

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
Roger L. Couch, Circuit Court Judge

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SC Court of Appeals

CARNIE NORRIS,

RESPONDENT

V.

STATE OF SOUTH CAROLINA,

PETITIONER

APPELLATE CASE NO. 2019-000334

APPENDIX

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- r. Counsel failed to consult with the applicant about appeal process/post trial,
 - s. Counsel abandoned her duties of loyalty when she impeached the defendant with a 1995 burglary second and a 1996 common law robbery conviction when it had been established that those particular convictions were inadmissible,
 - t. Counsel failed to exclude the name and basic nature of the Applicant's prior felony convictions,
 - u. Counsel used the rules of evidence against the applicant,
 - v. Trial Counsel was ineffective for failing to object to the joinder of the co-defendant's trials.
 - w. Trial Counsel was ineffective for failing to move to sever the trials of the defendants.
2. Trial court abuse of discretion, in that;
- a. Trial court failed to exclude the name and basic nature of the Applicant's felony convictions,
 - b. Trial court erred in dismissing Applicant's post trial motion reconsideration motion as untimely,
3. Ineffective assistance of appellate counsel, in that;
- a. Appellate counsel failed to raise applicant's preserved issues on appeal,
 - b. Appellate counsel failed to comply with the mandates of Anders,
4. Sentence clarification correction, in that;

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- a. Applicant requests to be awarded 358 days to his present sentence starting from July 16, 2008, to July 9, 2009.

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 had the opportunity to weigh the testimony of the witnesses, review the transcript, and review and weigh the evidence in this case pursuant to S.C. Code Ann. § 17-27-80 (2003).

INEFFECTIVE ASSISTANCE OF COUNSEL

The Applicant alleges he received ineffective assistance of counsel. 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. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052). Additionally, in a PCR action, “[t]he

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burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

The Applicant presented evidence through his testimony and exhibits. The State of South Carolina called Ms. Jones in response and she testified that she gave competent advice and represented the Applicant properly both before and during the trial. The Court has reviewed the allegations of the Applicant thoroughly and finds that each of the previously listed allegations fail except for his claim that his counsel failed to render reasonably effective assistance regarding the improper introduction of portions of the applicant’s prior record. The Applicant has met his burden of proof regarding his claim that trial counsel was ineffective in failing to prevent the introduction of the Applicant’s prior convictions before the jury for reasons described below.

At trial, the prosecution, through the testimony of the alleged victim and witnesses from the scene, alleged the following evidence: Several teenagers, including the alleged victim, were playing Frisbee golf in downtown Spartanburg on July 16th, 2008. The Applicant and the Co-defendant were watching the teenagers and saw an opportunity to rob them. The prosecution alleged that the Applicant approached the teenagers and informed one of them, the alleged victim in this case, that he was a security guard and produced a knife and robbed the alleged victim.

The police were called, and a responding officer, Bradford James, found the Applicant on top of the alleged victim holding the alleged victim down. Officer James testified that the Applicant and the Co-defendant began walking away from the scene when he arrived. Other officers and the alleged victim testified that the Applicant and the Co-defendant left the scene and crossed the street once they saw the police arriving. The

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Applicant and his codefendant consented to a search of their clothing, and the police found items belonging to the alleged victim as well as knife allegedly used in the alleged armed robbery.

The Applicant and the Co-defendant testified on their own behalf. The testimony of the Applicant alleged the following: The Applicant was walking down the street in the evening on the date in question when he noticed individuals on top of the St. Luke's Free Medical Clinic in downtown Spartanburg. The Applicant testified that he went and knocked on the window of the Co-Defendant, who lived nearby, and woke the Co-defendant that something was going on at the clinic and they needed to investigate it. The Applicant testified that he told the Co-Defendant to bring his cell phone and to call the police because he believed that they were witnessing a possible break-in. The Applicant testified that he did not intend to rob the alleged victim, but that he intended to find out who he was. The Applicant testified that the alleged victim produced credit cards and his cell phone, and shortly thereafter the police arrived. The Applicant testified that contrary to the testimony of the prosecution witnesses, he was not standing over the alleged victim, and that he was asked, along with the Co-Defendant, to wait across the street and was eventually escorted across the street by the police. The Applicant testified that he never pulled a knife on the alleged victim, and that the knife found on him pursuant to the consent search was a knife he had previously used to clean fish that day.

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It is clear from the transcript that the jury was given two competing stories of what happened that night. It is also clear that the credibility of the witnesses, and particularly the credibility of the Applicant, was crucial for the jury to make a determination of guilt in this case. Both the prosecution and the respective defense

counsel sought to attack the credibility of the respective opposing witnesses. The introduction of the Applicant's prior record was a large part of the prosecution's attack on the credibility of the Applicant.

At trial, and after the State rested, the Applicant was asked by the Court if he intended to testify. When he announced he would testify, the State informed the Court that it intended to impeach the Applicant with two prior convictions which occurred within ten years of the trial. Those convictions were common law robbery and burglary, second degree. The Court asked the Applicant's trial counsel if she contended that the two convictions the State intended to use for impeachment were not admissible. The Applicant's trial counsel agreed with the State that the two prior convictions, specifically a 1996 common law robbery, and a 1995 burglary, second degree (nonviolent) were admissible to impeach the Applicant. Additionally, when the Applicant testified, the Applicant's trial counsel introduced the convictions on direct examination. Trial counsel's consent to the introduction of the prior convictions, and her introduction of the prior convictions during her direct examination of the Applicant was error. This error was

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not harmless, and calls into question the outcome of the jury trial. *It finds that this undermines the confidence of this court in the outcome of the trial as per Cherry + Porter id.*
Under the South Carolina Rules of Evidence, Rule 609(a)(1) and Rule 609 (a)(2), *RJC*

and State v. Bryant, 369 S.C. 511 (2006), these prior convictions were more likely than not inadmissible. As indicated in Bryant, the Supreme Court has held that a trial judge must conduct a balancing test to determine whether remote convictions are admissible under Rule 609(b) creates a presumption that remote convictions are inadmissible and places the burden on the State to overcome this presumption. When considering whether to admit prior convictions, a trial judge should consider the following factors:

- (1) The impeachment value of the prior crime;
- (2) The point in time of the conviction and the witness's subsequent history;
- (3) The similarity of the past crime and the charged crime;
- (4) The importance of the defendant's testimony; and
- (5) The centrality of the credibility issue.

After the trial court conducts the balancing test, the judge must make a determination and articulate, on the record, the specific reasons for his ruling. Specifically, the trial judge must articulate why the probative value of the prior conviction outweighs its prejudicial effect. Under Rule 609(a)(2), SCRE, if a crime is viewed as one involving dishonesty, the court must admit the prior conviction because prior convictions involving dishonesty or false statement must be admitted regardless of their probative value or prejudicial effect. State v. Bryant, 369 S.C. 511 (2006). (internal citations omitted).

The pertinent text of South Carolina Rules of Evidence, Rule 609 is as follows:

Rule 609. Impeachment by Evidence of a Criminal Conviction

(a) In General. The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

(1) for a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment for more than one year, the evidence:

(A) must be admitted, subject to Rule 403, in a civil case or in a criminal case in which the witness is not a defendant; and

(B) must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant; and

(2) for any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving — or the

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witness's admitting — a dishonest act or false statement.

(b) Limit on Using the Evidence After 10 Years. This subdivision (b) applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if:

- (1) its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect; and
- (2) the proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

The Applicant's trial counsel failed to submit the prosecution's use of the prior convictions to any adversarial testing and failed to move the court to disallow the use of the prior convictions under the Bryant test. The trial judge would have been required to analyze the Bryant factors had the Applicant's trial counsel properly placed the issue regarding the prior convictions before the court. It is probative to review those factors set forth in the Bryant decision and the South Carolina Rules of Evidence Rules 609(a) and 609(b) as they would have been applied in this case.

The first factor is the impeachment value of the prior crime. Under State v. Bryant, "a conviction for robbery, burglary, theft, and drug possession, beyond the basic crime itself, is not probative of truthfulness." State v. Bryant, 369 S.C. 511, 633 S.E.2d 152, 156 (2006). The Applicant's two prior convictions, on their face, did not involve crimes of dishonesty. No additional evidence was given by the prosecution when those convictions were proffered that there was anything about the facts surrounding the convictions that showed any dishonesty.

The second factor that the court would have had to consider is the point in time of the conviction and the witness's subsequent history. The two previous convictions dates

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from 1995 and 1996 and no other evidence was proffered by the prosecution to show any subsequent criminal history. Those conviction dates were well in excess of ten years before this case. These two prior convictions were also unduly prejudicial under South Carolina Rule 609 (B)(2)(b) in that they were not supported by specific facts and circumstances as required by the Rule. The use of those convictions therefore could not substantially outweigh its prejudicial effect.

The third factor the court would have been required to consider is the similarity of the past crime and the charged crime. The prior conviction for common law robbery is similar to the charged crime of armed robbery. Armed robbery includes all the elements of strong arm robbery. Armed robbery is commission of common law robbery while armed with a deadly weapon. State v. Muldrow 348 S.C. 264, 559 S.E.2d 847 (2002).

The fourth and fifth factors the court would have had to consider is the importance of the defendant's testimony; and the centrality of the credibility issue. In this case the defendant's testimony was crucial to his defense against the charge of armed robbery, and therefore, his credibility was central to this case. As discussed earlier, this case had two competing and diametrically opposed narratives, one for the prosecution and one for the defense. The use of the prior convictions harmed undoubtedly the Applicant's ability to have the jury fairly consider his version of events.

Turning to the determination of whether the Applicant's trial counsel was ineffective, the factors established by Strickland v. Washington must be applied. 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

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performance. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984). In order to prove prejudice, an applicant must show “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052). Additionally, in a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

The Applicant has met his burden of proof by a preponderance of the evidence. Based upon the analysis of the Bryant factors with the facts of this case, there is a reasonable probability that but for counsel’s unprofessional errors, the result of the trial would have been different. Trial counsel’s errors in failing to oppose the introduction of the prior convictions, and worse, trial counsel’s introduction of the prior convictions during the direct examination of the Applicant, create a probability sufficient to undermine confidence in the outcome of the trial.

If trial counsel had opposed the introduction of the two prior convictions, it is more likely than not that the trial judge would have excluded the use of those convictions. Absent the knowledge of these prior convictions, the jury would have been confronted with two competing versions of the event in question. The jury would not be focused on speculation about the Applicant’s character, but would have instead have been required to determine whether the prosecution’s version of events was sufficient to prove to them that the Applicant committed an armed robbery in this case beyond a reasonable doubt.

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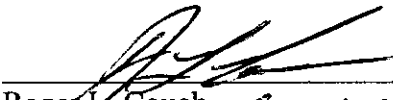
CONCLUSION

Based on the foregoing, the Court finds and concludes that the Applicant has met his burden of proof in this matter and has established a constitutional violation that would require this Court to grant his application. Applicant's trial counsel's performance was unreasonable under prevailing professional norms. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be granted; and
2. That the Applicant's convictions be vacated and his charges remanded for a new trial.

AND IT IS SO ORDERED this 6th day of September, 2017.


 Roger L. Couch *Seventh D.C.*
 Presiding Judge, ~~Thirteenth~~ Judicial Circuit

Spartanburg, SC

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M. Hope Blackley
Clerk of Court

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Carnie Harris # 227226

7TH JUDICIAL CIRCUIT

Applicant

CASE # 2012CP42-4651

vs
Free
Respondent

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the Order 67. Post Conviction Ruling
In this action dated 9-6, 2017 on 9-6-17

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Kimberly McCoy
Jalen Rucker

9-6-17
(Date)

Carnie Harris
(Signature)

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Carnie Norris, #227226,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2012-CP-42-4651

**MOTION TO ALTER OR
AMEND JUDGMENT PURSUANT
TO RULE 59(e), SCRCF**

Respondent now moves pursuant to Rule 59(e) and Rule 60, SCRCF, and all other applicable rules to alter or amend the judgement.

This matter is before this Court by way of an application for post-conviction relief (PCR). An evidentiary hearing into the matter was convened on September 15, 2014 at the Spartanburg County Courthouse. This Court granted relief by order dated September 6, 2017. Respondent received the filed signed order via the Spartanburg County Clerk of Court on September 8, 2017. The Court granted relief on the basis that:

- (1) “[C]ounsel failed to render reasonably effective assistance regarding the improper introduction of portions of the applicant’s prior record.”

(Order p. 6).

DISCUSSION

In making this motion, Respondent reserves and incorporates all previous arguments and authority presented to this Court. Respondent would submit that the judgment should be altered or amended based on the following:

Applicability of Rule 609(a) versus Rule 609(b)

Prior to Applicant’s trial testimony, the Solicitor indicated that he planned on impeaching Applicant with prior convictions for common law robbery and second degree burglary. (ROA p.

226). Counsel stated on the record that the Solicitor had provided her with documentation of those prior convictions and referenced a 1996 common law robbery and 1995 second degree burglary. (ROA p. 227-8). On direct, Counsel preemptively asked Applicant about both charges, pointing out that the charges were from 1995. (ROA p. 267). Additionally, Counsel pointed out that the Applicant was suffering from a drug problem at the time of the charge and had admitted his involvement in both. (ROA p. 267). On cross examination, the Solicitor asked Applicant if he'd "done robbery before," and if he'd "broke[n] into buildings before." (ROA p. 283). In response, Applicant stated that those incidents were from the past and he hoped the past would not harm him. (ROA p. 283).

This Court found Applicant's prior "conviction dates were well in excess of ten years before this case." (Order p. 11). In its order, this Court found Applicant's two prior convictions were "unduly prejudicial under South Carolina Rule 609 (B)(2)(b) [*sic*] in that they were not supported by specific facts and circumstances as required by the Rule," and that, "the use of those convictions therefore could not substantially outweigh its prejudicial effect." (Order p. 11). Rule 609(b), SCRE, establishes that prior convictions are not admissible "if a period of more than ten years has elapsed since the date of the conviction or **of the release of the witness from the confinement imposed for that conviction, whichever is the later date.**" (Emphasis added).

Although the conviction dates are past the ten year mark, Applicant was released from confinement imposed for both convictions inside the ten year mark.¹ The 1995 sentence for second degree burglary was 15 years and the 1996 sentence for common law robbery was suspended to nine years plus five years of probation, consecutive to the burglary sentence. Applicant was released on parole in 2004, but then returned to confinement based upon the

¹ See attached Applicant's SCDC records.

parole/probation revocation in 2008 following his arrest on the charges in this case. Therefore, the crimes were not remote in time and would not invoke Rule 609(b). Rather, these crimes were admissible for use in impeaching Applicant under Rule 609(a) and would not raise issues under Rule 609(b).

Rule 609(a) requires that there be a finding by the court “that the probative value of admitting the evidence [of the prior convictions] outweighs the prejudicial effect to the [defendant].” Rule 609(a), SCRE. In contrast to admitting prior convictions under Rule 609(b), Rule 609(a) does not require that the probative value of the conviction **supported by specific facts and circumstances substantially** outweighs the prejudicial effect. Rather, Rule 609(a) only requires the court to determine the probative value of admitting the evidence outweighs its prejudicial effect. The rule assumes there will be **some** prejudicial effect.

There are five factors that should be considered by the trial judge in making the decision to admit prior convictions for impeachment purposes: “(1) the impeachment value of the prior crime; (2) the point in time of the conviction and the witness's subsequent history; (3) the similarity of the past crime and the charged crime; (4) the importance of the defendant's testimony; and (5) the centrality of the credibility issue.” State v. Bryant, 369 S.C. 511, 633 S.E.2d 152 (2006).

Deficiency Analysis

As the record reflects, the court failed to make a finding on the record as to the probative versus prejudicial value of the prior convictions and there was no objection to the introduction of the prior convictions. (ROA p. 226-8). Trial counsel testified that had she objected to the prior robbery conviction, Applicant would have still been impeached based on the burglary. This assessment is reasonable and consistent with the factors set forth in Bryant. (1) A prior

conviction for burglary has impeachment value against a defendant's testimony; (2) Applicant was on parole for the burglary when he committed the instant robbery; (3) burglary is not identical or similar to armed robbery; (4) Applicant's testimony was not critical to his defense since his co-defendant testified consistent with Applicant's version of events²; and (5) credibility was central to the case thus allowing impeachment using prior convictions was important. It would have been reasonable to assume the burglary conviction would be admissible for impeachment purposes. Although an objection to require the trial court to make the findings required by 609(a) would have established a more thorough record, the result would have been the same in that the burglary would have been admissible to impeach Applicant. Therefore, trial counsel was not deficient in failing to object to the admissibility of the prior burglary conviction.

With regard to Applicant's prior common law robbery conviction: (1) A prior conviction for robbery has impeachment value against a defendant's testimony; (2) Applicant was on probation for the prior common law robbery when he committed the instant armed robbery; (3) while Applicant's prior conviction for common law robbery is similar to armed robbery in that they are both robberies, they are not identical; (4) Applicant's testimony was not critical to his defense since his co-defendant testified consistent with Applicant's version of events; and (5) credibility was central to the case thus allowing impeachment using prior convictions was important. Because it is arguable that the prior common law robbery would have been admitted and because the burglary would have almost certainly been admitted, it was reasonable for trial counsel not to have objected to their use for impeachment purposes.

Additionally, all articulable arguments which can be inferred from the record as trial strategy can be argued in favor of competence. A strategic or tactical decision does not have to be articulated by counsel on the record, as the passage of time can often wear on the memories of

² Trial counsel strongly encouraged Applicant not to testify. (PCR Tr. p. 62-63).

well-reasoned decisions made in the heat of battle of avenues not pursued, objections withheld, or evidence not presented. It is enough that the record show a basis for strategy, not that counsel announce that strategy on the record. See Wood v. Allen, 558 U.S. 290 (2010). (affirming state PCR court's finding that counsel made a strategic decision not to inquire further into a the petitioner's report about his mental deficiencies where the record supported that finding, despite Counsel not articulating the strategy). Notwithstanding the 609(a) test and the Bryant factors to be considered, Applicant's trial counsel elicited the prior convictions during her direct examination of Applicant. This was obviously a strategic decision by trial counsel to elicit unfavorable testimony from Applicant regarding his prior criminal history in an effort to garner the jury's trust and establish credibility. "Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another." Strickland, 466 U.S. 668, 693 (1984). Just because the strategy did not actually garner the jury's trust or establish Applicant's credibility does not necessarily mean it was an unreasonable strategy.

However, even if this Court finds that Counsel was deficient for failing to object to the use of those prior convictions, Respondent submits that the Applicant failed to meet his burden of proof as to prejudice.

Prejudice/Harmless Error Analysis

When an ineffectiveness claim is presented the defendant must show that counsel's representation was deficient. Deficient representation amounts to conduct that is not objectively reasonable under the circumstances. Strickland v. Washington, 466 U.S. 668, 688 (1984). In addition, Applicant must show prejudice by establishing that the outcome would have been different **but for** counsel's deficient performance. Strickland, 466 U.S. at 694. (emphasis added). The equivalent in a direct appeal of a criminal conviction is harmless error. If the appellate court

finds an error at trial could not reasonably have affected the result of the trial, then it is deemed harmless. State v. Mitchell, 286 S.C. 572, 573, 336 S.E.2d 150, 151 (1985).

Respondent submits that Applicant failed to meet his burden of proof of establishing that the alleged deficient conduct of Counsel affected the outcome of his trial. Respondent also submits that Applicant was not prejudiced by any alleged deficient performance because of the overwhelming evidence against him.

Victim Andrew Bond testified he was pushed to the ground by a man from behind who asked Bond for his ID and told Bond he was under arrest. (ROA p. 115). Bond testified the man reached in to take Bond's wallet and start looking through it. Bond identified the man as Applicant, Carnie Norris. (ROA p. 115). Bond testified that when he asked to see Applicant's badge, Applicant pulled a knife out and held it to Bond's throat. Bond identified the knife that was found on Applicant as the knife used to assault him. (ROA p. 116; p. 123). Bond testified that as the incident went on, Bond tried to get up, but Applicant put the knife to Bond's throat and threatened to kill Bond if he tried to get away. (ROA p. 117). Once the co-defendant arrived on the scene and began rifling through Bond's wallet, Bond testified Applicant continued to tell him to stay down and not move or Applicant would kill him. (ROA p. 119). Bond testified that once his friends began to pull up in their cars and the first police officers arrived, Applicant and his co-defendant handed Bond his empty wallet and cell phone before walking across the street. (ROA p. 120).

Herbert Blankenship, a witness, also testified he saw Applicant grab Bond, put him on the ground, announce he was a security officer and pull out a knife. (ROA p. 145). Blankenship testified that as they approached Applicant and Bond, Applicant pulled the knife out and pointed it at the others and told them to get on the ground. (ROA p. 146, p. 147). Blankenship identified

Applicant as the man who held the knife on Bond and the other witnesses. (ROA p. 146). Once Blankenship and the others had security call the police, he testified he drove over to the scene and directed his headlights at the area where Applicant had Bond on the ground. (ROA p. 148). Blankenship also identified the knife found on Applicant. (App. p. 149; p. 161).

Another witness, Daniel Mayfield, testified he saw Applicant approach Bond, put him on the ground, and remove his wallet. (ROA p. 170). Mayfield testified that as he and the others approached Bond and Applicant, Applicant pointed a knife towards the group and told them to get on the ground. (ROA p. 170). Mayfield identified the knife found on Applicant. (ROA p. 170). Mayfield also testified the Applicant identified himself as a security guard before removing Bond's wallet from his pocket and rifling through it. (ROA p. 175-6; p. 183-4).

Officer Brad James testified he received a call about a disturbance with weapons, which is what he was looking for when he arrived on the scene, and not anything related to a break-in as Applicant suggested. (ROA p. 193, p. 205, p. 209). James testified that as he arrived on the scene after receiving a dispatch, he saw two black males standing and a white male lying on the ground. (ROA p. 187). James testified the white male told him the black males were robbing him. (ROA p. 188). James, after receiving consent from Applicant, searched Applicant and found a black-handled kitchen knife. (ROA p. 190). The co-defendant turned over several cards that had been retrieved from Bond's wallet. (ROA p. 190).

Officer John Guest also testified they received two calls regarding a disturbance with weapons, which they found out later were from the Hangar security guard and one of Bond's friends. (ROA p. 210). Guest testified the co-defendant handed over several of Bond's cards from the wallet after being asked by Guest. (ROA p. 212). Guest also saw James recover the black kitchen knife from Applicant. (ROA p. 212). Guest testified Bond identified the knife as

the one used in the robbery. (ROA p. 213). Guest confirmed dispatch never received a call in regard to a break-in in that area. (ROA p. 213).

In contrast, both Applicant and co-defendant acknowledge going over to the group and rifling through Bond's cards from his wallet. However, both deny a knife being used or present. (ROA p. 258, p. 279). The testimony is not credible when contrasted with the testimony of three witnesses who saw the knife and could identify it and the police officers who testified they responded to a report of a disturbance involving someone being held at knifepoint. Further, the knife was found on Applicant. The witnesses had no way of knowing the Applicant had a knife on him at the time of the 911 calls if they had not seen the knife being held at the neck of their friend, Bond. The evidence against Applicant was, in a word, overwhelming. Additionally, Applicant and his co-defendant's lack of credibility was primarily caused by the stark contrast in their story versus that of various bystanders and law enforcement as well as the peculiarity of Applicant and his co-defendant's version of events – and not by his prior criminal history.

Even if this Court found that there was deficient conduct on behalf of Counsel, Respondent submits that because of the overwhelming evidence of guilt, there was no prejudice. “[N]o prejudice occurs, despite trial counsel's deficient performance, where there is otherwise overwhelming evidence of the defendant's guilt. Smith v. State, 386 S.C. 562, 566, 689 S.E.2d 629, 631 (2010) (citing Rosemond v. Catoe, 383 S.C. 320, 325, 680 S.E.2d 5, 8 (2009)). The trial testimony from Applicant was ludicrous. Jurors are expected to use common sense for just such testimony as this. They were called upon to assess the credibility of a story that was ridiculous *per se*. Prejudice from trial counsel's failure to require the trial judge to make his Rule 609(a) analysis on the record was not, under these circumstance, a defect in representation that could have realistically affected the outcome.

Additionally, while Applicant's prior conviction for common law robbery is similar to armed robbery in that they are both robberies, they are not identical. The Supreme Court of South Carolina has held although "the admission of identical convictions for impeachment purposes enhances its prejudicial nature, it does not conclusively render the error so prejudicial that it is not subject to a harmless error analysis." State v. Broadnax, 414 S.C. 468, 779 S.E.2d 789 (2015). Broadnax was tried for armed robbery. The trial court held a hearing in camera to determine what prior convictions could be used to impeach Broadnax's testimony. The trial court admitted three of Broadnax's four prior armed robbery convictions. The Court held the error to be harmless, despite the convictions admitted were **identical** to those for which Broadnax was on trial. Id. at 478-479. In this case, the prior conviction was **not identical** to the conviction for which Applicant stood trial. Respondent submits the alleged error in admitting Applicant's prior common law robbery conviction was harmless, similar to Broadnax, and therefore, Applicant was not prejudiced by trial counsel's failure to object to it.

[Remainder of page left blank intentionally]

CONCLUSION

WHEREFORE, the Respondent respectfully requests the order be amended and the PCR application denied and dismissed with prejudice.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

VALERIE GARCIA GIOVANOLI
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

September 19, 2017

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)	
)	
)	2012-CP-42-4651
)	
Carnie Norris, #227226,)	
)	
Applicant,)	
)	
vs)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	
_____)	

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 Judgment Pursuant to Rule 59(e), SCRCP** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

John Brandt Rucker, Esquire
 The Rucker Law Firm, LLC
 128 Millport Circle STE 200
 Greenville, South Carolina 29607

DATED this 19th day of September, 2017.



 Lindsey McCoy, Legal Assistant

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2012 CP-42-4651

Carnie Norris, Inmate Number 227226

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: **John Brandt Rucker, Esq.**
128 Millport Circle, Suite 200
Greenville, SC 29607

Attorney for : 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 a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

2019 FEB 15 AM 9:52
CLERK OF COURT
SPARTANBURG COUNTY

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

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

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

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

Circuit Court Judge

Judge Code

Date

2135

2/15/19

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:

John Brandt Rucker, Esq.
128 Millport Circle, Suite 200
Greenville, SC 29607
ATTORNEY(S) FOR THE PLAINTIFF(S)

Alan Wilson, Esq.
PO Box 11549
Columbia, SC 29211
ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

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

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

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

Multiple horizontal lines for additional information or notes.

2019 FEB 15 AM 9:52
CLERK OF COURT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

STATE VS.

Carnie Norris III

AKA:

Race: B Sex: M Age: 48

DOB: SS#:

Address: 4692 Liberty Hwy Anderson, SC 29621

DL#: SID#:

INDICTMENT/CASE#: 2008GS4205631

A/W#: M022991

Date of Offense: 7/16/2008

S.C. Code §: 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

CONVICTED OF or PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

Signatures: BARNETTE, BARRY (13039 SC Bar#), Defendant, Attorney for Defendant (07913 SC Bar#)

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 28 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Table with columns for Recipient, *Fine, and various assessment codes (e.g., § 14-1-206, § 14-1-211(A)(1), § 14-1-211(A)(2), § 56-5-2995, § 56-1-286, § 47.12, § 14-1-212, § 14-1-213, § 50-21-114, § 56-5-2942(J), § 90.7, 3% to County) and their corresponding amounts.

Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: T. Camp; Court Reporter: Linda Moffitt; SCCA/217 (06/2009)

PRESIDING JUDGE: [Signature]; Judge Code: 201513; Sentence Date: July 7, 2009

WITNESSES

DOCUMENT NO. **08-GS-42-5631**

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

SEP 27 2008

TERM

THE STATE
VS.

Carnie Norris III

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)
CDR Code: 139
Class FEL/A

MARC KITCHENS

2008 SEP 24 AM 11:16

FILED
CLERK OF COURT

Spartanburg Public Safety Dept

1. SENTENCE MADE

2. REPORT ENDED

Computer

3. CARD PULLED

4. INDEXED

ARREST WARRANT NUMBER

6. CHECKED SIGNATURE

Computer

7. ASSESSMENT AND FINE CARD MADE

M022991

8. TRAFFIC VIOLATIONS COPY

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 9-19-08

VERDICT

Guilty

Joanna B. Duncan

Foreperson of Petit Jury

Date: July 7, 2009

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

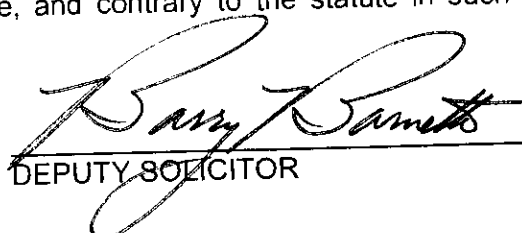
INDICTMENT

At a Court of General Sessions, convened on SEP 19 2008, the Grand Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Carrie Norris III, did in Spartanburg County, on or about July 16, 2008, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Andrew Foster Bond, by means of force or intimidation goods or monies of Andrew Foster Bond, described as follows: a check card, two gift cards, various business cards and \$6.00 in cash money, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

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


 DEPUTY SOLICITOR

530 M-022991

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

THE STATE
against

Carnie Norris, III

Address: 4692 Liberty Hwy

Anderson, SC 29621-

Phone: _____ SSN: _____

Sex: M Race: B Height: 5 10 Weight: 210

DL State: _____ DL #: _____

DOB: _____ Agency ORI #: SC0420100

Prosecuting Agency: Spartanburg Public Safety Department

Prosecuting Officer: Jon M Guest - 1100

Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Offense Code: 0139

Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant

on

[Signature]

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

County/ Municipality of

Spartanburg

Personally appeared before me the affiant Jon M Guest who

being duly sworn deposes and says that defendant Carnie Norris, III

did within this county and state on or about 07/16/2008

State of South Carolina (or ordinance of County/ Municipality of Spartanburg)

in the following particulars:

DESCRIPTION OF OFFENSE Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on July 16, 2008, in the city of Spartanburg, one Carnie Norris III did take from Andrew Foster Bond a check card, a 2 gift cards and various business cards and \$6.00 in cash money with intent to deprive while armed with a knife, a deadly weapon. Affiant's belief is based upon police investigation.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

Affiant's Address 145 West Broad Street
Spartanburg, SC 29306-

Affiant's Telephone _____

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/16/2008 defendant Carnie Norris, III

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Spartanburg) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 07/17/2008

(L.S.)

Signature of Issuing Judge
Eber Charles Gowan Jr.

Judge Code: 5674

Judge's Address Spartanburg County Judicial Center
Spartanburg, SC 29306-2335

Judge's Telephone (864)596-3424

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

2008 JUL 21 AM 11:06
MARIO RODRIGUES

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 01/09/13
 OMCOMITA RELEASE DATE SCREEN C051123
 SCDC# > 227226 LOC: PERRY
 NORRIS, III, CARNIE - SCDC CLASSIFICATION... VIOLENT
 OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY... N
 SEXUAL PREDATOR...: NOT APP
 DNA STATUS.....: COMPLETED
 GPS REQUIREMENT...: N
 PREA DECISION.....:

CURRENT SENTENCE: 028-00-000 CONSECUTIVE SENTENCE ..: N
 028-00-000 CURRENT SENT START DATE: 05/06/2009

PROJECTED COMPLETION DATES
 MAXOUT DATE: 02/15/2033 CURRENT EWC ..: 2 F 5
 YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
 INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
 TOTAL EARNED WORK CREDITS ..: 000472 LABOR CREW DISQ REASON:
 TOTAL EDUCATION CREDITS: 000000 CATEGORY 4 OR 5 OFFENSE
 TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
 TOTAL SERVICE TIME EARNED ..: 001323 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

4-© 1 Sess-1 167.7.50.33 SCDC1251 3/11

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 01/09/13

C0511

NORRIS, III, CARNIE - FBI # 304672V6 SID# SC00246536 SCDC # 227226

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ...: PERRY CORR INST

SECURITY/CUST.: 3 MINIMUM IN

CURR INCARC SENT...: 28 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: YES SEPREQ

SOCIAL SECURITY #...: 579843894

DORM.....: Q1B0103B

RACE....: B SEX...: M

PROJ MAXOUT DATE: 02/15/2033

PROJ PAROLE DATE: 00/00/0000

EWC JOB...: LIBRARY HELPER

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 2F5 EEC LEVEL:

ASSIGNMENT...: LIBRARY

CURRENT PROGRAM...: ALCOHOL ANONYMOUS GROUP

AGE...: 52 DATE OF BIRTH...: [REDACTED]

PREVIOUS NUMBERS:

00176968

00135574

00198267

CURRENT OFFENSES	SENTENCE			COUNTY	SENTENCE			V/NV	CATEGORY
	YRS	MOS	DYS		START				
ARMED ROBBERY	28	0	0	SPARTANBUR	5/ 6/20 9	V			4
COMMON LAW ROBBERY	9	0	0	SPARTANBUR	1/17/1996	N			3
BURGLARY-2ND DEG/NON-VIO	15	0	0	SPARTANBUR	8/ 5/1995	N			3
ACC AFTER FEL A,B,C,MURD	10	0	0	SPARTANBUR	8/ 5/1995	N			4

PRIOR COMMITMENTS OVER 90 DAYS:

5/13/93	*ABANDONMENT/NON-SUPPORT	0 YRS	6 MOS	0 DYS
9/15/89	*COCAINE POSSESS	1 YRS	0 MOS	0 DYS
6/ 4/86	*RECEIVE STOLEN PROPERTY	0 YRS	18 MOS	0 DYS

DETAINERS (HOLD, WANTED, NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

6/13/99	VIOLATIONS WRITE/POST IN CONVICTED	MINOR
6/13/99	ABUSE OF PRIVILEGES CONVICTED	MINOR
4/13/99	POSSESSION OF CONTRABAND DROPPED	CHARG
2/14/98	REFUSING OR FAILING OBEY CONVICTED	MINOR

HISTORY OF MOVEMENTS:

12/17/12	PERRY	INCARCERATED	ADMINISTRATIVE
12/17/12	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
9/20/12	PERRY	INCARCERATED	ADMINISTRATIVE
9/20/12	PALMETTO RCHLAN	AUTH ABSENCE (AWL)	MEDICAL
9/18/12	PERRY	INCARCERATED	ADMINISTRATIVE
9/17/12	KIRKLAND	INCARCERATED	MEDICAL
9/12/12	PERRY	INCARCERATED	MEDICAL
9/12/12	ANDERSON CO	AUTH ABSENCE (AWL)	MEDICAL
8/24/12	PERRY	INCARCERATED	ADMINISTRATIVE
8/24/12	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
8/ 9/12	PERRY	INCARCERATED	ADMINISTRATIVE
8/ 9/12	GREENVILLE CO	AUTH ABSENCE (AWL)	MEDICAL
5/ 3/12	PERRY	INCARCERATED	ADMINISTRATIVE
5/ 3/12	KIRKLAND	INCARCERATED	MEDICAL
3/27/12	PERRY	INCARCERATED	ADMINISTRATIVE
3/27/12	KIRKLAND	INCARCERATED	MEDICAL
9/13/11	PERRY	INCARCERATED	ADMINISTRATIVE
9/12/11	KIRKLAND	INCARCERATED	MEDICAL

12/ 2/10 PERRY

INCARCERATED

ADMINISTRATIVE

NORRIS, III, CARNIE - FBI # 304672V6 SID# SC00246536 SCDC # 227226 (CONTINUE

12/ 2/10	KIRKLAND	INCARCERATED		MEDICAL
8/27/10	PERRY	INCARCERATED		ADMINISTRATIVE
8/27/10	ANDERSON CO	AUTH ABSENCE	(AWL)	MEDICAL
1/26/10	PERRY	INCARCERATED		ADMINISTRATIVE
9/10/ 9	LEE	INCARCERATED		ADMINISTRATIVE
7/ 8/ 9	RIDGELAND	INCARCERATED		RETURN FROM COURT
6/26/ 9	SPARTANBURG CO	AUTH ABSENCE	(AWL)	TO COURT
12/19/ 8	RIDGELAND	INCARCERATED		RETURN FROM COURT
12/19/ 8	ANDERSON CO	AUTH ABSENCE	(AWL)	TO COURT
11/12/ 8	RIDGELAND	INCARCERATED		ADMINISTRATIVE
9/17/ 8	KIRKLAND	INCARCERATED		R&E PROCESSING
9/17/ 8	PERRY	INCARCERATED		PAROLE VIOLATOR
7/31/ 8	SPARTANBURG CO	AUTH ABSENCE	(AWL)	LOCKUP-FRM EPA, SF, PAR, PRB
7/28/ 8	UNK	DEAD TIME		WARRANT ISSUED
1/29/ 4	SPARTANBURG CO	PAROLE		PAROLE BOARD ACTION
10/23/ 3	LEE	INCARCERATED		DRUG ADDICTION UNIT
10/ 8/ 3	KIRKLAND	INCARCERATED		ADMINISTRATIVE
9/18/ 3	ABBVLL PRSN DF	INCARCERATED		ADMINISTRATIVE
9/ 2/ 3	KIRKLAND	INCARCERATED		ADMINISTRATIVE
3/ 5/ 2	ABBVLL PRSN DF	INCARCERATED		ADMINISTRATIVE
8/ 2/ 1	NORTHSIDE	INCARCERATED		ADMINISTRATIVE
7/31/ 0	TYGER RIVER	INCARCERATED		ADMINISTRATIVE
3/30/ 0	PERRY	INCARCERATED		RETURN FROM COURT
3/28/ 0	SPARTANBURG CO	AUTH ABSENCE	(AWL)	TO COURT
1/11/ 0	PERRY	INCARCERATED		RETURN FROM COURT
1/ 9/ 0	SPARTANBURG CO	AUTH ABSENCE	(AWL)	TO COURT
1/ 5/ 0	PERRY	INCARCERATED		ADMINISTRATIVE
11/19/99	KERSHAW	INCARCERATED		RETURN FROM COURT
11/18/99	SPARTANBURG CO	AUTH ABSENCE	(AWL)	TO COURT
11/ 3/99	KERSHAW	INCARCERATED		ADMINISTRATIVE
11/ 3/99	KIRKLAND	INCARCERATED		MEDICAL
7/30/99	KERSHAW	INCARCERATED		ADMINISTRATIVE
7/30/99	KIRKLAND	INCARCERATED		MEDICAL
3/ 6/98	KERSHAW	INCARCERATED		RETURN FROM COURT
3/ 4/98	SPARTANBURG CO	AUTH ABSENCE	(AWL)	TO COURT
1/30/98	KERSHAW	INCARCERATED		ADMINISTRATIVE
10/17/97	BROAD RIVER	INCARCERATED		ADMINISTRATIVE
12/11/96	ALLENDALE	INCARCERATED		RETURN FROM COURT
12/ 9/96	SPARTANBURG CO	AUTH ABSENCE	(AWL)	TO COURT
1/19/96	ALLENDALE	INCARCERATED		ADMINISTRATIVE
1/18/96	PERRY R&E	INCARCERATED		RETURN FROM COURT
1/ 6/96	SPARTANBURG CO	AUTH ABSENCE	(AWL)	TO COURT
10/27/95	ALLENDALE	INCARCERATED		ADMINISTRATIVE
10/13/95	PERRY R&E	INCARCERATED		NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
LIBRARY HELPER	07/20/10	0/ 0/ 0		2F5
TEACHER ASSISTANT	02/04/10	6/ 9/10	INMATE REQUEST	2F5
WASH RACK ATTENDANT	09/15/09	1/26/10	INSTIT TRANSFER	2F5
SR DINING ROOM OPERA	07/16/09	9/10/ 9	INSTIT TRANSFER	2F5
SENIOR INVENTORY OPE	07/09/09	7/15/ 9	DEMOTION	2F7
SENIOR INVENTORY OPE	02/13/09	7/ 2/ 9	COURT	2F7
FOOD SERVICE AIDE	01/13/09	2/12/ 9	PROMOTION	2F5
WARDKEEPER	11/18/08	1/12/ 9	INMATE REQUEST	2F5
GENERAL WORKER	10/23/03	1/29/ 4	RELEASED/PAROLED	2F5
DESIGNATED FACILITY	09/19/03	10/ 8/ 3	INSTIT TRANSFER	2F7
DESIGNATED FACILITY	03/06/02	9/ 2/ 3	INSTIT TRANSFER	2F7

HORT SPEC GROWER, IN	08/07/01	3/ 5/ 2	INSTIT TRANSFER
CANTEEN OPERATOR	07/12/01	8/ 2/ 1	INSTIT TRANSFER

2F5
2F5

NORRIS, III, CARNIE - FBI # 304672V6 SID# SC00246536 SCDC # 227226 (CONTINUE

RECREATION AIDE	06/08/01	7/11/	1	LATERAL TRANSFER	2F5
RECREATION AIDE	11/16/00	6/ 7/	1	MI ELIGIBLE FOR LEVEL 2	3F5
CUSTODIAN HELPER	08/01/00	11/15/	0	INMATE REQUEST	3F5
PARA-PROF COUNS#1 SK	05/03/00	7/31/	0	INSTIT TRANSFER	3F5
FOOD SERVICE AIDE	01/07/00	5/ 2/	0	LATERAL TRANSFER	3F5
TEACHER ASSISTANT	01/31/98	1/ 5/	0	INSTIT TRANSFER	3F5
LIBRARY HELPER	10/30/97	1/30/98		INSTIT TRANSFER	3F5
PARA-PROF COUNS#1 SK	07/10/97	10/17/97		INSTIT TRANSFER	3F5
PARA-PROF COUNS#1 SK	02/03/97	7/ 9/97		REMOVAL FROM 7 DAY CREDIT	3F7
CLASSROOM LEADER	12/12/96	2/ 2/97		INMATE REQUEST	3F7
CLASSROOM LEADER	01/21/96	12/ 1/96		DISCIPLINARY/LOCK-UP	3F7
TEACHER AIDE	01/20/96	1/20/96		PROMOTION	5F5
TEACHER AIDE	11/15/95	1/19/96		INSTIT TRANSFER	5F7

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 4-7 HRS/WK	03/16/01	5/ 1/ 1	COMPLETED EDUC PROGRAM
BONUS 8-11 HRS/WK	01/31/01	3/15/ 1	LATERAL TRANSFER
BONUS 4-7 HRS/WK	01/10/01	1/30/ 1	LATERAL TRANSFER

***** END OF REPORT *****

SOUTH CAROLINA

SPARTANBURG

VS.

Carnie Norris III

IN THE COURT OF GENERAL SESSIONS

537

INDICTMENT/CASE#: 2008GS4205631

A/W#: M022991

Date of Offense: 7/16/2008

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

227226

New

May 10

Age: 48
Sex: M
Race: B
JOB:
Address: 4692 Liberty Hwy
Anderson, SC 29621
DL#: SID#:

SENTENCE SHEET

Disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

Barry Barnett 13039 Attorney for Defendant
BARNETTE, BARRY SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 28 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, § 47.12 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$100, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, § 90.7 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$3.75, TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly installments of \$ beginning
paid to Public Defender
Other:
DATED 7/17/09

Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk J. Camp
Court Reporter: Lind Moffitt
SCCA/217 (06/2009)

PRESIDING JUDGE
Judge Code: 2
Sentence Date: July 17, 2009

0000 0001 0338

WITNESSES

Samuel Berkeley
Spartanburg City Police Dept.
145 Broad St.
Spartanburg, SC 29301

ARREST WARRANT NO.

E-423435

ACTION OF GRAND JURY

*John K...
Foreman of Grand Jury*

VERDICT

Foreman of Petit Jury

Date:

DOCKET NO. 46-4534

The State of South Carolina,

County of Spartanburg (05A)

07/02/95

COURT OF GENERAL SESSIONS

OCT 09 1995

TERM

THE STATE

vs.

Carnie Norris, III

Indictment for Burglary
(Dwelling)

Holman C. Gossett, Jr.

I, Carnie Norris III
hereby appear in my own proper person and plead
guilty to Burglary 2nd (non-violent)
On the within indictment.
Witness: X
H. H. Hatcher, Jr.
Clerk of Court

ILLEGIBLE REPRODUCTIONS OF MICROFILMED RECORDS ARE DUE
TO THE QUALITY OF THE ORIGINAL DOCUMENTS. ALL MICROFILMED
RECORDS ARE APPROVED AS TO QUALITY & LEGIBILITY BY THE
SC DEPT. OF ARCHIVES & HISTORY ORIGINAL MICROFILM IS
AVAILABLE FOR VIEWING AT THE SCDC INACTIVE RECORDS CENTER.

Form 9
State of South Carolina
County of Spartanburg

THE COURT OF GENERAL SESSIONS
No. 94-GS-42-1691

STATE
-VS-
Carrie Morris, III
DEFENDANT
SID# CO 146536-05

ORDER

Accessory After the Fact
Name of Offense
01-01-61
SGDCY or OOB

Whereas the above named defendant has been charged with violating the conditions of probation ordered on 02-03, 1995 in the Court of General Sessions of Spartanburg County as set forth in the warrant or citation filed herein.

After hearing the evidence and being duly advised, I find the defendant has violated one or more of the conditions of supervision as set forth in the affidavit filed herein and dated 02-06-95 10-12, 1995 a copy of which is incorporated by reference.

- IT IS ORDERED that the suspended sentence be revoked and the above named defendant be required to serve 10 months/years of the 10 months/years sentence identified above, and/or pay \$; the defendant is not to be reinstated on probation. This action is taken in the (presence/absence) of the defendant.
- IT IS ORDERED that the suspended sentence be revoked and the above named defendant be required to serve months/years of the original months/years sentence (and/or) pay \$; thereupon to be reinstated on probation as provided in the sentence identified above and subject to the conditions set forth therein and not inconsistent with this order. This action is taken in the (presence/absence) of the defendant.
- IT IS ORDERED that the suspended sentence be revoked and the above named defendant be required to serve months/years (and/or) pay \$ of the defendant is not to be reinstated on probation. This action is taken in the (presence/absence) of the defendant.
- The defendant has previously served 0 months/years on this sentence.
- IT IS ORDERED that the above named defendant is continued on probation as provided for in the sentence identified above and subject to the conditions set forth therein and not inconsistent with this order. This action is taken in the (presence/absence) of the defendant.

Additional Conditions ordered by the Court:
Put in the county's possession letter that the defendant brought to
Mr. G.
prosecutor's name given last with Myra's letter named this court
in Spartanburg sec. Also a warrant probation 95-GS-42-4539.

This 12 day of October, 1995
Spartanburg, SC
George Ching, Presiding Judge
7:2 Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful special conditions it deems proper; or it may extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may, if it sees fit, impose any judgment and sentence it might have imposed in the first instance.

This is to certify that I have read or have had read to me the Order and the Conditions set out therein. I agree to comply with such conditions and the conditions of my probation order identified above during the period of my probation. I have received a copy of this court order and my sentence identified above.

Witnessed by: _____ Signed: _____ Probationer

Signed this _____ day of _____, 19____, at _____, SC.

SENTENCE

STATE OF SOUTH CAROLINA

CASE NO. 95-GS-42-4540

SPARTANBURG COUNTY

The defendant Cornie Norris III is committed to the State Department of Corrections/~~county~~ for a term of 15 ~~months~~/years ~~and/or to pay a fine of \$~~; provided upon the service of 9 ~~months~~/years and/or payment of \$~~_____~~, plus pay/waive costs and assessments as applicable*, the balance suspended with probation for 5 ~~months~~/years. consecutive to any other sentence.

Restitution For physical injury \$ _____
Yes/No property damage \$ _____
to be paid recommened ATN while incarcerated
to clerk for _____.**

Other conditions complete a substance abuse program including inpatient treatment if necessary.

Date January 17 1996

[Signature]
Presiding Judge

*Costs and Assessments
Non-waivable \$ _____
Not waived \$ _____
Total \$ _____

PERRY H & E CENTER
FINGERPRINTED
JAN 18 1996

[Signature]
Clerk of Court

**Pay to Victim's Compensation Fund if subrogated.