

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

J. Ernest Kinard, Jr., Circuit Court Judge

RECEIVED

AUG 29 2013

S.C. Supreme Court

MACKAIL DAWKINS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000367

APPENDIX

BENJAMIN JOHN TRIPP
Appellate Defender

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

ATTORNEY FOR PETITIONER

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Attorney General

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Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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State of South Carolina) In the Court of General Sessions
) Fifth Judicial Circuit
County of Richland) 2008-GS-40-12035

The State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 Mackail Dawkins,)
)
 Defendant.)

September 16, 2011
Columbia, South Carolina

B E F O R E:

The Honorable Clifton Newman, Judge

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

Constantine G. Pournaras, Esquire
Attorney for the Defendant

Toyya Williams, Agent
South Carolina Department of Probation, Parole, &
Pardon Services

Elizabeth B. Harris, CVR-M
Circuit Court Reporter

I N D E X

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<u>No.</u>	<u>Description</u>	<u>I.D.</u>	<u>Ev.</u>
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No Exhibits Introduced.

1 THE COURT: All right, Mr. Dawkins, you're here for a
2 probation violation?

3 DEFENDANT: Yes, sir.

4 THE COURT: Are you guilty of willfully violating
5 probation?

6 DEFENDANT: Yes, sir.

7 THE COURT: All right, is that right, Mr. Pournaras?

8 MR. POURNARAS: Yes, Your Honor.

9 THE COURT: All right, Ms. Dawkins..

10 AGENT WILLIAMS: Williams.

11 THE COURT: No, Dawkins is the defendant. Agent
12 Williams.

13 AGENT WILLIAMS: Williams, yes, sir. Thank you.

14 THE COURT: Ms. Williams, yes, ma'am. Thank you.

15 AGENT WILLIAMS: Mr. Dawkins basically violated by, we
16 have him for absconding. He hadn't reported since April.
17 And right around the time that he was supposed to report
18 for his next report, he missed that report, and he got
19 picked up on a petty larceny charge.

20 He has reported missing reports in the past due to
21 work and school. Well, actually, his girlfriend reported
22 that he was missing reports for work and school. And no
23 payments have ever been made on any account. That's about
24 it.

25 THE COURT: How did he manage to get probation for

1 robbery?

2 AGENT WILLIAMS: This was a result of a car jacking.

3 THE COURT: Well, how did he get probation for car
4 jacking?

5 AGENT WILLIAMS: No idea, Your Honor.

6 THE COURT: Mr. Pournaras?

7 MR. POURNARAS: I also don't know that, Your Honor.
8 It was ordered by Judge Manning in 2008.

9 The little -- the confusion in his case comes from he
10 was also on a parole sentence at the same time. He was
11 released from detention, I believe, in, is it August of
12 2010? He was under the impression that his probationary
13 sentence -- September 2010. I apologize. He was under the
14 impression his probationary sentence, from what he tells
15 me, did not begin until his parole ended.

16 I believe he had two separate agents that he was
17 reporting to. Is that correct, Ms. Williams?

18 AGENT WILLIAMS: No. I was his agent.

19 MR. POURNARAS: You were his agent for both the parole
20 and the probation?

21 AGENT WILLIAMS: Yes.

22 MR. POURNARAS: Okay.

23 AGENT WILLIAMS: That's correct. Those, those
24 sentences were running concurrent.

25 MR. POURNARAS: So, Ms. Graham was not his parole

1 agent?

2 AGENT WILLIAMS: She was his agent perhaps in the
3 beginning. As of late, I've been his agent. I've been his
4 agent for quite some time.

5 (A PAUSE.)

6 THE COURT: Yes, sir.

7 MR. POURNARAS: Yes, Your Honor. The petit larceny
8 charge that Ms. Williams referred to was from 2005. He was
9 picked up on that warrant once he was released, but my
10 understanding is that charge was dismissed.

11 He did miss some reports, as the agent mentioned. His
12 parole however, was terminated in the end of last month.
13 So, now he only has this probation.

14 He tells me he would like to -- a chance to complete
15 his probation. His girlfriend recently just had a child,
16 which he hasn't seen; he was incarcerated at the time. He
17 is working. I did contact A.D. Moore Construction this
18 morning, and they did confirm that he was working there,
19 and he will return to work when he can.

20 I believe that his parole accounts were made complete,
21 from what he tells me. He did pay those supervision fees.
22 However, he did not -- no?

23 (COUNSELOR CONFERS WITH DEFENDANT.)

24 MR. POURNARAS: He should be able to continue paying
25 once he is released and back to work.

1 He would just -- in his mind, he never actually began
2 this probationary sentence. He would like the opportunity
3 to do that, Your Honor.

4 AGENT WILLIAMS: And if I may, this case did begin in
5 September 2010. Since this began, he hasn't made any
6 payments, although he's reported being gainfully employed.

7 The two addresses that we have on record, none of
8 those were able to be verified. The first address, when we
9 went out, we found that apartment to be vacant. The second
10 address that he most recently provided, when we went out
11 there, we were told that he wasn't residing there. So.

12 MR. POURNARAS: The Prescott address, he tells he
13 that's where he currently lives, or will live once he is
14 released.

15 AGENT WILLIAMS: And at that address on August 2,
16 2011, we were informed that he no longer resides there, and
17 his whereabouts were unknown. And that was after he missed
18 his reports. We went out.

19 THE COURT: All right. Well, Mr. Dawkins, what would
20 you like to say, if anything? You want to say anything?

21 DEFENDANT: Yes, sir. I would like to go on and be
22 able to start my probation because I thought I would have
23 to finish my parole first, then start on probation. I
24 didn't know they was running concurrent.

25 THE COURT: Why did you think that?

1 DEFENDANT: Because when I first came home and when I
2 reported, I asked the agent was they running together, and
3 Ms. Graham stated. She was, like, the probation was going
4 to start after the parole because the parole was serious.

5 THE COURT: All right. What kind of crime did you do?
6 What kind of ---

7 DEFENDANT: For which one, sir?

8 THE COURT: --- crime was this? This robbery, what
9 kind of crime was that?

10 DEFENDANT: Strong-arm robbery.

11 THE COURT: What did you, what did you do?

12 DEFENDANT: Well, it was me and my father, and it, it
13 was basically I was at the wrong place, wrong time with my
14 father.

15 THE COURT: Well, tells me a whole lot. Tell me about
16 what did you do? What did you and your father do?

17 DEFENDANT: Well, I had, I had a car, but the car was
18 stolen, and so my father, when he called me, told me to
19 come pick him up, he already had done did his incident with
20 the robbery.

21 THE COURT: What did he do?

22 DEFENDANT: He had robbed, he had robbed a dude, and
23 I, I ain't know he ---

24 THE COURT: What did he get from the dude that he
25 robbed?

1 DEFENDANT: I don't know. All I know, that this how I
2 get in it. When his girlfriend had basically reported to
3 the police, the police had asked who was with him. And his
4 girlfriend stated that the last person she seen with him
5 was his son. So, that's how I get in the whole situation.

6 THE COURT: Well, how did you get convicted of that?

7 DEFENDANT: Because I was already at Turbeville on a
8 YOA sentence, and I was basically trying to get it on out
9 the way. So, I went on and plead because I was wrong for
10 it.

11 THE COURT: You were wrong for doing what?

12 DEFENDANT: I was wrong for having the car, but -- and
13 I was wrong, too, for -- he was -- by him being in my
14 presence and me not knowing what he did, still carrying on
15 with the situation.

16 THE COURT: Well, that doesn't make a lot of sense to
17 me, but...

18 AGENT WILLIAMS: I could ---

19 THE COURT: Yes, ma'am.

20 AGENT WILLIAMS: --- let you know what his indictment
21 says, Your Honor.

22 THE COURT: All right.

23 AGENT WILLIAMS: It says that he:

24 Did take by force or intimidation some monies, a
25 cell phone, and the victim's car while armed with

1 a pistol or other deadly weapon, or while
2 alleging that he was armed.

3 THE COURT: Is that a different case you were
4 explaining?

5 DEFENDANT: No. It's the same case, sir.

6 THE COURT: Well, how did you get probation for that
7 crime?

8 DEFENDANT: Judge Manning had sentenced me to a
9 suspended sentence. So, I had to do a straight-time
10 sentence, too, and come home on probation. So, that's when
11 I came home. I was on probation and parole, and that's how
12 it got mixed up about me finishing my parole first and then
13 starting the probation.

14 THE COURT: Well, were you doing the parole at a
15 different place than the probation?

16 DEFENDANT: No. I was doing it at the same place,
17 sir.

18 THE COURT: How can you be confused if you've got the
19 same agent at the same place?

20 DEFENDANT: I didn't have the same agent. That's why
21 when I first reported for the intake, I asked her. I was,
22 like, I had showed her my paperwork. And she was, like,
23 well, right now you just doing the parole, see, because
24 it's more things -- I mean, because it's more serious.
25 We'll talk about the probation once you finish the parole.

1 THE COURT: All right, how about that, Ms. Williams?
2 He says y'all have him confused.

3 AGENT WILLIAMS: I'm not sure how he would have been
4 confused, Your Honor. But either way, he would have been
5 in violation.

6 THE COURT: Because of?

7 AGENT WILLIAMS: I don't have, I don't have anything
8 to add to that or to explain why, how he could have been
9 confused. He did know that he was sentenced on a split
10 sentence. He did five years on his fifteen, and he was
11 released to probation and advised that he was also on a
12 YOA.

13 THE COURT: All right. Well, considering that you, in
14 2005, you were on probation -- that was revoked. Is that
15 right?

16 DEFENDANT: Yes, sir.

17 THE COURT: Then 2007, you were in YOA and that was
18 revoked.

19 DEFENDANT: Yes, sir.

20 THE COURT: And now you're here again for another
21 revocation. You had another probation. It doesn't seem to
22 me that he will be able to successfully be on probation.

23 DEFENDANT: May I speak?

24 THE COURT: Yes, sir.

25 DEFENDANT: In 2005, that's when I was on the YOA

1 probation, and it was revoked, and I went and did the time.
2 But in 2007, that's when they had revoked it again because
3 I had the current charge right there pending.

4 THE COURT: All right, and you have pending charges
5 now as well, don't you?

6 DEFENDANT: Did breach of peace, sir.

7 THE COURT: Sir?

8 DEFENDANT: Breach of peace when I was arrested.

9 MR. POURNARAS: When he was arrested, Your Honor, he
10 was charged with breach of peace, I believe, for giving an
11 incorrect name is what that current pending charge is. I
12 believe that's the only ---

13 THE COURT: Why did you lie about your name?

14 DEFENDANT: No, I told them my name was Gaylon Mackail
15 Dawkins, and they had me down for Mackail T. Dawkins. So,
16 he charged me with that.

17 THE COURT: So, what's your name? What is your name?

18 DEFENDANT: Mackail. Mackail Dawkins.

19 THE COURT: All right. So, what do you want me to do,
20 Ms. Williams?

21 AGENT WILLIAMS: I would ask that you follow our
22 recommendations: revoke and terminate his supervision.

23 THE COURT: All right.

24 AGENT WILLIAMS: I've had more contact with his
25 girlfriend than I have with him, so I can't, I can't vouch

1 for him that he would possibly be a good candidate to
2 continue.

3 THE COURT: And he was supposed to be under intensive
4 supervision?

5 AGENT WILLIAMS: He was when he started, and that was
6 per his YOA release certificate.

7 THE COURT: And he doesn't report? That's part of the
8 failure to report?

9 AGENT WILLIAMS: That's correct.

10 SENTENCE OF THE COURT:

11 THE COURT: All right, I find that you willfully
12 violated your probation. I'm revoking seven years and
13 terminating the probation.

14 MR. POURNARAS: Thank you, Your Honor.

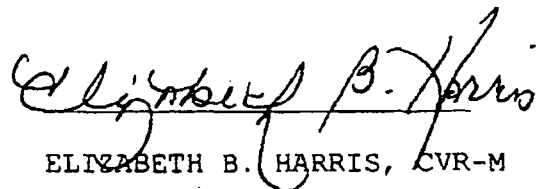
15 AGENT WILLIAMS: Thank you.

16 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
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 HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 16TH DAY OF SEPTEMBER, 2011.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.


ELIZABETH B. HARRIS, CVR-M

COLUMBIA, SOUTH CAROLINA

MARCH 10TH, 2012

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Probation

ARREST WARRANT

Indictment Number 06-GS-40-03359, 08-GS-40-12035

Warrant Number W-40-11-0399

State Identification No. (SID) 01636145

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF COLUMBIA, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that MACKAIL T DAWKINS, GAYLON MACKAIL DAWKINS, did on the 2 day of August, 2011 violate the criminal laws of the State of South Carolina as set forth below:

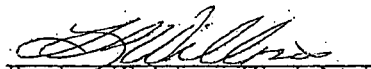
DESCRIPTION OF OFFENSE:

Mackail Dawkins violated conditions 1, 2, 6, 7, 9 and 10 as ordered in Case Numbers 06-GS-40-3359 and 08-GS-40-12035 by Judge Manning in the Richland County Court of General Sessions on 3/11/08.

Now, therefore, you are empowered and directed to arrest the said defendant and bring MACKAIL T DAWKINS, GAYLON MACKAIL DAWKINS 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. Done at COLUMBIA, S. C. this 2 day of August, 2011.

County of RICHLAND

STATE OF SOUTH CAROLINA


 Signature of Probation and Parole Agent

(L.S.)

AFFIDAVIT

Personally appeared before me, one Toyya LaKisha Williams, who, first being duly sworn, deposes and says that MACKAIL T DAWKINS, GAYLON MACKAIL DAWKINS did within this County and State on the 2 day of August, 2011, violate the criminal laws of the State of South Carolina in the following particulars:

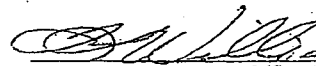
DESCRIPTION OF OFFENSE:

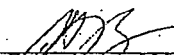
Mackail Dawkins violated conditions 1, 2, 6, 7, 9 and 10 as ordered in Case Numbers 06-GS-40-3359 and 08-GS-40-12035 by Judge Manning in the Richland County Court of General Sessions on 3/11/08.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Mackail Dawkins failed to follow the advice and instructions of his agent when he failed to report on 6/8/11, 7/20/11 or any possible report thereafter, having last reported 4/27/11; moved without consent of the agent on or before the home visit conducted 8/1/11; failed to notify of his arrest by Columbia PD on 6/15/11 for Petty Larceny; failed to pay supervision fees having an outstanding balance of \$1,250; failed to pay fine (06-12035) owing a balance of \$643.75 and failed to pay surcharge (06-3359) owing a balance of \$128.75.

Sworn to and Subscribed before me
 this 2 day of August, 2011.


 Affiant


 Signature of Notary Public

(L.S.)

1-29-2017
 My Commission Expires

Address: 1221 GREGG STREET
 COLUMBIA, SC SC
 Out Of State
 USA

(803) 734-6320

RETURN

STATE OF SOUTH CAROLINA

COUNTY OF

RICHLAND

THE STATE

against

MACKAIL T DAWKINS, GAYLON MACKAIL DAWKINS

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant.

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 8/2/2011

Officer and Agency: SC Department of Probation,
Parole and Pardon Services

on the

14 day of August 2011

Constable or Law Enforcement Officer

Toya LaKisha Williams

This Warrant is certified for service in [County of warrant
Certification] County. The accused is to be arrested and brought
before me to deal with according to law.

Disposition

(U.S.)

Signature of Judge

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name: MACKAIL T DAWKINS

Address: Unknown
COLUMBIA, SC 29203

Phone

Sex: Male Race: Black Height: 5'11"

Weight: 168 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant

Decision

BAIL

Date Set

Magistrate

Amount

Surety

STATE OF SOUTH CAROLINA

County of Richland
STATE VS.Name: Markail T. Dawkins
AKA: Gaylor Markail Dawkins
Race: Black Sex: Male
DOB: _____
SSN: _____
SID#: 11030145

ASDC

IN THE COURT OF GENERAL SESSIONS

INDICTMENT#

08 -GS- 40 - 12035

Probation C/W#: W-40-11-0397Name of Original Offense: Strong Arm Robbery
Original A/V#: K 265B30
Date of Original Offense: 7-25-07
Conviction S.C. Code §: 16-11-325
Conviction CDR Code #: 011317
Original Sentence: 5 yrs 25 days + 3 yrs probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 3/10/08 in the Court of General Sessions of Richland County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on _____, as set forth in the attached warrant(s) or citation(s) dated 9/2/11.

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, 2, 6, 7, 9, 10

Therefore, IT IS ORDERED that:

- ☐ the suspended sentence be revoked and the above named defendant be required to serve 7 months/years, the remainder of the original sentence, and/or pay \$ XXXX terminate probation.
- ☐ 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:- convert monetary obligations to civil judgments.☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.☒ The defendant has previously served 5 months/years on this sentence. ENTERED OIS 9-21-11
(split sentence time and/or prior partial revocation time) BY [Signature]☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.This 16 day of September, 2011
Columbia, SCPresiding Judge Shirley McWaters
[Signature] 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 _____, 2011 at Columbia SC

Williams 906



STATE OF SOUTH CAROLINA

County of Richland

2011CP4008761

In the Court of Common Pleas

Mackail Dawkins # 316343

Full name and prison number (if any) of Applicant.

vs.

State of South Carolina

Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEF

RICHLAND COUNTY
FILED
2011 DEC 27 PM 12:51
JEANNETTE W MCBRIDE
C.C.P. & J.S.

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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Kirkland R&E
2. Name and location of Court which imposed sentence Richland County Courthouse,
1701 Main St, Columbia, South Carolina
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) # 06-GS-40-3359, 08-12035
 - (b) _____
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Sept. 16, 2011 (9:00am). Revised 7 yrs (probation terminated)
 - (b) _____
 - (c) _____

CLERK OF COURT

18-2014794

ATTORNEY GENERAL'S OFFICE

RECEIVED 12/28/11

ADMINISTRATIVE INSTRUCTIONS

FILE OPEN END

HAVE COPIES MADE

ROUTE TO

ORDER: TRANSCRIPT

PEN RECORDS CLERK RECORDS

OTHER:

3011664002191

5. 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 _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. _____
- ii. _____
- iii. _____

(b) the result in each such Court to which you appealed:

- i. _____
- ii. _____
- iii. _____

(c) the date of each such result:

- i. _____
- ii. _____
- iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. _____
- ii. _____
- iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) Wanted to file a PCR
- (b) _____
- (c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
- (b) Irrelevant factors (to decide the merits of my case)
- (c) "Probation" wasn't suppose to start until my "Parole" was over with

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Counsel was "ineffective" because he failed to gather evidence → PCR
- (b) Judge using irrelevant factors to decide the merits of my → PCR
- (c) My "Probation" wasn't suppose to start until my Parole was over → PCR

20 favorable to me and present the evidence to the court at the revocation hearing. I informed counsel that my hospital records would provide an alibi for the allegations in the probation revocation warrant. I informed counsel both verbally and in writing at least 30 days before the date and time of my probation revocation hearing. Counsel also failed to object at revocation hearing since he knew the SCDPPS violated my right to due process because they failed to provide me an administrative hearing before seeking to have my probation revoked by a circuit court. Counsel also wasn't appointed to me by the Court, "Jessamine Grace was."

B) revocation hearing. Judge asked me why I was given probation for the case I was sentenced to probation for. In the 1st place this matter was irrelevant to the probation revocation case.

With that said my first agent (Mrs. Graham) stated when I was under her roster. But when I got switched to (Mrs. Williams) everything changed. So when I got arrested for (Petty larceny) a crime which I didn't commit. The charge was later dismissed, (Mrs. Williams) violated me for Parole & Probation. 2 weeks after I signed my (termination) papers for (Parole), my Probation was revoked.

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO
- (d) any other petitions, motions or applications in this or any other Court?
NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

15. If any ground set forth in (9) 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) Ineffective Assistance of Counsel / didn't appeal
- (b) Irrelevant Factors / " " "
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (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? _____

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Constantine Pournaras, Public Defender office, 1701 Main St. 4th floor, Columbia, S.C. 29201
- ii. _____
- iii. _____

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

- i. Counsel was appointed, probation revoked.
- ii. _____
- iii. _____

18. State clearly the relief you seek in filing this application.

"Sentence reduced"

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

NO

STATE OF SOUTH CAROLINA

County of Richland

VERIFICATION

I, Mackail Dawkins, 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.

Mackail Dawkins

SWORN to and subscribed before me this 16th

day of Dec., 19 2013

Off. Doris Fuentes (L.S.)
Notary Public

My Commission Expires: 2013

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

I, Mackail Dawkins, 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 therefor.

Mackail Dawkins
Applicant

SWORN or affirmed to and subscribed before me this

16th day of Dec., 19 2011

Off. Doris Fuentes
Notary Public

My Commission Expires 2013

2011 DEC 27 PM 12:51
FILED
RICHLAND COUNTY
JEANNETTE W. MCBRIDE
C.C.P. & C.S.

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

DAWKINS Mackail -
AKA Gaylon Dawkins
00316343,

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2011CP4008761

RETURN

RICHLAND COUNTY
FILED
2012 JAN 10 AM 10:30
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

The Respondent, making its Return to the application for post conviction relief (PCR) filed December 27, 2011, would respectfully show this Court:¹

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. On March 11, 2008, following a guilty plea, the Applicant was sentenced by The Honorable L. Casey Manning. The Applicant had been indicted and/or convicted of the following: Armed Robbery (2 counts) - (2006-GS-40-3359;08-

1

<http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2011CP4008761&CourtType=G&CaseType=Civil&CourtAgency=40002>

GS12035).² Originally, he was sentenced to fifteen (15) years suspended upon the service of five (5) years with three (3) years probation. On September 16, 2011, represented by Constantine Povrnaras, Esquire, the Applicant's probation was revoked by the Honorable Clifton Newman.

II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the trial transcript, and the Applicant's applicable records from the Department of Probation, Pardon, and Parole Services, DPPPS. The Respondent reserves the right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

Direct Appeal

The Applicant did not appeal his conviction and/or sentence .

The application for post conviction relief (PCR) was filed December 27, 2011.

III.

For the purposes of this Return, the Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered

² <https://sword.doc.state.sc.us/scdc-public/inmateDetails.do?id=+00316343>

adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

Applicant alleges ineffective assistance of probation revocation counsel.³ A revocation hearing addresses two issues: whether the probationer violated a condition of probation, and whether the violation warrants revocation. Black v. Romano, 471 U.S. 606, 105 S.Ct. 2254, 85 L.Ed. 2d 636 (1985); Morrissey v. Brewer, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed. 2d 484 (1972). If the evidence tends to show a violation of the conditions, then revocation is an appropriate means of enforcing the probationary sentence. State v. Clough, 220 S.C. 390, 68 S.E.2d 329 (1951); State v. McCray, 222 S.C. 391, 73 S.E.2d 1 (1952).

Due the nature of the revocation hearing, the Sixth and Fourteenth Amendments do not provide *per se* right to counsel. Gagnon v. Scarpelli, 411 U.S. 778, 93 S.Ct. 1756, 36 L.Ed.2d 656 (1973). Nevertheless, in South Carolina, Rule 602(a), SCACR requires the appointment of counsel for indigent defendants in probation revocation proceedings. Where statute or rule of practice creates such a right, the courts have used the Strickland test to evaluate claims of ineffective assistance of probation revocation counsel. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); See, e.g., United States v. Wren, 682 F.Supp. 1237 (S.D.Ga. 1988). However, since a probation hearing is not a formal adversarial proceeding, "the Court must review counsel's performance in

³ The Applicant is not challenging the conviction itself.

light of the particular type of proceeding involved." Id., 682 F.Supp. at 1242.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984). The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. 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 upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. 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 the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). Even with respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985)c

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland 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, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied. The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held. The Respondent will coordinate with the Applicant's attorney who is, according to the Respondent's file, TBT, Esquire regarding when the hearing should be set.⁴

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT

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

January 3, 2012

⁴ The current PCR Roster for the 5th Circuit is available at <http://www.scag.gov/criminal-litigation/postconvictionrelief>

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

DAWKINS Mackail -
 # 00316345,

2011CP4008761

Applicant,

v.

CERTIFICATE OF SERVICE

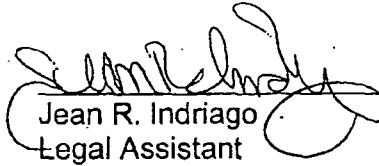
State of South Carolina,

Respondent.

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

**DAWKINS Mackail, 316343 - Kirkland Reception and Evaluation Center, 4344
 Broad River Road, Columbia, SC 29210**

DATED January 9, 2012.


 Jean R. Indriago
 Legal Assistant

RICHLAND COUNTY
 FILED
 2012 JAN 10 AM 10:31
 JEANNETTE W. MCBRIDE
 C.C.P. & G.S.

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF RICHLAND) COURT OF COMMON PLEAS
 3) 2011-CP-40-08761
 4 Markail Dawkins,)
 5 Plaintiff,)
 6 vs.) TRANSCRIPT OF RECORD
 7 State of South Carolina,)
 8 Defendant.)

9 September 11, 2012
 10 Columbia, South Carolina

11
 12
 13 B E F O R E:

14 THE HONORABLE J. ERNEST KINARD, JR., JUDGE.
 15

16
 17 A P P E A R A N C E S:

18 E. DEON O'NEIL, ESQ.
 Attorney for the Plaintiff

19 ROBERT D. CORNEY, ASSISTANT ATTORNEY GENERAL
 20 Attorney for the Defendant

21
 22
 23
 24 DEBORAH M. McCURDY, RPR
 25 Official Court Reporter

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PLAINTIFF EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Order	11	12
2	Warrant	13	17
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1 SEPTEMBER 11, 2012

2 MR. CORNEY: We are doing Markail Dawkins.

3 THE COURT: Okay.

4 MR. CORNEY: May it please the Court, Your
5 Honor?

6 THE COURT: Sure.

7 MR. CORNEY: Your Honor, this is the PCR of
8 Markail Dawkins. It is Docket Number
9 2011-CP-40-8761. Mr. Dawkins was true-bill
10 indicted at the June 2006 term of the Richland
11 County Grand Jury for armed robbery and criminal
12 conspiracy.

13 He appeared March 11, 2008, before Judge
14 Manning where he waived presentment on one
15 additional count of armed robbery and one count of
16 grand larceny of a motor vehicle.

17 He pled guilty to criminal conspiracy and
18 grand larceny, as well as two counts of strong
19 armed robbery as lesser included offenses to the
20 armed robbery.

21 He was sentenced to five years' imprisonment
22 for each grand larceny -- each for the grand
23 larceny of motor vehicle and criminal conspiracy
24 and 15 years' imprisonment suspended to the service
25 of five years and three years' probation for each

1 strong armed robbery. And those sentences were all
2 run concurrently.

3 He filed a timely PCR application
4 December 27th, 2011, and is represented by Mr. Deon
5 O'Neil.

6 THE COURT: Do you have a file?

7 MR. CORNEY: Oop, I sure do. I'm sorry. I
8 apologize, Your Honor.

9 (Complies.)

10 MR. O'NEIL: Thank you, Your Honor. May it
11 please the Court? The Petitioner calls Markail
12 Dawkins.

13 THE COURT: All right, Mr. Dawkins, come
14 around.

15 (Witness approaches.)

16 THE COURT: Mr. Dawkins, do you swear or
17 affirm you are going to truthfully testify?

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. Take the stand.

20 (Complies.)

21 MARKAIL DAWKINS,
22 after being duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. O'NEIL:

25 Q Mr. Dawkins, please spell your first name for the

1 record.

2 A M-A-R-K-A-I-L.

3 Q Markail, where are you currently housed at?

4 A Allendale Correctional Institution.

5 Q Okay. And what are you housed at Allendale

6 Correctional Institution for?.

7 A Revocation of probation.

8 Q Did you have --

9 A Violation of probation.

10 Q Did you have two separate incidents that placed you
11 on probation?

12 A Yes, sir.

13 Q Okay. What is the term of incarceration that you
14 have now for your probation revocation?

15 A Seven years.

16 Q Seven years. What was -- do you remember the
17 possible exposure you had on your probation
18 revocation?

19 A Like --

20 Q Let me back up. What was your original sentence?

21 A Fifteen years suspended to five, with three years'
22 probation.

23 Q So you served the five-year active part of your
24 sentence?

25 A Yes, sir.

1 Q And then you have a probationary sentence that
2 exposed you to an additional ten years remaining on
3 that 15-year sentence?

4 A Yes, sir.

5 Q So essentially at your probation revocation back in
6 September 16th of last year you got seven years of
7 the ten years that you were exposed to?

8 A Yes, sir.

9 Q You filed a PCR application I think dated -- or
10 received here at Richland County Clerk's Office
11 December 27th of 2011 of last year?

12 A Yes, sir.

13 Q What was your grounds for PCR? I think you have
14 three grounds at least?

15 A Ineffective assistance of counsel; judge using
16 irrelevant facts to determine the merits of my
17 case.

18 Q And something about the probation starting?

19 A Oh, the probation was supposed to start after my
20 parole was finished.

21 Q Okay. So you were originally sentenced to
22 probation on March the 11th, 2008?

23 A Yes, sir.

24 Q On March the 11th, 2008, were you already on YOA
25 parole?

1 A Yes, sir.

2 Q And you were on YOA for what charge?

3 A Possession with intent to distribute crack cocaine.

4 Q And on the date that you pled on -- to the charge
5 that you got probation for, you were already on YOA
6 parole at that time?

7 A Yes, sir.

8 Q Okay. So on March 11th, 2008, you got sentenced to
9 15 years suspended on the service of five years for
10 two counts of strong armed robbery, with three
11 years of probation to follow?

12 A Yes, sir.

13 Q And that plea essentially violated your YOA parole
14 that you were already on?

15 A Yes, sir.

16 Q Okay. So at some point when you got incarcerated
17 after March 11th, 2008, you went to Turbeville
18 first?

19 A Yes, I went to Turbeville.

20 Q And then at some point you transitioned to
21 Stevenson Correctional Facility?

22 A Yes, sir.

23 Q Okay. You --

24 A I --

25 Q I'm sorry.

1 A I transitioned to Stevenson after, like when you
2 are on a Y, you -- they automatically grant you
3 parole after ten months.

4 Q And when you say Y, you mean YOA?

5 A Yes, sir.

6 Q So you did your YOA portion, your YOA parole
7 violation first, and then you --

8 A Yes, sir.

9 Q -- did your adult time?

10 A Yes, sir.

11 Q At some point you were released from the Department
12 of Corrections, correct?

13 A Yes, sir.

14 Q Do you remember when you were released from the
15 Department of Corrections?

16 A 2010.

17 Q Was it September 1st, 2010? Does that sound about
18 correct -- about right?

19 A October 15th.

20 Q October 15th, 2010?

21 A (Nods affirmatively.)

22 Q When you were released in October of 2010, what
23 sort of supervision did you think you were on?

24 A YOA.

25 Q YOA parole?

1 A YOA parole.

2 Q Okay. Why did you think you were on YOA parole?

3 A I was on YOA parole because once my straight
4 time -- after I maxed my straight time out, I still
5 had to wait an extra additional week for the YOA
6 certificate to come through to grant me to actually
7 be released..

8 Q Okay.

9 A So once the certificate came through, I signed it,
10 and then they released me, and then I had to report
11 to the probation.

12 Q Okay. So you signed your YOA certificate, you
13 reported to probation. Who was your probation/
14 parole officer?

15 A Ms. Graham.

16 Q I'm sorry?

17 A Ms. Graham.

18 Q Okay. What did Ms. Graham tell you was the status
19 of your supervision?

20 A Ms. Graham told me after I finished exactly --
21 after I finished exactly doing my parole, that is
22 when my probation would start, it would kick in
23 right behind it.

24 Q So you knew you had -- you were released on YOA
25 parole and you knew there was this probationary

1 sentence that was out there somewhere, correct?

2 A Yes, sir.

3 Q And it was your impression that you had to complete
4 your YOA parole first and then start your regular
5 probation?

6 A Yes, sir.

7 Q And who did you get that impression from?

8 A Ms. Graham.

9 Q And who was Ms. Graham?

10 A My first -- well, my original -- well, the first
11 person that was appointed -- my first agent that
12 was appointed to me upon -- before about -- four
13 months, three months before my revocation.

14 Q So essentially Ms. Graham was the first person you
15 spoke to with the Department of Probation, Pardon
16 and Parole upon your release?

17 A Yes, sir.

18 Q Okay. At some point, it looks like in August of
19 2011, you were served with notice that your parole
20 was attempted to be violated by the Department of
21 Probation, Pardon and Parole, correct?

22 A Yes, sir.

23 Q Were you served a warrant for that?

24 A No, I wasn't served a warrant. I was stopped in a
25 traffic stop and I realized that it was a

1 violate -- that I had the warrant out against me.

2 Q Okay.

3 MR. O'NEIL: And, Your Honor, may I approach?

4 THE COURT: Okay.

5 (Complies.)

6 MR. O'NEIL: I would like to mark this
7 Petitioner's 1.

8 (WHEREUPON, Plaintiff's Exhibit No. 1
9 was marked for identification only.)

10 MR. O'NEIL: And, Your Honor, for the record,
11 I have shown Mr. Corney a copy of Petitioner's 1.

12 MR. CORNEY: No objection to that, Your Honor.

13 BY MR. O'NEIL:

14 Q Mr. Dawkins, it looks like on August 29th of 2011
15 you had a hearing on your parole violation,
16 correct?

17 A Yes, sir.

18 Q What was the results? I have shown you
19 Petitioner's 1. Is that a copy of the order from
20 that hearing?

21 A Yes, sir.

22 Q Did you receive that copy of the hearing?

23 A Yes, sir.

24 MR. O'NEIL: At this time, Your Honor, I would
25 ask that Petitioner's 1 be admitted into evidence.

1 THE COURT: Okay.

2 (WHEREUPON, Plaintiff's Exhibit No. 1
3 was admitted into evidence.)

4 BY MR. O'NEIL:

5 Q What was the results of that parole hearing back on
6 August 29th of 2011?

7 A I went in. They said it was -- my parole was
8 being -- my parole was being revoked upon not
9 reporting for the months of June and July.

10 So he was like, that I really didn't have no
11 time remaining on it, so he just going to expire
12 the whole thing.

13 Q So basically what they said, they were going to
14 allow your probation case to continue and expire?

15 A Yes, sir.

16 Q Okay. And that is reflected in Petitioner's Number
17 1, that order?

18 A Yes, sir.

19 Q And that was your understanding of what they were
20 going to do with your case?

21 A Yes, sir.

22 Q And that was on August 29th of 2011?

23 A Yes, sir.

24 Q At some point were you served a warrant for a
25 probation violation?

1 A I was served for the probation violation after
2 the -- after my -- after this -- after my YOA
3 parole had finished.

4 MR. O'NEIL: And, Your Honor, may I approach?

5 THE COURT: Okay.

6 (Complies.)

7 MR. O'NEIL: I would like to get this marked
8 as Petitioner's Number 2.

9 (WHEREUPON, Plaintiff's Exhibit No. 2
10 was marked for identification only.)

11 MR. O'NEIL: Permission to show the witness,
12 Your Honor?

13 THE COURT: Yep.

14 BY MR. O'NEIL:

15 Q Mr. Dawkins, this is -- let me have you take a look
16 at the third page of Petitioner's Number 2 here.

17 MR. O'NEIL: Your Honor, I am going to pass up
18 a copy of Petitioner's Number 2 as well.

19 (Complies.)

20 Q And particularly the back side of the third page of
21 Petitioner's Number 2, Mr. Dawkins.

22 (Pause.)

23 Q So it looks like you were served with the warrant
24 for your probation violation on August, I think
25 that is 19th of 2011?

1 A Yes, sir.

2 Q Okay. So eventually you had a probationary
3 violation hearing scheduled for September 16th of
4 2011, correct?

5 A Yes, sir.

6 Q Did you have an attorney assigned to your probation
7 violation case from the Public Defender's Office?

8 A Yes. Actually, my Public Defender originally was
9 Ms. Jessamine Grice.

10 Q So originally you were assigned to Ms. Jessamine
11 Grice as your Public Defender?

12 A Yes, sir.

13 Q Okay. Your violation hearing -- your violation
14 hearing was scheduled for September 16th, correct?

15 A (Nods affirmatively.)

16 Q You were served a warrant for that violation
17 hearing on August 19th of 2011?

18 A Yes, sir.

19 Q When did you first talk with Ms. Grice? Do you
20 remember?

21 A I talked to Ms. Grice like after -- like two weeks
22 after this warrant was served on me.

23 Q So somewhere close to the time that you had your
24 parole hearing at the end of August sometime?
25 August 29th, August 30th, sometime like that?

1 A About a week or two before my revocation hearing.

2 Q Okay. Was Ms. Grice -- did Ms. Grice represent you
3 at your revocation hearing?

4 A No, Ms. Grice didn't even show up at my revocation
5 hearing.

6 Q Did you tell Ms. Grice about some issues about your
7 probation?

8 A Yes, sir.

9 Q Did you tell her about the fact that you were
10 informed that your probation was not to start until
11 your parole was ended?

12 A Yes, sir.

13 Q Did you tell her that you were informed of that by
14 your parole agent?

15 A Yes, sir.

16 Q Now, during -- according to your violation, there
17 was some time that they alleged that you missed
18 reporting, essentially after April of 2000 --
19 April 27th of 2011, they say you didn't report
20 after that?

21 A Yes, sir.

22 Q Okay. Did you tell Ms. Grice of any mitigating
23 factors that would have accounted for you not
24 reporting after April 27th of 2011?

25 A Yes, sir. I actually told Ms. Grice -- she said I

1 last reported in April, but actually I didn't
2 report in April because of my accident in the
3 beginning of April which kind of held me up, and I
4 had to be on 30 days' bed rest because I couldn't
5 be exposed to sunlight. I actually reported in
6 May.

7 Q Okay.

8 MR. O'NEIL: And, Your Honor, permission to
9 approach one more time?

10 THE COURT: Okay.

11 (Complies.)

12 MR. O'NEIL: I will get this marked as
13 Petitioner's 3.

14 (WHEREUPON, Plaintiff's Exhibit No. 3
15 was marked for identification only.)

16 BY MR. O'NEIL:

17 Q Mr. Dawkins, I am going to show you Petitioner's 3.
18 What is Petitioner's 3?

19 A My hospital record.

20 Q When is the date of the admission of those hospital
21 records?

22 A April 1st.

23 Q Okay.

24 MR. O'NEIL: Your Honor, at this time I would
25 move Petitioner's -- if I didn't already move

1 Petitioner's 2, I would also move Petitioner's 2
2 and 3 into evidence at this point.

3 THE COURT: All right.

4 (WHEREUPON, Plaintiff's Exhibit No. 2
5 was admitted into evidence.)

6 (WHEREUPON, Plaintiff's Exhibit No. 3
7 was admitted into evidence.)

8 MR. O'NEIL: Your Honor, I will give the Court
9 a copy of Petitioner's 3 here.

10 (Complies.)

11 BY MR. O'NEIL:

12 Q You told Ms. Grice about the existence of this
13 hospital visit?

14 A Yes, sir.

15 Q To your knowledge, did Ms. Grice attempt to get a
16 copy of those records?

17 A She didn't show up at all.

18 Q So she wasn't there at your hearing on
19 September 16th?

20 A No, sir.

21 Q Who was there at your hearing on September 16th?

22 A Mr. Pournaras.

23 Q Do you remember what time your hearing was on
24 September 16th?

25 A Actually, my hearing was 9:00 o'clock.

1 Q Okay. Do you know -- when was the first time you
2 met Mr. Pournaras?

3 A Like 15 minutes before my hearing.

4 Q Okay. Did you have an opportunity to tell
5 Mr. Pournaras the same issues you told Ms. Grice
6 about you not thinking your probation had started
7 and that you had some hospital records you thought
8 needed to be addressed?

9 A Yes, sir. Actually he told me that Ms. Grice
10 actually informed him on those things.

11 Q Okay. All right. Did you know whether or not
12 Mr. Pournaras had an opportunity to get those
13 hospital records, Petitioner's Number 3?

14 A Actually he didn't, because during the revocation
15 hearing he didn't present anything.

16 Q So how long was your conversation with
17 Mr. Pournaras on the morning of your hearing?

18 A Like 15 minutes. No, my conversation -- I met him
19 like 15 minutes before the hearing. My
20 conversation lasted no more than five minutes.

21 Q Okay. What did that conversation consist of?

22 A I'm here to represent you. Ms. Grice sent me. She
23 informed me of everything. It really don't look
24 that serious. I'm going to try to aim for
25 reinstatement.

1 Q Okay. Did you tell Mr. Pournaras that you didn't
2 believe your probation had started yet?

3 A Yes, sir.

4 Q Okay. What if anything did he tell you he was
5 going to do about that?

6 A He admit -- he will tell it to the Court and just
7 basically we going to try to shoot for
8 reinstatement, but nothing is promised.

9 Q Okay. When you got in front of the probation judge
10 that day, did he ask you some questions about the
11 underlying charge that got you on probation?

12 A Yes, sir. Actually the judge basically said he
13 don't see why I basically even received the
14 probation in the first place.

15 Q Okay. So that is one of the first things that the
16 judge said concerning your case?

17 A It was kind of towards the middle.

18 Q Okay. Did your attorney object to that in any way,
19 that line of questioning about why you were on
20 probation to start with?

21 A Not -- no, sir.

22 Q Okay. Did you know -- would it be fair to
23 characterize that you essentially instructed -- you
24 essentially told the judge that you didn't think
25 you -- there was some problems with the underlying

1 charge to start with?

2 A Yes, sir.

3 Q Okay. Were you told that the judge wouldn't look
4 kindly on you saying that?

5 A Repeat your question.

6 Q Did Mr. Pournaras tell you that the judge may
7 sentence you more harshly if you told him that you
8 didn't think you -- there was some issue with the
9 underlying charge that got you on probation?

10 A Basically, Mr. Pournaras was basically stressing to
11 me, just tell the truth, he likes when you tell the
12 truth.

13 Q Mr. Dawkins, what are you asking this Court to do
14 at this point?

15 A Basically, sentence reduced, because I really don't
16 see that I really did nothing enough severe to get
17 seven years away from my family and not -- and the
18 things they are using against me, it wasn't
19 intentional.

20 Q Mr. Dawkins, you understand that this Court can't
21 reduce your sentence? You understand that?

22 A Yes, sir.

23 Q You understand there are only a couple of options
24 this Court can do. One would be grant you a new
25 revocation hearing.

1 A Yes, sir, I'd like that.

2 Q Is that what you are asking this Court to do?

3 A Yes, sir.

4 Q Grant you a new revocation hearing?

5 A Yes, sir.

6 Q Okay. Did anybody ever instruct you that you could
7 appeal this probationary hearing?

8 A No, sir, he never spoke on it.

9 Q Knowing what you know now about some of the legal
10 issues that went on with the probation hearing, if
11 you couldn't be granted a new probation hearing,
12 would you at least want an opportunity to appeal
13 your original probationary hearing?

14 A Yes, sir.

15 Q Okay. Mr. Dawkins, that's all I have for you.
16 Answer any questions Mr. Corney has for you, okay?

17 A All right.

18 Q Oh, I'm sorry, anything else you want to add,
19 Mr. Dawkins, that we haven't talked about?

20 A No, sir.

21 Q Answer any questions Mr. Corney has for you, okay?

22 CROSS-EXAMINATION

23 BY MR. CORNEY:

24 Q Mr. Dawkins, I think your testimony was a minute
25 ago that it was -- you said -- when did you say

1 your first probation agent -- when you stopped --
2 when did you stop seeing your first probation
3 agent? And I can't remember what her name was, if
4 you would also remind me.

5 A Ms. Graham was my first probation agent.

6 Q And when did you stop seeing her and start seeing
7 Ms. Williams?

8 A I stopped seeing Ms. Graham around March, February.

9 Q Okay. And you stopped reporting to your agent in
10 about April?

11 A No, my last report date was May.

12 Q Okay. The record before the Court looks like your
13 last report was April 2011?

14 A Repeat, sir.

15 Q I said, the records before this Court that was
16 introduced --

17 A Oh, yes, sir, yes, sir, yes, sir.

18 Q -- say April 2011 is the last time you reported?

19 A Yes, sir.

20 Q So in the three to four months before these
21 hearings went forward that you were with
22 Ms. Williams as your probation agent, you never
23 thought to ask her about the parole and probation,
24 whether they were running concurrently on
25 consecutively?

1 A Yes. We discussed that too. But obviously when
2 the revocation hearing presented itself, she spoke
3 upon that. I knew that it was running together. I
4 knew that it was running together, but from my
5 understanding that I was basically supposed to
6 start the probation after my parole was finished.

7 Q I'm not sure I follow you on that. You said that
8 you were aware they were running together, that you
9 thought --

10 A Yes, because when Judge Manning sentenced me, he
11 said it was concurrent, but me not knowing how the
12 probation and the parole run together exactly at
13 the place and the new reporting, so I was
14 looking -- so they told me that the parole was more
15 serious, we are just going to focus on that because
16 it is intensive supervision, and then the probation
17 will follow after that.

18 Q Okay. But you knew they were run concurrently, is
19 what you are saying?

20 A Yes, that was intended, sir.

21 Q Okay. And Ms. Williams actually was your agent on
22 the parole and the probation at the same time,
23 correct?

24 A Ms. Graham was originally was mine, but I got
25 passed off to Ms. Williams, so I ain't know like

1 how they was doing it at the place.

2 Q Right. Starting in, like you said, March or so of
3 2011, Ms. Williams was your agent on both the YOA
4 parole and on the probation, correct?

5 A They was running concurrent, yes, sir.

6 Q All right. So it would have been pretty easy to
7 ask her whether they were running together or
8 whether they were running separately? I mean, she
9 knew about both cases because she was handling
10 both?

11 A When I was reporting we was basically just
12 discussing parole, intensive supervision.

13 Q And I believe that you said a moment ago that you
14 didn't report because you had some kind of medical
15 diagnosis or medicine that you couldn't be exposed
16 to sunlight?

17 A I had a trauma with my face. I had an incident.

18 Q Okay. And it stopped you from -- you weren't able
19 to be exposed to sunlight, that is why you didn't
20 report?

21 A For 30 days.

22 Q Okay. But between April 2011 and your probation
23 revocation hearing in September of 2011, you didn't
24 report one time to her, did you?

25 A Repeat, sir?

1 Q I said, between April 2011, the last time you
2 reported, and September 2011, you didn't report one
3 time to your probation agent, did you?

4 A I got locked -- well, my warrant was issued in
5 August. I got locked up in August. But through
6 June and July, I was calling to let her know that
7 it was work and I was involved in work and school
8 and I was at this exact location because I know I'm
9 supposed to report at this time and this is where
10 I'm at.

11 So she was telling me, okay, you're all right,
12 I'll log it in.

13 Q So you called her during that time and you told her
14 you weren't going to be able to report?

15 A Yes, sir, me and my girlfriend.

16 Q All right. At the plea hearing, did she ever say
17 anything about you being -- that you had called or
18 ever --

19 A She just spoke upon that she was basically getting
20 calls from my girlfriend, she wasn't getting calls
21 from me.

22 Q Okay. I think she actually said that she didn't
23 talk to you in that time, didn't she?

24 A In the transcript? Yes, sir.

25 Q At the plea hearing?

1 A Yes, sir.

2 Q So she was lying to the judge at that point in time
3 when she told the judge that?

4 A Yes, sir.

5 Q Okay. All right. And if you weren't able to be
6 exposed to sunlight, what was stopping you from
7 going on a rainy day or going wearing a hoodie and
8 sweatshirt? If you couldn't be in the sun, what
9 was stopping you from finding a way to report
10 regardless?

11 A Nothing. But I was letting her know my condition
12 and the things that I had to follow back up on
13 after -- after my healing process was over with
14 through work and school.

15 Q Okay. And at your hearing in September of 2011,
16 Agent Williams told Judge Manning that your
17 sentences were in fact run concurrently and that
18 your probation and parole were running at the same
19 time, correct?

20 A Yes, sir.

21 MR. CORNEY: I believe that's all the
22 questions I have, Your Honor.

23 MR. O'NEIL: Your Honor, just briefly.

24 REDIRECT EXAMINATION

25 BY MR. O'NEIL:

1 Q Markail, I just want to clear something up. You
2 used the term you thought your probation and parole
3 was running concurrent.

4 Are you referring to when you initially went
5 into the Department of Corrections?

6 A Yes, sir, on 2008.

7 Q Yes.

8 A That is how I was reading the sentence. Well, that
9 is how the sentence was read out to me.

10 Q So when you say you thought your probation and
11 parole was running concurrent, you mean you thought
12 they were running concurrently when you initially
13 were sentenced in 2008?

14 A Yes, sir, at the time running like when I was
15 supposed to max out, like -- because I was already
16 on a five-year sentence, so when he gave me the 15
17 suspended to five, upon three years' probation, I
18 thought that it was like added an extra five, but
19 that wasn't, it was like, nah, they run together
20 concurrent.

21 Q And just so we are absolutely clear. When you got
22 out of the Department of Corrections in October of
23 2010, you thought you were only on parole, is that
24 correct?

25 A Yes, sir, because after I had done maxed out the

1 original -- well, the sentence that Judge Manning
2 gave me, they say I couldn't leave until my YOA
3 certificate was approved.

4 Q Okay. And you thought once your parole time had
5 finished, then you would start your probationary
6 time?

7 A Yes, sir.

8 Q Okay. When you were switched over from Ms. Graham
9 to Ms. Williams, were you given any indication why
10 that switch was made?

11 A No, sir.

12 Q Okay. But you still, even when you were switched
13 over to Ms. Williams, you still thought you were
14 only on parole and that the probation would start
15 after your parole?

16 A Because that is what we was talking about. We
17 never made no arrangements of probation.

18 Q And when you say we, who are you referring to?

19 A Me and my agent, Ms. Williams.

20 Q Agent Williams?

21 A And Ms. Graham.

22 Q So both Ms. Graham and Ms. Williams, when you
23 talked with them, your impression was that you were
24 only on parole and that when your parole was over
25 your probationary period of supervision would

1 start?

2 A Yes. We never talked about probation. Every time
3 they logged me in the computer it was just strictly
4 on parole. We didn't make no arrangements upon
5 probation.

6 Q Do you know if your attorney, Mr. Pournaras or
7 Ms. Grice, ever tried to get any of those logs from
8 the Probation, Pardon and Parole?

9 A No, sir.

10 Q Okay.

11 MR. O'NEIL: That's all I have.

12 THE COURT: You can step down.

13 (Witness steps down.)

14 MR. O'NEIL: Your Honor, at this time the
15 Petitioner calls Mr. Pournaras.

16 THE COURT: All right.

17 (Witness approaches.)

18 THE COURT: Do you swear or affirm you are
19 going to truthfully testify?

20 MR. POURNARAS: Yes, Your Honor.

21 THE COURT: Take the stand.

22 (Witness complies.)

23 CONSTANTINE G. POURNARAS,
24 after being duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. O'NEIL:

2 Q Mr. Pournaras, do you know -- back in 2011,
3 September, where were you employed at?

4 A The Public Defender's Office here in Richland
5 County.

6 Q Okay. Do you know at what time the Public
7 Defender's Office opened a file for Mr. Markail
8 Dawkins on these cases?

9 A I believe it is the 23rd. I'm not quite sure.

10 Q Do you need to see a copy?

11 A If you don't mind.

12 (Complies.)

13 MR. O'NEIL: And, for the record, I am showing
14 Mr. Pournaras a copy of the original file
15 maintained by the Public Defender's Office here in
16 Richland County.

17 A It is on the 22nd of August.

18 Q Of what year?

19 A 2011.

20 Q All right. Who was originally -- who was assigned
21 to Mr. Dawkins case?

22 A Ms. Jessamine Grice.

23 Q Did Ms. Grice actually represent Mr. Dawkins at his
24 probationary -- probation revocation hearing?

25 A No, I did.

1 Q And is that a common practice at the Public
2 Defender's Office?

3 A Yes. She made the initial contact with him at the
4 jail and spoke to me about it and I represented him
5 at the hearing.

6 Q Okay. And let's walk through a little bit of the
7 fundamentals of how that would work.

8 When would the Probation, Pardon and Parole
9 Office normally provide what we refer to as the
10 revocation packet on a particular case?

11 A Typically the Thursday before the hearing on
12 Friday.

13 Q Okay.

14 A Sometimes actually on the day of Friday.

15 Q So normally you would get the packet that indicates
16 what probation is -- the grounds for their
17 revocation the day before the hearing?

18 A Yes.

19 Q All right.

20 MR. O'NEIL: And I think that particular
21 packet is part of the particular exhibit that has
22 already been presented to the Court here.

23 BY MR. O'NEIL:

24 Q Did you get an opportunity to speak with Agent
25 Williams or Agent Graham concerning Mr. Dawkins'

1 case?

2 A No.

3 Q When did you meet Mr. Dawkins?

4 A That Friday morning.

5 Q Okay. Approximately --

6 A I believe the 16th.

7 Q The Friday of his hearing?

8 A Right. September 16th, 2011.

9 Q How much time did you have to speak to Mr. Dawkins
10 prior to his hearing?

11 A Five to ten minutes.

12 Q Do you remember what the substance of that
13 conversation was?

14 A Yes. I let him know that I was handling it for
15 Ms. Grice. I let him know that Ms. Grice and I
16 spoke about the case. I went over the allegations
17 in the agent's report. And then I talked to him
18 about what he wanted us to ask the judge to do.

19 Q Did Mr. Dawkins inform you about his belief about
20 when probation was supposed to start and his
21 possible mitigation when it came to hospital
22 records?

23 A Yes. He did talk about hospital records. I'll get
24 to that first. From my discussion with Ms. Grice,
25 that she, I believe, was in contact with

1 Mr. Dawkins' girlfriend. Ms. Grice's notes
2 indicate that she was to bring the medical reports
3 that day. But I -- discussing what the medical
4 records would say with him, I didn't think at the
5 time that they would be very relevant in the case.
6 He said that the medical report would show he may
7 have had an excuse for one missed date, but it
8 wouldn't do anything as far as the other alleged
9 missed dates, which I think were two or three after
10 that, and then a couple that were before that,
11 so --

12 Q Your position would be that it would not absolve
13 Mr. Dawkins of any -- it wouldn't absolutely negate
14 all the mistakes that he had?

15 A Yes. Yes.

16 Q But those hospital records could have went to
17 mitigate the extent of his probation revocation
18 sentence, would you agree with that?

19 A It is possible.

20 Q Okay. And you were not able to get those?

21 A No.

22 Q Did you make an attempt to get those?

23 A No. I was -- like I said, I think I was under the
24 impression that his girlfriend was supposed to
25 bring them to court that morning. From what

1 Ms. Grice's notes were left to me is that she and
2 her were in contact and that I was expecting her to
3 have them that day, but I didn't make any effort to
4 get them on my own.

5 Q Did either you or Ms. Grice make any effort to try
6 to contact Mr. Dawkins' girlfriend?

7 A I believe she was there that day. I know that she
8 and Ms. Grice had been in contact. I think
9 Ms. Grice mentioned that she made a few phone calls
10 to her office.

11 Q Okay. Now, what about Mr. Dawkins' belief that his
12 probation had not started yet?

13 A He did tell me that and I did tell that to the
14 judge, but at the time I didn't think that there
15 was anything wrong -- anything unusual about him
16 upon release being both on parole and probation.

17 Q Did you have an opportunity to review any relevant
18 case law before Mr. Dawkins' hearing?

19 A No, I didn't think to. I didn't think that that
20 would be an issue for his hearing.

21 Q After Mr. Dawkins' hearing, have you had an
22 opportunity to review any relevant case law
23 concerning this issue?

24 A Yes.

25 Q What cases have you reviewed?

1 A I believe State v. Ellis and another case
2 mentioned, I believe State v. Lee.

3 MR. O'NEIL: Beg the Court's indulgence, Your
4 Honor.

5 THE COURT: All right.

6 MR. O'NEIL: I would ask to get these two
7 cases marked as Petitioner's 4 and 5.

8 (WHEREUPON, Plaintiff's Exhibit No. 4
9 was marked for identification only.)

10 (WHEREUPON, Plaintiff's Exhibit No. 5
11 was marked for identification only.)

12 MR. O'NEIL: Permission to approach, Your
13 Honor?

14 THE COURT: Yes.
15 (Complies.)

16 BY MR. O'NEIL:

17 Q Mr. Pournaras, I am showing you what is marked as
18 Petitioner's 4 and 5. What are those two?

19 A 4 is State v. Lee.

20 Q And what is 5?

21 A And 5 is State versus Ellis.

22 Q Okay. Are those two cases you were able to review
23 in relation to whether or not probation -- when
24 this probation started?

25 A Yes. I actually just read Ellis in an advance

1 sheet, which reminded me of this PCR today.

2 Q May I see those two?

3 MR. O'NEIL: I hand to you, Your Honor,
4 Petitioner's 4 and 5.

5 (Complies.)

6 BY MR. O'NEIL:

7 Q And, Mr. Pournaras, I am going to start with State
8 versus Lee. That particular case was a 2002 case?

9 A Yes.

10 Q So State versus Lee was a published opinion at the
11 time of Mr. Dawkins' hearing, correct?

12 A Yes.

13 Q And at the time of Mr. Dawkins' hearing you had
14 access to be able to research and find State versus
15 Lee?

16 A Yes.

17 Q And State v. Lee essentially summarized kind of
18 what was going on. The Defendant in that case
19 basically was sentenced to a resisting arrest and
20 an ABWIK?

21 A Uh-huh.

22 Q And he was essentially sentenced to five years on
23 resisting arrest and ten years suspended on the
24 service of five years on the ABWIK. And the judge
25 in that particular case ordered that his probation

1 begin upon release from sentence now serving to
2 include any early release program or supervision,
3 correct?

4 A Yes.

5 Q And the Defendant in Lee essentially was trying to
6 make the argument that his probation should have
7 started at the same time he was released initially
8 from prison?

9 A Yes.

10 Q And basically what the Court said is that -- what
11 the Appellate Court said was that the trial court
12 had the ability to start probation when it deemed
13 appropriate, correct?

14 A Yes.

15 Q And if they specifically say that it begins at the
16 same time that parole is running, then that is when
17 it begins?

18 A That's correct.

19 Q In Mr. Dawkins' case --

20 A Uh-huh.

21 Q -- did you actually get the sentencing sheets?

22 A I don't believe I had a copy of his sentencing
23 sheets at the time of the hearing.

24 Q Okay.

25 MR. O'NEIL: And permission to approach, Your

1 Honor?

2 THE COURT: All right.

3 (Complies.)

4 MR. O'NEIL: Please mark this Petitioner's 6
5 and 7.

6 (WHEREUPON, Plaintiff's Exhibit Nos. 6
7 AND 7 were marked for identification
8 only.)

9 BY MR. O'NEIL:

10 Q Mr. Pournaras, what are 6 and 7 here?

11 A 6 is the strong armed robbery from the '06
12 indictment and 7 is the strong armed robbery '08
13 indictment, both of which were what he was on
14 probation for at the time of this hearing.

15 Q Were there any special indications on those
16 sentencing sheets as to when Mr. Dawkins'
17 probation was to start?

18 A No.

19 Q Okay.

20 MR. O'NEIL: Your Honor, at this time I would
21 move Petitioner's 6 and 7 into evidence.

22 THE COURT: All right.

23 (WHEREUPON, Plaintiff's Exhibit Nos. 6
24 and 7 were admitted into evidence.)

25 BY MR. O'NEIL:

1 Q And, Mr. Pournaras, moving on to State versus
2 Ellis.

3 A Uh-huh.

4 Q Essentially, State versus Ellis is a 2012 case,
5 correct?

6 A That's correct.

7 Q But it does reference inside of it I think Thompson
8 versus State of South Carolina Department of Public
9 Safety and also Crooks versus Sanders, an Indiana
10 case, correct?

11 A Yes.

12 Q And that is concerning when -- what is the meaning
13 of parole and essentially what effect does parole
14 have on incarceration?

15 A Correct. It defines what is considered the active
16 sentence.

17 Q The Thompson case is a 1999 case, correct?

18 A Yes.

19 Q And that would have been available for you to
20 research prior to Mr. Dawkins' hearing, correct?

21 A Yes.

22 Q And the Crooks case I think is a 1922 case?

23 A Yes.

24 Q Basically both of those cases stand for the
25 proposition that parole is still a part of the

1 active incarceration?

2 A Yes.

3 Q The Defendant in Ellis' argument essentially was he
4 received probation and YOA for attempted burglary
5 and a burglary in the second degree?

6 A That's correct.

7 Q He was released from incarceration and his YOA
8 parole was running, according to the Defendant in
9 the Ellis case?

10 A I believe so.

11 Q And he essentially -- his argument was essentially
12 that his parole and probation should have been run
13 at the same time?

14 A Yes.

15 Q And by the time the Department of Probation, Pardon
16 and Parole served him a probation violation
17 warrant, his probation had already expired? That
18 is what --

19 A He believed it would have been expired since it was
20 in excess of five years from the release of
21 incarceration.

22 Q The Appellate Court in the Ellis case disagreed
23 with him, correct?

24 A Yes.

25 Q Basically what they said was that, a term of

1 probation set to begin upon completion of a term of
2 imprisonment cannot begin simply due to the
3 Defendant's parole or supervised release from
4 incarceration?

5 A Correct.

6 Q And they also went on to say that, absent a
7 specific and valid order from the sentencing court
8 that the term of probation is to run concurrently
9 with the Defendant's parole?

10 A Yes.

11 Q Okay. So essentially what the Court said in Ellis,
12 that absent some sort of order that says probation
13 runs concurrently with parole, it does not?

14 A Correct.

15 Q Okay. None of these -- no legal arguments were
16 presented to Judge Newman concerning Mr. Dawkins'
17 contention that his probation and parole should not
18 have been run at the same time?

19 A No. I did raise that that was what Mr. Dawkins
20 believed was the case, but not on a legal basis.

21 Q And you didn't give any backing to Mr. Dawkins'
22 belief that his probation and parole were not
23 running at the same time? No corroboration?

24 A No. At the time I didn't believe there would have
25 been an issue with them both being at -- the

1 supervision being at the same time upon his release
2 in 2007.

3 Q And the judge in Mr. Dawkins' case was given what
4 we commonly refer to as the probation packet;
5 correct?

6 A Yes.

7 MR. O'NEIL: Permission to approach, Your
8 Honor?

9 THE COURT: All right.
10 (Complies.)

11 BY MR. O'NEIL:

12 Q On his probation packet, it has his financial
13 conditions, correct?

14 A Yes, it does.

15 Q It has financial conditions for both regular
16 supervision and YOA supervision, correct?

17 A Yes.

18 Q It has the amount of money that he has paid and
19 what arrearages he has, correct?

20 A Uh-huh, yes, sir.

21 Q For his YOA intensive probation and his YOA regular
22 supervision, was Mr. Dawkins in arrearage for his
23 fees?

24 A Yes, I think the agent said he hadn't made any
25 payments in the accounts on the arrearage on the

1 YOA intensive or regular supervision. It is \$280
2 on one and \$400 on the other.

3 Q So Mr. Dawkins, according to probation, was in
4 arrearage \$240 for his intensive supervision and
5 \$400 for his regular supervision for YOA
6 specifically?

7 A Yes.

8 Q To you, what did that mean as his attorney? What
9 does that mean he had not done?

10 A He had not paid on those accounts for those months
11 where he was supposed to.

12 Q Okay. Does the report also have a reflection of
13 regular supervision on the very first page?

14 A Yes. It has --

15 Q What if any arrearages did Mr. Dawkins have for his
16 regular supervision?

17 A It lists the arrearage as zero.

18 Q Okay. And what does that mean to you?

19 A Said that he is not behind on his regular
20 supervision payment.

21 Q In your understanding as Mr. Dawkins' attorney, had
22 he been on regular supervision, was he required to
23 make payments on his regular supervision?

24 A Yes. The pay period shows he should have been
25 required to pay \$50 per month.

1 Q So the fact that he, according to probation's
2 records that he was not behind on any regular
3 supervision, would that have leant any credence to
4 Mr. Dawkins' claim that they told him he was not on
5 regular supervision?

6 A It is possible. I mean, it says he paid nothing,
7 but he was also not behind at the same time.

8 Q And in your understanding as a lawyer here -- and
9 you have some people on probation cases -- had he
10 been on regular supervision, would he have been
11 required to pay money?

12 A He should have been, yes.

13 Q Okay. Did you point that out to the judge?

14 A No.

15 Q Mr. Dawkins testified that he called the probation
16 office at some point to indicate to them that he
17 could not make it to his scheduled dates.

18 A Yes.

19 Q Is that -- in your experience, is that a familiar
20 refrain from some of your probationary clients?

21 A Yes.

22 Q Did you do anything to try to corroborate
23 Mr. Dawkins' rendition that he called probation to
24 either try to get his phone records or probation's
25 phone records to indicate --

- 1 A No. I mean, I frequently hear that people say they
2 called and the voicemails were full or that they
3 actually spoke to someone, but the agents typically
4 say that they didn't, and I usually don't have a
5 way to either corroborate or confirm Mr. Dawkins'
6 claim from that.
- 7 Q But you would agree had you had the opportunity to
8 get the phone records from either Mr. Dawkins or
9 probation, that could either corroborate or
10 disprove what Mr. Dawkins was saying?
- 11 A Maybe. I mean, I could have shown from his cell
12 phone records that he called, but that wouldn't
13 indicate that he actually spoke to anybody.
- 14 Q Would probation even -- was probation even
15 admitting that he actually called at all or what
16 did they say?
- 17 A His agent I think at the report said that she had
18 spoken to his girlfriend, but I don't think she
19 said that she ever actually spoke to him, but she
20 did say that she spoke to her girlfriend who
21 several times called her about either he was at
22 work or school, or something or other.
- 23 Q Did you ever try to subpoena any of the records
24 from the probation office as it relates to his
25 status as being on probation or parole or from the

1 Department of Corrections when it comes to his YOA
2 certificate? Did you ever try to subpoena any of
3 those documents?

4 A No. No.

5 Q Okay. And you never presented these hospital
6 records up either?

7 A No.

8 Q The dates of the alleged missed reporting of
9 Mr. Dawkins, all those dates were during the time
10 that his parole was still active, correct?

11 A Yes. Yes. Because his parole technically wasn't
12 terminated until a week or so prior to the
13 probation revocation.

14 Q Okay. So all the justifications for Mr. Dawkins'
15 violation occurred during the time he was still on
16 parole?

17 A Yes.

18 Q Okay. Now, early on in Mr. Dawkins' hearing, Judge
19 Newman inquired about the underlying fact that
20 placed Mr. Dawkins on probation, correct?

21 A Yes. And I did warn him that Judge Newman was
22 inclined to do that.

23 Q Did you understand the implications of Mr. Dawkins
24 not being forthcoming, I guess is the best word,
25 about his culpability of the underlying offense?

- 1 A Yes. I let him know that he was convicted of this
2 in court and it is a guilty plea and if he told the
3 judge that he was in fact not guilty, then it would
4 lead to a lengthy conversation about whether or not
5 he was lying to the Court today or when he pled
6 guilty on that day.
- 7 Q Did you indicate to Mr. Dawkins that if he made
8 such statement, that would adversely affect the
9 sentence he would receive from Judge Newman?
- 10 A I told him that it would not help.
- 11 Q At any point during the Court's questioning of Mr.
12 Dawkins, did you attempt to object to that line of
13 questioning as being irrelevant?
- 14 A No.
- 15 Q Did you feel as though you could have objected to
16 that as being irrelevant to the probation hearing
17 that day?
- 18 A I could have, but I believe Judge Newman would have
19 continued.
- 20 Q Okay. So you didn't attempt to object at all?
- 21 A No.
- 22 Q Did you attempt to stop Mr. Dawkins in any way from
23 talking while he was talking to Judge Newman?
- 24 A I don't recall whether I said anything to him or
25 not. I don't think it is indicated in the

1 transcript either. I don't recall. Sometimes I do
2 squeeze their shoulder or something. Sometimes I
3 don't. I don't recall if I did with Mr. Dawkins.

4 Q And that squeezing of the shoulder would kind of be
5 an indication to your client that they need to stop
6 their current line of testimony?

7 A Yes.

8 Q At any point did you advise Mr. Dawkins of his
9 right to appeal the probation violation?

10 A No, I did not.

11 Q Okay. Knowing -- based on the research you have
12 done now, would you have presented a legal argument
13 to Judge Newman concerning Mr. Dawkins'
14 probationary period starting date?

15 MR. CORNEY: Your Honor, that is being
16 speculative. He wants to talk about case law that
17 has come out since way after this happened.

18 Q Well, based on the existing case law at the time of
19 Mr. Dawkins' hearing, would you have presented
20 legal arguments as to whether or not his probation
21 case would have started?

22 MR. CORNEY: Your Honor, it is still
23 speculative.

24 THE COURT: I just sustain it.

25 MR. CORNEY: Thank you.

1 BY MR. O'NEIL:

2 Q Mr. Pournaras, would you have done anything
3 differently in Mr. Dawkins' hearing now?

4 A I couldn't say. I mean, I think it would have been
5 an interesting argument at the time, but I'm not
6 sure if I would have made the conclusion off those
7 cases. I can't really say. I mean, it would have
8 been an interesting argument. Whether it failed or
9 succeeded I can't say either, but possible it could
10 have been raised.

11 Q Okay. Now, you agree that none of the legal issues
12 were raised during Mr. Dawkins' hearing?

13 A Yes.

14 Q That's all I have. Answer any questions Mr. Corney
15 has for you.

16 A Thank you.

17 CROSS-EXAMINATION

18 BY MR. CORNEY:

19 Q Is there any benefit ever to going before a judge,
20 in your opinion, in your experience, and kind of
21 taking responsibility for these things rather than
22 mitigate them away?

23 A Yes, definitely.

24 Q And you think that that could have been something
25 that would have been helpful -- that was helpful to

1 Mr. Dawkins not presenting this mitigating
2 evidence, hospital records, that he would still be
3 in violation of other reporting?

4 A Yes, he was upset that we didn't have the records
5 that day, but my opinion was if we had the records
6 it would excuse maybe one of a few missed
7 appearances and that we -- our time would be better
8 spent on more positive aspects rather than on
9 arguing over each and every individual violation.

10 Q Would you say that based on what was before the
11 Court it was pretty clear Mr. Dawkins had violated
12 the terms of his probation?

13 A There were a lot -- I mean, some of them -- you
14 know, it was a combination of missed reporting,
15 financial obligations, which he did have mitigating
16 circumstances about being unemployed, and a new
17 charge, I think a misdemeanor offense he was
18 arrested for that was essentially later dismissed.
19 I think we did get to talk about that. But the
20 judge did focus more on the underlying charge. But
21 that -- my intention was to focus on the positive
22 aspects. He did mention that he had a job waiting
23 for him. And I did call and confirm that and let
24 the judge know that. I typically in probation
25 violations, if there are numerous violations, I

1 think it is better to focus on the positive aspects
2 rather than fight each and every individual
3 allegation, if there are clear violations.

4 Q Okay. Agent Williams, his probation agent, it was
5 her contention at the time that regardless of
6 whether it was parole or probation, he violated one
7 or the other? Is that your recollection?

8 A Yes. She stated to the Court that she believed
9 that he was, you know, as probation did, obviously,
10 that he was both on parole and probation, which she
11 said that she was at that time the agent for
12 both -- well, I guess all three of these files,
13 since there were two on probation and one on
14 parole, that she was responsible for supervising
15 him on all three of those.

16 Q Okay. And in your experience -- well, I should say
17 was this the first parole or probation revocation
18 hearing you had done?

19 A No.

20 Q And have you done more of these since then?

21 A Yes.

22 Q Okay. In your experience in doing this, is it
23 uncommon for the judge to ask about underlying
24 charges? And particularly Judge Newman?

25 A It is not uncommon for Judge Newman. Most of the

1 other judges typically don't unless they have a
2 personal interest in the case.

3 Q But in your experience, it is not uncommon for
4 Judge Newman to ask the underlying charges as to
5 why this person is on probation?

6 A No.

7 Q And it was the agent's contention obviously that
8 probation and parole were running at the same time,
9 they were running concurrently?

10 A Yes.

11 Q And that was based on the fact that the sentences
12 were run concurrently?

13 A Yes. I think her position was that upon release
14 from the Department of Corrections in 2010 he was
15 still on the parole and they opened his probation
16 case because he had just satisfied the five-year
17 portion of the suspended sentence.

18 Q Okay. I know Mr. O'Neil asked you very briefly
19 about a couple of cases he handed up. First of
20 all, just to be clear, the Ellis case was a 2012
21 case, it was not around at the time that --

22 A That is correct, yes.

23 Q So there is no way you could have possibly known
24 that that was going to come out and read the way it
25 did?

1 A No.

2 Q Anything that you could use this to argue or could
3 benefit is in hindsight at this point in time?

4 A Yes, as far as Ellis, yes.

5 Q And as far as the Lee case that he handed up, and I
6 don't know how familiar you are with it or if you
7 had an opportunity to read it, but would you agree
8 that in Lee there was a specific -- there was an
9 order setting forth the specific language as to
10 when the probation began?

11 A Yes.

12 Q Okay. And do we have any such order in this case
13 as to when the probation was supposed to begin
14 specifically?

15 A No.

16 Q And Lee essentially was a finding that probation
17 and parole can run at the same time with the
18 outcome of the Court's decision. Is that your
19 reading of the case?

20 A Yes, I think Lee said that it is possible for them
21 to. But I think the facts in that case were -- the
22 order was explicit that they do begin at the same
23 time.

24 Q Absolutely.

25 A They are distinguished --

1 Q That was the main holding in that case unrelated to
2 anything in this case, that probation and parole
3 can run at the same time was sort of what they
4 said?

5 A Yes, that is one --

6 MR. CORNEY: I believe that's all the
7 questions I have, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. O'NEIL:

10 Q Mr. Pournaras, in your experience, if a probationer
11 is going to make some sort of claim to mitigate his
12 violation of probation, would it be better for him
13 to have supporting evidence of such claims?

14 A Depending on the claim, yes, it would be, because a
15 lot of times the judges -- I mean, obviously having
16 supporting documentation over just one's word is
17 always a benefit.

18 Q And you agree there were no supporting documents
19 gathered in this case?

20 A Yes, as far as the medical records and the phone
21 calls, yes.

22 Q And you agree that you could have done those things
23 had you had more time?

24 A It is possible, yes.

25 MR. O'NEIL: That's all I have, Your Honor.

1 THE COURT: You can step down.

2 THE WITNESS: Thank you, Your Honor.

3 (Witness steps down.)

4 MR. O'NEIL: Your Honor, that is all from the
5 Petitioner.

6 THE COURT: All right. What do you want me to
7 do?

8 MR. O'NEIL: Your Honor, at this point we are
9 asking you to grant the PCR and give Mr. Dawkins a
10 new probation revocation hearing in light of the
11 legal arguments that could have been presented to
12 the judge at the time of his probationary hearing
13 that would have tended to prove that he was not on
14 probation at the time of these alleged violations.

15 In the alternative, Your Honor, I think what
16 we would also ask for you to do is give Mr. Dawkins
17 the right to have a direct appeal. There was no
18 direct appeal filed in this particular case.

19 The Ortega case that Mr. Corney cited earlier
20 I think would apply in this case. I think there is
21 a duty to inform a Defendant of the right to appeal
22 in extraordinary circumstances. I think this case
23 is one of these extraordinary circumstances,
24 because if the probationary starting period had not
25 been legally breached, essentially, Your Honor, I

1 think that there would be a clear legal argument
2 that Mr. Dawkins' probationary period had not
3 started yet; therefore, he could not have been in
4 violation of it and would have only been in
5 violation of his YOA parole.

6 So we are asking for a new probationary
7 hearing.

8 In the alternative, we are at least asking for
9 the right to have a direct appeal.

10 THE COURT: All right.

11 MR. CORNEY: Your Honor, regarding the new
12 probationary -- or probation revocation hearing, I
13 think the cases handed up are distinguishable in
14 this particular case.

15 First of all, the Ellis case obviously was not
16 in existence at the time and can only be used in
17 hindsight and would not apply to this case. We
18 don't require attorneys to be clairvoyant seeing
19 changes in the law or anticipate changes that would
20 come down, if that even is a change. It might be
21 just a clarification.

22 The Lee case is very distinguishable as well.
23 And there is a specific order in Lee as to when the
24 probationary period is set to begin.

25 I think the facts before this Court are that

1 the sentences, the YOA sentence of the 2008 plea
2 were to run concurrently. I think concurrent is
3 the sort of the default when not specified
4 otherwise. And so the probationary and parole
5 periods were going to run concurrently.

6 Further, I think the record before this Court
7 shows that Agent Williams was the agent for both
8 the parole and the probation and could have easily
9 been addressed -- this issue could have easily been
10 addressed by Mr. Dawkins with her as to whether
11 they ran consecutively or concurrently.

12 And I think in the transcript it even goes
13 forward for Agent Williams to say, how could there
14 possibly be confusion as to when they were running.
15 And I think the record speaks for itself in that
16 regard. It is a pretty thin transcript. I'm sure
17 Your Honor has gone through it very quickly
18 already.

19 And I don't think there is any obligation for
20 the Applicant to be advised of his right to appeal
21 in this scenario. Just under the same case, I
22 think under *Roe v. Flores-Ortega*, I don't think
23 that there is any extraordinary circumstance that
24 would warrant him being advised of his right to
25 appeal. And he certainly could have told -- at any

1 point in time could have told an attorney that he
2 wanted to appeal. I don't think there is an active
3 duty to be advised of his right to appeal.

4 And so the State would ask that this
5 application be denied.

6 THE COURT: Okay. That is y'all's position.

7 Here is how it shakes down. Probation asked
8 for ten years. Judge Newman gave him seven. He
9 gave him seven. I can't speak for Judge Newman,
10 but here were the things that troubled Judge Newman
11 from reading the transcript, which y'all have read.

12 When he asked him about the prior conviction,
13 he tried to put all the blame on his dad, and so
14 forth. That is one.

15 Two. He had already been on probation and it
16 had been revoked. Not a good candidate for
17 probation.

18 Three. He lied to the Court on another
19 occasion, which you take into account when you are
20 evaluating somebody's credibility.

21 If he got another hearing, he was just there,
22 he would probably get hammered for more than the
23 seven. Probation is going to ask for ten again.

24 I don't know about the -- anyway, I'm not
25 going to grant Prong One. Y'all can brief Prong

1 Two because I don't know about appeal from
2 probation. I don't -- honestly don't know what the
3 law is on it. So y'all can brief that.

4 But I'm basically denying his PCR, but might
5 grant him an appeal if the law says he should be
6 entitled to it, because it is undisputed he was not
7 advised of it, either by Judge Newman or by
8 counsel.

9 MR. O'NEIL: Yes, Your Honor.

10 THE COURT: But whether he has to be advised I
11 don't know.

12 So, there you go.

13 Anything else I can help you with?

14 MR. O'NEIL: No, Your Honor.

15 THE COURT: All right.

16 MR. CORNEY: Your Honor, would you like a
17 separate brief or do you want just proposed orders?

18 THE COURT: No, just proposed orders.

19 MR. CORNEY: Okay. Thank you, Your Honor.

20 (WHEREUPON, the proceedings were concluded.)

21

22

23

24

25

(END OF TRANSCRIPT)

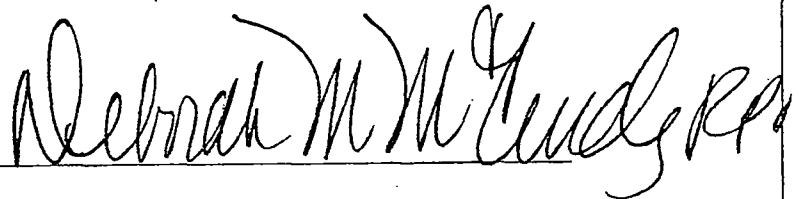
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth 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 evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 11th day of September, 2012.

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

March 27, 2013

A handwritten signature in cursive script, reading "Deborah M. McCurdy RPR", is written over a horizontal line.

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Mackail Dawkins #316343,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2011-CP-40-08761

ORDER OF DISMISSAL

JEANETTE W. McBRIDE
C.C.P. & J.S.

2013 FEB -6 AM 10:29

RICHLAND COUNTY
FILED

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed December 27, 2011. An evidentiary hearing into the matter was convened on Tuesday, September 11, 2012, at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Deon O'Neil, Esquire. The Respondent was represented by Robert D. Corney of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. Also testifying was Applicant's former probation revocation counsel, Constantine Pournaras, Esquire (hereafter "counsel"). This Court also had before it a copy of the transcript of the proceedings against Applicant, the records of the Richland County Clerk of Court, Applicant's probation revocation documents, and Applicant's records from the South Carolina Department of Corrections.

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was true bill indicted at the June 2006 term of the Richland County Grand Jury for Armed Robbery and Criminal Conspiracy (2006-GS-40-3357/3359). On March 11, 2008, Applicant appeared before The Honorable L. Casey Manning where he waived

presentment to the Grand Jury on one additional count of Armed Robbery and one count of Grand Larceny of a Motor Vehicle. Applicant pled guilty at that time to Criminal Conspiracy, Grand Larceny, and two (2) counts of the lesser included Strong Arm Robbery. He was sentenced to five (5) years imprisonment each for Grand Larceny and Criminal Conspiracy, as well as fifteen (15) years imprisonment suspended to service of five (5) years and three (3) years probation for each Strong Arm Robbery. All sentences were to run concurrently. No direct appeal was filed.

On September 16, 2011, Applicant appeared before the Honorable Clifton B. Newman for a probation revocation hearing. He was represented by Constantine Pournaras, Esquire, of the Richland County Public Defender's Office at the hearing. Judge Newman revoked seven (7) years of Applicant's suspended sentence and his probationary sentence was terminated. No direct appeal was filed.

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

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
- (b) Irrelevant Factors (to decide the merits of my case)
- (c) "Probation" wasn't suppose to start until my Parole was over with

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Counsel was "ineffective" because he failed to gather evidence → none
- (b) Judge using irrelevant factors to decide the merits of my → none
- (c) My Probation wasn't suppose to start until my Parole was over → none

- A) favorable to me and present the evidence to the court at the revocation hearing. I informed counsel that my hospital records would provide an alibi for the allegations in the probation revocation warrant. I informed counsel both verbally and in writing at least 30 days before the date and time of my probation revocation hearing. Counsel also failed to object at revocation hearing since he knew the SCDFPS violated my right to due process because they failed to provide me an administrative hearing before seeking to have my probation revoked by a circuit court. Counsel also was appointed to me by the court, "See: for fire 2-2".
- B) revocation hearing. Judge asked me why I was just probation for the case I was sentenced to probation for. In the 1st place this matter was irrelevant to the probation revocation case.

With that's what my first agent (Mrs. Graham) stated when I was under her roster. But when I got switched to (Mrs. Williams) everything changed. So when I got arrested for (Patty Larceny) a crime which I didn't commit. This charge was later dismissed (Mrs. Williams) violated me for Parole & Probation. 2 week after I signed my (termination) papers for (Parole), my Probation was revoked.

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 at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985) and Marlar v. State, 375 S.C. 407, 653 S.E.2d 266 (2007) ("[C]ounsel preparing orders should be meticulous in doing so, opposing counsel should call any omissions to the attention of the PCR judge prior to the issuance of the order, and the PCR judge should carefully review the order prior to signing it").

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). 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 upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). 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.

With respect to probation revocation counsel, the same standard applies. A probationer has a right to counsel, though not a Sixth Amendment one. Turner v. State, 384 S.C. 451, 682 S.E.2d 792 (2009). Nonetheless, "the same analysis for ineffectiveness that applies in other PCR proceedings involving claims against counsel should, by analogy, apply in PCR proceedings involving claims against probation counsel." Id. at 455, 682 S.E.2d 794.

Probation v. Parole

Applicant alleges counsel was ineffective for failing to object or otherwise raise an issue about Applicant being improperly subjected to both parole and probation simultaneously. Applicant contends he was not yet finished with his Youthful Offender Act ("YOA") parole at the time he was allegedly placed on probation, and alleges he was unaware that he was on probation as he believed his probation would only start upon successful completion of his parole.

Applicant testified he sentenced under the YOA on March 11, 2008, for a charge relating to crack cocaine. He was released from the Department of Corrections in September of 2010, at which time Applicant said he believed he was on YOA parole because once he had "maxed out" his straight sentence, he would have to await a Certificate of Completion to finish his YOA parole. Applicant said he "knew probation was coming" for Judge Manning's 2008 suspended sentence, but believed it wouldn't start until after he received his YOA parole certificate of completion. Applicant said he was served with the warrant for his parole violation on August 19, 2011, and was thereafter appointed Jessamine Grice, Esquire, as his attorney for the revocation. He testified he told Grice about the probation violation warrant being served, but she never showed up at his August 29, 2011, parole revocation hearing where seven (7) years of his parole was revoked.¹

Regarding his probation revocation, Applicant agreed he had failed to report to his agent as required, but said that failure was due to his inability to be exposed to sunlight due to a diagnosed medical condition. He said he asked counsel to obtain his medical records to submit at the hearing as proof of such, but counsel failed to do so. Applicant alleged his belief was that

¹ Applicant did not seek to challenge anything relating to this revocation, including the effectiveness of Grice's representation on the parole revocation.

his probation would not start to run until after his parole was completed and, therefore, he was not aware that he was violating his probation.

On cross-examination, Applicant testified he was aware that his charges from the 2008 plea were all imposed concurrently with his other charges, including the YOA sentence. He went on to say he didn't report to his agent as required because he couldn't be exposed to sunlight, but was thereafter unable to give any reason why he couldn't have reported on a rainy/cloudy day, cover himself with pants/sweatshirt to avoid exposure, or take other measures to ensure he met the requirements. Applicant also stated he had called his probation/parole agent to advise her of his inability to report, and said that any statements by the agent in the record to the contrary were "a lie".

Counsel testified he took over representation of Applicant from Grice on August 22, 2011, and as is usual with revocations, received Applicant's revocation "packet" from the solicitor the Thursday before the hearing. Counsel testified the solicitor was moving to revoke based on Applicant's failure to make YOA parole payments and for failing to report for his parole/probation meetings as required. Counsel said he met with Applicant the morning of the revocation hearing where they spoke for five or ten minutes, but also noted that he had previously discussed the case with Grice and was fully aware of Applicant's contentions. Counsel noted that Applicant's girlfriend was supposed to bring medical records to the probation revocation hearing to be introduced in mitigation based on the alleged "sunlight exposure" issue, but said she failed to do so. He also noted he didn't believe those records would have been relevant or provided a sufficient excuse for Applicant's failure to report as they only accounted for one of the three missed meetings which served as the basis for the revocation.

Counsel said he didn't think there was anything unusual about Applicant being on parole and probation at the same time. When questioned by PCR counsel about State v. Ellis, 397 S.C. 576, 726 S.E.2d 5 (2012), and State v. Lee, 350 S.C. 125, 546 S.E.2d 372 (2002), counsel said he was familiar with Ellis, but noted it wasn't decided until 2012 (well after Applicant's case); regarding Lee, counsel mentioned Applicant's case was factually very different as Applicant's suspended sentence probation was not specifically ordered to begin *after* Applicant's completion of a prior sentence as the sentence in Lee was. In fact, counsel said, Lee actually stood for the proposition that there is nothing improper about a defendant being subjected to both probation and parole at the same time. Counsel testified he believed he made a proper argument to the revocation judge on Applicant's behalf based on the relevant law of the time, though he didn't cite any specific case law in support. He noted Applicant's probation agent was also his parole agent, and said that agent was adamant Applicant had violated the terms of *both* his probation *and* parole, so either way a revocation was likely. Counsel finished by stating that, even in hindsight, he didn't think there was anything he would do differently if presented with this same issue today.

After thorough review of the facts, this Court finds the current application must be denied and dismissed. As a preliminary matter, this Court finds Applicant's argument that counsel was ineffective for failing to object to the improper simultaneous imposition of YOA parole and suspended sentence probation to be unpersuasive and wholly without merit based on the case law and arguments forth. Unlike Lee, the probationary sentence imposed upon Applicant was not specifically ordered to begin at any particular point in time (i.e. Lee's probation was ordered to begin after his "release from the sentence now serving, to include any early release program/supervision"); rather, Applicant's probationary sentence was set only to run

concurrently to his previous YOA sentence. Accordingly, this Court finds Applicant's presentation of Lee as supporting authority to be without merit as Lee is strikingly factually distinguishable.

Further, as stated in Lee, "[a] sentencing judge has the authority to order a probationary period to begin upon defendant's release from incarceration on a separate charge, even if that release is the result of the defendant being paroled." Lee at 133, 546 S.E.2d at 377. "Parole eligibility is not a matter within the jurisdiction of the trial court, but falls within the province of the Board of Probation, Parole and Pardon Services." Id. at 134. As in Lee, Judge Manning's imposition of Applicant's probation was a separate and distinct function from that of the Board which would determine Applicant's parole eligibility on the YOA sentence. Applicant was properly subjected to probation at the time as his YOA parole and, upon his multiple violations, had his probation properly revoked by Judge Newman. Applicant has failed to convince this court that counsel was deficient in failing to pose an objection, or that any valid objection existed at the time.

Further, Applicant's allegation that counsel should have objected under Ellis, *supra*, is without merit as Ellis wasn't decided until May 16, 2012, some eight (8) months after Applicant's revocation hearing. Counsel's performance will not be deemed deficient for failing to be clairvoyant or anticipate changes in the law which were not in existence at the time of his representation. See Gilmore v. State, 314 S.C. 453, 445 S.E.2d 454 (1994), *overruled on other grounds by* Brightman v. State, 336 S.C. 348, 520 S.E.2d 614 (1999). Additionally, Ellis is factually distinguishable as Ellis's probationary period was ordered to "begin after [the] [YOAs] sentence" Ellis was serving at the time. Ellis at 581. No such prerequisite was placed on Applicant's probationary sentence; rather, as readily conceded by Applicant at the PCR hearing,

his probationary period was ordered to run *concurrently* to the YOA sentence. Accordingly, Applicant was properly subjected to YOA parole and probation at the same time and counsel was not ineffective for raising an objection to the revocation.

Failure to Object to Revocation Court's Inquiry of Underlying Charges

Applicant next contends counsel was ineffective for failing to object to the revocation judge's inquiry about the underlying robbery charges during the course of the revocation hearing which Applicant contends was improper.

Counsel testified at the PCR hearing he had warned Applicant in advanced of the hearing that the revocation judge would likely ask about the underlying charges from which the probation stemmed, and noted he urged Applicant to be forthcoming with the judge in responding to those questions especially regarding his actual guilt. Counsel went on to say he advised Applicant "being evasive" with the judge about the underlying charges would not help the outcome of the hearing, and said while he could have posed an objection to the judge's questions, he did not as such an objection would not have stopped the questioning. On cross-examination, counsel said it is not uncommon for probation revocation judge's to ask about the underlying charges and said he believed there is likely a benefit to Applicant taking responsibility for his actions rather than attempting to mitigate or explain them away.

This Court finds this allegation to be without merit and relief based upon this ground must be denied. First, this Court finds counsel's decision not to pose an objection to the court's inquiry to have been objectively reasonable based upon his experience with revocation proceedings in the past and unambiguous advice to Applicant prior to the hearing. The judge, in responding to Applicant's statement that his "parole was serious", simply made the inquiry as to what the underlying charge was and how it came about. This Court finds even if counsel had

posed an objection, there is no reasonable likelihood the outcome of the hearing would have been any different as the judge's questions were not improper and he likely would have overruled the objection. Finally, Applicant has failed to provide any credible evidence to convince this Court that, had counsel made an objection that *was* successful in ending the inquiry, the outcome of the hearing would have been any different. Therefore, this allegation is denied and dismissed.

Failure to Advise of Right to Appeal

Applicant alleges probation revocation counsel was ineffective for failing to advise him of the right to file a direct appeal for review of the court's revocation sentence. Applicant alleges had he been advised of such, he would have filed an appeal as he wishes to receive a new revocation hearing. Counsel testified at the PCR hearing that he did not recall advising Applicant of his right to direct appeal after the revocation hearing. A review of the PCR application completed by Applicant shows he previously stated he did not appeal the revocation for the following reason:

6. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) Wanted to file a PCR

(b) _____

(c) _____

Upon review of the record and testimony presented, this court finds this allegation to be without merit. The facts before this court are undisputed that counsel did not affirmatively advise Applicant of his right to appeal the probation revocation. However, "probation counsel is not required to inform a probationer of his right to an appeal absent extraordinary circumstances." Turner v. State, 384 S.C. 451, 456 – 457; 682 S.E.2d 792, 794 (2009). Further, any alleged error in failing to file the appeal would be harmless as there was no issue preserved for appellate

review. See Fleming v. State, 2012 WL 3793324 (West August 29, 2012) (where no objections made at the probation revocation hearing, no issues are preserved for appellate review and any alleged error in not filing the appeal is harmless). Applicant has failed to convince this court that any extraordinary circumstances existed such that counsel was under a duty to advise Applicant of the right to appeal, or that any issues were properly preserved for appellate review that should have put counsel on notice that Applicant may want to file an appeal. Therefore, this allegation is denied and dismissed as Applicant is not entitled to a belated appeal of the revocation hearing.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

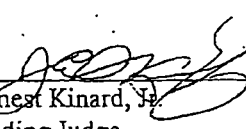
Except as discussed above, this Court finds that the Applicant failed to raise all additional allegations raised in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 1 day of Feb, 2012.


J. Ernest Kinard, Jr.
Presiding Judge
Fifth Judicial Circuit

Camden, South Carolina.

104 Carolina Department of Probation, Parole and Pardon Service
Revocative Hearing

PWID

State of South Carolina

County of RICHLAND

State

-VS-

Defendant

MACKAIL DAWKINS

SID#

01636145

ADMINISTRATIVE HEARING

No. US-GS-72-07103 - Count

Program Y.O.A. CONTINUUM

Conditions of Supervision Order Date

10-12-2010

Affidavit Date

08-02-2011

ORDER

Whereas the above named defendant has been charged with violating the conditions of supervision ordered on the above date, as set forth in the warrant or citation filed herein.

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

IT IS ORDERED that the above named defendant is continued under supervision subject to the conditions set forth in the supervision agreement and this order. This action is taken in the (presence/absence) of the defendant. The Agent is directed to immediately withdraw the warrant or citation issued in this case.

Additional Conditions:

CASE CONTINUED AND ALLOWED TO EXPIRE DUE TO
GOODWILL SERVICE OF TIME SERVING IN SENTENCE IN JAIL Awaiting
Y.O.A. ADMINISTRATIVE HEARING.

This 29TH day of AUGUST, 2011

Day

Month

Year

COLUMBIA
City

SC

[Signature]
Presiding Hearing Officer

☒ You are hereby advised that failing to observe all conditions of this order could result in Revocation or Modification of any conditions of this parole or imposition of any special conditions deemed proper by a Hearing officer or the Board.

☐ You are hereby advised that failing to observe all conditions of this order could result in the Court at any time revoking or modifying any condition of this probation; imposing any special conditions it deems proper; or extending the period of your probation not to exceed five (5) years. At any time within the period of your probation, the Court may, if it sees fit, impose any judgement and sentence it might have imposed in the first instance.

☐ You are hereby advised that failing to observe all conditions of this order could result in Revocation or Modification of any conditions of this community supervision or imposition of any lawful special conditions deemed proper by a Hearing officer or the Court.

NOTE: DEFENDANT/DEFENDANT MAY BE RELEASED FROM JAIL BY Y.O.A. MATR.
WARRANT NUMBER Y-10-11-005? PROVIDED NO OTHER WARRANTS, HELDS, DETAINING
OR PENDING CHARGES EXIST

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 the conditions of this order identified above during the period of my supervision. I have received a copy of this order.

Witnessed by

Offender's Signature

Signed this 29TH day of AUGUST, 2011 at COLUMBIA, SC

Carolina Department of Probation, Parole and Pardon Service

105

Report *Mackail*

Offender's Name: **MACKAIL T DAWKINS, GAYLON-MACKAIL DAWKINS**

State of South Carolina, County of: **RICHLAND**

SID#: 01636145

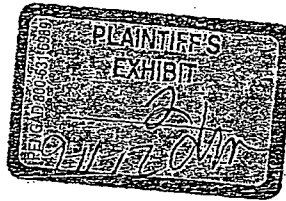
Warrant#: W-40-11-0399

Date of Birth:

SCDC#:

Indictment Numbers:

06-GS-40-03359, 08-GS-40-12035



Offense and Offense Code:

137 - Common law robbery, strong arm robbery; 137 - Common law robbery, strong arm robbery.

Supervision Program: **Probation**

Begin Date: 9/1/2010

End Date: 8/31/2013

Supervision Level: **Institutionalized**

Sentencing Judge: **061 - Manning, L.**

Sentencing County: **RICHLAND**

Sentencing Date: **3/11/2008**

Location (Bold Response): **Jail**

Shimelle Arkow

Sentence:

15 years suspended upon the service of 5 years and 3 years probation.

Special Conditions:

Pay a surcharge of 128.75. Pay a fine of \$643.75.

Current Address and Summary of Residence:

COLUMBIA, SC 29203, USA;; ASGDC, USA;

COLUMBIA, SC 29203, RICHLAND, USA,;

A, COLUMBIA, SC 29203, RICHLAND, USA,;

ABSCONDED, USA;

He is currently incarcerated at Alvin S Glenn on pending charges. He last reported residence at Columbia, SC 29203 but a home visit conducted 8/2/11 resulted in information that he no longer resides at that address and his whereabouts were unknown.

This is his second incident of reporting an invalid address. Prior to this, a home visit conducted at the previously reported address of Columbia, SC 29203 on 1/24/11 found the unit to be vacant.

Reporting:

After a period of intensive supervision he was instructed to report bi-monthly. He failed to report on 6/8/11, 7/20/11, or any possible report thereafter, having last reported on 4/27/11. Since his release in September 2010, he has previously missed visits on 12/2/10 and 3/16/11 as well.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
CNA THROUGH VA	3/1/2011 -		
A. D. MOORE	3/15/2011 -		\$700.00
	10/18/2010 - 1/13/2011		
DAY LABOR TEMP THROUGH ONE STOP	1/13/2011 - 3/15/2011		\$700.00

He has reported to be gainfully employed, but this has not been verified. Any change in employment is unknown due to his failures to report.

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Fees						
Regular Supervision	\$1,250.00	\$50.00/M	\$0.00		\$0.00	\$1,250.00

Carolina Department of Probation, Parole and Pardon Services Annual Report

Offender's Name: MACKAIL T DAWKINS, GAYLON MACKAIL DAWKINS

YOA Intensive or Reg Supv	\$280.00	\$20.00/W	\$0.00	\$280.00	\$280.00
YOA Intensive or Reg Supv	\$400.00	\$50.00/M	\$0.00	\$400.00	\$400.00
Fines					
Court Ordered Fines:	\$643.75	\$30.00/M	\$0.00	\$30.00	\$643.75
Surcharge	\$128.75	\$20.00/M	\$0.00	\$20.00	\$128.75

No payments have ever been made.

Prior Violation Dates	Prior Violations	Prior Violation Disposition
12/2/2010	Failed to report as instructed (Intensive Supervision).	Telephone contact made.
1/24/2011	Moved without notifying the agent to an unknown address.	Telephone contact attempted. Verbal reprimand at next attended report. New address obtained.
3/16/2011	Failed to report as instructed.	Telephone contact attempted. Collateral contacts attempted. Call from subject girlfriend providing excuse. Subject rescheduled. Advised that work/school is not going to be an excuse for missed reports as he is given ample notice of what day he needs off.

Details of the Present Violation:

Mackail Dawkins violated conditions 1, 2, 6, 7, 9 and 10 as ordered in Case Numbers 06-GS-40-3359 and 08-GS-40-12035 by Judge Manning in the Richland County Court of General Sessions on 3/11/08.

Mackail Dawkins failed to follow the advice and instructions of his agent when he failed to report on 6/8/11, 7/20/11 or any possible report thereafter, having last reported 4/27/11; moved without consent of the agent on or before the home visit conducted 8/1/11; failed to notify of his arrest by Columbia PD on 6/15/11 for Petty Larceny; failed to pay supervision fees having an outstanding balance of \$1,250; failed to pay fine (06-12035) owing a balance of \$643.75 and failed to pay surcharge (06-3359) owing a balance of \$128.75.

Agent's Recommendation:

Revoke (up to 10 years) and terminate. Convert fines to civil judgements.

Agent's Justification:

Mackail Dawkins has displayed a poor attitude and a lack of responsibility throughout supervision. He has failed to report for appointments and had his girlfriend to call instead of calling for himself each time although they both had been advised not to do so. He has reportedly been gainfully employed but has failed to make a single payment on any of his accounts since this case began in October of 2010. A review of his rapsheet shows that he has a new pending charge as of last month that he failed to report; the agent was not contacted by him nor his girlfriend with regard to this. Further, he was released the next day and did not report to the probation office nor contact his agent, having missed his report for the month of June. A review of his case shows a history of absconding and failing to report, having been under supervision in two prior cases and having them both revoked after absconding on those. He has made himself unavailable for supervision and has absconded from supervision. A revocation is recommended.

PRIOR SUPERVISION

2005-Probation. Revoked.

2007-YOA. Revoked.

2010-YOA. (Recent violation hearing. Closed due to time remaining on case and to allow to face probation matter.)

PRIOR CONVICTIONS

2003-Public Disorderly Conduct; Burglary 2nd Degree (NV); Petty Larceny; Malicious Injury to Property

2008-Grand Larceny; Criminal Conspiracy (Prior Violations on a previous YOA revocation)

PENDING CHARGES

6/2011-Petty Larceny

8/2011-Breach of Peace, Giving False Information (Listed under an alias of Markell Dawkins)

Toyia Williams

Agent

Date: 8/31/2011

Supervisor's Signature

LaShaeika VanDyke

Date:

9-1-2011

INPATIENT ADMISSION FORM



PATIENT ACCOUNT NO.		SERVICE DATE & TIME 04/01/2011 18:08		DISCHARGE DATE & TIME 4-2-11		PT OBR	AC Q	BY SUR	ADMIT 1	TYPE 2	FIN 01	STATION 7E	ROOM 0735	BED 01	MEDICAL RECORD NO. 004352589
ACCIDENT TYPE Other Accident		ACCIDENT DATE & TIME		DENOMINATION		CHURCH		PREGNANCY YES		DIRECTORY		LIVING WILL No			
NAME AND ADDRESS DAWKINS, GAYLON MARKAIL		SOCIAL SECURITY NUMBER		COUNTY Richland		EMPLOYER UNEMPLOYED		OCCUPATION STUDENT		STATUS Not Employed		PHONE			
SEX M	RACE 81	MARITAL STATUS S	DATE OF BIRTH	AGE 22Y	DATE OF LAST VISIT 09/05/2004	MOTHER'S MAIDEN NAME DAWKINS		PLACE OF BIRTH							
GUARANTOR NAME AND ADDRESS DAWKINS, GAYLON MARKAIL		SOCIAL SECURITY NUMBER		RELATIONSHIP Self		EMPLOYER UNEMPLOYED		OCCUPATION STUDENT		STATUS Not Employed		PHONE			
COLUMBIA SC 29203															
NOTIFY IN CASE OF EMERGENCY DAWKINS, SONTARA MICHELLE				RELATIONSHIP Mother		NEXT OF KIN AARON, CHANELLE		RELATIONSHIP Friend							
SC															
INSURANCE 1 SELF-PAY DAWKINS, GAYLON MARKAIL				INSURANCE 2		INSURANCE 3		INSURANCE 4							
INSURED DOB				INSURED DOB		INSURED DOB		INSURED DOB							
ADMITTING DIAGNOSIS/CHIEF COMPLAINT FELL OFF BIKE, FRONTAL SINUS FX						ADMITTING PHYSICIAN 40918 WATSON, CHRISTOPHER M						ADM PHY PHONE			
ORGAN DONOR N						Primary Care Physician 355 PEDIATRICS, *USC									

THIS SECTION FOR INPATIENT USE (ER/OUTPATIENT OPTIONAL)

DRG DATA

FINAL DIAGNOSIS		CODE NUMBER	PROVISIONAL DRG
HX RESISTANT DRG			ALOS
			DATE ASSIGNED
			DISCHARGE STATUS: PROJECTED
			1. HOME CARE (NURSING)
			2. ANOTHER SHORT TERM GENERAL HOSPITAL
			3. SNF
			4. CH
			5. SNF/CHL. OTHER THAN SHORT TERM
			6. HOME WITH HOME HEALTH CARE SERVICES AND
			FINAL
			1. HOME CARE (NURSING)
			2. ANOTHER SHORT TERM GENERAL HOSPITAL
			3. SNF
			4. CH
			5. SNF/CHL. OTHER THAN SHORT TERM
			6. HOME WITH HOME HEALTH CARE SERVICES AND
			7. LEFT AMB
			20.2 Transfer
DATE	OPERATIONS/PECIAL PROCEDURES		
CONSULTATION WITH			
RESULTS OBSERVED NOT TREATED UNPROVED NOT IMPROVED AUTOPSY	INFECTIONS AND/OR COMA POST-OP OTHER COMMUNITY ACQUIRED	I certify that the narrative descriptions of the principal and secondary diagnoses and the major procedures performed are accurate and complete to the best of my knowledge.	
		DATE	ATTENDING PHYSICIAN

Printed on 04/01/2011 11:16 PM





UNIT RECORD		DATE	TIME	BIRTH DATE	AGE	MOTHER'S MAIDEN NAME	SEX	RACE	PATIENT TYPE	PATIENT NO.
00425589		04/01/2011	18:08		22Y	DAWKINS	M	S	81	EQR
NAME ADDRESS		SOCIAL SECURITY NUMBER		FINANCIAL DATA		ACCIDENT DATE AND TIME				
DAWKINS, GAYLON MARKAIL				SELF pay						
COLUMBIA SC 29203		PHONE (L)		REFERRING PHYSICIAN		ADMITTING PHYSICIAN				
RESPONSIBLE PARTY		SOCIAL SECURITY NUMBER		MODE OF ARRIVAL		999 EMS, EMS				
DAWKINS, SONTARA MICHELLE		RELATIONS-H		VALUABLES ☐ YES ☐ NO WHERE?						
COLUMBIA SC 29203		Mother		BELONGINGS: ☐ HOME ☐ WITH PATIENT ☐ OTHER						
CHIEF COMPLAINT FELL OFF BIKE				DATE OF LAST VISIT:		LAST TETANUS:		TIME TO TREATMENT:		
				09/05/2004						
VITAL SIGNS	TEMP. 98.3	ORAL	RECTAL PULSE 82	RESP. 14	BLOOD PRESS. 143/84	PULSE OX 100%	NURSE'S SIGNATURE			
VITAL SIGNS	TEMP.	ORAL	RECTAL PULSE	RESP.	BLOOD PRESS.	PULSE OX	WEIGHT:		TIME OUT:	
HISTORY:						ALLERGIES: DKA		TIME		LABS AND X-RAY
BX RES STANT ORG										CT spine
Fall off bike, injured to face.										head
										facial.
ROS: HA, neck pain, @N, @drowsy						REST OF ROS:				
FH: DM, HTN						SH: @t				
PMH / MEDS: B						led				
PHYSICAL:						A1				
CLINICAL IMPRESSION: Tetanus										
TREATMENT:										
O Activate Trauma Care Set										
DISPOSITION/SPECIAL PATIENT INSTRUCTIONS										
PRESENT AND REVIEWED WITH RESIDENT										
CONDITION OF DISCHARGE		ADMIT ROOM:		TIME SEEN BY MD:		MEETS PRUDENT LAYPERSON:				
SAME ☐ IMPROVED ☐ OTHER		735		AC		☐ YES ☐ NO				
EXPLAIN		RESIDENT SIGNATURE		ATTENDING SIGNATURE						



110

Result type: Emergency Dept
Result date: 01 April 2011 19:46
Result status: Auth (Verified)
Result title: Emergency Dept
Performed by: Chao MD, Zubair H on 01 April 2011 19:46
Verified by: Lloyd MD, Vincent James on 06 April 2011 14:16
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

Emergency Dept (Verified)

PATIENT: DAWKINS, GAYLON EICT: Zubair Chao, MD-R
MR #: DOB:
ADMITTED: 04/01/2011 PT.LOC: 7E
ACCOUNT #:

DATE OF VISITATION: 04/01/2011

ACCOUNT NUMBER:

ATTENDING PHYSICIAN: Vincent J. Lloyd, MD

CHIEF COMPLAINT: Facial trauma after falling off bike.

HISTORY OF PRESENT ILLNESS: The patient is a 22-year-old African American male who presents to the emergency department after falling off of his bicycle. He states that he hit a curb and flew over the handlebars and smashed his face into the ground. The patient has severe abrasions all over his face. He said he had a brief loss of consciousness and he says that he feels sleepy now during the exam. The patient complains of a pain in his neck and I was unable to clear him from the C-spine and he also has some pain in his back as well.

IMMUNIZATIONS: The patient does not know when his last tetanus shot was.

PAST MEDICAL HISTORY: None.

MEDICATIONS: None.

ALLERGIES: None.

SOCIAL HISTORY: The patient admits to smoking. Denies any illicit drug use.

FAMILY HISTORY: Diabetes, hypertension.

REVIEW OF SYSTEMS: The patient does complain of headache, neck pain. He does feel nauseous and he does say that he is a little drowsy. Rest of review of systems reviewed and was negative except as noted in the history of present illness.

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:39

Page 1 of 3
(Continued)

PHYSICAL EXAMINATION:

VITAL SIGNS: Temperature 98.3, pulse 32, respirations 14, blood pressure 145/84, pulse ox 100%.

GENERAL: He is a well-developed, young male in no acute distress, but does look to be in some discomfort and laying on the bed with his C-collar on.

HEENT: Head is normocephalic with evidence over trauma of his face. There is no evidence of hemotympanum, although his right TM can not be completely visualized secondary to cerumen. The patient does have abrasions over his forehead, over the bridge of his nose and he has a small piece of tissue missing over his upper lip.

CVS: Regular rate and rhythm. No murmurs, rubs, or gallops.

LUNGS: Clear to auscultation bilaterally.

GI: Abdomen is soft, nontender, nondistended. Normoactive bowel sounds are heard.

EXTREMITIES: Warm and well perfused.

LABORATORY: A CT of his T-spine was obtained as well as his head and facial bones. We also obtained CT of his chest, abdomen and pelvis.

Trauma labs were also obtained without type and cross of the blood. These are all pending at this time.

MEDICAL DECISION MAKING: This is a 22-year-old male who presents to the emergency department after falling off his bicycle and hitting his face. Because of the severity of the patient's injury and the fact that he feels nauseous and is becoming more drowsy, we decided that we needed to get an imaging study of his head. Because he fell on his head and has significant facial injuries, we will go ahead and get facial bone CT; and because of his cervical spine tenderness (I was unable to clear him from his C-collar), I went ahead and got a CT of his spine as well. We went ahead and obtained a CT of his chest, abdomen and pelvis because he was drowsy and it did look like there was a significant force with the injury and we are not completely sure if we were able to obtain an adequate exam of his abdomen secondary to the patient's drowsy state. The patient did appear to be in pain so we gave him 2.5 of morphine as well as a tetanus shot because he did not know when his last one was and I also gave the patient 1 liter of IV fluids.

EMERGENCY DEPARTMENT COURSE: The patient was brought back and seen by myself in Pod 9 of emergency department. He was hemodynamically stable while I took care of him.

At time of shift change, I handed his care to Dr. Heidi Neal who will follow up the results of his lab tests and disposition the patient accordingly.

CLINICAL IMPRESSION:

1. Head trauma after falling off bicycle.
2. Facial abrasions.

DISPOSITION: To be determined by Dr. Heidi Neal.

Attending physician, Dr. Lloyd, was present and available.

D: 04/01/2011 19:16 T: 04/01/2011 19:46 TID: vdt
Job #: 14243 Doc #: 10168042
cc: Zubair Chao, MD-R
Vincent J. Lloyd, MD

I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note. I supervised all above procedures done by the resident.

Signature Line

Electronically Signed & Verified on 04/03/2011 13:38

by Chao MD, Zubair H

Electronically Signed & Verified on 04/06/11 14:16

by Lloyd MD, Vincent James

Completed Action List:

- * Perform by Chao MD, Zubair H on 01 April 2011 19:46
- * Modify by Chao MD, Zubair H on 03 April 2011 12:58
- * Modify by Chao MD, Zubair H on 03 April 2011 13:33
- * Sign by Chao MD, Zubair H on 03 April 2011 13:38 Requested on 02 April 2011 11:24
- * Modify by Lloyd MD, Vincent James on 06 April 2011 14:16
- * Sign by Lloyd MD, Vincent James on 06 April 2011 14:16 Requested by Chao MD, Zubair H on 03 April 2011 13:38
- * VERIFY by Lloyd MD, Vincent James on 06 April 2011 14:16

Result type: Emergency Dept
Result date: 02 April 2011 00:15
Result status: Auth (Verified)
Result title: Emergency Dept
Performed by: Kenney MD, Heidi N on 02 April 2011 00:15
Verified by: Lloyd MD, Vincent James on 08 April 2011 08:27
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

Emergency Dept (Verified)

PATIENT: DAWKINS, GAYLON DICT: Heidi Neal, MD-R
MR #: DOB:
ADMITTED: 04/01/2011 PT.LOC: 7E
ACCOUNT #:

DATE OF VISITATION: 04/01/2011

ACCOUNT NUMBER: 1109103991

ATTENDING PHYSICIAN: Vincent J. Lloyd, MD

ADDENDUM:

EMERGENCY DEPARTMENT COURSE: I received report on the patient. All CT scans were currently pending. We received the results. He had a frontal sinus fracture and nasal bone fracture and a left maxillary sinus fracture. His CT chest, abdomen and pelvis was normal. I consulted with Dr. Brill from facial trauma and the trauma service due to his loss of consciousness during the event. The trauma service agreed to admit him onto their service. I also gave him 600 mg of IV clindamycin and also IV Decadron to help with facial swelling.

DIAGNOSES:

1. Facial fractures.
2. Bicycle accident.

DISPOSITION: The patient was admitted onto the trauma service.

The attending, Dr. Lloyd was present during evaluation and workup of this patient and agrees with the above.

D: 04/02/2011 00:07 T: 04/02/2011 03:15 TID: am
Job #: 14414 Doc #: 10168081
cc: Heidi Neal, MD-R
Vincent J. Lloyd, MD

I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note. I supervised all above procedures done by the resident.

Signature Line

Electronically Signed & Verified on 04/07/2011 14:36
by Neal MD, Heidi A

Electronically Signed & Verified on 04/08/11 08:27
by Lloyd MD, Vincent James

Completed Action List:

- * Perform by Kenney MD, Heidi N on 02 April 2011 00:15
- * Sign by Kenney MD, Heidi N on 07 April 2011 14:36 Requested on 04 April 2011 09:31
- * Modify by Lloyd MD, Vincent James on 08 April 2011 08:27
- * Sign by Lloyd MD, Vincent James on 08 April 2011 08:27 Requested by Kenney MD, Heidi N on 07 April 2011 14:36
- * VERIFY by Lloyd MD, Vincent James on 08 April 2011 08:27

PALMETTO HEALTH RICHLAND
Resident / Attending Followup Note
General Floor

☒ Trauma
☐ Non-Trauma
☐ Critical Care Consult

DAWKINS, GAYLON MARKAIL
R1109103391
MR 004352589
WATSON, CHRISTOPHE
22Y M

Date / Time

4/12/11

ID LABEL



CC:	SP Fall off bike		I/O	60/750																									
24-Hr. Course:	Admitted to ER																												
Interval PMH/PSH/FH	☒ no change from yesterday ☐ unable to obtain																												
Interval ROS	☒ no change from yesterday ☐ unable to obtain																												
PE:	VS: Tmax: 98.7	BP: 113/54	HR: 68	RR: 16																									
	☐ x-ray, attending read:																												
HEENT:	L: PERRL ☒ trach midline ☒ No JVD																												
Neuro:	E. 4 V. 5 M. 6 ☐ change in neuro status ☐ c-collar																												
Resp:	Oxygen ☒ trach collar ☒ BBS clear ☐ BBS w/ rhonchi																												
Cardiac:	L: NSR ☐ ST ☐ No murmurs, gallop, or rub ☐ Flu id bolus required last 24 hrs. reason:																												
GI:	☒ abdomen soft ☒ non-tender ☐ tender ☐ Incision clean, dry & intact ☐ NGT																												
GU:	☐ foley ☐ clear, yellow urine ☐ voiding																												
Musculo-skeletal:	☒ motor grossly intact ☒ sensory grossly intact ☐ warm, well perfused ☐ no spine tenderness																												
Integumentary:	☒ skin intact, no breakdown ☒ no rashes																												
Psych:	☐ agitated ☒ cooperative ☒ oriented to person, place, time																												
A/P:	1. Frontal sinus fx - CSF leak - Dr. Brill to eval ☒ new ☐ improved ☐ stable ☐ worsening 2. pt this AM. <i>Clindamycin</i> ☐ new ☐ improved ☒ stable ☐ worsening 3. Facial abrasion - <i>Bacitracin 4x daily</i> ☐ new ☐ improved ☒ stable ☐ worsening 4. Diet - ST - swallow eval of key - facial ☐ new ☐ improved ☒ stable ☐ worsening 5. ☐ new ☐ improved ☒ stable ☐ worsening																												
Attending Attestation:	Resident/PA/NP Signature: <i>[Signature]</i> ☐ reviewed note by Dr. PA/NP ☐ reviewed note dated _____ by Dr. /PA/NP ☐ Plan discussed with Case Management ☐ Plan discussed with family ☐ I examined the patient on multidisciplinary rounds and discussed the care plan with the resident and team. ☐ I am providing global care and coordinating care with consultants. ☐ Neuro ☐ Ortho ☐ Maxillo-facial ☐ ☐ In addition to care plan, I manage the medical decisions for the following: <table border="0"> <tr> <td>Pain Control</td> <td>Glycemic Control</td> <td>DVT prophylaxis</td> <td>Stress Ulcer prophylaxis</td> <td>Nutritional Support</td> </tr> <tr> <td>☒ Parenteral Meds</td> <td>☐ IV Insulin Drip</td> <td>☒ SCID's</td> <td>☐ Carafate</td> <td>☐ Parenteral Nutrition</td> </tr> <tr> <td>☒ PO Pain Meds</td> <td>☐ SSI</td> <td>☐ Lovenox</td> <td>☒ PPI</td> <td>☐ Enteral Feeding</td> </tr> <tr> <td>☐ Decision for Surgery</td> <td>☐ Mgmt. of central lines</td> <td>☐ Heparin</td> <td>☐ Infectious Disease</td> <td>☐ IFV w/ K+</td> </tr> <tr> <td></td> <td></td> <td>☐ PT/OT/SLT</td> <td>☒ ABX ☐ Cultures Reviewed</td> <td></td> </tr> </table>				Pain Control	Glycemic Control	DVT prophylaxis	Stress Ulcer prophylaxis	Nutritional Support	☒ Parenteral Meds	☐ IV Insulin Drip	☒ SCID's	☐ Carafate	☐ Parenteral Nutrition	☒ PO Pain Meds	☐ SSI	☐ Lovenox	☒ PPI	☐ Enteral Feeding	☐ Decision for Surgery	☐ Mgmt. of central lines	☐ Heparin	☐ Infectious Disease	☐ IFV w/ K+			☐ PT/OT/SLT	☒ ABX ☐ Cultures Reviewed	
Pain Control	Glycemic Control	DVT prophylaxis	Stress Ulcer prophylaxis	Nutritional Support																									
☒ Parenteral Meds	☐ IV Insulin Drip	☒ SCID's	☐ Carafate	☐ Parenteral Nutrition																									
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☐ Decision for Surgery	☐ Mgmt. of central lines	☐ Heparin	☐ Infectious Disease	☐ IFV w/ K+																									
		☐ PT/OT/SLT	☒ ABX ☐ Cultures Reviewed																										
Attending	Discussed with Dr. Brill. He feels he can o/c home																												
Time Spent with Patient	today and Fri Tues/Wed in his office. No evidence of CSF leak.																												

Raymond P. Byrnoe, M.D.
Pager: 355-0859

Stephen Fann, M.D.
Pager: 355-8148

James E. Morrison, M.D.
Pager: 355-9087

Mark Jones, M.D.
Pager: 352-0402

Christopher Watson, M.D.
Pager: 352-1867

☐ Entire note by attending



*** Final Report ***

Result type: CT Cervical Spine W/O IV Cont + Recons
Result date: 01 April 2011 19:48
Result status: Auth (Verified)
Performed by: Thomas, Susan on 01 April 2011 19:48
Verified by: Gize MD, Edward A on 01 April 2011 21:49
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

*** Final Report *****Reason For Exam**

22 yo male fell off bike over handlebars and fell on face. Abrasions on face, brief LOC, c-spine ttp and facial ttp.

Finding:

CT CERVICAL SPINE WITHOUT CONTRAST:

CLINICAL HISTORY:

22-year-old male with fall off bike.

TECHNIQUE:

Multiple contiguous axial images of the cervical spine were obtained without the use of intravenous contrast. Sagittal and coronal reformatted images were acquired.

FINDINGS:

The atlanto-axial and atlanto-occipital joints are maintained. The C1 ring and dens are intact. The lateral masses are aligned. Vertebral body heights and disc spaces are maintained. There is straightening of the cervical lordosis. Facet joints are aligned. The prevertebral soft tissues are unremarkable.

IMPRESSION:

1. NO ACUTE CERVICAL SPINE FRACTURE.

Signature Line

*** Final ***

Trans On: 04/01/2011 20:1by: SEE

Read by: Gize MD, Edward A

Released By: Gize MD, Edward A

Released on: 04/01/2011 21:49

Technologist: Thomas, Susan, Trest, John D, Wallace

Completed Action List:

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:40

Page 1 of 2
(Continued)

* Final Report *

* Order by Chao MD, Zubair H on 01 April 2011 18:30
* Perform by Thomas, Susan on 01 April 2011 19:48
* Assist by Wallace, Carolyn J on 01 April 2011 19:48
* Assist by Trest, John D on 01 April 2011 19:48
* VERIFY by Gize MD, Edward A on 01 April 2011 21:49

* Final Report *

Result type: CT Chest Abd Pelvis W/ IV+Oral Contrast
Result date: 01 April 2011 20:10
Result status: Auth (Verified)
Performed by: Thomas, Susan on 01 April 2011 20:10
Verified by: Gize MD, Edward A on 01 April 2011 21:49
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

*** Final Report ***

Reason For Exam

Trauma

22 yo male fell off bike over handlebars and fell on face. Abrasions on face, brief LOC, c-spine ttp and facial t.p.

Finding:

CT OF THE CHEST, ABDOMEN AND PELVIS WITH CONTRAST:

CLINICAL HISTORY:

22-year-old male with trauma.

TECHNIQUE:

Multiple contiguous axial images of the chest, abdomen, and pelvis were obtained following administration of intravenous contrast material. Sagittal and coronal reformatted images were acquired.

FINDINGS:

CT CHEST:

The visualized thyroid gland is unremarkable. Normal sized axillary lymph nodes are seen. No hilar or mediastinal lymphadenopathy is identified. There is residual thymic tissue in the anterior mediastinum. The heart size is normal. No pericardial effusion is identified. The thoracic aorta is intact. No mediastinal hematoma is seen. No pneumothorax, pleural effusion, or focal consolidation is identified. No acute thoracic spine fractures are seen.

CT ABDOMEN:

The liver is normal in size and contains no focal lesions. The gallbladder is unremarkable. The spleen is normal in size and contains no focal lesions. The adrenal glands, kidneys, and pancreas are unremarkable. The abdominal aorta is intact. No abdominal ascites, pneumoperitoneum, or hemoperitoneum is visualized. A retroaortic left renal vein is seen. No retroperitoneal adenopathy is identified. The large and small bowel loops are normal in caliber. No acute lumbar spine fractures are identified.

CT PELVIS:

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:40

Page 1 of 2
(Continued)

* Final Report *

The urinary bladder is unremarkable. Prostate gland and seminal vesicles are normal in size. Pelvic phleboliths are seen. No pelvic ascites, pneumoperitoneum, or hemoperitoneum is visualized. No iliac or inguinal lymphadenopathy is identified. No pelvic fractures are seen.

IMPRESSION:

1. NO AORTIC INJURY OR MEDIASTINAL HEMATOMA
2. NO MAJOR ABDOMINAL OR PELVIC VISCERAL INJURY OR HEMOPERITONEUM.

Signature Line

*** Final ***

Trans On: 04/01/2011 21:1by: SEE

Read by: Gize MD, Edward A

Released By: Gize MD, Edward A

Released on: 04/01/2011 21:49

Technologist: Thomas, Susan, Wallace, Carolyn J, Tr

Technical Comments

Administered per implementation of contrast protocol:

Type: Optiray 320

Volume: 125 ml

Creatinine value: 1

Completed Action List:

- * Order by Chao MD, Zubair H on 01 April 2011 18:39
- * Perform by Thomas, Susan on 01 April 2011 20:10
- * Assist by Wallace, Carolyn J on 01 April 2011 20:10
- * Assist by Trest, John D on 01 April 2011 20:10
- * VERIFY by Gize MD, Edward A on 01 April 2011 21:49

Result type: CT: Facial Bones W/O IV Contrast
Result date: 01 April 2011 19:48
Result status: Auth (Verified)
Performed by: Thomas, Susan on 01 April 2011 19:48
Verified by: Gize MD, Edward A on 01 April 2011 21:49
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

*** Final Report ***

Reason For Exam

22 yo male fell off bike over handlebars and fell on face. Abrasions on face, brief LOC, c-spine ttp and facial t.p.

Finding:

CLINICAL HISTORY:

22-year-old male with facial injury.

TECHNIQUE:

Multiple contiguous axial images of the facial bones were obtained. Sagittal and coronal reformatted images were acquired.

FINDINGS:

There are fractures of the nasal bones. The nasal septum is intact. The walls of the orbits and maxillary sinuses are intact. No zygoma or zygomatic arch fracture is seen. The temporomandibular joints are maintained. No mandibular fracture is identified. Hard palate and pterygoid plates are intact. There is fracture of the anterior wall of the left frontal sinus with mild depression of the fracture fragments with a small amount of fluid within the left frontal sinus. The posterior wall of the frontal sinus appears intact. There appears to be fracture extension to the left cribriform plate with fluid in the left frontal recess. No radiopaque foreign body is identified.

IMPRESSION:

FRACTURE OF THE ANTERIOR WALL OF THE LEFT FRONTAL SINUS WITH APPARENT FRACTURE EXTENSION TO THE LEFT CRIBIFORM PLATE AND ASSOCIATED FRACTURE OF THE NASAL BONES.

Signature Line

*** Final ***

Trans On: 04/01/2011 20:2by: MAZ

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:40

Page 1 of 2
(Continued)

Read by: Gize MD, Edward A

Released By: Gize MD, Edward A

Released on: 04/01/2011 21:49

Technologist: Thomas, Susan, Trest, John D, Wallace

Completed Action List:

- * Order by Chao MD, Zubair H on 01 April 2011 18:30
- * Perform by Thomas, Susan on 01 April 2011 19:48
- * Assist by Wallace, Carolyn J on 01 April 2011 19:48
- * Assist by Trest, John D on 01 April 2011 19:48
- * VERIFY by Gize MD, Edward A on 01 April 2011 21:49

Result type: CT Head W/O IV Contrast
Result date: 01 April 2011 19:48
Result status: Auth (Verified)
Performed by: Thomas, Susan on 01 April 2011 19:48
Verified by: McConnell MD, Douglas M on 01 April 2011 20:04
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

*** Final Report ***

Reason For Exam

22 yo male fell off bike over handlebars and fell on face. Abrasions on face, brief LOC, c-spine ttp and facial t.p.

Finding:

HEAD CT, 4/1/11:

INDICATION:

Fell off bike over handlebars, fell on face, loss of consciousness, abrasions.

TECHNIQUE:

Axial imaging was performed from the skull base through the vertex.

FINDINGS:

There is no evidence of acute intracranial hemorrhage. No mass effect, edema, or midline shift is seen. Ventricles and CSF spaces are normal.

Extensive depressed comminuted fracturing of the frontal bone is noted near the midline with preservation of the inner table of the skull, but partial opacification and collapse of the left frontal sinus. Nasal bone fractures are also noted. No orbital hematoma is seen, but there is scalp thickening overlying the depressed frontal sinus injury.

IMPRESSION:

1. NO EVIDENCE OF INTRACRANIAL HEMORRHAGE OR EDEMA.
2. COMMUNUTED FRONTAL BONE AND NASAL FRACTURES INVOLVING THE FRONTAL SINUS WITH OVERLYING SCALP HEMATOMA.

Signature Line

*** Final ***

Trans On: 04/01/2011 20:0by: SEE

Read by: McConnell MD, Douglas M

Released By: McConnell MD, Douglas M

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:40

Page 1 of 2
(Continued)

Released on: 04/01/2011 20:04

Technologist: Thomas, Susan, Trest, John D, Wallace

Completed Action List:

- * Order by Chao MD, Zubair H on 01 April 2011 18:30
- * Perform by Thomas, Susan on 01 April 2011 19:48
- * Assist by Wallace, Carolyn J on 01 April 2011 19:48
- * Assist by Trest, John D on 01 April 2011 19:48
- * VERIFY by McConnell MD, Douglas M on 01 April 2011 20:04

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:40

Page 2 of 2
(End of Report)

*Retain Original and Provide Patient with A Photocopy

MR# / SSN: _____

AUTHORIZATION FOR THE USE AND DISCLOSURE OF
PROTECTED HEALTH INFORMATION

I Hereby Authorize Palmetto Health to Use or Disclose my Protected Health Information as Described Below. I understand that the information I authorize a person/facility to receive may be re-disclosed and no longer protected by state and federal regulations.

Patient Name: Grayson Markail Dankins **PT**
First Middle Last

Address: _____ Telephone Number: _____

Social Security Number: _____ Date of Birth: _____

Name of Person/facility Authorized to RELEASE the information: Palmetto Health Richland

Name of Person/facility Authorized to RECEIVE the Information: Deon O'Neil / Law Office of Deon O'Neil

Address: 1740 Main St Suite 202 Telephone Number: 661-6758

City, State and Zip Code: Columbia, SC 29201 Fax Number: 403 8753

Purpose of Disclosure: Legal

Dates of Treatment: Jan 2011 - Dec 2012

Information to be Used/Disclosed - Please check those that apply:

History and Physical	☒	Discharge Summary	☒	Operative Report	☒	Other (specify) _____
Progress Notes	☒	Laboratory Report	☐	Radiology Report	☒	Immunization Record ☐
Billing Summary	☐	Consultation Report	☒	Pathology Report	☒	Entire Medical Record ☐

I understand that in the event I was treated for drug or alcohol abuse, psychiatric condition, communicable diseases including HIV/AIDS this information will be included as part of my medical record to the above-named person/facility.

Palmetto Health may not condition treatment, payment, enrollment or eligibility for benefits on signing this authorization.

This authorization is subject to cancellation/revocation at any time, by the patient or legally qualified representative, provided that the cancellation is made in writing except to the extent that:

1. The facility has already acted on your request prior to receiving the request to cancel the authorization; or
2. If the authorization was given to release records to your insurance company in order to obtain insurance coverage.

This authorization will automatically expire in 90 days unless otherwise stated.

Expiration Date: _____

Markail Dankins
Signature of Patient or Legally Qualified Representative

3.23.12
Date

Relationship of Legally Qualified Representative _____

Please Address Correspondence to the Appropriate Address:

Palmetto Health Richland
Insert Respective Department Name Here
Five Richland Medical Park
Columbia, SC 29203

Palmetto Health Baptist
Insert Respective Department Name Here
Taylor at Marion Street
Columbia, SC 29220

Palmetto Health Baptist Easley
Insert Respective Department Name Here
P.O. Box 2129
Easley, SC 29641

INPATIENT
ADMISSION FORM

PATIENT ACCOUNT NO. 1		SERVICE DATE & TIME 04/01/2011 18:08		DISCHARGE DATE & TIME 4-2-11		PT TYPE OBR	AC O	BY CODE SUR	ADMIT SOURCE 1	TYPE 2	PHY CLASS 01	STATION 7E	ROOM 0735	BED 01	MEDICAL RECORD NO. 004352589
ACCIDENT TYPE Other Accident		ACCIDENT DATE & TIME		DENOMINATION		CHURCH		PUBLICITY YES DIRECTORY		LIVING WILL No					
NAME AND ADDRESS DAWKINS, GAYLON MARKAIL				SOCIAL SECURITY NUMBER		EMPLOYER UNEMPLOYED		OCCUPATION STUDENT		STATUS Not Employed					
COLUMBIA SC 29203				COUNTY Richland		PHONE									
SEX M	RACE 81	MARITAL STATUS S	DATE OF BIRTH	AGE 22Y	DATE OF LAST VISIT 09/05/2004	MOTHER'S MAIDEN NAME DAWKINS		PLACE OF BIRTH							
GUARANTOR NAME AND ADDRESS DAWKINS, GAYLON MARKAIL				SOCIAL SECURITY NUMBER		GUARANTOR EMPLOYER UNEMPLOYED		OCCUPATION STUDENT		STATUS Not Employed					
COLUMBIA SC 29203				RELATIONSHIP Self		PHONE 59									
NOTIFY IN CASE OF EMERGENCY DAWKINS, SONTARA MICHELLE				RELATIONSHIP Mother		PHONE		NEXT OF KIN AARON, CHANELLE		RELATIONSHIP Friend					
SC INSURANCE 1 SELF-PAY DAWKINS, GAYLON MARKAIL				INSURANCE 2		INSURANCE 3		INSURANCE 4							
INSURED DOB				INSURED DOB		INSURED DOB		INSURED DOB							
ADMITTING DIAGNOSIS/CHIEF COMPLAINT FELL OFF BIKE, FRONTAL SINUS FX						ADMITTING PHYSICIAN 40918 WATSON, CHRISTOPHER M						ADM PHY PHONE			
ORGAN DONOR N						Primary Care Physician 355 PEDIATRICS, "USC"									

THIS SECTION FOR INPATIENT USE (ER/OUTPATIENT OPTIONAL)

DRG DATA

FINAL DIAGNOSIS		CODE NUMBER	PROVISIONAL DRG
HX RESISTANT DRG			ALOS
			DATE ASSIGNED
			DISCHARGE STATUS: PROJECTED
			1. HOME/SELF CARE (ROUTINE)
			2. HOME/SHORT TERM GENERAL HOSPITAL
			3. SNF
			4. CH
			5. HOSPITAL OTHER THAN SHORT TERM GENERAL HOSPITAL
			6. HOME WITH HOME HEALTH CARE SERVICE AND
			7. LEFT AMA
			8. DECEASED
DATE	OPERATION/SPECIAL PROCEDURES		FINAL
			1. HOME/SELF CARE (ROUTINE)
			2. HOME/SHORT TERM GENERAL HOSPITAL
			3. SNF
			4. CH
			5. HOSPITAL OTHER THAN SHORT TERM GENERAL HOSPITAL
			6. HOME WITH HOME HEALTH CARE SERVICE AND
			7. LEFT AMA
			8. DECEASED
RESULTS UNRECOVERED NOT TREATED ON PROVED ONST IMPROVED ONAUTOPSY		INFECTIONS ONOSOCOMIAL ONPOST-OP ONOTHER ONCOMMUNITY ACQUIRED	
		"I certify that the narrative descriptions of the principal and secondary diagnoses and the major procedures performed are accurate and complete to the best of my knowledge."	
		DATE	ATTENDING PHYSICIAN



UNIT RECORD	DATE	TIME	BIRTH DATE	AGE	MOTHER'S MAIDEN NAME	SEX	MARITAL STATUS	RACE	PATIENT TYPE	PATIENT NO.
004352589	04/01/2011	18:08	8	22Y	DAWKINS	M	S	81	EQR	
NAME, ADDRESS		SOCIAL SECURITY NUMBER		FINANCIAL DATA		ACCIDENT DATE AND TIME				
DAWKINS, GAYLON MARKAIL				SELF pay						
COLUMBIA SC 29203		PHONE		REFERRING PHYSICIAN		ADMITTING PHYSICIAN				
RESPONSIBLE PARTY		SOCIAL SECURITY NUMBER		MODE OF ARRIVAL		999 EMS, EMS				
DAWKINS, SONTARA MICHELLE		RELATIONSHIP		VALUABLES ☐ YES ☐ NO WHERE?						
COLUMBIA SC 29203		Mother		BELONGINGS: ☐ HOME ☐ WITH PATIENT OTHER						
CHIEF COMPLAINT		DATE OF LAST VISIT		LAST TETANUS		TIME TO TREATMENT				
FELL OFF BIKE		09/05/2004								
VITAL SIGNS	TEMP	ORAL PULSE	RESP	BLOOD PRESS	PULSE OX	NURSE'S SIGNATURE				
98.3		82	14	143/84	100%					
VITAL SIGNS	TEMP	ORAL PULSE	RESP	BLOOD PRESS	PULSE OX	TIME OUT				
HISTORY:						ALLERGIES		TIME LABS AND X-RAY		
Hx RES STANT ORG						OKA		CT spine		
Fall off bike, damaged to face.								head		
								facial.		
ROS: HA, neck pain, ⊕ N, ⊕ drowsy						REST OF ROS:				
FH: DM, HTN						SH: ⊕ t				
PMH / MEDS: B						Med x				
PHYSICAL:						Apt: x				
CLINICAL IMPRESSION:										
TREATMENT:										
○ Activate Trauma Care Set										
DISPOSITION/SPECIAL PATIENT INSTRUCTIONS										
CONDITION OF DISCHARGE						ADMIT ROOM		PRESENT AND REVIEWED WITH RESIDENT		
DISCHARGE ☐ IMPROVED ☐ OTHER						735		TIME SEEN BY MD: ac		
EXPLAIN								MEETS PRUDENT LAYPERSON: ☐ YES ☐ NO		
								ATTENDING SIGNATURE: [Signature]		



Result type: Emergency Dept
Result date: 01 April 2011 19:46
Result status: Auth (Verified)
Result title: Emergency Dept
Performed by: Chao MD, Zubair H on 01 April 2011 19:46
Verified by: Lloyd MD, Vincent James on 06 April 2011 14:16
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

Emergency Dept (Verified)

PATIENT: DAWKINS, GAYLON DICT: Zubair Chao, MD-R
MR #: DOB:
ADMITTED: 04/01/2011 PT.LOC: 7E
ACCOUNT #:

DATE OF VISITATION: 04/01/2011

ACCOUNT NUMBER:

ATTENDING PHYSICIAN: Vincent J. Lloyd, MD

CHIEF COMPLAINT: Facial trauma after falling off bike.

HISTORY OF PRESENT ILLNESS: The patient is a 22-year-old African American male who presents to the emergency department after falling off of his bicycle. He states that he hit a curb and flew over the handlebars and smashed his face into the ground. The patient has severe abrasions all over his face. He said he had a brief loss of consciousness and he says that he feels sleepy now during the exam. The patient complains of a pain in his neck and I was unable to clear him from the C-spine and he also has some pain in his back as well.

IMMUNIZATIONS: The patient does not know when his last tetanus shot was.

PAST MEDICAL HISTORY: None.

MEDICATIONS: None.

ALLERGIES: None.

SOCIAL HISTORY: The patient admits to smoking. Denies any illicit drug use.

FAMILY HISTORY: Diabetes, hypertension.

REVIEW OF SYSTEMS: The patient does complain of headache, neck pain. He does feel nauseous and he does say that he is a little drowsy. Rest of review of systems reviewed and was negative except as noted in the history of present illness.

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:39

Page 1 of 3
(Continued)

PHYSICAL EXAMINATION:

VITAL SIGNS: Temperature 98.3, pulse 32, respirations 14, blood pressure 145/84, pulse ox 100%.

GENERAL: He is a well-developed, young male in no acute distress, but does look to be in some discomfort and laying on the bed with his C-collar on.

HEENT: Head is normocephalic with evidence over trauma of his face. There is no evidence of hemotympanum, although his right TM can not be completely visualized secondary to cerumen. The patient does have abrasions over his forehead, over the bridge of his nose and he has a small piece of tissue missing over his upper lip.

CVS: Regular rate and rhythm. No murmurs, rubs, or gallops.

LUNGS: Clear to auscultation bilaterally.

GI: Abdomen is soft, nontender, nondistended. Normoactive bowel sounds are heard.

EXTREMITIES: Warm and well perfused.

LABORATORY: A CT of his T-spine was obtained as well as his head and facial bones. We also obtained CT of his chest, abdomen and pelvis.

Trauma labs were also obtained without type and cross of the blood. These are all pending at this time.

MEDICAL DECISION MAKING: This is a 22-year-old male who presents to the emergency department after falling off his bicycle and hitting his face. Because of the severity of the patient's injury and the fact that he feels nauseous and is becoming more drowsy, we decided that we needed to get an imaging study of his head. Because he fell on his head and has significant facial injuries, we will go ahead and get facial bone CT; and because of his cervical spine tenderness (I was unable to clear him from his C-collar), I went ahead and got a CT of his spine as well. We went ahead and obtained a CT of his chest, abdomen and pelvis because he was drowsy and it did look like there was a significant force with the injury and we are not completely sure if we were able to obtain an adequate exam of his abdomen secondary to the patient's drowsy state. The patient did appear to be in pain so we gave him 2.5 of morphine as well as a tetanus shot because he did not know when his last one was and I also gave the patient 1 liter of IV fluids.

EMERGENCY DEPARTMENT COURSE: The patient was brought back and seen by myself in Pod 9 of emergency department. He was hemodynamically stable while I took care of him.

At time of shift change, I handed his care to Dr. Heidi Neal who will follow up the results of his lab tests and disposition the patient accordingly.

CLINICAL IMPRESSION:

1. Head trauma after falling off bicycle.
2. Facial abrasions.

DISPOSITION: To be determined by Dr. Heidi Neal.

Attending physician, Dr. Lloyd, was present and available.

D: 04/01/2011 19:16 T: 04/01/2011 19:46 TID: vdt
Job #: 14243 Doc #: 101G0042
cc: Zubair Chao, MD-R
Vincent J. Lloyd, MD

I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note. I supervised all above procedures done by the resident.

Signature Line

Electronically Signed & Verified on 04/03/2011 13:38
by Chao MD, Zubair H

Electronically Signed & Verified on 04/06/11 14:16
by Lloyd MD, Vincent James

Completed Action List:

- * Perform by Chao MD, Zubair H on 01 April 2011 19:46
- * Modify by Chao MD, Zubair H on 03 April 2011 12:58
- * Modify by Chao MD, Zubair H on 03 April 2011 13:33
- * Sign by Chao MD, Zubair H on 03 April 2011 13:38 Requested on 02 April 2011 11:24
- * Modify by Lloyd MD, Vincent James on 06 April 2011 14:16
- * Sign by Lloyd MD, Vincent James on 06 April 2011 14:16 Requested by Chao MD, Zubair H on 03 April 2011 13:38
- * VERIFY by Lloyd MD, Vincent James on 06 April 2011 14:16

Result type: Emergency Dept
Result date: 02 April 2011 00:15
Result status: Auth (Verified)
Result title: Emergency Dept
Performed by: Kenney MD, Heidi N on 02 April 2011 00:15
Verified by: Lloyd MD, Vincent James on 08 April 2011 08:27
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

Emergency Dept (Verified)

PATIENT: DAWKINS, GAYLON DICT: Heidi Neal, MD-R
MR #: DOB:
ADMITTED: 04/01/2011 PT.LOC: 7E
ACCOUNT #: 1

DATE OF VISITATION: 04/01/2011

ACCOUNT NUMBER:

ATTENDING PHYSICIAN: Vincent J. Lloyd, MD

ADDENDUM:

EMERGENCY DEPARTMENT COURSE: I received report on the patient. All CT scans were currently pending. We received the results. He had a frontal sinus fracture and nasal bone fracture and a left maxillary sinus fracture. His CT chest, abdomen and pelvis was normal. I consulted with Dr. Brill from facial trauma and the trauma service due to his loss of consciousness during the event. The trauma service agreed to admit him onto their service. I also gave him 600 mg of IV clindamycin and also IV Decadron to help with facial swelling.

DIAGNOSES:

1. Facial fractures.
2. Bicycle accident.

DISPOSITION: The patient was admitted onto the trauma service.

The attending, Dr. Lloyd was present during evaluation and workup of this patient and agrees with the above.

D: 04/02/2011 00:07 T: 04/02/2011 03:15 TID: am
Job #: 14414 Doc #: 10168081
cc: Heidi Neal, MD-R
Vincent J. Lloyd, MD

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:39

Page 1 of 2
(Continued)

I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note. I supervised all above procedures done by the resident.

Signature Line

Electronically Signed & Verified on 04/07/2011 14:36

by Neal MD, Heidi A

Electronically Signed & Verified on 04/08/11 08:27

by Lloyd MD, Vincent James

Completed Action List:

- * Perform by Kenney MD, Heidi N on 02 April 2011 00:15
- * Sign by Kenney MD, Heidi N on 07 April 2011 14:36 Requested on 04 April 2011 09:31
- * Modify by Lloyd MD, Vincent James on 08 April 2011 08:27
- * Sign by Lloyd MD, Vincent James on 08 April 2011 08:27 Requested by Kenney MD, Heidi N on 07 April 2011 14:36
- * VERIFY by Lloyd MD, Vincent James on 08 April 2011 08:27

PALMETTO HEALTH RICHLAND
Resident / Attending Followup Note
General Floor

☒ Trauma
☐ Non-Trauma
☐ Critical Care Consult

DAWKINS, GAYLON MARKAIL
R1109103391
MR 004352589
WATSON, CHRISTOPHE
22Y VI

Date / Time

4/2/11

ID LABEL



CC:	S/P Fall off bike		I/O	6/0 / 7/0																									
24-Hr. Course:	Admitted to ER																												
Interval PMH/PSH/FH	☒ no change from yesterday ☐ unable to obtain																												
Interval ROS	☒ no change from yesterday ☐ unable to obtain																												
PE:	VS: Tmax: 98.7	BP: 113/54	HR: 66	RR: 16																									
HEENT:	☒ PERL ☒ trach midline ☒ No JVD																												
Neuro:	E. 4	V. 5	M. 6	☐ change in neuro status ☐ c-collar																									
Resp:	☒ oxygen ☒ trach collar ☒ BBS clear ☐ BBS w/ rhonchi																												
Cardiac:	☒ LNSR ☐ ST ☒ no murmurs, gallop, or rub ☐ Fluid bolus required last 24 hrs. reason:																												
GI:	☒ abdomen soft ☒ non-tender ☐ tender ☐ incision clean, dry & intact ☐ NGT																												
GU:	☐ foley ☒ clear, yellow urine ☐ voiding																												
Musculo-skeletal:	☒ motor grossly intact ☒ sensory grossly intact ☐ warm, well perfused ☐ no spine tenderness																												
Integumentary:	☒ skin intact, no breakdown ☒ no rashes																												
Psych:	☐ agitated ☒ cooperative ☐ oriented to person, place, time																												
A/P:	1. Frontal sinus fx - CSF leak - Dr. Brill to eval 2. pt this AM. Clindamycin 3. Facial abrasion - Bacitracin 4x daily 4. Diet - ST - swallow eval of key - facial 5.																												
Attending Attestation:	Resident/PA/NP Signature: ☒ reviewed note by Dr./PA/NP ☐ reviewed note dated _____ by Dr./PA/NP ☒ Plan discussed with Case Management ☐ Plan discussed with family ☒ I examined the patient on multidisciplinary rounds and discussed the care plan with the resident and team. ☒ I am providing global care and coordinating care with consultants. ☐ Neuro ☐ Ortho ☐ Maxillo-facial ☐ ☒ In addition to care plan, I manage the medical decisions for the following: <table border="0"> <tr> <td>Pain Control</td> <td>Glycemic Control</td> <td>DVT prophylaxis</td> <td>Stress Ulcer prophylaxis</td> <td>Nutritional Support</td> </tr> <tr> <td>☒ Parenteral Meds</td> <td>☐ IV Insulin Drip</td> <td>☒ SCD's</td> <td>☐ Carafate</td> <td>☐ Parenteral Nutrition</td> </tr> <tr> <td>☒ PO Pain Meds</td> <td>☐ SSI</td> <td>☐ Lovenox</td> <td>☒ PPI</td> <td>☐ Enteral Feeding</td> </tr> <tr> <td>☐ Decision for Surgery</td> <td>☐ Mgmt. of central lines</td> <td>☐ Heparin</td> <td>Infectious Disease</td> <td>☒ IFV w/ K+</td> </tr> <tr> <td></td> <td></td> <td>☐ PIAOT/SLT</td> <td>☒ ABX ☐ Cultures Reviewed</td> <td></td> </tr> </table>				Pain Control	Glycemic Control	DVT prophylaxis	Stress Ulcer prophylaxis	Nutritional Support	☒ Parenteral Meds	☐ IV Insulin Drip	☒ SCD's	☐ Carafate	☐ Parenteral Nutrition	☒ PO Pain Meds	☐ SSI	☐ Lovenox	☒ PPI	☐ Enteral Feeding	☐ Decision for Surgery	☐ Mgmt. of central lines	☐ Heparin	Infectious Disease	☒ IFV w/ K+			☐ PIAOT/SLT	☒ ABX ☐ Cultures Reviewed	
Pain Control	Glycemic Control	DVT prophylaxis	Stress Ulcer prophylaxis	Nutritional Support																									
☒ Parenteral Meds	☐ IV Insulin Drip	☒ SCD's	☐ Carafate	☐ Parenteral Nutrition																									
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☐ Decision for Surgery	☐ Mgmt. of central lines	☐ Heparin	Infectious Disease	☒ IFV w/ K+																									
		☐ PIAOT/SLT	☒ ABX ☐ Cultures Reviewed																										
Attending	Discussed with Dr. Brill. He feels he can D/C home																												
Time Spent with Patient	today and Fri Tues/Wed in his office. No evidence of CSF leak																												

Raymond P. Bynoe, M.D.
Pager: 355-0859

Stephen Fann, M.D.
Pager: 355-8148

James E. Morrison, M.D.
Pager: 355-9067

Mark Jones, M.D.
Pager: 352-0492

Christopher Watson, M.D.
Pager: 352-1867

☐ Entire note by attending



* P H 7 0 *

* Final Report *

Result type: CT Cervical Spine W/O IV Cont + Recons
Result date: 01 April 2011 19:48
Result status: Auth (Verified)
Performed by: Thomas, Susan on 01 April 2011 19:48
Verified by: Gize MD, Edward A on 01 April 2011 21:49
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

*** Final Report *****Reason For Exam**

22 yo male fell off bike over handlebars and fell on face. Abrasions on face, brief LOC, c-spine ttp and facial ttp.

Finding:

CT CERVICAL SPINE WITHOUT CONTRAST:

CLINICAL HISTORY:

22-year-old male with fall off bike.

TECHNIQUE:

Multiple contiguous axial images of the cervical spine were obtained without the use of intravenous contrast. Sagittal and coronal reformatted images were acquired.

FINDINGS:

The atlanto-axial and atlanto-occipital joints are maintained. The C1 ring and dens are intact. The lateral masses are aligned. Vertebral body heights and disc spaces are maintained. There is straightening of the cervical lordosis. Facet joints are aligned. The prevertebral soft tissues are unremarkable.

IMPRESSION:

1. NO ACUTE CERVICAL SPINE FRACTURE.

Signature Line

*** Final ***

Trans On: 04/01/2011 20:1by: SEE

Read by: Gize MD, Edward A

Released By: Gize MD, Edward A

Released on: 04/01/2011 21:49

Technologist: Thomas, Susan, Trest, John D, Wallace

Completed Action List:

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:40

Page 1 of 2
(Continued)

* Final Report *

- * Order by Chao MD, Zubair H on 01 April 2011 18:30
- * Perform by Thomas, Susan on 01 April 2011 19:48
- * Assist by Wallace, Carolyn J on 01 April 2011 19:48
- * Assist by Trest, John D on 01 April 2011 19:48
- * VERIFY by Gize MD, Edward A on 01 April 2011 21:49

* Final Report *

Result type: CT Chest Abd Pelvis W/ IV+Oral Contrast
Result date: 01 April 2011 20:10
Result status: Auth (Verified)
Performed by: Thomas, Susan on 01 April 2011 20:10
Verified by: Gize MD, Edward A on 01 April 2011 21:49
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

*** Final Report ***

Reason For Exam

Trauma

22 yo male fell off bike over handlebars and fell on face. Abrasions on face, brief LOC, c-spine ttp and facial ttp.

Finding:

CT OF THE CHEST, ABDOMEN AND PELVIS WITH CONTRAST:

CLINICAL HISTORY:

22-year-old male with trauma.

TECHNIQUE:

Multiple contiguous axial images of the chest, abdomen, and pelvis were obtained following administration of intravenous contrast material. Sagittal and coronal reformatted images were acquired.

FINDINGS:

CT CHEST:

The visualized thyroid gland is unremarkable. Normal sized axillary lymph nodes are seen. No hilar or mediastinal lymphadenopathy is identified. There is residual thymic tissue in the anterior mediastinum. The heart size is normal. No pericardial effusion is identified. The thoracic aorta is intact. No mediastinal hematoma is seen. No pneumothorax, pleural effusion, or focal consolidation is identified. No acute thoracic spine fractures are seen.

CT ABDOMEN:

The liver is normal in size and contains no focal lesions. The gallbladder is unremarkable. The spleen is normal in size and contains no focal lesions. The adrenal glands, kidneys, and pancreas are unremarkable. The abdominal aorta is intact. No abdominal ascites, pneumoperitoneum, or hemoperitoneum is visualized. A retroaortic left renal vein is seen. No retroperitoneal adenopathy is identified. The large and small bowel loops are normal in caliber. No acute lumbar spine fractures are identified.

CT PELVIS:

Printed by: Cantey, Precious K.
Printed on: 04/12/12 07:40

Page 1 of 2
(Continued)

* Final Report *

The urinary bladder is unremarkable. Prostate gland and seminal vesicles are normal in size. Pelvic phleboliths are seen. No pelvic ascites, pneumoperitoneum, or hemoperitoneum is visualized. No iliac or inguinal lymphadenopathy is identified. No pelvic fractures are seen.

IMPRESSION:

1. NO AORTIC INJURY OR MEDIASTINAL HEMATOMA
2. NO MAJOR ABDOMINAL OR PELVIC VISCERAL INJURY OR HEMOPERITONEUM.

Signature Line

*** Final ***

Trans On: 04/01/2011 21:1by: SEE

Read by: Gize MD, Edward A

Released By: Gize MD, Edward A

Released on: 04/01/2011 21:49

Technologist: Thomas, Susan,Wallace, Carolyn J,Tr

Technical Comments

Administered per implementation of contrast protocol:

Type: Optiray 320

Volume: 125 ml

Creatinine value: 1

Completed Action List:

- * Order by Chao MD, Zubair H on 01 April 2011 18:39
- * Perform by Thomas, Susan on 01 April 2011 20:10
- * Assist by Wallace, Carolyn J on 01 April 2011 20:10
- * Assist by Trest, John D on 01 April 2011 20:10
- * VERIFY by Gize MD, Edward A on 01 April 2011 21:49

Result type: CT Facial Bones W/O IV Contrast
Result date: 01 April 2011 19:48
Result status: Auth (Verified)
Performed by: Thomas, Susan on 01 April 2011 19:48
Verified by: Gize MD, Edward A on 01 April 2011 21:49
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

*** Final Report ***

Reason For Exam

22 yo male fell off bike over handlebars and fell on face. Abrasions on face, brief LOC, c-spine ttp and facial ttp.

Finding:

CLINICAL HISTORY:

22-year-old male with facial injury.

TECHNIQUE:

Multiple contiguous axial images of the facial bones were obtained. Sagittal and coronal reformatted images were acquired.

FINDINGS:

There are fractures of the nasal bones. The nasal septum is intact. The walls of the orbits and maxillary sinuses are intact. No zygoma or zygomatic arch fracture is seen. The temporomandibular joints are maintained. No mandibular fracture is identified. Hard palate and pterygoid plates are intact. There is fracture of the anterior wall of the left frontal sinus with mild depression of the fracture fragments with a small amount of fluid within the left frontal sinus. The posterior wall of the frontal sinus appears intact. There appears to be fracture extension to the left cribriform plate with fluid in the left frontal recess. No radiopaque foreign body is identified.

IMPRESSION:

FRACTURE OF THE ANTERIOR WALL OF THE LEFT FRONTAL SINUS WITH APPARENT FRACTURE EXTENSION TO THE LEFT CRIBIFORM PLATE AND ASSOCIATED FRACTURE OF THE NASAL BONES.

Signature Line

*** Final ***

Trans On: 04/01/2011 20:2 by: MAZ

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:40

Page 1 of 2
(Continued)

Read by: Gize MD, Edward A

Released By: Gize MD, Edward A

Released on: 04/01/2011 21:49

Technologist: Thomas, Susan, Trest, John D, Wallace

Completed Action List:

- * Order by Chao MD, Zubair H on 01 April 2011 18:30
- * Perform by Thomas, Susan on 01 April 2011 19:48
- * Assist by Wallace, Carolyn J on 01 April 2011 19:48
- * Assist by Trest, John D on 01 April 2011 19:48
- * VERIFY by Gize MD, Edward A on 01 April 2011 21:49

Printed by: Cantey, Precious K
Printed on: 04/12/12 07:40

Page 2 of 2
(End of Report)

Result type: CT Head W/O IV Contrast
Result date: 01 April 2011 19:48
Result status: Auth (Verified)
Performed by: Thomas, Susan on 01 April 2011 19:48
Verified by: McConnell MD, Douglas M on 01 April 2011 20:04
Encounter info: R1109103991, Richland, OBR-Observation, 04/01/11 - 04/02/11

*** Final Report ***

Reason For Exam

22 yo male fell off bike over handlebars and fell on face. Abrasions on face, brief LOC, c-spine ttp and facial ttp.

Finding:

HEAD CT, 4/1/11:

INDICATION:

Fell off bike over handlebars, fell on face, loss of consciousness, abrasions.

TECHNIQUE:

Axial imaging was performed from the skull base through the vertex.

FINDINGS:

There is no evidence of acute intracranial hemorrhage. No mass effect, edema, or midline shift is seen. Ventricles and CSF spaces are normal.

Extensive depressed comminuted fracturing of the frontal bone is noted near the midline with preservation of the inner table of the skull, but partial opacification and collapse of the left frontal sinus. Nasal bone fractures are also noted. No orbital hematoma is seen, but there is scalp thickening overlying the depressed frontal sinus injury.

IMPRESSION:

1. NO EVIDENCE OF INTRACRANIAL HEMORRHAGE OR EDEMA.
2. COMMINUTED FRONTAL BONE AND NASAL FRACTURES INVOLVING THE FRONTAL SINUS WITH OVERLYING SCALP HEMATOMA.

Signature Line

*** Final ***

Trans On: 04/01/2011 20:0by: SEE

Read by: McConnell MD, Douglas M

Released By: McConnell MD, Douglas M

*Retain Original and Provide Patient with A Photocopy

MR# / SSN: _____

AUTHORIZATION FOR THE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

I Hereby Authorize Palmetto Health to Use or Disclose my Protected Health Information as Described Below. I understand that the information I authorize a person/facility to receive may be re-disclosed and no longer protected by state and federal regulations.

Patient Name: Eason Markail Dankins **PT**
First Middle Last

Address: _____ Telephone Number: _____

Social Security Number: _____ Date of Birth: _____

Name of Person/facility Authorized to RELEASE the information: Palmetto Health Richland

Name of Person/facility Authorized to RECEIVE the Information: Dean O'Neil / Law Office of Dean O'Neil

Address: 1740 Main St Suite 202 Telephone Number: 661-6758

City, State and Zip Code: Columbia, SC 29201 Fax Number: 403-9752

Purpose of Disclosure: Legal

Dates of Treatment: Jan 2011 - Dec 2012

Information to be Used/Disclosed - Please check those that apply:

History and Physical	☒ Discharge Summary	☒ Operative Report	☒ Other (specify) _____
Progress Notes	☒ Laboratory Report	☒ Radiology Report	☐ Immunization Record
Billing Summary	☐ Consultation Report	☒ Pathology Report	☐ Entire Medical Record

I understand that in the event I was treated for drug or alcohol abuse, psychiatric condition, communicable diseases including HIV/AIDS this information will be included as part of my medical record to the above-named person/facility.

Palmetto Health may not condition treatment, payment, enrollment or eligibility for benefits on signing this authorization.

This authorization is subject to cancellation/revocation at any time, by the patient or legally qualified representative, provided that the cancellation is made in writing except to the extent that:

1. The facility has already acted on your request prior to receiving the request to cancel the authorization; or
2. If the authorization was given to release records to your insurance company in order to obtain insurance coverage.

This authorization will automatically expire in 90 days unless otherwise stated.

Expiration Date: _____

Markail Dankins
Signature of Patient or Legally Qualified Representative

3.23.12
Date

Relationship of Legally Qualified Representative _____

Please Address Correspondence to the Appropriate Address:

Palmetto Health Richland

Insert Respective Department Name Here
Five Richland Medical Park
Columbia, SC 29203

Palmetto Health Baptist

Insert Respective Department Name Here
Taylor at Marion Street
Columbia, SC 29220

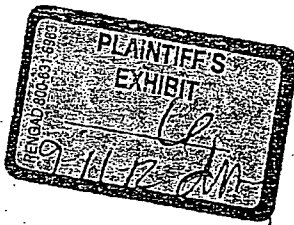
Palmetto Health Baptist Easley

Insert Respective Department Name Here
P.O. Box 2129
Easley, SC 29641

4/12/12 PKC/HF

93298007

NOT TO BE USED



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS.
Gaylon Mackail Dawkins
AKA

INDICTMENT/CASE#:

06 -GS- 40 03359
AW#: K-099942
Date of Offense: 4-20-06
S.C. Code §: 16-11-~~1000~~ 330A
CDR Code #: 0111319
☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL ASU

AKA: Ort Mackai Dawkins
 Race: _____ Sex: M Age: 20
 DOB: - R SS#: 1
 Address: _____
 City, State, Zip Cela SC 29203
 DL# _____ SID# SC 0163645

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-0325 of the S.C. Code of Laws, bearing CDR Code # 01137

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES: *James Walsh* *Michael Hawkins* *Blair*
Solicitor Defendant Attorney for Defendant

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 5 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: _____
☒ 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.
☐ Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ INSTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered To \$ _____ plus 20% fee: \$ _____ Payment Terms: _____ ☐ Set by SCDPPPS _____ Defendant: _____ Fee: _____ \$ \$1-206 (Assessments 107.5%) _____ \$ \$1-211(A)(1) (Conv. Surcharge) \$100 \$ \$1-211(A)(2) (DUI Surcharge) \$100 \$ \$5-2995 (DUI Assessment) \$12 \$	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: _____
---	--

Patient Terms: _____ Set by SCDPPPS _____	plus 20% fee. \$ _____
Patient: _____	
Fee:	\$ _____
\$1-206 (Assessments 107.5%)	\$ _____
\$1-211(A)(1) (Conv. Surcharge)	\$100 \$ _____
\$1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
\$-5-2995 (DUI Assessment)	\$12 \$ _____
\$5.13 (Public Def/Prob)	\$500 \$ _____
\$3.1B TP (Law Enforce. Funding)	\$25 \$ _____
\$3.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
0-21-114(BUI Breath Test Fee)	\$50 \$ _____
6-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
\$ to County (if paid in installments)	\$ _____

DTA
Barbara A. Scofield
Clerk of Court/ Deputy Clerk
Court Reporter: E. Coach

CERTIFIED TRUE COPY
OF ORIGINAL
PRESIDING JUDGE
Judge Code: 1
Sentence Date: 3-11-08

CA/217 (2/2006) White - Clerk Green - Corrections OLINA, Canary - Probation Pink - Defe

WITNESSES

RV
 (S) INV. KEVIN REESE - CPD

DOCKET NO. 2006-GS-40-3359

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

JUNE TERM 2006

72

ARREST WARRANT NUMBER

099942

ACTION OF GRAND JURY

TRUE BILL

John D. G. S.
 Defendant of Grand Jury Date: JUN 22 2006

VERDICT

Indictment for

ARMED ROBBERY
 SC Code: 16-11-330(A)
 CDR Code: 0139
 Class FEL-A

legal rights, I hereby waive presentation
 to the Grand Jury.

Defendant

X Michael D. Clarke
 hereby appear in my own proper person and plead
 guilty to the within indictment or to

Strong Arm Robbery

Defendant

X Michael D. Clarke

Witness:

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

CERTIFIED TRUE COPY
 OF ORIGINAL FILED,
Guaranteed by State
 C.C.C. PLS. AND G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

Person of Petit Jury

After being fully advised as to my

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on June 21, 2006, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Gaylon Dawkins did in Richland County on or about December 13, 2005, commit robbery by feloniously taking from the person or presence of Jamil Clark, by means of force or intimidation, goods or monies of Jamil Clark, such goods or monies to wit: US Currency, and/or a cellular phone, and/or the victim's car, with the intent to deprive the owner permanently of such property, while armed with a pistol or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland

STATE VS.

Gaylon Mackail Dawkins

AKA:

Race: R Sex: M Age: 20DOB: () SS#: 7Address: 2City, State, Zip: Cola SC 29203DL# SC 01636145

INDICTMENT/CASE#:

06 GS- 40 03359AW# K-099942Date of Offense: 4-20-06S.C. Code §: 16-11-330ACDR Code #: 011319☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Strong Arm Robberyin violation of § 16-11-0325 of the S.C. Code of Laws, bearing CDR Code # 011317☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Anne Gauswiler Mackail Dawkins
Solicitor DefendantAKR
Attorney for DefendantWHEREFORE, 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 5 days/months/years and/or paymentof \$ _____; 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.☐ 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: ☐ 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)

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

\$56-5-2995 (DUI Assessment)

\$ 35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

\$50-21-114(BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$100

\$100

\$12

\$500

\$25

\$100

\$50

\$40/ea

\$

\$

\$

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.CERTIFIED TRUE COPY
OF ORIGINAL PRESENTING JUDGE

Judge Code: _____

Sentence Date: 3-1-07

RICHLAND COUNTY

SCCA/217 (2/2006)

White - Clerk

Green - Corrections, OLINA, Canary - Probation

Pink - Defendant

ARREST WARRANT
K-099942 099942 0538528

STATE OF SOUTH CAROLINA
☐ County ☒ Municipality of
COLUMBIA

THE STATE
against

GAYLON M DAWKINS
Address: NO PERM ADDR
COLUMBIA SC 29202

Phone: SSN:
S: Race: B Height: 5'09 Weight: 155
DL State: DL#: Agency ORI# SC0400100
DOB# Prosecuting Agency: CITY OF COLUMBIA
Prosecuting Officer: REESE K
Offense: ARMED ROBBERY

Code/Ordinance Sec. 16-11-330 Offense Code: ARI

This warrant is CERTIFIED FOR SERVICE in the
☐ County ☒ Municipality of
COLUMBIA The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

RETURN

A copy of this arrest warrant was delivered to
defendant Gaylon M Dawkins
on 04/20/2005
Gaylon M Dawkins
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CITY OF COLUMBIA
MUNICIPAL COURT
P.O. BOX 644
COLUMBIA, SC 29202

STATE OF SOUTH CAROLINA
☐ County ☒ Municipality of
COLUMBIA

AFFIDAVIT

Personally appeared before me the affiant INV KEVIN E REESE who
being duly sworn deposes and says that defendant GAYLON M DAWKINS
did within this county and state on 12/13/2005 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County ☒ Municipality of COLUMBIA)
in the following particulars:
DESCRIPTION OF OFFENSE: ARMED ROBBERY 16-11-330

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 12/13/05 AT 8:25PM WHILE AT 3 RD IN THE CITY LIMITS
OF COLUMBIA, SC VICTIM JAMIL CLARK 23, WAS APPROACHED BY TWO BLACK
MALES WHILE AT LEAST ONE WAS ARMED WITH A PISTOL. THE SUBJECTS
PROCEEDED TO ROB THE VICTIM AT GUN POINT TAKING \$600.00 IN CASH, A
CELLULAR PHONE AND THE VICTIM'S VEHICLE A 1992 MERCURY GRAND MARQUIS
CALLS MADE ON THE STOLEN PHONE LATER LED INVESTIGATORS TO A FEMALE
FRIEND OF (GAYLON GREEN) WHO IS THE DEF.'S FATHER AND OLDEST CO-DEF.
IN THIS INCIDENT. ON 02/15/06 THE FEMALE SUBJECT GAVE A SWORD 2

Signature of Affiant
STATE OF SOUTH CAROLINA
☐ County ☒ Municipality of
COLUMBIA

Affiant's Address: #1 JUSTICE SQ
COLA, SC 29201
Affiant's Telephone: 5453500

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 12/13/2005 defendant GAYLON M DAWKINS
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County ☒ Municipality of COLUMBIA) as set forth below:
DESCRIPTION OF OFFENSE: ARMED ROBBERY 16-11-330

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 02/17/2006
Kevin E Reese (L.S.)
Judge Code 403003
Judge's Address: CITY OF COLUMBIA, SC
MUNICIPAL COURT, P.O. BOX 644 29202
Judge's Telephone: 29202
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

WITNESSES

DOCKET NO. 2008-GS-40-12035

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

72

THE STATE

vs.

Gaylon M. Dawkins

ARREST WARRANT NUMBER

K-265830

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

CDR Code: 0139

Class FEL-A(V)

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

Defendant

Markell Dawkins

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

Strong Arm Robbery

Markell Dawkins

Defendant

Witness:

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

CERTIFIED TRUE COPY
OF ORIGINAL FILED
GRAND JURY
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF RICHLAND)

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

ARMED ROBBERY

That Gaylon M. Dawkins did in Richland County on or about July 25, 2007, commit robbery by feloniously taking from the person or presence of Cedric Terrel Perry by means of force or intimidation goods or monies of Cedric Terrel Perry such goods or monies being described as a wallet and/or US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of SC Code of Laws § 16-11-330(A).

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

WARREN B. GIESE, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
 STATE VS.
Gaylon Mackail Dawkins
 AKA: [REDACTED]
 Race: B Sex: M Age: 20
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED]
 City, State, Zip: Cola, SC 29203
 DL# [REDACTED] SID# SC01636145

INDICTMENT/CASE#: 08-GS-40-12035
 AWH#: K-265830
 Date of Offense: July 25, 2007
 S.C. Code §: 16-11-325 330(A)
 CDR Code #: 0111317
☐ CASE RESTORED
☒ SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Strong Arm Robbery

in violation of § 16-11-325 of the S.C. Code of Laws, bearing CDR Code # 0111317

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. UD

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Anne Spears Walsh
 Solicitor

Mackail Dawkins
 Defendant

[Signature]
 Attorney for Defendant

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 5 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.

☐ 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: ☐ 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
\$14-1-211(A)(2) (DUI Surcharge)	\$100
\$56-5-2995 (DUI Assessment)	\$12
\$ 35.13 (Public Def/Prob)	\$500
\$73.3, 1B TP (Law Enforce. Funding)	\$25
\$33.7, 1B TP (Drug Court Surcharge)	\$100
\$50-21-114(BUI Breath Test Fee)	\$50
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$
TOTAL	\$

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.

\$ CERTIFIED TRUE COPY

OF ORIGINAL FILE
 PRESIDING JUDGE

Judge Code: _____

Sentence Date: 3-11-08

RICHLAND COUNTY
 SOUTH CAROLINA

SCCA/217 (2/2006)

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

ARREST WARRANT
K-265830
STATE OF SOUTH CAROLINA

County/ Municipality of
COLUMBIA

THE STATE
against

RAYLON M DANKINS

Address: COLUMBIA SC 29202

Phone: SSN:

S: Race: Height: Weight: 150

DL: Date: DL#

DOB: Agency OR# SC0400100

Prosecuting Agency: CITY OF COLUMBIA

Prosecuting Officer: INV. DOW/ GOODMAN

Offense: ARMED ROBBERY

Offense Code: ARI

Code/Ordinance Sec: 16-11-330

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 law.

Signature of Judge (L.S.)

RETURN

A copy of this arrest warrant was delivered to
defendant Raylon M. Dankins
on 11-13-2007

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CITY OF COLUMBIA
MUNICIPAL COURT
P.O. BOX 614
COLUMBIA, SC 29202

STATE OF SOUTH CAROLINA
County/ Municipality of
COLUMBIA

AFFIDAVIT

INV. N. DOW

Personally appeared before me the affiant
being duly sworn deposes and says that defendant
did within this county and state on 07/25/2007
State of South Carolina (or ordinance of County/ Municipality of
in the following particulars: Violate the criminal laws of the
DESCRIPTION OF OFFENSE: ARMED ROBBERY
16-11-330

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 07/25/07, AT
COLUMBIA, CITY OF RICHLAND, STATE OF SC, THE DEFENDANT ALONG WITH A
CO-DEFENDANT WALKED WITH THE VICTIM, PERRICK TERRELL PERRY, AROUND
THE REAR OF BUILDING 12 AND ENTERED THE REAR DOOR OF APARTMENT
WHICH WAS A VACANT APARTMENT. ONCE INSIDE THE VACANT APARTMENT, THE
CO-DEFENDANT PULLED OUT A HANDGUN AND POINTED IT AT THE VICTIM, WHILE
THE DEFENDANT TOOK HIS HANDS AND RIPPED THE VICTIM'S LEFT REAR PANTS
POCKET AND STOLE THE VICTIM'S WALLET, WHICH CONTAINED APPROX. \$270.00

Signature of Affiant

STATE OF SOUTH CAROLINA
County/ Municipality of
COLUMBIA

Affiant's Address: 3413017

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY
If appearing from the above affidavit that there are reasonable grounds to believe that
on 07/25/2007 defendant RAYLON M DANKINS
did violate the criminal laws of the State of South Carolina (or ordinance of
County/ Municipality of COLUMBIA) as set forth below:
DESCRIPTION OF OFFENSE: ARMED ROBBERY
16-11-330

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 his execution, or as soon thereafter as is practicable.
Sworn to and subscribed before me
on 11-13-2007

Signature of Judge (L.S.)
Judge's Address: CITY OF COLUMBIA, SC
MUNICIPAL COURT, P.O. BOX 614, 29202
Judge's Telephone: Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ARREST WARRANT

J-560096

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland Bond Court

THE STATE 08011722-20

against

Omar Rashid Singleton

Address:

Columbia, SC 29204-1721

Phone: SSN:

Sex: M Race: B Height: 5 10 Weight: 150

DL #: SC

Agency ORI #: 04000

Prosecuting Agency: Richland County Sheriff Department

Prosecuting Officer: Matthew Ellis - 1027

Offense: Robbery / Attempted armed, or allegedly armed,

robbery

Offense Code: 0026

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

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Omar Rashid Singleton on 1/25/08

Signature of County Clerk/Deputy Clerk

RETURN WARRANT TO:

Richland General Sessions

1701 Main Street

P O Box 192

Columbia, SC 29202

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA,
☒ County/ ☐ Municipality of

Richland Bond Court

Personally appeared before me the affiant Matthew Ellis

being duly sworn deposes and says that defendant Omar Rashid Singleton

did within this county and state on or about 01/20/2008

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Richland Bond Court)

in the following particulars:

DESCRIPTION OF OFFENSE Robbery / Attempted armed, or allegedly armed, robbery

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

That on or about January 20, 2008 while at the Lykesland Magisterial District of Richland County, it is believed that the defendant did commit the crime of Robbery / Attempted armed, or allegedly armed robbery because he did attempt to take with the intent to deprive, US currency from the business. The defendant did so while armed with a shotgun. The defendant was shot by one of the victims as he tried to complete the robbery and did seek medical attention for the injury. The defendant was also identified as having possession of the vehicle used in the crime which was subsequently recovered nearby. The vehicle had blood in it when it was recovered. The defendant also provided a verbal confession to witness with details, which were corroborated. Affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland Bond Court

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

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 1/20/2008

did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of Richland Bond Court)

DESCRIPTION OF OFFENSE: Robbery / Attempted armed, or allegedly armed, robbery

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the 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.

Signature of Affiant

(L.S.)

Signature of Affiant

Judge Code: 7001

Judge's Address 1400 Huger Street

Columbia, SC 29201-

Judge's Telephone

Issuing Court: ☒ Magistrate ☐ Municipal

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge

on

01/26/08

Type and Amount:

Bond: David

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