

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Dorchester County
DeAndrea G. Benjamin, Circuit Court Judge

RECEIVED

JUL 30 2013

S.C. Supreme Court

JONATHAN LISLE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213157

A P P E N D I X

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER) FIRST JUDICIAL CIRCUIT
2009-GS-18-0155/0156

STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
VS.)
JONATHAN BRADLEY LISLE,)
DEFENDANT.)

TRANSCRIPT OF RECORD

MARCH 30, 2009
ST. GEORGE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE DIANE S. GOODSTEIN, JUDGE

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

BLAIR JENNINGS, ESQ.
MARK REDMOND, ESQ.

BONNIE H. KELLY
CIRCUIT COURT REPORTER

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID</u>
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-- NO EXHIBITS INTRODUCED DURING THIS PROCEEDING--

MULTI-PLEA HEARING

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THE COURT: All right. You are Pierre Tron Carr?

DEFENDANT CARR: Yes, ma'am.

THE COURT: All right. And you are Jonathan Bradley Lisle?

DEFENDANT LISLE: Yes, ma'am.

THE COURT: Okay. Yes, ma'am.

Ms. Etheridge is going to place you all under oath.

PIERRE CARR AND JONATHAN LISLE,

both being first duly sworn, testify as follows:

THE COURT: All right. Mr. Carr, you're represented by Ms. LeMatty?

DEFENDANT CARR: Yes, ma'am.

THE COURT: All right. Mr. Lisle, you are represented by Mr. Redmond?

DEFENDANT LISLE: Yes, ma'am.

THE COURT: All right. Counsel, have you advised your client of the nature of the offense or offenses with which he is charged, the maximum possible penalty and consequences, and his constitutional rights including his right to a jury trial?

MS. LEMATTY: I have, Your Honor.

MR. REDMOND: Yes, ma'am.

THE COURT: And in your opinion, does your client understand the nature of the offense or offenses, the

1 maximum possible penalty, and his rights?

2 MS. LEMATTY: He does, Your Honor.

3 MR. REDMOND: He does, Your Honor.

4 THE COURT: All right. Tell me how your client wishes
5 to plead.

6 MS. LEMATTY: Guilty, Your Honor.

7 MR. REDMOND: Mr. Lisle will plead guilty this
8 morning, Your Honor.

9 THE COURT: All right. And do you concur with your
10 client's decisions?

11 MS. LEMATTY: I do.

12 MR. REDMOND: I believe it's in his best interest.

13 THE COURT: From your investigation of the facts and
14 circumstances of your client's case, do you believe that
15 the State could produce sufficient evidence to convict and
16 establish your client's guilt beyond a reasonable doubt?
17 And if he was to stand trial, do you believe that his
18 conviction would be probable?

19 MS. LEMATTY: Yes, ma'am.

20 MR. REDMOND: I do.

21 THE COURT: Do you have any questions regarding your
22 client's competency?

23 MS. LEMATTY: No, ma'am.

24 MR. REDMOND: No, ma'am.

25 THE COURT: Have there been any evaluations regarding

1 competency?

2 MS. LEMATTY: No, ma'am.

3 MR. REDMOND: None, Your Honor.

4 THE COURT: All right. Gentlemen, I have many
5 questions to ask of you. If you do not understand my
6 question, don't answer it. But let me know that you don't
7 understand my question, then -- and if you need to take a
8 break to speak with your lawyer, I want you to feel free to
9 do that.

10 Now, the way that I would like to proceed is that I
11 would like to ask the question. And in a clear and audible
12 voice, I want you to answer for me first, please, Mr. Carr,
13 followed then by Mr. Lisle. I want to be sure that our
14 record is clear regarding who is responding.

15 **DIRECT EXAMINATION BY THE COURT:**

16 Q Now, tell me how old you are.

17 DEFENDANT CARR: Nineteen -- Mr. Carr.

18 THE COURT REPORTER: Thank you.

19 DEFENDANT LISLE: I'm 22.

20 Q Tell me how far you went in school.

21 DEFENDANT CARR: Tenth grade. I dropped out and got a
22 GED.

23 Q You have your GED?

24 A Yes, ma'am.

25 Q Okay.

1 DEFENDANT LISLE: Ninth grade, and I have my GED.

2 Q You have your GED?

3 DEFENDANT LISLE: Yes, ma'am.

4 Q All right. And are you employed outside your home?

5 DEFENDANT CARR: Yes, ma'am.

6 Q Where?

7 DEFENDANT CARR: B & B Heating and Air Service.

8 Q And what do you do for them?

9 DEFENDANT CARR: Labor. I wrap pipes.

10 Q Uh-huh. Okay. Yes. Yes.

11 And how long have you been locked up, Mr. Lisle?

12 DEFENDANT LISLE: Since November the 20 -- 24th.

13 Q And before that time, did you work outside your home?

14 DEFENDANT LISLE: No, ma'am. I -- I had job
15 appointment, but I didn't know -- I didn't know where.

16 Q Okay. Have you ever been treated for alcohol, drug
17 abuse, or any mental health issues?

18 DEFENDANT CARR: No, ma'am.

19 DEFENDANT LISLE: Yes, ma'am.

20 Q What?

21 DEFENDANT LISLE: Morris Village.

22 Q Yes.

23 DEFENDANT LISLE: Last year, December and January.

24 Q And did you finish the program at Morris Village?

25 DEFENDANT LISLE: Yes, ma'am.

1 Q All right. In the last 72 hours, have you had any
2 alcohol, drugs, or any kind of medication?

3 DEFENDANT CARR: No, ma'am.

4 DEFENDANT LISLE: No, ma'am.

5 Q Are you aware of any problem that you have -- a
6 physical problem, a mental problem, a nervous problem, drug
7 or alcohol problem -- any problem that might, any problem
8 that could interfere with your ability to know exactly what
9 you are doing here today?

10 DEFENDANT CARR: No, ma'am.

11 DEFENDANT LISLE: No, ma'am.

12 Q All right. Now, Mr. Carr, burglary, non-violent, in
13 the second degree carries a maximum possible penalty of 15
14 years in prison. Do you understand this?

15 A Yes, ma'am.

16 Q All right. And Mr. Lisle, you are charged with two
17 counts -- two charges of armed robbery. Do you understand
18 that armed robbery carries a minimum sentence of 10 years
19 and a maximum of 30 years in prison?

20 A Yes, ma'am, I do.

21 Q Do you understand that your exposure here today is 60
22 years in prison?

23 A Yes, ma'am, I do.

24 Q All right. And do you understand further that this is
25 a violent offense under the law of South Carolina, meaning

1 that it has much to do with your status with the South
2 Carolina Department of Corrections, the facility where you
3 would be housed, your ability or lack thereof to earn work
4 credits and educational credits, and -- and there are other
5 consequences as a result of pleading to a crime which is
6 classified as a violent crime?

7 A Yes, ma'am.

8 Q Do you understand further that under South Carolina
9 law -- and the statute is 17-25-45 -- it's the Recidivism
10 Statute, Mr. Lisle. And what it says is, is that if over
11 the course of your lifetime, you are convicted of two most
12 serious offenses or three serious offenses, or one most
13 serious offense and two serious offenses, if you are then
14 given notice by the State upon the occasion of your second
15 conviction for a most serious; or under the scenario of
16 three serious before the third conviction; or under the
17 scenario of one most serious and two serious offenses,
18 before that third offense, you're given notice by the
19 Solicitor's Office and then you are convicted, then in that
20 event you would spend the rest of your life in prison
21 without the possibility of parole. Do you understand this?

22 A Yes, ma'am, I do.

23 Q What does it mean to you, Mr. Lisle, "life without the
24 possibility of parole"? What does that mean?

25 A It means that natural life, I stay -- I never come

1 back out on the street.

2 Q You would die --

3 A I would die.

4 Q -- in the penitentiary. You understand that? You
5 would go out in a box. You understand?

6 A Yes, ma'am.

7 Q Do you understand, Mr. Lisle, that -- that you are
8 actually today pleading to two most serious offenses. And
9 if you are not pleading to them together, but yet
10 separately, and you had notice and you were then convicted,
11 that you would be in the circumstance of spending the rest
12 of your life in prison without the possibility of parole?

13 A Yes, ma'am.

14 Q All right, sir. Do you understand that I cannot give
15 you a suspended sentence?

16 A Yes, ma'am.

17 Q Do you also understand that -- that I can give you no
18 less than 10 years in prison?

19 A Yes, ma'am.

20 Q Okay. Do you understand that this is a sentence
21 whatever I give you will be the term that you will spend,
22 that there is no parole for armed robbery?

23 A Yes, ma'am.

24 Q All right. Gentlemen, are you currently on probation
25 or parole?

1 DEFENDANT CARR: No, ma'am.

2 DEFENDANT LISLE: No, ma'am.

3 Q Okay. Now, here's what you have told me: You have
4 told me that you understand the nature of offense or
5 offenses with which you are charged, the maximum possible
6 penalty, and the consequences of your plea here today.
7 Keeping all of this in your mind, Mr. Carr, how do you
8 plead to burglary, non-violent, second degree?

9 DEFENDANT CARR: Guilty.

10 Q How do you plead to each of these two counts or armed
11 robbery?

12 DEFENDANT LISLE: Guilty of both.

13 Q All right, sir. Do you understand that when you plead
14 guilty, that you give up certain very important
15 constitutional rights?

16 DEFENDANT CARR: Yes, ma'am.

17 DEFENDANT LISLE: Yes, ma'am.

18 Q We will talk about some of them. We will not talk
19 about them all.

20 You give up the right to remain silent; the right
21 against self-incrimination; the presumption of innocence.

22 You give up your right to require that the State prove
23 you guilty beyond a reasonable doubt if they can; you give
24 up your right to confront those witnesses who would testify
25 against you; you give up your right to call witnesses in

1 your defense, your right to present defenses. You give up
2 your right to challenge any incriminating statements that
3 you may have made in your case; you give up your right to
4 challenge any stops, searches, and seizures that you think
5 were not appropriate. And you give up your right to a jury
6 trial.

7 If you wanted to have a jury trial, there would be a
8 jury trial. And at that trial you could cross-examine the
9 witnesses, your lawyer could help you cross-examine the
10 witnesses against you. You could call witnesses in your
11 defense. You could present defenses. You could decide
12 whether you wish to testify or not to testify.

13 And if you wish to go to trial and not testify, the
14 trial judge trying your case would tell the jury that they
15 could not consider your decision not to testify in making
16 their decision regarding whether or not you are guilty or
17 not guilty. In fact, the judge would tell the jury that
18 they could not even discuss your decision not to testify in
19 the jury room, should you choose not to testify at your
20 trial, should you choose to go to trial.

21 Because you see, the judge would tell the jury that
22 the burden is and would remain on the State of South
23 Carolina to prove guilty beyond a reasonable doubt, and
24 that you didn't have a burden to prove anything.

25 So, these rights, your constitutional rights that we

1 have talked about and others we have not specifically
2 talked about, they are preserved for you at trial and you
3 waive them when you plead guilty. Do you understand your
4 constitutional rights?

5 DEFENDANT CARR: Yes, ma'am.

6 DEFENDANT LISLE: Yes, ma'am.

7 Q Do you understand that they are preserved for you at
8 trial?

9 DEFENDANT CARR: Yes, ma'am.

10 DEFENDANT LISLE: Yes, ma'am.

11 Q Do you understand that you necessarily waive them when
12 you plead guilty?

13 DEFENDANT CARR: Yes, ma'am.

14 DEFENDANT LISLE: Yes, ma'am.

15 Q Is that what you wish to do?

16 DEFENDANT CARR: Yes, ma'am.

17 DEFENDANT LISLE: Yes, ma'am.

18 Q Do you clearly understand that when you plead guilty,
19 you give up your right to have a jury determine if you are
20 guilty or not guilty; and if I accept your plea, I will
21 sentence you?

22 DEFENDANT CARR: Yes, ma'am.

23 DEFENDANT LISLE: Yes, ma'am.

24 Q Let's review: You have told me you understand the
25 nature of the offense or offenses with which you are

1 charged, you understand the maximum possible penalty, you
2 understand the consequences of your plea. Now you tell me
3 you understand your constitutional rights.

4 Keeping all of this in the forefront of your mind, do
5 you still wish to continue with your plea of guilty?

6 DEFENDANT CARR: Yes, ma'am.

7 DEFENDANT LISLE: Yes, ma'am.

8 Q All right. Let me tell you what happens next, each
9 and every plea that is accepted by the Court must have a
10 substantial factual basis. I'm going to ask the solicitors
11 handling your case to give me the factual basis for your
12 plea, what are the facts upon which this plea is based.

13 Now, when they are finished, I'm going to ask you: Is
14 that what happened, or is that what you did? I want you to
15 correct anything that needs to be corrected to be sure that
16 I have an accurate picture of what happened.

17 Obviously, these folks weren't there. And what
18 they're going to tell me is based upon the investigation of
19 their office, as well as the investigation of law
20 enforcement. So, I -- it is very important that you
21 correct anything that needs to be corrected.

22 Now, I'll ask: Did these events occur in Dorchester
23 County?

24 DEFENDANT CARR: Yes, ma'am.

25 DEFENDANT LISLE: Yes, ma'am.

1 Q All right. Listen very carefully. Please tell me
2 about Mr. Carr.

3 MR. BELL: Your Honor, if it pleases the Court, this
4 occurred in the -- between the late afternoon of June 29,
5 2008 and the early morning hours of June 30, 2008. It
6 occurred at , in the Town of Summerville,
7 in Dorchester County.

8 The victim, Mr. Neal, came home about 1 a.m. Went in
9 his house, it looked like somebody had broken in and gone
10 through his entire house. He called the police.

11 He pointed out to the police at that time there was a
12 glass jar that was in the middle of the floor that wasn't
13 ordinarily there. The police took it into evidence. They
14 found some fingerprints on it. They matched the
15 fingerprints to Mr. Carr.

16 After that, they took out a warrant, arrested him, and
17 after Miranda, he admitted to going into Mr. Neal's house -
18 -

19 THE COURT: All right.

20 MR. BELL: -- taking stuff.

21 THE COURT: Is that what happened?

22 DEFENDANT CARR: Yes, ma'am.

23 THE COURT: Tell me, please, about Mr. Lisle.

24 MR. JENNINGS: Thank you, Your Honor. May it please
25 the Court. This happened November 22nd of 2008. The

1 victim, John Fortunanto, was an acquaintance of Mr. Lisle,
2 had actually contacted him that night. Mr. Fortunanto had
3 stolen a handgun from his grandmother. He was actually
4 before Your Honor last week ---

5 THE COURT: Okay.

6 MR. JENNINGS: --- on a probation revocation.

7 THE COURT: Yeah.

8 MR. JENNINGS: And had contacted Mr. Lisle about --
9 wanted -- take him to get some beer. But also the
10 possibility of Mr. Lisle buying the gun from him.

11 That night, Mr. Lisle was with his co-defendant, Mr.
12 Bowman, as well as his girlfriend, Ms. Bertram, when --
13 when he got the call.

14 He went to a residence at , which is
15 where Mr. Fortunanto was with a group of friends, seven or
16 eight people.

17 On the way over, Mr. Lisle was then driving his
18 girlfriend's Dodge Durango. Mr. Bowman, who had a handgun,
19 got into the back -- the third row of -- of the -- of the
20 Durango, and was laying down. And Ms. Bertram was in the
21 front passenger seat. Mr. Lisle was driving when Mr.
22 Fortunanto got into the -- the back seat, the second row
23 seats. Mr. Bowman popped up, pulled his gun out, put the
24 gun to Mr. Fortunanto's head, and stole the handgun from
25 him.

1 He -- Mr. Fortunanto had not brought the clip to the
2 gun with him. It was back in the house at . So,
3 Mr. Bowman and Mr. Lisle escorted him back to
4 Mr. Bowman still had his gun. Mr. Lisle had the gun they
5 had stolen from Mr. Fortunanto.

6 When they went into the home, Nick Bishop, William
7 Young, Brian Senatore, Owen Grella, Colby Tilwell
8 [phonetic], Debra Sledzion [phonetic] and her brother Tim
9 Sledzion [phonetic], were all in the residence. Mr. Bowman
10 came into the house, produced the handgun that he had to
11 all of those individuals. Had them take their cell phones
12 out, keys, very little amount of money was stolen. It was
13 mainly cell phones. But had them all throw them on the
14 floor.

15 All the -- we've interviewed all those witnesses in
16 preparation for trial. And they said Mr. Lisle gathered up
17 all of that paraphernalia. They got the clip to the other
18 handgun and left with everybody's cell phones and things,
19 and later disposed of them.

20 And there's two -- two counts of armed robbery: One
21 is for Mr. Fortunanto, and the other indictment we combined
22 all of the victims that were in

23 THE COURT: Okay. Is that what happened?

24 DEFENDANT CARR: Yes, ma'am.

25 THE COURT: All right. Now, has anyone promised you

1 anything or held out any hope of a reward to get you to
2 plead guilty?

3 DEFENDANT CARR: No, ma'am.

4 DEFENDANT LISLE: No, ma'am.

5 THE COURT: Has anyone tried to force or threaten,
6 pressure, or intimidate you to make you plead guilty?

7 DEFENDANT CARR: No, ma'am.

8 DEFENDANT LISLE: No, ma'am.

9 THE COURT: Have you had enough time to make up your
10 mind that this is what you want to do?

11 DEFENDANT CARR: Yes, ma'am.

12 DEFENDANT LISLE: Yes, ma'am.

13 THE COURT: Are you pleading guilty because you are in
14 fact guilty?

15 DEFENDANT CARR: Yes, ma'am.

16 DEFENDANT LISLE: Yes, ma'am.

17 THE COURT: Do you believe that the State could
18 produce sufficient evidence to convict and establish your
19 guilty beyond a reasonable doubt?

20 DEFENDANT CARR: Yes, ma'am.

21 DEFENDANT LISLE: Yes, ma'am.

22 THE COURT: Do you believe that, if you were to stand
23 trial, that your conviction would be probable?

24 DEFENDANT CARR: Yes, ma'am.

25 DEFENDANT LISLE: Yes, ma'am.

1 THE COURT: All right. Now, are you satisfied with
2 the services of your attorney?

3 DEFENDANT CARR: Yes, ma'am.

4 DEFENDANT LISLE: Yes, ma'am.

5 THE COURT: Have you and your attorney fully discussed
6 the charges against you?

7 DEFENDANT CARR: Yes, ma'am.

8 DEFENDANT LISLE: Yes, ma'am.

9 THE COURT: Have you spoken with your lawyer for as
10 often and for as long as you feel necessary for her or for
11 him to properly represent you?

12 DEFENDANT CARR: Yes, ma'am.

13 DEFENDANT LISLE: Yes, ma'am.

14 THE COURT: Do you need any more time to talk to your
15 attorney?

16 DEFENDANT CARR: No, ma'am.

17 DEFENDANT LISLE: No, ma'am.

18 THE COURT: Have you understood your talks with her or
19 with him?

20 DEFENDANT CARR: Yes, ma'am.

21 DEFENDANT LISLE: Yes, ma'am.

22 THE COURT: Are you completely satisfied with your
23 lawyer's services?

24 DEFENDANT CARR: Yes, ma'am.

25 DEFENDANT LISLE: Yes, ma'am.

1 THE COURT: Has your lawyer done everything for you
2 that you believe that your lawyer could have done or should
3 have done to properly represent you?

4 DEFENDANT CARR: Yes, ma'am.

5 DEFENDANT LISLE: Yes, ma'am.

6 THE COURT: Has your lawyer done anything in her or
7 his representation of you that you feel she or he should
8 not have done?

9 DEFENDANT CARR: No, ma'am.

10 DEFENDANT LISLE: No, ma'am.

11 THE COURT: Have you spoken with your lawyer as many
12 times as you believe is appropriate and necessary for your
13 lawyer to properly represent you?

14 DEFENDANT CARR: Yes, ma'am.

15 DEFENDANT LISLE: Yes, ma'am.

16 THE COURT: Once again, are you completely satisfied
17 with your attorney's services?

18 DEFENDANT CARR: Yes, ma'am.

19 DEFENDANT LISLE: Yes, ma'am.

20 THE COURT: Has anyone associated with your case --
21 your lawyer, the solicitor handling your case, the police
22 officers involved in your arrest, or any of the employees
23 at the detention facility -- has anyone associated with
24 your case mistreated you in any way?

25 DEFENDANT CARR: No, ma'am.

1 DEFENDANT LISLE: No, ma'am.

2 THE COURT: Have you understood my questions?

3 DEFENDANT CARR: Yes, ma'am.

4 DEFENDANT LISLE: Yes, ma'am.

5 THE COURT: Is there anything you would like to ask me
6 about what we have just been over?

7 DEFENDANT CARR: No, ma'am.

8 DEFENDANT LISLE: No, ma'am.

9 THE COURT: Do you understand that you have a right to
10 appeal your guilty plea or the sentence of the Court, and
11 if you wish to appeal, you must appeal, or an attorney on
12 your behalf, within 10 days of today?

13 DEFENDANT CARR: Yes, ma'am.

14 DEFENDANT LISLE: Yes, ma'am.

15 THE COURT: All right. With respect to each and every
16 answer that you have given me here today, have you been
17 absolutely candid and truthful?

18 DEFENDANT CARR: Yes, ma'am.

19 DEFENDANT LISLE: Yes, ma'am.

20 THE COURT: Have your answers been your own answers?

21 DEFENDANT CARR: Yes, ma'am.

22 DEFENDANT LISLE: Yes, ma'am.

23 THE COURT: Have they been the answers that have been
24 given to you by anyone, to include your lawyer?

25 DEFENDANT CARR: No, ma'am.

1 DEFENDANT LISLE: No, ma'am.

2 THE COURT: Have these been your answers?

3 DEFENDANT CARR: Yes, ma'am.

4 DEFENDANT LISLE: Yes, ma'am.

5 THE COURT: Have they been anyone's answers other than
6 yours?

7 DEFENDANT CARR: No, ma'am.

8 DEFENDANT LISLE: No, ma'am.

9 THE COURT: Now, do you need to talk to your lawyer at
10 this time about anything that we have been over?

11 DEFENDANT CARR: No, ma'am.

12 DEFENDANT LISLE: No, ma'am.

13 THE COURT: Do you have any questions about anything
14 that we have been over?

15 DEFENDANT CARR: No, ma'am.

16 DEFENDANT LISLE: No, ma'am.

17 THE COURT: Now, with regards to Mr. Lisle, upon
18 reviewing his record, what do you understand the strike
19 status to be?

20 MR. JENNINGS: This will be his first set of strikes.
21 He has an ABHAN conviction. And obviously, that would not
22 qualify.

23 THE COURT: Okay. Is that your understanding too?

24 MR. REDMOND: It is, Your Honor.

25 THE COURT: All right. Very well, Mr. Redmond.

1 Most importantly, is that your understanding, Mr.
2 Lisle?

3 DEFENDANT LISLE: Yes, ma'am.

4 THE COURT: Now, Mr. Lisle, if you were to go to the
5 South Carolina Department of Corrections, and based upon
6 their records, they were to tell you otherwise, would you
7 be surprised?

8 DEFENDANT LISLE: No, ma'am.

9 THE COURT: Well, let me -- let me -- it's my fault.
10 I'm not being clear. What I'm asking you is I want to
11 establish your belief regarding the number of strikes,
12 because it's real important. Okay?

13 DEFENDANT LISLE: Oh. Yes, ma'am.

14 THE COURT: And so, tell me, how many strikes do you
15 believe this would be for you?

16 DEFENDANT LISLE: My first two.

17 THE COURT: Uh-huh. In other words, you're -- you're
18 pleading together, so they'd be considered as one.

19 DEFENDANT LISLE: Yes, ma'am.

20 THE COURT: Is that your understanding?

21 DEFENDANT LISLE: Yes, ma'am.

22 THE COURT: So, your belief is that this would be your
23 first set of strikes together.

24 DEFENDANT LISLE: Yes, ma'am.

25 THE COURT: So, you're getting, if you will, penalized

1 with the one strike, most serious.

2 DEFENDANT LISLE: Yes, ma'am.

3 THE COURT: Is that your understanding?

4 DEFENDANT LISLE: Yes, ma'am.

5 THE COURT: Now, if you were to go to the South
6 Carolina Department of Corrections and they were to walk up
7 to you and say, "Mr. Lisle, you wrong. We got a strike
8 against you from California." Would you be surprised?

9 DEFENDANT LISLE: No -- I mean, yes, ma'am.

10 THE COURT: You would be surprised, wouldn't you?

11 DEFENDANT LISLE: Yes, ma'am.

12 THE COURT: In fact, you would be shocked.

13 DEFENDANT LISLE: Yes, ma'am.

14 THE COURT: You wouldn't know where that came from.
15 You probably never even been to California.

16 DEFENDANT LISLE: No, ma'am.

17 THE COURT: All right. Even if they said that you had
18 another strike against you from South Carolina, would you
19 be surprised?

20 DEFENDANT LISLE: Yes, ma'am, I would.

21 THE COURT: Would you be shocked?

22 DEFENDANT LISLE: I would be.

23 THE COURT: Would that be something that you would
24 want to address with Mr. Redmond or -- or a lawyer to
25 understand what had happened?

1 DEFENDANT LISLE: Yes, ma'am.

2 THE COURT: In other words, your plea today, I -- I
3 know is based on many things. But is it also based on your
4 belief that these would be your first strikes?

5 DEFENDANT LISLE: Yes, ma'am.

6 THE COURT: Okay. You would certainly want to address
7 that.

8 DEFENDANT LISLE: Yes, ma'am.

9 THE COURT: Okay. That's actually happened. I know I
10 was really glad I had been through that, because the person
11 was able to go back and reassess where they were.

12 Very well. And everyone agrees here today, too, that
13 this is your -- while there are two strikes, they --
14 they're considered one, because it -- it arises out of a
15 very closely related series of events. Okay?

16 DEFENDANT LISLE: Yes, ma'am.

17 THE COURT: Okay. Now, I have listened to these
18 folks. I believe that there is a substantial factual basis
19 for each of these gentlemen's pleas. They tell me that
20 they are satisfied with counsel. They understand their
21 plea, and the consequences of the plea. And I will accept
22 the plea of Mr. Carr to burglary, non-violent, in the
23 second degree, and of Mr. Lisle to two charges of armed
24 robbery.

25 All right. Let me hear, please -- first of all, I

1 need to hear two things. Number one, with regards to both
2 these gentlemen, have you spoken to the victim? Do I need
3 to hear from the victim, which I'm delighted to do. And I
4 need their record.

5 First of all, about Mr. Carr.

6 MR. BELL: As to Mr. Carr's victim, Your Honor, we
7 sent a letter to the victim back in September, 2008;
8 received no response, so --

9 THE COURT: Okay.

10 MR. BELL: -- I have not communicated with the victim.

11 THE COURT: Okay.

12 MR. BELL: And he has no prior criminal record.

13 THE COURT: Okay. Yes, ma'am.

14 MS. LEMATTY: May it please ---

15 THE COURT: And I have to -- what -- tell me what in
16 the world -- what does your shirt say? What does it say?

17 MS. LEMATTY: Tell her.

18 DEFENDANT CARR: (As read) "Original Gangsters."

19 THE COURT: Okay. All right. Yes, ma'am.

20 MS. LEMATTY: May it please the Court, Your Honor.

21 THE COURT: Yes.

22 MS. LEMATTY: Mr. Carr is 19 years of age. He is
23 supported here in court today by his mother, who's been
24 very involved in his case and in his situation.

25 He has gainful employment outside his home. He has

1 achieved his GED by way of getting -- you know, getting his
2 education. So, he's certainly done some things right here,
3 along with what he's obviously done wrong, why he's here
4 today.

5 He does have two small children: the year old and 18
6 months of old -- old -- of age. He is involved in their
7 lives and -- and working and helping to support them. He's
8 trying to -- to be a good example for them at this point,
9 be a good member of the community.

10 We appreciate the Solicitor's recommendation in this
11 matter of shock incarceration. He would ask that the
12 Court, perhaps, consider a suspended sentence in this
13 matter, so he could keep his job and keep supporting his
14 children.

15 I -- I have explained and discussed with him
16 thoroughly that the Court will do what the Court sees fit.
17 And -- and he is grateful for the -- the opportunity to ask
18 the Court's mercy, to take responsibility for -- for what
19 he's done wrong here. And -- and to ask the Court for
20 whatever mercy it feels it can give him in this
21 circumstance.

22 He's a young man, Your Honor. He's got a long way to
23 go. And -- and I think that he can, you know, certainly --
24 he's gotten a lot of support here. This -- this mom is
25 very involved and very much cares what happens to him. And

1 he's got other folk out there.

2 THE COURT: Uh-huh.

3 MS. LEMATTY: We would simply ask the Court to do what
4 it can under the circumstances.

5 THE COURT: Thank you so much, Ms. LeMatty.

6 (To the defendant). Little boys or little girls? One
7 of each?

8 DEFENDANT CARR: One each.

9 THE COURT: One of each?

10 DEFENDANT CARR: Yes.

11 THE COURT: You know -- you do realize that they need
12 you, right?

13 DEFENDANT CARR: Yes, ma'am.

14 THE COURT: Okay. You realize this is no -- no place
15 to be, right?

16 DEFENDANT CARR: Yes, ma'am.

17 THE COURT: Because they're going to lose you. We're
18 all going to lose you, and that would be a terrible,
19 terrible tragedy.

20 I thought this might be one of the -- I thought this
21 might be the mom. Not your mom, but the babies's. She's
22 so youthful, you know?

23 DEFENDANT CARR: Yes, ma'am.

24 THE COURT: She -- don't you think she deserves more
25 than having to have her precious son in prison?

1 DEFENDANT CARR: Yes, ma'am.

2 THE COURT: All right. Mr. Carr, do you have any
3 health problems?

4 DEFENDANT CARR: No, ma'am.

5 THE COURT: You -- you're healthy. You certainly look
6 healthy and strong and you know -- let me just tell you,
7 you do realize the "Y" facility, that they're going to be
8 in your face all the time. They're going to be all over
9 you.

10 But they are also going to give you some alcohol and
11 drug treatment, and hopefully -- hopefully you will not
12 have a good time, so that we'll never -- and -- and this is
13 as light as it possibly can be. A "Y" Shock incarceration
14 is -- if it has it's intended affect, we will not have to
15 worry about you.

16 Now, you do know you going to go on YOA parole --

17 DEFENDANT CARR: Yes, ma'am.

18 THE COURT: -- when you come out. And I think -- what
19 are they? Ms. LeMatty, what is it, the nickname for the Y?
20 What do they call it, "Kiddie Life"?

21 MS. LEMATTY: "Baby life."

22 THE COURT: Baby life. And the reason for that is to
23 just monitor you and be sure you're employed and be sure
24 that -- that, you know -- that we're doing what we need to
25 do to pay attention, so that you are successful.

1 Obviously it's going to take a commitment on your
2 part, too. But -- but it's a two-way street. Okay? All
3 right.

4 DEFENDANT CARR: (No audible response.)

5 THE COURT: All right. All right, Mr. Carr. I am
6 going to sentence you pursuant to the Youthful Offender
7 Act, not to exceed five years. I am going to recommend the
8 YOA Shock. And when you come out on YOA parole, I want you
9 to give back to the community, I want you to reconnect with
10 the community, and give 40 hours of your time in public
11 service.

12 And also, I want you to attend Voc Rehab or Job Corp
13 if you need it, if you need it. If you can come back to
14 your position, that's great. But I don't want you to be
15 unemployed. And so, Voc Rehab can help you in that regard,
16 if you need. Okay? So, I want you certainly to get that.

17 And pursuant to 35-13, you are required to pay \$500 to
18 the Clerk when you are on the YOA parole. Okay?

19 DEFENDANT CARR: Yes, ma'am.

20 THE COURT: Thank you.

21 DEFENDANT CARR: Thank you.

22 MR. BELL: Thank you, Your Honor.

23 MS. LEMATTY: Thank you, Your Honor.

24 THE COURT: Uh-huh.

25 All right. Talk to me about Mr. Lisle and the victims

1 --

2 MR. JENNINGS: Yes, ma'am.

3 THE COURT: -- in this case.

4 MR. JENNINGS: Your Honor, he has -- as far as prior
5 record, has convictions for -- 2005 for resisting arrest
6 and contributing to the delinquency of a minor. Appears
7 the received a shock incarceration sentence. And then at
8 the 2006 conviction for ABHAN.

9 As far as the victims, Your Honor, all -- every person
10 that was there picked Mr. Lisle out of a photo lineup
11 during the investigation. And -- and Ms. Popowski and I
12 met with all those victims last week in preparation for the
13 trial. They did not want to be here, just on the
14 possibility that he was going to plea, but were set to come
15 in tomorrow morning in case we needed to do a pre-trial
16 hearing concerning those identifications.

17 Detective Peters is present today from the sheriff's
18 office, just seeing things through to the conclusion, so
19 ...

20 THE COURT: Very well.

21 MR. JENNINGS: And as -- as I noted on the sentence
22 sheet, we have -- recommending a sentence range of 13 to 25
23 years concurrent.

24 THE COURT: Okay. Yes, sir, Mr. Redmond.

25 MR. REDMOND: Thank you, Your Honor. May it please

1 the Court. Jonathan Bradley Lises [sic] is 22. Obviously
2 he's been in front of this Court before. And I've known
3 Jonathan for about four years. He's always seemed like a
4 very nice young man to me. Every previous incident
5 involved alcohol that I know of, and usually the excessive
6 use of alcohol.

7 Your Honor, he doesn't have his GED. Prior to being
8 arrested, he had secured a position at Denton's Shipyard.
9 Obviously that's not going to be something that's going to
10 come to fruition at this point.

11 I do think -- I have not been able to interview all
12 the -- all the victims. But I have talked to at least
13 three or four of them, Your Honor.

14 The -- the only thing that I -- I think that I can add
15 is a -- that might mitigate his involvement a little bit is
16 that at no time did he brandish a loaded weapon. The --
17 the main aggressor seemed to be his co-defendant, a much
18 larger individual and really kind of ran the show.

19 Now, I'm not saying that he wasn't involved, but I do
20 think that he had very bad influence with him that day.
21 And it was an influence that he had been hanging out with.
22 So, he understands that that was a huge mistake..

23 He also has a daughter, Minor , who's four years old,
24 who'd he'd like to be able to see at some point, before
25 she's in her upper teens.

1 He attends St. Johns Beloved Catholic Church in
2 Summerville.

3 Your Honor, I talked to Jonathan. I hadn't had as
4 many chances to talk to him as I'd like. I've only been
5 involved in this about 30 days. But I've met with him at
6 least three or four times.

7 He has told me straight up that I think he was in
8 front of you before for a plea that he rejected, which was
9 a little bit more advantageous than this plea. I don't --
10 I think the Public Defenders Office did a wonderful job
11 getting that. He was uncomfortable; he knew he was facing
12 a lot of time; he was scared. So, you know, maybe he made
13 the wrong decision, but he rejected a plea that he'd
14 probably be facing less time than he is today.

15 He has told me straight up that he -- he intends to
16 make the most of a bad situation. He's going to take
17 advantage of -- of whatever opportunities that prison does
18 have to offer him, whether it's schooling, church,
19 religion, whatever it might be. He plans to try and better
20 himself if that's possible.

21 He also made it clear to me that he understood the
22 evidence that was up against him. He didn't want to make
23 the victims come through and relive this. He didn't want
24 the -- the State to incur the expense and time, and waste
25 the Court's time when -- when he's admitting his

1 participation in this crime. And I hope you'll take that
2 into consideration, Your Honor.

3 I -- I don't think he's got a drug or alcohol problem
4 right now, but I do think that -- that that kind of drug
5 and alcohol education can benefit him when he gets in
6 prison. And I think if you could recommend that, I think
7 that would help.

8 And Your Honor, I -- I would really and truly beg --
9 ask the Court's mercy and sentence him as -- on the low end
10 of this as possible. He's 22. He's looking at being in
11 his early 30s, minimum, when he gets out. And I think
12 everybody -- I mean, he -- everybody knows, immaturity at
13 22 is not what we'd like it to be. I think when he hits 30
14 -- and this is going to be a life-changing experience for
15 him no matter what. I think he'll come out with a better
16 attitude.

17 In the courtroom today we have his mother Diane Smith,
18 her boyfriend Mike Weber, his girlfriend Chelsea Bertram,
19 and her father Chris Bertram, all of whom have expressed
20 their support to me for -- for Jonathan.

21 And Your Honor, I -- just in case in point, Chelsea's
22 father Chris has been very involved, and wanting to make
23 sure that the right thing happens to -- they call him
24 "Brad" -- to Brad. And I want to see the same thing happen
25 too, Your Honor. And I think it says a lot to Mr. Bertram

1 standing up and really being kind of a -- I mean, a -- a
2 strong advocate of -- of Brad. And he's not even a father-
3 in-law. He is his girlfriend's father. So -- I mean, I
4 hope that will have some impact on the Court.

5 And I don't know if any of -- of his supporters would
6 like to say anything. But if -- if the Court has time to
7 hear from anybody ---

8 THE COURT: Oh, I'm -- of course. I'm happy to hear
9 from them.

10 (Several people come forward.)

11 MR. REDMOND: Your Honor, this is Chelsea Bertram, his
12 girlfriend --

13 THE COURT: Okay.

14 MR. REDMOND: -- and her father Chris Bertram.

15 THE COURT: Okay.

16 MS. BERTRAM: Your Honor, I mean he's a -- he's an
17 honorable man. And he is a decent person, you know, and --
18 and it would be -- it would be just a waste to waste such a
19 decent person that just got caught up with the wrong
20 people.

21 THE COURT: Yes, sir. If you'd just identify --

22 MR. BERTRAM: I'm Chris Bertram.

23 THE COURT: Yes, sir.

24 MR. BERTRAM: I've -- he's -- I've known him for about
25 a year. And I've gone out -- helped him -- he tried to do

1 a -- a home business, like repairing plumbing, stuff like
2 that. And I've gone out with him and he's -- he's eager to
3 learn. He's -- he's very caring. He -- he doesn't try to
4 cheat people. I mean, he's -- he's a -- he's a good person
5 at heart.

6 I think sometimes being young and dumb, you know,
7 sinks in -- like certain people, this is not a person he
8 should be with. You know, I've never met this -- I think I
9 met this person once, that he hung out with. And if I knew
10 that that night, they wouldn't have went out that night.

11 I -- I think he deserves a chance.

12 THE COURT: Well, I guess what I would want you to
13 know, Mr. Bertram, since you're there and your daughter is
14 very close to -- was -- was pretty close to some pretty
15 serious crimes.

16 MR. BERTRAM: Right.

17 THE COURT: Her judgment's obviously faulty, because
18 she obviously -- apparently was in the vehicle at the point
19 in time when Mr. Bowman got in the back with a gun, and
20 obviously -- probably knew what was going to go on. So, I
21 would urge you to have some real heart-to-heart talks with
22 her, because her judgment is terribly flawed.

23 Unfortunately, when people, for whatever reason, find
24 associating with a criminal element when there are crimes
25 going on exciting or whatever, they tend to go back there.

1 And so, I share that with you, because I think you've
2 got a very independent problem with your daughter and --
3 and that concerns me.

4 You know, if this was his only -- as -- as horrible as
5 this is, unfortunately this has become his pattern.
6 Apparently some circuit court judge has been seeing him on
7 a regular basis, so I share that with you as well. And --
8 and the only reason -- and while I certainly respect and
9 appreciate you having kind things to say about him, I --
10 you know, I'm quite worried about your daughter, too. And
11 -- and -- and what -- what is her base of judgement values.
12 I'm concerned about that for her.

13 She's obviously beautiful and young and probably
14 bright, and has a marvelous future ahead of her. And --
15 and you -- you worry terribly about all young people. And
16 obviously, if there had been someone that had come in to --
17 to a house where your precious daughter was with a gun,
18 demanding money or whatever, that would have terrified you
19 when she came home crying, "Daddy, Daddy, they held a gun
20 to me and scared me."

21 I mean, any of us would be terrified. So, I certainly
22 respect -- and I hope that your daughter's going to be good
23 support for Mr. Lisle through what he's got facing him.

24 But I sure hope you'll have some heart-to-hearts, too,
25 Papa. Make sure you do that -- double check to make sure

1 that her thought processes are where they need to be,
2 because she ---

3 MS. BERTRAM: I'm going back to school.

4 THE COURT: Oh. That's a -- oh. That's like -- got
5 to be music to your daddy's ears, because it's music to my
6 ears. And you are young. And how old are you?

7 MS. BERTRAM: I'm 19.

8 THE COURT: Well, and you're beautiful. And you have
9 your whole life ahead of you and ---

10 MS. BERTRAM: And I'm -- I'm also going into rehab for
11 rehabilitation.

12 THE COURT: I think that's incredible.

13 MS. BERTRAM: I've been sober since the accident.

14 THE COURT: Good for you. Good for you.

15 You know what, and -- and it's -- it's a ---

16 MS. BERTRAM: It's been a real reality check.

17 THE COURT: Yeah. It's been a reality -- good for
18 you.

19 You know, and you have so much to look forward and I
20 don't know what your relationship would be with Mr. Lisle
21 once he's reached the end of this part of his life, but you
22 know, I'm so delighted that you understand that, you know,
23 you do get identified by the people that you associate
24 with. You really do. And their problems instantly can
25 become your problems.

1 And -- and you got -- you got about as close to it as
2 you can get to somebody that's -- that's not arrested. So,
3 I am so delighted that -- that you have had that wonderful
4 wake-up call.

5 And I know Ms. Lisle appreciates so much your concern
6 and your caring and your tears, too. It will help him.
7 He's got a -- he's got a much more difficult road ahead of
8 him than he has any idea about. And I'm sure he
9 appreciates that.

10 Yes, sir. Anything you wish to say?

11 MR. WEBER: Yes.

12 THE COURT: If you'll just identify yourself.

13 MR. WEBER: I'm Mike Weber.

14 THE COURT: Yes, sir.

15 MR. WEBER: Yeah. I've known Brad a couple of years.
16 He worked for me and he's helped us move things. And he's
17 always there and hard working. He's never a problem with
18 an attitude at all.

19 I understand people get around the wrong crowds.

20 THE COURT: Yeah.

21 MR. WEBER: But I just -- it's a shame these things
22 happen.

23 THE COURT: It is. It is a tragedy. It's more than a
24 shame. It is an absolute -- to see a young person be in
25 this circumstance, and have to go to the path that he is in

1 absolutely tragic and heartbreaking.

2 MR. WEBER: Yes, ma'am. I'm just happy to see he's
3 alive over something like this.

4 THE COURT: Yeah.

5 MR. WEBER: It could happen and --

6 THE COURT: Yeah.

7 MR. WEBER: Like I say, he's always been real good to
8 me, and hardworking. And I -- if he gets out, I'd hire him
9 again.

10 THE COURT: Wonderful -- wonderful words for -- for
11 him. Wonderful words for Mr. Lisle. Thank you so much.

12 Anything further?

13 MR. REDMOND: Nothing from the defendant, Your Honor.

14 THE COURT: Anything further from anyone at this time?

15 (No response.)

16 THE COURT: All right. With regards to 2009-GS-18-
17 155, Mr. Lisle, which is an indictment for armed robbery,
18 I'm going to commit you to the State Department of
19 Corrections for a period of 15 years.

20 With regards to 2009-GS-18-156, which is the
21 indictment also for armed robbery, I'm going to commit you
22 to the State Department of Corrections for a period of 15
23 years.

24 These sentences will run concurrent and you are to be
25 given credit for all the time that you have served.

1 And it is the further order of the Court that you
2 should be in the ATU unit for as long as they will -- or
3 can and are able to keep you while you're with SCDC.

4 Good luck to you, Mr. Lisle.

5 MR. REDMOND: Thank you, Your Honor.

6 MR. BELL: Thank you.

7

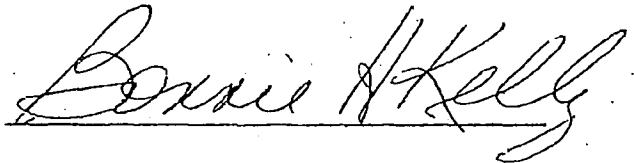
8

--- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED BONNIE H. KELLY, OFFICIAL COURT REPORTER FOR THE FIRST 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 HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR DORCHESTER COUNTY, SOUTH CAROLINA, ON THE 30TH DAY OF MARCH, 2009.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

A handwritten signature in cursive script, reading "Bonnie H. Kelly", written over a horizontal line.

BONNIE H. KELLY, COURT REPORTER

COLUMBIA, SOUTH CAROLINA

MAY 21, 2010

STATE OF SOUTH CAROLINA
 IN THE COURT OF GENERAL SESSIONS
 COUNTY OF DORCHESTER

INDICT. No. 09-GS-18-155, 156, 158, 159

JONATHAN LISLE #309262.....PETITIONER

-VS-

STATE OF SOUTH CAROLINA.....RESPONDENT,

FILED-RECORDED
 2009 JUL - 9 AM 9:49
 CLERK OF COURT
 DORCHESTER COUNTY

MOTION FOR RECONSIDERATION
 OF SENTENCE

Respectfully Submitted,

/s/ Jonathan Lisle

Jonathan Lisle #309262

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER)

JONATHAN LISLE #309262) INDICT. No. 09-GS-18-155; 156; 158; 159
PETITIONER,)
-V-) MOTION FOR RECONSIDERATION
STATE OF SOUTH CAROLINA) OF SENTENCE
RESPONDENT,)

FILED-RECORDED
JUL -9 AM 9:49
CLERK OF COURT
DORCHESTER COUNTY

TO: THE RESIDENT JUDGE, HONORABLE DIANE GOODSTIEM

COMES NOW, Jonathan Lisle, pro-se, herein after Petitioner who respectfully moves this Honorable Court for a Reconsideration of the sentence that was imposed on March 30, 2009.

STATEMENT OF FACTS

Petitioner along with a co-defendant Johnnta Bowman (Bowman) were indicted for two (2) counts of armed robbery (09-GS-18-155, 156) and two (2) counts of kidnapping (09-GS-18-158, 159). Petitioner was represented by retained counsel Mr. Mark A. Redmond, Esquire. Pursuant to a plea agreement Petitioner plead guilty to the two (2) counts of armed robbery and the State dismissed [both] kidnapping offenses. Upon pleading guilty Your Honor sentenced Petitioner to (15) fifteen years for each armed

robbery to be served concurrent and Your Honor sentenced the co-defendant (Bowman) a day later on March 31, 2009 to twelve years (12) for the two (2) armed robberies as well. Petitioner now respectfully moves this Honorable Court for a Reconsideration of the fifteen year (15) sentence for the following reasons:

Petitioner accepted responsibility for his participation in the incident and is very remorseful for what happened. And it should be noted Petitioner did [not] possess a weapon during the robbery, in as much as Petitioner was merely aiding and abetting Bowman who was the actual "gunman" in the incident. As was noted Petitioner did not deny his participation and did in fact accept responsibility for his actions the day he plead guilty on March 30, 2009. Petitioner was employed at Denton Shipyard when the incident occurred. Petitioner further has one minor child daughter (4) four year old Minor . Petitioner does not have a most serious, nor extensive criminal history. Petitioner's criminal history consists of one count of resisting arrest and contributing to the delinquency of a minor in 2005, wherein Petitioner was sentenced to (3) three years suspended to shock treatment. In 2006 Petitioner was convicted of (1) one count of ABHAN and was sentenced to (4) four years suspended to (2) two years probation. Petitioner respectfully asks this Honorable Court to consider the disparity of the sentences between his and the co-defendant Bowman. This Court sentenced Petitioner to (15) fifteen years and the co-defendant to (12) twelve years. Petitioner would ask this Court to consider the (3) three years

difference and respectfully grant Petitioner a Reconsideration of the Sentence that was imposed.

CONCLUSION

WHEREFORE, Petitioner will forever pray that this Honorable Court will take into consideration all of the aforesaid surrounding circumstances and Reconsider the Sentence that was imposed in the instant matter.

THEREFORE, Petitioner will forever pray for the requested relief stated herein.

Respectfully Submitted,

/s/ Jonathan Lisle

Jonathan Lisle #309262

STATE OF SOUTH CAROLINA
IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER

INDICT.No. 09-GS-18-155,156,158,159

CERTIFICATE OF SERVICE

FILED-RECORDED
2009 JUL -9 AM 9:49
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

I, Jonathan Lisle, do hereby swear under the penalty of perjury that I have mailed the Original and (1) copy of the enclosed Motion for Reconsideration of Sentence to the Dorchester County Clerk of Court. This was done by placing the aforesaid document in a properly addressed, sufficient postage affixed envelope and placed in the U.S. Mailroom here at Lieber Correctional Institution in Ridgeville, SC. 29472.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 2nd DAY OF July, 2009

(Signature)

NOTARY PUBLIC

MY COMM. EXPIRES

4/4/2017

Respectfully Submitted,

/s/ Jonathan Lisle

Jonathan Lisle #309262

Jonathan Lisle #309262
Lieber Corr. Inst.
P.O. Box 205
Ridgeville, SC. 29472

RE: Motion for Reconsideration and Transportation Order

July 2, 2009

FILED-RECORDED
2009 JUL -9 AM 9:49
JERRY L. BRADY
CLERK OF COURT
DORCHESTER COUNTY

Dear Clerk,

Enclosed for filing please find the Original and (1) one copy of my Motion for Reconsideration. I have also included a Transportation Order in the event that the Judge deems my presence necessary. I have also included a self addressed, prepaid envelope to return a clock stamped copy back to me.

I thank you very much for your time and consideration in this matter.

Kindest Regards,

Jonathan Lisle #309262

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER)

JONATHAN LISLE #309262) INDICT-NO. 09-GS-18-155,156,158,159

PETITIONER,)

-V-)

TRANSPORTATION ORDER

STATE OF SOUTH CAROLINA)

RESPONDENT,)

_____)

IT APPEARS THE PRESENCE OF JONATHAN LISLE #309262 is needed at
the DORCHESTER COUNTY COURTHOUSE.

It is hereby Ordered, Adjudged, and Decreed, that the South
Carolina Department of Corrections, provide transportation, and
bring inmate Jonathan Lisle #309262 to the Dorchester County
Courthouse for a hearing at _____ [am][pm] on _____ day of,
2009.

AND IT IS SO ORDERED

I AM,

_____, 2009

/s/ _____

_____, SC.

JUDGE

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF DOACHESTER)

IN THE COURT OF COMMON PLEAS

2010-CP-18- 837

Full name and prison number (if any) of Applicant.)

JONATHAN LISHA #309262)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

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 in 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 DOACHESTER COUNTY
2. Name and location of Court which imposed sentence ST. GEORGE GRAND JURY SESSION COURT
3. Name(s) of co-defendant(s) (if any) JOHN A BOWMAN
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 09 GS 18 155
 - (b) 09 GS 18 156
 - (c)
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 3-30-2009
 - (b) PHEN + TWO 15 YEARS SENTENCES TO AEW CONCUAAEW, PLUS ATU PROGRAM

- (c) _____
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?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. COURT OF GENERAL SESSIONS
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Denied
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. July 2, 2009
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. OUTSIDE the 10 days that South Carolina Criminal
- ii. Rules of Procedure Rule 29, POST TRIAL motion.
- iii. Shows.
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- ~~IN EFFECTIVE COUNSEL~~
- (a) IN EFFECTIVE COUNSEL
- (b) ~~SENTENCE~~
- (c) EVIDENCE

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

- (a) Failed to file proper paperwork on 10 day's
- (b) _____
- (c) NO EVIDENCE FOUND, FINGER PRINTS, NOTHING

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
- (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. GENERAL SESSIONS 1st Judicial Circuit Court
- ii. FOR RECONSIDERATION OF SENTENCE.
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. ST. GEORGE, DOUGHERTY COUNTY GENERAL
- ii. SESSION COURT
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. PLEA AGREEMENT 2, 15 years sentence,
- ii. ATTU, PROGRAM
- iii. _____

iv. _____

(d) the date of each such disposition:

i. MARCH 30, 2009

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) HOPING COUNSEL WOULD BE FILED WHEN ASKED

(b) By CHINESE TO APPEAR SENTENCE.

(c) ASKED ABOUT EVIDENCE, TOLD NONE WAS NEEDED

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment-and-plea? ARRAIGNMENT NO 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? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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

- (a) the name and address of each attorney who represented you:
- MARK REDMOND, ADDRESS N/A
 - Mitchell Karky PLO, Office St. George
 - _____
- (b) the proceedings at which each such attorney represented you:
- MARK REDMOND. Represented at the PLEA HEARING
ON MARCH 30, 2009
 - Mitchell Karky 2-7-2009, Dec. 08, JAN, 09 Feb, 09,
 - MARCH 09.

19. State clearly the relief you seek in filing this application: MOTION FOR RECONSIDERATION OF SENTENCE.

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

NO

STATE OF SOUTH CAROLINA)

VERIFICATION

County of)

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.

Jonathan Lezer

SWORN to and subscribed before me this 18th
day of March, 2010

Sylvia Jones (L.S.)
Notary Public

My Commission Expires: 1/24/2018

RECORDED
2010 MAR 24 PM 4:56
CHERYL GRADAM
CLERK OF COURT
DORCHESTER COUNTY

56
STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

Jonathan Lisle, #309262)

Applicant,)

v.)

State of South Carolina,)

Respondent.)
_____)

IN THE COURT OF COMMON PLEAS

2010-CP-18-0837

RETURN

(Appointment of Counsel Requested)

FILED - RECORDED
2010 AUG 24 PM 12:02
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

Respondent, making its Return to the application for post conviction relief (PCR) filed March 24, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. Applicant was indicted for two counts of Armed Robbery (2009-GS-18-0155 & 0156). Mark Andrew Redmond, Esquire, represented the Applicant. On March 30, 2009, Applicant pled guilty as indicted. The Honorable Diane S. Goodstein sentenced him to concurrent terms of fifteen (15) years for each count.¹ The Applicant did not appeal his sentence or conviction.

Attached herewith and incorporated herein by reference are the records of the Dorchester 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 in that
 - a. "Failed to file proper paperwork on 10 days."
2. "No evidence found, fingerprints, nothing."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel 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, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms."

¹ The State recommended a sentence of thirteen (13) to twenty-five (25) years.

Cherry, 300 S.C. at 117, 386 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. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the 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, the 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 Respondent submits that Applicant's second allegation regarding sufficiency of the evidence should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. §. 17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon

any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. *Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.*

[Emphasis supplied.] S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by the Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. Sufficiency of evidence may not be challenged through collateral review. Therefore, the Court should summarily dismiss this application for post-conviction relief.

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.

[Signatures on next page.]

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: Mary S. Williams
ATTORNEYS FOR RESPONDENT

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

Aug. 23, 2010.

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS

2010-CP-18-0837

JONATHAN LISLE, #309262

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,

Respondent.

FILED - RECORDED
2010 AUG 24 PM 12:02
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

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 Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ashley Ameika, Esquire
Law Office of Ashley Ameika, LLC
7555 Northside Drive
North Charleston SC 29420

DATED this 23rd day of August, 2010.

Lauren Meara
Lauren Meara, Legal Assistant
For Respondent



HENRY McMASTER
ATTORNEY GENERAL

August 23, 2010

The Honorable Cheryl L. Graham
Clerk of Court, Dorchester County
5200 East Jim Bilton Boulevard
St. George, SC 29477

Re: Jonathan Lisle, 309262 v. State of South Carolina
2010-CP-18-0837

Dear Ms. Graham:

Enclosed please find the original Return of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

Mary S. Williams
Assistant Attorney General

MSW/lm
Enclosure

cc: Ashley Ameika, Esquire

Law Office of Ashley Ameika, LLC
Attorney at Law

7555 Northside Drive
North Charleston, South Carolina 29420

Office: 843.820.9719
ashleyameikalaw@me.com

Toll Free: 877.820.9719

Fax: 843.820.9720
www.ashleyameikalaw.com

Walter S. Ameika, Esquire (Of Counsel)

February 17, 2011

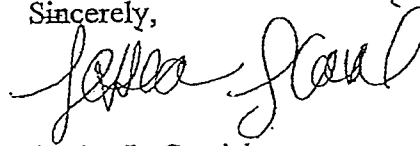
By USPS
Cheryl L. Graham, Clerk of Court
Dorchester County Court of Common Pleas
5200 East Jim Bilton Blvd.
Saint George, SC 29477

RE: Jonathan Lisle v. State of South Carolina
Case No.: 2010-CP-18-837

Dear Judge Graham:

Enclosed for execution and filing please find an original and three copies of a Voluntary Order to Dismiss Post-Conviction Relief, regarding the above referenced matter. Upon execution by the presiding judge, please return the copies to our office in the self-addressed, stamped envelope provided. Additionally, please find an original and three copies of an Affidavit of Jonathan Lisle in Support of Voluntary Order to Dismiss Post-Conviction Relief. Thank you for your time and assistance with this matter.

Sincerely,



Jessica L. Cassick
Law Clerk to Ashley E. Ameika

AEA/jlc
Enclosures: as stated
Cc: Jonathan Lisle

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
JONATHAN LISLE,)
Plaintiff,)
vs.)
STATE OF SOUTH CAROLINA,)
Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO.: 2010-CP-18-837

**VOLUNTARY ORDER TO DISMISS
POST-CONVICTION RELIEF**

FILED - RECORDED
2011 MAR 22 PM 12:08
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

NOW COMES the Plaintiff, Jonathan Lisle, by and through his attorney of record,
Ashley E. Ameika, and hereby seeks to dismiss his request for post-conviction relief filed with
this Court on March 24, 2010 without prejudice.

WHEREFORE, based on the foregoing,

IT IS ORDERED, ADJUDGED AND DECREED that Jonathan Lisle's Post-Conviction
Relief case is hereby dismissed without prejudice, and that Ashley E. Ameika, Esquire, be and is
hereby relieved of all duties and responsibilities of representation of the Plaintiff, Jonathan Lisle,
in the above captioned action.

IT IS SO ORDERED.

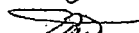


Presiding Judge, First Judicial Circuit
Court of Common Pleas

St. George, South Carolina

This 15th Day of March 2011

(Signatures follow on next page)

182


STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)
)
 JONATHAN LISLE,)
)
 Plaintiff,)
)
 vs.)
)
 STATE OF SOUTH CAROLINA,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIRST JUDICIAL CIRCUIT
 CASE NO.: 2010-CP-18-837

AFFIDAVIT OF JONATHAN LISLE IN
 SUPPORT OF VOLUNTARY ORDER TO
 DISMISS POST-CONVICTION RELIEF

FILED - RECORDED
 2011 MAR 22 PM 12:08
 THERYL GRAHAM
 CLERK OF COURT
 DORCHESTER COUNTY

Personally appeared before me, JONATHAN LISLE, who, after first being duly sworn,
 does depose and say as follows:

1. I am Jonathan Lisle. I am over the age of eighteen years and I am competent to testify to the matters within this Affidavit. I am a resident of Dorchester County, State of South Carolina, and make this statement and Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of my knowledge.
2. I am currently an inmate at McCormick Correctional Institution, and am identified by Inmate #309262, located at 386 Redemption Way, McCormick, South Carolina 29899.
3. I filed an application for Post-Conviction Relief with this Court on March 24, 2010.
4. Since that date I was appointed counsel and on June 23, 2010, Ashley E. Ameika, Esquire took over representation of my case. I am satisfied with the services and legal advice represented by Ashley E. Ameika, Esquire of North Charleston, South Carolina and have had ample opportunity to consult with her regarding my case, and I have satisfaction with the services received from her.

6
5. I freely and voluntarily ask this Court to dismiss my application for post-conviction relief without prejudice, and it is not as a result of any threat, coercion, or duress by any other party or by any circumstance whatsoever.

Jonathan Lisle

JONATHAN LISLE, PLAINTIFF

Sworn to before me this

15 day of February, 2011

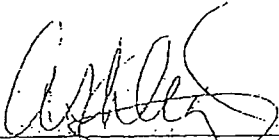
J.C. Frankles

Notary Public for South Carolina

My Commission Expires: 12.16.2019

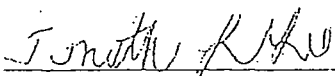
292
20

I SO MOVE:



Ashley E. Ameika, Esquire
7555 Northside Drive
North Charleston, SC 29420
Telephone: (843) 820-9719
Facsimile: (843) 820-9720
Email: ashleyameikalaw@me.com

I SO CONSENT:



Jonathan Lisle
Inmate #309262
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Jonathan Lisle, #309262,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
Case No.: 2010-CP-18-0837

ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief filed March 24, 2010. Applicant and his attorney have informed this Court that Applicant wishes to withdraw his application for post-conviction relief with prejudice.

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. Applicant was indicted at the February 05, 2009, term of the Dorchester County Grand Jury for two counts of robbery/armed robbery, robbery while armed or allegedly armed with a deadly weapon (2009-GS-18-0155, -0156). Mark Andrew Redmond, Esquire, represented the Applicant. On March 30, 2009, Applicant pled guilty as indicted. The Honorable Diane S. Goodstein sentenced him to confinement for concurrent periods of fifteen (15) years for each count. The Applicant did not appeal his sentence or conviction.

II.

It appears that counsel for both parties consent to the dismissal of his Application for Post-Conviction Relief. Further, this Court further finds that the dismissal of this application

for post-conviction relief is voluntary and that Applicant has knowingly and intelligently elected to have his application dismissed with prejudice as evidenced by the attached affidavit. Therefore, this Application for Post-Conviction Relief is dismissed.

IT IS THEREFORE ORDERED:

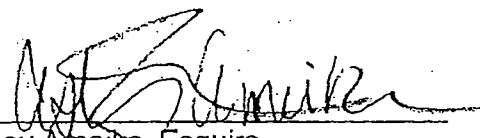
1. That the application for post conviction relief be dismissed with prejudice.
2. That Applicant be remanded to the custody of Respondent.

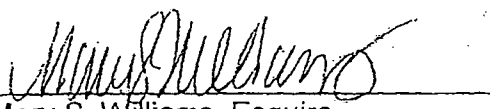
AND IT IS SO ORDERED.


Edgar W. Dickson
Chief Administrative Judge

March 11, 20 11
Orangeburg, South Carolina

WE CONSENT:


Ashley Ameika, Esquire
Attorney for the Applicant


Mary S. Williams, Esquire
Assistant Attorney General
Attorney for the Respondent



ALAN WILSON
ATTORNEY GENERAL

March 21, 2011

The Honorable Cheryl L. Graham
Clerk of Court, Dorchester County
5200 East Jim Bilton Boulevard
St. George SC 29477

Re: Jonathan Lisle v. State of South Carolina
2010-CP-18-0837

Dear Ms. Graham:

Enclosed please find the original **Order of Dismissal**, signed by The Honorable Edgar W. Dickson, in the above-captioned case, for filing in your office. Please forward a **time-stamped copy** back to our office.

Sincerely,

Mary S. Williams
Assistant Attorney General

MSW/lm
Enclosure

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

2010-CP-18-0837

Jonathan Lisle,

Applicant,

Y.

State of South Carolina,

Respondent.

MOTION TO ALTER OR AMEND
AND/OR RESCIND

FILED - RECORDED
2011 APR -5 AM 10:20
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY
END

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 24, 2010. Two orders of dismissal have been filed in this case. The first Order (Order #1) dated March 15, 2011, and filed March 22, 2011, dismisses the application without prejudice. Order #1 was submitted to the court without notice to Respondent. A second Order (Order #2) dated March 11, 2011, and filed March 28, 2011, dismisses the application with prejudice and bears signatures of consent of all of the parties. Both orders are attached hereto.

Respondent moves that Order #1 be rescinded and Order # 2 be entered as the order of dismissal in this case. In the alternative, Respondent requests a hearing on Applicant's apparent motion to dismiss without prejudice as Respondent opposes such motion.

WHEREFORE, having made its motion, the State requests that the relief requested in the

granted and such other relief as the court deems just and proper.

[Signatures on next page.]

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

BY:


ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

Columbia, South Carolina.

March 31, 2011.

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

JONATHAN LISLE,)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2010-CP-18-0837

AFFIDAVIT OF SERVICE BY MAIL

FILED - RECORDED
2011 APR -5 AM 10:20
CLERK OF COURT
DORCHESTER COUNTY

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 Motion to Alter or Amend and/or Rescind in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ashley Ameika, Esquire
7555 Northside Drive
North Charleston, SC 29420

DATED this 31st day of March, 2011.

Lauren Meara
Lauren Meara, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE ☒ COURT OF COMMON PLEAS
☐ FAMILY COURT

CERTIFIED COPY

Jonathan Lisle, #309262

☒ Plaintiff

2012 APR -9 PM 12:47

CASE NO.: 2010-CP-18-0837

v.

State of South Carolina

☐ Defendant

Check box above indicating submitting party

CLERK OF COURT
DORCHESTER COUNTY

MOTION INFORMATION FORM
AND COVER SHEET

Name, SC Bar No. and address of Plaintiff's attorney

Ashley E. Ameika, bar number: 76323

7555 Northside Drive

North Charleston, SC 29420

Telephone: 843-820-9719

e-mail

Fax: 843-820-9720

Other:

Name, SC Bar no. and address of Defendant's attorney

Mary S. Williams

PO Box 11549

Columbia, SC 29211

Telephone:

e-mail:

Fax:

Other:

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I AND III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Withdraw Withdrawal of PCR

Estimated Time Needed: 1 hr.

Court Reporter Needed: Yes

SECTION II: Motion Type

☐ Written motion attached

☐ Form Motion -

31 Ashley Ameika
Signature of Attorney for Plaintiff

6 April 2012
Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:

☒ EXEMPT:

- ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☒ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC)
☐ Proposed order submitted at request of the Court; or,
Reduced to writing form motion made in open court per Judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order

☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

DATE FILED

Collected by:

(print name)

☐ MOTION FEE COLLECTED:

☐ CONTESTED - AMOUNT DUE:

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

Jonathan Lisle, #309262

Applicant,

v.

State of South Carolina,

Respondent.

CERTIFIED IN THE COURT OF COMMON PLEAS

2012 APR -9 PM 12:47 2010-CP-18-0837

Cheryl...
 CLERK OF COURT
 DORCHESTER COUNTY
 MOTION TO WITHDRAW
 WITHDRAWAL OF PETITION
 FOR POST-CONVICTION RELIEF

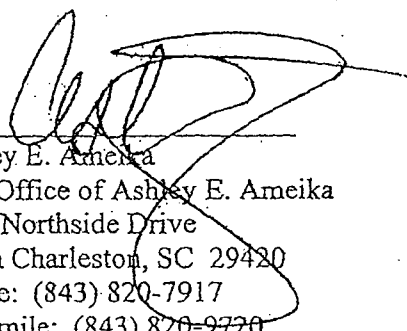
NOW COMES the Plaintiff, Jonathan Lisle, by and through his attorney of record, Ashley Ameika, and hearby seeks to withdraw his former withdrawal of his application for Post-Conviction Relief.

Due to a substantial change in circumstances, Mr. Lisle does not wish to withdraw his application for Post-Conviction Relief, and instead wishes to proceed with the Post-Conviction Relief hearing. Because Mr. Lisle never made an official appearance before the Court, both parties have stipulated that Mr. Lisle's application be reinstated. Assistant Attorney General Mary Williams has filed a Motion to Reconsider with this Court, pursuant to S.C.R.C.P. 59(e), which Motion is currently pending. Denial of said hearing would deny Mr. Lisle of his fundamental rights to Due Process and his substantive right to be heard in court on his request for relief.

For the reasons stated above, Plaintiff respectfully requests that this Court reinstate his proceedings for Post-Conviction Relief. (Please see Exhibits A, B, C, D, E and F attached hereto and made a part of the record hereof).

6
Charleston, South Carolina
April 10, 2012

Respectfully submitted,

BY: 

Ashley E. Ameika
Law Office of Ashley E. Ameika
7555 Northside Drive
North Charleston, SC 29420
Office: (843) 820-7917
Facsimile: (843) 820-9720
ATTORNEY FOR PLAINTIFF

CERTIFIED COPY
2012 APR -9 PM 12:47

Christy Williams
CLERK OF COURT
DORCHESTER COUNTY

Exhibit A

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF DOACHESTER

IN THE COURT OF COMMON PLEAS

2010-CP-18

837

Full name and prison number (if any) of Applicant.

JONATHAN LISK #309262

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

20 MAR 24 PM 4:49

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 in 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 DOACHESTER COUNTY
2. Name and location of Court which imposed sentence ST. GEORGE BRANCH JESSIE COURT
3. Name(s) of co-defendant(s) (if any) John + Bowman
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 09 GS 18 155
 - (b) 09 GS 18 156
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 3-30-2009
 - (b) PHEA + TWO 15 YEARS SENTENCES TO RUN CONCURRENT, PLUS ATU PROGRAM

Revised 3/2003

- (c) _____
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?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. COURT OF GENERAL SESSIONS
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Denied
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. July 2, 2009
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Outside the 10 days that South Carolina Criminal Rules of Procedure Rule 29, POST TRIAL motion allows.
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

~~IN EFFECTIVE COUNSEL~~

(b) ~~IN EFFECTIVE COUNSEL~~

(c) EVIDENCE

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

(a) Failed to file proper paperwork on 10 days

(b) _____

(c) NO EVIDENCE FOUND, FINGER PRINTS, NOTHING

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

(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. GENERAL SESSIONS 1st Judicial Circuit Court

ii. FOR RECONSIDERATION OF SENTENCE

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. ST. GEORGE, DOUGHERTY COUNTY GENERAL

ii. SESSION COURT

iii. _____

iv. _____

(c) the disposition thereof:

i. PLEA AGREEMENT 2, 15 years sentence,

ii. ATTN, PROGRAM

iii. _____

iv. _____

(d) the date of each such disposition:

i. MARCH 30, 2009

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) HOPING COUNSEL WOULD BE FILED WHEN ASKED
BY CHIEF OF COURT TO APPEAR SENTENCE.

(b) _____

(c) ASKED ABOUT EVIDENCE, TOLD NONE WAS NEEDED.

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? ARRAIGNMENT NO 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? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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. MARK REDMOND, ADDRESS N/A
ii. Mitchell Karky Plc, Office St. George
iii. _____
- (b) the proceedings at which each such attorney represented you:
i. MARK REDMOND, Represented at the PHCA Hearing
on March 30, 2009
ii. Mitchell Karky 2-2009, Dec. 08, Jan, 09 Feb, 09,
iii. MARCH 09.

19. State clearly the relief you seek in filing this application: **MOTION FOR RECONSIDERATION OF SENTENCE.**

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

20

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.

Jonathan Reese

SWORN to and subscribed before me this 18th
day of March, 2010

Sylvia Jones (L.S.)
Notary Public

My Commission Expires: 1/24/2018

RECORDED
JUN 24 PM 4:56
CHERYL S. ...
CLERK OF COURT
DORCHESTER COUNTY

CERTIFIED COPY
2012 APR -9 PM 12:47

Cheryl Williams
CLERK OF COURT
DORCHESTER COUNTY

Exhibit B

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS

2010-CP-18-0837

Jonathan Lisle, #309262)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

RETURN

(Appointment of Counsel Requested)

Respondent, making its Return to the application for post conviction relief (PCR) filed March 24, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. Applicant was indicted for two counts of Armed Robbery (2009-GS-18-0155 & 0156). Mark Andrew Redmond, Esquire, represented the Applicant. On March 30, 2009, Applicant pled guilty as indicted. The Honorable Diane S. Goodstein sentenced him to concurrent terms of fifteen (15) years for each count. The Applicant did not appeal his sentence or conviction.

Attached herewith and incorporated herein by reference are the records of the Dorchester 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 in that
 - a. "Failed to file proper paperwork on 10 days."
2. "No evidence found, fingerprints, nothing."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel 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, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms."

¹ The State recommended a sentence of thirteen (13) to twenty-five (25) years.

Cherry, 300 S.C. at 117, 386 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. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the 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, the 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 Respondent submits that Applicant's second allegation regarding sufficiency of the evidence should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. §. 17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon.

any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. *Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.*

[Emphasis supplied.] S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by the Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. Sufficiency of evidence may not be challenged through collateral review. Therefore, the Court should summarily dismiss this application for post-conviction relief.

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.

[Signatures on next page.]

Respectfully submitted.

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: Mary S. Williams
ATTORNEYS FOR RESPONDENT

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

Aug. 23, 2010.

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

JONATHAN LISLE, #309262

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2010-CP-18-0837

AFFIDAVIT 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 Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ashley Ameika, Esquire
 Law Office of Ashley Ameika, LLC
 7555 Northside Drive
 North Charleston SC 29420

DATED this 23rd day of August, 2010.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

CERTIFIED COPY
2012 APR -9 PM 12:48
Christine [Signature]
CLERK OF COURT
DORCHESTER COUNTY

Exhibit C

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE

☒ COURT OF COMMON PLEAS
☐ FAMILY COURT

JONATHAN LISLE,

☒ Plaintiff

CASE NO.: 2010-CP-18-0837

v.

STATE OF SOUTH CAROLINA,

☐ Defendant

MOTION INFORMATION FORM
AND COVER SHEET

Check box above indicating submitting party

Name, SC Bar No. and address of Plaintiff's attorney

Ashley E. Ameika, bar number: 76323
7555 Northside Drive
North Charleston, SC 29420

Telephone: 843-820-9719

Fax: 843-820-9720

e-mail: ashleyameikalaw@me.com Other:

Name, SC Bar no. and address of Defendant's attorney

Robert D. Corney
PO Box 11549
Columbia, SC 29211

Telephone: 803-734-3970

e-mail:

CLERK OF COURT
DORCHESTER COUNTY
803-253-6283

2011 AUG 25 PM 12:14

CERTIFIED COPY

☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I AND III)

☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion:

Estimated Time Needed:

Court Reporter Needed: No

SECTION II: Motion Type

☐ Written motion attached

☒ Form Motion - Motion for Continuance

I hereby move for relief or action by the Court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:

☒ EXEMPT:

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent

Status

☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act

☒

Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication

☐

Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the Court; or,

Reduced to writing form motion made in open court per Judge's instructions

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order

☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

DATE FILED

Collected by:

(print name)

☐ MOTION FEE COLLECTED:

☐ CONTESTED - AMOUNT DUE:

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

JONATHAN LISLE,)

Plaintiff,)

v.)

STATE OF SOUTH CAROLINA,)

Defendant.)

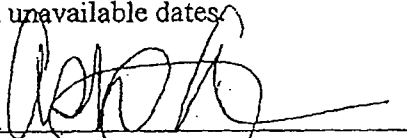
IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO.: 2010-CP-18-0837NOTICE OF MOTION AND
MOTION FOR CONTINUANCECLERK OF COURTS
DORCHESTER COUNTY

2011 AUG 25 PM 12:14

CERTIFIED COPY

YOU WILL PLEASE TAKE NOTICE, that the Plaintiff by and through his undersigned counsel moves for an Order of Continuance for the Motion Hearing currently scheduled for August 29, 2011 based upon the following reason:

1. Plaintiff's counsel has a conflict in this case due to being currently scheduled to commence a jury trial on August 29, 2011 in case number 2009-CP-18-2300.
2. The trial scheduled on August 29, 2011 is number one on Judge Goodstein's jury roster, and I am therefore unable to attend this Motion Hearing to Dismiss this case (See Attached Court Roster sheet).
3. I respectfully request the court to continue this hearing at another date and time when I do not have a conflict; please see my attached unavailable dates.

BY: 

Ashley E. Ameika
Law Office of Ashley E. Ameika
7555 Northside Drive
North Charleston, SC 29420
Office: (843) 820-7917
Facsimile: (843) 820-9720
ATTORNEY FOR PLAINTIFF

Charleston, South Carolina
August 23, 2011

CERTIFIED COPY
2012 APR -9 PM 12:48
Christina M. [Signature]
CLERK OF COURT
DORCHESTER COUNTY

Exhibit D

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

JONATHAN LISLE,)

Plaintiff,)

v.)

STATE OF SOUTH CAROLINA)

Defendant.)

IN THE COURT OF COMMON PLEAS
THE FIRST JUDICIAL CIRCUIT
CASE NO: 2010-CP-18-0837

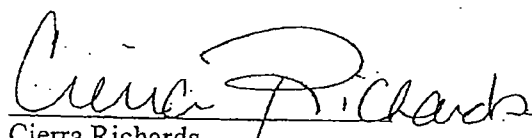
CERTIFICATE OF SERVICE

I, Cierra Richards, Paralegal to Ashley E. Ameika, Attorney for Plaintiff, Jonathan Lisle, do hereby state that on this date I served all parties mentioned below with a copy of the following document(s) via the United States Postal Service, postage pre-paid and addressed as follows:

1. NOTICE OF MOTION AND MOTION FOR CONTINUANCE

Delivered to: Robert D. Corney
PO Box 11549
Columbia, SC 29211

Ms. Jonathan Lisle # 309262
McCormick C.I. F-Y 118
386 Redemption Way
McCormick, SC 29899



Cierra Richards
Paralegal to Ashley E. Ameika
7555 Northside Drive
North Charleston, SC 29420
Telephone: (843) 820-9719
Facsimile: (843) 820-9720

This 31 Day of August, 2011.
North Charleston, South Carolina

CERTIFIED COPY
2012 APR -9 PM 12:48
Christina Williams
CLERK OF COURT
DORCHESTER COUNTY

Exhibit E

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
JONATHAN LISLE,)
Plaintiff,)
vs.)
STATE OF SOUTH CAROLINA,)
Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO.: 2010-CP-18-837

**VOLUNTARY ORDER TO DISMISS
POST-CONVICTION RELIEF**

NOW COMES the Plaintiff, Jonathan Lisle, by and through his attorney of record,
Ashley E. Ameika, and hereby seeks to dismiss his request for post-conviction relief filed with
this Court on March 24, 2010 without prejudice.

WHEREFORE, based on the foregoing,

IT IS ORDERED, ADJUDGED AND DECREED that Jonathan Lisle's Post-Conviction
Relief case is hereby dismissed without prejudice, and that Ashley E. Ameika, Esquire, be and is
hereby relieved of all duties and responsibilities of representation of the Plaintiff, Jonathan Lisle,
in the above captioned action.

IT IS SO ORDERED.

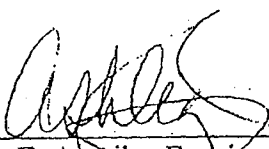
/s/ E.W. Dickson
Presiding Judge, First Judicial Circuit
Court of Common Pleas

Orangeburg
St. George, South Carolina

This 10th Day of March 2011

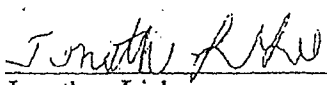
(Signatures follow on next page)

I SO MOVE:



Ashley E. Ameika, Esquire
7555 Northside Drive
North Charleston, SC 29420
Telephone: (843) 820-9719
Facsimile: (843) 820-9720
Email: ashleyameikalaw@me.com

I SO CONSENT:



Jonathan Lisle
Inmate #309262
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

RECEIVED

CERTIFIED COPY
2012 APR -9 PM 12:48

Christy Wilson
CLERK OF COURT
DORCHESTER COUNTY

Exhibit F

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
JONATHAN LISLE,)
Plaintiff,)
vs.)
STATE OF SOUTH CAROLINA,)
Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO.: 2010-CP-18-837

AFFIDAVIT OF JONATHAN LISLE IN
SUPPORT OF VOLUNTARY ORDER TO
DISMISS POST-CONVICTION RELIEF

CERTIFIED COPY
2011 MAR 22 PM 12:10
CLERK OF COURT
DORCHESTER COUNTY

Personally appeared before me, JONATHAN LISLE, who, after first being duly sworn,
does depose and say as follows:

1. I am Jonathan Lisle. I am over the age of eighteen years and I am competent to testify to the matters within this Affidavit. I am a resident of Dorchester County, State of South Carolina, and make this statement and Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of my knowledge.
2. I am currently an inmate at McCormick Correctional Institution, and am identified by Inmate #309262, located at 386 Redemption Way, McCormick, South Carolina 29899.
3. I filed an application for Post-Conviction Relief with this Court on March 24, 2010.
4. Since that date I was appointed counsel and on June 23, 2010, Ashley E. Ameika, Esquire took over representation of my case. I am satisfied with the services and legal advice represented by Ashley E. Ameika, Esquire of North Charleston, South Carolina and have had ample opportunity to consult with her regarding my case, and I have satisfaction with the services received from her.

5. I freely and voluntarily ask this Court to dismiss my application for post-conviction relief without prejudice, and it is not as a result of any threat, coercion, or duress by any other party or by any circumstance whatsoever.

Jonathan Lisle
JONATHAN LISLE, PLAINTIFF

Sworn to before me this

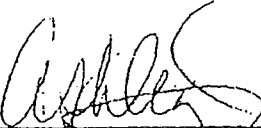
15 day of February, 2011

J.C. Franklin
Notary Public for South Carolina
My Commission Expires: 12.16.2019

292
20

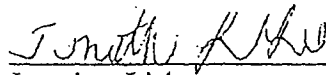
102

I SO MOVE:



Ashley E. Ameika, Esquire
7555 Northside Drive
North Charleston, SC 29420
Telephone: (843) 820-9719
Facsimile: (843) 820-9720
Email: ashleyameikalaw@me.com

I SO CONSENT:



Jonathan Lisle
Inmate #309262
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE

☒ COURT OF COMMON PLEAS
☐ FAMILY COURT

Jonathan Lisle, #309262

☒ Plaintiff

2012 APR -9 PM 12:42

CASE NO.: 2010-CP-18-0837

v.

State of South Carolina

☐ Defendant

Check box above indicating submitting party

CLERK OF COURT
DORCHESTER COUNTY

MOTION INFORMATION FORM
AND COVER SHEET

Name, SC Bar No. and address of Plaintiff's attorney
Ashley E. Ameika, bar number: 76323
7555 Northside Drive
North Charleston, SC 29420

Telephone: 843-820-9719
e-mail:

Fax: 843-820-9720
Other:

Name, SC Bar no. and address of Defendant's attorney
Mary S. Williams
PO Box 11549
Columbia, SC 29211

Telephone:
e-mail:

Fax:
Other:

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I AND III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Withdraw Withdrawal of PCR

Estimated Time Needed: 1 hr.

Court Reporter Needed: Yes

SECTION II: Motion Type

☐ Written motion attached
☐ Form Motion -

Signature of Attorney for Plaintiff

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:

☒ EXEMPT:

☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☒ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC)
☐ Proposed order submitted at request of the Court; or,
Reduced to writing form motion made in open court per Judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order

☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

DATE FILED

Collected by:

(print name)

☐ MOTION FEE COLLECTED:

☐ CONTESTED - AMOUNT DUE:

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF DORCHESTER)

2010-CP-18-0837

Jonathan Lisle, #309262)

Applicant,)

MOTION TO AMEND PETITION
FOR POST-CONVICTION RELIEF

v.)

State of South Carolina,)

Respondent.)

FILED - RECORDS
2012 APR 18 AM 9:20
CLERK OF COURT
DORCHESTER COUNTY

Pursuant to Rule 15 of the South Carolina Rules of Civil Procedure, the applicant, through his counsel, moves to amend his application for post-conviction relief, as follows:

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. Applicant and his co-defendant were indicted for two (2) counts of Armed Robbery (2009-GS-18-0155 & 0156) and two (2) counts of kidnapping (09-GS-18-158 & 159). Applicant was represented by retained counsel Mark Andrew Redmond, Esquire.

On his counsel's advice, Applicant pled guilty to the two (2) counts of Armed Robbery, and the State dismissed the kidnapping offenses. The Honorable Diane S. Goodstein sentenced him to concurrent terms of fifteen (15) years for each count. The following day, Applicant's co-defendant was sentenced to a term of twelve (12) years for the two (2) counts of Armed Robbery. Applicant's counsel did not appeal either the sentence or the conviction.

10(a) The Applicant was denied effective assistance of his counsel under the Sixth Amendment of the United States Constitution due to counsel's failure to appeal, and thus, to timely appeal, applicant's conviction.

The Sixth Amendment right to counsel extends to direct appeal, and, pursuant to Anders v. California, an attorney is obligated to file the appeal. Coppedge v. U.S., 369 U.S. 438 (1962); Anders, 386 U.S. 738 (1967). When an attorney fails to timely file an appeal, and the petitioner has not knowingly waived his right to appeal, the circumstances will be subject to a review under the standard set out in Strickland v. Washington for ineffective assistance of counsel. U.S. v. Peak, 992 F.2d 39, 41 (1992); Strickland, 466 U.S. 668 (1984).

Not only is counsel obligated to file an appeal if the defendant requests it, but he must also consult with the defendant, advising him of the advantages and disadvantages of appealing, and ultimately "mak[e] a reasonable effort to discover the defendant's wishes." Roe v. Flores-Ortega, 528 U.S. 470, 471 (2002). Counsel's failure to timely appeal a conviction entitles a petitioner to relief under the prejudice prong of the Strickland test, without necessitating a further showing that the appeal would have presented a meritorious claim. Rodriguez v. U.S., 395 U.S. 327 (1969); Peak, 992 F.2d at 41.

Applicant's counsel did not file an appeal although the Applicant expected him to do so. Applicant did not knowingly and voluntarily waive his right to an appeal and is therefore entitled to relief.

9(a) The Applicant was denied effective assistance of his counsel when his counsel failed to file a Motion for Reconsideration of Sentence when his co-defendant was sentenced for a lesser term for the same charges, and Applicant was simply an unarmed accomplice to the crime.

Because his counsel failed to file a Motion to Reconsider on his behalf, on July 9, 2009, Applicant filed a *pro-se* Motion for Reconsideration of Sentence in the Court of General Sessions for the County of Dorchester. Because the Applicant's Motion was not filed within the ten (10) days required by Rule 29 of the South Carolina Rules of Criminal Procedure, the Motion was denied.

In his Motion, Applicant asserted that his co-defendant was sentenced to twelve (12) years, while he was sentenced to fifteen (15). He further asserted that he was unarmed during the robbery with which the two were charged, but that his co-defendant was armed with a gun. Applicant further urged the Court to consider his limited criminal history, which consisted entirely of one count of resisting arrest and contributing to the delinquency of a minor in 2005, and one count of Assault and Battery of a Highly Aggravated Nature in 2006. Petitioner urged the Court to reconsider the sentencing disparity. Applicant is entitled to relief for his counsel's failure to file a Motion to Reconsider the Sentence, thereby rendering ineffective assistance of counsel.

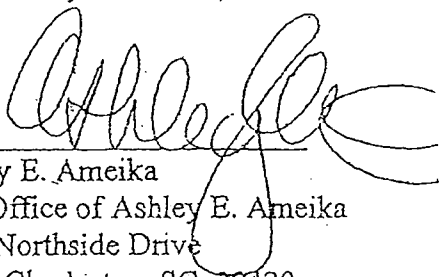
10(d) Applicant was denied effective assistance of counsel when his retained counsel failed to properly inform him of his right to a jury trial under the Sixth Amendment of the United States Constitution and therefore did not knowingly and intelligently waive that right.

When an Applicant alleges ineffective assistance of counsel due to counsel's failure to properly inform him of his right to a jury trial, the court "must determine whether 1) counsel's advice was within the range of competence demanded of attorneys in criminal cases . . . , and 2) if there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty." Smith v. State, 369 S.C. 135, 138 (2006). Applicant's undisputed testimony that he would not have pleaded guilty if not for counsel's errors is sufficient to warrant relief in a PCR hearing. Id.

Applicant asserts that if he had been properly informed by his counsel, he would not have waived his right to a jury trial. He is therefore entitled to relief for ineffective assistance of counsel.

Respectfully submitted,

BY:


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Charleston, South Carolina
April 13, 2012

Hilda M. Jordan, CVR-M
Circuit Court Reporter

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I N D E XWITNESS/DESCRIPTIONPAGE NO.

Transcript of Record

EXHIBITS:

No exhibits were marked to this proceeding.

Certificate of Court Reporter 43

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1 THE COURT: Yes, sir.

2 MR. SPENCER: Your Honor, the next case is 2010-CP-18-
3 837. This is Jonathan Lisle verses State. This is from an
4 application filed on March 24, 2010. He was indicted for
5 two counts of armed robbery. He was represented by Mr. Mark
6 Redmond, who is here today. He pled guilty as indicted and
7 Judge Goodstein sentenced him to concurrent sentences of 15
8 years for each count. He did not appeal his conviction or
9 sentence.

10 Your Honor, at this time there is a prior procedural
11 issue that I won't go into in any length. At one point he
12 had sought to withdraw this case without prejudice, and we
13 objected on the bases that we're not going to consent to a
14 without prejudice voluntary non-suit, if you will, but he
15 had chosen to go forward, as I understand it. And we can
16 even make that part of the record.

17 MS. AMEIKA: Your Honor. Prosecution has no objection.

18 MR. SPENCER: No objection.

19 THE COURT: So it was dismissed without prejudice?

20 MR. SPENCER: It was dismissed without prejudice and we
21 objected to that and we were going to -- then the next step
22 -- Ms. Ameika was making a motion to withdraw, if you will,
23 and we don't object to that. We're ready to go forward on
24 this.

25 So the procedural matter, I guess withdraw without

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1 prejudice would be fine with us and we would be having an
2 evidentiary hearing at this point?

3 THE COURT: All right.

4 MR. SPENCER: You know, I would just ask that Ms. Ameika
5 set out her allegations for the record.

6 MS. AMEIKA: Absolutely.

7 Your Honor, if it please the Court.

8 THE COURT: Yes, ma'am.

9 MS. AMEIKA: The applicant here before you here today is
10 presently confined in the South Carolina Department of
11 Corrections pursuant to an Order of Commitment in the
12 Dorchester County Clerk of Court. And he and a co-defendant
13 were indicted on two counts of armed robbery and two counts
14 of kidnaping. And present in the courtroom today is Mr.
15 Lisle's attorney of record, Mark Redmond. Mr. Redmond was
16 hired, I believe, 30 days prior to the plea and as part of
17 my client's disputes here as far as petition for post
18 conviction relief.

19 There are several grounds. One is where he was denied
20 effective assistance of counsel under the Sixth Amendment,
21 United State's Constitution due to counsel's failure to
22 appeal, timely appeal the applicant's conviction pursuant to
23 the Sixth Amendment extends to direct appeal and pursuant to
24 Anders verses California, an attorney is obligated to file
25 an appeal. A seminal case on that is Carthage verses the

1 United States. The facts that lay similar to Mr. Lisle's
2 situation. When an attorney fails to timely file an appeal
3 the petitioner has not knowingly waived his right to an
4 appeal. The circumstances will be a subject of review under
5 the standard set out in Strickland for an ineffective
6 assistance of counsel. Not only is counsel obligated to
7 file an appeal if the defendant requests it, but he was also
8 consult with the defendant advising him of the advantages
9 and disadvantages of appealing and ultimately makes a
10 reasonable effort to discover the defendant's wishes.

11 My client has go to the length of finding some case law
12 on point. Without going into attorney/client privilege he
13 actually found Roe verses Flores Ortega with we feel is
14 right on point as far as counsel's failure to timely file a
15 conviction, an appeal to the conviction, my client is
16 entitled, under the prejudice part of the Strickland test
17 about necessitating a further showing that an appeal would
18 have been a meritorious claim in the first place under
19 Rodriguez. Because the counsel, Mr. Redmond, didn't file an
20 appeal to protect my client's rights as he expected him to,
21 he did not knowingly and voluntarily waive his right to
22 appeal and therefore is entitled to relief.

23 There's a particular substantive issue in regards to
24 Mr. Lisle's Motion for Reconsideration, he actually filed a
25 pro se motion that was dismissed because it was untimely.

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1 He's doing everything he could. He's not an attorney. He's
2 working on getting his GED and he was upset because he had
3 asked his attorney under Rule 29 of the Rules of Criminal
4 Procedure to file a Motion for Reconsideration for re-
5 sentencing as in actually laid out factually in the trial
6 transcript that he was not the primary aggressor nor was he
7 the brandisher of the gun. He was more of an accessory to
8 the fact and the other guy got 12 years, 13 years. My guy
9 ended up with 15. He doesn't understand where that had come
10 up. You know, he thought there was a sentencing disparity.

11 THE COURT: Let me ask you, he pled guilty? Did he not
12 plead guilty?

13 MS. AMEIKA: He did, Your Honor.

14 THE COURT: Okay. I though you said something about a
15 trial.

16 MS. AMEIKA: No, he -- that's one other issue here. He
17 believes he was denied effective assistance of counsel.
18 With his retained counsel he hired 30 days prior the plea,
19 failed to inform him of his right to a jury trial.
20 Basically he was offered a better plea earlier and there was
21 some issue with the public defender's office. My client
22 didn't understand what was going on. He turned that down
23 and he -- what he thought would be beneficial for him to
24 hire retained counsel instead of a public defender and
25 because it was on the eve of the plea agreement, he -- it

1 was my understanding was that Judge Goodstein was pushing to
2 set it for trial for the next week. So he was caught in
3 between a rock and a hard place and ended up with Mr.
4 Redmond and Mr. Redmond met with him, maybe three to four
5 times at the most and he's clearly prejudiced because if he
6 had known of his right to the jury trial he asserts that he
7 would have informed -- his undisputed testimony that he
8 would not have pled guilty, and then his co-defendant got 12
9 years instead of 15 the very next day.

10 Is that right?

11 MR. LISLE: The very next day.

12 MS. AMEIKA: Yeah. So those are the grounds we're going
13 forward on, Your Honor.

14 So please the Court, I'd call Mr. Lisle to the stand.

15 THE COURT: All right.

16 MS. AMEIKA: Thank you.

17 THE CLERK: Mr. Lisle, could you put your left hand on
18 the Bible and raise your right. State your name for the
19 record.

20 MR. LISLE: Jonathan Lisle.

21 (WHEREUPON, Jonathan Lisle was
22 sworn to tell the truth.)

23 JONATHAN LISLE - DIRECT EXAMINATION

24 BY MS. AMEIKA:

25 Q Would you state your name for the record?

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1 A Jonathan Lisle.

2 Q Mr. Lisle, how old are you?

3 A I'm 26.

4 Q Where do you reside or where were you born?

5 A I was born in Charleston, South Carolina.

6 Q And how far did you go in school?

7 A To the ninth grade.

8 Q And what sources of employment have you been part of
9 while you were free to be on the streets?

10 A I used to -- I done a lot of Burger King when I was
11 younger and then I moved into construction. I did garage
12 doors, heat and air. I also did a little home remodeling
13 and stuff like that.

14 Q Do you -- are you married at this time?

15 A No, ma'am.

16 Q Do you have any children?

17 A Yes, ma'am. I have a seven year old daughter.

18 Q What's her name?

19 A Minor

20 Q Do you have contact with her?

21 A Not right now.

22 Q Now, you retained Mr. Redmond to defend you at the end,
23 right before you pled guilty; is that correct?

24 A Yes, ma'am.

25 Q Okay. And you asked him to file an appeal; is that

1 correct?

2 A Yes, ma'am.

3 Q Why don't you tell me more about that; tell the Court
4 about that?

5 A I was -- Mr. Redmond, he talked to me and all and we --
6 he said, you know, he advised me about a plea and all that
7 they were offering me. I was under the impression I was
8 going to get the same amount of time as my co-defendant due
9 to the fact that he was saying, they was saying hand of one
10 hand of all. So I was under the impression I was going to
11 get the same amount of time. I also wanted him to file a
12 reconsideration, since I played a lesser role, I felt that
13 if he filed a reconsideration motion or an appeal it might
14 have a little merit when we went back to court or what not.

15 Q And to your knowledge did Mr. Redmond ever file that
16 Motion for Reconsideration?

17 A No, ma'am.

18 Q What did you do to try to remedy that?

19 A Well, when I reached me -- I got to Lieber, I had my
20 girlfriend, at the time; contact him and it took about a
21 week to catch up with him and he stated to her that he
22 didn't file it. That was it. He didn't file it. I know I
23 had the 10 days and when he didn't file it I know it was
24 over with for the reconsideration under Rule 29 and for the
25 direct appeal.

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1 Q Okay. And I'm handing the defendant what's been marked
2 as Defendant's Exhibit No. 2. If you'll take a moment to
3 review that and if you'll look up when you're finished.

4 A (Hands document back to Ms. Ameika.)

5 Q I'm taking back what's been marked as Defendant's
6 Exhibit No. 2. What is it?

7 A That's my Motion for Reconsideration, pro se.

8 Q Is it in substantially the same condition as you last
9 saw it?

10 A Can I have that one more time, please? Yes, ma'am.

11 Q Okay. Why did you file this?

12 A I filed it -- I was really unsure -- I wasn't really
13 sure exactly about not -- I didn't know I only had 10 days
14 at this time. This was when I first got to Lieber, two,
15 three months after I got to Lieber when I found out about
16 him not filing it. So I immediately try to put that in
17 myself. When it came back, it came back denied due to the
18 fact of not being in the time line, within 10 days.

19 Q Okay. What happened to your co-defendant; what was the
20 name of your co-defendant?

21 A John T. Bowman.

22 Q Okay. And what happened to him?

23 A He pled Tuesday, March 31, the day after me. He
24 received 12 years, two 12s to run current or something to
25 that -- I know it was 12 years.

1 Q And had you known that that's what he was going to
2 receive would you have pled?

3 A No, ma'am.

4 Q I'm handing -- well -- I'll show it to the attorney
5 general.

6 MR. SPENCER: Okay. That's fine. That's part of the
7 record --

8 MS. AMEIKA: Yeah, exactly.

9 MR. SPENCER: Okay.

10 MS. AMEIKA: I'm approaching the witness. I'm going to
11 be singling out the Lines 14 through 18.

12 MR. SPENCER: What page is that?

13 MS. AMEIKA: Page 32.

14 MR. SPENCER: Thank you.

15 THE COURT: Is that the --

16 MS. AMEIKA: The trial transcript.

17 MR. SPENCER: Complete transcript?

18 MS. AMEIKA: Complete transcript.

19 BY MS. AMEIKA:

20 Q Would you read that into the record, please?

21 A That is?

22 Q Fourteen through 18. State specifically so the court
23 reporter can get --

24 A Okay.

25 Q -- your dialogue.

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1 A The only thing that I think I can add is that mitigate
2 his involvement is at no time did he brandish a loaded
3 weapon. The main aggressor seemed to be his co-defendant, a
4 much larger individual and really kind of ran the show.

5 Q Who were they referring to as the co-defendant?

6 A John T. Bowman.

7 Q Okay. John T. Bowman got 12 years?

8 A Yes, ma'am.

9 Q And you got 15?

10 A Yes, ma'am.

11 Q So let's move on to -- there was one other issue in
12 here. It's my understanding -- would you tell the Court a
13 little bit more about you rejecting a prior plea agreement?

14 A Yeah. I rejected a 10 to 20 agreement with the public
15 defender office. I kind of felt at the preliminary hearing
16 he said something that was out of the way. The public
17 defender was Mitchell Farley for the record. But he said
18 something at the prelim that was disturbing to me.

19 MR. SPENCER: Your Honor, I object on the grounds of
20 hearsay.

21 THE COURT: Sustained.

22 BY MS. AMEIKA:

23 Q Why don't you talk about what he did, not what he said.

24 A I didn't trust him and I felt that he might have tried
25 to get me -- I just felt that he was going to try to get me

1 to sign something that I shouldn't or I was really unsure of
2 what to do at the time.

3 Q So what did you do after that?

4 A I hired -- I had my girlfriend go and retain Mark A.
5 Redmond.

6 Q Why did you have her retain Mr. Redmond?

7 A I felt they -- I've already had him as a prior lawyer,
8 a lawyer in the past and I felt that he was a good lawyer
9 and I felt that I could trust him and that he would not lead
10 me and steer me wrong. So that's why I retained him.

11 Q How many times did he meet with you prior to the plea
12 hearing?

13 A About three to four times.

14 Q And how many days prior to the plea agreement did you
15 hire him?

16 A 30 days.

17 Q So do did you feel comfortable -- did he ever go over
18 your right to a trial?

19 A Briefly, on the day before I pled and I was in such a
20 small time that really I was confused and I didn't know
21 exactly what to do. He briefly went over it and not fully.
22 You know, I was under the impression that I was getting the
23 same time that my co-defendant was going to get.

24 Q And you pled first, right?

25 A Yes, ma'am.

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1 Q So what are you asking the Court to do today?

2 A I'm asking the Court to -- I guess, I can't get a
3 reconsideration of the sentencing. I'm not sure how to go
4 about doing that, but if that -- if I can't go that remedy
5 or that route, I'd rather have my case overturned for my
6 right for my jury trial.

7 Q And the reasons being are because of the sentencing
8 disparity?

9 A Because of the sentencing disparity.

10 Q Also because of the failure of the right of direct
11 appeal?

12 A Yes, ma'am.

13 Q Okay. What else did you do, just to refresh the
14 Court's recollection, when you filed; what was that for?

15 A For reconsideration?

16 Q Yes.

17 A Was just asking the Courts for the three year
18 difference, really, is all I was really asking for.

19 Q All right.

20 MS. AMEIKA: No further questions. Your witness.

21 MR. SPENCER: Thank you.

22 THE COURT: Yes, sir.

23 JONATHAN LISLE - CROSS-EXAMINATION

24 BY MR. SPENCER:

25 Q Okay. I want to ask you, Mr. Lisle, you were facing

1 two counts of armed robbery; right?

2 A Yes, sir.

3 Q All right. And as the plea judge told you, you were
4 facing 10 to 30 years on each count; right?

5 A Yes, sir.

6 Q So that was a minimum of 10 years?

7 A Yes, sir.

8 Q So that was a total exposure of 60 years; right?

9 A Yes, sir.

10 Q And Judge Goodstein made sure you understood you had a
11 right to a jury trial; right?

12 A Yes, sir.

13 Q And asked you how you wanted to plead and you said you
14 wanted to plead guilty, right?

15 A Yes, sir.

16 Q Do you recall her asking if anybody had promised you
17 anything, threatened you and those questions?

18 A Yes, sir.

19 Q And you testified nobody was -- you told Judge
20 Goodstein nobody was threatening you; right?

21 A Yes, sir.

22 Q And you told her nobody was promising you anything;
23 right?

24 A Yes, sir.

25 Q Okay. And so when was your co-defendant, when did he

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1 plead guilty?

2 A The day after me.

3 Q The day after you. So you didn't know at the time of
4 the plea how much time your co-defendant was going to get,
5 did you?

6 A No, sir.

7 Q So you pled guilty first. You got 15 years. You had
8 no idea at that point that your co-defendant might end up
9 with a few less years did you?

10 A No, sir.

11 Q But you did understand that you could get as little as
12 10 and as much as 60 years; right?

13 A Yes, sir.

14 Q And actually you got a lot closer to 10 than you got to
15 60, didn't you?

16 A Yes, sir.

17 Q Do you recall Judge Goodstein asking you if you were
18 happy with your attorney's services?

19 A Yes, sir, I do.

20 Q Do you recall Judge Goodstein asking you if you needed
21 more time to talk with him?

22 A Yes, sir.

23 Q You do recall that?

24 A That's in the transcript.

25 Q All right. And you told Judge Goodstein you didn't need

1 any more time; right?

2 A Yes, sir.

3 Q You said you didn't need any more talks with your
4 attorney, right?

5 A Yes, sir.

6 Q Now, as I understand it, you're concerned about the
7 disparity of sentences between you and your co-defendant
8 because your co-defendant is the one with the gun; right?

9 A Yes, sir.

10 Q But the victim in this case was someone that you knew;
11 right?

12 A Yes. Both of us knew him.

13 Q Both of you knew him; right?

14 A Both of us knew him.

15 Q And you had the victim come out to meet you because you
16 were looking to buy a gun that he had, right?

17 A That's in the case. It's not true.

18 Q And that's what the solicitor stated during the guilty
19 plea; right?

20 A Yes, sir.

21 Q And so basically you set up this opportunity to -- you
22 set up this meeting with the victim so that he could get
23 robbed; right?

24 A Yes, sir. Well, I didn't answer that the facts were
25 true in the transcript. If you'll check Page 17, Line 24.

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1 Defendant --

2 Q Page 17, Line 24. Looks like defendant Carr --

3 A It says defendant Carr replied yes, ma'am.

4 Q And let's assume that isn't a typo. Let's assume the
5 other co-defendant was answering a question --

6 MS. AMEIKA: Your Honor, this is not a place for
7 assuming. This is a man's life that we have on the line.

8 MR. SPENCER: I can rephrase.

9 THE COURT: Thank you. Please rephrase.

10 BY MR. SPENCER:

11 Q All right. When did you tell Judge Goodstein that
12 those facts were not true?

13 A I never said they weren't true, I just said I didn't
14 answer in the plea.

15 Q The plea has the co-defendant answering that question
16 --

17 A No.

18 Q Well, excuse me, the plea has Mr. Carr answering that
19 question; right?

20 A Some -- relevant to me case.

21 Q Right.

22 A Nothing to do with my case.

23 Q Mr. Carr had nothing to do with your case; right?

24 A Correct.

25 Q They were actually doing two pleas at the same time;

1 right?

2 A Correct.

3 Q It was Mr. Carr and there was you; right?

4 A Yes, sir.

5 Q And on -- based on what appears in the transcript it
6 would appear that Mr. Carr was answering the question that
7 was directed to you; is that correct?

8 A Yes, sir.

9 Q So at what point did you turn to Judge Goodstein and
10 say, hold on, that was, you know, that's the wrong person
11 answering. That's me and those facts aren't true. When did
12 you do that?

13 A I mean, I don't know. I didn't do that.

14 Q You didn't speak up and say those facts weren't true,
15 did you?

16 A I didn't -- I can't recall whether I said yes, ma'am or
17 no, ma'am, but it says defendant Carr in the transcript.
18 This happened almost four years ago, sir.

19 Q And you don't remember if that was you or your -- or
20 Mr. Carr that answered the question?

21 A I'm mean, we were just going by the transcript, right?

22 Q You were there, what happened? Did you answer the
23 question?

24 A I have bad memory, sir.

25 Q You don't recall one way or the other?

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1 A Honestly, I have bad memory. I can't remember, you
2 know, too many details like that.

3 Q So you can't help the court out today and sort out
4 whether that was just a typo or whether Mr. Carr actually
5 answered that question?

6 A I don't know if it's a typo or they made mistakes like
7 that. I don't know if they make mistakes in transcripts
8 like that. I just realized that was defendant Carr that
9 said yes, ma'am, to the facts of my case. He also said yes,
10 ma'am, to the facts of his case. But I do know the
11 solicitor -- I had a gun also which wasn't true at all
12 either, but I couldn't --

13 Q And they didn't say during the plea transcript that you
14 had the gun, did they?

15 MS. AMEIKA: Asked and answered.

16 BY MR. SPENCER:

17 Q Well, that was a different question. I was going to
18 ask they didn't say during the guilty plea that you had a
19 gun, did they?

20 A Yeah, they did. The solicitor did. The solicitor
21 stated that I had a gun. Bowman and Lisle also had a gun.

22 MR. SPENCER: Beg the Court's indulgence.

23 Your Honor, the factual recitation starts on Page 15 at
24 the bottom --

25

1 MS. AMEIKA: Your Honor --

2 MR. SPENCER: -- and goes to the next page.

3 MS. AMEIKA: The court reporter --

4 COURT REPORTER: I got it.

5 MS. AMEIKA: You got it. Great.

6 THE COURT: Page 15.

7 MR. SPENCER: Yeah, at the bottom there.

8 THE COURT: Okay.

9 BY MR. SPENCER:

10 Q Okay. It says you had the gun that was stolen from the
11 victim; right?

12 A Yes, sir.

13 Q So you didn't have the gun that was used to commit the
14 armed robbery, did you?

15 A He contradicts himself somewhere in there, too, about
16 Bowman took the gun from him. I did not have that gun.
17 Bowman had a gun and took the gun from him.

18 Q Well, he could have taken the gun and given it to you;
19 right?

20 MS. AMEIKA: Objection, Your Honor. Speculation.

21 MR. SPENCER: Your Honor, he was there. I mean --

22 THE COURT: I'll overrule the objection. You can
23 rephrase your question.

24 MR. SPENCER: Thank you.

25 BY MR. SPENCER:

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1 Q You ultimately ended up with the gun that was taken
2 from Fortunado; right?

3 A No, sir.

4 Q You didn't, so that would, in fact, be inconsistent
5 with the statement of fact; wouldn't that be right?

6 A Correct, sir.

7 Q Okay. When did you tell Judge Goodstein that?

8 A I didn't, because then plea would not be a subject at
9 the time.

10 Q Would not be a what?

11 A Been, would not have been accepted if I would have
12 stepped up and said something or I figured my lawyer was
13 supposed to have said something, to be honest with you.

14 Q This guilty plea, the result of this guilty plea was
15 that you were going to go to prison; right?

16 A Yes, sir.

17 Q All right. And -- but you wanted the judge to accept
18 the guilty plea?

19 A No -- at the time, yes, but my lawyer -- the whole
20 thing, I was under the impression I was getting the same
21 time as my co-defendant.

22 Q You didn't know how much time your co-defendant was
23 going to get, though, did you?

24 A No, but the speculation -- my lawyer talked to the
25 solicitor. You know, speculation.

1 Q If your co-defendant got 60 years you wouldn't have
2 wanted the same sentence your co-defendant had would you?

3 A Well, if I was unarmed and I pled to armed robbery in
4 all actuality I was unarmed, really, to be honest with you
5 the plea, my lawyer should have told me and explained to me
6 the differences between strong arm robbery and armed
7 robbery. You know, he should have explained this to me, but
8 now that I've been in the law library I've been studying. I
9 realize the different factors. If it was hand of one hand
10 of all, then we -- I feel that we should have got the same
11 time or I shouldn't have gotten more being unarmed. I never
12 brandished no weapon. I mean, I was unarmed.

13 Q Well, let's go back to where we started, I mean, what
14 you said is that you didn't correct the solicitor's
15 statement of facts because you wanted the guilty plea to be
16 accepted and you were pleading guilty to avoid a --

17 MS. AMEIKA: Objection, Your Honor. It's the same --

18 THE COURT: Sustained.

19 BY MR. SPENCER:

20 Q You were pleading guilty to get a harsher punishment;
21 is that correct?

22 A To get a harsher punishment?

23 Q Excuse me. Let me rephrase that. You were pleading
24 guilty to avoid a harsher punishment?

25 A Yes, sir.

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1 MR. SPENCER: Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 BY MR. SPENCER:

4 Q It sounds like you've read over your transcript pretty
5 good; right?

6 A Yes, sir.

7 Q Okay. Do you recall after the solicitor had given his
8 statement of facts, do you remember Judge Goodstein asked
9 you if you were pleading because you are, in fact, guilty?

10 A Yes, sir.

11 Q And you said you were; right?

12 A Yes, sir.

13 Q So you are guilty of armed robbery?

14 A I'm mean, that's what I lead me to believe. Yeah, I
15 was unarmed, but my lawyer led me to take the plea. I'm --

16 Q Well, let me see if we can sort this out, then. What
17 was your co-defendant's name?

18 A John T. Bowman.

19 Q Okay. Mr. Bowman had a gun; right?

20 A Yes, sir.

21 Q You were with Mr. Bowman; right?

22 A Yes, sir.

23 Q You both participated in robbing the victim; right?

24 A To a certain extent, yes.

25 Q Both of you did; right?

1 A Yes, sir.

2 Q Mr. Bowman had a gun?

3 A Yes, sir.

4 Q Mr. Fortunado was robbed?

5 A Yes, sir.

6 Q At gunpoint; right?

7 A Yes, sir.

8 Q And you were helping with the robbery; right?

9 A Picking up paraphernalia, yeah.

10 Q So basically what you've told -- you understand hand of
11 one hand of all; right?

12 A In theory, yes, sir.

13 Q Where one person assist another in the commission of
14 the crime they're both guilty of the crime?

15 A Yes, sir.

16 Q So you're guilty of armed robbery; you understand that?

17 A If we go by theory I suppose, yes, sir.

18 Q You are legally guilty of armed robbery; correct?

19 A Yes, sir.

20 Q At what point did you tell Judge Goodstein your
21 attorney wasn't helping you?

22 A I really didn't say anything at the time. At the time
23 he was all right until I studied my case and then he didn't
24 file an appeal and a reconsideration like I asked. Yeah, he
25 was all right until I found out that was out the window.

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1 Q And what you're saying is because your attorney didn't
2 file reconsideration for your sentence he was ineffective
3 for doing that, that's what your contention is?

4 A Yes, and also he's ineffective for not educating me in
5 my rights to a jury trial and also in not education me to
6 the extent to where I actually knew -- to the hand of one
7 hand of all thing. He didn't -- you know, I was under the
8 impression we were getting the same time. So since we didn't
9 the plea really in my eyes is involuntary to the fact that I
10 got more time and I played a lesser role in the events.

11 Q And what you're saying is you wouldn't have pled guilty
12 if you --

13 A If was going to get more time. If I was going to get
14 more time I wouldn't have pled guilty.

15 Q But you didn't want a trial did you?

16 A No, sir.

17 MR. SPENCER: Thank you. I have no further questions.

18 MS. AMEIKA: Your Honor, just briefly. Thank you.

19 JONATHAN LISLE - REDIRECT EXAMINATION

20 BY MS. AMEIKA:

21 Q Mr. Lisle, you went to the trouble of -- you're not a
22 lawyer, right?

23 A Yes, ma'am.

24 Q Do testified under oath today on the Bible earlier that
25 you had your girlfriend go to Mr. Redmond and ask him to

1 file a reconsideration. Is that still your testimony now?

2 A Yes, ma'am.

3 Q Why did you do that?

4 A Because I felt they -- I knew what my co-defendant got
5 the day he got it. After he got his time I knew, and my
6 lawyer already said he was going to file the motion before
7 he left court the day I plead. So he was going to file it
8 before my co-defendant went.

9 Q And the co-defendant the day after and you understand
10 you had 10 days after?

11 A 10 days. Yes, ma'am.

12 Q Okay.

13 A But I didn't know that. That's why I filed that -- I
14 found out once that came back denied.

15 Q And, again, what are you asking the Court to do?

16 A If there's any possible way for a reconsideration of
17 the sentence or either overturn my case.

18 MS. AMEIKA: No further questions, Your Honor.

19 THE COURT: Yes, sir.

20 JONATHAN LISLE - RECROSS EXAMINATION

21 BY MR. SPENCER:

22 Q Are you asking for a new trial?

23 A If that's what it takes, sir.

24 MR. SPENCER: I have no further questions.

25 THE COURT: All right, sir, you may step down.

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1 Okay.

2 MS. AMEIKA: At this time I'd like to call Mr. Redmond
3 to the stand.

4 THE COURT: All right. Place your left hand on the Bible
5 and raise your right hand.

6 (WHEREUPON, Mark A. Redmond was
7 sworn to tell the truth.

8 MARK REDMOND - DIRECT EXAMINATION

9 BY MS. AMEIKA:

10 Q State your name for the record?

11 A Mark A. Redmond.

12 Q Mr. Redmond, where do you practice?

13 A In West Ashley, Charleston.

14 Q And what's your address?

15 A Well, it's 1524 Ashley River Road.

16 Q When were you admitted to the bar?

17 A September 2000.

18 Q Okay. And what predominately is your area of practice?

19 A I do a lot of criminal work and I do a lot of family
20 law. I'm not practicing nearly as much as I was two years
21 ago.

22 Q You were retained to represent Mr. Lisle in 2009; is
23 that correct?

24 A That sounds right.

25 Q So from your testimony a minute ago your practice has

1 slowed down within the past couple of years, but at that
2 point in time were you practicing pretty heavily?

3 A Yes.

4 Q Okay. Would you agree with me that Mr. Lisle wanted to
5 appeal his conviction?

6 A Absolutely not.

7 Q Okay. Why would you --

8 A We had an extensive discussion going because he wasn't
9 just charged with two counts of armed robbery, he was
10 charged with two counts of armed robbery, two counts of
11 kidnaping and one count of burglary first. Mr. Lisle's, who
12 is very open with me, very honest about the situation, which
13 in my opinion gave him -- from what I knew about it, the
14 victims I talked to, if he'd gone to trial he very easily
15 could have been found guilty of all five of those charges.
16 He'd had, I think, I thought it was a 12 year option to
17 begin with when he had a public defender. He would not take
18 the deal. He called me up there. At first I would not, did
19 not want to be retained. I told him it was not a good idea.
20 He had a public defender. I think I visited him twice
21 before I agreed to do it. He literally -- I've worked with
22 him before.

23 I think Jonathan is a very nice young man. I couldn't
24 believe he'd gotten involved in this. He told me he wanted
25 somebody he knew, that he could trust to stand beside him.

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1 Not somebody that was shoved down his throat. But the appeal
2 issue, not reconsideration, that's a separate issue, but the
3 appeal issue to me, and we had had these discussions, and
4 there were also several issues. They did not charge his
5 girlfriend who had been at the scene in the car, part and
6 parcel of this entire thing and it wasn't a threat, but it
7 was kind of out there. I mean, you know, hey, you know,
8 we've never indicted a girlfriend and it was kind of a -- it
9 defied explanation of why she wasn't charged, as well. And
10 I think, and I know that entered into his decision that he
11 didn't want to see her wrapped up in the same thing.

12 There were some other things that he told me and quite
13 frankly, this is the first time I've been a witness in a PCR
14 but I believe he's waived attorney/client privilege once I'm
15 up here on the stand. And some of the things he told me,
16 he's contradicting himself right now. I think if he had
17 gone to Court and if the co-defendant had given the
18 information or if his girlfriend had given the information
19 then it would have been even worse.

20 Q Why do you say that?

21 A Because of the whole discussion about a gun. Jonathan
22 was very clear to me that he had a gun in his pocket.

23 Q Well, let's revisit the transcript here, Mr. Redmond.
24 Page 32. Is this your testimony here, Lines 14 through 18?

25 A Yes, it is.

1 Q Okay. Would you please read that into the record?

2 A Yes. The only thing that I can think, that I can add
3 is that might mitigate his involvement a little bit is that
4 at no time did he brandish a loaded weapon. The main
5 aggressor seemed to be his co-defendant, a much larger
6 individual and really kind of ran the show.

7 Q So how can that -- with what you just told us on the
8 stand?

9 A I don't think he had a gun in his pocket is brandishing
10 a loaded weapon. What I think was the co-defendant actually
11 pointed a gun at somebody's head. They had eight witnesses,
12 a well-lit room. He was pointing the gun at some of the
13 other victims. The co-defendant. And that's what I meant
14 by that. At no time did Jonathan do any -- he was -- in my
15 opinion he was not the aggressor in the incident.

16 Q Okay. Do you know what Rule 29 is in the Rules?

17 A I do.

18 Q What is that?

19 A It's the rule about filing the appeal --

20 Q Right.

21 A -- in a timely manner.

22 Q Did you file a Motion to Reconsider the sentence?

23 A I did not.

24 Q Why?

25 A Well, there -- well, the same issue the attorney

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1 general brought up about the potential 60 years. I didn't
2 really believe he would get 60 years. I really felt like it
3 was a harsh sentence. I didn't know what his co-defendant
4 -- this is the first time I found-out about what his co-
5 defendant had done. His girlfriend contacted me at some
6 point long after the 10 day window had passed. At that
7 point I did not appeal it.

8 Q Do you have notes on when she contacted you?

9 A No. I do not. I do know that I sent him a letter. He
10 got taken to R&E like immediately. It was within days, "I
11 think of the sentencing. I did attempt to go back up there,
12 he wasn't there. So I sent a letter to Lieber and just
13 said, if you want an appeal -- I didn't think it was in his
14 best interest, but I did send a letter that said if you want
15 an appeal you've got to let me know immediately. I even had
16 a stamped, self-addressed envelop in there.

17 Q Where is that letter now?

18 A I mean, to be honest with you it doesn't say
19 reconsideration. It says appeal.

20 Q Will you explain what this is, then, what's been marked
21 as Defendant's Exhibit No. 2?

22 A Well, I haven't seen this. Obviously, I know he filed
23 it.

24 Q Why do you think he filed it?

25 A Because he wanted a reconsideration.

1 Q Exactly. And you never did file that motion?

2 A I did not.

3 Q Okay. When Mr. Lisle did plead were you aware that he
4 was pleading to more time than he had initially been
5 offered?

6 A Yes. Well --

7 Q Prior to retaining your services?

8 A Yes, and he knew that, because he knew when he rejected
9 that plea agreement with the public defender that that was
10 out the window. Try as I might I couldn't even get them
11 back to the same numbers they were offering to begin with.
12 I can't -- to be honest I can't remember, and I've looked,
13 but I can't remember. I thought, I don't know if they told
14 us we had a cap of 15 years. I don't -- I'm not sure, but I
15 think it was, hey, the offer is off the table. We'll do
16 you, but you've got to go into Judge Goodstein and let her
17 make that decision.

18 Q So my last two questions. Page 32, you stated that the
19 other guy was the main aggressor; correct?

20 A That was my feeling.

21 Q Okay. Also, you just viewed the Motion for
22 Reconsideration done by a defendant who's not an attorney?

23 A Absolutely.

24 Q And you didn't file it?

25 A I did not.

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1 Q Okay.

2 MS. AMEIKA: No further questions.

3 THE COURT: Yes.

4 MARK REDMOND - CROSS EXAMINATION

5 BY MR. SPENCER:

6 Q I apologize. Did you say he asked to file an appeal?

7 A No. In my conversations with him we talked about
8 appeal and the risks that an appeal might bring. It was our
9 decision clearly if he only going to plead to two armed
10 robberies that we wouldn't want to open up the exposure to
11 kidnaping, burglary and armed robbery.

12 Q Okay. So you decided not to appeal?

13 A Yes.

14 Q Okay. And concerning the motion, do you recall that
15 the solicitor was recommending a sentence range of 13 to 25
16 years?

17 A That sounds correct, and I apologize that I didn't
18 remember that.

19 MR. SPENCER: Your Honor, I spent this whole hearing
20 trying to remember where I found that and that was on Page
21 31 of the transcript.

22 BY MR. SPENCER:

23 Q But in terms of the recommendation it was far closer to
24 13 than it was to 25 years?

25 A Absolutely.

1 Q Did Mr. Lisle ever want a trial?

2 A He never indicated to me that he wanted a trial,
3 because number one, it was a girlfriend issue, and the time
4 that he was facing and I know that was a hard thing for a
5 young man to even think about, but two kidnappings, burglary
6 and two armed robberies. It was -- he was between a rock
7 and a hard place.

8 Q If he wanted a jury trial would you have prepared for
9 jury trial?

10 A I would have, but at no time did he ever indicate --
11 and we had discussions about jury trial. He knew it -- he's
12 been a client of mine before and we've gone over the same,
13 even a much more simple issue. So he was definitely aware
14 that he was entitled to a jury trial if he wanted one. I
15 mean, he rejected one plea. So he knew. They did, they were
16 holding his feet to the fire. They were going to try him
17 almost immediately if he didn't plea.

18 Q And whose decision was it to plead guilty?

19 A Jonathan.

20 MR. SPENCER: Thank you. I have no further questions.

21 THE COURT: All right. Anything else?

22 MS. AMEIKA: Just briefly.

23 MARK REDMOND - REDIRECT EXAMINATION

24 BY MS. AMEIKA:

25 Q You said that you represented him in the past; is that

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1 correct?

2 A Yes, one other case, I believe.

3 Q He doesn't have much of a criminal record?

4 A No, he does not. And it was silly things, just alcohol
5 related. I think that -- I really like Jonathan and I'm
6 very sad he's in the situation he's in and I would do
7 anything to help him.

8 Q So you knew that he hired you because he trusted you?

9 A Yes.

10 Q Okay. And yet you failed to file that Motion to
11 Reconsider?

12 A Absolutely, I did not file the Motion to Reconsider.

13 Q And looking back now is that something you would have
14 done?

15 A You know, honestly, I don't know. Under the plea
16 agreement the most we could have gotten was a couple of
17 years off. We had several character witnesses, witnesses
18 for him. I thought they did a real good job. I don't know.
19 I would hate to take him back in and have him get 16 years.
20 Quite obviously it should be his decision to make not mine.

21 Q But based on the prong of prejudice per Strickland, you
22 understand that's ultimately his right?

23 A Absolutely.

24 Q Okay. And because of that it doesn't go to the merits
25 of what an appeal or what a reconsideration would be; you

1 understand that?

2 A Yes.

3 Q Yet you didn't file that Motion to Reconsider?

4 A I did not.

5 MS. AMEIKA: All right. No further questions, Your
6 Honor.

7 THE COURT: Anything further?

8 MARK REDMOND - RECROSS EXAMINATION

9 BY MR. SPENCER:

10 Q And I'm not -- did he actually ask you to file a Motion
11 for Reconsideration?

12 A No. If his girlfriend asked me it was well beyond the
13 period for filing. I think it was a month later and I
14 honestly don't know, and I do not have notes of when she
15 contacted me.

16 MR. SPENCER: Thank you. I have no further questions.

17 THE COURT: All right, sir, you may step down.

18 MR. REDMOND: Thank Your Honor.

19 MS. AMEIKA: Thank Your Honor.

20 THE COURT: Call your next witness.

21 MS. AMEIKA: The petitioner rests, Your Honor.

22 THE COURT: All right.

23 MR. SPENCER: I don't have any witnesses. I would point
24 out that Page 31 gives the prior record. There was some
25 testimony on that. Prior record was resisting arrest and an

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1 ABHAN conviction, also. I would like the opportunity to
2 argue.

3 THE COURT: I'll be glad to hear from you.

4 MR. SPENCER: Thank Your Honor.

5 There, of course, two prongs to the -- where counsel --
6 where defendant has pled guilty on advice of counsel under
7 the Strickland test where there's deficiency and whether
8 there's prejudice. We don't have either in this case. What
9 we have is an individual who is guilty by his own testimony
10 today. He told his attorney he was guilty. The facts were
11 worse -- the real facts were worse than what the plea
12 transcript shows because Mr. Lisle and one thing --

13 MS. AMEIKA: Your Honor, that was never established
14 whether he had a gun or he didn't.

15 MR. SPENCER: Counsel has to go by what his client tells
16 him and his client tells him he had a gun, as we heard that
17 testimony today. That goes to the quality of his
18 representation.

19 MS. AMEIKA: I would renew my objection.

20 THE COURT: I'm sorry?

21 MS. AMEIKA: I said, I would renew my objection.

22 THE COURT: All right.

23 MR. SPENCER: But besides that, the facts in here, in
24 the plea transcript are pretty egregious because what we
25 have is Mr. Lisle springing the trap. Mr. Lisle is the one

1 inviting this guy under pretenses of buying a gun and he's
2 the one who lures him in to be robbed, which I think in some
3 ways is even more egregious than being the guy with the gun
4 and he has this bad criminal record, and these facts suggest
5 he's kind of running the show here. So that substantiates
6 the 15 year sentence verses 12. We don't know much about
7 this -- about this plea that took place the next day or even
8 what judge or what the circumstances are, but the facts
9 support, in this case, easily support, a 15 year sentence.

10 MS. AMEIKA: Your Honor, we're here for procedural
11 matters, not to rehash the case.

12 THE COURT: All right. I think one of the issues is re-
13 sentencing and his whole position is that his -- the co-
14 defendant got less time than he did and all of that. So I'm
15 going to allow him to continue.

16 MR. SPENCER: I can go on and continue?

17 THE COURT: Yes.

18 MR. SPENCER: Thank you. Thank Your Honor.

19 The question is, when we get down to, is what counsel
20 should have done. He was never told that, his testimony was
21 never asked for reconsideration. They discussed appeal and
22 appeal just like a PCR application has risks, assuming they
23 could even get in the issue entertained, since this was a
24 guilty plea, assuming there was an appeal, he would have
25 been facing back to the same bad place he was then. So

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1 after conferring with counsel, he did not appeal. He didn't
2 mention wanting to reconsideration. The facts don't support
3 the situation that would warrant reconsideration where the
4 recommendation is 13 to 25, and we're practically at the low
5 end of the sentencing range.

6 Counsel is not required to be clairvoyant. To know
7 that his client wants reconsideration. Certainly the
8 sentence was a fair one under the circumstances, and, you
9 know, really what happened to the co-defendant isn't really
10 a concern because this is Mr. Lisle's problem alone in terms
11 of what he's going to get. There is no deficiency. There
12 is no prejudice.

13 What we heard from Mr. Lisle, himself, yeah, he was
14 there, he helped commit the robbery with the gun. He was
15 guilty under hand of one hand of all. He didn't want a
16 trial. He pled guilty to avoid a harsher punishment and
17 pleading guilty to avoid a harsher punishment, that's what
18 guilty pleas are for.

19 Your Honor, I would submit there is no evidence to
20 support either prong.

21 The only other issue is the failure to file an appeal,
22 which actually I discussed before. Quite simply counsel
23 talked about it with him and the decision was not to because
24 they didn't want to end up in the same bad place they were
25 at that time of the guilty plea. That same bad place was

1 Mr. Lisle's doing and nobody else's and I would ask that
2 this application be denied.

3 Thank you.

4 THE COURT: Yes.

5 MS. AMEIKA: Your Honor, it doesn't matter what would
6 come of an appeal with a meritorious claim. Clearly
7 Strickland is applicable under the prejudice prong when
8 counsel fails to timely file an appeal on a conviction for
9 additional relief. He -- Mr. Redmond testified that he was
10 taken off to R&E and there wasn't really in time in the
11 interim to try and correspond. Mr. Lisle testified that his
12 girlfriend when to him to try and get a Motion to
13 Reconsideration of sentence.

14 Never in my time as an attorney have I come across and
15 individual who's gone so far as a pro se applicant for a
16 Motion for Reconsideration, trying to exercise his rights
17 when his attorney who he hired and trusted, which was
18 testimony today, as well, failed to do so himself. Counsel
19 today admitted that at no time did he ever file the Motion
20 for Reconsideration and that in and of itself whether or not
21 there's a meritorious claim on that appeal or that Motion
22 for Reconsideration has nothing to do with the outcome of
23 the appeal would be.

24 He was clearly prejudiced under the prong for
25 Strickland and whether you go under Flores Ortega or

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1 Rodriguez counsel is obligated to file an appeal if the
2 defendant requested it. It doesn't matter what the outcome
3 of the appeal would be.

4 My client pled the day before another individual. He
5 found out he had, clearly, those 10 days, arguably nine
6 days, but clearly had that time to file that Motion for
7 Reconsideration. That never happened and he went out of his
8 way to hire an attorney not a public defender. He went out
9 of his way to hire somebody he trusted.

10 I ask that you look at all the facts in front of you,
11 Your Honor, and the fact that we've taken the time out to
12 make this part of the record. I'll hand that up to you one
13 more time.

14 THE COURT: All right. Thank you.

15 All right. I'll take this under advisement and get
16 something back to you all shortly.

17 MR. SPENCER: Thank Your Honor.

18 MS. AMEIKA: Thank you.

19 (This proceeding was concluded.)
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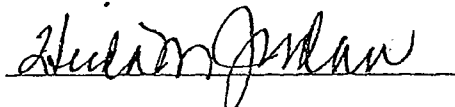
5/21/12

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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PCR IN THE CAPTIONED CAUSE, IN THE COURT OF COMMON PLEAS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 21 DAY OF MAY, 2012.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.


Hilda M. Jordan, CVR-M

March 15, 2013

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010-CP-18-0837

Jonathan Lisle

State of South Carolina

2012 MAY 31 PM 2:39

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____
CLERK OF COURT
DORCHESTER COUNTY

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: Applicant's PCR Application is dismissed.

INFORMATION FOR THE PUBLIC INDEX

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

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

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

Circuit Court Judge

NB

Judge Code

2161

Date

5-25-12

For Clerk of Court Office Use Only

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

This judgment was entered on 5-31-2012, and a copy mailed first class or placed in the appropriate attorney's box on 5-31-2012, to attorneys of record or to parties (when appearing pro se) as follows:

Jonathan 309262 Lisle Lci C I E B-2D P O Box 205
Ridgeville, SC 29472

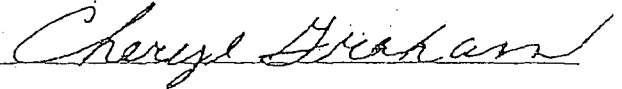
Ashley Ameika Attorney at Law 7555 Northside Drive North
Charleston, SC 29420

ATTORNEY(S) FOR THE PLAINTIFF(S)

Mary S Williams Assistant Attorney General P O Box 11549
Columbia, SC 292111549

David A. Spencer S.C. Attorney General's Ofc. P.O. Box
11549 Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)



Cheryl Graham - Clerk of Court

Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

Jonathan Lisle,
S.C.D.C. No: 309262,

Applicant,

VS.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
C.A. NO: 2010-CP-18-837

ORDER OF DISMISSAL

2012 AUG -3 PM 2:19
 CERTIFIED COPY
 CLERK OF COURT
 DORCHESTER COUNTY

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 24, 2010. The State made its return on August 23, 2010. A hearing was convened at the Orangeburg County Courthouse on May 21, 2012, at which time Applicant was present in court and represented by Ashley Ameika, Esquire. Respondent was represented by David Spencer of the South Carolina Office of the Attorney General.

Applicant testified on his own behalf. Also, his plea counsel, Mark Andrew Redmond, Esquire, testified. This Court also had before it the pleadings from both parties, the Clerk of Court's records regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the plea transcript.

PROCEDURAL HISTORY

Applicant is presently confined in the Department of Corrections pursuant to the orders of commitment of the Dorchester County Clerk. Applicant was indicted for two counts of armed robbery. He was represented by Mark Andrew Redmond, Esquire. On March 30, 2009, Applicant pled guilty as charged. The Honorable Diane S. Goodstein sentenced Applicant to fifteen years

imprisonment for each count, to be served concurrently. Applicant did not appeal his conviction or sentence.

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 (1985).

Ineffective Assistance of Counsel and Involuntary Plea

Applicant makes various allegations of ineffective assistance of counsel. The burden of proof is on the applicant in a PCR proceeding to prove the allegations in his application. Bell v. State, 321 S.C. 238, 467 S.E.2d 926 (1996); Rule 71.1(e), SCRCP.

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996). In order to prove prejudice, an applicant must show that but for counsel's errors, there is a reasonable probability the result at trial would have been different. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Id. Where trial counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective.

assistance of counsel. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985); Stalk v. State, 383 S.C. 559, 681 S.E.2d 592 (2009); Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

Failed to file an appeal

Applicant alleges that his counsel should have filed an appeal or a motion for reconsideration of the sentence. Counsel testified that Applicant never requested he file an appeal. This Court finds Counsel's testimony credible on this point and gives it great weight. This Court finds that Applicant was advised by the plea judge of his right to an appeal and that he never requested his plea counsel to file an appeal. This allegation is denied.

Motion for reconsideration

Applicant alleges that counsel should have filed a motion for reconsideration because his co-defendant received a lighter sentence. Applicant pled guilty pursuant to negotiations where the State recommended a 13-25 year sentencing range. Applicant received a fifteen year sentence, so the

sentence was at the bottom of this range. Additionally, the minimum sentence for armed robbery is ten years imprisonment.

Applicant admitted at the PCR hearing that he planned the robbery with his co-defendant, and while he claims he was unarmed, he admitted his co-defendant was armed. He also admitted that he fired the victim, an acquaintance of his, under the pretense of buying victim's gun. He admitted he understood the accomplice liability theory and that under that theory, he was guilty of armed robbery.

Counsel testified that he was unaware of the co-defendant's subsequent sentence, but did not think a motion for reconsideration was warranted, considering the sentence was in the lower part of the recommended range. Counsel also noted that the facts were more egregious than what was presented at the plea. Applicant in fact had a pistol in his pocket and so he was armed just like his co-defendant. This Court finds that counsel's performance was not deficient for failing to move for a motion for reconsideration. Additionally, this Court finds it purely speculative that the motion would have been successful and accordingly finds that Applicant has failed to prove prejudice.

CONCLUSION

Based on 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.

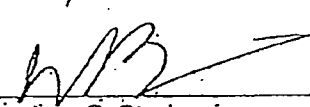
This Court advises the parties that in order to secure the appropriate appellate review, notice of appeal must be served and filed within thirty (30) days after receipt by counsel of notice of entry of this order. See Rules 203 and 243 of the South Carolina Appellate Court Rules. This Court notes that post-conviction relief counsel must advise an applicant of the right to seek appellate review of

a post-conviction relief order. State v. Bray, 366 S.C. 137, 620 S.E.2d 743 (2005). Also, pursuant to Austin v. State, 305 S.C. 453, 409 S.E. 2d 395 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on an applicant's behalf.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be dismissed with prejudice; and,
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 24 day of July, 2012.


 DeAndrea G. Benjamin
 Presiding Judge
 First Judicial Circuit

Columbia, South Carolina.

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

JONATHAN LISLE
SCDC ID # 309262,

Applicant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

FILED - RECORD

2012 AUG 10 AM 11:38

CHERYL L. BROWN
CLERK OF COURT
DORCHESTER COUNTY

IN THE COURT OF COMMON PLEAS

FIRST JUDICIAL CIRCUIT

CASE NUMBER: 2010-CP-18-00837

NOTICE OF MOTION AND MOTION
FOR RECONSIDERATION

PLEASE TAKE NOTICE that the Applicant, through his undersigned attorney and pursuant to Rules 52 and 59 of the South Carolina Rules of Civil Procedure, will move before the Honorable DeAndrea G. Benjamin in the Orangeburg County Courthouse, Orangeburg, South Carolina, at such place and time as the Court may appoint, for an Order vacating the Court's ruling on May 21, 2012, or, in the alternative, granting such other relief as the Court may deem just and proper.

1. The Applicant respectfully asks the Court to reconsider the ruling by Judge Benjamin on May 21, 2012 dismissing his application for post-conviction relief based upon the ineffective assistance of counsel, improper sentencing, and failure of right to appeal.
2. The Applicant reiterates each and every allegation contained in the Post-Conviction Relief Application filed with the Court on March 24, 2010 as if repeated verbatim herein, and specifically requests a hearing to allow him the opportunity to present his case to the Court to show the following:
 - That Applicant did not have the effective assistance of counsel;
 - That there was a deficiency of counsel and prejudice to Applicant;

- That Applicant's sentence is improper on the grounds that his sentence is lengthier than that of his codefendant; and
- That Applicant was not advised of his right to appeal.

Wherefore, the Applicant prays that the Court reconsider the ruling dismissing this action and be granted the relief requested in his Post-Conviction Relief Application to allow the Applicant an opportunity to present his case at a Post-Conviction Relief Hearing.

LAW OFFICE OF ASHLEY AMEIKA, LLC

By: *Ashley Ameika* for Ashley Ameika
Ashley E. Ameika, Esquire
7555 Northside Drive
North Charleston, SC 29420
Telephone: (843) 820-9719
Facsimile: (843) 820-9720
Email: ashleyameikalaw@me.com
ATTORNEY FOR APPLICANT

N. Charleston, South Carolina
Dated: August 9, 2012

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Jonathan Lisle, #309262,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No. 2010-CP-18-0837

RETURN TO APPLICANT'S MOTION
FOR RECONSIDERATION

2012 AUG 31 AM 11:35
CLERK OF COURT
DORCHESTER COUNTY

This matter comes before this Court by way of the Applicant's "Motion for Reconsideration," in which Applicant asks this Court to alter or amend its Order of Dismissal issued by this Court denying and dismissing Applicant's application for post-conviction relief. The Respondent would submit the following:

I.

The Order of Dismissal issued by the Honorable DeAndrea G. Benjamin on July 24, 2012 and filed August 3, 2012, contains the required findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (1976), and Rule 52(a) SCRPC. *See McCray v. State*, 305 S.C. 329, 408 S.E.2d 241 (1991). Respondent submits this Court did not err in granting the Order of Dismissal and the Order fully addresses all of the Applicant's claims.

In his Motion for Reconsideration, the Applicant merely reiterates his allegations from his application for post-conviction relief. Respondent submits that Applicant has not provided additional authority or support for the grounds. Furthermore, these grounds were all directly and properly addressed by this Court in the Order of Dismissal. Respondent submits that Applicant has not provided any reason why this Court should reconsider his same positions and arguments again. The

Applicant does not allege that the Order does not contain the required findings of fact and conclusions of law. This Court ruled on Applicant's allegations in his application for post-conviction relief and Applicant fails to provide any reason why this Court's rulings were in error or that any of Applicant's allegations were not addressed properly. Accordingly, this Court did not err when it denied the remaining allegations.

II.

The State therefore requests that the relief requested by the Applicant be denied and that his Motion be dismissed.

WHEREFORE, having made its Return to the motion, the State requests that the relief requested in the Motion be denied and that said Motion be dismissed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

BY: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

August 30, 2012

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS

2010-CP-18-0837

JONATHAN LISLE, 309262,

Applicant,

vs

STATE OF SOUTH CAROLINA,
Respondent.

AFFIDAVIT OF SERVICE BY MAIL

2012 AUG 31 AM 11:35
FILED-RECORDED
CLERK OF COURT
DORCHESTER COUNTY

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 **Return to Applicant's Motion for Reconsideration** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

The Honorable DeAndrea G. Benjamin
Presiding Judge
Post Office Box 192
Columbia, SC 29202

Ashley Ameika, Esquire
Law Office of Ashley Ameika, LLC
7555 Northside Drive
North Charleston, SC 29420

DATED this 30th day of August, 2012.

Lauren Meara
Lauren Meara, Legal Assistant
For Respondent

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010-CP-18-83

Jonathan Lisle, 309262

FILED - RECORDED South Carolina

PLAINTIFF(S)

702 OCT - 2 DEBIDON(S)

Submitted by: Megan E. Harrigan

Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. No. suit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: The Plaintiff's Motion for Reconsideration is denied.

INFORMATION FOR THE PUBLIC INDEX

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

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge W. B. Lisle Judge Code 2161 Date 9/19/2012

For Clerk of Court Office Use Only

This judgment was entered on the 2nd day of Oct, 20 12 and a copy mailed first class or placed in the appropriate attorney's box on this 2nd day of Oct, 20 12 to attorneys of record or to parties (when appearing pro se) as follows:

Megan E. Harrigan

Ashley Ameika

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter Debbie McCurdy

Clerk of Court

Cheryl Graham

WITNESSES

D Peters

DUCKETT NO. 2009GS18-0155

The State of South Carolina

County of DORCHESTER

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

Defendant

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

Dorchester County Sheriff

February 05, 2009 TERM

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

M117476

Arrested: November 24, 2008

THE STATE

vs.

Jonathan Bradley Lisle

ACTION OF GRAND JURY

Witness:

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

Indictment for

ROBBERY / ARMED ROBBERY,
ROBBERY WHILE ARMED OR
ALLEGEDLY ARMED WITH A DEADLY
WEAPON

Foreperson of Grand Jury
Date: February 05, 2009

VERDICT

FILED-RECORDED
2009 FEB -5 PM 1:01
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

Foreperson of Petit Jury

Date:

SC Code: 16-11-330(A)

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

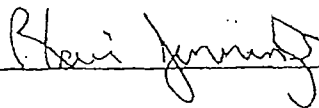
INDICTMENT
2009GS18-0155

At a Court of General Sessions, convened on February 05, 2009 the Grand Jurors of
Dorchester present upon their oath:

**ROBBERY / ARMED ROBBERY, ROBBERY WHILE ARMED OR ALLEGEDLY
ARMED WITH A DEADLY WEAPON**

That on or about November 22, 2008, in Dorchester County, the defendant,
Jonathan Bradley Lisle did while acting in concert with a co-defendant, by use of
force, threats or intimidation and while armed with a deadly weapon, to wit: a
handgun, take and carry away goods and/or monies from the person or presence
of the victim, John Fortunato, with the intent to permanently deprive the victim of
possession of the goods or monies, such goods or monies being described as, a
handgun and/or an amount of US Currency. This offense in violation of Section
16-11-330 of the South Carolina Code of Laws, as amended.

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


Blair Jennings, Solicitor

166-10 OF SOUTH CAROLINA

COUNTY OF Dorchester
STATE VS.Jonathan Bradley Lisle

AKA: _____

Race: W Sex: M Age: 22

DOB: _____ SS#: _____

Address: Summerville, SC 29483

DL#: _____ SID#: _____

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 wein violation of §16-11-330(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:

Blair C. Jennings
Jennings Blair C.Jonathan Bradley Lisle
Jonathan Bradley LisleRedmond, Mark Andrew
Redmond, Mark AndrewSCB17268
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 3 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: 3-30-09☒ 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 PTUP

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

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 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)

§ 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)

TOTAL

390
Clerk of Court/ Deputy Clerk133.90
Court Reporter: Bonnie Kelly

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS18-0155A/W#: M117476Date of Offense: 11/22/2008S.C. Code § : 16-11-330(A)CDR Code #: 0139

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly wein violation of §16-11-330(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:

Blair C. Jennings
Jennings Blair C.Jonathan Bradley Lisle
Jonathan Bradley LisleRedmond, Mark Andrew
Redmond, Mark AndrewSCB17268
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 3 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: 3-30-09☒ 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 PTUP

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

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 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)

§ 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)

TOTAL

390
Clerk of Court/ Deputy Clerk133.90
Court Reporter: Bonnie Kelly

_____ 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: Att while with
SCDC☐ Appointed PD or appointed other counsel, §35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE: [Signature]Judge Code: 3-30-09Sentence Date: 3-30-09

SCCA/217 (07/2008)

D Peters

The State of South Carolina

County of DORCHESTER

Defendant

Dorchester County Sheriff

COURT OF GENERAL SESSIONS

February 05, 2009 TERM

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

ARREST WARRANT NUMBER

M117484

Arrested: November 23, 2008

THE STATE

vs.

Defendant

ACTION OF GRAND JURY

Jonathan Bradley Lisle

Witness:

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

2/5/09

Foreperson of Grand Jury

VERDICT

Indictment for

ROBBERY / ARMED ROBBERY,
ROBBERY WHILE ARMED OR
ALLEGEDLY ARMED WITH A DEADLY
WEAPON

SC Code: 16-11-330(A)

Foreperson of Petit Jury

Date:

FILED-RECORDED
2009 FEB -5 PM 1:00
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

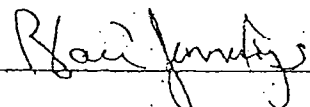
INDICTMENT
2009GS18-0156

At a Court of General Sessions, convened on February 05, 2009 the Grand Jurors of
Dorchester present upon their oath:

**ROBBERY / ARMED ROBBERY, ROBBERY WHILE ARMED OR ALLEGEDLY
ARMED WITH A DEADLY WEAPON**

That on or about November 22, 2008, in Dorchester County, the defendant,
Jonathan Bradley Lisle, while acting in concert with a co-defendant, did by use of
force, threats or intimidation and while armed with a deadly weapon, to wit: a
handgun, take and carry away goods and/or monies from the person or presence
of the victim, Owen Grella, and/or William Young, and/or Nick Bishop, and/or
Bryan Senatore and/or Deborah Sledziona, with the intent to permanently
deprive the victim of possession of the goods or monies. Such property being
described as, an amount of US Currency and/or a cellular phone. This offense
in violation of Section 16-11-330 of the South Carolina Code of Laws, as
amended.

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


Blair Jennings, Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester
STATE VS.Jonathan Bradley Lisle

AKA: _____

Race: _____ Sex: M Age: 22

DOB: _____ SS#: _____

Address: _____

Summerville, SC 29483

DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS **169**INDICTMENT/CASE#: 2009GS18-0156A/W#: M117484Date of Offense: 11/22/2008S.C. Code § : 16-11-330(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.in violation of §16-11-330(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 initiThe plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the Sta

ATTEST:

Jennings, Blair C.Jonathan Bradley LisleRedmond, Mark AndrewSCB17268
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 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: 3-30-09☒ 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 PTUP

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 _____ \$ 10000

§ 14-1-211(A)(2) (DUI Surcharge) \$100 _____ \$

§ 56-5-2995 (DUI Assessment) \$12 _____ \$

§ 35.13 (Public Def/Prob) \$500 _____ \$

§ 73.3, 1B TP (Law Enforce. Funding) \$25 _____ \$ 2500

§ 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) _____ \$

§ 90.11 TP (SCCJA Surcharge) \$5 _____ \$ 500TOTAL _____ \$ 130.00Deal Esther
Clerk of Court/Deputy ClerkCourt Reporter: Bonnie Kelly

_____ 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: Att while with
SCDC☐ Appointed PD or appointed other counsel, §35.13 TF
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE DonnaJudge Code: 11712Sentence Date: 3-30-09

SCCA/217 (07/2008)