

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Appeal from Richland County  
J. Ernest Kinard, Jr., Circuit Court Judge

---

**RECEIVED**

SEP - 5 2013

**S.C. Supreme Court**

GERALD L. GANTT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2013-000016

---

**A P P E N D I X**

---

WANDA H. CARTER  
Deputy Chief Appellate Defender

ALAN WILSON  
Attorney General

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

MEGAN HARRIGAN  
Assistant Attorney General

P. O. Box 11549  
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....i

BOND HEARING TRANSCRIPT DATED JULY 18, 2011.....1

GUILTY PLEA HEARING DATED JULY 19, 2011 .....24

ORDER DATED OCTOBER 27, 2011.....43

ORDER DATED JANUARY 4, 2012.....45

REMITTITUR.....46

AMENDED REMITTITUR.....47

APPLICATION FOR POST-CONVICTION RELIEF .....48

RETURN .....57

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED DECEMBER 4, 2012.....65

ORDER OF DISMISSAL .....70

INDICTMENT .....72

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND ) COURT OF GENERAL SESSIONS  
2009-GS-40-06311

State of South Carolina, )  
Plaintiff, )  
vs. ) TRANSCRIPT OF RECORD  
Gerald Gantt, )  
Defendant. )

July 18, 2011  
Columbia, South Carolina

B E F O R E:  
THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.

A P P E A R A N C E S:  
ANDREW R. ROGERS, ASSISTANT SOLICITOR  
Attorney for the Plaintiff  
GERALD GANTT, PRO SE DEFENDANT

DEBORAH M. McCURDY, RPR  
Official Court Reporter

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X   O F   W I T N E S S E S

(WHEREUPON, no witnesses were called during these proceedings.)

E X H I B I T S

(WHEREUPON, no exhibits were introduced during these proceedings.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

JULY 18, 2011

MR. ROGERS: Gerald Gantt, G-E-R-A-L-D  
G-A-N-T-T. He is pro se and charged with assault  
and battery of a high and aggravated nature.

A few weeks ago the Defendant was brought in  
front of the Court on his own motion to relieve his  
attorney and for a speedy trial.

The State had until last week to try his case  
or his bond would be amended. My understanding is  
that he is currently in on a \$25,000 surety bond.  
The Defendant is of the opinion that the bond  
should now be a \$25,000 PR bond.

And, Your Honor, I have to tell the Court, in  
true candor I don't recall the specifics of what  
Judge Barber said. I have to rely on what is in  
our records. And the only record I have from the  
Clerk of Court is that it would be amended to a  
\$25,000 surety bond.

THE COURT: Well, that is what he already has,  
isn't it?

MR. ROGERS: Correct. The reason I'm bringing  
the Defendant before you is twofold.

First, the State had given the Defendant an  
offer for a time served -- negotiated time served  
sentence on this case. This is not a guilty plea

1 at this time, but I wanted to make sure that the  
2 record was clear that I, as the Prosecutor, not  
3 acting as his attorney, but have relayed that offer  
4 to him. It is always a questionable situation the  
5 State finds itself in when the Defendant is pro se  
6 as to how much negotiation we can have with him.  
7 So I wanted to make sure that it was very clear  
8 that my offer was a time served sentence, a  
9 negotiated time served in this case.

10 The second part of that, Your Honor, is that  
11 the Defendant feels that he should -- his bond  
12 should be amended to a PR bond at this time. And  
13 in all respect for his rights since he doesn't have  
14 an attorney, I wanted to make sure that he had an  
15 opportunity to come before the Court today, since  
16 the State's time limit for a speedy trial was last  
17 week.

18 THE COURT: Why wasn't it tried?

19 MR. ROGERS: Your Honor, there was -- first of  
20 all, we had some other cases on the docket ahead of  
21 us, and there were some problems obtaining  
22 witnesses in this case.

23 THE COURT: All right, sir, I will be glad to  
24 hear from you.

25 THE DEFENDANT: Yes.

1 THE COURT: When will you try the case? When  
2 is it going back on the trial docket?

3 MR. ROGERS: Well, I mean, it never left the  
4 docket. It is still on the trial docket. It is  
5 kind of a loose definition at this time, as far  
6 as -- as I understand the trial docket.

7 I have not given up on this case except that  
8 in my discussions with the Defendant, it seems that  
9 he waffles from wanting to accept the deal but not  
10 wanting to -- but wanting to take his day in court.

11 He has been in jail, Your Honor, for a lengthy  
12 period of time, which was why the State was giving  
13 him a negotiated time served sentence.

14 The reason for the delay up until this point  
15 has been a couple of different reasons. It has  
16 been inherited and passed down through  
17 many Solicitors. I received this case very  
18 recently, within the past six weeks or so, from a  
19 previous Solicitor in our office.

20 The case was called for trial at least once  
21 previously when the judge ordered that the case be  
22 continued for a mental health evaluation of the  
23 Defendant.

24 The evaluation has come back that he is  
25 competent to stand trial, and based on that

1 information he was allowed to represent himself in  
2 these proceedings.

3 THE COURT: All right. Yes, sir?

4 THE DEFENDANT: Good afternoon, Your Honor.  
5 May I please, Your Honor? May it please the Court?  
6 I have been locked up since July of 2009.

7 I asked the Public Defender that I did have,  
8 Ms. Ana Walker, to file a quick and speedy trial in  
9 September of 2009. It never materialized.

10 I asked for a bond reduction in 2009. It  
11 never materialized.

12 The Public Defender's Office conflicted my  
13 case out of the office on their own behalf, which  
14 left me without an attorney at that time. Nine  
15 months I sat at Alvin S. Glenn Detention Center  
16 thinking that I had a motion for a quick and speedy  
17 trial and soon to have a bond reduction.

18 About 14 months the Public Defender's Office  
19 and Judge Cooper filed a motion for after Rule 608  
20 and a new attorney was to be hired, Ms. Anna Good.  
21 I asked for these motions to be filed again. Never  
22 materialized.

23 So basically I didn't get any assistance from  
24 any counsel, so I began to go to the law library.  
25 I filed both motions myself.

1 Ms. Good thought that I wasn't cooperating and  
2 didn't trust her. She filed to be relieved as  
3 counsel, but not anything that I filed.

4 Judge Newman granted Ms. Good the motion to be  
5 relieved as counsel. Judge Newman also granted  
6 that my motions be heard within 30 days.

7 Judge Barber ruled on those motions, that if  
8 Solicitor Rogers here could not bring the case to  
9 trial, I filed that this case be dismissed.

10 Judge Barber ruled on the motion for bond  
11 reduction, the motion for dismissal. And Judge  
12 Newman and Judge Barber both thought that this case  
13 was -- had gone way too long. It is only a common  
14 law ten year gap. If I was even to be proved  
15 guilty, I would have been eligible for parole in  
16 the month of February of this year.

17 Being that I have been locked up for two  
18 years, the State has to yield to my constitutional  
19 rights.

20 I have spoken with Mr. Rogers here -- and  
21 Mr. Rogers has been fair with me, he has offered me  
22 a time served plea deal. I'm innocent of this  
23 charge. Not to get into the specifics of the case.  
24 Judge Cooper ordered an evaluation based on some  
25 cards that I told him that I had a spiritual

1 connection with. He didn't quite understand it.

2 But, anyway, the order for the evaluation was  
3 done in October of 2010. The motion for the quick  
4 and speedy trial was filed September 23rd of 2010.  
5 The evaluation was completed February 15th of 2011.

6 That is five months after I filed the motion  
7 for dismissal, which was filed March the 23rd of  
8 2011.

9 The State has not yielded to one  
10 constitutional right from the arrest. Ninety days  
11 became 180 days for the indictment. The motion for  
12 a quick and speedy trial was almost a year.

13 Judicial error in Judge Barber's orders. I  
14 asked Mr. Rogers if I couldn't get a dismissal  
15 since Judge Newman granted Ms. Good a motion to be  
16 relieved as counsel, which has left me here. Not  
17 to make -- not to have a mockery of some kangaroo  
18 court that the State yield to one constitutional  
19 right, just one.

20 THE COURT: So you are saying you want like an  
21 attorney appointed, sir?

22 THE DEFENDANT: I think at this time it would  
23 be fair that I should have received an attorney or  
24 the State should at least give me a PR bond so I  
25 can go out and become gainfully employed again

1           where I can obtain an attorney. And these things  
2           in here are talking about -- I'm not a flight risk.

3           THE COURT: I can have the Clerk's Office  
4           appoint you an attorney, sir. I understand -- I am  
5           going to get to the bond issue in a second.

6           THE DEFENDANT: Yes, ma'am.

7           THE COURT: But if you -- if that is an issue,  
8           we'll have the Clerk's Office appoint you an  
9           attorney. That is not a problem. It won't be the  
10          Public Defender's Office, it will be somebody  
11          outside --

12          THE DEFENDANT: Yes, ma'am.

13          THE COURT: Because Ms. Good -- Ms. Good is in  
14          your office?

15          ATTORNEY IN PUBLIC DEFENDER'S OFFICE: Ms.  
16          Walker I think he said was his previous attorney.

17          MR. ROGERS: Your Honor, I think just to make  
18          sure the record is clear, the Public Defender's  
19          Office did represent at one point. Anastasia  
20          Walker was his attorney. The Public Defender's  
21          Office was relieved and conflicted out to Ms. Anna  
22          Good, who used to be a prosecutor in our office,  
23          went out into private practice and is now a defense  
24          attorney. Ms. Good represented him about a month  
25          ago when defense counsel made a motion to be

1 relieved.

2 At that time, instead of appointing new  
3 counsel, Judge Benjamin ordered that the Defendant  
4 be allowed to proceed pro se.

5 THE COURT: Judge Barber?

6 MR. ROGERS: No, I think -- well, Judge Barber  
7 heard the bond matter or the speedy trial or bond  
8 matter, and Judge Newman heard the motion to be  
9 relieved.

10 THE COURT: Okay.

11 MR. ROGERS: And so my understanding from  
12 Judge Newman's orders was that the Defendant would  
13 proceed pro se because in his explanation to the  
14 Defendant was that, you are allowed  
15 constitutionally to have an attorney, not  
16 necessarily an attorney of your choosing, and  
17 having been conflicted now to two attorneys, it was  
18 my understanding that Judge Newman found that he  
19 wanted to either proceed pro se -- he would rather  
20 proceed pro se rather than have Ms. Good as --  
21 continue on as his attorney.

22 THE COURT: Okay.

23 MR. ROGERS: Now, if the Court feels that it  
24 is proper to have a new attorney appointed, that  
25 is -- the State does not have a position on that.

1 I think it is probably a good idea. But I just  
2 wanted to make sure that Your Honor was aware  
3 procedurally how we got to him not having an  
4 attorney.

5 THE COURT: All right. Sir, if you want me to  
6 appoint an attorney for you, I will do that, but  
7 you need to understand you can't say, well, I don't  
8 want this one, I don't that one, I don't want this  
9 one. Do you understand that?

10 THE DEFENDANT: Yes, ma'am. They -- both --  
11 the Public Defender's Office conflicted the case  
12 out on their own. I didn't ask for the attorney to  
13 be relieved.

14 THE COURT: Okay.

15 THE DEFENDANT: Ms. Good filed a motion on her  
16 own. I didn't ask for her to be relieved of  
17 counsel. She filed the motion herself. Because  
18 she wouldn't file a motion for me, so I wrote the  
19 Clerk of Court's Office and complained about her.  
20 When I complained about her not filing it -- I  
21 didn't ask for anything out of the ordinary, just a  
22 bond reduction and a quick and speedy trial. She  
23 wouldn't file it. So she filed a motion to be  
24 relieved as counsel, which left me without an  
25 attorney.

1           Now, I did say to Judge Newman, whatever you  
2           rule on, Judge, it would be fine with me. I wasn't  
3           getting any service anyway. But I do think that I  
4           would need an attorney.

5           THE COURT: All right.

6           THE DEFENDANT: And also --

7           THE COURT: I will have the Clerk's Office --  
8           we'll appoint an attorney from the list for you,  
9           sir.

10          THE DEFENDANT: Yes, ma'am. And one more  
11          thing. I want to know -- Mr. Rogers and I have  
12          spoken on behalf of some motions and Judge Barber's  
13          order, which was errors. And it seems to be a lot  
14          of errors going on in the Fifth Circuit Court, Your  
15          Honor. I mean, I'm deaf -- I become deaf in one  
16          ear. I had problems and I lost the use of one ear,  
17          but I could hear Judge Barber clearly up here when  
18          he said that if the case wasn't brought, not by the  
19          week -- not by the week, but by the 11th of July,  
20          that I would be granted \$25,000 PR bond. I believe  
21          that was the stenographer, if I'm not mistaken; I  
22          believe this young lady was here; I believe she was  
23          here; and I believe he had a secretary up there  
24          too. Now, how all these people sadly forgot about  
25          that is an amazing occurrence.

1 THE COURT: Well, I don't know if they forgot  
2 about it, sir. I don't know if they forgot about  
3 it, they just probably don't remember it, sir.

4 THE DEFENDANT: I mean, I have the records to  
5 prove every fact.

6 THE COURT: All right, hold on one second.  
7 When was that hearing with Judge Barber?

8 MR. ROGERS: Your Honor, I believe -- I would  
9 have to check the clerk's record. I know the clerk  
10 has a copy of the -- we do a handwritten order from  
11 motions court. I know a copy of that is in the  
12 clerk's records. I think the Defendant actually  
13 has a copy of it with his paperwork.

14 THE COURT: May I see a copy of it? Do you  
15 have a copy of it? Does the clerk have a copy?

16 MR. ROGERS: Your Honor, while I don't  
17 remember the entirety of the judge's ruling, I am  
18 certain that the judge said that we had through  
19 that week to call the case for trial, so I don't  
20 believe we're in violation of Judge Barber's order.

21 THE COURT: Through which -- last week?

22 MR. ROGERS: Through last Friday, basically.  
23 We had --

24 THE COURT: Today you would be in violation.

25 MR. ROGERS: Well, that is why we brought it

1 in front of the Court today to make sure there were  
2 no problems, Judge.

3 THE DEPUTY: No problem.

4 THE COURT: What is his current bond?

5 MR. ROGERS: \$25,000 surety bond.

6 THE COURT: Okay. So Judge Barber says the  
7 Defendant gets a \$25,000 surety bond?

8 MR. ROGERS: This is where it might have been  
9 a clerical error as to when it should be converted  
10 into a \$25,000 PR bond. I don't recall what the  
11 bond was to be changed to, Judge. I just recall  
12 the time in which the State was required to call  
13 the case by.

14 THE COURT: Were you working with Judge Barber  
15 that week?

16 THE COURT REPORTER: What is the date?

17 MR. ROGERS: It should be at the top of the  
18 motions, Judge.

19 THE COURT: June 13th.

20 (Pause.)

21 THE COURT: You were with me that week. I was  
22 trying to see if the court reporter could pull it  
23 back up, but it was not my court reporter, it was  
24 another court reporter.

25 Let me see something. Judge Barber is here

1           this week if you would like to go try to get  
2           clarification on it. Or if not, I don't know when  
3           he is doing General Sessions. All I can do is  
4           read, sir, what is before me. I think this needs  
5           to be brought back before Judge Barber. He is  
6           doing non-jury this week in Common Pleas. I don't  
7           know if he will hear it at all this week. But you  
8           might want to go talk to Judge Barber about it.

9           MR. ROGERS: Your Honor, I don't know if he  
10          would be willing to hear it. I think the best  
11          chance I would have would be maybe approaching him  
12          in chambers and seeing if he remembers, and he  
13          would maybe amend the order from the bench, but I  
14          don't --

15          THE COURT: Yes. And I'm sure he has a full  
16          schedule of non-jury stuff.

17          MR. ROGERS: Yes, ma'am.

18          THE COURT: If not, the week of August the 1st  
19          he is back on the bench. I just think -- y'all are  
20          asking me -- I can't say whether or not it was an  
21          error on Judge Barber's part. I think y'all need  
22          to discuss that with Judge Barber.

23          MR. ROGERS: I understand, ma'am.

24          THE COURT: If not, it needs to go back on  
25          the -- if not -- if Judge Barber doesn't want to do

1           it then, you need to bring it back before Judge  
2           Barber on August the 1st, two weeks.

3           MR. ROGERS: Yes, ma'am. And my hesitation  
4           with that was that the Defendant feels that the  
5           State is somehow impinging on his rights, and I  
6           wanted to make him aware that I am not trying to  
7           delay his case or his motion at all, that the judge  
8           who heard his original ruling or the original  
9           matter is just not on the bench for another few  
10          weeks. So I didn't -- I wanted to make it clear  
11          that the Defendant not think he was just sitting in  
12          jail in violation of some court order.

13          THE COURT: All right. So we'll -- and you'll  
14          check with -- if you get a second, I don't know if  
15          Judge Barber is going to even give him any time,  
16          sir, to talk to him today, and he's not here next  
17          week -- well, he is not in Richland County, I don't  
18          know where he is.

19          Yes, but I think you need to go back before  
20          Judge Barber and see exactly what he intended. And  
21          they may have to pull the transcript, sir, from the  
22          court reporter that was there that week. But I  
23          just can't make a decision on it because I don't  
24          know what he intended and I can't ask him. He is  
25          not here for me to ask him, so -- but I will have

1 the Solicitor try to see if he can talk to him  
2 sometime this week. If not, he needs to be brought  
3 back up on the 1st, that Monday morning.

4 MR. ROGERS: Yes, ma'am. I'll go see if I  
5 can --

6 THE COURT: In front of Judge Barber.

7 MR. ROGERS: I'm sorry, Judge, I didn't mean  
8 to cut you off. I'll go see if I can find Judge  
9 Barber now and see if he is in his chambers and see  
10 if can speak to him about this.

11 I request a holding to keep the Defendant here  
12 in the building until I have a chance to verify  
13 with the judge whether or not he'll amend the  
14 order, and I'll check with him before he is sent  
15 back to Alvin S. Glenn to figure out the -- so he  
16 has word about what is going to happen next.

17 THE COURT: All right. So they are going to  
18 hold you here until he has -- Judge Barber, I don't  
19 know if he will hear it today, but they are going  
20 to hold you here to see if he will. Okay?

21 THE DEFENDANT: Can I say one more thing, Your  
22 Honor?

23 THE COURT: Yes, sir.

24 THE DEFENDANT: I got the police report here  
25 that says that I was 220 pounds very built

1 African-American male.

2 THE COURT: I understand.

3 THE DEFENDANT: Look at my face.

4 THE COURT: All right, sir. You -- Judge  
5 Barber has apparently already --

6 THE DEFENDANT: Two years I --

7 THE COURT: -- heard your motion for a speedy  
8 trial. I will let him handle that, because I  
9 can't -- because this says \$25,000 surety.

10 Now, if it is already \$25,000 surety, I didn't  
11 quite understand the context of it, that is why you  
12 need to talk to Judge Barber about that.

13 All right. Thank you, sir.

14 Please give him a copy.

15 MR. ROGERS: Thank you, Judge. I will go  
16 check on that.

17 (WHEREUPON, the proceedings were concluded.)

18

19

20

21

22

23

24

25

(END OF TRANSCRIPT)





<p><b>F</b></p> <p>far [1] 5/5  February [2] 7/16 8/5  feels [3] 4/11 10/23 16/4  few [2] 3/5 16/9  Fifth [3] 12/14 19/9 19/23  figure [1] 17/15  file [3] 6/8 11/18 11/23  filed [12] 6/19 6/21 6/25 7/2 7/3 7/9 8/4  8/6 8/7 11/15 11/17 11/23  filing [1] 11/20  find [1] 17/8  finds [1] 4/5  fine [1] 12/2  five [1] 8/6  flight [1] 9/2  foregoing [1] 19/10  forgot [3] 12/24 13/1 13/2  found [1] 10/18  Friday [1] 13/22  front [3] 3/6 14/1 17/6  full [1] 15/15  further [1] 19/16</p>	<p><b>I</b></p> <p>I'll [3] 17/4 17/8 17/14  I'm [7] 3/21 7/22 9/2 12/15 12/21 15/15  17/7  idea [1] 11/1  impinging [1] 16/5  indictment [1] 8/11  information [1] 6/1  inherited [1] 5/16  innocent [1] 7/22  instead [1] 10/2  intended [2] 16/20 16/24  interest [1] 19/17  into [3] 7/23 9/23 14/10  introduced [2] 2/13 19/12  is [50]  isn't [1] 3/20  issue [2] 9/5 9/7  it [52]  itself [1] 4/5</p>	<p>motion [18] 3/6 6/16 6/19 7/4 7/10 7/11  8/3 8/6 8/11 8/15 9/25 10/8 11/15 11/12  11/18 11/23 16/7 18/7  motions [7] 6/21 6/25 7/6 7/7 12/12  13/11 14/18  Mr [2] 8/14 12/11  Mr. [2] 7/20 7/21  Mr. Rogers [2] 7/20 7/21  Ms [4] 6/8 6/20 9/13 9/15  Ms. [8] 7/1 7/4 8/15 9/13 9/21 9/24  10/20 11/15  Ms. Anna [1] 9/21  Ms. Good [7] 7/1 7/4 8/15 9/13 9/24  10/20 11/15  much [1] 4/6  myself [1] 6/25</p>
<p><b>G</b></p> <p>G-A-N-T-T [1] 3/3  G-E-R-A-L-D [1] 3/2  gainfully [1] 8/25  Gantt [3] 1/7 1/19 3/2  gap [1] 7/14  GENERAL [3] 1/1 15/3 19/14  Gerald [3] 1/7 1/19 3/2  gets [1] 14/7  getting [1] 12/3  give [3] 8/24 16/15 18/14  given [2] 3/23 5/7  giving [1] 5/12  glad [1] 4/23  Glenn [2] 6/15 17/15  gone [1] 7/13  good [12] 6/4 6/20 7/1 7/4 8/15 9/13  9/13 9/22 9/24 10/20 11/1 11/15  granted [4] 7/4 7/5 8/15 12/20  GS [1] 1/2  guilty [2] 3/25 7/15</p>	<p><b>J</b></p> <p>jail [2] 5/11 16/12  judge [49]  judge's [1] 13/17  Judicial [2] 8/13 19/9  July [5] 1/9 3/1 6/6 12/19 19/15  June [1] 14/19</p> <p><b>K</b></p> <p>kangaroo [1] 8/17  keep [1] 17/11  kin [1] 19/16  kind [1] 5/5</p> <p><b>L</b></p> <p>lady [1] 12/22  last [4] 3/8 4/16 13/21 13/22  law [2] 6/24 7/14  least [2] 5/20 8/24  left [4] 5/3 6/14 8/16 11/24  lengthy [1] 5/11  let [2] 14/25 18/8  library [1] 6/24  limit [1] 4/16  list [1] 12/8  locked [2] 6/6 7/17  long [1] 7/13  Look [1] 18/3  loose [1] 5/5  lost [1] 12/16  lot [1] 12/13</p>	<p><b>N</b></p> <p>nature [1] 3/4  necessarily [1] 10/16  need [6] 11/7 12/4 15/21 16/1 16/19  18/12  needs [3] 15/4 15/24 17/2  negotiated [3] 3/24 4/9 5/13  negotiation [1] 4/6  neither [1] 19/16  never [4] 5/3 6/9 6/11 6/21  new [3] 6/20 10/2 10/24  Newman [7] 7/4 7/5 7/12 8/15 10/8  10/18 12/1  Newman's [1] 10/12  next [2] 16/16 17/16  Nine [1] 6/14  Ninety [1] 8/10  non [2] 15/6 15/16  non-jury [2] 15/6 15/16  nor [1] 19/17  now [8] 3/12 9/23 10/17 10/23 12/1  12/24 17/9 18/10</p>
<p><b>H</b></p> <p>handle [1] 18/8  handwritten [1] 13/10  happen [1] 17/16  have [32]  having [2] 10/17 11/3  he [39]  he'll [1] 17/13  he's [1] 16/16  health [1] 5/22  hear [5] 4/24 12/17 15/7 15/10 17/19  heard [5] 7/6 10/7 10/8 16/8 18/7  hearing [1] 13/7  her [5] 7/2 11/15 11/16 11/19 11/20  hereby [1] 19/10  hereto [1] 19/17  herself [1] 11/17  hesitation [1] 16/3  high [1] 3/4  himself [1] 6/1  hired [1] 6/20  hold [3] 13/6 17/18 17/20  holding [1] 17/11  HONORABLE [1] 1/14</p>	<p><b>M</b></p> <p>male [1] 18/1  many [1] 5/17  many Solicitors [1] 5/17  March [1] 8/7  materialized [3] 6/9 6/11 6/22  matter [3] 10/7 10/8 16/9  maybe [2] 15/11 15/13  McCURDY [3] 1/24 19/8 19/23  mean [4] 5/3 12/15 13/4 17/7  mental [1] 5/22  might [2] 14/8 15/8  mistaken [1] 12/21  mockery [1] 8/17  Monday [1] 17/3  month [2] 7/16 9/24  months [3] 6/15 6/18 8/6  morning [1] 17/3</p>	<p><b>O</b></p> <p>obtain [1] 9/1  obtaining [1] 4/21  occurrence [1] 12/25  October [1] 8/3  off [1] 17/8  offer [3] 3/24 4/3 4/8  offered [1] 7/21  office [15] 5/19 6/12 6/13 6/18 9/3 9/8  9/10 9/14 9/15 9/19 9/21 9/22 11/11  11/19 12/7  Official [2] 1/25 19/8  on [32]  once [1] 5/20  only [2] 3/16 7/13  opinion [1] 3/11  opportunity [1] 4/15  order [7] 8/2 12/13 13/10 13/20 15/13  16/12 17/14  ordered [3] 5/21 7/24 10/3  orders [2] 8/13 10/12  ordinary [1] 11/21  original [2] 16/8 16/8  our [3] 3/16 5/19 9/22  outside [1] 9/11  own [4] 3/6 6/13 11/12 11/16</p> <p><b>P</b></p> <p>paperwork [1] 13/13  parole [1] 7/15  part [2] 4/10 15/21  party [1] 19/17</p>

<p><b>P</b></p> <p>passed [1] 5/16  past [1] 5/18  Pause [1] 14/20  people [1] 12/24  period [1] 5/12  Plaintiff [2] 1/5 1/18  plea [2] 3/25 7/22  Pleas [1] 15/6  point [2] 5/14 9/19  police [1] 17/24  position [1] 10/25  pounds [1] 17/25  PR [5] 3/12 4/12 8/24 12/20 14/10  practice [1] 9/23  previous [2] 5/19 9/16  previously [1] 5/21  private [1] 9/23  pro [7] 1/19 3/3 4/5 10/4 10/13 10/19 10/20  probably [2] 11/1 13/3  problem [2] 9/9 14/3  problems [3] 4/21 12/16 14/2  procedurally [1] 11/3  proceed [4] 10/4 10/13 10/19 10/20  proceedings [5] 2/5 2/14 6/2 18/17 19/12  proper [1] 10/24  prosecutor [2] 4/2 9/22  prove [1] 13/5  proved [1] 7/14  Public [8] 6/7 6/12 6/18 9/10 9/15 9/18 9/20 11/11  pull [2] 14/22 16/21</p>	<p>RPR [2] 1/24 19/23  rule [2] 6/19 12/2  ruled [2] 7/7 7/10  ruling [2] 13/17 16/8</p> <p><b>S</b></p> <p>sadly [1] 12/24  said [4] 3/15 9/16 12/18 13/18  sat [1] 6/15  say [4] 11/7 12/1 15/20 17/21  saying [1] 8/20  schedule [1] 15/16  se [7] 1/19 3/3 4/5 10/4 10/13 10/19 10/20  second [4] 4/10 9/5 13/6 16/14  secretary [1] 12/23  seeing [1] 15/12  seems [2] 5/8 12/13  sent [1] 17/14  sentence [3] 3/25 4/8 5/13  September [2] 6/9 8/4  served [6] 3/24 3/24 4/8 4/9 5/13 7/22  service [1] 12/3  SESSIONS [3] 1/1 15/3 19/14  she [6] 7/2 11/17 11/18 11/22 11/23 12/22  should [7] 3/12 4/11 4/12 8/23 8/24 14/9 14/17  since [4] 4/13 4/15 6/6 8/15  sitting [1] 16/11  situation [1] 4/4  six [1] 5/18  SOLICITOR [4] 1/18 5/19 7/8 17/1  Solicitors [1] 5/17  somebody [1] 9/10  somehow [1] 16/5  something [1] 14/25  sometime [1] 17/2  soon [1] 6/17  sorry [1] 17/7  SOUTH [6] 1/1 1/4 1/9 19/4 19/9 19/14  speak [1] 17/10  specifics [2] 3/14 7/23  speedy [9] 3/7 4/16 6/8 6/16 8/4 8/12 10/7 11/22 18/7  spiritual [1] 7/25  spoken [2] 7/20 12/12  stand [1] 5/25  State's [1] 4/16  stenographer [1] 12/21  stuff [1] 15/16  sure [7] 4/1 4/7 4/14 9/18 11/2 14/1 15/15  surety [6] 3/10 3/18 14/5 14/7 18/9 18/10</p>	<p>this [26]  thought [2] 7/1 7/12  through [4] 5/16 13/18 13/21 13/22  today [5] 4/15 13/24 14/1 16/16 17/19  told [1] 7/25  too [2] 7/13 12/24  top [1] 14/17  transcript [4] 1/6 16/21 18/25 19/11  trial [17] 3/7 4/16 5/2 5/4 5/6 5/20 5/25 6/8 6/17 7/9 8/4 8/12 10/7 11/22 13/19 18/8 19/12  tried [1] 4/18  true [2] 3/14 19/11  trust [1] 7/2  try [4] 3/8 5/1 15/1 17/1  trying [2] 14/22 16/6  twofold [1] 3/22</p>
<p><b>Q</b></p> <p>questionable [1] 4/4  quick [5] 6/8 6/16 8/3 8/12 11/22  quite [2] 8/1 18/11</p>	<p>talk [4] 15/8 16/16 17/1 18/12  talking [1] 9/2  ten [1] 7/14  Thank [2] 18/13 18/15  that [79]  their [2] 6/13 11/12  there [5] 4/19 4/21 12/23 14/1 16/22  they [7] 11/10 13/1 13/2 13/3 16/21 17/17 17/19  thing [2] 12/11 17/21  things [1] 9/1  think [13] 8/22 9/16 9/17 10/6 11/1 12/3 13/12 15/4 15/10 15/19 15/21 16/11 16/19  thinking [1] 6/16</p>	<p><b>U</b></p> <p>understand [8] 5/6 8/1 9/4 11/7 11/9 15/23 18/2 18/11  understanding [3] 3/9 10/11 10/18  until [4] 3/8 5/14 17/12 17/18  use [1] 12/16  used [1] 9/22</p>
<p><b>R</b></p> <p>rather [2] 10/19 10/20  read [1] 15/4  reason [2] 3/21 5/14  reasons [1] 5/15  recall [3] 3/14 14/10 14/11  received [2] 5/17 8/23  recently [1] 5/18  record [6] 1/6 3/16 4/2 9/18 13/9 19/11  records [3] 3/16 13/4 13/12  reduction [4] 6/10 6/17 7/11 11/22  relative [1] 19/13  relayed [1] 4/3  relieve [1] 3/6  relieved [9] 7/2 7/5 8/16 9/21 10/1 10/9 11/13 11/16 11/24  rely [1] 3/15  remember [2] 13/3 13/17  remembers [1] 15/12  report [1] 17/24  reporter [9] 1/25 14/16 14/22 14/23 14/24 16/22 19/1 19/8 19/23  represent [2] 6/1 9/19  represented [1] 9/24  request [1] 17/11  required [1] 14/12  respect [1] 4/13  RICHLAND [4] 1/2 16/17 19/5 19/14  rights [3] 4/13 7/19 16/5  risk [1] 9/2  ROGERS [6] 1/18 7/8 7/20 7/21 8/14 12/11</p>	<p><b>V</b></p> <p>verify [1] 17/12  very [3] 4/7 5/17 17/25  violation [3] 13/20 13/24 16/12</p>	<p><b>W</b></p> <p>waffles [1] 5/9  Walker [3] 6/8 9/16 9/20  wanted [7] 4/1 4/7 4/14 10/19 11/2 16/6 16/10  wanting [3] 5/9 5/10 5/10  was [40]  wasn't [4] 4/18 7/1 12/2 12/18  way [1] 7/13  we [7] 4/6 4/20 11/3 13/10 13/18 13/23 13/25  we'll [3] 9/8 12/8 16/13  we're [1] 13/20  week [15] 3/8 4/17 12/19 12/19 13/19 13/21 14/15 14/21 15/1 15/6 15/7 15/18 16/17 16/22 17/2  weeks [4] 3/5 5/18 16/2 16/10  what [10] 3/14 3/15 3/19 14/4 14/10 14/16 15/4 16/20 16/24 17/16  whatever [1] 12/1  WHEREUPON [3] 2/4 2/13 18/17  whether [2] 15/20 17/13  while [1] 13/16  why [4] 4/18 5/12 13/25 18/11  will [11] 4/23 5/1 9/10 11/6 12/7 15/7 16/25 17/19 17/20 18/8 18/15  willing [1] 15/10  within [2] 5/18 7/6  without [2] 6/14 11/24  witnesses [2] 2/4 4/22  won't [1] 9/9  word [1] 17/16  working [1] 14/14  wouldn't [2] 11/18 11/23  wrote [1] 11/18</p>
<p><b>Y</b></p> <p>year [3] 7/14 7/16 8/12  years [2] 7/18 18/6  yield [2] 7/18 8/18  yielded [1] 8/9</p>		

Y

you [32]  
you'll [1] 16/13  
young [1] 12/22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND ) COURT OF GENERAL SESSIONS  
2009-GS-40-06311

State of South Carolina, )  
Plaintiff, )  
vs. ) TRANSCRIPT OF RECORD  
Gerald Gantt, )  
Defendant. )

July 19, 2011  
Columbia, South Carolina

B E F O R E :

THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.

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

ANDREW R. ROGERS, ASSISTANT SOLICITOR  
Attorney for the Plaintiff

COURTNEY A. GIBBES, ASSISTANT PUBLIC DEFENDER  
Standby Attorney for the Defendant

DEBORAH M. McCURDY, RPR  
Official Court Reporter

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X   O F   W I T N E S S E S

(WHEREUPON, no witnesses were called during these proceedings.)

E X H I B I T S

(WHEREUPON, no exhibits were introduced during these proceedings.)

JULY 19, 2011

1 MR. ROGERS: Andrew Rogers, for the State.

2 Before you is Mr. Gerald Gantt. As the Court  
3 will remember, Mr. Gantt was before you yesterday  
4 afternoon. We attempted to do a guilty plea. Your  
5 Honor was not satisfied with his admission of  
6 guilt. And we talked about whether or not Your  
7 Honor wanted to appoint counsel to speak with him  
8 about this matter before proceeding further.  
9

10 Your Honor, next to Mr. Gantt is Ms. Courtney  
11 Gibbes, of the Public Defender's Office. She is  
12 the duty attorney for the office today. She has  
13 spoken at length with the Defendant, even though  
14 Your Honor has not formally appointed her office to  
15 represent the Defendant.

16 And I guess the first matter is whether or not  
17 you want to assign counsel, either permanent  
18 counsel or shadow counsel, for these proceedings.

19 THE COURT: What does Mr. -- at one point I  
20 think Mr. Gantt said he didn't want an attorney.  
21 Or I don't know if he said he didn't want an  
22 attorney, but I know he moved for the Court to have  
23 the Public Defender, the previous Public Defender,  
24 I should say, relieved.

25 MS. GIBBES: I believe he actually was

1 conflicted out of our office and then he was  
2 appointed an attorney, which she was relieved in  
3 front of the Court.

4 I am not sure -- I will do whatever Mr. Gantt  
5 wishes, if he wishes to have me appointed as  
6 counsel or as shadow counsel. I have been speaking  
7 to him at length and explaining, you know, what an  
8 Alford plea is, the difference between an Alford  
9 plea and a guilty plea, and just his options if he  
10 does not wish to go forward with a plea today, Your  
11 Honor.

12 I will do whatever is comfortable. The last  
13 thing we spoke about is that he would like to go  
14 forward with a guilty plea under Alford. I told  
15 him be I would be willing to help him, you know,  
16 get through that process. I explained it to him.  
17 He understands what that means.

18 But I will do whatever he is comfortable with.  
19 I will be happy to be appointed as your attorney or  
20 I can help you get through this process, whatever  
21 is easier.

22 THE COURT: Let me hear from you, Mr. Gantt.  
23 What would you like?

24 THE DEFENDANT: Like the attorney said, she  
25 explained the Alford plea to me, and I accepted the

1 Alford plea, and --

2 THE COURT: You want her to represent you for  
3 purposes of this plea or are you going to represent  
4 yourself and she will be just an attorney to shadow  
5 you?

6 THE DEFENDANT: Well, I believe the shadow  
7 attorney will be sufficient.

8 THE COURT: Okay. Well, that is what I will  
9 appoint you do, to shadow. And I believe she has  
10 already kind of talked to you about North Carolina  
11 vs. Alford?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: All right. So you will be  
14 appointed I guess for purposes of shadowing.

15 MS. GIBBES: Yes, Your Honor.

16 THE COURT: All right. And while -- I'll let  
17 you go ahead and call the case.

18 MR. ROGERS: Okay. The State would call  
19 Mr. Gerald Gantt.

20 It is my understanding Mr. Gantt wishes to  
21 proceed with a guilty plea under North Carolina vs.  
22 Alford.

23 And I do have -- even though we went over the  
24 facts and everything yesterday, Your Honor, I can  
25 go over that again for the record for the Court's

1 convenience at the appropriate time.

2 THE COURT: Yes. And is that your  
3 understanding, Mr. Gantt, that you are pleading to  
4 assault and battery of a high and aggravated nature  
5 under North Carolina vs. Alford, is that correct?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. And, Ms. Gibbes, did  
8 you explain to Mr. Gantt the charges contained in  
9 the indictment, the possible punishment, and his  
10 constitutional rights?

11 MS. GIBBES: Yes, Your Honor. We went  
12 through -- he did sign some paperwork yesterday  
13 while he was pro se, and we did go through that  
14 paperwork again, and he understood that.

15 THE COURT: All right. And, Mr. Gantt, you  
16 wish to plead guilty under North Carolina vs.  
17 Alford, is that correct?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right. And, sir, how old are  
20 you?

21 THE DEFENDANT: Fifty-one.

22 THE COURT: And you have one year of college,  
23 is that correct?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And you were unemployed prior to

1 go to jail, right?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: How long you been in jail, sir?

4 THE DEFENDANT: Two years.

5 THE COURT: And do you remember the date?

6 THE DEFENDANT: I was arrested July the 20th  
7 of 2009.

8 THE COURT: Okay. And are you married, sir?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: And do you have any children?

11 THE DEFENDANT: I have grown kids.

12 THE COURT: All right. Can you talk into the  
13 microphone, because I can hardly hear you.

14 And you are not on probation or parole, are  
15 you, sir?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: And have you ever been treated for  
18 the abuse of alcohol or drugs?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Mental illness?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Within the last 24 hours have you  
23 taken any medication, drugs, or alcohol?

24 THE DEFENDANT: High blood and heart pill in  
25 the morning.

1 THE COURT: And does any of that medication  
2 affect your ability to know and understand what you  
3 are doing here today, sir?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Are you aware of any physical,  
6 emotional, or nervous problem that might keep you  
7 from understanding what you are doing today?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: All right. And, sir, you are  
10 pleading guilty under North Carolina vs. Alford to  
11 assault and battery of a high and aggravated  
12 nature.

13 Do you believe that the State could produce  
14 sufficient evidence to prove your guilt of the  
15 charges beyond a reasonable doubt, and that if you  
16 went to trial a jury would most probably find you  
17 guilty?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right. Do you understand the  
20 maximum sentence here is ten years, sir?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And do you fully understand the  
23 nature of the charges against you and the range of  
24 possible punishment?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And, sir, you understand when you  
2 plead guilty that you are waiving certain  
3 constitutional rights?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: You understand that?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: You understand you have the right  
8 to a jury trial. At a jury trial the State would  
9 have to prove your guilt beyond a reasonable doubt,  
10 but by pleading guilty, sir, you waive your right  
11 to a jury trial. Do you understand that, sir?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: You understand that you would have  
14 the opportunity, sir, to cross-examine any  
15 witnesses that they may bring and that you,  
16 yourself, would not have to present any evidence  
17 unless you chose to do so. In fact, sir, you would  
18 not have to testify. You would have the right to  
19 remain silent. And unless you chose to testify,  
20 you would not have to -- the burden would be solely  
21 upon the State to prove your guilt beyond a  
22 reasonable doubt. Do you understand that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And, sir, you are pleading guilty  
25 under North Carolina vs. Alford and waiving your

1 right to a jury trial, is that correct?

2 THE DEFENDANT: That's correct.

3 THE COURT: And the plea negotiations are?

4 MR. ROGERS: Time served.

5 THE COURT: All right. Sir, is that your  
6 understanding of the negotiations?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: That the Solicitor is recommending  
9 time served?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Are you satisfied -- and you have  
12 spoken with Ms. Gibbes. Do you need any more time  
13 to talk with her?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: And has she gone over -- she went  
16 over your constitutional rights and North Carolina  
17 vs. Alford plea with you prior to this hearing?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Are you satisfied with her, I  
20 guess shadow representation?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And has anyone promised you  
23 anything or held out any hope of reward to get you  
24 to plead guilty today, other than the negotiations?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: And are you pleading guilty of  
2 your own free will?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Is anyone forcing you to plead  
5 guilty?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: And, sir, have you understood my  
8 questions today?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Is there anything you would like  
11 to ask me, sir, about what we have just been over?

12 THE DEFENDANT: No, ma'am.

13 THE COURT: And have you answered my questions  
14 truthfully?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Has anyone suggested to you how  
17 you should answer the questions?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: All right. I'm going to ask you  
20 to listen to the Solicitor as he states the facts,  
21 sir.

22 MR. ROGERS: This incident did occur on  
23 July 20th, 2009, while here in Richland County.  
24 Columbia Police Department responded to [REDACTED]  
25 [REDACTED] in reference to a stabbing on that day.

1           The Defendant and the victim, Mr. Esau  
2 Collins, were drinking. They got into a verbal  
3 altercation. The altercation turned physical. And  
4 the Defendant stabbed the victim in the abdomen  
5 twice. The victim fled the scene and called 9-1-1.  
6 The Defendant was arrested a short time later near  
7 the incident location. He was found to have two  
8 knives.

9           The victim was treated at Richland Memorial  
10 Hospital for non-life-threatening injuries. One of  
11 the puncture wounds just was a superficial  
12 laceration to the skin, did not cut deeper than the  
13 skin.

14           The other wound, Your Honor, did not cut  
15 through -- all the way through the layer of fat on  
16 the victim, so it did not hit any internal organs  
17 or penetrate into the abdominal cavities.

18           The victim was treated and left the scene --  
19 or left the hospital I think that day.

20           The Victims' Rights Act has been complied with  
21 in this case.

22           The Defendant has been incarcerated for, by my  
23 count, 728 days. And the State is negotiating a  
24 time served sentence in this case.

25           THE COURT: All right. Sir, Mr. Gantt, is

1           that your understanding of -- and I know you are  
2           pleading guilty under North Carolina vs. Alford.  
3           Is that -- based on the facts stated by the  
4           Solicitor, do you believe that the State could  
5           produce sufficient evidence to prove your guilt on  
6           the charges beyond a reasonable doubt and that if  
7           you went to trial the jury would most probably find  
8           you guilty, sir?

9           THE DEFENDANT: Yes, ma'am.

10          THE COURT: And, sir, you are asking me to  
11          accept the plea of guilty under North Carolina vs.  
12          Alford, is that correct?

13          THE DEFENDANT: Yes, ma'am.

14          THE COURT: All right. I find that there is a  
15          substantial factual basis for the plea. I also  
16          find that the Defendant's decision to plead guilty  
17          is freely, voluntarily, knowingly, and  
18          intelligently made. That the Defendant has  
19          proceeded without an attorney. That he has freely,  
20          voluntarily, knowingly, and intelligently waived  
21          the right to counsel. I have appointed standby  
22          counsel or shadow counsel to explain to him, to go  
23          over his constitutional rights, North Carolina vs.  
24          Alford, and the consequences of this plea. And she  
25          has done that. He has indicated that he is

1 satisfied with her shadow representation of him. I  
2 will accept your plea.

3 I will be glad to hear from the Solicitor with  
4 regard to any prior record, or I will be glad to  
5 hear from Mr. Gantt.

6 MR. ROGERS: Your Honor, the Defendant's  
7 record dates back to 1979 -- I'll give you a  
8 highlight I think for the Court's convenience --  
9 starting out with simple assault and battery. More  
10 recently, high and aggravated nature, 1991. Couple  
11 of check fraud convictions. A check fraud  
12 conviction in 2000. A burglary third degree in  
13 2002. And a resisting arrest in '05.

14 THE COURT: All right. Anything you want to  
15 say, Mr. Gantt?

16 THE DEFENDANT: No, ma'am. Thank you.

17 THE COURT: How many days did you say, again,  
18 he had served?

19 MR. ROGERS: 728, by my count.

20 THE COURT: Any restitution?

21 MR. ROGERS: No, ma'am.

22 THE COURT: All right, sir, the sentence will  
23 be that you will be sentenced to the State  
24 Department of Corrections for a determinate  
25 sentence of five years. That sentence will be

1       suspended upon the service of 728 days. The  
2       Defendant is to be given credit for time served for  
3       728 days.

4             Good luck to you, sir.

5             And I believe that is -- anything else from  
6       either side?

7             MR. ROGERS: Your Honor, I think that  
8       concludes the matter.

9             THE COURT: All right. Thank you, Mr. Gantt.

10            MR. ROGERS: Thank you, Your Honor.

11            THE COURT: Thank you, Ms. Gibbes.

12            MS. GIBBES: You're welcome.

13            (WHEREUPON, the proceedings were concluded.)

14

15

16

17

18

19

20

21

22

23

24

25

(END OF TRANSCRIPT)



	attempted [1] 3/5 attorney [11] 1/18 1/20 3/12 3/20 3/22 4/2 4/19 4/24 5/4 5/7 13/19	Defendant's [2] 13/16 14/6 DEFENDER [3] 1/19 3/23 3/23 Defender's [1] 3/11 degree [1] 14/12
'05 [1] 14/13	aware [1] 8/5	Department [2] 11/24 14/24 determinate [1] 14/24
0	<b>B</b>	did [8] 6/7 6/12 6/13 11/22 12/12 12/14 12/16 14/17
06311 [1] 1/2	based [1] 13/3 basis [1] 13/15 battery [3] 6/4 8/11 14/9 BENJAMIN [1] 1/14 between [1] 4/8 beyond [4] 8/15 9/9 9/21 13/6	difference [1] 4/8 does [3] 3/19 4/10 8/1 doing [2] 8/3 8/7 done [1] 13/25 doubt [4] 8/15 9/9 9/22 13/6 drinking [1] 12/2 drugs [2] 7/18 7/23 during [2] 2/5 2/14 duty [1] 3/12
1	blood [1] 7/24 bring [1] 9/15 burden [1] 9/20 burglary [1] 14/12	
19 [2] 1/9 3/1 1979 [1] 14/7 1991 [1] 14/10 19th [1] 16/15	<b>C</b>	<b>E</b>
2	called [2] 2/4 12/5 can [4] 4/20 5/24 7/12 7/13 captioned [1] 16/13 CAROLINA [16] 1/1 1/4 1/9 5/10 5/21 6/5 6/16 8/10 9/25 10/16 13/2 13/11 13/23 16/4 16/10 16/14 cavities [1] 12/17 certain [1] 9/2 CERTIFICATE [1] 16/1 certify [2] 16/10 16/16 charges [4] 6/8 8/15 8/23 13/6 check [2] 14/11 14/11 children [1] 7/10 chose [2] 9/17 9/19 Circuit [2] 16/9 16/23 college [1] 6/22 Collins [1] 12/2 Columbia [2] 1/9 11/24 comfortable [2] 4/12 4/18 complete [1] 16/11 complied [1] 12/20 concluded [1] 15/13 concludes [1] 15/8 conflicted [1] 4/1 consequences [1] 13/24 constitutional [4] 6/10 9/3 10/16 13/23 contained [1] 6/8 convenience [2] 6/1 14/8 conviction [1] 14/12 convictions [1] 14/11 correct [6] 6/5 6/17 6/23 10/1 10/2 13/12 Corrections [1] 14/24 counsel [10] 3/8 3/17 3/18 3/18 4/6 4/6 13/21 13/22 13/22 16/17 count [2] 12/23 14/19 COUNTY [4] 1/2 11/23 16/5 16/14 Couple [1] 14/10 Court's [2] 5/25 14/8 COURTNEY [2] 1/19 3/10 credit [1] 15/2 cross [1] 9/14 cross-examine [1] 9/14 cut [2] 12/12 12/14	easier [1] 4/21 either [2] 3/17 15/6 else [1] 15/5 emotional [1] 8/6 END [1] 15/25 Esau [1] 12/1 even [2] 3/13 5/23 ever [1] 7/17 everything [1] 5/24 examine [1] 9/14 exhibits [1] 2/13 explain [2] 6/8 13/22 explained [2] 4/16 4/25 explaining [1] 4/7
2000 [1] 14/12 2002 [1] 14/13 2009 [2] 7/7 11/23 2009-GS-40-06311 [1] 1/2 2011 [3] 1/9 3/1 16/15 2013 [1] 16/19 20th [2] 7/6 11/23 24 [1] 7/22	<b>D</b>	<b>F</b>
3	date [1] 7/5 dates [1] 14/7 days [4] 12/23 14/17 15/1 15/3 DEANDREA [1] 1/14 DEBORAH [3] 1/24 16/8 16/23 decision [1] 13/16 deeper [1] 12/12 Defendant [10] 1/8 1/20 3/13 3/15 12/1 12/4 12/6 12/22 13/18 15/2	fact [1] 9/17 facts [3] 5/24 11/20 13/3 factual [1] 13/15 fat [1] 12/15 Fifth [2] 16/9 16/23 Fifty [1] 6/21 Fifty-one [1] 6/21 find [4] 8/16 13/7 13/14 13/16 five [1] 14/25 fled [1] 12/5 forcing [1] 11/4 foregoing [1] 16/10 formally [1] 3/14 forward [2] 4/10 4/14 found [1] 12/7 fraud [2] 14/11 14/11 free [1] 11/2 freely [2] 13/17 13/19 front [1] 4/3 fully [1] 8/22 further [2] 3/9 16/16
3508 [1] 11/24		<b>G</b>
7		Gantt [16] 1/7 3/3 3/4 3/10 3/20 4/4 4/22 5/19 5/20 6/3 6/8 6/15 12/25 14/5 14/15 15/9 GENERAL [2] 1/1 16/14 Gerald [3] 1/7 3/3 5/19 GIBBES [5] 1/19 3/11 6/7 10/12 15/11 give [1] 14/7 given [1] 15/2 glad [2] 14/3 14/4 gone [1] 10/15 Good [1] 15/4 grown [1] 7/11 GS [1] 1/2 guess [3] 3/16 5/14 10/20
728 [4] 12/23 14/19 15/1 15/3		
9		
9-1-1 [1] 12/5		
<b>A</b>		
abdomen [1] 12/4 abdominal [1] 12/17 ability [1] 8/2 abuse [1] 7/18 accept [2] 13/11 14/2 accepted [1] 4/25 accurate [1] 16/11 Act [1] 12/20 actually [1] 3/25 admission [1] 3/6 affect [1] 8/2 afternoon [1] 3/5 again [3] 5/25 6/14 14/17 against [1] 8/23 aggravated [3] 6/4 8/11 14/10 ahead [1] 5/17 alcohol [2] 7/18 7/23 Alford [15] 4/8 4/8 4/14 4/25 5/1 5/11 5/22 6/5 6/17 8/10 9/25 10/17 13/2 13/12 13/24 already [1] 5/10 altercation [2] 12/3 12/3 am [2] 4/4 16/16 ANDREW [2] 1/18 3/2 answer [1] 11/17 answered [1] 11/13 anyone [3] 10/22 11/4 11/16 appeal [1] 16/13 appoint [2] 3/8 5/9 appointed [6] 3/14 4/2 4/5 4/19 5/14 13/21 appropriate [1] 6/1 arrest [1] 14/13 arrested [2] 7/6 12/6 ask [2] 11/11 11/19 asking [1] 13/10 assault [3] 6/4 8/11 14/9 assign [1] 3/17 ASSISTANT [2] 1/18 1/19 at [6] 3/13 3/19 4/7 6/1 9/8 12/9		

<b>G</b>	<b>M</b>	previous [1] 3/23 prior [3] 6/25 10/17 14/4 pro [1] 6/13 probably [2] 8/16 13/7 probation [1] 7/14 problem [1] 8/6 proceed [1] 5/21 proceeded [1] 13/19 proceeding [1] 3/9 proceedings [5] 2/5 2/14 3/18 15/13 16/12 process [2] 4/16 4/20 produce [2] 8/13 13/5 promised [1] 10/22 prove [4] 8/14 9/9 9/21 13/5 PUBLIC [4] 1/19 3/11 3/23 3/23 puncture [1] 12/11 punishment [2] 6/9 8/24 purposes [2] 5/3 5/14
guilt [5] 3/7 8/14 9/9 9/21 13/5 guilty [17]	many [1] 14/17 married [1] 7/8 matter [3] 3/9 3/16 15/8 maximum [1] 8/20 McCURDY [3] 1/24 16/8 16/23 means [1] 4/17 medication [2] 7/23 8/1 Memorial [1] 12/9 Mental [1] 7/20 microphone [1] 7/13 might [1] 8/6 morning [1] 7/25 most [2] 8/16 13/7 moved [1] 3/22 Mr [2] 3/19 6/15 Mr. [15] 3/3 3/4 3/10 3/20 4/4 4/22 5/19 5/20 6/3 6/8 12/1 12/25 14/5 14/15 15/9 Mr. Esau [1] 12/1 Mr. Gantt [12] 3/4 3/10 3/20 4/4 4/22 5/20 6/3 6/8 12/25 14/5 14/15 15/9 Mr. Gerald [2] 3/3 5/19 Ms [4] 3/10 6/7 10/12 15/11	<b>Q</b>
<b>H</b>		questions [3] 11/8 11/13 11/17
happy [1] 4/19 hardly [1] 7/13 have [22] he [20] hear [4] 4/22 7/13 14/3 14/5 hearing [1] 10/17 heart [1] 7/24 held [1] 10/23 help [2] 4/15 4/20 her [5] 3/14 5/2 10/13 10/19 14/1 herby [1] 16/10 hereto [1] 16/17 high [4] 6/4 7/24 8/11 14/10 highlight [1] 14/8 hit [1] 12/16 HONORABLE [1] 1/14 hope [1] 10/23 hospital [2] 12/10 12/19 hours [1] 7/22	<b>N</b>	<b>R</b>
<b>I</b>	nature [4] 6/4 8/12 8/23 14/10 near [1] 12/6 need [1] 10/12 negotiating [1] 12/23 negotiations [3] 10/3 10/6 10/24 neither [1] 16/16 nervous [1] 8/6 next [1] 3/10 non [1] 12/10 non-life-threatening [1] 12/10 nor [1] 16/17 North [10] 5/10 5/21 6/5 6/16 8/10 9/25 10/16 13/2 13/11 13/23	range [1] 8/23 reasonable [4] 8/15 9/9 9/22 13/6 recently [1] 14/10 recommending [1] 10/8 record [5] 1/6 5/25 14/4 14/7 16/11 reference [1] 11/25 regard [1] 14/4 relative [1] 16/13 relieved [2] 3/24 4/2 remain [1] 9/19 remember [2] 3/4 7/5 Reporter [4] 1/25 16/1 16/8 16/23 represent [3] 3/15 5/2 5/3 representation [2] 10/20 14/1 resisting [1] 14/13 responded [1] 11/24 restitution [1] 14/20 reward [1] 10/23 RICHLAND [5] 1/2 11/23 12/9 16/5 16/14 rights [5] 6/10 9/3 10/16 12/20 13/23 ROGERS [2] 1/18 3/2 RPR [2] 1/24 16/23
ill [2] 5/16 14/7 I'm [1] 11/19 illness [1] 7/20 incarcerated [1] 12/22 incident [2] 11/22 12/7 indicated [1] 13/25 indictment [1] 6/9 injuries [1] 12/10 intelligently [2] 13/18 13/20 interest [1] 16/17 internal [1] 12/16 into [3] 7/12 12/2 12/17 introduced [2] 2/13 16/12 is [31] it [3] 4/16 5/20 12/16	<b>O</b>	<b>S</b>
<b>J</b>	occur [1] 11/22 office [4] 3/11 3/12 3/14 4/1 Official [2] 1/25 16/8 old [1] 6/19 on [7] 7/14 11/22 11/25 12/15 13/3 13/5 16/14 opportunity [1] 9/14 options [1] 4/9 organs [1] 12/16 our [1] 4/1 own [1] 11/2	said [3] 3/20 3/21 4/24 satisfied [4] 3/6 10/11 10/19 14/1 say [3] 3/24 14/15 14/17 scene [2] 12/5 12/18 se [1] 6/13 sentence [5] 8/20 12/24 14/22 14/25 14/25 sentenced [1] 14/23 served [5] 10/4 10/9 12/24 14/18 15/2 service [1] 15/1 SESSIONS [2] 1/1 16/14 shadow [8] 3/18 4/6 5/4 5/6 5/9 10/20 13/22 14/1 shadowing [1] 5/14 she [9] 3/11 3/12 4/2 4/24 5/4 5/9 10/15 10/15 13/24 short [1] 12/6 should [2] 3/24 11/17 side [1] 15/6 sign [1] 6/12 silent [1] 9/19 simple [1] 14/9 skin [2] 12/12 12/13
jail [2] 7/1 7/3 JUDGE [1] 1/14 Judicial [1] 16/9 July [5] 1/9 3/1 7/6 11/23 16/15 July 20th [1] 11/23 June [1] 16/19	<b>P</b>	
<b>K</b>	paperwork [2] 6/12 6/14 parole [1] 7/14 party [1] 16/17 penetrate [1] 12/17 permanent [1] 3/17 physical [2] 8/5 12/3 pill [1] 7/24 Plaintiff [2] 1/5 1/18 plea [16] 3/5 4/8 4/9 4/9 4/10 4/14 4/25 5/1 5/3 5/21 10/3 10/17 13/11 13/15 13/24 14/2 plead [5] 6/16 9/2 10/24 11/4 13/16 pleading [6] 6/3 8/10 9/10 9/24 11/1 13/2 point [1] 3/19 Police [1] 11/24 possible [2] 6/9 8/24 present [1] 9/16	
keep [1] 8/6 kids [1] 7/11 kin [1] 16/16 kind [1] 5/10 knives [1] 12/8 knowingly [2] 13/17 13/20		
<b>L</b>		
laceration [1] 12/12 last [2] 4/12 7/22 later [1] 12/6 layer [1] 12/15 left [2] 12/18 12/19 length [2] 3/13 4/7 let [2] 4/22 5/16 life [1] 12/10 listen [1] 11/20 location [1] 12/7 long [1] 7/3 luck [1] 15/4		

S	W
<p>solely [1] 9/20  SOLICITOR [5] 1/18 10/8 11/20 13/4  14/3  SOUTH [6] 1/1 1/4 1/9 16/4 16/9 16/14  speak [1] 3/8  speaking [1] 4/6  spoke [1] 4/13  spoken [2] 3/13 10/12  stabbed [1] 12/4  stabbing [1] 11/25  standby [2] 1/20 13/21  starting [1] 14/9  stated [1] 13/3  states [1] 11/20  Street [1] 11/25  substantial [1] 13/15  sufficient [3] 5/7 8/14 13/5  suggested [1] 11/16  superficial [1] 12/11  sure [1] 4/4  suspended [1] 15/1</p>	<p>waive [1] 9/10  waived [1] 13/20  waiving [2] 9/2 9/25  wanted [1] 3/8  was [12] 3/4 3/6 3/25 4/1 4/2 6/13 7/6  12/6 12/7 12/9 12/11 12/18  way [1] 12/15  we [7] 3/5 3/7 4/13 5/23 6/11 6/13 11/11  welcome [1] 15/12  what [8] 3/19 4/7 4/17 4/23 5/8 8/2 8/7  11/11  whatever [4] 4/4 4/12 4/18 4/20  WHEREUPON [3] 2/4 2/13 15/13  whether [2] 3/7 3/16  while [3] 5/16 6/13 11/23  White [1] 11/24  will [16] 3/4 4/4 4/12 4/18 4/19 5/4 5/7  5/8 5/13 11/2 14/2 14/3 14/4 14/22  14/23 14/25  willing [1] 4/15  wish [2] 4/10 6/16  wishes [3] 4/5 4/5 5/20  Within [1] 7/22  without [1] 13/19  witnesses [2] 2/4 9/15  wound [1] 12/14  wounds [1] 12/11</p>
T	Y
<p>taken [1] 7/23  talk [2] 7/12 10/13  talked [2] 3/7 5/10  ten [1] 8/20  testify [2] 9/18 9/19  Thank [4] 14/16 15/9 15/10 15/11  that [45]  That's [1] 10/2  there [2] 11/10 13/14  they [2] 9/15 12/2  thing [1] 4/13  think [4] 3/20 12/19 14/8 15/7  third [1] 14/12  this [8] 3/9 4/20 5/3 10/17 11/22 12/21  12/24 13/24  though [2] 3/13 5/23  threatening [1] 12/10  through [6] 4/16 4/20 6/12 6/13 12/15  12/15  to 1979 [1] 14/7  today [6] 3/12 4/10 8/3 8/7 10/24 11/8  told [1] 4/14  TRANSCRIPT [3] 1/6 15/25 16/11  treated [3] 7/17 12/9 12/18  trial [7] 8/16 9/8 9/8 9/11 10/1 13/7  16/12  true [1] 16/11  truthfully [1] 11/14  turned [1] 12/3  twice [1] 12/5</p>	<p>year [1] 6/22  years [3] 7/4 8/20 14/25  yesterday [3] 3/4 5/24 6/12  you [90]  You're [1] 15/12  yourself [2] 5/4 9/16</p>
U	
<p>under [8] 4/14 5/21 6/5 6/16 8/10 9/25  13/2 13/11  understand [9] 8/2 8/19 8/22 9/1 9/5 9/7  9/11 9/13 9/22  understanding [5] 5/20 6/3 8/7 10/6 13/1  understands [1] 4/17  understood [2] 6/14 11/7  unemployed [1] 6/25  unless [2] 9/17 9/19  upon [2] 9/21 15/1</p>	
V	
<p>verbal [1] 12/2  Victims' [1] 12/20  voluntarily [2] 13/17 13/20</p>	

# The South Carolina Court of Appeals

The State,

Respondent,

v.

Gerald Gantt,

Appellant.

The Honorable James R. Barber  
 Richland County  
 Case No. 2009-GS-20-00969

---

## ORDER

---

Appellant is attempting to appeal from a guilty plea. Pursuant to Rule 203(d)(1)(B)(iv), SCACR, Appellant is required to identify the issues and make a showing of how the issues can be reviewed on appeal. In this case, Appellant filed a pro se explanation of his grounds for appeal; however, Appellant has failed to show that any issues were raised to the circuit court during his guilty plea. Furthermore, although Appellant references orders regarding pre-trial motions in his Notice of Appeal and his guilty plea explanation, our record does not demonstrate Appellant made any objections as to the pre-trial motions during the plea hearing. See also State v. Tucker, 376 S.C. 412, 417-418, 656 S.E.2d 403, 406 (2008) (providing that guilty pleas generally act as a waiver of all non-jurisdictional defects and defenses and holding that by proceeding with his guilty plea, the appellant waived any right he had to appeal the trial court's ruling on a pre-trial motion). Accordingly, this appeal is dismissed.

IT IS SO ORDERED.



Columbia, South Carolina

**FILED**

10/21/10

cc: Chief Appellate Defender Robert M. Dudek  
Gerald Gantt  
Assistant Deputy Attorney General Salley W. Elliott

# The South Carolina Court of Appeals

The State;

Respondent,

v.

Gerald Gantt,

Appellant.

The Honorable James R. Barber  
 Richland County  
 Trial Court Case No. 2009-GS-20-00969

---

ORDER

---

Appellant's appeal from a guilty plea was dismissed pursuant to Rule 203(d)(1)(B)(iv), SCACR, for failure to show there is an issue that can be reviewed on appeal. Appellant has now filed a petition for rehearing. After consideration of Appellant's petition, this Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing or reinstating the appeal.

IT IS SO ORDERED.

*John Cannon, Jr.*  
*Paul W. Elliott*  
*A. L.*

---

Columbia, South Carolina

cc: Chief Appellate Defender Robert M. Dudek  
 Gerald Gantt  
 Assistant Deputy Attorney General Salley W. Elliott

**FILED**

1-4-2012

The South Carolina Court of Appeals

RECEIVED

The State,

Respondent,

FEB 13 2012

v.

Gerald Gantt,

Appellant.

ATTORNEY GENERALS OFFICE

The Honorable James R. Barber  
Richland County  
Trial Court Case No. 2009-GS-20-00969

REMITTITUR

No Petition for Certiorari having been filed in the above matter since issuance of this Court's Order dated January 4, 2011,

IT IS SO ORDERED that the above appeal be and hereby is remitted.

JOHN CANNON FEW, CHIEF JUDGE

BY

*Janya L. G...*  
Clerk

Columbia, South Carolina

2/10/2012

FILED  
*JR 2/10/12*

Original to: The Honorable Jeanette W. McBride

cc: Chief Appellate Defender Robert M. Dudek  
Gerald Gantt  
Senior Assistant Deputy Attorney General Salley W. Elliott

The South Carolina Court of Appeals

RECEIVED

Cl

The State,

Respondent,

MAR - 2 2012

v.

ATTORNEY GENERAL  
OFFICE

Gerald Gantt,

Appellant.

The Honorable James R. Barber  
Richland County  
Trial Court Case No. 2009-GS-40-06311

AMENDED REMITTITUR

This amended remittitur is issued due to a clerical error in the trial court case number. No Petition for Certiorari having been filed in the above matter since issuance of this Court's Order dated January 4, 2012,

IT IS SO ORDERED that the above appeal be and hereby is remitted.

JOHN CANNON FEW, CHIEF JUDGE

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

Original to: The Honorable Jeanette W. McBride

cc: Chief Appellate Defender Robert M. Dudek  
Gerald Gantt  
~~Senior Assistant Deputy Attorney General Salley W. Elliott~~

**FILED**  
3.1.12 DW

2012 CP4001937

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

County of Richland )

Gerald L. Gantt # 58302 )

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

v. )

State of South Carolina )

APPLICATION FOR

POST-CONVICTION RELIEF

2012 MAR 12 PM 2:57  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

RICHLAND COUNTY  
FILED

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention ALVIN S. GLENN Detention 201 John Mark Dial Dr. Colas S 29209
2. Name and location of Court which imposed sentence Richland County 5th Circuit 1701 Main St. Colas S.C. 29201
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) CASE # D9020969 INDICTMENT # 2009 G-5-406311 A
  - (b) \_\_\_\_\_

- (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Jul. 19, 2011 - ALford Plea - Sent. 5 Yrs Suspended 2 Yrs Time Ser
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ON Jul. 19, 2011 Guilty Plea - ALford Plea Accepted
- (b) after a plea of not guilty Jul. 18, 2011 Plea was NOT Accepted
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
YES, I appealed because Plea was pushed on me - no choice - was not 6  
the case would not go to Trial
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Appeals Court 1015 Sumter St. Columbia, S.C. Jul. 28, 2011
- ii. South Carolina Appeals Court 1015 Sumter St. Columbia, S.C. Sept. 12, 2011
- iii. South Carolina Appeals Court 1015 Sumter St. Columbia, S.C. Nov. 14, 2011
- (b) the result in each such Court to which you appealed:
- i. see - separate sheet for response
- ii. see - separate sheet for response
- iii. see - separate sheet for response
- (c) the date of each such result:
- i. on Aug. 29, 2011 - stating remove arguments
- ii. on Oct. 27, 2011 - with a dismissal from Sept. 12, 2011 Direct App.
- iii. on Jan. 4, 2012 - a dismissal of a appeal to Reinstate
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. see - separate sheet for response
- ii. see - separate sheet for response
- iii. see - separate sheet for response
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) \_\_\_\_\_
- (b) \_\_\_\_\_

THE RESULT IN EACH SUCH COURT TO WHICH YOU APPEALED:

8. b. (i.) South Carolina Court of Appeals 1015 Sumter St. Colm, S.C. Responded back to me on AUG. 29, 2011 with a Rule 267(a) and be advise that Pursuant to Rule 207 stating that I should Remove the argument From Appeal within 14 days time limit to respond
8. (ii.) South Carolina Court of Appeals 1015 Sumter St. Colm, S.C. 29201 Dismissed the Direct Appeal Filed on SEPT. 12, 2011 Stating Pursua to Rule 203 (d) (1) (B.) iv S.C. A.C.R. saying I need to identify the issues which I did on JULY 28, 2011 in a Hand written Direct Appeal but was ordered to Remove the arguments then REFILE APPEAL, ALSO STATE V. TUCKER, 376, S.C. 412 417-418 656 S.E.2d 403, 406 2003 - KNOWINGLY and volunteeringly
8. (iii.) South Carolina Court of Appeals 1015 Sumter St. Colm, S.C. 29201 on Jan. 4, 2012 Dismissed the Appeal To be Reinstated base on Rule 203 (d) (1) (B) (iv) S.C. A.C.R. FOR Failure to Show there is an issue that can be Reviewed on Appeal However this is incorrect as I stated in 1st Direct Appeal if known, citations of ANY WRITTEN OPINION OR ORDERS ENTERED PURSUANT
- B. D-(i.) on AUG. 29, 2011 Rule Requirements Rule 267(9) S.C. A.C.R. PURSUANT to Rule 207, ALSO Removing the ARGUMENTS
- (ii.) on SEPT. 27, 2011 JUDGE Jasper Canton dismissed based on Rule 203 (d) (1) (B) (iv) S.C. A.C.R. ALSO STATE V. TUCKER, 376, S.C. 412, 417-418 656 S.E.2d 403, 406 (2008)
- (iii.) on Jan. 4, 2012 JUDGE John Few, JUDGE Paula H. Thomas, JUDGE A. KUNDLOS, Dismissed Reinstatement base on Rule (20:

STATE concisely the Grounds on WHICH you base your allegations that you are being held in custody UNLAWFULLY:

- (a.) Have been Released However was detained unlawfully based on the THE United States Constitution and South Carolina Constitution From MAR. 2010 - Jul. 19, 2011. The Quick and Speedy Trial Filed on SEPT. 23, 2010 should have been Filed in AUG. 2009 by ATTORN Anna Walker Public Defender OFFICE 1701 Main ST. Colm, S.C. RIGHTS WERE COMPROMISED and witnesses LEFT TOWN all motions were Filed Pro Se' other than Motion of Discovery this constitutes ineffective assistance of Counsel could have

- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) see separate - sheet for response
- (b) see separate - sheet for response
- (c) see separate - sheet for response
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) see separate - sheet for response
- (b) see separate - sheet for response
- (c) see separate - sheet for response
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? S.C. A.C. Direct Appeal
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NONE
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? none
- (d) any other petitions, motions or applications in this or any other Court? none
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Direct Appeal within 10 Day limit on July 28, 2012 S.C. Court of Appeals
- ii. Direct Appeal removing the Arguments - Aug. 29, 2011 S.C. Court of Appeals
- iii. Direct Appeal For reinstatement - Nov. 14, 2011 South Carolina Court of Appeals
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. South Carolina Court of Appeals 1015 Sumter Col. S.C. 29201
- ii. South Carolina Court of Appeals 1015 Sumter Col. S.C. 29201
- iii. South Carolina Court of Appeals 1015 Sumter Col. S.C. 29201
- iv. \_\_\_\_\_

(B) CONFLICT OF INTEREST DELAYING CASE, NEW APPOINTMENT OF COUNSEL PRO BONO ANNA GOOD 1720 MAIN ST. SUITE 203 COLA S.C. 29201. ALSO THE QUICK AND SPEEDY TRIAL CHAPMAN V. STATE 289 S.C. 42, 344 S.E.2d 611 (1973) NEW ATTORNEY ALSO FAILED TO ASSIST PROFESSIONALLY ALLOWING SEVERE DE NOT GATHERING INFORMATION FROM COURT SO WITNESSES COULD PREPARE FROM OUT OF TOWN AS FAR AS NEW YORK AFTER WAITING AND WAIT IN COLA S.C. 1 YEAR OF NOTHING INEFFECTIVE ASSISTANCE OF COUNSEL AGAIN BY EXTENSION OF SOLICITOR AFTER GATHERING INFORMATION ABOUT CASE COMPROMISING RIGHTS.

(C) THE STATE CHANGED SOLICITOR'S DELAYING THE CASE ONCE AGAIN ONLY WOULD ALLOW PLEA NEVER BROUGHT CASE FOR JURY TRIAL. AFTER SEVERAL APPEARANCES TO 5TH CIRCUIT RICHLAND COUNTY COURT 1701 MAIN ST. COLA S.C. WHICH WERE OVER 8 TIMES NO ARRESTS. NO INVESTIGATING OFFICER PRESENT NOR A VICTIM EVER APPEARED IN OTHER WORDS NO ACCUSER. I ENTERED NOT GUILTY PLEA'S BUT WAS NEVER BROUGHT BEFORE JUDGE. SIMPLY WOULD HAVE BEEN BACK TO DOWN STAIRS THEN BACK TO ALVIN S. GLENN TO FACE MORE ABUSE THIS WAS FALSE IMPRISONMENT AS THE RECORDS INDICATES.

(D) ATTORNEY FILED TO BE RELIEVED OF DUTY ON APRIL 21, 2011 WHICH WAS GRANTED ON MAY 25, 2011 JUDGE SHOULD HAVE ORDERED NEW APPOINTMENT BY STATE OR DENIED FILED MOTION TO BE RELIEVED OF DUTY, ORDERED ACCUSED TO PROCEED PRO SE' 6TH AMENDMENT VIOLATION ALL THIS VIOLATES DUE PROCESS AND FAIRNESS

11. STATE CONCISELY AND IN SAME ORDER THE FACTS WHICH SUPPORT EACH OF THE GROUNDS SET OUT IN (10)

(a) CONFLICT OF INTEREST DEVELOP AFTER WOULD NOT PLEA GUILTY 9 MONTHS RULE APPLIED TO CASE IS INCORRECT ALL THIS COMPROMISES DUE PROCESS AND FAIRNESS OF THE ACCUSED TO BEEN CASE TO COURT IN A TIMELY MANNER. THE QUICK AND SPEEDY TRIAL STATE V. CHAPMAN 289 S.C. 42 344 S.E.2d 611 (1973) THIS STATUTE AND LAW CLEARLY WEIGHS THE DELAY AND STATES THIS SHOULD BE 180 DAYS

11. (B) South Carolina Rules of Criminal Procedure 3  
 Dispositions of Arrest Warrant 3(c) There must be Good cause  
 For Severe delay to Proceeding 3(d) 90 DAY RULE - 180 DAY VIOLATION  
 CONTEMPT OF COURT Rule by Law this is the Law.
- (C) Contempt of Court again on the State (A. Rodgers) by disregard of  
 Judge J. Barber order's on Pro Se' motions To be in case to Jury  
 Trial by the week of Jul. 11, 2012 or a release would be issued  
 I do believe case was held out of court till Judge Barber  
 Left the bench - NO Plea was needed if orders were Honored  
 this constitutes involuntary Plea U.S. v. Jackson, 390 U.S.  
 590 (1968)
- (D) 6th Amendment, 14th Amendment, ineffective assistance of Counsel  
 Twice The State was in Contempt of Court, disregard of Judge  
 orders, Refusing to Appoint New Counsel After Granting Release  
 of Duty - The Quick and Speedy Trial violation All these are Fail.  
 Due Process and Fairness only one of these should be on a  
 P. C. R. to be Granted.
15. (A) i Motion To Dismiss/CHARGES - based on Quick and Speedy Trial Filed  
 SEPT. 23, 2010 - Denied Jun-11- 2011 - 6th Amendment - 14th Amendment  
 WRONGFUL ARREST - WRONGFUL CONVICTIONS a innocent man
- ii S.C.R.C.P. MUST SHOW Cause For Severe Delay 3(d)
- iii Contempt of Court on Solicitor For disregarding Judges  
 orders of bringing case To Trial violations of  
 Due Process
- iv NO Counsel Appointed even after Requested Several  
 Times U.S. Constitution 6th Amendment violation

(c) the disposition thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Pro Se' Motions- Chapman v State- Quick and Speedy Trial South Carolina 5th Cir  
Pro Se' Motion- Motion to Dismiss base on Quick and Speedy Trial Dela

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

(a) which grounds have been presented:

- i. See SEPERATE SHEET FOR RESPONSE
- ii. SEE SEPERATE SHEET FOR RESPONSE
- iii. SEE SEPERATE SHEET FOR RESPONSE

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

- i. Richland County 5th Circuit- Pro Se' Motions
- ii. Richland County 5th Circuit- Pro Se' Motions
- iii. Richland County 5th Circuit- Pro Se' Motions
- iv. Richland County 5th Circuit- Pro Se' Motions

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- The RIGHT TO FACE MY ACCUSER - NO VICTIM - NO ARRESTING OFFICER
  - INVALID PLEA - BASED ON U.S. v JACKSON - KIBLER v STATE
  - REFUSED TO APPOINT COUNSEL THIS IS GUARANTEED RIGHT - 6<sup>th</sup> AMEND.
17. Were you represented by an attorney at any time during the course of:
- your arraignment and plea? Pub. Lim. Public Defender Unknown
  - your trial, if any? \_\_\_\_\_
  - your sentencing? SHADOW ATTORNEY - PUBLIC DEFENDER - UNKNOWN
  - your appeal, if any, from the judgment of conviction or the imposition of sentence? NONE - WAS APPOINTED ROBERT DUDDUCK
  - preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
\_\_\_\_\_
18. If you answered "yes" to one or more parts of (17), list:
- the name and address of each attorney who represented you:
    - ANNA WALKER 1701 MAIN ST. COLA, SC. PO. BOX 192 29202  
PRO BONO - ANNA GOOD 1720 MAIN ST. SUITE 303 COLA, SC 292
    - SHADOW ATTORNEY PUBLIC DEFENDER - UNKNOWN - 1701 MAIN ST - COLA, SC
    - \_\_\_\_\_
  - the proceedings at which each such attorney represented you:
    - ANNA WALKER - APPOINTED - NO ASSISTANCE  
ANNA GOOD - APPOINTED - NO ASSISTANCE - PRE-TRIAL
    - SHADOW ATTORNEY - ORDERED BY JUDGE BENJAMIN - AT PLEA
    - \_\_\_\_\_

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

THAT Constitutional RIGHTS are Given Written and Audio Transcripts  
are reviewed to validate claim of JAN 13, 2011 a New Trial Date  
by Jury or Charges are dismissed by State then removed from Rec:

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

No

STATE OF SOUTH CAROLINA )  
County of Richland )

VERIFICATION

I, GERALD L. Gantt, 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.

Gerald L. Gantt - 3-12-2012

SWORN to and subscribed before me this 12th day of March, 2012.

Charles Joe (L.S.)  
Notary Public

My Commission Expires: 5/16/2021

STATE OF SOUTH CAROLINA )  
 COUNTY OF RICHLAND )

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

GANTT Gerald L - )  
 # 58302, )

2012CP4001937 )

Applicant, )

v. )

RETURN )

State of South Carolina, )

Respondent. )  
 \_\_\_\_\_ )

The Respondent, making its Return to the application for post conviction relief (PCR) filed March 12, 2012, would respectfully show this Court:<sup>1</sup>

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. The Applicant was true bill indicted at the December 2009 term of the Richland Grand Jury for ABHAN - (2009-GS-40-6311).<sup>2</sup> He was originally represented by Anna Good, Esquire, on the charge(s). On July 19, 2011, the Applicant appeared before The Honorable DeAndrea Benjamin *pro se* where he pled guilty as indicted and was sentenced to five (5) years imprisonment.

<sup>1</sup><http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2012CP4001937&CourtType=G&CaseType=Civil&CourtAgency=40002>

<sup>2</sup> <https://sword.doc.state.sc.us/scdc-public/inmateDetails.do?id=+58302>

### Direct Appeal

The Applicant appealed his conviction and/or sentence. The appeal was unsuccessful and the Remittitur was dated March 2, 2012.

The application for post conviction relief (PCR) was filed March 12, 2012.

### 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 direct appeal files.<sup>3</sup> 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.

### III.

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

---

<sup>3</sup> The Respondent will utilize the Record on Appeal if the direct appeal was an Anders appeal.

10. STATE concisely the Grounds on which you base your allegations that you are being held in custody unlawfully:

(a) Have been released however was detained unlawfully based on the THE United States Constitution and South Carolina Constitution From ~~Mar~~ 2010 - Jul. 19, 2011. The Quick and Speedy Trial filed on Sept. 23, 2010 should have been filed in Aug. 2009 by Attorney Anna Walker Public Defender Office 1701 Main St. Columbia, S.C. Rights were compromised and witnesses left town all motions were filed pro se other than Motion of Discovery this constitutes ineffective assistance of counsel could have changed the outcome of case if simple help was done.

10. (b) Conflict of interest; delaying case, new appointment of counsel pro Bono Anna Good 1720 Main St. Suite 303 Columbia, S.C. 29201. Also the Quick and Speedy Trial Chapman v. State 289 S.C. 42, 344 S.E.2d 611 (1973) New Attorney also failed to assist professionally allowing severe delay not gathering information from court so witnesses could prepare from out of town as far as New York after waiting and waiting in Columbia, S.C. 1 year of nothing ineffective assistance of counsel again by extension of solicitor after gathering information about case compromising rights.

(c) The State changed solicitor's delaying the case once again only would allow plea never brought case for jury trial. After several appearances to 5th Circuit Richland County Court 1701 Main St. Columbia, S.C. which were over 8 times no arrest no investigating officer present nor a victim ever appeared in other words no accusers I entered not guilty plea's but was never brought before Judge simply would have been back to Down Stairs then back to Alvin S. Glenn to face more abuse this was false imprisonment as the records indicates.

(D) ATTORNEY FILED TO BE RELIEVED OF DUTY ON APRIL 21, 2011 WHICH WAS GRANTED ON MAY 25, 2011. JUDGE SHOULD HAVE ORDERED NEW APPOINTMENT BY STATE OR DENIED FILED MOTION TO BE RELIEVED OF DUTY, ORDERED ACCUSED TO PROCEED PRO SE. 6<sup>TH</sup> AMENDMENT VIOLATION ALL THIS VIOLATES DUE PROCESS AND FAIRNESS

11. STATE CONCISELY AND IN SAME ORDER THE FACTS WHICH SUPPORT EACH OF THE GROUNDS SET OUT IN (10)

(A) CONFLICT OF INTEREST DEVELOP AFTER WOULD NOT PLEA GUILTY 9 MONTHS. RULE APPLIED TO CASE IS INEFFECTIVE ALL THIS COMPROMISES DUE PROCESS AND FAIRNESS OF THE ACCUSED TO BEEN CASE TO COURT IN A TIMELY MANNER. THE QUICK AND SPEEDY TRIAL STATE V. CHAPMAN 209 S.C. 42 344 S.E.2d 611 (1973) THIS STATUTE AND LAW CLEARLY WEIGHS THE DELAY AND STATES THIS SHOULD BE 180 DAYS

11. (B) South Carolina Rules of Criminal Procedure 3 Dispositions of Arrest Warrant 3(C) There must be Good cause for severe delay to proceeding 3(D) 90 DAY RULE - 180 DAY VIOLATION CONTEMPT OF COURT RULE BY LAW THIS IS THE LAW.

(C) CONTEMPT OF COURT AGAIN ON THE STATE (A. RODGERS) BY DISREGARD OF JUDGE J. BARBER ORDERS ON PRO SE MOTIONS TO BEEN CASE TO JURY TRIAL BY THE WEEK OF JUL 11, 2012 OR A RELEASE WOULD BE ISSUED I DO BELIEVE CASE WAS HELD OUT OF COURT TIL JUDGE BARBER LEFT THE BENCH - NO PLEA WAS NEEDED IF ORDERS WERE HONORED THIS CONSTITUTES INVOLUNTARY PLEA U.S. V. JACKSON, 340 U.S. 590 (1965)

(D) 6<sup>TH</sup> AMENDMENT, 14<sup>TH</sup> AMENDMENT, INEFFECTIVE ASSISTANCE OF COUNSEL TWICE THE STATE WAS IN CONTEMPT OF COURT, DISREGARD OF JUDGE ORDERS, REFUSING TO APPOINT NEW COUNSEL AFTER GRANTING RELEASE OF DUTY. THE QUICK AND SPEEDY TRIAL VIOLATION ALL THESE ARE FAILING DUE PROCESS AND FAIRNESS ONLY ONE OF THESE SHOULD BEEN ON THE P. C. R. TO BE GRANTED.

#### IV.

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 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).

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)

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).

V.

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.

VI.

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, David E. Belding, Esquire regarding when the hearing should be set.<sup>4</sup>

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney  
General

ROBERT D. CORNEY  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

April 30, 2012

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



STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
County of Richland	)	2012-CP-40-1937
	)	
GERALD L. GANNT,	)	
	)	
APPLICANT,	)	
	)	
VS.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT,	)	

December 4, 2012  
Columbia, South Carolina

BEFORE:

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

APPEARANCES:

ROBERT CORNEY, ASSISTANT ATTORNEY GENERAL  
Attorney for the State

DAVID BELDING, ESQ.  
Attorney for the APPLICANT

KAREN AMBROZIAK  
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 MR. CORNEY: May it please the Court, Your Honor.

2 THE COURT: Okay.

3 MR. CORNEY: Your Honor, the State calls the Post  
4 Conviction Relief action of Gerald L. Gantt. It's docket  
5 number 2012-CP-40-1937.

6 Mr. Gantt was true bill indicted at the December 2009  
7 term of the Richland County Grand Jury for assault and  
8 battery of a high and aggravated nature. He was  
9 represented by Anna Goode and Anastasia Walker on the  
10 charges.

11 He appeared July 19th, 2011 before Judge Benjamin.  
12 He proceeded pro se at that time, pled guilty. He was  
13 sentenced to five years imprisonment suspended to time  
14 served.

15 As part of the negotiations with the State, a Notice  
16 of Appeal was filed but dismissed by the South Carolina  
17 Court of Appeals for failure to set forth an appealable  
18 issue. That's under Rule 203(d)(1)(b)(4) of the South  
19 Carolina Appellate Court Rules.

20 An order was issued January 4th, 2012, and the  
21 remittitur was issued March 1st, 2012 on that direct  
22 appeal. He filed a Post Conviction Relief application  
23 March 12th, 2012.

24 He is represented by Mr. David Belding. It's my  
25 understanding that Mr. Gantt has been unable to be

1 located, and for that cause, Your Honor, the State would  
2 move to dismiss the application for failure to prosecute.

3 THE COURT: Okay. Mr. Belding, I have read an  
4 affidavit that you filed along with some attachments where  
5 you diligently tried to contact him to no avail.

6 MR. BELDING: I even tried one phone number I found  
7 through the internet, and I got no answer at that line  
8 either, Judge. I just...

9 THE COURT: Well, he can't file it and then not be  
10 available. So you diligently tried to contact him  
11 according to your affidavit, so I think you're going to be  
12 protected on that. If he is not here, we're just going to  
13 dismiss it.

14 MR. CORNEY: Thank you very much, Your Honor, and I'm  
15 fine with the Order of Dismissal.

16 THE COURT: You can sign the order right there.

17 MR. BELDING: All right. Thank you, Your Honor.

18

19 (Whereupon, the proceedings were concluded.)

20

21

22

23

24

25



STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 Gerald L. Gantt, #58302, )  
 )  
 Applicant, )  
 )  
 vs. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 FIFTH JUDICIAL CIRCUIT

C/A No.: 2012-CP-40-1937

**ORDER OF DISMISSAL**

2012 DEC -4 AM 10:01  
 FILED  
 SUPERIOR COURT  
 JEANETTE W. McBRIDE  
 C.C.P. & G.S.

This matter comes before the Court by way of an application for post-conviction relief filed March 12, 2012. An evidentiary hearing into the matter was convened on December 4, 2012, at the Richland County Judicial Center at which Applicant's appointed attorney, David E. Belding, Esquire, was present. The Respondent was represented by Robert D. Corney, Esquire, of the South Carolina Attorney General's Office.

Applicant is no longer incarcerated on the charges he sought to challenge in this current action, and did not appear at the scheduled time for hearing. Applicant's attorney informed the Court that he has had no contact with Applicant since his appointment, despite making numerous attempts to locate Applicant by phone and mail to no avail. Counsel stated he believed he had taken all other reasonable and diligent steps to locate and confer with Applicant. Based on Applicant's failure to appear and present his action to the Court, Respondent moved pursuant to Rule 41(b), *SCRCP*, to dismiss this matter due to the Applicant's failure to prosecute.


The plaintiff has the burden of prosecuting his action, and the trial court may properly dismiss an action for a plaintiff's neglect in proceeding with his cause. *Don Shevey & Spires, Inc. v. American Motors Realty Corp.*, 279 S.C. 58, 301 S.E.2d 757 (1983). In spite of PCR counsel's diligent and reasonable efforts to locate him, Applicant has failed to pursue this action. Therefore, this Court finds the Respondent's motion well taken and hereby dismisses this matter with prejudice.

It is therefore:

**ORDERED** that the application herein is dismissed *with prejudice* for failure of the Applicant to prosecute.



AND IT IS SO ORDERED this 4<sup>th</sup> day of December, 2012.

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

Columbia, South Carolina.



