUDICIAL CIRCUIT

2009-CP-11-1099

**ORDER OF DISMISSAL**

FILED IN OFFICE OF  
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This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 29, 2009, and an Amended Application for Post-Conviction Relief filed August 20, 2010. The Respondent made its Return on or about March 25, 2010. An evidentiary hearing into the matter was convened on April 8, 2011, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by John R. Holland, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Also testifying was Scott D. Robinson, Esquire. This Court also had before it a copy of the records of the Cherokee County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, and the guilty plea transcript.

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**PROCEDURAL HISTORY**

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Cherokee County Clerk of Court. Applicant was indicted at the May 2008 term of the Cherokee County Grand Jury for assault and battery of a high and aggravated nature (2008-GS-11-0424), armed robbery (2008-GS-11-0425), burglary, first degree, dwelling (2008-GS-11-0426), burglary, second degree (2008-GS-11-0427), grand

first degree, dwelling (2008-GS-11-0426), burglary, second degree (2008-GS-11-0427), grand larceny (2008-GS-11-0428), and kidnapping (2008-GS-11-0429). Scott D. Robinson, Esquire, represented the Applicant. On April 16, 2009, Applicant pled guilty as indicted. The Honorable J. Mark Hayes, II concurrently sentenced him to confinement for a period of thirty (30) years each for kidnapping, armed robbery, and burglary, first degree; fifteen (15) years for burglary, second degree; and ten (10) years each for assault and battery of a high and aggravated nature, and grand larceny more than \$5000. The Applicant did not appeal his conviction or sentence.

ALLEGATIONS

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

1. Ineffective assistance of counsel, in that;
  - a. Counsel failed to investigate law and facts of case,
  - b. Counsel failed to request from the Court that the jury impose sentence under Blackley v. Washington, 124 S.Ct. 253 (2004),
  - c. Counsel failed to advise Applicant that he would have a jury and not a judge sentence him for the charge of burglary – 1<sup>st</sup> degree,
  - d. Counsel failed to inform Applicant that he must waive his Blackley rights before the judge could sentence him for burglary – 1<sup>st</sup> degree,
  - e. Counsel failed to make the argument of insufficient proof of forced entry,
  - f. Counsel failed to inform Applicant of plea process,
  - g. Counsel failed to inform Applicant of the elements of the charges of grand larceny and armed robbery,
  - h. Counsel failed to object to the warrants issued as there were not under the correct jurisdiction,
  - i. Counsel failed to file a Motion to Dismiss on the charge of burglary – 1<sup>st</sup> degree, as it was not proven by evidence that Applicant entered the dwelling,
  - j. Counsel failed to establish the time-line of events that occurred to support the charge of burglary – 2<sup>nd</sup> degree (Counsel should have obtained a meteorologist to prove the crime was not committed at night-time,
  - k. Counsel failed to file a motion for a psychological evaluation of Applicant; and

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2. Due process violation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility: This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms."

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Cherry, 300 S.C. at 117, 385 S.E.2d at 625, *citing Strickland*. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

In regards to Applicant's claims that Counsel was ineffective for failing to fully investigate the law and facts of the case and explain to Applicant the elements of the crimes he was charged with (Claims 1a & 1g), this Court finds Counsel's testimony to be more credible than Applicant's. The Applicant testified that Counsel did not review any discovery materials or the elements of the charges with him. However, Applicant acknowledged that Counsel did discuss the charges, potential sentences, and witness statements with him. Applicant also testified that Counsel reviewed the minimum and maximum sentence for each charge. Applicant testified that he met with Counsel once face to face and then once at the guilty plea. Applicant also testified that he spoke with Counsel over the phone at times.

Counsel testified that this was a much publicized case, in which the Applicant was one of eight co-defendants who robbed a convenience store owner in her home, held her and attacked her, then forced her to get money from the store. Counsel testified that he reviewed the videotape and audiotape witness statements and other discovery materials with the Applicant. Counsel testified that he was prepared to go to trial had Applicant wished to go to trial. Counsel also testified that he begins each case as if he is preparing for trial. Counsel also testified that he met with the Applicant more than once and also talked with the Applicant over the phone. Counsel testified that the Applicant said that he did not go into the home or hit anyone, but

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Counsel explained to Applicant that he was being charged under the concept of the hand of one, hand of all. Counsel also testified that the Applicant made the best choice for himself at the time in regards to pleading guilty.

"Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). Applicant failed to offer any information or evidence that Counsel would have discovered had he conducted additional investigations. Additionally, Applicant's own testimony contradicts his claim that Counsel failed to review the elements of the charges with him. Therefore, this claim is denied and dismissed.

This Court finds that Applicant has failed to his burden of proof in support of his claim that Counsel was ineffective for failing to pursue a mental evaluation for Applicant (Claim 1k). Applicant testified that he wanted Counsel to request a psychological evaluation to prove that he did not do everything he was accused of. However, Applicant testified that he did not have mental problems. Counsel testified that it was clear that the Applicant was an intelligent man, but there was no question that he had participated in the crime. An Applicant claiming that his counsel was ineffective in failing to pursue this defense "must produce some evidence of insanity or showing that with the exercise of due diligence, an insanity defense could have been developed." Jeter v. State, 308 S.C. 230, 233-34, 417 S.E.2d 594 (1992). The Applicant must show that he was "unable to distinguish moral or legal right from wrong and to recognize the particular act charged as morally or legally wrong."

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SOUTH CAROLINA

The Applicant presented no testimony or evidence regarding the elements of the defense. Therefore, the Applicant has failed to meet his burden of proof on this issue. This allegation lacks merit and is dismissed.

In regards to Applicant's claim that Counsel was ineffective for failing to call an expert witness, this Court finds that Applicant has failed to meet his burden of proof (Claim 1j). Applicant testified that he wanted Counsel to request an expert to prove that the crime did not occur at night. Counsel testified that there was no question as to when the crime occurred. Prejudice from counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). The Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). This Court finds that Applicant has failed to meet his burden of proof in regards to this claim; therefore, this claim is denied and dismissed.

In regards to Claims 1b, 1c, 1d, 1e, 1f, 1h, and 1i, as listed above, this Court finds that the Applicant failed to present any testimony or evidence in support of these claims. Therefore, the Applicant has failed to meet his burden of proof and these claims are denied and dismissed.

This Court finds in regards to the allegation of ineffective assistance of counsel, the Applicant's testimony is not credible, while also finding counsel's testimony is credible. This

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Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in their representation, and that counsel's conduct does not fall below the objective standard of reasonableness.

**Due Process**

In regards to Applicant's allegation of due process violations, this Court finds that the Applicant failed to produce any testimony or evidence in support of his allegation. Therefore, this claim is denied and dismissed.

*Summary*

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

**CONCLUSION**

Based on all the foregoing, this Court finds and concludes that the 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.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the

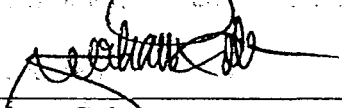
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appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 21st day of July, 2011.

  
 \_\_\_\_\_  
 J. Derham Cole  
 Presiding Judge

\_\_\_\_\_, South Carolina

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 SARA L. MOORE

WITNESSES

Gaffney Police Dept.

*[Handwritten signature]*

ARREST WARRANT NUMBER

1068055

ACTION OF GRAND JURY

**TRUE BILL**

*[Handwritten signature]*

Foreperson of Grand Jury

Date: 5-8-08

VERDICT

Foreperson of Petit Jury

Date:

DC 08:GS-11-424

The State of South Carolina

County of Cherokee

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 08 2008

TERM

THE STATE

vs.

Labrontae Agnew

Indictment for  
ASSAULT AND BATTERY OF A  
HIGH AND AGGRAVATED NATURE

SC Code: 17-25-30

CDR Code: 013

Class MIS/UNC

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHEROKEE        )

INDICTMENT

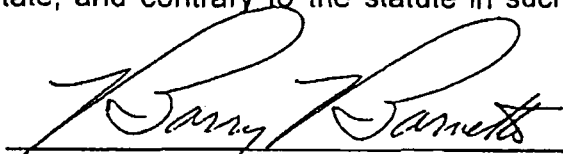
MAY 08 2008

At a Court of General Sessions, convened on \_\_\_\_\_ the  
Grand Jurors of Cherokee County present upon their oath:

**ASSAULT AND BATTERY OF HIGH AND AGGRAVATED NATURE**

That Labrontae Agnew did in Cherokee County on or about April 2, 2008, commit an assault and battery upon the victim, Dipali Darji, constituting an unlawful act of violent injury against Dipali Darji, accompanied by circumstances of aggravation, including use of a deadly weapon, infliction of serious bodily injury, or great disparity in the ages or physical conditions of the parties, to wit: by striking the victim repeatedly about the face and body, in violation of §17-25-0030, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

  
DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA )  
 COUNTY OF Cherokee )  
 STATE VS )  
 Labroniae Amew )  
 AKA: )  
 Race: B Sex: M Age: 18 )  
 DOB: 10-06-1990 SS#: )  
 Adu. )  
 Gallovy, SC 293400000 )  
 DE#: SID#: )

IN THE COURT OF GENERAL SESSIONS )  
 INDICTMENT/CASE#: 2008GSP1424 )  
 A/W#: T068035 )  
 Date of Offense: 04/02/2008 )  
 S.C. Code §: C/L 17-25-0 )  
 CDR Code#: 0013 )

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Assault / Assault and battery of a high and aggravated nature (ABHAN) 0-10 yrs.  
 in violation of § C/L 17-25-0 of the S.C. Code of Laws, bearing CDR Code# 0013  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45 w/minor 1st or 2nd Act)  
 The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury (Defendant initial)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:  
Barnette Barry 13039 Labroniae Amew (SSS)  
 BARNETTE BARRY 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 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. Amable  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPPS: \_\_\_\_\_  
 Recipient: \_\_\_\_\_  
 \*Fine: \$ \_\_\_\_\_  
 § 14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_  
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00  
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
 § 56-5-2495 (DUI Assessment) \$12 \$ \_\_\_\_\_  
 § 56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
 § 35-13 (Public Def Prob) \$500 \$ \_\_\_\_\_  
 § 73-3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00  
 § 33-3, 1B TP (Drug Court Surcharge) \$100 \$ \_\_\_\_\_  
 § 50-21-14 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
 § 56-5-2042(1) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
 3% to County (if paid in installments) \$3.75  
 § 90-11 TP (SCGA Surcharge) \$5 \$ 5.15  
 TOTAL \$ 133.90

Obtain GED \_\_\_\_\_  
 Attend Voc, Rehab, or Job Corp \_\_\_\_\_  
 May serve W/B 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: No Contact with Victim

Appointed PD or appointed other counsel § 35-13-11  
 Requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Fauette  
 Court Reporter: Fauette

PRESIDING JUDGE: \_\_\_\_\_  
 Judge Code: 2171312  
 Sentence Date: 04-11-09

WITNESSES

Gaffney Police Dept

*[Handwritten signature]*

ARREST WARRANT NUMBER

1068054

ACTION OF GRAND JURY

**TRUE BILL**

*[Handwritten signature]*  
Person of Grand Jury

*5-8-08*

VERDICT

lit Jury

DO 08-GS-11-425

The State of South Carolina

County of Cherokee

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 08 2008

TERM

THE STATE

vs.

Labrontae Agnew

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FELIA

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHEROKEE )

INDICTMENT

At a Court of General Sessions, convened on MAY 08 2008 the Grand Jurors of Cherokee County present upon their oath:

**ARMED ROBBERY**

That Labrontae Agnew did in Cherokee County on or about April 2, 2008, while armed with a pistol, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take from the person or presence of Dipali Darji, by means of force, violence, and/or intimidation, goods or monies of Dipali Darji, such goods or monies being described as follows: cash, with intent to deprive the owner permanently of such property, in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

  
 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Cherokee  
 STATE VS.  
Labrontae Agnew  
 AKA:  
 Race: B Sex: M Age: 18  
 DOB: 10-06-1990  
 Address: Gaffney, SC 293400000  
 DL#: SID#:

INDICTMENT/CASE#: 2008GS11425  
 A/W#: 1068054  
 Date of Offense: 04/02/2008  
 S.C. Code § : 16-11-0330(A)  
 CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly we **10-30 yrs.**

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139  
 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 initial)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:  
Barry Bannette 13039 Labrontae Agnew [Signature] 65351  
 BARNETTE, BARRY 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 30 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. 9 months  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>3.75</u>
§ 90.11 TP (SCJA Surcharge)	\$5	\$ <u>5.15</u>
TOTAL		\$ <u>133.90</u>

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: \_\_\_\_\_

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

[Signature]  
 Clerk of Court/ Deputy Clerk  
 Court Reporter: Fauatte

[Signature]  
 PRESIDING JUDGE  
 Judge Code: \_\_\_\_\_  
 Sentence Date: 9-11-09

WITNESSES

Gaffney Police Dept.

*[Handwritten signature]*

ARREST WARRANT NUMBER

1068028

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury

Date: *5-8-08*

VERDICT

Foreperson of Petit Jury

Date:

08-GS-11-426  
Doc. No.

The State of South Carolina

County of Cherokee

*Trey Gowdy, Solicitor*

COURT OF GENERAL SESSIONS

MAY 08 2008

TERM

THE STATE

VS.

Labrontae Agnew

Indictment for

BURGLARY, FIRST DEGREE

(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHEROKEE )

INDICTMENT

At a Court of General Sessions, convened on MAY 08 2008, the Grand Jurors of Cherokee County present upon their oath:

**BURGLARY, FIRST DEGREE**

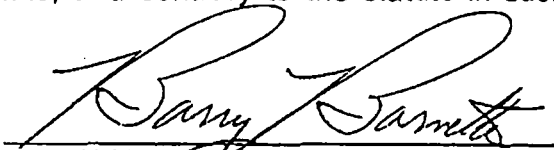
**(DWELLING)**

That the Defendant, Labrontae Agnew did in Cherokee County, on or about April 2, 2008, willfully and intentionally enter the dwelling belonging to Dipali Darji located at 721 Providence Road, Gaffney, South Carolina without consent and with the intent to commit a crime therein, and either:

- (1) when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:
  - (a) was armed with a deadly weapon or explosive; or
  - (b) caused physical injury to any person who was not a participant in the crime; or
  - (c) used or threatened the use of a dangerous instrument; or
  - (d) displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; or
- (2) the burglary was committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or
- (3) the entering or remaining occurred in the nighttime,

in violation of §16-11-311, Code of Laws of South Carolina (1976) as amended.

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

  
DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA  
 COUNTY OF Cherokee  
 STATE VS.  
 Labroniae Agnew  
 AKA:  
 Race: B Sex: M Age: 18  
 DOB: 10-06-1990  
 Address: Gaffney, SC 293400000  
 DL#: SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008CS11426  
 A/W#: 1068028  
 Date of Offense: 04/02/2008  
 S.C. Code §: 16-11-0311  
 CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Burglary / Burglary (After June 20, 1983) - First degree 15 yrs. to LIFE  
 in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079.  
 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 Initial)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:  
Bary Barnett 13039 Labroniae Agnew [Signature] (533)  
 BARNETTE, BARRY 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 30 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. 9 months  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered RTUP  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPRS \_\_\_\_\_

Receipt:	Amount	Total
§ 14-1-206 (Assessments 107.5%)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 35-13 (Public Def/Prob)	\$500	\$
§ 73-3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33-7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114 (DUI Breath Test Fee)	\$50	\$
§ 56-5-2942(B) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$3.75	
§ 90-11 TP (SCCA Surcharge)	\$5	\$ 5.15
<b>TOTAL</b>		<b>\$ 133.90</b>

\_\_\_\_\_ 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: \_\_\_\_\_  
 Appointed PD or appointed other counsel, \$35, 13-TP. Requires \$500 be paid to Clerk during probation.

A. Wolfe  
 Clerk of Court/ Deputy Clerk  
 Court Reporter: Foucaille

PRESIDING JUDGE [Signature]  
 Judge Code: 2 1 3 1 2  
 Sentence Date: 4/10/09  
 SCCA/217 (03/2009)

WITNESSES

Gaffney Police Dept.

ARREST WARRANT NUMBER

1068041

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury.

Date: 5-1-08

VERDICT

Foreperson of Petit Jury

Date:

DOC 08-GS-11-427

The State of South Carolina

County of Cherokee

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 03 2008 TERM

THE STATE

vs.

Labrontae Agnew

Indictment for

**BURGLARY, SECOND DEGREE**  
(BUILDING)

SC Code: 16-11-312(B)

CDR Code: 0086

Class FEL/D

STATE OF SOUTH CAROLINA )  
 COUNTY OF Cherokee )  
 STATE VS. )  
 Labrontae Agnew )  
 AKA: )  
 Race: B Sex: M Age: 18 )  
 DOB: 10-06-1990 SS#: )  
 Address: )  
 Gaffney, SC 29340 )  
 DL#: ) SID#: )

INDICTMENT/CASE#: 2008GS11427  
 A/W#: 1068041  
 Date of Offense: 04/02/2008  
 S.C. Code § : 16-11-0312(B)  
 CDR Code #: 0086

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degree 0-15 yrs.

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086  
 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 initial)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Barry Bannette 13039 Labrontae Agnew 65351  
 BARNETTE, BARRY 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 15 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. Amattles  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

Recipient: _____	
*Fine:	\$ _____
§ 14-1-206 (Assessments 107.5 %)	\$ _____
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§ 56-5-2995 (DUI Assessment)	\$12 \$ _____
§ 56-1-286 (DUI Breath Test)	\$25 \$ _____
§ 35.13 (Public Def/Prob)	\$500 \$ _____
§ 73.3, 1B TP (Law Enforce. Funding)	\$25 \$25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§ 50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$3.75
§ 90.11 TP (SCCJA Surcharge)	\$5 \$5.15
TOTAL	\$133.90

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: no contact with victim  
 Appointed PD or appointed other counsel §35.13 TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE \_\_\_\_\_  
 Judge Code: 2191312  
 Sentence Date: 4/16/09

Clerk of Court/ Deputy Clerk Fauette  
 Court Reporter: Fauette

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHEROKEE )

INDICTMENT

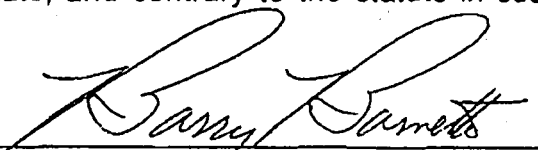
At a Court of General Sessions, convened on MAY 08 2008, the  
Grand Jurors of Cherokee County present upon their oath:

**BURGLARY, SECOND DEGREE**  
**(Building)**

That Labrontae Agnew did in Cherokee County on or about April 2, 2008, willfully and unlawfully enter a building belonging to Corner Stop #2 without consent and with intent to commit a crime therein, located at 717 Providence Road, Gaffney, South Carolina, and either: when, in effecting entry or while in the building or in immediate flight therefrom, he or another participant in the crime: was armed with a deadly weapon or explosive; or the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or entering or remaining occurs in the nighttime, in violation of §16-11-312 (B), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

FILED

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

  
\_\_\_\_\_  
DEPUTY SOLICITOR

WITNESSES

*[Handwritten signature]*

Gaffney Police Dept

The State of South Carolina

County of Cherokee

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 08 2008

TERM

ARREST WARRANT

1068042

THE STATE

vs.

ACTION OF GRAND JURY

Labrontae Agnew

TRUE BILL

*[Handwritten signature]*

Foreperson of Grand Jury

Date: 5/18

Indictment for

GRAND LARCENY

VERDICT

SC Code: 16-13-30 (B)(2)

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHEROKEE )


INDICTMENT

At a Court of General Sessions, convened on MAY 08 2008, the  
Grand Jurors of Cherokee County present upon their oath:

**GRAND LARCENY**

That Labrontae Agnew did in Cherokee County, on or about April 2, 2008, with the  
intent to permanently deprive the owner, take and carry away cash, valued at more than  
five thousand dollars, belonging to Corner Stop #2, in violation of §16-13-30 (B)(2) Code  
of Laws of South Carolina, 1976, as amended.

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

  
DEPUTY SOLICITOR

COUNTY OF Cherokee STATE

Cherokee

VS.

Labronae Agnew

INDICTMENT/CASE# 2008GS11428

A/W# 1068043

Date of Offense 04/02/2008

S.C. Code § 16-13-0030(B)

CDR Code # 0479

AKA:

Race: B Sex: M Age: 18

DOB: 10-06-1990 SS#:

Address: Gaffney, SC 293400000

DL#: STD#:

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Larceny / Grand Larceny, value \$3,000 or more 0-10 yrs.

In violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 0479

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45

The charge is As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury (Defendant Initial)

The plea is Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State

Barry Barnett 13039 Labronae Agnew 68351 BARNETTE BARRY 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 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: 10-2008-GS-11-424

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total \$ plus 20% fee: \$

Payment Terms:

set by SCDPPPS

Recipients:

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, § 56-5-295 (DUI Assessment) \$12, § 56-1-235 (DUI Breath Test) \$25, § 35-13 (Public Def/Prob) \$500, § 73-3, 1B TP (Law Enforce Funding) \$25, § 33-2, 1B TP (Drug Court Surcharge) \$100, § 50-21-114 (DUI Breath Test Fee) \$50, § 56-5-294(1) (Vehicle Assessment) \$40/ea, 9% to County (if paid in installments) \$3.75, § 90-11 TP (SCCA Surcharge) \$5. TOTAL \$133.90

Clerk of Court/Deputy Clerk

Court Reporter: F. Wallace

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:

no contact with victim

Appointed PD or appointed other counsel §35-13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2 1 1 3 1 2

Sentence Date: 4/10/09

WITNESSES

Gaffney Police Dept

ARREST WARRANT NUMBER

1068053

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury  
Date: 5/18/08

VERDICT

Foreperson of Petit Jury  
Date:

106

DC 08-GS-11-429

The State of South Carolina

County of Cherokee

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 08 2008

TERM

THE STATE  
vs.

Labrontae Agnew

Indictment for

KIDNAPPING

SC Code: 16-03-910

CDR Code: 0095

Class FEL-A

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHEROKEE        )


INDICTMENT

At a Court of General Sessions, convened on           MAY 08 2008           the  
Grand Jurors of Cherokee County present upon their oath:

KIDNAPPING

That Labrontae Agnew did in Cherokee County on or about April 2, 2008, willfully  
and unlawfully with criminal intent seize, confine, inveigle, decoy, kidnap, abduct or  
carry away one Dipali Darji without authority of law, all in violation of §16-03-910, *THE  
CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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

  
Deputy Solicitor

COUNTY OF Cherokee
STATE VS. Labrontac Agnew
AKA:
Race: B Sex: M Age: 18
DOB: 10-06-1990 SS#
Address: Gaffney, SC 293400000
DL#: SID#

INDICTMENT/CASE#: 2008GS11429
A/W#: 1068053
Date of Offense: 04/02/2008
S.C. Code: § 16-03-0910
CDR Code #: 0095

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Kidnapping / Kidnapping 0-30 YEARS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
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.
The pleas: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Barnette, Barry 13039 SC Bar# Labrontac Agnew Defendant Attorney for Defendant SC Bar# 65351

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 30 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. 9 months -
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), § 35.13 (Public Def/Prob), § 73.3, 1B TP (Law Enforce. Funding), § 33.7, 1B TP (Drug Court Surcharge), § 50-21-114(BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), 3% to County (if paid in installments), § 90.11 TP (SCCJA Surcharge), and TOTAL \$133.90.

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: No contact with victim

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk
Court Reporter: Fournelle

PRESIDING JUDGE
Judge Code: 2 1 13 12
Sentence Date: 4/16/09