

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Richland County

J. Ernest Kinard, Jr., Circuit Court Judge

---

**RECEIVED**

AUG - 6 2013

**S.C. Supreme Court**

DARRELL BROWN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000266

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APPENDIX

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DAVID ALEXANDER  
Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ROBERT D. CORNEY  
Assistant Attorney General  
P. O. Box 11549  
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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FORM 5

*2012 CP 400/539*

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND )

Darrell T. Brown, SCDC No. 302202 )  
Full name and prison number (if any) of Applicant. )

v. )

State of South Carolina )

APPLICATION  
POST-CONVICTION

RICHLAND COUNTY  
FILED  
2012 FEB 23 PM 4:20  
JEANNETTE W. MACBRIDE  
Clerk of Court

**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 The Applicant is currently on parole in Richland County
2. Name and location of Court which imposed sentence General Sessions, Richland County
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) Indictment 2002-GS-40-04595, Attempted Strong Arm Robbery
  - (b) Indictment 2002-GS-40-04594, Attempted Strong Arm Robbery
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) Indictment 2002-GS-40-0495 - 15 years, credit for time served
  - (b) Indictment 2002-GS-40-0494 - 5 years, consecutive, credit for time served

- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) The Applicant pled guilty to a negotiated sentence and did not want an appeal
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Applicant pled guilty to two counts of attempted strong arm robbery. He was sentenced to 15 years on one strong arm robbery charge and 5 years consecutive on the other charge. The Honorable G. Thomas Cooper, Jr. sentenced the Applicant and ordered that he be given 726 days of time served credit on both sentences as shown by the sentencing sheets which are a part of the Applicant's conviction records on file with the South Carolina Department of Corrections and the Richland County Clerk of Court. Applicant contends that the time served credit on both sentences given by Judge Cooper is being incorrectly interpreted and applied by the South Carolina Department of Corrections and South Carolina Department of Probation, Parole, and Pardon Services. Applicant contends that had the South Carolina agencies correctly calculated applied credits according to the sentence handed down by Judge Cooper, SCDC should have released him from custody on September 23, 2010 as that is the date that his sentences were completed. However, due to the improper calculation of his credit for time served, the Applicant was not released on parole until October 27, 2011. Applicant further contends that he should not be on parole because his sentences have been served and completed. As a result, Applicant further contends that he was held in custody past the date of release and is currently being subjected to conditions of confinement while on parole beyond the expiration of his sentences. Thus, the Applicant was subjected to and is continuing to be subjected to an illegal sentence under the law of South Carolina.

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

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

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

(a) See #10 above.

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

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

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

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_

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

(a) the specific nature thereof:

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

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

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

iv. \_\_\_\_\_

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

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

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

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

iv. \_\_\_\_\_

(c) the disposition thereof:

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

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

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

iv. \_\_\_\_\_

(d) the date of each such disposition:

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

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

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

iv. \_\_\_\_\_

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

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

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) \_\_\_\_\_

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

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

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

(a) your arraignment and plea? Yes - Douglas E. Leadbitter

(b) your trial, if any? Yes - Douglas E. Leadbitter

(c) your sentencing? Yes - Douglas E. Leadbitter

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes - Douglas E. Leadbitter for

this PCR Application

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. Douglas E. Leadbitter

Douglas E. Leadbitter, LLC, Post Office Box 945, Blythewood, SC 29016

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

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

(b) the proceedings at which each such attorney represented you:

i. Trial and guilty plea, and in this PCR action

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

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

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

The Applicant is requesting the PCR Court to issue an Order to the South Carolina Department of Corrections and the South Carolina Department of Probation, Parole and Pardon Services for his immediate and unconditional release from parole and any other form of confinement. Applicant further requests that the Court expedite a hearing on this matter due to the nature of the illegal sentence allegations so that he can get relief from the illegal sentence timely as the Applicant has no other means to seek relief from conditions of confinement of this illegal sentence. While the Applicant acknowledges that PCR is not the proper proceeding to seek monetary damages for his illegal confinement and the Applicant is not seeking relief for monetary damages from his illegal confinement in this PCR action, the Applicant specifically reserves and does not waive the right to seek further redress in the proper venue for his monetary damages.

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

No

STATE OF SOUTH CAROLINA )  
 )  
County of Richland )

VERIFICATION

I, Darrell T. Brown, 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.

Darrell Brown

SWORN to and subscribed before me this 30<sup>th</sup>  
day of January, 2012

John Samuel Beals (L.S.)  
Notary Public

My Commission Expires: 01/18/2021



JOHN SAMUEL BEALS  
Notary Public, State of South Carolina  
My Commission Expires 1/18/2021

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

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

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

Darrell Brown  
.....

SWORN or affirmed to and subscribed before me this  
30<sup>th</sup> day of January, 2012

John Samuel Beals  
Notary Public

My Commission Expires: 01/18/2021

JOHN SAMUEL BEALS  
Notary Public, State of South Carolina  
My Commission Expires 1/18/2021



RICHLAND COUNTY  
FILED  
2012 FEB 23 PM 4:20  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

STATE OF SOUTH CAROLINA )  
 COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS )  
 FOR THE FIFTH JUDICIAL CIRCUIT )

2012CP4001538 )

BROWN Darrell T, 302202 )

Applicant, )

v. )

RETURN AND MOTION TO )  
 DISMISS )

State of South Carolina, )

Respondent. )

In response to the post-conviction relief application filed February 23, 2012 the Respondent would show the following.<sup>1</sup>

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was true bill indicted at the July 2002 term of the Richland Grand Jury for Attempted Armed Robbery (2 counts) – 02-GS-40-04594;04595. The Applicant was represented by attorney Douglas E Leadbitter, Esquire, on the charge(s). The Applicant appeared before The Honorable G. Thomas Cooper, Jr. on May 18, 2004 where he pled guilty and was sentenced pursuant to negotiations to fifteen (15) years imprisonment on one count to be followed consecutively by five (5) years imprisonment for the second count. The Applicant did not appeal his conviction or sentences.

<sup>1</sup><http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2012CP4001538&CourtType=G&CaseType=Civil&CourtAgency=40002>

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject convictions. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

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

(a) Applicant pled guilty to two counts of attempted strong arm robbery. He was sentenced to 15 years on one strong arm robbery charge and 5 years consecutive on the other charge. The Honorable G. Thomas Cooper, Jr. sentenced the Applicant and ordered that he be given 726 days of time served credit on both sentences as shown by the sentencing sheets which are a part of the Applicant's conviction records on file with the South Carolina Department of Corrections and the Richland County Clerk of Court. Applicant contends that the time served credit on both sentences given by Judge Cooper is being incorrectly interpreted and applied by the South Carolina Department of Corrections and South Carolina Department of Probation, Parole, and Pardon Services. Applicant contends that had the South Carolina agencies correctly calculated applied credits according to the sentence handed down by Judge Cooper, SCDC should have released him from custody on September 23, 2010 as that is the date that his sentences were completed. However, due to the improper calculation of his credit for time served, the Applicant was not released on parole until October 27, 2011. Applicant further contends that he should not be on parole because his sentences have been served and completed. As a result, Applicant further contends that he was held in custody past the date of release and is currently being subjected to conditions of confinement while on parole beyond the expiration of his sentences. Thus, the Applicant was subjected to and is continuing to be subjected to an illegal sentence under the law of South Carolina.

## III.

Timeliness – S.C. Code §17-27-45(a)

The Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). For the purposes of this Return, the Applicant's conviction/sentence was finalized on the date of his conviction or the date of the Remittitur from any direct appeal, whichever was later, i.e. May 18, 2004. Adding one (1) year per S.C. Code § 17-27-45(a) and one (1) day per Rule 6(a), SCRPC means that this PCR application had to be filed by May 19, 2005. **This Application was filed on February 23, 2012, which was beyond the time that the statutory filing period had expired, i.e. -2471 days.**

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of

law.” Therefore, the Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

#### IV.

#### NOT COGNIZABLE GROUNDS FOR RELIEF

Further, the application should be summarily dismissed because the Applicant’s allegation is not cognizable in a post-conviction relief application. Aside from two matters specifically mentioned in the statute, post-conviction relief is a proper avenue of relief only when the Applicant mounts a collateral attack challenging the validity of his conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). A credit-related claim or challenge to other conditions of confinement does not fall into that category. *Id.* A claim alleging an improper sentence calculation by the South Carolina Department of Corrections is not a proper grounds for relief through post-conviction relief. Furthermore, a challenge to the conditions upon which parole and/or probation eligibility is determined or decided is not cognizable in a post-conviction relief application. Jernigan v. State, 340 S.C. 256, 531 S.E.2d 507 (2000). Applicant alleges he is unlawfully on probation as a result of an improper sentence calculation by the South Carolina Department of Corrections. Specifically, Applicant contends he was not given proper credit for pre-plea incarceration time as ordered by the plea judge and, had that calculation been properly made, his sentence and subsequent probation would be terminated. Pursuant to Rule 12(b)(6), SCRPC, and Al-Shabazz, this Court should summarily

dismiss this allegation because it does not state a claim for which relief may be granted, nor is it a cognizable grounds for relief in a post-conviction relief proceeding.

V.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VI.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired and for any other reasons as explained above.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY ELLIOTT  
Senior Assistant Deputy Attorney  
General

ROBERT D. CORNEY  
Assistant Attorney General

P.O. Box 11549  
Columbia, S.C. 29211

By: 

Attorneys for the Respondents

March 23, 2012

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS )  
FOR THE FIFTH JUDICIAL CIRCUIT )

**BROWN Darrell T -** )  
**# 00302202,** )

**2012CP4001538** )

Applicant, )

v. )

**CERTIFICATE OF SERVICE** )

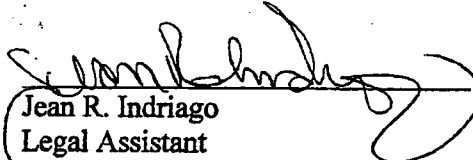
State of South Carolina, )

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 a letter in the above-captioned matter on the following person(s) by routing the same to the United States mail, postage prepaid:

Douglas E. Leadbitter, Attorney at Law  
P.O. Box 945  
Blythewood, South Carolina 29016

DATED March 30, 2012.



Jean R. Indriago  
Legal Assistant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
	)	2012CP4001538
BROWN Darrell T, 302202	)	
	)	
Applicant,	)	
	)	
v.	)	CONDITIONAL ORDER OF DISMISSAL
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

This matter comes before this Court by way of an application for post-conviction relief filed February 23, 2012.<sup>1</sup>

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was true bill indicted at the July 2002 term of the Richland Grand Jury for Attempted Armed Robbery (2 counts) – 02-GS-40-04594;04595. The Applicant was represented by attorney Douglas E Leadbitter, Esquire, on the charge(s). The Applicant appeared before The Honorable G. Thomas Cooper, Jr. on May 18, 2004 where he pled guilty and was sentenced pursuant to negotiations to fifteen (15) years imprisonment on one count to be followed consecutively by five (5) years imprisonment for the second count. The Applicant did not appeal his conviction or sentences.

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<sup>1</sup>  
<http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2012CP4001538&CourtType=G&CaseType=Civil&CourtAgency=40002>

In making its decision, the Court had before it the available records of the Richland County Clerk of Court regarding the subject convictions, and/or the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, and the *Respondent's Return and Motion to Dismiss*.

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

(a) Applicant pled guilty to two counts of attempted strong arm robbery. He was sentenced to 15 years on one strong arm robbery charge and 5 years consecutive on the other charge. The Honorable G. Thomas Cooper, Jr. sentenced the Applicant and ordered that he be given 726 days of time served credit on both sentences as shown by the sentencing sheets which are a part of the Applicant's conviction records on file with the South Carolina Department of Corrections and the Richland County Clerk of Court. Applicant contends that the time served credit on both sentences given by Judge Cooper is being incorrectly interpreted and applied by the South Carolina Department of Corrections and South Carolina Department of Probation, Parole, and Pardon Services. Applicant contends that had the South Carolina agencies correctly calculated applied credits according to the sentence handed down by Judge Cooper, SCDC should have released him from custody on September 23, 2010 as that is the date that his sentences were completed. However, due to the improper calculation of his credit for time served, the Applicant was not released on parole until October 27, 2011. Applicant further contends that he should not be on parole because his sentences have been served and completed. As a result, Applicant further contends that he was held in custody past the date of release and is currently being subjected to conditions of confinement while on parole beyond the expiration of his sentences. Thus, the Applicant was subjected to and is continuing to be subjected to an illegal sentence under the law of South Carolina.

### Findings of Fact and Conclusions of Law

Timeliness – S.C. Code §17-27-45(a)

This Court agrees with the Respondent that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). For the purposes of this Order, the Applicant's conviction/sentence was "finalized" on the date of his conviction or the date of the Remittitur from any direct appeal, whichever was later, i.e. May 18, 2004 or N/A. Adding one (1) year per S.C. Code § 17-27-45(a) and one (1) day per Rule 6(a), SCRCF means that this PCR application had to be filed by May 19, 2005. **This Application was filed on February 23, 2012, which was beyond the time that the statutory filing period had expired, i.e. -2471 days.**

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine

issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court shall summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure.

#### **NOT COGNIZABLE GROUNDS FOR RELIEF**

Further, the application must be summarily dismissed because the Applicant's allegation is not cognizable in a post-conviction relief application. Aside from two matters specifically mentioned in the statute, post-conviction relief is a proper avenue of relief only when the Applicant mounts a collateral attack challenging the validity of his conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). A credit-related claim or challenge to other conditions of confinement does not fall into that category. *Id.* A claim alleging an improper sentence calculation by the South Carolina Department of Corrections is not a proper grounds for relief through post-conviction relief. Furthermore, a challenge to the conditions upon which parole and/or probation eligibility is determined or decided is not cognizable in a post-conviction relief application. Jernigan v. State, 340 S.C. 256, 531 S.E.2d 507 (2000). Applicant alleges he is unlawfully on probation as a result of an improper sentence calculation by the South Carolina Department of Corrections. Specifically, Applicant contends he was not given proper credit for pre-plea incarceration time as ordered by the plea judge and, had that calculation been properly made, his sentence and subsequent probation would be terminated. While Applicant artfully attempts to set forth his allegation as one under S.C. Code Ann.

§ 17-27-20(a)(5) (that his sentence has expired), at its core the allegation is one of improper sentence calculation by the Department of Corrections. Accordingly, pursuant to Rule 12(b)(6), SCRPC, and Al-Shabazz, this Court must summarily dismiss this application because it does not state a claim for which relief may be granted, nor is it a cognizable grounds for relief in a post-conviction relief proceeding.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court finds that the application for post-conviction relief should be summarily dismissed for the reasons explained above.

Based upon its review of the pleadings in this matter, this Court does not see the need to appoint counsel to represent the Applicant and expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted thirty (30) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Assistant Attorney General  
Robert D. Corney  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

AND IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
The Honorable James R. Barber, III  
Administrative Judge  
Fifth Judicial Circuit

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

**Douglas E. Leadbitter, LLC**

Post Office Box 945  
Blythewood, South Carolina 29016  
telephone: 803.348.4429  
facsimile: 803.333.0364  
email: leadbitterlaw@gmail.com

**Douglas E. Leadbitter**  
Attorney At Law

April 9, 2012

The Honorable Jeanette McBride  
Richland County Clerk of Court  
Richland County Judicial Center  
1701 Main Street, Room 205  
Post Office Box 2766  
Columbia, South Carolina 29202

Re: Darrell Brown v. State of South Carolina  
PCR Application  
DEL File No. 3.00001

Dear Ms. McBride,

Enclosed please find an original and a copy of an Objection to Summary or Conditional Dismissal, please return the copy to me in the enclosed self addressed and stamped envelope. If you have any questions or need any additional information please do not hesitate to contact me.

With highest regards,



Douglas E. Leadbitter

DEL

Enclosures

Cc: Robert Corney  
Darrell Brown (with enclosure)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
  
Civil Action No. 2012-CP-40-01538

Darrell T. Brown, SCDC 302202,

Applicant,

vs.

The State of South Carolina,

Respondent.

**Objection to Summary or Conditional Dismissal**

Applicant objects to the summary dismissal of the Application on the following grounds:

1. Counsel for Applicant was served with a Return and a proposed Conditional Order of Dismissal from the State on April 6, 2012.
2. The State asserted the affirmative defense that the application was not filed within one year of the conviction as mandated by the Uniform Post-Conviction Relief Act.
3. The State further asserted that the claim is not cognizable under the Uniform Post-Conviction Relief Act.
4. Applicant asserts that the States grounds for the summary or conditional dismissal are wholly without merit and are in contravention of the Uniform Post-Conviction Relief Act.
5. First, The Uniform Post-Conviction Relief Act specifically states any person who has been convicted of, or sentenced for a crime who claims that his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint applicant asserting that he is being held beyond the

expiration of his sentence is entitled to file an application for post conviction relief. S.C. Code Ann. Section 17-27-20 2012 (as amended).

6. The Applicant asserts that his sentence is expired and that he being held beyond the the expiration of his sentence.
7. The State further asserts that the Applicant asserted this ground in the Post-Conviction action untimely. The State asserts that the one year of conviction limitation bars the application.
8. Again the State's contention is wholly without merit. It is impossible for an Applicant who has served his entire sentence to file an Application within one year of conviction. Clearly the one year limitation does not bar an Applicant that asserts relief under the Post-Conviction Relief Act within one year of the time that the Applicant discovers that his sentence is expired and that his is being unlawfully detained. In other words the Applicant is not in violation of the one year limitation period for bringing a Post-Conviction Relief action.
9. Applicant respectfully requests that the Court deny the State's Motion to Dismiss and place this matter on the roster for a hearing on the merits.

DOUGLAS E. LEADBITTER, LLC



---

Douglas E. Leadbitter (SC Bar # 68430)  
Douglas E. Leadbitter, LLC  
Post Office Box 945  
Blythewood, South Carolina 29016  
Telephone 803.348.4429  
Facsimile 803.333.0364  
Attorney for the Applicant

## CERTIFICATE OF SERVICE

I, Douglas E. Leadbitter, attorney for the Applicant, of the law firm of Douglas E. Leadbitter, LLC, hereby certifies that I have served the foregoing **OBJECTION TO SUMMARY OR CONDITIONAL DISMISSAL** in the above-captioned case, by causing a copy of the same to be personally deposited in a United States Postal Service mail box, with the return address clearly visible, postage prepaid, addressed to the attorney(s) of record and also via facsimile transmission as indicated on the date below:

ATTORNEY FOR THE STATE:

Robert D. Corney  
Assistant Attorney General  
Rembert C. Dennis Building  
Post Office Box 11549  
Columbia, SC 29211-1549



Douglas E. Leadbitter

April 9, 2012

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
County of Richland	)	2012-CP-40-01538
	)	
DARRELL BROWN,	)	
	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT,	)	

December 5, 2012  
Columbia, South Carolina

BEFORE:

THE HONORABLE J. ERNEST KINARD, JR., JUDGE.

APPEARANCES:

DOUGLAS LEADBITTER, ESQ.  
Attorney for the Applicant

ROBERT CORNEY, ASSISTANT ATTORNEY GENERAL  
Attorney for the State

KAREN AMBROZIAK  
Official Court Reporter

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**STATE'S EXHIBITS**

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	documents	20	

1 MR. CORNEY: If I may approach with the packet from  
2 this case, Your Honor.

3 THE COURT: Okay.

4 MR. CORNEY: May it please the Court.

5 THE COURT: Sure.

6 MR. CORNEY: Your Honor, the State calls the PCR  
7 action of Darrell T. Brown. It's docket number  
8 2012-CP-40-1538.

9 Mr. Brown was true bill indicted at the July 2002  
10 term of the Richland County grand jury for attempted armed  
11 robbery. There may have been other charges associated  
12 with that, as well. I'm not sure. There were a couple  
13 that showed up on the clerk of court's website.

14 I'm not sure if it pertains to this particular charge  
15 or not. He pled guilty before Judge Cooper May 18th, 2004  
16 to the lesser included attempted strong armed robbery.

17 As part of a negotiated plea deal with the State, he  
18 was sentenced to 15 years imprisonment. I want to make  
19 sure I have this correct. It was, I think, 15 years  
20 imprisonment on one charge, and I believe he had five  
21 years to run consecutively on the second.

22 I want to make sure I'm reading this right first off.  
23 He had two counts of strong arm robbery that he pled to.  
24 I apologize, one was 15 years; the other was five years to  
25 run consecutively.

1           He did not have a direct appeal, but a Post  
2 Conviction Relief application was filed February 23rd,  
3 2012. The State filed a return and motion to dismiss  
4 March 30th, 2012 alleging the application was not timely  
5 filed and for failure to set forth a plausible ground for  
6 relief through the action.

7           Essentially, the Applicant was alleging he wasn't  
8 given proper credit for prescreen incarceration, which was  
9 subjecting him to be on parole still was the State's claim  
10 at that point in time.

11           Your Honor, we're here today solely on that claim of  
12 whether this was timely filed and appropriate action for  
13 post conviction relief. He is represented today by  
14 Mr. Douglas Leadbitter on his application.

15           MR. LEADBITTER: Thank you.

16           Your Honor, I'm Doug Leadbitter here on behalf of  
17 Darrell Brown. Your Honor, the two issues that are before  
18 you on the motion to dismiss -- I'll take one at a time.

19           The first issue concerning the statute of limitations  
20 is very much a catch 22 argument for the applicant.  
21 They're alleging that he has to bring a PCR action within  
22 one year of the date of conviction which happened in 2002  
23 in order to have a PCR action.

24           The basis of our Post Conviction Relief application  
25 is that his sentence is actually that he's being held --

1 he is being incarcerated subject to the conditions of  
2 confinement beyond the date of the -- that his sentence  
3 should have expired had the proper credit for time served  
4 been applied to his sentence.

5 He was actually paroled on October 27th, 2011. We  
6 brought the PCR action on February 23rd, 2012. Clearly,  
7 it was within one year of the date that he knew that he  
8 had a problem and he could not get any resolution.

9 The Department of Corrections wasn't going to listen  
10 to his claim that they were not properly giving him credit  
11 for the time that he had served, and therefore, should not  
12 have even put him on parole.

13 Basically, his sentence has expired, yet due to the  
14 way the Department of Corrections is handling this, is he  
15 is being held, incarcerated and subject to conditions of  
16 confinement beyond the date of his sentence.

17 THE COURT: Well, I thought he was out.

18 MR. LEADBITTER: He is out on parole, Your Honor. He  
19 is currently serving parole. He was brought on  
20 October 27th, 2011, and our position is --

21 THE COURT: So what are you -- what are you asking?  
22 I'm not following any of this.

23 MR. LEADBITTER: Okay.

24 THE COURT: I mean, trust me, I've been around, Lord  
25 knows --

1 MR. LEADBITTER: I understand.

2 THE COURT: -- 25 years.

3 MR. LEADBITTER: That -- the statute of  
4 limitations -- basically, their argument that this is  
5 untimely because it was filed in 2012, our position is  
6 that it was timely because we've done it within a year of  
7 when he was put on probation -- or excuse me, on parole;  
8 that the one year statute of limitations that they're  
9 asserting in the statute -- the PCR statute says that you  
10 have one year from the date of conviction, and our  
11 argument is that there is no way that he could have filed  
12 or known that they were going to have his sentence keep  
13 him in incarceration beyond the expiration of his sentence  
14 a year after he was convicted. That would have been 2003.

15 I mean, they're trying to use the statute of  
16 limitations as a way to keep him from being able to argue  
17 that his sentence has expired, so our position is that  
18 under the PCR statute, within the one year statute of  
19 limitations, if you're going to apply that, it's got to be  
20 from the date of discovery which is when we put him on  
21 parole when they actually --

22 THE COURT: Yeah. Well, of course, I reject that.

23 MR. LEADBITTER: Okay.

24 THE COURT: That's tough. Here is the thing about  
25 that: I may be biased about all of this, but I'm

1 almost -- I'm semi-responsible for having the one year  
2 statute of limitations because when I hit the bench, we  
3 were hearing things from 20 years ago.

4 I went to the judicial college, and I was complaining  
5 about it. They said, "Well, what about a statute of  
6 limitations?"

7 I said, "We don't have any." So I got the ten  
8 states, judges from ten states, followed me, various  
9 statute of limitations. I gave them to the judiciary  
10 community and everybody, then they passed the law.

11 So if the law says one year from the sentence, that's  
12 the end of it.

13 MR. CORNEY: And, Your Honor, I just want to make  
14 clear for the record --

15 THE COURT: I strict -- I kind of caused it to be --  
16 to have a one year -- when he finds out about it, it's  
17 tough luck. The statute says the date of sentence. If  
18 it's beyond that...

19 MR. LEADBITTER: But, Your Honor -- excuse me, not to  
20 disagree, but I -- I respectfully submit that a year after  
21 he was convicted, which would have been in 2003, this  
22 cause of action didn't exist. He didn't have a cause of  
23 action.

24 THE COURT: That's an administrative thing with the  
25 Department of Corrections, not a -- not a -- not a PCR

1 matter.

2 MR. LEADBITTER: Well, Your Honor --

3 MR. CORNEY: And --

4 MR. LEADBITTER: -- if I could address that, and I'm  
5 not trying to be disrespectful, but the PCR statute, the  
6 section of 17-27-20 specifically has exceptions in it that  
7 state that you can allege in a PCR application that  
8 you're -- you're being unlawfully detained because your  
9 sentence has expired. So the statute has this ambiguity,  
10 really, within itself.

11 THE COURT: Which I'll take that ambiguity and rule  
12 against you, so life is hard.

13 MR. LEADBITTER: Your Honor, can I proffer what that  
14 issue is beyond the Applicant --

15 THE COURT: You represent your client. You can do  
16 whatever you want.

17 MR. LEADBITTER: Okay. Your Honor --

18 THE COURT: But just for future guidance, if you have  
19 something like this, I know you don't get paid to do these  
20 things, but you need to prepare a brief so the judge knows  
21 what you're talking about, you know, address the issues,  
22 say, refer those sections and so forth and so forth.

23 Then we have got something you can follow and see  
24 whether you're correct or not. If you are agreeing to it,  
25 it sounds like you lose on all points. If you have a nice

1 brief outline, you may have won.

2 MR. LEADBITTER: Well, Your Honor --

3 THE COURT: Go ahead and put your case up.

4 MR. LEADBITTER: We did put these in the application,  
5 and it specifically states all this in the application.

6 Darrell, if you would, please.

7 THE WITNESS: How you doing, Your Honor?

8 THE COURT: Good.

9 THE CLERK: I'm going to put you under oath, sir.

10 THE BAILIFF: Place your left hand on the Bible.

11 Raise your right hand.

12 DARRELL BROWN, after being duly sworn,  
13 testified as follows:

14 THE CLERK: Have a seat there. Please speak into  
15 that microphone.

16 THE WITNESS: Good morning. My name is Darrell  
17 Brown.

18 DIRECT EXAMINATION:

19 BY MR. LEADBITTER:

20 Q Darrell, when did you first learn that you were being  
21 held or you were going to be put on parole?

22 A Well, I did -- I had a 15 year -- I'm going to  
23 explain it this way. It was --

24 Q Just answer the question, Darrell.

25 A Hold on.

1 Q When did you get put on parole?

2 A I got put on parole a year ago, about a year and a  
3 few months.

4 Q All right. That would have been in October of 2011?

5 A No. I think -- yeah, yeah, that's right; that's  
6 right.

7 Q October 27th of 2011 is when you're put on parole?

8 A Yeah.

9 Q When did you know that you were going to be put on  
10 parole? Was that the first time that you knew about it  
11 was in October of 2007, I mean 2011?

12 A Yeah, during that time.

13 Q All right. Now, Darrell, what is the basis for your  
14 assertion that your -- that your sentence is -- that  
15 you're being held beyond the expiration of your sentence?  
16 Explain to the judge what the basis is for that.

17 A Well, Judge, Judge, Your Honor, I was sentenced to a  
18 15-year sentence and a five-year sentence to run  
19 consecutive.

20 The judge gave me 726 days credit for time served to  
21 the 15 and to the five, but I maxed out the 15 first, and  
22 then the five, then the five started but like at first,  
23 they didn't want to give me the time served on the 15.

24 I had to write Ms. Barbara Scott. She helped me out  
25 to get it on the 15th. The judge recommended a

1 clarification saying that the judge -- which I heard the  
2 judge say I got it on both sentences, and it's on the  
3 document that the time served was going to have been on  
4 both sentences. They didn't give it to me on the five.

5 That's why, that's why we're here. We tried to --  
6 like I've been -- I've been -- I did a year of my time in  
7 prison, and I did a year on parole when I shouldn't have  
8 never even been on parole.

9 Q Darrell, you were given 726 days for credit for time  
10 served on one of your indictments. That was the 15-year  
11 indictment, correct?

12 A On both of them.

13 Q Well, let's take one at a time.

14 A Yes, sir.

15 Q You had a sentencing sheet for 15 years. It's  
16 checked on there where it says credit for time served on  
17 the 15-year indictment, correct?

18 A Yes.

19 Q And then on the second indictment where it's five  
20 years, you have also got -- the box is checked that you  
21 should -- were supposed to get credit for time served,  
22 correct?

23 A On the five-year sentence, yes.

24 Q And both of them, so both indictments --

25 A Both sentences.

1 Q Both indictments indicate that you were supposed to  
2 get credit for time served.

3 A Yes.

4 Q The credit for time served was a total of 726 days,  
5 correct?

6 A On each sentence.

7 Q On each sentence?

8 A Yes.

9 Q Is the Department of Corrections applying that 726  
10 days of time served to your sentence?

11 A Not on the five-year sentence.

12 Q They only applied it on the first, the 15 -- the  
13 first sentencing sheet, which is the 15-year sentence.

14 A Yes, sir.

15 MR. LEADBITTER: Your Honor, that's the basis of our  
16 argument is that the judge on the sentencing sheet --

17 THE COURT: That's what we do all the time. I mean,  
18 I understand how he can read it that way, but you only get  
19 credit one time, and Judge Cooper, which I rarely do, made  
20 it consecutive.

21 So he gave him 15, credit for time served; 770 days,  
22 and then five years. That's what he got. He can litigate  
23 that to the end of time, but he loses.

24 I understand how he could see that because you check  
25 it, and you do check it credit for time served. Now,

1 there are various reasons for it: One is, say, the 15  
2 year one got kicked out. Then he's got five, credit for  
3 time served to his benefit, but he gets credit for the  
4 time served but only one time.

5 MR. LEADBITTER: All right, your Honor. Thank you.

6 THE COURT: Thank you.

7 MR. LEADBITTER: Thank you.

8 MR. CORNEY: Just briefly, Your Honor.

9 THE WITNESS: Judge, Your Honor, I mean, why would it  
10 be under both sentences?

11 THE COURT: That's what we do. It's not on both  
12 sentences. It's -- you got a 20-year sentence. You got  
13 credit for 782 days.

14 THE WITNESS: But I mean --

15 THE COURT: I know you say it's 15 and, you know, and  
16 then 15, but you got a 20-year sentence. You got credit  
17 for all the time you were held, 700 something days.

18 THE WITNESS: I mean, why would they put it there  
19 when one sentence don't have nothing to do with the other.  
20 After I max out the 15 on there --

21 THE COURT: It does. It does.

22 THE WITNESS: -- then the five-year sentence starts.  
23 I mean --

24 THE COURT: You got credit for it. I can't explain  
25 it to you because you read it one way but that's what we

1 do --

2 THE WITNESS: I mean, that's the way it is. It ain't  
3 the way I read it. I got it on paperwork. I got it on  
4 paperwork. That's the way it is.

5 THE COURT: I know.

6 THE WITNESS: Ain't no way I put it --

7 THE COURT: That's --

8 THE WITNESS: I've done my -- I've done my time.  
9 I've done my time. I was wrong, but I mean, for my  
10 mistakes. But when y'all make mistakes, y'all just cap it  
11 up.

12 THE COURT: The judges --

13 THE WITNESS: Do what you want to do.

14 THE COURT: That's how what we do.

15 THE WITNESS: You're right that's how you do it.

16 THE COURT: That's right.

17 MR. CORNEY: Your Honor, briefly, if you don't mind,  
18 I have some questions for you.

19 MR. LEADBITTER: Answer the questions the assistant  
20 solicitor has for you.

21 MR. CORNEY: If I might approach the witness, Your  
22 Honor.

23 THE COURT: Sure.

24 CROSS-EXAMINATION:

25

1 BY MR. CORNEY:

2 Q I'm going to hand up to you to start with -- I'll  
3 hand a copy of this to opposing counsel, this is a print  
4 off from the Richland County Clerk of Court's website  
5 that's part of the -- that's part of the disposition of  
6 your case here.

7 I'll bring a copy up to Your Honor, as well. If I  
8 may approach, Your Honor.

9 All right. Mr. Brown, on the top right-hand corner  
10 there, it says arrest date. If you would, just read the  
11 date of arrest.

12 A The day I got arrested, 2002, the 23rd month.

13 Q May?

14 A The month.

15 Q If I may approach him again, Your Honor.

16 This is already part of the record, the arrest  
17 warrant.

18 A Yeah.

19 Q If you would, just read right here, the arrest  
20 warrant. It says it was served on you what day? I know  
21 it's a little hard to read.

22 A That day ain't correct. I got -- I know when I got  
23 locked up, 2002, the 23rd, the 23rd, the 23rd day.

24 Q Okay. And that says May 2002, right? That's 5---

25 A That's the 20th day. Yeah, that date is wrong.

1 Q Okay, but May of 2002, essentially. The day may be  
2 wrong but May of 2002, correct?

3 A All right.

4 Q Okay. And I want to hand up one more thing to you.  
5 This is Department of Corrections -- that's already part  
6 of the record, as well, Your Honor.

7 This is from the Department of Corrections. This is  
8 your sentencing sheet or the sheet showing the sentence  
9 you're serving right here. It says current sentence start  
10 date. What's the date that it says right there?

11 A Okay. It says the 5th month, 23rd date, 2002, like I  
12 said.

13 Q Okay. So may 23rd, 2002, the exact date the arrest  
14 warrant was served. The exact date that the Clerk of  
15 Court's website says you were arrested, the same exact day  
16 that the Department of Corrections calculated your  
17 sentence from, May 23rd, 2002, correct?

18 A Say that again, sir?

19 Q I said the exact date that's on that South Carolina  
20 Department of Corrections sheet, May 23rd, 2002 is the  
21 exact same day the arrest -- the exact same date that the  
22 Clerk of Court's website says you were arrested, and the  
23 same day that the -- or the day before the arrest warrant  
24 was served on you May 24th, 2002, according to the arrest  
25 warrant, correct?

1 A Uh-huh.

2 Q Okay. One more thing I want to hand up to you very  
3 quickly.

4 If I may approach, Your Honor?

5 THE COURT: Okay.

6 MR. CORNEY: I'll make this a part of the record, as  
7 well, after Mr. Brown identifies it.

8 BY MR. CORNEY:

9 Q Is this something -- is this a document that you  
10 recognize, Mr. Brown?

11 A What is this document?

12 Q Take a look at it. I'll give you a minute to look it  
13 over. Let me know if this is something you've seen  
14 before.

15 A I don't recall.

16 Q You've never seen the document before, your  
17 certificate of parole showing your parole date and the  
18 date that your parole expired?

19 A Yeah, I got that, yeah.

20 Q You've seen that before, okay.

21 If you would, just read off for me right here the  
22 expiration date of your parole.

23 A The 10th month, 30th, two--- 2013.

24 Q Okay. So your parole isn't set to expire until  
25 October 30th, 2013 according to the Department of

1 Probation Parole and Pardon Services, correct?

2 A Yeah.

3 Q So at this point in time, your parole is -- your  
4 sentence is not maxed out. You haven't completed your  
5 sentence. It's not until October 2013.

6 A Excuse me, sir. If they had given me the 726 days on  
7 both sentences, I would have maxed it out because five  
8 years -- you don't do no 30 months.

9 Q Okay.

10 A And 726 days credit, that's -- that's almost 24  
11 months, so 24 months, it least six months.

12 Q You --

13 A I would have maxed both sentences out. I would have  
14 maxed both sentences out the same year I maxed out the 15.

15 Q Mr. Brown, you're basing that upon the max-out date  
16 that was on your Department of Corrections sheet that you  
17 have up there which says your max-out date is  
18 October 23rd, 20---

19 A No. What I'm -- what I'm basing it on, I'm basing it  
20 on the judge gave me 726 days credit on both sentences.  
21 That's what I'm basing it on.

22 MR. CORNEY: Your Honor --

23 THE WITNESS: The judge already said what he's going  
24 to do. We don't need to go through this here, waste your  
25 time and mine.

1 MR. CORNEY: Okay. That's all the questions I have.

2 THE COURT: The judge actually didn't even do that.  
3 He said if time credit, as calculated by the Department of  
4 Corrections, that's all we ever do.

5 THE WITNESS: I mean, that's what he -- I mean, on  
6 the -- on the paper, it says time served on the 15th, on  
7 five checked off. One sentence don't have nothing to do  
8 with the other. My sentence is --

9 THE COURT: You got -- you've got --

10 THE WITNESS: Fifteen --

11 THE COURT: Fifteen years --

12 THE COURT REPORTER: I'm sorry. I cannot make a  
13 record with two people talking at the same time.

14 MR. CORNEY: Your Honor, I'd like to move in all of  
15 this in the record. I think that's the one I handed up to  
16 you a minute ago.

17 THE COURT: I got it. I'll look at it.

18 MR. CORNEY: I'll introduce that as State's Exhibit  
19 1, part of the record, as Exhibit 1.

20 (WHEREUPON, State's Exhibit No. 1 was marked for  
21 identification only.)

22 MR. CORNEY: That's all the questions I have,  
23 Mr. Brown.

24 Thank you, Your Honor.

25 MR. LEADBITTER: Nothing further, Your Honor.

1 MR. CORNEY: Just a brief closing.

2 THE WITNESS: I can't stand being around these  
3 people.

4 THE COURT: Unfortunately, he got a 15-year sentence.  
5 He got credit for every day he was held.

6 THE WITNESS: That's not what the judge gave me.  
7 That's not what he ordered.

8 THE COURT: That's what the word consecutive means.

9 THE WITNESS: No. Consecutive means --

10 THE COURT: Fifteen plus five is 20.

11 THE WITNESS: Consecutive means one sentence don't  
12 start until another one starts. Fifteen and five. If  
13 it's five together, then if he said concurrent, concurrent  
14 means together. I know what's going on.

15 THE COURT: You --

16 THE WITNESS: Concurrent means together. Concurrent  
17 means together. This -- my sentence is not concurrent.  
18 It runs consecutive. The 15 don't have nothing to do with  
19 the five.

20 I did 15, then the five starts. Come on, man. Y'all  
21 doing kangaroo court.

22 THE COURT: You don't understand. No need to talk to  
23 you.

24 THE WITNESS: You're right. You're right.

25 THE COURT: Do the order.

1 THE WITNESS: You're right.

2 THE COURT: Document the matter.

3 MR. CORNEY: Thank you very much, Your Honor. I'll  
4 prepare the order.

5 THE WITNESS: You're right.

6 MR. LEADBITTER: Thank you, Judge.

7 THE COURT: All right.

8 THE WITNESS: Wasted down here.

9

10 (Whereupon, the proceedings were concluded.)

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South Carolina Department of Probation, Parole and Pardon Services  
Certificate of Parole

416

Know all men by these presents:

CERTIFICATE OF PAROLE

It having been made to appear to the South Carolina Department of Probation, Parole and Pardon Services that the offender mentioned below who was convicted of the offense(s) indicated below in said date(s) and in said county(ies) is eligible to be Paroled, and in that there is a reasonable probability that said prisoner WILL REMAIN AT LIBERTY WITHOUT VIOLATING THE LAWS, and it being the opinion of the said South Carolina Board of Probation, Parole and Pardon Services that the release of the prisoner is not incompatible with the welfare of society, and it appearing further that the Board is satisfied that the below mentioned offender will not become a public charge on release.

It is therefore ORDERED that the said prisoner be Paroled effective on the date indicated below pending good behavior under supervision subject to the specific conditions of Parole listed below until the expiration of this maximum sentence as indicated.

This Parole shall not prevent the delivery of the prisoner to the authorities of the Federal Government or any state otherwise entitled to his or her custody. In witness whereof, this Certificate bearing the approval of the South Carolina Board of Probation, Parole and Pardon Services is issued on the date below.

By Order of: South Carolina Board of Probation, Parole and Pardon Services

Offender/Prisoner's Name: BROWN, DARRELL T.  
Parole Effective Date: October 27, 2011  
State Identification # (SID): 00565435  
SC Dept. of Corrections # (SCDC): 00302202  
Parole Ending Date: October 30, 2013

By: Raymond A. Banta  
Director of Hearings & Parole Board Support

CDR	Offense(s)	Indictment # (s)	Conviction Date(s)	County of Conviction(s)	Expiration Date(s)
137	Common law robbery, strong arm robbery	02GS404594	5/18/2004	RICHLAND	10/30/2013

CONDITIONS OF SUPERVISION

Additional Offenses or Notes Page 2

This Certificate shall not become operative until the following conditions are agreed to by the prisoner. Violation of any of these conditions may result in the immediate revocation of supervision.

- I shall report in person to the South Carolina Department of Probation, Parole and Pardon Services' office on the date of my release or not later than 8:30 AM on the next business day, and as instructed by the Department; and I shall make complete and truthful reports to the Agent.  
Please report to the office in the County of: **RICHLAND** Phone: **(803) 734-6320**
- I shall not change my residence or employment without the consent of my Agent. Further, I shall allow my Agent to visit me in my home, at my place of employment, or elsewhere at any time.
- I shall not use controlled substances, except when properly prescribed by a licensed physician; not consume alcoholic beverages to excess nor enter establishments whose primary business is the sale and drinking of alcoholic beverages. Further, I shall submit to a urinalysis, blood test or provide forensic evidence when instructed by Agents of the Department, and I agree that any of these test results may be used as evidence in any hearing.
- I shall not possess or purchase any firearms, knives, or dangerous weapons, and I shall not associate with any person who has a criminal record, or any other person whom my Agent has instructed me to avoid.
- I shall work diligently at a lawful occupation. Further, I shall notify my Agent if I become unemployed.
- I shall not violate any Federal, State, or local laws and I shall contact my Agent if I am ever arrested or questioned by a law enforcement official for any reason whatsoever.
- I shall pay a supervision fee as determined by the Department.
- I shall not leave the State without permission from my Agent. Further, if I am ever arrested in another state for violating these conditions, I hereby irrevocably waive all extradition rights I may otherwise be entitled to and agree to return to South Carolina when directed by my Agent, the court, or by a warrant.
- I shall obey all conditions of supervision set forth in this order including the payment of fines, restitution, or other payments, and the services of any period of incarceration. I will make all child support payments as ordered by the courts.
- I shall follow the advice and instructions of my Agent and I agree to comply with any further conditions imposed by the Department or its Agents.
- Unless I was convicted of or pled guilty or nolo contendere to a Class G misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year, I shall be subject to search or seizure, without a search warrant, with or without cause, of my person, any vehicle I own or am driving, and any of my possessions by: (1) any probation agent employed by the Department; or (2) any other law enforcement officer.

ADDITIONAL CONDITIONS:

02 Intensive supervision for an indeterminate period not to exceed 6 months, as determined by the Department.

04 Must have no contact with the Victim and/or Victim's family for duration of supervision.

05 Must attend and successfully complete the Addictions Treatment Unit Program (Completed), and attend Aftercare.

I hereby certify that this Statement of Conditions has been read and explained to the offender and he/she has agreed to them.

Witness Signature: [Signature]

Date: 10/31/11

I hereby certify that the conditions listed above have been read and explained fully to me and in agreement thereto, I attach my signature.

Offender Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: 316 Ferrell Dr  
COLUMBIA, SC 29204

Created: 10/25/2011

STATE OF SOUTH CAROLINA )  
 COUNTY OF RICHLAND )  
 )  
 Darrell T. Brown, # 302202, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 FOR THE FIFTH JUDICIAL CIRCUIT

2012-CP-40-01538

**ORDER OF DISMISSAL**

RICHLAND COUNTY  
 FILED  
 2013 JAN - 7 PM 12:05  
 JEANETTE W. McBRIDE  
 C.C.P. & D.S.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed February 23, 2012. The State filed a Return and Motion to Dismiss on March 30, 2012, requesting the matter be summarily dismissed as untimely filed under S.C. Code § 17-27-45(a) and for failing to state a cognizable grounds for relief through post-conviction relief. Counsel was appointed and an evidentiary hearing was convened in the matter on Wednesday, December 5, 2012, at the Richland County Courthouse. Applicant was present at the hearing with counsel, Douglas E. Leadbitter, Esquire. The Respondent was represented by Robert D. Corney of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also before this Court were copies of the records of the Richland County Clerk of Court and Applicant's records from the South Carolina Department of Corrections.

**PROCEDURAL HISTORY**

The records before this Court indicate that Applicant is presently completing his sentence on parole having been released from the South Carolina Department of Corrections in October of 2011. The underlying convictions Applicant seeks to challenge through this action arise from guilty pleas entered in Richland County. The Applicant was true bill indicted at the July 2002

term of the Richland Grand Jury for two (2) counts of Attempted Armed Robbery (2002-GS-40-4594, -4595). He was represented by attorney Douglas E. Leadbitter., Esquire, on the charge(s). On May 18, 2004, Applicant plead guilty before the Honorable G. Thomas Cooper, Jr., pursuant to negotiations with the state to two (2) counts of the lesser included Attempted Strong Arm Robbery. Judge Cooper sentenced Applicant to fifteen (15) years imprisonment on one count and five (5) years imprisonment on the other, to run consecutively to each other. No direct appeal was filed.

In the current action, Applicant set forth his request for relief based on the following alleged newly-discovered evidence:

(a) Applicant pled guilty to two counts of attempted strong arm robbery. He was sentenced to 15 years on one strong arm robbery charge and 5 years consecutive on the other charge. The Honorable G. Thomas Cooper, Jr. sentenced the Applicant and ordered that he be given 726 days of time served credit on both sentences as shown by the sentencing sheets which are a part of the Applicant's conviction records on file with the South Carolina Department of Corrections and the Richland County Clerk of Court. Applicant contends that the time served credit on both sentences given by Judge Cooper is being incorrectly interpreted and applied by the South Carolina Department of Corrections and South Carolina Department of Probation, Parole, and Pardon Services. Applicant contends that had the South Carolina agencies correctly calculated applied credits according to the sentence handed down by Judge Cooper, SCDC should have released him from custody on September 23, 2010 as that is the date that his sentences were completed. However, due to the improper calculation of his credit for time served, the Applicant was not released on parole until October 27, 2011. Applicant further contends that he should not be on parole because his sentences have been served and completed. As a result, Applicant further contends that he was held in custody past the date of release and is currently being subjected to conditions of confinement while on parole beyond the expiration of his sentences. Thus, the Applicant was subjected to and is continue to be subjected to an illegal sentence under the law of South Carolina.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

BROWN Darrell T. #302202 – Order of Dismissal (2012-CP-40-01538)

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing, as well as the arguments of counsel for both parties. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

#### **Improper Sentence Calculation for Parole Eligibility Purposes**

Respondent has requested this Court summarily dismiss the current action with prejudice as Applicant has failed to set forth a claim which, even if taken as true, entitles Applicant to relief under the Uniform Post-Conviction Procedure Act, S.C. Code § 17-27-10 through -150. This Court agrees with Respondent. The current application must be summarily dismissed as it fails to state a claim for which this court can grant relief; further, even if considered on the merits, the allegation is erroneous and does not entitle Applicant to relief.

Applicant, having been released on parole from the South Carolina Department of Corrections on October 27, 2011, contends he is currently subject to the conditions of parole as a result of the Department miscalculating his credit for time served prior to his guilty plea. Applicant contends this allegation is appropriate for post-conviction relief as it is an allegation that he is unlawfully being held in custody after the expiration of his sentence under S.C. Code § 17-27-20(a)(5). Respondent, conversely, argues the contention is one of improper sentence and credit calculation which must be raised through the administrative procedures structured by the Department of Corrections and/or the Department of Probation, Parole and Pardon Services, as articulated in Al-Shabazz v. State, 338 S.C. 354, 527 S.E. 2d 742 (2000).

Under Al-Shabazz, a credit-related claim arguing improper sentence calculation is an administrative matter and, thus, cannot be raised in a post-conviction relief proceeding. This Court agrees with Respondent and finds the allegation to be, at its very core, one challenging the Department of Corrections' calculation of Applicant's parole and "max-out" dates based upon the time credited to Applicant for his pre-plea incarceration along with any other "good time" credits earned while serving time in the department of corrections. Such an allegation must be first raised through the proper administrative avenues as set forth in Al-Shabazz. Accordingly, this claim is dismissed.

Further, after a thorough review of the record and arguments presented at the PCR hearing, this Court finds Applicant is not entitled to relief on the claim even if this Court considers the claim on the merits. At the PCR hearing, Applicant testified the plea judge ordered the Department of Corrections give Applicant credit for seven-hundred and twenty-six days served prior to the plea. This time credit, Applicant contends, was to be applied to *each* sentence imposed despite them having been set to run consecutively. With credit for those seven hundred plus days applied to both the five and fifteen year terms of imprisonment independently, Applicant said, he has maxed out his sentence and is no longer required to be on parole. Therefore, he alleges, his current parole status is unlawful as he has rightfully completed his sentence.

On cross-examination, Applicant conceded the arrest warrants reflect he was arrested for the charges on May 24, 2002; Applicant conceded that arrest date is confirmed by the Richland County Clerk of Court's online public records. Applicant also agreed the South Carolina Department of Corrections records reflect the start date of his sentence to be May 23, 2002, the day before his arrest on the charges. Finally, Applicant noted his date of completion for parole

according to the records introduced from the Department of Probation, Parole and Pardon Services is listed in October of 2013, as he will not receive "good time credits" or other credits to reduce his sentence during the days he serves his sentence on parole after his release.

Based on the above proffered testimony given by Applicant at the hearing and the record before this Court, it is clear Applicant's assertion fails on the merits as well. Under S.C. Code § 24-13-40, "[i]n every case in computing timer served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing." Further, "for purposes of parole eligibility, consecutive sentences should be treated as one general sentence by aggregating the periods imposed in each sentence." State v. Atkins, 303 S.C. 214, 219, 399 S.E.2d 760, 763 (1990). According to Applicant's records from the South Carolina Department of Corrections, he received credit for time served from May 23, 2002, until his May 18, 2004, plea date (727 days). Applicant contends those seven-hundred plus days of credit should have been applied to *both* sentences *independently*, thereby reducing his overall sentence by an aggregate 1454 days. This is an erroneous application of the statute and relevant case law. Per Atkins, Applicant's parole eligibility was calculated by the Department of Corrections based upon the *aggregate* twenty year sentence imposed; the statute allows for Applicant to receive credit for his time served (727 days) prior to plea towards the aggregate sentence being served (20 years). Applicant would have this Court give him 1454 days of credit for time served by allowing 727 days of credit to be applied *twice*. Such an argument is clearly erroneous and in direct contradiction to the statute. Therefore, the claim fails on its merits as well.

Further, the law is clear the Department of Probation, Parole and Pardon Services (DPPPS) has the *sole* authority to look to the statutes to determine parole eligibility separate and apart from the court's ability to sentence. Major v. South Carolina Dept. of Probation, Parole and

Pardon Services, 384 S.C. 457, 682 S.E.2d 795 (2009). The plea judge in this instance checked the appropriate box on the sentencing sheets to have Applicant's sentences and subsequent parole eligibility calculated independently by the Department of Corrections and DPPPS. A challenge to that calculation, while fruitless in this Court's view, should properly be brought through the department's administrative grievance procedures.

In sum, this Court finds Applicant's claim both improperly raised through this action, as well as erroneous when considered on the merits. Accordingly, this action must be denied and dismissed with prejudice.

#### CONCLUSION

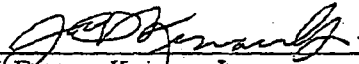
Based on all the foregoing, the current application for post-conviction relief is denied and dismissed.

This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

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

**AND IT IS SO ORDERED** this 31 day of Dec, 2012.

  
\_\_\_\_\_  
J. ERNEST KINARD, JR.  
Presiding Judge  
Fifth Judicial Circuit

Camden, South Carolina.

WITNESSES

*D. V. G. [Signature]*  
Bullock CPD [Signature]

DOCKET NO. 2002-GS-40-04594

The State of South Carolina  
County of Richland

COURT OF GENERAL SESSIONS

JULY TERM 2002

11

THE STATE  
VS.

DARRELL BROWN

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

Defendant

*DARRELL BROWN*  
I hereby appear in my own proper person and guilty to the within indictment or to any offense arising out of the same.

*Darrell Brown*  
Defendant

Witness:

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

ARREST WARRANT NUMBER

H-165498

ACTION OF GRAND JURY

TRUE BILL

*[Signature]*  
Foreperson of Grand Jury  
Date

VERDICT

Indictment for  
ATTEMPTED ARMED ROBBERY

CERTIFIED TRUE COPY  
OF ORIGINAL FILED,  
*Shirley [Signature]*  
C.C.C. S.  
RICHLAND COUNTY  
SOUTH CAROLINA



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland  
 STATE Richland VS: Darrell T. Brown  
 AKA: \_\_\_\_\_  
 Race: B Sex: M Age: 36  
 DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State: \_\_\_\_\_  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

02 GS- INDICTMENT/CASE#: 40-4594  
 AWW#: #165498  
 Date of Offense: 5/23/02  
 S.C. Code §: 16-11-330(B)  
 CDR Code #: 0101210  
 CASE RESTORED  
 SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 to Attempted Strong Arm Robbery  
 in violation of § 16-11-325 of the S.C. Code of Laws, bearing CDR Code # 0111317  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.  
 A TEST: Monica J. Coy - Darrell Brown [Signature]  
 Solicitor Defendant Attorney for Defendant

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: 02-45-40-4595 (5.18.04)  
 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.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

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

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

Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§35-13 (Public Def/Prob)	\$500
§73-3, 1B TP (Law Enforce. Funding)	\$25
§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)	\$
TOTAL	\$

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

Barbara A. Scott  
 Clerk of Court/Deputy Clerk  
 Court Reporter: Williams

CERTIFIED TRUE COPY OF ORIGINAL FILED  
 PRESIDING JUDGE [Signature]  
 Date: 0111216  
 Sentence Date: 5-18-04

RICHLAND COUNTY  
 SOUTH CAROLINA

ARREST WARRANT

H-165497

STATE OF SOUTH CAROLINA

County: \_\_\_\_\_ Municipality of \_\_\_\_\_

THE STATE

Arrest

SSN

Age: \_\_\_\_\_ Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_

State: \_\_\_\_\_ DLP: \_\_\_\_\_ Agency: \_\_\_\_\_

Security Agency: \_\_\_\_\_

Offense Code: \_\_\_\_\_

Offense Description: \_\_\_\_\_

U.S. Warrant is CERTIFIED FOR SERVICE in the

County: \_\_\_\_\_ Municipality of \_\_\_\_\_

The accused has been arrested and brought before me to be held according to law.

Signature of Judge

(L.S.)

RETURN

Copy of this arrest warrant was delivered to defendant \_\_\_\_\_

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CLERK OF DISTRICT COURT  
MUNICIPAL COURT  
P.O. BOX 64

STATE OF SOUTH CAROLINA  
County: \_\_\_\_\_ Municipality of \_\_\_\_\_

AFFIDAVIT

Personally appeared before me the affiant \_\_\_\_\_ being duly sworn, deposes and says that defendant \_\_\_\_\_ did within this county and state on \_\_\_\_\_ State of South Carolina for offense of \_\_\_\_\_ on the following particulars:  
DESCRIPTION OF OFFENSE: \_\_\_\_\_

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

Sworn to and subscribed before me on \_\_\_\_\_ at \_\_\_\_\_ Signature of Affiant \_\_\_\_\_ Affiant's Address \_\_\_\_\_

Signature of Issuing Judge

STATE OF SOUTH CAROLINA  
County: \_\_\_\_\_ Municipality of \_\_\_\_\_

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY: \_\_\_\_\_ appearing from the above affidavit that there are reasonable grounds to believe that defendant \_\_\_\_\_ did violate the criminal laws of the State of South Carolina for offense of \_\_\_\_\_

Now, therefore, you are empowered and directed to arrest the said defendant and return him to the court to which he is bound to appear. A copy of this arrest warrant shall be delivered to the defendant at the time of his execution, or as soon thereafter as is practicable.

Signature of Issuing Judge: \_\_\_\_\_ Judge's Address: \_\_\_\_\_ Judge's Telephone: \_\_\_\_\_ Issuing Court: \_\_\_\_\_

ORIGINAL

RICHLAND COUNTY  
SOUTH CAROLINA

CERTIFIED TRUE COPY

WITNESSES

*Billie G. Smith*  
Billie G. Smith - CPD, NISC

DOCKET NO. 2002-GS-40-04595

The State of South Carolina  
County of Richland

COURT OF GENERAL SESSIONS

JULY TERM 2002

11

THE STATE  
VS.

DARRELL BROWN

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

Defendant

*Darrell Brown*  
I, *Darrell Brown*, hereby appear in my own proper person and plea guilty to the within indictment and to the charge of Attempted Strong Armed Robbery.

Defendant

Witness:

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

ARREST WARRANT NUMBER

H:165497

ACTION OF GRAND JURY

TRUE BILL

For person of Grand Jury  
Date

VERDICT

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: 16-11-0330(B)  
CDR Code: 0026  
Class: FEL-C/M

CERTIFIED TRUE COPY  
OF ORIGINAL FILED,  
RICHLAND COUNTY  
SOUTH CAROLINA

For person of Pet. Jury  
Date

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

INDICTMENT

At a Court of General Sessions, convened on July 17, 2002 the Grand Jurors of Richland County present upon their oath:

ATTEMPTED ARMED ROBBERY

That Darrell Brown did in Richland County on or about May 23, 2002, while armed with a deadly weapon, attempt to feloniously take from the person or presence of Chandler Roosevelt, by means of force or intimidation goods or monies of Chandler Roosevelt, being described as follows: United States currency, with the intent to deprive the owner permanently of such property, while armed with a knife or while alleging, either by actions or words, that 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, all in violation of §16-11-330, 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

CERTIFIED TRUE COPY  
OF ORIGINAL FILED,  
Jesse  
C.C.C.  
RICHLAND COUNTY  
SOUTH CAROLINA

Warren B. Giese  
WARREN B. GIESE, SOLICITOR



