

The Supreme Court of South Carolina

The State, Respondent

v.

Jarmel Lemont Rice, Appellant.

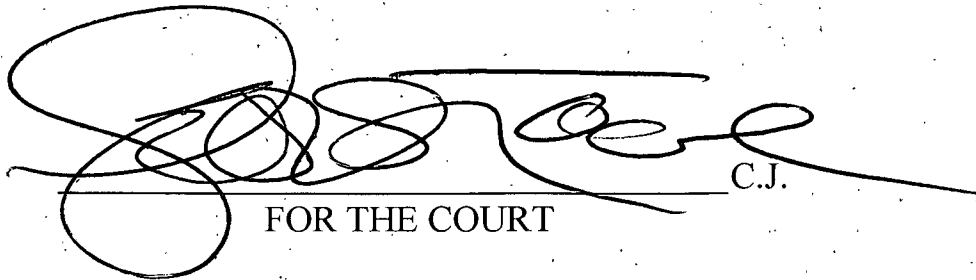
Appellate Case No. 2009-141166

ORDER

Pursuant to Rule 204(b) of the South Carolina Appellate Court Rules, this appeal is hereby certified for review by the South Carolina Supreme Court.

Upon receipt of this order, the Court of Appeals is hereby directed to forward the case file, all records and briefs and any exhibits on file to this Court.

IT IS SO ORDERED.



C.J.

FOR THE COURT

Columbia, South Carolina

July 25, 2012.

cc:

Mark Reynolds Farthing

Robert M. Pachak

Salley W. Elliott

The Honorable Jenny Kitchings



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

April 24, 2012

Assistant Attorney General Mark R. Farthing
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: The State v. Rice, Jarmel L.

Dear Counsel:

The following Order has been endorsed on your Motion to Allow Filing of Amended Designation of Matter and Supplemental Record on Appeal in the above entitled case on appeal.

"Granted.

John Cannon Few, C.J.
For the Court

By s/ Jenny Abbott Kitchings
Clerk

The amended Designation of Matter and Supplemental Record on Appeal has been received, accepted, and filed by the Court. By copy of this order, all interested parties are notified of the Court's decision regarding the above matter.

Very truly yours,

V. Claire Allen, Deputy

CLERK

JAK/lb

cc: Appellate Defender Robert Pachak

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

RECEIVED
Appellant. MAR 20 2012
SC Court of Appeals

**MOTION TO ALLOW FILING OF
AMENDED DESIGNATION OF MATTER
AND
SUPPLEMENTAL RECORD ON APPEAL**

Respondent ("the State"), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

Appellant Jarmel Lamont Rice was arrested following an investigation into several armed robberies. Based on Appellant's age, verified juvenile petitions were filed in the Anderson County family court alleging Appellant was a delinquent child based on his commission of numerous offenses, including armed robbery and kidnapping. Due to the nature of the charges, the solicitor timely petitioned for a transfer of Appellant's case to the court of general sessions. Thereafter, Appellant filed motions challenging the constitutionality of South Carolina's juvenile waiver procedure. On March 5, 2008, a hearing was held on Appellant's motions. One month

later, the family court judge issued an order denying the motions. Subsequently, a juvenile waiver hearing was conducted in the Anderson County family court. At the conclusion of the hearing, the family court judge transferred Appellant's case to the court of general sessions. Appellant was then indicted for numerous offenses by the Anderson County grand jury, and he pled guilty to three counts of armed robbery and one count of assault with intent to kill on October 14, 2009. Appellant subsequently appealed the family court judge's ruling denying his motions challenging the constitutionality of South Carolina's juvenile waiver procedure.

II.

On February 14, 2011, Appellant filed and served his Initial Brief of Appellant and Designation of Matter. In his Designation of Matter, Appellant designated the transcripts from the juvenile waiver hearing and the transcript from the guilty plea hearing. However, Appellant did not designate the transcript from the March 2008 hearing on his motions challenging the constitutionality of the juvenile waiver procedure. On January 17, 2012, the State filed and served its Initial Brief of Respondent and Designation of Matter.¹ Although the State directly referenced and cited to the March 2008 motion hearing transcript, the State inadvertently failed to designate the transcript in its designation of matter.

III.

Pursuant to Rule 210(c), SCACR, the Record on Appeal shall contain all matter designated by the parties and can include any matter presented to the lower court or tribunal. Pursuant to Rule 212(b), SCACR, a party may supplement the Record on Appeal at any time before oral argument with additional matter not included in the record after receiving written consent from opposing counsel or leave from the Court to do so.

¹ In May of 2011, the State moved to hold the appeal in abeyance until it was in receipt of the transcript from the March 2008 hearing, which had not yet been transcribed. On May 24, 2011, this Court granted the State's motion. Thereafter, the State received the March 2008 hearing transcript on September 6, 2011.

IV.

In the case sub judice, the transcript for the March 2008 motion hearing can appropriately be included in the Record on Appeal as it is a record of the lower court proceedings. Furthermore, it is significant to the appeal because Appellant is appealing the denial of the motions addressed during the March 2008 hearing. The State submits the March 2008 hearing transcript is necessary to establish a complete record of the lower court proceedings, is material to the issue raised by Appellant on appeal, and was inadvertently omitted from the State's Designation of Matter and the Record on Appeal through a mistake on the part of the undersigned counsel. Accordingly, the State asks this Court to permit it to file an Amended Designation of Matter to properly reflect the matter intended to be designated by the State and to allow it to file a Supplemental Record on Appeal containing the March 2008 hearing transcript.

WHEREFORE, Respondent prays that this Court will allow the State to file an Amended Designation of Matter and Supplemental Record on Appeal; accept the filing of the State's Amended Designation of Matter and Supplemental Record on Appeal; hold the time limits for the filing of the final briefs in abeyance pending a ruling on this motion; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

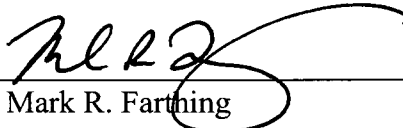
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT

By: Jerry A. Kitching
(Clerk) (Deputy Clerk)

By: 
Mark R. Farthing

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

March 20, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion to Allow Filing of Amended Designation of Matter and Supplemental Record on Appeal on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 20th day of March, 2012.

Ellen R. DuBois

ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

March 20, 2012

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: State v. Jarmel Lamont Rice

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Motion to Allow Filing of Amended Designation of Matter and Supplemental Record on Appeal, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: Robert M. Pachak, Esq.
Victim Services

RECEIVED
MAR 20 2012
SC COURT of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

RECEIVED

MAR 20 2012

vs.

SC Court of Appeals

JARMEL LAMONT RICE,

Appellant.

**AMENDED DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

In addition to the matter designated by Appellant, Respondent proposes the following to be included in the Record on Appeal:

- (1) All Indictments (Indictment # 2009-GS-04-989 through # 2009-GS-04-1001);**
- (2) Sentencing Sheets; and**
- (3) Motion Hearing Transcript, dated March 5, 2008.**

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

CHRISTINA T. ADAMS
Solicitor, Tenth Judicial Circuit

BY: 
Mark R. Farthing

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

March 20, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Amended Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 20th day of March, 2012.

Ellen R. DuBois

ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

March 20, 2012

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

RE: State v. Jarmel Lamont Rice

Dear Mr. Pachak:

I am enclosing two (2) copies of the Amended Designation of Matter, along with proof of service, in the above-referenced case.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: ~~Honorable Jenny A. Kitchings (original and one enclosed)~~
Victim Services

RECEIVED
MAR 20 2012
SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

March 20, 2012

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

RE: State v. Jarmel Lamont Rice

Dear Mr. Pachak:

I am enclosing two (2) copies of the Supplemental Record on Appeal, along with proof of service, in the above-referenced case.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: Honorable Jenny-A-Kitchings (original and nine enclosed)
Victim Services

RECEIVED
MAR 20 2012
SC Court of Appeals

The South Carolina Court of Appeals

The State,

Respondent

v.

Jarmel Lemont. Rice,

Appellant.

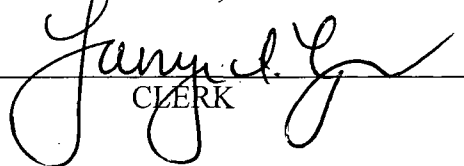
The Honorable Tommy B. Edwards
Anderson County
Trial Court Case No. 2007-JU-04-53954
2009-GS-04-00988
2009-GS-04-00990
2009-GS-04-00993
2009-GS-04-00998

ORDER

The request for an extension to serve opposing counsel with a copy of the Record on Appeal and immediately provide this Court with timely proof of service on March 19, 2012 is granted. Pursuant to the Supreme Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause.

JOHN CANNON FEW, CHIEF JUDGE

BY


CLERK

Columbia, South Carolina

cc: Appellate Defender Robert Pachak
Assistant Attorney General Mark R. Farthing

FILED
JH-2/29/12

Bellamy, Latrea

From: COA Extensions
Sent: Tuesday, February 21, 2012 7:38 AM
To: Bellamy, Latrea
Subject: FW: Jermal Lamont Rice

Follow Up Flag: Follow up
Flag Status: Flagged

*1st ext
Due 3/19/12*

From: Felicia K. Berry [mailto:FBerry@sccid.sc.gov]
Sent: Thursday, February 16, 2012 4:50 PM
To: COA Extensions
Cc: Ellen DuBois; mfarthing@scag.gov
Subject: Jermal Lamont Rice

Clerk's Office
South Carolina Court of Appeals

Re: The State v. Jermal L. Rice

Dear Ms. Gee:

The Record on Appeal in the above case is due to be served and filed with the Court today. However, we are waiting on documents, therefore, I am requesting a twenty day extension in which to serve and file this record.

By copy of this email, I am informing Salley Elliott, Esquire, of the Attorney General's office of my request.

Sincerely,

Robert M. Pachak
Appellate Defender

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

Appellant.

INITIAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

CHRISTINA T. ADAMS
Solicitor, Tenth Judicial Circuit

100 South Main Street
Anderson, SC 29624
(864) 260-4046

ATTORNEYS FOR RESPONDENT

RECEIVED

JAN 17 2012

SC Court of Appeals

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE.....2

STATEMENT OF THE FACTS4

ARGUMENT.....8

 Initially, Appellant’s challenge to the constitutionality of
 the juvenile waiver procedure is not preserved for appellate
 review because Appellant waived any claims of
 constitutional violations by pleading guilty to his charges.
 Regardless, the juvenile waiver procedure employed in
 Appellant’s case was not unconstitutional because the
 family court judge’s decision to transfer Appellant’s case to
 the court of general sessions did not authorize the
 imposition of any sentence, enhanced or otherwise, without
 a jury first determining Appellant’s guilt beyond a
 reasonable doubt.8

CONCLUSION.....19

TABLE OF AUTHORITIES

South Carolina Cases:

<u>Ex parte Cannon</u> , 385 S.C. 643, 685 S.E.2d 814 (Ct. App. 2009).	10
<u>Gibson v. State</u> , 334 S.C. 515, 514 S.E.2d 320 (1999).	9
<u>Sanders v. Leake</u> , 254 S.C. 444, 175 S.E.2d 796 (1970).	9
<u>Sanders v. State</u> , 281 S.C. 53, 314 S.E.2d 319 (1984).	10
<u>Shedden v. State</u> , 265 S.C. 334, 218 S.E.2d 421 (1975).	10
<u>State v. Bolin</u> , 378 S.C. 96, 662 S.E.2d 38 (2008).	18
<u>State v. Gentry</u> , 363 S.C. 93, 610 S.E.2d 494 (2005).	10
<u>State v. Jones</u> , 273 S.C. 723, 259 S.E.2d 120 (1979).	11
<u>State v. Jones</u> , 392 S.C. 647, 709 S.E.2d 696 (Ct. App. 2001).	10
<u>State v. Pittman</u> , 373 S.C. 527, 647 S.E.2d 144 (2007).	11
<u>State v. Sampson</u> , 317 S.C. 423, 454 S.E.2d 721 (Ct. App. 1995).	11
<u>State v. Snowdon</u> , 371 S.C. 331, 638 S.E.2d 91 (Ct. App. 2006).	8
<u>State v. Thomason</u> , 341 S.C. 524, 534 S.E.2d 708 (Ct. App. 2000).	9
<u>Vogel v. City of Myrtle Beach</u> , 291 S.C. 229, 353 S.E.2d 137 (1987).	9

United States Supreme Court Cases:

<u>Apprendi v. New Jersey</u> , 530 U.S. 466 (2000).	11, 12
<u>Blakely v. Washington</u> , 542 U.S. 296 (2004).	12
<u>Jones v. Kansas</u> , 537 U.S. 980 (2002).	14
<u>Kent v. United States</u> , 383 U.S. 541 (1966).	11
<u>McKeiver v. Pennsylvania</u> , 403 U.S. 528 (1971).	11
<u>Oregon v. Ice</u> , 555 U.S. 160 (2009).	12, 13, 17
<u>Roper v. Simmons</u> , 543 U.S. 551 (2005).	11

Other State and Federal Cases:

Caldwell v. Commonwealth, 133 S.W.3d 445 (Ky. 2004).14

In re Welfare of J.C.P., Jr., 716 N.W.2d 664 (Minn. Ct. App. 2006).14

Kirkland v. State, 67 So. 3d 1147 (Fla. Dist. Ct. App. 2011).15

People v. Beltran, 327 Ill. App. 3d 658, 765 N.E.2d 1071 (Ill. App. Ct. 2002).14

People v. Cardona, 177 Cal. App. 4th 516, 99 Cal. Rptr. 3d 313 (Cal. Ct. App. 2009).
.....13

State v. Andrews, 329 S.W.3d 369 (Mo. 2010).15, 16

State v. Emery, 636 N.W.2d 116 (Iowa 2001).10

State v. Jones, 273 Kan. 756, 47 P.3d 783 (Kan. 2002).14

State v. Kalmakoff, 122 P.3d 224 (Alaska Ct. App. 2005).13

State v. Lopez, 196 S.W.3d 872 (Tex. App. 2006).15

State v. Marks, 186 Ariz. 139, 920 P.2d 19 (Ariz. Ct. App. 1996).10

State v. Read, 397 N.J. Super. 598, 938 A.2d 953 (N.J. Super. Ct. App. Div. 2008).
.....14, 16, 18

State v. Rodriguez, 205 Ariz. 392, 71 P.3d 919 (Ariz. Ct. App. 2004).13

United States v. Miguel, 338 F.3d 995 (9th Cir. 2003).13

Other Authorities:

Act No. 361, 2008 S.C. Acts & Joint Resolutions.10

S.C. Code Ann. § 63-3-510.10

S.C. Code Ann. § 63-3-590.11

S.C. Code Ann. § 63-19-1210.10, 11

STATEMENT OF ISSUE ON APPEAL

Initially, Appellant's challenge to the constitutionality of the juvenile waiver procedure is not preserved for appellate review because Appellant waived any claims of constitutional violations by pleading guilty to his charges. Regardless, the juvenile waiver procedure employed in Appellant's case was not unconstitutional because the family court judge's decision to transfer Appellant's case to the court of general sessions did not authorize the imposition of any sentence, enhanced or otherwise, without a jury first determining Appellant's guilt beyond a reasonable doubt.

STATEMENT OF THE CASE

Appellant Jarmel Lamont Rice was arrested following an investigation into a series of armed robberies committed when Appellant was a juvenile under the age of seventeen. In 2006, verified juvenile petitions were filed in the Anderson County family court alleging Appellant was a delinquent child based on his commission of armed robbery, criminal conspiracy, unlawful carrying of a pistol, assault with intent to kill, and possession of a firearm during the commission of a violent crime. In 2007, additional verified juvenile petitions were filed in the Anderson County family court alleging Appellant was a delinquent child based on his commission of four counts of armed robbery, four counts of kidnapping, safecracking, two counts of possession of a weapon during the commission of a violent crime, and petit larceny.

Due to the nature of the charges, the solicitor timely petitioned for a transfer of Appellant's case to the court of general sessions. In January and February of 2008, Appellant filed motions challenging the constitutionality of South Carolina's juvenile waiver procedure. On March 5, 2008, the Honorable Barry W. Knobel, family court judge, conducted a hearing on Appellant's motions in the Anderson County family court. Subsequently, Judge Knobel denied Appellant's motions in an order dated April 5, 2008. On December 17, 2008, a juvenile waiver hearing was held in the Anderson County family court with the Honorable Tommy B. Edwards, family court judge, presiding. At the conclusion of the hearing, Judge Edwards transferred Appellant's case to the Anderson County court of general sessions, and the ruling was memorialized in a written order dated January 6, 2009.

Subsequently, in April of 2009, the Anderson County grand jury indicted Appellant for five counts of armed robbery, four counts of kidnapping, and one count

each of assault with intent to kill, safecracking, petit larceny, criminal conspiracy, and unlawful carrying of a pistol. On October 14, 2009, Appellant pled guilty to three counts of armed robbery and one count of assault with intent to kill before the Honorable J. Cordell Maddox, Jr., circuit court judge. The plea judge accepted Appellant's guilty pleas and sentenced him to concurrent terms of imprisonment of eleven years for each offense. Appellant then timely filed a notice of appeal.

STATEMENT OF FACTS

On August 30, 2006, fifteen-year-old Appellant Jarmel Lamont Rice knocked on the door of Raymond Oglesby's apartment and tricked Oglesby into opening the door by calling out a false name. (Order for Waiver of Jurisdiction, dated Jan. 6, 2009). When Oglesby opened the door, Appellant forced his way inside of the apartment at gunpoint, took Oglesby's car keys, ordered Oglesby outside and into the trunk of the car, tied him up, drove him to an isolated location, and directed him to lie down in a creek. (2nd Waiver Tr. p. 71; Order, dated Jan. 6, 2009). Appellant then absconded with Oglesby's car. (Order, dated Jan. 6, 2009).

Afterwards, Appellant and several accomplices developed a plan to rob a Taco Bell. (Order, dated Jan. 6, 2009). As part of the plan, Appellant disguised himself in women's clothing and observed the targeted restaurant from a nearby parking lot to ascertain the most opportune moment to commit the robbery. (Order, dated Jan. 6, 2009). Joined by one of his accomplices, Appellant then entered the Taco Bell in the early morning hours of August 31, 2006, ordered the employees inside to get onto the floor, attempted to break into the restaurant's safe by shooting it with his pistol, and robbed the employees at gunpoint while threatening to shoot them. (2nd Waiver Tr. p. 71; Order, dated Jan. 6, 2009). After obtaining the employees' belongings, Appellant then fled with his accomplices. (Order, dated Jan. 6, 2009).

Thereafter, on the evening of September 9, 2006, Appellant, who was armed with a pistol and wearing a mask to conceal his face, followed an accomplice into Maria's Snack Shop and robbed the owner of the store at gunpoint. (2nd Waiver Tr. pp. 71-72; Order, dated Jan. 6, 2009). After taking the owner's wallet, Appellant attempted to steal the money inside of the store's cash register. (Order, dated Jan. 6, 2009). However, the

owner of the store pulled out his own firearm, and a shoot-out ensued. (2nd Waiver Tr. pp. 71-72; Order, dated Jan. 6, 2009). Appellant fled from the store after completely exhausting his ammunition. (2nd Waiver Tr. p. 72; Order, dated Jan. 6, 2009).

Subsequently, Appellant was arrested and admitted to committing the robberies of the Taco Bell and Maria's Snack Shack while initially denying any involvement in the kidnapping of Oglesby. (Order, dated Jan. 6, 2009). Appellant was then charged with numerous offenses arising out of the incidents, including multiple counts of armed robbery and kidnapping. (Order, dated Jan. 6, 2009).

Due to the nature of the charges, the solicitor sought to have Appellant's case transferred to the court of general sessions. (Order, dated Apr. 5, 2008). Prior to the juvenile waiver hearing, Appellant filed motions challenging the constitutionality of the waiver procedure. (Motion, dated Jan. 25, 2008; Amended Motion, dated Feb. 13, 2008). In his motions, Appellant contended the juvenile waiver procedure denied him a right to a jury trial and violated his due process rights by permitting the family court judge and not a jury to make the requisite factual findings regarding the necessity of a transfer. (Motion, dated Jan. 25, 2008; Amended Motion, dated Feb. 13, 2008). In support of his motions, Appellant argued the juvenile waiver statutes were unconstitutional in light of the United States Supreme Court's decisions in Roper v. Simmons, 543 U.S. 551 (2005), and Apprendi v. New Jersey, 530 U.S. 466 (2000). (Motion, dated Jan. 25, 2008; Amended Motion, dated Feb. 13, 2008).

On March 5, 2008, the family court judge conducted a hearing on Appellant's motions. (Motion Tr. p. 5). During the hearing, Appellant argued the United States Supreme Court's decision in Roper, which mandated that juveniles could no longer be executed, rendered South Carolina's juvenile waiver procedure unconstitutional. (Motion

Tr. pp. 6-9). Appellant also asserted the juvenile waiver procedure was unconstitutional in light of the decision in Apprendi because he would face greater penalties if his case was transferred to the court of general sessions. (Motion Tr. pp. 10-12). In response, the family court judge noted Appellant would still be presumed innocent even if his case was transferred, and Appellant replied that his primary constitutional challenge was grounded in Roper, which he contended held juveniles could not be treated as adults. (Motion Tr. p. 13; p. 18).

Following the hearing, the family court judge rejected Appellant's constitutional challenges to the juvenile waiver procedure. (Order, dated Apr. 5, 2008). In denying Appellant's motions, the family court judge declined to find the United States Supreme Court's decision in Roper precluded juveniles from being tried in the court of general sessions. (Order, dated Apr. 5, 2008). The family court judge further found: "[I]n the event the family court decides to transfer the case to the court of general sessions, the juvenile continues to be accorded all of his/her constitutional rights and privileges (e.g., the presumption of innocence, the right to counsel, the right to a trial by jury, the right not to be compelled to testify)." (Order, dated Apr. 5, 2008). Therefore, the family court judge concluded Appellant's arguments did not constitute a sufficient basis to strike down the juvenile waiver procedure as unconstitutional. (Order, dated Apr. 5, 2008).

Subsequently, following a juvenile waiver hearing, Appellant's case was transferred to the court of general sessions. (2nd Waiver Tr. pp. 83-87; Order, dated Jan. 6, 2009). Appellant was then indicted for a litany of offenses, including four counts of armed robbery, four counts of kidnapping, and one count of assault with intent to kill. (Indictments). Thereafter, Appellant appeared in the Anderson County court of general sessions to enter guilty pleas to three counts of armed robbery and one count of assault

with intent to kill. (Plea Tr. p. 5). During the plea hearing, Appellant waived his constitutional rights and stated he wished to plead guilty to the charges. (Plea Tr. pp. 7-9). Following a recitation of the facts of his crimes, the plea judge accepted Appellant's guilty pleas and sentenced Appellant to an aggregate term of imprisonment of eleven years. (Plea Tr. pp. 14-15; pp. 23-24).

ARGUMENT

Initially, Appellant's challenge to the constitutionality of the juvenile waiver procedure is not preserved for appellate review because Appellant waived any claims of constitutional violations by pleading guilty to his charges. Regardless, the juvenile waiver procedure employed in Appellant's case was not unconstitutional because the family court judge's decision to transfer Appellant's case to the court of general sessions did not authorize the imposition of any sentence, enhanced or otherwise, without a jury first determining Appellant's guilt beyond a reasonable doubt.

Appellant contends the juvenile waiver procedure authorizing the family court judge to transfer his case to the court of general sessions was unconstitutional because it permitted the family court judge and not a jury to make factual findings that increased the penalty for his charged offenses. Initially, any issue with Appellant's constitutional challenge to South Carolina's juvenile waiver procedure is not preserved for appellate review because Appellant waived any claims of constitutional violations by pleading guilty to the indicted offenses. Furthermore, regardless of any issue preservation concerns, the juvenile waiver procedure used in Appellant's case was not unconstitutional because the family court judge's decision during the waiver hearing merely transferred jurisdiction of Appellant's case to another court and did not subject Appellant to any sentence, enhanced or otherwise, without Appellant having a right to have a jury first determine his guilt beyond a reasonable doubt. Therefore, the juvenile waiver procedure did not violate Appellant's constitutional rights. Appellant's convictions should be affirmed.

A. Issue Preservation

Generally, a knowing and voluntary guilty plea waives all non-jurisdictional defects and defenses, including claims of constitutional violations. State v. Snowdon, 371 S.C. 331, 333, 638 S.E.2d 91, 92 (Ct. App. 2006). "A defendant who pleads guilty

usually may not later raise independent claims of constitutional violations.” Gibson v. State, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999). A guilty plea admits all elements of the charged offense, waives all other defenses, and leaves open for review only the sufficiency of the indictment. State v. Thomason, 341 S.C. 524, 526, 534 S.E.2d 708, 710 (Ct. App. 2000). “A plea of guilty is a confession of guilt, made in a formal manner and has the same effect in law as a verdict of guilty and authorizes the imposition of the punishment prescribed by law.” Sanders v. Leake, 254 S.C. 444, 447, 175 S.E.2d 796, 797 (1970).

In the case at bar, Appellant challenged the constitutionality of South Carolina’s statutes establishing the juvenile waiver procedure prior to the transfer of his case to the court of general sessions. However, after his claims of constitutional violations were rejected by the family court judge and his case was transferred, Appellant knowingly and voluntarily elected to enter guilty pleas to the charged offenses. Thus, by pleading guilty, Appellant waived any of his claims of constitutional violations. See Vogel v. City of Myrtle Beach, 291 S.C. 229, 231, 353 S.E.2d 137, 138 (1987) (“A plea of guilty constitutes a waiver of nonjurisdictional defects and defenses, **including claims of violations of constitutional rights prior to the plea**. It conclusively disposes of all prior issues including independent claims of deprivations of constitutional rights.” (citations omitted) (emphasis added)). Accordingly, unless Appellant’s arguments can be considered jurisdictional in nature, Appellant’s challenge to the constitutionality of the juvenile waiver procedure is not properly preserved for appellate review.¹ Therefore, Appellant’s convictions should be affirmed.

¹ Notwithstanding the fact Appellant is only challenging the constitutionality of a statute and not the jurisdiction of the court, Appellant’s constitutional challenges to the juvenile waiver procedure should not be considered jurisdictional in nature because the juvenile transfer procedure only impacts the personal

B. Constitutionality of the Juvenile Waiver Procedure

Family courts in South Carolina have exclusive jurisdiction over cases involving children accused of engaging in criminal activity. State v. Jones, 392 S.C. 647, 652, 709 S.E.2d 696, 698 (Ct. App. 2001); see S.C. Code Ann. § 63-3-510(A)(1)(d) (mandating that the family court “shall have exclusive original jurisdiction and shall be the sole court for initiating action” concerning a juvenile under seventeen years of age who is alleged to have violated or attempted to violate any state or local laws). However, “jurisdiction of the family court over juveniles is a privilege rather than a matter of right.” Sanders v. State, 281 S.C. 53, 56, 314 S.E.2d 319, 321 (1984). In certain cases, the best interests of the public or of the juvenile may necessitate holding the juvenile accountable as an adult for his crimes. Id. Accordingly, pursuant to S.C. Code Ann. § 63-19-1210, a family court judge is permitted to transfer a juvenile criminal matter to the court of general sessions in certain cases.² Jones, 392 S.C. at 652, 709 S.E.2d at 699; see S.C. Code Ann. § 63-19-1210 (identifying the circumstances under which a juvenile’s case may be transferred to the court of general sessions).

jurisdiction of the court of general sessions, which can be waived, as opposed to the subject matter jurisdiction of the court, which cannot be waived. See Shedd v. State, 265 S.C. 334, 338, 218 S.E.2d 421, 422 (1975) (“It has been held that a juvenile may waive his right to be treated as such either by his failure to plead his age or by entering a guilty plea.”); Ex parte Cannon, 385 S.C. 643, 654, 685 S.E.2d 814, 820 (Ct. App. 2009) (“Personal jurisdiction may be waived, but subject matter jurisdiction may not be waived.”); see also State v. Marks, 186 Ariz. 139, 142, 920 P.2d 19, 22 (Ariz. Ct. App. 1996) (finding any errors in the juvenile transfer procedure only impacted the personal jurisdiction of the superior court, which could be waived, and not the subject matter jurisdiction of the court because the superior court had subject matter jurisdiction over all felony criminal cases, including those committed by juveniles); State v. Emery, 636 N.W.2d 116, 122-123 (Iowa 2001) (finding any errors in the juvenile transfer procedure impacted the personal jurisdiction of the district court over the juvenile and not the subject matter jurisdiction of the court following transfer of the juvenile’s case); see, e.g., State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005) (“Circuit courts obviously have subject matter jurisdiction to try criminal matters.”).

² On appeal, Appellant cites to Sections 20-7-7605 and 20-7-755 when referring to the relevant statutes outlining South Carolina’s juvenile waiver procedure. (App. Br. p. 5; p. 7). However, prior to the juvenile waiver hearing in Appellant’s case, our legislature amended the applicable statutory sections and reorganized the South Carolina Children’s Code under Title 63 of the South Carolina Code of Laws. See Act No. 361, 2008 S.C. Acts & Joint Resolutions (transferring the South Carolina Children’s Code from Title 20 to Title 63 effective June 16, 2008). Accordingly, the relevant statutory sections in Appellant’s case are Sections 63-19-1210 and 63-3-590.

Before transferring jurisdiction in a juvenile criminal matter, the family court must determine if a transfer is in the best interests of the juvenile and the community. State v. Pittman, 373 S.C. 527, 558, 647 S.E.2d 144, 160 (2007). In order to make this determination, the family court judge must conduct a hearing outside of the presence of a jury and make certain factual findings to determine if a transfer of the juvenile's case is warranted under the circumstances. See Kent v. United States, 383 U.S. 541, 566-567 (1966) (identifying eight factors to be considered by the family court in determining whether to transfer jurisdiction in a juvenile criminal matter); see also S.C. Code Ann. § 63-3-590 (mandating that hearings in juvenile cases be conducted separately and without a jury); McKeiver v. Pennsylvania, 403 U.S. 528, 545-546 (1971) (finding there is no constitutional right to a jury trial in juvenile proceedings). If the family court judge determines a transfer is necessary, the court of general sessions then assumes jurisdiction, authority, and power over the juvenile's case. S.C. Code Ann. § 63-19-1210(8).

In the case sub judice, Appellant contends South Carolina's juvenile transfer procedure is unconstitutional, relying on the United States Supreme Court's decision in Apprendi v. New Jersey, 530 U.S. 466 (2000).³ In Apprendi, Apprendi pled guilty to and was convicted of unlawful possession of a firearm. Id. at 469-470. During the sentencing proceedings, Apprendi's sentence was elevated above the maximum permissible sentencing limits authorized for the offense after the trial judge found Apprendi's criminal actions constituted a hate crime, which warranted an enhanced

³ During the motion hearing, Appellant primarily challenged the constitutionality of the juvenile waiver procedure on the basis it was unconstitutional in light of the United States Supreme Court's decision in Roper v. Simmons, 543 U.S. 551 (2005). (Motion Tr. p. 13). However, Appellant abandoned this particular argument on appeal by not raising it in his brief. See State v. Jones, 273 S.C. 723, 726, 259 S.E.2d 120, 122 (1979) ("Exceptions not argued in appellants' brief are deemed abandoned."); State v. Sampson, 317 S.C. 423, 427, 454 S.E.2d 721, 723 (Ct. App. 1995) (finding unchallenged and unappealed rulings are the law of the case).

sentence under New Jersey law. Id. at 470-471. On appeal, the United States Supreme Court determined the New Jersey statute authorizing the enhancement of Apprendi's sentence based on a factual finding made by the trial judge alone was unconstitutional. Id. at 491-492. In reaching this conclusion, the Supreme Court held: "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." Id. at 490. Subsequently, the Supreme Court clarified that "the 'statutory maximum' for Apprendi purposes is the maximum sentence a judge may impose *solely on the basis of the facts reflected in the jury verdict or admitted by the defendant.*" Blakely v. Washington, 542 U.S. 296, 303 (2004) (italics in original).

Thereafter, in Oregon v. Ice, 555 U.S. 160, 163 (2009), the United States Supreme Court considered the limited scope to which the rule announced in Apprendi applied. The Supreme Court explained: "The rule's animating principle is the preservation of the jury's historic role as a bulwark between the State and the accused." Id. at 168. Thus, the Court instructed that consideration of whether Apprendi applies to a statutory procedure involves determining whether the finding of a particular fact as required by that procedure was traditionally understood to fall within the domain of the jury. Id. Applying this principle to the situation in Ice, the Supreme Court determined Oregon's statute permitting a trial judge to impose consecutive sentences after making certain factual findings was not unconstitutional. Id. In reaching this conclusion, the Supreme Court cautioned: "Members of this Court have warned against 'wooden, unyielding insistence on expanding the Apprendi doctrine far beyond its necessary boundaries.' The jury-trial right is best honored through a 'principled rationale' that applies the rule of the

Apprendi cases ‘within the central sphere of their concern.’ ” Id. at 172 (citations omitted).

In the context of a juvenile waiver procedure, no appellate court in South Carolina has yet decided whether the factual findings involved in the procedure run afoul of the rule announced in Apprendi. However, numerous other state and federal courts considering the issue have virtually universally concluded the rule in Apprendi does not render unconstitutional a juvenile waiver procedure allowing a judge to solely decide whether a juvenile should be tried as an adult. See United States v. Miguel, 338 F.3d 995, 1004 (9th Cir. 2003) (“Apprendi does not require that a jury find the facts that allow the transfer to district court. The transfer proceeding establishes the district court’s jurisdiction over a defendant. Transferring Miguel to federal court for prosecution as an adult does not ‘increase the penalty for [Miguel’s felony convictions] beyond the prescribed statutory maximum’ for those crimes.” (citations omitted) (bracketing in original)); State v. Kalmakoff, 122 P.3d 224, 227-228 (Alaska Ct. App. 2005) (holding Alaska’s juvenile transfer procedure, which permitted a judge to waive a juvenile’s case to adult court after making factual findings regarding probable cause and the juvenile’s amenability to treatment, was not unconstitutional in light of the United States Supreme Court’s decisions in Apprendi and Blakely); State v. Rodriguez, 205 Ariz. 392, 401, 71 P.3d 919, 928 (Ariz. Ct. App. 2004) (“A judge’s finding that a juvenile is a chronic felony offender does not subject that juvenile to enhanced punishment; it subjects the juvenile to the adult criminal justice system. As such, [the statute authorizing the judge to make such a finding] is not constitutionally defective under Apprendi.”); People v. Cardona, 177 Cal. App. 4th 516, 532, 99 Cal. Rptr. 3d 313, 324 (Cal. Ct. App. 2009) (holding factual findings made in a juvenile transfer hearing neither increased the

maximum penalty the juvenile could receive if punished nor resulted in an adjudication of guilt or delinquency and were, thus, not unconstitutional); People v. Beltran, 327 Ill. App. 3d 658, 690-691, 765 N.E.2d 1071, 1076 (Ill. App. Ct. 2002) (“[T]he [juvenile transfer] hearing determines not the minor’s guilt but the forum in which his guilt may be adjudicated. Thus, although the juvenile court made findings that exposed him to a greater sanction, defendant had no due process right to have a jury make those findings beyond a reasonable doubt. Because Apprendi bears only on the process due in criminal proceedings, the case is simply inapplicable here.” (citations omitted)); State v. Jones, 273 Kan. 756, 778, 47 P.3d 783, 798 (Kan. 2002) (holding Kansas’ juvenile waiver procedure did not violate Apprendi because the decision regarding whether to prosecute a juvenile as an adult did not involve a determination of guilt or innocence and, instead, only involved a determination of which system was appropriate for the individual juvenile offender)⁴; Caldwell v. Commonwealth, 133 S.W.3d 445, 453 (Ky. 2004) (holding Kentucky’s juvenile transfer procedure did not violate Apprendi because the procedure did not involve sentencing or a determination of guilt or innocence and, instead, only involved a determination of which system was appropriate for a juvenile defendant); In re Welfare of J.C.P., Jr., 716 N.W.2d 664, 669-670 (Minn. Ct. App. 2006) (“Because the source of the protections afforded juveniles in juvenile delinquency proceedings is the Due Process Clause and not the Sixth Amendment, and because adult certification is a pretrial jurisdictional determination that does not result in an adjudication or a sentence, a juvenile does not have a Sixth Amendment right under Blakely to a jury determination of the facts supporting certification.”); State v. Read, 397

⁴ Following the Kansas Supreme Court’s decision in Jones, Jones filed a petition for a writ of certiorari in the United States Supreme Court, and the petition was denied. Jones v. Kansas, 537 U.S. 980 (2002).

N.J. Super. 598, 610-611, 938 A.2d 953, 960 (N.J. Super. Ct. App. Div. 2008) (determining New Jersey's juvenile waiver procedure was not unconstitutional and instructing the mere fact the transfer decision could impact the length of a potential sentence "did not convert that decision into a part of the sentencing process which under Apprendi and Blakely requires jury fact-finding beyond a reasonable doubt"); State v. Lopez, 196 S.W.3d 872, 875 (Tex. App. 2006) ("While a result of the transfer is that a defendant may be tried as an adult, the transfer itself does not involve any increase in penalty. Because the transfer from juvenile court to district court does not 'increase the penalty beyond the prescribed statutory maximum' for the offense alleged, Apprendi does not require that a jury find the facts that allow the transfer of a juvenile case for trial in criminal district court."); see also Kirkland v. State, 67 So. 3d 1147, 1150 (Fla. Dist. Ct. App. 2011) (finding a decision to try a juvenile in adult court as opposed to a juvenile court was a policy decision and not a sentencing enhancement determination, meaning no factual determination by a jury was constitutionally required).

Although not controlling, in State v. Andrews, 329 S.W.3d 369, 371-372 (Mo. 2010), the Missouri Supreme Court recently addressed a comparable issue when considering whether Missouri's highly similar juvenile certification procedure violated the constitutional rule announced in Apprendi. Under the Missouri juvenile certification procedure, a judge in the juvenile division is permitted to conduct a hearing in a case involving juvenile offender charged with felony. Id. at 371-372. Thereafter, the judge is given discretion to certify the juvenile's case and allow the juvenile to be prosecuted as an adult under the general law after making certain factual findings. Id. at 372. In Andrews, Andrews' case was certified, and Andrews challenged the constitutionality of the procedure, arguing it violated Apprendi by exposing him to a much greater sentence

since the juvenile system would have only maintained jurisdiction over his case until he turned twenty-one years old if his case had not been certified. Id. On appeal, the Missouri Supreme Court rejected Andrews' constitutional challenge, holding:

The juvenile division's consideration of statutorily defined criteria in determining whether it should retain jurisdiction over a juvenile is not the type of factual determination that was understood to be within the jury's domain by the framers of the Bill of Rights and, therefore, is not controlled by Apprendi and its progeny. In fact, the determination of those criteria does not increase the statutory maximum punishment that the juvenile will face; it only determines which court has final jurisdiction over the juvenile. The statutory maximum punishment is established by statutes found in the criminal code, not by a juvenile division in a certification proceeding.

Id. at 372-373. For these reasons, the Missouri Supreme Court concluded the juvenile certification procedure was not unconstitutional and did not violate the rule announced in Apprendi. Id. at 376.

Turning to Appellant's case, the juvenile waiver procedure followed by the family court judge did not violate Appellant's constitutional rights or the United States Supreme Court's ruling in Apprendi. Under the juvenile waiver procedure employed in Appellant's case, the family court judge analyzed several relevant factors and concluded the circumstances of Appellant's case warranted transfer to the court of general sessions. Just like in Andrews, the effect of the family court judge's decision was solely for jurisdiction in Appellant's case to be transferred to another court. Cf. Id. at 372 ("The effect of certifying a juvenile is to transfer jurisdiction over that individual's case to a court of general jurisdiction and to allow the child to be prosecuted as an adult under the general law."). The family court judge's decision did not, however, expose Appellant to any sentence at that stage of the proceedings because Appellant had not yet been convicted of any charges. Cf. Read, 397 N.J. Super. at 610, 938 A.2d at 960 ("After such

a transfer, the case proceeds in the same manner as any other criminal case. The State must present charges to a grand jury, and if an indictment is returned, the State must prove the elements of the charged offense to a petit jury beyond a reasonable doubt. If the jury finds the juvenile-defendant guilty, the trial court must impose sentence in accordance with the same statutory and constitutional provisions that govern the sentencing of any other criminal defendant, including the constitutional constraints upon sentencing set forth in Apprendi and Blakely.”).

Therefore, the juvenile waiver procedure did not result in an enhancement of Appellant’s sentence because **no** sentence could be imposed in Appellant’s case simply as a result of the transfer of his case. Critically, before any sentence could be imposed following transfer, Appellant was entitled to have a jury find him guilty beyond a reasonable doubt of each and every element of the indicted offenses. Accordingly, the juvenile waiver procedure itself did not result in the imposition of any sentence on Appellant, enhanced or otherwise. Furthermore, even after conviction, none of the factual findings made by the family court judge during the juvenile waiver hearing impacted the sentence imposed by the sentencing judge, who was still required to follow the statutory sentencing limits for Appellant’s offenses. Accordingly, as the family court judge did not make any factual findings that increased the sentence that Appellant could be subjected to beyond the statutory limits, the transfer of Appellant’s case did not implicate the Supreme Court’s decision in Apprendi.

Appellant’s arguments to the contrary seek to extend the rule from Apprendi far beyond its intended scope to a determination traditionally not falling within the province of a jury and ignore the actual effect the family court judge’s transfer decision had on his case. See Ice, 555 U.S. at 169 (“There is no encroachment here by the judge upon facts

historically found by the jury, nor any threat to the jury's domain as a bulwark at trial between the State and the accused."); see also Read, 397 N.J. Super. at 609, 938 A.2d at 959 ("[T]he requirement of jury fact-finding based on proof beyond a reasonable doubt does not apply to a pretrial determination such as whether to waive a complaint against a juvenile to adult court."). The juvenile waiver procedure followed in South Carolina does not authorize the imposition of any sentence on a juvenile offender, much less an enhanced one beyond the statutory sentencing limits for a charge offense. Accordingly, South Carolina's juvenile waiver procedure neither deprived Appellant of his constitutional rights nor violated the rules announced by the United States Supreme Court in Apprendi and its progeny. The family court judge committed no error in following the statutorily-mandated juvenile waiver procedure when he transferred Appellant's case to the court of general session. See State v. Bolin, 378 S.C. 96, 98, 662 S.E.2d 38, 39 (2008) ("When the issue is the constitutionality of a statute, every presumption will be made in favor of its validity and no statute will be declared unconstitutional unless its invalidity appears so clear as to leave no doubt that it conflicts with the constitution."). Appellant's conviction should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

CHRISTINA T. ADAMS
Solicitor, Tenth Judicial Circuit

BY:



Mark R. Farthing

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

January 17, 2011

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

Appellant.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

In addition to the matter designated by Appellant, Respondent proposes the following to be included in the Record on Appeal:

- (1) All Indictments (Indictment # 2009-GS-04-989 through # 2009-GS-04-1001); and**
- (2) Sentencing Sheets.**

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

CHRISTINA T. ADAMS
Solicitor, Tenth Judicial Circuit

BY: 
Mark R. Farthing

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

January 17, 2011

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 17th day of January, 2011.

Ellen R. DuBois

ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

RECEIVED

JAN 17 2012

SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

January 17, 2011

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

RE: State v. Jarmel Lamont Rice

Dear Mr. Pachak:

I am enclosing two (2) copies of the Initial Brief of Respondent and Designation of Matter in the above-referenced case.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: Honorable Tanya A. Gee (original and one enclosed)
Victim Services

RECEIVED
JAN 17 2012
SC Court of Appeals



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE (803) 734-1890
FAX (803) 734-1839
www.sccourts.org

January 4, 2012

Assistant Attorney General Mark R. Farthing
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: The State v. Rice, Jarmel L.

Dear Counsel:

The following Order has been endorsed on your Motion For Fifth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter in the above entitled case on appeal.

"Granted.

John Cannon Few, C.J.
For the Court

By s/ Tanya A. Gee
Clerk

The Respondent's Initial Brief and Designation of Matter are now due on January 17, 2012. Pursuant to the Supreme Court's order dated March 18, 2009, any further extension request must show the existence of extraordinary circumstances, state what actions are being taken to insure that no further extension will be required, and be signed by the appropriate attorneys.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/lb

cc: Appellate Defender Robert Pachak

ORIGINAL

Shex

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

SC Court of Appeals

RECEIVED
DEC 07 2011

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

Appellant.

**MOTION FOR FIFTH EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER**

Respondent, through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on December 7, 2011.

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the Respondent moves for a fifth extension in the above-referenced criminal appeal. Due to work required in other cases pending before this Court and the South Carolina Supreme Court, I am unable to complete this Brief on time. In the past few weeks, the undersigned has

participated in oral argument at this Court in State v. William Coaxum, Sr., State v. Richard M. Kough, State v. Sonny Stonewall Hawkins, State v. Gerald Fripp, State v. John Porter Johnson, State v. Andra Byron Jamison, State v. James Robert Nash, and State v. Daniel J. Jenkins, has participated in oral argument at the Supreme Court in State v. Charles Q. Jackson and State v. Kevin Cornelius Odems, has submitted Initial Briefs to this Court in State v. Simuel, State v. Rolan, State v. Simmons, State v. Green, State v. Jolly, State v. White, State v. Meggett, State v. Wesley, State v. Foster, and State v. Price, has filed a Petition for Rehearing in this Court in State v. Hill and State v. Coaxum, had filed a Brief of Respondent in the Supreme Court in State v. Odems, and has filed a Return to Petition for Certiorari in the Supreme Court in State v. Williams, State v. Bennett, and State v. Avery.

III.

This extension request is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared. The Initial Brief of Respondent in the above case has required extensive research because Appellant presents a significant juvenile transfer issue. The undersigned is currently working on the Initial Brief in this case and hopes to have it completed in a timely manner. I would therefore request an extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter.

WHEREFORE, Respondent prays that the Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

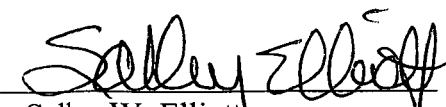
ALAN WILSON
Attorney General

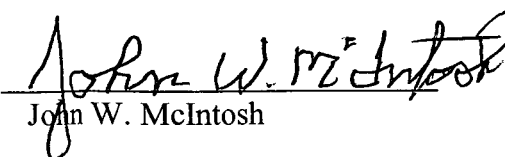
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

By: 
Mark R. Farthing

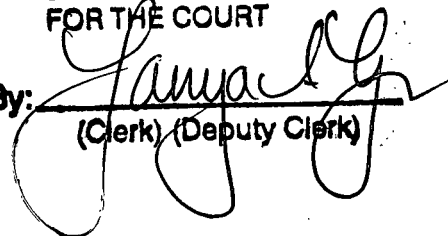
By: 
Salley W. Elliott

By: 
John W. McIntosh

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

December 7, 2011

GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT

By: 
(Clerk) (Deputy Clerk)

FILED
JR 1/4/12

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion for Fifth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 7th day of December, 2011.

Ellen R. DuBois

ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

December 7, 2011

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Jarmel Lamont Rice

Dear Ms. Gee:

Enclosed please find the original and six (6) copies of the Motion for Fifth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: Robert M. Pachak, Esquire
Victim Services

RECEIVED
DEC 07 2011
SC Court of Appeals



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 9, 2011

Assistant Attorney General Mark Farthing
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: The State v. Rice, Jarmel L.

Dear Counsel:

The following Order has been endorsed on your Motion For Fourth Extension of Time in Which to File Initial Brief of Respondent and Designation of Matter in the above entitled case on appeal.

"Granted.

John Cannon Few, C.J.
For the Court

By s/ V. Claire Allen
Deputy Clerk

The Respondent's Initial Brief and Designation of Matter are now due on December 19, 2011. Pursuant to the Supreme Court's order dated March 18, 2009, any further extension request must show the existence of extraordinary circumstances, state what actions are being taken to insure that no further extension will be required, and be signed by the appropriate attorneys.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/lb

cc: Appellate Defender Robert Pachak

ORIGINAL

Due 12/7/11

RECEIVED

NOV 07 2011

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

Appellant.

**MOTION FOR FOURTH EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER**

Respondent, through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on November 7, 2011.

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the Respondent moves for a third extension in the above-referenced criminal appeal. Due to work required in other cases pending before this Court and the South Carolina Supreme Court, I am unable to complete this Brief on time. In the past few weeks, the undersigned has

participated in oral argument at this Court in State v. William Coaxum, Sr., State v. Richard M. Kough, State v. Sonny Stonewall Hawkins, State v. Gerald Fripp, and State v. John Porter Johnson, has participated in oral argument at the Supreme Court in State v. Charles Q. Jackson, has submitted Initial Briefs to this Court in State v. Simuel, State v. Rolen, State v. Simmons, State v. Green, State v. Jolly, State v. White, State v. Meggett, State v. Wesley, and State v. Foster, has filed a Petition for Rehearing in this Court in State v. Hill, had filed a Brief of Respondent in the Supreme Court in State v. Odems, and has filed a Return to Petition for Certiorari in the Supreme Court in State v. Williams, State v. Bennett, and State v. Avery.

III.

This extension request is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared. The Initial Brief of Respondent in the above case has required extensive research because Appellant presents a significant juvenile transfer issue. The undersigned is currently working on the Initial Brief in this case and hopes to have it completed in a timely manner. I would therefore request an extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter.

WHEREFORE, Respondent prays that the Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

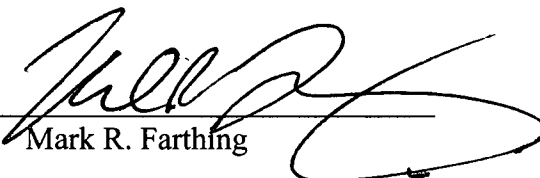
Respectfully submitted,

ALAN WILSON
Attorney General

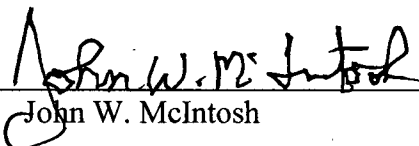
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

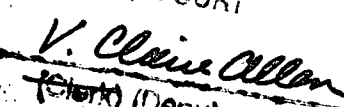
By: 
Mark R. Farthing

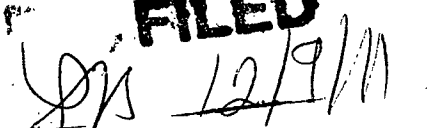
By: 
Salley W. Elliott

By: 
John W. McIntosh

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

November 7, 2011

GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT
By: 
(Clerk) (Deputy Clerk)

FILED
 12/9/11 -

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

NOV 07 2011

SC Court of Appeals

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

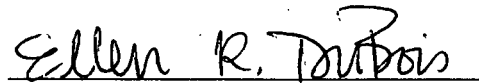
Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion for Fourth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 7th day of November, 2011.



ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

November 7, 2011

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Jarmel Lamont Rice

Dear Ms. Gee:

Enclosed please find the original and six (6) copies of the Motion for Fourth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: Robert M. Pachak, Esquire
Victim Services

RECEIVED

NOV 07 2011

SC Court of Appeals



The South Carolina Court of Appeals

TANYA A. GEE,
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMNER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX (803) 734-1839
www.sccourts.org

October 26, 2011

Assistant Attorney General Mark Farthing
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: The State v. Rice, Jarmel L.

Dear Counsel:

The following Order has been endorsed on your Motion For Third Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter in the above entitled case on appeal.

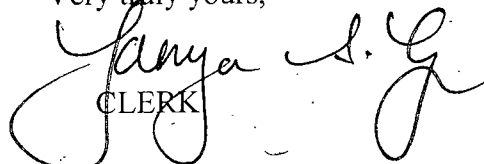
"Granted

John Cannon Few, C.J.
For the Court

By s/ Tanya A. Gee
Clerk

For good cause shown, the request for an extension to serve and file the Initial Brief of Respondent and Designation of Matter on November 7, 2011 is granted. Pursuant to the Supreme Court's order dated March 18, 2009, any further extension request must show the existence of extraordinary circumstances, state what actions are being taken to insure that no further extension will be required, and be signed by the appropriate attorneys.

Very truly yours,


CLERK

TAG/lb

cc: Appellate Defender Robert Pachak

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Pld ext

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

RECEIVED

OCT 06 2011

SC Court of Appeals

vs.

JARMEL LAMONT RICE,

Appellant.

**MOTION FOR THIRD EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER**

Respondent, through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on October 6, 2011.

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the Respondent moves for a third extension in the above-referenced criminal appeal. Due to work required in other cases pending before this Court and the South Carolina Supreme Court, I am unable to complete this Brief on time. In the past few weeks, the undersigned has

participated in oral argument at this Court in State v. William Coaxum, Sr., has submitted Initial Briefs to this Court in State v. Adams, State v. Hardy, State v. McClurkin, State v. Woods, State v. Ontiverous, State v. Simuel, State v. Rolen, State v. Simmons, State v. Green State v. Meggett, and State v. Wesley, has filed a Brief of Respondent in the Supreme Court in State v. Odems, has filed a Petition for Rehearing in this Court in State v. Hill, and has filed a Return to Petition for Certiorari in the Supreme Court in State v. Williams, State v. Bennett, and State v. Avery.

III.

This extension request is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared. The Initial Brief of Respondent in the above case has required extensive research because Appellant presents a significant juvenile transfer issue. The undersigned is currently working on the Initial Brief in this case and hopes to have it completed in a timely manner. I would therefore request an extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter.

WHEREFORE, Respondent prays that the Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

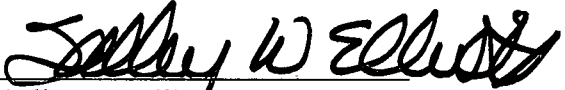
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARK R. FARTHING

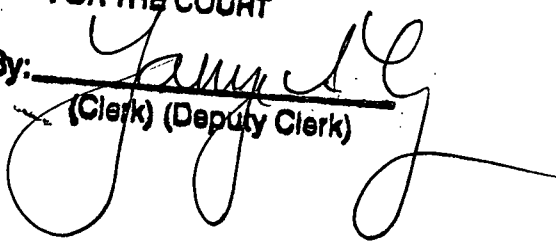
Assistant Attorney General


By: 
Mark R. Farthing

By: 
Salley W. Elliott

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

October 6, 2011

GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT
By: 
(Clerk) (Deputy Clerk)

FILED
10/26/11 

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LAMONT RICE,

Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion for Third Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 6th day of October, 2011.

Ellen R. DuBois

ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

October 6, 2011

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Jarmel Lamont Rice

Dear Ms. Gee:

Enclosed please find the original and six (6) copies of the Motion for Third Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: Robert M. Pachak, Esquire
Victim Services

RECEIVED

OCT 06 2011

SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

September 6, 2011

RECEIVED
SEP 07 2011
SC Court of Appeals

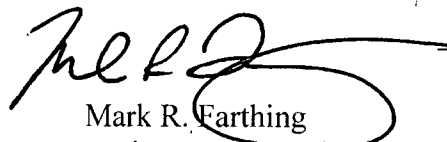
The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Jarmel Lamont Rice

Dear Ms. Gee:

The above-referenced criminal appeal was placed in abeyance pending receipt of a hearing transcript related to the case. Pursuant to the Court's order, dated May 24, 2011, this letter is to notify the Court our office received the necessary transcript on September 6, 2011. Therefore, in accordance with the Court's order, the Initial Brief of Respondent and Designation of Matter are now due to be filed and served on October 6, 2011. Thank you, and please let me know if you have any questions or concerns or if we miscalculated the appropriate filing deadline.

Sincerely,


Mark R. Farthing
Assistant Attorney General

MRF/erd

cc: Robert M. Pachak, Esq.
Victim Services



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

September 2, 2011

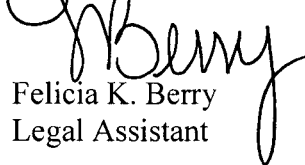
The Honorable Tanya A. Gee
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. Jermal Rice

Dear Ms. Gee:

Our office is now in receipt of the transcript that was holding the above referenced case in abeyance. Should you have any questions, please do not hesitate to contact me.

Sincerely,


Felicia K. Berry
Legal Assistant

/fkb

cc: Attorney General's Office

RECEIVED
SEP 02 2011
SC Court of Appeals



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

ORIGINAL

August 26, 2011

Ms. Desiree Allen
S.C. Court Administration
1015 Sumter Street, 2nd Floor
Columbia, South Carolina 29201-3739

RECEIVED
AUG 26 2011
SC COURT OF APPEALS

Dear Ms. Allen:

The transcript listed below was requested by this office. Pursuant to Rule 207(a)(2), SCACR, the allotted time of sixty (60) days has lapsed to either receive the transcript or an extension to deliver same.

<u>Court Reporter</u>	<u>Due Date</u>	<u>Case Name</u>
Ms. Desiree R. Allen	7/11/11	Jarmel L. Rice

Trial Date: March 5, 2008

I would appreciate your confirming in writing as to the status of the above-referenced transcript. If you should have any questions, please do not hesitate to contact me.

Sincerely,

Felicia K. Berry
Legal Assistant

cc: S.C.Court of Appeals
Attorney General's Office



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 23, 2011

Appellate Defender Robert Pachak
South Carolina Commission on Indigent Defense
P O Box 11589
Columbia, SC 29211

Re: The State v. Rice, Jarmel L.

Dear Counsel:

Please provide this Court with the status of the transcript within ten (10) days of the date of this letter.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/lb

cc: Assistant Attorney General Mark Farthing



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

June 7, 2011

Ms. Desiree R. Allen
Court Services Manager
1015 Sumter Street
Columbia, SC 29201

RECEIVED
JUN 07 2011
SC Court of Appeals

Dear Ms. Allen:

Please provide us with the following transcript:

The State v. Jarmel L. Rice

Case #:

09-GS-04-988, 990, 993,
998, 07-JU--04-539 to 543

County: Anderson

Date of Trial: March 5, 2008

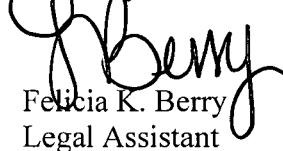
Presiding Judge: Barry W. Knobel

To ensure prompt payment, please sign and complete the enclosed CID FORM 3500 and include the original criminal case number (Indictment number) where the space is provided.

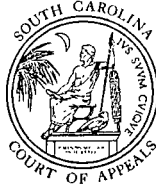
Please number the lines on the paper from 1-25, and include any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments.

If you are aware of any co-defendants or if the Attorney General's Office has already requested a transcript, please let us know.

Sincerely,


Felicia K. Berry
Legal Assistant

cc: S.C. Court of Appeals
Attorney General's Office



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX (803) 734-1839
www.sccourts.org

May 24, 2011

Assistant Attorney General Mark Farthing
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: The State v. Rice, Jarmel L.

Dear Counsel:

The following Order has been endorsed on your Motion For Second Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter in the above entitled case on appeal.

"Granted.

John Cannon Few, C.J.
For the Court

By s/ V. Claire Allen
Deputy Clerk

The following Order has been endorsed on your Motion to Hold Appeal in Abeyance Pending Receipt of Transcript in the above entitled case on appeal.

"Granted.

John Cannon Few, C.J.
For the Court

By s/ V. Claire Allen
Deputy Clerk

The Respondent is advised to immediately notify the Court when the transcript is received. The Initial Brief of Respondent and Designation of Matter will be due thirty (30) days after the transcript is received.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

May 12, 2011

Ms. Jane C. Cain
Family Court Reporter
PO Box 352
Anderson, SC 29622-0352

Dear Ms. Cain:

Please provide us with the following transcript:

The State v. Jarmel L. Rice

Case #:

09-GS-04-988, 990, 993,
998, 07-JU--04-539 to 543

County: Anderson

Date of Trial: March 5, 2008

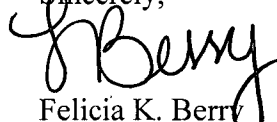
Presiding Judge: Barry W. Knobel

To ensure prompt payment, please sign and complete the enclosed CID FORM 3500 and include the original criminal case number (Indictment number) where the space is provided.

Please number the lines on the paper from 1-25, and include any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments.

If you are aware of any co-defendants or if the Attorney General's Office has already requested a transcript, please let us know.

Sincerely,


Felicia K. Berry
Legal Assistant

cc: S.C. Court of Appeals
Attorney General's Office

RECEIVED
MAY 12 2011
SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

RECEIVED
MAY 09 2011
SC Court of Appeals

THE STATE,

Respondent,

vs.

JARMEL LEMONT RICE,

Appellant.

**MOTION TO HOLD APPEAL IN ABEYANCE
PENDING RECEIPT OF TRANSCRIPT**

Respondent, through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on June 1, 2011.

II.

While preparing the Initial Brief of Respondent in this case, Respondent discovered a transcript of the hearing from March 5, 2008, had not yet been prepared. The hearing was on Appellant's motion to challenge the constitutionality of the juvenile transfer procedure, which directly relates to the central issue raised in his appeal. Therefore, Respondent believes the transcript may be necessary and critical to addressing the issue raised in this case. For this

reason, Respondent respectfully requests this appeal be held in abeyance pending receipt of the hearing transcript. Respondent has spoken to Appellant's counsel, and counsel has indicated they will be ordering the transcript. See Rule 207(a)(1), SCACR ("Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below.").

III.

Furthermore, Respondent requests this Court set a deadline of thirty days after the date the transcript is received for Respondent to prepare its initial brief.

WHEREFORE, Respondent prays that the Court hold the time for service and filing of the Initial Brief of Respondent and Designation of Matter in this case in abeyance pending receipt of the hearing transcript from March 5, 2008; set a deadline for service and filing of the Initial Brief of Respondent and Designation of Matter of thirty days after receipt of the transcript; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT

By: V. Claire Allen
(Clerk) (Deputy Clerk)

By: [Signature]
Mark R. Farthing

FILED
5/24/11

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

RECEIVED
MAY 09 2011
SC Court of Appeals

THE STATE,

Respondent,

vs.

JARMEL LEMONT RICE,

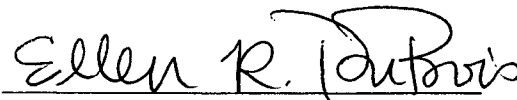
Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion to Hold Appeal in Abeyance Pending Receipt of Transcript on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 9th day of May, 2011.



ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

May 9, 2011

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Jarmel Lemont Rice

Dear Ms. Gee:

Enclosed please find the original and six (6) copies of the Motion to Hold Appeal in Abeyance Pending Receipt of Transcript, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: Robert M. Pachak, Esquire
Victim Services

RECEIVED
MAY 09 2011
SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Index.

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

RECEIVED

MAY 02 2011

SC Court of Appeals

vs.

JARMEL LEMONT RICE,

Appellant.

**MOTION FOR SECOND EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER**

Respondent, through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on May 2, 2011.

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the Respondent moves for a second extension in the above-referenced criminal appeal. Due to work required in other cases pending before this Court and the South Carolina Supreme Court, I am unable to complete this Brief on time. In the past few weeks, the undersigned has

participated in oral argument at this Court in the cases of State v. Jonathan K. Hill, State v. Kenneth Darrell Morris, II, State v. Robert Seifer, and State v. Theodore Cobbs, has submitted Initial Briefs in State v. Cook, State v. Person, State v. Brown, State v. Ballenger, State v. Bland, State v. Salisbury, State v. Campbell, and State v. Salley, has filed a Brief of Petitioner in State v. Jackson, has filed a Petition for Rehearing in State v. Frazier, has filed a Return to Petition for Rehearing in State v. Williams, and has filed a Return to Petition for Certiorari in State v. McKown.

III.

This extension request is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared. The Initial Brief of Respondent in the above case has required extensive research because Appellant presents a significant constitutional issue on appeal. The undersigned is currently working on the Initial Brief in this case and hopes to have it completed in a timely manner. I would therefore request an extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter.

WHEREFORE, Respondent prays that the Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

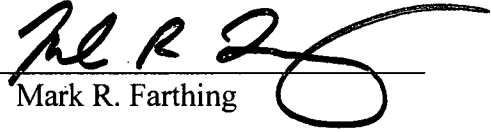
GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT

By: V. Claire Allen
(Clerk) (Deputy Clerk)

FILED

5/24/11

MARK R. FARTHING
Assistant Attorney General

By: 
Mark R. Farthing

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

May 2, 2011

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JARMEL LEMONT RICE,

Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion for Second Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 2nd day of May, 2011.

Ellen R. DuBois

ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

RECEIVED

MAY 02 2011

SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

May 2, 2011

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Jarmel Lemont Rice

Dear Ms. Gee:

Enclosed please find the original and six (6) copies of the Motion for Second Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd
Enclosures

cc: Robert M. Pachak, Esquire
Victim Services

RECEIVED
MAY 02 2011
SC Court of Appeals

The South Carolina Court of Appeals

The State,

Respondent

v.

Jarmel Lemont. Rice,

Appellant.

The Honorable Tommy B. Edwards
Anderson County
Trial Court Case No. 2007-JU-04-53954
2009-GS-04-00988
2009-GS-04-00990
2009-GS-04-00993
2009-GS-04-00998

ORDER

The request for an extension to serve and file the Initial Brief of Respondent and Designation of Matter on May 2, 2011 is granted. Pursuant to the Supreme Court's order dated March 18, 2009, any further extension request must be based on a showing of good cause.

JOHN CANNON FEW, CHIEF JUDGE

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc: Appellate Defender Robert Pachak
Assistant Attorney General Mark Farthing

4/5/11
FILED

Bellamy, Latrea

From: COA Extensions
Sent: Thursday, March 31, 2011 1:54 PM
To: Bellamy, Latrea
Subject: FW: State v. Jarmel Rice

1st ext
02/25/2/11

From: Felicia K. Berry [mailto:FBerry@sccid.sc.gov]
Sent: Thursday, March 31, 2011 11:20 AM
To: Mark Farthing; COA Extensions
Cc: Ellen DuBois
Subject: RE: State v. Jarmel Rice

We consent

Thanks,

Felicia K. Berry

South Carolina Commission on Indigent Defense

Division of Appellate Defense

Post Office Box 11589

Columbia, SC 29211-1589

(803) 734-1330

fax: (803) 734-1397

From: Mark Farthing [mailto:MFarthing@scag.gov]
Sent: Thursday, March 31, 2011 10:53 AM
To: coaextensions@sccourts.org
Cc: Ellen DuBois; Felicia K. Berry; Robert M. Pachak; Sharon A. Graham
Subject: State v. Jarmel Rice

Clerk's Office
South Carolina Court of Appeals

RE: State v. Jarmel Rice

The Initial Brief of Respondent and Designation of Matter in the above appeal are due to be served on March 31, 2011. However, due to a heavy workload, I am requesting a 30 day extension.

This is the first extension request in this case, and it is not intended for the purpose of delay. By copy of this email, I am asking that counsel for Appellant, Robert M. Pachak, Esquire, consent to this extension request.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd

Mark R. Farthing
Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, S.C. 29211
(803) 734-3727
MFarthing@scag.gov



ALAN WILSON
ATTORNEY GENERAL

February 15, 2011

Robert M. Pachak, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211-1589

Re: The State v. Jarmel L. Rice

Dear Mr. Pachak :

This letter is to confirm that our office received Appellant's Initial Brief and Designation of Matter in the above-referenced case and to advise you that I will be representing the State in this appeal. Please forward all future correspondence regarding this matter directly to me.

I look forward to working with you on this case.

Sincerely,

Mark R. Farthing
Assistant Attorney General

MRF/erd

cc: The Honorable Tanya A. Gee
Victim Services

RECEIVED
FEB 16 2011
SC Court of Appeals

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JARMEL L. RICE,

APPELLANT

INITIAL BRIEF OF APPELLANT

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT.

RECEIVED

FEB 14 2011

SC Court of Appeals

TABLE OF CONTENTS

TABLE OF CONTENTS.....1

TABLE OF AUTHORITIES2

STATEMENT OF ISSUES ON APPEAL.....3

STATEMENT OF THE CASE4

ARGUMENT5

CONCLUSION.....9

TABLE OF AUTHORITIES

Cases

Apprendi v. New Jersey, 530 U. S. 446, 120 S.Ct. 2348 (2000) 5

Cunningham v. California, 549 U.S. 270, 127 S.Ct. 856 (2007)..... 5

Kent v. United States, 383 U.S. 541 (1966)..... 7

Statutes

S.C. Code §20-7-755 5, 7

S.C. Code §20-7-7605..... 5

S. C. Code §20-7-7605..... 7

STATEMENT OF ISSUES ON APPEAL

Whether S. C. Code §20-7-7605 and §20-7-755, providing for juvenile transfers to general sessions court, violate appellant's Sixth Amendment right to a jury trial and due process of law under Apprاندi v. New Jersey, 530 U.S. 446, 120 S.Ct. 2348 (2000) because a judge, rather than a jury, determines facts that increase the penalty for a crime beyond the prescribed statutory maximum that could be imposed in juvenile court?

STATEMENT OF THE CASE

Appellant was charged in a juvenile petition with a criminal conspiracy, assault with intent to kill, armed robbery, possession of a firearm, and unlawful carrying of a pistol in Anderson County. On January 28, 2008, his attorney filed a motion entitled "Motion to Challenge the Constitutionality of Juvenile Transfer Proceeding." An amended motion was filed on February 13, 2008.

A hearing on the motion was heard on March 5, 2008, before the Honorable Barry W. Knobel. By order dated April 5, 2008, Judge Knobel denied the motion.

A waiver of jurisdiction hearing was held on December 17, 2008, before the Honorable Tommy B. Edwards. By order dated January 6, 2009, Judge Edwards transferred jurisdiction to the Court of General Sessions.

On October 14, 2009, appellant appeared before the Honorable J. Cordell Maddox, Jr. in the Anderson County Court of General Sessions and pled guilty to assault with intent to kill, and three (3) counts of armed robbery. He was sentenced to eleven (11) years on each charge.

This appeal follows.

ARGUMENT

S.C. Code §20-7-7605 and 20-7-755, providing for juvenile transfers to general session court, violate appellant's Sixth Amendment right to a jury trial and due process of law under Apprendi v. New Jersey, 530 U. S. 446, 120 S.Ct. 2348 (2000) because a judge, rather than a jury, determines facts that increase the penalty for a crime beyond the prescribed statutory maximum that could be imposed in juvenile court.

In Apprendi v. New Jersey, 530 U.S. 466, 120 S.Ct. 2348 (2000) the United States Supreme Court held that "any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." 530 U.S. at 490, 120 S.Ct. at 2362-2363. Thus, a law that authorizes a judge, and not a jury, to find facts exposing a defendant to an elevated term sentence violates a defendant's right to a jury trial. Cunningham v. California, 549 U.S. 270, 127 S.Ct. 856 (2007).

South Carolina Code Sections 20-7-7605; and 20-7-755 provide that the juvenile court will conduct a hearing, without a jury, to consider the transfer of the minor child to the Court of General Sessions for prosecution. The Court under the above referenced code sections, again without a jury, makes the following findings only under the reduced standard of a balancing test rather than the more exacting standards of clear and convincing evidence or beyond a reasonable doubt:

- (1) The seriousness of the alleged offense to the community and whether the protection of the community requires waiver;
- (2) Whether the alleged offense was committed in an aggressive and premeditated manner;

- (3) Whether the alleged offense was against persons or against property; greater weight being given to offenses against persons especially if personal injury resulted; the
- (4) The perspective merit of the Complaint, i. e. whether there is evidence upon which Grand Jury may be expected to return an indictment;
- (5) The desirability of trial and disposition of the entire offense in one Court were the juveniles, associates in the alleged offenses are adults;
- (6) The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and patterned living;
- (7) The record of previous history of the juvenile including previous contact with juvenile authorities, other law enforcement agencies, juvenile Courts and other jurisdictions; prior periods of probation or other commitments to juvenile institutions;
- (8) The prospects of adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile by the use of procedures, services and facilities currently available to the Family Court;
- (9) The type of treatment such juvenile would most likely be amenable to;

On January 25, 2008, defense counsel filed a "Motion to Challenge the Constitutionality of Juvenile Transfer Proceeding." An amended motion on the same subject was filed on February 13, 2008. A hearing on this motion was held in the family court before the Honorable Barry W. Knobel on March 5, 2008.

On April 5, 2008, Judge Knobel issued an order denying the motion to challenge the constitutionality of the juvenile transfer of jurisdiction statutes.

On December 17, 2008, a hearing was held in family court to determine if appellant should be waived up to general sessions court. The Honorable Tommy B. Edwards presided. On January 6, 2009, he issued an order for waiver of jurisdiction. The order made findings by the judge, not a jury, of the eight factors to be considered under Kent v. United States, 383 U.S. 541 (1966). The order went on to make findings, without a jury, of fifteen (15) negative factors to be considered and six (6) positive factors to be considered.

On October 14, 2009, in general sessions court appellant was sentenced to eleven (11) years for assault with intent to kill and three (3) counts of armed robbery. This sentence was considerably larger than appellant would have had as a juvenile. The family court thus used facts that increased the penalty for the above crimes beyond the maximum allowable in family court in violation of appellant's Sixth Amendment right to a jury trial. This was done by transferring jurisdiction to general sessions court under §20-7-7605 and 20-7-755 without a jury to consider these factors under those code sections. As defense counsel noted in his Amended Motion to Challenge the Constitutionality of Juvenile Transfer Proceeding:

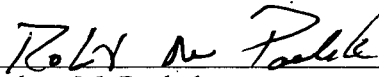
Continuing to insist that juvenile transfer statutes such as South Carolina Code §20-7-7605 and 20-7-755 do not increase the potential penalties for a crime is to deny a juvenile the due process he is entitled to receive. No matter what language is used to characterize the proceeding, the juvenile suddenly faces a higher punishment in adult court than he did in juvenile court, based upon facts that are found by a judge by a balancing test which is unclear how the factors are balanced and not by a jury and beyond a reasonable doubt.

In short, if the State wants to push appellant into adulthood and increase the sentence, it ought to do so with a jury deciding transfer not a judge.

CONCLUSION

Appellant's convictions should be reversed.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT.

This 14th day of February, 2011.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JARMEL L. RICE,

APPELLANT

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) Motion to Challenge Constitutionality of Juvenile Transfer Proceeding
- (3) Amended Motion for same
- (4) Order on Motion Challenging
- (5) First December 17, 2008 transcript
- (6) Second December 17, 2008 transcript
- (7) Order for Waiver of Jurisdiction
- (8) October 14, 2009, plea transcript

I certify that this designation contains no matter which is irrelevant to this appeal.

February 14th, 2011



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

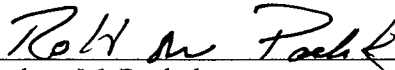
V.

JARMEL L. RICE,

APPELLANT

CERTIFICATE OF SERVICE

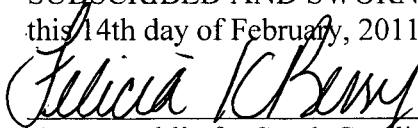
The undersigned attorney hereby certifies that a true copy of the Initial Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of February, 2011.



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 14th day of February, 2011.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: June 21, 2020



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Defender
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate

December 15, 2010

The Honorable Tanya A. Gee
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED

DEC 15 2010

SC Court of Appeals

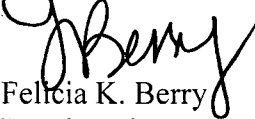
Re: The State v. Jarmel L. Rice

Dear Ms. Gee:

Our office is now in receipt of the transcript that was holding the above referenced case in abeyance. We received the transcript on December 15, 2010 therefore; we have set our time limits for 60 days, until February 14, 2011.

Should you have any questions or if our calculations are incorrect, please do not hesitate to contact me.

Sincerely,


Felicia K. Berry
Legal Assistant

/fkb

cc: Attorney General's Office



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

December 1, 2010

RECEIVED

DEC 01 2010

SC Court of Appeals

Ms. Desiree Allen
S.C. Court Administration
1015 Sumter Street, 2nd Floor
Columbia, South Carolina 29201-3739

Dear Ms. Allen:

The transcript listed below was requested by this office. Pursuant to Rule 207(a)(2), SCACR, the allotted time of sixty (60) days has lapsed to either receive the transcript or an extension to deliver same.

<u>Court Reporter</u>	<u>Due Date</u>	<u>Case Name</u>
Ms. Julie A. Ashbrook	7/5/10	Jarmel L. Rice

Trial Date: January 6, 2009

I would appreciate your confirming in writing as to the status of the above-referenced transcript. If you should have any questions, please do not hesitate to contact me.

Sincerely,

Felicia K. Berry
Legal Assistant

cc: S.C.Court of Appeals
Attorney General's Office



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 30, 2010

Chief Appellate Defender Robert M. Dudek
South Carolina Commission
on Indigent Defense
P O Box 11589
Columbia, SC 29211

Re: The State v. Rice, Jarmel L.

Dear Counsel:

Please provide the Court with the status of the transcript within ten (10) days of the date of this letter.

Very truly yours,

V. Claire Allen, Deputy

CLERK

TAG/lb

cc: Assistant Deputy Attorney General Salley W. Elliott



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

September 20, 2010

RECEIVED
SEP 20 2010
SC Court of Appeals

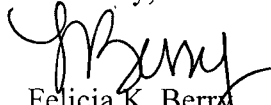
The Honorable Tanya A. Gee
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: State of South Carolina v. Jarmel L. Rice

Dear Mr. Gee:

Please disregard our letter of June 7, 2010 requesting that the time limits be set in this case. The Initial Brief of Appellant in the above case was due to be served and filed on September 6, 2010. However, we are still waiting on the transcript dated January 6, 2009. We have recently requested this transcript and would request that the time limits continue to be held in abeyance pending receipt of it. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,


Felicia K. Berry
Legal Assistant

/fkb

cc: Attorney General's Office



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

August 23, 2010

RECEIVED
AUG 23 2010
SC Court of Appeals

Ms. Desiree Allen
S.C. Court Administration
1015 Sumter Street, 2nd Floor
Columbia, South Carolina 29201-3739

Dear Ms. Allen:

The transcript listed below was requested by this office. Pursuant to Rule 207(a)(2), SCACR, the allotted time of sixty (60) days has lapsed to either receive the transcript or an extension to deliver same.

<u>Court Reporter</u>	<u>Due Date</u>	<u>Case Name</u>
Ms. Jane C. Cain	7/5/10	Jarmel L. Rice

Trial Date: April 5, 2008

I would appreciate your confirming in writing as to the status of the above-referenced transcript. If you should have any questions, please do not hesitate to contact me.

Sincerely,

Felicia K. Berry
Legal Assistant

cc: S.C.Court of Appeals
Attorney General's Office



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Defender
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dúdek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate

July 7, 2010

RECEIVED
JUL 07 2010
SC Court of Appeals

The Honorable Tanya A. Gee
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. Jermal Rice

Dear Ms. Gee:

Our office is now in receipt of the transcript that was holding the above referenced case in abeyance. We received the transcript on July 7, 2010 therefore; we have set our time limits for 60 days, until September 6, 2010.

Should you have any questions or if our calculations are incorrect, please do not hesitate to contact me.

Sincerely,

Felicia K. Berry
Legal Assistant

/fkb

cc: Attorney General's Office



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 19, 2010

Chief Appellate Defender Robert M. Dudek
South Carolina Commission on Indigent Defense
P O Box 11589
Columbia, SC 29211

Re: The State v. Rice, Jarmel L.

Dear Counsel:

Pursuant to your recent request in the above entitled matter, the time limits for perfecting the appeal will be held in abeyance pending your receipt of additional transcripts.

Kindly notify this office immediately upon receipt of the trial transcripts of April 5, 2008 and January 6, 2010, ordered from Court Reporters Jane Cain and Julie Ashbrook. The time for serving the brief will be thirty (30) days from that date.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/lb

cc: Assistant Deputy Attorney General Salley W. Elliott



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

RECEIVED

MAY 04 2010

SC Court of Appeals

May 4, 2010

Ms. Jane C. Cain
Family Court Reporter
PO Box 352
Anderson, SC 29622-0352

Dear Ms. Cain:

Our office has been requested to perfect the appeal arising out of:

The State v. Jarmel L. Rice

Case #:

09-GS-04-988, 990, 993,
998, 07-JU--04-539 to 543

County: Anderson

Date of Trial: April 5, 2008

Presiding Judge: Barry W. Knobel

It is my understanding that you were the court reporter at this time. That being the case, I request that you send this office the original trial transcript along with your bill. If you send a copy to this office, please bill us accordingly. To ensure prompt payment of this bill, please prepare it on the enclosed CID FORM 3500 (Substitution for SCCA DI-4) and include the original criminal case number (Indictment number) where the space is provided.

We request that the lines on the paper be numbered from 1-25, and that you include in the transcript any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments. We have found that even if there are no objections, we need to review both opening and closing arguments for appeal.


If you are aware of the existence of co-defendants not listed in the prior captioned case, please contact us prior to transcribing the transcript. In this manner, we can consult our records to ensure that in ordering a transcript, a duplication has not occurred. In addition, if the Attorney General's Office has already requested an original transcript, please notify us.

Ms. Jane C. Cain
May 4, 2010
Page Two

I am sorry for any inconvenience this may cause, but I appreciate your assistance in this matter. If you have any questions, or problems, please contact me.

Thank you for your kind cooperation in this matter.

Sincerely,



Felicia K. Berry
Legal Assistant

cc: S.C.Court of Appeals
Attorney General's Office



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

RECEIVED

MAY 04 2010

SC Court of Appeals

May 4, 2010

Ms. Julie A. Ashbrook
Family Court Reporter
2211 Hudson Road #905
Greer, SC 29650

Dear Ms. Ashbrook:

Our office has been requested to perfect the appeal arising out of:

The State v. Jarmel L. Rice

Case #:

09-GS-04-988, 990, 993,
998, 07-JU--04-539 to 543

County: Anderson

Date of Trial: January 6, 2009

Presiding Judge: Tommy B. Edwards

It is my understanding that you were the court reporter at this time. That being the case, I request that you send this office the original trial transcript along with your bill. If you send a copy to this office, please bill us accordingly. To ensure prompt payment of this bill, please prepare it on the enclosed CID FORM 3500 (Substitution for SCCA DI-4) and include the original criminal case number (Indictment number) where the space is provided.

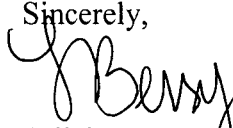
We request that the lines on the paper be numbered from 1-25, and that you include in the transcript any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments. We have found that even if there are no objections, we need to review both opening and closing arguments for appeal.

If you are aware of the existence of co-defendants not listed in the prior captioned case, please contact us prior to transcribing the transcript. In this manner, we can consult our records to ensure that in ordering a transcript, a duplication has not occurred. In addition, if the Attorney General's Office has already requested an original transcript, please notify us.

Ms. Julie A. Ashbrook
May 4, 2010
Page Two

I am sorry for any inconvenience this may cause, but I appreciate your assistance in this matter. If you have any questions, or problems, please contact me.

Thank you for your kind cooperation in this matter.

Sincerely,

Felicia K. Berry
Legal Assistant

cc: S.C.Court of Appeals
Attorney General's Office



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

May 4, 2010

RECEIVED
MAY 04 2010
SC Court of Appeals

The Honorable Tanya A. Gee
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: State of South Carolina v. Jarmel L. Rice

Dear Mr. Gee:

The Initial Brief of Appellant in the above case is due to be served and filed on June 7, 2010. However, in the brief we have discovered that we need an additional transcript. We have requested this transcript today and would request that the time limits be held in abeyance pending receipt of it. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

Robert M. Pachak
Appellate Defender

RMP/fkb

cc: Attorney General's Office



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

RECEIVED

APR 08 2010

SC Court of Appeals

April 8, 2010

The Honorable Tanya A. Gee
Clerk, S.C. Court of Appeals
PO Box 11629
Columbia, SC 29211

Dear Ms. Gee:

The following case falls under the 60 day rule for appeals, and the date we received the transcript is listed to the side.

The State v. Jarmel L. Rice

4/8/2010

I would appreciate you beginning our time limits from the above date, and if you need additional information, or have any questions please contact me.

Thank you for your assistance in this matter.

Sincerely,

Lorie French
Legal Services Coordinator



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE (803) 734-1890
FAX (803) 734-1839
www.sccourts.org

April 1, 2010

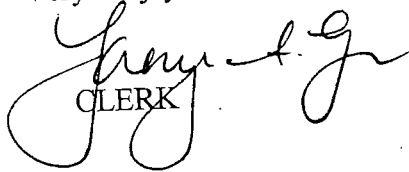
Chief Appellate Defender Robert M. Dudek
South Carolina Commission on Indigent Defense
P O Box 11589
Columbia, SC 29211

Re: The State v. Rice, Jarmel L.

Dear Counsel:

Please provide the Court with the status of the transcript within ten (10) days of the date of this letter.

Very truly yours,


CLERK

TAG/lb

cc: Assistant Deputy Attorney General Salley W. Elliott



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Acting Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

RECEIVED

JAN 14 2010

SC Court of Appeals

January 14, 2010

Ms. Renee H. Tollison
Circuit Court Reporter
Post Office Box 4321
Anderson, SC 29622

Dear Ms. Tollison:

Our office has been requested to perfect the appeal arising out of:

The State v. Jarmel L. Rice

Case #:

09-GS-04-988, 990, 993,
998, 07-JU--04-539 to 543

County: Anderson

Date of Trial: October 14, 2009

Presiding Judge: J. Cordell Maddox, Jr.

It is my understanding that you were the court reporter at this time. That being the case, I request that you send this office the original trial transcript along with your bill. If you send a copy to this office, please bill us accordingly. To ensure prompt payment of this bill, please prepare it on the enclosed CID FORM 3500 (Substitution for SCCA DI-4) and include the original criminal case number (Indictment number) where the space is provided.

We request that the lines on the paper be numbered from 1-25, and that you include in the transcript any and all recorded motions, pre and post-trial. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments. We have found that even if there are no objections, we need to review both opening and closing arguments for appeal.

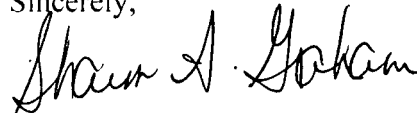
If you are aware of the existence of co-defendants not listed in the prior captioned case, please contact us prior to transcribing the transcript. In this manner, we can consult our records to ensure that in ordering a transcript, a duplication has not occurred. In addition, if the Attorney General's Office has already requested an original transcript, please notify us.

Ms. Rence H. Tollison
January 14, 2010
Page Two

I am sorry for any inconvenience this may cause, but I appreciate your assistance in this matter. If you have any questions, or problems, please contact me.

Thank you for your kind cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Sharon A. Graham".

Sharon A. Graham
Administrative Coordinator

xc: S.C. Court of Appeals
Attorney General's Office



The South Carolina Court of Appeals

JEANETTE F. BARBER
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE (803) 734-1890
FAX (803) 734-1839
www.sccourts.org

December 18, 2009

Andrew Troy Potter, Esquire
Anderson County Public Defender
301 Camson Rd
Anderson, SC 29625

Re: The State v. Rice, Jarmel L.

Dear Mr. Potter:

Please be advised this is an appeal from a guilty plea and will be allowed to go forward. The transcript must be ordered on or before January 18, 2010.

You must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(e), SCACR, also, please advise the Court in writing upon receipt of the transcript.

Very truly yours,

V. Claire Allen, Deputy

CLERK

JFB/lb

cc: Senior Appellate Defender Joseph L. Savitz, III
Assistant Deputy Attorney General Salley W. Elliott

RECEIVED

DEC 04 2009

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

SC Court of Appeals

THE STATE,)
)
 -vs-)
)
 JARMEL LEMONT RICE)
)
 Defendant.)
 _____)

ACCEPTANCE OF FILING
 2009-GS-074-988; 990; 993; 998; 2007-JU-04-539-543

I, KENDRA GURLEY, hereby certify that I am employed by the Office of the Public Defender for Anderson, South Carolina, and that I did on December 2, 2009, at or around the hour of 2:00 PM, file a copy of the Notice of Appeal in regard to the captioned matter with the Clerk of Court of General Sessions, Anderson, South Carolina.


 KENDRA GURLEY

ATTESTED BY:


 CLERK OF COURT FOR ANDERSON COUNTY,
 SOUTH CAROLINA

Office of Public Defender

THIRTEENTH JUDICIAL CIRCUIT
ANDERSON & OCONEE COUNTIES

ROBERT A. GAMBLE
PUBLIC DEFENDER

ANDERSON COUNTY
301 CAMSON ROAD
ANDERSON, SC 29625
TELEPHONE 864-260-4048
FAX 864-260-4134

OCONEE COURTHOUSE
415 SOUTH PINE STREET
WALHALLA, SC 29691
TELEPHONE 864-638-4268

December 3, 2009

Mr. Kenneth A. Richstad
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RECEIVED

DEC 04 2009

SC Court of Appeals


Re: State vs. Jarmel Lemont Rice

Dear Mr. Richstad:

Please find enclosed the Acceptance of Filing in the above referenced case. Please file the aforesaid in the proper file.

Thank you for your cooperation and assistance in this matter.

Yours truly,


Andrew T. Potter
Asst. Public Defender

ATP/kkg
Enclosure

Appellant's Rule 203(d)(1)(B) SCACR Written Explanation

Appellant has filed this appeal to assert his rights associated with the following issues raised by Appellant in the lower courts and ruled upon.

1. Appellant bases his first issue on the Family Court's denial of his motion to determine the constitutionality of the South Carolina Waiver Statute, specifically, the Appellant filed with the Family Court a Motion to Challenge the Constitutionality of Juvenile Transfer Proceeding under the petitions filed against the Appellant. In that motion, Appellant filed a memorandum in support dictating the reasons why South Carolina Code of Laws Sections 20-7-7605 and 20-7-755 violate his Constitutional rights. Appellant also filed in conjunction with this motion substantial documentation from qualified professionals in support of his motion. The Court also accepted supplemental briefs in support and in contra and held a full hearing on the merits of the Appellant's motion. The Court then issued a ruling denying his motion on April 5, 2008 by the Honorable Barry Knobel. It is Appellant's assertion that the Court erred in denying said motion.
2. Appellant bases his second issue on the Family Court's granting of the State's motion to waive jurisdiction of the Appellant's cases to the Court of General Sessions. The Court held a full merits hearing on the issue of waiver and received testimony from witnesses and expert witnesses related to the issue of whether to waive the Appellant to General Sessions Court. Appellant asserts that the Family Court erred when it granted the State's motion to waive jurisdiction of the Appellant to General Sessions Court by way of order issued on January 6, 2009.

The issues raised by Appellant were not interlocutory in nature and Appellant was not able to file any appeals from the afore-mentioned orders until completion of the case. Appellant specifically reserves the right to amend and/or supplement his written explanations for appeal pursuant to Rule 203(d)(1)(B) SCACR as he or his counsel deems appropriate.

RECEIVED
DEC 02 2009
SC Court of Appeals

RECEIVED

DEC 02 2009

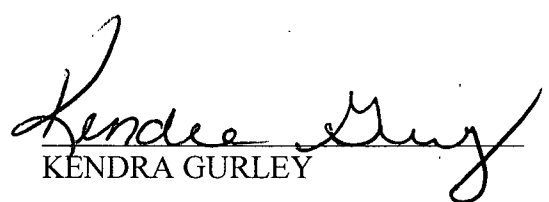
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,)
)
-vs-)
)
JARMEL LEMONT RICE)
)
Defendant.)
_____)

AFFIDAVIT OF MAILING
2009-GS-04-988; 2009-GS-04-990; 2009-GS-04-993
2009-GS-04-998; 2007-JU-539-543

I, KENDRA GURLEY, being duly sworn depose and say that I am employed by the Public Defender's Office for Anderson County, and that I did on December 1, 2009, at or around the hour of 2:00 p.m. place a copy of the Notice of Intent to Appeal addressed to The Attorney General in the mail room located in the Anderson County Courthouse, Anderson, South Carolina, to be mailed by the Anderson County mail clerk.


KENDRA GURLEY

Sworn to before me this
1 day of December, 2009.


NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 2-26-2018

NOTICE OF INTENT TO APPEAL
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY

THE HONORABLE J. CORDELL MADDOX
THE HONORABLE TOMMY B. EDWARDS
THE HONORABLE BARRY W. KNOBEL

JUDGES OF THE TENTH JUDICIAL CIRCUIT

DOCKET NUMBER: 2009-GS-04-988; 2009-GS-04-990;
2009-GS-04-993; 2009-GS-04-998; 2007-JU-539-543

RECEIVED
DEC 02 2009
SC Court of Appeals

THE STATE OF SOUTH CAROLINA,

Respondent

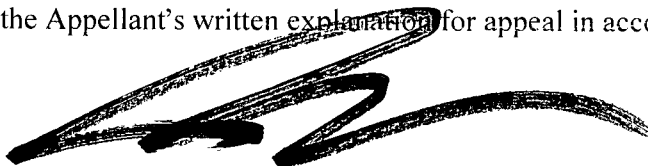
-vs-

JARMEL LEMONT RICE,

Appellant.

SECOND AMENDED NOTICE OF APPEAL

YOU WILL PLEASE TAKE NOTICE that the Defendant, Jarmel Lemont Rice, hereby gives notice that he appeals from the verdict and sentenced imposed on October 14, 2009, by the Honorable J.Cordell Maddox, Judge of the Tenth Judicial Circuit, on the charges of Armed Robbery, Armed Robbery, Assault with Intent to Kill, Armed Robbery and the denial of the Appellant's Motion on the Constitutionality of the Juvenile waiver statute issued on or about April 5, 2008 and the waiver of the juvenile to General Sessions Court on January 6, 2009. The Case and Exceptions will be served within the normal time limit. Attached hereto is the Appellant's written explanation for appeal in accordance with Rule 203(d)(1)(B), SCACR.



ANDREW T. POTTER

OTHER COUNSEL OF RECORD ARE:

Jenn Byford, Esq,
Assistant Solicitor
P.O. Box 8002
Anderson, SC 29622

Ms. Salley W. Elliott
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

Office of Public Defender
TENTH JUDICIAL CIRCUIT
ANDERSON & OCONEE COUNTIES

ANDERSON COUNTY
301 CAMSON ROAD
ANDERSON, SC 29625
TELEPHONE 864-260-4048
FAX 864-260-4134

OCONEE COURTHOUSE
415 SOUTH PINE STREET
WALHALLA, SC 29691
TELEPHONE 864-638-4268

ROBERT A. GAMBLE
PUBLIC DEFENDER

December 1, 2009

RECEIVED

DEC 02 2009

SC Court of Appeals

Mr. Kenneth A. Richstad
Clerk of Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: State vs. Jarmel Lemont Rice

Dear Mr. Richstad:

Please find enclosed a second amended Notice of Appeal in regard to the captioned matter along with an Affidavit of Mailing. Please file the aforesaid in the appropriate file.

Thank you for your cooperation and assistance in this matter.

Yours Truly,



Andrew T. Potter
Assistant Public Defender
Anderson County Public Defender's Office

ATP/kkg
Enclosure

Xc: Jenn Byford
Salley W. Elliott
Joseph Savitz



The South Carolina Court of Appeals

JEANETTE F. BARBER
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 20, 2009

Andrew Troy Potter, Esquire
Anderson County Public Defender
301 Camson Rd
Anderson, SC 29625

Re: The State v. Rice, Jarmel L.

Dear Mr. Potter:

We have received your Notice of Appeal in the case noted above. Since this is an appeal from a guilty plea, Rule 203(d)(1)(B), SCACR, requires you to provide "a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal".

The explanation should be served and filed within fourteen (14) days of the date of this letter.

Please be advised the time limits for ordering the transcript are held in abeyance.

Very truly yours,

V. Claire Allen, Deputy
CLERK

JFB/lb

cc: Senior Appellate Defender Joseph L. Savitz, III
Assistant Deputy Attorney General Salley W. Elliott

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)
)
 IN THE INTEREST OF)
 JERMAL LAMONT RICE,)
 A CHILD UNDER SEVENTEEN)
 YEARS OF AGE, JUVENILE)

IN THE FAMILY COURT
 FOR THE 10TH JUDICIAL CIRCUIT
 CASE NOS.: 2006-JU-04-539, 540, 541,
 542, 543; 2007-JU-04-409, 410, 411, 412,
 413, 414, 415, 416, 417, 418, 419, 420

**ORDER FOR
 WAIVER OF JURISDICTION**

A TRUE COPY

NOV 16 2009

Cathy M. Phillips
 CLERK OF COURT

Date of Hearing: December 17, 2008
 Presiding Judge: Tommy B. Edwards
 Assistant Solicitor: David E. Phillips
 Attorney for Juvenile: Andrew T. Potter
 Guardian Ad Litem: Larry Welborn
 Court Reporter: Julie A. Ashbrook (a.m.)/
 Sandra H. Davis (p.m.)

This hearing came before the court on December 17, 2008, pursuant to §20-7-7605 S.C. Code Ann. (Supp. 2004), for the purpose of this court determining whether jurisdiction in the above captioned cases should be transferred to the Court of General Sessions.

FINDINGS OF FACT/FACTUAL SUMMARY

The evidence presented proves the following factual summary is supported by probable cause:

August 30, 2006, at 15 years and 10 months old, Jermal Rice knocked on the door to the home of Raymond Oglesby, a 51-year old Anderson, South Carolina, resident. When Oglesby asked who was knocking, Jermal Rice responded, "DD." Mr. Oglesby opened the door expecting to see DD; instead, Oglesby saw Jermal Rice pointing a pistol at Oglesby demanding him to go back in the home. Rice demanded Oglesby to get the keys to the car Oglesby had parked outside. Rice then ordered Oglesby at gunpoint to get

into the trunk of the car. Oglesby complied and climbed into the trunk of the car. Rice drove Oglesby's car to a location near Anderson University, opened the trunk of the car and tied up Oglesby. At gunpoint, Rice ordered Oglesby into a nearby creek and told him to stay there and not to get up. Rice then left in Oglesby's car.

Later on that evening and continuing into the early morning hours of August 31, 2006, Rice developed a plan to commit an armed robbery of the Taco Bell on Highway 28 Bypass, Anderson, South Carolina. To conceal his true identity, Rice dressed up like a girl, going so far as to wear a bra stuffed with tissue paper. Rice and his codefendants drove to the Wal-Mart near Taco Bell and watched the activity at Taco Bell waiting for their opportunity to strike. Rice and a co-defendant entered the Taco Bell. Rice held the same pistol during the robbery of Taco Bell he had used earlier that same evening to kidnap Oglesby and steal Oglesby's car. Three people were working on the duct cleaning crew at Taco Bell that night. Rice held the gun on each of them, ordered them to get down on the floor, and threatened to shoot them. Rice then fired the pistol at the store safe 3 to 4 times in an attempt to break into the safe. When Rice failed to gain entry to the safe, he ordered all of the members of the cleaning crew to empty their pockets. After taking their belongings, Rice and his accomplice fled.

Just over one week later, September 9, 2006, Rice planned and carried out a third armed robbery. Late that night, Rice and an accomplice entered Maria's Snack Shop on West Shockley Ferry Road in Anderson, South Carolina. Rice's co-defendant entered the Snack Shop first carrying a cell phone. Shortly after the co-defendant entered the door, Rice ran around the co-defendant and entered the store. Rice wore a mask over his face and carried a small, loaded pistol. Billy Tollison, the owner of the Snack Shop, stated

Rice took everything from Tollison's pockets. Tollison then offered Rice everything in the cash register nearby. Rice went to the cash register, and while Rice attempted to open the cash register, Tollison pulled a gun from his waist band and ordered Rice to drop his gun. Tollison and Rice shot at each other. Tollison stated that both he and Rice fired all of the rounds in their weapons. Rice fled on foot from the scene.

I set forth below the statements of witnesses as presented to this court during the waiver hearing in support of the foregoing factual summary.

Statement of Jermal Lemont Rice dated 9/21/06

Saturday before last, I had been with Sterling Blair all day. I got my cousin Darrius around 3 or 4pm. Darrius had been talking about hittin' something. Around 7pm or something, Darrius brought up robbing the snack shop because he needed some money. He said he needed to get a car because he said something about by the end of the year his mama was going to move and he did not want to go with them. We were at Sterling's house at the time. I had brought my gloves with me, the ones I had been issued from Alternative School. Darrius had talked about hitting Quacia's daddy earlier and that's why I had brought the gloves. We went to the snack shop because it was closer. We left around 8pm but we walked around the block for a while over by the apartments. The plan was for Darrius to go in first but he changed his mind and just walked in there to talk to the dude and I ran in behind him. Sterling was supposed to have been the one with the gun but he gave it to me and he was supposed to be the one helping me rob the place. The gun is Sterling's not mine. It is a small revolver with a little rust on it but it is black. It has wood grips. Sterling has had it for a long time. I was beside the building and he went and came back and said that he did not see him, then he went again and looked through the window and he was going. Darrius went in and asked the guy if he was open and I ran in behind him and Darrius stayed near the door a little bit in front of it. I pointed the gun at the guy and told him to put his hands up and searched him and got his wallet out. He said the rest of the money was in the cash register and I put the gun in my back pocket. I was fixing to open the register and the guy pulled a gun on me and started shooting. I got the gun out of my pocket and started shooting back. Sterling was in front of the store and Darrius was in front of the door and when the guy started shooting they both took off. When he shot, my eyes got big and I dropped everything. I went to the back of the store and he was saying that he had a bullet left and I wasn't going to make it out of the store. I walked to the door and he put the gun to my head and said I wasn't going to make it out. I pushed the gun away from my head and went out the door and ran back down the trail to the apartments. We stopped behind the apartments and I caught my breath. I

dropped my gloves and bandana somewhere behind the apartments and I gave the gun back to Sterling. We went back to my house and my mom was home. After about 5 minutes later, me and Sterling went over to my house and Darrius stayed at my house. About 10 or 15 minutes later, my Aunt April came and picked up Darrius, I saw through the window when she came and got him. About 10 or 15 minutes later, I walked over to my house and Sterling stayed there for about an hour watching a football game and then he left and I went to sleep. I haven't talked to Sterling since.

Quacia came to my house once a couple weeks ago in her aunt's white Toyota car. Quacia had been talking about robbing her daddy. She asked me if my boy Chris Logan was working that night, he works at Taco Bell. I told her I did not know and I would try to call him. It went straight to his voice mail. Sterling was there when we were talking about this. Quacia left and came back and picked up me and Sterling. I drove up there and we drove around the Wal-Mart parking lot for a while watching the Taco Bell. I got a bra from my momma and a wig from my sister. We parked up on the street near the Wal-Mart. If you turn by that gas station it's the first street to the right. Sterling stayed with the car and me and Quacia went to the Taco Bell. I was dressed like a girl and had the same gun I used at Maria's snack shop, it's Sterling's gun. I did all the talking and told everyone to get down and empty all their pockets. I grabbed the wallets and I told her to go look around and see if anyone else was in there. I couldn't get the cash register or the safe open but couldn't get it open. I shot at the safe but it didn't open. We took off and went back to my house. When we got back to the car Sterling drove for a minute but he couldn't drive so he pulled over and I drove. Quacia is the only girl with that name at Westside and she lives in the Huntington Apartments.

I did not kidnap anybody and throw them in the trunk and throw them in the creek or anything. I was chilling with Harold Brock or Martin, I think it's Brock, and he said that DD told him that they thought I did some kidnapping so I called DD and he said he had not said anything like that. All I've heard is the word around Colony Park that somebody got stripped butt naked and thrown in the trunk of his car. That's all I know about it. I think it's Maurice or one of them that did it.

Statement of Narquacia S. Ellington dated 9/22/06

Jermal Rice called me and came by my house and picked me up, he was driving a white car. Jermal told me he had gone to a crack head's house and knocked on the door. Jermal said he used a name the man would know. The man opened the door and Jermal made him leave the house and made him get in the trunk. He told me the man was still in the trunk.

We rode to a creek near Anderson College and Jermal got the man out of the trunk, tied him up and made him get in the creek. We left the man in the creek.

We left there and went riding around, we rode to Jermal's house. We

called Sterling Blair to come over. While we were waiting Jermal dressed up like a woman. Sterling got there and we left. We were in the white car Jermal picked me up in. We rode to Taco Bell. We rode around the parking lot at Taco Bell. We asked the man at Taco Bell what time they closed. We parked on the other street near Wal-Mart. Me and Jermal went down the hill. We went inside the Taco Bell. Jermal told them to get down and not move. He (Jermal) shot the safe because he could not get it open. He told the man to give him everything he had in his pocket, he gave us his wallet and cell phone.

We left Taco Bell and got in the car, Sterling was driving.

We went to Jermal's house. Jermal was drinking. I drove my self home in the white car Jermal picked me up in.

Justin Freeman, Nicole Martin, Travis (don't know his last name) and Jermal Rice called for a pizza to be delivered to an abandoned house on the back road behind Huntington Apartments. They said a man on a motorcycle delivered the pizza. They got the pizza and the money and ran to an abandoned apartment. I was in the parking lot when it happened.

Durel (don't know his last name), Anthony (don't know his last name) and two others (I don't know their names), told me they had gotten the handicapped sign off the front of my building and had walked to Conoco. They said they broke in and got cigarettes. I was not with them. They don't live in the apartment complex, but they come down and hang around.

The pistol Jermal had was black. He told me it was his gun. I don't know where he got it.

Statement of Darius Dwayne Rice dated 9/21/06

This is being written for me by R. Gebing of the ACSO. The weekend before my birthday, I went to Anderson on Saturday and stayed at my grandma's, and went home on Sunday. Saturday, I went to the mall and got my shoes. I went back to my grandma's and dropped my shoes off. My mom went to pick up Jermal's mom and I stayed at Jermal's 'til they came back. I got a ride with my mom back to my grandma's and then my aunt brought me back to Jermal's after I changed. We were supposed to go to a party but we didn't go. When I got back to Jermal's, Sterling was there and he and Jermal went to his house and I went over later, about 10 or 15 minutes later. When I got to Sterling's, Jermal said he was going to the store and I said I would go along and then go back to my grandma's since we weren't going to the party. All three of us walked up through the apartments and took the path to the back of the store. When I got there, I was about to go in and I was on the sidewalk and he (Jermal) stopped me, he told me to wait a minute. I asked him if he had any money and he said he was straight. I started going in again and he stopped me again and asked me if the guy was in there. I said I couldn't see him but I knew he was in there. I opened the door and the guy walked out from beside the drink machine and I asked if he was still open and said "let me get some chips or a cigar or something." He said sure and started walking to the cash register. Jermal snuck in behind me and walked to the guy.

and pointed a small black revolver with wood grips. The guy was like, "Whoa, whoa." And Jermal told him to give him his money. The guy gave Jermal his wallet and then told Jermal there was more in the cash register. I was cussing at Jermal and telling him to come on. Jermal ignored me and started going towards the cash register and I left. I was on the side of the store and Sterling was there with a bandana up over his mouth. I asked Sterling what Jermal was doing and then I heard shots, like 4 shots. Me and Sterling ran down the trail to the apartments and then like 2 minutes later Jermal came up and said to run. I asked him what was going on and he said he'd tell me later and he started running towards his house and I ran towards my grandma's. When I got to my grandma's my mom, my aunt April Rice, and my uncle Antonio Rice were all there. I didn't see Jermal the rest of the weekend and came home. Sometime during the week, he called and we talked about it. He was saying I was straight, that they didn't know who I was or where I lived and things like that. I was worried that my face was on camera but he kept saying I was straight. Jermal said he'd got the guy's money but the guy started shooting at him and he dropped it. I had no idea he was going to rob that place when he did it. We'd been to the store earlier to get something to eat and me and the clerk are cool. We left and went about our business.

Over about 2 months or so, Jermal had been talking about "licking" (robbing) people. I don't remember really when he told us but he told me something about Taco Bell. First he said something over the phone like he'd done it, then he told me in person that him and Quacia had done it, that Sterling didn't come in, but he was there. He said he went in there and left with money. I thought he meant robbing the place or somebody. Quacia lives in the Huntington Apartments and goes to Westside.

I was hearing things from a lot of people that Jermal had stolen Tahj Crosby's Xbox 360 from his apartment. I asked Jermal about it but he didn't actually say he did. He kind of snickered and said get real.

Jermal told me that he'd gotten in a fight with some chronic crackhead and said he'd gotten in a fight with the guy and threw him in the trunk, then drove him out to the lake and threw the guy in the lake. He never said who it was or anything.

I remember Jermal saying he robbed a drug dealer and remember him saying something about the guy's girlfriend.

When I first heard about Jermal lickin' people, he said Josh was lickin' people with him. He said Josh got locked up. Jermal has been riding with a guy named Chris Logan who just got his license, some guy named Jeremy, and another guy named Tu-Tu. He also told me he had put Justin in on a couple licks too. It's the same Justin who lives in the Huntington Apartments. The time before the last time, I was in Anderson. I was by the pool at the apartments with Jermal, Justin, and some guy named "Jerel". Jermal was making a joke about having put Justin on a couple of licks and said something about what they'd done to the pizza man and how funny it was or something like that. Justin and Jerel were laughing. I also remember him saying something about Sonic's once when he was talking about doing licks, but he didn't go into detail about it.

Statement of Sterling Dayvonne Blair dated 9/22/06

This statement is being written for me by R. Gebing of the ACSO. I was not completely honest about the robbery at Maria's Snack Shop. Jermal's cousin's name is Darrius Rice and I have known him for a couple years. I lied because I did not want his name brought up. Darrius knew what Jermal was going to do, but it was Jermal's plan. Darrius was supposed to walk in and act like he was going to buy something and Jermal was supposed to run in after him. That gun was not mine, it was Jermal's and I don't know where it is. That day that he ran when the police turned around on us, Jermal had the gun on him at the time.

Jermal has had that gun for a couple of months. He said he got it when he broke into my neighbor, Miss Shauna's house. He said he had taken it from her boyfriend and had got it out of the bedroom closet. He said that he got in the house through the window. This is the same small black revolver with brown grips, the same gun he used at Maria's and at Taco Bell.

Back in August, I was at Jermal's house and he started talking about having robbed a crack head. He said that he had gone to some dude's house and knocked on the door and said that he was somebody, and when the guy answered the door, the guy said you're not whoever he'd said he was, and Jermal pointed the gun at him. He said he was slapping him with the gun (the revolver) and was telling him to get in the trunk. He said that the man would not get in the trunk at first so he started punching him. He said that the guy got in the trunk and he tied him up and he drove him somewhere and threw him in the creek, he said it was somewhere close to the fairgrounds. Narquacia Ellington was there with him when he was telling me all this. He said that he still had the guy's car at Pat's motel and all three of us walked up there to it. Before we left his house, Jermal dressed up like a girl, he was wearing a bra, and a wig. He'd stuffed the bra with tissue. The car was white, like an older 4 door, with a trunk and with like a burgundy color interior. Jermal had the keys to the car. Jermal drove us around the parking lot at Taco Bell in front of the Wal-Mart on 28. I got out of the car and there was a dude at the door and I asked him if they were open. He said no. He was like riding around to make up a plan and then he parked it on that side road beside Wal-Mart. There's a bunch of duplexes on that street. He told me wait there and when he came running to crank up the car. Jermal and Narquacia left and were gone for about 10 minutes and they came back running. Jermal had a wallet and he took a man's cell phone so the guy couldn't call the police. He said that a man was right there doing some cleaning with something and then there was a man on a ladder and he told him to get down and made them go inside. He said that he made all of them go in there. He said he made them get down and went straight to the safe but he couldn't get it open, so he started shooting at the safe with that same gun. I started driving at first but he was saying we needed to get out of here and I was not driving fast enough, so he made me stop and he got in the driver's seat. We went to the BP on Shockley Ferry Rd. I think Jermal had called Harold Brock earlier to get some weed, but I never did see

him call anyone on that phone. At the BP, Jermal bought some beer and then we went to Homeland Park School to meet somebody who Jermal had seen at BP who sold weed. Nobody was there at the school, so we went to Harold's brother's place. Nobody was there either, so we went to my house but we parked that car at Miss Shauna's old house. She'd moved. We parked there because my momma would have said something about the car. Jermal was sitting out in the car with Narquacia in the back seat and he was smoking a Black and Mild and drinking beer. I told him that I had a game the next day and needed to go to sleep and I went inside. I think they stayed out there for a minute and Narquacia had to drive that same car home by herself.

Statement of Raymond Oglesby dated 8/31/06

This statement is being written for me by Dep. R. D. McElrath of the Anderson County Sheriff's Office at my request. On 8/30/06 around 9 p.m., I was laying on the couch of my residence located at 117 Lemans Dr., Anderson, SC 29626 watching TV. I heard a knock at the door. I said who is it? The person replied DeeDee. I know a boy they call DeeDee who lives the next road over from the trailer park. So I went to open the door. When I opened the door I realized that the person was not the DeeDee that I know. The boy pointed a gun in my face and said get back into the house. After we got into the house he told me to cut the lights off. The subject said who is in here with you? Are you in here by yourself? I said yea. I am here by myself and he said don't lie to me or I will shoot you in the head. I cut the lights off at the door. The subject said dump everything out of your pockets. The subject asked if I had any keys and then told me to give him my keys that we are going for a ride. The only keys I had with me were my house keys. I took them out of my pocket and laid them on the table. The subject grabbed the keys. I asked him why he was doing this. The subject said shut up don't be talking to me. You think I am bullshitting or what? The subject then said let's go outside. I told him that it was raining outside. I then told him to let me put a shirt on. I put my shirt on and slid my flip flops on and we walked outside. The subject then asked me what keys fit this door to the car. The car keys were still in the house. I told the subject they are the only keys that I have.

The subject said let's go back in the house. So we went back into the house. The subject said look for the other keys. Don't you have some more keys somewhere? The subject told me to look in the drawers. I pulled the car keys out of the drawer and had them in my hands and he said what do you have in your hands. I told him I had the keys. The subject then told me to hand him the keys. We then went back outside. When we got back outside the second time and the subject asked me what key goes to the trunk of the car. The subject then opened the trunk of the car. The subject took two donut tires out of the trunk and put them on the ground beside the car. The subject told me to get in the trunk. I said man why are you doing this and he said stop talking to me. Get in the trunk. I asked the subject again where we are going and he said we're going over to the Westside and you are going to drive back. I then got into the trunk and he closed

the lid. I heard him get into the car and he could not find the key to crank the car. He kept asking what key started the car. He finally got the car started and left out. We left toward quality foods. We rode around and the subject kept stopping. The subject would stop and make several turns. The subject stopped and got out of the vehicle several times. The last place that we pulled up to and stopped, the subject was talking to somebody. I started beating on the trunk and said let me out of here and get some air. The subject started tapping on the trunk. I said please let me out of here to get some air. I heard them outside the car talking.

It then got real quiet and I thought they were gone. I laid in the trunk for a few minutes and they then opened the trunk. They told me to put my feet out of the trunk. The female had the gun to my head. This is the first time I had seen the female was this time. The subject tied my feet up and told me to put my arms together and he tied my arms together with a small string like a shoe lace. The subject told me to sit up and I couldn't. The subject then sat me up and got me out of the boot of the car. He then told me to start walking. The girl walked behind me with the gun. I was walking through an open area with some manholes. I then slipped and fell. I then got up and the girl hit me in the right side of my head. We walked down to a stream. The subject told me go down to the water. I slid down the bank to the water and he then told me to lay in the water. I laid down in the water. The subject told me to lay there and they walked off. The subject then walked back down to me and said I see ya raising up. What are you raising up for? The subject then walked off again. I then just laid in the creek and heard the car leave. I laid there trying to get my hands untied. I then got my hands untied and got my feet untied. I then walked through a field where I could see some lights. The lights were coming from the apartments near the college. I seen a car come in and I walked up to them. I told them what happened and asked them if I could use the phone. They brought me the phone and I called my sister. I walked to the Plez-U where my sister picked me up. My sister then took me to the city PD and they told me to come to the Sheriff's Office. The subject took my wallet from me before he placed me in the trunk at my house. The wallet was brown in color and contained my ID and \$100 in cash. The male subject was about 5ft 5in and weighed about 140 lbs. The female was about 5ft and 100 lbs. The male subject was wearing a brown hoody and jeans and black shoes. I never did see what the female was wearing. The car is a 1986 Chevy Celebrity 4 door, faded white in color with some rust. There is a tag on the car that was on it when I bought it. It is a SC tag. I do not have any information or title to the car. I bought it from Mike Minyard on Hwy 81 South.

Statement of Billy Tollison

This statement was written for me by Detective Michele Hendrix. I was getting ready to close the store and I had turned the cameras off. America's Most Wanted was on and John Walsh was talking about his 900th capture. I had walked to TV to watch when the door opened. I heard the bell ring and somebody say "Is anybody here?" I said "Yeah" and the guy said "I want to buy a cigar" when he

said that the other booy ran around him and put a gun in my face. It was a black snub nose .22 revolver. He told me "Put your hands up. Put your hands up." The other guy stood at the door and looked at me. I told him that my wallet was in my back pocket and cash in [sic] pocket and lots more money in the cash register. I had turned so they couldn't see my gun. He went to the cash register. I stepped back to the spices and pulled my gun. He turned around and I pulled my gun and pointed it at him and said "drop it" and I fired and then he fired. I waited until he moved from the cash register and I started moving towards my office to get more bullets. He walked to the back of the store near the restaurant area and he fired another shot at me. I went on into my office and he started running toward the door. I had heard his gun click when he was in the back so I knew he was out of bullets. I grabbed him at the door and put my gun in the back of his head and told him to drop his gun or I would shoot him. It was an empty threat because I had already shot all mine. I raised my arm up with my gun to hit him on the head and he ran out the door and went around the building. The guy that had the gun had a blue bandana, young around 17-18 years old, black male wearing long sleeves shirt, black, with black pants, wearing a ball cap, white in color possibly with a letter on it, wearing short black gloves that stopped at his wrist. The other guy was less than 6'0" tall, stocky build, wearing a jersey shirt, carrying a cell phone, his hair was short, kinky with a little moustache.

APPLICATION OF KENT FACTORS

1. The seriousness of the alleged offense to the community and whether the protection of the community requires waiver.

The Juvenile stipulated that the offenses with which he is charged are serious offenses, but did not stipulate that the protection of the community requires waiver.

Jermal Rice committed three separate incidents of armed robbery of five different victims, resulting in five armed robbery charges being brought against the juvenile. The first two armed robberies also led to four kidnapping charges being brought against Rice based upon Rice holding a total of four people against their will during the two armed robberies. Kidnapping is a Class A felony, §16-1-90 S.C. Code Ann. (1976, as amended). Kidnapping is also a statutorily defined violent crime, §16-1-60 S.C. Code Ann. (1976, as amended). Robbery while armed with a deadly weapon is a Class A

felony. §16-1-90 S.C. Code Ann. (1976, as amended). Armed robbery is also a statutory violent crime. §16-1-60 S.C. Code Ann. (1976, as amended). Each armed robbery involved the use of a firearm leading to multiple charges of possession of a weapon during the commission of a violent crime. Possession of a weapon during the commission of a violent crime is a Class F felony. §16-1-90 S.C. Code Ann. (1976, as amended). During the second armed robbery, Rice shot a pistol at a safe to try to gain entry to the safe which led to safecracking charges being brought against Rice. Safecracking is a Class A felony. §16-1-90 S.C. Code Ann. (1976, as amended). During the third armed robbery, Rice shot a pistol at the victim resulting in a charge of assault with intent to kill. Assault with intent to kill is not a statutorily defined violent crime.

Protection of the community in this case requires waiver. Rice terrorized five victims when he committed these crimes. At any moment during each of these crimes, a victim could easily have been killed. If not transferred to the Court of General Sessions, Rice would face at most less than three additional years of incarceration as a juvenile. Rice would be completely out of the juvenile justice system not later than October 30, 2011. Therefore, the public would only be protected by way of the juvenile's incarceration until that time. As an adult, Rice could be confined in the South Carolina Department of Corrections for a much greater length of time which would result in a greater period of protection for the public than available under the juvenile justice system.

11/16/09
11/16

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

The Juvenile stipulated that the offenses with which he was charged were committed in an aggressive, violent, premeditated and willful manner. During the armed robbery and kidnapping of Raymond Oglesby, Rice knocked on Oglesby's door using a false name familiar to Oglesby prompting Oglesby to open his door. Rice made demands of Oglesby and threatened, "don't lie to me or I will shoot you." (Statement of Raymond Oglesby). During the second armed robbery, Rice dressed up like a girl wearing a bra stuffed with tissue paper and a wig. Rice then surveilled Taco Bell from a nearby store parking lot and waited for his moment to strike. When Rice entered Taco Bell armed with a pistol, he threatened to shoot anyone who did not comply with his demands. Rice then repeatedly fired the pistol at the store safe in an attempt to gain entry. Prior to the third armed robbery, Rice formulated a plan according to his co-defendants to run in and rob Maria's Snack Shop. During this armed robbery, there is even greater evidence of aggressiveness and violence than in the previous two armed robberies. Rice not only fired the pistol he carried during these armed robberies, but he also fired the pistol multiple times at the store owner.

3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if injury resulted.

The Juvenile stipulated each of the offenses with which he is charged is alleged to have been committed against both persons and property. I find that these crimes were committed primarily against persons. During each offense, someone was held by the Juvenile at gunpoint against his will. No physical injuries resulted.

4. The prosecutive merit of the complaint, i.e., whether there is evidence upon which a Grand Jury may be expected to return an indictment.

Rice stipulated to the prosecutive merit of each complaint pending against him, particularly that a Grand Jury would likely return a True Bill on each offense petitioned against him in this matter.

5. The desirability of trial and disposition of the entire offense in one court when the juvenile's associates in the alleged offense are adults who will be charged with a crime.

Rice has one co-defendant who is an adult awaiting trial in General Sessions court and two juvenile co-defendants against whom the State is not seeking to transfer jurisdiction to the Court of General Sessions.

6. The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living.

Rice possesses adequate sophistication based upon examination of his home, environmental situation, emotional attitude and pattern of living to support waiver to the Court of General Sessions. The pre-waiver evaluation report prepared by Dr. Kevin Irmiter, the DJJ Community Psychologist, contained significant findings regarding Rice's sophistication and maturity. Dr. Irmiter found,

"Jermal Rice is a teenager who reflects a level of maturity that is common for his chronological age. He can interact appropriately, participate in interpersonal interactions, and engage in social events. However, his current absence of affective responding interferes with how he relates to and interacts with others.

Jermal is more likely to respond, react, and behave in ways that are more consistent with children many years his junior. Jermal's deficit in the realm of emotional responding reflects a very immature approach to life and implies his affective growth has been stunted at an age more consistent with Kindergarten or earlier. Consequently, Jermal appears to be quite immature, with respect to affective responding." (Dr. Irmiter's report, p. 18)

Despite the fact that Rice has an emotional IQ that is less than that of a fifteen year old, I am guided by the fact that ^{the record indicates that} Rice reflects a level of maturity common for his chronological age. I further find that the allegations relating to the crimes with which he is charged suggest Rice is capable of premeditated, sophisticated, violent behavior with a goal in mind, that goal being to acquire money. Specifically, Rice committed three different, sequential acts of violence within a two week time period with this goal in mind.

7. The record and previous [criminal or adjudicative] history of the juvenile.

Rice's previous adjudicative record supports waiver to the Court of General Sessions. The family court adjudicated Rice delinquent November 3, 2004, for the offenses of disturbing school and threatening a public official and committed Rice to the Reception and Evaluation Center ("R&E"). Rice returned from R&E December 8, 2004, and began six months of probation with mental health counseling and in-home treatment through the Department of Mental Health. Rice successfully completed his probation for that offense.

May 17, 2006, the family court adjudicated Rice delinquent for a charge of petit larceny and placed Rice on probation until the end of 2006. Rice was still serving this period of probation when he committed these offenses.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the Juvenile Court.

Rice has had numerous opportunities to rehabilitate in the juvenile justice system but has failed to do so. Rice was adjudicated twice prior to incurring these charges. Despite having recently been adjudicated and placed on probation and despite having been committed to an evaluation center less than two years before incurring these charges, Rice chose to escalate his criminal activity. Rice's adjudicative record demonstrates a willingness on the part of Rice to take greater criminal risks to obtain a greater monetary reward. Rice's behavior has steadily deteriorated despite the involvement of the family court and the Department of Juvenile Justice. In 2004, Rice committed comparatively minor offenses. In less than two years, Rice chose to use guns to steal in hopes of gaining a greater monetary reward for his criminal behavior. Further, Dr. Irmiter, in his report dated June 25, 2007, noted the fifteen factors that would negatively affect Rice's prospects for rehabilitation but only six factors that would positively affect Rice's prospects for rehabilitation. The factors noted by Dr. Irmiter are set forth below.

Negative Factors to be considered:

1. Jermal is charged with serious and violent offenses, and if adjudicated delinquent, this would reflect a lack of concern for the well being of others. Persons who commit antisocial actions are difficult to rehabilitate.
2. Jermal has engaged in frequent antisocial behaviors and incurred various criminal charges and a pattern of increasing severity is present. Persons who frequently commit antisocial acts, as well as demonstrating a pattern of increasing severity can be difficult to rehabilitate.

3. Jermal has embraced a delinquent lifestyle that includes assaults, the use of weapons, illegal behavior, and the sale of drugs. Such a lifestyle suggests that rehabilitation will be difficult.
4. Past records and behavior indicate that Jermal has regularly engaged in violent acts that have been directed at peers and adults. A pattern of violent behavior can interfere with successful rehabilitation.
5. The fact that Jermal has previously been on probation, and was on probation at the time he was detained for the current charges, indicates he is at risk to reoffend and may be difficult to rehabilitate.
6. A previous commitment to R&E, as well as other DJJ Sanctions have failed to rehabilitate Jermal. Persons who have not responded appropriately to past sanctions, especially time in a secure setting, are less likely to benefit from similar services in the future.
7. Jermal incurred the current charges while on probation. Persons who do not respond to injunctions from family court and other authority figures tend to be more difficult to rehabilitate.
8. Jermal's behavior problems in school escalated in the past few years. Persons who are disruptive in the academic setting can be difficult to rehabilitate.
9. Jermal does not have realistic goals for the future. His only career plan was to play professional basketball, but he has not exhibited the needed standards in order for him to be eligible to play at the high school level. Persons who do not have realistic career plans may not be motivated to improve themselves and can be difficult to rehabilitate.
10. Jermal has low average to borderline cognitive abilities. Persons with lower intellectual abilities may have a more difficult time learning alternative behavior strategies and responding to rehabilitation services offered.
11. Jermal has a history of abusing marijuana, and is considered "probable" within the category of dependence. Such substance abuse concerns can interfere with the rehabilitative process.
12. Jermal has low self-esteem. Persons who think less of themselves often struggle with the rehabilitative process.
13. Jermal exhibited and expressed almost no remorse for his past offenses. His regret for his actions was almost exclusively tied to concrete consequences he personally has experienced. Persons who do not feel remorse tend to interact in superficial ways and are not likely to experience the internal controls needed to

govern the impulse to engage in inappropriate behavior. Persons who do not feel remorse for their actions are less motivated to change their behaviors and are usually more difficult to rehabilitate.

14. Jermal exhibited and expressed almost no empathy for his victims and family members that have been affected by his of [sic] past offenses. He was rather nonchalant when discussing his actions, and his statements reflected a rather superficial characterization of his actions. Persons who do not feel empathy are more difficult to rehabilitate.

15. Given Jermal's current age of 16 years 7 months, the amount of time available within the juvenile justice system is limited. If adjudicated on all charges, he will likely be transferred to SCDC when he turns 17.

Positive Factors to consider:

1. Jermal's behavior while at the Detention Center, and previously at UEC was appropriate. Persons who respond to structured settings such as institutional confinement may benefit from such rehabilitative services.
2. Jermal has been cooperative with DJJ personnel in the past and previously met all the conditions of probation.
3. Jermal shows no evidence of serious mental illness. Persons who are not mentally ill are more likely to benefit from rehabilitative services.
4. Jermal was not overly protective or defensive during the evaluative process. Persons who discuss their lives openly and honestly may engage themselves in the rehabilitative process and are more likely to benefit from it.
5. Jermal accepted responsibility for his offenses. Persons who accept responsibility for their actions are more likely to benefit from intervention services.
6. After experiencing many months in the detention center, Jermal indicated a fear of a lengthy sentence. Motivation to avoid serious sanctions can aid persons in avoiding other antisocial acts and in developing strategies for achieving a pro-social pattern of behavior. (Dr. Irmiter's report, pp. 18-20).

I have specifically considered all of the positive factors as well as negative factors set forth in Dr. Irmiter's report. I find the factors noted by Dr. Irmiter that would negatively affect Rice's prospects for rehabilitation greatly outweigh the factors that would positively affect Rice's prospects for rehabilitation, not only in number but in

11/16/09
J.F.

significance. Based upon this finding, I find that the prospects for Rice being rehabilitated as a juvenile is questionable at best.

CONCLUSION REGARDING WAIVER

I find based upon this Court's evaluation of the evidence presented in this case and careful consideration of each and every factor set forth in Kent v. United States, 383 U.S. 541 (1966), that transfer of this case to the Court of General Sessions is appropriate in this case. Transfer of this case to the Court of General Sessions affords the public the greatest protection available from future criminal activity by Rice. As a juvenile, Rice would be absolutely finished with any confinement no later than October 30, 2011, less than three and one-half years from now. As an adult, Rice could be confined a much greater length of time and would have the opportunity to mature more and reflect longer on the consequences and potential consequences of his criminal behavior. Taking into account the aggressive, violent allegations and the negative and positive factors set forth by Dr. Irmiter, the prospects for adequate protection of the public if Rice remains in the juvenile system are not good. These same factors also lead me to conclude that the prospects for Rice rehabilitating in the juvenile system are not good either.

CONCLUSIONS OF LAW

1. §20-7-7605 S.C. Code Ann., requires in accordance with jurisdiction granted to the family court pursuant to §§20-7-400, 20-7-410, and 20-7-420, jurisdiction over a case involving a child must be transferred or retained as follows:

(5) If a child fourteen or fifteen years of age is charged with an offense which, if committed by an adult, could be a Class A, B, C or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment

of fifteen years or more, the court, after full investigation and hearing, may determine it contrary to the best interests of the child or of the public to retain jurisdiction. The court, as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.

2. In the case of State v. Corey D., 339 S.C. at 118, 529 S.E.2d at 26 (2000), the South Carolina Supreme Court found and/or held the following:

“It is the responsibility of the family court to include in its waiver of jurisdiction order a sufficient statement of reasons for, and considerations leading to, that decision. State v. Kelsey, 331 S.C. 50, 502 S.E.2d 63 (1998). Moreover, the family court specifically considered the *Kent* factors, which in previous cases this Court has implicitly approved as approved criteria.

In evaluating whether the family court abused its discretion, we consider the *Kent* factors and emphasize that the serious nature of the offense is a major factor in the transfer decision. State v. Kelsey. Furthermore, ‘the best interests of the public or of the juvenile may require the juvenile be held accountable as an adult for his criminal conduct.’ ”

3. In Kent v. United States, 383 U.S. 541 (1966), the Supreme Court of the United States set forth eight factors that should be considered in making the decision whether to transfer jurisdiction in a juvenile case from family court to adult court. Those factors are:

- 1) the seriousness of the alleged offense to the community and whether the protection of the community requires waiver;
- 2) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;
- 3) whether the alleged offense was

against persons or against property, greater weight being given to offenses against persons especially if injury resulted; 4) the prosecutive merit of the complaint, i.e., whether there is evidence upon which a Grand Jury may be expected to return an indictment; 5) the desirability of trial and disposition of the entire offense in one court when the juvenile's associates in the alleged offense are adults who will be charged with a crime; 6) the sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living; 7) the record and previous criminal or adjudicative history of the juvenile; 8) the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the Juvenile Court.


4. Robbery while armed with a deadly weapon is a Class A felony. §16-1-90 S.C. Code Ann. (1976, as amended). Armed robbery is also a statutory violent crime. §16-1-60 S.C. Code Ann. (1976, as amended).
5. Possession of a weapon during the commission of a violent crime is a Class F felony. §16-1-90 S.C. Code Ann. (1976, as amended).
6. Safecracking is a Class A felony. §16-1-90 S.C. Code Ann. (1976, as amended).
7. Assault with intent to kill is not a statutorily defined violent crime.
8. Kidnapping is a Class A felony. §16-1-90 S.C. Code Ann. (1976, as amended). Kidnapping is also a statutorily defined violent crime. §16-1-60 S.C. Code Ann. (1976, as amended).

Based upon the foregoing findings of fact and conclusions of law,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT

jurisdiction in this case of In the Interest of Jermal Rice, Case Nos. 2006-JU-04-539 to 543 and 2007-JU-04-409-420, shall be immediately transferred to the Court of General Sessions.

IT IS SO ORDERED.


THE HONORABLE TOMMY B. EDWARDS
Family Court Judge
Tenth Judicial Circuit

Dated: January 6, 2009
Anderson South Carolina

2009 JAN -7 A 8:40
TENTH CIRCUIT
ANDERSON, SC

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Anderson
STATE VS.
Jamel Lemont Rice
AKA:
Race: B Sex: M Age: 18
DOB: 10-30-1990 SS#:
Address: 102 Crooked Creek Court
Anderson, SC 29626
DL#: SID#

INDICTMENT/CASE#: 2009GS0400993
A/W#: J876603
Date of Offense: 9/10/2006
S.C. Code §: 16-03-0620, 17-25-0030
CDR Code #: 0768

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was TO: Assault / Assault with intent to kill (AWIK)

CONVICTED OF or PLEADS

in violation of § 16-03-0620, 17-25-0030 of the S.C. Code of Laws, bearing CDR Code # 0768
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 Presentation to Grand Jury (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State

ATTEST: Byford, Jern SC Bar# 68297X Defendant
Attorney for Defendant SC Bar# 13413

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 11 years 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 0 months

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

CONCURRENT or CONSECUTIVE to sentence on: 10/14/09
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 3 years
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) \$3.90, TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund.
Other
Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk: Cathy M. Phillips
Court Reporter: B. Jollison
SCCA/217 (06/2009)

PRESIDING JUDGE: J. Now
Judge Code: 2 1 1 3 1 1
Sentence Date: 10-14-09

STATE OF SOUTH CAROLINA)
)
COUNTY OF Anderson)

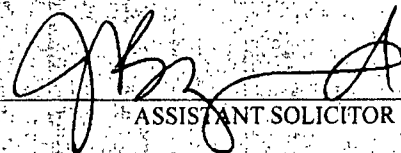
INDICTMENT

At a Court of General Sessions, convened on APR 21 2009, the Grand Jurors of Anderson County present upon their oath

Assault / Assault with intent to kill (AWIK)

That Jarmel Lamont Rice did in Anderson on or about September 10, 2006 commit an assault with malice aforethought upon Billy Tollison to wit: did fire repeatedly the victim. This is in violation of the Common Law of the State of South Carolina.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Anderson
STATE VS. Jarmel Lemont Rice
AKA:
Race: B Sex: M Age: 18
DOB: 10-30-1990 SS#:
Address: 102 Crooked Creek Court
Anderson, SC 29626
DL#: SID#:

INDICTMENT/CASE#: 2009GS0400990
A/W#: J876600
Date of Offense: 9/10/2006
S.C. Code § 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET



In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly 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)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State

ATTEST: Byford, Jenn SC Bar# 08297 Defendant Jarmel Rice
Attorney for Defendant [Signature] SC Bar# 13413

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 11 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 to be served with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 10/14/09 plus
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-15-40 to be calculated and applied by the State Department of Corrections. 3 years
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
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.

Clerk of Court/ Deputy Clerk: Cathy M. Phillips
Court Reporter: R. Johnson
SCCA/217 (06/2009)

PRESIDING JUDGE: [Signature]
Judge Code: 2 1 1 3 1 1
Sentence Date: 10-14-09

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

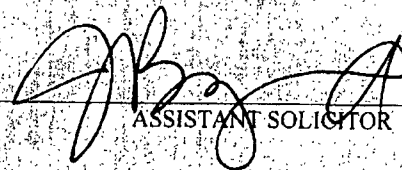
INDICTMENT

At a Court of General Sessions, convened on APR 21 2009 the Grand Jurors of Anderson County present upon their oath:

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

That Jarmel Lemont Rice did in Anderson County, on or about September 10, 2006 did knowingly and willfully deliver or convey to, take and carry away from the person of Billy Tollison, a wallet by means of force, threats or intimidation with intent to deprive the owner of such property while armed with a deadly weapon. All in violation of section 16-11-330 (A), Code of Laws of South Carolina, as amended.

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


ASSISTANT SOLICITOR

NOTICE OF INTENT TO APPEAL
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY

THE HONORABLE J. CORDELL MADDOX
THE HONORABLE TOMMY B. EDWARDS
THE HONORABLE BARRY W. KNOBEL

JUDGES OF THE TENTH JUDICIAL CIRCUIT

DOCKET NUMBER: 2009-GS-04-988; 2009-GS-04-990;
2009-GS-04-993; 2009-GS-04-998; 2007-JU-539-543

RECEIVED

NOV 17 2009

SC Court of Appeals

THE STATE OF SOUTH CAROLINA,

Respondent
-vs-

JARMEL LEMONT RICE,
Appellant.

AMENDED NOTICE OF APPEAL

YOU WILL PLEASE TAKE NOTICE that the Defendant, Jarmel Lemont Rice, hereby gives notice that he appeals from the verdict and sentenced imposed on October 14, 2009, by the Honorable J.Cordell Maddox, Judge of the Tenth Judicial Circuit, on the charges of Armed Robbery, Armed Robbery, Assault with Intent to Kill, Armed Robbery and the denial of the Appellant's Motion on the Constitutionality of the Juvenile waiver statute issued on or about April 5, 2008 and the waiver of the juvenile to General Sessions Court on January 6, 2009. The Case and Exceptions will be served within the normal time limit.



ANDREW T. POTTER

OTHER COUNSEL OF RECORD ARE:

Jenn Byford, Esq.
Assistant Solicitor
P.O. Box 8002
Anderson, SC 29622

Ms. Salley W. Elliott
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
NOV 17 2009
SC Court of Appeals

THE STATE,)
)
-vs-)
)
JARMEL LEMONT RICE)
)
Defendant.)
_____)

AFFIDAVIT OF MAILING
2009-GS-04-988; 990; 998; 2007-JU-539-543

I, KENDRA GURLEY, being duly sworn depose and say that I am employed by the Public Defender's Office for Anderson County, and that I did on November 16, 2009, at or around the hour of 2:00 p.m. place a copy of the Amended Notice of Intent to Appeal addressed to The Attorney General in the mail room located in the Anderson County Courthouse, Anderson, South Carolina, to be mailed by the Anderson County mail clerk.


KENDRA GURLEY

Sworn to before me this

16 day of November, 2009.


NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 7/28/14

Office of Public Defender
TELE JUDICIAL CIRCUIT
ANDERSON & OCONEE COUNTIES

ANDERSON COUNTY
301 CAMSON ROAD
ANDERSON, SC 29625
TELEPHONE 864-260-4048
FAX 864-260-4134

ROBERT A. GAMBLE
PUBLIC DEFENDER

OCONEE COURTHOUSE
415 SOUTH PINE STREET
WALHALLA, SC 29691
TELEPHONE 864-638-4268

November 16, 2009

RECEIVED

NOV 17 2009

SC Court of Appeals

Mr. Kenneth A. Richstad
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

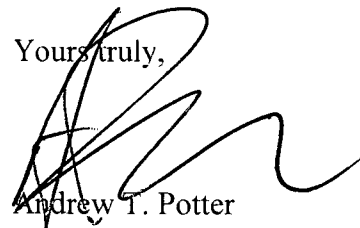
Re: State v. Jarmel Lemont Rice

Dear Mr. Richstad:

Please find enclosed the Amended Notice of Intent to Appeal in regard to the captioned matter along with an Affidavit of Mailing. Please file the aforesaid in the appropriate file.

Thank you for your cooperation and assistance in this matter.

Yours truly,



Andrew T. Potter
Assistant Public Defender
Anderson County Public Defenders Office

ATP/kkg

Enclosure

Xc: Jenn Byford
Salley W. Elliott
Joseph Savitz

NOV 17 2009

NOV 17 2009

NOV 17 2009

NOTICE OF INTENT TO APPEAL
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY

THE HONORABLE J. CORDELL MADDOX
THE HONORABLE TOMMY B. EDWARDS
THE HONORABLE BARRY W. KNOBEL

JUDGES OF THE TENTH JUDICIAL CIRCUIT

DOCKET NUMBER: 2009-GS-04-988; 2009-GS-04-990;
2009-GS-04-993; 2009-GS-04-998; 2007-JU-539-543

RECEIVED
2009
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

Respondent
-vs-

JARMEL LEMONT RICE
Appellant

AMENDED NOTICE OF APPEAL

YOU WILL PLEASE TAKE NOTICE that the Defendant, Jarmel Lemont Rice, hereby gives notice that he appeals from the verdict and sentence imposed on October 14, 2009, by the Honorable J. Cordell Maddox, Judge of the Tenth Judicial Circuit, on the charges of Armed Robbery, Armed Robbery, Assault with Intent to Kill, Armed Robbery and the denial of the Appellant's Motion on the Constitutionality of the Juvenile waiver statute issued on or about April 5, 2008 and the waiver of the juvenile to General Sessions Court on January 6, 2009. The Case and Exceptions will be served within the normal time limit.


ANDREW T. POTTER

OTHER COUNSEL OF RECORD ARE:

Jenn Byford, Esq.
Assistant Solicitor
P.O. Box 8002
Anderson, SC 29622

Ms. Salley W. Elliott
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

RECEIVED
NOV 16 2009
SC Court of Appeals

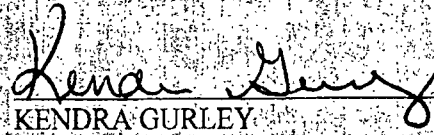
THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,)
)
 -vs-)
)
 JARMEL LEMONT RICE)
)
 Defendant)
)

AFFIDAVIT OF MAILING
 2009-GS-04-988; 990, 998; 2007-JU-539-543

I, KENDRA GURLEY, being duly sworn depose and say that I am employed by the Public Defender's Office for Anderson County, and that I did on November 16, 2009, at or around the hour of 2:00 p.m. place a copy of the Amended Notice of Intent to Appeal addressed to The Attorney General in the mail room located in the Anderson County Courthouse, Anderson, South Carolina, to be mailed by the Anderson County mail clerk.


 KENDRA GURLEY

Sworn to before me this

16 day of November, 2009


 NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 7/28/14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Anderson
STATE VS.
Jarmel Lemont Rice

INDICTMENT/CASE#: 2009GS0400988
A/W#: J876613
Date of Offense: 8/31/2006
S.C. Code § 16-11-0330(A)
CDR Code #: 0139

AKA:
Race: B Sex: M Age: 18
DOB: 10-30-1990 SS#:
Address: 102 Crooked Creek Court
Anderson, SC 29626
DL#: SID#:

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly 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
The plea is: Without Negotiations or Recommendation Negotiated Sentence Recommendation by the State

ATTEST: Byford Denn SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to State Department of Corrections County Detention Center
for a determinate term of 11 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 and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 10/14/09
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 3 years
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
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:
Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Table with columns for Recipient, *Fine, and amounts. 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/ca, § 90.7 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

Clerk of Court/Deputy Clerk
Court Reporter: R. Johnson
SCCA/217 (06/2009)

PRESIDING JUDGE
Judge Code: 2 11/13/11
Sentence Date: 10-14-09

STATE OF SOUTH CAROLINA)
)
COUNTY OF Anderson)

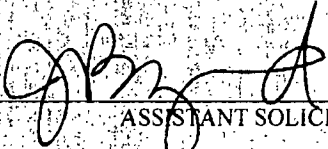
INDICTMENT

At a Court of General Sessions, convened on APR 21 2009, the Grand Jurors of Anderson County present upon their oath:

Robbery / Armed Robbery, robbery while armed or allegedly ar

That Jarmel Lamont Rice did in Anderson County, on or about the August 31, 2006, while armed with a deadly weapon, to wit: a pistol, or while alleging either by action or words he/she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: wallett from the person or presence of Cecil Baker. This is in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Anderson
STATE VS
Jarmel Lemont Rice
AKA:
Race: B Sex: M Age: 18
DOB: 10-30-1990 SS#:
Address: 102 Crooked Creek Court
Anderson, SC 29626
DL#: SID#

INDICTMENT/CASE#: 2009GS0400998
A/W#: J876607
Date of Offense: 8/30/2006
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 [X] PLEADS

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

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

ATTEST: Byford, John 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 11 years 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 60
months and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

[X] CONCURRENT or [] CONSECUTIVE to sentence on 10/14/09
[] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 3 years
[] 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 columns for Recipient, *Fine, and amounts. 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 Enforc. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$100, § 50-21-114 (DUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, § 90.7 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:
[] Appointed PD or appointed other counsel, §47.12
requires \$500 be paid to Clerk during probation:

Clerk of Court/Deputy Clerk:
Court Reporter:
SCCA/217(06/2009)

PRESIDING JUDGE:
Judge Code: 2 / 1 / 3 / 1
Sentence Date: 10-14-09

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

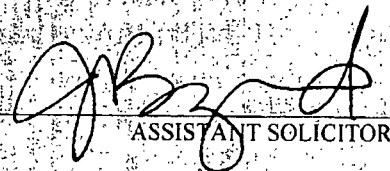
INDICTMENT

At a Court of General Sessions, convened on APR 21 2009, the Grand Jurors of Anderson County present upon their oath:

Robbery / Armed Robbery

That Jarmel Lamont Rice did in Anderson County, on or about the August 30, 2006, while armed with a deadly weapon, to wit: a pistol, or while alleging either by action or words he/she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: 1986 Chevrolet Celebrity vehicle and \$100.00 in cash, from the person or presence of Raymond Olgesby. This is in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR

301 Camson Road
Anderson, South Carolina 29625
Telephone (864) 260-4048
Fax (864) 260-4134

**10th Judicial Circuit
Public Defenders**

RECEIVED
NOV 16 2009
SC Court of Appeals

Fax

To: NORMA Bigby From: Andy Potter

Fax: 803-734-1496 Pages: 32

Phone: _____ Date: 11-16-09

Re: per your request CC: File

The information contained in this facsimile is attorney/client privileged and may be confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, please be advised that any dissemination, distribution or copying of this communication is strictly prohibited. If this communication has been received in error, please notify the sender by telephone. Thank you.

If you did not receive all pages, including this cover page, please call **Andy** at (864) 367-9017 or **Renee** at (864) 356-6328

Office of Public Defender

THIRTEENTH JUDICIAL CIRCUIT
ANDERSON & OCONEE COUNTIES

ROBERT A. GAMBLE
PUBLIC DEFENDER

ANDERSON COUNTY
301 CAMSON ROAD
ANDERSON, SC 29625
TELEPHONE 864-260-4048
FAX 864-260-4134

OCONEE COURTHOUSE
415 SOUTH PINE STREET
WALHALLA, SC 29691
TELEPHONE 864-638-4268

November 16, 2009

Mr. Kenneth A. Richstad
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

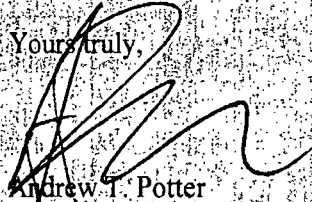
Re: State v. Jarmel Lemont Rice

Dear Mr. Richstad:

Please find enclosed the Amended Notice of Intent to Appeal in regard to the captioned matter along with an Affidavit of Mailing. Please file the aforesaid in the appropriate file.

Thank you for your cooperation and assistance in this matter.

Yours truly,


Andrew T. Potter
Assistant Public Defender
Anderson County Public Defenders Office

ATP/kkg
Enclosure

Xc: Jenn Byford
Salley W. Elliott
Joseph Savitz

NOTICE OF INTENT TO APPEAL
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

NOV 05 2009

APPEAL FROM ANDERSON COUNTY

SC Court of Appeal

THE HONORABLE J. CORDELL MADDOX
THE HONORABLE TOMMY B. EDWARDS
THE HONORABLE BARRY W. KNOBEL

JUDGE OF THE TENTH JUDICIAL CIRCUIT

DOCKET NUMBER: 2009-GS-04-988; 2009-GS-04-990;
2009-GS-04-993; 2009-GS-04-998; 2007-JU-04-539-543

THE STATE OF SOUTH CAROLINA,

Respondent

-vs-

JARMEL LEMONT RICE,
Appellant.

NOTICE OF APPEAL

YOU WILL PLEASE TAKE NOTICE that the Defendant, Jarmel Lemont Rice, hereby gives notice that he appeals from the denial of the Motion on the Constitutionality of the Juvenile Waiver Statute issued on or about April 5, 2008, and the waiver of the juvenile to General Sessions Court, by the Honorable Tommy B. Edwards, Judge of the Tenth Judicial Circuit. The Case and Exceptions will be served within the normal time limit.


ANDREW POTTER
ASSISTANT PUBLIC DEFENDER
ANDERSON COUNTY

OTHER COUNSEL OF RECORD ARE:

Jenn Byford
Assistant Solicitor
P.O. Box 8002
Anderson, SC 29622

Ms. Salley W. Elliott
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

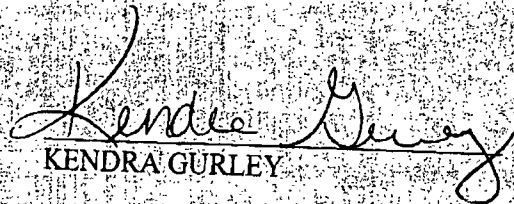
-vs-

JARMEL LEMONT RICE,

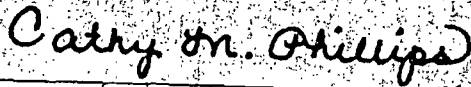
Defendant.

AFFIDAVIT OF FILING IN THE
COURT OF GENERAL SESSIONS
ANDERSON, SOUTH CAROLINA
2009-GS-04-988, 990, 993, 998

I, KENDRA GURLEY, hereby certify that I am employed by the Office of the Public Defender for Anderson, South Carolina, and that I did on October 21, 2009, at or around the hour of 2:00 PM, file a copy of the Notice of Appeal in regard to the captioned matter with the Clerk of Court of General Sessions, Anderson, South Carolina.


KENDRA GURLEY

ATTESTED BY:



CLERK OF COURT FOR ANDERSON COUNTY,
SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,

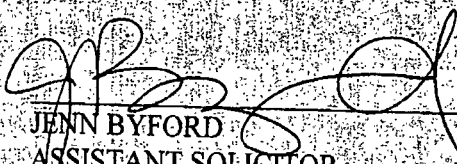
-vs-

JARMEL LEMONT RICE

Defendant

ACCEPTANCE OF SERVICE
2009-GS-04-988; 990; 993; 998

I, JENN BYFORD, Assistant Solicitor, for Anderson County, hereby accept service of a copy of the Notice of Appeal in regard to the captioned matter this 21st day of October, 2009.


JENN BYFORD
ASSISTANT SOLICITOR
ANDERSON COUNTY

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE)
)
 -vs-)
)
 JARMEL LEMONT RICE)
)
 Defendant)
)

ACCEPTANCE OF SERVICE
2009-GS-04-988; 990, 993, 998

I, JENN BYFORD, Assistant Solicitor, for Anderson County, hereby accept service of a copy
of the Notice of Appeal in regard to the captioned matter this 21st day of October,
2009.


JENN BYFORD
ASSISTANT SOLICITOR
ANDERSON COUNTY

301 Camson Road, Anderson, South Carolina
29625
Telephone (864) 260-4048
Fax: (864) 260-4134

**10th Judicial Circuit
Public Defenders**

Fax

RECEIVED

NOV 05 2009

SC Court of Appeals

To: *LATRAIA Bellamy* **From:** Andy Potter

Fax: *803-734-1496* **Pages:**

Phone: **Date:** *11-5-09*

Re: **CC:** File

The information contained in this facsimile is attorney/client privileged and may be confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, please be advised that any dissemination, distribution or copying of this communication is strictly prohibited. If this communication has been received in error, please notify the sender by telephone. Thank you.

If you did not receive all pages, including this cover page, please call **Andy** at (864) 367-9017 or **Renee** at (864) 356-6328.

Office of Public Defender
TENTH JUDICIAL CIRCUIT
ANDERSON & OCONEE COUNTIES

ANDERSON COUNTY
301 CAMSON ROAD
ANDERSON, SC 29625
TELEPHONE 864-260-4048
FAX 864-260-4134

OCONEE COURTHOUSE
415 SOUTH PINE STREET
WALHALLA, SC 29691
TELEPHONE 864-638-4268

ROBERT A. GAMBLE
PUBLIC DEFENDER 2009

RECEIVED

OCT 27 2009

SC Court of Appeals

Mr. Kenneth A. Richstad
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

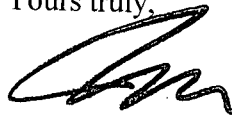
Re: State vs. Jarmel Lemont Rice

Dear Mr. Richstad:

Please find enclosed the Acceptance of Service of Salley W. Elliott, of the Office of the Attorney General. Please file the aforesaid in the proper file.

Thank you for your cooperation and assistance in this matter.

Yours truly,



Andrew Potter
Assistant Public Defender

AP/kgg
Enclosure

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
OCT 27 2009
SC Court of Appeals

THE STATE,)
)
-vs-)
)
JARMEL LEMONT RICE)
)
Defendant.)
_____)

ACCEPTANCE OF SERVICE
2009-GS-04-988; 990; 993; 998

I, Salley W. Elliott, of the Office of the Attorney General, hereby accept service of a copy of the Notice of Appeal in regard to the captioned matter this 22nd day of October, 2009.


SALLEY W. ELLIOTT
ASSISTANT DEPUTY ATTORNEY GENERAL

NOTICE OF INTENT TO APPEAL
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY

THE HONORABLE J. CORDELL MADDOX
THE HONORABLE TOMMY B. EDWARDS
THE HONORABLE BARRY W. KNOBEL

JUDGE OF THE TENTH JUDICIAL CIRCUIT

DOCKET NUMBER: 2009-GS-04-988; 2009-GS-04-990;
2009-GS-04-993; 2009-GS-04-998; 2007-JU-04-539-543

405-10/21/09
PM-10/21/09
RECEIVED

OCT 22 2009

SC Court of Appeals

THE STATE OF SOUTH CAROLINA,

Respondent
-vs-

JARMEL LEMONT RICE,
Appellant.

NOTICE OF APPEAL

YOU WILL PLEASE TAKE NOTICE that the Defendant, Jarmel Lemont Rice, hereby gives notice that he appeals from the denial of the Motion on the Constitutionality of the Juvenile Waiver Statute issued on or about April 5, 2008, and the waiver of the juvenile to General Sessions Court, by the Honorable Tommy B. Edwards, Judge of the Tenth Judicial Circuit. The Case and Exceptions will be served within the normal time limit.


ANDREW POTTER
ASSISTANT PUBLIC DEFENDER
ANDERSON COUNTY

OTHER COUNSEL OF RECORD ARE:

Jenn Byford
Assistant Solicitor
P.O. Box 8002
Anderson, SC 29622

Ms. Salley W. Elliott
Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
OCT 22 2009
SC Court of Appeals

THE STATE,)
)
-vs-)
)
JARMEL LEMONT RICE,)
)
Defendant.)
_____)


AFFIDAVIT OF MAILING
2009-GS-04-988; 990; 993; 998

I, KENDRA GURLEY, being duly sworn depose and say that I am employed by the Public Defender's Office for Anderson County, and that I did on October 21, 2009, at or around the hour of 2:00 p.m. place a copy of the Notice of Intent to Appeal addressed to The Attorney General in the mail room located in the Anderson County Courthouse, Anderson, South Carolina, to be mailed by the Anderson County mail clerk.


KENDRA GURLEY

Sworn to before me this

21 day of October, 2009.


NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 7-8-12

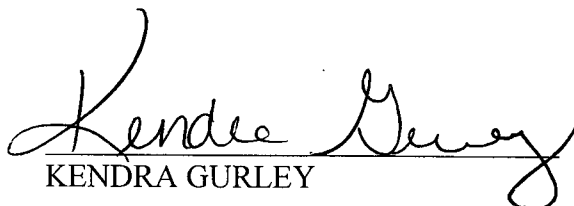
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
OCT 22 2009
SC Court of Appeals

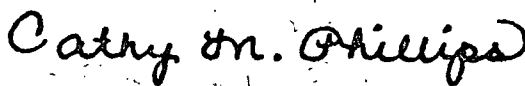
THE STATE,)
)
-vs-)
)
JARMEL LEMONT RICE,)
)
Defendant.)
_____)

AFFIDAVIT OF FILING IN THE
COURT OF GENERAL SESSIONS
ANDERSON, SOUTH CAROLINA
2009-GS-04-988; 990; 993; 998

I, KENDRA GURLEY, hereby certify that I am employed by the Office of the Public Defender for Anderson, South Carolina, and that I did on October 21, 2009, at or around the hour of 2:00 PM, file a copy of the Notice of Appeal in regard to the captioned matter with the Clerk of Court of General Sessions, Anderson, South Carolina.


KENDRA GURLEY

ATTESTED BY:



CLERK OF COURT FOR ANDERSON COUNTY,
SOUTH CAROLINA

RECEIVED
OCT 22 2009
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,)
)
-vs-)
)
JARMEL LEMONT RICE)
)
Defendant.)
_____)

ACCEPTANCE OF SERVICE
2009-GS-04-988; 990; 993; 998

I, JENN BYFORD, Assistant Solicitor, for Anderson County, hereby accept service of a copy of the Notice of Appeal in regard to the captioned matter this 21st day of October, 2009.



JENN BYFORD
ASSISTANT SOLICITOR
ANDERSON COUNTY

Office of Public Defender
THIRD JUDICIAL CIRCUIT
ANDERSON & OCONEE COUNTIES

ANDERSON COUNTY
301 CAMSON ROAD
ANDERSON, SC 29625
TELEPHONE 864-260-4048
FAX 864-260-4134

OCONEE COURTHOUSE
415 SOUTH PINE STREET
WALHALLA, SC 29691
TELEPHONE 864-638-4268

ROBERT A. GAMBLE
PUBLIC DEFENDER

October 20, 2009

RECEIVED
OCT 22 2009
SC Court of Appeals

Mr. Kenneth A. Richstad
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

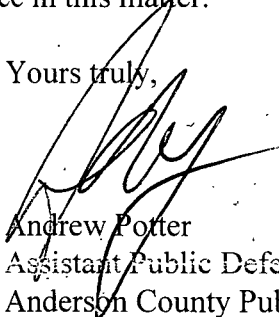
Re: State v. Jarmel Lemont Rice

Dear Mr. Richstad:

Please find enclosed the Notice of Intent to Appeal in regard to the captioned matter along with the Acceptance of Service of Jenn Byford, Assistant Solicitor for Anderson County, and an Affidavit of Mailing to the Office of Attorney General. Please file the aforesaid in the appropriate file.

Thank you for your cooperation and assistance in this matter.

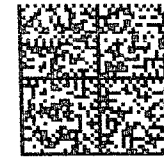
Yours truly,


Andrew Potter
Assistant Public Defender
Anderson County Public Defenders Office

AP/kkg
Enclosure



Robert A. Gamble
10th Circuit Public Defender
301 Camson Road
Anderson, SC 29625



UNITED STATES POSTAGE
PITNEY BOWES
02 1M \$00.44⁰
0004271113 OCT 21 2009
MAILED FROM ZIP CODE 29624

Mr. Kenneth A. Richstad
Clerk of the Court of Appeals
P. O. Box 11629
Columbia, SC 29211

29211+1829

