

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County
The Honorable Edward W. Miller, Circuit Court Judge

Appellate Case No: 2020-001361

OSHAUN J. ROBINSON,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

APPENDIX

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of the issues, witness' safety, or interrogation that is repetitive or only marginally relevant.

Id. (quoting Van Arsdall, 475 U.S. at 679).

"A violation of the defendant's Sixth Amendment right to confront the witness is not per se reversible error if the error was harmless beyond a reasonable doubt." State v. Gillian, 360 S.C. 433, 454, 602 S.E.2d 62, 73 (Ct. App. 2004) (internal quotation marks and emphasis omitted). "Harmless beyond a reasonable doubt means the reviewing court can conclude the error did not contribute to the verdict beyond a reasonable doubt." Id. at 455, 602 S.E.2d at 74 (internal quotation marks omitted).

Whether an error is harmless depends on the particular facts of each case and upon a host of factors, including:

the importance of the witness' testimony in the prosecution's case, whether the testimony was cumulative, the presence or absence of evidence corroborating or contradicting the testimony of the witness on material points, the extent of cross-examination otherwise permitted, and of course the overall strength of the prosecution's case.

Id. at 455, 602 S.E.2d at 73-74 (quoting State v. Mizzell, 349 S.C. 326, 333, 563 S.E.2d 315, 318-19 (2002)).

Here, although the trial court precluded Robinson from cross-examining a witness for the State regarding the specific sentence he received for charges arising from the same incident, the court allowed extensive cross-examination of the witness regarding every other aspect of potential bias arising from his cooperation with the State. Accordingly, we find that, to the extent the trial court erred by precluding evidence of the witness's specific sentence, the error was harmless because such evidence was cumulative and could not reasonably have affected the result of the trial.

AFFIRMED.

SHORT, WILLIAMS, and GEATHERS, JJ., concur.



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

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February 14, 2012

REMITTITUR

The Honorable Paul B. Wickensimer
305 E. North Street
Greenville, SC 29601-2120

Re: The State v. Robinson, Oshaun J.
2008-GS-23-05382
2008-GS-23-05383
2008-GS-23-05384

Dear Mr. Wickensimer:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Sincerely,

V. Claire Allen, Deputy
Tanya A. Gee
Clerk of Court

TAG/tf

cc: Appellate Defender Robert M. Pachak
Assistant Attorney General Deborah Shupe

RECEIVED
S. C. AT THERAL
DATE 2-15-12 *clp*

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)
*****)

IN THE COURT OF COMMON PLEAS

O'SHAWN J. ROBINSON, #327798,)
Full name and prison number (if any) of Applicant.)**2012-CP-23- 07606**

v.)

APPLICATION FOR)

State of South Carolina)

POST-CONVICTION RELIEF)

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention LEE C.I., 990 WISACKY HWY., BISHOPVILLE, S.C. 29010
2. Name and location of Court which imposed sentence GREENVILLE CO. GEN. SESS. Ct.
3. Name(s) of co-defendant(s) (if any) TIMOTHY WRIGHT, KENNETH WILKINSON
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2008-GS-23-5382; ARMED ROBBERY W/DEADLY WEAPON
 - (b) " " " ; POSS. WEAPON CR. VIOLENT CRIME
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) JANUARY 15, 2009; TWENTY-FIVE YEARS ARM. ROB.
 - (b) " " " ; FIVE YEARS (5) EVOLC

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ~~xxx~~ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. SC COURT OF APPEALS
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. AFFIRMED CONVICTIONS
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. JANUARY 25, 2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. see order by procedural history, etc.
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing: N/A
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) SEE ATTACHED MEMORANDUM FOR ISSUES AND LAWS SUPPORTING GROUNDS, etc.

(b) 1001 1001 10001 " "

(c) 1001 10001 1001 " "

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

(a) SEE MEMORANDUM OF LAWS SUPPORTING CLAIMS, etc.

(b) 1001 1001 " " 1001 1001 "

(c) 1001 1001 " " 1001 1001 "

12. Prior to this application have you filed with respect to this conviction: NO

(a) any petition in a State Court under South Carolina Law? _____

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

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

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof: N/A

i. _____

ii. _____

iii. _____

- iv. _____
- (d) the date of each such disposition: N/A
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition: N/A
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- NO
15. If you answered "yes" to (14) identify: [NO]
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised: N/A
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) NO GROUNDS HAVE BEEN RAISED DUE TO FOLLOWING THE PROPER EXHAUSTION DOCTRINE, etc.
- (b) APPLICANT IS REQUIRED TO FOLLOW THE AVAILABLE REMEDY PROCEDURES OF MAKING A COLLATERAL
- (c) ATTACK TO HIS CONVICTIONS RE: AT EX ROYALL, COURT.
17. Were you represented by an attorney at any time during the course of:

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

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

- (a) the name and address of each attorney who represented you:

- i. ANDY MORRIS, ESQ.

- ii. ROBERT M. PACHAK, ESQ.

- iii. _____

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

- i. Trial, ANDY MORRIS

- ii. APPEAL, ROBERT M. PACHAK

- iii. _____

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

CONVICTION OVERTURNED AND CHARGES DISMISSED BASED UPON LACK

20. OF CORRECTION OF ERROR OF LAWS TO THE CONSTITUTIONS, etc.
Are you now under sentence from any other court that you have not challenged?

no

POST CONVICTION RELIEF
MEMORANDUM #1.

MEMORANDUM OF ISSUES:

10(a): APPLICANT WAS DENIED THE RIGHTS TO EFFECTIVE ASSISTANCE OF TRIAL COUNSEL AND APPELLATE COUNSEL GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION AND BY ART. I, §§ 3 AND 14 OF THE S.C. CONSTITUTION DURING APPLICANT'S TRIAL, etc., AND THE APPEAL EXHAUSTION THROUGH THE APPEALS COURT FOR THE PROPER REVIEWS AND EXHAUSTING REMEDIES AVAILABLE TO THE APPLICANT TO PROPERLY EXHAUST HIS CASE BY PER SE TO THE PROPER EXHAUSTION DOCTRINE, etc.

11(a): SUPPORTING FACTS TO ISSUES:

TRIAL COUNSEL AND THE APPELLATE COUNSEL PERFORMANCE DURING TRIAL AND THE APPEAL WAS BOTH UNREASONABLE AND PREJUDICE AGAINST APPLICANT, per se SEE AT CASE: STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984), COUNSEL'S ACTS AND OMISSIONS ARE BUT NOT LIMITED TO THE FOLLOWING:

ISSUE ONE: APPELLATE COUNSEL INEFFECTIVE ASSISTANCE FOR NOT PURSUING ALL AVAILABLE APPEAL REMEDIES BY THE SC APPELLATE COURT RULES AND PROCESSES, FOR THE SACK OF BRING IN COMPLIANCES WITH THE PROPER EXHAUSTION DOCTRINE, etc., SEE APPLICANT COULD HAVE APPEALED HIS CASE TO THE U.S. SUPREME COURT FOR A REVIEW ON CERTIORARI TO THE SC SUPREME COURT DECISIONS TO THE DIRECT APPEAL AS THESE RULES ARE ESTABLISHED AND APPLICABLE TO THE APPLICANT'S CASE MATTERS, THE APPLICANT ALSO MAKES CONTENTIONS IN HIS CLAIMS AS WELL BY THE SETTLED LAWS AS CITED: SEE GILCHRIST V. STATE, 364 S.C. 173, 612 S.E.2d 702 (2005); ANDERSON V. STATE, 354 S.C. 431, 581 SE2d 834 (2003), AND SEE: SOUTHERLAND V. STATE, 337 S.C. 610, 524 SE2d 833 (1999), WHEREAS, THE APPLICANT APPEAL WAS NOT PERFECTED BY APPEAL COUNSEL DUE TO THE FACTS THAT HE DID NOT BRIEFED ALL PROPERLY PRESERVED ISSUES ON THE APPEAL RECORD AS THEY OBJECTED TO BY TRIAL COUNSEL, etc., THE APPEAL COUNSEL VIOLATED THE APPLICANT'S SIXTH AMENDMENT RIGHT OF THE U.S. CONSTITUTION, HERE IN APPLICANT'S CASE THE TRIAL RECORD IS THE RELIABLE RECORD OF EVIDENCE TO PROFFER THIS CLAIMS BY AS ACCORD. BY PER SE RULE 71.1(d), SCRPC, etc.

ISSUE TWO: TRIAL COUNSEL FAILED TO INVESTIGATE THE CASE CORRECTLY TO DISCOVER THE FALSE STATEMENTS GIVEN BY THE STATE'S CHIEF WITNESS IN CASE AS THE ALLEGED VICTIM GAVE INACCURATE STATEMENT INITIALLY TO THE POLICE CONCERNING THE APPLICANT AND HIM BEING INVOLVED IN THE ALLEGED CASE MATTER, HAD THE TRIAL COUNSEL MADE THESE DISCOVERIES THE JURY WOULD HAVE BEEN AWARE OF THE COMPLETE DEFENSE AND STORY TO DRAW INFERENCES FROM TO DETERMINE THE TRUTH OF THE CASE PRESENTED BEFORE IT, THE TRIAL COUNSEL FAILED TO ASSIST APPLICANT IN PRESENTING HIS CASE INFORMATION TO THE JURY AND THIS DID VIOLATED THE APPLICANT'S RIGHT TO A FAIR TRIAL AS THIS IS A BEDROCK PROCEDURE THAT IS GUARANTEED TO APPLICANT IN RECEIVING A FAIR TRIAL AS A MATTER OF LAWS, ETC.

POST CONVICTION RELIEF
AGENDUM #2.

ISSUES CONT'D.

ISSUE THREE: TRIAL COUNSEL FAILED TO OBJECT TO THE IMPROPER CHARGE OF LAW GIVEN TO THE JURY IN REGARDS TO ARMED ROBBERY, THE TRIAL COUNSEL IS INEFFECTIVE ASSISTANCE WHEN HE FAILED TO COMPEL THE TRIAL JUDGE TO CORRECT THE LAW INSTRUCTIONS TO THE JURY, SEE JUDGE CHARGE OF LAW IN TRIAL RECORD IN RE: ARM ROBBERY. THE ELEMENTS OF ARMED ROBBERY MUST BE CHARGED ACCORDINGLY TO THE STATUTE OF LAW AS IS AND NOT BASED ON FACTS, etc.

ISSUE FOUR: TRIAL COUNSEL INEFFECTIVE ASSISTANCE FOR NOT PRE-TRIALING THE BRADY VIOLATIONS COMMITTED BY THE STATE WHEN IT DID NOT DISCLOSED TO THE APPLICANT'S RULE 5, INFORMATION THAT EXONERATES THE APPLICANT BASED UPON THE DESCRIPTIONS GIVEN AND THE IDENTITY OF THE ALLEGED SUSPECTS TO THE CRIMINAL ACTS THAT THE ALLEGED VICTIM HAD STATED. THIS INFORMATION WAS AVAILABLE BEFORE TRIAL AND THE COUNSEL WAS INEFFECTIVE DUE TO THE FACTS THAT HE DID NOT DISCERNED THIS MATTER WITH HIS MIND AND EYES, APPLICANT WAS PREJUDICED AGAINST BY TRIAL COUNSEL BECAUSE HAD HE PROCURED THIS INFORMATION FROM THE STATE THE APPLICANT COULD HAVE BEEN EXONERATED FROM THE ARMED ROBBERY CHARGE AND COULD HAVE PREVAILED ON RECEIVING LESSER INCLUDED AS WELL, THE OUTCOME WOULD HAVE BEEN DIFFERENT IF THE COUNSEL WOULD HAVE ASSISTED APPLICANT EFFECTIVELY AS THE LAW REQUIRES HE TO HAVE DONE SO. COUNSEL FAILED TO OBJECT TO THE STATE OBTAINING THE ARMED ROBBERY INDICTMENT THROUGH FALSE AFFIDAVITS PRESENTED TO THE GRAND JURY BY THE STATE, THE TRIAL COUNSEL FAILED TO COMPEL THE SOLICITOR OFFICE COUNSEL TO PRESENT THE REQUIRED EVIDENCE TO OBTAIN SUCH AN INDICTMENT BY, AND HERE THE TRIAL COUNSEL FAILED TO ASSIST THE APPLICANT AND EXERCISE HIS RIGHTS TO CHALLENGE THIS PROCESS AND THE APPLICANT IS PREJUDICED AGAINST HERETO WHEN THE COUNSEL FAILED TO PURSUE THIS CHALLENGE TO THE INDICTMENT, AS THIS ISSUE IS PROVEN WHEN THE FIRST TRIAL AND SECOND TRIAL RECORDS ARE PROFFERED TO THE COURT AS FOR COMPARING THE INCONSISTENT STATING OF THE STATEMENTS TO THE RECORDS OF THE COURT DURING TRIALS.

ISSUE FIVE: TRIAL COUNSEL INEFFECTIVE ASSISTANCE FOR NOT PURSUING THE TRIAL SEVER BASED UPON THE RECORD EVIDENCE IN REGARDS TO THE DISCREPANCIES IN THE TESTIMONY OF THE TESTIFYING CODEFENDANT, T. WRIGHT.

ISSUE SIX: TRIAL COUNSEL INEFFECTIVE ASSISTANCE WHEN HE DID NOT MOTION TO THE COURT FOR A DIRECT VERDICT OF NOT GUILTY BASED UPON THE LACK OF EVIDENCE ON ARMED ROBBERY DUE TO THE SECOND TRIAL HAVING THE MAIN STATE'S WITNESS TO PROFFER DISCREPANCIES IN HIS TESTIMONY AND THIS PREJUDICED THE APPLICANT DURING TRIAL AND VIOLATED HIS RIGHTS TO A FAIR TRIAL, WITH TO INCLUDE THAT THE RIGHTS TO CONFRONT WAS VIOLATED AS WELL BECAUSE THE TRIAL COUNSEL DID NOT CONFRONT THE WITNESS IN REGARDS TO THE STATEMENTS

POST CONVICTION RELIEF
ADDENDUM #3.

INCONSISTENT TO THE FIRST TRIAL, AND THIS VIOLATED THE APPLICANT RIGHTS TO HAVE THE JURY TO WEIGH THE WITNESS CREDIBILITY, HAD THE JURY BEEN GIVEN THE EVIDENTIARY FACTUAL FROM THESE DISCREPANCIES THE JURY MAY WOULD HAVE NOT CONVICTED THE APPLICANT.

ISSUE SEVEN: TRIAL COUNSEL INEFFECTIVE ASSISTANCE WHEN HE FAILED TO PRE-TRIAL THE ISSUE IN REGARDS TO THE RACIAL REFERENCES TO THE LINE-UP PROCESSES AND THE SUGGESTIVE IDENTIFYING OF THE APPLICANT THROUGH THE WORD OF MOUTH AND FAILED TO THROUGH THE ACTUAL DESCRIPTIONS OF THE APPLICANT BECAUSE THE DISCREPANCIES IN DESCRIBING THE APPLICANT SHOULD HAVE BEEN ENOUGH OF EVIDENCE TO PREVENT THE APPLICANT FROM BEING CHARGED WITH ANY CHARGES WHATSOEVER, AND HAD THE TRIAL COUNSEL PRE-TRIAL THIS ISSUE TOTHE TRIALS ONE AND TWO, IT WOULD HAVE BEEN PRESERVED FOR APPELLATE REVIEWS, WHEREAS, THE TRIAL WAIVED APPLICANT'S RIGHTS TO AN EVALUATION OF A CRITICAL ISSUE OF THE TRIAL, etc.

ISSUE EIGHT: TRIAL COUNSEL INEFFECTIVE ASSISTANCE FOR NOT OBJECTING TO THE JUDGE MAKING INQUIRING INTO THE JURY'S NUMERICAL DIVISION TO RESOLVE THE DELIBERATION OF THE VERDICT, THERE IS NUMBER BEINGS THE SUBJECTS OF HOW THE TRIAL JUDGE GAVE HIS CHARGE (ALLEN), THIS IS A BAR THAT IS NEVER TO BE BROKEN BY THE COURT AS IT IS WELLSETTLED LAWS BY OUR U.S. SUPREME COURT, SEE AT: BRASFIELD V. U.S., 272 U.S. 448 (1926) AND SEE AT LOWENFIELD V. PHELPS, 484 U.S. 231 (1988), HAVING IT TO BE NOTED AS TO HOW THE ALLEN CHARGE MUST BE PROPERLY DELIVERED TO THE JURY TO AVOID THE JURY FROM BEING HUNG, etc. HERE IN APPLICANT CASE MATTER THE TRIAL COUNSEL WAS NOT AWARE OF THE POTENTIAL EFFECTS OF THE CHARGE BEING COERCIVE. THE APPLICANT WAS PREJUDICED AGAINST BEING THAT THIS KEEPING THE DELIBERATION PROCESS ONGOING MADE THE JURY TO FIND THE APPLICANT GUILTY JUST TO END THE TRIAL BASED UPON HOW THE TRIAL JUDGE HANDED THE ALLEN CHARGE, etc. THE OUTCOME WOULD HAVE BEEN DIFFERENT HAD THE TRIAL COUNSEL OBJECTED TO THE IMPROPERLY GIVEN ALLEN CHARGE TO THE JURY BY THE COURT.

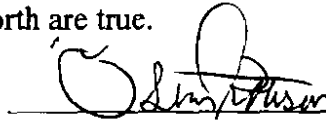
STATE OF SOUTH CAROLINA)

VERIFICATION

County of LEE)

O'SAWN J. ROBINSON

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



SWORN to and subscribed before me this 5
day of Nov, 2012.

O'SAWN J. ROBINSON
LEE C.I./BIM S.
990+ WISACKY HWY.
BISHOPVILLE, S.C. 29010
APPLICANT

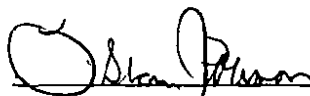
Manerick Wilson (L.S.)
Notary Public

My Commission Expires: 3/8/2020

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

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

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



Applicant

SWORN or affirmed to and subscribed before me this
5 day of Nov, 2012.



Notary Public

**O'SHAWN J. ROBINSON
LEE C.I./SUM. S.
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010
APPLICANT**

My Commission Expires: 3/8/2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2012-CP-23-7606
COUNTY OF GREENVILLE	)	
	)	
O'Shaun Joseph Robinson,	)	
S.C.D.C. No. 327798,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed December 5, 2012, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the August 2008 term of General Sessions for armed robbery (2008-GS-23-5382, count 1), possession of a weapon during commission of a violent crime (2008-GS-23-5382, count 2), conspiracy (2008-GS-23-5383), and assault and battery (2008-GS-23-5384)). Andrew Moorman, Esquire represented the Applicant.

After the State brought the case to trial, the Applicant was found guilty. On January 15, 2009, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to concurrent terms of twenty-five years for armed robbery, five years for possession of a weapon during commission of a violent crime, five years for conspiracy, and thirty days for assault and battery.

A notice of appeal was filed at the South Carolina Court of Appeals. Robert M. Pachak, Esquire of the South Carolina Office of Appellate Defense perfected the appeal. The Court of

Appeals affirmed the Applicant's convictions and sentences. State v. Robinson, Op. No. 12-UP-042 (S.C. Ct. App. filed Jan. 25, 2012). The remittitur was issued on February 14, 2012.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the appellate records.

II.

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

1. Ineffective assistance of trial counsel:
 - a. Failure to investigate and discover false statements.
 - b. Failure to object to armed robbery charge.
 - c. Failed to pursue Brady issue.
 - d. "Trial counsel ineffective assistance for not pursuing the trial sever based upon the record of evidence in regards to the discrepancies in the testimony of the testifying codefendant, T. Wright."
 - e. "Trial counsel ineffective assistance when he did not motion to the court for a direct verdict of not guilty based upon the lack of evidence on armed robbery due to the second trial having the main State's witness to proffer discrepancies in his testimony and this prejudiced the Applicant during trial and violated his rights to a fair trial."
 - f. Ailed to argue the issue of the line-up process pre-trial.
 - g. Failed to object to judge's inquiries "into the jury's numerical division."
2. Ineffective assistance of appellate counsel:
 - a. "Appellate counsel ineffective assistance for not pursuing all available appeal remedies by the SC Appellate Court rules and processes."

III.

The Respondent asserts the Applicant's allegation that his trial attorney was ineffective is

without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v.

Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent asserts the Applicant's allegation that his appellate attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms."

A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S. Ct. 830 (1985). In analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test just as it would when analyzing a claim of ineffective assistance of trial counsel. See Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009); Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999) (noting courts apply the Strickland test to determine if appellate counsel was deficient for failing to raise an issue and whether the defendant was prejudiced from the failure to raise the issue). Appellate counsel, however, is not required to raise every non-frivolous claim, but instead may select among them in order to maximize the likelihood of a favorable outcome. Smith v. Robbins, 528 U.S. 259, 288, 120 S. Ct. 746, 765 (2000).

"Although it is possible to bring a successful ineffective assistance of appellate counsel claim based on failure to raise a particular issue on direct appeal, the Supreme Court has

reiterated that it is “difficult to demonstrate that counsel was incompetent.” United States v. Mason, No. 3:06–607–CMC, 2012 WL 5845807 (D. S.C. Nov. 19, 2012) (quoting Smith v. Robbins, 528 U.S. 259, 288, 120 S. Ct. 746, 765 (2000)). Appellate counsel is not required to raise every non-frivolous claim, but instead may select among them in order to maximize the likelihood of a favorable outcome. Smith v. Robbins, 528 U.S. at 288, 120 S. Ct. at 765; Bennett v. State, 383 S.C. at 309, 680 S.E.2d at 276. “Generally, only when ignored issues are clearly stronger than those presented, will the presumption of effective assistance of counsel be overcome.” Smith v. Robbins, 528 U.S. at 288, 120 S. Ct. at 765 (quoting Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986)). “To establish prejudice relating to the actions of appellate counsel, Defendant must establish a reasonable probability that, but for his counsel's unreasonable failure to include a particular issue on appeal, he would have prevailed on his appeal.” United States v. Mason, 2012 WL 5845807.

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper, 279 S.C. at 265, 305 S.E.2d at 248.

V.

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

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

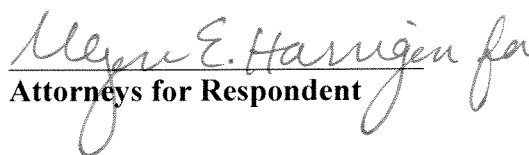
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P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

June 21, 2013

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2012-CP-23-7606
	)	
O'SHAUN JOSEPH ROBINSON, 327798	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

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

O'Shaun Joseph Robinson, 327798
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

DATED this 21st day of June, 2013.


 Judy A. E. Carey, Legal Assistant
 For Respondent

IN THE COURT OF COMMON PLEAS

2012-CP-23-07606

FEBRUARY 18, 2014

TRANSCRIPT OF RECORD

TRANSCRIPT OF RECORD

DEFENDANT.

THE HONORABLE G. EDWARD WELMAKER, JUDGE

CAROLINE HORLBECK, ESQUIRE
ATTORNEY FOR THE PLAINTIFF

**KAREN RATIGAN, ESQUIRE
ATTORNEY FOR THE DEFENDANT**

DANETTE P. HANKS
CIRCUIT COURT REPORTER

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)

2

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O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
Exhibit List

3

PLAINTIFF'S EXHIBITS

NO	DESCRIPTION	ID	EV
P-1	Criminal identification sheet	13	17
P-2	Criminal identification sheet	13	17

DEFENDANT'S EXHIBITS

	(NONE)		

COURT'S EXHIBITS

	(NONE)		

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
PCR Hearing

4

1 FEBRUARY 18, 2014

2 (WHEREUPON, court convened with all parties
3 present and the following proceedings were had.)

4 THE COURT: All right. Is the state ready to
5 proceed?

6 MS. RATIGAN: Yes, Your Honor, may it please
7 the court. This is the case of O'Shawn Robinson versus
8 the State of South Carolina. The docket number is
9 2012-CP-23-7606. Mr. Robinson was indicted for armed
10 robbery, possession of a weapon during the commission
11 of the violent crime, conspiracy and assault and
12 battery of a high and aggravated nature. He was
13 represented on these charges by Mr. Moorman.

14 The case was brought to trial in January of 2009
15 before Judge Pyle. Mr. Robinson was found guilty of
16 all the charges as indicted with the exception of being
17 found guilty of the lesser charge of assault and
18 battery. On January 15, 2009, Judge Pyle levied
19 concurrent sentences of twenty-five years for armed
20 robbery, five years for the weapons charge, five years
21 for conspiracy and thirty days for assault and battery.
22 The case was timely appealed and perfected at the Court
23 of Appeals. The court affirmed the convictions and
24 sentences in January of 2012. This application was
25 timely filed. And the state is ready to proceed.

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
PCR Hearing

5

1 THE COURT: Ms. Horlbeck, you ready?

2 MS. HORLBECK: Yes, Your Honor. Judge, just
3 a couple of corrections to the petition. In Mr.
4 Robinson's original petition, he had alleged that
5 counsel failed to make a motion to sever, failed to
6 make a motion for a directed verdict and also failed to
7 make a motion to preclude the victims in-court
8 identification and to challenge the line-up. Also,
9 that counsel didn't object to the -- well, I'm sorry.
10 We'll just talk about those three.

11 We're not going forward on those three
12 allegations. The motion to sever, the motion for a
13 directed verdict and the motion to preclude the
14 victim's identification.

15 THE COURT: All right.

16 MS. HORLBECK: And to suppress the line-up.
17 Those motions were done. But we are ready to proceed.

18 THE COURT: All right. You may call your
19 first witness.

20 MS. HORLBECK: We call Mr. Robinson.

21 THE CLERK: Please place your left hand on
22 the bible. Please raise your right hand.

23 You do solemnly swear or affirm that the testimony
24 you're about to give in this case will be the truth,
25 the whole truth and nothing but the truth, so help you

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
O'Shawn J. Robinson - Direct Examination by Ms. Horlbeck

6

1 God?

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Thank you. Please state your
4 full name for the record.

5 THE WITNESS: O'Shawn Joseph Robinson.

6 THE CLERK: Thank you. You may be seated.

7 O'SHAWN JOSEPH ROBINSON,

8 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MS. HORLBECK:

11 Q. Mr. Robinson, who represented you in this case?

12 A. Anthony Moorman.

13 Q. Was he retained or was he appointed?

14 A. Appointed.

15 Q. Okay. And did you plead guilty or did your case
16 go to trial?

17 A. I went to trial.

18 Q. And you were convicted; is that correct?

19 A. Yes, ma'am.

20 Q. As a result of that conviction, did you file this
21 post conviction relief petition that's here today?

22 A. Yes, ma'am.

23 Q. Okay. All right. Now, one of the allegations
24 that you make in your petition is that your attorney
25 failed to investigate your case properly?

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
O'Shawn J. Robinson - Direct Examination by Ms. Horlbeck

7

1 A. Yes, ma'am.

2 Q. Okay. Tell the court a little bit about that
3 allegation?

4 A. Well, at trial the co-defendant gave two
5 inconsistent statements. The first trial they asked
6 him was he working with the state and he said no. The
7 second trial he called him back and asked him the same
8 question and he said yes. Then he changed it up again
9 and said, no. They had asked why he didn't testify on
10 Mr. Robinson? He said because what we did was wrong.

11 Q. All right. Did Mr. Moorman obtain a transcript
12 of the first trial; do you know?

13 A. I never received one. I just got the second
14 trial transcript.

15 Q. Okay. But do you know -- listen to my question.
16 Did Mr. Moorman get a transcript of the first trial, to
17 your knowledge?

18 A. I'm not really sure. I'm not really sure.

19 Q. Okay. All right. Did Mr. Moorman review the
20 transcript from the first trial with you?

21 A. No, ma'am.

22 Q. All right. And let me just make sure I
23 understand. You're saying that your co-defendant
24 testified against you in both trials; is that correct?

25 A. Yes, ma'am.

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
O'Shawn J. Robinson - Direct Examination by Ms. Horlbeck

8

1 Q. All right. And your co-defendant's testimony
2 differed from the first trial and the second trial?

3 A. That's correct.

4 Q. All right. And you wanted Mr. Moorman to cross
5 examine your co-defendant about those discrepancies?

6 A. Yes, ma'am.

7 Q. All right. Do you recall -- you already stated
8 that. And no -- cross examination was not performed in
9 the second trial?

10 A. No, ma'am.

11 Q. How do you think that hurt you? How do you think
12 your attorney's failure to ask those questions hurt
13 you?

14 A. Well, it hurt me because the jury asked to hear
15 his testimony over the loud speaker again.

16 Q. Okay.

17 A. And that's when the judge told the jury they got
18 to continue to deliberate.

19 Q. Did the jury ultimately -- were they allowed to
20 hear the co-defendant's testimony again?

21 A. Yeah, they was allowed to hear it. That's when
22 they went in the back to deliberate and came back out
23 and said, we can't come up with a verdict.

24 Q. All right. And when the jury was unable to come
25 up with a verdict at that time, what did the court do,

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
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9

1 if anything?

2 A. Allen charged the court -- the judge did an Allen
3 charge.

4 Q. Did your attorney make an objection to the Allen
5 charge?

6 A. I'm not aware. I don't even know that.

7 Q. All right. You also alleged in your petition
8 that Mr. Moorman failed to discover other false
9 statements. Are you talking about the -- or are you
10 referring to the statements made by your co-defendant?

11 A. The victim also.

12 Q. Okay. Well, what statements of the victims did
13 Mr. Moorman fail to uncover or fail to investigate?

14 A. As far as the description of the guys he said
15 that robbed him.

16 Q. All right. What did the victim say the
17 description was of the man who robbed him or the men
18 who robbed him?

19 A. I want to say he said the guy was six foot, wore
20 glasses.

21 Q. All right. But there were two -- there were
22 actually two people that the victim claims he saw; is
23 that correct?

24 A. Yes, ma'am.

25 Q. Do you recall what the victim described -- what

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
O'Shawn J. Robinson - Direct Examination by Ms. Horlbeck

10

1 description did the victim give, to your recollection,
2 of the person with the gun?

3 A. The guy, the one with glasses, six foot, a
4 hundred and seventy or eighty pounds, something like
5 that.

6 Q. All right. And what's your height?

7 A. Five eight.

8 Q. And what's your weight?

9 A. A hundred and forty-five.

10 Q. Okay. Did Mr. Moorman obtain any records from
11 the jail or from your doctor's office regarding your
12 height and weight?

13 A. No, ma'am.

14 Q. Was there any testimony presented by a doctor or
15 any medical official from the jail regarding your
16 height and weight?

17 A. Not that I know of.

18 Q. Okay. All right. And you didn't testify;
19 correct?

20 A. No.

21 Q. Okay. What other allegations do you have today
22 to present to the court?

23 A. That's all I have as far as the identification.

24 Q. Okay. Well, your attorney made a motion to try
25 to keep the identification out; correct?

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
O'Shawn J. Robinson - Cross Examination by Ms. Ratigan

11

1 A. I believe he did.

2 Q. All right. Please answer any questions that the
3 attorney general has for you.

4 **CROSS EXAMINATION**

5 **BY MS. RATIGAN:**

6 Q. Mr. Robinson, do you remember how many times you
7 would have met with Mr. Moorman before the trial?

8 A. I want to say twice or three times.

9 Q. Okay. And when you met with him did you review
10 the state's evidence, the motion for discovery?

11 A. Did I mention it?

12 Q. Did you review it with him? Did y'all talk about
13 police reports, witness statements, any of the state's
14 evidence?

15 A. Yeah, we did.

16 Q. Okay. And did you tell Mr. Moorman, you know,
17 kind of your version of what had happened?

18 A. Yes, ma'am.

19 Q. Now, when you testified about you said your co-
20 defendant gave inconsistent statements. Are you
21 talking about Timothy Wright?

22 A. Yes, ma'am.

23 Q. And -- but you also -- but you went on trial with
24 Mr. Workman; correct?

25 A. That's correct.

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
O'Shawn J. Robinson - Cross Examination by Ms. Ratigan

12

1 Q. Okay. And you had a trial with Mr. Workman

2 before? This is your second trial?

3 A. Both trials. It was a joint trial.

4 Q. So it was a joint trial both times?

5 A. Yes, ma'am.

6 Q. All right. And do you recall Mr. Moorman during

7 the trial asking the victim about the differences in

8 the heights and weights? Do you remember that from the

9 trial?

10 A. Yeah. I remember that.

11 Q. Okay. But you think that he should have asked

12 different questions or how else did you want him to get

13 into the issue of the height and weight discrepancies?

14 A. I mean, it was a description sheet. It was a

15 sheet that the victim gave of the people that robbed

16 him. He identified me three weeks prior to him being

17 robbed on a news broadcast.

18 Q. Okay. But didn't Mr. Moorman argue that at your

19 trial?

20 A. He argued that part.

21 Q. Okay. So be real specific with me. What part

22 about the identification did you want him to argue that

23 he did not argue?

24 A. As far as the description sheet.

25 Q. Okay. So you wanted him to specifically mention

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
O'Shawn J. Robinson - Redirect Examination by Ms. Horlbeck

13

1 the description sheet?

2 A. Yes, ma'am. They didn't put me in the photo
3 line-up or nothing.

4 Q. Okay.

5 MS. RATIGAN: That's all I have, Your Honor.

6 THE COURT: Any redirect?

7 MS. HORLBECK: Just briefly, Judge.

8 Judge, I'm just going to have these marked for
9 identification.

10 (WHEREUPON, Plaintiff Exhibit Numbers 1 and 2 were
11 marked for identification.)

12 **REDIRECT EXAMINATION**

13 **BY MS. HORLBECK:**

14 Q. Mr. Robinson, I'm hanging you Petitioner's 1 and
15 2 and just asking you to take a look at those and
16 identify them for the record. Just tell us what they
17 are. You picked up number 2. What is that?

18 A. It's a description of one of the victims he gave
19 that robbed him.

20 Q. Okay. Are those both criminal description sheets
21 in Petitioner's 1 and 2?

22 A. Yes, ma'am.

23 Q. Okay. And let's take number 1 first. What's the
24 height and the weight listed on Petitioner's 1?

25 A. The height, six foot, a hundred and seventy

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
O'Shawn J. Robinson - Redirect Examination by Ms. Horlbeck

14

1 pounds.

2 Q. Okay. And Petitioner's 2, what's the height and
3 the weight listed?

4 A. Five eight, a hundred and sixty pounds.

5 Q. All right. And your weight and height are what
6 again?

7 A. A hundred forty-five.

8 Q. And your height?

9 A. Five eight.

10 Q. Okay. Did Mr. Moorman put these into evidence
11 during your trial? Do you know?

12 A. I don't think so.

13 MS. HORLBECK: Judge, I'd move these into
14 evidence.

15 THE COURT: Any objection?

16 MS. RATIGAN: Your Honor, if she could maybe
17 lay a bit more foundation as to who gave which
18 statements -- I mean, which descriptions, because they
19 are different. I'm just not sure who gave what.

20 MS. HORLBECK: Okay.

21 Q. On Petitioner's 1 and 2, did you review these
22 with Mr. Moorman as part of your discovery package?

23 A. I didn't even never receive them.

24 Q. Okay. But these copies came from you; correct?

25 A. Yes, ma'am.

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O'Shawn J. Robinson - Redirect Examination by Ms. Horlbeck

15

- 1 Q. Okay. But -- so these are copies of your
2 discovery that you received; right, at some point?
- 3 A. (Affirmative nod.)
- 4 Q. Okay. And on victim's 1 and 2, what's the
5 offense listed on there?
- 6 A. Armed robbery.
- 7 Q. Okay. And the location?
- 8 A. 200 Eunice Drive.
- 9 Q. Okay. And what is the age of the person
10 described in Petitioner's 1?
- 11 A. Twenty to twenty-two. I was seventeen at the
12 time.
- 13 Q. Okay. And hair?
- 14 A. Black.
- 15 Q. Facial hair?
- 16 A. Goatee.
- 17 Q. And the eyes?
- 18 A. Glasses.
- 19 Q. Any scars or tattoo visible?
- 20 A. None.
- 21 Q. Okay. And then the coat, jacket?
- 22 A. I believe it was sort of red.
- 23 Q. Okay. Shirt?
- 24 A. White T-shirt.
- 25 Q. Trousers?

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O'Shawn J. Robinson - Redirect Examination by Ms. Horlbeck

16

- 1 A. Dark shorts.
- 2 Q. Shoes?
- 3 A. Tennis shoes.
- 4 Q. What color were the socks?
- 5 A. White.
- 6 Q. And the -- Petitioner's 1 describes that this
- 7 person had a -- what kind of a weapon?
- 8 A. Thirty-eight revolver.
- 9 Q. Okay. All right.
- 10 A. Something I never, you know, had.
- 11 Q. Okay. And Petitioner's 2, just go through that
- 12 whole description, too. What was the hair listed, hair
- 13 color?
- 14 A. Black.
- 15 Q. Facial hair?
- 16 A. None.
- 17 Q. Eyes?
- 18 A. Brown.
- 19 Q. Any visible scars or tattoos?
- 20 A. None.
- 21 Q. What kind of coat or jacket?
- 22 A. Sweat shirt.
- 23 Q. And color of the shirt?
- 24 A. White.
- 25 Q. Trousers?

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
O'Shawn J. Robinson - Redirect Examination by Ms. Horlbeck

17

1 A. Shorts.

2 Q. What kind of shoes?

3 A. Tennis shoes.

4 Q. And the person describing Petitioner's 2, did
5 that person allegedly have a weapon?

6 A. None.

7 Q. Okay. All right.

8 MS. HORLBECK: Judge, I again -- I think
9 we've successfully established the distinction between
10 the two people. We just again move these ---

11 THE COURT: Is the same person giving the
12 description in Exhibit 1 and Exhibit 2?

13 MS. HORLBECK: And that's a little hard. I
14 don't -- there's nothing on there that -- there's
15 nothing on these two sheets that makes -- that's going
16 to tell you that, Judge. I would assume so, since
17 there was only one victim.

18 THE COURT: Any objection?

19 MS. RATIGAN: No, Your Honor.

20 THE COURT: Without objection.

21 (WHEREUPON, Plaintiff Exhibit Numbers 1 and 2 were
22 admitted into evidence.

23 MS. HORLBECK: That's all I have. Thank you.

24 THE COURT: Any recross on the exhibits?

25 MS. RATIGAN: No, Your Honor.

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
Andrew Burke Moorman, Sr. - Direct Examination by Ms. Ratigan

18

1 THE COURT: All right. Thank you, sir. You
2 may step down.

3 MS. HORLBECK: That's all we have, Judge.

4 THE COURT: The state may call its first
5 witness.

6 MS. RATIGAN: Thank you, Your Honor. We
7 would call Mr. Moorman.

8 THE CLERK: Please place your left hand on
9 the bible. Raise your right hand.

10 You do solemnly swear or affirm that the testimony
11 you're about to give in this case will be the truth,
12 the whole truth and nothing but the truth, so help you
13 God?

14 THE WITNESS: I do.

15 THE CLERK: Thank you. Please state your
16 full name for the record.

17 THE WITNESS: Andrew Burke Moorman, Sr.

18 THE CLERK: Thank you.

19 ANDREW BURKE MOORMAN, SR.,

20 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MS. RATIGAN:

23 Q. Mr. Moorman, do you recall representing Mr.
24 Robinson on these charges?

25 A. I do.

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
Andrew Burke Moorman, Sr. - Direct Examination by Ms. Ratigan

19

1 Q. And were you appointed or were you retained?

2 A. I was appointed.

3 Q. And did you file the usual *Brady* and Rule 5
4 motions?

5 A. I did.

6 Q. Did you receive those items from the state?

7 A. I did.

8 Q. Did you review them with Mr. Robinson?

9 A. I did on multiple occasions.

10 Q. How many meetings would you say you had with him;
11 do you recall?

12 A. I would say meetings that I would deem to be
13 important, of substance, would be at least six. I'd be
14 happy to fill in the time lines on those.

15 Q. That's fine. Did you in any of these meetings
16 talk with Mr. Robinson kind of about his version of
17 events, what happened?

18 A. I did.

19 Q. And it was alleged in the application -- while we
20 have you up here I'll just go ahead and clear it up
21 right now. Mr. Robinson had alleged a *Brady* issue. Is
22 there anything you did not receive from the state in
23 terms of discovery?

24 A. No.

25 Q. Okay. And Mr. Robinson has testified that there

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
Andrew Burke Moorman, Sr. - Direct Examination by Ms. Ratigan

20

1 was a -- this is actually the second trial; is that
2 correct?

3 A. That's correct.

4 Q. Do you recall why the first trial mistried?

5 A. I want to say it was a hung jury. The jury could
6 not reach a verdict.

7 Q. And was that also a joint trial with Mr. Workman?

8 A. It was.

9 Q. Prior to trial number one, were you aware that
10 Timothy Wright would be testifying against Mr.
11 Robinson?

12 A. I suspected. There were statements that Mr.
13 Wright provided in discovery, so I anticipated Mr.
14 Wright testifying.

15 Q. Is that something you had discussed with Mr.
16 Robinson, that one of his co-defendants would probably
17 testify against him?

18 A. Yes, it was.

19 Q. Were you aware of any glaring discrepancies
20 between Mr. Wright's testimony in the first trial
21 versus this one?

22 A. No.

23 Q. Do you recall how much time elapsed between the
24 first and second trial? Was it pretty soon after?

25 A. I believe the first trial was in December of 2008

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
Andrew Burke Moorman, Sr. - Direct Examination by Ms. Ratigan

21

1 and the second trial was in January, so about a month,

2 I believe.

3 Q. In your opinion was there any legal basis to
4 object to Judge Pyle's Allen charge?

5 A. None.

6 MS. RATIGAN: May I approach, Your Honor?

7 THE COURT: You may.

8 Q. Actually I believe you already have them up
9 there. Is that Exhibits 1 and 2?

10 A. Yes.

11 Q. Do you recall those being provided to you in
12 discovery?

13 A. I do.

14 Q. Did you review them with Mr. Robinson?

15 A. I did.

16 Q. Would it be fair to say that the victim
17 identification was going to be a big issue at the
18 trial?

19 A. Yes, it was.

20 Q. And was there a pretrial Biggers hearing; do you
21 recall?

22 A. There was.

23 Q. In your opinion -- obviously this is kind of a
24 Monday morning quarterback type question. In your
25 opinion is there anything else you could have done that

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
Andrew Burke Moorman, Sr. - Cross Examination by Ms. Horlbeck

22

1 may have resulted in a different outcome of the Biggers
2 hearing; do you think?

3 A. I don't think so. I don't think so.

4 Q. And do you recall whether, at the trial, you
5 questioned the victims about issues such as height and
6 weight, discrepancies of that nature?

7 A. I did. I reviewed the transcript and I did
8 question witnesses about discrepancies and his
9 testimony and the statement he initially gave law
10 enforcement.

11 Q. And do you recall whether you or co-defendant's
12 counsel employed any kind of an expert in this case?

13 A. I did employ an expert to testify, an expert in
14 eyewitness identification.

15 MS. RATIGAN: That's all I have, Your Honor.

16 THE COURT: You may cross examine the
17 witness.

18 MS. HORLBECK: Okay.

19 **CROSS EXAMINATION**

20 **BY MS. HORLBECK:**

21 Q. Regarding Mr. Wright, how many statements did he
22 make to police?

23 A. I want to say he made one written statement, but
24 it was a pretty long statement because Mr. Robinson had
25 -- may have been charged in a number at different

1 incidents.

2 Q. Okay. So one statement that you know of?

3 A. That I remember. I believe it was one statement.

4 Q. All right. And that statement would have been
5 what you would have used to try to impeach Mr. Wright's
6 testimony at both trials; is that correct?

7 A. Part of it, yes, that's correct.

8 Q. Okay. And to your knowledge -- you said you
9 recall just one statement. Is there any other -- are
10 there any other written statements that Mr. Wright
11 made; do you recall?

12 A. I don't think so. I don't think so.

13 Q. Okay. All right. And you indicated or you
14 testified that a month passed between the first and
15 second trial?

16 A. I believe so, yes.

17 Q. Did you have time to obtain a transcript of the
18 first trial?

19 A. I don't have a transcript. To be honest with
20 you, I don't know if I could have or not.

21 Q. Okay. All right. Do you think that would have
22 helped?

23 A. I don't believe so. And the reason why I say
24 that, in reviewing the transcript of the second trial,
25 I had a discussion with the trial court about how to go

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
Andrew Burke Moorman, Sr. - Cross Examination by Ms. Horlbeck

24

1 about referencing statements that had been made in the
2 previous trial versus the new trial.

3 Q. Uh-huh (affirmative).

4 A. And I specifically cross examined Deputy Weiner
5 on a statement he made in the previous trial. So all
6 that to say, I believe I had a good understanding of
7 what was said in the first trial. That's why I said
8 I'd just have to review the transcript.

9 Q. All right. Did Mr. Wright, the co-defendant's
10 testimony differ from one trial to the next?

11 A. I can't remember. I mean, I don't think so, but
12 I can't say for sure.

13 Q. Okay. All right. If there had been a difference
14 in his testimony from the first trial to the second
15 trial, do you think having a transcript of that first
16 trial would have helped catch those discrepancies?

17 A. Honestly I don't know. I would say that, again,
18 having reviewed the transcript, it appeared that I was
19 very comfortable with what he said in the first trial
20 going into the second trial.

21 Q. Okay.

22 A. So I think if there was anything significant, I
23 likely would have remembered just having, a month past,
24 having taken notes.

25 Q. Okay. All right. So you had notes from your

O'Shawn J. Robinson -vs- State of South Carolina (2012-CP-23-07606)
Andrew Burke Moorman, Sr. - Cross Examination by Ms. Horlbeck

25

1 first trial?

2 A. Yes.

3 Q. Were you taking -- did you have notes of Mr.
4 Wright's testimony in the first trial?

5 A. I believe I did. I had a number of notes. I
6 can't -- I believe I did.

7 Q. All right. That's all I have. Thank you.

8 THE COURT: Any cross examination?

9 MS. RATIGAN: I have no redirect, Your Honor.

10 THE COURT: No redirect. Okay.

11 MS. RATIGAN: And the state would rest, Your
12 Honor.

13 THE COURT: You had no other testimony?

14 MS. HORLBECK: No, sir.

15 THE COURT: All right. No other -- nothing
16 in reply?

17 MS. RATIGAN: Nothing.

18 THE COURT: All right. I'll review the
19 transcript in the case and issue instructions for an
20 order, hopefully, within the next week or so.

21 MS. HORLBECK: Thank you, Judge.

22 MS. RATIGAN: Thank you, Your Honor.

23

24 [END OF REQUESTED TRANSCRIPT OF RECORD]

1 CERTIFICATE OF REPORTER

2 I, the undersigned Danette P. Hanks, Official
3 Court Reporter for the Thirteenth Judicial Circuit of
4 the State of South Carolina, do hereby certify that the
5 foregoing is a true, accurate, and complete transcript
6 of record of all the proceedings had and evidence
7 introduced in the trial/hearing of the captioned case,
8 relative to appeal, in the Court of Common Pleas for
9 Greenville County, South Carolina, on the 18th day of
10 February, 2014.

11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.

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

15 July 31, 2014

16

17

18

19

20

A handwritten signature in cursive script, reading "Danette P. Hanks", is written over a horizontal line.

Circuit Court Reporter

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 O'Shaun Joseph Robinson,)
 S.C.D.C. No. 327798,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2012-CP-23-7606

ORDER OF DISMISSAL

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMER
 2014 FEB 25 PM 12 34

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed December 5, 2012. The Respondent made its return on June 21, 2013. An evidentiary hearing into the matter was convened on February 18, 2014 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Caroline Horlbeck, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, Andrew Moorman, Esquire. The Court had before it the trial transcript, the Greenville County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return, the appellate records, and Applicant's Exhibits 1-2.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the August 2008 term of the Greenville County Grand Jury for armed robbery (2008-GS-23-

5382, count 1), possession of a weapon during commission of a violent crime (2008-GS-23-5382, count 2), conspiracy (2008-GS-23-5383), and assault and battery of a high and aggravated nature (2008-GS-23-5384). He was represented by Andrew Moorman, Esquire.

After the State brought the case to trial, the Applicant was found guilty. On January 15, 2009, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to concurrent terms of twenty-five years for armed robbery, five years for possession of a weapon during commission of a violent crime, five years for conspiracy, and thirty days for the lesser offense of assault and battery.

A notice of appeal was filed at the South Carolina Court of Appeals. Robert M. Pachak, Esquire of the South Carolina Office of Appellate Defense perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and sentences. State v. Robinson, Op. No. 12-UP-042 (S.C. Ct. App. filed Jan. 25, 2012). The remittitur was issued on February 14, 2012.

ALLEGATIONS

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

1. Ineffective assistance of trial counsel:
 - a. Failure to investigate and discover false statements.
 - b. Failure to object to armed robbery charge.
 - c. Failed to pursue Brady issue.
 - d. "Trial counsel ineffective assistance for not pursuing the trial sever based upon the record of evidence in regards to the discrepancies in the testimony of the testifying codefendant, T. Wright."
 - e. "Trial counsel ineffective assistance when he did not motion to the court for a direct verdict of not guilty based upon the lack of evidence on armed robbery due to the second trial having the main State's witness to proffer discrepancies in his testimony and this prejudiced the Applicant during trial and violated his rights to a fair trial."
 - f. Failed to argue the issue of the line-up process pre-trial.



- g. Failed to object to judge's inquiries "into the jury's numerical division."
- 2. Ineffective assistance of appellate counsel:
 - a. "Appellate counsel ineffective assistance for not pursuing all available appeal remedies by the SC Appellate Court rules and processes."

At the post-conviction relief hearing, the Applicant proceeded solely upon the following allegations:¹

- 1. Ineffective assistance of trial counsel:
 - a. Failure to investigate discrepancies in Timothy Wright's testimony and statements.
 - b. Failure to investigate the victims' statements.
 - c. Failure to object to the Allen² charge.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he

¹ This Court finds all other allegations listed in the PCR application have been abandoned.

² Allen v. United States, 164 U.S. 492, 17 S. Ct. 154, 41 L. Ed. 528 (1896).

must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

The Applicant stated trial counsel was appointed and that they had two meetings. The Applicant stated they reviewed the State's evidence and he told trial counsel his version of events. The Applicant stated trial counsel failed to investigate a co-defendant (Timothy Wright) who gave inconsistent testimony between the first and second trial in this case. The Applicant stated he never saw a transcript from the first trial but that trial counsel should have cross-examined Wright about the discrepancies. The Applicant stated trial counsel failed to investigate the victims' statements – specifically the descriptions of the suspects' heights and weights. The Applicant conceded trial counsel cross-examined the victims about the height and weight issue, but stated he wanted trial counsel to make an argument regarding the description sheets³ received in discovery. The Applicant stated trial counsel should have objected to the Allen charge.

Trial counsel testified he was appointed and filed discovery motions. Trial counsel testified he had six meetings with the Applicant. Trial counsel testified he received full discovery from the State and reviewed those materials with the Applicant multiple times. Trial

³ The two description sheets were admitted as Applicant's Exhibits 1 and 2.

counsel testified they also reviewed Applicant's Exhibits 1 and 2 and the Applicant's version of events. Trial counsel testified the Applicant's first trial on these charges (which was also a joint trial) ended in a hung jury. Trial counsel testified approximately one month elapsed between the two trials. Trial counsel testified he did not have a transcript of the first trial but that he had notes and "a good understanding" of what transpired at the first trial. Trial counsel testified there were no glaring differences in Wright's testimony between the first and second trials. Trial counsel testified the victims' identification was a big issue at trial and that he questioned these witnesses about the height and weight discrepancies. Trial counsel testified he could not have done anything differently at the Biggers⁴ hearing and that he retained an expert in eyewitness identification to testify at trial. Trial counsel testified there was no legal basis to object to the Allen charge.

This Court finds the Applicant's testimony is not credible, while also finding trial counsel's testimony is credible. This Court further finds trial counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have investigated whether Wright gave inconsistent testimony between the first and second trials. Trial counsel testified the trials were held within a month of one another and that – based upon his notes and recollection from the first trial – Wright's testimony did not differ. This Court finds trial counsel's testimony is credible. This Court also finds that, as the Applicant failed to produce any evidence that Wright's testimony did, in fact, differ this Court cannot engage in speculation. See, e.g., Palacio v. State, 333 S.C. 506, 513, 511 S.E.2d 62, 66 (1999)

⁴ Neil v. Biggers, 409 U.S. 188, 93 S. Ct. 375 (1972).

⁵ 

(holding that, since the contents of challenged documents were not presented at the PCR hearing, the Applicant could not demonstrate how the failure of counsel to obtain these documents prejudiced the defense); see also Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (holding applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). Regardless, this Court finds trial counsel cannot be found deficient, as the State presented strong evidence of the Applicant's guilt. See Harris v. State, 377 S.C. 66, 79-80, 659 S.E.2d 140, 147 (2008) (holding overwhelming evidence of defendant's guilt invalidated any argument that trial counsel should have had the first trial transcript available to potentially impeach a witness).

This Court finds the Applicant failed to meet his burden of proving trial counsel should have investigated the victims' identification. This Court notes trial counsel did object to the identification in this case. Trial counsel questioned Officer Weiner during the Biggers hearing and later cross-examined him during the trial. (Trial transcript, pp.6-8; pp.13-19; pp.148-52). Trial counsel also called an expert witness to testify about faulty eyewitness identification. (Trial transcript, pp.156-67). While the Applicant testified an eyewitness said the perpetrator was 6'0" in height and 200 pounds in width and he actually was 5'8" tall and 140 pounds, this Court finds trial counsel did cross-examine the eyewitness about this discrepancy. (Trial transcript, pp.98-100). This Court finds trial counsel properly challenged the eyewitness identification in this case. This Court finds that specific reference to Applicant's Exhibits 1 and 2 would not have affected the outcome of the Applicant's trial. See Skeen v. State, supra.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have objected to the Allen charge. After the jury sent out a note that they were unable to reach a verdict, the trial judge gave the Allen charge. (Trial transcript, pp.252-56). Trial counsel

testified there was no legal reason to have objected to this charge. This Court agrees. An Allen charge is used to encourage a deadlocked jury to reach a verdict and involves instructing the jurors to, among other things, approach the evidence with an open mind and consider the opinions of their fellow jurors. See State v. Robinson, 360 S.C. 187, 193, 600 S.E.2d 100, 103 (Ct. App. 2004). An Allen charge should be even-handed, directing both the majority and the minority to consider the other's views. See State v. Hughes, 336 S.C. 585, 521 S.E.2d 500 (1999). This Court finds the trial judge's statement to the jury did not involve the type of language usually seen in an improper Allen charge and, therefore, there was no reason for trial counsel to have objected.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

7 

CONCLUSION

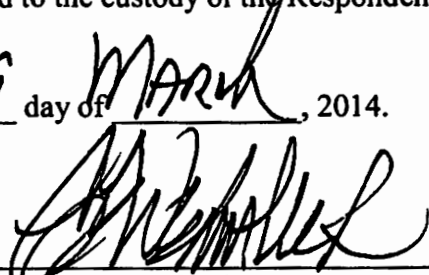
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

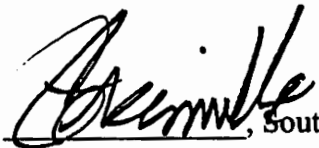
This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 15 day of MARCH, 2014.


 G. Edward Welmaker
 Presiding Judge
 Thirteenth Judicial Circuit


 Greenville, South Carolina.

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2012CP2307606

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2012 MAR 25 PM 12 34

Oshawn J Robinson vs. South Carolina State Of

CHECK ONE:

☐ JURY VERDICT.

This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ DECISION BY THE COURT.

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

☐ ACTION DISMISSED (CHECK REASON):

SCRPC (Vol. Nonsuit):

☐ Rule 12(b), SCRPC;

☐ Rule 41(a),

☐ Rule 43(k), SCRPC (Settled);

☐ Other: _____

☐ ACTION STRICKEN (CHECK REASON):

☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;

☐ Rule 40(j) SCRPC;

☐ Bankruptcy;

☐ Other: _____

☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):

☐ Affirmed;

☐ Reversed;

☐ Remanded;

☐ Other: _____

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

IT IS ORDERED AND ADJUDGED:

☐ See attached order;

☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE - G Edward Welmaker

This judgment was entered on the , and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

Caroline M.W. Horlbeck 101 Whitsett Street
Greenville, SC 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

Karen Christine Ratigan PO Box 11549 Columbia,
SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM GREENVILLE COUNTY
 Court of Common Pleas
 THE HONORABLE G. EDWARD WELMAKER

CA No. 2012-CP-23-7606

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMER
 2014 APR 25 PM 10 53

OSHAWN J. ROBINSON,

APPELLANT,

vs.

STATE OF SOUTH CAROLINA

RESPONDENT.

NOTICE OF APPEAL

Appellant OSHAWN J. ROBINSON, appeals from the Order of the Honorable G. EDWARD WELMAKER, Circuit Court Judge clocked March 25, 2014

Respectfully submitted,

Caroline M. Horlbeck

Caroline M. Horlbeck, Esq.
 101 Whitsett St
 Greenville, SC 29601

Date: April 25, 2014

Other Counsel of Record: Karen Ratigan, Esq.
 Assistant Attorney General
 Post Office Box 11549
 Columbia, SC 29211

STATE OF SOUTH CAROLINA)

IN THE SUPREME COURT)

COUNTY OF GREENVILLE)

OSHAWN J. ROBINSON,)

C.A. No. 2012-CP-23-7606)

APPELLANT,)

-vs-)

CERTIFICATE OF SERVICE)

STATE OF SOUTH CAROLINA,)

RESPONDENT.)

This is to certify that I am an employee in the law office of Caroline M. Horlbeck, attorneys for Applicant, and that I have this day caused to be served upon the person(s) named below Applicant's Notice of Appeal by placing copies of same in the United States mail, with adequate postage thereon, addressed as follows:

Ms. Lorie French
S.C. Office of Appellate Defense
PO Box 11433
Columbia, SC 29211

Karen Ratigan, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Caroline M. Horlbeck
Caroline M. Horlbeck

Greenville, South Carolina

April 25, 2014

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

G. Edward Welmaker, Circuit Court Judge

OSHAWN J. ROBINSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000933

PETITION FOR WRIT OF CERTIORARI

WANDA H. CARTER
Deputy Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

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ISSUE PRESENTED

Trial counsel erred in failing to object to the trial judge's unduly coercive Allen¹ charge given to the jury in the case.

¹ Allen v. United States, 164 U.S. 492 (1896).

STATEMENT

Petitioner O'Shaun Joseph Robinson was found guilty of armed robbery, possession of a weapon during the commission of a violent crime, conspiracy, and assault and battery per jury trial held during the January 2009 term of the Greenville County General Sessions Court before C. Victor Pyle, Jr. and received an aggregate twenty-five year prison sentence. App. 1 – 265. Scott Robinson and Andrew Moorman represented petitioner at trial, and Assistant Solicitor Lucas Marchant appeared on behalf of the state.

Petitioner appealed his convictions and sentences. Petitioner's and respondent's final briefs were filed on January 24, 2011, and January 21, 2011, respectfully. App. 267-299. On January 25, 2012, the South Carolina Court of Appeals affirmed petitioner's convictions and sentences. See State v. Robinson, Unpublished Opinion No. 2012-UP-042 (S.C. Ct. App. January 25, 2012). App. 301-302.

On December 5, 2012, petitioner filed a PCR application with the Greenville County Office of the Clerk of Court. App. 303-312. The respondent filed a return dated June 21, 2013, requesting that a hearing be held in response to petitioner's PCR action. App. 313-318.

A PCR hearing was convened on February 18, 2014, at the Greenville County Courthouse before Judge G. Edward Welmaker. App. 324 – 351. Petitioner was present at the PCR hearing and represented by Caroline Horlbeck, and Assistant Attorney General Karen Ratigan appeared on behalf of the state. On March 19, 2014, Judge Welmaker issued an Order of Dismissal denying petitioner's allegations of ineffective assistance of trial counsel in the case. App. 352 – 359.

Petitioner appealed Judge Welmaker's Order of Dismissal. This petition follows.

ARGUMENT

Trial counsel erred in failing to object to the trial judge's unduly coercive Allen² charge given to the jury in the case.

At trial, Sergio Espinoza testified that after he parked his vehicle in front of the apartment where he lived, he was met by a black male wearing a red hoodie who put a gun in his face and took his wallet. Espinoza added that he realized that while this was happening there was another black male standing watch at the rear of his vehicle on the passenger side. At some point, this black male standing at the rear of the vehicle approached near the front of the vehicle, and at that time took possession of the gun from the gunman. Soon thereafter, the two men fled to a get-a-way car parked nearby and the driver (3rd perpetrator) of the car drove off. App. 731, l. 15 – p. 85, l. 12.

Timothy Wright testified that he and Marcus Workman (get-a-way car driver) and petitioner were connected to the events involving Espinoza. Wright stated that petitioner held a gun to Espinoza and that he (Wright) was standing near petitioner. Wright stated that they all ran after petitioner “snatched a wallet from the victim.” App. 121, l. 19 – p. 129, l. 5.

During the PCR hearing, petitioner testified that trial counsel erred in failing to object to the trial judge's coercive Allen charge given at trial. App. 332, lines 2 – 6. Trial counsel testified at the PCR hearing and stated there was no reason to object to the Allen charge. App. 344, lines 3 – 5.

The PCR judge ruled that petitioner failed to establish that counsel erred in failing to object to the Allen charge because said charge was not improper. App. 357 – 358.

The trial judge's Allen charge in the instant case follows:

Ladies and gentlemen, the only mode or the only method that is provided by our laws for deciding questions of facts in a criminal case is the verdict of a jury. Now I tell you that in most all cases absolute certainty cannot be obtained or even expected. When a

² Allen v. United States, 164 U.S. 492 (1896).

matter is in dispute it isn't always easy for even two people to agree. Indeed, the parties to this proceeding have been unable to agree. Therefore, when twelve people must agree it becomes correspondingly more difficult.

Now I tell you that it is very unusual for a jury to go out and to quickly or immediately return with a verdict. At the same time I tell you that we usually get a verdict. So while it's normal for jurors to disagree at first we nevertheless get a verdict after the jury has laid aside all outside or extraneous matters and have determined to try the case on its merits and on the basis of the law and evidence in the case.

Now it's been said that jury service is perhaps the highest service that a citizen can perform for his or her country or state during peace-time. And I certainly agree with that; however, I tell you that a juror does not render good jury service who arbitrarily says, I know what I want to do in this case, and if and when everybody agrees with me, then we'll write a verdict. And we will not write a verdict until that time. I tell you that it was never intended that the verdict of a jury should be the view of any one person. At the same time I tell you that every juror has a right to his or her own opinion and he or she need not give it up merely for the purpose of being in agreement. However, the verdict of a jury is the collective reasoning of all jurors. And that, of course, is why we have a jury.

I tell you that it is the duty of each of you to tell the others how you feel and why you feel that way. However, I also tell you that if much the larger number of your panel are in favor of one particular verdict, then a dissenting juror or jurors should consider whether or not his or her or their positions [are] reasonable ones which makes no impression upon the minds of the majority.

In other words, if a majority of you are for one particular form of verdict, the minority ought to seriously ask themselves whether they can reasonably doubt the correctness of the judgment of the majority.

Now although the verdict to which a juror agrees must of course, be his or her own verdict, the result of his or her own convictions and not a mere acquiescence in the conclusion of his or her fellow jurors, yet in order to bring twelve minds to a unanimous decision as you are required to do you must examine the questions submitted to you with a candor and with a proper regard to and respect for the opinions of each other.

You should also consider that you were selected in the same manner and from the same source from which any future jury might be selected. And there's certainly no reason for me to suppose that this case would be submitted to twelve people more intelligent,

impartial and competent than you twelve are or that more or clearer evidence will be produced on one day or the other.

In other words, ladies and gentlemen, I tell you that a mistrial in a case is an unfortunate thing. If you cannot agree on a verdict in this case it doesn't mean anybody wins. It just means possible that at some future time I will or one of the other judges will try this case with a jury seated where you are. The same participants will come and the same lawyers will ask basically the same questions and I suppose probably get basically the same answers and we'll just go through the whole process again.

In conclusion, ladies and gentlemen, I tell you that if the state is entitled to guilty verdicts in this case, it is entitled to those verdicts today. Not tomorrow, next week, next month, or next year, but today. On the other hand I tell you that if the defendant's are entitled to verdicts of not guilty in this case, they are entitled to those verdicts today, not next week, next month, next year, but today.

Therefore, ladies and gentlemen, I cannot accept any report at this time that you cannot agree on a unanimous verdict in this case. I am of the opinion that you have not deliberated sufficiently long that I could in good conscience accept that report. And I tell you frankly it will take considerably more time before I am convinced that you cannot reach a verdict.

I, therefore, humbly beseech you to return to your jury room, continue your deliberations with the hope that you can arrive at a unanimous verdict within a reasonable time. Thank you. Please retire and continue with your deliberations. App. 252, l. 24 – p. 256, l. 9.

A judge has a duty to urge a jury to reach a verdict, but a judge cannot coerce a jury to reach a verdict. Dawson v. State, 352 S.C. 15, 572 S.E.2d 445 (2002). In Dawson, where the trial judge asked about the numerical division (for and against) of the jurors and then charged in effect that the one hold out was not being a good citizen,³ the Dawson Court held that counsel was ineffective in failing to object to that Allen charge because the charge was deemed to be coercive. Clearly, whether an Allen charge is unconstitutionally coercive must be judged in its context and under all of

³ In Dawson, the judge's improper Allen charge was directed to the one hold out where he stated that "I have sometimes thought that the juror who could render less service to the Court and to the country than any other juror is the juror who says I know what I want to do in this case and when and if everybody agrees with me then we'll write a verdict, and we'll not write a verdict until that time.

the circumstances. Dawson, *supra* citing to Tucker v. Catoe, 346 S.C. 483, 552 S.E.2d 712 (2001). In Tucker, the Court held that the Allen charge given in that case was coercive because the jurors were told that although they should not do violence to their conscience; nonetheless, they were advised of the importance of returning a unanimous verdict and that they must return such a verdict, particularly since the trial judge knew of two hold outs and then the one hold out, and it appeared that the Court surmised that the “jury charge was directed to the minority jurors.” Compare also, State v. Middleton, 218 S.C. 452, 63 S.E.2d 163 (1951), where the Court reversed due to coerciveness after the jury was urged to agree on a verdict, but the trial judge “went too far” by recharging on the law of self-defense three times and inquired of the numbers on the deadlocked jury. See also Green v. State, 351 S.C. 184, 569 S.E.2d 318 (2002).

In the case at bar, the trial judge went too far also in giving a coercive Allen charge by advising the jurors of the same charge that was identical to the one struck down in Dawson. In Dawson, the judge’s Allen charge was found improper due to following remarks to the one hold out: “I have sometimes thought that the juror who could render less service to the Court and to the country than any other juror is the juror who says I know what I want to do in this case and when and if everybody agrees with me then we’ll write a verdict, and we’ll not write a verdict until that time.” Likewise, this trial judge in the case at bar gave the same coercive Dawson charge as follows:

However, I tell you that a juror does not render good jury service who arbitrarily says, I know what I want to do in this case, and if and when everybody agrees with me, then we’ll write a verdict. And we will not writ a verdict until that time. App. 254, lines 19-23.

Furthermore, this trial judge in the case at bar went on to burden the jury with the consequences of failing to reach a verdict as follows:

In other words, ladies and gentlemen, I tell you that a mistrial in a case is an unfortunate thing. If you cannot agree on a verdict in this case it doesn't mean anybody wins. It just means possibly that at some future time I will or one of the other judges will try this case with a jury seated where you are. The same participants will come and the same lawyers will ask basically the same questions and I suppose probably get basically the same answers. And we'll just go through the whole process again. App. 256, lines 7-15

Moreover, the trial judge went on to advise the jury that he would not accept a deadlocked jury as follows:

Therefore, ladies and gentlemen, I cannot accept any report at this time that you cannot agree on a unanimous verdict in this case. I am of the opinion that you have not deliberated sufficiently long that I could in good conscience accept that report. And I tell you frankly it will take considerably more time before I am convinced that you cannot reach a verdict. App. 256, l. 23, - p. 257, l. 4.

Finally, the trial judge belittled the jury by comparing the jury to other jury members who were successful in agreeing and returning verdicts as follows:

Now I tell you that it is very unusual for a jury to go out and to quickly or immediately return with a verdict. At the same time I tell you that we usually get a verdict. So while it's normal for jurors to disagree at first we nevertheless get a verdict after the jury has laid aside all outside or extraneous matters and have determined to try the case on its merits and on the basis of the law and evidence in the case. App. 254, lines 8 – 15.

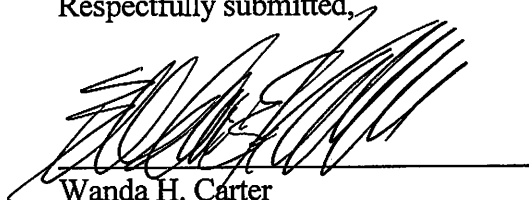
Clearly, under the totality of the circumstances, the trial judge's Allen charge in the case at bar was unduly coercive and thus unconstitutional; and as a result, trial counsel erred in failing to object to the same at trial. Trial counsel's failure to object to the unduly coercive Allen charge in this case constituted deficient legal representation at petitioner's trial in violation of the Sixth Amendment; and but for counsel's error in this regard, a reasonable probability exists that the

outcome of petitioner's trial would have been different. See Strickland v. Washington, 466 U.S. 668 (1984).

CONCLUSION

Based on the foregoing argument, petitioner requests that this Court grant the petition and allow full briefing on the issue raised above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', is written over a horizontal line.

Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 8th day of December, 2014.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

G. Edward Welmaker, Circuit Court Judge

OSHAWN J. ROBINSON,

PETITIONER,

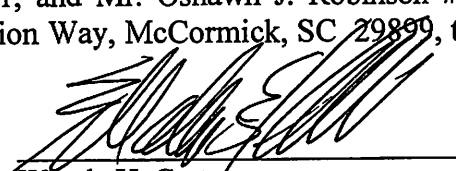
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

I certify that a true copy of the petition for writ of certiorari and a copy of the appendix in this case have been served on Karen Ratigan, Esquire at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Oshawn J. Robinson #327798, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29860, this 6th day of January, 2015.

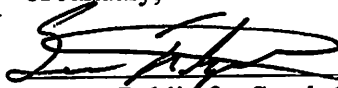


Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 6th day
of January, 2015.



(L.S.)
Notary Public for South Carolina

My Commission Expires: October 30, 2022.

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable G. Edward Welmaker, Circuit Court Judge

Appellate Case No. 2014-000933

O'Shawn Robinson, ...Petitioner,

v.

State of South Carolina, ...Respondent.

**RETURN TO PETITION FOR
WRIT OF CERTIORARI**

ALAN WILSON
Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General
S.C. Bar # 68331

Post Office Box 11549
Columbia, S.C. 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

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QUESTION PRESENTED

1. Did trial counsel err in failing to object to the trial judge's unduly coercive Allen¹ charge given to the jury in the case?

¹ Allen v. United States, 164 U.S. 492 (1896).

STATEMENT OF THE CASE

The Greenville County Grand Jury indicted Petitioner at the August 2008 term of General Sessions for armed robbery (2008-GS-23-5382, count 1), possession of a weapon during commission of a violent crime (2008-GS-23-5382, count 2), conspiracy (2008-GS-23-5383), and assault and battery of a high and aggravated nature (2008-GS-23-5384). (App.pp.360-65). Andrew Moorman, Esquire represented Petitioner.

After the State called the case to trial, Petitioner was found guilty. On January 15, 2009, the Honorable C. Victor Pyle, Jr. sentenced Petitioner to concurrent terms of 25 years for armed robbery, 5 years for possession of a weapon during commission of a violent crime, 5 years for conspiracy, and 30 days for the lesser-included offense of assault and battery. (App.pp.264-65).

A notice of appeal was filed at the South Carolina Court of Appeals. Robert M. Pachak, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense represented Petitioner on appeal. (App.pp.267-76). The Court of Appeals affirmed Petitioner's convictions and sentences. State v. Robinson, Op. No. 12-UP-042 (S.C. Ct. App. filed Jan. 25, 2012). (App.pp.320-23). The remittitur was issued on February 14, 2012.

Petitioner filed an application for post-conviction relief (PCR) on December 5, 2012 (2012-CP-23-7606). (App.pp.303-12). A hearing was held at the Greenville County Courthouse on February 18, 2014. (App.pp.324-49). Petitioner was present and represented by Caroline Horlbeck, Esquire. Karen C. Ratigan, Esquire of the South Carolina Attorney General's Office represented Respondent. The Honorable G. Edward

Welmaker denied relief in an order dated March 19, 2014 and filed March 25, 2014. (App.pp.352-59).

STANDARD OF REVIEW

The proper standard for review of a PCR evidentiary hearing is whether “any evidence of probative value” exists to sustain the post-conviction relief judge’s findings. Cherry v. State, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989). In a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

ARGUMENT

The PCR judge did not err in finding Petitioner failed to meet his burden of proving trial counsel was ineffective because he did not object to the Allen charge.

After closing arguments at trial, the trial judge charged the jury. (App.pp.215-26). The jury began deliberations at 10:31 a.m. (App.p.226). After the jury sent a note to the trial judge asking to hear a witness’s testimony played back, the jury reentered the courtroom at 10:56 a.m. (App.p.227). The witness’s testimony was replayed and the jury resumed deliberations at 11:26 a.m. (App.pp.228-51). The jury sent additional questions to the trial judge, and he brought them into the courtroom at 1:15 p.m. and informed them he could not answer questions of fact. (App.pp.252-53). The jury resumed deliberations at 1:17 p.m. (App.p.253). The jury sent a note to the trial judge indicating they could not reach a unanimous decision. (App.p.253). The trial judge brought the jury back into the courtroom at 2:50 p.m. and issued an Allen charge. (App.pp.253-57). The jury resumed deliberations at 2:58 p.m. and returned to the courtroom with a verdict at 4:47 p.m.

(App.pp.257-58).

At the PCR hearing, trial counsel testified there was no legal basis for him to have objected to the Allen charge. (App.p.344).

In denying Petitioner's application for post-conviction relief, the PCR judge found Petitioner "failed to meet his burden of proving trial counsel should have objected to the Allen charge." The PCR judge found "the trial judge's statement to the jury did not involve the type of language usually seen in an improper Allen charge and, therefore, there was no reason for trial counsel to have objected." (App.pp.357-58).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The PCR judge did not err in finding Petitioner failed to meet his burden of proving trial counsel should have objected to the Allen charge. In support of his argument, Petitioner has pointed to the following four sections taken from the entirety of

the Allen charge²:

Now I tell you that it is very unusual for a jury to go out and to quickly or immediately return with a verdict. At the same time I tell you that we usually get a verdict. So while it's normal for jurors to disagree at first we nevertheless get a verdict after the jury has laid aside all outside or extraneous matters and have determined to try the case on its merits and on the basis of the law and evidence in the case.

(App.p.254, lines 8-15).

Now it's been said that jury service is perhaps the highest service that a citizen can perform for his or her country or state during peace-time. And I certainly agree with that; however, I tell you that a juror does not render good jury service who arbitrarily says, I know what I want to do in this case, and if and when everybody agrees with me, then we'll write a verdict. And we will not write a verdict until that time.

(App.p.254, lines 16-23).

In other words, ladies and gentlemen, I tell you that a mistrial in a case is an unfortunate thing. If you cannot agree on a verdict in this case it doesn't mean anybody wins. It just means possibly that at some future time I will or one of the other judges will try this case with a jury seated where you are. The same participants will come. And the same lawyers will ask basically the same questions and I suppose probably get basically the same answers and we'll just go through the whole process again.

(App.p.256, lines 7-15).

Therefore, ladies and gentlemen, I cannot accept any report at this time that you cannot agree on a unanimous verdict in this case. I am of the opinion that you have not deliberated sufficiently long that I could in good conscience accept that report. And I tell you frankly it will take considerably more time before I am convinced that you cannot reach a verdict.

(App.p.256, line 23 – p.257, line 4).

It is clear, however, that this language was not coercive when viewed either in isolation or

² These sections, however, cannot be evaluated out of context. See Lowenfield v. Phelps, 484 U.S. 231, 237, 108 S. Ct. 546, 550 (1988) (holding that, to determine whether an Allen charge is coercive, it must be judged “in its context and under all the circumstances”) (citation omitted).

within the Allen charge as a whole.

An Allen charge is used to encourage a deadlocked jury to reach a verdict and involves instructing the jurors to, among other things, approach the evidence with an open mind and consider the opinions of their fellow jurors. See State v. Robinson, 360 S.C. 187, 193, 600 S.E.2d 100, 103 (Ct. App. 2004). “A trial judge has a duty to urge, but not coerce, a jury to reach a verdict.” Green v. State, 351 S.C. 184, 194, 569 S.E.2d 318, 323 (2002) (citing State v. Pauling, 322 S.C. 95, 470 S.E.2d 106 (1996)). “It is not coercion to charge every juror has a right to his own opinion and need not give up the opinion merely to reach a verdict.” Id. (citing State v. Singleton, 319 S.C. 312, 460 S.E.2d 573 (1995)). In the case at bar, the trial judge was not coercing the jury or being heavy-handed in his instructions to continue deliberations. Instead, the trial judge merely advised the jury that disagreements were normal and encouraged them to resume deliberations and attempt to resolve the case. While Petitioner argues cases such as Dawson v. State, 352 S.C. 15, 572 S.E.2d 445 (2002) and Tucker v. Catoe, 346 S.C. 483, 552 S.E.2d 712 (2001) mandate a reversal in this case, these cases are factually very distinguishable because – as the trial judges in these cases were aware of the existence of a minority juror – the Allen charge could be perceived as being directed towards them. This factual situation was not present in Petitioner’s case. Rather, the jury merely advised the trial judge that they could not reach a unanimous decision. The rulings in Dawson and Tucker are inapposite as the trial judge in this case provided a proper Allen charge to encourage the entire jury panel to continue deliberations. As the Allen charge was not coercive, it was not incumbent upon trial counsel to have objected.

Accordingly, Petitioner failed to prove both prongs of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms and that he was prejudiced by trial counsel’s performance. As Petitioner failed to meet his burden of proving ineffective assistance of trial counsel on this issue, the PCR judge did not err in denying the PCR application. See Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (“The burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.”).

CONCLUSION

For the foregoing reasons, Respondent submits this Court should deny the Petition for Writ of Certiorari. However, if this Court grants certiorari, Respondent requests the opportunity to fully brief the issue discussed above.

Respectfully submitted,

ALAN WILSON
Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General
S.C. Bar # 68331

Post Office Box 11549
Columbia, S.C. 29211
(803) 734-3737

By: 
ATTORNEYS FOR RESPONDENT

March 20, 2015

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable G. Edward Welmaker, Circuit Court Judge

Appellate Case No. 2014-000933

O'Shawn Robinson, ... Petitioner,

v.

State of South Carolina, ... Respondent.

CERTIFICATE OF SERVICE

I, Karen C. Ratigan, certify that I have today served the within Return to Petition for Writ of Certiorari upon Petitioner by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Wanda H. Carter, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211-1589

I further certify that all parties required by Rule to be served have been served.
This 20th day of March, 2015.


KAREN C. RATIGAN
S.C. Bar # 68331
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
ATTORNEY FOR RESPONDENT

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

Oshawn J. Robinson, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2014-000933

Lower Court Case No. 2012-CP-23-07606

Appeal From Greenville County
The Honorable C. Victor Pyle, Jr., Circuit Court Judge
The Honorable G. Edward Welmaker, Post Conviction
Judge

Memorandum Opinion No. 2015-MO-018
Submitted March 19, 2015 – Filed April 15, 2015

REVERSED AND REMANDED

Senior Appellate Defender Wanda H. Carter, of
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson and Senior
Assistant Attorney General Karen Christine Ratigan, of
Columbia, for Respondent.

PER CURIAM: Petitioner seeks a writ of certiorari from the dismissal, after a hearing, of his application for post-conviction relief (PCR). By separate opinion of this same date, we reversed the denial of PCR for petitioner's codefendant, Kenneth Workman. *See Workman v. State*, Op. No. 27514 (S.C. Sup. Ct. dated April 15, 2015). For the same reason set forth therein, we grant this petition for a writ of certiorari, dispense with further briefing, reverse the PCR judge's denial of relief, and remand for a new trial in petitioner's criminal case as well.

REVERSED AND REMANDED.

**TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ.,
concur.**



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

April 27, 2015

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: Oshawn J. Robinson v. State
Lower Court Case No. 2012CP2307606
Appellate Case No. 2014-000933

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal.

Very truly yours,

CLERK

Karen Christine Ratigan, Esquire
Wanda H. Carter, Esquire
Oshawn J. Robinson, #327798

582 OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.
Oshaun Joseph Robinson

AKA:

Race: BLACK Sex: M Age: 26

DOB: 10-19-1989 SS#: 249-83-7986

Address: 603 Anderson Rd

City, State, Zip: Greenville, SC 29601

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Assault / Simple assault and battery

INDICTMENT/CASE#: 2008GS2305384

A/W#: 1474522

Date of Offense: 12/10/2007

S.C. Code §: C/L, 22-05-0150,

CDR Code #: 0612

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § C/L, 22-05-0150, of the S.C. Code of Laws, bearing CDR Code # 0612

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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: Bart J. Stegall 101867 SC Bar# 73946
Stegall, Bart J. Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☒ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ 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: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
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 Paul B. W. ChensinCourt Reporter: Jenkins

SCCA/217 (03/2011)

Presiding Judge [Signature]Judge Code: 2162Sentence Date: 5/16/16

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
 STATE VS.
Oshaun Joseph Robinson

AKA:

Race: BLACK Sex: M Age: 26DOB: 10-19-1989 SS#: 249-83-7986Address: 603 Anderson RdCity, State, Zip: Greenville, SC 29601

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or deathin violation of § 16-23-0490of the S.C. Code of Laws, bearing CDR Code # 0549

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

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

ATTEST:

Stegall, Bart J.

101867

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 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
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Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
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

Court Reporter: Deakins

SCCA/217 (03/2011)

Presiding Judge: Paul B. WickensJudge Code: 2162Sentence Date: 5/16/16

584 OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
 STATE VS.
Oshaun Joseph Robinson

AKA:

Race: BLACK Sex: M Age: 26DOB: 10-19-1989 SS#: 249-83-7986Address: 603 Anderson RdCity, State, Zip: Greenville, SC 29601

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

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

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

ATTEST: Stegall, Bart J. 101867 SC Bar# 101867 Defendant Attorney for Defendant 73996 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: SCDC☒ 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. 8 1/2 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 _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ <u>133.90</u>

 days/hours Public Service EmploymentObtain 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 Paul B. WickensCourt Reporter: Jenkins

SCCA/217 (03/2011)

Presiding Judge Judge Code: 2162Sentence Date: 5/16/16

COUNTY OF Greenville
STATE VS.
Oshaun Joseph Robinson

AKA:
Race: BLACK Sex: M Age: 26
DOB: 10-19-1989 SS#: 249-83-7986
Address: 603 Anderson Rd
City, State, Zip: Greenville, SC 29601
DL#: SID#:

INDICTMENT/CASE#: 2008GS2305383
A/W#: 1474524
Date of Offense: 12/10/2007
S.C. Code §: 16-17-0410
CDR Code #: 0049

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049
☒ 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: Stegall, Bart J. 101867 SC Bar# Defendant Attorney for Defendant 73996 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: SCDC
☒ 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. 8 1/2 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 _____

Recipient: _____

*Fine:
§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
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

Court Reporter: Paul B. Wickens

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2162

Sentence Date: 5/16/14

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

OSHAUN JOSEPH ROBINSON, #327798)

v.)

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2017-CP-23-02653

INSTRUCTIONS READ CAREFULLY

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

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

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

1. Place of Detention McCormick Correctional Institution, 386 Redemption Way, McCormick, S. C. 29899
2. Name and location of Court which imposed sentence Greenville County Court of General Sessions, 305 E. North Street, Greenville, SC 29601
3. Name(s) of co-defendant(s) (if any) Timothy Wright and Kenneth Workman.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2008-GS-23-005385 Conspiracy
 - (b) 2008-GS-23-005386 Assault and Battery with Intent to Kill
 - (c) 2008-GS-23-005387 Armed Robbery
 - (d) 2008-GS-23-005387 Possession of a Weapon during the Commission of a Violent Crime

5. The date upon which sentence was imposed and the terms of the sentence:
- (a) March 4, 2009 5 years Concurrent
- (b) March 4, 2009 20 years Concurrent
- (c) March 4, 2009 25 years Concurrent
- (d) March 4, 2009 5 years Concurrent
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Yes
- (b) after a plea of not guilty
- (c) after a plea of nolo contendere
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered yes to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii.
- iii.
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii.
- iii.
- (c) the date of each such result:
- i. N/A
- ii.
- iii.
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii.
- iii.

9. If you answered **no** to (7), state your reasons for not so appealing:
- (a) No issues preserved for direct appeal and at the time, Applicant had no reason to appeal.
 - (b) _____
 - (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of Defense Counsel in that Counsel failed to fully advise Applicant of all the potential consequences of these pleas in relation to the judgments and sentences he received following his jury trial in 2007.
 - (b)
 - (c)
 - (d)
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Plea Counsel advised Applicant to plead guilty in order to obtain judgments and sentences that would be the same as, and concurrent with, the sentences he received approximately one month earlier in November, 2007. Applicant believed, based on the limited advise of his defense counsel, that these two cases were effectively merged and that any changes to the judgments and sentences imposed at his jury trial would affect the sentences on his subsequent pleas as well.
 - (b)
 - (c)
 - (d)
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? n/a
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? n/a
 - (d) any other petitions, motions or applications in this or any other Court? n/a

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

(a) the specific nature thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- _____
- iii. _____
- iv. _____

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

- i. N/A
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? No
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
 - i. N/A
 - ii. _____
 - iii. _____
 - (b) the proceedings in which each ground was raised:
 - i. N/A
 - ii. _____
 - iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) The judgments and sentences Applicant received at his jury trial on Indictments No. 2008-GS-23-05382, 05383 and 05384 were subsequently reversed in a PCR action. It was not until he and his lawyer were finalizing a plea agreement on remand, that Applicant understood that the judgments and sentences from the pleas addressed herein were not reversed along with those from his jury trial. He ultimately entered pleas on the charges originally disposed of in his jury trial on May 16, 2016 and received a concurrent sixteen (16) year aggregate sentence.
 - (b) _____
 - (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? X
 - (b) your trial, if any?
 - (c) your sentencing? X
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
 - (e) preparation, presentation or consideration of any petitions, motions or

applications with respect to this conviction, which you filed? ____

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

(a) the name and address of each attorney who represented you:

i. Andrew Burke Moorman, Esquire, 55 Beattie Place, Suite 700, Greenville, SC
29601

ii. _____

iii.

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

i. Guilty Plea hearing _____

ii. _____

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

Reversal of Applicant's judgments and sentences and remand for a new trial.

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

Yes. May 16, 2016 entered guilty pleas on 2008-GS-23-05382 Armed Robbery and
Possession of a Weapon, 2008-GS-23-05383 Conspiracy, 2008-GS-23-05384 Simple
Assault and was sentenced to a concurrent sixteen (16) year aggregate sentence.

STATE OF SOUTH CAROLINA

)

VERIFICATION

)

COUNTY OF GREENVILLE

)

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



Tara Dawn Shurling
 S.C. Bar No. 5099
 3614 Landmark Drive
 Suite A
 Columbia, SC 29204
 (803) 738-8622
 Fax (803) 738-1600
tdslaw@shurlinglaw.com

ATTORNEY FOR THE APPLICANT

SWORN to and subscribed before me this 20th
 day of April, 2017.



(L.S.)
 Notary Public for the State of South Carolina

My Commission Expires: 3/28/24

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

OSHAUN JOSEPH ROBINSON, #327798
Plaintiff(s)

vs.

STATE OF SOUTH CAROLINA

Defendant(s)

Submitted By: Tara Dawn Shurling
Address: 3614 Landmark Drive, Suite A
Columbia, SC 29204

IN THE COURT OF COMMON PLEAS 593

CIVIL ACTION COVERSHEET

2017-CP-23-02653

SC Bar #: 5099
Telephone #: 803-738-8622
Fax #: 803-738-1600
Other:
E-mail: tdslaw@shurlinglaw.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts**
- ☐ Constructions (100)
☐ Debt Collection (110)
☐ General (130)
☐ Breach of Contract (140)
☐ Fraud/Bad Faith (150)
☐ Failure to Deliver/
Warranty (160)
☐ Employment Discrim (170)
☐ Employment (180)
☐ Other (199)

- Torts - Professional Malpractice**
- ☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 -NI-
☐ Notice/ File Med Mal (230)
☐ Other (299)

- Torts - Personal Injury**
- ☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Assault/Battery (370)
☐ Slander/Libel (380)
☐ Other (399)

- Real Property**
- ☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499)

- Inmate Petitions**
- ☒ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599)

- Administrative Law/Relief**
- ☐ Reinstatement License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899)

- Judgments/Settlements**
- ☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured
Settlement Payment Rights
Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers
Compensation Settlement
Approval (780)
☐ Other (799)

- Appeals**
- ☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999)

- Special/Complex /Other**
- ☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)
☐ Sexual Predator (510)
☐ Permanent Restraining Order (680)
☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in
an Out-of-County Action (660)
☐ Pre-Suit Discovery (670)

Submitting Party Signature:

Date:

4/20/2017

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

) IN THE COURT OF COMMON PLEAS
) IN THE THIRTEENTH JUDICIAL
) CIRCUIT
)
)

Oshaun Robinson, #327798,
Applicant,

) Case No.: 2017-CP-23-2653
)
)

v.

) **RETURN AND MOTION TO DISMISS**
)
)

State of South Carolina,
Respondent.

Respondent, making its Return to the application for post-conviction relief (PCR) filed by Oshaun Robinson ("Applicant") on April 25, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In August 2008, the Greenville County Grand Jury indicted Applicant for criminal conspiracy (2008-GS-23-5385), assault and battery with intent to kill (2008-GS-23-5386), armed robbery, and possession of a weapon during the commission of a violent crime (2008-GS-23-5387). Andrew Burke Moorman, Esquire, represented Applicant. Assistant Solicitor Lucas Marchant, Esquire, prosecuted the case. On March 4, 2009, Applicant pleaded guilty as indicted to all charges before the Honorable Edward W. Miller. Judge Miller sentenced Applicant to imprisonment for concurrent terms of five years for criminal conspiracy, twenty years for assault and battery with intent to kill, twenty five years for armed robbery, and five years for possession of a weapon during the commission of a violent crime. Applicant did not appeal his conviction or sentence.

Attached to this Return and incorporated by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, Applicant's records from the South

Carolina Department of Corrections, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "Ineffective Assistance of Defense Counsel in that Counsel failed to fully advise Applicant of all the potential consequences of these pleas in relation to the judgments and sentences he received following his jury trial in 2007."
 - a. "Plea counsel advised Applicant to plead guilty in order to obtain judgments and sentences that would be the same as, and concurrent with, the sentences he received approximately one month earlier in November 2007. Applicant believed, based on the limited advice of his defense counsel, that these two cases were effectively merged and that any changes to the judgments and sentences imposed at his jury trial would affect the sentences on his subsequent pleas as well."
 - b. "The judgments and sentences Applicant received at his jury trial on Indictments No. 2008-GS-23-5382, -5383, and -5384 were subsequently reversed in a PCR action. It was not until he and his lawyer were finalizing a plea agreement on remand, that Applicant understood that the judgments and sentences from the pleas addressed herein were not reversed along with those from his jury trial. He ultimately entered pleas on the charges originally disposed of in his jury trial on May 16, 2016 and received a concurrent sixteen year aggregate sentence."

III.

Respondent submits that this application should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. Specifically, the act requires as follows:

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

S.C. Code Ann. § 17-27-45(A).

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996).

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

Applicant pled guilty to criminal conspiracy, assault and battery with intent to kill, armed robbery, and possession of a weapon during the commission of a violent crime on March 4, 2009. This application was filed on April 25, 2017, well beyond the statutory filing period. Therefore, the application should be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

IV.

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

[Signature Block on Following Page]

V.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

DESHAWN MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

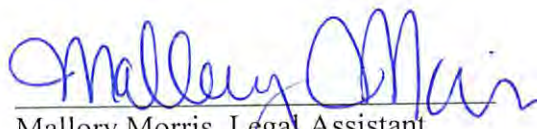
November 2, 2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2017-CP-23-2653
OSHAUN J. ROBINSON, #327798,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

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

Tara D. Shurling, Esquire
 3614 Landmark Drive, Suite A
 Columbia, SC 29204

DATED this 2nd day of November, 2018.


 Mallory Morris, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Oshaun Robinson, #327798,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
IN THE THIRTEENTH JUDICIAL
CIRCUIT

Case No.: 2017-CP-23-2653

**CONDITIONAL ORDER OF
DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief filed by Oshaun Robinson (Applicant) on April 25, 2017. Respondent made its Return, requesting the application be summarily dismissed.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In August 2008, the Greenville County Grand Jury indicted Applicant for criminal conspiracy (2008-GS-23-5385), assault and battery with intent to kill (2008-GS-23-5386), armed robbery, and possession of a weapon during the commission of a violent crime (2008-GS-23-5387). Andrew Burke Moorman, Esquire, represented Applicant. Assistant Solicitor Lucas Marchant, Esquire, prosecuted the case. On March 4, 2009, Applicant pleaded guilty as indicted to all charges before the Honorable Edward W. Miller. Judge Miller sentenced Applicant to imprisonment for concurrent terms of five years for criminal conspiracy, twenty years for assault and battery with intent to kill, twenty five years for armed robbery, and five years for possession of a weapon during the commission of a violent crime. Applicant did not appeal his conviction or sentence.

Before this Court are the records of the Greenville County Clerk of Court regarding the

subject convictions, Applicant's records from the South Carolina Department of Corrections, and the application.

CURRENT APPLICATION

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

1. "Ineffective Assistance of Defense Counsel in that Counsel failed to fully advise Applicant of all the potential consequences of these pleas in relation to the judgments and sentences he received following his jury trial in 2007."
 - a. "Plea counsel advised Applicant to plead guilty in order to obtain judgments and sentences that would be the same as, and concurrent with, the sentences he received approximately one month earlier in November 2007. Applicant believed, based on the limited advice of his defense counsel, that these two cases were effectively merged and that any changes to the judgments and sentences imposed at his jury trial would affect the sentences on his subsequent pleas as well."
 - b. "The judgments and sentences Applicant received at his jury trial on Indictments No. 2008-GS-23-5382, -5383, and -5384 were subsequently reversed in a PCR action. It was not until he and his lawyer were finalizing a plea agreement on remand, that Applicant understood that the judgments and sentences from the pleas addressed herein were not reversed along with those from his jury trial. He ultimately entered pleas on the charges originally disposed of in his jury trial on May 16, 2016 and received a concurrent sixteen year aggregate sentence."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Statute of Limitations

The Court finds that this application must be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. Specifically, the act requires as follows:

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

S.C. Code Ann. § 17-27-45(A).

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.”

Applicant pled guilty to criminal conspiracy, assault and battery with intent to kill, armed robbery, and possession of a weapon during the commission of a violent crime on March 4, 2009. This application was filed on April 25, 2017, well beyond the statutory filing period. Therefore, the application shall be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

[Conclusion and Signature on Following Page]

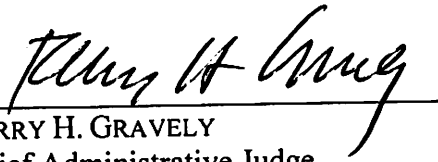
CONCLUSION

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. Applicant shall file any reasons he may have with the Greenville County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
 Attn: DeShawn Mitchell, Esquire
 PCR Division – 13th Circuit
 P.O. Box 11549
 Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Greenville County Clerk of Court and opposing counsel within twenty (20) days, and that the Court will not consider any issues raised in his response if not so timely filed and served.

AND IT IS SO ORDERED this 8th day of Nov, 2018.


 PERRY H. GRAVELY
 Chief Administrative Judge
 Thirteenth Judicial Circuit

Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Oshaun J. Robinson, #327798

☐ Plaintiff

v.

State Of South Carolina

☒ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.
2017-CP-23-2653MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

2018 NOV 2 2:32 PM

Plaintiff's Attorney:
Tara D. Shurling, Bar No. 5099

Address:

3614 Landmark Drive, Ste A Columbia, SC 29204

phone:

fax:

e-mail:

other:

Defendant's Attorney:

Deshawn H. Mitchell, Bar No. 101813

Address:

Post Office Box 11549 Columbia SC 29211-1549

phone: (803) 734-3737 fax: (803) 734-4113

e-mail:

other:

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion:

Estimated Time Needed:

Court Reporter Needed: ☐ YES / ☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached☒ Form Motion/Order

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


 Signature of Attorney for ☐ Plaintiff / ☒ Defendant

November 2, 2018

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:☒ EXEMPT:

(check reason)

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

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

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

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

☐ MOTION FEE COLLECTED: _____☐ CONTESTED - AMOUNT DUE: _____

IN THE COURT OF COMMON PLEAS

2017-CP-23-2653

OSHAUN JOSEPH ROBINSON, #327798,)

Applicant,

v.
STATE OF SOUTH CAROLINA,
Respondent.

**REPLY TO
CONDITIONAL ORDER OF DISMISSAL**

Applicant was convicted of charges of Simple Assault (08-GS-23-5384), Criminal Conspiracy (08-GS-23-5383), Possession of a Weapon (08-GS-23-5382) and Armed Robbery (08-GS-23-5382) on November 18, 2007, following a jury trial. Shortly thereafter, Applicant, acting on the advice of Counsel, entered the guilty pleas addressed in this Application for PCR. Applicant's judgments and sentences entered at his jury trial were overturned in a subsequent Post-Conviction Relief appeal. *Oshawn J. Robinson, v. State*, Op. No. 2015-MO-018 (Sup.Ct. dated April 15, 2015).

The reversal in Applicant's Post-Conviction Relief Appeal was based upon the same issue and analysis found in the Supreme Court's decision in the companion case of *Kenneth W Workmen v. State*, Op. No. 27514 (S.Ct. April 15, 2015). Applicant's current Application for Post-Conviction Relief addresses the ineffective assistance of counsel he received at the time of his guilty pleas approximately one month after his jury trial. Applicant was advised by Counsel to plead guilty to the charges addressed in this Application. Applicant was given very limited advice from his Plea Counsel concerning the terms of his pleas, and the potential consequences of his pleas in relation to the judgments and sentences entered following his jury trial.

Applicant asserts that Plea Counsel neglected to discuss with Applicant the potential consequences of these guilty pleas in light of the possible outcomes of a future direct appeal and/or Post-Conviction Relief case arising from his judgments and sentences from his jury trial. As a consequence of Counsel's inadequate advice concerning the relationship between these two sets of judgments and sentences, Applicant was left with the understanding that the two sets of charges and the penalties he received were effectively merged. It was Applicant's understanding that any changes to the judgments and sentences imposed at his jury trial would I have the same consequences for the judgments and concurrent sentences entered on the charges addressed in this application. It was Applicant's express understanding that he was pleading to the same charges, that the pleas would never impact his criminal record and would not result in a longer term of incarceration.

At the time of the opinion in his PCR Appeal from his jury trial, Applicant did not understand that the reversal of the judgments and sentences from his jury trial did not similarly impact the judgments and sentences from his guilty plea. Applicant did not become aware that his judgments sentences from his guilty plea proceeding were not reversed by the decision from the Supreme Court in his PCR appeal until the final stages of his plea negotiations on the charges which were addressed the PCR appeal in the Supreme Court of South Carolina. Within a few days after this discovery, on May 26, 2027, Applicant entered pleas on the charges which had originally been disposed of at the jury trial addressed in his PCR appeal. Following these new pleas, Applicant began the task of securing funding to hire a lawyer in an attempt to secure a collateral review of his guilty pleas addressed in his current PCR Application. On April 25, 2017, less than 365 days after he discovered that his judgments and sentences on these charges

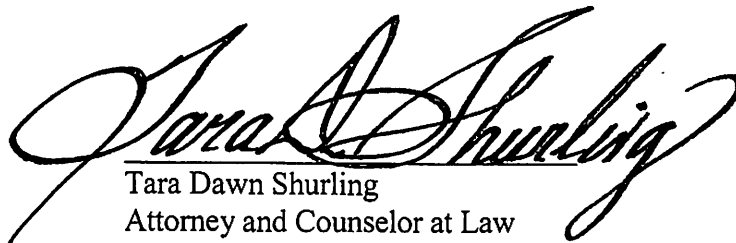
had not been overturned along with those arising from his jury trial, Applicant filed his current Application for Post-Conviction Relief. He would respectfully submit that this application was timely filed pursuant to S.C.Code Ann §17-27-45(C).

Applicant seeks the opportunity for collateral review on these guilty pleas. He submits that he did not receive effective assistance of counsel prior to, during, and after, his guilty pleas inasmuch as Counsel led him to believe that is two sets of charges had been effectively merged and that any subsequent action by a higher court on the judgments and sentences arising from his jury trial would also impact the judgments and sentences arising from his pleas on the charges addressed in this application. Given that understanding, based on the limited and inadequate advise of Plea Counsel, Applicant did not previously understand the need for him to file a separate Application for Post-Conviction Relief on these charges. He now most respectfully asks that this Honorable Court remedy the prejudice done to him by Plea Counsel's ineffective representation by granting him the opportunity to move forward with this application.

CONCLUSION

Based upon all of the above, Applicant respectfully prays that this Honorable Court not enter a Final Order of Dismissal in this matter. He asks for this Court's order finding that his current Application for Post-Conviction Relief is timely pursuant to S.C. Code Ann. §17-27-45(A). In the alternative, Applicant asks for a hearing at which he would have the opportunity to more fully argue the issue of the timeliness of this application and would have the ability to introduce witnesses and other evidence in support of his position that this application was timely filed in the exercise of due diligence within 365 days of his first discovery of the ineffective assistance of counsel his received from Plea Counsel.

Respectfully submitted,


Tara Dawn Shurling
Attorney and Counselor at Law

3614 Landmark Dr., Ste. A
Columbia, SC 29204
803-738-8622
803-738-1600 (Fax)
ATTORNEY FOR APPLICANT.

This 4th day of December, 2018.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2017-CP-23-2653

OSHAUN JOSEPH ROBINSON, #327798,)

Applicant,)

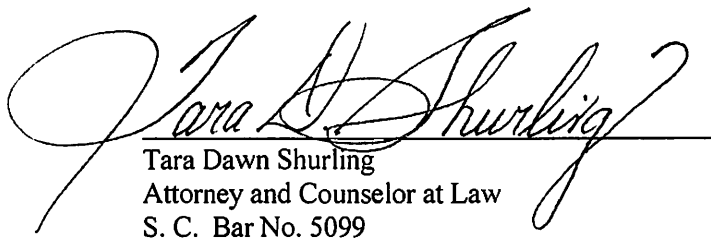
CERTIFICATE OF SERVICE

v.)

STATE OF SOUTH CAROLINA,)
 Respondent.)

The undersigned attorney hereby certifies that one copy of the Reply to the Conditional Order of Dismissal in the above-entitled cause has been served upon the Honorable Perry Gravely, Chief Administrative Judge for the Thirteenth Judicial Circuit, by email and hard copy by U. S. Mail on this the 4th day of December, 2018 to:

The Honorable Perry Gravely
 Chief Administrative Judge
 Thirteenth Judicial Circuit
 Post Office Box 219
 Pickens, SC 29671
pgravelyj@sccourts.org


 Tara Dawn Shurling
 Attorney and Counselor at Law
 S. C. Bar No. 5099

3614 Landmark Dr., Ste. A
 Columbia, SC 29204
 (803) 738-8622
 (803) 738-1600 (Fax)
 Email: tdslaw@shurlinglaw.com

ATTORNEY FOR THE APPLICANT.

SWORN TO BEFORE ME this 4th day of
 December, 2018.


 Notary Public for South Carolina
 My Commission Expires: 2/28/24

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2017CP2302653

Oshaun Joseph Robinson

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

Set for Hearing

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Note: Title abstractors and researchers should refer to the official court order for judgment details.

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

[Signature]
Circuit Court Judge

2755
Judge Code

12/18/2018
Date

For Clerk of Court Office Use Only

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

1
Tara Dawn Shurling 3614 Landmark Drive Suite A Columbia,
SC 29204

Megan Harrigan Jameson PO Box 11549 Columbia, SC
29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer

Court Reporter

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

Court Reporter:

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

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

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

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2017-CP-23-02653
	)	
	)	
	)	
	)	
OSHAUN JOSEPH ROBINSON,	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
RESPONDENT.	)	
_____	)	

April 15th and 17th, 2019
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE.

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

TARA D. SHURLING, ESQ.
Attorney for the Applicant

SAMUEL L. KEY, ESQ.
Attorney for the Respondent

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness
 (RW) - Denotes Respondent's Witness

Page No.

(AW) OSHAUN JOSEPH ROBINSON:
 Direct Examination by Ms. Shurling.....12

WEDNESDAY, APRIL 17, 2019

(AW) OSHAUN JOSEPH ROBINSON:
 Cross-Examination by Mr. Key.....48
 Redirect Examination by Ms. Shurling.....52

(AW) ANDREW BURKE MOORMAN:
 Direct Examination by Ms. Shurling.....57

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	(Respondent's Exhibits)		
R-1	Application for PCR.....	50.....	50

All Exhibits were retained by the Clerk of Court for Greenville County.

P R O C E E D I N G S

THE COURT: Okay. Yes, sir.

MR. KEY: May it please the Court.

This is Oshaun Robinson v. State of South Carolina, case number 2017-CP-23-2653. We're here today on a motions hearing. Mr. Robinson is currently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court.

In August of 2008, the Greenville County Grand Jury indicted Mr. Robinson for criminal conspiracy, assault and battery with intent to kill, armed robbery, and possession of a weapon during the commission of a violent crime. He was represented by Andrew Burke Moorman. And Assistant Solicitor Lucas Marchant prosecuted the cause.

On March 4th, 2009, Mr. Robinson pled guilty as indicted to all charges before the Honorable Edward Miller. And Judge Miller sentenced Mr. Robinson to imprisonment for concurrent terms of five years for criminal conspiracy, 20 years for assault -- assault and battery with intent to kill, 25 years for armed robbery, and five years for possession of a weapon during the commission of a violent crime. He did not appeal his plea or sentence.

He filed this application for post-conviction relief

1 on April 25th, 2017. Following his filing of his PCR
2 application, the State moved -- or filed a return, a
3 motion to dismiss, and submitted a proposed conditional
4 order of dismissal as dismissing the action as being filed
5 untimely, not within the statute of limitations.

6 Judge Gravely issued the conditional order of
7 dismissal on November 9th, 2018. Applicant responded to
8 the conditional order of dismissal December 12th, 2018.
9 Thereafter, Judge Gravely issued a Form 4 order ordering
10 that we have a hearing on whether or not this case should
11 proceed to the merits.

12 THE COURT: All right. Is that right, Ms. Shurling?

13 MS. SHURLING: Oh, is it my turn, Your Honor?

14 THE COURT: Well, he's not -- are you finished?

15 (WHEREUPON, there was no response.)

16 THE COURT: Not quite?

17 MR. KEY: The State moved to dismiss because he filed
18 his application April 25th, 2017. He pled on March 4th,
19 2009. And the statute says from the entrance of the
20 conviction or from remittitur, they have one year to file
21 their PCR application.

22 THE COURT: Right.

23 MR. KEY: Because it was filed outside of that one
24 year, the State moved to dismiss -- or moves to dismiss.

25 THE COURT: Anything else?

1 MR. KEY: No, sir, Your Honor.

2 THE COURT: Yes, ma'am.

3 MS. SHURLING: Thank you, Your Honor.

4 First off, I -- I would be remiss if I didn't know
5 that Judge Gravely's order is not quite as clear as the
6 Respondent would indicate. It -- it denied the State's
7 motion for summary dismissal and simply stated, Set for a
8 hearing. It did not explicitly state whether it was
9 denying the State's motion for summary dismissal and
10 setting it for a hearing on whether or not there was a
11 basis for equitable tolling, or -- or some other
12 justification for the late filing, or whether he had
13 already made that decision and was saying to set it for a
14 post-conviction relief hearing.

15 I contacted the Attorney General's Office. And it is
16 their view that it was to be set for a hearing on the
17 question of whether or not my client would be allowed to
18 move forward with his post-conviction relief. And I
19 simply don't want to be viewed as having conceded the
20 latter issue. Because I don't think that the Judge's
21 order is entirely clear on that point.

22 And I sought clarification from the Attorney General.
23 And as you can see, they are assuming that that was Judge
24 Gravely's intent. You can't really read that from the
25 order.

1 Your Honor, the State has accurately set forth the
2 procedural history as it regards the pleas that were
3 entered on March 4th, 2009. What it doesn't cover is that
4 in January of 2009, my client was tried by jury for the
5 crimes of assault and battery, conspiracy, possession of a
6 weapon during the commission of a violent crime, and armed
7 robbery.

8 Some two to three months later, whatever that comes
9 out to, in March of 2009, he was convinced through the
10 advice of Counsel to enter a plea to the incident charges
11 pursuant to a plea bargain that would net him concurrent
12 time, which would result in no further extension of his
13 sentence beyond the one that he had received at his jury
14 trial.

15 THE COURT: Which was what?

16 MS. SHURLING: 25 years, sir.

17 THE COURT: All right.

18 MS. SHURLING: It is the Applicant's position that at
19 the time he was receiving advice from his trial attorney
20 on that subject, he was told that he was being afforded an
21 opportunity for those crimes to be run together with the
22 crimes from the jury trial. That they would all be
23 treated as the same in terms of the start date for
24 sentence. And that the time would be concurrent. And
25 that in his mind, based on the advice of Counsel, he

1 was -- he believed that they had effectively been merged
2 in terms of that and from there forward, they were being
3 treated as -- as one set of judgments and sentences
4 effectively entered on the same date and merged for all
5 intent and purposes.

6 He went forward, Your Honor, to pursue a direct
7 appeal from the guilty plea -- I mean, pardon me, from the
8 jury trial, which he lost. He then filed an application
9 for post-conviction relief on the jury trial charges,
10 which he lost. He then appealed that to the State Supreme
11 Court and, subsequently, won.

12 Now, to find the rationale for that victory, one
13 would have to look at the opinion of Kenneth W. Workman v.
14 the State of South Carolina. That is my client's
15 co-defendant. And his case was reversed based on the
16 Court's ruling in the Workman decision.

17 It was then that he went back to the Court of General
18 Sessions for new negotiations on what had been the -- I'm
19 going to keep them segregated by saying the jury trial
20 charges versus the plea charges. There were ongoing
21 negotiations as to what was potentially going to be
22 offered to him with regard to the charges that had
23 originally been disposed of in the jury trial.

24 And at that point, it is my information that he was
25 being told that instead of the guilty plea charges and the

1 charges from the jury trial being concurrent pursuant to
2 the plea bargain that now the jury trial was back for
3 retrial. And that if he went to trial on those charges
4 and was convicted and sentenced on a separate and
5 subsequent date that he would be looking at LWOP under the
6 most serious and serious charge statute, 17-25-45, I
7 believe it is, Your Honor. Because they would no longer
8 be run concurrent with one another and he could get life
9 without parole.

10 That approach did not work in terms of coercing --
11 shall I say encouraging might be a nicer word -- him to
12 plead guilty. But, eventually, they offered him 15 years
13 on the charges he had originally received 25 years for at
14 the jury trial. And he took it. But it was in the
15 process of that plea negotiation --

16 THE COURT: Now, that -- when was the 15 years
17 offered? When was that?

18 MS. SHURLING: When --

19 THE COURT: When -- when did that occur?

20 MS. SHURLING: That, Your Honor, was --

21 THE COURT: I couldn't decipher that from what --

22 MS. SHURLING: I'm getting the exact date for you.
23 It was in -- May 16th, 2016.

24 THE COURT: Okay.

25 MS. SHURLING: And his application for

1 post-conviction relief was filed less than a year from
2 that date.

3 THE COURT: From that date.

4 MS. SHURLING: And it was during that plea
5 negotiation process, he was thinking that, okay, this is
6 great. They're offering me 15 years to plead on the --
7 what I'm going to call the jury trial issues. He thought
8 that was going to give him 15 years across the board.
9 Because in his mind, they'd been merged. They were all
10 being treated as the same, one package, so to speak.

11 And it was then that he learned for the first time
12 that, uh-huh, it was the same. It was concurrent only for
13 purposes of sentencing at the time of the guilty plea that
14 took place in March of 2009. But that if -- as he did, he
15 won a new trial on the charges from the jury trial, that
16 was a separate adjudication that in no shape or form
17 affected the judgment or sentence entered in -- the guilty
18 pleas entered two and a half months or so after the jury
19 trial, a fact which he just did not know from the advice
20 of Counsel.

21 At that point, his family did everything they could
22 to as quickly as possible raise the funding to hire a
23 lawyer, and came and hired me. And at first, frankly, I
24 didn't get it, Your Honor. And then I -- when I realized
25 what he was saying, it truthfully had a very familiar ring

1 because I've seen it many times. You know, as lawyers, we
2 have a tendency to look at issues through the prism of our
3 college and law school educations --

4 THE COURT: Let me ask you this, was the Department
5 of Corrections treating that as a consecutive sentence?

6 MS. SHURLING: Yes.

7 THE COURT: Okay.

8 MS. SHURLING: And so -- well, actually, they're
9 concurrent. But he still has -- the 25 years that he was
10 given at the time of the plea and entered the plea in
11 reliance upon the fact that it wasn't going to add any --
12 that it would -- he would be getting the same exact amount
13 of time for the jury trial charges as he got for the plea
14 charges. That 25 remained unaffected.

15 So when he then got 15 on the jury trial, he ended up
16 with 25 on the plea charges that he was being told was not
17 going to have any consequence on his term of incarceration
18 and was not going to result in him serving a longer
19 sentence. And had he --

20 THE COURT: So the -- the 25 was -- then became
21 consecutive to the 15?

22 MS. SHURLING: Exactly -- well, no, sir. It -- it
23 didn't become consecutive. It was still concurrent. But
24 because the 25 was then 10 years longer than the sentence
25 he was receiving, it had --

1 THE COURT: I got it.

2 MS. SHURLING: -- the net effect of him contrary to
3 the advice he'd always been given that he wasn't going to
4 serve any more time than what he would -- had -- was
5 getting at the jury -- on the jury trial charges. He
6 ended up with 10 more years on the plea than he did from
7 the charges arising out of the jury trial.

8 THE COURT: All right.

9 MS. SHURLING: And, Your Honor, I can only say that,
10 as an officer of the Court, that's not the first time I've
11 heard that misunderstanding --

12 THE COURT: All right.

13 MS. SHURLING: -- that -- that it is a common lay
14 problem when -- when they don't understand to what extent
15 charges are run together --

16 THE COURT: Right.

17 MS. SHURLING: -- versus the way we look at it.

18 THE COURT: Yeah.

19 MS. SHURLING: At this time, Your Honor, we'd like to
20 call Oshaun Robinson to the stand.

21 THE COURT: All right. Come on up, Mr. Robinson.

22 THE CLERK: Mr. Robinson, step around here and place
23 your left hand on the Bible and raise your right hand.

24 Sir, place your left hand on the Bible, raise your
25 right hand.

1 WHEREUPON,

2 OSHAUN JOSEPH ROBINSON,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 You may be seated.

6 THE COURT: Yes, ma'am.

7 THE CLERK: Please state your full name for the
8 record.

9 THE WITNESS: Oshaun Joseph Robinson.

10 DIRECT EXAMINATION

11 BY MS. SHURLING:

12 Q Oshaun, we've talked about this before. But the day
13 has come, so I want to go over a couple of things with
14 you.

15 But, first, if you cannot get quite so close to the
16 microphone. It is important that His Honor be able to
17 hear you and understand you. But if you get too close, it
18 has the effect of making your words get a little muffled.
19 And I want him to be able to understand you. Okay.

20 A All right.

21 Q And try to speak loudly enough for everyone to hear
22 you and distinctly. Try not to run your words together.
23 Okay.

24 A All right.

25 Q I'm not trying to sound like your momma or your

1 school teacher. But it's just real important that
2 everybody understand you. All right.

3 A All right.

4 Q Okay. Now, back in January of 2009, you were
5 convicted of the charges that I just went over; right?

6 A Correct.

7 Q And at the conclusion of that proceeding, you
8 received an aggregate 25-year sentence; correct?

9 A That's correct.

10 Q And then at the end of February -- sometime in
11 February, your lawyer was trying to negotiate a deal for
12 you on the remaining charges; correct?

13 A Yeah. That's correct.

14 Q And sometime shortly before the plea arguably --
15 we're talking March 4th was the plea; right?

16 A Right.

17 Q Your lawyer came to you and told you that he had a
18 deal where they would give you a sentence concurrent with
19 what you got on -- at the jury trial; right?

20 A That's correct.

21 Q And that your sentence that you received would not be
22 any more than you had gotten at the jury trial?

23 A Right.

24 Q And that the sentences would be run concurrent?

25 A Correct.

1 Q And I'm -- I don't want to put words in your mouth.
2 But what was your understanding at that time of what was
3 going to happen in terms of those two sets of charges?

4 A Basically, I pled based upon me serving 25 years.
5 And if I didn't plea, they were saying they was going to
6 give me a life sentence. So that's what made me take the
7 plea for the 20 -- 25 years ran in with the 25 years I was
8 already serving.

9 THE COURT: That was March of 2009?

10 THE WITNESS: Correct.

11 THE COURT: Okay.

12 BY MS. SHURLING:

13 Q And at that point, in terms of what you were going to
14 get in exchange for your plea, it was your understanding
15 that what was going to happen? The two sets of charges
16 were going to be run together?

17 A Correct.

18 Q And in -- did they use the word "concurrent"?

19 A Yes, ma'am.

20 Q With regard to sentencing?

21 A Correct. Just the sentencing. That's all I'm --

22 Q But what -- what else did they talk about that --
23 that they were -- that it was all going to be run
24 together? You tell me what words were used.

25 A It was explained to me that it was ran together. And

1 my understanding was that it was altogether, not separate,
2 or anything like that.

3 Q Okay.

4 A That was my whole understanding of the plea.

5 Q And was it your understanding that as a result of
6 that plea that you were not ever going to have to worry
7 about getting more time for those charges than you had
8 already got -- well, pardon me -- more time for those
9 charges than you got on the charges that you were facing
10 at the jury trial?

11 A Correct. That was my whole reason for pleading.

12 Q Okay. And was it your understanding that that meant
13 that no matter what happened in the future that the
14 sentence on those two things -- the sentence on the things
15 you pleaded to in March of 2009 was never going to be
16 longer than the sentence you got for the things you went
17 to trial on?

18 A Correct. That was the understanding I had.

19 Q Okay. Did your lawyer ever explain to you that in
20 terms of the actual judgments and sentences that they
21 would remain separate legally, and that if you chose to
22 appeal either one, either the -- the jury trial or the
23 guilty plea proceeding that you had to appeal them both?
24 Did he ever explain that to you?

25 A No, ma'am. If I was aware of that, I would have

1 never took the plea to begin with.

2 Q Okay. But even -- if you had understood that when
3 your co-defendant's case was decided and your case was
4 being overturned, at that point, it was too late to file a
5 PCR as far as you knew on the guilty plea charges; right?

6 A Correct. Because it was already over and done in
7 my --

8 Q It was more than a year --

9 A Correct.

10 Q -- since you pleaded?

11 A Correct.

12 Q But it was your understanding that you didn't have to
13 appeal them both separately?

14 A That's correct.

15 Q Okay. Now, once you were involved with your lawyer,
16 of course, in negotiating a deal on the jury trial
17 charges, did you suddenly realize that those guilty plea
18 charges were sitting out there, and you had not appealed
19 them, and it was too late to appeal them, you thought?

20 A Yes, ma'am.

21 Q Okay. And at that point, did your family decide to
22 try to come up with the money to hire a lawyer, preferably
23 me, to look into it and see if there was some way to argue
24 that you did not knowingly, voluntarily, intelligently
25 enter -- make the decision not to file a PCR on the guilty

1 plea charges to begin with?

2 A Correct.

3 Q Okay. If you had known that if you were going to
4 appeal the jury trial that you needed to, also, file a
5 separate type of appeal known as a PCR on the guilty pleas
6 in order to be able to deal with them both on appeal,
7 would you have filed a PCR within the constraints of the
8 statute of limitations found in 17-25-45?

9 A Correct.

10 Q Okay. And -- and I'm sorry. I just cited the
11 wrong -- 17-27-45 is --

12 A Right.

13 Q -- the statute of the limitations for the PCR?

14 A Right.

15 Q Okay. But you didn't understand that because you
16 thought they'd been merged?

17 A Yeah. I wasn't aware.

18 Q Okay. Now, this is a really important part.

19 MS. SHURLING: And, Your Honor, please excuse my
20 water. I'm taking medication that dries me out horribly.

21 BY MS. SHURLING:

22 Q You had some other charges, didn't you?

23 A Yes, ma'am.

24 Q Other than the jury trial and other than the ones you
25 pled to in March of 2009?

1 A Correct.

2 Q And those were two more armed robberies, a burglary
3 first, another armed robbery, quite a few weapons charges,
4 an ABHAN.

5 MS. SHURLING: A moment's indulgence, Your Honor.

6 (Pause.)

7 BY MS. SHURLING:

8 Q An ABWIK, a couple of criminal conspiracy charges,
9 another ABWIK, and another armed robbery; right?

10 A Correct.

11 THE COURT: Were these pending at the time he pled?
12 Were these charges -- these additional charges pending?

13 MS. SHURLING: They were.

14 THE COURT: They were pending at the time he pled?

15 MS. SHURLING: It's my understanding they were.

16 BY MS. SHURLING:

17 Q Those charges were, also, pending at the time of your
18 plea; correct?

19 A Yes, sir [sic].

20 Q But it was your understanding they were to be
21 dismissed as part of the plea bargain?

22 A That's correct.

23 Q Okay. Now, have I explained to you to the point
24 you're sick of hearing it, but I've explained to you, have
25 I not, that if -- if His Honor were to be gracious enough

1 to allow you to move forward with a PCR hearing on the
2 merits on whether or not your guilty plea was knowingly,
3 voluntarily, and intelligently entered, given the lack of
4 understanding you had with regard to appellate procedure,
5 and the impact of an appeal on the other -- all of that.
6 If you were to get the green light to go forward with a
7 PCR, and if you won that PCR, did I explain to you that I
8 thought there was an argument that could be made as to
9 whether or not they should be allowed to resurrect these
10 charges? But that there was equally an argument the State
11 could make that the dismissal of those charges was
12 contingent upon your plea. And that if you successfully
13 overturned the plea, they had the right to go back against
14 you on all these other charges.

15 A Correct. You explained all that.

16 Q Okay. And I, also, explained to you that quite a few
17 of them were what state law calls "most serious charges";
18 correct?

19 A Correct.

20 Q So that given the fact that you have already entered
21 a plea now to the charges that you were first found guilty
22 of at the jury trial and, at least, one of those is a most
23 serious; right?

24 A Correct.

25 Q What did you -- what -- your new plea that you

1 entered in 2016, what did you plead to?

2 A The -- 2016?

3 Q When you pled on the same charges you had previously
4 gone to jury trial on.

5 A Oh, the original -- the original trial for the
6 25 years that I received in 2009.

7 Q So you pled to the same charges, but for 15 years?

8 A Correct.

9 Q So one of those was armed robbery?

10 A Yes, ma'am.

11 Q And I have explained to you the law in terms of if
12 you are tried, and convicted, and sentenced, or plead and
13 are sentenced on a separate and subsequent date for
14 another most serious offense, you would automatically get
15 life without parole, unless your lawyer could effectively
16 argue that the conduct was part of a common scheme or plan
17 of crimes that were committed so close together in time
18 that they should be treated as one continuous course of
19 conduct and, therefore, not be treated as separate
20 strikes; correct?

21 A Correct.

22 Q And I told you that -- that in order for you to get
23 by on that exception, the Court would have to find that
24 all of the charges, the previous charges from the jury
25 trial, the charges that we're talking about here today,

1 and any of these other charges were all part of a common
2 scheme or plan and, otherwise, you were looking at
3 potentially life without parole if the State managed to
4 successfully prosecute you on just one more?

5 A Correct.

6 Q Okay. Now, I know I sound like I'm being
7 pessimistic. But -- but it's my job to give you the worst
8 case scenario. You understand that?

9 A I understand.

10 Q Okay. It's your position, is it not, that once the
11 law enforcement officers involved in this case had you on
12 a couple of charges, they were trying to clean -- clear
13 the books on you?

14 A Correct. That's exactly why.

15 Q Okay. And that there were a number of charges that
16 they were threatening you with prosecution on that you
17 knew that, in your opinion, there was no way they could
18 convict you of them because you didn't do them?

19 A Never heard of them.

20 Q Okay. And, in fact, you were never indicted for any
21 of those things, were you?

22 A That's correct --

23 MR. KEY: Objection, Your Honor.

24 THE COURT: Hold on.

25 I'll sustain the objection.

1 BY MS. SHURLING:

2 Q Were you ever indicted for any of those charges?

3 A As far as?

4 Q Any of those charges --

5 A Served warrants --

6 Q Stop. Any of the charges that the State dismissed as
7 part of your plea bargain?

8 A Correct.

9 Q In exchange for you pleading, they were going to be
10 generous and dismiss all these charges. You, in fact,
11 were never indicted for any of those, were you?

12 A Correct.

13 Q So, at least, in terms of getting by the Grand Jury,
14 you hadn't been charged on any of those?

15 A Correct.

16 THE COURT: Let me ask you this. Give me the
17 names -- list those charges again, the ones that they were
18 going to dismiss. Tell me what those were.

19 MS. SHURLING: I'll go through every one of them,
20 Your Honor.

21 THE COURT: Yeah. Go through them again.

22 MS. SHURLING: Armed robbery, armed robbery, burglary
23 first, armed robbery, unlawful carrying, which is of less
24 concern, but is there, conspiracy, possession of a weapon
25 during the commission of a violent crime -- no, excuse me.

1 That one's simple possession of a weapon.

2 THE COURT: All right.

3 MS. SHURLING: Then unlawful carrying, unlawful
4 carrying, ABHAN, criminal conspiracy, possession of a
5 weapon, conspiracy, unlawful carrying, unlawful carrying,
6 ABWIK, assault and battery with intent to kill, possession
7 of a weapon during the commission of a violent --

8 THE COURT: You --

9 MS. SHURLING: -- crime.

10 THE COURT: Go ahead.

11 MS. SHURLING: I'm almost done. Criminal conspiracy,
12 criminal conspiracy, another ABWIK, possession during the
13 commission of a violent crime, another unlawful carrying,
14 and another armed robbery.

15 THE COURT: These were all offenses that the State
16 didn't go forward on?

17 MS. SHURLING: They were offenses that the State was
18 threatening to go forward on --

19 THE COURT: But did not go forward on.

20 MS. SHURLING: -- but he had not been indicted.

21 THE COURT: All right. What did he plead in March --
22 in 2000 -- not the jury trial, but -- but that other plea?
23 What were those charges?

24 MS. SHURLING: Those charges were for -- hold on.
25 I've got it, Your Honor. Armed robbery, assault and

1 battery with intent to kill, conspiracy.

2 THE COURT: And you may not -- I -- I don't mean to
3 cut you off. You may not know all this. But the -- the
4 dates of these armed robberies, were they all in the same
5 time frame?

6 I guess what I'm asking, you've got a set of armed
7 robberies over here, from what I'm hearing, the State's
8 not pursuing. Then you've got an armed robbery that's
9 pled on. And then you have an armed robbery that -- that
10 was tried.

11 MS. SHURLING: Yes, sir.

12 THE COURT: So --

13 MS. SHURLING: May I?

14 THE COURT: Yeah. Go ahead. Go ahead.

15 BY MS. SHURLING:

16 Q On those charges, the multiple armed robberies, the
17 ones that they were saying they would drop for you if you
18 pled on the others, did those offenses all happen on the
19 same date, or were they spread out over a period of time?

20 A It was spreaded [sic] out at -- at a different period
21 of time. But I was already arrested. I was arrested
22 already.

23 Q So those offenses were -- in fact, the offense dates
24 were dates when you were already in custody?

25 A Correct.

1 Q And what about the burglary first? Was it in
2 connection with one of the armed robbery charges?

3 A I'm not sure. Because I had -- I had so many charges
4 that I was charged with and was already incarcerated.
5 That's why a lot of them got thrown out.

6 Q So the multiple ABHAN, conspiracies, all of these
7 charges, to your knowledge, you weren't afraid of them
8 because you know -- you didn't do them?

9 A Correct.

10 Q But on the majority or all of them, were you already
11 in detention at the time -- the offense dates?

12 A That's correct.

13 Q Well, that's a question. Were you already in
14 detention at the time of all of them, or just some of
15 them, or most of them?

16 A Majority.

17 Q The majority of them?

18 A That's correct.

19 Q And the ones that you were not in detention during,
20 was -- is it your position that you knew you didn't do
21 them, so you weren't worried about getting convicted of
22 them?

23 A That's correct.

24 Q Okay. So --

25 THE COURT: In 2009, were those -- were those armed

1 robbery charges -- the ones -- not the trial, the second
2 one, were those -- went to the Grand Jury? Did they go to
3 the Greenville County Grand Jury?

4 MS. SHURLING: They did, Your Honor.

5 THE COURT: Those -- those --

6 BY MS. SHURLING:

7 Q The -- the charges that you did plead to in March of
8 2009, those few charges had gone to the Grand Jury;
9 correct? Or did you --

10 A It was -- it was a situation where if I didn't plead,
11 it would have went to the Grand Jury and I would have got
12 a life sentence. That's, basically, what I was getting
13 threatened with.

14 So upon me serving 25 years was the purpose of me
15 pleading, not because I felt like I was guilty. It was my
16 back against the wall. And I had, basically, you're
17 telling me that if you don't plead, you're going to trial
18 and you're looking at a life sentence. So with me being
19 19 years old, the first thing you're going to think is
20 you're going to get a life sentence. You don't know.

21 I was already falsely accused on the first situation
22 that I had two trial for. I had a hung jury the -- the
23 first trial. The second trial I came back and was found
24 guilty due to the Judge Allen charged the Court [sic].

25 MS. SHURLING: Your Honor, if we could hold the

1 record open while you proceed with the next hearing. And
2 I'll go get the -- I -- I was not aware that he waived
3 Grand Jury presentment on --

4 THE COURT: Well, that's what I was asking you.

5 MS. SHURLING: I appreciate that. And he appears to
6 be telling me now that he waived Grand Jury presentment on
7 those charges as well. So I'd like to go pull copies of
8 those indictments and make sure we're on the same page
9 about that.

10 But we can finish up everything else I need to ask
11 him. And then Your Honor proceed --

12 THE COURT: Who -- who was the solicitor that
13 prosecuted this case?

14 THE WITNESS: Lucas Marchant, I believe.

15 MR. KEY: Yes, sir.

16 THE COURT: Lucas prosecuted all of them?

17 MR. KEY: He -- I know he prosecuted the plea. I
18 don't know if he prosecuted the -- well --

19 THE COURT: Which plea?

20 MR. KEY: The April 25th 2000 -- or I'm sorry, the
21 March 4th, 2009. And he, also, prosecuted the
22 January 14th, 2009, jury trial.

23 MS. SHURLING: And --

24 THE COURT: What about -- what about when it came
25 back and there was a deal on the 15 years?

1 MR. KEY: I do not know.

2 THE COURT: You don't know who did that?

3 MR. KEY: I do not, Your Honor.

4 THE WITNESS: I don't think he was on --

5 THE COURT: Hold on. Hold on a second.

6 You know, there's just a lot of loose ends that's
7 troubling to me. Quite frankly, there's a lot of stuff
8 that's just troubling. And I -- I just need -- well--

9 MS. SHURLING: Yes, sir, Your Honor.

10 Mr. Key, do you have the Clerk of Court records on
11 the charges that --

12 THE COURT: Well, you've got -- you've got Grand Jury
13 presentment on a couple of things. You've got a ton of
14 pending charges that was part of a deal.

15 (Pause.)

16 MS. SHURLING: Your Honor, I've -- I've solved that
17 question. The charges that he pleaded to -- well, now,
18 wait just a second.

19 The charges that he pleaded to on March 4th of 2009,
20 I was correct. Those he had been before the Grand Jury
21 and they were true-billed indictments on.

22 BY MS. SHURLING.

23 Q So it's -- you had the jury trial charges, then you
24 had the guilty plea from March 4th, 2009. Those
25 charges -- there are true-billed indictments on the

1 charges you pleaded to on March 4th, 2009.

2 Do you understand that?

3 A Yes, ma'am.

4 Q So those had gone to the Grand Jury. Now, I'm not
5 addressing the other part of your assertion, which is that
6 they were telling you that if you didn't plead to them,
7 they were going to take you to trial and LWOP you; right?

8 A Correct.

9 Q Okay. But as far as you knew that -- they had been
10 to the Grand Jury, or not?

11 A Not -- not necessarily. Because I wasn't aware of
12 the law at -- during the time.

13 MS. SHURLING: Okay. And I -- my apologies, Your
14 Honor. I thought I had made this clear to him.

15 BY MS. SHURLING:

16 Q Those charges had been before the Grand Jury. And we
17 talked about what the Grand Jury process is and the
18 probable cause to move forward; right?

19 A Correct.

20 MS. SHURLING: Okay. Those had been to the Grand
21 Jury. But all those other charges are listed, Your Honor,
22 on the public index as --

23 THE COURT: Those that have never been presented to
24 the Grand Jury?

25 MS. SHURLING: And they were all listed as

1 0000-GS-23, and that's it.

2 THE COURT: And were a lot of the warrants signed
3 after he was already in jail on the first charge? I'm
4 just asking.

5 MS. SHURLING: It -- it appears.

6 THE COURT: What's that term you used a while ago?
7 That somebody used, cleaning up stuff? I mean, I don't
8 know.

9 MS. SHURLING: Your Honor, and it's something I see
10 fairly often where they have a bunch of outstanding cases
11 that they've never been able to -- to resolve. And -- and
12 they begin the process of -- of cleaning the books up.

13 And -- and I say that reluctantly, Your Honor.
14 Because I was raised by a father that spent his career in
15 law enforcement. I'm not generally, you know, anti-cop by
16 any stretch of the imagination. But I'm trying to make it
17 clear why my client doesn't have what would appear to --
18 what would appear to be a rational fear of them coming
19 back at him with all of these charges. And -- and explain
20 to Your Honor why he doesn't fear those or, at least, his
21 position on why he does not.

22 THE COURT: All right.

23 MS. SHURLING: Your Honor, what I would ask -- I know
24 you have the proceeding with Rauch Wise to follow mine.
25 If we could hold the record open, I'll go get Your Honor

1 the arrest warrants on every one of these charges.

2 THE COURT: Yeah. We'll go ahead and do theirs. And
3 we'll come back.

4 MS. SHURLING: Thank you, Your Honor.

5 THE COURT: Have you got time?

6 MS. SHURLING: Yes. I'll make time for this.

7 THE COURT: All right.

8 BY MS. SHURLING:

9 Q And just so we're real clear, because His Honor is
10 going to have a real important decision to make in your
11 case. You want to go forward with the PCR and be able to
12 demonstrate for the Court that your plea of guilty was
13 entirely reliant upon your belief that you were not going
14 to get any more time for those pleas than you got for the
15 charges that you'd gone to trial on jury for?

16 A That's correct.

17 Q And you thought that meant from them moving forward
18 that whatever you got on those charges would be what you
19 got on the plea charges?

20 A Right.

21 Q If you had not believed that, would you have pleaded
22 guilty?

23 A No, ma'am.

24 Q Okay. And if you had understood that the appeal --
25 the PCR and the appeal on the charges that were

1 adjudicated in the jury trial was separate in terms of
2 appeal and consequences, would you have filed a PCR on
3 your guilty plea charges before the 17-27-45(a) PCR
4 statute of limitations expired?

5 A Yes, absolutely.

6 MS. SHURLING: Okay. Thank you.

7 No further questions.

8 THE COURT: All right. Do you want to -- let's keep
9 the record open, and then proceed, and then come back.

10 MS. SHURLING: Yes, sir, Your Honor.

11 THE COURT: Is that okay?

12 MR. KEY: Yes, Your Honor.

13 THE COURT: All right. We'll keep the record open on
14 this.

15 Sir, you can step down.

16 MS. SHURLING: And, Your Honor, I'll be in the Clerk
17 of Court's Office for the foreseeable future until I get
18 all these warrants straight.

19 THE COURT: Okay.

20 (WHEREUPON, the proceedings were concluded at
21 approximately 2:46 p.m., to be reconvened on
22 Wednesday, April 17, 2019.)
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WEDNESDAY, APRIL 17, 2019

THE COURT: In this case involving Mr. Robinson, the only thing that I'm hearing today is the motion; is that correct?

MS. SHURLING: Correct, Your Honor.

THE COURT: All right. And we heard a little bit of the motion on -- yesterday or the day before.

MS. SHURLING: Monday.

THE COURT: Monday. And, of course, that I -- and as I think on the record I said that -- and, of course, I discussed this with you guys is that if you've got a motion and it's regarding the timeliness of filing the -- the application -- and then I prefer -- I, specifically, prefer that, you know, going forward if you have that, depending upon the ruling of the Court, that if -- if I grant the motion that you be ready to go forward with the merits hearing. And then if I don't -- that way you don't have to transport the Applicant back for another hearing. But I know today, we can't do that.

So the only thing we're doing today is hearing the motion and making a determination of whether or not he's allowed to go forward on the merits hearing; is that correct?

MR. KEY: Yes, sir, Your Honor.

And I relayed that information to the rest of our

1 office yesterday.

2 THE COURT: That's just a better way to do it.

3 MR. KEY: And there was questions as to why the
4 transcript had not been ordered from his plea hearing. At
5 the time his application was filed, it had been eight
6 years from when he pled. My understanding is that court
7 reporters are only required to keep their transcripts for
8 five years.

9 So, at this point, the State -- even from when -- the
10 date the application was filed, we cannot get the plea
11 transcript. And so the State would amend its motion to
12 include the equitable defense of laches, also.

13 MS. SHURLING: May I respond?

14 THE COURT: Yes.

15 MS. SHURLING: The rules only require the court
16 reporters to keep their backup tapes and notes for five
17 years. But many of our court reporters -- and I've been
18 an appellate lawyer 40 years next month -- keep them for
19 much longer than that.

20 And the State cannot demonstrate that they attempted
21 to order it. And we're told that it was unavailable. So
22 we don't know that it is or isn't unavailable. There are
23 quite a few court reporters that have their records going
24 back many -- many more than five years.

25 THE COURT: Who was the court reporter in this case?

1 Was it -- do you remember? It wasn't --

2 MR. KEY: It says, Jenkins. But it does not have a
3 first name.

4 THE COURT: Well, I see -- let's see. I've got
5 Caroline Hiskell. I can tell you -- I can tell you where
6 that court -- where that transcript's at. Susan Hudgins'
7 name. I've just got these names on just transcripts I've
8 got in front of me. I've got Caroline Hiskell. This was
9 December of 2008. And then I've got Susan --

10 MR. KEY: That's --

11 THE COURT: -- Hudgins. And is that the one we're
12 talking about?

13 MR. KEY: That's from his jury trial, Your Honor.

14 THE COURT: From his jury trial. Okay.

15 MS. SHURLING: And I can only say, as an officer of
16 the Court, Your Honor, as I said, in May, I've been an
17 appellate lawyer for 40 years. And I have had many
18 occasions to order transcripts from court reporters that
19 fell outside the length of time that they were required to
20 keep them.

21 And some court reporters do destroy them after that
22 point. But many of our court reporters religiously keep
23 all of their work for many years to come --

24 THE COURT: So what you're -- what you're saying,
25 Ms. Shurling, is that you just want -- if -- if the

1 transcript is unavailable, you want something that says
2 that there was a good faith effort made to try to obtain
3 the transcript?

4 MS. SHURLING: Yes.

5 THE COURT: Is that what you're telling me?

6 MS. SHURLING: Yes. And I don't think that it would
7 be a grounds for not granting him a hearing, even if the
8 record is unavailable, where we're able to demonstrate
9 that there was a good reason that he did not file it
10 before. And Andrew Moorman is still with us, thankfully,
11 and available, as are representatives of the solicitor's
12 offices. And the nature of the legal issues are such that
13 they could be resolved by their testimony.

14 THE COURT: I understand that. But that's putting
15 the cart before the horse. The -- the issue before me
16 right now is whether or not we get to the merits state.
17 And I think their continuance was based on the fact that
18 we got there without access to the transcript.

19 MS. SHURLING: Yes, sir. And I -- I believe I
20 prefaced my remark -- if I didn't, I thought it was in my
21 head and not out my mouth, that if we were allowed to go
22 forward.

23 THE COURT: Okay. Well, let's go ahead and hear the
24 motion.

25 MS. SHURLING: Okay. Thank you, Your Honor.

1 Your Honor, to recap where we are, on Monday, I
2 presented testimony from Oshaun Robinson concerning this
3 matter and the fact that when he entered guilty pleas,
4 specifically, on -- let me get the dates right, Your
5 Honor.

6 When he entered guilty pleas on March 4th, 2009, it
7 was with the understanding that it was on a plea deal
8 where he was going to get concurrent time with the
9 sentence that had been imposed in January of that year.
10 That the cases were going to be run together. That the
11 pleas were, basically, not going to have any impact on his
12 case. That he would not end up serving any more time.
13 And that, basically, the matters were being run together.

14 Nobody explained to him, however, that they were only
15 run together in the sense of sentencing. That the
16 sentences were going to be run concurrent. No one
17 explained to him that in terms of other matters, more
18 importantly, appeals that might happen in the future, both
19 the direct appeal and the PCR on the jury trial -- and, of
20 course, it was eventually reversed and the PCR appealed,
21 or the question of attacking the guilty plea potentially
22 in a direct appeal, but more commonly in a PCR. That
23 those matters would remain very segregated, that they were
24 not merged in that sense.

25 And that if he had the desire to attack either one of

1 those, they had to be attacked individually. That an
2 appeal on the jury trial was not, if successful, going to
3 impact the judgments and sentences entered on the pleas,
4 and vice versa.

5 And that he only discovered that after he was granted
6 a new trial on the jury trial case in a PCR appeal. His
7 lawyer began in earnest trying to negotiate a new deal for
8 him on those charges.

9 At that time, he still didn't know that he wasn't
10 starting from scratch on all of those charges, the jury
11 trial and the guilty plea. But when he began trying to
12 negotiate the sentence for a deal on the charges that had
13 originally -- the judgments that had originally been
14 entered at the jury trial, he discovered that the reversal
15 of the jury trial had not impacted the judgment on the
16 guilty plea proceeding.

17 THE COURT: He's got 15 years on that. And the deal
18 was worked out he got 15 years. So the big thing is
19 you've got the 15 years that he received, that's separate.
20 And then you've got the -- the deal that he worked out in
21 '09. And he -- to his understanding, he thought
22 everything was going to be run concurrent.

23 MS. SHURLING: As a condition and that as a result of
24 the plea, he was not going to serve more time than he
25 would have otherwise served on -- because of the jury

1 trial.

2 THE COURT: Right.

3 MS. SHURLING: And which, of course, did not turn out
4 to be true.

5 Now, Your Honor, it -- not necessarily -- I don't
6 believe central to Your Honor's decision here today, but
7 some -- some questions did come up Monday -- I'm about to
8 say yesterday as well, excuse me -- about some indictments
9 in this case.

10 And as a curiosity that I will tell the Court, I went
11 and obtained copies of the arrest warrants on the three
12 cases to which Mr. Robinson pleaded. And those were
13 originally warrants 444345 -- well, there were four of
14 them, 4519, 4444, and 4445. On 4344 and 45, curiously --

15 May I approach?

16 THE COURT: Yes.

17 MS. SHURLING: The warrants originally had the date
18 of the offense as on or about 12/18/07, which is the same
19 date the warrant was served upon him, and the date he went
20 to jail. Those warrants were subsequently -- and if I can
21 give Your Honor this spreadsheet. I'll refer to it in a
22 moment.

23 Those warrants were curiously altered to reflect on
24 or about 12/14 --

25 THE COURT: Altered by who?

1 MS. SHURLING: Don't know. It doesn't say.

2 THE COURT: Who do you allege altered it?

3 MS. SHURLING: I don't have a clue, Your Honor,
4 except that it's a court document --

5 THE COURT: Why do you say it's altered?

6 MS. SHURLING: Because they scratched out 2018 and
7 put 2014.

8 THE COURT: On the document you just gave me?
9 What's -- what's scratched out?

10 MS. SHURLING: Maybe I handed -- not on that, Your
11 Honor, on the warrants themselves. On each one of them,
12 they scratched out on or about 12/18 and changed it to
13 12/14.

14 And on this one -- and I'm referring to 443, they,
15 also, changed the date on the affidavit of the procuring
16 officer. On this one, which is 4444, they changed the --

17 THE COURT: Well, I understand what you're saying.
18 But I'm curious as to -- when you say "they," I mean,
19 you're -- you're using this term. I mean, it's your
20 motion. So you're saying "they." And, you know, I
21 don't -- I don't want to get on a fishing expedition to
22 try to determine who "they" is.

23 MS. SHURLING: Yes, Your Honor.

24 THE COURT: If you don't know who "they" are, then I
25 don't want to say -- but, you know, don't bring me nothing

1 and say, well, they do it. If you think that the
2 solicitor's office did it, say that's what they did.

3 MS. SHURLING: No --

4 THE COURT: I mean, it's your motion.

5 MS. SHURLING: I'll go back where I belong. I just
6 wanted to point out on the documents --

7 THE COURT: But I'm just saying --

8 MS. SHURLING: -- I'm referring to --

9 THE COURT: -- but I'm not going to -- I guess --
10 Ms. Shurling, here's the deal. I don't -- I don't want --
11 I -- I asked you about this yesterday [sic]. I was
12 curious --

13 MS. SHURLING: That's the only reason I'm referring
14 to it.

15 THE COURT: Well, I understand that. But I don't --
16 you know, if it's your motion, I don't -- if you're going
17 to come in and say somebody changed something and it's
18 your motion, then you got to have more specificity than --
19 you're going to say who did it. But don't come in and say
20 "they" or -- and you don't have a clue who "they" are.

21 MS. SHURLING: I was going to explain, Your Honor.
22 My only representation is that the document has been
23 altered by someone. I got these copies directly from the
24 Greenville County Clerk of Court's Office right across the
25 hall. And the originals are on file. They are not marked

1 with the initials of whoever made the change, nor are they
2 dated. I'm simply bringing to the Court's attention that
3 the warrant has -- and it's totally unexplained -- been
4 altered to offer, at least, in that place the -- a change
5 in the alleged offense date.

6 THE COURT: But on the sentencing sheet, the -- the
7 date is the 14th, which is the same date that you said it
8 was changed. The sentencing sheet -- if you look at the
9 sentencing sheet on each one of these warrants you gave
10 me, it has December 14th, 2017. There's no alteration
11 there.

12 MS. SHURLING: Yes, sir, Your Honor.

13 The warrant itself, the original, that had 12/18/17
14 would predate both the indictment and that sentencing
15 sheet. The indictments allege 12/14/07 as the offense
16 date.

17 But as Your Honor knows, it's -- it's the
18 prosecutions job to present the case before the Grand
19 Jury. And they -- and they -- you know, they are
20 presenting the information to the Grand Jury to determine
21 whether or not it should be true billed or no billed. We
22 don't know that the Grand Jury even ever knew that they
23 originally were saying 12/18.

24 And I started out by saying, Your Honor, this is not
25 really on point with what we're doing to get -- today on

1 the motion. I got this information for the Court merely
2 because I had -- I had been questioned about some aspects
3 about it yesterday [sic]. And I wanted to be clear.

4 THE COURT: Well -- well, we're going to move on with
5 the motion. The only reason I -- I didn't really ask
6 this. What I asked yesterday was that there was -- there
7 was -- there was some question regarding this Defendant's
8 desire to -- to accept the deal of 15 years.

9 And I think the -- if my memory serves me correct,
10 the line of questioning that I had was -- you -- you
11 rattled off, for lack of -- I probably could choose a
12 better term than rattled off. But you outlined several
13 offenses that upon which he was charged, not indicted, but
14 in which he was charged that the solicitor -- or the State
15 did not pursue. And I think there might have been seven,
16 eight, nine of them.

17 And I wanted to know -- I had a question as -- in my
18 mind if -- if those cases that he -- and I think the
19 question was he was already -- he was at the jail -- in
20 jail at the time those -- those warrants were -- were
21 issued. And that he was served with those warrants at the
22 jail. And all these offenses upon which he was served at
23 the jail, there was an agreement to -- to not proceed with
24 those. And some of those same charges was what he pled
25 to, armed robbery, the same kind of charges, burglary, and

1 the same thing. So my question --

2 MS. SHURLING: I --

3 THE COURT: Let me finish.

4 So my question was to you was, I just didn't know --
5 well, I didn't have an answer as to whether or not -- why
6 the State didn't pursue all of those offenses if they were
7 the same thing. And -- and they went forward on just
8 three of them. And the other ones that they decided not
9 to pursue were serious offense. They were kidnapping,
10 burglary, armed -- armed robbery, all these offenses that
11 the State may -- just decided not pursue. And I just
12 had -- I was just curious about that.

13 MS. SHURLING: And I'm prepared --

14 THE COURT: And that's the only thing that I -- that
15 I wanted. But that -- as far as the motion's concerned,
16 I'd like us to stay on track in terms of the motion that's
17 before me today. But I was just curious about that.

18 MS. SHURLING: Well, to answer the question, it was
19 put to me on Monday. Quickly, if I may.

20 THE COURT: Yes.

21 MS. SHURLING: With regard to all of those other
22 charges, including the ones that would be most serious
23 offenses, if Your Honor -- and this is the rest of the
24 pile that I had handed up to you.

25 THE COURT: Okay. But let's --

1 MS. SHURLING: Your Honor --

2 THE COURT: We're going to get back to the motion --

3 MS. SHURLING: Sir? Yes, sir, we are.

4 THE COURT: -- that's before me.

5 MS. SHURLING: I'm just asking for an opportunity to
6 answer the question that was posed by the Court on Monday.

7 THE COURT: But you've already answered it.

8 MS. SHURLING: No, sir, I haven't.

9 THE COURT: Okay. Go ahead.

10 MS. SHURLING: With regard to the other charges with
11 which Mr. Robinson was threatened with potential life
12 without parole and were arguably part of the
13 decision-making process, I -- I have looked them all up.
14 And they're on this graph. And you have copies from the
15 Clerk of Court's Office.

16 On all of those, except for the ones that he pleaded
17 to on -- in March and as recently as 2016, the ones from
18 the trial. On all the rest of those, he was served with
19 those warrants on 12/28/07. The indictments that were
20 obtained by the solicitor's office were all obtained in
21 August of '08. Those charges were served upon -- those
22 warrants -- underlying warrants on the ones where they
23 were indictments were served somewhere between 12/18 and
24 12/28.

25 Those select few, one, two, three, four, five, six,

1 seven, eight, nine, 10 out of 30 something were sent to
2 the Greenville County Grand Jury in August of '08 and
3 indictments were obtained. According to the Clerk of
4 Court's records, there's no indictment true billed or no
5 billed for any of these other warrants.

6 So in other words, at some point in December of '07,
7 all of these charges -- these warrants were served on
8 Mr. Robinson. And at some point, the solicitor's office
9 decided to go to the Grand Jury on, like, 10 of them and
10 got true-billed indictments in August of '08.

11 So all we know about all these other charges is that
12 the solicitor's office didn't even seek an indictment on
13 them.

14 THE COURT: Okay.

15 MS. SHURLING: And that was the answer to Your
16 Honor's inquiry.

17 THE COURT: All right. Let's get to the motion.

18 MS. SHURLING: At this time, I would call Andrew
19 Moorman to the stand, please, Your Honor.

20 MR. KEY: Your Honor, would the State have the
21 opportunity to cross-examine the Applicant in this case?

22 THE COURT: Yes.

23 MS. SHURLING: Oh, we didn't do that. I forgot. I
24 apologize.

25 THE COURT: Well, let me -- let me say this. I

1 said -- you weren't here when I said this. I have -- and
2 we're going to finish -- we're going to finish this. But
3 I have a very important meeting at 12:00 --

4 MS. SHURLING: Yes, sir.

5 THE COURT: -- that I do intend to attend.

6 MS. SHURLING: Yes, sir.

7 THE COURT: So at 12:00 -- at least, two minutes
8 before 12:00, I will exit. And I will come back in about
9 an hour and a half. I think --

10 And what time do you got Judge Gravely, Hollie?

11 THE COURT REPORTER: 1:30.

12 THE COURT: 12:30?

13 THE COURT REPORTER: 1:30. And then another hearing
14 at 2:30.

15 THE COURT: Okay. And I'll come back at 1:00, a
16 little after 1:00. And --

17 MS. SHURLING: Yes, sir.

18 THE COURT: -- then we'll finish it up.

19 But now -- go ahead. What...

20 MR. KEY: I was asking if I would have the
21 opportunity to cross-examine the Applicant.

22 THE COURT: Right. Because, I think, he was on
23 direct examination the other day.

24 MS. SHURLING: And I apologize, Your Honor. That's
25 been two days ago. And I forgot how far we got.

1 THE COURT: All right. Come on back up, sir.

2 MS. SHURLING: I would, of course, just ask that my
3 client answer all of the Respondent's questions.

4 THE CLERK: Mr. Robinson, let me swear you in again.
5 WHEREUPON,

6 OSHAUN JOSEPH ROBINSON,
7 after first having been duly sworn, testified as follows:

8 THE CLERK: Thank you.

9 You may be seated.

10 State your full name for the record.

11 THE WITNESS: Oshaun Joseph Robinson.

12 THE COURT: Yes, sir.

13 MR. KEY: May it please the Court.

14 THE COURT: Uh-huh.

15 CROSS-EXAMINATION

16 BY MR. KEY:

17 Q Mr. Robinson, I believe you testified on Monday that
18 you understood your jury trial convictions -- or sentences
19 and your guilty plea sentences were merged when you pled
20 guilty?

21 A Correct.

22 Q Okay. So did you appeal your jury conviction?

23 A My lawyer did.

24 Q Okay. And do you know what the outcome of that
25 appeal was?

1 A I got denied.

2 Q Okay. Do you know the date the remittitur was
3 issued?

4 A I'm not familiar.

5 Q This is the unpublished opinion and the remittitur
6 from your direct appeal.

7 A All right.

8 Q What -- what date was your direct appeal on your jury
9 charge remitted back to the lower court?

10 A It says February 14th, 2012.

11 Q Okay. And it was your understanding that the jury
12 conviction sentences and the guilty plea sentences were
13 merged together, that they were the same?

14 A Correct.

15 Q Okay. And did you file an application for
16 post-conviction relief on your jury charges -- or the jury
17 convictions?

18 A Yes, I did.

19 Q Okay. Do you know what date you filed that?

20 A I'm -- I'm not aware of that either.

21 MR. KEY: May I approach, Your Honor?

22 BY MR. KEY:

23 Q Here's this. I can't exactly read the date. Can you
24 read, at least, month and the year of when your
25 application was filed? It's right under the stamp right

1 here.

2 A I don't -- I don't see the date.

3 Q Okay. 2012 December. Do you see --

4 A 2012 in December.

5 Q Okay. Does that sound about right when you filed
6 your application on your jury convictions?

7 A Correct.

8 Q Okay. In your PCR application on your jury
9 convictions, did you list your guilty plea charges in that
10 application?

11 A No, I didn't.

12 Q Okay. Would you agree that that is a copy of your
13 first PCR application?

14 A Correct.

15 MR. KEY: Okay. The State would move this in as
16 Exhibit No. 1.

17 THE COURT: All right. Any objection?

18 (WHEREUPON, there was no response.)

19 THE COURT: Ms. Shurling, any objection?

20 MS. SHURLING: I'm sorry. No, no objection.

21 THE COURT: State's Exhibit No. 1 without objection.

22 (WHEREUPON, State's Exhibit No. 1 was marked for
23 identification and admitted into evidence.)

24 BY MR. KEY:

25 Q Were you appointed a PCR attorney for your -- your

1 first PCR action on your jury convictions?

2 A Yes, I was. I don't -- I don't even remember who my
3 attorney was, to be honest with you.

4 Q Okay. Well, did you ever ask him if your jury
5 convictions and your plea convictions were being handled
6 by that PCR?

7 A No, I didn't.

8 Q Okay. Did you just assume that they were merged
9 together?

10 A Yes, I did. I was -- didn't know much of the law
11 myself.

12 Q Okay. And then it was your -- or you did not realize
13 that when your PCR was granted, it didn't affect your
14 guilty plea sentences until when? What date?

15 A Until, basically, when it -- when it was time for me
16 to file -- I mean, time to file as far as after I went
17 back to court and took the plea for the 15 years. That's
18 when I realized.

19 Q Okay. Do you remember -- do you recall around what
20 time that was when you ended up re-pleading, I guess -- or
21 pleading?

22 A I -- I want to say 2016 when I went back for the
23 plea. I'm not sure of the exact date. But that's when I
24 found out it was on down the line.

25 Q Okay. But, again, you -- it was your understanding

1 from that remittitur that, also, affected your guilty
2 plea?

3 A Remittitur as far as?

4 Q The remittitur from your direct appeal of your jury
5 conviction?

6 A The -- once it got overturned, or when the direct
7 appeal got denied? Which one are you talking about?

8 Q When the direct appeal got denied.

9 A I wasn't aware then. I still --

10 Q But did you think that they ran together?

11 A Yes, I did.

12 MR. KEY: Okay. No further questions, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. SHURLING:

15 Q Mr. Robinson, real quickly just to be clear. The
16 Respondent asked you if you thought the sentences had been
17 run together; right?

18 A Correct.

19 Q Did you think that the whole cases had been
20 effectively merged, that everything went together?

21 A Yes, absolutely. Absolutely, I did.

22 Q For all purposes?

23 A Correct.

24 Q And did you ever have any discussions with your trial
25 attorney about the fact that the word "concurrent" was

1 only used as it pertained to the sentences, that the
2 sentences were going to overlap? But that if you did
3 anything to challenge your judgments or sentences from
4 either pot, the jury trial charges or the plea in March of
5 -- I'm sorry, I have to look at my graph. I apologize.
6 The plea in March '09 that -- that if you did anything or
7 you wanted to do anything to challenge the plea charges
8 for March '09 that you had to do it separately, that they
9 were not merged in that sense. They were not legally
10 merged in the sense that they became, like, one --

11 THE COURT: Are you -- are you asking a question or
12 are you --

13 MS. SHURLING: Yes, sir.

14 THE COURT: -- making a statement?

15 All right. I'm waiting for the question.

16 THE WITNESS: Absolutely not. Because I would have
17 never pled.

18 BY MS. SHURLING:

19 Q So you never had any discussions of that sort with
20 your lawyer before the plea in March of '09?

21 A I don't recall.

22 Q Okay. And after the direct appeal was lost, you
23 still didn't know they weren't run together for that
24 purpose?

25 A Correct.

1 Q When you won the PCR appeal and won a new trial, at
2 that point, did you think you'd won a new trial on
3 everything?

4 A Absolutely. Because I gave the attorney general a
5 call thinking that when my co-defendant was released that
6 I was going home as well. So that's when I was brought up
7 to date that this was a separate situation.

8 Q Okay. So when your co-defendant won and you did a
9 PCR and you won, at that point, you thought you could get
10 out on bond pending retrial on everything?

11 A Correct. That's what I was waiting for.

12 Q And you found out you weren't eligible for bond?

13 A Correct.

14 Q Because of those other charges?

15 A That's correct.

16 Q And, at that point, your family starting getting
17 money together to hire you another lawyer; right?

18 A That's correct.

19 Q And I was hired?

20 A Correct.

21 Q And the current application for post-conviction
22 relief was filed less than a year after the plea
23 negotiations on the remand of the jury trial charges when
24 you found out that those were freestanding and had not
25 been affected by the Court's ruling on the PCR appeal?

1 A Correct. That's my whole purpose of hiring you.

2 Q And, of course, your family hired me as soon as they
3 were able to get the money together to do so?

4 A Correct.

5 Q If you had known back then that your two sets of
6 charges remained separate and distinct in terms of any
7 legal action that might need to be taken, would you have
8 filed a PCR immediately after you were sentenced in March?

9 A Correct.

10 Q Or, at least, would you have done so immediately
11 after the direct appeal was lost on the jury trial?

12 A Yes. I would have did it. I would have filed it.

13 Q And if not then, maybe after you lost the PCR in the
14 circuit court you would have done one; right?

15 A Correct.

16 Q Okay. But as it is, you didn't file your new PCR
17 until you found out what?

18 A That it wasn't all merged.

19 Q Okay. And that you had to bring it to the Court's
20 attention separately in order to attack those March '09
21 pleas?

22 A Correct.

23 Q Okay. And nothing in your conversations, nothing in
24 the legal advice given to you by your attorney led you to
25 understand that the only thing overlapping about these

1 cases was the sentences?

2 A Absolutely not.

3 MS. SHURLING: Okay. No further questions.

4 THE COURT: All right. Anything else?

5 MR. KEY: No, Your Honor.

6 THE COURT: All right. You can step down.

7 And I think you were going to call Mr. Moorman; is
8 that correct?

9 MS. SHURLING: Yes, sir. And I think we can do it
10 quickly.

11 THE COURT: Well, obviously, I -- I hate to start
12 Mr. Moorman and then I'm going to have to leave at two
13 minutes till. So if he's okay with that, we can start it.

14 Are you okay with that, Mr. Moorman?

15 MR. MOORMAN: Yes, Your Honor.

16 Thank you.

17 THE COURT: Okay. Come on up.

18 THE CLERK: Mr. Moorman, please place your left hand
19 on the Bible and raise your right hand.

20 WHEREUPON,

21 ANDREW BURKE MOORMAN,
22 after first having been duly sworn, testified as follows:

23 THE CLERK: Thank you.

24 You may be seated.

25 And please state your full name for the record.

1 THE WITNESS: My name is Andrew Burke Moorman.

2 DIRECT EXAMINATION

3 BY MS. SHURLING:

4 Q Mr. Moorman, contrary to my reputation, I'll make
5 this fast.

6 You represented Oshaun Robinson both at his jury
7 trial and at the subsequent guilty plea proceeding in
8 March of '09?

9 A I did.

10 Q And at the time he was entering the pleas in March of
11 '09, you were able to negotiate a deal for him to receive
12 concurrent time?

13 A I was.

14 Q And -- and I assume -- but I shouldn't. I'll let you
15 tell us. You explained to him what concurrency meant in
16 terms of the sentences overlapping?

17 A Yes. The -- yes. And I just -- so you know, I mean,
18 it's -- I have not had a chance to obtain my file from the
19 public defender's office. And this was 10 years ago.

20 But I -- I -- the purpose of a negotiation was that
21 there was a concern that he potentially was life without
22 parole eligible. I want to say he had in excess of 20
23 charges, many serious or most serious offenses.

24 And the goal for the guilty plea on concurrent time,
25 the sentences, was to reduce his exposure and eliminate to

1 the largest extent possible the possibility that he'd be
2 sentenced to life without parole.

3 Q Thank you for that.

4 Were you court appointed or retained?

5 A I was court appointed.

6 Q Court appointed. And were you retained -- I mean,
7 appointed -- pardon me -- on all of these 30-something
8 charges, or just the ones that he went to trial on and the
9 ones he pleaded to?

10 A I was retained on more charges than the ones he went
11 to trial on and pled guilty to. I can't -- I'm not sure
12 if I was -- if I was assigned to all the charges. But I
13 was assigned to many, many of the charges. He had -- he
14 had quite a few. So I'm hesitant to say I had every
15 single one. I likely would have. But I can't say for
16 sure.

17 Q And it's been a long time I know. But did -- did you
18 file Rule 5 and Brady motions on all these charges?

19 A Yes. Because we received discovery --

20 MR. KEY: Objection, Your Honor. I don't see the
21 relevance of the -- this question to the motions hearing
22 on --

23 THE COURT: What's the relevance of it, Counsel?

24 MS. SHURLING: Your Honor, the witness has just
25 indicated that the goal at this time was to avoid an LWOP

1 sentence. And I am trying to determine whether or not he
2 investigated, whether that was a legitimate threat at that
3 time, and what conversation there was with regard to an
4 appeal taking that consideration into account.

5 THE COURT: I still don't -- I still can't connect
6 the dots on relevance. So I'm going to --

7 MS. SHURLING: I'll save that --

8 THE COURT: I'm -- I'm going to sustain his
9 objection. I don't see -- move -- move on with the
10 motion.

11 MS. SHURLING: If we're blessed with a PCR, I can
12 pursue it then.

13 BY MS. SHURLING:

14 Q So, basically, to be fair, you have no independent
15 recollection of ever having a discussion with him about
16 the fact that the charges being -- the sentences being
17 concurrent only referenced the penalty -- the sentences
18 themselves, and did not in any other respect merge the
19 cases?

20 A Could you ask that question one more time?

21 Q Do you here today -- and I realize you don't have
22 your file. But do you have any independent recollection
23 of ever explaining to him that the concurrency of the two
24 sentences dealt only with the two sentences overlapping
25 and in no regard indicated that the matters had been

1 otherwise merged for any other legal purposes?

2 A I'm just trying to understand the question. So --

3 Q Let me rephrase it --

4 A Yeah.

5 Q -- if it's that poorly articulated. I'll say it
6 fast. Did you ever talk about the fact that, look, this
7 means this 25 and that 25 are going to be served at the
8 exact same time, they're overlapping each other? You told
9 him that?

10 A I believe I did.

11 Q And do -- you do not deny, do you, telling him what
12 he testified to Monday, that you, basically, told him that
13 these new pleas were not going to result in him serving
14 any more time than he would have otherwise served on the
15 jury trial?

16 A I don't independently remember saying that, but I
17 would have. Because that was the -- the recommendation on
18 the pleas was for the same time that the sentence was for
19 that he received at the jury trial, so.

20 Q Thank you.

21 A Yeah.

22 Q But to be fair to Mr. Robinson, you don't have any
23 recollection of telling him that for any other purpose, if
24 he wanted to appeal the jury trial, if he was doing a PCR,
25 whatever, that they still were independent cases and had

1 to be treated independently as far as anything he might
2 file in the future?

3 A I can't remember telling him that -- I can't remember
4 telling him that. I just don't have any independent
5 recollection.

6 Q Okay. Did you represent him on remand after he got
7 the new trial on the PCR appeal, or had you already gone
8 to the U.S. Attorney by then?

9 A So I went to the U.S. Attorney's Office in August of
10 '09. I'm not sure about the timeline on the events you
11 described. But I was at the U.S. Attorney's Office.

12 MS. SHURLING: That will answer the question.

13 Thank you very much.

14 I have no further questions.

15 THE COURT: Any questions?

16 MR. KEY: Not from this witness, Your Honor.

17 THE COURT: All right. Thank you, Mr. Moorman.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: Do you want him to be excused?

20 MS. SHURLING: He may be excused.

21 And, Your Honor, I have no further witnesses. I
22 would ask if the Court is amenable to receiving either
23 bench memos or proposed orders in lieu of closing
24 arguments?

25 THE COURT: You're -- you're asking me would I do that?

1 MS. SHURLING: Will you allow that?

2 THE COURT: So you're asking me what would I do. Let
3 me think about it for a second.

4 Go ahead.

5 MS. SHURLING: Unless, of course, you're going to
6 rule in my client's favor. And I'd love to hear that
7 right now.

8 THE COURT: I'm going to -- let's see. Why don't we
9 do it this way. I'm going -- I think I'm going to give
10 you a window to submit some proposed orders.

11 MS. SHURLING: Yes, sir.

12 THE COURT: And you're going to try to still pursue
13 that transcript, or...

14 MR. KEY: If -- if --

15 THE COURT: Because we --

16 MR. KEY: -- the State's motion to dismiss is denied,
17 it's my understanding that we will.

18 THE COURT: Yeah. Because the reason I'm saying that
19 is I'm going to give you -- I think I've been giving,
20 what, a 45-day window? Is that what I've been doing?

21 MR. KEY: Yes, sir.

22 THE COURT: Because you've got a lot of other stuff.
23 Is that -- is that enough time, Ms. Shurling?

24 MS. SHURLING: Your Honor, the only reason there
25 could be a problem is I have some surgery scheduled.

1 But --

2 THE COURT: Okay.

3 MS. SHURLING: -- it is not supposed to be surgery
4 that keeps me from working while I'm recovering. So I
5 don't anticipate it being an issue. And I'd certainly let
6 the Court know and get you a note from my doctor if I --
7 if something went wrong.

8 THE COURT: Yeah. I'll give you a 45-day window.
9 And then maybe shortly after that, maybe the term that
10 comes almost behind that 45 days, at least, put it on the
11 docket tentatively. And then depending upon what my
12 ruling is.

13 MR. KEY: Okay.

14 THE COURT: So just kind of tentatively you put a
15 flag on it, just in case you have to schedule it. And
16 then just work as best you can on the transcript.

17 If you've got a court reporter problem and the court
18 reporter can't produce the transcript, just let
19 Ms. Shurling know. Send her -- send her a due diligence
20 letter.

21 And I think she would be satisfied with that; is that
22 right?

23 MS. SHURLING: Your Honor, yes, sir.

24 I would point out, did -- I think he said he couldn't
25 even order it until after Your Honor rules. I can. So if

1 it'll make things easier for everyone, I'll be happen to
2 go ahead and order it right now, so that we can get a
3 quicker answer.

4 THE COURT: All right. Get that to me.

5 I appreciate it.

6 45 days.

7 MS. SHURLING: Thank you, Your Honor.

8 MR. KEY: Thank you.

9 THE COURT: Okay. Thank y'all.

10 *****END OF TRANSCRIPT OF RECORD*****

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 15th and 17th days of April, 2019.

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

January 20, 2020

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

ARREST WARRANT

1-474443

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE

07173563

against

Oshaun Joseph Robinson

Address:

Phone:

SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

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

Offense Code: 0139

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

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Oshaun Robinson
on 12-18-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/18/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

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

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:On Friday December 14, 2007 at 2255 hours the Defendant did approach the victim while a co defendant who was armed with a .38
caliber hand gun pointed the gun at the victim and demanded his money. As the victim attempted to back away from the suspects
the codefendant shot the victim one time in the stomach. The Defendant then ran to the back of the van where he kept a look out
while the co defendant removed the victim's cash, wallet, and watch. This offense did occur in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/18/2007

defendant

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

☒ County/☐ Municipality of

Greenville

) as set forth below:

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

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

Sworn to and subscribed before me

on 12/18/2007

Signature of Issuing Judge

James W. Hudson

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

6377

Approved by
S.E. Attorney General
April 21, 2003
SCCA 518

678

SAIL set by

WITNESSES

Judge

on

Type and Amount:

Name of Surety:

Judge

on

Defendant Attorney:

Decision:

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

CODEFENDANTS

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

FILED CLERK OF COURT
PAUL S. JOHNSON
JUN 28 1982
JUN 28 1982

ARREST WARRANT

I-474519

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Greenville

THE STATE

07-173563

against

Oshaun Joseph Robinson

Address:

Phone:

SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State:

DL #:

DOB:

Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Oshaun Robinson on 12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/14/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

On 12-14-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him while he was seated in his vehicle. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then discharged a firearm, striking the victim in the abdomen causing a life threatening injury. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/14/2007

defendant Oshaun Joseph Robinson

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

☒ County/☐ Municipality of

Greenville

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

Sworn to and subscribed before me

on 12/28/2007

Signature of Issuing Judge
James E. Hudson

(L.S.)

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate☐ Municipal☐ CircuitCOMPUTER ENTERED
DEC 31 2007
GREENVILLE COUNTY
SHERIFF'S OFFICE

BAIL set by

WITNESSES

Judge

on

Type and Amount:

Name:

Address:

Telephone:

Name of Surety:

Name:

Address:

Telephone:

Judge

Name:

Address:

Telephone:

Decision:

Name:

Address:

Telephone:

DISPOSITION before

Judge

Name: _____

Address:

on

Telephone:

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Name:

Address:

Telephone:

Sentence:

JURORS

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS

FILED 05% OF COURT
P. 10 10 28 PM 10 30

WITNESSES

C Hanning

Greenville County Sheriffs Office

12/18/2007

ARREST WARRANT NUMBER

I474443

I474519

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-23-

LCM

The State of South Carolina

005397

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2008

THE STATE

vs.

OSHAUN JOSEPH ROBINSON

Indictment for

0139, 0549

ARMED ROBBERY

VIOLATION § 16-11-0330

POSSESSION OF A WEAPON DURING THE

COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-23-490

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
COUNT ONE ARMED ROBBERY
COUNT TWO POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **AUG 19 2008**

the Grand Jurors of Greenville

County present upon their oath:

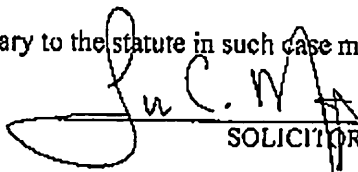
COUNT ONE - ARMED ROBBERY

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of December, 2007, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: cash, wallet and a watch from the person or presence of DELMAR ARIAS. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of December, 2007, possess or visibly display a .38 cal. handgun during the commission or attempted commission of a violent crime, to wit: Armed Robbery. This is in violation of §16-23-490 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.


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

STATE

VS.

Oshaun Robinson

AKA:

Race: B Sex: M Age: 18

DOB: SS#

Address

DL#: SID#

INDICTMENT/CASE#: 2008-GS-23-5387

A/W#: 1474443

Date of Offense: 12/14/2007

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 With A Deadly Weapon (rs)

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

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The pleas is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Marchant, Lucas

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 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. SINCE 12/18/07

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5

TOTAL \$ _____

Paul B. Wickerson

Clerk of Court/Deputy Clerk

Court Reporter: Jenkins

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

PRESIDING JUDGE J. W. M. C.

Judge Code: 211-1310

Sentence Date: 3-4-09

SCCA/217 (07/2008)

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Oshaun Robinson

AKA:

Race: B

Sex: M

Age: 18

DOB:

SS#:

Address:

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-23 - 5387

A/W#: 1474519

Date of Offense: 12/14/2007

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Weapons / Poss. Weapon During Violent CRIME

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Lucas
Marchant, Lucas

Oshaun Robinson
Defendant

Andrew B. Moorman 69670
Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ 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. *SINCE 12/18/07*

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

\$

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 35.13 (Public Def/Prob)

\$500

\$

§ 73.3, 1B TP (Law Enforce. Funding)

\$25

\$

§ 33.7, 1B TP (Drug Court Surcharge)

\$100

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

§ 90.11 TP (SCCJA Surcharge)

\$5

\$

TOTAL

\$

Paul B. Wickerson

Clerk of Court/ Deputy Clerk

Court Reporter:

Jenkins

PRESIDING JUDGE

Judge Code:

Sentence Date:

SCCA/217 (07/2008)

ARREST WARRANT

I-474444

5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE
against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Assault / Assault and battery with Intent to Kill
(ABWIK)

Offense Code: 0014

Code/Ordinance Sec: 16-03-0620

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Oshaun Robinson
12-18-07
J.M.B. 544062
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/18/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Assault / Assault and battery with Intent to Kill (ABWIK)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT DID WITH MALICE AFORETHOUGHT AND WITH INTENT TO KILL, COMMIT AN ASSAULT AND
BATTERY UPON THE VICTIM BY SHOOTING HIM ONE TIME IN THE STOMACH WITH A .38 CALIBUR HAND GUN
DURING AN ARMED ROBBERY. THE DEFENDANT WAS NOT SO PERMITTED TO DO SO BY LAW. THIS OFFENSE
DID OCCUR IN GREENVILLE COUNTY.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/18/2007

defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

DESCRIPTION OF OFFENSE: Assault / Assault and battery with Intent to Kill (ABWIK)

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

Sworn to and subscribed before me

on 12/18/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL 685

Approved by
S. Attorney General
April 21, 2003
SCCA 518COMPUTER ENTERED
DEC 19 2007
GREENVILLE COUNTY
SHERIFF'S OFFICE

686

BAIL set by

WITNESSES

Judge
on
Type and Amount:
Name of Surety:

PRELIMINARY HEARING held by

Judge
on
Defendant Attorney:
Decision:

DISPOSITION before

Judge
on
by
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition:
Sentence:

JURORS

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

CODEFENDANTS

FILED
CLERK OF COURT
PAUL H. REMMER
JUN 28 1987
PM 4: 29

WITNESSES

C Hanning

Greenville County Sheriffs Office

12/18/2007

ARREST WARRANT NUMBER

1474444

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-23-
LCM

005306

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August TERM 2008

THE STATE

vs.

OSHAUN JOSEPH ROBINSON

PLEAD GUILTY

Indictment for

0014

ASSAULT AND BATTERY WITH INTENT TO
KILL

VIOLATION § 16-03-0620

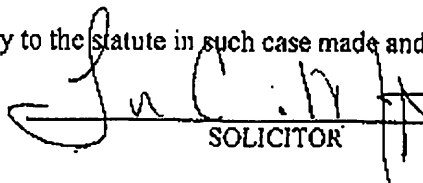
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ASSAULT AND BATTERY WITH INTENT TO KILL

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

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of December, 2007,
willfully, unlawfully and with malice aforethought, either express or implied, commit an assault and battery upon
DELMAR ARIAS. This is in violation of §16-3-620 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.


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS **680**COUNTY OF Greenville

STATE

VS.

Oshaunt RobinsonINDICTMENT/CASE#: 2008-GS-23-5386A/W#: 1474444Date of Offense: 12/14/2007S.C. Code § : 16-03-0620CDR Code #: 0014

AKA:

Race: B Sex: M Age: 18DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Assault / Assault and battery with Intent to Kill (ABWIK)in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Marchant, LucasDefendantAttorney for DefendantSC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. SINCE 12/18/07☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5

TOTAL \$ _____

Paul B. Wickerson

Clerk of Court/ Deputy Clerk

Court Reporter: Jenkins

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]Judge Code: 2111310Sentence Date: 3/4/09

SCCA/217 (07/2008)

690 ARREST WARRANT

1-474445 5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE
against

Oshaun Joseph Robinson

Address:

Phone: SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Conspiracy / Criminal Conspiracy, Common Law
conspiracy defined

Offense Code: 0049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant OSHAUN ROBINSON
on 12-18-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/18/2007

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT DID WITH (CO-CONSPIRATORS) UNLAWFULLY PLAN OR SCHEME TO ACCOMPLISH THE
CRIME OF ARMED ROBBERY WITH A 38 CALIBUR HANDGUN BY UNLAWFUL MEANS. THIS OFFENSE DID
OCCUR IN GREENVILLE COUNTY.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street
Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/18/2007 defendant Oshaun Joseph Robinson

did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Greenville as set forth below:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

on 12/18/2007

Signature of Issuing Judge
James R. Hudson

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

COMPUTER ENTERED
DEC 19 2007
GREENVILLE
SHERIFFS OFFICE

Judge James E. H.
 on 12-18-07
 Type and Amount: 2000
 Name of Surety: S

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____
 Decision: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (Indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

JURORS

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED CLERK OF COURT
 PAUL H. BLUMBERG
 2008 JAN 28 PM 4:29

692

WITNESSES

C Hanning

Greenville County Sheriffs Office

12/18/2007

ARREST WARRANT NUMBER

1474445

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-23-
LCM

005385

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2008

THE STATE

vs.

PLEAD GUILTY

OSHAUN JOSEPH ROBINSON

SCNC

Moomer

0049

Indictment for

CONSPIRACY

VIOLATION § 16-17-0410

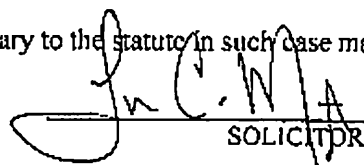
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CONSPIRACY

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

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of December, 2007,
willfully and unlawfully combine with Timothy Wright and Kenneth Workman for the purpose of accomplishing
an unlawful object or a lawful object by unlawful means, to wit: Armed Robbery. This is in violation of §16-17-
410 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.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Oshaun Robinson

AKA:

Race: B

Sex: M

Age: 18

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-23-5385

A/W#: I474445

Date of Offense: 12/14/2007

S.C. Code §: 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Marchant, Lucas

Defendant

Attorney for Defendant

SC Bar# 69670

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ 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. Since 12/18/07

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

\$

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 35.13 (Public Def/Prob)

\$500

\$

§ 73.3, 1B TP (Law Enforce. Funding)

\$25

\$

§ 33.7, 1B TP (Drug Court Surcharge)

\$100

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

§ 90.11 TP (SCCJA Surcharge)

\$5

\$

TOTAL

\$

Paul B. Wiehmann

Clerk of Court/ Deputy Clerk

Court Reporter: Jenkins

PRESIDING JUDGE

Judge Code: 2111310

Sentence Date: 3-4-09

SCCA/217 (07/2008)

ARREST WARRANT

I-474506

5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-169127

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

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

Offense Code: 0139

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

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Oshaun Robinson on 12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

Personally appeared before me the affiant C W Hanning whobeing duly sworn deposes and says that defendant Oshaun Joseph Robinsondid within this county and state on or about 12/06/2007 violate the criminal laws of theState of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

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

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

On 12-6-07 the defendant, along with several co-defendants did plan and conspire to commit and armed robbery. The defendant and co-defendants followed the Hispanic victims, Fransisco Menendez, Daniel Bueno, and Armando Huerta after a drug transaction. The defendant and co-defendants exited their vehicle and approached the victim's van, the defendant and co-defendants then pointed a firearm at the victim and demanded they give them his money. One of the co-defendants then discharged the firearm damaging the van. The defendant and co-defendants then fled the scene in their vehicle. The affiant has obtained a written signed confession from a co-defendant. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street
Greenville, SC 29601-Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/6/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

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

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

Sworn to and subscribed before me

on 12/27/2007

(L.S.)

Signature of Issuing Judge
James E. HudsonJudge Code: 5031Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-Judge's Telephone (864)467-5302Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL 695
Approved by
Attorney General
April 21, 2003
SCCA 518

COMPUTER ENTERED
DEC 31 2007
GREENVILLE
SHERIFFS OFFICE

696

BAIL set by

WITNESSES

Judge
on
Type and Amount:
Name of Surety:

PRELIMINARY HEARING held by

Judge
on
Defendant Attorney:
Decision:

DISPOSITION before

Judge
on
by
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition:
Sentence:

JURORS

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

CODEFENDANTS

FILED
CLERK OF COURT
PAID
JUN 28 11 43 AM '07

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474506

City: _____

State: SC ZIP _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0139

Date of Birth: _____

Offense Name: Robbery, Armed With A Dea

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

_____ 1. Guilty Plea	* _____ 7. Remanded
_____ 2. Trial (Guilty)	_____ 8. Dismissed at Prelim
_____ 3. Trial (Not Guilty)	_____ 8. No Bill
* <u>X</u> 4. <u>Dism</u> Nol Pros/Pros Ended	* _____ 9. Failure to Appear
* _____ 5. Judicial Commitment	* _____ 10. Other
_____ 6. Judicial Dismissal	

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0139Offense Name: Robbery, Armed With A Dea

Sentence: _____

698 ARREST WARRANT

1-474508

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-170118

against

Oshaun Joseph Robinson

Address:

Phone:

SSN:

Sex: M Race: B Height: 5 7 Weight: 115DL State: DL #:DOB: Agency ORI #: SC0230000Prosecuting Agency: Greenville County Sheriffs OfficeProsecuting Officer: C W Hanning - 1018Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponOffense Code: 0139Code/Ordinance Sec: 16-11-0330(A)This warrant is **CERTIFIED FOR SERVICE** in the☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Oshaun Robinson on 12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518Personally appeared before me the affiant C W Hanning whobeing duly sworn deposes and says that defendant Oshaun Joseph Robinsondid within this county and state on or about 12/08/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

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

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

On 12-8-07 the defendant, along with several co-defendants did plan and conspire to commit and armed robbery. The defendant and co-defendants drove to 100 Ashe Dr. where they parked their vehicle and located the victim, Jaime Rosas, standing at his apartment door. The defendant punched the victim in his face knocking him to the ground. The defendant then entered the victim's apartment while armed with a pistol and took several belongings. The defendant and co-defendants then fled the scene. The affiant has obtained a written signed confession from a co-defendant. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee StreetGreenville, SC 29601-Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/8/2007defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville) as set forth below:DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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

Sworn to and subscribed before me

on 12/27/2007

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031Judge's Address 4 McGee Street, Room 116-BGreenville, SC 29601-Judge's Telephone (864)467-5302Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

BAIL set by

WITNESSES

699

Judge
on
Type and Amount:
Name of Surety:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

PRELIMINARY HEARING held by

Judge
on
Defendant Attorney:
Decision:

DISPOSITION before

Judge
on
by
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition:
Sentence:

JURORS

CODEFENDANTS

2007 JUN 20 PM 4:30
FILED IN CLERK OF COURT
PAUL J. HENNINGER
CLERK OF COURT

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474508City: _____ e: SC ZI _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0139

Date of Birth: _____

Offense Name: Robbery, Armed With A Dea

State: _____ Driver's License #:

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. Dism Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0139Offense Name: Robbery, Armed With A Dea

Sentence: _____

ARREST WARRANT

I-474509

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-170118

against

Oshaun Joseph Robinson

Address:

Phone: SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Burglary / Burglary (After June 20, 1985) - First degree

Offense Code: 0079

Code/Ordinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Oshaun Robinson on 12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/08/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Burglary / Burglary (After June 20, 1985) - First degree

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

On 12-8-07 the defendant, along with several co-defendants did plan and conspire to commit and armed robbery. The defendant and co-defendants drove to 100 Ashe Dr. where they parked their vehicle and located the victim, Jaime Rosas, standing at his apartment door, apartment #83. The defendant punched the victim in his face knocking him to the ground. The defendant then entered the victim's apartment while armed with a pistol and took several belongings. The defendant and co-defendants then fled the scene. The affiant has obtained a written signed confession from a co-defendant. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/8/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

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

Sworn to and subscribed before me

on 12/27/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL 700
Approved by
S.C. Attorney General
April 24, 2003
SCCA 518COMPUTER ENTERED
DEC 31 2007
GREENVILLE
SHERIFF'S OFFICE

702

BAIL set by

WITNESSES

Judge
on
Type and Amount: NO BOND
Name of Surety:

PRELIMINARY HEARING held by

Judge
on
Defendant Attorney:

Decision:

DISPOSITION before

Judge
on
by
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: Sentence:

JURORS

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

CODEFENDANTS

FILED
CLERK OF COURT
JAN 28 PM 4:30

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474509City: Greenville State: SC ZIP :29601

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0079

Date of Birth: _____

Offense Name: Burglary, First Degree (g

State: _____ Driver's License #:

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. Dism/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0079Offense Name: Burglary, First Degree (g

Sentence: _____

704 ARREST WARRANT
I-474511 5031
STATE OF SOUTH CAROLINA
[X] County/ [] Municipality of
Greenville
THE STATE 07-171044
against
Oshaun Joseph Robinson
Address: [REDACTED]
Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 5 7 Weight: 115
DL State: DL #: [REDACTED]
DOB: [REDACTED] Agency ORI #: SC0230000
Prosecuting Agency: Greenville County Sheriffs Office
Prosecuting Officer: C W Hanning - 1018
Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon
Offense Code: 0139
Code/Ordinance Sec: 16-11-0330(A)
This warrant is CERTIFIED FOR SERVICE in the
[] County/ [] Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.
(L.S.)
Signature of Judge
Date:
RETURN
A copy of this arrest warrant was delivered to
defendant Oshaun Robinson
on 12-28-07
Signature of Constable/Law Enforcement Officer
RETURN WARRANT TO:
City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [] Municipality of)
Greenville)
AFFIDAVIT
Personally appeared before me the affiant C W Hanning who
being duly sworn deposes and says that defendant Oshaun Joseph Robinson
did within this county and state on or about 12/10/2007 violate the criminal laws of the
State of South Carolina (or ordinance of [X] County/ [] Municipality of Greenville)
in the following particulars:
DESCRIPTION OF OFFENSE Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:
On 12-10-07 the defendant, along with several co-defendants did plan and conspire to commit and armed robbery. The defendant and co-defendants drove to 200 Eunice Dr. and circled the parking lot numerous times before locating the victim, Sergio Espinoza. The defendant and co-defendants exited their vehicle and approached the victim's Jeep, the defendant and co-defendants then pointed a firearm at the victim and demanded that he give them his money and phone. The victim complied after he was punched in the face by the defendant. The defendant and co-defendants then fled the scene in their vehicle. The affiant has obtained a written signed confession from a co-defendant. This offense occurred in Greenville County.

Signature of Affiant
STATE OF SOUTH CAROLINA)
[X] County/ [] Municipality of)
Greenville)
Affiant's Address 4 Mcgee Street
Greenville, SC 29601-
Affiant's Telephone (864)271-5210

ARREST WARRANT
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that
on or about 12/10/2007 defendant Oshaun Joseph Robinson
did violate the criminal laws of the State of South Carolina (or ordinance of
[X] County/ [] Municipality of Greenville) as set forth below:
DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon
Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before me
on 12/27/2007 (L.S.)
Signature of Issuing Judge
James E. Hudson
Judge Code: 5031
Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-
Judge's Telephone (864)467-5302
Issuing Court: [X] Magistrate [] Municipal [] Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

7058

Judge Jim 2th
on 12-28-07
Type and Amount: NO BOND
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

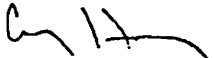
CODEFENDANTS

FILED IN COURT
RECEIVED
JAN 28 PM 4:28

-706

WITNESSES

C Hanning



Greenville County Sheriffs Office

12/28/2007

DOCKET NO. 2008-GS-23-
LCM

005382

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August TERM 2008

THE STATE

VS.

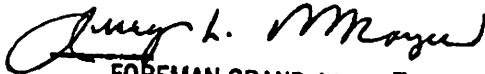
OSHAUN JOSEPH ROBINSON

ARREST WARRANT NUMBER

I474511, I474523

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

0139, 0549

ARMED ROBBERY AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION § 16-11-0330 and §16-23-0490

Foreperson of Petit Jury

Date:


**ENTERED
ACCT.**

A Certified Copy
Paul B. Willenain
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 4-25-16

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ARMED ROBBERY AND POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on
County present upon their oath:

AUG 19 2008

the Grand Jurors of Greenville

COUNT ONE

ARMED ROBBERY

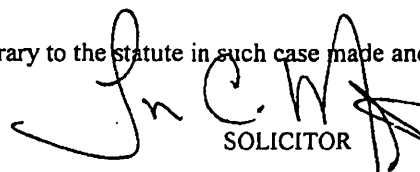
That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 10th day of December, 2007, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: Money and phone from the person or presence of Sergio Espinoza. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 10th day of December, 2007, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Armed Robbery. This is in violation of §16-23-0490 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.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenville

VS.

Oshaun Joseph Robinson

AKA:

Race: BLACK

Sex: M

Age:

26

DOB:

SS#:

Address:

City, State, Zip: Greenville, SC 29601

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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
w/minor 1st or Lewd Act)☐ §17-25-45The 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:

Stegall, Brett J.

101867

SC Bar#

Defendant

Attorney for Defendant

73996
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of 15 days/months/years or☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

§ 56-5-2995 (DUI Assessment)

\$12

§ 56-1-286 (DUI Breath Test)

\$25

Proviso 47.9 (Public Def/Prob)

\$500

§ 14-1-212 (Law Enforce. Funding)

\$25

§ 14-1-213 (Drug Court Surcharge)

\$150

§ 50-21-114 (DUI Breath Test Fee)

\$50

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

Proviso 90.3 (SCCA Surcharge)

\$5

3% to County (if paid in installments)

\$

TOTAL

\$133.90

 days/hours Public Service EmploymentObtain 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 FundOther: ☐ 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 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

ARREST WARRANT

I-474513

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-171546

against

Oshaun Joseph Robinson

Address:

Phone:

SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

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

Offense Code: 0139

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

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Oshaun Robinson on 12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/10/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

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

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

On 12-10-07 the defendant, along with several co-defendants did plan and conspire to commit and armed robbery. The defendant and co-defendants drove to 100 Ashe Dr. and located the victims, Louis Zepeda, Armando Ayala and Jose Pineva while they were outside their apartment smoking. The defendant and co-defendants then pointed a firearm at the victims and demanded that they give them their money and jewelry. The victims complied. The defendant and co-defendants then fled the scene in their vehicle. The affiant has obtained a written signed confession from a co-defendant. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/10/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

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

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

on 12/27/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL 700
Approved by
S.C. Attorney General
April 21, 2003
SCCA 518COMPUTER ENTERED
DEC 31 2007
GREENVILLE SHERIFF'S OFFICE

710

BAIL set by

Judge

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS

FILED CLERK OF COURT
JUL 28 2003
JUL 28 11 42 AM '03

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # 1474513City: Greenville State: SC ZIP :29601

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0139

Date of Birth: _____

Offense Name: Robbery, Armed With A Dea

State: _____ Driver's License #:

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. Dism/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0139Offense Name: Robbery, Armed With A Dea

Sentence: _____

ARREST WARRANT

I-474520

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE
against

07-173563

Oshaun Joseph Robinson

Address:

Phone: SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Unlawful carrying of pistol

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020, 0050

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Oshaun Robinson

on 12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

Personally appeared before me the affiant C W Hanning who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/14/2007 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Unlawful carrying of pistol

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

On 12-14-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him while he was seated in his vehicle. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then discharged a firearm, striking the victim in the abdomen causing a life threatening injury. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/14/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

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

Sworn to and subscribed before me

on 12/28/2007

Signature of Issuing Judge (L.S.)

James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

BAIL set by

Judge John E. H.
 on 12-28-07
 Type and Amount: NO BOND
 Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____
 Decision: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

JURORS

WITNESSES

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
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Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

CODEFENDANTS

05-11-07 11:03 AM
 2007 JAN 28 PM 4:50
 CLERK OF COURT
 JUDICIAL DEPT. 1000

General Sessions Tracking Sheet
Indictment # 0000GS23

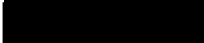
Name: Robinson, Oshaun Joseph

AKA:

Addr: 

SSN# 000-00-0000

Sex: M Race: B

DOB: 

DL# /

Warrant/Ticket # I474520

Date of Arrest: 12/28/2007

Date of Offense: 12/14/2007

Date Rcv by Clerk 01/29/2008

Magistrate: Hudson, James E.

Counts: Code: 0044/Weapons / Unlawful carrying of
pistol

Indictment # 0000GS23

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition: 3-4-09

MAR 06 2009

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain:

Explain:

Explain:

Explain:

Explain:

Put to other charges

Judge:

Defense Atty: *A. MORMAN*

Counts: Code:

Sentence:

Court Reporter:

Solicitor: *LCM*

ARREST WARRANT

1-474521

503:

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE
against

07-171044

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Unlawful carrying of pistol

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020, 0050(

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Oshaun Robinson

on 12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/10/2007 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Unlawful carrying of pistol

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

On 12-10-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant and co-defendants then punched the victim in the face knocking him into the vehicle before fleeing with the victim's belongings. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street
Greenville, SC 29601-
Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/10/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville) as set forth above.

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

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

Sworn to and subscribed before me

on 12/28/2007

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

Signature of Issuing Judge (L.S.)

James B. Hudson

Judge Code: 5031

COMPUTER ENTERED
DEC 31 2007
GREENVILLE COUNTY
SHERIFFS OFFICE

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge Jim Smith
on 12-28-07
Type and Amount: NO BOND
Name of Surety: _____

PRELIMINARY HEARING held by

Judge	
on	
Defendant Attorney:	
Decision:	

DISPOSITION before

Judge _____

on _____

by _____

(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

CODEFENDANTS

700 JUN 20 PM 4 30
FILED IN COUNT

WITNESSES

C Hanning *CH*
 Greenville County Sheriffs Office
 12/28/2007

DOCKET NO. 2008-GS-23-
 LCM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August TERM 2008

THE STATE

vs.

OSHAUN JOSEPH ROBINSON

ARREST WARRANT NUMBER
 1474521

ACTION OF GRAND JURY

TRUE BILL

James L. Mayne
 FOREMAN GRAND JURY
 Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

0044

UNLAWFUL CARRYING OF A PISTOL

VIOLATION § 16-23-0020

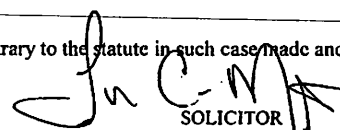
DISMISSED
 NO TRACKING
 SHEET

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
UNLAWFUL CARRYING OF A PISTOL

At a Court of General Sessions, convened on **AUG 19 2008** the Grand Jurors of Greenville
County present upon their oath:
That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 10th day of December, 2007,
willfully and unlawfully carry about his person a pistol. This is in violation of §16-23-0020 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.


SOLICITOR

ARREST WARRANT

1-474522

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

1-25-05

Greenville

THE STATE

07-171044

against

Oshaun Joseph Robinson

Address:

Phone:

Sex: M Race: B

Height: 5 7 Weight: 115

DL State:

DL #:

DOB:

Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Assault / Assault and battery of a high and aggravated nature (ABHAN)

Offense Code: 0013

Code/Ordinance Sec: C/L, 17-25-0030

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

12/28/07

J.M. B. J44
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Advisory General
April 21, 2003
SCCA 618

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/10/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Assault / Assault and battery of a high and aggravated nature (ABHAN)

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

On 12-10-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant and co-defendants then punched the victim in the face knocking him into the vehicle before fleeing with the victim's belongings. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/10/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

DESCRIPTION OF OFFENSE: Assault / Assault and battery of a high and aggravated nature (ABHAN)

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James B. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

COMPUTER ENTERED
DEC 31 2007
GREENVILLE COUNTY
SHERIFFS DEPT

BAIL set by

WITNESSES

Judge J. Smith
on 12-28-07
Type and Amount: NO BOND
Name of Surety:

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Address: _____

 Telephone: _____

 Name: _____
 Address: _____

 Telephone: _____

Disposition: _____

Sentence: _____

Name: _____
Address: _____
Telephone: _____

JURORS

[illegible]

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

CODEFENDANTS

05 JUN 68

WITNESSES

C Hanning

Greenville County Sheriffs Office

12/28/2007

ARREST WARRANT NUMBER

1474522

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

GUILTY

Jewel Burcke

Foreperson of Petit Jury

1/15/09
Date:

DOCKET NO. 2008-GS-23-

LCM

005304

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2008

1-15-09

GUILTY THE STATE

vs.

OSHAUN JOSEPH ROBINSON

Indictment for

0013

ASSAULT AND BATTERY OF A HIGH AND
AGGRAVATED NATURE

VIOLATION § C/L

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
NATURE

At a Court of General Sessions, convened on

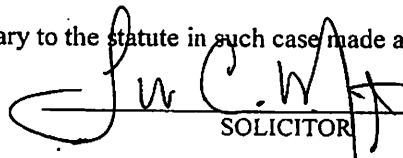
AUG 19 2008

the Grand Jurors of Greenville

County present upon their oath:

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 10th day of December, 2007, willfully and unlawfully commit an assault and battery upon Sergio Espinoza constituting an unlawful act of violent injury to Sergio Espinoza, accompanied by circumstances of aggravation, to wit: Use of a deadly weapon and/or infliction of serious bodily. 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.


SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE VS.)
Oshaun Robinson)
AKA:)
Race: B Sex: M Age: 18)
DOB: [REDACTED] SS#: [REDACTED])
Address: [REDACTED])
DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-23-5384
A/W#: I474522
Date of Offense: 12/10/2007
S.C. Code § : C/L 17-25-0030
CDR Code #: 0013

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Assault / Simple Assault And Battery

in violation of § C/L, 22-05-0150, of the S.C. Code of Laws, bearing CDR Code # 0612
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: [Signature] Marchant, Lucas Defendant [Signature] Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ set by SCDPPPS _____
Recipient: _____
*Fine: \$ _____
§ 14-1-206 (Assessments 107.5 %) \$ _____
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
§ 56-5-2995 (DUI Assessment) \$12 \$ _____
§ 35.13 (Public Def/Prob) \$500 \$ _____
§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25
§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____
§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
3% to County (if paid in installments) \$ _____
§ 90.11 TP (SCCJA Surcharge) \$5 \$ _____
TOTAL \$ _____

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

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

Paul B. Winkensmeier
Clerk of Court/ Deputy Clerk
Court Reporter: S. Hadgen

PRESIDING JUDGE [Signature]
Judge Code: 2101701
Sentence Date: 1-15-09
SCCA/217 (07/2008)

ARREST WARRANT

1-474523

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

1-28-05

Greenville

THE STATE
against

07-171044

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: [REDACTED]

RETURN

A copy of this arrest warrant was delivered to
defendant
on 12/26/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 615

Personally appeared before me the affiant C W Hanning who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/10/2007 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

On 12-10-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant and co-defendants then punched the victim in the face knocking him into the vehicle before fleeing with the victim's belongings. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/10/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

Sworn to and subscribed before me)

on 12/28/2007)

Signature of Issuing Judge (L.S.))

James B. Hudson)

Judge Code: 5031)

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

WITNESSES

C Hanning *C Hanning*

Greenville County Sheriffs Office

12/28/2007

ARREST WARRANT NUMBER

1474511, 1474523

ACTION OF GRAND JURY

TRUE BILL*James L. Maynard*
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

COUNT ONE: GUILTY

COUNT TWO: GUILTY

James L. Maynard
Foreperson of Petit Jury1/10/09
Date:DOCKET NO. 2008-GS-23-
LCM

005382

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August TERM 2008

1-15-09

THE STATE

GUILTY

vs.

OSHAUN JOSEPH ROBINSON

Indictment for

0139, 0549

ARMED ROBBERY AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME
VIOLATION § 16-11-0330 and §16-23-0490

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ARMED ROBBERY AND POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME

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

COUNT ONE

ARMED ROBBERY

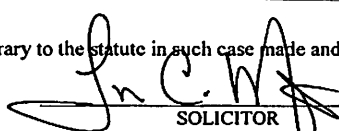
That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 10th day of December, 2007, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: Money and phone from the person or presence of Sergio Espinoza. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 10th day of December, 2007, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Armed Robbery. This is in violation of §16-23-0490 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.


SOLICITOR

728

03/13/2016 10:25 864-46/-8582

13TH CIRCUIT SQ. PAGE 03/05
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.
Oshaun Joseph Robinson

INDICTMENT/CASE#: 2008GS2305382
A/W#: 1474523
Date of Offense: 12/10/2007
S.C. Code §: 16-23-0490
CDR Code #: 0549

AKA:
Race: BLACK Sex: M Age: 26
DOB: [REDACTED]
Address: [REDACTED]
City, State, Zip: [REDACTED]
DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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

ATTEST: [Signature] 101867 [Signature] 73896
Stegall, Bart J. SC Bar# [Signature] 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 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

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

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

SPECIAL CONDITIONS:

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

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (DUI Breath Test Fee)	\$50	\$
§ 56-5-2942(7) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

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

Clerk of Court/ Deputy Clerk Paul B. Wickens
Court Reporter: Jenkins
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2162
Sentence Date: 5/16/16

ARREST WARRANT

I-474524

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE

07-171044

against

Oshaun Joseph Robinson

Address:

Phone:

Sex:

Height:

5

7

Weight:

115

DL State:

DL #:

DOB:

Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

Offense Code: 0049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

12/28/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning who being duly sworn deposes and says that defendant Oshaun Joseph Robinson did within this county and state on or about 12/10/2007 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville) in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

On 12-10-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant and co-defendants then punched the victim in the face knocking him into the vehicle before fleeing with the victim's belongings. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address

4 Mcgee Street

Greenville, SC 29601

Affiant's Telephone

(864)271-5210

ARREST WARRANT

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

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

on or about 12/10/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

Sworn to and subscribed before me

on 12/28/2007

Signature of Issuing Judge

James B. Hudson

Judge Code: 5031

(L.S.)

Judge's Address

4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone

(864)467-5302

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge James E. [Signature]
on 12-28-07
Type and Amount: NO BOND
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

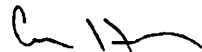
Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

NOTED
12-28-07
63 4 11 03 EST 001

WITNESSES

C Hanning



Greenville County Sheriffs Office

12/28/2007

DOCKET NO. 2008-GS-23-
LCM

005383

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2008

THE STATE

vs.

ARREST WARRANT NUMBER

I474524

OSHAUN JOSEPH ROBINSON

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

0049

CONSPIRACY

VIOLATION § 16-17-0410

Foreperson of Petit Jury

Date:


ENTERED
CLERK'S OFFICE

A Certified Copy

Paul B. Williamson
Clerk of Court C.P. & G.S.
Greenville County, SCDated 4-25-16

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CONSPIRACY

At a Court of General Sessions, convened on

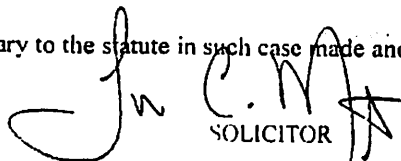
the Grand Jurors of Greenville

County present upon their oath:

AUG 19 2008

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 10th day of December, 2007, willfully and unlawfully combine with Timothy Lee Wright and Kenneth Workman for the purpose of accomplishing an unlawful object or a lawful object by unlawful means, to wit: Armed Robbery. This is in violation of §16-17-0410 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.


SOLICITOR

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.
Oshaun Joseph Robinson

INDICTMENT/CASE#: 2008GS2305383

A/W#: 1474524

Date of Offense: 12/10/2007

S.C. Code § : 16-17-0410

CDR Code #: 0049

AKA:

Race: BLACK Sex: M Age: 26

DOB:

Address:

City, State, Z

DL#:

SID#:

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-17-0410

of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT

☐ VIOLENT

☐ SERIOUS

☐ MOST SERIOUS

☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)

☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☐ Recommendation by the State.

ATTEST:

Stegall, Bart J.

101867

SC Bar#

Defendant

Attorney for Defendant

73996
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,

☐ County Detention Center,

for a determinate term of 5 days/months/years or

☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____

days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing

☐ Ordered PTUP

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 56-1-286 (DUI Breath Test)

\$25

\$

Proviso 47.9 (Public Def/Prob)

\$500

\$

§ 14-1-212 (Law Enforce. Funding)

\$25

\$

§ 14-1-213 (Drug Court Surcharge)

\$150

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCCA Surcharge)

\$5

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

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

ARREST WARRANT

1-474525

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE

07-169127

against

Oshaun Joseph Robinson

Address:

Phone:

Sex:

Height:

5

7

Weight:

115

DL State:

DOB:

Agency ORI #:

SC0230000

Prosecuting Agency:

Greenville County Sheriffs Office

Prosecuting Officer:

C W Hanning - 1018

Offense:

Conspiracy / Criminal Conspiracy, Common Law

conspiracy defined

Offense Code:

0049

Code/Ordinance Sec:

16-17-0410

This warrant is

CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

is to be arrested and brought before me

to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Oshaun Robinson

12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2

4 Mc Gee Street Room 116-B

Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/06/2007

violate the criminal laws of the

State of South Carolina (or ordinance of

☒ County/☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

On 12-06-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Affiant's Address

4 Mcgee Street

Greenville, SC 29601

Affiant's Telephone

(864)271-5246

ARREST WARRANT

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

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

on or about 12/6/2007

defendant Oshaun Joseph Robinson

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

☒ County/☐ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address

4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone

(864)467-5302

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

2025 JUN 16 PM 4:29
FILED IN CIVIL COURT
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474525City: Greenville State: SC ZIP :29601

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0049

Date of Birth: _____

Offense Name: Conspiracy, (gs)

State: Driver's License #:

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. Dism/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0049Offense Name: Conspiracy, (gs)

Sentence: _____

ARREST WARRANT

I-474526

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-169127

against

Oshaun Joseph Robinson

Address:

Phone: SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Oshaun Robinson

on 12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/06/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

On 12-06-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street
Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/6/2007

defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

as set forth below.

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge
James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B
Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL 7
Approved by
S.C. Attorney General
April 21, 2003
SCCA 518COMPUTER ENTERED
DEC 31 2007
SHERIFF'S OFFICE
GREENVILLE COUNTY

738

BAIL set by

WITNESSES

Judge Jim Smith
 on 12-28-07
 Type and Amount: No Bond
 Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED - CLERK OF COURT
 PAUL H. BENSINGER
 1000 1000 1000

2008 JAN 28 PM 4:29

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474526City: _____ State: SC ZIP : 29601

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0549

Date of Birth: _____

Offense Name: Weapons / Poss. Weapon Du

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. Dism / Nol Pros / Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0549Offense Name: Weapons / Poss. Weapon Du

Sentence: _____

740 ARREST WARRANT

1-474527

5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

1-28-06

Greenville

THE STATE

07-169127

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Unlawful carrying of pistol

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020, 0050

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

Oshaun Robinson

on

12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2

4 Mc Gee Street Room 116-B

Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/06/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Unlawful carrying of pistol

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

On 12-06-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/6/2007

defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

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

Sworn to and subscribed before me

on 12/28/2007

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

741

Judge Jim 24
on 12-28-09
Type and Amount: NO BOND
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____
Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED CLERK OF COURT
PAUL D. HENNINGER
CLERK OF COURT
2009 JUN 28 PM 4:29

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474527City: Greenville State: SC ZIP :29601

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0044

Date of Birth: _____

Offense Name: Weapons, Unlawful Carryin

State: _____ Driver's License #:

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. Dism Noli Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0044Offense Name: Weapons, Unlawful Carryin

Sentence: _____

ARREST WARRANT

I-474528

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

1-28-08

Greenville

THE STATE

07-170118

against

Oshaun Joseph Robinson

Address:

Phone:

SSN:

Sex: M

Race: B

Height: 5

7

Weight: 115

DL State:

DL #:

DOB:

Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Unlawful carrying of pistol

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020, 0050(

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

Oshaun Robinson

on

12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2

4 Mc Gee Street Room 116-B

Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL 742
Approved by
S.C. Attorney General
Apr 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/08/2007

violate the criminal laws of the

State of South Carolina (or ordinance of

☒ County/☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Unlawful carrying of pistol

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

On 12-08-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant and co-defendants then punched the victim in the face knocking him into his residence. The defendant and co-defendants then entered the victim's residence and stole several items from inside the residence. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/8/2007

defendant Oshaun Joseph Robinson

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

☒ County/☐ Municipality of

Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

744

BAIL set by

WITNESSES

Judge Jim E. H.
on 12-28-07
Type and Amount: NO BOND
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED-CLERK OF COURT
PAID BY DEBIT CARD
06/28/08 10:00 AM
2008 JAN 28 PM 4:29

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474528City: Greenville State: SC ZIP: _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0044

Date of Birth: _____

Offense Name: Weapons, Unlawful Carryin

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. Disp/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0044Offense Name: Weapons, Unlawful Carryin

Sentence: _____

746 ARREST WARRANT

I-474529

5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-170118

against

Oshaun Joseph Robinson

Address:

Phone:

SSN:

Sex: M

Race: B

Height: 5

7

Weight: 115

DL State:

DL #:

DOB:

Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Assault / Assault and battery of a high and aggravated nature (ABHAN)

Offense Code: 0013

Code/Ordinance Sec: C/L, 17-25-0030

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Oshaun Robinson

12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/08/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Assault / Assault and battery of a high and aggravated nature (ABHAN)

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

On 12-08-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant and co-defendants then punched the victim in the face knocking him into his residence. The defendant and co-defendants then entered the victim's residence and stole several items from inside the residence. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY, It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/8/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

) as set forth below

DESCRIPTION OF OFFENSE: Assault / Assault and battery of a high and aggravated nature (ABHAN)

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

Sworn to and subscribed before me

on 12/28/2007

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

COMPUTER ENTERED
DEC 31 2007
GREENVILLE COUNTY
SHERIFF'S OFFICE

BAIL set by

WITNESSES

747

Judge jmEik
on 12-28-07
Type and Amount: NO BOND
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED-CLERK OF COURT
PAUL H. HARRIS
2008 JUN 28 PM 4:30

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474529City: Greenville State: SC ZIP :29601

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0013

Date of Birth: _____

Offense Name: Assault / Assault And Bat

State: _____ Driver's License #:

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. Dis Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0013Offense Name: Assault / Assault And Bat

Sentence: _____

ARREST WARRANT

I-474530

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE

07-170118

against

Oshaun Joseph Robinson

Address:

Phone:

SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Conspiracy / Criminal Conspiracy, Common Law
conspiracy defined

Offense Code: 0049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

Oshaun Robinson

on

12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2

4 Mc Gee Street Room 116-B

Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/08/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

On 12-08-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant and co-defendants then punched the victim in the face knocking him into his residence. The defendant and co-defendants then entered the victim's residence and stole several items from inside the residence. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/8/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

Sworn to and subscribed before me

on 12/28/2007

Signature of Issuing Judge

James E Hudson

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
U.S. Attorney General
7-21-03
SC0230000

AFFIDAVIT

COMPUTER ENTERED
DEC 31 2007
SHERIFF'S OFFICE

750

BAIL set by

Judge

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS

FILED
CLERK OF COURT
JAN 29 AM 9:02
2006

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474530City: Greenville State: SC ZIP :29601

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0049

Date of Birth: _____

Offense Name: Conspiracy, (gs)

State: Driver's License #:

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. Dism/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0049Offense Name: Conspiracy, (gs)

Sentence: _____

752 ARREST WARRANT

I-474531

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE

07-170118

against

Oshaun Joseph Robinson

Address:

Phone:

SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/08/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

On 12-08-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant and co-defendants then punched the victim in the face knocking him into his residence. The defendant and co-defendants then entered the victim's residence and stole several items from inside the residence. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/8/2007

defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

) as set forth below.

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

COMPUTER ENTERED
DEC 3 1 2007
SHERIFFS OFFICE
GREENVILLE COUNTY

BAIL set by

WITNESSES

753

Judge
on
Type and Amount:
Name of Surety:

Name:
Address:
Telephone:

Name:
Address:

Telephone:

Name:
Address:

Telephone:

Name:
Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

PRELIMINARY HEARING held by

Judge
on
Defendant Attorney:

Decision:

DISPOSITION before

Judge
on
by
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

CODEFENDANTS

FILED-CLERK OF COURT
JAN 28 PM 4:50
2003

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474531City: Greenville State: SC ZIP _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0549

Date of Birth: _____

Offense Name: Weapons / Poss. Weapon Du

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

_____ 1. Guilty Plea	* _____ 7. Remanded
_____ 2. Trial (Guilty)	_____ 8. Dismissed at Prelim
_____ 3. Trial (Not Guilty)	_____ 8. No Bill
* <u>X</u> <u>4. Dism</u> Nol Pros/Pros Ended	* _____ 9. Failure to Appear
* _____ 5. Judicial Commitment	* _____ 10. Other
_____ 6. Judicial Dismissal	

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0549Offense Name: Weapons / Poss. Weapon Du

Sentence: _____

ARREST WARRANT

I-474532

5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

1-28-03

Greenville

THE STATE

07-171546

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

12/28/07
J.M. R 314
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

755
Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/10/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

On 12-10-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street
Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/10/2007

defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

on 12/28/2007

Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ CircuitSignature of Issuing Judge
James J Hudson
Judge Code: 5031

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

Judge 756 Jim Ska
on 12-28-07
Type and Amount: NO BOND
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED CLERK OF COURT
PAUL B. WONGMAYER
JAN 28 2008
12:40 PM

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474532City: Greenville State: SC ZIP: _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0549

Date of Birth: _____

Offense Name: Weapons / Poss. Weapon Du

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAK 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. Dism/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0549Offense Name: Weapons / Poss. Weapon Du

Sentence: _____

758 ARREST WARRANT

I-474533

5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-171546

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Conspiracy / Criminal Conspiracy, Common Law
conspiracy defined

Offense Code: 0049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

12/28/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/10/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

On 12-10-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/10/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

COMPUTER ENTERED
DEC 31 2007
GREENVILLE COUNTY
SHERIFF'S OFFICE

BAIL set by

WITNESSES

759

Judge
on
Type and Amount:
Name of Surety:

Name:
Address:
Telephone:

Name:
Address:

Telephone:

Name:
Address:

Telephone:

Name:
Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

PRELIMINARY HEARING held by

Judge
on
Defendant Attorney:

Decision:

DISPOSITION before

Judge
on
by
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

CODEFENDANTS

FILED IN COURT
PAID \$10.00 FEE
JAN 28 PM 4:30
CLERK OF COURT
JAN 28 PM 4:30

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474533City: Greenville State: SC ZIP _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0049

Date of Birth: _____

Offense Name: Conspiracy, (gs)

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. (Dism) Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0049 Offense Name: Conspiracy, (gs)

Sentence: _____

ARREST WARRANT

1-474534

5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-171546

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] #:

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Unlawful carrying of pistol

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020, 0050

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on 12/20/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/10/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Unlawful carrying of pistol

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

On 12-10-07 the defendant and several co-defendants were in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him and demanded that he give them his money. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street
Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/10/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

) as set forth below

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B
Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL 764
Approved by
C. Attorney General
April 21, 2003
SCCA 518COMPUTER ENTERED
DEC 31 2007
SHERIFF'S OFFICE

762

BAIL set by

Judge

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS

FILED CLERK OF COURT
FALLS CHURCH, VIRGINIA
JUN 28 PM 4:30

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # 1474534City: Greenville State: SC ZIP : _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0044

Date of Birth: _____

Offense Name: Weapons, Unlawful Carryin

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. Dism/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0044Offense Name: Weapons, Unlawful Carryin

Sentence: _____



764

Greenville County 13th Judicial Circuit Public Index

[Greenville County Home Page](#) [South Carolina Judicial Department Home Page](#)[Switch View](#)

State of South Carolina vs Oshaun Joseph Robinson

Case Number:	I474535	Court Agency:	Greenville General Sessions	Filed Date:	01/29/2008
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Hudson, James E.	Disposition Judge:	Solicitor
Disposition:	Dismissed - Pled/Trial Other Charges				
Disposition Date:	03/12/2009	Date Received:	01/28/2008	Arrest Date:	12/28/2007
Law Enf. Case:	07-163073	True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	0000GS23	Waiver Date:	
Probation Case:					

[Case Parties](#) [Charges](#) [Sentencing](#) [Associated Cases](#) [Actions](#) [Financials](#) [Bonds](#)

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Robinson, Oshaun Joseph	0044-Weapons / Unlawful carrying of pistol	0044-Weapons / Unlawful carrying of pistol	03/12/2009

ARREST WARRANT

I-474536

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE
against

07-163073

Oshaun Joseph Robinson

Address:

Phone:

Sex: M

Race: B

Height: 5

7

Weight: 115

DL State:

DL #:

Agency ORI #: SC0230000

DOB:

Greenville County Sheriffs Office

Prosecuting Agency:

C W Hanning - 1018

Prosecuting Officer:

Offense: Assault / Assault and battery with Intent to Kill
(ABWIK)

Offense Code:

0014

Code/Ordinance Sec:

16-03-0620

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Personally appeared before me the affiant

C W Hanning

being duly sworn deposes and says that defendant

Oshaun Joseph Robinson

violate the criminal laws of the

did within this county and state on or about

11/21/2007

State of South Carolina (or ordinance of

☒ County/☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Assault / Assault and battery with Intent to Kill (ABWIK)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:On 11-21-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and
several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they
approached him. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then
discharged a firearm, striking the victim in the leg causing an injury that required immediate medical attention. The victim was also
struck with the pistol in the head. The defendant is under the age of 21 and is prohibited from possessing a firearm under South
Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville
County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Affiant's Address

4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone

(864)271-5210

ARREST WARRANT

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

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

on or about 11/21/2007

defendant Oshaun Joseph Robinson

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

☒ County/☐ Municipality of

Greenville

DESCRIPTION OF OFFENSE: Assault / Assault and battery with Intent to Kill (ABWIK)

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

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James B. Hudson

Judge Code: 5031

Judge's Address

4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone

(864)467-5302

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
Attorney General
765

Judge **766**
on 12-28-07
Type and Amount: No Bond
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED-CLERK OF COURT
PAUL M. HENNINGER
2008 JAN 28 PM 4:30

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474536City: Greenville State: SC ZIP: _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0014

Date of Birth: _____

Offense Name: Assault / A & B W/Intent

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. Dism Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0014Offense Name: Assault / A & B W/Intent

Sentence: _____

768 ARREST WARRANT

I-474538

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE

07-163073

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

12/28/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 11/21/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

On 11-21-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then discharged a firearm, striking the victim in the leg causing an injury that required immediate medical attention. The victim was also struck with the pistol in the head. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 11/21/2007

defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

769

Judge

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

FILED CLERK OF COURT
PAUL J. AND JENNIFER
JUL 28 2007

JUL 28 PM 4:30

f

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474538City: Greenville State: SC ZIP : 29601

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0549

Date of Birth: _____

Offense Name: Weapons / Poss. Weapon Du

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. Dism Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0549Offense Name: Weapons / Poss. Weapon Du

Sentence: _____

ARREST WARRANT

1-474539

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-163073

against

Oshaun Joseph Robinson

Address:

Phone: SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

Offense Code: 0049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 11/21/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

On 11-21-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then discharged a firearm, striking the victim in the leg causing an injury that required immediate medical attention. The victim was also struck with the pistol in the head. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 11/21/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL 771
 Approved by
 S.C. Attorney General
 April 21, 2003
 SCCA 518

COMPUTER ENTRY
 DEC 21 2007
 GREENVILLE
 SHERIFFS OFFICE

772

BAIL set by

WITNESSES

Judge Jim St
on 12-28-07
Type and Amount: No Bond
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED: CLERK OF COURT
PAUL H. WILSON
CLERK OF COURT
JAN 28 2008

2008 JAN 28 PM 4:30

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474539City: Greenville State: SC ZIP: _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0049

Date of Birth: _____

Offense Name: Conspiracy, (gs)

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. Dism Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0049 Offense Name: Conspiracy, (gs)

Sentence: _____

774 ARREST WARRANT

I-474540

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

1-28-05

Greenville

THE STATE

07-167543

against

Oshaun Joseph Robinson

Address:

Phone:

SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Conspiracy / Criminal Conspiracy, Common Law
conspiracy defined

Offense Code: 0049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

12/28/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/02/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:On 12-02-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and
several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they
approached him. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then
discharged a firearm, striking the victim in the leg causing an injury that required immediate medical attention. The defendant is
under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn
confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street
Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/2/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James W. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B
Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

775 . . .

Judge
on
Type and Amount:
Name of Surety:

PRELIMINARY HEARING held by

Judge
on
Defendant Attorney:

Decision:

DISPOSITION before

Judge
on
by
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

Name:
Address:
Telephone:

Name:
Address:

Telephone:

Name:
Address:

Telephone:

Name:
Address:

Telephone:

Name:
Address:

Telephone:

Name:
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Name:
Address:

Telephone:

Name:
Address:

Telephone:

CODEFENDANTS

FILED CLERK OF COURT
PAUL H. JOHNSON
JUL 28 11 4 29

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474540City: Greenville State: SC ZIP _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0049

Date of Birth: _____

Offense Name: Conspiracy, (gs)

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. ~~Dism~~ Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0049 Offense Name: Conspiracy, (gs)

Sentence: _____

ARREST WARRANT

I-474541

5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-167543

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Assault / Assault and battery with Intent to Kill

(ABWIK)

Offense Code: 0014

Code/Ordinance Sec: 16-03-0620

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on 12/20/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

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ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/02/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Assault / Assault and battery with Intent to Kill (ABWIK)

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

On 12-02-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then discharged a firearm, striking the victim in the leg causing an injury that required immediate medical attention. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/2/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Assault and battery with Intent to Kill (ABWIK)

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

Sworn to and subscribed before me

on 12/28/2007

(L.S.)

Signature of Issuing Judge

James E. Hudson

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form approved by
S.C. Attorney General
April 21, 2003
SCCA 518COMPUTER
DEC 21 2007
GREENVILLE
SHERIFFS

778

BAIL set by

WITNESSES

Judge JMEH
on 12-28-07
Type and Amount: NO BOND

Name: _____
Address: _____
Telephone: _____

Name of Surety: _____

Name: _____
Address: _____

PRELIMINARY HEARING held by

Telephone: _____

Judge _____

Name: _____

on _____

Address: _____

Defendant Attorney: _____

Telephone: _____

Decision: _____

Name: _____

Address: _____

Telephone: _____

DISPOSITION before

Judge _____

Name: _____

on _____

Address: _____

by _____

Telephone: _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Name: _____

Address: _____

Sentence: _____

Telephone: _____

JURORS

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED-CLERK OF COURT
PAUL A. HENDERSON
12-28-07 2:29 PM

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474541City: Greenville State: SC ZIP : _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0014

Date of Birth: _____

Offense Name: Assault / A & B W/Intent

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. Dism Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0014 Offense Name: Assault / A & B W/Intent

Sentence: _____

780 ARREST WARRANT

I-474542

5031

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

1-25-05

Greenville

THE STATE

07-167543

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on 12/28/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/02/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

On 12-02-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then discharged a firearm, striking the victim in the leg causing an injury that required immediate medical attention. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/2/2007

defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

Sworn to and subscribed before me

on 12/28/2007

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Signature of Issuing Judge
James E. Hudson

Judge Code: 5031

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge Jim 2th
 on 12-28-07
 Type and Amount: No Bonds

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED-CLOCK OF COURT
 PAUL D. HENNINGER
 2008 JAN 28 PM 4: 29

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474542City: Greenville State: SC ZIP _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0549

Date of Birth: _____

Offense Name: Weapons / Poss. Weapon Du

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

☐ 1. Guilty Plea	* ☐ 7. Remanded
☐ 2. Trial (Guilty)	☐ 8. Dismissed at Prelim
☐ 3. Trial (Not Guilty)	☐ 8. No Bill
* ☒ 4. <u>Disn</u> /Nol Pros/Pros Ended	* ☐ 9. Failure to Appear
* ☐ 5. Judicial Commitment	* ☐ 10. Other
☐ 6. Judicial Dismissal	

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0549Offense Name: Weapons / Poss. Weapon Du

Sentence: _____

ARREST WARRANT

I-474543

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07-167543

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Unlawful carrying of pistol

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020, 0050

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

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

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant on 12/28/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/02/2007 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Unlawful carrying of pistol

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

On 12-02-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then discharged a firearm, striking the victim in the leg causing an injury that required immediate medical attention. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/2/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville) as set forth below.

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of pistol

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

Sworn to and subscribed before me

on 12/28/2007

Signature of Issuing Judge (L.S.)

James L. Hudson

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

783

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

COMPUTER ENTERED
DEC 31 2007
SHERIFFS OFFICE

784

BAIL set by

WITNESSES

Judge Jim 2H
 on 12-28-07
 Type and Amount: NO BOND
 Name of Surety: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

CODEFENDANTS

FILED IN COURT
 DEPT. OF CORRECTIONS
 ON 12-28-07
 82 4 11 28 AM '07

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: OSHAUN JOSEPH ROBINSON

Indictment # : _____

Address: _____

Warrant/Ticket # I474543City: Greenville State: SC ZIP _____

No Warrant: _____

SS#: 0 Sex: M Race: BOffense Code: 0044

Date of Birth: _____

Offense Name: Weapons, Unlawful Carryin

State: _____ Driver's License #: _____

Date of Arrest: December 28, 2007DATE OF DISPOSITION: 3/9/09

MAR 11 2009

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X ____ 4. Dis/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Pled Guilty to Other Charges

Judge: _____

Ct. Reporter: _____

Defense Attorney: MOORMAN, ANDREWSolicitor: Lucas MarchantOffense Code: 0044Offense Name: Weapons, Unlawful Carryin

Sentence: _____

786

ARREST WARRANT

I-819244

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Greenville

THE STATE

08-63348

against

Oshaun Joseph Robinson

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230200

Prosecuting Agency: Greenville Police Department

Prosecuting Officer: K M Cox

Offense: CRACK/COCAINE-PWITD 1ST

Offense Code: 3014

Code/Ordinance Sec: 44-53-0375(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant OSHAUN J. ROBINSON

on 8-15-06

1 BAILEY #945 445

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Of Greenville
426 North Main Street
P O Box 488
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant K M Cox

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 08/14/2006

violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE CRACK/COCAINE-PWITD 1ST

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

AFFIANT STATES THAT WHILE INVESTIGATING ANOTHER CRIME HE TRIED TO INTERVIEW THE ACCUSED OSHAUN ROBINSON WHO THEN FLED ON FOOT. AFTER A SHORT CHASE THE AFFIANT SUBDUED THE ACCUSED WHO HAD DROPPED TWO BAGGIES OF BEIGE ROCK SUBSTANCE THAT FIELD TESTED POSITIVE AS CRACK COCAINE. INCIDENT OCCURED ECHOLS AND PINKNEY STREET WHICH IS WITHIN 1/2 MILE OF HOLMES BIBLE SCHOOL IN THE CITY OF GREENVILLE. WEIGHT OF CRACK WAS 4.8 GRAMS

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Greenville

Affiant's Address 4 MCGEE STREET
GREENVILLE, SC 29601-

Affiant's Telephone (864)467-5325 x 0000

ARREST WARRANT

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

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

on or about 8/14/2006

defendant Oshaun Joseph Robinson

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

☐ County/ ☒ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: CRACK/COCAINE-PWITD 1ST

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

Sworn to and subscribed before me

on 08/14/2006

(L.S.)

Signature of Issuing Judge

Ralph Putnam

Judge Code: 6676

Judge's Address 426 North Main Street

Greenville, SC 29601-

Judge's Telephone (864)467-2405

Issuing Court: ☐ Magistrate ☒ Municipal☐ Circuit

BAIL set by

Judge _____
 on _____
 Type and Amount: _____
 Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____
 Decision: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

JURORS

WITNESSES

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

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 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

CODEFENDANTS

FILED IN CLERK OF COURT
 DEPT. OF CORRECTIONS
 1000 CO

2006 AUG 17 AM 9:03

788

WITNESSES

K Cox

/Brown/s

Greenville Police Department

8/15/2006

DOCKET NO. 2006-GS-23-
AOF

000003

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

DL SUSPENDS

Did Clerk receive driver's license?

YES

NO

If no, explain *Never Hrd m*

OShaun Robinson
Defendant

PLEAD GUILTY

THE STATE

vs.

OSHAUN JOSEPH ROBINSON

ARREST WARRANT NUMBER

1819244

ACTION OF GRAND JURY

TRUE BILL

Brendley J. Reynolds

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

✓0183
3014

Indictment for

POSSESSION OF CRACK COCAINE W/INTENT
TO DISTRIBUTE

VIOLATION § 44-53-0375

Foreperson of Petit Jury

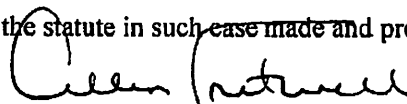
Date:

164

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) INDICTMENT FOR
) POSSESSION OF CRACK COCAINE W/INTENT TO DISTRIBUTE

At a Court of General Sessions, convened on October 17, 2006 the Grand Jurors of Greenville
County present upon their oath:
That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of August, 2006, possess
with intent to distribute or aid, abet, or conspire to possess with the intent to distribute a quantity of Crack Cocaine,
a controlled substance, such possession not having been authorized by law. This is in violation of §44-53-375 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.


SOLICITOR

790
STATE OF SOUTH CAROLINA

COUNTY OF _____ Greenville
STATE _____ VS.

Oshaun Joseph Robinson

AKA: _____

Race: B

Sex: M

Age: 17

DOB: _____

SS#: 000-00-0000

Address: _____

DL#: 999999999

SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS2308803

A/W#: 1819244

Date of Offense: 08-14-2006

S.C. Code §: 44-53-0370 (B) (1)

CDR Code #: 3014

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE

in violation of § 44-53-0370(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0183

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

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor:

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of 60 days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 85 DAY

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §7-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ 500.00

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ 100

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

PTUP

10 days/hours Public Service Employment

Obtain GED ☒

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☒

Random Drug/Alcohol testing ☒

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Paul B. Wickens
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Judge Code: 2 11 13 180

Sentence Date: 7-19-07

Court Reporter: Gregory Hemm

SCCA/217 (9/2006)

pub. begins upon comp. of any early rel. prog.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Greenville
STATE VS.

INDICTMENT#: 06-GS-23-08803
 Probation C/W#: W-23-08-1876
 Name of Original Offense: PWID - Cocaine
 Original AWW#: I819244
 Date of Original Offense: 8/14/2006
 Conviction S.C. Code §: 44-53-0370(B)(1)
 Conviction CDR Code #: 01/1/8/3
 Original Sentence: 10 yrs. susp. 6 mos. + 3 yrs.
ORDER Prob.

Oshawn Joseph Edmonson
 AKA: _____
 Race: B Sex: M
 DOB: _____
 SSN: _____
 SID#: 01641471

The above named defendant has been charged with violating the conditions of probation ordered on 7/19/07 in the Court of General Sessions of Greenville County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on _____, as set forth in the attached warrant(s) or citation(s) dated 11/4/08. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit) 1, 4, 5, 7, 9, 10, and special

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 9 yrs + 6 mos months/years, the remainder of the original sentence, and/or pay \$ _____.
- ☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).

☒ Additional Conditions ordered by the Court:

Terminate Probation. Time to satisfy Supervision Fee and Surcharges, and PDF.

- ☐ The defendant is given credit for pre-arrest hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

- ☒ The defendant has previously served 6 months years on this sentence.
(split sentence time and/or prior partial revocation time)

- ☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540

This 18th day of April, 2008.Greenville, SC

Presiding Judge

C. Victor Pyle Jr. 13th Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper, or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this _____ day of _____, at _____ SC
 Day Month Year

792

ARREST WARRANT

I-819245

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Greenville

THE STATE
against

06-63348

Oshaun Joseph Robinson

Address:

Phone: SSN:

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: Agency ORI #: SC0230200

Prosecuting Agency: Greenville Police Department

Prosecuting Officer: K M Cox

Offense: CRACK/COCAINE- PWITD SELL NEAR
SCHOOL

Offense Code: 0108

Code/Ordinance Sec: 44-53-0445(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant OSHAUN J. ROBINSON

on 8-15-06

1 BAILEY #945 AYS

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Of Greenville
426 North Main Street
P O Box 488
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Greenville

Personally appeared before me the affiant K M Cox

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 08/14/2006

violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE CRACK/COCAINE- PWITD SELL NEAR SCHOOL

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:AFFIANT STATES THAT WHILE INVESTIGATING ANOTHER CRIME HE TRIED TO INTERVIEW THE ACCUSED
OSHAUN ROBINSON WHO THEN FLED ON FOOT. AFTER A SHORT CHASE THE AFFIANT SUBDUED THE ACCUSED
WHO HAD DROPPED TWO BAGGIES OF BEIGE ROCK SUBSTANCE THAT FIELD TESTED POSITIVE AS CRACK
COCAINE. INCIDENT OCCURED ECHOLS AND PINKNEY STREET WHICH IS WITHIN 1/2 MILE OF HOLMES BIBLE
SCHOOL IN THE CITY OF GREENVILLE. WEIGHT OF CRACK WAS 4.8 GRAMS

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Greenville

Affiant's Address 4 MCGEE STREET

GREENVILLE, SC 29601-

Affiant's Telephone (864)467-5325 x 0000

ARREST WARRANT

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

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

on or about 8/14/2006

defendant Oshaun Joseph Robinson

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

☐ County/☒ Municipality of

Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: CRACK/COCAINE- PWITD SELL NEAR SCHOOL

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

Sworn to and subscribed before me

on 08/14/2006

Signature of Issuing Judge

Ralph Putnam

Judge Code: 6676

(L.S.)

Judge's Address 426 North Main Street

Greenville, SC 29601-

Judge's Telephone (864)467-2405

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

BAIL set by

Judge _____
 on _____
 Type and Amount: _____
 Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____
 Decision: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

JURORS

WITNESSES

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
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Name: _____
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 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

CODEFENDANTS

2004 AUG 17 AM 9:04
 FILED CLERK OF COURT
 PAUL H. HENDERSON
 011 11 101 82

794

WITNESSES

K Cox / Brown/s

Greenville Police Department

8/15/2006

ARREST WARRANT NUMBER

1819245

ACTION OF GRAND JURY

TRUE BILL

Buddy L. Reynolds
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2006-GS-23-

AOF

000002

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

OCTOBER TERM 2006

THE STATE

PLEAD GUILTY

vs.

OSHAUN JOSEPH ROBINSON

~~DL SUSPENDS~~

Did Clerk receive driver's license?

YES

~~NO~~

If no, explain *Never had one*

OSHAUN ROBINSON
Defendant

Manzani
0107
0108

Indictment for

POSSESSION OF CRACK COCAINE W/I TO
DIST. 1/2 MILE FROM SCHOOL

VIOLATION § 44-53-0445

163

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

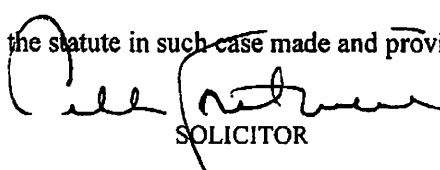
INDICTMENT FOR
POSSESSION OF CRACK COCAINE W/1 TO DIST.1/2 MILE
FROM SCHOOL

At a Court of General Sessions, convened on October 17, 2006 the Grand Jurors of Greenville

County present upon their oath:

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of August, 2006, willfully and unlawfully possess with the intent to distribute a quantity of Crack Cocaine, a controlled substance. The incident occurred within one-half (1/2) mile from Holmes Bible School (College). This is in violation of §44-53-445 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.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Oshaun Joseph Robinson

AKA:

Race: B Sex: M Age: 17
DOB: SS#: 000-00-0000

Address

DL#: 999999999 SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS2308802

A/W#: 1819245

Date of Offense: 08-14-2006

S.C. Code § : 44-53-0445(B)(2)

CDR Code #: 0108

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: PWID COCAINE WITHIN PROXIMITY OF A SCHOOL/PARK

in violation of § 44-53-0445(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0107

☒ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence. ☐ Recommendation by the State.

ATTEST:

Solicitor:

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 85 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §7-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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: _____

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

Recipient:

*Fine:

\$

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv Surcharge)

\$100

\$

100.00

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 35.13 (Public Def/Prob)

\$500

\$

§ 73.3, 1B TP (Law Enforce. Funding)

\$25

\$

25.00

§ 33.7, 1B TP (Drug Court Surcharge)

\$100

\$

100.00

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Clerk of Court/ Deputy Clerk

Court Reporter: Rebecca Hemm

PRESIDING JUDGE

Judge Code: 2Sentence Date: 7-14-07

SCCA/217 (9/2006)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
	)	
	)	
Oshaun Robinson, #327798,	)	Case No.: 2017-CP-23-2653
Applicant,	)	
	)	
v.	)	ORDER OF DISMISSAL
	)	
State of South Carolina,	)	
Respondent.	)	
_____	)	

This matter comes before the Court by way of an action for post-conviction relief commenced by Oshaun Robinson (Applicant) on April 25, 2017. The State filed a return and moved for the action to be dismissed as being untimely. Thereafter, a conditional order of dismissal was issued November 9, 2018, conditionally dismissing the action for being untimely pursuant to subsection 17-27-45(a) of the South Carolina Code (2014), but allowing Applicant twenty days to respond to the conditional order. Applicant timely responded to the conditional order of dismissal, and a Form 4 order was issued on December 27, 2018, ordering the matter to be set for a hearing.

A hearing on the State's motion to dismiss convened before the undersigned at the Greenville County Courthouse on April 15 and 17, 2019. Applicant and his former plea counsel testified at the hearing. Additionally, this Court has reviewed the records of the Greenville County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the records of this PCR. For the reasons discussed below, the Court now summarily dismisses the action for being untimely filed pursuant to subsection 17-27-45(a).

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In August 2008, the Greenville County Grand Jury indicted Applicant for criminal conspiracy (2008-GS-23-5385), assault and battery with intent to kill (2008-GS-23-5386), armed robbery, and possession of a weapon during the commission of a violent crime (2008-GS-23-5387). Andrew Burke Moorman, Esquire, represented Applicant. Assistant Solicitor Lucas Marchant, Esquire, prosecuted the case. On March 4, 2009, Applicant pleaded guilty as indicted to all charges before the Honorable Edward W. Miller. Judge Miller accepted Applicant's plea and sentenced him to concurrent terms of imprisonment for five-years for criminal conspiracy, twenty-years for assault and battery with intent to kill, twenty-five years for armed robbery, and five-years for the weapons charge. Applicant did not appeal his guilty plea or sentences.

CURRENT APPLICATION

Applicant alleges he is being held unlawfully in custody for the following reasons:

1. Ineffective Assistance of Defense Counsel in that Counsel failed to fully advise Applicant of all the potential consequences of these pleas in relation to the judgments and sentences he received following his jury trial in 2007.
 - a. Plea counsel advised Applicant to plead guilty in order to obtain judgments and sentences that would be the same as, and concurrent with, the sentences he received approximately one month earlier in November 2007. Applicant believed, based on the limited advice of his defense counsel, that these two cases were effectively merged and that any changes to the judgments and sentences imposed at his jury trial would affect the sentences on his subsequent pleas as well.
 - b. The judgments and sentences Applicant received at his jury trial on Indictments No. 2008-GS-23-5382, -5383, and -5384 were subsequently reversed in a PCR action. It was not until he and his lawyer were finalizing a plea agreement on remand, that Applicant understood that the judgments and sentences from the pleas addressed herein were not reversed along with those from his jury

trial. He ultimately entered pleas on the charges originally disposed of in his jury trial on May 16, 2016 and received a concurrent sixteen year aggregate sentence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Statute of Limitations

The Court finds Applicant's PCR action is untimely, and, therefore, must be dismissed. PCR matters are controlled by the Uniform Post-Conviction Procedure Act.¹ Subsection 17-27-45(A) sets forth the applicable statute of limitations:

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

Our Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. *Peloquin v. State*, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. *McDonnell v. Consolidated School District of Aiken*, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, subsection 17-27-70(c) authorizes courts to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.”

Here, Applicant pleaded guilty to criminal conspiracy, assault and battery with intent to kill, armed robbery, and possession of a weapon during the commission of a violent crime on March 4, 2009. This application was filed on April 25, 2017, well beyond the statutory filing period. However, Applicant argues the statutory filing period in his action should be equitably tolled.

¹ S.C. Code Ann. § 17-27-10 to -160 (2014).

“[T]he unique conditions of incarceration require a holding that the statute of limitations should be tolled if the circumstances warrant.” *Mose v. State*, 420 S.C. 500, 510, 803 S.E.2d 718, 722 (2017). Our courts have held that “statutes of limitations are not simply technicalities, but are fundamental to a well-ordered judicial system.” *Moates v. Bobb*, 322 S.C. 172, 176, 470 S.E.2d 402, 404 (Ct. App. 1996). *Moates* explained:

Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence, and promote repose by giving security and stability to human affairs. One purpose of a statute of limitations is to relieve the courts of the burden of trying stale claims when a plaintiff has slept on his rights. Another purpose of a statute of limitations is to protect potential defendants from protracted fear of litigation.

Id. Statutes of limitations should be followed as strict rules in order to set a hard deadline to ensure an organized legal system.

However, in rare circumstances, the statute of limitations will be equitably tolled to allow a petitioner the opportunity to exercise his or her rights when they were denied the chance to do so. This doctrine has been specifically extended into the context of post-conviction relief cases, as well. Equitable tolling has been deemed available where (1) extraordinary circumstances prevented the plaintiff from filing despite his or her due diligence; (2) the plaintiff actively pursued his or her judicial remedies by filing a defective pleading during the statutory period or the claimant has been induced or tricked by the defendant's misconduct into allowing the filing deadline to pass; and (3) the plaintiff, despite all due diligence, is unable to obtain vital information bearing on the existence of his or her claim. *Pelzer v. State*, 378 S.C. 516, 521, 662 S.E.2d 618, 619-20 (Ct. App. 2008). *Pelzer* explains that the court typically applies the extraordinary circumstances doctrine when the plaintiff has been actively misled by another party. “It has been held that equitable tolling applies principally if the plaintiff is actively misled

by the defendant about the cause of action or is prevented in some extraordinary way from asserting his or her rights.” *Id.* However, the equitable tolling doctrine does not require wrongful conduct on the part of the State, such as fraud or misrepresentation. *Id.*

Pelzer explained the doctrine should be limited to very exclusive circumstances. “[E]quitable tolling, which allows a plaintiff to initiate an action beyond the statute of limitations deadline, is typically available only if the claimant was prevented in some extraordinary way from exercising his or her rights, or, in other words, if the relevant facts present sufficiently rare and exceptional circumstances that would warrant application of the doctrine.” *Pelzer*, 378 S.C. at 521, 662 S.E.2d at 620. *Pelzer* cited to an opinion from the Fourth Circuit Court of Appeals in denying equitable tolling to a party as “particularly illuminating:”

[A]ny invocation of equity to relieve the strict application of a statute of limitations must be guarded and infrequent, lest circumstances of individualized hardship supplant the rules of clearly drafted statutes. To apply equity generously would loose the rule of law to whims about the adequacy of excuses, divergent responses to claims of hardship, and subjective notions of fair accommodation. We believe, therefore, that any resort to equity must be reserved for those rare instances where—due to circumstances external to the party's own conduct—it would be unconscionable to enforce the limitation period against the party and gross injustice would result.

Pelzer, at 378 S.C. 522-23, 662 S.E.2d at 621 (citing *Harris v. Hutchinson*, 209 F.3d 325, 330 (4th Cir.2000) (holding habeas petitioner's missing filing deadline due to erroneous advice from counsel not extraordinary circumstance requiring equitable tolling)).

In *Pelzer*, a post-conviction relief applicant notarized and mailed his application before the statute of limitations expired, but mailed it to the Office of Appellate Defense instead of to the county Clerk of Court for filing. 378 S.C. at 518, 662 S.E.2d at 619. The Office of Appellate Defense forwarded it to the Clerk, but it was not received by the Clerk until after the statute of

limitations had expired. *Id.* at 518-19, 662 S.E.2d at 619. The circuit court dismissed the application as untimely. The Court of Appeals affirmed, finding that mailing did not constitute filing and “the narrow window by which Pelzer's application missed the statute of limitations [could not] be considered as so exceptional a circumstance as to warrant equitable tolling.” *Id.* at 522, 662 S.E.2d at 621.

Our Supreme Court has also chosen not to extend the doctrine of equitable tolling to situations where the applicant claimed he was ignorant of the statute of limitations because he was incarcerated in another state. *See Leamon*, 363 S.C. 432, 611 S.E.2d 494 (holding incarceration in another state does not toll the running of the statute of limitations).

However, our courts have held that the statute of limitations should be equitably tolled for the filing of a post-conviction relief application in limited circumstances. *See Ferguson v. State*, 382 S.C. 615, 677 S.E.2d 600 (2009) (finding the statute of limitations should be equitably tolled when a mentally incompetent PCR applicant was prevented from timely filing by his mental incompetency, and the applicant should proceed with his PCR action only if the application was filed within one year of the applicant regaining competency); *Mose v. State*, 420 S.C. 500, 803 S.E.2d 718 (2017) (allowing equitable tolling where the applicant notarized and relinquished control of his application to prison authorities for mailing seventeen days prior to the filing deadline, but due to circumstances outside applicant's control, the application was not filed until three days past the deadline). Equitable tolling has also been allowed where “extraordinary circumstances prevented the plaintiff from filing despite his or her diligence” and where “the plaintiff, despite all due diligence, is unable to obtain vital information bearing on the existence of his or her claim.” *Pelzer*, 378 S.C. at 521, 662 S.E.2d at 621.

In the present case, this Court finds the statute of limitations should be equitably tolled modifying the start date for the statute of limitations to February 14, 2012. At the motions hearing, Applicant testified he believed his direct appeal concerning his January 2009 jury trial convictions and sentences included his March 4, 2009 guilty plea. Applicant testified he thought his conviction and his plea were essentially merged in his direct appeal. Applicant acknowledged his direct appeal was remitted on February 14, 2012, and stated he thought the remittitur related to both his January 2009 conviction and his March 2009 guilty plea. The Court finds this testimony credible. Applicant pleaded guilty to the instant charges on March 4, 2009 but he thought his appeal included his guilty plea. As testified to, Applicant thought his guilty plea was included in the remittitur issued February 14, 2012.

Even giving Applicant the benefit of the doubt, the Court finds the statute of limitations concerning Applicant's guilty plea began to run on February 14, 2012, giving Applicant one year to timely file a PCR action on those charges. However, Applicant did not commence this PCR action until April 25, 2017, well beyond the one year limitations period. Therefore, the action shall be dismissed for failure to file within the time mandated by subsection 17-27-45(A). Accordingly, this action is therefore denied and dismissed with prejudice.

2. Laches

The State also asserts Applicant's action should be barred by the equitable defense of *laches*. The Court Agrees. Laches is an equitable doctrine, which "arises upon the failure to assert a known right." *Ex parte Stokes*, 256 S.C. 260, 182 S.E.2d 306 (1971). Laches is: (1) neglect for an unreasonable and unexplained length of time under circumstances affording opportunity for diligence, to do what in law should have been done; (2) resulting prejudice to the opposing party. Whether a claim is barred by laches is to be determined in light of the facts of

each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of a right does not constitute laches. *Id.*

Here, Applicant pleaded guilty almost ten years ago, and the transcript of Applicant's guilty plea is likely unavailable. The Court finds Applicant's delay in commencing this action coupled with the likely unavailability of the transcript would prejudice the State in defending this action. Therefore, the Court grants the State's motion to dismiss the action based on the doctrine of *laches*.

CONCLUSION

Based on the foregoing, the State's motion is granted. Applicant's PCR action is barred by both the statute of limitations and the doctrine of *laches*. Therefore, the action is dismissed for being untimely filed.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

THEREFORE:

1. The Court grants the State's motion and dismisses the action with prejudice; and
2. Applicant shall be remanded to the custody of the State.

AND IT IS SO ORDERED.

ALEX KINLAW, JR.
Presiding Judge
Thirteenth Judicial Circuit

_____, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
		2017-CP-23-2653
OSHAUN JOSEPH ROBINSON, #327798,	)	
	)	
Applicant,	)	Order Vacating Conditional Order of Dismissal
	)	and
	)	Granting Leave to Proceed with a Hearing
	)	On the Merits of PCR Application
	)	
	)	
v.	)	2017-CP-23-02653
STATE OF SOUTH CAROLINA,	)	
Respondent.	)	
_____	)	

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed on April 25, 2017 and docketed at 2017-CP-23-02653. Respondent served its Return and Motion to Dismiss on November 2, 2018. A Conditional Order of Dismissal was entered on this PCR action on November 9, 2018. Applicant filed a timely Response to said Order. By way of a Form 4 Order issued by the Court on December 27, 2018, Applicant was granted a hearing. Said Order did not specify whether the matter was to be set for an evidentiary hearing on the merits of Applicant's claims, or, whether the sole issue before the Court was to be whether Applicant should be allowed to proceed with a full PCR action at some point in the future. See, Form 4 Order dated December 27, 2018, entered by the Honorable Perry H. Gravely, Chief Administrative Judge.

A hearing was convened before this Court on April 15 and 17, 2019. Applicant was present at that proceeding and was represented by Tara Dawn Shurling, of the Richland County Bar. Respondent was represented by Samuel Key, Assistant Attorney General. Applicant testified on his

own behalf at this hearing and additionally presented testimony from Attorney Andrew Burke Moorman. In addition to this testimony, the Court has before it a copy of the records of the Greenville County Clerk of Court regarding the subsection convictions and sentences, a copy of Applicant's records from the South Carolina Department of Corrections and the pleading and order previously filed in connection with this PCR action. In addition, this Court has before it copies of the exhibits introduced by Applicant during the hearing held on this application.

Applicant was convicted of charges of Simple Assault (08-GS-23-5384), Criminal Conspiracy (08-GS-23-5383), Possession of a Weapon (08-GS-23-5382), Armed Robbery and Possession of a Weapon During the Commission of a Violent Crime (08-GS-23-5382) on January 15, 2009, following a jury trial. Applicant received an aggregate sentence of twenty-five (25) years on those judgments. Shortly thereafter, Applicant, acting on the advice of Defense Counsel, entered the guilty pleas addressed in this Application for PCR. Those pleas were entered on March 4, 2009, before the Honorable Edward W. Miller, presiding circuit court judge. Pursuant to those pleas, judgments were entered against Applicant for criminal conspiracy (2008-GS-23-5385), assault and battery with intent to kill (2008-GS-23-5386), armed robbery, and possession of a weapon during the commission of a violent crime (2008-GS-23-5387). He was represented in the Court of General Sessions on those charges by Andrew Burke Moorman, Esquire. Attorney Moorman also represented Applicant at his earlier jury trial on the other charges discussed *supra*. Assistant Solicitor Lucas Marchant, Esquire, represented the State in the prosecution of these charges. Judge Miller sentenced Applicant to imprisonment in the custody of the South Carolina Department of Corrections for concurrent terms of five (5) years for criminal conspiracy, twenty (20) years for assault and battery with intent to kill, twenty-five (25) years for armed robbery, and five (5) years for possession of a weapon during the

commission of a violent crime. Said sentences were ordered to run concurrently with each other and concurrent to the sentences imposed at his earlier jury trial. As a result of these pleas, Applicant had an aggregate sentence of twenty-five (25) years; the same sentence he had after his jury trial. Applicant did not pursue a direct appeal from the judgments and sentences entered pursuant to his guilty pleas.

Applicant did pursue a direct appeal from the judgments and sentences entered at his *jury trial*. In an unpublished opinion, the South Carolina Court of Appeals affirmed those convictions and sentences. *See, State v. Robinson*, Unpublished Op. No. 2012-UP-042, decided January 25, 2012. Those judgments and sentences were, however, overturned in a subsequent Post-Conviction Relief appeal. *Oshawn J. Robinson, v. State*, Op. No. 2015-MO-018 (Sup.Ct. dated April 15, 2015). The reversal in Applicant's Post-Conviction Relief Appeal was based upon the same issue and analysis found in the Supreme Court's decision in the companion case of *Kenneth W Workmen v. State*, Op. No. 27514 (S.Ct. April 15, 2015).

Applicant subsequently entered pleas of guilty on May 26, 2017, to the charges he was originally convicted of at his jury trial. He received an aggregate sentence of fifteen (15) years of those judgments. Said sentences were run concurrent to each other and concurrent to the sentences he received pursuant to his guilty pleas immediately following his earlier jury trial. As a result, Applicant was left with an aggregate term of twenty-five (25) years.

Applicant's current Application for Post-Conviction Relief addresses his claim that he received ineffective assistance of counsel prior to, during and after his guilty pleas approximately one month after his jury trial. He asserts that he was advised by Defense Counsel to plead guilty to the charges addressed in this Application, but that he was given very limited advice from him concerning the terms of his pleas, and no advice concerning the potential consequences of his

pleas in relation to the judgments and sentences entered following his jury trial. He seeks a reversal of the judgments and sentences entered pursuant to his pleas of guilty on Indictments No. 2008-GS-23-5385 (assault and battery with intent to kill); 2008-GS-23-5386 (armed robbery) and 2008-GS-23-5387,(possession of a weapon during the commission of a violent crime) or *alternatively*, the right to proceed with a collateral review of those judgments and sentences by way of a merits hearing on the issues he seeks to raise in his current PCR.

DISCUSSION

Applicant argues that Defense Counsel neglected to discuss the potential consequences of these guilty pleas with him and that he specifically failed to address how the possible outcome of a future direct appeal or Post-Conviction Relief case arising from his judgments and sentences from his jury trial, might impact his the judgments and sentences entered as a result of his guilty pleas. Applicant asserts that, as a consequence of Counsel's inadequate advice concerning the relationship between these two sets of judgments and sentences, he was left with the understanding that the two sets of charges, and the sentences he received, were effectively *merged* by his entry of pleas pursuant to the negotiated plea deal with the State. In Applicant's testimony during the hearing held in this matter he asserted that it was his understanding that any changes to the judgments and sentences imposed at his jury trial would have the same consequences for the judgments and concurrent sentences entered on the charges addressed in this application. Applicant's testimony asserts that it was his express understanding that his pleas on these charges would never impact his criminal record and would never result in a longer term of incarceration.

The testimony taken at the recent hearing on this application reflects Applicant's belief the all charges entered at his trial, and those to which he pleaded, were effectively merged. He

testified that at the time of the opinion in his PCR Appeal from his jury trial, he did not understand that the reversal of the judgments and sentences from his jury trial did not similarly impact the judgments and sentences from his guilty plea. According to his PCR testimony, Applicant did not become aware that his judgments sentences from his guilty plea proceeding were not also effectively reversed by the decision from the Supreme Court in his PCR appeal until the final stages of his plea negotiations on the charges which were addressed the PCR appeal in the Supreme Court of South Carolina. Applicant testified that within a few days after this discovery, on May 26, 2017, he entered pleas on the charges which had originally been disposed of at the jury trial addressed in his PCR appeal. Following these new pleas, Applicant began the task of raising the funds necessary to hire a lawyer in an attempt to secure a collateral review of his guilty pleas addressed in his current PCR Application. On April 25, 2017, less than 365 days after he discovered that his judgments and sentences on these charges had not been overturned along with those arising from his jury trial, Applicant filed his current Application for Post-Conviction Relief. Based upon that chronology, he submits that this application was timely filed pursuant to S.C.Code Ann §17-27-45(C).

As a threshold matter, this Court must decide whether the Order issued following Applicant's Reply to the Conditional Order of Dismissal granted Applicant a merits hearing on his underlying Sixth Amendment claims, *or* whether it granted him a hearing solely on the question of whether this case should be allowed to move forward with a merits hearing at a later date. It is the finding of this Court that the Form 4 Order entered by Judge Perry H. Gravely, granted Applicant a hearing on the question of whether his current Application should be allowed to move forward and a merits hearing be held. A Conditional Order of Dismissal was issued in this matter and the Order issued by Judge Gravely did not expressly vacate that Order.

Therefore, it is the finding of this Court that the hearing held on April 15 and 17, 2019, was for the sole purpose of determining whether Applicant should be allowed to move forward with his current PCR Application and be granted an evidentiary hearing on the merits of his underlying claims.

This Court finds that Applicant should be granted leave to proceed with this collateral action. In so ruling this Court takes into account the Applicant's own PCR testimony, the testimony of his Defense Counsel, Andrew Burke Moorman, Esquire, the Exhibits introduced by Applicant and the arguments advanced by his PCR Counsel, Tara Dawn Shurling. In so ruling, this Court notes that in his PCR testimony, Defense Counsel recalled advising Applicant of what the term concurrent meant and the fact that the concurrent sentences he would receive if he accepted the plea deal being offered would not result in him serving a longer sentence than that which he had already received at his jury trial approximately a month earlier. It is important to note that this same Defense Attorney represented Applicant at that jury trial and therefore, would have been very familiar with that case and the sentences imposed at its conclusion. Defense Counsel admitted that he had no recollection of ever advising Applicant of the consequences that would follow if his judgments and sentences from the jury trial were to be overturned on appeal at a later date. To put it simply, Defense Counsel acknowledged that he did not admonish his client concerning the fact that the two cases were only concurrent as to sentence. He admitted that he *did not qualify* his advice that the entry of the pleas would not result in him receiving any more time for these pleas than he got for the jury trial charges. That being the case, it is not difficult to see how a defendant might reach the same understanding that Applicant now has expressed to this Court. Furthermore, this Court assigns no fault to Applicant for failing to find out this information out sooner. As far as his SCDC records would have revealed, the aggregate sentences on both sets of charges were in fact the

same and they were run concurrently with each other. Therefore, Applicant had no notice of what the result of a reversal on the jury trial offenses might ultimately be. He had, based on his attorney's advice, no way of knowing that he might in fact ultimately end up getting more time on the guilty please charges than he received on the charges originally disposed of by jury trial.

This Court finds Applicant's testimony credible on this point particularly in light of Defense Counsel's own testimony. As for the timeliness of this current application, this Court finds that Applicant had no reason to question the soundness Defense Counsel's advice until he learned, late in the plea negotiation process when the jury trial charges were remanded for a new trial, that whatever sentence he received on remand of those charges would not change the sentence he received on the charges currently before the Court. Applicant is represented by PCR Counsel with extensive experience in the field of Post-Conviction Relief. Applicant was questioned at length at the hearing held in this matter concerning his understanding of the potential consequences of a reversal of the judgments and sentences addressed in this application. He was further questioned concerning the twenty-three (23) other charges against him which were dismissed on March 9, 2009, following his pleas on March 4, 2009. He indicated that he had been advised by his current PCR Counsel that the State might pursue prosecution of some, or all, of those charges if he ultimately succeeded in having his guilty pleas overturned. He testified that at the time of his original pleas he did not know that the State had not even obtained indictments on any of those charges despite the fact that they stemmed from incidents which took place during the same approximate time period as his other charges and warrants were issued for those offenses very closely in time. PCR Counsel provided this Court with documentation that supported that assertion. This documentation was introduced as an Applicant's Exhibit. Applicant further verified that he understood that just because the State had not previously sought indictments from the grand jury on

these warrants, there was nothing to stop them from doing so in the future should he succeed in getting these pleas overturned. PCR Counsel also questioned Applicant on the record concerning the fact that armed robbery and assault and battery with Intent to Kill are both *most serious* crimes pursuant to S.C. Code Ann. §17-25-45 and therefore, the possibility existed that he would get a life without parole sentence if the State ever successfully prosecuted him for even one more count of Armed Robbery, Assault with Intent to Kill or any other *most serious* or *serious* offense where the crime occurred more than twenty-four (24) hours before or after the Armed Robbery Count to which he pleaded on May 26, 2017. Applicant testified that the only reason he pleaded guilty to these charges was his belief that those pleas could not ever result in him getting a longer sentence than he received on his charges originally prosecuted at his jury trial. Furthermore, Applicant firmly asserted that he understood the risks of going forward with this PCR, but was not deterred from going forward because he was confident the State did not have the evidence to convict him on any of these charges. He asserted that in his opinion, the State was simply trying to “clear their books” on him by charging him in a bunch of unsolved cases. He explained that he felt the state wanted him to plead to at least one set of these crimes in exchange for them “dismissing” the other pending charges as part of a pleas agreement, because through that process the State could record that all twenty-six (26) (the 3 changes involved in the pleas addressed in the application currently before the Court and the 23 counts dismissed following his pleas on March 4, 2009). Applicant has asserted that the fact that the State did not get indictments on 23 of the dismissed charges was at least some evidence of that intent by the State. Applicant testified that the State did not have a case against him on these charges or any of the twenty-three (23) other charges that were dismissed after his pleas. He unambiguously testified that the only reason he pleaded to these charges was the fact

that he believed they were being completely merged with the charges a jury had found him guilty of and, therefore, stood no chance of hurting him in any way

CONCLUSION

Based on the testimony of Applicant and his Defense Counsel, as well as the exhibits introduced at the hearing held in this matter, this Court finds that this application was timely filed pursuant to S.C. Code Ann §17-27-45(C), inasmuch as Applicant filed it within 365 days of when he discovered that these charges had not been merged with the judgments and sentences from his jury trial for any purpose other than the concurrency of the two sets of sentences. This Court finds the application before the Court was timely filed and that Applicant is entitled to a hearing on the merits of his assertions that he received ineffective assistance of counsel prior to, during and after his guilty plea proceeding and that his pleas were the product of that Sixth Amendment violation and were not voluntarily and intelligently entered. The Conditional Order of Dismissal previously entered on this Application is hereby vacated and Respondent is directed to schedule this matter for a merits hearing as soon as practical.

IT IS SO ORDERED.

Alex Kinlaw, Jr.
Presiding Circuit Court Judge
Thirteenth Judicial Circuit

This _____ day of _____, 2019.

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2017-CP-23-2653

OSHAUN JOSEPH ROBINSON, #327798,)

Applicant,)

Order Vacating Conditional Order of Dismissal
and

Granting Leave to Proceed with a Hearing
On the Merits of PCR Application

v.)

STATE OF SOUTH CAROLINA,)
Respondent.)

2017-CP-23-02653

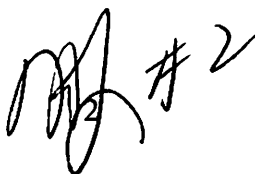
PROCEDURAL HISTORY

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own behalf at this hearing and additionally presented testimony from Attorney Andrew Burke Moorman. In addition to this testimony, the Court has before it a copy of the records of the Greenville County Clerk of Court regarding the subsection convictions and sentences, a copy of Applicant's records from the South Carolina Department of Corrections and the pleading and order previously filed in connection with this PCR action. In addition, this Court has before it copies of the exhibits introduced by Applicant during the hearing held on this application.

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commission of a violent crime. Said sentences were ordered to run concurrently with each other and concurrent to the sentences imposed at his earlier jury trial. As a result of these pleas, Applicant had an aggregate sentence of twenty-five (25) years; the same sentence he had after his jury trial. Applicant did not pursue a direct appeal from the judgments and sentences entered pursuant to his guilty pleas.

Applicant did pursue a direct appeal from the judgments and sentences entered at his *jury trial*. In an unpublished opinion, the South Carolina Court of Appeals affirmed those convictions and sentences. *See, State v. Robinson*, Unpublished Op. No. 2012-UP-042, decided January 25, 2012. Those judgments and sentences were, however, overturned in a subsequent Post-Conviction Relief appeal. *Oshawn J. Robinson, v. State*, Op. No. 2015-MO-018 (Sup.Ct. dated April 15, 2015). The reversal in Applicant's Post-Conviction Relief Appeal was based upon the same issue and analysis found in the Supreme Court's decision in the companion case of *Kenneth W Workmen v. State*, Op. No. 27514 (S.Ct. April 15, 2015).

Applicant subsequently entered pleas of guilty on May 26, 2017, to the charges he was originally convicted of at his jury trial. He received an aggregate sentence of fifteen (15) years of those judgments. Said sentences were run concurrent to each other and concurrent to the sentences he received pursuant to his guilty pleas immediately following his earlier jury trial. As a result, Applicant was left with an aggregate term of twenty-five (25) years.

Applicant's current Application for Post-Conviction Relief addresses his claim that he received ineffective assistance of counsel prior to, during and after his guilty pleas approximately one month after his jury trial. He asserts that he was advised by Defense Counsel to plead guilty to the charges addressed in this Application, but that he was given very limited advice from him concerning the terms of his pleas, and no advice concerning the potential consequences of his

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pleas in relation to the judgments and sentences entered following his jury trial. He seeks a reversal of the judgments and sentences entered pursuant to his pleas of guilty on Indictments No. 2008-GS-23-5385 (assault and battery with intent to kill); 2008-GS-23-5386 (armed robbery) and 2008-GS-23-5387, (possession of a weapon during the commission of a violent crime) or *alternatively*, the right to proceed with a collateral review of those judgments and sentences by way of a merits hearing on the issues he seeks to raise in his current PCR.

DISCUSSION

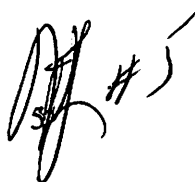
Applicant argues that Defense Counsel neglected to discuss the potential consequences of these guilty pleas with him and that he specifically failed to address how the possible outcome of a future direct appeal or Post-Conviction Relief case arising from his judgments and sentences from his jury trial, might impact his the judgments and sentences entered as a result of his guilty pleas. Applicant asserts that, as a consequence of Counsel's inadequate advice concerning the relationship between these two sets of judgments and sentences, he was left with the understanding that the two sets of charges, and the sentences he received, were effectively *merged* by his entry of pleas pursuant to the negotiated plea deal with the State. In Applicant's testimony during the hearing held in this matter he asserted that it was his understanding that any changes to the judgments and sentences imposed at his jury trial would have the same consequences for the judgments and concurrent sentences entered on the charges addressed in this application. Applicant's testimony asserts that it was his express understanding that his pleas on these charges would never impact his criminal record and would never result in a longer term of incarceration.

The testimony taken at the recent hearing on this application reflects Applicant's belief the all charges entered at his trial, and those to which he pleaded, were effectively merged. He

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testified that at the time of the opinion in his PCR Appeal from his jury trial, he did not understand that the reversal of the judgments and sentences from his jury trial did not similarly impact the judgments and sentences from his guilty plea. According to his PCR testimony, Applicant did not become aware that his judgments sentences from his guilty plea proceeding were not also effectively reversed by the decision from the Supreme Court in his PCR appeal until the final stages of his plea negotiations on the charges which were addressed the PCR appeal in the Supreme Court of South Carolina. Applicant testified that within a few days after this discovery, on May 26, 2017, he entered pleas on the charges which had originally been disposed of at the jury trial addressed in his PCR appeal. Following these new pleas, Applicant began the task of raising the funds necessary to hire a lawyer in an attempt to secure a collateral review of his guilty pleas addressed in his current PCR Application. On April 25, 2017, less than 365 days after he discovered that his judgments and sentences on these charges had not been overturned along with those arising from his jury trial, Applicant filed his current Application for Post-Conviction Relief. Based upon that chronology, he submits that this application was timely filed pursuant to S.C.Code Ann §17-27-45(C).

As a threshold matter, this Court must decide whether the Order issued following Applicant's Reply to the Conditional Order of Dismissal granted Applicant a merits hearing on his underlying Sixth Amendment claims, *or* whether it granted him a hearing solely on the question of whether this case should be allowed to move forward with a merits hearing at a later date. It is the finding of this Court that the Form 4 Order entered by Judge Perry H. Gravely, granted Applicant a hearing on the question of whether his current Application should be allowed to move forward and a merits hearing be held. A Conditional Order of Dismissal was issued in this matter and the Order issued by Judge Gravely did not expressly vacate that Order.

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Therefore, it is the finding of this Court that the hearing held on April 15 and 17, 2019, was for the sole purpose of determining whether Applicant should be allowed to move forward with his current PCR Application and be granted an evidentiary hearing on the merits of his underlying claims.

This Court finds that Applicant should be granted leave to proceed with this collateral action. In so ruling this Court takes into account the Applicant's own PCR testimony, the testimony of his Defense Counsel, Andrew Burke Moorman, Esquire, the Exhibits introduced by Applicant and the arguments advanced by his PCR Counsel, Tara Dawn Shurling. In so ruling, this Court notes that in his PCR testimony, Defense Counsel recalled advising Applicant of what the term concurrent meant and the fact that the concurrent sentences he would receive if he accepted the plea deal being offered would not result in him serving a longer sentence than that which he had already received at his jury trial approximately a month earlier. It is important to note that this same Defense Attorney represented Applicant at that jury trial and therefore, would have been very familiar with that case and the sentences imposed at its conclusion. Defense Counsel admitted that he had no recollection of ever advising Applicant of the consequences that would follow if his judgments and sentences from the jury trial were to be overturned on appeal at a later date. To put it simply, Defense Counsel acknowledged that he did not admonish his client concerning the fact that the two cases were only concurrent as to sentence. He admitted that he *did not qualify* his advice that the entry of the pleas would not result in him receiving any more time for these pleas than he got for the jury trial charges. That being the case, it is not difficult to see how a defendant might reach the same understanding that Applicant now has expressed to this Court. Furthermore, this Court assigns no fault to Applicant for failing to find out this information out sooner. As far as his SCDC records would have revealed, the aggregate sentences on both sets of charges were in fact the

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same and they were run concurrently with each other. Therefore, Applicant had no notice of what the result of a reversal on the jury trial offenses might ultimately be. He had, based on his attorney's advice, no way of knowing that he might in fact ultimately end up getting more time on the guilty please charges than he received on the charges originally disposed of by jury trial.

This Court finds Applicant's testimony credible on this point particularly in light of Defense Counsel's own testimony. As for the timeliness of this current application, this Court finds that Applicant had no reason to question the soundness Defense Counsel's advice until he learned, late in the plea negotiation process when the jury trial charges were remanded for a new trial, that whatever sentence he received on remand of those charges would not change the sentence he received on the charges currently before the Court. Applicant is represented by PCR Counsel with extensive experience in the field of Post-Conviction Relief. Applicant was questioned at length at the hearing held in this matter concerning his understanding of the potential consequences of a reversal of the judgments and sentences addressed in this application. He was further questioned concerning the twenty-three (23) other charges against him which were dismissed on March 9, 2009, following his pleas on March 4, 2009. He indicated that he had been advised by his current PCR Counsel that the State might pursue prosecution of some, or all, of those charges if he ultimately succeeded in having his guilty pleas overturned. He testified that at the time of his original pleas he did not know that the State had not even obtained indictments on any of those charges despite the fact that they stemmed from incidents which took place during the same approximate time period as his other charges and warrants were issued for those offenses very closely in time. PCR Counsel provided this Court with documentation that supported that assertion. This documentation was introduced as an Applicant's Exhibit. Applicant further verified that he understood that just because the State had not previously sought indictments from the grand jury on

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these warrants, there was nothing to stop them from doing so in the future should he succeed in getting these pleas overturned. PCR Counsel also questioned Applicant on the record concerning the fact that armed robbery and assault and battery with Intent to Kill are both *most serious* crimes pursuant to S.C. Code Ann. §17-25-45 and therefore, the possibility existed that he would get a life without parole sentence if the State ever successfully prosecuted him for even one more count of Armed Robbery, Assault with Intent to Kill or any other *most serious* or *serious* offense where the crime occurred more than twenty-four (24) hours before or after the Armed Robbery Count to which he pleaded on May 26, 2017. Applicant testified that the only reason he pleaded guilty to these charges was his belief that those pleas could not ever result in him getting a longer sentence than he received on his charges originally prosecuted at his jury trial. Furthermore, Applicant firmly asserted that he understood the risks of going forward with this PCR, but was not deterred from going forward because he was confident the State did not have the evidence to convict him on any of these charges. He asserted that in his opinion, the State was simply trying to “clear their books” on him by charging him in a bunch of unsolved cases. He explained that he felt the state wanted him to plead to at least one set of these crimes in exchange for them “dismissing” the other pending charges as part of a pleas agreement, because through that process the State could record that all twenty-six (26) (the 3 changes involved in the pleas addressed in the application currently before the Court and the 23 counts dismissed following his pleas on March 4, 2009). Applicant has asserted that the fact that the State did not get indictments on 23 of the dismissed charges was at least some evidence of that intent by the State. Applicant testified that the State did not have a case against him on these charges or any of the twenty-three (23) other charges that were dismissed after his pleas. He unambiguously testified that the only reason he pleaded to these charges was the fact

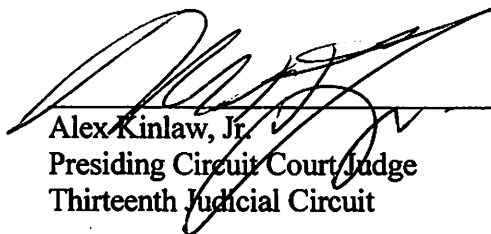
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that he believed they were being completely merged with the charges a jury had found him guilty of and, therefore, stood no chance of hurting him in any way

CONCLUSION

. Based on the testimony of Applicant and his Defense Counsel, as well as the exhibits introduced at the hearing held in this matter, this Court finds that this application was timely filed pursuant to S.C. Code Ann §17-27-45(C), inasmuch as Applicant filed it within 365 days of when he discovered that these charges had not been merged with the judgments and sentences from his jury trial for any purpose other than the concurrency of the two sets of sentences. This Court finds the application before the Court was timely filed and that Applicant is entitled to a hearing on the merits of his assertions that he received ineffective assistance of counsel prior to, during and after his guilty plea proceeding and that his pleas were the product of that Sixth Amendment violation and were not voluntarily and intelligently entered. The Conditional Order of Dismissal previously entered on this Application is hereby vacated and Respondent is directed to schedule this matter for a merits hearing as soon as practical.

IT IS SO ORDERED.


 Alex Kinlaw, Jr.
 Presiding Circuit Court Judge
 Thirteenth Judicial Circuit

This 21st day of Apr, 2019.

Copy mailed to
Attorney <u>General/Shurling</u>
on <u>8 / 22 / 2019</u>

STATE OF SOUTH CAROLINA
 COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

OSHAUN J. ROBINSON,)
)
 APPLICANT,)
)
 -VS-)
)
 STATE OF SOUTH CAROLINA,)
)
 RESPONDENT.)
 _____)

2017-CP-23-02653

TRANSCRIPT OF RECORD

JANUARY 22, 2020
 GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. MARK HAYES, II

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

ATTORNEY FOR APPLICANT:

TARA D. SHURLING, ESQ.

ATTORNEY FOR RESPONDENT:

SAMUEL L. KEY
 ASSISTANT ATTORNEY GENERAL

SUSAN W. HUDGINS
 CIRCUIT COURT REPORTER

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1 **THE COURT:** All right. We're here on the matter of
2 Robinson versus the State of South Carolina. Yes, sir.

3 **MR. KEY:** May it please the Court? Just by way of
4 background, Your Honor, Mr. Robinson is presently confined in
5 the South Carolina Department of Corrections pursuant to
6 orders of commitment of the Greenville County Clerk of Court.

7 In August 2008 the Greenville County Grand Jury indicted
8 Mr. Robinson for criminal conspiracy, assault and battery with
9 intent to kill, armed robbery and possession of a weapon
10 during the commission of a violent crime. He was represented
11 by Andrew Moorman. And Assistant Solicitor Lucas Marchant
12 prosecuted the case.

13 On March 4th 2009 Robinson pleaded guilty as indicted to
14 all charges before the Honorable Edward W. Miller. Judge
15 Miller accepted Robinson's guilty plea and sentenced him to
16 concurrent terms of imprisonment for five years for criminal
17 conspiracy, 20 years for assault and battery with intent to
18 kill, 25 years for armed robbery and five years on the weapons
19 charge. He did not appeal his guilty plea.

20 Robinson commenced this PCR action on April 25th, 2017.
21 On November 2nd, 2018 the State filed a return and moved to
22 dismiss the action as being untimely. Thereafter, Judge Perry
23 H. Gravely issued a conditional order of dismissal on November
24 9th, 2018 conditionally dismissing the action as being
25 untimely pursuant to subsection 17 27 45(a), but allowing

1 Robinson 20 days to respond to the conditional order.

2 Robinson, through counsel, timely responded to the
3 conditional order of dismissal on December 12th, 2018. On
4 December 27th, 2018 Judge Gravely issued a Form 4 order
5 ordering the matter to be set for a hearing.

6 A hearing on the State's motion to dismiss convened
7 before Judge Alex Kinlaw on April 15th and 17th of 2019. At
8 the end of the motions hearing Judge Kinlaw requested proposed
9 orders from both sides. On August 22nd, 2019 Judge Kinlaw
10 denied the State's motion to dismiss, vacated the conditional
11 order of dismissal and granted Robinson an evidentiary
12 hearing.

13 Robinson has alleged the following grounds for relief;
14 Ineffective assistance of counsel in that counsel failed to
15 fully advise him of all the potential consequences of the
16 pleas in relation to the judgments and sentences he received
17 following a jury conviction in January of 2009. He -- and the
18 judgments and sentences he received at his jury trial were
19 subsequently reversed in a PCR action.

20 It was not until he and his lawyer were finalizing the
21 plea agreement on remand that he understood that the judgments
22 and sentences from the guilty pleas were not reversed along
23 with those from his jury trial. He ultimately entered pleas
24 on the charges originally disposed of in his January 2009 jury
25 trial on May 16th, 2016 and received a concurrent 16 year

1 aggregate sentence.

2 Mr. Robinson is present today and represented by Tara
3 Dawn Shurling.

4 **THE COURT:** Yes, ma'am.

5 **MS. SHURLING:** Thank you, Your Honor. May it please the
6 Court? Your Honor, when we had the hearing before Judge
7 Kinlaw -- we originally convened on April 15th, which was a
8 Monday, and were not able to finish because they didn't get to
9 my case til very late in the day. And there was no slot
10 available on Tuesday, so we reconvened on Wednesday.

11 That's why the record shows that the hearing was held on
12 April 15th and then again on the 17th. I just wanted to make
13 clear that's not a typo. It wasn't the 15th through the 17th,
14 it was the 15th and the 17th.

15 In preparing for this hearing, Your Honor, and reading
16 this record carefully it occurred to me that because at the
17 time of that hearing no decision had been made as to whether
18 it was the intent of the order issued by Judge Gravely to rule
19 that my client should be allowed to go forward at that time
20 with a merits hearing or whether the hearing he had directed
21 take place was intended to be a fuller hearing on the question
22 of whether or not the State would be entitled to summary
23 dismissal. Ultimately what we decided to do was to go ahead
24 and take extensive testimony from my client and from Andrew
25 Moorman for the purpose of setting forth the necessary

1 testimony to reach the underlying claims in the event Judge
2 Kinlaw ultimately ruled that the merits of the underlying
3 claims were before him.

4 When I was advised that the judge wanted an order from
5 me with some specific modifications, he indicated that it was
6 his intent to rule that the hearing was to decide after fuller
7 treatment whether or not the case should be allowed to go
8 forward for a merits hearing on the underlying claim. He
9 denied the State's motion for dismissal and ordered that it be
10 set for a hearing. And that's why we're here today.

11 After reading the transcript, it occurred to me that we
12 had essentially covered everything necessary, in my judgment,
13 to address the underlying claims at the previous hearing and
14 that it was perhaps not the best usage of the court's time,
15 and sort of a waste of judicial resources to reinvent the
16 wheel. So I discussed with my client whether, if Your Honor
17 was willing and if the Attorney General's Office would agree,
18 we might agree to incorporate by reference the transcript of
19 the April 2019 proceeding rather than reinvent the wheel, if
20 you will, and go back over so much of what has already been
21 testified to under oath.

22 And my client is prepared to address that in a moment
23 when he's put under oath. But it is my understanding that he
24 is fine with us not going back over all of those matters and
25 testimony here today and that he is agreeable with Your Honor

1 incorporating by reference the testimony already had both from
2 my client himself and from Mr. Moorman.

3 So with that in mind, I had asked at the bench when we
4 were speaking earlier whether I could present my client for
5 the limited purpose of making sure that he is fully aware of
6 some of the risks that were already discussed with him at the
7 first proceeding and more importantly whether with the passage
8 of time he has had any change of heart with regard to his
9 willingness to take the risks that we discussed.

10 And, additionally, Respondent had some concerns about
11 whether or not the record was adequately clear on the question
12 of whether or not the pleas were at least in part motivated by
13 the desire to avoid exposure to an LWOP sentence. And I will
14 clarify that with my client as well. So at this time I would
15 call Mr. Oshaun Robinson.

16 **THE COURT:** All right. And counsel for the State, that's
17 my recollection of the bench conference as well. Is that
18 yours?

19 **MR. KEY:** Yes, Your Honor.

20 **THE COURT:** All right. If you would, I appreciate you
21 giving the Court a copy of the transcript. Be sure the court
22 reporter gets one.

23 **MS. SHURLING:** Oh, yes, sir.

24 **THE COURT:** Yeah. Okay.

25 **MS. SHURLING:** And, Your Honor, I will send you another

OSHAUN ROBINSON - DIRECT EXAMINATION BY MS. SHURLING

9

1 copy for your law clerk.

2 **THE COURT:** Sure. Yeah. That's fine.

3 Sir, just come around. Just come right over here and let
4 the clerk of court swear you in. If you would, sir, best you
5 can, place your left hand on the Bible and raise your right
6 hand.

7 **Oshaun Robinson,** being duly
8 sworn testified as follows;

9 **MADAM CLERK:** Thank you. You may be seated.

10 **THE COURT:** Sir, be careful stepping up there, but just
11 step right up there and have a seat in the chair.

12 **MADAM CLERK:** Please state your full name for the record.

13 **MR. ROBINSON:** Oshaun Joseph Robinson.

14 **Direct Examination by Ms. Shurling:**

15 Q. Mr. Robinson, do you remember being, I believe in this
16 very courtroom, with me back in April of 2019?

17 A. Yes, ma'am.

18 Q. And at that time we discussed at length the various sorts
19 of advice you had been given by Mr. Moorman prior to your
20 entering of the pleas that are at issue in this application
21 for post conviction relief. Do you recall that?

22 A. Yes, ma'am.

23 Q. You were under oath then as you are today. And I just
24 would like to ask that -- I don't mean to offend you, you were
25 under oath, but do you today stand by your testimony as given

OSHAUN ROBINSON - DIRECT EXAMINATION BY MS. SHURLING

10

1 in April of 2019 and reassert that it was the truth, the whole
2 truth and nothing but the truth to the best of your knowledge?

3 A. That's correct.

4 Q. And do you understand that if you wanted to insist that
5 we go back through everything again and that I then call your
6 attorney to the stand and go over everything with him again,
7 then you would have a right to do that if you want -- if you
8 were not okay with this procedure we're suggesting to
9 incorporate this transcript? Are you willing to waive our
10 going back through everything in favor of just incorporating
11 the testimony from the previous proceeding?

12 A. Yeah, I'm fine with that.

13 Q. Okay. And you've made that decision freely and
14 voluntarily?

15 A. That's correct.

16 Q. I didn't bend your arm behind your back or nothing, did
17 I?

18 A. No, ma'am.

19 Q. Okay. I'm sorry. I don't mean to trivialize it, but I
20 just want to be sure you're cool with it, okay?

21 A. All right.

22 Q. All right. Now, there are a couple of things we need to
23 go over. At the time of your jury trial about a month and a
24 half later, two months later, something like that ---

25 A. Three months, I believe.

OSHAUN ROBINSON - DIRECT EXAMINATION BY MS. SHURLING

11

1 Q. Three months later you had the opportunity to enter pleas
2 to another set of charges.

3 A. That's correct.

4 Q. And we went over the last proceeding, but on this
5 particular thing we've agreed that I would reinvent the wheel
6 just a little bit, make sure that -- it would be correct to
7 say that at least part of your motivation in taking that deal
8 was to avoid potential exposure to a life without parole
9 sentence?

10 A. That's correct.

11 Q. And we have gone over the fact, have we not, ---

12 A. Yes, ma'am.

13 Q. --- that if the judge vacates the judgments and sentences
14 that were entered as a result of that plea, that 25 year
15 sentence and those judgments, that I don't have a crystal
16 ball, I don't know exactly what might happen.

17 A. That's correct.

18 Q. And so it is within the realm of possibility that you
19 could end up worse off than you are now? You understand that?

20 A. Yes, I do.

21 Q. Now, I have explained to you that I have already been in
22 discussions with the solicitor's office about your case?

23 A. Correct.

24 Q. And we've talked about who the new attorney is assigned
25 to the case, and what I would hope to accomplish, but I

OSHAUN ROBINSON - DIRECT EXAMINATION BY MS. SHURLING

12

1 haven't made you any promises with regard to the outcome, have
2 I?

3 A. That's correct.

4 Q. Okay. There were also quite a few other charges that the
5 State was agreeing to dismiss as part of your plea bargain,
6 right?

7 A. That's correct.

8 Q. And your testimony at the previous proceeding was that
9 you were not aware at the time of the plea that you had not
10 actually been indicted on those charges?

11 A. That's correct. I wasn't.

12 Q. Okay. It was your testimony at the previous proceeding
13 that you weren't worried about those charges, that those were
14 a bunch of charges they had piled on you that you weren't
15 guilty of, you weren't worried about them prosecuting you for
16 them?

17 A. That's correct.

18 Q. Okay. That's a summary, but is that basically what your
19 testimony was?

20 A. That's correct.

21 Q. You've had a little bit of time to think about, almost a
22 year, do you have -- have you had any second thoughts about
23 taking the risks incumbent in asking His Honor to vacate your
24 pleas, and the judgments and the sentences ---

25 A. Not at all.

1 Q. --- that resulted? Not at all?

2 A. That's correct.

3 Q. Okay. And you fully understand all of the risks that are
4 involved?

5 A. I definitely do.

6 Q. Okay. Now, have I gone over South Carolina's strike law
7 with you?

8 A. Yes.

9 Q. In detail, haven't I?

10 A. Yes.

11 Q. Showed you the statute?

12 A. That's correct.

13 Q. I believe I gave you a copy too, didn't I?

14 A. Yes, you did.

15 Q. Okay. And did I explain to you that any number of those
16 charges that we were talking about that existed by virtue of
17 an arrest warrant, but not -- at least not yet anyway, an
18 indictment that the State could certainly still indict you for
19 those things?

20 A. That's correct.

21 Q. Okay. If you -- if you vacate the pleas and the
22 judgments because you succeed in convincing the Judge that
23 there were things you relied upon that did not turn out to be
24 true, and, therefore, your plea was not knowingly, voluntarily
25 and intelligently entered, you understand that all bets are

OSHAUN ROBINSON - DIRECT EXAMINATION BY MS. SHURLING

14

1 off? That we don't know for certain what the outcome's going
2 to be on the new negotiation?

3 A. That's correct.

4 Q. Okay. And you're okay with that?

5 A. Yes, I am.

6 Q. Okay. You understand that, as I was saying -- and I lost
7 my train of thought for a second. I apologize. Any number of
8 those charges that we're discussing that exist by virtue of
9 arrest warrant, but not indictment, also would qualify as
10 either serious or most serious charges? You know that?

11 A. Yes, I do.

12 Q. And you know from your discussions with me that under the
13 strike -- what we call the strike law, recidivist offender
14 statute, that some crimes are called most serious crimes and
15 others are called serious crimes?

16 A. Correct.

17 Q. And you understand that no matter what you hear on TV
18 about three strikes and you're out, I've explained to you that
19 in South Carolina when it comes to the ones that are listed as
20 most serious offenses, it only takes two for you to get a
21 mandatory life without parole?

22 A. That's correct. I'm aware of that.

23 Q. Okay. And that even if they don't manage to convict you
24 of two most serious offenses for which you were sentenced on a
25 separate, subsequent date, I believe that's subsection (f),

1 but I'm not positive, but I think it is, they would have the
2 opportunity to try to pile up three serious offenses on you
3 and accomplish the same goal, that being to put you away for
4 the rest of your life?

5 A. That's correct. I'm aware.

6 Q. And being fully aware of all of those risks, you, for the
7 reasons that you've articulated in this previous transcript,
8 you want to go forward? You're agreeing for the Judge to
9 decide the case based on this other testimony as well as what
10 you've said today? And you are voluntarily, intelligently
11 waiving the opportunity for us to just redo all that
12 testimony?

13 A. That's correct.

14 Q. Okay. Is there anything that you can think of that you
15 testified to at the previous proceeding that was not totally
16 true and honest to the best of your knowledge?

17 A. No, ma'am.

18 Q. No further questions. His Honor may have questions. And
19 if not, the State may briefly want to ask you a couple.

20 **MR. KEY:** Very briefly, Your Honor.

21 **Cross-examination by Mr. Key:**

22 Q. Mr. Robinson, I believe you testified last April and a
23 minute ago on direct that the State planning on serving you
24 with LWOP went in your decision of whether or not to plead
25 guilty? Is that correct?

OSHAUN ROBINSON - CROSS-EXAMINATION BY MR. KEY

16

1 A. That's correct.

2 Q. Okay. So you were eligible for LWOP because of your jury
3 conviction, is ---

4 A. That's correct.

5 Q. --- that correct?

6 A. I was already guilty. Got found guilty for that ---

7 Q. Okay.

8 A. --- back in January.

9 Q. And so the State was planning on LWOP-ing you if you did
10 not plead guilty?

11 A. Correct, if I would have went through with trial for it.

12 Q. Okay. And since then your jury conviction was reversed
13 and remanded on a PCR. And you have pled guilty to those same
14 charges in 2016?

15 A. That's correct, for 15 years.

16 Q. Okay. So you still have the same two strikes now that
17 you did at the time when you were deciding whether or not to
18 plead guilty?

19 A. That's correct, but I didn't have 25 years.

20 Q. You did not have 25 years then, you had -- or you had 25
21 years then, now you have 15?

22 A. That's correct.

23 Q. Okay.

24 (Pause)

25 Q. And you had 25 years on the -- on what you pled guilty

1 to?

2 A. That's correct. I thought it was all merged together.
3 That was my whole purpose of pleading.

4 Q. And you testified on direct that you had several other
5 charges that were dismissed because of your guilty plea,
6 correct?

7 A. Well, I was aware that that was supposed to be dismissed
8 due to the plea.

9 Q. Okay. Do you recall how many charges were dismissed?

10 A. No.

11 Q. Was it several?

12 A. From my understanding. I'm not aware of the number or
13 amount of charges.

14 Q. Okay. And you testified that you were never indicted on
15 those charges, correct?

16 A. A lot of those charges I wasn't. They were never signed
17 off on.

18 Q. Were you arrested on those charges?

19 A. I was arrested on the charge I ended up winning in trial.
20 And then once I got arrested two weeks down the line, that's
21 when all the rest of the charges start piling up out of
22 nowhere, and I was served warrants for them.

23 Q. Okay.

24 **MR. KEY:** No further questions, Your Honor.

25 **THE COURT:** Any redirect?

OSHAUN ROBINSON - REDIRECT EXAMINATION BY MS. SHURLING

18

1 **MS. SHURLING:** Briefly.

2 **Redirect Examination by Ms. Shurling:**

3 Q. Mr. Robinson, you and I discussed a moment ago in your
4 testimony that part of the consideration in pleading was
5 certainly to avoid exposure to a life without parole sentence?

6 A. That's correct.

7 Q. Part of it?

8 A. Definitely.

9 Q. But as is set forth in more detail in the transcript from
10 the April 2019 proceeding you also testified that it was your
11 belief based on the advice of counsel that the deal you were
12 pleading to meant that the charges you were pleading guilty to
13 were effectively merged ---

14 A. Together.

15 Q. --- with the charges you were convicted of at the jury
16 trial?

17 A. That's the knowledge I had. That was my whole purpose of
18 pleading because I had 25 years, and I was expecting it to be
19 ran together. I didn't expect me to be doing time for
20 different charges.

21 Q. I understand.

22 A. I didn't expect that ---

23 Q. And we're going to let the record from the April
24 proceeding speak for itself. But I just want to make real
25 sure that I'm articulating in terms of the risk very clearly

1 that it was your understanding at the time of your plea not
2 that the sentences were simply concurrent, but that by
3 pleading guilty these charges were being effectively merged
4 and that anything that happened to one would affect both of
5 them?

6 A. That's correct.

7 Q. And it is that which you did not understand from the
8 advice of counsel and which you testified in April you would
9 not have taken the deal had you known that that was not a
10 correct understanding?

11 A. That's correct. There wouldn't have been no purpose of
12 taking the deal.

13 Q. And once again, as your testimony in April will reflect,
14 because the dismissal of those other charges was not a serious
15 concern to you because you were not afraid of those other
16 charges?

17 A. That's correct.

18 Q. Or not afraid of being prosecuted for them, I should say.

19 A. Right.

20 Q. Okay. You do understand that although you have 25 years
21 for the charges that you pleaded guilty to, and 15,
22 concurrent, for the charges that you originally went to trial
23 on, and then subsequently pled to following a successful PCR
24 appeal, they are run concurrent. And so the effect is you
25 still have the same 25 year sentence you always had.

OSHAUN ROBINSON - REDIRECT EXAMINATION BY MS. SHURLING

20

1 A. Right.

2 Q. You understand that?

3 A. Right.

4 Q. But it was your understanding that if anything had
5 happened to those judgments and sentences from your jury trial
6 that was beneficial to you would also apply to the judgment
7 and ---

8 A. For the rest ---

9 Q. --- sentences ---

10 A. --- of the charges. Correct.

11 Q. This nice lady has to write down every word we say. And
12 I know you're excited and you're anxious for His Honor to hear
13 what we've got to say, but she can't write down what we're
14 both saying at one time. So let me -- try to hold back your
15 enthusiasm for a second and let me finish my sentence and then
16 you can answer me. Okay?

17 A. All right.

18 Q. All right. Has there been anything that I've asked you
19 here today that you have not fully understood?

20 A. No, ma'am.

21 Q. I mean, I as an attorney sometimes worry that people
22 answer questions because they don't want to say they don't
23 understand the question. So I'm giving you an opportunity, if
24 there's anything I've asked you here today that you don't
25 fully understand the question, I would like you to tell us so

1 that we have an opportunity, either myself or His Honor, to
2 explain the question more fully.

3 A. I totally understand everything.

4 Q. Okay. And it is still your desire that your pleas and
5 sentences be vacated and your -- those charges be remanded for
6 a new trial or a new plea depending on what we might be able
7 to work out with the solicitor's office?

8 A. That's correct.

9 Q. You do understand that there is a possibility that if we
10 are able to obtain an order vacating those judgments and
11 sentences that the State through the auspices of the Attorney
12 General's Office would have the right to appeal that decision?

13 A. I'm aware of that.

14 Q. And, you know, whether or not they decide to do that or
15 not, I don't know, but they would -- that's another long
16 process that could take a year or so if they decide to. You
17 understand that?

18 A. Yes, I do.

19 Q. Okay. And the last thing, I've told you that under South
20 Carolina law ironically we don't have a right to an appeal
21 bond while you have a circuit court PCR pending, but if you've
22 won in the circuit court and the State chooses to appeal,
23 there is by statute a possibility that you could ask for an
24 appeal bond pending the outcome of the State's appeal. I've
25 advised you of that, correct?

OSHAUN ROBINSON - REDIRECT EXAMINATION BY MS. SHURLING

22

1 A. Yes, you have.

2 Q. Okay. No further questions.

3 THE COURT: Ask him, if you would, one more time the
4 question that he interjected himself and spoke over you
5 because it was getting to -- that was the question I needed to
6 be asked so that I understood what it was that he expected.

7 MS. SHURLING: Okay.

8 THE COURT: Does that make any sense?

9 Q. When lawyers talk to clients, sometimes we talk like
10 we're in law school. And sometimes we get carried away and
11 don't necessarily explain it in a way that people that didn't
12 go to law school can understand.

13 When you were discussing this topic with your lawyer,
14 what was your understanding of what pleading to that second
15 batch of charges, what that was going to mean as far as the
16 relationship between those pleas and those sentences to the
17 ones you'd already gotten at a jury trial?

18 A. The knowledge I had that it was merged together. It was
19 ran concurrent. That's all I knew as far as the charges being
20 together, concurrent. I didn't know anything about if I had
21 got it reversed on down the line that I was going to be held
22 accountable as I am now. I wasn't aware of that. And I
23 wasn't informed that.

24 Q. Was it fair to say that it was your expectation that
25 anything that might happen legally with regard to the

1 judgments and sentences from the jury trial would also affect
2 the judgments and sentences from the guilty plea?

3 A. That's correct.

4 Q. And, in fact, you pursued a direct appeal from the jury
5 trial, right?

6 A. That's correct.

7 Q. You lost it, but you had one?

8 A. Yes, I did.

9 Q. And after you lost that, you filed a PCR on the jury
10 trial, right?

11 A. That's correct.

12 Q. And you ended up losing that, but winning it on appeal?

13 A. That's correct.

14 Q. And at the same time all that was going on with regard to
15 the judgments and sentences from the jury trial, you didn't
16 file a PCR on your guilty plea case, did you?

17 A. No, I didn't.

18 Q. You didn't think you needed to, did you?

19 A. That's correct.

20 Q. And why didn't you think you needed to file a PCR? At
21 the same time you were trying to get the judgments and
22 sentences from the jury trial overturned, why didn't you think
23 you needed to do a PCR on the guilty plea cases?

24 A. Because in my mind it was merged together. It was ran
25 concurrent.

OSHAUN ROBINSON - REDIRECT EXAMINATION BY MS. SHURLING

24

1 Q. Because there was no reason for a separate appeal on a
2 PCR, is a type of appeal, there was no reason to do a separate
3 PCR on those charges because they were merged?

4 A. That's correct.

5 Q. Now, I need you to do me one favor. And I want -- I've
6 been real honest with you, haven't I?

7 A. Yes, you have.

8 Q. I've always told you to tell the truth, haven't I?

9 A. That's correct.

10 Q. Nothing but the truth?

11 A. (Affirmative nod).

12 Q. I did not suggest this issue to you, did I?

13 A. As far as?

14 Q. I didn't tell you, hey, a really great issue that I've
15 always wanted to argue would be, and then talk about the whole
16 thing of concurrency [sic] versus merger? None of that
17 originated with me, did it?

18 A. Absolutely not.

19 Q. You explained to me what you felt the problem with your
20 plea was?

21 A. Yes, I did.

22 Q. Correct?

23 A. That's correct.

24 Q. And after you explained it to me, at that point I did
25 tell you that your case presented an issue that as a sort of

OSHAUN ROBINSON - RECROSS-EXAMINATION BY MR. KEY

25

1 veteran PCR lawyer I had always wondered why it had not ever
2 come up in one of the hundreds of PCR cases I've done before.
3 I did tell you that. But I did not plant the seed for this
4 issue in your mind, did I?

5 A. Absolutely not.

6 Q. Okay. I just would like the record to reflect that.
7 Thank you very much.

8 **MR. KEY:** Very briefly.

9 **THE COURT:** Briefly.

10 **Recross-examination by Mr. Key:**

11 Q. Mr. Robinson, very quick. So you testified earlier that
12 part of your consideration on whether or not to plead guilty
13 was because you faced LWOP, potentially, correct?

14 A. That's correct.

15 Q. And then another part of your consideration whether or
16 not to plead guilty was because your sentences were going to
17 run concurrent to the jury trial -- jury charge -- jury
18 conviction?

19 A. That was my understanding.

20 Q. Okay.

21 **MS. SHURLING:** Your Honor, I would -- I hesitate to
22 interrupt, but I would object to that being a slight
23 misrepresentation of his earlier testimony. If you could
24 rephrase.

25 Q. That part of your consideration in pleading guilty was

OSHAUN ROBINSON - REDIRECT EXAMINATION BY MS. SHURLING

26

1 that, as you testified, your charges, your convictions and
2 sentences would be merged?

3 A. During that time I had 25 years. So I pled upon me
4 having 25 years. I didn't expect it to not be merged together
5 on down the line. I didn't win my case until like seven years
6 later. So during that time I had 25 years.

7 Q. And you pled to 25 years?

8 A. Concurrent.

9 Q. Okay. Right. Okay. No further questions.

10 **MS. SHURLING:** Your Honor, one brief follow-up?

11 **Redirect Examination by Ms. Shurling:**

12 Q. Just so we're real clear here, is it your testimony that
13 you didn't just think the sentences were concurrent? You
14 thought the cases themselves ---

15 A. Overall.

16 Q. --- were combined, merged?

17 A. That's correct. Overall. Not just the sentence,
18 overall. Whatever happens with this one, it was going to --
19 this follow-up as well.

20 Q. And so to sort of connect the dots here, in your mind you
21 had a jury trial that you were going to potentially have some
22 kinds of appeals from? You didn't pursue any sort of appeal
23 including a PCR from the guilty plea cases because you didn't
24 think it was necessary because of the merger that you had in
25 your mind? And if I understand you correctly, if you believed

1 that they were permanently merged and that what affected one
2 would affect the other, that whatever happened with your
3 appeals in the jury case would likewise affect your plea,
4 correct? That's ---

5 A. That's correct.

6 Q. --- what you thought?

7 A. That's correct.

8 Q. And because of that you thought that your pleas were a
9 permanent solution to eliminating the LWOP exposure?

10 A. That's correct. Now, ---

11 Q. And you didn't understand that depending on what happened
12 on appeal with the trial case, you could be right back in the
13 same situation you'd been in before?

14 A. Correct.

15 Q. Thank you. No further questions.

16 **THE COURT:** Thank you, sir. You may step down. Watch
17 your step as you're stepping down.

18 **MS. SHURLING:** Your Honor, at this time I have been told,
19 and I kind of already knew this, but my client would not be
20 allowed to have the copy of the transcript that I brought to
21 court for him. So at this time I would -- let me make sure
22 I've got all the pages here. I would have introduced -- I'm
23 handing the court reporter a copy of the April 15th and 17th,
24 earlier April 2019 PCR proceeding before the Honorable Alex
25 Kinlaw, Jr.

1 I would ask that the record reflect that the stipulation
2 we've entered into today with Your Honor's consent, that the
3 testimony contained therein and the arguments, all of that
4 will be incorporated by this Court in making a decision on the
5 merits.

6 **THE COURT:** Okay.

7 **MR. KEY:** No objection, Your Honor.

8 (Whereupon Applicant's exhibit 1 was marked and admitted
9 into evidence)

10 **THE COURT:** Now, don't we have another witness? Someone
11 to call the gentleman in the back?

12 **MR. KEY:** Your Honor, I ---

13 **THE COURT:** Did y'all agree not to?

14 **MR. KEY:** I was not sure whether or not the Applicant had
15 rested.

16 **THE COURT:** Oh, okay.

17 **MS. SHURLING:** Your Honor, I have -- at this time I would
18 have the record note I am aware of our court reporters. And I
19 try very hard not to infringe upon their right to income,
20 ever. But given the time considerations at play here, I had
21 ordered this transcript on an expedited basis, and in fairness
22 Respondent didn't have the time to get a copy of the record
23 from the court reporter in order to be familiar enough with it
24 to use it for impeachment purposes had we gone through all the
25 testimony.

1 And so I just would like the record to reflect that that
2 is -- it's not my normal procedure to provide other attorneys
3 copies of court reporters' work product, but there were time
4 considerations here that we couldn't avoid. Thank you, Your
5 Honor.

6 **THE COURT:** So is the Applicant resting at this time?

7 **MS. SHURLING:** Oh, I'm sorry, Your Honor. I said
8 everything but that. Yes, we would rest at this time.

9 **THE COURT:** Okay.

10 **MR. KEY:** The State would call Andrew Moorman.

11 **THE COURT:** Just come right up here, sir, let the clerk
12 of court swear you in.

13 **MADAM CLERK:** Mr. Moorman, please place your left hand on
14 the Bible, raise your right hand.

15 **Andrew Moorman**, being duly
16 sworn testified as follows;

17 **MADAM CLERK:** Thank you. You may be seated. And please
18 state your full name for the record.

19 **MR. MOORMAN:** Andrew Burke Moorman.

20 **Direct Examination by Mr. Key:**

21 Q. Thank you for being here, Mr. Moorman. Was Mr. Robinson
22 eligible for LWOP because of his January 2009 jury conviction?

23 A. He was.

24 Q. Okay. And then in March 2009 he -- or he pleaded guilty?

25 A. He did sometime thereafter. I can't remember exactly

ANDREW MOORMAN - DIRECT EXAMINATION BY MR. KEY

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1 when it was, but a few months after the guilty verdict he did.

2 Q. And leading up to that guilty plea had the State
3 indicated to you that they planned on serving Mr. Robinson
4 with LWOP notice?

5 A. They had.

6 Q. Okay. And you discussed that with Mr. Robinson?

7 A. I did.

8 Q. Okay. And you were here for Mr. Robinson's testimony a
9 minute ago?

10 A. I was.

11 Q. And he testified that one of his considerations for
12 pleading guilty was the -- to avoid LWOP?

13 A. I heard that testimony.

14 Q. Okay. Now, Mr. Robinson also testified that he believed
15 his convictions and sentences from his jury conviction and his
16 guilty plea were merged. Were you here for that?

17 A. I was.

18 Q. Okay. Did you tell Mr. Robinson that everything was
19 merged?

20 A. So ---

21 **MS. SHURLING:** Your Honor, I'm sorry. I'm reluctant to
22 ever interrupt, but I would somewhat object. Well, not
23 somewhat, I would object.

24 We've agreed not to reflow that field and to rely on the
25 April 2019 transcript. And it appears that Respondent is now

ANDREW MOORMAN - DIRECT EXAMINATION BY MR. KEY

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1 endeavoring to go back through questioning on the underlying
2 issues that we agreed to rely on the transcript from the
3 former proceeding for.

4 **MR. KEY:** Your Honor, there was testimony during Mr.
5 Robinson -- or Mr. Robinson testified that he thought the
6 charges and sentences were merged. All I'm trying to do is
7 defend that allegation by asking these questions of his
8 attorney.

9 **MS. SHURLING:** And again, Your Honor, I would note that
10 those same exact representations were made by Mr. Robinson at
11 the previous proceeding and Respondent had the opportunity to
12 ask Mr. Moorman any questions and wanted to elicit answers
13 they hoped would defend against the merits of the underlying
14 claims at that time. And what they're doing is having agreed
15 to rely on the record from the prior proceeding, they're now
16 attempting to have a second bite of the apple. And that isn't
17 fair.

18 **THE COURT:** All right. I'll allow the question -- I
19 caution counsel to try to stick -- well, not try -- stay
20 consistent with the agreement that you had with the
21 Applicant's lawyer.

22 I'll let you go ahead and ask the questions because I
23 have not reviewed the transcript, so I don't know if what
24 you're asking is, in fact, outside of what y'all've already
25 agreed on or if it's outside of what's already been testified

ANDREW MOORMAN - CROSS-EXAMINATION BY MS. SHURLING

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1 to. But if anything that is beyond that which is in -- beyond
2 the agreement that is also already contained in the prior
3 testimony, I'll go with the prior testimony.

4 **MR. KEY:** Okay, Your Honor. It's just one question ---

5 **THE COURT:** Okay.

6 **Direct Examination by Mr. Key Continued:**

7 Q. Mr. Moorman, did you tell Mr. Robinson that his jury
8 conviction and his guilty plea conviction, the charges and the
9 sentences, were merged?

10 A. As I testified in the hearing in April, I cannot remember
11 specifically what I said to Mr. Robinson as it related to the
12 relationship between the charges.

13 I can tell you -- what I can say is I did not tell him
14 that charges to which he'd pled months after a guilty verdict
15 that his appellate rights for those charges with the guilty
16 pleas and his appellate rights with the -- related to the jury
17 convictions, that somehow they were all lumped in together and
18 that an appeal on conviction from the jury trial somehow would
19 also be an appeal on a guilty plea that he engaged in months
20 later. I did not affirmatively represent that to him in any
21 conversations we had.

22 Q. No further questions.

23 **MS. SHURLING:** Briefly.

24 **Cross-examination by Ms. Shurling:**

25 Q. Do you recall in your previous testimony saying that you

1 had no recollection of giving him any advice concerning what
2 impact, if any, subsequent appeals of the jury trial,
3 judgments and sentences would have on the guilty plea
4 judgments and sentences?

5 A. Could you ask your question one more time, please?

6 Q. Do you recall testifying here previously that you had no
7 recollection of ever advising your client of what impact, if
8 any, subsequent appeals from the judgments and sentences
9 entered at the jury trial would have on the judgments and
10 sentences entered on the separate grouping of charges pursuant
11 to the guilty plea? That you had no recollection of having
12 any discussion with him about what consequences, if any,
13 subsequent appeals on the jury trial cases, and sentences and
14 judgments would have on the guilty plea cases and judgments?

15 A. Yes.

16 Q. But is that still true?

17 A. Yes.

18 Q. I'm trying to understand if you have no recollection of
19 having any discussion with him about that, then how can you be
20 sure here today that you didn't say something to him that he
21 could have interpreted to mean that the two sets of judgments
22 -- judgments were, in fact, merged as opposed to simply
23 sentences overlapping?

24 A. In my testimony I don't -- my testimony is not that -- I
25 can't speak to how he interpreted what I told him. So I --

ANDREW MOORMAN - CROSS-EXAMINATION BY MS. SHURLING

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1 any testimony -- I'm not giving an opinion as to how he viewed
2 what I told him. So I don't know if I understand your
3 question.

4 Q. Well, I guess what I'm saying is if your testimony at the
5 previous proceeding, and the record will speak for itself, is
6 that you have no recollection of giving him any advice
7 concerning what impact subsequent appeals of any sort with
8 regard to the judgments and sentences entered at the jury
9 trial would have on the judgments and sentences entered
10 pursuant to the plea, that you have no recollection of going
11 there with him, of telling him anything concerning that. And
12 taking your former testimony to be truthful, as I do, my
13 question is how can you say now what you do know is that you
14 never told him that the two were merged per se?

15 A. My testimony was that I never told him that -- the reason
16 why is that is not a -- that thought never occurred to me
17 until today when I was in court that that's an incorrect
18 statement of the law. I would never have said that.

19 So that's where it comes from. I would never have said
20 that because that's not a correct statement of the law. The
21 fact that my client was found guilty in a jury trial, that he
22 pled months later, and the appeal related to the convictions
23 for the jury trial somehow would be linked, that notion would
24 have never occurred to me.

25 Q. I understand. But you do understand that the defendant's

ANDREW MOORMAN - CROSS-EXAMINATION BY MS. SHURLING

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1 state of mind, what he believed you to have meant and what he
2 relied upon in formulating his decision to waive his very
3 valuable right to a jury trial is the operative question, his
4 state of mind at the time of his plea.

5 A. I'm going to let the Judge decide what the operative ---

6 Q. Okay.

7 A. --- question is.

8 Q. If you have no recollection of engaging in that
9 discussion with him, that's consistent with your testimony
10 from before?

11 A. Yes.

12 Q. My question is -- just a second ago you said until today
13 that underlying issue had never occurred to you. We addressed
14 that issue to a degree in the previous proceeding, did we not?

15 A. My testimony was not that the underlying issue never
16 occurred to me. The specific -- the specific advice, the
17 possibility of the advice of me affirmatively instructing him
18 that somehow his appeal rights related to a jury verdict of
19 guilty and his appeal rights related to a guilty plea that
20 occurred months later somehow had been linked or the appeal on
21 the jury verdict covered the guilty plea appeal, that was the
22 testimony. So the issue -- I've known about the issue.

23 Q. Well, let me ask you this. If you ever represent
24 somebody in a jury trial and subsequently represent them in a
25 plea on facts and circumstances that make them related to each

ANDREW MOORMAN - CROSS-EXAMINATION BY MS. SHURLING

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1 other similarly to the case before the Court, will you cover
2 that issue with them next time?

3 A. Absolutely.

4 Q. And you see the value of that discussion and the
5 importance of it?

6 A. I see it from the standpoint of eliminating any confusion
7 or possibility that the issue -- I'd be a part of the
8 litigation on this issue in the future.

9 Q. Thank you. No further questions.

10 MR. KEY: Nothing further from the State.

11 THE COURT: Thank you, sir. You may step down. Any
12 reason why the witness could not be excused?

13 MR. KEY: No, sir, Your Honor.

14 MS. SHURLING: Oh, none at all.

15 THE COURT: Thank you, sir. You may ---

16 MS. SHURLING: Thank you ---

17 THE COURT: --- be excused as well.

18 MS. SHURLING: --- for being here. And, Your Honor, I'm
19 going to contribute my copy of the transcript to your law
20 clerk so you'll both have one.

21 THE COURT: Does the State have any other witness?

22 MR. KEY: No, sir, Your Honor. The State rests.

23 THE COURT: Any reply witnesses from the Applicant?

24 MS. SHURLING: No, sir, Your Honor. I would note that I
25 mentioned on the record earlier that I have had some

1 preliminary discussions with the solicitor's office about what
2 they would be willing to consider, entertain negotiations
3 concerning -- and in that process I actually was contacted by
4 a gentleman named Mark Mayer [sic], who has advised me that
5 the former solicitor on this case is obviously no longer with
6 their office and that he will be the party handling this case
7 for the solicitor's office in the event it lands back on their
8 plate.

9 And I have made very sure that my client understands that
10 it is the office of the attorney general, not the office of
11 the solicitor that has the authority to make the decision with
12 regard to a PCR appeal, just to ---

13 **THE COURT:** All right.

14 **MS. SHURLING:** --- make that clear for the record. Thank
15 you.

16 **THE COURT:** Thank you. Mr. Robinson, good luck to you.
17 I'll let y'all know.

18 **MR. KEY:** Thank you, Judge.

19 **MS. SHURLING:** Would Your Honor like to entertain
20 proposed orders?

21 **THE COURT:** Let me get back with y'all on that.

22 (Hearing Ended at 11:30 am)

23 (End of Requested Transcript of Record)

Certificate of Reporter

I, The undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 22nd day of January 2020.

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

October 31, 2020

s/Susan W. Hudgins

Circuit Court Reporter

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2017 CP-23-02653

Oshaun Joseph Robinson

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 40(j), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

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

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge

2132
Judge Code

1/23/2020
Date

For Clerk of Court Office Use Only

This judgment was entered on the 6 day of Feb, 2020 and a copy mailed first class or placed in the appropriate attorney's box on this 6 day of Feb, 2020 to attorneys of record or to parties (when appearing pro se) as follows:

Tara Shurling

Megan Jameson

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

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

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

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

I have reviewed the transcripts and considered the testimony from yesterday's hearing. At the present time, I am asking for both sides to present to me proposed orders.

Yesterday, both the applicant and his trial/plea attorney appeared believable. Additionally, yesterday's testimony and the transcript seem consistent with what both testified to yesterday. At the time the applicant entered his plea, his lawyers focus was on assuring that the applicant did not serve any greater time than he has already received as a result to the sentence that was imposed after the trial. His lawyer is candid that he has no independent recollection of what he told the applicant but his goal was to get the applicant away from the LWOP and to serve no more time than he already had received. His lawyer admitted he would not have discussed the issue of merger because he had not thought of it before (my summary of his testimony from yesterday). Was it error to not discuss with the client, most likely yes since the lawyer was the same for the trial and the plea (and in this particular PCR case the facts/law enforcement agency/prosecuting office, etc. overlap) and should have reasonable known of the status of the trial case when he pled to the other charges. Those are the facts as I see them at this moment and will appreciate your order being consistent with those facts.

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FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The "Information for the Judgment Index" section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the "Judgment in Favor of" column, enter the name of the party to whom the judgment is awarded. In the "Judgment Against" column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the "Judgment Amount" column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate "N/A" in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section "For the Clerk of Court Office Use Only" should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through "Circuit Court Judge" and indicate "Arbitrator" in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

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

Oshaun Robinson, #327798,
Applicant,

Case No.: 2017-CP-23-2653

v.

ORDER OF DISMISSAL

State of South Carolina,
Respondent.

This matter comes before the Court by way of an action for post-conviction relief commenced by Oshaun Robinson (Applicant) on April 25, 2017. The State filed a return and moved for the action to be dismissed as being untimely. Thereafter, a conditional order of dismissal was issued November 9, 2018, conditionally dismissing the action for being untimely pursuant to subsection 17-27-45(a) of the South Carolina Code (2014), but allowing Applicant twenty days to respond to the conditional order. Applicant timely responded to the conditional order of dismissal, and a Form 4 order was issued on December 27, 2018, ordering the matter to be set for a hearing. The Form 4 order did not specify whether the hearing was to be on the State's motion to dismiss or for a full evidentiary hearing.

A hearing on the State's motion to dismiss convened before Judge Alex Kinlaw at the Greenville County Courthouse on April 15 and 17, 2019. Applicant and Andrew Burke Moorman (Counsel) testified at the hearing. After the hearing, Judge Kinlaw requested proposed orders from the parties. Judge Kinlaw denied the State's motion to dismiss and granted Applicant a full evidentiary hearing.

An evidentiary hearing convened on January 22, 2020, before the undersigned. Applicant was present and represented by Tara Dawn Shurling, Esquire. Assistant Attorney General

Samuel L. Key represented the State. Applicant and Counsel testified at the hearing. After a full review of the record and testimony presented, for the reasons discussed below, this Court denies relief and dismisses the action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. Applicant had one set of charges that resulted in a jury verdict in January 2009 and another set of charges that led to underlying guilty plea.

Jury Trial

In August 2008, the Greenville County Grand Jury indicted Applicant for armed robbery (2008-GS-23-5382), possession of a weapon during commission of a violent crime (2008-GS-23-5382), conspiracy (2008-GS-23-5383), and assault and battery of a high and aggravated nature (2008-GS-23-5384). Applicant was represented by Counsel on these charges.

Applicant's case proceeded to a jury trial before Judge C. Victor Pyle, Jr., on January 14–15, 2009. The jury convicted Applicant as indicted, and Judge Pyle sentenced Applicant to concurrent terms of twenty-five years for armed robbery, five years for possession of a weapon during commission of a violent crime, five years for conspiracy, and thirty days for the lesser offense of assault and battery. Applicant appealed his jury conviction and sentence.

Appellate Defender Robert M. Pachak represented Applicant on appeal. The Court of Appeals affirmed Applicant's convictions and sentences. *State v. Robinson*, Op. No. 12-UP-042 (S.C. Ct. App. filed Jan. 25, 2012). The remittitur was issued on February 14, 2012.

Applicant timely commenced a PCR action challenging his jury convictions on December 5, 2012. The State made its return on June 21, 2013. An evidentiary hearing into the

matter was convened on February 18, 2014, at the Greenville County Courthouse before Judge G. Edward Welmaker. Judge Welmaker denied relief on March 25, 2014. Applicant appealed.

Appellate Defender Wanda H. Carter represented Applicant on his PCR appeal. On April 15, 2015, our Supreme Court reversed the denial of relief and remanded the case for a new trial. *Robinson v. State*, Op. No. 2015-MO-018 (S.C. Sup. Ct. filed April 15, 2015). The case was remitted back to the lower court on April 27, 2015.

On remand, Applicant pleaded guilty to the charges he was previously convicted of and received fifteen years for armed robbery, five years for criminal conspiracy, five years for the weapons charge, and thirty days for simple assault.

Guilty Plea

In August 2008, the Greenville County Grand Jury also indicted Applicant for criminal conspiracy (2008-GS-23-5385), assault and battery with intent to kill (2008-GS-23-5386), armed robbery, and possession of a weapon during the commission of a violent crime (2008-GS-23-5387). Counsel also represented Applicant on these charges. Assistant Solicitor Lucas Marchant, Esquire, prosecuted the case.

On March 4, 2009, Applicant pleaded guilty as indicted to criminal conspiracy, assault and battery with intent to kill, armed robbery, and the weapons charge before the Honorable Edward W. Miller. Judge Miller accepted Applicant's guilty plea and sentenced him to concurrent terms of imprisonment for five-years for criminal conspiracy, twenty-years for assault and battery with intent to kill, twenty-five years for armed robbery, and five-years for the weapons charge. Additionally, Applicant's sentences were run concurrent to his jury trial sentences. Applicant did not appeal his guilty plea or sentences.

Applicant commenced this PCR action on April 25, 2017. The transcript of Applicant's

March 4, 2009 guilty plea was unavailable because this action was commenced eight years after Applicant's guilty plea, and pursuant to the policies of S.C. Court Administration that only requires record retention for five years.

CURRENT APPLICATION

Applicant alleges he is being held unlawfully in custody for the following reasons:

1. Ineffective Assistance of Defense Counsel in that Counsel failed to fully advise Applicant of all the potential consequences of these pleas in relation to the judgments and sentences he received following his jury trial in 2007.
 - a. Plea counsel advised Applicant to plead guilty in order to obtain judgments and sentences that would be the same as, and concurrent with, the sentences he received approximately one month earlier in November 2007. Applicant believed, based on the limited advice of his defense counsel, that these two cases were effectively merged and that any changes to the judgments and sentences imposed at his jury trial would affect the sentences on his subsequent pleas as well.
 - b. The judgments and sentences Applicant received at his jury trial on Indictments No. 2008-GS-23-5382, -5383, and -5384 were subsequently reversed in a PCR action. It was not until he and his lawyer were finalizing a plea agreement on remand, that Applicant understood that the judgments and sentences from the pleas addressed herein were not reversed along with those from his jury trial. He ultimately entered pleas on the charges originally disposed of in his jury trial on May 16, 2016 and received a concurrent sixteen year aggregate sentence.

SUMMARY OF PCR TESTIMONY

The following summary is taken, by agreement, from the April 2019 motions hearing and the January 22, 2020, evidentiary hearing:

Applicant's testimony

Applicant testified he was convicted in January 2009 and received an aggregate twenty-five year sentence on those charges. However, Applicant still had remaining charges after his jury conviction. Following the conviction, Counsel was negotiating plea offers for the remaining

charges. Prior to the March 4, 2009, guilty plea, Counsel advised Applicant the State would recommend for Applicant to receive no more time than he received from his jury convictions and for the guilty plea sentences to run concurrent to his jury convictions.

Applicant testified he pleaded guilty because he already had a twenty-five year sentence from the jury conviction, and if he did not plead guilty to these charges, the State was going to serve him LWOP notice. Applicant testified he took the twenty-five year offer because it “ran in with the [twenty-five] years [he] was already serving.” (Motion Tr. 14). Applicant explained that he understood concurrent meant that his sentences from his two sets of charges would be run together. Specifically, Applicant stated, “Just the sentencing. That’s all I’m - -.” (Motion Tr. 14). Applicant testified he pleaded guilty with the understanding that he was not ever going to have to worry about getting more time for those charges than he had already gotten.

At the PCR hearing, Applicant reiterated the possibility of LWOP went into his decision to plead guilty. Applicant understood that if relief was granted he still had two strikes on his record and he would be in the same position facing LWOP as he was when he pleaded guilty. Applicant also testified he pleaded guilty because he thought his charges were completely merged. Applicant thought if his jury convictions were overturned, then his guilty pleas would also be overturned because, in his view, the convictions were merged together. Applicant testified he did not think he needed to file for PCR of the guilty pleas because he filed for PCR on his jury convictions, and he thought they were both included in his first PCR.

Applicant testified Counsel never explained to him that his jury convictions and his guilty plea charges actual judgements and sentences would remain separate legally. Applicant stated had he known the two legally would remain separate, he would not have pleaded guilty.

Additionally, Applicant testified Counsel never explained to him he needed to appeal the jury convictions and his guilty pleas separately.

Applicant testified it was during plea negotiations on remand from his jury conviction charges that he realized his guilty pleas had not been overturned as well.

Counsel's testimony

Counsel testified his main focus during plea negotiations was to avoid Applicant getting served LWOP notice. Specifically, Counsel testified, "[T]he goal for the guilty plea on current time, the sentences, was to reduce his exposure and eliminate to the largest extent possible the possibility that he'd be sentenced to life without parole." (Motion Tr. 57–58).

At the PCR hearing, Counsel testified Applicant was LWOP eligible because of his jury convictions. Counsel stated the State informed him it would serve Applicant with LWOP notice if Applicant did not plead guilty.

Counsel did not recall telling Applicant that the charges and the sentences from his jury convictions and his guilty pleas would be merged; however, Counsel did not tell Applicant the jury convictions and guilty pleas would be treated the same for appellate purposes. Counsel did not tell Applicant the jury convictions and guilty pleas would be merged on appeal.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the record and heard the testimony at the PCR hearing. This Court has observed the evidence and witnesses presented at the evidentiary hearing, judged their credibility, and weighed their testimony accordingly in its discussion below. Set forth below are findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code.

The issue before the Court is whether Applicant received ineffective assistance of counsel rendering his guilty plea unknowing and involuntary. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). “The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). Courts presume counsel was not deficient and made all significant decisions in the exercise of reasonable professional judgment. *Strickland*, 466 U.S. at 689. An applicant must overcome this presumption in order to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625. There is a strong presumption trial counsel's decisions are based on tactical strategy rather than neglect. *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003). To prove prejudice, the applicant must show “a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625.

The test for determining the validity of a guilty plea is “whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). “[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). To prove prejudice, the applicant must show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial absent plea counsel's alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Applicant alleges his guilty plea was unknowing and involuntary because he thought his jury conviction charges and his guilty plea charges were merged. Specifically, Applicant thought that if his jury convictions were reversed on appeal or subsequent PCR action, then his guilty plea would also be reversed because the plea deal was for his charges to run concurrent.

As stated above, Applicant testified he pleaded guilty because he would not receive any more time on these charges than he was sentenced to for his jury convictions, and his guilty plea sentences and jury trial sentences would run concurrent. However, Applicant also testified he pleaded guilty to avoid LWOP exposure because the State informed him it would serve him with LWOP notice if he did not plead guilty to these charges. Counsel testified similarly; however, Counsel testified he would not have told Applicant his jury convictions and guilty pleas were merged for subsequent appellate purposes.

The issue before the Court did not arise until Applicant's jury convictions were reversed and remanded on PCR. Applicant then learned his guilty plea was unaffected by his jury convictions reversal. Applicant claims he is entitled to relief because he misunderstood the meaning of "concurrent." Applicant asserts that if he had known it was just his sentences that were concurrent, and not his actual convictions that were concurrent, he would not have pleaded guilty. The Court disagrees.

It is clear from the testimony that Counsel advised Applicant the plea offer was for his guilty plea sentences to be concurrent to his jury conviction sentences. However, Applicant took this advice to mean his guilty plea sentences would be concurrent to whatever happened to his jury convictions in the future. This Court finds credible Counsel's testimony he did not tell Applicant his convictions and sentences were merged. Counsel was not deficient because Applicant's misunderstanding was not based on Counsel's advice. Counsel testified he did not

tell Applicant his convictions and sentences would merge; rather, Counsel told Applicant the sentences would run concurrent. Counsel was not deficient because Counsel did not misadvise Applicant regarding the concurrent sentences. *See Roddy v. State*, 339 S.C. 29, 36, 528 S.E.2d 418, 422 (2000) (finding counsel not deficient for what the applicant believed he would receive at sentencing); *see also Wolfe v. State*, 326 S.C. 158, 165, 485 S.E.2d 367, 371 (1997) (“Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences . . .”).

The Court also finds Applicant failed to prove prejudice resulted from Counsel’s alleged deficiency. Applicant testified he would not have pleaded guilty had he known his guilty plea was not merged with his jury convictions on subsequent appeals. However, Applicant also testified he pleaded guilty because he wanted to avoid a life sentence.

“In assessing prejudice under *Strickland*, the question *is not* whether a court can be certain counsel’s performance had no effect on the outcome . . .” *Harrington v. Richter*, 562 U.S. 86, 111 (2011) (emphasis added). “Instead, *Strickland* asks whether it is ‘reasonably likely’ the result would have been different.” *Id.* (quoting *Strickland*, 466 U.S. at 696). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. In the context of a guilty plea, the applicant must show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial absent plea counsel’s alleged deficiency. *Hill*, 474 U.S. at 59.

Here, Applicant had several other charges dropped in exchange for his guilty plea, he received no more time than he was convicted of on his jury convictions, his guilty plea sentences were run concurrent to his jury convictions, and he avoided a potential life sentence by pleading guilty. The Court is not convinced Applicant would have chosen to risk a life sentence at trial if

he had understood the legal reality of concurrent sentences. This Court finds credible Applicant's testimony he pleaded guilty to avoid a life sentence. It was not until his jury convictions were reversed that he decided he did not like the guilty plea offer. This hindsight cannot be the basis to establish prejudice. Therefore, this Court finds Applicant has failed to establish prejudice resulted from Counsel's alleged deficiency.

CONCLUSION

Based on the foregoing, the Court finds Counsel was not constitutionally ineffective. Applicant's guilty plea was knowing and voluntary. Counsel did not give deficient advice even though Applicant misunderstood Counsel's advice regarding the concurrent sentences. Further, Applicant has failed to show prejudice; specifically, Applicant testified one reason he pleaded guilty was to avoid a life sentence. Therefore, the Court denies relief and dismisses the action with prejudice.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

THEREFORE:

1. This PCR action is denied and dismissed with prejudice; and
2. Applicant shall be remanded to the custody of the State.

AND IT IS SO ORDERED.

_____, 2020

J. MARK HAYES, II
Presiding Judge
Thirteenth Judicial Circuit

_____, South Carolina

IN THE COURT OF COMMON PLEAS

2017-CP-23-2653

OSHAUN JOSEPH ROBINSON, #327798,)
)
 Applicant,)
)
 v.)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

Order

I. PROCEDURAL HISTORY

Applicant was convicted of charges of Simple Assault (08-GS-23-5384), Criminal Conspiracy (08-GS-23-5383), Possession of a Weapon (08-GS-23-5382), Armed Robbery and Possession of a Weapon During the Commission of a Violent Crime. (08-GS-23-5382) on January 15, 2009, following a jury trial. He received an aggregate sentence of twenty-five (25) years on those judgments. Shortly thereafter, on March 4, 2009, Applicant, acting on the advice of Defense Counsel, entered the guilty pleas addressed in this Application for PCR. Those pleas were entered before the Honorable Edward W. Miller, presiding circuit court judge. Pursuant to those pleas, judgments were entered against Applicant for criminal conspiracy (2008-GS-23-5385), assault and battery with intent to kill (2008-GS-23-5386), armed robbery, and possession of a weapon during the commission of a violent crime (2008-GS-23-5387). He was represented in the Court of General Sessions on those charges by Andrew Burke Moorman, Esquire. Attorney Moorman also represented Applicant at his earlier jury trial on the other charges discussed *supra*. Assistant Solicitor Lucas Marchant, Esquire, represented the State in the prosecution of these charges. Judge Miller sentenced Applicant to imprisonment in the custody of the South Carolina Department of Corrections for concurrent terms of five (5) years for

criminal conspiracy, twenty (20) years for assault and battery with intent to kill, twenty-five (25) years for armed robbery, and five (5) years for possession of a weapon during the commission of a violent crime. Said sentences were ordered to run concurrently with each other and concurrent to the sentences imposed at his earlier jury trial. The result was Applicant having an aggregate sentence of twenty-five (25) years. Applicant did not pursue a direct appeal from the judgments and sentences entered pursuant to his guilty pleas.

Applicant did pursue a direct appeal from the judgments and sentences entered at his **jury trial**. The public Records of the South Carolina court of Appeals verify that this direct appeal was filed by Trial and Plea Counsel, Andrew Moorman, on January 23, 2009. In an unpublished opinion, the South Carolina Court of Appeals affirmed those convictions and sentences. *See, State v. Robinson*, Unpublished Op. No. 2012-UP-042, decided January 25, 2012. Those judgments and sentences were, however, overturned in a subsequent PCR appeal. *Oshaun J. Robinson, v. State*, Op. No. 2015-MO-018 (Sup.Ct. dated April 15, 2015). The reversal in Applicant's PCR Appeal was based upon the same issue and analysis found in the Supreme Court's decision in the companion case of *Kenneth W Workmen v. State*, Op. No. 27514 (S.Ct. April 15, 2015).

Applicant subsequently entered pleas of guilty on May 16, 2016, to the charges he was originally convicted of at his jury trial. This time, Applicant received an aggregate sentence of fifteen (15) years of those judgments. Said sentences were run concurrent to each other and concurrent to the sentences he received pursuant to his guilty pleas on March 4, 2009, following his earlier jury trial. As a result, Applicant was left with an aggregate term of twenty-five (25) years.

In this Application for PCR Applicant alleges generally that his right to effective assistance of counsel, as guaranteed by the Sixth and Fourteen Amendments to the United States Constitution, as well as Article I, §14 of the South Carolina Constitution, were violated prior to and during his guilty plea

proceeding. He submits that his pleas were not knowingly and entered inasmuch as they were the product of deficient representation by Plea Counsel in that Pleas Counsel failed to give him sufficient advice concerning the potential impact of a successful appeal from the judgments and sentences entered at his jury trial.

This Application for Post-Conviction Relief (hereafter PCR) was filed on April 25, 2017 and docketed at 2017-CP-23-02653. Respondent served its Return and Motion to Dismiss on November 2, 2018. A Conditional Order of Dismissal was entered on that PCR action on November 9, 2018. Applicant filed a timely Response to said Conditional Order of Dismissal on December 12, 2018. By way of a Form 4 Order issued by the Court on December 27, 2018, Applicant was granted a hearing. Said Order did not specify whether the matter was to be set for an evidentiary hearing on the merits of Applicant's claims, or, whether the sole issue before the Court was to be whether Applicant should be allowed to proceed with a full PCR action at some point in the future. *See*, Form 4 Order dated December 27, 2018, entered by the Honorable Perry H. Gravely, Chief Administrative Judge.

A hearing was convened before the Honorable Alex Kinlaw, pressing circuit court judge, on this matter on April 15 and 17, 2019. Applicant was present at these proceedings and was represented by Tara Dawn Shurling, of the Richland County Bar. Respondent was represented by Samuel L. Key, Assistant Attorney General. Applicant testified on his own behalf at this hearing and additionally presented testimony from Plea Counsel Andrew Burke Moorman. Attorney Moorman had also represented Applicant at his jury trial approximately seven (7) weeks prior to the guilty pleas at issue in this PCR action. In addition to that testimony, Judge Kinlaw had before him a copy of the records of the Greenville County Clerk of Court regarding the subsection convictions and sentences, a copy of Applicant's records from the South Carolina Department of Corrections and the pleadings in this matter and the orders previously filed in connection with this PCR action.

Judge Kinlaw also had before him copies of the exhibits introduced by Applicant during the April, 2019, proceedings held on Respondent's Motion to Dismiss. The records of the Greenville County Clerk of Court indicate that the exhibits introduced during the April, 2019, proceedings were filed on April 17, 2019. By Order filed August 22, 2019, the Conditional Order of Dismissal in this matter was vacated. Respondent's Motion to Dismiss was denied.

An evidentiary hearing was convened before this Court on January 22, 2020. Applicant was present for this proceeding and was once again represented by Tara Dawn Shurling, Esquire. Respondent was again represented by Samuel L. Key, Assistant Attorney General. At the outset of this proceeding, the parties requested that this Court incorporate by reference the testimony heard at the previous hearing before Judge Kinlaw. The parties further agreed that, with certain minor exceptions, that testimony would be accepted by this Court in lieu of testimony from Applicant and Plea Counsel, Andrew Morton. Exhibits introduced during that proceeding were filed on January 22, 2020 and included a transcript of the April, 2019, proceedings. On February 6, 2020, a Form 4 Order was entered directing both sides to file Proposed Orders in this matter. In said Order, this Court expressly found that the testimony of both Applicant and Plea Counsel appeared believable and was consistent with the transcript of the testimony heard at the April, 2019 proceedings.

Applicant's current Application for PCR addresses his claim that he received ineffective assistance of counsel prior to and during his guilty pleas approximately seven weeks after his jury trial. He asserts that he was advised by Defense Counsel to plead guilty to the charges addressed in this Application, but that he was given very limited advice concerning the terms of his pleas, and the potential consequences of his pleas in relation to the judgments and sentences entered at his jury trial. He seeks a reversal of the judgments and sentences entered pursuant to his pleas of guilty, entered March 9, 2009, on Indictments No. 2008-GS-23-5385 (assault and

battery with intent to kill); 2008-GS-23-5386 (armed robbery) and 2008-GS-23-5387,(possession of a weapon during the commission of a violent crime).

I.

STANDARD OF REVIEW

The burden of proof is on the Applicant in a Post-Conviction Relief proceeding to prove the allegations raised in his Application for Relief and at his Post-Conviction Relief hearing. *Thompson v. State*, 340 S.C. 112, 531 S.E.2d 294 (2000); *Rule 71.1(e), SCRCP*. In evaluating an Application for Post-Conviction Relief, the moving party must demonstrate that Defense Counsel (1) failed to provide him with reasonable professional assistance of counsel under the prevailing standards for attorneys representing clients in criminal matters; and (2) that he was prejudiced by the errors and omissions of counsel such that he was deprived of a fair trial. *Strickland v. Washington*, 466 U.S. 668 (1984). In other words, the Applicant must show that, but for counsel's errors and omissions, there is a reasonable probability that the result at trial would have been different. *Id.*; *Johnson v. State*, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997). A reasonable probability has been defined by our Supreme Court as a probability sufficient to undermine confidence in the outcome of the trial. *Ard v. Catoe*, 372 S.C. 318, 330, 642 S.E.2d 590, 596 (2007). Under the *Strickland Standard*, it is not necessary that an Applicant prove that counsel's deficient performance more than likely altered the outcome of his trial, but rather he is required to establish a probability sufficient to undermine confidence in that outcome. *Strickland, supra*, 466 U.S. at 697.

Where Defense Counsel articulates a valid reason for employing certain trial strategies, such conduct should not be deemed ineffective assistance of trial counsel. Defense Counsel may not, however, explain away errors and omissions which acted to prejudice his client's ability to receive a fair trial simply by labeling them matters of trial strategy or tactics. *Roseboro v. State*,

317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995); *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992).

DISCUSSION

Applicant argues that Defense Counsel neglected to discuss the potential consequences of these guilty pleas with him and that he specifically failed to address how the possible outcome of a direct appeal, and/ or Post-Conviction Relief case arising from his judgments and sentences from his jury trial, might impact the judgments and sentences entered as a result of his guilty pleas. He further asserted that Plea Counsel never advised him that the State had not obtained indictments of the other charges they were proposing to dismiss as a term of his guilty plea agreement. Applicant argues that, as a consequence of Counsel's inadequate advice concerning the relationship between these two sets of judgments and sentences, he was left with the understanding that the two sets of charges, and the sentences he received, were effectively *merged* by his entry of pleas pursuant to the terms of his negotiated plea deal with the State. Applicant's testimony during the hearings held in this matter¹ clearly asserted that it was his understanding that any changes to the judgments and sentences imposed at his jury trial would have the same impact upon the judgments and concurrent sentences entered on the charges addressed in this application. Applicant's testimony asserts that it was his express understanding that his pleas on these charges would never impact his criminal record and would not result in a longer term of incarceration. Applicant's testimony clearly submitted that he was not worried about being convicted on the other charges which were being dismissed as a consequence of his guilty pleas because it was obvious to him that law enforcement was just trying to "*clear their books*" on those charges and had no evidence that he was guilty of the charges to which he had pleaded or the charges that were dropped as part of his plea deal. It was his position, however,

¹ Judge Kinlaw; April 15 and 17, 2019 and Judge Hayes; January 22, 2020.

that he pleaded guilty to these charges because he was assured that his pleas would never result in him getting more time for them than he received for the charges he had been found guilty of at his jury trial and it would eliminate the potential risk that the State might succeed in getting a life without parole sentence against him at some time in the future. PCR II, Tr. p. 14, line 13 – p. 15, line 18. Applicant testified that Plea Counsel never explained to him that the only sense in which the judgments and sentences he received as a result of his March 4, 2009, guilty plea would be connected to the judgments and sentences he received at his earlier jury trial was the fact that his sentences from the pleas would be ordered to be served concurrent to the sentences from his jury trial. He was not advised that the two sets of charges would remain separate legally and that if he appealed the judgments and sentences from the jury he would need to appeal the judgments and sentences from the pleas separately. PCR II, Tr. p. 15, lines 20 – 24. Applicant testified that he never would have taken the plea deal if he had understood that fact. . PCR II, Tr. p. 15, line 25 – p. 16, line 1. Applicant clearly stated that if he had known he would have to file a separate Post-Conviction Relief action to challenge the judgments and sentences from the guilty pleas he would have done so, but that he never understood that the judgments and sentences from the guilty plea were legally separate and not impacted by the reversal of the judgments and sentences from his jury trial until just days before his pleas on the charges that were originally disposed of through the jury trial. At that point, Applicant discovered it was too late to file a PCR action pursuant to §17-27-45(A). He then hired Counsel and filed a second PCR action pursuant to §17-27-45 (C). PCR II., Tr. p. 16, Line 2 – p. 17, line 17,

The testimony taken at the hearings on this application reflect Applicant's belief that all the charges disposed of at his jury trial, and those to which he pleaded, were effectively merged. He testified that at the time of the opinion in his PCR Appeal from his jury trial, he did not

understand that the reversal of the judgments and sentences from his jury trial did not similarly impact the judgments and sentences from his guilty plea. According to his PCR testimony, Applicant did not become aware that his judgments and sentences from his guilty plea proceeding were not also effectively reversed by the decision from the Supreme Court on his PCR appeal until the final stages of his plea negotiations on the charges which were remanded to the Court of General Sessions as a result of that appeal. Applicant testified that within a few days after this discovery, on May 16, 2016, he entered pleas on the charges which had originally been disposed of at the jury trial addressed in his PCR appeal. . PCR II, Tr. p.52, line 15 – p. 55, line 22.

Following these new pleas, Applicant began the task of raising the funds necessary to hire a lawyer in an attempt to secure a collateral review of his guilty pleas addressed in his current PCR Application. On April 25, 2017, less than 365 days after he discovered that his judgments and sentences on these charges had not been overturned along with those arising from his jury trial, Applicant filed his current Application for Post-Conviction Relief. Based upon that chronology, he submitted that this application was timely filed pursuant to S.C.Code Ann §17-27-45(C). By previous Order, Judge Kinlaw found this filing to be timely. This Court is bound by that ruling and notes that it concurs in that finding.

Applicant was granted the right to proceed on the merits of his PCR Application by Order of the Honorable Alex Kinlaw, filed August 22, 2019. Judge Kinlaw found that the hearing held on April 15 and 17, 2019, was for the purpose of determining whether Applicant should be allowed to move forward with his current PCR Application and be granted an evidentiary hearing on the merits of his underlying claims. Judge Kinlaw then found that Applicant should be granted leave to proceed with this collateral action. In so ruling the Court took into account the Applicant's own

PCR testimony, the testimony of his defense counsel, Andrew Burke Moorman, Esquire, the exhibits introduced by Applicant and the arguments advanced by his PCR Counsel, Tara Dawn Shurling.

Judge Kinlaw noted in his Order that Defense Counsel recalled in his PCR testimony, advising Applicant of what the term concurrent meant and the fact that the concurrent sentences he would receive, if he accepted the plea deal being offered, would not result in him serving a longer sentence than that which he had already received at his jury trial. As argued by Applicant, the Court noted that this same Defense Attorney represented Applicant at that jury trial and therefore, would have been very familiar with that case and the sentences imposed at its conclusion.

In the testimony had in this PCR action, Defense Counsel admitted that he had no recollection of ever advising Applicant of the consequences that would follow if his judgments and sentences from the jury trial were to be overturned on direct appeal, or in a PCR action, at a later date. Defense Counsel acknowledged that he did not admonish his client concerning the fact that the two cases were only concurrent as to sentence. He admitted that he *did not qualify* his advice that the entry of the pleas would not result in him receiving any more time for these pleas than he got for the jury trial charges. Judge Kinlaw found that, on those facts, it was not difficult to see how a defendant might reach the same understanding that Applicant expressed to the Court. Judge Kinlaw's Order assigned no fault to Applicant for failing to find out the reality of what impact a reversal of the judgments and sentences he received at his jury trial would have on the judgments and sentences received pursuant to his subsequent guilty pleas. As far as his SCDC records would have revealed, the sentences on both sets of charges were in fact the same and they were run concurrent. Therefore, Applicant had no notice of what the result of a reversal on the jury trial judgments and sentences might ultimately be. Judge Kinlaw found that, based on his attorney's

advice, Applicant had no way of knowing that he might in fact ultimately end up getting more time on the guilty plea charges than he received on the charges originally disposed of by jury trial. Judge Kinlaw found Applicant's testimony credible on this point particularly in light of Defense Counsel's own testimony. As for the timeliness of this current application, Judge Kinlaw's Order found that Applicant had no reason to question the soundness Defense Counsel's advice until he learned, during the plea negotiation process when the jury trial charges were remanded for a new trial, that whatever sentence he received on remand of those charges would not change the sentence he received on the charges currently before the Court. This Court agrees.

In addition to the findings made by Judge Kinlaw, this Court is constrained to note several additional facts which persuade this Court of the credibility of Applicant's testimony and the merit of his PCR claims. Applicant was represented at trial by the same lawyer that represented him at the pleas now before this Court for review. The public Records of the South Carolina Court of Appeals show that the Notice of Appeal on those charges was filed by Applicant's lawyer at both his trial and his guilty pleas, Andrew Moorman, on January 23, 2009. Thus, at the time Applicant was advised by Counsel that his pleas would not result in him getting more time on the charges he was pleading to than he received for the charges he had gone to trial on, he knew there was going to be a direct appeal. Although that direct appeal did not result in the reversal of the judgments and sentence entered at Applicant's trial, it could have and Counsel did not explain how such a reversal might impact Appellant's ultimate aggregate sentence. Furthermore, as a criminal defense lawyer, it is reasonable to infer that he would have know that even if the direct appeal were not successful, Applicant would have a right to a PCR action which might also impact his ultimate aggregate sentence on these two sets of charges.

This Court finds that the degree to which Applicant could reasonably have believed that these two sets of charges were “*merged*”, as opposed to simply having concurrent sentences, is further supported by other facts in this case. The twenty-three (23) charges that were dismissed following these pleas were all made brought by way of arrest warrants with supporting made by **Officer C.W. Hanning** of the Greenville County Sherriff’s Office. Each of the warrants that were dismissed on March 9, 2009, purport to be signed off on by **Magistrate Judge James E. Hudson**, Judges Code No. 5031. All but *three* of these warrants were dated as signed on December 27, 2007. All twenty-three dismissed charges were *not proessed* on March 9, 2009. All of Applicant’s charges from his trial, his guilty pleas and the warrants that were dismissed following his pleas, were served on him on December 28, 2007. A single warrant on one of the charges that went to trial was dated December 27, 2009, and three that were dismissed, were likewise dated December 27, 2009. The signatures on those three arrest warrants are not even similar to the signatures on the other twenty charges that were dismissed. Furthermore, the Court observes that one of the arrest warrants on a charge to which Applicant pleaded on March 4, 2009, originally showed an offense date of December 18, 2007. The portion of that warrant signed by Magistrate Hudson was likewise originally dated December 18, 2007. Both those dates were changed to December 14, 2007 by hand. The Affidavit portion of that Warrant, again signed by Officer C. W. Hanning, remained dated December 18, 2007. *See, Warrant No. I-474445*. The changes on these dates are not initialed or dated. On two other of the charges Applicant pleaded to on that date, the offense date was obviously originally December 18, 2007 and the date of the affidavit was also December 18, 2007. Both those dates were changed to December 14, 2007, by hand. The date Magistrate Hudson signed these two warrants was listed as December 18, 2007, but that was not changed on these two warrants unlike I-474445. *See, Warrants No. I-474444 and I-474443*. None of the changes on these

two warrants are initialed or dated. According to the twenty-three (23) warrants for the charges that were dropped, these offenses all occurred between November 21, 2007 and December 14, 2007. Despite the fact that all these offenses took place within the same time period as those for which Applicant went to trial, and those to which he pleaded, it is worthy of note that the State had not obtained true billed indictments on any of charges dismissed in exchange for Applicant's guilty pleas. Applicant has alleged, and Plea Counsel did not disputed, that he was not made aware of this fact prior to his guilty pleas.

This Court finds Plea Counsel's representation was deficient in that he failed to fully advise Applicant concerning how a reversal on the judgments and sentences entered at his earlier jury trial might change the sentence for those offenses and thereby change the impact of the pleas he was considering entering. This Court finds his testimony to be credible and not inconsistent with Plea Counsel's own testimony concerning what advise he gave Applicant. For that reason, this Court finds that reversal of the judgments and sentences entered against Applicant on March 4, 2007 is necessary and appropriate.

Applicant has been represented throughout this PCR action by Counsel with extensive experience in the field of Post-Conviction Relief. He was questioned at length at the proceeding held on the State's Motion to Dismiss, concerning his understanding of the potential consequences of a reversal of the judgments and sentences involved in this application. He was further questioned concerning the twenty-three (23) other charges against him which were dismissed on March 9, 2009, following his pleas on March 4, 2009. As noted in Judge Kinlaw's Order, Applicant indicated that he had been advised by his current PCR Counsel that the State might pursue prosecution of some, or all, of those charges if he ultimately succeeded in having his guilty pleas overturned. During that proceeding, Applicant testified that at the time of his pleas he did not know

that the State had not even obtained indictments in any of those charges despite the fact that they stemmed from incidents which took place during the same approximate time period as his other charges. Applicant testified that he was not worried about being prosecuted on any of the twenty-three (23) charges that were dismissed, because he was not guilty of those crimes. PCR II, Tr. p. 20, line 11 – p. 21, l. 19; PCR II, Tr. p. 24, line 16 – p. 25, line 9.

Elsewhere in his PCR testimony Applicant testified that he was “*falsely accused*” of the crimes the State took him to trial on and noted that his first trial on those charges ended in a hung jury. PCR II, Tr. p. 26, lines 21 – 24. He further indicated that the only reason he pleaded to the charges before the Court not because he was guilty, but because he was getting threatened with LOP if he did not plead. PCR II, Tr. p. 26, lines 7 – 24. Counsel provided this Court with documentation that supported that assertion. Applicant further testified that he understood that just because the State had not previously sought indictments from the grand jury on these warrants, there was nothing to stop them from attempting to do so in the future should he succeed in getting these pleas overturned. PCR Counsel also questioned Applicant on the record concerning the fact that armed robbery and assault and battery with Intent to Kill are both most serious crimes pursuant to S.C. Code Ann. §17-25-45 and therefore, the possibility existed that he would get a life without parole sentence if the State ever successfully prosecuted him for even one more count of Armed Robbery, Assault with Intent to Kill or any other *most serious* or *serious* offense where the crime occurred more than twenty-four (24) hours before or after the Armed Robbery Count to which he pleaded on May 16, 2017. Applicant testified that the only reason he pleaded guilty to these charges was his belief that those pleas could not ever result in him getting a longer sentence than he received for the charges originally prosecuted at his jury trial. It is believable to this Court that the insufficient advice of Plea Counsel created Applicant’s misunderstanding by not making it clear that

the if the jury trial judgments were overturned in any subsequent appeal, the guilty plea judgments and sentences would not be. Counsel's failure to explain that the net result could be that Applicant might ultimately get less time on remand for the charges on which he had gone to trial, or even no time if he were acquitted on retrial. Furthermore, Applicant firmly asserted that he understood the risks of going forward with this PCR, but was not deterred from going forward because he was confident the State did not and could not have any evidence to convict him on any of these charges.

Applicant asserted that in his opinion, the State was simply trying to "*clear their books*" on him by charging him in a bunch of unsolved cases. He explained that he felt the state wanted him to plead to at least one set of these crimes in exchange for them "*dismissing*" the other pending charges as part of a plea agreement; a process which would enable them to record that all twenty-seven (27) charges (the four pleas involved in the application currently before the Court and the 23 counts dismissed following his pleas on March 4, 2009). Applicant asserted that the fact that the State did not get indictments on twenty-three (23) of the dismissed charges was at least some evidence of that intent by the State. Applicant testified that the State did not have a case against him on these charges or any of the twenty-three (23) other charges that were dismissed after his pleas. He unambiguously testified that the only reason he pleaded to these charges was the fact that he believed his charges his pleas were being completely merged with the charges a jury had found him guilty of and, therefore, stood no chance of hurting him in any way. It is therefore clear to this Court that Applicant decided to move forward with collateral review of his pleas with full knowledge of the risks involved.

CONCLUSION

In light of the above, it is the finding of this Court that Plea Counsel provided Applicant ineffective assistance of counsel prior to and during his guilty plea proceeding on March 4, 2009.

On the facts of this case, Plea Counsel should have recognized that his advice to Applicant concerning the fact that his guilty pleas would not result in him serving more time than he would have to serve on the charges from his jury trial, was very much contingent upon the outcome of any appeal Applicant might win in the future. At the time of this advice, he knew Applicant already had a direct appeal pending from his jury trial. He knew this because he had represented Applicant at that trial and, according to the public records of the South Carolina Court of Appeals; he had filed that appeal himself. While it was a later appeal from a PCR action which resulted in the reversal of those judgments and sentences, the fact that Applicant wanted to appeal his convictions and sentences from his jury trial should have prompted this advice from Plea Counsel. This Court further finds that Applicant's pleas of guilty were not knowingly and voluntarily entered inasmuch as they were the product of Plea Counsel deficient representation. Wherefore, this Court finds that Applicant has met his burden of proof on these Sixth Amendment claims and finds that the appropriate remedy is for the judgments and sentences entered against Applicant pursuant to his guilty pleas entered on March 4, 2009, to be vacated and these charges be remanded to the Greenville County Court of General Sessions for a new trial.

IT IS SO ORDERED.

J. Mark Hayes, II
Presiding Circuit Judge
Thirteenth Judicial Circuit

This _____ day of _____, 2020.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2017-CP-23-2653
OSHAUN JOSEPH ROBINSON, #327798,	)	
	)	
Applicant,	)	
v.	)	Order
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

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Paul Wickensmeyer CDD GUL SC

**I.
PROCEDURAL HISTORY**

Applicant was convicted of charges of Simple Assault (08-GS-23-5384), Criminal Conspiracy (08-GS-23-5383), Possession of a Weapon (08-GS-23-5382), Armed Robbery and Possession of a Weapon During the Commission of a Violent Crime. (08-GS-23-5382) on January 15, 2009, following a jury trial. He received an aggregate sentence of twenty-five (25) years on those judgments. Shortly thereafter, on March 4, 2009, Applicant, acting on the advice of Defense Counsel, entered the guilty pleas addressed in this Application for PCR. Those pleas were entered before the Honorable Edward W. Miller, presiding circuit court judge. Pursuant to those pleas, judgments were entered against Applicant for criminal conspiracy (2008-GS-23-5385), assault and battery with intent to kill (2008-GS-23-5386), armed robbery, and possession of a weapon during the commission of a violent crime (2008-GS-23-5387). He was represented in the Court of General Sessions on those charges by Andrew Burke Moorman, Esquire. Attorney Moorman also represented Applicant at his earlier jury trial on the other charges discussed *supra*. Assistant Solicitor Lucas Marchant, Esquire, represented the State in the prosecution of these charges. Judge Miller sentenced Applicant to imprisonment in the custody of the South Carolina Department of Corrections for concurrent terms of five (5) years for



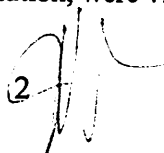
criminal conspiracy, twenty (20) years for assault and battery with intent to kill, twenty-five (25) years for armed robbery, and five (5) years for possession of a weapon during the commission of a violent crime. Said sentences were ordered to run concurrently with each other and concurrent to the sentences imposed at his earlier jury trial. The result was Applicant having an aggregate sentence of twenty-five (25) years. Applicant did not pursue a direct appeal from the judgments and sentences entered pursuant to his guilty pleas.

Applicant did pursue a direct appeal from the judgments and sentences entered at his *jury trial*. The public Records of the South Carolina court of Appeals verify that this direct appeal was filed by Trial and Plea Counsel, Andrew Moorman, on January 23, 2009. In an unpublished opinion, the South Carolina Court of Appeals affirmed those convictions and sentences. *See, State v. Robinson*, Unpublished Op. No. 2012-UP-042, decided January 25, 2012. Those judgments and sentences were, however, overturned in a subsequent PCR appeal. *Oshaun J. Robinson, v. State*, Op. No. 2015-MO-018 (Sup.Ct. dated April 15, 2015). The reversal in Applicant's PCR Appeal was based upon the same issue and analysis found in the Supreme Court's decision in the companion case of *Kenneth W Workmen v. State*, Op. No. 27514 (S.Ct. April 15, 2015).

Applicant subsequently entered pleas of guilty on May 16, 2016, to the charges he was originally convicted of at his jury trial. This time, Applicant received an aggregate sentence of fifteen (15) years of those judgments. Said sentences were run concurrent to each other and concurrent to the sentences he received pursuant to his guilty pleas on March 4, 2009, following his earlier jury trial. As a result, Applicant was left with an aggregate term of twenty-five (25) years.

In this Application for PCR Applicant alleges generally that his right to effective assistance of counsel, as guaranteed by the Sixth and Fourteen Amendments to the United States Constitution, as well as Article I, §14 of the South Carolina Constitution, were violated prior to and during his guilty plea

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proceeding. He submits that his pleas were not knowingly and entered inasmuch as they were the product of deficient representation by Plea Counsel in that Pleas Counsel failed to give him sufficient advice concerning the potential impact of a successful appeal from the judgments and sentences entered at his jury trial.

This Application for Post-Conviction Relief (hereafter PCR) was filed on April 25, 2017 and docketed at 2017-CP-23-02653. Respondent served its Return and Motion to Dismiss on November 2, 2018. A Conditional Order of Dismissal was entered on that PCR action on November 9, 2018. Applicant filed a timely Response to said Conditional Order of Dismissal on December 12, 2018. By way of a Form 4 Order issued by the Court on December 27, 2018, Applicant was granted a hearing. Said Order did not specify whether the matter was to be set for an evidentiary hearing on the merits of Applicant's claims, or, whether the sole issue before the Court was to be whether Applicant should be allowed to proceed with a full PCR action at some point in the future. *See*, Form 4 Order dated December 27, 2018, entered by the Honorable Perry H. Gravely, Chief Administrative Judge.

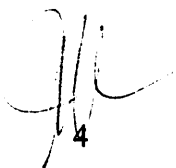
A hearing was convened before the Honorable Alex Kinlaw, presiding circuit court judge, on this matter on April 15 and 17, 2019. Applicant was present at these proceedings and was represented by Tara Dawn Shurling, of the Richland County Bar. Respondent was represented by Samuel L. Key, Assistant Attorney General. Applicant testified on his own behalf at this hearing and additionally presented testimony from Plea Counsel Andrew Burke Moorman. Attorney Moorman had also represented Applicant at his jury trial approximately seven (7) weeks prior to the guilty pleas at issue in this PCR action. In addition to that testimony, Judge Kinlaw had before him a copy of the records of the Greenville County Clerk of Court regarding the subsection convictions and sentences, a copy of Applicant's records from the South Carolina Department of Corrections and the pleadings in this matter and the orders previously filed in connection with this PCR action.

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Judge Kinlaw also had before him copies of the exhibits introduced by Applicant during the April, 2019, proceedings held on Respondent's Motion to Dismiss. The records of the Greenville County Clerk of Court indicate that the exhibits introduced during the April, 2019, proceedings were filed on April 17, 2019. By Order filed August 22, 2019, the Conditional Order of Dismissal in this matter was vacated. Respondent's Motion to Dismiss was denied.

An evidentiary hearing was convened before this Court on January 22, 2020. Applicant was present for this proceeding and was once again represented by Tara Dawn Shurling, Esquire. Respondent was again represented by Samuel L. Key, Assistant Attorney General. At the outset of this proceeding, the parties requested that this Court incorporate by reference the testimony heard at the previous hearing before Judge Kinlaw. The parties further agreed that, with certain minor exceptions, that testimony would be accepted by this Court in lieu of testimony from Applicant and Plea Counsel, Andrew Morton. Exhibits introduced during that proceeding were filed on January 22, 2020 and included a transcript of the April, 2019, proceedings. On February 6, 2020, a Form 4 Order was entered directing both sides to file Proposed Orders in this matter. In said Order, this Court expressly found that the testimony of both Applicant and Plea Counsel appeared believable and was consistent with the transcript of the testimony heard at the April, 2019 proceedings.

Applicant's current Application for PCR addresses his claim that he received ineffective assistance of counsel prior to and during his guilty pleas approximately seven weeks after his jury trial. He asserts that he was advised by Defense Counsel to plead guilty to the charges addressed in this Application, but that he was given very limited advice concerning the terms of his pleas, and the potential consequences of his pleas in relation to the judgments and sentences entered at his jury trial. He seeks a reversal of the judgments and sentences entered pursuant to his pleas of guilty, entered March 9, 2009, on Indictments No. 2008-GS-23-5385 (assault and



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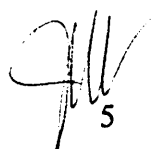
battery with intent to kill); 2008-GS-23-5386 (armed robbery) and 2008-GS-23-5387,(possession of a weapon during the commission of a violent crime).

I.

STANDARD OF REVIEW

The burden of proof is on the Applicant in a Post-Conviction Relief proceeding to prove the allegations raised in his Application for Relief and at his Post-Conviction Relief hearing. *Thompson v. State*, 340 S.C. 112, 531 S.E.2d 294 (2000); *Rule 71.1(e), SCRPC*. In evaluating an Application for Post-Conviction Relief, the moving party must demonstrate that Defense Counsel (1) failed to provide him with reasonable professional assistance of counsel under the prevailing standards for attorneys representing clients in criminal matters; and (2) that he was prejudiced by the errors and omissions of counsel such that he was deprived of a fair trial. *Strickland v. Washington*, 466 U.S. 668 (1984). In other words, the Applicant must show that, but for counsel's errors and omissions, there is a reasonable probability that the result at trial would have been different. *Id.*; *Johnson v. State*, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997). A reasonable probability has been defined by our Supreme Court as a probability sufficient to undermine confidence in the outcome of the trial. *Ard v. Catoe*, 372 S.C. 318, 330, 642 S.E.2d 590, 596 (2007). Under the *Strickland Standard*, it is not necessary that an Applicant prove that counsel's deficient performance more than likely altered the outcome of his trial, but rather he is required to establish a probability sufficient to undermine confidence in that outcome. *Strickland, supra*, 466 U.S. at 697.

Where Defense Counsel articulates a valid reason for employing certain trial strategies, such conduct should not be deemed ineffective assistance of trial counsel. Defense Counsel may not, however, explain away errors and omissions which acted to prejudice his client's ability to receive a fair trial simply by labeling them matters of trial strategy or tactics. *Roseboro v. State*,

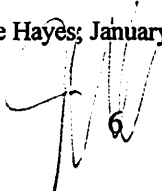


317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995); *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992).

DISCUSSION

Applicant argues that Defense Counsel neglected to discuss the potential consequences of these guilty pleas with him and that he specifically failed to address how the possible outcome of a direct appeal, and/ or Post-Conviction Relief case arising from his judgments and sentences from his jury trial, might impact the judgments and sentences entered as a result of his guilty pleas. He further asserted that Plea Counsel never advised him that the State had not obtained indictments of the other charges they were proposing to dismiss as a term of his guilty plea agreement. Applicant argues that, as a consequence of Counsel's inadequate advice concerning the relationship between these two sets of judgments and sentences, he was left with the understanding that the two sets of charges, and the sentences he received, were effectively *merged* by his entry of pleas pursuant to the terms of his negotiated plea deal with the State. Applicant's testimony during the hearings held in this matter¹ clearly asserted that it was his understanding that any changes to the judgments and sentences imposed at his jury trial would have the same impact upon the judgments and concurrent sentences entered on the charges addressed in this application. Applicant's testimony asserts that it was his express understanding that his pleas on these charges would never impact his criminal record and would not result in a longer term of incarceration. Applicant's testimony clearly submitted that he was not worried about being convicted on the other charges which were being dismissed as a consequence of his guilty pleas because it was obvious to him that law enforcement was just trying to "*clear their books*" on those charges and had no evidence that he was guilty of the charges to which he had pleaded or the charges that were dropped as part of his plea deal. It was his position, however,

¹ Judge Kinlaw; April 15 and 17, 2019 and Judge Hayes; January 22, 2020.



that he pleaded guilty to these charges because he was assured that his pleas would never result in him getting more time for them than he received for the charges he had been found guilty of at his jury trial and it would eliminate the potential risk that the State might succeed in getting a life without parole sentence against him at some time in the future. PCR II, Tr. p. 14, line 13 – p. 15, line 18.

Prior to the March 4, 2009, guilty plea, Counsel advised Applicant the State would recommend for Applicant to receive no more time than he received from his jury convictions and for the guilty plea sentences to run concurrent to his jury convictions. Applicant testified he pleaded guilty because he already had a twenty-five year sentence from the jury conviction, and if he did not plead guilty to these charges, the State was going to serve him LWOP notice. Applicant testified he took the twenty-five year offer because it "ran in with the [twenty-five] years [he] was already serving." (Motion Tr. 14). Applicant explained that he understood concurrent meant that his sentences from his two sets of charges would be run together. Specifically, Applicant stated, "Just the sentencing. That's all I'm --." (Motion Tr. 14). Applicant testified he pleaded guilty with the understanding that he was not ever going to have to worry about getting more time for those charges than he had already gotten.

Applicant testified that Plea Counsel never explained to him that the only sense in which the judgments and sentences he received as a result of his March 4, 2009, guilty plea would be connected to the judgments and sentences he received at his earlier jury trial was the fact that his sentences from the pleas would be ordered to be served concurrent to the sentences from his jury trial. He was not advised that the two sets of charges would remain separate legally and that if he appealed the judgments and sentences from the jury he would need to appeal the judgments and sentences from the pleas separately. PCR II, Tr. p. 15, lines 20 – 24. Applicant testified

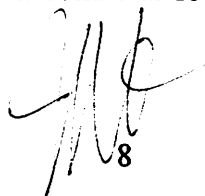


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that he never would have taken the plea deal if he had understood that fact. . PCR II, Tr. p. 15, line 25 – p. 16, line 1. Applicant clearly stated that if he had known he would have to file a separate Post-Conviction Relief action to challenge the judgments and sentences from the guilty pleas he would have done so, but that he never understood that the judgments and sentences from the guilty plea were legally separate and not impacted by the reversal of the judgments and sentences from his jury trial until just days before his pleas on the charges that were originally disposed of through the jury trial. At that point, Applicant discovered it was too late to file a PCR action pursuant to §17-27-45(A). He then hired Counsel and filed a second PCR action pursuant to §17-27-45 (C). PCR II., Tr. p. 16, Line 2 – p. 17, line 17,

The testimony taken at the hearings on this application reflect Applicant's belief that all the charges disposed of at his jury trial, and those to which he pleaded, were effectively merged. He testified that at the time of the opinion in his PCR Appeal from his jury trial, he did not understand that the reversal of the judgments and sentences from his jury trial did not similarly impact the judgments and sentences from his guilty plea. According to his PCR testimony, Applicant did not become aware that his judgments and sentences from his guilty plea proceeding were not also effectively reversed by the decision from the Supreme Court on his PCR appeal until the final stages of his plea negotiations on the charges which were remanded to the Court of General Sessions as a result of that appeal. Applicant testified that within a few days after this discovery, on May 16, 2016, he entered pleas on the charges which had originally been disposed of at the jury trial addressed in his PCR appeal. . PCR II, Tr. p.52, line 15 – p. 55, line 22.

Following these new pleas, Applicant began the task of raising the funds necessary to hire a lawyer in an attempt to secure a collateral review of his guilty pleas addressed in his



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current PCR Application. On April 25, 2017, less than 365 days after he discovered that his judgments and sentences on these charges had not been overturned along with those arising from his jury trial, Applicant filed his current Application for Post-Conviction Relief. Based upon that chronology, he submitted that this application was timely filed pursuant to S.C.Code Ann §17-27-45(C). By previous Order, Judge Kinlaw found this filing to be timely. This Court is bound by that ruling and notes that it concurs in that finding.

Applicant was granted the right to proceed on the merits of his PCR Application by Order of the Honorable Alex Kinlaw, filed August 22, 2019. Judge Kinlaw found that the hearing held on April 15 and 17, 2019, was for the purpose of determining whether Applicant should be allowed to move forward with his current PCR Application and be granted an evidentiary hearing on the merits of his underlying claims. Judge Kinlaw then found that Applicant should be granted leave to proceed with this collateral action. In so ruling the Court took into account the Applicant's own PCR testimony, the testimony of his defense counsel, Andrew Burke Moorman, Esquire, the exhibits introduced by Applicant and the arguments advanced by his PCR Counsel, Tara Dawn Shurling.

Judge Kinlaw noted in his Order that Defense Counsel recalled in his PCR testimony, advising Applicant of what the term concurrent meant and the fact that the concurrent sentences he would receive, if he accepted the plea deal being offered, would not result in him serving a longer sentence than that which he had already received at his jury trial. As argued by Applicant, the Court noted that this same Defense Attorney represented Applicant at that jury trial and therefore, would have been very familiar with that case and the sentences imposed at its conclusion.

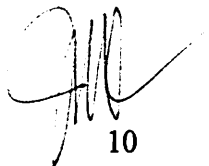
In the testimony had in this PCR action, Defense Counsel admitted that he had no recollection of ever advising Applicant of the consequences that would follow if his judgments and



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sentences from the jury trial were to be overturned on direct appeal, or in a PCR action, at a later date. Defense Counsel acknowledged that he did not admonish his client concerning the fact that the two cases were only concurrent as to sentence. He admitted that he *did not qualify* his advice that the entry of the pleas would not result in him receiving any more time for these pleas than he got for the jury trial charges. Judge Kinlaw found that, on those facts, it was not difficult to see how a defendant might reach the same understanding that Applicant expressed to the Court. Judge Kinlaw's Order assigned no fault to Applicant for failing to find out the reality of what impact a reversal of the judgments and sentences he received at his jury trial would have on the judgments and sentences received pursuant to his subsequent guilty pleas. As far as his SCDC records would have revealed, the sentences on both sets of charges were in fact the same and they were run concurrent. Therefore, Applicant had no notice of what the result of a reversal on the jury trial judgments and sentences might ultimately be. Judge Kinlaw found that, based on his attorney's advice, Applicant had no way of knowing that he might in fact ultimately end up getting more time on the guilty plea charges than he received on the charges originally disposed of by jury trial. Judge Kinlaw found Applicant's testimony credible on this point particularly in light of Defense Counsel's own testimony. As for the timeliness of this current application, Judge Kinlaw's Order found that Applicant had no reason to question the soundness Defense Counsel's advice until he learned, during the plea negotiation process when the jury trial charges were remanded for a new trial, that whatever sentence he received on remand of those charges would not change the sentence he received on the charges currently before the Court. This Court agrees.

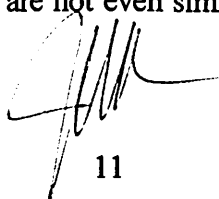
In addition to the findings made by Judge Kinlaw, this Court is constrained to note several additional facts which persuade this Court of the credibility of Applicant's testimony and the merit of his PCR claims. Applicant was represented at trial by the same lawyer that represented him at



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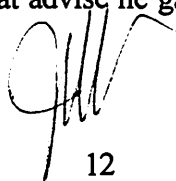
the pleas now before this Court for review. The public Records of the South Carolina Court of Appeals show that the Notice of Appeal on those charges was filed by Applicant's lawyer at both his trial and his guilty pleas, Andrew Moorman, on January 23, 2009. Thus, at the time Applicant was advised by Counsel that his pleas would not result in him getting more time on the charges he was pleading to than he received for the charges he had gone to trial on, he knew there was going to be a direct appeal. Although that direct appeal did not result in the reversal of the judgments and sentence entered at Applicant's trial, it could have and Counsel did not explain how such a reversal might impact Appellant's ultimate aggregate sentence. Furthermore, as a criminal defense lawyer, it is reasonable to infer that he would have know that even if the direct appeal were not successful, Applicant would have a right to a PCR action which might also impact his ultimate aggregate sentence on these two sets of charges.

This Court finds that the degree to which Applicant could reasonably have believed that these two sets of charges were "*merged*", as opposed to simply having concurrent sentences, is further supported by other facts in this case. The twenty-three (23) charges that were dismissed following these pleas were all made brought by way of arrest warrants with supporting made by **Officer C.W. Hanning** of the Greenville County Sherriff's Office. Each of the warrants that were dismissed on March 9, 2009, purport to be signed off on by **Magistrate Judge James E. Hudson**, Judges Code No. 5031. All but *three* of these warrants were dated as signed on December 27, 2007. All twenty-three dismissed charges were *not prossed* on March 9, 2009. All of Applicant's charges from his trial, his guilty pleas and the warrants that were dismissed following his pleas, were served on him on December 28, 2007. A single warrant on one of the charges that went to trial was dated December 27, 2009, and three that were dismissed, were likewise dated December 27, 2009. The signatures on those three arrest warrants are not even similar to the signatures on the other twenty



charges that were dismissed. Furthermore, the Court observes that one of the arrest warrants on a charge to which Applicant pleaded on March 4, 2009, originally showed an offense date of December 18, 2007. The portion of that warrant signed by Magistrate Hudson was likewise originally dated December 18, 2007. Both those dates were changed to December 14, 2007 by hand. The Affidavit portion of that Warrant, again signed by Officer C. W. Hanning, remained dated December 18, 2007. *See, Warrant No. I-474445.* The changes on these dates are not initialed or dated. On two other of the charges Applicant pleaded to on that date, the offense date was obviously originally December 18, 2007 and the date of the affidavit was also December 18, 2007. Both those dates were changed to December 14, 2007, by hand. The date Magistrate Hudson signed these two warrants was listed as December 18, 2007, but that was not changed on these two warrants unlike I-474445. *See, Warrants No. I-474444 and I-474443.* None of the changes on these two warrants are initialed or dated. According to the twenty-three (23) warrants for the charges that were dropped, these offenses all occurred between November 21, 2007 and December 14, 2007. Despite the fact that all these offenses took place within the same time period as those for which Applicant went to trial, and those to which he pleaded, it is worthy of note that the State had not obtained true billed indictments on any of charges dismissed in exchange for Applicant's guilty pleas. Applicant has alleged, and Plea Counsel did not disputed, that he was not made aware of this fact prior to his guilty pleas.

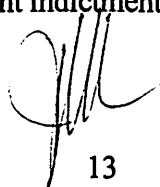
This Court finds Plea Counsel's representation was deficient in that he failed to fully advise Applicant concerning how a reversal on the judgments and sentences entered at his earlier jury trial might change the sentence for those offenses and thereby change the impact of the pleas he was considering entering. This Court finds his testimony to be credible and not inconsistent with Plea Counsel's own testimony concerning what advise he gave Applicant. For that reason, this Court

A handwritten signature in black ink, appearing to be 'J. W. Hanning', is written over the page number 12.

finds that reversal of the judgments and sentences entered against Applicant on March 4, 2007 is necessary and appropriate.

Applicant has been represented throughout this PCR action by Counsel with extensive experience in the field of Post-Conviction Relief. He was questioned at length at the proceeding held on the State's Motion to Dismiss, concerning his understanding of the potential consequences of a reversal of the judgments and sentences involved in this application. He was further questioned concerning the twenty-three (23) other charges against him which were dismissed on March 9, 2009, following his pleas on March 4, 2009. As noted in Judge Kinlaw's Order, Applicant indicated that he had been advised by his current PCR Counsel that the State might pursue prosecution of some, or all, of those charges if he ultimately succeeded in having his guilty pleas overturned. During that proceeding, Applicant testified that at the time of his pleas he did not know that the State had not even obtained indictments in any of those charges despite the fact that they stemmed from incidents which took place during the same approximate time period as his other charges. Applicant testified that he was not worried about being prosecuted on any of the twenty-three (23) charges that were dismissed, because he was not guilty of those crimes. PCR II, Tr. p. 20, line 11 – p. 21, l. 19; PCR II, Tr. p. 24, line 16 – p. 25, line 9.

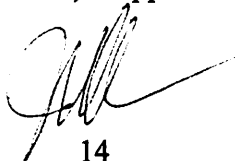
Elsewhere in his PCR testimony Applicant testified that he was "*falsely accused*" of the crimes the State took him to trial on and noted that his first trial on those charges ended in a hung jury. PCR II, Tr. p. 26, lines 21 – 24. He further indicated that the only reason he pleaded to the charges before the Court not because he was guilty, but because he was getting threatened with LOP if he did not plead. PCR II, Tr. p. 26, lines 7 – 24. Counsel provided this Court with documentation that supported that assertion. Applicant further testified that he understood that just because the State had not previously sought indictments from the grand jury on these warrants, there



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was nothing to stop them from attempting to do so in the future should he succeed in getting these pleas overturned. PCR Counsel also questioned Applicant on the record concerning the fact that armed robbery and assault and battery with Intent to Kill are both most serious crimes pursuant to S.C. Code Ann. §17-25-45 and therefore, the possibility existed that he would get a life without parole sentence if the State ever successfully prosecuted him for even one more count of Armed Robbery, Assault with Intent to Kill or any other *most serious* or *serious* offense where the crime occurred more than twenty-four (24) hours before or after the Armed Robbery Count to which he pleaded on May 16, 2017. Applicant testified that the only reason he pleaded guilty to these charges was his belief that those pleas could not ever result in him getting a longer sentence than he received for the charges originally prosecuted at his jury trial. It is believable to this Court that the insufficient advice of Plea Counsel created Applicant's misunderstanding by not making it clear that the if the jury trial judgments were overturned in any subsequent appeal, the guilty plea judgments and sentences would not be. Counsel's failure to explain that the net result could be that Applicant might ultimately get less time on remand for the charges on which he had gone to trial, or even no time if he were acquitted on retrial. Furthermore, Applicant firmly asserted that he understood the risks of going forward with this PCR, but was not deterred from going forward because he was confident the State did not and could not have any evidence to convict him on any of these charges.

Applicant asserted that in his opinion, the State was simply trying to "*clear their books*" on him by charging him in a bunch of unsolved cases. He explained that he felt the state wanted him to plead to at least one set of these crimes in exchange for them "*dismissing*" the other pending charges as part of a plea agreement; a process which would enable them to record that all twenty-seven (27) charges (the four pleas involved in the application currently before the Court and the 23 counts dismissed following his pleas on March 4, 2009). Applicant asserted that the fact that the State did

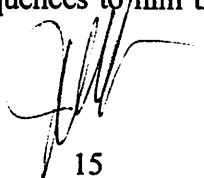


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not get indictments on twenty-three (23) of the dismissed charges was at least some evidence of that intent by the State. Applicant testified that the State did not have a case against him on these charges or any of the twenty-three (23) other charges that were dismissed after his pleas. He unambiguously testified that the only reason he pleaded to these charges was the fact that he believed his charges his pleas were being completely merged with the charges a jury had found him guilty of and, therefore, stood no chance of hurting him in any way. It is therefore clear to this Court that Applicant decided to move forward with collateral review of his pleas with full knowledge of the risks involved.

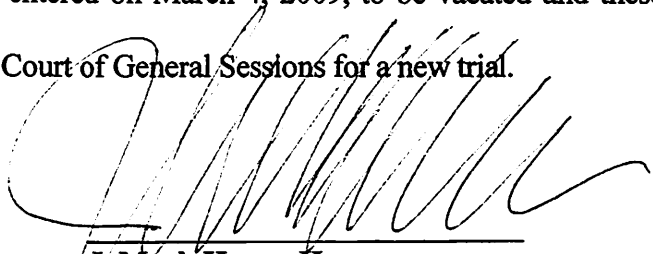
CONCLUSION

In light of the above, it is the finding of this Court that Plea Counsel provided Applicant ineffective assistance of counsel prior to and during his guilty plea proceeding on March 4, 2009. On the facts of this case, Plea Counsel should have recognized that his advice to Applicant concerning the fact that his guilty pleas would not result in him serving more time than he would have to serve on the charges from his jury trial, was very much contingent upon the outcome of any appeal Applicant might win in the future. At the time of this advice, he knew Applicant already had a direct appeal pending from his jury trial. He knew this because he had represented Applicant at that trial and, according to the public records of the South Carolina Court of Appeals; he had filed that appeal himself. While it was a later appeal from a PCR action which resulted in the reversal of those judgments and sentences, the fact that Applicant wanted to appeal his convictions and sentences from his jury trial should have prompted this advice from Plea Counsel. This Court further finds that Applicant's pleas of guilty were not knowingly and voluntarily entered inasmuch as they were the product of Plea Counsel deficient representation. This Court also finds that the Applicant is aware of the negative consequences to him that may result from the granting of this



PCR. Wherefore, this Court finds that Applicant has meet his burden of proof on these Sixth Amendment claims and finds that the appropriate remedy is for the judgments and sentences entered against Applicant pursuant to his guilty pleas entered on March 4, 2009, to be vacated and these charges be remanded to the Greenville County Court of General Sessions for a new trial.

IT IS SO ORDERED.



J. Mark Hayes, II
Presiding Circuit Judge
Thirteenth Judicial Circuit

This 14th day of May, 2020.

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

JUDGMENT IN A CIVIL CASE
 CASE NO: 2017CP2302653

20 MAY 19 AM 11:45
 Paul Wickensimer 000 601 SC

Oshaun Joseph Robinson vs. South Carolina State Of

CHECK ONE:

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

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

IT IS ORDERED AND ADJUDGED: ☐ See attached order: ☐ Statement of Judgment by the Court:

ATTACHED IS AN ORDER FILED IN THIS CASE.

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE -

Tara Dawn Shurling 3614 Landmark Drive Suite A
 Columbia, SC 29204

ATTORNEY(S) FOR THE PLAINTIFF(S)

Megan Harrigan Jameson PO Box 11549
 Columbia, SC 29211
SOLICITORS OFFICE GREENVILLE COUNTY

ATTORNEY(S) FOR THE DEFENDANT(S)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS	
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT	
	)		
Oshaun Robinson, #327798,	)	2017-CP-23-2653	
	)		
Applicant,	)		
	)	RULE 59(e), SCRPC, MOTION	
	)	TO	
v.	)	ALTER, AMEND, AND RECONSIDER	
	)		
State of South Carolina,	)		
	)		
Respondent.	)		

FILED
CLERK OF COURT
PAID
JUN 3 2020
AM 10:13
GREENVILLE

In response to the Court's order granting post-conviction relief filed May 19, 2020, and received by the State on May 22, 2020, the State moves pursuant to Rule 59(e), SCRPC, for the Court to alter, amend, and reconsider its judgment because plea counsel was under no constitutional duty to advise Robinson of the collateral consequences of his guilty plea, and Applicant failed to prove he was prejudiced by plea counsel's alleged failure to advise him of those collateral consequences.

I. The Court overlooked or misapplied the law in finding plea counsel deficient for failing to advise Robinson of the collateral consequences of his guilty plea

In finding plea counsel was deficient because he "failed to fully advise Applicant concerning how a reversal on the judgments and sentences entered at his earlier jury trial might change the sentence for those offenses and thereby change the impact of the pleas he was considering entering," the Court failed to consider the case law establishing that plea counsel is not deficient for failing to advise of the collateral consequences of sentencing.

"To find a guilty plea is voluntary and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him." *Boykin v. Alabama*, 395 U.S. 238, 242 (1969). Defendants must be advised of the direct

consequences of their plea, but not the collateral consequences. *Smith v. State*, 329 S.C. 280, 283, 494 S.E.2d 626, 628 (1997). “The distinction between ‘direct’ and ‘collateral’ consequences of a plea, while sometimes shaded in the relevant decisions, turns on whether the result represents a definite, immediate and largely automatic effect on the range of the defendant’s punishment.” *Cuthrell v. Dir., Patuxent Inst.*, 475 D.2d 1364, 1366 (4th Cir. 1973). “The imposition of a sentence may have a number of collateral consequences, however, and a plea of guilty is not rendered involuntary in a constitutional sense if the defendant is not informed of the collateral consequences.” *Brown v. State*, 306 S.C. 381, 382-83, 412 S.E.2d 399, 400 (1991). However, if counsel chooses to advise the defendant of collateral consequences, he must provide correct advice. *Smith*, 329 S.C. at 283, 494 S.E.2d at 628.

As described in *Cuthrell*, direct consequences are those that have a “definite, immediate and largely automatic effect.” 475 D.2d at 1366. Robinson’s assertion that plea counsel should have advised him what would happen to his guilty plea sentences if his jury trial convictions were eventually overturned is an assertion that plea counsel was deficient for failing to advise him of a collateral consequence because the reversal of his jury trial convictions was not definite, immediate, or automatic. Robinson’s complaint is not that Counsel misadvised him about the collateral consequences of his guilty plea; rather, his complaint is premised on his own misunderstanding of what “concurrent” sentences meant.

This case is similar to *Smith v. State*, 329 S.C. 280, 494 S.E.2d 626 (1997). In *Smith*, our Supreme Court was asked if the defendant “should have been informed about the classification and consequences of burglary second degree as a violent crime.” 329 S.C. at 284, 494 S.E.2d at 628. Our Supreme Court concluded that the classification as a violent crime was a collateral

consequence of sentencing. *Id.* at 286, 494 S.E.2d at 629. Further, our Supreme Court concluded that the defendant's guilty plea was not involuntary due to plea counsel's failure to inform him of the collateral consequence—parole eligibility. *Id.*

Here, the uncontested testimony of Robinson and plea counsel was that plea counsel did not advise Robinson what would happen to his guilty plea convictions if his jury trial convictions were overturned on direct appeal or collateral review. However, because this is a collateral consequence of sentencing, plea counsel was under no duty to advise Robinson as such. Plea counsel's advice regarding what concurrent meant was correct, and plea counsel was under no other obligation to advise Robinson what *might happen* in the future if he were successful in a *different* case. Therefore, plea counsel was not deficient.

This case is also similar to *Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997). In *Wolfe*, the question before our Supreme Court was whether plea counsel was ineffective for not explaining “that the trial judge was not bound by the terms of their conversation, *i.e.*, that no enforceable ‘deal’ had been cut.” 326 S.C. at 164, 485 S.E.2d at 370. The Court found it was clear that “Wolfe *hoped* to get a reduced sentence and *expected* to get one. Even in Wolfe’s own testimony, however, it is never crystal clear that Wolfe was told he absolutely *would* get a reduced sentence.” *Id.* at 165, 485 S.E.2d at 371. The Court concluded, “Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made.” *Id.*

Here, it is clear from the testimony that plea counsel never told Robinson what would happen to his guilty plea convictions and sentences if his prior jury trial convictions were

overturned at a later date. Robinson's belief that "concurrent" meant his convictions and sentences from his jury trial and guilty plea were forever merged was wishful thinking. He was never actually advised of this; therefore, his wishful thinking did not constitute a constitutional deficiency because nothing on plea counsel's behalf led him to such belief. Based on the foregoing, the Court should vacate its original order granting PCR, and issue an Amended Order denying relief and dismissing the action because plea counsel was not deficient. Plea counsel did not actively misadvise Robinson of the collateral consequences, and Robinson's wishful thinking of what he thought concurrent meant did not mean his guilty plea was unknowing and involuntary. As such, the Court overlooked the relevant case law governing this issue and should alter its order accordingly.

2. The Court overlooked or misapplied the law in finding Robinson was prejudiced by plea counsel's alleged deficiency because Robinson testified he pleaded guilty to avoid LWOP

First, this Court found the only reason Robinson pleaded guilty was because "he was getting threatened with L[W]OP if he did not plea[d]." PCR Order at 13. However, contrary to this finding, this Court also found "the only reason [Robinson] pleaded guilty to these charges was his belief that those pleas could not ever result in him getting a longer sentence than he received for the charges originally prosecuted at his jury trial." PCR Order at 14. Further, in its final conclusion, the Court stated Robinson "unambiguously testified that the only reason he pleaded to these charges was the fact that he believed his charges were being completely merged" with the prior jury trial convictions. PCR Order at 15. Thus, the Court's final conclusion at page 15 that Robinson unambiguously testified the *only* reason he pleaded guilty was because he believed his charges were merged is *directly at odds* with the Court's finding that Robinson *also* pleaded guilty to avoid LWOP on page 13.

Because Robinson pleaded guilty to avoid LWOP, he cannot show prejudice. *See Goins v. State*, 397 S.C. 568, 575, 726 S.E.2d 1, 4 (2012) (concluding that even though the applicant proved his plea counsel was deficient, he failed to prove that deficient advice was the reason he pleaded guilty; thus, the applicant failed to establish prejudice). Here, the Court found Robinson's testimony credible. Robinson credibly testified to two reasons why he pleaded guilty: (1) to avoid LWOP, and (2) because he thought his guilty pleas and trial convictions were merged. Because Robinson pleaded guilty to avoid LWOP, he has failed to meet his burden establishing he would not have pleaded guilty but for plea counsel's allegedly deficient advice. As such, this Court should alter its Order, conclude that Robinson failed to establish prejudice, and issue an order to that effect.

Conclusion

Based on the foregoing, plea counsel was not constitutionally ineffective. Plea counsel did not affirmatively misadvise Robinson regarding the collateral consequences of his guilty plea, and Robinson failed to show prejudice because he credibly testified he pleaded guilty to avoid LWOP. Therefore, the Court should alter or amend its previous Order, vacate it, and issue a new Order in accordance with the established case law denying relief and dismissing the action with prejudice.

Respectfully submitted.

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

SAMUEL L. KEY
Assistant Attorney General

June 1, 2020

By: s/ Samuel L. Key
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
Oshaun Robinson, #327798	)	
	)	Case No.: 2017-CP-23-22
Applicant,	)	
	)	Certificate of Service
v.	)	
	)	
State of South Carolina	)	
	)	
Respondent,	)	
_____	)	

2020 JUN -3 AM 10:13
 FILED-CLERK OF COURT
 PAUL B. WICKENS
 GREENVILLE, SC 29615

1. Undersigned is counsel of record for the Respondent in the above-captioned action.
2. Pursuant to the South Carolina Supreme Court's Order "RE: Operation of the Trial Courts During the Coronavirus Emergency" (Appellate Case No. 2020-000447), dated April 3, 2020), "a lawyer admitted to practice law in this state may serve a document on another lawyer admitted to practice law in this state using the lawyer's primary email address listed in the Attorney Information System (AIS)."
3. Undersigned has served a copy of the **Rule 59(e), SCRCP, Motion to Alter, Amend, and Reconsider** in the above-captioned matter on opposing counsel by emailing a copy to the email address as listed in the AIS:

Tara Dawn Shurling, Esquire
tdslaw@shurlinglaw.com

DATED this 1st day of June, 2020.

 s/ Samuel L. Key
 Samuel L. Key
 Assistant Attorney General

 Office of the Attorney General
 Post Office Box 11549
 Columbia, SC 29211
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STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2017-CP-23-2653

OSHAUN JOSEPH ROBINSON, #327798)

Applicant,)

STATE OF SOUTH CAROLINA,)

Respondent.)

REPLY TO
Respondent's Motion to Alter or Amend
Pursuant to Rule 59(e) SCRPC

NOW COMES, Applicant in the above captioned Post-Conviction Relief matter, acting by and through his undersigned PCR Counsel, asking that Respondent's Motion to Alter or Amend, pursuant to Rule 59(e), SCRPC, be denied.

DISCUSSION

Direct Consequences of Plea Counsel's Erroneous and Insufficient Legal Advice.

Respondent's Motion to Alter or Amend is premised upon the erroneous assertion that the Sixth Amendment finding in this PCR matter turns Counsel's failure to advise Applicant concerning a collateral matter. Respondent correctly cites to *Cuthrell v. Dir., Patuxent Inst.*, 475 D.2d 1364, 1366 (4th Cir. 1973), for the proposition that the, "distinction between 'direct' and collateral' consequences of a plea, while sometimes shaded in the relevant decisions, turns on whether the result represents a definite, immediate and largely automatic effect on *the range of defendant's punishment.*" (Emphasis added). As is noted in the Order entered in this matter, Applicant's Trial Attorney, was the same attorney that represented him on the pleas currently before this Honorable Court. Trial Counsel was in the position to know that a direct appeal from the judgments and sentences entered at trial was going to be perfected and furthermore, that Applicant would thereafter have the right to pursue another appeal of his judgments and sentences though the Uniform Post-Conviction Relief Procedure Act, if his direct

appeal was not successful. S.C. Code §17-27-10, *et seq.* Applicant testified during his PCR proceeding that he was advised by Plea Counsel that under the terms of the plea bargain offered by the State, his guilty pleas to these offenses would not result in him serving any more time for the crimes to which he pleaded guilty than he would have to serve on the crimes he was found guilty of at trial. Applicant testified credibly at the PCR proceedings in this matter that he understood this advice to mean that the two sets of charges were merged and that his pleas of guilty on the second set of charges would not result in him having to serve any more time for the charges for which he pleaded guilty than he did on the set of charges for which he had gone to trial. Trial Counsel admitted that he did not discuss with Applicant how the benefit for the pleas was subject to change in the event he were to successfully appeal the judgments from the jury trial. That error by Trial Counsel, led to Applicant pleading guilty to these charges with the erroneous belief that his pleas of guilty would insure that he would never end up serving more time for these charges than he had to serve for the charges he was originally found guilty of at trial.

Trial Counsel's advice was erroneous inasmuch as from the instant the judgments and sentences were entered against Applicant following his pleas, those judgments stood to potentially result in Applicant ultimately serving more time for this set of charges than he would be required to serve on the set of charges he had been found guilty of at trial. His attorney admits he never even discussed that reality with him. While there was no way to definitively know whether Applicant would win an appeal from the judgments and sentences entered at his trial, the fact that he might was definitely true and it therefore had an automatic impact on the "range of the defendant's punishment." The minute he pleaded to these crimes for a twenty-five (25) year concurrent deal, his ultimate "*range of punishment*" went up to the upper limit on his sentences for the crimes he had been found guilty of at trial. The terms of the plea bargain did not, as Applicant believed, insure that he would never serve a day more for his plea charges than he did for the set of charges from his trial. The promise in the inducement of these pleas, that he would not have to serve any more time for the crimes he pleaded

guilty to than he had to serve for those he had been found guilty of at trial, was misleading and the advice he received from his Counsel did not help him to understand the reality of his situation. This fact is particularly crucial where Applicant made it clear the reason he took the deal was that he believed he could avoid the risk of getting a Life Without Parole sentence without having to serve anymore time on the charges he pleaded guilty to than he had to serve on the charges he was found guilty of at trial. Without adequate advice from his lawyer, he had no way to know that was potentially an illusory promise. The result of Plea Counsel's ineffective representation was that Applicant's pleas were not knowingly and voluntarily entered inasmuch as Counsel never advised him that the *quid pro quo* for his pleas was only good until if and when he won any type of appeal from the judgments entered at trial. This was especially true where Applicant was told the net effect of the pleas was that he would get the same sentence on the pleas as he got on the other set of charges and that the pleas would not result in him serving more any more time for the crimes to which he pleaded guilty than he had to serve for the charges he had been to trial on.

Prejudice Analysis

Respondent's analysis of the prejudice issue only addresses part of the equation for assessing prejudice on the facts of the case. Applicant did testify that he pleaded in part to avoid the potential risk of a Life without Parole Sentence. He also testified that he never would have taken the deal if he had not believed the two sets of charges were merged as a result of the plea agreement and that he would, therefore, never have serve more time for the charges to which he was agreeing to plead than he had to serve on the set of charges he had gone to trial on. In order to fairly assess the significance of that firmly held belief by Applicant, one need look no further than Applicant's reaction to the admonishments he was given during his PCR hearing concerning the fact that there remained a risk that, if these judgments and sentences were overturned, the State could still try to get an LWOP sentence against him. He clearly indicated that he was not worried about that risk that law enforcement had simply cleared their books on him and he was not even worried about that threat

because he did not believe the State could convict him on any of these charges or any charges dropped as part of this plea agreement. The totality of his testimony makes it very clear that while he liked the idea of avoiding even the potential risk of a LWOP sentence, he would not have taken the deal and pleaded, but for Counsel's erroneous assurance that his pleas would not result in him serving any more time than he would have serve on the set of charges from the trial. Thus, Applicant understood that there were essentially three (3) parts to the consideration offered in exchange for his pleas; some other outstanding charges would be dismissed, he would avoid any risk of an LWOP sentence and his pleas would not result in him serving any more time than he would have to serve on the set of charges from his recent trial. Respondent's argument ignores the last term of the plea bargain as understood by Applicant and argues that because he got part of what he believed he had been offered in exchange for his pleas, he can't demonstrate prejudice. That logic would allow the State to offer a defendant a deal whereby he pleaded guilty to a First Degree Burglary charge in exchange for all his other charges being dismissed and the State's agreement to stipulate that the burglary to which he agreed to plead was non-sexual in nature and therefore, that sex offender registry was negotiated not to be required for the burglary count. The logic advanced by the Respondent in this case suggests that the state could dismiss the other charges, but remain silent on the sex offender registry issue and, if the circuit court ordered compliance with the sex offender registry, the defendant would not have demonstrable prejudice because he got *part* of the consideration he was promised in exchange for his plea.

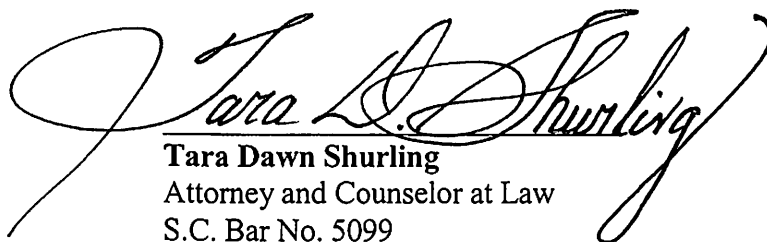
Based upon the incomplete and insufficient advice of Counsel, Applicant actually believed he was to be given three things in exchange for his pleas; 1) a number of charges would be dismissed, 2) he would not have to risk getting a LWOP sentence and 3) he would not ever have to serve more time for the charges he was pleading to than he got for the set of charges he had gone to trial on because all those charges were "merged" and whatever sentence he had to serve on the trial charges was the same sentence he would serve concurrently to his sentence on his plea charges. Plain and simply put, the fact that the State made good on part of the deal as perceived by Applicant is not enough to eliminate

the prejudice arising from the Sixth Amendment violation in this case. This Court correctly ruled that the Applicant's guilty pleas were the product of ineffective assistance of counsel and that he deserved a new trial.

CONCLUSION

Based upon all of the above, Applicant respectfully submits that this Honorable Court's ruling granting relief in this matter was correctly made and that there is no meritorious basis for Respondent's Motion to Alter or Amend. Respondent's Motion to Alter or Amend should be denied.

Respectfully submitted,



Tara Dawn Shurling
Attorney and Counselor at Law
S.C. Bar No. 5099

Law Office of Tara Dawn Shurling, PA
3614 Landmark Drive
Suite A
Columbia, SC 29204
803-738-8622
803-738-1600 (Fax)
tdslaw@shurlinglaw.com

ATTORNEY FOR APPLICANT.

This 16th day of June, 2020.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2017-CP-23-2653

OSHAUN JOSEPH ROBINSON, #327798)

Applicant,)

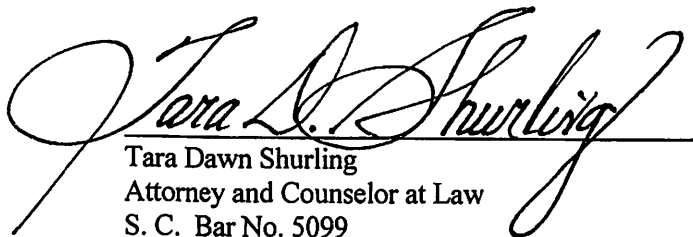
CERTIFICATE OF SERVICE

v.)

STATE OF SOUTH CAROLINA,)
 Respondent.)

The undersigned attorney hereby certifies that one copy of the Reply to Respondent's Motion to Alter or Amend Pursuant to Rule 59(e) filed by the Respondent in the above-entitled cause has been served upon opposing counsel, Samuel L. Key, Assistant Attorney General, by email and hard copy by U. S. Mail on this the 16th day of June, 2020, to:

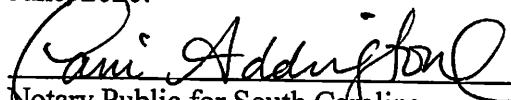
Samuel L. Key
 Assistant Attorney General
 South Carolina Attorney General's Office
 P. O. Box 11549
 Columbia, SC 29211
 SKey@scag.gov


 Tara Dawn Shurling
 Attorney and Counselor at Law
 S. C. Bar No. 5099

3614 Landmark Dr., Ste. A
 Columbia, SC 29204
 (803) 738-8622
 (803) 738-1600 (Fax)
 Email: tdslaw@shurlinglaw.com

ATTORNEY FOR THE APPLICANT.

SWORN TO BEFORE ME this 16th day of
 June, 2020.

 (L.S.)
 Notary Public for South Carolina
 My Commission Expires: 11/29/27

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2017-CP-23-2653

O'SHAUN JOSEPH ROBINSON, #327798)

Applicant,)

SUPPLEMENTAL REPLY

to

**Respondent's Motion to Alter or Amend
 Pursuant to Rule 59(e) SCRPC**

STATE OF SOUTH CAROLINA,)

Respondent.)

NOW COMES, Applicant in the above captioned Post-Conviction Relief matter, acting by and through his undersigned PCR Counsel, asking that Respondent's Motion to Alter or Amend, pursuant to Rule 59(e), SCRPC, be denied. Applicant submitted his Rely to Respondent's Motion to Alter or Amend pursuant to Rule 59(e), SCRPC, for filing on June 16, 2020. It has now come to Counsel for Applicant's attention that a significant factor concerning Respondent's argument was not addressed in Applicant's previously filed Reply. Therefore, in deciding Respondent's Motion to Alter or Amend, Applicant asks that the following be considered by the Court in addition to the arguments advanced in Applicant's previous Reply.

DISCUSSION

Direct Consequences of Plea Counsel's Erroneous and Insufficient Legal Advice.

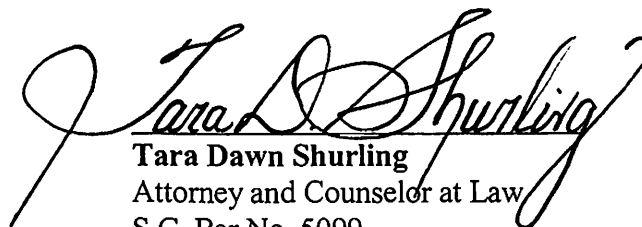
Respondent's Motion to Alter or Amend is premised upon the erroneous assertion that the Sixth Amendment finding in this PCR matter turns Counsel's failure to advise Applicant concerning a collateral matter. Applicant would now note that Respondent has not advanced the theory put forth in their Motion to Alter or Amend at any time in the proceedings or pleadings submitted in this matter. At no time during the multiple hearings held in this case, or in the Respondent's Proposed Order submitted to the Court following those hearing, did they ever argue that relief was not warranted

inasmuch as Plea Counsel's deficient legal advice involved a collateral matter. While Applicant stands by the arguments made in the Reply to the Rule 59(e) motion filed in this matter, he now also submits that the State seeks to have the judgment in this matter altered on a theory that was not advanced by Respondent in the State's Return, at any of the three hearings held in this matter or in the Proposed Order submitted by the State following the final hearing in the case. For that additional reason, Respondent's Motion to Alter of Amend should be denied.

CONCLUSION

Based upon all of the above, Applicant respectfully submits that this Honorable Court's ruling granting relief in this matter was correctly made and that there is no meritorious basis for Respondent's Motion to Alter or Amend based upon any theory or argument properly argued either at the hearing on this Application for Post-Conviction Relief or in the pleadings submitted by the Respondent in this matter. Respondent's Motion to Alter of Amend should be denied.

Respectfully submitted,



Tara Dawn Shurling
Attorney and Counselor at Law
S.C. Bar No. 5099

Law Office of Tara Dawn Shurling, PA
3614 Landmark Drive
Suite A
Columbia, SC 29204
803-738-8622
803-738-1600 (Fax)
tdslaw@shurlinglaw.com

ATTORNEY FOR APPLICANT.

This 23rd day of June, 2020.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2017-CP-23-2653

OSHAUN JOSEPH ROBINSON, #327798)

Applicant,)

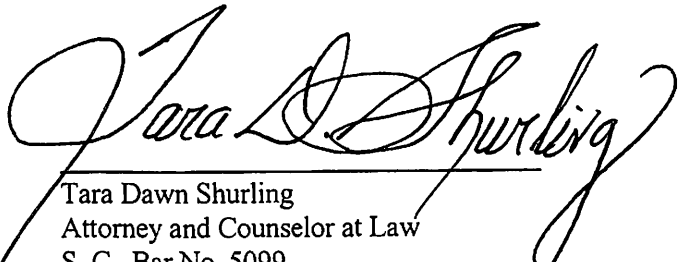
CERTIFICATE OF SERVICE

v.)

STATE OF SOUTH CAROLINA,)
 Respondent.)

The undersigned attorney hereby certifies that one copy of the Supplemental Reply to Respondent's Motion to Alter or Amend Pursuant to Rule 59(e) SCRCP filed by the Respondent in the above-entitled cause has been served upon the Honorable J. Mark Hayes, II, by email and hard copy by U. S. Mail on this the 23rd day of June, 2020, to:

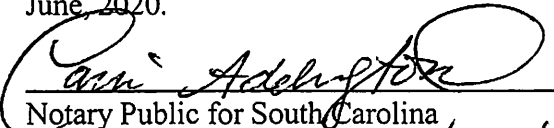
The Honorable J. Mark Hayes, II
 180 Magnolia Street
 Spartanburg, SC 29306
mhayessc@sccourts.org


 Tara Dawn Shurling
 Attorney and Counselor at Law
 S. C. Bar No. 5099

3614 Landmark Dr., Ste. A
 Columbia, SC 29204
 (803) 738-8622
 (803) 738-1600 (Fax)
 Email: tdslaw@shurlinglaw.com

ATTORNEY FOR THE APPLICANT

SWORN TO BEFORE ME this 23rd day of
 June, 2020.

 (L.S.)
 Notary Public for South Carolina

My Commission Expires: 11/29/27

926

STATE OF SOUTH CAROLINA

COUNTY OF

IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2017-CP-23-2653

Oshaun Joseph Robinson, #327798

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
 or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest

or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

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

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the 28 day of July, 2020 and a copy mailed first class or placed in the appropriate attorney's box on this 28 day of July, 2020 to attorneys of record or to parties (when appearing pro se) as follows:

Tara D. Shurling

Taylor Smith

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickham
CLERK OF COURT

Court Reporter:

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

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

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

This matter came before the Court as a SCRCF Rule 59(e) Motion to Alter or Amend this Court's prior order granting the application for post-conviction relief. After considering the present Motion, the applicant's Reply and Supplemental Reply, and the record before this Court, this Court exercises its discretion to decide the Motion without oral arguments as allowed by subsection (f) of Rule 59. Based on this Court's review, this Court declines to alter or amend its prior Order. The Court is of the opinion that its prior decision is correct and its analysis is proper. Also, this Court agrees with the assertion in Applicant's Supplemental Reply Memorandum that the "collateral matter" theory was not previously before this Court. Nevertheless, to the extent an analysis of that theory is needed, this Court's opinion is that the theory is inapplicable to the facts presented in the present case. Therefore the Motion is denied.

Applicant's attorney is asked to propose a formal order, consistent with the above, denying the present motion. The formal order, once reviewed, edited, signed, and filed with the Clerk of Court, will be the final Order of this Court on this matter.

This Court appreciates everyone's efforts and cooperation.

Mark Hayes

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The "Information for the Judgment Index" section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the "Judgment in Favor of" column, enter the name of the party to whom the judgment is awarded. In the "Judgment Against" column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the "Judgment Amount" column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate "N/A" in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section "For the Clerk of Court Office Use Only" should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through "Circuit Court Judge" and indicate "Arbitrator" in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2017-CP-23-2653

OSHAUN JOSEPH ROBINSON, #327798,)

Applicant,)

v.)

STATE OF SOUTH CAROLINA,)

Respondent.)

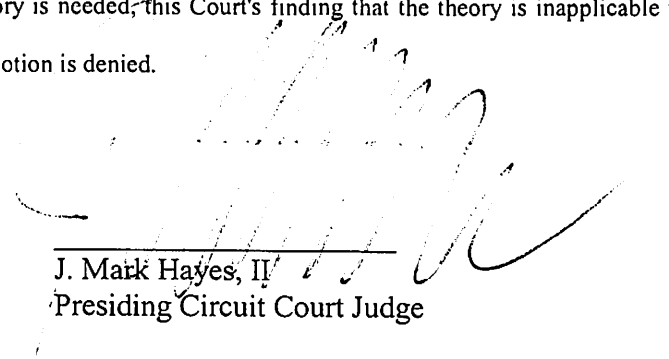
ORDER DENYING MOTION TO
 ALTER OF AMEND PURSUANT TO
 RULE 59(e), SCRCP.

FILED-CLERK
 PAUL B. WILSON
 CLERK OF COURT
 GREENVILLE
 2020 SEP -9 PM 1:19

This matter came before the Court by way of a Motion to Alter or Amend this Court's previously filed Order granting relief in the above captioned Post-Conviction Relief action. After considering the present Motion, the Applicant's Reply and Supplemental Reply, as well as the records and exhibits before this Court, this Court exercises its discretion to decide the Motion without oral arguments as allowed by Subsection (f) of Rule 59, SCRCP. Based on this Court's review, this Court declines to alter or amend its prior Order granting relief in this matter.

The Court is of the opinion that its prior decision is correct and its analysis is proper. Also, this Court agrees with the assertion in Applicant's Supplemental Reply Memorandum that the "collateral matter" theory advanced by Respondent in its Motion to Alter of Amend was not previously argued before this Court at any stage of this collateral action. Nevertheless, to the extent an analysis of that theory is needed, this Court's finding that the theory is inapplicable to the facts presented in the present case. Therefore the Motion is denied.

IT IS SO ORDERED.


 J. Mark Hayes, II
 Presiding Circuit Court Judge

This 1st day of September, 2020

ARREST WARRANT

I-474443

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

07173563

against

Oshaun Joseph Robinson

Address: 603 Anderson Street

Greenville, SC 29601-

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

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

Offense Code: 0139

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

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Oshaun Joseph Robinson
on 12-18-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning

who

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/18/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

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

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:On Friday December 14, 2007 at 2255 hours the Defendant did approach the victim while a co defendant who was armed with a .38
caliber hand gun pointed the gun at the victim and demanded his money. As the victim attempted to back away from the suspects
the codefendant shot the victim one time in the stomach. The Defendant then ran to the back of the van where he kept a look out
while the co defendant removed the victim's cash, wallet, and watch. This offense did occur in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/18/2007 defendant Oshaun Joseph Robinson

did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville) as set forth below:

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

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

on 12/18/2007

(L.S.)

Signature of Issuing Judge
James V. Hudson

Judge Code: 5031

Judge's Address 4 McGee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

931
Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 516

932

ARREST WARRANT

I-474444

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE
against

07173543

Oshaun Joseph Robinson

Address: 603 Anderson Street

Greenville, SC 29601-

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Assault / Assault and battery with Intent to Kill
(ABWIK)

Offense Code: 0014

Code/Ordinance Sec: 16-03-0620

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Oshaun Robinson
on 12-18-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/18/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Assault / Assault and battery with Intent to Kill (ABWIK)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT DID WITH MALICE AFORETHOUGHT AND WITH INTENT TO KILL, COMMIT AN ASSAULT AND
BATTERY UPON THE VICTIM BY SHOOTING HIM ONE TIME IN THE STOMACH WITH A .38 CALIBUR HAND GUN
DURING AN ARMED ROBBERY. THE DEFENDANT WAS NOT SO PERMITTED TO DO SO BY LAW. THIS OFFENSE
DID OCCUR IN GREENVILLE COUNTY.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/18/2007

defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

DESCRIPTION OF OFFENSE: Assault / Assault and battery with Intent to Kill (ABWIK)

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

on 12/18/2007

(L.S.)

Signature of Issuing Judge
James E. Hudson

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

who

C.H. * 1018

COMPUTER ENTERED
DEC 18 2007
GREENVILLE COUNTY
SHERIFF'S OFFICE

ARREST WARRANT

I-474445

5031

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

1-28-08

Greenville

THE STATE
against

07173563

Oshaun Joseph Robinson

Address: 603 Anderson Street

Greenville, SC 29601-

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: DL #:

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Conspiracy / Criminal Conspiracy, Common Law
conspiracy defined

Offense Code: 0049

Code/Ordinance Sec: 16-17-0410

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant
on

OSHAUN ROBINSON

12-18-07

J. M. B. S. 1162
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant C W Hanning

being duly sworn deposes and says that defendant Oshaun Joseph Robinson

did within this county and state on or about 12/14/2007

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT DID WITH (CO-CONSPIRATORS) UNLAWFULLY PLAN OR SCHEME TO ACCOMPLISH THE
CRIME OF ARMED ROBBERY WITH A 38 CALIBUR HANDGUN BY UNLAWFUL MEANS. THIS OFFENSE DID
OCCUR IN GREENVILLE COUNTY.

Signature of Affiant

C. H. * 1018

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street
Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/18/2007 defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

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

on 12/18/2007

Signature of Issuing Judge (L.S.)

James R. Hudson

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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AFFIDAVIT

933
Form Approved
S.C. Attorney General
April 21, 2003
SCCA 518

934

ARREST WARRANT

I-474519

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE
against

07-173563

Oshaun Joseph Robinson

Address: 603 Anderson Street

Greenville, SC 29601-

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 115

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C W Hanning - 1018

Offense: Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Oshaun Robinson
on 12-28-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate #2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518Personally appeared before me the affiant C W Hanning whobeing duly sworn deposes and says that defendant Oshaun Joseph Robinsondid within this county and state on or about 12/14/2007

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

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

On 12-14-07 the defendant was in possession of a deadly weapon, a pistol, during the commission of a robbery. The defendant and several co-defendants did plan and conspire to commit this robbery. Once the defendant and co-defendants located the victim they approached him while he was seated in his vehicle. The defendant and co-defendants then demanded the victim's money. The defendant and co-defendants then discharged a firearm, striking the victim in the abdomen causing a life threatening injury. The defendant is under the age of 21 and is prohibited from possessing a firearm under South Carolina State Law. The affiant has a written sworn confession from a co-defendant in this case. This offense occurred in Greenville County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 Mcgee Street
Greenville, SC 29601-
Affiant's Telephone (864)271-5210

ARREST WARRANT

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

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

on or about 12/14/2007defendant Oshaun Joseph Robinson

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

☒ County/ ☐ Municipality of Greenville) as set forth below

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before meon 12/28/2007

(L.S.)

Signature of Issuing Judge
James E. HudsonJudge Code: 5031Judge's Address 4 Mcgee Street, Room 116-B
Greenville, SC 29601-Judge's Telephone (864)467-5302Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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DEC 31 2007
GREENVILLE COUNTY
SHERIFF'S OFFICE

WITNESSES

C Hanning

Greenville County Sheriffs Office

12/18/2007

ARREST WARRANT NUMBER

I474443

I474519

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-23-

LCM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2008

THE STATE

vs.

OSHAUN JOSEPH ROBINSON

Indictment for

0139, 0549

ARMED ROBBERY

VIOLATION § 16-11-0330

POSSESSION OF A WEAPON DURING THE

COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-23-490

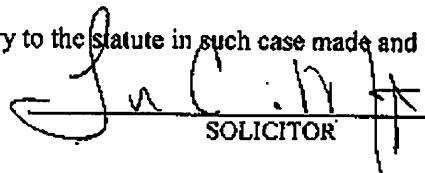
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ASSAULT AND BATTERY WITH INTENT TO KILL

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

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of December, 2007,
willfully, unlawfully and with malice aforethought, either express or implied, commit an assault and battery upon
DELMAR ARIAS. This is in violation of §16-3-620 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.


SOLICITOR

WITNESSES

C Hanning

Greenville County Sheriffs Office

12/18/2007

ARREST WARRANT NUMBER

1474444

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-23-

LCM

005306

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August TERM 2008

THE STATE

vs.

OSHAUN JOSEPH ROBINSON

PLEAD GUILTY

Indictment for

0014

ASSAULT AND BATTERY WITH INTENT TO
KILL

VIOLATION § 16-03-0620

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE) **INDICTMENT FOR
 COUNT ONE ARMED ROBBERY
 COUNT TWO POSSESSION OF A WEAPON DURING
 THE COMMISSION OF A VIOLENT CRIME**

At a Court of General Sessions, convened on **AUG 19 2008**

the Grand Jurors of Greenville

County present upon their oath:

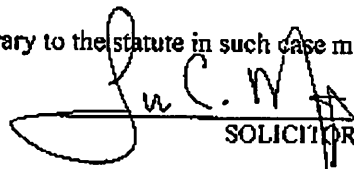
COUNT ONE - ARMED ROBBERY

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of December, 2007, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: cash, wallet and a watch from the person or presence of DELMAR ARIAS. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of December, 2007, possess or visibly display a .38 cal. handgun during the commission or attempted commission of a violent crime, to wit: Armed Robbery. This is in violation of §16-23-490 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.


 SOLICITOR

WITNESSES

C Hanning

Greenville County Sheriffs Office

12/18/2007

ARREST WARRANT NUMBER

1474445

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-23-

LCM

005385

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2008

THE STATE

vs.

PLEAD GUILTY

OSHAUN JOSEPH ROBINSON

GUILTY

M. Moore

0049

Indictment for

CONSPIRACY

VIOLATION § 16-17-0410

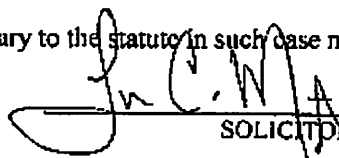
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CONSPIRACY

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

That OSHAUN JOSEPH ROBINSON did in Greenville County, on or about the 14th day of December, 2007,
willfully and unlawfully combine with Timothy Wright and Kenneth Workman for the purpose of accomplishing
an unlawful object or a lawful object by unlawful means, to wit: Armed Robbery. This is in violation of §16-17-
410 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.


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

STATE

VS.

Oshaun Robinson

AKA:

Race: B Sex: M Age: 18DOB: [REDACTED] SS#: [REDACTED]Address: 603 Anderson RdGreenville, SC 29601

DL#:

SID#:

INDICTMENT/CASE#: 2008-GS-23-5387A/W#: I474443Date of Offense: 12/14/2007S.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 With A Deadly Weapon (as)

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

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

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

ATTEST:

Marchant, LucasDefendantAttorney for DefendantSC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. SINCE 12/18/07☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

\$

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 35.13 (Public Def/Prob)

\$500

\$

§ 73.3, 1B TP (Law Enforce. Funding)

\$25

\$

§ 33.7, 1B TP (Drug Court Surcharge)

\$100

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

§ 90.11 TP (SCCJA Surcharge)

\$5

\$

TOTAL

\$

Paul B. Wicklerman

Clerk of Court/Deputy Clerk

Court Reporter: Jenkins

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

PRESIDING JUDGE [Signature]Judge Code: 211-1310Sentence Date: 3-4-09

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Oshaun Robinson

AKA: _____

Race: B Sex: M Age: 18DOB: [REDACTED] SS#: [REDACTED]Address: 603 Anderson RdGreenville, SC 29601

DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-23-5386A/W#: I474444Date of Offense: 12/14/2007S.C. Code § : 16-03-0620CDR Code #: 0014

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Assault / Assault and battery with Intent to Kill (ABWIK)in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST: _____

Marchant, LucasDefendantAttorney for DefendantSC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. SINCE 12/18/07☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5

TOTAL \$ _____

Paul B. Wickens

Clerk of Court/ Deputy Clerk

Court Reporter: Jenkins

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel §35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE [Signature]Judge Code: 2111310Sentence Date: 3/4/09

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
 STATE VS.
Oshaun Robinson

AKA:

Race: B Sex: M Age: 18DOB: 11-18-1989 SS#: 915-88-5000Address: 603 Anderson Rd
Greenville, SC 29601

DL#: _____ SID#: _____

INDICTMENT/CASE#: 2008-GS-23-5385A/W#: 1474445Date of Offense: 12/14/2007S.C. Code § : 16-17-0410CDR Code #: 0049

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
 TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)The pleas is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Marchant, Lucas Defendant Stephen B. Whisman 69670 Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ 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. Since 12/18/07☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

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

Paul B. Wiehervann
 Clerk of Court/ Deputy Clerk

Court Reporter: Jenkins

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

PRESIDING JUDGE Ed W. McK...Judge Code: 21-1-13-10Sentence Date: 3-4-09

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.Oshaun Robinson

AKA: _____

Race: B Sex: M Age: 18DOB: [REDACTED] SS#: [REDACTED]Address: 603 Anderson RdGreenville, SC 29601

DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-23 - 5387A/W#: 1474519Date of Offense: 12/14/2007S.C. Code § : 16-23-0490CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Weapons / Poss. Weapon During Violent CRIMEin violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST: _____

Marchant, LucasDefendantAttorney for DefendantSC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ 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. SINCE 12/18/07
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5

TOTAL \$ _____

Paul B. Wickham

Clerk of Court/ Deputy Clerk

Court Reporter: Jenkins

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE Ed W. McJudge Code: 211310Sentence Date: 3/4/09

SCCA/217 (07/2008)

