

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

**Jun 03 2024**

S.C. SUPREME COURT

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Certiorari to York County

Honorable Eugene C. Griffith, Circuit Court Judge  
—————

BEN ROBERT STEWART,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001478  
—————

APPENDIX  
—————

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1 THE COURT: How does it have anything to do with  
2 what happened at the trial in York County.

3 MR. STEWART: Because -- you know, when I went to  
4 trial I was basically, you know, trying to tell my  
5 lawyer that, you know, they have me on psychiatric  
6 medication. It wasn't right. I didn't feel right.  
7 You know what I'm saying, I was taking -- I had took  
8 Remorod. I had took Remorad for two days. I didn't  
9 like it. I had took another anti-depressant and they  
10 finally put me on Prosac. So by the the time I was  
11 going to trial I was taking Prosac and every time I  
12 don't take that, you know, I'm kind of relaxed. I can  
13 think a little. If I'm taking Prosac I kind of like  
14 zoom. I think too fast. I'm real irritable. I can't  
15 sit still. So I'm just basing on, you know, the  
16 precautions of the IAD which amounted to a fundamental  
17 miscarriage of justice based on me getting convicted  
18 wrongfully and my errors along with me going to trial  
19 under psychiatric medications. There's a case US  
20 versus Damian. It's a 4th Circuit case where he even  
21 plead guilty where they said that it's reversible  
22 required based on him taking psychiatric medication  
23 and they said they would make his sentence stand but  
24 the conviction of him -- no, no, no, they would make  
25 his conviction reversed but his sentence will stand

1 under the guilty plea, under Alford plea, and they  
2 noted that all mental illness that -- that all mental  
3 illness problems under Dusky (phonetics) versus United  
4 States any ambiguity (sic) regarding mental illness  
5 they will reverse based of ambiguity so --

6 THE COURT: Ambiguity.

7 MR. STEWART: Yes, sir. Excuse me.

8 THE COURT: That's okay.

9 MR. STEWART: That was my standing. I had argued  
10 it and I have been trying to argue it for the longest  
11 and I think I have standing under Desky versus United  
12 States, Pate versus Robinson, Washington versus  
13 Harper, United States versus Bishop. I have raised  
14 them in my direct appeal. I had raised it as part of  
15 my IAD violation because I believe it connects. I  
16 still warn the court that I was mentally even after we  
17 had this habeas corpus hearing where I told them that,  
18 you know, I'm mentally ill. They disregarded it. So  
19 I believe that my lawyer was ineffective under the  
20 standard of a case called Nance versus Ozman where,  
21 you know, they basically quoted United States versus  
22 Cronin, where I think under the second scenario where  
23 a lawyer -- where he said that a lawyer broke down the  
24 adversary process. Failed to challenge the  
25 prosecutor's case to a meaningful adversary testing.

1 THE COURT: Okay, well, you've argued that.  
2 You're protected on that issue.

3 MR. STEWART: Okay. That's all I was saying. I  
4 was quoting everything combined and it still fit under  
5 Nance as well. I just wanted it noted.

6 THE COURT: Okay. Your entire application and  
7 your memorandum and the facts that you outlining  
8 that's in the packet right now, and it sits on my  
9 desk.

10 MR. STEWART: Okay. Thank you for your time.

11 THE COURT: Yes, sir.

12 MR. JOHNSON: Judge, do you want me making a  
13 closing.

14 THE COURT: I think I'll you all do proposed  
15 orders. I think that will be better. I can follow  
16 them better and everything will be incorporated.  
17 That's my safest course of action. I can review my  
18 notes, the record of the trial, the memorandum that  
19 Mr. Stewart presented. I can do it that way. I think  
20 that will be the most he efficient way we can get to  
21 the end.

22 MR. JONES: Suits me, Your Honor. Thank you.

23 MR. JOHNSON: We'll wait for you're ruling and  
24 then make a proposed order.

25 THE COURT: I want you to propose an order

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granting your application. I want to see what you  
got.

MR. JOHNSON: Yes, sir.

MR. JONES: Thank you, Your Honor.

(END OF TRANSCRIPT)

## C E R T I F I C A T E

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I, the undersigned Aileen Butler, Official Court Reporter for the 16TH 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 in the captioned case, in the Circuit Court for York County, South Carolina, on the 17th day of April, 2023.

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

November 19, 2023

*Aileen Butler*

Monday Bishop

sleeping - had been drinking

Val Hamilton

Recd there - thinks so

doesn't know if they came or not

does not remember day Benta shot

Ben denies this to her

She does not hang out w/ Ben & his friend

She is too old for that

EXHIBIT

S-1 4-17-23  
AD

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF YORK )  
 )  
 Ben Robert Stewart, #223006, )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 FOR THE SIXTEENTH JUDICIAL CIRCUIT

Case No.: 2013-CP-46-3731

**ORDER OF DISMISSAL**

**RECEIVED**

SEP 19 2023

S.C. SUPREME COURT

This matter comes before the Court by way of an application for post-conviction relief filed by Ben Robert Stewart (“Applicant”) on December 9, 2013, and amended on November 29, 2021 and again on November 29, 2022. The Court convened an evidentiary hearing into the matter on April 17, 2023, at the Moss Justice Center in York, South Carolina. Applicant was present at the hearing and represented by Ola A. Johnson, Esquire. Assistant Attorney General Zachary W. Jones, of the South Carolina Attorney General’s Office, represented Respondent.

The Court has before it Applicant’s records from the South Carolina Department of Corrections, a copy of the original trial transcript, the records of the York County Clerk of Court regarding the subject convictions, the records of Applicant’s direct appeal, the pleadings and all attachments thereto. After reviewing all records and evidence before this Court, this Court finds as follows:

**I. Procedural History**

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was indicted at the July 2007 term of the York County Grand Jury for accessory before the fact to murder (2007-GS-46-2526), accessory before the fact to armed robbery (2007-GS-46-2528); accessory before the fact to kidnapping (2007-GS-46-2530), criminal conspiracy (2007-GS-46-2531), possession of a firearm during the commission of a violent crime (2007-GS-46-

2532), and accessory after the fact to murder, armed robbery, and kidnapping (2007-GS-46-2535). Kenneth D. Snow, Esquire (“Counsel”), represented him.

On February 27, 2009, Applicant proceeded to trial. The jury found him guilty as indicted on the above charges. The Honorable Lee S. Alford sentenced him to imprisonment for a period of thirty (30) years for accessory before the fact to murder, twenty (20) years for accessory before the fact to armed robbery, ten (10) years for accessory before the fact to kidnapping, five (5) years for criminal conspiracy, five (5) years for the weapon charge, and ten (10) years for accessory after the fact to murder, armed robbery and kidnapping. All sentences imposed were to run concurrently, except for the thirty-year sentence which was to run consecutive to a sentence Applicant was serving in Pennsylvania resulting from a separate criminal case.

Applicant filed a timely notice of appeal. He was represented on appeal by Wanda H. Carter, Esquire. Following the filing of an *Anders*<sup>1</sup> brief, the South Carolina Court of Appeals dismissed Applicant’s appeal in an unpublished opinion. *State v. Stewart*, Op. No. 2012-UP-651 (Ct. App. filed December 12, 2012).

Applicant filed an application for post-conviction relief on February 16, 2010. Because Applicant’s direct appeal was still pending, that application was dismissed without prejudice on April 26, 2012. Applicant then filed a petition for a writ of habeas corpus on December 10, 2012, which was dismissed with prejudice on February 6, 2013.

## II. Current PCR Action

Applicant timely filed the current post-conviction relief (“PCR”) application on December 9, 2013, raising the following issues:

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<sup>1</sup> *Anders v. California*, 386 U.S. 738 (1967).



1. Appellate counsel was ineffective for failing to cite trial court error in denying a directed verdict because guilt beyond a reasonable doubt could not be established on the evidence adduced.
2. Appellate counsel was ineffective for failing to raise the issue that no rational jury could have found guilt beyond a reasonable doubt on the evidence adduced at trial.
3. Appellate counsel was ineffective for failing to argue due process was denied because the evidence adduced at trial violated the *Winship* rule of establishing every element of the crime charged beyond a reasonable doubt.
4. Trial counsel was ineffective on the sufficiency of the evidence motion when he failed to argue that the DNA evidence excluded Applicant, rendering it physically impossible for him to have been present to commit the crimes charged.
5. Trial counsel was ineffective for failing to conduct a proper investigation when he failed to interview Monday Bishop and Val Hudson, who would have testified that Reed Allen was lying when he stated Applicant gave Allen the murder weapon and told him to hide it, and who would have contradicted testimony that Applicant's co-defendants Davorious Mack and Terrell Addison came to Bishop's apartment on the night in question.
6. Trial counsel was ineffective for failing to use compulsory process to call witnesses on Applicant's behalf to offer relevant, material, pertinent and exculpatory evidence. To wit: Trial counsel failed to call Val Hudson, who also would have testified that Applicant's co-defendants did not come to Bishop's apartment and that Applicant never spoke to Allen or gave him a bag to hide.
7. Trial counsel was ineffective for failing to put the prosecution's case to meaningful adversarial testing, such that there was an actual breakdown of the adversarial process during trial.
8. Applicant was denied effective assistance of trial counsel and a fair trial due to the cumulative effects of counsel's ineffectiveness.
9. Trial counsel was ineffective in misstating the evidence when he stated Monday Bishop's house was Reed Allen's house, bolstering Allen's testimony and giving the false impression that Applicant had a close relationship with Allen.
10. Withdrawn.
11. Withdrawn.
12. The solicitor knowingly used perjured testimony.
13. It was prosecutor misconduct in suppressing *Brady* material, i.e., Monday Bishop's exculpatory statement to the solicitor.
14. The solicitor knowingly misstated the evidence to mislead the jury and the court during closing argument when he falsely conflated the absence of Applicant's DNA and fingerprints in the vehicle with the absence of Dontavious Mack's DNA and fingerprints.

On November 29, 2021, Applicant, through counsel, filed an amended application raising the following issues:

1. Counsel failed to discuss a defense strategy with Applicant.
2. Counsel failed to review evidence with Applicant or provide a copy of the evidence.

3. Counsel failed to properly investigate the case.
4. Counsel failed to interview Monday Bishop or call her as a witness.
5. Counsel failed to interview Lawanda Val Hudson or call her as a witness.
6. Counsel failed to properly argue the issue of Applicant's competence to stand trial.
7. Counsel failed to interview Reed Allen.
8. Counsel failed to object to leading questions by the solicitor during examination of Dontavious Mack.
9. Counsel failed to object to hearsay by Davorious Mack.
10. Counsel failed to object to hearsay by Reed Allen that Applicant told him to hide the gun.
11. Counsel failed to object to hearsay by Reed Allen that someone told him Dontavious had been shot.
12. Counsel failed to object to hearsay by Reed Allen that Applicant told him to hide the gun.
13. Counsel failed to object to hearsay that "it could have been" Applicant or Mack who told Terrell Addison to hide the gun.
14. Counsel failed to object to testimony from Lieutenant Rudick regarding a straw and crack cocaine found in the car.
15. Counsel failed to make a sufficient pre-trial motion to sever the trials of Applicant and his co-defendant Terrell Addison.
16. Counsel failed to object to the trial court's inferred malice jury instruction.
17. Appellate Counsel failed to raise the issue of the trial court's inferred malice jury instruction.
18. Appellate Counsel failed to raise the issue of the trial court's failure to charge constructive possession following a jury charge about the applicability of accomplice liability to the charge of possession of a firearm during the commission of a violent crime.

On November 29, 2022, Applicant filed, through counsel, a second amended application raising the following issues:

1. Counsel failed to challenge the indictment as to the pistol charge.
2. Counsel failed to challenge the time-served credit so that Applicant would receive credit from the date of his original arrest on January 27, 2007.
3. Counsel failed to challenge Applicant's removal to South Carolina under the Interstate Agreement on Detainers due to Applicant's mental health history.
4. Applicant requests permission to amend to conform to the evidence presented at the PCR hearing.

An evidentiary hearing was held on April 17, 2023. At the outset of the hearing, Applicant indicated he wished to withdraw Allegations (i) and (l) of his original application, as well as Allegation 1 of his second amended application.

### **III. Findings of Fact and Conclusions of Law**

This Court has reviewed the testimony presented at the evidentiary hearing, the records

submitted to it by the parties, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

#### **Ineffective Assistance of Counsel, Generally**

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985); Rule 71.1(e), SCRPC. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons

counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

Second, counsel's deficient performance must have prejudiced 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 (quoting *Strickland*, 466 U.S. at 694). “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696–97.

#### **Applicant’s initial PCR application**

The Court finds that all of Applicant’s allegations raised in his initial PCR application filed in 2013, as well as Allegations 3, 4, 5, and 7 of his first amended application, fall into the following two categories:

1. Allegations related to Applicant's claim that the DNA evidence obtained from the vehicle exonerated him;
2. Allegations related to Applicant's claim that Monday Bishop's story contradicted Reed Allen's testimony implicating Applicant as an accomplice to the murder.<sup>2</sup>

The Court finds that all these allegations can be resolved based on the fact that the DNA evidence did *not* exonerate Applicant and that Monday Bishop's story was *not* materially inconsistent with Reed Allen's testimony at trial.

### **1. DNA evidence did not exonerate Applicant**

Applicant's criminal charges stem from the shooting of Ned Marshall, a clerk at a convenience store, during an armed robbery. According to the State's theory of the case, on October 10, 2006, Applicant and three co-conspirators—Davorius Mack, Dontavious Mack, and Terrell Addison—drove to Rock Hill from Hartsville looking for a place to rob. They settled on the BP convenience store. After parking the car nearby, the group decided that Terrell and Dontavious would go into the store to rob it, while Applicant and Davorius waited in the car. Dontavious did not have a gun, so Applicant gave him his gun, a 0.380 semi-automatic pistol. Dontavious and Terrell, wearing masks, entered the store and demanded cash from the clerk, Marshall. Eventually, Marshall produced a revolver and exchanged shots with Dontavious. Marshall was ultimately killed by two shots from the 0.380 Applicant had given to Dontavious. Dontavious was shot in the back-left shoulder as he and Terrell fled from the store.

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<sup>2</sup> Applicant's original application and Allegation 5 of his first amended application also mention Val Hudson as a potential witness Trial Counsel allegedly failed to interview. However, Applicant did not produce her testimony at the evidentiary hearing. Therefore, he has failed to prove Trial Counsel was ineffective for failing to interview or call her. *See, e.g., Martin v. State*, 427 S.C. 450, 455, 832 S.E.2d 277, 279–80 (2019) (holding a PCR applicant who claims trial counsel was ineffective for failing to call certain witnesses must produce those witnesses or their testimony at the PCR hearing).

The group then drove back to Hartsville and left Dontavious at the hospital. Davorius, Terrell, and Applicant then sought out Reed Allen, who was staying at the apartment of Monday Bishop, Applicant's sister. Applicant gave the murder weapon, masks, and gloves to Allen and asked him to hide the evidence. Allen hid the items under a bush. Later, Applicant returned and retrieved the items. Ultimately, Applicant was apprehended in Philadelphia on January 27, 2007.

Dontavious and Davorius Mack ultimately entered guilty pleas, admitting their involvement in the robbery and murder. Terrell Addison and Applicant both pled not guilty and were tried together. At the trial, Dontavious and Davorius testified that Applicant rode up to Rock Hill with them on the day of the incident and conspired with them to commit the robbery. Dontavious testified Applicant gave him a semi-automatic 0.380 to use in the robbery. Dontavious admitted that he used the 0.380 to murder Ned Marshall. Similarly, Davorius testified that Applicant initially had the 0.380 but gave it to Dontavious to use during the robbery. Davorius also testified that, after the robbery, they drove back to Hartsville and dropped Dontavious off at the hospital; then Davorius, Terrell, and Applicant went to Monday Bishop's apartment, where Applicant handed Reed Allen a bag containing the gun and told him to hide it.

Reed Allen testified that, on the night in question, he was at Monday Bishop's house when Applicant, Terrell, and Davorius came to the house and told him Dontavious had been shot. Applicant gave him a brown plastic grocery bag containing a small-caliber semi-automatic pistol and told Allen to "put it up." Allen hid the bag under a bush. A few days later Applicant came by again and retrieved the bag.

Terrell Addison also testified that Dontavious, Davorius, and Applicant were driving around that day looking for things to steal and people to rob. He testified that, after the conspirators had decided to rob the BP, Applicant gave his 0.380 pistol to Dontavious. He testified that, after

the shooting, he, Davorius, and Applicant went to Monday Bishop's apartment. Reed Allen was at the apartment and was given a brown bag.

Applicant did not testify. Following deliberations, the jury found Applicant guilty of criminal conspiracy; possession of a weapon during the commission of a violent crime; and accessory, before and after the fact, to murder, armed robbery, and kidnapping.

Applicant now claims he could not have been present in the car with the other conspirators because he was excluded as a contributor to a DNA sample obtained from the car. Specifically, Applicant contends he was excluded as a contributor to DNA on items 26 and 30.2, namely, a yellow straw and a cigarette butt taken from the vehicle. (Trial Tr. p.750). Applicant contends this evidence incontrovertibly proves that he could not have been present in the car, contradicting the testimony of Dontavious, Davorius, and Terrell.

On the contrary, the Court finds this portion of the DNA report cannot be construed as incontrovertible proof that Applicant was not present in the car. Investigator Mike Williams testified that only two items from the vehicle, a yellow straw and a cigarette butt, were tested against the DNA sample taken from Applicant. The mere fact that Applicant was excluded as a contributor to those items does not mean Applicant was not in the car at all; it only means the DNA that was recovered from those items did not belong to Applicant. It is possible that Applicant was in the car but simply did not touch the items from which the DNA samples were taken.<sup>3</sup> In other words, the DNA evidence was not necessarily inconsistent with the testimony of Dontavious,

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<sup>3</sup> There was evidence introduced at trial that the conspirators were wearing gloves at the time of the robbery and that Applicant gave some gloves to Reed Allen to hide along with the murder weapon. From this evidence, it is inferable that Applicant could have been in the car wearing gloves, which would easily explain why his fingerprints and touch DNA were not found inside the car. Regardless, fingerprints and DNA could only be found in the parts of the car where investigators checked for such evidence; therefore, even if Applicant was not wearing gloves, he could have been in the car without leaving any fingerprints or DNA evidence in those places.

Davorius, and Terrell placing Applicant in the car during the planning and execution of the crime. Therefore, the DNA evidence did not exonerate Applicant. Applicant did not present any new DNA evidence at the PCR hearing to challenge the testimony placing him in the conspirators' car at the time of the crime.

Applicant's allegations that Trial and Appellate Counsel failed to appropriately exploit this evidence, therefore, are without merit. In addition, Applicant's allegation that the solicitor "misstated" the DNA and fingerprint evidence by arguing it was not inconsistent with Applicant's being in the car is likewise meritless. The solicitor's argument was a fair inference from the evidence presented at the trial.

**2. Monday Bishop's testimony was not materially inconsistent with the testimony that Applicant gave the murder weapon to Reed Allen to hide.**

Applicant claims that, if Monday Bishop had been called to testify, she would have testified that she was at her apartment on the night of the murder, did not see Terrell Addison or Davorius Mack there, and never saw Applicant give a gun to Reed Allen to hide. Applicant claims this testimony would have contradicted the testimony of Reed Allen, Davorius Mack, and Terrell Addison that Applicant gave the murder weapon to Allen, while they were all at Monday Bishop's apartment.

At the evidentiary hearing, Monday Bishop took the stand and testified that, on the night of the murder, she was with Reed Allen and Val Hudson at her apartment. She testified she did not see Terrell Addison or Davorius Mack that night and did not see the exchange of the gun that the other witnesses testified to; however, she admitted that she had been drinking that night and fell asleep at some point.

Trial Counsel testified at the evidentiary hearing that he spoke extensively with Monday Bishop prior to the trial because she is Applicant's sister. He testified that she never told him anything that would have made her a useful witness for the defense. Walter W. Thompson, who prosecuted Applicant, testified at the evidentiary hearing that he did not remember speaking to Monday Bishop except briefly at the courthouse just before Applicant's trial. He testified she told him that she did not know anything about what happened on the night of the murder, that she was asleep, and that she did not hang around with Applicant's associates. Thompson recorded his conversation with Bishop in a handwritten note.

The Court finds, based on the credible testimony of Trial Counsel and Thompson, that Trial Counsel had no reason to believe Monday Bishop's testimony would have been helpful to the defense. Both testified consistently that Bishop did not appear to know anything material about what happened the night of the murder. Monday Bishop admitted that she was asleep, just as she had told Thompson; therefore, naturally, she would not have noticed what happened at her apartment after she fell asleep. Therefore, even if she had testified at Applicant's trial, it is not likely that the result of Applicant's trial would have changed. Accordingly, Applicant has failed to establish either ineffective assistance on the part of Trial Counsel from failing to properly interview Monday Bishop or call her as a witness. Applicant has also failed to establish a *Brady*<sup>4</sup> violation by the prosecution related to Monday Bishop's pre-trial conversation with the solicitor, which contained nothing exculpatory or favorable to the defense.

Applicant also complains that Trial Counsel "misstated the evidence" because he referred to Monday Bishop's house as Reed Allen's house. However, Reed Allen was concededly staying

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<sup>4</sup> *Brady v. Maryland*, 373 U.S. 83 (1963).

at Bishop's apartment on the night of the murder, so whether it (the home) was referred to as "Monday Bishop's house" or "Reed Allen's house" is a matter of semantics. The Court finds this isolated statement could not possibly have prejudiced Applicant, as the ownership of the house had nothing to do with the crime.

As Applicant has failed to prove that Monday Bishop's statement was materially inconsistent with the testimony of Reed Allen or any of the other witnesses who saw Applicant hand the murder weapon to Allen on the night of the crime, he has failed to prove either ineffective assistance of Trial Counsel or any impropriety by the prosecution relating to her testimony.

### **First Amended Application**

#### **1. Failure to discuss defense strategy with Applicant**

Trial Counsel testified at the evidentiary hearing that he warned Applicant of the dangers of going to trial because Trial Counsel believed Applicant's co-conspirators would implicate him in the crime. Although Trial Counsel was able to call the Mack brothers' credibility into question by characterizing them as lying in order to obtain a lighter sentence for Davorius Mack, who had pled guilty but not yet been sentenced at the time of trial, he warned Applicant that his co-defendant Terrell Addison was likely going to raise a defense of duress. Trial Counsel testified he cautioned Applicant that Terrell would likely tell the truth about Applicant's participation in the conspiracy in order to lend credibility to his own defense of duress, but Applicant would not listen and insisted that Terrell would not betray him. Trial Counsel recalled that prior to Terrell's testimony at the trial, Applicant and Terrell told each other they had each other's back.

The Court finds Trial Counsel's credible testimony shows that he adequately discussed strategic considerations with Applicant, but Applicant ignored his warnings and trusted that Terrell would not testify against him. Therefore, Applicant has failed to prove that Trial Counsel was

deficient as to this allegation. In addition, Applicant has failed to explain what other defense strategies he could have pursued had Trial Counsel discussed the matter more thoroughly with him or how those strategies might have led to a different outcome. Therefore, Applicant has failed to prove he was prejudiced by Trial Counsel's alleged deficiency. Accordingly, the Court finds Applicant has not met his burden of proving ineffective assistance of counsel as to this allegation.

## 2. Failure to review evidence with Applicant or to provide evidence

Trial Counsel credibly testified that Applicant received a copy of the evidence and that Trial Counsel went over the evidence with him. Therefore, the Court finds Applicant has failed to prove Trial Counsel was deficient. In addition, to prove prejudice from failure to review discovery, a PCR applicant must present some new evidence or defenses that could have been discovered by counsel's further review of the discovery. *Harris v. State*, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing *Jackson v. State*, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998)), *abrogated on other grounds by Smalls*, 422 S.C. 174, 810 S.E.2d 836. Furthermore, an applicant must also show how the new evidence or defenses would have resulted in a different outcome. *Id.* (citing *David v. State*, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); *Skeen v. State*, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. *Id.*, 377 S.C. at 75, 659 S.E.2d at 145 (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)). In this case, Applicant has not explained how further review of the evidence would have resulted in a different outcome at trial. The strongest evidence against Applicant, ultimately, was the testimony of his co-conspirators, rather than any physical or photographic evidence. Therefore, the Court also finds Applicant has not met his burden of proving prejudice.

**6. Failure to challenge Applicant's competency to stand trial**

The record reflects that Trial Counsel did, in fact, have Applicant evaluated for competency to stand trial, and Applicant was deemed competent. (Trial Tr. pp.33–35). Trial Counsel testified he never had any serious concerns about Applicant's competency and that he made the motion out of an abundance of caution. Trial Counsel testified Applicant was one of his more intelligent clients. The Court finds Trial Counsel was not deficient in this regard. In addition, Applicant has not offered any new evidence to substantiate his claim that he was incompetent at the time of his trial, so he has failed to prove prejudice.

**7. Failure to interview Reed Allen**

Trial Counsel testified he did not interview Reed Allen because he already had his statement and knew what he was going to say. Allen testified consistently with his statement. In addition, Applicant has failed to produce any additional testimony or evidence that could have been discovered by further investigation of Reed Allen's account, nor has he shown how it would likely lead to a different result. Therefore, Applicant has not met his burden of proving either deficiency or prejudice as to this issue.

**8. Failure to object to leading questions**

Applicant contends Trial Counsel was ineffective for failing to object to the following questions, asked by the solicitor of Dontavious Mack: "So while Ben didn't want to go in, he gave you the gun to go in?" and "So when he gave you the gun he knew that you were going to rob the BP station?" (Trial Tr. p.188). In context, these are clearly summations of prior testimony, not improper leading questions; Dontavious had already testified that Applicant did not want to go in to help rob the store, that Applicant gave the gun to Dontavious, and that by that point Applicant and the rest of the conspirators had already discussed robbing the store. (Trial Tr. pp.187–88).

The Court finds that the questions were not leading. Therefore, Trial Counsel was not deficient for failing to object to those questions.

**9. Failure to object to hearsay by Davorius Mack**

Applicant claims Trial Counsel should have objected to the following testimony by Davorius Mack as hearsay: “[Dontavious] told me to come to his girlfriend’s house . . . and take Terrell Addison home.” (Trial Tr. p.333). The Court finds this testimony is not hearsay because hearsay is a statement offered to prove the truth of the matter asserted, and Dontavious’s words cited in this portion of Davorius’s testimony do not constitute an assertion. *See* Rule 801(c), SCRE. Trial Counsel, therefore, had no grounds to object to this testimony as hearsay. Similarly, Terrell Addison’s statement “Let’s stick” was not an assertion, and therefore was not objectionable on hearsay grounds. (Trial Tr. p.338). In addition, Applicant has not proved he was prejudiced by the failure to object because the challenged testimony is not material to any of the substantive issues at Applicant’s trial; in fact, Applicant is not even mentioned anywhere in the statements, and neither of the statements refer to the robbery or murder of Ned Marshall. Therefore, the Court finds this allegation is without merit.

**10, 11, 12, and 13. Failure to object to hearsay by Reed Allen**

Applicant contends Trial Counsel should have objected to the following statements by Reed Allen as inadmissible hearsay:

- “[Applicant] told me to put it up” (i.e., to hide the murder weapon—Trial Tr. p.515); this is not an assertion, but a verbal act by Applicant constituting the crime of accessory after the fact to murder. *See, e.g., N.L.R.B. v. Lexington Chair Co.*, 361 F.2d 283, 288 n.5 (4th Cir. 1966). In addition, these words by Applicant are

excluded from the rule against hearsay as an admission of a party opponent. *See* Rule 801(d)(2), SCRE.

- “I heard something about [Dontavious] being shot” (Trial Tr. p.529); while this is hearsay, it is manifestly without prejudice to Applicant, because there was never any question that Dontavious was shot—he admitted himself that he was—and whether Dontavious was shot is not at material to Applicant’s guilt or innocence.
- “It was really nothing, but just, you know, ‘would you put this up for me?’” (Trial Tr. p.532); again, this is Applicant asking Reed Allen to put the gun up. Like the statement on page 515 of the transcript, this was not hearsay.
- “It could have been” either Applicant or Davorius Mack who asked Terrell Addison to also put his gun up (Trial Tr. p.535); asking someone to do something is not an assertion, but a verbal act, so this was not hearsay.

The Court finds Applicant has failed to prove either deficiency or prejudice as to each of these allegations. Therefore, all of these allegations are meritless.

#### **14. Failure to object to reference to straw and crack cocaine**

Applicant claims Trial Counsel should have objected to the testimony from Lt. Rudick about suspected crack cocaine and a straw found in an ashtray inside the car. (Trial Tr. p.650). However, Applicant has not argued any ground for an objection to this testimony. Nevertheless, even if there was a meritorious objection to be made, the Court finds there was no prejudice to Applicant: it was a single, brief mention in the midst of a lengthy discussion of law enforcement’s collection of evidence from inside the vehicle; it was cumulative to other testimony of drug use by the conspirators; and there was no indication that the crack belonged to Applicant, as opposed to belonging to one of his co-conspirators who ended up testifying against him. Therefore, the Court

finds Applicant has not met his burden of proving either deficiency or prejudice as to this allegation.

**15. Failure to move to sever the trials of Applicant and Terrell Addison**

Applicant claims Trial Counsel was ineffective for failing to move to sever his trial from the trial of his co-defendant, Terrell Addison. The Court finds that there was no prejudice from failing to sever the trials, because all the evidence that was presented against Applicant at the joint trial could have been presented at an independent trial. *See Hughes v. State*, 346 S.C. 554, 552 S.E.2d 315 (2001) (holding counsel was not ineffective for failing to sever a defendant's trial from his co-defendant's trial where the same evidence would have been presented at an independent trial). In this case, as in *Hughes*, Applicant's co-defendant took the stand and was, therefore, subject to cross-examination. Therefore, there was no confrontation clause violation from trying both co-defendants together. Accordingly, the Court finds Applicant has failed to prove ineffective assistance of counsel as to this issue.

**16 and 17. Failure to object to jury instruction that malice may be inferred from the use of a deadly weapon.**

Applicant claims Trial Counsel should have objected to the trial court's jury instruction that malice may be inferred from the use of a deadly weapon; Applicant also claims Appellate Counsel was ineffective for failing to challenge that instruction on appeal. This instruction was not held to be improper until *State v. Burdette*, 427 S.C. 490, 832 S.E.2d 575 (2019), more than ten years after Applicant's trial.<sup>5</sup> Trial Counsel, therefore, had no grounds to object to the trial

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<sup>5</sup> *State v. Belcher*, 385 S.C. 597, 685 S.E.2d 802 (2009), predated *Burdette*, but its holding was limited to cases in which there was evidence to excuse, justify, or mitigate the homicide, such as self-defense or adequate legal provocation; no such evidence existed in this case. Regardless, *Belcher* came out in October 2009, whereas Applicant's trial was held in February 2009, so *Belcher* was also not in effect at the time of Applicant's trial.

court's jury instruction under the applicable law at the time. The same goes for Appellate Counsel's failure to raise the issue on appeal. Accordingly, the Court finds Trial and Appellate Counsel were not deficient, and Applicant was not prejudiced.

**18. Failure to charge constructive possession regarding accomplice liability for the weapon charge.**

Applicant claims Appellate Counsel should have raised the issue of the trial court's failure to charge constructive possession regarding accomplice liability as it relates to the possession of a weapon during the commission of a violent crime charge. However, Applicant does not explain what constructive possession charge he would have asked the trial court to give, or why it was error for the trial court to decline to give one in this case. In addition, Applicant was convicted of accessory before the fact to murder, kidnapping, and armed robbery; all of those are violent crimes in their right, and do not require a theory of accomplice liability under the "hand of one, hand of all" doctrine. *See* S.C. Code Ann. § 16-1-60 (accessory before the fact to murder, armed robbery, or kidnapping counts as a violent crime); § 16-23-490 (prohibiting possession of a weapon during the commission of a violent crime as defined by section 16-1-60). Accordingly, the Court finds Applicant has not met his burden of proving ineffective assistance of counsel as to this allegation.

**Second Amended Application**

**1. Failure to challenge calculation of time served**

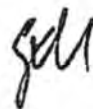
Applicant claims Trial Counsel was ineffective for failing to challenge the calculation of his time served credit so that he would receive credit from his original arrest date in Pennsylvania on January 27, 2007. However, the sentencing sheet for the charge of accessory before the fact to murder clearly reflects the trial court's intent that Applicant serve his sentence *consecutive* to the sentence he was serving on his Pennsylvania charges—in other words, Applicant is not entitled to



time served for the duration of his Pennsylvania sentence. Applicant has not explained why he should receive credit for that entire time, contrary to the express intent of the trial court. Accordingly, this Court finds Trial Counsel not ineffective as to this allegation.

## **2. Failure to challenge removal under the Interstate Agreement on Detainers**

Applicant contends his removal from Pennsylvania to South Carolina was barred by the Interstate Agreement on Detainers ("IAD"), S.C. Code Ann. § 17-11-10 Art. VI(b), which prohibits removal of persons adjudged to be mentally insane. Applicant did not provide any evidence supporting his claim to have been adjudged "mentally insane" as that term is defined by the IAD. Regardless, the Court finds that, after Applicant was actually removed to South Carolina, the IAD did not bar his prosecution. Therefore, Trial Counsel's alleged failure to properly challenge Applicant's removal did not affect the result of Applicant's trial. Accordingly, Applicant has failed to prove either deficiency or prejudice as to this allegation.



**IV. Conclusion**

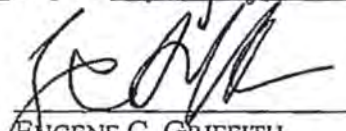
For all of these reasons, the Court finds Applicant has failed to meet his burden of proving any of his allegations. Therefore, the Court finds and concludes that this post-conviction relief application must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCPP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on Applicant's behalf. Applicant's attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief be denied and dismissed with prejudice; and
2. That Applicant be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 25<sup>th</sup> day of August, 2023.

  
 \_\_\_\_\_  
 EUGENE C. GRIFFITH  
 Presiding Judge  
 Sixteenth Judicial Circuit

Laurens, South Carolina

STATE OF SOUTH CAROLINA )  
 COUNTY OF YORK )

INDICTMENT

At a Court of General Sessions, convened on July 19, 2007 the Grand Jurors of York County present upon their oath:

**ACCESSORY BEFORE THE FACT TO MURDER**

Ben Robert Stewart did in York County on or about October 10, 2006, willfully and unlawfully counsel, hire, or otherwise procure the commission of the felony of Murder of James "Ned" Marshall, by the principal felons, Dontavious Mack and Terrell Addison. The murder occurred at the BP Station located at [REDACTED] in Rock Hill, South Carolina. All in violation of Section 06-01-0040, *Code of Laws of South Carolina* (1976), as amended.

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

  
 DEPUTY SOLICITOR

**WITNESSES**

RHPD / Haire

DOCKET NO. 2007-GS-46- 02526

**The State of South Carolina**  
**County of York**

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

Defendant

1528

**COURT OF GENERAL SESSIONS**

**JULY 19, TERM 2007**

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

mac

**ARREST WARRANT NUMBER**

DIR IND - NWN

Defendant

**THE STATE**

vs.

Witness:

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

**ACTION OF GRAND JURY**

**BEN ROBERT STEWART**

**TRUE BILL**

**Indictment for**

**ACCESSORY BEFORE THE FACT TO MURDER**

*OM Hampsh*  
Foreperson of Grand Jury

7-19-07

**VERDICT**

SC Code: § 06-01-0040  
CDR Code: 0002

*Guilty*

*Terry Lee Roller*  
Foreperson of Petit Jury

Date: 7/27/08

STATE OF SOUTH CAROLINA )

INDICTMENT

COUNTY OF YORK )

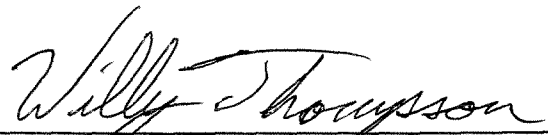
DEC 10 PM 4:20

At a Court of General Sessions, convened on July 19, 2007 the Grand Jurors of York County present upon their oath:

**ACCESSORY BEFORE THE FACT TO ARMED ROBBERY**

Ben Robert Stewart did in York County on or about October 10, 2006, willfully and unlawfully counsel, hire, or otherwise procure the commission of the felony of Armed Robbery of the BP Station operated by James "Ned" Marshall, by the principal felons, Dontavious Mack and Terrell Addison. The BP Station is located at [REDACTED] in Rock Hill, South Carolina. All in violation of Section 06-01-0040, *Code of Laws of South Carolina* (1976), as amended.

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

  
DEPUTY SOLICITOR

WITNESSES

DOCKET NO. 2007-GS-46-02528

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

1530

The State of South Carolina  
County of York

Defendant

COURT OF GENERAL SESSIONS

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

JULY 19, TERM 2007

mac

ARREST WARRANT NUMBER

DIR IND - NWN

X  
Defendant

THE STATE

vs.

Witness:

ACTION OF GRAND JURY

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

TRUE BILL

BEN ROBERT STEWART

*DM Blomquist*  
Foreperson of Grand Jury

Indictment for

7-19-07

VERDICT

ACCESSORY BEFORE THE FACT TO  
ARMED ROBBERY

SC Code: § 06-01-0040

CDR Code: 0002

*Guilty*

*Terry Lee Rolla*  
Foreperson of Petit Jury

Date: 2/27/08

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF YORK )

INDICTMENT

2007 DEC 10 PM 4:21

At a Court of General Sessions, convened on July 19, 2007 the Grand Jurors of York County present upon their oath:

**ACCESSORY BEFORE THE FACT TO KIDNAPPING**

Ben Robert Stewart did in York County on or about October 10, 2006, willfully and unlawfully counsel, hire, or otherwise procure the commission of the felony of Kidnapping of James "Ned" Marshall, by the principal felons, Dontavious Mack and Terrell Addison. The kidnapping occurred at the BP Station located at [REDACTED] in Rock Hill, South Carolina. All in violation of Section 06-01-0040, *Code of Laws of South Carolina* (1976), as amended.

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

*Willy Thompson*  
 DEPUTY SOLICITOR

WITNESSES

DOCKET NO. 2007-GS-46-02530

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

1532

The State of South Carolina  
County of York

Defendant

COURT OF GENERAL SESSIONS

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

JULY 19, TERM 2007

mac

ARREST WARRANT NUMBER

DIR IND - NWN

Defendant

THE STATE

vs.

Witness:

ACTION OF GRAND JURY

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

BEN ROBERT STEWART

TRUE BILL

Indictment for

*DM Nampachi*  
Foreperson of Grand Jury  
7-19-07

ACCESSORY BEFORE THE FACT TO  
KIDNAPPING

VERDICT

SC Code: § 06-01-0040  
CDR Code: 0002

*Guilty*  
*Terry Lee Rolla*  
Foreperson of Petit Jury  
Date: 2/27/09

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF YORK )

INDICTMENT

At a Court of General Sessions, convened on July 19, 2007, the Grand Jurors of York County present upon their oath:

### CRIMINAL CONSPIRACY

Ben Robert Stewart did in York County on or about October 10, 2006, willfully, knowingly, and feloniously unite, combine, conspire, confederate, agree or have tacit understanding with Dontavious Mack, Davorious Mack and/or Terrell Addison for the purpose of committing Armed Robbery and/or Kidnapping. The crimes occurred at [REDACTED] in Rock Hill, South Carolina, all in violation of Section 16-17-410, *Code of Laws of South Carolina, 1976*, as amended.

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

  
 DEPUTY SOLICITOR

**WITNESSES**

RHPD / Haire

mac

**ARREST WARRANT NUMBER**

**ACTION OF GRAND JURY**

**TRUE BILL**

*Om Hampton*  
Foreperson of Grand Jury  
7-19-07

**VERDICT**

*Guilty*

*Terry Lee Roller*  
Foreperson of Petit Jury  
Date: 7/27/09

DOCKET NO. 2007-GS-46- 02531

**The State of South Carolina**  
**County of York**

**COURT OF GENERAL SESSIONS**

**JULY 19, TERM 2007**

**THE STATE**

**vs.**

**BEN ROBERT STEWART**

**Indictment for**

**CRIMINAL CONSPIRACY**

SC Code: 16-17-410  
CDR Code:0049

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

Defendant

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

Defendant

Witness:

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

1534

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF YORK )

INDICTMENT

FILED DEC 10 PM 4:21

At a Court of General Sessions, convened on July 19, 2007, the Grand Jurors of York County present upon their oath:

**POSSESSION FIREARM DURING COMMISSION**  
**OF A VIOLENT CRIME**

On or about October 10, 2006, Ben Robert Stewart did in York County possess a firearm while committing one or more of the following crimes: Murder, Armed Robbery, and Kidnapping. The crimes occurred at [REDACTED] in Rock Hill SC, all in violation of Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

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

  
 DEPUTY SOLICITOR

**WITNESSES**

RFPD / Haire

mac

**ARREST WARRANT NUMBER**

DIR IND - NWN

**ACTION OF GRAND JURY**

**TRUE BILL**

*OM Hampton*  
Foreperson of Grand Jury  
Date: 7-19-07

**VERDICT**

*Guilty*

*Templee Rulla*  
Foreperson of Petit Jury  
Date: 2/27/09

DOCKET NO. 2007-GS-46- 02532

**The State of South Carolina  
County of York**

**COURT OF GENERAL SESSIONS**

**JULY 19, TERM 2007**

**THE STATE**

**vs.**

**BEN ROBERT STEWART**

**Indictment for**

**POSSESSION OF A FIREARM  
DURING THE COMMISSION  
OF A VIOLENT CRIME**

SC Code: 16-23-0490  
CDR Code: 0549

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

Defendant

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

Defendant

Witness:

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

1536

STATE OF SOUTH CAROLINA )

INDICTMENT

COUNTY OF YORK )

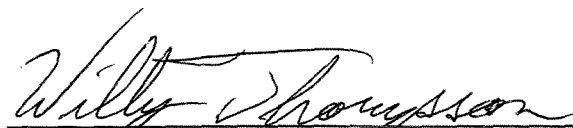
FILED  
13 DEC 10 PM 4:21

At a Court of General Sessions, convened on July 19, 2007, the Grand Jurors of York County present upon their oath:

### ACCESSORY AFTER THE FACT

Ben Robert Stewart did in York County on or about October 10, 2006, knowing of the commission and completion of the felonies of Armed Robbery, Kidnapping and/or Murder by the principal felons, Dontavious Mack and Terrell Addison, aid, harbor, and assist all such felons to escape detection or arrest or otherwise avoid the consequences of the crime, all in violation of Section 16-01-0055, *Code of Laws of South Carolina* (1976), as amended.

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

  
DEPUTY SOLICITOR

WITNESSES

RHPD / HAIRE

mac

ARREST WARRANT NUMBER

DIR IND - NWN

ACTION OF GRAND JURY

TRUE BILL

*On Hampton*  
Foreperson of Grand Jury

7-19-07

VERDICT

*Guilty*

*Terry Lee Rolla*  
Foreperson of Petit Jury

Date: 2/27/09

DOCKET NO. 2007-GS-46- 02535

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JULY 19, TERM 2007

THE STATE

vs.

BEN ROBERT STEWART

Indictment for

ACCESSORY AFTER THE FACT

SC Code: § 16-01-0055

CDR Code: 2413

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

Defendant

Defendant

Witness:

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

1538

1539

INDICTMENT/CASE#: 2007-GS46-02528

A/W#: NWN072528, DIR IND

Date of Offense: 10/10/2006

S.C. Code § : 16-01-0040.0050

CDR Code #: 0002

OF York  
 VS.  
 Ben Robert Stewart  
 AKA:  
 Race: B Sex: M Age: 22  
 DOB: [REDACTED] 1986 SS#: [REDACTED]  
 Address: [REDACTED]  
 Hartsville, SC 29550  
 DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: ACCESSORY BEFORE THE FACT TO ARMED ROBBERY

in violation of § 16-01-0040, 0050 of the S.C. Code of Laws, bearing CDR Code # 0002

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:

*Willy Thompson*  
Solicitor Thompson, Walter W.

Defendant

*Kenneth P. Swan*  
Attorney for Defendant SC 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.  
 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: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_ Obtain GED \_\_\_\_\_

set by SCDPPPS \_\_\_\_\_ Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning \_\_\_\_\_

\*Fine: \$ \_\_\_\_\_ Substance Abuse Counseling \_\_\_\_\_

§ 14-1-206 (Assessments 107.5 %) \$ \_\_\_\_\_ Random Drug/Alcohol testing \_\_\_\_\_

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_ \$ \_\_\_\_\_ paid to Public Defender Fund

§ 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_ Other: \_\_\_\_\_

§ 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 \$ 130

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

*David Hamilton*  
Clerk of Court/ Deputy Clerk

*Mike Watts*

PRESIDING JUDGE *Feb [Signature]*  
Judge Code: 211103  
Sentence Date: 2-27-09

1540

York

VS.

Ben Robert Stewart

AKA:

Race: B Sex: M Age: 22

DOB: 1986 SS#: [REDACTED]

Address: [REDACTED] Hartsville, SC 29550

DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2007-GS46-02530

A/W#: NWN072530

Date of Offense: 10/10/2006

S.C. Code § : 16-01-0040.0050

CDR Code #: 0002

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was [X] CONVICTED OF or [ ] PLEADS TO: Accessory before the fact to KIDNAPPING

in violation of § 16-01-0040, 0050 of the S.C. Code of Laws, bearing CDR Code # 0002

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

The charge is: [X] 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:

Walter W. Thompson Solicitor

Defendant

[Signature] Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the [X] 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.

[X] CONCURRENT or [ ] CONSECUTIVE to sentence on: \_\_\_
[X] 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

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 \$ 130

PTUP \_\_\_

\_\_\_ days/hours Public Service Employment

Obtain GED \_\_\_

Attend Voc. Rehab. or Job Corp. \_\_\_

May serve W/E beginning \_\_\_

Substance Abuse Counseling \_\_\_

Random Drug/Alcohol testing \_\_\_

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_ beginning \_\_\_

\$ \_\_\_ paid to Public Defender Fund

Other: \_\_\_

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

David Hamilton Clerk of Court/ Deputy Clerk

Mike Watts

PRESIDING JUDGE

Judge Code: 211113

Sentence Date: 2-27-09

COURT OF YORK  
 VS.  
 Ben Robert Stewart  
 AKA:  
 Race: B Sex: M Age: 22  
 DOB: [REDACTED]-1986 SS#: [REDACTED]  
 Address: [REDACTED]  
 Hartsville, SC 29550  
 DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS  
 1541  
 INDICTMENT/CASE#: 2007-GS46-02531  
 A/W#: NWN072531  
 Date of Offense: 10/10/2006  
 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

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:  
 [Signature] Solicitor Thompson, Walter W.  
 [Signature] 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 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.

SPECIAL CONDITIONS:

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

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

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		\$	130

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

David Hamilton  
 Clerk of Court/ Deputy Clerk  
 Mike Watts

PRESIDING JUDGE [Signature]  
 Judge Code: 211103  
 Sentence Date: 2-27-09

1542

York

VS.

Ben Robert Stewart

INDICTMENT/CASE#: 2007-GS46-02532

A/W#: NWN072532

Date of Offense: 10/10/2006

S.C. Code § : 16-23-0490

CDR Code #: 0549

AKA:

Race: B Sex: M Age: 22

DOB: 1986 SS#:

Address: Hartsville, SC 29550

DL#: SID#:

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was [X] 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

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

The charge is: [X] As Indicted, [ ] Lesser Included Offense, [ ] Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: [ ] Without Negotiations or Recommendation, [ ] Negotiated Sentence, [ ] Recommendation by the State.

ATTEST:

Solicitor Thompson, Walter W.

Defendant

Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the [X] 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.

[X] CONCURRENT or [ ] CONSECUTIVE to sentence on:

[X] 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: \$ days/hours Public Service Employment

Payment Terms: Obtain GED

[ ] set by SCDPPPS Attend Voc. Rehab. or Job Corp.

Recipient: May serve W/E beginning

\*Fine: \$ Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) \$ Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100 Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ pmts. of \$ beginning

§ 56-5-2995 (DUI Assessment) \$12 \$ \$ paid to Public Defender Fund

§ 35.13 (Public Def/Prob) \$500 \$ Other:

§ 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) \$ [ ] Appointed PD or appointed other counsel, §35.13 TP

§ 90.11 TP (SCCJA Surcharge) \$5 \$ Requires \$500 be paid to Clerk during probation.

TOTAL \$ 130

David Hamilton Clerk of Court/ Deputy Clerk

Mike Watts

PRESIDING JUDGE

Judge Code: 21113

Sentence Date: 2-27-09

OF York  
 VS.  
 Ben Robert Stewart  
 AKA:  
 Race: B Sex: M Age: 22  
 DOB: 1986 SS#: [REDACTED]  
 Address: [REDACTED]  
 Hartsville, SC 29550  
 DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2007-GS46-02535  
 A/W#: NWN072535  
 Date of Offense: 10/10/2006  
 S.C. Code § : 16-01-0055  
 CDR Code #: 2413

1543

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Accessory after the fact to MURDER, ARMED ROBBERY AND KIDNAPPING

in violation of § 16-01-0055 of the S.C. Code of Laws, bearing CDR Code # 2413  
 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:  
*Willy Thompson* Solicitor Thompson, Walter W. Defendant *Kenneth Johnson* Attorney for Defendant SC Bar#

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.  
 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: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_ Obtain GED \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_ Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning \_\_\_\_\_  
 \*Fine: \$ \_\_\_\_\_ Substance Abuse Counseling \_\_\_\_\_

§ 14-1-206 (Assessments 107.5 %) \$ \_\_\_\_\_ Random Drug/Alcohol testing \_\_\_\_\_  
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100 Fine may be pd. in equal, consecutive weekly/monthly prmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_ \$ \_\_\_\_\_ paid to Public Defender Fund  
 § 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_ Other: \_\_\_\_\_

§ 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 \$ 130

*David Hamilton*  
 Clerk of Court/ Deputy Clerk

*Mike Watts*

PRESIDING JUDGE *John [Signature]*  
 Judge Code: 2111813  
 Sentence Date: 2-27-09

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

1544

York

VS.

Ben Robert Stewart

AKA:

Race: B Sex: M Age: 22

DOB: [redacted] 1986 SS#: [redacted]

Address: [redacted] Hartsville, SC 29550

DL#: [redacted] SID#: [redacted]

INDICTMENT/CASE#: 2007-GS46-02526

A/W#: NWN072526

Date of Offense: 10/10/2006

S.C. Code § : 16-01-0040. 0050

CDR Code #: 0002

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was [X] CONVICTED OF or [ ] PLEADS TO: Accessory before the fact to MURDER

in violation of § 16-01-0040, 0050 of the S.C. Code of Laws, bearing CDR Code # 0002

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

The charge is: [X] As Indicted, [ ] Lesser Included Offense, [ ] Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: [ ] Without Negotiations or Recommendation, [ ] Negotiated Sentence, [ ] Recommendation by the State.

ATTEST:

Walter W. Thompson Solicitor

Defendant

Kenneth B. Down Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the [X] 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 [X] CONSECUTIVE to sentence on: to sentence in Pennsylvania

[X] 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: \$ \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

Obtain GED \_\_\_\_\_

[ ] set by SCDPPPS \_\_\_\_\_

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

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

May serve W/E beginning \_\_\_\_\_

\*Fine: \$ \_\_\_\_\_

Substance Abuse Counseling \_\_\_\_\_

§ 14-1-206 (Assessments 107.5 %) \$ \_\_\_\_\_

Random Drug/Alcohol testing \_\_\_\_\_

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

§ 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

Other: \_\_\_\_\_

§ 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 \$ \_\_\_\_\_

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

3% to County (if paid in installments) \$ \_\_\_\_\_

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5

TOTAL \$ 130

David Hamilton Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Judge Code: 211013

Sentence Date: 2-27-09

Mike Watts