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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Williamsburg County

William Jeffrey Young, Circuit Court Judge

RAYSHAWN PEARSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213452

APPENDIX

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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF WILLIAMSBURG)

State of SC,)
) PLAINTIFF)
 vs.) TRANSCRIPT OF RECORD
) Guilty plea
Rayshawn Pearson,)
DEFENDANT)

February 1, 2007
Kingstree, South Carolina

B E F O R E:

THE HONORABLE R FERRELL COTHRAN, JR., PRESIDING
JUDGE.

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

KIMBERLY BARR, ESQUIRE
Attorney for the Plaintiff

CRAIG BROWN, ESQUIRE
Attorney for the Defendant

Kathleen Richardson, RPR, CRR
Official Court Reporter

EXHIBITS

(no exhibits were marked in this hearing.)

1 MS. BARR: May it please the Court.

2 THE COURT: Yes, ma'am.

3 MS. BARR: Your Honor, we have selected a jury
4 under indictment number 2006-GS-45-339, State versus
5 Adrian McCray and Rayshawn Pearson.

6 Both Mr. McCray and Mr. Pearson entered not
7 guilty pleas on Tuesday and we selected a jury to try
8 that case.

9 Judge, it's my understanding through discussions
10 with Mr. Pearson's attorney, Craig Brown, that he
11 wishes to change his plea pursuant to that indictment
12 from not guilty to guilty.

13 Also, Your Honor, he has two remaining
14 indictments pending against him, 2006-GS-45-340 which
15 he's charged with murder, armed robbery, possession
16 of a weapon during the commission of a violent crime,
17 and criminal conspiracy.

18 Also under indictment number 2006-GS-45-341,
19 he's charged with the offense of escape. Judge,
20 Mr. Pearson through his attorney informs the Court
21 that he wishes to enter a guilty plea under
22 indictment number 2006-GS-45-340, to the offenses of
23 murder, armed robbery, armed robbery, and possession
24 of a weapon during the commission of a violent crime.

25 The State is going to dismiss count four which

1 is criminal conspiracy. The State's also going to
2 dismiss indictment number 2006-GS-45-341, which is
3 the escape -- escape charge.

4 Your Honor, these guilty pleas are being made
5 freely and voluntarily without any recommendation or
6 negotiations from the State.

7 THE COURT: Thank you.

8 MS. BARR: Thank you.

9 RAYSHAWN PEARSON, after being duly
10 sworn, testified as follows:

11 THE COURT: Mr. Brown, you represent
12 Mr. Pearson?

13 MR. BROWN: Yes, sir.

14 THE COURT: Have you reviewed the nature of the
15 charges against him, the possible punishment he can
16 receive, and his constitutional rights?

17 MR. BROWN: Yes, sir.

18 THE COURT: You think he understands that?

19 MR. BROWN: Yes, sir.

20 THE COURT: Does he indicate to you he wishes to
21 plead guilty?

22 MR. BROWN: Yes, sir.

23 THE COURT: Do you concur with that decision?

24 MR. BROWN: Yes, sir.

25 THE COURT: Based on your knowledge of the facts

1 of this case, do you think the State has sufficient
2 evidence that they could convince the jury beyond a
3 reasonable doubt that he's guilty of these charges?

4 MR. BROWN: Yes, sir.

5 THE COURT: All right, sir. Mr. Pearson, your
6 lawyer tells me you want to plead guilty. Is that
7 right, sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you had enough time to talk
10 with him about this?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Are you satisfied with his
13 representation?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: He done everything for you you think
16 he should have done or could have done?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Has he done anything you think he
19 shouldn't have done?

20 THE DEFENDANT: No, sir.

21 THE COURT: All right, sir. So you are
22 satisfied with his representation? You don't have
23 any complaints against him?

24 THE DEFENDANT: No, sir.

25 THE COURT: Has anybody promised you anything or

1 threatened you in any way to get you to plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: You have any complaints against the
4 Solicitor's Office or law enforcement or any person
5 in this courtroom?

6 THE DEFENDANT: No, sir.

7 THE COURT: You are pleading guilty freely and
8 voluntarily?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Are you today under the influence of
11 any alcohol or drugs?

12 THE DEFENDANT: No, sir.

13 THE COURT: Have you had any in the last 24
14 hours?

15 THE DEFENDANT: No, sir.

16 THE COURT: Have you ever been treated for
17 mental illness or drug abuse?

18 THE DEFENDANT: No, sir.

19 THE COURT: Have you ever been in a courtroom
20 before?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. When is the last time -- you
23 ever been in big court?

24 THE DEFENDANT: No, sir.

25 THE COURT: Do you have any physical or mental

1 infirmity--

2 MR. BROWN: Court's indulgence. I'm sorry, Your
3 Honor. Can I ask my client something real quick?

4 THE COURT: Sure.

5 (Mr. Brown conferring with defendant.)

6 MR. BROWN: I'm sorry, Your Honor.

7 THE COURT: How far did you go in school?

8 THE DEFENDANT: Eighth grade.

9 THE COURT: Eighth grade? Are you married?

10 THE DEFENDANT: No, sir.

11 THE COURT: You got any children?

12 THE DEFENDANT: No, sir.

13 THE COURT: How old are you now?

14 THE DEFENDANT: Twenty.

15 THE COURT: Twenty?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you suffer -- have any physical
18 or mental infirmities that would keep you from
19 understanding what's happening here today?

20 THE DEFENDANT: No, sir.

21 THE COURT: You realize by pleading guilty
22 you're giving up certain constitutional rights. You
23 have got the right to remain silent and not
24 incriminate yourself.

25 But if you plead guilty, you give that right up.

1 Do you understand that, sir?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You also have a right to a jury
4 trial. And we have selected a jury in this case and
5 we're ready to go forward. And in that trial I will
6 instruct the jury that you're presumed innocent until
7 the State proves you guilty beyond a reasonable
8 doubt.

9 But you have a right to cross-examine witnesses
10 the State puts up against you. You would have a
11 right to offer witnesses to testify in your own
12 behalf.

13 You could testify if you wanted to. You would
14 not be required to do so. But if you plead guilty,
15 you give all that up. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you want to plead guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right, sir. Do you understand
20 that you're pleading guilty to murder which carries a
21 possibility of life in prison without the possibility
22 of parole. Do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand you're pleading
25 guilty to two counts of armed robbery which carry

1 from 10 to 30 years in prison?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And two counts of possession of a
4 weapon during a violent crime which carries five
5 years each?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And that I can run all these
8 consecutive and you could get life plus 70 years. Do
9 you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And you still want to plead guilty?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you realize by pleading guilty
14 that any appeal you would have as a result of this
15 trial that we're ready to do here today you're giving
16 up, because if you don't have a trial, any issues
17 that come up in that trial that you may have an
18 appeal right from, you're giving up because you won't
19 have a trial. Do you understand that, sir?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, if you want to appeal this
22 guilty plea, do you understand you have got to do so
23 within 10 days? Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you have to file the appeal

1 either through your attorney or yourself with the
2 Clerk of Court. Do you understand that?

3 *THE DEFENDANT:* Yes, sir.

4 *THE COURT:* All right, sir. How about listen to
5 the facts that the Solicitor's going to give me and
6 then I'll come back to you and ask you some more
7 questions.

8 *MS. BARR:* Your Honor, may it please the Court.
9 Pursuant to indictment 2006-GS-45-339, that's the
10 armed robbery that took place at the Workman's
11 Grocery on Highway 527 in Williamsburg County.

12 Judge, it occurred on a Saturday afternoon
13 early. There was the plan between Rayshawn Pearson,
14 Adrian McCray and Cedrick Butler to rob that store.

15 Mr. Pearson, we believe the evidence will show,
16 received a gun from his co-defendant, Adrian McCray.
17 Pearson along with Cedrick Butler went into the
18 store, held the victim Allissa Parker as well as
19 victim Shirley Parker at gunpoint, demanded money.

20 They received money from that robbery, and left
21 the store with a large quantity of money from the
22 store.

23 Judge, under the second indictment,
24 2006-GS-45-440, that was a planned armed robbery of
25 the same convenience store wherein there was an

1 agreement by these individuals to rob the store in
2 advance.

3 The defendant Rayshawn Pearson along with
4 Cedrick Butler entered the convenience store while
5 the defendant Adrian McCray remained outside in a
6 vehicle. Mr. Pearson came inside the store once
7 again with a gun.

8 At this point in time Shirley Parker and her
9 husband Clevy Parker was inside the store.
10 Mr. Pearson took the gun, shot Mr. Clevy Parker in
11 his abdomen, in his upper abdomen, causing his death.
12 In addition, he held the gun at Shirley Parker,
13 demanded money, received money, left the store.

14 And of course, subsequent to that murder
15 Mr. Pearson gave a statement to law enforcement -- I
16 believe it was some August the third -- implicating
17 himself as well as Adrian McCray and Cedrick Butler
18 in the armed robbery and murder.

19 THE COURT: All right. Mr. Pearson, you heard
20 those facts the Solicitor gave me. You agree with
21 those?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: That's what you did?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right.

1 MS. BARR: Your Honor, also with regard to the
2 second armed robbery, murder case, there was a fourth
3 person involved in this. We believe it was the
4 girlfriend of Adrian McCray. Her name is Christella
5 Ham. She has a pending indictment against her as
6 well.

7 THE COURT: What about -- does he have a prior
8 record?

9 MS. BARR: He does, Your Honor. He's got
10 juvenile adjudications for purse snatching in 2002.
11 He's got convictions in '03 for strong armed robbery,
12 criminal domestic violence of a high and aggravated
13 nature.

14 He's currently being housed at the Department of
15 Corrections on a probation violation for threatening
16 the life of a public official.

17 THE COURT: All right. Is that your record,
18 Mr. Pearson?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you have any other questions
21 you'd like to ask me or your attorney about what I
22 have talked to you about? You understood everything
23 I have told you today?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. You got any other questions

1 you'd like to ask of me or your attorney?

2 *THE DEFENDANT:* No, sir.

3 *THE COURT:* I find that there's a substantial
4 factual basis for your plea. I find that your plea
5 is freely and voluntarily and intelligently entered
6 into.

7 I find that you have had advice of competent
8 counsel whom you tell me you're satisfied with. And
9 I will take your plea.

10 *THE DEFENDANT:* Thank you, sir.

11 *MR. BROWN:* Your honor?

12 *THE COURT:* Yes.

13 *MR. BROWN:* I'm sorry. Go ahead.

14 *THE COURT:* Go ahead.

15 *MR. BROWN:* Prior to coming in here, we spoke
16 and -- I spoke with the Solicitor's Office about
17 sentencing, but we'd ask it be deferred at this time.
18 The State's in agreement with that.

19 *MS. BARR:* That's right, Judge.

20 *THE COURT:* Okay. Do you understand that your
21 sentencing is going to be deferred until -- and
22 sometime later, this Court or another Court will
23 actually pass sentence on you. Do you understand
24 that?

25 *THE DEFENDANT:* Yes, sir.

1 THE COURT: All right, sir. We will defer
2 sentencing.

3 MS. BARR: Thank you, Your Honor.

4 MR. BROWN: Thank you, Your Honor.

5 (End of requested transcript of record.)
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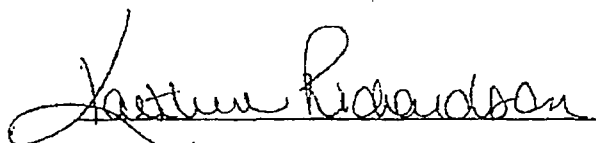
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

I, KATHLEEN RICHARDSON, RPR, CRR, Official Court Reporter for the third 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 General Sessions for Williamsburg County, South Carolina, on the first day of February, 2007.

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

October 26, 2007



KATHLEEN RICHARDSON, RPR, CRR

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG) COURT OF GENERAL SESSIONS

State of SC,)
PLAINTIFF)
vs.) TRANSCRIPT OF RECORD
Rayshawn Pearson,)
DEFENDANT)

May 3, 2007
Kingstree, South Carolina

B E F O R E:

THE HONORABLE R FERRELL COTHRAN, JR., JUDGE.

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

KATHERINE BARR, RONNIE SABB,
ASSISTANT SOLICITORS
Attorneys for the Plaintiff

CRAIG BROWN, ESQUIRE
Attorney for the Defendant

Kathleen Richardson, RPR, CRR
Official Court Reporter

EXHIBITS

(no exhibits were marked.)

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1 MS. BARR: Morning, Your Honor.

2 MR. SABB: Morning, Judge.

3 MS. BARR: Judge, at this time the matter before
4 you is indictment numbers GS -- 2006 -- I'm sorry --
5 GS-45-339, a true billed indictment for armed robbery
6 and possession of a weapon during the commission of a
7 violent crime, the State versus Rayshawn Pearson.

8 Your Honor may recall that Mr. Pearson was
9 before you back on February the first, 2007, pled
10 guilty to both count one and count two under that
11 indictment.

12 Also before you is indictment number
13 2006-GS-45-340, it's the State versus Rayshawn
14 Pearson. Your Honor, he appeared again on February
15 the first, 2007, entered a guilty plea to murder,
16 armed robbery, and possession of a weapon during the
17 commission of a violent crime.

18 Judge, Mr. Pearson at all times was represented
19 by Craig Brown. Your Honor accepted the guilty pleas
20 back on that date. He's now before you to be
21 sentenced.

22 THE COURT: Okay.

23 MS. BARR: Judge, myself along with Assistant
24 Solicitor Ronnie Sabb has prosecuted this case.
25 Judge, present in the courtroom are the victim's

1 family members.

2 We have got the victim's daughter, Melissa
3 Parker, who has the peach top on. Next to her is the
4 victim's wife, Mrs. Shirley Parker. Next to
5 Mrs. Parker is the victim's daughter, Hillary Parker.

6 Next to Hillary is the victim's son, Rodney
7 Parker. Next to Rodney is the victim's brother,
8 Eddie Parker. And next to Eddie is the victim's
9 sister, Patsy Shuler.

10 Your Honor may recall that these indictments
11 came about as a result of two armed robberies that
12 occurred in Williamsburg County. The first armed
13 robbery happened on March the 26th, 2005.

14 The evidence in this case is that Rayshawn
15 Pearson along with Adrian McCray and Cedric Butler
16 who was a juvenile at the time planned an armed
17 robbery of Workman's Grocery.

18 At the time of that armed robbery, Mrs. Shirley
19 Parker and Melissa Parker were working inside the
20 family-owned store. Cedric Butler along with
21 Rayshawn Pearson -- Mr. Pearson being the one who had
22 the gun -- came in and robbed these young ladies at
23 gunpoint and took off with an unknown quantity of
24 cash.

25 Judge, they got together, the same group of

1 individuals, several months later, decided to go back
2 to the store and commit another armed robbery. Again
3 it was Rayshawn Pearson who had the possession of a
4 gun.

5 Judge, at the second time they went back in July
6 of 2005, Mrs. Shirley Parker along with her husband,
7 the deceased victim, Clevy Parker, were inside the
8 store at the time.

9 Apparently as Rayshawn and Cedric Butler went in
10 the store the second time, Mr. Parker was behind the
11 cabinet, went to get up. Mr. Parker made the
12 comment, we're about to be robbed again, and that's
13 when Rayshawn Pearson then fired his gun at the
14 victim striking him in the chest, abdomen area. He
15 died at the hospital as a result of that gunshot.

16 Your Honor, they are here before you. They'd
17 like to be heard in sentencing. Judge -- and I will
18 start with Melissa. She declines to address the
19 Court.

20 Mrs. Parker, the widow of Clevy Parker, however,
21 would like to address the Court. There are several
22 of them that will not speak and some of them that
23 will speak, and we'd ask that Your Honor allow them
24 to address the Court at this time.

25 THE COURT: Okay.

1 MRS. SHIRLEY PARKER: Your Honor, this tragic
2 murder of my husband has left me with an emptiness in
3 my heart that is so hard to deal with, having to pass
4 a business that we as a family operated together
5 every day and remember what happened there and seeing
6 it happen will always be in my mind.

7 And because of this I have had to sell the store
8 and find a job to support myself. I feel as though
9 half of my life has been taken from me and the other
10 half is miserable and don't know how to go on living
11 to survive.

12 What took two people to do to support their
13 family and be there for their children has been
14 forced to be put on one. This person don't realize
15 the wonderful man he took from me and the children.

16 So when you are deciding what kind of sentencing
17 to give him, think about the life sentence that he
18 has given us. Thank you.

19 THE COURT: Thank you, ma'am.

20 MS. BARR: Your Honor, also Hillary Parker who
21 again is the daughter of the deceased, has written
22 out a statement. She didn't feel like she could get
23 through this portion, so she's asked me to read the
24 statement on her behalf, and I will do so at this
25 time.

1 I have sat down and tried so many times to write
2 this, and each and every time I have gotten so full
3 of rage. I never knew what to say or exactly how to
4 put it into words. I'm going to say what I can
5 manage to say.

6 Sorry if my words will offend anyone, but nobody
7 considered any of our feelings when they decided to
8 rob and kill our father. Because of this asshole
9 you're about to send off to have an easy life,
10 neither I nor my sister will ever have our father to
11 give us away to the aisle.

12 Our children will never see their grandfather.
13 And when they ask the questions, instead of saying he
14 died of some horrible disease or something or at the
15 rightful old age of whatever, we will have to say
16 some recent inconsiderate asshole not only robbed our
17 family once and stuck a gun at their faces, but
18 killed their grandfather for a measly 50 or so
19 dollars and is sitting behind bars living free while
20 you will soon be in the job market not only working
21 to support yourself but the monster who took your
22 grandfather waiting for his time is rightfully up.

23 Not only that -- not only does that bother me,
24 but the fact that he will never get to see any of the
25 children graduate from college and succeed in the

1 careers they have chosen.

2 It has been nearly two years and I still have
3 horrible nightmares and wake up in a pool of sweat.
4 I get so angry sometimes that I want nothing but for
5 this creature to get the same treatment and
6 inconsideration that he has shown to my family and to
7 his.

8 I continuously have horrible, graphic
9 nightmares, daydreams involuntarily to the point that
10 I miss work because I can't mentally function. Just
11 the thought of this thing being able to live after
12 what he has permanently caused me and my family to go
13 through makes me sick and disgusted to my stomach.

14 There is no way I could ever describe in words
15 and even give you a hint of the problems he has
16 caused me to have for the rest of my life, but every
17 time it crosses my mind, I can picture him being out
18 of -- out of misery, and I will smile just a little
19 because the thought of an animal like him allowed to
20 live just disgusts me every day, that I have to open
21 my eyes and I know I will never see my father again.
22 Hillary Parker. .

23 Your Honor, Rodney Parker has elected not to
24 speak. Eddie Parker, who is the brother of the
25 deceased, would like to address the Court.

1 THE COURT: Yes, sir, Mr. Parker.

2 MR. EDDIE PARKER: Your Honor, I don't have a
3 prepared statement, but I think it's pretty clear
4 about how the family feels. I think the day that I
5 got the call, I was driving back from Charleston
6 coming with my son -- got a call, brother had been
7 shot.

8 And you know, you sitting here today and think
9 about the call, think about the funeral arrangements
10 we had to make, think about all the good times I had
11 with my brother, also think about all the good times
12 that I will never have with my brother because of
13 him.

14 Think of the funeral, the open casket,
15 preparations, and all the agony this family has gone
16 through since this person took my brother's life.
17 We're all standing here today in God's court and
18 we're all being judged by him.

19 Ironically you're here today sitting in judgment
20 of this gentleman who took my brother's life and
21 caused this family such misery. Also, Your Honor, we
22 here are sitting and request that you respectfully
23 put this person behind bars for the rest of their
24 life. They deserve it. Thank you.

25 THE COURT: Thank you, Mr. Parker. Anybody

1 else?

2 MR. SABB: Well Judge, I just -- from a
3 Solicitor's office standpoint, we, Kimberly and I,
4 were reflecting earlier in the week where we knew
5 that we would be before this Court on two occasions,
6 so two families who suffered a loss like the Parker
7 family has lost, and so from the Solicitorial
8 standpoint we find ourselves in this position quite
9 frankly too often.

10 We obviously have an incredible amount of
11 respect for this Court as you deal with family,
12 circumstances, and situations. We just want you to
13 know from a solicitorial standpoint that this family
14 has been a wonderful family to work with throughout
15 the course of this process.

16 We -- it's been a difficult journey, but they
17 really have been just a model group to work with.
18 Judge, we simply place the matter in your hands from
19 the standpoint of understanding all that the family
20 has said, you know that we support this family.

21 We have had the opportunity, Judge, and I think
22 you need to know this, to discuss the ranges of
23 sentences with this family, to let them know that
24 sometimes there are considerations as it relates to
25 pleas versus an actual trial.

1 Judge, we have done as best we can to share the
2 entire parameters of everything with them. They have
3 received, we believe, the information that they have
4 been given, and the conclusion that they have shared
5 with the Court is the conclusion that is being asked
6 of this Court.

7 Judge, we know that you will give due respect to
8 all of the arguments and everything that you have
9 heard. We trust that you will make the appropriate
10 and the fitting decision in this case as we have had
11 the opportunity to work with you in other matters.

12 The only other thing that I would add, if Your
13 Honor please, is there's no question as relates to
14 what the widow of Clevy Parker has said. Any time
15 this kind of thing happens, it is in fact a death
16 sentence as relates to -- strike that -- a life
17 sentence as relates to the family, what they have to
18 endure the rest of their lives.

19 MS. BARR: Your Honor, one final record --
20 matter on behalf of the State. Rayshawn Pearson had
21 a juvenile conviction in '02 for purse snatching. He
22 had a conviction in 2003 for strong armed robbery as
23 well as criminal domestic violence of a high and
24 aggravated nature. He had a YOA sentence not to
25 exceed six years.

1 I believe that YOA sentence might have been
2 revoked when he was -- prior to his guilty plea was
3 serving time in the Department of Corrections.

4 THE COURT: What year was that CDV high and
5 aggravated nature?

6 MS. BARR: 2003, September of 2003.

7 THE COURT: Okay.

8 MS. BARR: And I also believe he has a -- I'm
9 sorry, Judge -- a conviction for -- I believe it's
10 threatening the life of a public official. It's my
11 understanding that his probation was revoked on that
12 charge.

13 THE COURT: Okay. Anything else?

14 MS. BARR: Nothing else from the State.

15 THE COURT: Mr. Brown?

16 MR. BROWN: Your Honor, first of all I'd like to
17 express to the family my regret and sympathy for the
18 loss of Mr. Parker.

19 Your Honor, I was appointed to represent
20 Rayshawn sometime ago, initially appointed to
21 represent him as it relates to the July armed robbery
22 and murder.

23 Previously it was my understanding another
24 attorney was appointed to represent Rayshawn and the
25 case was called for trial in February, February the

1 first I believe it was, and through the confusion I
2 ended up getting the case ready for trial and ready
3 to go to trial on February the first as it relates to
4 the March 2005 robbery.

5 Your Honor, I'm -- what I'm going to say is in
6 no way meant to minimize what this family is going
7 through, but I think it's important for the Court to
8 recognize some things with regards to Rayshawn.

9 Your Honor, at the time this offense occurred,
10 he was 18 years old. He just recently had a -- his
11 21st birthday the end of April.

12 Your Honor, when my client was born, he was with
13 his mother for about three years. His mother during
14 that period of time had a live-in boyfriend if I
15 recall correctly who abused Rayshawn which is
16 substantiated it -- which was conveyed to me by his
17 grandfather as well as Rayshawn.

18 DSS was in the process of removing Rayshawn from
19 that house when Mr. Butler and Mrs. Butler took
20 custody of him at the age of three. He has
21 essentially had no contact with his mother since that
22 period of time.

23 Last place that Rayshawn knows of that she lived
24 I think was in New Jersey. During that period of
25 time, Your Honor, my client failed the first grade,

1 failed the fifth grade.

2 From my understanding and from what I was able
3 to gather I've subpoenaed records from the Department
4 of Mental Health over in Clarendon County as well as
5 from the school system over there.

6 Rayshawn was given a psychological evaluation
7 back in 2000. He was -- the time I was appointed on
8 this case I filed a petition and a motion to have a
9 psychological evaluation done on him as well.

10 Both of those psychologicals were pretty
11 consistent, Your Honor, in the fact that Rayshawn has
12 a -- a very low IQ. He's got an IQ of approximately
13 68 which falls into that range, Your Honor, of being
14 mentally retarded.

15 However, based upon his cooperation, based upon
16 his prior -- he did have some prior employment, Your
17 Honor, where he worked as a brick mason. The
18 evaluation came to the conclusion that he wasn't
19 mentally retarded but he was educable mentally --
20 mentally retarded.

21 Again, Your Honor, what I'm saying here is not
22 meant to minimize what has happened and why my client
23 stands here, but I think it's important for the Court
24 to get a full understanding of Rayshawn.

25 At some point in time, Your Honor, Rayshawn's

1 father was here during the guilty plea if I recall
2 correctly, but his father is not here today.
3 Mr. Butler, his grandfather, tells me that Rayshawn's
4 father was absent from his life pretty much the
5 entire time.

6 Looking at and talking with Rayshawn, talking
7 with his grandfather, looking at the records as they
8 relate to Rayshawn, to some extent I don't know if
9 Rayshawn ever had a chance.

10 Again, I'm not trying to minimize what happened
11 here, but it -- it begs me to question how myself
12 would have turned out if I'd have been put in that
13 situation as a child.

14 Your Honor, I was prepared to go to trial with
15 Rayshawn's case in February, and Rayshawn elected to
16 plead guilty before you. He elected to plead guilty
17 to both armed robberies and to the offense -- and to
18 the murder charge.

19 Recognizing the fact, Your Honor, that you could
20 give him life, recognizing that, but he chose not to
21 go through that, he chose not to put this family
22 through that and the State through the expense of a
23 trial in that situation.

24 I think the State pondered and considered the
25 possibility of a death penalty case here but chose

1 not to do so.

2 Your Honor, my client during this period of time
3 that -- he's been my client, he has fully cooperated
4 with me. During this period of time that he was in
5 school, living with his grandmother and grandfather,
6 going to the Department of Mental Health, he was on
7 Welbutrin. They prescribed that for him.

8 Mrs. Kathleen Higgins who works with the
9 Department of Mental Health over in Clarendon
10 County -- and as I previously stated, I met with her
11 concerning Rayshawn, and she tells me that when
12 Rayshawn was on medication, he was doing good, he was
13 doing fine.

14 It was only during those period of times when he
15 got off of his medication that he was not doing well.
16 She also conveyed to me the fact that Rayshawn
17 suffers from ADHD, and in her opinion the probable
18 cause of that was due to Rayshawn's mother's use of
19 alcohol and drugs during her pregnancy with him.

20 Your Honor, my client has conveyed to me his use
21 of drugs in the past. And any sentence that Your
22 Honor imposes here today I would ask that you order
23 that he receive some kind of drug treatment while he
24 is incarcerated.

25 Your Honor, in looking at -- further into the

1 case, the facts of this case, the robbery occurred in
2 March, and again the robbery that occurred in July,
3 and even up until the trial which occurred in
4 February of '07, I don't think there's any
5 question -- and I think the Solicitor's Office will
6 agree with me on this, that the leader in this whole
7 scenario was Adrian Pearson (sic)

8 He provided a gun. The time both of these
9 crimes occurred he was 25 years old at the time of
10 the first robbery. 26 years old I believe at the
11 time of the second robbery.

12 Rayshawn, when this incident occurred, and the
13 evidence will support this if the case had gone to
14 trial, did not walk into that place that day with the
15 intent of shooting Mr. Parker.

16 He was 18 years old. He made a stupid mistake,
17 and he realizes that. He got scared and he made a
18 big mistake. Unfortunately we stand here today based
19 upon that mistake.

20 Your Honor, I think if he had gone in there with
21 the intention of doing what happened, he had every
22 opportunity to do the same thing to Mrs. Parker.
23 Thank the Lord he didn't do that.

24 And looking at the autopsy report, Your Honor,
25 it was a -- an unlucky shot clearly from the

1 standpoint of it even striking Mr.. Parker, but that
2 doesn't minimize the fact of what happened. I
3 understand that.

4 Your Honor, I don't know, you know, what extent
5 up until February when the trial went forward with
6 Adrian where there were some things even up until
7 that point in time which evidenced the fact of Adrian
8 being the leader as I spoke of just a minute ago in
9 this whole thing.

10 I think there was a -- an affidavit that was
11 presented that was signed by my client during that
12 period of time Adrian was -- knew that my client was
13 in the the jail over there, kept sending him stuff in
14 my opinion to influence him to do what occurred.

15 Your Honor, my client was here during that
16 trial. He was not called upon to testify during that
17 trial, but he was here if he had been called to.

18 Your Honor, I say all of this asking that you
19 take into full consideration, knowing that you to --
20 will take into full consideration, and not imposing a
21 life sentence on my client.

22 From my recollection and my understanding is
23 Adrian McCray, who went to trial back in February,
24 ended up getting a 25 year sentence if I recall
25 correctly.

1 Well, I believe and I believe the facts show
2 that he was clearly the mastermind in this whole
3 thing. Again, that does not minimize, Your Honor,
4 what my client did.

5 He made a decision to follow that day, which was
6 a terrible decision, but he stands before you today
7 with his grandmother and grandfather at the mercy of
8 this Court.

9 THE COURT: Thank you, sir. Anything else?

10 THE DEFENDANT: I'd like to say something to the
11 family. I know it's kind of hard for y'all to
12 forgive me what I done, you know what I'm saying, but
13 it's something I think about every night that I did,
14 it's real stupid, really stupid, you know what I'm
15 saying.

16 I know it's hard for y'all to forgive. But deep
17 down inside I really am sorry. Really, I'm sorry.
18 I'm sorry. I know that's hard. I just feel like --
19 just forgive me.

20 MR. BARR: This is his grandfather.

21 THE COURT: Yes, sir.

22 GRANDFATHER OF DEFENDANT: Ever since Rayshawn
23 been three years old, I took him, had him run to the
24 doctor, you know, back and forth, DSS or Mental
25 Health, I mean, you know.

1 I don't really know how to get in touch with his
2 mother. I talk to her on the phone a couple times,
3 you know, asked her to come and talk, you know, let
4 him see her or whatever, you know.

5 And he go into a rage sometime that he want to
6 see his mother. And I know -- get him on the
7 streets, you know, he go -- it get bad, you know, he
8 in school, you know, I have to go to school, get him,
9 get him Kevin Barr (phonetic) something like that,
10 just -- carried on.

11 Deputy Freddie Nelson, you know, me and him, we
12 talk about this, you know. He -- time I give him
13 DSS, he write up all the papers and, you know, get in
14 this problem right here, you know.

15 And guess think I know something about this and,
16 you know, the Parkers, I hope they don't feel bad for
17 our family because we don't go around do stuff like
18 this.

19 The tenth of this month right here I will be 61
20 years old. I ain't never been in jail in my life.
21 Never had any problem. You know, I just raised four
22 kids and let -- never have no problem, thank the
23 Lord, just my grandchild. I tried to raise him the
24 best I could, your Honor.

25 THE COURT: Thank you, sir. Anything else?

1 GRANDMOTHER OF DEFENDANT: Family -- I known
2 long time.

3 THE COURT: Anything else from anybody?

4 MR. BROWN: No, sir, Your Honor.

5 THE COURT: All right. I'm going to take about
6 a five or 10 minute break, go to chambers. I will
7 come back and let y'all know my decision.

8 (Whereupon there was a brief recess.)

9 THE COURT: This has been an extremely tough
10 decision. I feel for this family and their loss,
11 any -- it's incredible what they have had to go
12 through. And I understand that I have this young
13 man's life in my hand.

14 I have thought about this decision since
15 February. I prayed over it. This is a very horrific
16 crime. The fact that he went there one time, robbed
17 Melissa and her mother, came back later, did the
18 second time, killed their father and her husband.

19 And this is a case that quite frankly would
20 qualify for the death penalty based on the
21 circumstances, and I understand that this has been
22 a -- a number of reasons the Solicitor's Office,
23 defense counsel, and the family have struggled with
24 the issues in this case. Anyway, I hope my decision
25 is correct. Excuse me.

1 Sentence of the Court on indictment
2 2006-GS-45-339, armed robbery, the defendant's
3 committed the State Department of Corrections for a
4 term of 25 years. That is to run consecutive to
5 indictment 2006-45-340, murder.

6 Possession of weapon during a violent crime on
7 the armed robbery that occurred on March the 26th of
8 2005, sentence of the Court is the defendant is
9 committed the State Department of Corrections for a
10 term of five years. That is consecutive to count
11 one.

12 On indictment 2006-GS-45-340, on the armed
13 robbery, sentence of the Court is the defendant is
14 committed to the State Department of Corrections for
15 a term of 30 years. That's to run concurrent with
16 count one.

17 On count one, murder, the sentence of the Court
18 is the defendant is committed to the State Department
19 of Corrections for a term of his natural life. Good
20 luck to you.

21 I don't think -- since I gave him a life it's --
22 I didn't sentence him on the weapons charge because
23 based on the statute, he gets life, weapons charge
24 doesn't apply.

25 I am sorry y'all had to go through this. I hope

1 you can get some peace. I hope somehow -- and I
2 understand it's a horrible loss -- that you will be
3 able to forgive him simply because of your own.

4 You know, if you can't forgive this horrible
5 situation just like you taking -- hoping he will die
6 because it won't matter to him whether you forgive
7 him or whether you haven't.

8 But you're going to have to survive the rest of
9 your life. You -- this void will never be filled.
10 But you have your memories, and I hope you can get
11 through this, and I'm so sorry you had to go through
12 this. Good luck.

13 MR. SABB: Thank you, Judge.

14 MR. JACKSON: Thank you, Your Honor.

15 (End of requested transcript of record.)
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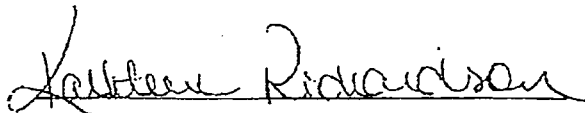
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

I, KATHLEEN RICHARDSON, RPR, CRR, Official Court Reporter for the third 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 General Sessions for Williamsburg County, South Carolina, on the third day of May, 2007.

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

October 13, 2007



KATHLEEN RICHARDSON, RPR, CRR

FORM 5

10 CP 45 132

STATE OF SOUTH CAROLINA)

COUNTY OF Williamsburg)

RAYSLAWN PEARSON 296097
Full name and prison number (if any) of Applicant.)

IN THE COURT OF COMMON PLEAS

201045000132
Filed for Record in
WILLIAMSBURG COUNTY SC
CAROLYN WILLIAMS
04-12-2010 At 09:47 am.
COMM FLE MF .00

v. CERTIFIED TRUE COPY

APPLICATION FOR Page _____

State of South Carolina

POST-CONVICTION RELIEF

CAROLYN K. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTYINSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention McCollum Correctional Institution 386 Redemption Day McConick S.C. 29899
2. Name and location of Court which imposed sentence 10 Court House SA Kingstreet S.C. 29556
3. Name(s) of co-defendant(s) (if any) Kristella Ham, Cedrick Butler, Adrian M. Allen M. Gray
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Murder - 2006-G.S.-45-0340, Armed Robbery 2006-G.S. 45-0339
 - (b) Armed Robbery - 2006-G.S. 45-0340 poss of Weapon during Violent Crime 2006-G.S.-45
 - (c) 0339.
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Murder - 1/11/07 Life w/o parole ARM Robbery, 11/11/07 25 years.
 - (b) Armed Robbery. 30 years 11/11/07 poss of Weapon during Violent Crime. 11/11/07 5 years

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒ _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. IN THE COURT OF GENERAL SESSIONS THIRD JUDICIAL CIRCUIT
- ii. THE SOUTH CAROLINA COURT OF APPEALS
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Court of General Sessions I filed a motion for reconsideration (IT WAS DENIED)
- ii. SOUTH CAROLINA COURT OF APPEALS (THEY FOUND KNOW AFTER 5)
- iii. _____
- (c) the date of each such result:
- i. JULY 3-07 DENIED Motion for Reconsideration
- ii. MAY 28-09 DENIED Appeal final orders brief
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

10 CP 45 132

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- (a) My lawyer stated to me that the solicitor agreed to 30 years if I took pl
 (b) I was denied due process. Why would I agree to the sentence imposed on me.
 (c) I was told that I would receive 30 years in return for taking plea.
 (c) Involuntary Guilty plea

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

- (a) I have a letter dated May 16 2007 where my lawyer stated to me that the only way I would receive less than life is by pleading guilty. so that's why I took the plea.
 (b) Because lawyer stated I would receive 30 years if I plead guilty.
 (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? _____
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? ✓
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
 (d) any other petitions, motions or applications in this or any other Court? _____

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

(a) the specific nature thereof:

- i. Am filing A Post Conviction Relief P.C.R.
 ii. I filed A (additional brief) to the Appellant Defense but they NEVER HEARD it.
 iii. _____
 iv. _____

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

- i. My Additional Anders Brief was filed with the S.C. Court of Appeals
 ii. My Post-conviction has not went into effect yet.
 iii. _____

iv. _____

(c) the disposition thereof:

- i. _____
 ii. _____
 iii. _____

- iv. _____
- (d) the date of each such disposition: **10 CP 45 132**
- 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?
- _____
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Am not well versed in law And would prefer for my P.E.R Attorney to
- (b) Amend Application once investigated by him/her.
- (c) _____
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? YES
- (b) your trial, if any? NO
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

10 CP 45 132

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

- (a) the name and address of each attorney who represented you:
- THE law office of David Craig Brown P.O. Box 2010 263 WEST EVANS ST Florence S.
29503. (843) 662-4474
 - Robert M. Audek South Carolina Commission on Indigent Defense
P.O. Box 11589 Columbia S.C. 29211-11589 (803) 734-1343
- (b) the proceedings at which each such attorney represented you:
- _____
 - _____
 - _____

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

NEW PLEA THE SENTENCE I WAS SUPPOSE TO RECEIVE OR LESSER

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

NO

STATE OF SOUTH CAROLINA

10 CP 45 132

County of Williamsburg

VERIFICATION

I, Rafael Perez, 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.

Rafael Perez

SWORN to and subscribed before me this 26 th
day of February, 2010.

Steven T. Mulvaney (L.S.)
Notary Public

My Commission Expires: November 7, 2016

10 CP 45 132

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

I, Rafael P. Pizarro, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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

Rafael P. Pizarro

Applicant

SWORN or affirmed to and subscribed before me this

26th day of February, 2010

Alvin T. Mulcahy
Notary Public

My Commission Expires: November 7, 2016

I CERTIFIED TRUE COPY
[Signature]
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

(CERTIFICATE OF SERVICE)

47

I, RAJSHAWN PEARSON DECLARE UNDER THE PENALTY OF THE U.S.C.A. § 1746 PER JURY
THAT ON BELOW SAID DATE I DID PLACE A TRUE AND EXACT COPY OF MY...

Appellant Pro-Se P.C.R. Attachment WITH PERRY C. I
MAIL ROOM CLERK TO FORWARD THROUGH THE U.S. POSTAL SYSTEM WITH
SUFFICIENT POSTAGE TO: WILLIAMSBURG COUNTY CLERK OF COURT 125 WEST
MAIN STREET KINGSTREE S.C. 29556 TO (THE HONORABLE CAROLYN F. WILLIAMS)

Done And Subscribed Before Me,
This 21st Day of February 2010

Stuart McClary
NOTARY PUBLIC OF SOUTH CAROLINA

Number 7, 2016
MY COMMISSION EXPIRES

RAJSHAWN PEARSON
296097
PERRY C. I DYCELL
430 OAKLAWN ROAD,
PELZER S.C. 29669

Rajshawn Pearson

STATE of South Carolina
County of Dillon
Indictment Number 2006-45-340
Applicant

vs.

In the Court of Criminal Pleas
Indictment No. 2006-G.S.-45-340

P. C. R. ATTACHMENT

This Matter comes before the Court on the Application for Post Conviction Relief DATED _____ The Applicant is presently confined in the ~~PERMANENT~~ Correctional Institution of South Carolina Department of Corrections. The Applicant was indicted on the December 11, 2006 Term of Court of General Session in Dillon County for the offense of Murder, two counts of Armed Robbery, possession of weapon during commission of violent crime, and Criminal Conspiracy. Indictment Number 2006-G.S.-45-340 Applicant, was represented by Paula Brown on Feb. 1, 2007.

The Applicant was sentenced at the Court on Indictment 2006-G.S.-45-339, Armed Robbery to 25 years in the Department of Corrections. To run consecutive to, Court on Indictment 2006-G.S.-45-340, Possession of Weapon during Violent Crime that occurred on March the 26th of 2005. Sentence of the Court the defendant is committed to the Department of Corrections for a term of five years that consecutive to Court on Indictment 2006-G.S.-45-340 on the Armed Robbery that occurred July 29, 2005. That State imposed a 30 year sentence under Indictment 2006-G.S.-45-340 for Murder that occurred on July 29, 2005 under Indictment 2006-G.S.-45-340. The State committed Applicant to Natural Life in Prison.

The Applicant contends that his conviction was unlawful, and he asserts such facts were articulated in this P.C.R. Affidavit.

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(TABLE OF AUTHORITIES)

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HERMAN V CLAUDY 350 U.S 116, 118 76 S.Ct 223. 224 L.Ed 126 (1956) PG (8)

FEDERAL DUE PROCESS CLAUSE PG (8)

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STATE V TORRENCE 305 S.C 45 406 S.E 2d 315 (1991) PG. (21)

STATE V PRINCE 447 S.E 2d 177 1993 (PG) 20

STATE V ZEEGLER 610 S.E 2d 859 2005 (PG) 20

STATE V FULLER 522 S.E 2d 282 2001 (PG) 20

Appellant was indicted at the December 11, 2006 Term of Richmond County Grand Jury for the offense of Murder, two counts of Armed Robbery, Possession of Weapon during Commission of Violent Crime and Criminal Conspiracy under Indictment number 2006-GS-45-340. The case came on February 1st, 2007 before the Honorable L. Ferrell Cochran, Jr. President Judge Kimberly Barr Esquire attorney for the prothonotary.

The Appellant pled guilty to Murder, two counts of Armed Robbery and possession of Weapon during Commission of Violent Crime on Count one Murder. The Appellant received a natural life under Indictment 2006-GS-45-340 on the Armed Robbery that occurred July 29, 2005. The Appellant received 30 years under Indictment 2006-GS-45-340 on that Armed Robbery that occurred March 26, 2005. The Appellant received 25 years under Indictment 2006-GS-45-339 on Possession of Weapon during Violent Crime that occurred March 26, 2005. The Appellant received 5 years under Indictment 2006-GS-45-339.

The facts for Trial is followed.

A sentencing hearing was held on May 3, 2007 before Judge Cochran. David Pitt Brown represented Appellant, Kimberly Barr and Laurie Sabb were the Assistant Solicitors. At the conclusion the State dismissed the Criminal Conspiracy and separate indictment for Escape. At the conclusion the Judge imposed a life sentence for Murder, thirty years for Armed Robbery and twenty-five consecutive years for the other count of Armed Robbery. The Judge also imposed a five year consecutive sentence for possession of Weapon during Commission of Violent Crime.

(Constitutional)

Appellant argues that Appointed Counsel was ineffective assistance of Counsel, Appellant argues Counsel actions and omissions have been prejudicial and inadequate. Appellant argues Counsel ineffective assistance caused serious prejudice and significantly contributed to a constitutional violation, which undermined the,

(Truth finding process) Appellant states Counsel was ineffective for failure to argue his cases like it was supposed to be argued, Counsel failed to secure information pertaining to case such as the indictment were judge sentenced Appellant without an indictment Counsel failed to look into, Appellant mental condition this failure resulted in a constitutional violation Appellant argues this was prejudicial and not a harmless error therefore requiring the Court to overturn, or re-sentence Appellant conviction the, Appellant argues the Court which he was sentenced in did not have jurisdiction

THE FACTS ARE TRUE AS FOLLOWS...

(EXHIBIT # 1)

Appellant argues that the Solicitor or other officer of the State should not be sole witness before a Grand Jury making false statements. The Solicitor in effect is having another officer of the State do something that the Solicitor is prohibited from doing. The holding in *Miller* should be extended to forbid the participation of a police officer or other officer of the State who did not participate in the investigation from being sole witness before the Grand Jury and merely a summary of the evidence in the case. Appellant argues the routine of registration of an indictment based solely on hearsay evidence requires the indictment be dismissed.

Appellant argues the routine practice to an individual appearing before the proceeding to give his third and fourth version of facts which he has no direct knowledge of without some competent evidence is insufficient. Appellant argues that the State should sustain the indictment and require the State to call witnesses with knowledge of the facts to testify at the Grand Jury. See case, STATE v. CATTS, 276, 39-62, 275 S.E.2d 812, 813 (1981). DETECTIVE WILLIE BROWN

Brought fourth false information about the charges that occur on March 26, 2005, without evidence it's known indictment for these charges so how can the Grand Jury vote on the charges without proof.

(Argument #2)

Appellant argues his Counsel was ineffective when Counsel advised Appellant that the only way to get less than life would be to take a Guilty Plea. On Indictment 2006-65-45-34 Appellant was sentenced to life in Prison. SEE LETTER *DATED May 16 2007* SEE CASE, HERMAN V. PLADY 350 U.S. 116, 118 76, S.Ct. 223, 224 LEd 126 (1956) Conviction following Trial or Plea of Guilty on a Confession extorted by violence or by mental coercion is invalid by THE FEDERAL DUE PROCESS CLAUSE. Appellant argues that Counsel stated to him that he spoke with the Solicitor Office about sentencing Transcript of Guilty Plea (pg. 13) Counsel states prior to coming into the Court Room the Day of the Guilty Plea and the Solicitor spoke about (sentencing) This is a reason why Appellant did not go to Trial because lawyer stated if he took plea he would get 30 years for charges.

(ARREST (3))

Appellant desires his arrest warrants was later filed properly with the clerk of court within (15) days from the date of his arrest, the arrest warrants has shown clerk of court stamp on the warrant or the signature from the judge to show that the warrants are real appellant desires Rule (3) Disposition of arrest warrants transmitted to the clerk, magistrate judges, and other officers authorized to issue warrants shall in all cases within the jurisdiction of the court of Criminal Session to forward to the clerk of Criminal Session all documents pertaining to case including but not limit to arrest warrants and bond within fifteen days from the arrest in the case of an arrest warrant and date of, Issuance in the case of other documents, transmitted shall be, pursuant to procedures now or hereafter promulgated by the, office of South Carolina Court Administration. THE ARREST WARRANT DOES NOT HAVE A JUDGE SIGNATURE ON THEM TO SHOW THAT THE CHARGES ARE FACTS TO ARREST THE ACCUSED PERSON FOR THE CHARGES THAT SHOWS ON THE WARRANTS

(ARGUMENT 4)

Appellant argues his Indictment was never properly stamped and
 filed with the Clerk of Court Appellant argues there is a Clerk of
 Court stamp on Indictment DATED December 7 2006 Appellant argues,
 how could the Clerk of Court stamp and file his Indictment with
 the Grand Jury convened on December 11, 2006 which means the
 Clerk of Court stamp and filed his Indictment before his case
 went before the Grand Jury. Appellant argues the Court stated in
 the Verdict the filing of an valid Indictment is Prerequisite to
 the Courts Jurisdiction Rule 3 (C) S.C.R.M.P. Also the Courts
Jurisdiction Rule 3 (C) S.C.R.M.P. also mandates that the Indictment be
 filed and they are not thus the Court lack Jurisdiction and
 the Act of a Court without Jurisdiction is void furthermore it is
 the Clerk of Court to see that Prerequisites stamps are affixed
 on paper before they are recorded see Bull/Tran 318 S.C. AT 32
303 467 S.E. 2d AT 620 Appellant argues that Indictment was
 never filed with S.C. Administration where Clerk of Court after
 a Decree rendered is given to him or her to be disposed of
 according to law it filed but neglects to enroll enter or index
 it and put in a waiver pursuant to PARAGRAPH (A) (B) due to
 Procedural Due Process Violation South Carolina Rules of Court
 Rule (3) Disposition of Arrest Receipt of an Arrest Warrant
 within 90 days After Receipt of an Arrest Warrant from the Clerk
 of Court the Solicitor shall take Presentment to the Grand Jury
 Defendant argues the Indictment prepared by the Solicitor shall
 be filed with the Clerk of Court and bear the Seal of
 Confirmation to be forever identified as legal and binding
 Documentation that bears known Notion of Authority is not valid and
 cannot be held as, legal document as such does not confer

Affiant alleges "Detective [Name]" coerced, detained, subjected to mistreatment and indignities denied by the constitution and law of the United States. When he testified in the Grand Jury Proceedings, Affiant alleges Detective made statements under oath or threatened Affiant or others or affirms the truth of such statements personally, despite that he does not believe the statement to be true. Affiant alleges Detective testified in Grand Jury Proceedings influenced jury with evidence which not in record. Affiant alleges knowledge and disbelievable. One Detective knew of violations of his rights and was in a position to correct them and fail to do so in this type of situation. Personal involvement is shown by the officers knowledge of the problem or evidence that proves they should have known about Defendant's status. Defendant's presence or act or failure to act, that violated constitutional rights. Affiant alleges Defendant's information Key B7(3) presence of an unauthorized person before Grand Jury is Fed. Se. Grounds for, Unlawfully involvement see Fed. Rules Criminal Pro. Se. Rules 6(b)(2) 18 U.S.C.A.

Appendix (6)

Appellant argues that he was sentenced to 25 & 5 years for the same Robbery Charge and Car Pass of Weapon during commission of a violent crime that they have known Indictment for that occur in March of 2005. See STATE VS. WILLIAMS, 303 N.C. 307 279 S.E.2d 592 (1981). THERE IS NOW INDICTMENT SHOWING FOR A CHARGE THAT OCCUR IN THE MONTH OF MARCH APPELLANT RECEIVED 25 & 5 CONSECUTIVE YEARS FOR THESE CHARGES WITHOUT AN A INDICTMENT. SEE TRANSCRIPT VG. OR RECORD ON APPEAL BOOKLET pg. 40-41 WHERE IT SHOWS THE CHARGES. AND THE INDICTMENT.

(ARGUMENT 1)

APPELLANT ARGUES COUNSEL NEVER ARGUE THE FACT THAT APPELLANT WAS A MENTAL CONDITION THE STATE KNOWS WHEN AN APPELLANT HAS A MENTAL CONDITION THE STATE MUST EVALUATE THE APPELLANT NOT TO EXCEED 15 DAYS. THE REPORT OF SUCH EXAMINATION SHALL BE ADMISSIBLE AS EVIDENCE IN SUBSEQUENT HEARINGS

PERMANENT TO §§ 44-23-430 THIS WAS A CAPITAL MURDER CASE. APPELLANT TOOK MEDICINE WHEN HE WAS YOUNGER WHICH WAS CALLED WESTBURY FOR A.D.H.D. COUNSEL FAILED TO GET A LESSER OFFENSE DUE TO THE APPELLANT MENTAL ILLNESS. SEE STATE V BAIR 215 S.C 529-213 S.E.2D 536 IN THIS MATTER IT'S COUNSEL

DUTY TO MAKE SURE APPELLANT HAVE A FAIR TRIAL AND THAT THE STATE HAVE FULL KNOWLEDGE OF APPELLANT HISTORY. THE APPELLANT WENT BEFORE THE DEPARTMENT OF MENTAL HEALTH ON SEPTEMBER 20 2006 FOR 1 DAY 1 HOUR 46 MIN STATE LAW STATES ANY DEFENDANT WITH CRIMINAL RESPONSIBILITY MUST BE EVALUATION FOR A PERIOD OF 15 DAYS. THE DEFENDANT HAVE A HISTORY OF BEING MENTALLY ILLNESS. THE APPELLANT WAS IN SPECIAL CLASSES WHILE IN SCHOOL THE APPELLANT GOT KICKED OUT OF SCHOOL IN THE 7TH GRADE THE APPELLANT STATES WHEN HE WAS NOT INCARCERATED HE WENT TO MENTAL HEALTH CLASSES THE APPELLANT ARGUES THAT COUNSEL DID NOT ARGUE THIS MATTER RIGHT AND EXACT. THE APPELLANT ARGUES HE IS NOT KNOWLEDGEABLE OF WHAT WAS GOING ON SO THE STATE USED HIS MENTAL STATE TO FORCE HIM TO PLEA.

(EXHIBIT 8)

APPELLANT ARGUES THE STATE GAVE THE APPELLANT A LIFE SENTENCE ON A Guilty
 PLEA. BUT THE STATE TRIED TO SUEK LATER TO THE APPELLANT LATER TIME
 KNOW THE STATE WAS SEEKING LIFE WITHOUT PAROLE APPELLANT DECIDES THE SOLICITOR
 FOR THE JUDGE STATED THIS AT PLEA HEARING COUNSEL FAILED TO ADVISE APPELLANT
 THAT HE WOULD PLEA UNDER 10-3-20 AND RECEIVE 30 YEARS. LAWYER ADVISE THE
 APPELLANT THAT HE SPOKE WITH SOLICITOR ABOUT SENTENCING SEE TRANSCRIPT PG. 13
 LINE 16-17 Guilty PLEA TRANSCRIPT DEFENDANT STATES THE ONLY REASON HE DID NOT
 WANT TO TRIAL BECAUSE COUNSEL STATED TO APPELLANT HE WOULD GET THE APPELLANT
 A LESSER OFFENSE INSTEAD OF GOING TO TRIAL. COUNSEL STATED IN TRANSCRIPT
 OF RECORD PG. 13 LINE 19-23 HE KNEW THE JUDGE CAN GIVE HIM LIFE BUT THE
 DEFENDANT CHOOSE NOT TO PUT THE STATE THREW THAT.

(Rebuttal 9)

APPELLANT ARGUES THAT THE JUDGE DID NOT CONSIDER THE FACT THAT COUNSEL STATED AT SENTENCING HEARINGS THAT THE APPELLANT DID NOT WENT INTO THE STORE WITH INTENTIONS OF KILLING IT WAS A LUCKY SHOT. THE LAW STATES UNINTENTIONAL KILLING WITH FIREARM RESULTING FROM CARELESS NEGLIGENCE IS ORDINARILY INVOLUNTARY MURDER UNLESS DEFENDANT ACTS WITH HEART DEVOID OF SENSE OF SOCIAL DUTY OR WITH RECKLESSNESS OF MIND AND DISREGARD FOR HUMAN LIFE. SEE 459 128 S.E.2D AT 893 INTENTIONAL KILLING SEE STATE V WICKERSON 293 S.W.2D 359 382 247 S.E.2D 905 919 (1978) THE APPELLANT STATES THE COURT NOR THE

INVESTIGATORS DO NOT HAVE A ORAL OR WRITTEN STATEMENT SAYING WHO SHOT A WEAPON APPELLANT ARGUES THE STATE DO NOT HAVE A WEAPON TO CHARGE APPELLANT WITH MURDER. REGARDLESS WHO SHOT THE WEAPON THE COUNSEL DID NOT ARGUE THE FACT THAT APPELLANT DID NOT WENT INTO THE STORE WITH INTENTIONS OF KILLING COUNSEL STATED THE FACT BUT DID NOT ARGUE THE FACT. COUNSEL STATED APPELLANT DID NOT WENT IN THE STORE WITH INTENT BECAUSE IF HE DID HE COULD HAVE SHOT MRS. PARKER AS WELL HE MADE A MISTAKE SEE TRANSCRIPT PG. ⁽¹⁷⁾ 20-25

(Attachment 10)

Appellant complains the Court which he was sentenced did not have
 subject matter Jurisdiction to Accept Guilty Plea SEE NEIDHAUSE V STATE
334 S.C. 327-313 S.E. 2d 2d 840 THE STATE ACCEPTED THE APPELLANT GUILTY
 PLEA BECAUSE APPELLANT AGREED TO PLEA GUILTY TO CHARGES THE STATE DID NOT
 HAVE SOLE EVIDENCE ONLY CONFESSION THAT WAS FORCED OUT CO-DEFENDANTS WITHOUT
 THE STATEMENTS ~~BOOTH~~ OF WILLIAMSBURG DO NOT HAVE EVIDENCE. APPELLANT FELT
 LIKE IF HE WENT TO TRIAL HE WOULD STILL HAVE GOTTEN A LIFE SENTENCED INSTEAD
 HE TOOK A PLEA. BY LISTENING TO HIS LAWYER BECAUSE HE THOUGHT HE WAS GOING
 TO RECEIVE 30 YEARS FROM LISTENING TO LAWYER.

(Attachment 11)

Appellant's Counsel brought forth false charges as Motion for Reconsideration. The charges the Judge Reconsider was not the charges the Appellant Plead Guilty too! The Judge never looked at charges to see what charges the Appellant Plead too! Instead he Denied Appellant Motion the Motion that was stamped and filed was a false Motion Carolyn Williams was not the one who stamp and filed Motion look at the error on the Motion on the date when the signature on the Motion it's not the Clerk of Court. The Counsel stated in letter dated June 19, 2007 that the sentenced impose upon Appellant was not final. The Judge did not give the Counsel or Appellant a chance to Reconsider evidence or something to show the Judge that the Appellant sentenced was not correct.

(171)

(Argument 12)

Appellant argues the STATE failed to file indictment Within 180 days.
 After the Appellant Arrest Warrant was issued on July 29 2005 Appellant
 argues he was indicted on Dec 11 2006 SEVENTEEN MONTHS AFTER THE WARRANT
 WAS PLACED ON him. Which is almost 2 YEARS LATER See Pg 40-41 of TRAN-
 SCRIPT. Appellant argues Counsel was ineffective assistance of Counsel Pursuant to
 Strickland v Washington When Appellant Counsel failed to Protect his 5th 6th &
 14th Amend Rights by failing to Recognize and defend him Against
 Constitutional Violations Resulting from Misconduct of the STATES Prosecutor/State
 whom failed to comply with the STATE South Carolina Rules of Court
 And Criminal Procedure Rule 3 (CAND) By failing to Take Action on
 Capital Murder Warrant Within 90 days After Receipt from the Clerk
 of Court or seeking the Extension for Time Granting Delay Action
 upon Warrant Which violated Separation of Power Clauses of the South
 Carolina Code of Law As Amended in Article I section 8) and Article
 14) Deprived the Plaintiff in this case of an Entitlement of Due Process
Requirement.

(ARGUMENT 14)

Defendant argues there was know photographs at sentencing hearing or plea hearing in capital cases photographs are admissible in sentencing phase to show circumstances and defendant character SEE 321 S.C. 321 468 S.E.2d 626. THE APPELLANT STATES THAT THE COURT DID NOT HAVE PICTURES AT SENTENCING PHASE TO SHOW THE CHARACTER OF DEFENDANT FROM THE GUNSHOT WOUND THE BODY OF THE VICTIM. TO PROVE TO THE STATE THAT IT WAS NOT INTENTIONAL KILLING THE VICTIM WAS NOT SHOT-UP IT WAS 1 SHOT FIRED A LUCKY SHOT THAT FIRED OUT THE GUN.

(ARGUMENT 13)

APPELLANT ARGUES THAT THE STATE SAID HE SHOT THE VICTIM APPELLANT
 ARGUES HE NEVER GAVE A ORAL OR WRITTEN STATEMENT SAYING HE SHOT THE
 VICTIM APPELLANT ARGUES HE AGREED TO WHAT THE STATE SAID AT THE
 PLEA HEARING BASED UPON COUNSEL STATED HE WOULD GET 30 YEARS. APPELLANT
 ARGUES THE STATE CANT SAY WHO SHOT THE VICTIM WITHOUT A GUN
 AND FINGERPRINTS THE STATE NEVER GOT A GUNPOWDER ANALYSIS TO SEE WHO
 SHOT A WEAPON SEE 198 S.C. 98 104-05 16 S.E.2d 532, 534, 35 (1941)
 SEE STATE V SOUTHERLAND 316 S.C. 371, 447 S.E.2d 862 (1994) SEE STATE V
292 S.C. 465, 366 S.E.2d 10 (1988) THE APPELLANT ALSO ARGUES KISTELLA HAM WAS
 INDICTED FOR THESE SAME CHARGES BUT NEVER SERVE A DAY IN JAIL THE LAW STA.
 A PERSON WHO. SOLICITATION AND ACCESSORY AFTER THE FACT OF MURDER WERE SEPERATE
 OFFENSES WHERE SOLICITATION WAS COMPLETE WHEN PERSON WAS ASKED BY DEFENDANT
 TO FIND SOMEONE TO MURDER THE VICTIM BUT WHERE THE PRINCIPAL INVOLVED IN
 THE ACCESSORY BEFORE THE FACT OF MURDER CHARGE WAS DIFFERENT PERSON SEE
STATE V PRINCE, 447 S.E.2d 177 (1993) SEE STATE V ZEIGLER, 610 S.E.2d 859,
2005. STATE V FULLER S.C. (2001) 522 S.E.2d 282 KISTELLA HAM WAS IN
 INDICTMENT FOR ACCESSORY DEFENDANT ARGUES SHE ADMITTED SHE WAS PART OF
 THE CRIME SO WHY DIDNT SHE GET ANY TIME.

(Argument 16)

APPELLANT ARGUES JUDGE DID NOT MAKE HIS SELF CLEAR WHEN HE SENTENCED
 APPELLANT TO LIFE IN PRISON THE JUDGE SUPPOSE TO MAKE HIS SELF CLEAR
 THAT APPELLANT IS NOT ELIGIBLE FOR PAROLE SEE SIMMONS V STATE 512 U.S.
154 114 S. CT 2187 129 L. Ed 2d 133 (1994) IN THE APPELLANT CASE THE
 DEATH PENALTY WAS TALKED ABOUT BUT WAS NOT GIVEN FOR AN UNKNOWN
 REASON THE REFUSAL TO GIVE SUCH REQUEST IS REVERSIBLE ERROR SEE
STATE V TORRENCE AT 305 S.C 45, 406 SE 2d 315 (1991) THE APPELLANT ARGUES
 HOW CAN THE JUDGE GIVE THE APPELLANT LIFE ON A GUILTY PLEA WHEN THE
 DEATH PENALTY WAS NOT ON THE TABLE. SEE TRANSCRIPT PG. 22 SENTENCING WHEN YOU
 PLEAD GUILTY TO A CRIME THE STATE SUPPOSE TO GIVE A LESSER OFFENSE.

(Argument 17)

THE APPELLANT ARGUES THAT THE WARRANT STATES THAT THE VICTIM WAS SHOT IN THE CHEST. THE AUTOPSY STATES THE VICTIM WAS SHOT IN THE STOMACH THAT'S TWO DIFFERENT PLACES BUT THE VICTIM WAS SHOT ONLY ONE. WITH A GUN THERE WAS A GUN WEAPON RECEIVED FOR EXAMINATION THE APPELLANT ARGUES THAT THE WARRANT IS TO ISSUE A ARREST AND SIGNED BY THE JUDGE TO ARREST THE ACCUSED PERSON AND IT MUST STATE FACTS. THE APPELLANT ARGUES IF THE VICTIM WAS SHOT MORE THAN ONE THEY SUPPOSE TO STATE THIS INSIDE THE AUTOPSY REPORT

Appellant argues his Sixth Amendment Right to Counsel Recognized as an important element of a Criminal Defendants Fundamental Right to a fair Access to Reasonably Competent Attorney is NECESSARY in order for an accused who has (no) knowledge of the law and the Rules of Evidence to have him ample opportunity to defend himself. THE APPELLANT STATES HE WAS/AND STILL ISN'T THAT WELL KNOWLEDGEABLE OF THE LAW. THE APPELLANT ARGUES THE COURT OF WILLIAMSBURG WAS NOT FAIR IN SENTENCING THE APPELLANT STATES THE COURT OF WILLIAMSBURG DID NOT HAVE ALL THERE EVIDENCE IN ORDER TO SAY THE DEFENDANT COMMITTED OR DESERVE THE PUNISHMENT HE RECEIVED THE APPELLANT STATES ALL HE WISH TO HAVE IS THE 30 YEARS FOR AGREEING TO TAKE THE PLEA FROM THE STATE IF NOT THE APPELLANT WOULD LIKE TO ASK THE P.C.R COURT TO GRANT HIM A NEW TRIAL. THE STATE HAVE THE APPELLANT DOING TIME WITH KNOW INDICTMENTS THE APPELLANT STATES THERE ARE CHARGES THAT HE HAVE KNOW WARRANTS FOR BUT THE CHARGES ARE IN HIS INDICTMENT.

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

Rayshawn Pearson, #296097,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

2010-CP-45-0132

RETURN

(Appointment of Counsel Requested)

The Respondent, making its Return to the application for post conviction relief (PCR) filed April 12, 2010, and the amendment filed November 12, 2008¹, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was indicted at the December 2006 term of the Grand Jury for Williamsburg County for one (1) count of Murder (2006-GS-45-340, Ct. 1), two (2) counts of Armed Robbery (2006-GS-45-339, Ct. 1; 2006-GS-45-340, Ct. 2), two (2) counts of Possession of a Weapon During Commission of a Violent Crime (2006-GS-45-339, Ct. 2; 2006-GS-45-340, Ct. 3), and one (1) count of Criminal Conspiracy (2006-GS-45-340, Ct. 4). Craig Brown, Esquire, represented the Applicant at his plea and sentencing. On February 1, 2007, the Applicant pled guilty to one (1) count of Murder (2006-GS-45-340, Ct. 1), two (2) counts of Armed Robbery (2006-GS-45-339, Ct. 1; 2006-GS-45-340, Ct. 2), two

¹ This Application was improperly filed while Applicant's direct appeal was pending, however, was not received by Respondent until two years later, after the direct appeal had been dismissed and after receipt of 2010-CP-45-0132.

(2) counts of Possession of a Weapon During Commission of a Violent Crime (2006-GS-45-339, Ct. 2; 2006-GS-45-340, Ct. 3). A Criminal Conspiracy charge and a subsequent indictment for Escape were *nolle prossed* per the plea. On May 3, 2007, the Honorable R. Ferrell Cothran, Jr., sentenced Applicant to confinement for the balance of his natural life for Murder and to a concurrent term of thirty (30) years for Armed Robbery (2006-GS-45-0340). Applicant was sentenced to twenty-five (25) years for Armed Robbery, to be consecutive to the sentence for Murder, and to five (5) years for Possession of Weapon During Commission of Violent Crime (2006-GS-45-0339).

A timely Notice of Appeal was filed on Applicant's behalf, and a brief submitted pursuant to Anders v. California, 386 U.S. 738 (1967). The Court of Appeals dismissed the appeal. State v. Pearson, Op. No. 2009-UP-240 (S.C. Ct. App. filed May 28, 2009). Remittitur was sent on June 15, 2009.

Attached herewith and incorporated herein are the records of the Williamsburg County Clerk of Court regarding the subject conviction(s), the appellate records, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea and sentencing hearing transcripts. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "My Lawyer stated to me that the Solicitor Agreed to 30 years if I took plea."
 - a. "I have a letter dated May 16, 2007 where my lawyer stated to me that the only way I would receive less than life is by pleading guilty. So that's why I took the plea."
2. "I was denied Due Process. Why would I agree to the sentenced (sic) imposed on me. I was told that I would receive 30 years in return for taking plea."

Respondent moved to merge the two cases under 2010-CP-45-0132.

3. Involuntary Guilty Plea.

In the Amendment, Applicant alleged ineffective assistance of counsel.

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

c. III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel 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, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance 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. 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, 106 S.Ct. 366, 88 L.Ed. 2d 203 (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 the record does not conclusively refute. Accordingly, 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.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the

defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

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

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

[Signatures on next page.]

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: Mary S. Williams
ATTORNEYS FOR RESPONDENT

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

Sept. 21, 2010.

A CERTIFIED TRUE COPY
Carolyn F. Williams
 CAROLYN F. WILLIAMS
 CLERK OF COURT
 WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

RAYSHAWN PEARSON, 296097

Applicant

STATE OF SOUTH CAROLINA

Respondent,

IN THE COMMON PLEAS COURT

DOCKET NO.: 2009-CP-27-0079

AMENDMENT TO PCR

CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG, S.C.

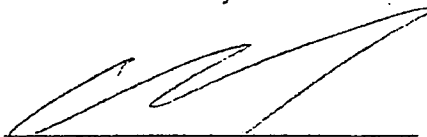
12 JUL -9 PM 12: 02

FILED

The Applicant, Rayshawn Pearson, through undersigned Counsel wishes to amend his Application for Post Conviction Relief as follows:

SEE ATTACHED PAGES TOTALING FIVE (5)

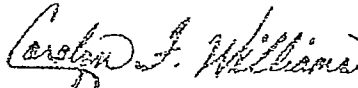
RESPECTFULLY SUBMITTED ON BEHALF OF
APPLICANT, Rayshawn Pearson



Charles T. Brooks, III
Attorney for Applicant
309 Broad Street
Post office Box 3512
Sumter, South Carolina, 29150
(803) 418-5708

June 28, 2012

A CERTIFIED TRUE COPY



CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

Defendant Person
Applicant

State of South Carolina
Court of Williamsburg
County of Common Pleas

Case No. 2010-CP-45-132

State of South Carolina
Respondent

A CERTIFIED TRUE COPY
Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

Added Amendment to P.C.R.
Above Case.

FILED
12 JUL -9 PM 12:02
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY, S.C.

Applicant respectfully in a timely fashion asks the Court to add the additional ground to the initial filing/case no. identified above.... Applicant wants to provide the state available time frame to per pare a defense if not to the ground being presented.... Applicant feels that it is entitled relief on such case as presented...

Additional Ground

Lack of Subject Matter Jurisdiction

Question: the Power of Courts to enforce into Parts 1111-1112 the last state decisions had to declare jurisdiction lack of jurisdiction is a lack of Power to hear a case because conditions essential to exercise jurisdiction have not been complied with...

The Court lacked jurisdiction by failure to have a valid independent independent is void and unconstitutional....

The Court of General Sessions then Circuit of Williamsburg Court lacked Subject Matter Jurisdiction over Applicant. Had the case "2010-CP-45-132" because conditions essential to exercise jurisdiction have not been complied with Applicant asserts the independent "2010-CP-45-132" Exhibit 11) was not presented to a Grand Jury Pursuant to Title 14 Chapter 7, S.C. Code of laws which is a violation of all Constitutional rights and 11th Amendment U.S. Const Art 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

Such. Historical of Rule 3C & C Criminal file. The Solicitor was aware of documents that the State & indictment presented before a Grand Jury. Which indictment was introduced filed in the Clerk of Court given a case not to presented to a Grand Jury for this order & was filed in the Clerk on December 7, 2012 based on the same body of the transcript this confirms that the indictment was not presented to a body of Grand Jurors nor did it appear ever to have been this indictment this qualifies the Accusatorial instrument and it qualifies the subject matter jurisdiction. Nothing that is founded upon such (guilty plea) is also a qualified and cannot stand. ... For the foregoing reasons requested deemed proper and sufficient & read this Court for violation of civil services and dismissal of indictment Rule 63-45-31C with prejudice...

LiDE So...

Affirmant Rayshaw Pearson

Rayshaw Pearson # 291097
 130 Oakland Road
 Pearl River, MS
 39276-0009

Subscribed to before me this 26

Day of June 2012

[Signature]

Notary Public of South Carolina

1/20/21

My Commission



STATE OF SOUTH CAROLINA)
COUNTY OF LEE)

COURT OF COMMON PLEAS

RAYSHAWN PEARSON)
PETITIONER,)

v.)

TRANSCRIPT OF RECORD
10-CP-45-0132

STATE OF SOUTH CAROLINA,)
RESPONDENT.)

September 21, 2012
Bishopville, South Carolina

B E F O R E :

THE HONORABLE WILLIAM JEFFREY YOUNG, JUDGE

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

CHARLES T. BROOKS, III, ESQ.
Attorney for the Petitioner

MEGAN E. HARRIGAN, ESQ.
Attorney for Respondent

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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EXHIBITS**RESPONDENT:**

No.	Description	I.D./EVD
1	Letter	11/20

1 MS. HARRIGAN: This is Rayshawn Pearson
2 versus the State, case No. 2010-CP-45-0132. He was
3 found guilty during the December 2006 term of the
4 Williamsburg County Grand Jury for one count of
5 murder, two counts of armed robbery, two counts of
6 possession of a weapon during the commission of a
7 violent crime, and one count of criminal conspiracy.
8 D. Craig Brown represented the applicant. On
9 February 1st, 2007, the applicant pled guilty as
10 indicted to murder, two counts of armed robbery, two
11 counts of possession of a weapon during the
12 commission of a violent crime before the Honorable
13 R. Ferrell Cothran, Jr. Sentencing was deferred
14 until a later date, and the criminal conspiracy
15 charge as well as from a different indictment for
16 escape were nol prossed pursuant to the plea. On
17 May 3rd, 2007, Judge Cothran sentenced applicant to
18 confining him the balance of his natural life for
19 murder, a term of 30 years and 25 years for each
20 armed robbery, and 5 years for possession of a
21 weapon during the commission of a violent crime,
22 which would be served concurrent to each other.
23 A timely notice of appeal was filed on applicant's
24 behalf and a brief was submitted pursuant to Anders
25 on his behalf. The Courts of Appeal dismissed the

1 appeal and remittitur was sent on June 15th, 2009.
2 Applicant filed a timely application for
3 post-conviction relief on November 12, 2008 which
4 was not received by the State for two years and a
5 second application was received on -- or was filed
6 on April 12th, 2010. These two applications were
7 merged. The State made its return on September
8 21st, 2010. He's represented in this present action
9 by Charles T. Brooks, III.

10 THE COURT: Mr. Brooks, good morning.

11 MR. BROOKS: Good morning, Judge, how are
12 you doing?

13 THE COURT: You ready to proceed?

14 MR. BROOKS: Judge, we would ask the Court
15 for a continuance. My client has indicated to me
16 that his institution has been on lockdown. He has
17 not been able to get to the law library.

18 THE COURT: But you're ready to proceed
19 though; aren't you? I mean, you're the lawyer and
20 you're the one who needs the law library.

21 MR. BROOKS: But Judge, you know, I --
22 knowing that I do a bunch of these, Judge, I would
23 have to speak truthfully to the Court that I
24 personally would be ready to proceed, but my client
25 has indicated he is not.

1 THE COURT: You know, we've got a lot of
2 people here who are ready to hear this case. I
3 think I'm going to deny your motion. We'll go ahead
4 and do this post-conviction relief.

5 MR. BROOKS: I understand.

6 THE COURT: Thank you.

7 MR. HARRIGAN: Thank you, Your Honor.

8 MR. BROOKS: In light of Your Honor's
9 ruling and if we have to proceed I will go ahead and
10 call Mr. Rayshawn Pearson.

11 THE COURT: You may call your first
12 witness.

13 THE CLERK: Raise your right hand, left
14 hand on the Bible. State your name please.

15 THE WITNESS: Rayshawn Pearson.

16 WHEREUPON,

17 **RAYSHAWN PEARSON,**
18 having been duly sworn by the Clerk of Court,
19 testified as follows:

20 THE CLERK: State your full name and spell
21 your last for the record.

22 THE WITNESS: Rayshawn Pearson.

23 MR. BROOKS: Ready, Judge?

24 THE COURT: Yes, sir.

25 **DIRECT EXAMINATION**

1 BY MR. BROOKS:

2 Q Mr. Pearson, you had Mr. Craig Brown representing
3 you in this case?

4 A Yes, sir.

5 Q And he was court appointed to represent you?

6 A Yes, sir.

7 Q Now you've raised this application for
8 ineffective assistance of counsel against Mr. Brown.
9 You ended up pleading guilty to these charges; is
10 that correct?

11 A Yes, sir.

12 Q How -- tell us how did that come about?

13 A Mr. Craig advised me that if I took the guilty
14 plea that I'd receive 30 years. During the process
15 of me taking this guilty plea I wasn't gonna take
16 the guilty plea. So therefore, Mr. Craig Brown
17 spoke to my grandmother and my grandfather and
18 advised them that if I take a guilty plea that I'd
19 receive 30 years; so therefore, I took it upon
20 myself to listen to my lawyer advice and took the
21 guilty plea for 30 years and went in front of the
22 judge and got life 30 years.

23 Q And now you're saying obviously that was
24 ineffective advice; is that correct?

25 A If I would have known that I was going to get a

1 life sentence I would have never took the guilty
2 plea.

3 Q Okay. And you thought you were going to get 30
4 years; is that correct?

5 A Yes, sir, that's why I took upon my lawyer's
6 advice at the time and took the guilty plea.

7 Q Now, and you feel like your lawyer gave you bad
8 advice?

9 A Bad advice. He's my lawyer, I trusted him. He's
10 standing right there looking at me now. Everything
11 he told me, I filed motions, he filed motions. He
12 did all the paperwork. He tell me to plead guilty I
13 took a plea. That's what happened. I took a guilty
14 plea and received a life sentence.

15 Q Okay. And as such you're asking Judge Young here
16 to grant you a new trial; is that right?

17 A A new trial, a new guilty plea, or either one
18 'cause I just, I took his advice, I took the guilty
19 plea. You know, he say he wants to speak to the
20 solicitor about sentencing, okay. If you read the
21 transcript page 13 where he say he spoke to the
22 solicitor about sentencing; therefore, it'll show
23 you that he spoke to the solicitor. It took four
24 months later to come back and sentence me so they
25 had been talking about something due to the

1 sentencing.

2 Q Now what other issues you want to tell the Court
3 about Mr. Brown's representation?

4 A Just his representation he could have argued a
5 lot of things for me as far as my mental state of
6 being, about me being mental health and the process
7 I was going through with my grandmother and
8 grandfather and growing up without, I mean, a
9 household, a good household family as far as a
10 father and mother and things that I was going
11 through. But as far as Mr. Craig, he was -- he a
12 good lawyer, don't get me wrong, he a good lawyer,
13 it just certain things that he did wasn't right and
14 correct. You know what I mean, he wasn't correct.

15 Q Okay. Is there anything else you want to tell
16 Judge Young here today that we haven't covered about
17 why you should get a new trial?

18 A One because I'm gonna start with my -- I'm gonna
19 start with my application, my PCR application.

20 THE COURT: Mr. Brooks, I'm not gonna just
21 have him read his application and ---

22 BY MR. BROOKS:

23 Q And let me say this, Rayshawn, the application is
24 already filed into the record.

25 A I'm not gonna read my application. I'm

1 presenting the issue, put it on the record ---

2 Q Okay, what ---

3 A ---my application?

4 Q Okay. What other issues that do you have that we
5 have not covered?

6 A One, my lawyer -- well, the one he told me to
7 plead guilty I got letters to show that he told me
8 to plead guilty to certain things, and that's part
9 that is actually not being properly filed with the
10 clerk of court within the time frame and presented
11 to the courts like it should; and therefore, during
12 the month of December and general sessions supposed
13 to be held in December there was no general
14 sessions.

15 Q Okay. Anything else?

16 A Yeah, you know.

17 Q Did you say yes or no?

18 A No, sir.

19 Q Nothing else?

20 A No, sir.

21 Q Have we put everything on the record about Mr.
22 Brown's representation you want to tell Judge Young
23 here?

24 A Yes, sir. Everything is all right.

25 Q Okay. Answer any questions the attorney general

PW - R. PEARSON - CROSS

1 may have.

2 MR. HARRIGAN: Thank you. May it please
3 the Court.

4 **CROSS-EXAMINATION**

5 BY MS. HARRIGAN:

6 Q Mr. Pearson, your testimony here today is that
7 your attorney promised you you'd receive 30 years if
8 you pled guilty, correct?

9 A Yes, ma'am.

10 Q Okay.

11 MR. HARRIGAN: I approach the witness,
12 Your Honor.

13 THE COURT: You may.

14 BY MR. HARRIGAN:

15 Q Mr. Pearson, I'm gonna hand you a copy of your
16 application for post-conviction relief. Is that
17 your signature on your application?

18 A Yes, ma'am.

19 Q And I'm also gonna hand you another piece of
20 paper from your attorney's file. Is that your
21 signature right there?

22 A Yes, ma'am.

23 Q Thank you.

24 A What is that paper right there you just showed
25 me, that last one?

PW - R. PEARSON - CROSS

1 THE COURT: She'll ask you the questions.

2 BY MR. HARRIGAN:

3 Q Do you recall receiving a letter from your
4 attorney in regards to potential sentences you could
5 get if you pled guilty?

6 A No.

7 Q You don't recall receiving that letter?

8 A I don't got no copies of it.

9 MR. HARRIGAN: I'd like to get this marked
10 for identification purposes only at this time.

11 THE COURT: Any objection?

12 MR. BROOKS: No objection.

13 (WHEREUPON, Respondent Exhibit No. 1 was
14 marked for identification only.)

15 MR. HARRIGAN: And Mr. Brooks saw this
16 before the hearing started, Your Honor.

17 THE COURT: All right.

18 BY MR. HARRIGAN:

19 Q Now Mr. Pearson, your testimony here today is
20 that you were promised by your attorney you would
21 receive 30 years if you pled guilty?

22 A (There was no verbal response.)

23 Q Was that a yes?

24 A Yes, ma'am.

25 Q And your second ground for ineffective assistance

PW - R. PEARSON - CROSS

1 of counsel against Attorney Brown is that you had a
2 mental condition known to him he did not bring
3 before the Court, correct?

4 A Yes, ma'am.

5 Q Do you recall that Mr. Brown made a motion before
6 the Court to have you evaluated with the Department
7 of Mental Health?

8 A He did that.

9 Q And were you evaluated by the Department of
10 Mental Health?

11 A Not properly. I spoke.

12 Q But you were evaluated by the Department of
13 Mental Health?

14 A Yeah, about an hour. It supposed to be 15 days.

15 Q I just need to know if you were evaluated or not,
16 sir.

17 A Yes, ma'am.

18 Q And during the sentencing hearing do you recall
19 your attorney Mr. Craig Brown introducing the
20 results of that mental evaluation report?

21 A He made a statement about it.

22 Q So it was brought up during the hearing?

23 A Yeah.

24 MR. HARRIGAN: No further questions at
25 this time, Your Honor.

RW - C. BROWN - DIRECT

1 THE COURT: Mr. Brooks, redirect?

2 MR. BROOKS: I have no further questions.

3 THE COURT: Thank you. You may step down,
4 sir.

5 MR. BROOKS: That's the Applicant's side,
6 Judge.

7 THE COURT: Thank you. Ms. Harrigan.

8 MR. HARRIGAN: The State would call Craig
9 D. Brown, D. Craig Brown to the stand.

10 THE CLERK: Place your hand on the Bible
11 here sir. Raise your right hand. State your name
12 please.

13 THE WITNESS: Craig Brown.

14 WHEREUPON,

15 **D. CRAIG BROWN,**

16 having been duly sworn by the Clerk of Court,
17 testified as follows:

18 THE COURT: Hello, Mr. Brown.

19 THE WITNESS: Good morning, sir.

20 THE CLERK: State your full name, spell
21 your last for the record.

22 THE WITNESS: David Craig Brown,
23 B-R-O-W-N.

24 **DIRECT EXAMINATION**

25 BY MR. HARRIGAN:

RW - C. BROWN - DIRECT

1 Q Good morning, Mr. Brown. How long have you been
2 practicing law, or how long have an admitted member
3 of the Bar?

4 A Since 1998.

5 Q Do you recall a time when you were appointed to
6 this case?

7 A Yes, I do. It was, I would say in, sometime in
8 2006 if I recall correctly.

9 Q Would it be a fair estimation that you had this
10 case for about a year prior to a guilty plea?

11 A At least, yes.

12 Q Do you recall how many times you met with
13 applicant prior to his plea?

14 A I'm not sure. Looking back at my file I know
15 that there's a letter, and I know (inaudible) 2005,
16 plus a transcript of a preliminary hearing so I know
17 it's related sometime in 2005. If I recall
18 correctly Mr. Pearson was incarcerated. He was
19 incarcerated for a period of time in Lee County, Lee
20 County Correctional Institution. He was also
21 incarcerated in McCormick, South Carolina. I don't
22 think upon my review of the file I saw him when he
23 was incarcerated in Lee County; however, I did go to
24 McCormick and visit with him while he was in
25 McCormick. The number of specific times I do not

RW - C. BROWN - DIRECT

1 specifically recall.

2 Q And Mr. Brown, I heard you reference your file.

3 Did you bring a copy of your file with you here in
4 court today?

5 A Yes, I brought my entire file.

6 Q Did you file any Brady or Rule 5 motions in this
7 case?

8 A I did file a Rule 5 and Brady motion in this
9 case.

10 Q Do you believe that you received all information
11 required from the State?

12 A I did. The State down in Kingstree, the
13 Solicitor's Office, is very cooperative in providing
14 information as well as having an open file policy
15 which I did go down and look at their file as well.
16 There was some information that I had requested that
17 had some difficulty getting. Those were copies of
18 audio statements and various witnesses in the case
19 or various individuals who were involved in this
20 case.

21 Q And did you review this discovery material with
22 your client?

23 A I did.

24 Q Did he ever indicate he didn't understand any of
25 this material to you?

RW - C. BROWN - DIRECT

1 A I'm sorry?

2 Q Did he ever indicate he didn't understand any of
3 this material to you?

4 A No.

5 Q Prior to his guilty plea did you discuss the
6 elements of the charges he was facing and potential
7 sentences?

8 A I did. And let me back up. He was charged with
9 and then he pled guilty to two armed robberies.
10 There were two armed robberies of this store out at
11 Ruckers (ph) Cross Roads. And the two armed
12 robberies he was charged with occurred on different
13 dates, occurred on different dates. There was some
14 confusion initially as to whether or not I was
15 representing him on the first armed robbery which
16 occurred at Ruckers Crossroad. It was initially
17 believed William Barr, an attorney down in
18 Kingstree, was representing him on those charges. I
19 had been appointed to represent him on the
20 subsequent armed robbery, murder charge at this same
21 store. It was all -- there wasn't any denying of t
22 he taking the local charges. I told Judge Milling at
23 the time I agreed to handle all the pending charges
24 against him at this time, and therefore, handled
25 both of the armed robberies and then charges that

RW - C. BROWN - DIRECT

1 came about as a result of those charges. But yes, I
2 did discuss the offenses with him, the elements of
3 those offenses, and the potential penalties of each
4 of those offenses.

5 Q And did you ever put anything in writing in
6 regards to potential sentences that he could have
7 possibly received?

8 A I did. And what happened is the State intended
9 to call his first armed robbery case for trial, and
10 Rayshawn was brought back from the Department of
11 Corrections for the trial of this case, the first
12 armed robbery. And I met with Rayshawn. I spoke
13 with his grandfather and maybe -- I'm not sure if I
14 recall correctly, I spoke with his grandfather on
15 more than one occasion. I had sought and obtained
16 an order authorizing an investigator to assist me
17 with these charges against Rayshawn. Rayshawn was
18 brought back for this first armed robbery trial,
19 this being a most serious offense, and he was also
20 facing the second armed robbery charge and murder
21 charge, again, most serious offenses which subject
22 him to life imprisonment. Certainly the State
23 noticed him of their intent to seek life if received
24 two convictions for most serious offenses. We
25 discussed that, and we discussed that when he was

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1 brought for his first armed robbery trial.

2 MR. HARRIGAN: May I approach the witness,
3 Your Honor?

4 THE COURT: You may.

5 BY MR. HARRIGAN:

6 Q And Mr. Brown, I'm gonna hand you what's been
7 marked Defendant's Exhibit 1. Do you recognize this
8 document?

9 A Yes, I do.

10 Q Where -- do you recall where the document comes
11 from?

12 A This is a document that I prepared and that
13 Rayshawn signed in February of 2007. And what this
14 document says -- it's a two page document witnessed
15 by two deputies at the Williamsburg County Sheriff's
16 Department. It says, "I, Rayshawn Pearson, have
17 been advised by my attorney D. Craig Brown that I am
18 charged with one count of armed robbery that
19 occurred on or about March 26th, 2005. I'm also
20 charged with a second count of armed robbery and
21 murder that occurred on or about July 29, 2005.
22 Each of these offenses are considered to be most
23 serious offenses. Under South Carolina law each
24 armed robbery carries a sentence of 10 to 30 years,
25 on the murder charge carries a sentence of 30 years

RW - C. BROWN - DIRECT

1 to life. I've been further advised that two
2 convictions where most serious offenses of South
3 Carolina law will result in automatic sentence of
4 life without parole. The State has called for trial
5 the armed robbery that occurred on or about March
6 26, 2005, does not anticipate calling the subsequent
7 armed robbery and murder case for trial until
8 sometime later. My attorney has advised me that if
9 I am convicted of the armed robbery of March 26th,
10 and the subsequent armed robbery and murder that
11 occurred on or about July 29, 2005 that I'll be
12 sentenced to life without parole which is required
13 under South Carolina law. The State has offered to
14 allow me to plead to both armed robberies, the
15 murder, and the murder charge so that the two armed
16 robberies and murder not result in conviction for
17 two most serious offenses. My attorney has further
18 advised me that the State, law enforcement, and the
19 victim's family will be asking that I receive a life
20 sentence even if I plead guilty. However, I
21 understand the only chance I have to get less than
22 life without parole is to plead guilty and ask for
23 mercy from the Court or be found not guilty of this
24 armed robbery and subsequent murder charge. I also
25 understand that if I plead guilty I could still get

RW - C. BROWN - DIRECT

1 a life sentence. I agree and fully understand the
2 terms of this document this first day of February
3 2007." And that was signed by Mr. Pearson.

4 Q And was that signed in your presence?

5 A Yes, it was.

6 MR. HARRIGAN: At this time the State
7 would move Defense Exhibit 1 into evidence.

8 THE COURT: Without objection?

9 MR. BROOKS: May I see it, Judge.

10 THE COURT: Oh, I thought you'd already
11 seen it.

12 (Pause while Mr. Brooks reviews document.)

13 MR. BROOKS: I don't have any legal
14 grounds to object to it.

15 THE COURT: Without objection.

16 MR. BROOKS: But for the record my client
17 denies signing it.

18 THE COURT: So noted.

19 (WHEREUPON, Respondent Exhibit
20 No. 1 was admitted into evidence.)

21 BY MR. HARRIGAN:

22 Q And Mr. Brown, is that the only plea offer from
23 the State in regards to plea negotiations?

24 A Yes. They would not offer me -- and I tried very
25 hard to get, to pin them down on a recommendation or

RW - C. BROWN - DIRECT

1. negotiated plea on this case. They just wouldn't do
2. it.

3. Q And when you presented what has been moved into
4. evidence as Defendant's Exhibit 1 to Mr. Pearson did
5. he ever indicate he did not understand anything —

6. A No.

7. Q —in that letter?

8. A No, ma'am.

9. Q Did you inform him of the consequences of
10. pleading guilty?

11. A Absolutely.

12. Q And he understood that this was without
13. negotiation or recommendation from the State?

14. A Yes.

15. Q Did you inform him of all the constitutional
16. rights he'd be waiving by entering a guilty plea?

17. A Yes.

18. Q And ultimately whose decision was it for him to
19. plead guilty?

20. A It was Rashawn's decision.

21. Q Did you file any post-trial motions or post—

22. A Yes. I served — he received a life sentence. I
23. filed a motion for reconsideration in this case. I
24. was disappointed he had received life sentence and
25. felt like maybe we should have tried the case, but I

RW - C. BROWN - DIRECT

1 did file a motion to reconsider after he received a
2 life sentence and Judge Cothran denied that. And
3 after that was denied I filed a notice of intent to
4 appeal as well.

5 Q In regards to Mr. Pearson's second allegation of
6 ineffective assistance of counsel in regards to his
7 mental state, did you file a motion with the Court
8 to have him evaluated?

9 A I did. He was evaluated. In looking through my
10 file last night I did not see where I had copied
11 that evaluation but he was evaluated and that was
12 done pretty early and pursuant to my subsequent to
13 my appointment as his lawyer.

14 Q And did you make the court aware of his
15 evaluation during the sentencing hearing?

16 A If I recall correctly, yes, I did. And not only
17 did I file a motion to have him evaluated, I went
18 back and had him sign I think an authorization to
19 get school records on him. I went and talked with
20 the social worker from when he was, when he was
21 growing up with DSS, because there were some issues
22 there as well. I asked for his son's file and I
23 got -- and I got those records and reviewed those
24 records as well.

25 Q Did you have any concern about his mental state

RW - R. PEARSON - CROSS

1 and competency to enter a guilty plea?

2 A No.

3 Q And in regards to Mr. Pearson's last allegation
4 for post-conviction relief in regards to the
5 indictment, did you notice any issue with the
6 indictment?

7 A No, I didn't.

8 Q Do you believe your client was properly indicted?

9 A I do.

10 Q Do you believe have any basis upon which you
11 could have challenged the indictment?

12 A Not that I recall, no.

13 Q In your general practice, if you notice issue
14 with the indictment do you make a motion before the
15 court with regards to any error?

16 A Yes.

17 MR. HARRIGAN: I have no further
18 questions.

19 THE COURT: Mr. Brooks, any
20 cross-examination?

21 MR. BROOKS: Beg the Court's indulgence.

22 **CROSS-EXAMINATION**

23 BY MR. BROOKS:

24 Q Mr. Brown?

25 A Yes, sir.

RW - R. PEARSON - CROSS

1 Q Is it fair to say that you advised him to take a
2 guilty plea?

3 A I never, never told my clients what to do. I
4 certainly go over the pros and cons with their case,
5 the strengths and weaknesses of their case. But the
6 ultimate decision as to whether or not my clients
7 pled guilty is up to them, is up to them.

8 Q And I understand the -- did you had perhaps give
9 him your opinion as far as whether to go to trial or
10 he should plead guilty?

11 A I don't recall specifically. I certainly would
12 have told him whether or not I thought things were
13 in his favor or not.

14 Q Okay. Do you recall sending him a letter after
15 he was sentenced talking about why he felt taking a
16 plea based on the evidence was perhaps the more
17 strategic thing to do?

18 A I don't recall specifically. There were, if I do
19 recall correctly -- and I'm not saying I didn't. If
20 I recall correctly and in reviewing my file last
21 night, there were at least three, I think either two
22 or three other people involved in both these
23 robberies of which gave statements against Rayshawn.
24 And Rayshawn never in his statement to law
25 enforcement, never acknowledged him personally

RW - R. PEARSON - CROSS

1 pulling the trigger in this second armed robbery;
2 but he certainly acknowledged being there on both
3 counts. And those codefendants, one of which I
4 think, if I recall correctly, I don't know if it's
5 his nickname or his official name is Kugo(ph), had
6 indicated that Rayshawn was the one that pulled the
7 trigger or shot. And I think those are certainly
8 facts that did not play in his favor.

9 MR. BROOKS: May I approach the witness,
10 Judge?

11 THE COURT: You may.

12 THE WITNESS: Yes, sir, this is the letter
13 I was referring to.

14 BY MR. BROOKS:

15 Q And in that letter you explained to him that you
16 thought that taking a plea would have been the best
17 way for him to avoid a life sentence?

18 A It was the only potential way for him to avoid a
19 life sentence.

20 Q Okay.

21 A It was the only potential way. He had these most
22 serious offenses against him and charges, two armed
23 robberies and murder. The State warned on two of
24 them and properly noticed him of their intent to
25 seek life without parole. The Court would have no

RW - R. PEARSON - CROSS

1 alternative, no alternative and no option but to
2 sentence him to life. And his only option of
3 hopefully getting less than life would have been
4 pleading guilty; I did tell him that. And I told
5 him that in that other document that he signed that
6 I had him sign. But I still advised him that he was
7 facing up to life and that there was a possibility
8 that by pleading guilty he could still get life, and
9 that's what happened.

10 Q And you said you did file a motion to reconsider
11 the sentence?

12 A Yes, sir, I did.

13 Q Judge Cothran ruled on that without a hearing; is
14 that correct?

15 A He did. He did.

16 Q And you never questioned any issue about the
17 indictment; is that correct?

18 A No, sir, I did not, not that I recall
19 specifically.

20 MR. BROOKS: Beg the Court's indulgence.
21 May I approach the witness?

22 THE COURT: You may.

23 BY MR. BROOKS:

24 Q Mr. Brown, take a few minutes and look over that.
25 Yes, sir.

RW - R. PEARSON - CROSS

1 A Letter dated May 16th of 2007 which I sent to
2 Rayshawn.

3 Q In that letter you further advised him on
4 pleading guilty versus going to trial; is that
5 correct?

6 A Right, yes, sir.

7 Q And you talk about that something actually
8 happened with the codefendant?

9 A Say -- I'm sorry, somebody ---

10 Q You actually explained to him what happened with
11 the codefendant of his; is that correct?

12 A In this letter?

13 Q I believe so. Did you tell him something about a
14 codefendant had gone to trial and the jury had come
15 back in like 30 minutes with a guilty verdict?

16 A I don't think in this particular letter. I may
17 have sent a letter on that. In this particular
18 letter I conveyed to him, and I was responding to a
19 letter that he had written me. I said, in response
20 to your letter I did not convey to you what sentence
21 you would receive. What I did convey to you prior
22 to guilty plea was that the only opportunity you
23 would have to get less than life would be to go
24 through guilty plea. That was based upon my opinion
25 that the State had a very good case against you as

RW - C. BROWN - REDIRECT

1 it related to the armed robbery. I did say, you
2 know, that your co-defendant went to trial earlier,
3 that your codefendant did go to trial earlier this
4 year and it did not take a jury 30 minutes to return
5 a guilty verdict against the codefendant. I advised
6 him of that and told him that; you're right.

7 Q And basically, again, it's fair to say that you
8 did give him your strategic advice; is that correct?

9 A Yeah, I told him the pros and cons, the strengths
10 and weaknesses of his case and never told him, as he
11 says I told him he'd get 30 years. I never told him
12 that. I told him that the only opportunity he had
13 to get less than life was by pleading guilty.

14 Q And it's fair to say he relied on that; is that
15 correct?

16 A I assume he did; he pled guilty.

17 MR. BROOKS: No other questions.

18 MR. HARRIGAN: Just briefly, Your Honor.

19 **REDIRECT EXAMINATION**

20 BY MR. HARRIGAN:

21 Q In regard to the motion for reconsideration there
22 was no hearing, correct?

23 A There was not.

24 Q Do you believe that it prejudiced your client not
25 having a hearing on this?

RW - C. BROWN - RECROSS

1 A You know, I'd like to think that I had argued and
2 hoped Judge Cothran would have give him less than
3 life, but I don't know. I mean, I don't know
4 whether it would have or not.

5 MR. HARRIGAN: No further questions.

6 THE COURT: Thank you.

7 MR. BROOKS: Judge, I would ask just ---

8 THE COURT: Just on what she asked.

9 MR. BROOKS: Well, Judge, I would ask a
10 brief bit of latitude to question.

11 **RECROSSEXAMINATION**

12 BY MR. BROOKS:

13 Q Did it take you four months to sentence Mr.
14 Pearson that you recall?

15 A I don't recall right off. I don't remember what
16 the time frame was between sentence, I mean, excuse
17 me, plea and sentence.

18 Q Okay. But you, it's fair to say you rely on
19 whatever the transcript show; is that correct?

20 A Whatever the transcript shows, it is what is.

21 MR. BROOKS: No other questions, Judge.

22 MR. HARRIGAN: No other questions, Judge.

23 THE COURT: You may step down.

24 Any other witnesses?

25 MR. HARRIGAN: The State does not have

1 any additional witnesses, but for the record we
2 would to acknowledge on record that defendant
3 knowledged his, that the signature was his on
4 Defendant's Exhibit No. 1.

5 THE COURT: And I've got the transcript in
6 front of me.

7 MR. HARRIGAN: Thank you, Your Honor.

8 THE COURT: I'll take the matter under
9 advisement and give you a ruling in 15 days.

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11 * * * End of Requested Transcript of Record * * *

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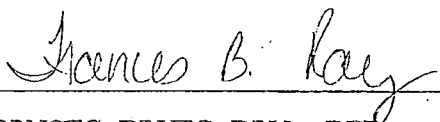
C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE }

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding was transcribed by me for Margaret Sullivan through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings to the best of my ability.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 19th day of April, 2013.


FRANCES BAKIS-RAY, RPR

I, Rayshawn Pearson, have been advised by my attorney, D. Craig Brown, that I am charged with one count of armed robbery that occurred on or about March 26, 2005. I am also charged with a second count of armed robbery and murder that occurred on or about July 29, 2005. Each of these offenses are considered to be "most serious" offenses under South Carolina law. Each armed robbery carries a sentence of ¹⁰⁻³⁰ 10-30 years while the murder charge carries a sentence of 30 years to life. I have been further advised that two convictions for a "most serious" offense under South Carolina law will result in an automatic sentence of life without parole.

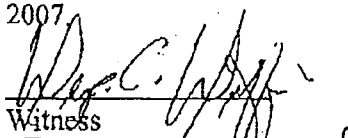
The state has called for trial the armed robbery that occurred on or about March 26, 2005, and does not anticipate calling the subsequent armed robbery and murder case for trial until some later time. My attorney has advised me that if I am convicted of the armed robbery from March 26, 2005 and the subsequent armed robbery and murder that occurred on or about July 29, 2005, that I will be sentenced to life without parole which is required under South Carolina law.

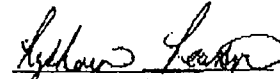
The state has offered to allow me to plead to both armed robberies, the murder charge and a pending escape charge (which carries a consecutive sentence of 1-15 years) so that the two armed robberies and murder will not result in convictions for two "most serious" offenses. My attorney has further advised me that the state, law enforcement, and the victim's family will be asking that I receive a life sentence even if I plead guilty. However, I understand that the only chance I have to get less than life without parole is to plead guilty and ask for mercy from the court or be found not guilty of this armed robbery and the subsequent murder charges. I also understand that if I plead guilty, I could still get a life sentence.



I have read and fully understand the terms of this document this 7 of February,

2007


Witness
Dep. C. DRIFFEN


Rayshawn Pearson

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Rayshawn Pearson, #296097,

Case No. 2010-CP-45-0132

Applicant,

Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

ORDER OF DISMISSAL

v.
State of South Carolina,

Respondent.

FILED
12 NOV -8 PM 4:43
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG, S.C.

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 12, 2010 and amended November 12, 2008¹. The Respondent made its Return on February 17, 2011. An evidentiary hearing into the matter was convened on September 21, 2012, at the Sumter County Courthouse. The Applicant was present at the hearing and was represented by Charles T. Brooks, III, Esquire. The Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office.

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was true bill indicted during the December 2006 term of the Grand Jury for Williamsburg County for one count of Murder (2006-GS-45-340, Ct. 1), two counts of Armed Robbery (2006-GS-45-339, Ct. 1; 2006-GS-45-340, Ct. 2), two counts of Possession of a Weapon During Commission of a Violent Crime (2006-GS-45-339, Ct. 2; 2006-GS-45-340, Ct. 3), and one count of Criminal Conspiracy (2006-GS-45-340, Ct. 4). Craig D. Brown, Esquire, represented the Applicant on all charges. On February 1, 2007, the

¹ This Application was filed while Applicant's direct appeal was pending and was not received by Respondent until 2010, after Applicant's direct appeal had been dismissed and receipt of the 2010-CP-45-0132 application. By Order of the Court, this 2008 application was merged into this current application and was treated as an amendment.

Applicant pled guilty as indicted to murder, two counts of armed robbery, and two counts of possession of a weapon during the commission of a violent crime before the Honorable R. Ferrell Cothran, Jr. The criminal conspiracy charge and a subsequent indictment for escape were dismissed. Sentencing was deferred until a later date.

On May 3, 2007, Judge Cothran sentenced Applicant to confinement for the balance of his natural life for Murder, thirty years imprisonment for one count of Armed Robbery (2006-GS-45-0340), twenty-five years imprisonment for the second count of Armed Robbery, and to five years imprisonment for Possession of Weapon during Commission of Violent Crime. All sentences were to be served consecutive to the murder sentence but concurrently to each other.

A timely Notice of Appeal was filed on Applicant's behalf, and a brief submitted pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed the appeal. State v. Pearson, Op. No. 2009-UP-240 (S.C. Ct. App. filed May 28, 2009). The Remittitur was sent on June 15, 2009.

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

1. "My Lawyer stated to me that the Solicitor Agreed to 30 years if I took plea."
 - a. "I have a letter dated May 16, 2007 where my lawyer stated to me that the only way I would receive less than life is by pleading guilty. So that's why I took the plea."
2. "I was denied Due Process. Why would I agree to the sentenced (sic) imposed on me. I was told that I would receive 30 years in return for taking plea."
3. Involuntary Guilty Plea.

In his amendment, Applicant claimed he was being held in custody unlawfully based on the claim of "ineffective assistance of counsel." In its Return, Respondent interpreted Applicant's first and second allegations as ineffective assistance of counsel.

TESTIMONY PRESENTED

At the evidentiary hearing, the Applicant testified on his own behalf. The State presented testimony from plea counsel, Craig D. Brown, Esquire ("Counsel"). This Court also had before it a copy of the Applicant's guilty plea transcript and sentencing transcript, Applicant's appellate records, the records of the Williamsburg County Clerk of Court, and the Applicant's records from the South Carolina Department of Corrections.

During the evidentiary hearing, Applicant testified that Counsel advised him that if he pled guilty, he would only be sentenced to thirty years imprisonment. Applicant testified that he would not have entered a guilty plea if he knew that he would be sentenced to more than thirty years. Applicant stated that Counsel had told him this in writing, as well as told various members of his family; however, Applicant did not introduce any evidence or call any witnesses to verify this allegation.

Applicant also testified that he felt Counsel was ineffective for failing to show the plea court that he had a "known mental condition." Applicant did acknowledge that Counsel moved for a mental evaluation before the plea court and that he was evaluated by the Department of Mental Health prior to his plea and sentencing. Applicant did not provide this Court with any additional evidence or witnesses to verify his allegation or show what bearing, if any, it would have had on his guilty plea or sentence.

Lastly, Applicant asserted that he was being held in custody unlawfully due to a lack of subject matter jurisdiction. Specifically, Applicant testified that the indictments in this case were fraudulently obtained due to false statements made to the Williamsburg County Grand Jury and that the indictments were never stamped "true bill." Applicant also testified that the warrants for his arrest were never properly filed with the Williamsburg County Clerk of Court. Applicant did

not call any witnesses or introduce any evidence to verify this allegation. Respondent called the Court's attention to the records from the Williamsburg County Clerk of Court, indicating that Applicant indictments were marked "true bill" and that his warrants were properly filed.

Following Applicant's testimony, Counsel testified. Counsel testified that he has been practicing law since 1998 and has experience handling serious criminal matters such as Applicant's charges. Counsel stated that he was appointed on this matter in 2005 and met with Applicant numerous times prior to his guilty plea and sentencing. Counsel stated that during his meetings with the Applicant, he thoroughly discussed all elements of the crimes in which Applicant was charged and what the State was required to prove for each crime.

Counsel testified that these charges stemmed from two separate armed robberies at the same grocery store. Counsel testified that at the time of Applicant's guilty plea, the State had called for trial on the first armed robbery and possession of a weapon during the commission of a violent crime charge. Counsel testified that he told Applicant that this would greatly increase the chances of spending the rest of his life in prison if convicted during the first trial, as the State would likely seek life without parole on the second set of charges, including murder, which also carries up to life imprisonment. Counsel testified that he advised his client that he felt the only way Applicant would be sentenced to less than life imprisonment would be to plead guilty to all charges at once. Counsel stated that he advised Applicant that if he pled guilty, he would receive a sentence between thirty years imprisonment to life imprisonment and that there was a still significant chance that the plea court would still sentence Applicant to life imprisonment. Counsel also provided a two page document from his file summarizing this discussion with Applicant, which was signed by Applicant and notarized. Applicant acknowledged that it was his signature on this document, and this signature matches the signature appearing on

Applicant's post-conviction relief application. This document was admitted as Defendant's Exhibit 1 without objection.

Additionally, Counsel testified that he filed a motion for reconsideration following Applicant's sentencing, asking the plea court to consider reducing Applicant's sentence. Counsel testified that the plea court denied this motion without a hearing, but that he does not think that Applicant was prejudiced by a lack of a hearing on this motion. Based on all of the above, Counsel indicated that in his professional opinion a plea was in the best interest of Applicant and that it was Applicant's decision alone to plead guilty.

In regards to Applicant's second allegation, that Counsel was ineffective for failing to make the plea court aware of a "known mental condition" from which applicant suffers, Counsel testified that he moved for a psychological and mental evaluation of Applicant. Counsel testified that this evaluation was conducted by the Department of Mental Health prior to his guilty plea and sentencing hearings and Counsel received a report from this evaluation. Counsel testified that the report showed that Applicant had a lower IQ and was borderline mentally retarded. Counsel stated that he also subpoenaed Applicant's school records and hired a private investigator in this case to try to explore whether Applicant's mental state could have an impact on this case. Counsel stated that he also spoke extensively with Applicant's family about this case as well as Applicant's mental health. Counsel testified that he shared the results of the Department of Mental Health evaluation, as well as his other findings with the plea court. App. 28 - 30. Counsel stated during the sentencing hearing, as well as during the evidentiary hearing, that he was able to communicate with Applicant, that Applicant understood the charges against him, was able to help with his defense, and had been gainfully employed before these charges. Based on this, Counsel testified that he did not feel that Applicant was incompetent to stand trial.

Additionally, Counsel testified that he felt he sufficiently informed the plea court of Applicant's mental condition as mitigation during the sentencing hearing.

In regards to Applicant's allegations that the plea court lacked subject matter jurisdiction due to various issues with the indictments and warrants, Counsel testified that there were never any issues regarding the indictments or warrants that he could challenge. Counsel elaborated that his standard practice is to raise such issues if they arise during his representation of a client.

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).

Ineffective Assistance of Counsel

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 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, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action. Specifically, this Court finds that Counsel's testimony is credible while Applicant's testimony is not credible. Below are this court's findings in regards to each of Applicant's allegations of ineffective assistance of counsel.

*Counsel was ineffective for promising Applicant he would
receive a thirty year sentence if he pled guilty*

The Applicant has failed to prove that Counsel was ineffective in his representation of the Applicant in regards to this allegation. Counsel testified that he told Applicant that there was still a significant risk of receiving life imprisonment if he pled guilty to all charges, but that it was the best chance that Applicant had to receive a sentence less than life. Counsel also provided a

signed and notarized document summarizing this discussion with Applicant, which was entered into evidence as Defendant's Exhibit 1. Counsel testified that he never advised Applicant that he would receive a sentence of thirty years imprisonment if he pled guilty. This testimony is supported by both the plea and sentencing transcripts. This Court finds that Counsel's performance was reasonable and effective.

Additionally, this Court finds that the Applicant has failed to establish any prejudice resulting from Counsel's alleged ineffective assistance of counsel, as the Applicant failed to provide the Court with any evidence of Counsel's promise of a thirty year sentence. Therefore, this Court finds that this allegation of ineffective assistance of counsel must be denied and dismissed.

Counsel was ineffective for failing to make the plea court aware of Applicant's "known mental condition"

~~Applicant asserts that Counsel was ineffective for failing to make the plea court aware of~~ a "known mental condition" from which Applicant suffers. However, the record reflects that Counsel informed the plea court that Applicant had a below average IQ and could be diagnosed as mentally retarded. App. 28-30. Counsel also testified that he moved for a mental evaluation before the court, which was granted and Applicant was evaluated by the Department of Mental Health prior to his guilty plea and sentencing. Counsel also employed a private investigator, subpoenaed Applicant's educational records, and spoke extensively to Applicant's family members regarding this case and his mental status. This Court finds that Counsel's performance was reasonable and effective.

Additionally, this Court finds that Applicant has failed to establish any prejudice resulting from this allegation of ineffective assistance of counsel. Applicant presented no

independent testimony or evidence of a mental health condition or how the existence of such condition would have impacted his guilty plea or sentencing. The plea court was already aware of the condition that Applicant asserts at the time of his sentencing. Therefore, this Court finds that this allegation of ineffective assistance of counsel must be denied and dismissed with prejudice.

Subject Matter Jurisdiction Allegations

Applicant alleges that various defects in the warrants and indictments in this matter show that the court did not have subject matter jurisdiction to accept his guilty plea. This allegation does not warrant relief. First, the failure to follow administrative procedures regarding the disposition of indictments or the filing of the same does not affect the subject matter jurisdiction of the trial court to hear a particular case. State v. Culbreath, 282 S.C. 38, 316 S.E.2d 681 (1984). Second, this Court finds the indictments sufficiently stated the offenses and any alleged defects in the indictments did not deprive the trial court of jurisdiction to accept the Applicant's guilty plea. Subject matter jurisdiction is the power of a court to hear a particular class of cases. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

A review of the record clearly indicates that there is no basis upon which to conclude that the trial court lacked subject matter jurisdiction. The Applicant's conviction involved a criminal charge in General Sessions Court. The indictments in this case are facially valid; they contain all the necessary elements of the offenses intended to be charged, state the date of the offenses, county where the offense occurred, and the name of the accused. Furthermore, the Applicant has shown no prejudice by any alleged defects in the indictments. Therefore, this Court finds the

circuit court had subject matter jurisdiction to accept the Applicant's guilty plea, and this allegation is dismissed.

CONCLUSION

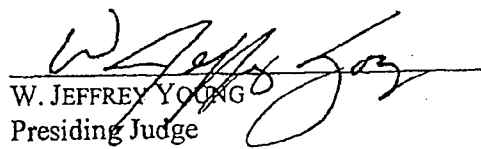
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

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 Nov, 2012.

Ex parte, South Carolina.


W. JEFFREY YOUNG
Presiding Judge
Third Judicial Circuit

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas
Honorable W. Jeffrey Young, Circuit Court Judge

Case No: 2010-CP-45-0132

Rayshawn Pearson Appellant
S.C.D.C. No.: 296097

v.

The State Respondent

PROOF OF SERVICE

I, the undersigned, do hereby certify that on this 19th day of November, 2012, I served the foregoing Notice of Appeal, Order of Dismissal, as well as Proof of Service in this matter by depositing a true copy of it in the United States Mail, postage prepaid, on November 19, 2012 addressed to the following as indicated below:

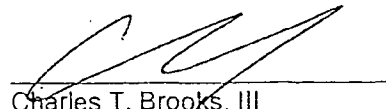
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

South Carolina Office of Appellate Defense
1330 Lady Street, Suite 401
PO Box 11589
Columbia, SC 29211-1589

Office of Attorney's General
Attn: Megan Harrigan, Esquire
Post Office Box 11549
Columbia, South Carolina 29211-1549

Rayshawn Pearson, 296097
Perry Correctional Institution
430 Oaklawn Road
Pelzer, S. C. 29669

Dated: November 19, 2012


Charles T. Brooks, III
Attorney for the Appellant
309 Broad Street
Sumter, South Carolina 29150
(803) 418-5708

WITNESSES
SHERIFFS OFFICE

Willie Brown

ARREST WARRANT NUMBER

H956542 (1); H956545 (2&4); H956541 (3)
H956544 (1,2,4); H956543 (3); H956539 (1-4)
Juvenile Transfer (Butler)
D/A:

ACTION OF GRAND JURY

Three Bills
Georgia Butler
Foreperson of Grand Jury
Date: *12/17/06*
VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2006-GS-45- 340

The State of South Carolina
County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

DECEMBER TERM 2006

THE STATE
vs.

CEDRIC BUTLER

KRISTELLA HAM

ADRIAN MCGRAY

RAYSHAWN PEARSON

Indictment for

MURDER, ARMED ROBBERY,
POSSESSION OF WEAPON DURING
COMMISSION OF VIOLENT CRIME AND
CRIMINAL CONSPIRACY

C. KELLY JACKSON, SOLICITOR

FILED

06 DEC -7 PM 4:39

CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR
) MURDER, ARMED ROBBERY, POSSESSION OF
 COUNTY OF WILLIAMSBURG) WEAPON DURING COMMISSION OF VIOLENT
) CRIME AND CRIMINAL CONSPIRACY

At a Court of General Sessions, convened on December 11, 2006, the Grand Jurors of WILLIAMSBURG County present upon their oath:

COUNT ONE - MURDER

That CEDRIC BUTLER, KRISTELLA HAM, ADRIAN McCRAY and RAYSHAWN PEARSON did in Williamsburg County on or about July 29, 2005, feloniously, wilfully and with malice aforethought, either expressed or implied, kill one Miles C. "Clevie" Parker during an armed robbery at Workman's Grocery by means of shooting him with a pistol, and that the said Miles C. "Clevie" Parker did die as a proximate result thereof.

COUNT TWO - ARMED ROBBERY

That CEDRIC BUTLER, KRISTELLA HAM, ADRIAN McCRAY and RAYSHAWN PEARSON did in Williamsburg County on or about July 29, 2005, violate Section 16-11-330 of the Code of Laws of South Carolina (1976), as amended, while armed with deadly weapons, to-wit: pistols, or while alleging, either by action or words, they were armed while using a representation of a deadly weapon, did feloniously take from Miles C. "Clevie" Parker and Shirley Parker at Workman's Grocery by means of force or intimidation goods or monies of the said Miles C. "Clevie" Parker and Shirley Parker and/or Workman's Grocery, such goods or monies being described as U.S. Currency.

FILED
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 CLERK OF COURT
 WILLIAMSBURG, S.C.

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

C. Kelly J. [Signature]
 SOLICITOR

ATTACHED TO AND BECOMING PART OF THE ORIGINAL INDICTMENT FOR MURDER, ARMED ROBBERY, POSSESSION OF WEAPON DURING COMMISSION OF VIOLENT CRIME AND CRIMINAL CONSPIRACY WITH THE AFORESAID NAMES OF CEDRIC BUTLER, KRISTELLA HAM, ADRIAN McCRAY and RAYSHAWN PEARSON SHOWN THEREON:

**COUNT THREE – POSSESSION OF WEAPON DURING
COMMISSION OF VIOLENT CRIME**

That KRISTELLA HAM, ADRIAN McCRAY and RAYSHAWN PEARSON while in Williamsburg County on or about July 29, 2005, were in possession of and did visibly display a firearm during the commission of a violent crime as defined in Section 16-1-60, to-wit: murder and/or armed robbery, in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

COUNT FOUR – CRIMINAL CONSPIRACY

That KRISTELLA HAM, ADRIAN McCRAY and RAYSHAWN PEARSON did in Williamsburg County on or about July 29, 2005, violate Section 16-17-410 of the Code of Laws of South Carolina (1976), as amended, in that they did unite, combine, conspire, confederate and/or agree with each other and with Cedric Butler for the purpose of committing the crime of armed robbery at Workman's Grocery.

FILED
06 DEC -7 PM 4:39
CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

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

E. Kelly J. [Signature]

SOLICITOR