

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from York County

Edgar W. Dickson, Circuit Court Judge

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S.C. Supreme Court

PHILLIP WATTS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213513

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE) TRANSCRIPT OF RECORD
5 -vs-) 2008-GS-46-2086
6 PHILLIP FLEMING WATTS,) 2008-GS-46-2086-A
7 JR.,) 2008-GS-46-2087
8 DEFENDANT.) 2008-GS-46-2089
9) 2008-GS-46-2090
10) 2008-GS-46-2090-A
11) 2008-GS-46-2091
12) 2008-GS-46-2092
13) APRIL 27, 2009
14) YORK, SOUTH CAROLINA

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B E F O R E:

THE HONORABLE LEE S. ALFORD, JUDGE.

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

KEVIN BRACKETT, SOLICITOR
WILLY THOMPSON, DEPUTY SOLICITOR
ATTORNEYS FOR THE STATE

DOUGLAS GAY, ESQUIRE
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

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WITNESSES

PAGE

(NO WITNESSES CALLED)

1 EXHIBITS

2 NO. DESCRIPTION

ID. EV.

3 (NO EXHIBITS MARKED)

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1 (PROCEEDINGS, APRIL 27, 2009)

2 PHILLIP FLEMING WATTS, JR., having been first duly
3 sworn, testified as follows:

4 MR. BRACKETT: May it please the court?

5 THE COURT: Solicitor.

6 MR. BRACKETT: Your Honor, this is in reference to
7 docket numbers 08-2088, 08-2089, 08-28 -- I'm sorry, 0 --
8 let me just them in numerical order. It's simpler that way
9 than that order here.

10 08-2086, 08-2086-A, which are -- it's an
11 indictment charging, in Count I, armed robbery; and in Count
12 II, possession of a firearm during the commission of a
13 violent crime.

14 08-2087, which is an indictment for assault and
15 battery with intent to kill.

16 08-2088, which is an indictment for kidnapping.

17 And 08-2089, which is an indictment for assault
18 and battery with intent to kill.

19 All of these indictments are True Billed, and the
20 defendant is entering pleas of guilt to all of these
21 indictments today.

22 In addition to that, he is also pleading under
23 08-2090, an indictment for assault and battery with intent
24 to kill.

25 08-2090-A, an indictment for possession of a

1 firearm during the commission a violent crime.

2 .08-2091, which is an indictment for kidnapping.

3 And 08-2092, which is an indictment for attempted
4 armed robbery.

5 All of these indictments are True Billed, and the
6 defendant is entering pleas to these charges as well.

7 Your Honor, the defendant is represented in these
8 matters by Mr. Doug Gay of the York County Bar.

9 The defendant has indicated that he wishes to
10 assert as part of his guilty plea that while he is guilty,
11 he was mentally ill at the time of the commission of these
12 two offenses. The State will not contest that assertion at
13 this plea hearing.

14 And, further, at the conclusion of the plea, the
15 State will dismiss charges relating to the robbery of the
16 One Stop Exxon owned by Mr. Suk Woo Kang, as well as the
17 Palmetto Express, which was operated by Mr. Ingersoll.
18 These charges stem from December of '07, and January of '08.

19 Your Honor, prior to this date, in September of
20 2008, I tried Mr. Watts, charging him with the robbery, the
21 amend robbery, of the Exxon One Stop across from
22 Northwestern High School in the City of Rock Hill. He was
23 convicted of that armed robbery at trial. At that time I
24 served him with notice of intent to seek life without parole
25 for three other armed robbery shootings, which he was

1 alleged to have been involved in. I prepared one of those
2 cases for trial and intended to call it for trial in
3 December of '08, involving the robbery and shooting of Ms.
4 Ping Chen of the Saltwater Seafood Market in the City of
5 Rock Hill. At that time the defendant indicated he wished
6 to change his plea and enter a plea of guilt. He did plead
7 guilty on December the 15th, then was ultimately sentenced
8 to life without parole on March the 30th of '09, by the
9 Honorable John Hayes. At that time I served notice of
10 intent to seek life without parole, using as the predicate
11 both the September 24th conviction from the One Stop Exxon,
12 as well as the Saltwater Seafood from December the 15th,
13 where he pled, and the notice was personally served upon
14 both the defendant and his attorney on March the 30th of
15 '09.

16 And the defendant is back in court today to plead
17 guilty to the armed robberies on the indictments in front of
18 you, represented by Mr. Gay.

19 And as I indicated, he wished to assert that he
20 was mentally ill at the time, and the State will not contest
21 that.

22 THE COURT: All right. As I understand it, he's
23 already serving a life without parole sentence?

24 MR. BRACKETT: That is correct.

25 THE COURT: Based on two most-serious offenses he

1 pled to separately?

2 MR. BRACKETT: One he was convicted at trial.

3 THE COURT: I beg your pardon. One he was
4 convicted, and the second one he pled?

5 MR. BRACKETT: Yes.

6 THE COURT: Which constitutes two most-serious
7 offenses?

8 MR. BRACKETT: Two separate convictions for
9 most-serious offenses, this being now --

10 THE COURT: A third.

11 MR. BRACKETT: -- his third. Pleading today, he's
12 actually pleading to two separate events, though; one, the
13 robbery of John Boy's Bolero; and one, the robbery of -- the
14 attempted armed robbery of the One Stop Check Cashing just
15 outside the City of Rock Hill.

16 THE COURT: Okay. Sir, you are Phillip Fleming
17 Watts, Jr., is that correct?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: How old are you, Mr. Watts?

20 THE DEFENDANT: 21.

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

22 THE DEFENDANT: The freshman year of junior
23 college.

24 THE COURT: What's your job or occupation? Do you
25 work anywhere?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Where do you work?

3 THE DEFENDANT: Steven Bears Sporting Goods Store
4 and the Boys & Girls Club, Southside Recreation.

5 THE COURT: Are you married, sir?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you have any children?

8 THE DEFENDANT: I might.

9 THE COURT: You don't know for sure if you have
10 any?

11 THE DEFENDANT: No.

12 THE COURT: Mr. Watts, you are charged today with
13 several offenses. You are charged with -- and I'm going to
14 go through those with you now.

15 You are charged with attempted armed robbery.
16 This offense is classified as a felony. It carries a
17 maximum punishment of 20 years. It's classified as a
18 violent offense. It's a no-parole offense, which means that
19 you would be expected to serve the sentence that you
20 actually received on that. It's also classified as a
21 most-serious offense. And the importance of this, as you
22 know, is if you get two most-serious offenses on your
23 record, separate offenses, the second one, or the third, or
24 fourth one, for that you could get a sentence of life
25 without parole under the Two-Strikes Rule. Do you

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You are also charged today with
4 possession of a weapon during the commission of a violent
5 crime, which carries -- this is classified as a felony and
6 it carries a maximum punishment of five years, which is
7 separate, in addition to the other violent offenses. Do you
8 understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You are also charged with assault and
11 battery with intent to kill, which carries -- this is
12 classified as a felony and it carries a maximum punishment
13 of 20 years. It is a no-parole offense, a violent offense,
14 and also classified as a most-serious offense. Do you
15 understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You are also charged today with
18 kidnapping, which is also classified as a felony. It
19 carries a maximum punishment of 30 years. It's a no-parole
20 offense, a violent offense, and classified as a most-serious
21 offense. Do you understand that, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You are also charged today with
24 another count of possession of a weapon during the
25 commission of a violent crime; again, which carries five

1 years, in addition to the principal offense. Do you
2 understand that, sir?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Again, you are charged with armed
5 robbery, which is classified as a felony, and it carries a
6 minimum sentence of 10 years, a maximum sentence of 30
7 years. It is a no-parole offense, a violent offense, and
8 classified as a most-serious offense. Do you understand
9 that, sir?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You are also charged with another
12 count of assault and battery with intent to kill. As I
13 explained, that carries a maximum punishment of 20 years.
14 It's a felony, no-parole, violent, and most-serious offense
15 classification. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You are also again charged with
18 another count of kidnapping, which I explained is a felony,
19 carrying a maximum punishment of 30 years; no parole,
20 violent, and a most serious offense. Do you understand
21 that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You are also charged with another
24 count of assault and battery with intent to kill, which
25 again carries a maximum punishment of 20 years. It is

1 classified as a felony. It's a no-parole offense, a violent
2 offense, and a most-serious offense. Do you understand
3 that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. Now, understanding the
6 charges against you, the maximum punishment that you could
7 receive on each charge --

8 And as a matter of fact, you could receive -- on
9 these most-serious offenses, you could receive another
10 sentence of life without parole. Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Understanding all of that, my
13 understanding is that you want to enter a plea of guilty but
14 mentally ill, is that correct, sir? Is that what you want
15 to do today?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand that by entering
18 this plea you give up your right to remain silent?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand that by entering
21 these pleas, you give up your right to a trial by jury?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand that if you give up
24 your right to a trial by jury, you also give up your right
25 to assert any legal defenses that you might have in a jury

1 trial?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now, I know your attorney has gone
4 over this right with you and I'm going to go over it with
5 you as well.

6 If you requested a trial by jury, the State would
7 give you a trial. At trial you would have the right to
8 confront and cross-examine all witnesses against you.

9 You would have the right to present any witnesses
10 and/or evidence in your own defense.

11 You would have the right to testify in our own
12 defense, if you wished to do so, but no one could make you
13 testify in your own trial.

14 If you decided to go to trial and not testify, the
15 judge would tell the jury that they could not hold your
16 failure to testify against you. In fact, the jury couldn't
17 even consider your failure to testify in their deliberations
18 on your guilt or innocence.

19 You would be presumed innocent throughout your
20 trial.

21 The State would have to prove you guilty beyond a
22 reasonable doubt to a jury of twelve people. All twelve
23 people would have to unanimously agree that you were guilty
24 in order for you to be convicted. Even if you were
25 convicted, you would still have the right to appeal that

1 conviction.

2 Do you understand your rights with regard to a
3 trial by jury?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Understanding that right, do you still
6 wish to plead guilty but mentally ill, or do you want me to
7 set your cases for trial?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You still wish to plead guilty but
10 mentally ill?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, any negotiations or agreements in
13 this case, solicitor?

14 MR. BRACKETT: No, sir.

15 THE COURT: Has anybody promised you anything --
16 other than pleading guilty but mentally ill, has anybody
17 promised you anything, other than that, in order to get you
18 to enter your pleas today?

19 THE DEFENDANT: No, sir.

20 THE COURT: Has anybody threatened you, coerced
21 you, or made you enter your pleas against your will?

22 THE DEFENDANT: No, sir.

23 THE COURT: Are you satisfied with the manner in
24 which your attorney has advised and represented you in these
25 cases?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Have you and your attorney fully
3 discussed these charges?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Has your attorney told you the
6 witnesses and evidence the State has available to present at
7 trial to prove your guilt?

8 THE DEFENDANT: Say that again?

9 THE COURT: Has your attorney told you the
10 witnesses and evidence the State has available to present at
11 trial to prove your guilt, if you went to trial?

12 THE DEFENDANT: No, sir -- yes, sir.

13 THE COURT: Has your attorney discussed with you
14 any possible legal defenses that might be available to you,
15 if you were to go to trial?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Have you told your attorney the names
18 of any and all witnesses you know of that your attorney
19 could subpoena and bring to trial to assist in your defense,
20 if you were to go to trial?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you today under the influence of
23 any mind-altering substance, such as alcohol, drugs, or
24 prescription medications, which interfere with your judgment
25 or ability to understand what you are doing in court today?

1 THE DEFENDANT: No, sir.

2 THE COURT: I understand you are taking some
3 medications, are you not, sir?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And do those medications interfere in
6 any way with your ability to understand what we were doing
7 in court today?

8 THE DEFENDANT: No, sir.

9 THE COURT: Do you understand what you are doing
10 in court today?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you have any mental, emotional, or
13 nervous condition that interferes with your judgment or
14 ability to understand what you are doing in court today?

15 THE DEFENDANT: No, sir.

16 THE COURT: Are you entering your pleas today of
17 your own free will?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Are you, in fact, guilty of these
20 offenses?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Please give me the facts, solicitor.

23 MR. BRACKETT: Yes, sir, Your Honor.

24 I'll take the two sets of charges in turn and at
25 the conclusion of the facts at the first I would ask that

1 the victims of the cases to come forward. They wish to
2 address the court so that each case can be treated
3 separately and each set of victims given the opportunity to
4 come forward.

5 Taking them in turn, first of all, Your Honor,
6 with regard to the charges relating to the robbery of John
7 Boy's Convenience Store, this incident occurred on February
8 the 5th of 2008, Your Honor. It was the second in a series
9 of armed robberies that occurred in York County in which an
10 individual entered a business in York County and shot one of
11 the employees. The first one was the Saltwater Seafood
12 Market, which occurred in the City of Rock Hill a couple of
13 weeks, or less than two weeks, prior to this incident.

14 Prior to that there had been a number of unsolved
15 armed robberies throughout the Rock Hill area, but this was
16 the second in the series in which somebody had been shot.
17 The Saltwater Seafood is the one that he was convicted of in
18 December of 2008, and sentenced on March 30th.

19 At about 8:30, on February 5th, an unknown subject
20 entered John Boy's Convenience Store and confronted the
21 victim, who was the owner of the store and employed there,
22 working. Her name is Yen Nguyen. He showed her a handgun
23 and demanded that she give him some money. He fired a shot
24 which did not strike Mrs. Nguyen. He jumped over the
25 counter and accosted her at close range with the handgun,

1 ultimately firing the handgun and striking her in the
2 abdomen. He ordered her to -- after shooting her, he
3 ordered her to open up the cash register. She gave him some
4 money from the cash register. He started to leave. And
5 then before he left, he asked Ms. Nguyen to come closer to
6 him. Before she could make it to him a car pulled into the
7 parking lot. That car was driven by Mr. Charles Powers.

8 Upon seeing the car the suspect left the store and
9 started to walk towards the exit of the store. As he got to
10 the door, Mr. Powers arrived at the door and opened the door
11 for the suspect. Unaware that anything had transpired
12 unusual in the store, Mr. Powers opened the door and held it
13 open so the defendant could leave the store. As he walked
14 by -- as he walked by Mr. Powers, who was holding the door
15 open for him, he pulled the handgun up, pointed it at Mr.
16 Powers' face and fired once, striking him in the chin, in
17 the lower face area with the handgun, and then he walked off
18 into the darkness into another location where he had put his
19 car.

20 The Fort Mill police responded, investigated that
21 case. At that time they had no suspect. They had a video,
22 but they weren't able to determine from the video who the
23 individual was that had done the armed robbery and the
24 shooting of Mr. Powers and Ms. Nguyen.

25 The similarities between this case and the

1 Saltwater Seafood shooting and robbery were close enough
2 that Fort Mill began working in their investigation with the
3 Rock Hill Police Department. At that time they were unable
4 to identify the suspect.

5 Nine days later, on February the --

6 Well, that's essentially the facts and
7 circumstances of the robbery at John Boy's Bolero.

8 Ms. Nguyen has recovered from her gunshot wound,
9 but she is not in a condition to which she could come to
10 court. She did not feel that she could emotionally handle
11 coming to court today, but her son, Mr. Tiem Bui, is
12 present, as well as --

13 THE COURT: Let me -- before we -- before we bring
14 the victim up --

15 MR. BRACKETT: Yes.

16 THE COURT: -- let me ask Mr. Watts.

17 Mr. Watts, you have heard the facts with regard to
18 these charges today in these cases that the solicitor has
19 just gone over. Do you disagree in any way with what they
20 say happened as to these charges?

21 THE DEFENDANT: No, sir.

22 THE COURT: I find the decision of the defendant
23 to plead guilty to these charges to be made freely,
24 voluntarily and intelligently.

25 He's had the representation of a competent

1 attorney with whom he says he is satisfied.

2 I find the facts presented to the court by the
3 solicitor's office fully support and substantiate the pleas
4 in this case, and I'll accept the pleas as freely and
5 voluntarily made.

6 Let me go ahead and hear from the victim's family.

7 MR. BRACKETT: Mr. Powers and Mr. Bui.

8 Mr. Powers is the customer who came up and held
9 the door open.

10 Mr. Bui is the son of the owner, Ms. Nguyen, of
11 the John Boy's Bolero, which is in Fort Mill here in York
12 County.

13 If you will state your full name and spell your
14 last for the court reporter.

15 MR. TIEM BUI: My first name is Tiem, T-I-E-M.
16 Last name is Bui, B-U-I.

17 Your Honor, I have prepared a statement just I
18 would like to read what I wanted to say. It's kind of
19 emotional for me, so could you just give me a few minutes?

20 THE COURT: Sure.

21 MR. TIEM BUI: My mother would be here today, but
22 she is scared and afraid. She asked that I speak on her
23 behalf.

24 Your Honor, I thank you for giving me the
25 opportunity to say a few words. Quiet, quiet my maternal

1 grandma said to my brother and me as we hopped onto the boat
2 with our parents. It was 1981 we come from Viet Nam. As
3 so -- as so many have, we were escaping to freedom" --
4 excuse me one moment.

5 As so many have, we were escaping to freedom in
6 the land of opportunity and the home of the brave. My
7 father started out doing whatever he could to support his
8 family; picking apples, blowing leaves, working as a tailor,
9 and in a cotton mill. He and my mom worked seven days a
10 week, sixteen hours a day for five years. My brother and I
11 only got to see them for a few hours a day. We go to church
12 on Sunday. They eventually saved enough to get a business
13 of their own; a laundromat and eventually a convenience
14 store. They worked so hard for us, my brother and me, so
15 that we could have a future. America is the only country
16 that gives everyone the opportunity to see if they are
17 willing to work hard, and I really believe that.

18 On Tuesday of last year, February the 5th, as I
19 was pulling in the driveway, my brother called and said mom
20 was shot, hurry to the store. My heart felt like it would
21 explode at the rate to get there. That was the darn longest
22 trip of my life, but I continually prayed and did not forget
23 that Mother Mary and our saviour, Jesus Christ, is up there
24 to protect her. I was the first in my family to get there.
25 Mom was still in the store, but the paramedics and the

1 police officers would not let me in. I waited continually
2 and still prayed. The paramedics finally pulled mom out and
3 loaded her in the ambulance. I held her hand and she said
4 Tiem, it hurts. She was grabbing her stomach and said Tiem,
5 it hurts so much. So much. I had to leave her. She was
6 being transferred to the helicopter. The last thing she
7 said was Tiem, I'm not sure I will make it, but I still
8 prayed. I tried to be strong for her, like I'm doing right
9 now, but apparently I'm not doing too well. I tried to
10 ensure her that everything would be okay. Mother Mary and
11 Jesus will protect her, as they had done for us when we were
12 on the boat to the United States of America. I tell you
13 what.

14 The good Lord answered our prayers and mom
15 recovered. She still has nightmares and sometimes just sits
16 there staring at the walls. I can remember at one time when
17 Ryan and Robby came to the hospital. She was at the ICU.
18 We visited her and she was okay. The first thing out of her
19 mouth was how is the mayor. And, mayor, I apologize,
20 because you had to be dragged into this mess, but in my
21 heart I really didn't want anybody else to get hurt. I
22 really do apologize. You came in there to get your daily
23 thing, like a regular customer.

24 Your Honor, I still do not understand how anyone
25 could do something so terrible to a tiny, fragile, harmless

1 grandmother to my baby son at that time, who was one year
2 old.

3 At that time I searched my soul. I had the guts
4 to walk into the police department in Fort Mill with the
5 staff there and asked to watch the whole entire event that
6 happened. You just don't know how mad and outraged I was.
7 My brother couldn't handle it, but I was brave enough, or
8 tried to be brave enough to watch. Mom did everything that
9 Mr. Phillip Watts, Jr. Asked on the video. She did
10 everything, complied with everything that he did, but he
11 just stood there looking at her in the eye. Lo and behold
12 he pulled the trigger. And the second shot -- I mean, he
13 was so close, like standing right here, and he shot her. I
14 mean, how could he do that? I mean -- and then he left and
15 shot the mayor.

16 Mr. Watts, Jr., my mother and father didn't have
17 good English skills, but they were able to succeed in the
18 United States by working hard and trying to live the
19 Christian life. You could have done the same.

20 All we ask of the legal system is to keep this man
21 behind bars so that he does not harm another innocent
22 person, like my mother and Mr. Powers and Ms. Lord, but I
23 also pray to God to have mercy on his soul come his judgment
24 day.

25 Again, I thank you for your time.

1 MR. BRACKETT: And Mr. Charles Lee Powers.

2 MR. CHARLES POWERS: Charles Powers.

3 Your Honor, of course, as they said, on March the
4 5th I walked in the -- I started into John Boys. I opened
5 the door. Mr. Watts, and I didn't know who it was at the
6 time, stuck a pistol up. As he walked past me, I said good
7 afternoon, holding the door for him, stuck a pistol and
8 didn't fire until he got here to my mouth, my lip.

9 Normally I would turn the other cheek. I have
10 some close friends in Mr. Watts family, and that's hard for
11 me not to turn the other cheek.

12 Mr. Watts is a cruel man and does not deserve to
13 ever be back in society.

14 As I turned, after he had shot me, blood
15 everywhere, as I turned, he was pointing at my back as I was
16 trying to get away from him. If the car hadn't come up, I
17 think, and I could be wrong, a lady and her son pulled up to
18 the same convenience store after he had shot me and I turned
19 and he was pointing at my back again, he shot around the
20 corner. If they hadn't of pulled up, he would have shot me
21 again. His intentions never was to hurt anybody. His
22 intentions was to kill.

23 And I'm sorry, I cannot turn the other cheek. I
24 do feel for the family. I spend many a night awake myself
25 having nightmares. It is a bad mental situation. I never

1 dreamed it would be that bad, but that is my feelings, and I
2 just wanted the court to know that. Thank you, sir.

3 THE COURT: Thank you, sir.

4 MR. BRACKETT: Your Honor, as regards to the
5 second incident. Nine days later, on February the 14th,
6 2008, a black male entered the Cash on the Spot Check
7 Cashing, which is located at in Rock
8 Hill inside of York County.

9 The surveillance video shows that individual
10 walking in, moving over to a counter that was sitting away
11 from the main teller booth where the individual who cashes
12 the check and dispenses the cash was at. It was like a
13 little separate table with some paperwork on it, including
14 some like Western Union forms that you would fill out to
15 wire money and so forth. That individual walked over, sat
16 down and started filling out some paperwork there and was
17 looking over her shoulder, apparently by all appearances
18 seemed to be working on some paperwork at the counter.

19 Ms. Ida D. Lord entered the business and walks
20 over to the teller window. She is standing there, and the
21 teller window is not like a regular bank. It's not
22 something that you could jump over. It's separated by a
23 piece of glass that you couldn't shoot through. It appears
24 to be thick in glass that separates the customers from the
25 individuals with the cash on the other side. Marsha Boyd

1 was the employee that was working in the store and
2 dispensing cash that day, cashing checks for customers as
3 they came in.

4 At that point on the video you could see Mr. Watts
5 stand up, walking over to Ms. Lord, who is standing at the
6 window. Her back is Mr. Watts. He walks over and grabs her
7 and puts the gun to her head and fires one round into her
8 head. She falls on the ground and he fires another round
9 into her as she lays on the ground.

10 Apparently -- I don't know whether words were
11 exchanged, but it's a silence in the video between the
12 individuals behind the glass, Ms. Boyd and Mr. Watts, but
13 Mr. Watts left the store.

14 The sheriff's office -- this happened in the York
15 County sheriff's office jurisdiction. The first happened in
16 Rock Hill. John Boy's Bolero, which is in the Fort Mill
17 city limits, and this one happened out in the county in the
18 only incorporated area. So the sheriff's office responded.
19 The forensic service unit also responded to process the
20 crime scene.

21 After reviewing the video and seeing that the
22 suspect had held a pen that was attached by a cable at the
23 table where he was sitting filling out the forms, they took
24 the pen and swabbed it for touch DNA; perspiration that
25 comes off of your fingers and it's left behind on a solid

1 object, like a pen. They were able to ask SLED to rush the
2 DNA process. And, in fact, given the gravity of this case
3 and the thought that they were all connected and we had a
4 serial shooter on hour hands, SLED was able to rush the
5 processing and get us the results back and they had Mr.
6 Watts' DNA on file there. They were able to establish that
7 it was Mr. Watts' DNA. In addition to that, some of the
8 paperwork at the counter that he had touched had his
9 fingerprints on that, on the paper as well.

10 They were able to get affix on his location
11 ultimately through his girlfriend and they went to a
12 location at on the 18th of February,
13 four days later, and they apprehended Mr. Watts inside. And
14 inside they also found a 22-caliber revolver. The revolver
15 was tested and swabbed for DNA and blood belonging to Ms.
16 Lord was found on the pistol.

17 Mr. Watts was interviewed and he gave a complete
18 confession to not only the On the Spot Check Cashing, but
19 the John Boy's Bolero robbery shooting and the Saltwater
20 Seafood Market robbery shooting, as well as several other
21 armed robberies in which no one was shot.

22 Ms. Ida Lord was obviously seriously injured. She
23 has gone through extensive medical treatment,
24 rehabilitation, and counseling in trying to get her back up.
25 She's present in the courtroom seated over here and she

1 would like to address the court as well.

2 THE COURT: All right. Let me complete the plea
3 process first.

4 MR. BRACKETT: Yes, sir.

5 THE COURT: Mr. Watts, you have heard the facts
6 recited to the court by the solicitor's office with regard
7 to this second incident. Do you disagree in any way with
8 what they say happened as to this particular incident?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Tell me how you disagree.

11 THE DEFENDANT: As far as how he said they
12 recovered that evidence, that ain't how that happened,
13 because when I first got arrested, it was proved to the
14 court that the things they are saying they found, as far as
15 my DNA and my fingerprints, I had the same thing tested and
16 it was real DNA on somebody else's, not including mine, so
17 the case really is based on my confession and not really
18 what they are saying they found.

19 MR. BRACKETT: Well, I guess the fact that the
20 question is, does Mr. Watts agree with the fact that the
21 allegations contained --

22 THE COURT: I'm going to get to that. I just
23 wanted to give you a chance to respond to his assertion that
24 the DNA was not found.

25 MR. BRACKETT: Well, sir, we couldn't have

1 apprehended Mr. Watts if we hadn't had the fingerprint and
2 the DNA.

3 And in addition to that, the surveillance video,
4 once we had Mr. Watts isolated as a suspect, the videotape
5 from the robbery was shown to Mr. Watts' mother, who did
6 identify him as being the person who was depicted on the
7 video.

8 THE COURT: Let me ask you this, Mr. Watts. I
9 understand you disagree with their statement of the facts
10 that they collected DNA evidence, but do you disagree that
11 it was you there who actually was robbing the place and
12 doing the shooting? Do you disagree at all with that?

13 THE DEFENDANT: No, sir.

14 THE COURT: You gave a confession, is that right?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And is that confession correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. Then I find the decision of the
19 defendant, Phillip Fleming Watts, Jr., to plead guilty to
20 these charges being made freely, voluntarily, and
21 intelligently.

22 He's had the representation of a competent
23 attorney with whom he says he is satisfied.

24 I find the facts presented to the court by the
25 solicitor's office, even those concurred in by the

1 defendant, fully support and substantiate the guilty pleas
2 in this case, and I'll accept the pleas as freely and
3 voluntarily made.

4 Now, Mr. Watts, if you disagree with the
5 proceedings in which we are currently involved, you have ten
6 days from today's date within which to file a notice of
7 intent to appeal.

8 Do you understand your right to appeal today's
9 proceedings?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Now I'll hear from the victim, if she
12 wishes to be heard.

13 MR. BRACKETT: Yes, sir.

14 MS. IDA LORD: My name is Ida Neal Lord.

15 MR. BRACKETT: It's very difficult, Your Honor.

16 THE COURT: All right. Do you wish to speak? You
17 can address me directly.

18 MS. IDA LORD: Okay.

19 THE COURT: Yes, ma'am.

20 MS. IDA LORD: Your Honor, before this happened to
21 me I was alive and a vibrant woman who worked out three
22 times a week. I worked every day. I was a certified
23 nursing assistant and I liked helping people, working with
24 people, and all, and I don't know why this monster did this
25 to me. He's changed my life tremendously. He really

1 changed my life.

2 MR. BRACKETT: Your Honor, I think that's the end
3 of her comments. Can she stay here for a moment?

4 THE COURT: If she wishes to, yes, sir.

5 MR. BRACKETT: Your Honor, it's a miracle that
6 she's alive. She was shot point blank in the head. It's
7 fortunate that it was just a .22, the smallest caliber
8 weapon that could have been used.

9 She went through extensive surgery. We obviously
10 followed her condition carefully as she went through
11 multiple surgeries. At one point in time a piece of her
12 skull had to be removed and kept separately, because the
13 pressure from her brain swelling was so much that she would
14 have died if they hadn't done that. She went around for a
15 period of several months basically with a helmet on her head
16 because her skull wasn't there to protect her brain, like it
17 normally is. They tried to put it on a couple of months
18 after the initial incident. And when they reattached the
19 piece of her skull back to her head, the brain immediately
20 swelled up again and we almost lost her a second time. So
21 they removed it and allowed her to recover over a longer
22 period of time and they were able to get it back on. So now
23 she's -- that part of it is over, but you can clearly see
24 she's been devastated physically from her injuries. And, as
25 I said, it's just -- it's by the grace of God that she's

1 here in court and able to see some justice done in her case.

2 MS. IDA LORD: Yes.

3 THE COURT: Does she want to say something else?

4 MR. BRACKETT: She was just sharing her sentiments
5 about it.

6 THE COURT: All right. Thank you.

7 MR. BRACKETT: Thank you, judge.

8 THE COURT: All right, counsel.

9 MR. GAY: May it please the court.

10 Your Honor, every -- every case that comes before
11 you has its tragic aspects to it. This one has so many more
12 than most cases. You heard from the victims, of course, in
13 this case, or in these two cases.

14 Of course, my job here today is to tell you a
15 little bit about Phillip Watts, Jr.. I had an opportunity
16 to meet with Phillip after I was appointed in the case and
17 talk about all of these things and get a little bit of
18 history on Phillip.

19 I talked to his mother.

20 Phillip had been in a juvenile program, gotten out
21 early, around July or August of 2007, at the time he was
22 released. When he was in the juvenile program, he was on a
23 series of medications. There was still anger problems or
24 whatever other problems that he had. When he was released
25 from the juvenile program, he was released with a three

1 weeks supply of medication and given an appointment with a
2 local mental health center.

3 He complied with his medication throughout August
4 and September while he had it and was released with it,
5 attended his appointments at Catawba Mental Health-Center.
6 At that point in time there wasn't a doctor present that day
7 that could do a prescription for him, so he left without a
8 prescription. He left with another appointment about a
9 month later, which he went back to with his mother. Again,
10 there wasn't a doctor there that could prescribe him or fill
11 his medication.

12 After about two and a half months without his
13 medication, these incidents began to happen, and they
14 happened, I guess, throughout the number of occasions, I
15 think starting in November of 2007, to the time that Phillip
16 was arrested in February of 2008.

17 His mother could tell you he's a different person
18 when he's on his medication. He didn't have the medication
19 to take with him to get the medication, and that is more or
20 less the basis for our plea today, that the solicitor has
21 agreed not to contest that Mr. Watts is guilty but mentally
22 ill.

23 To compound the tragedy of all this, when Phillip
24 got out of juvenile, he enrolled in Clinton Junior College.
25 He was an outstanding student there. He got good grades and

1 was doing fairly well. Most of his teachers at Clinton
2 Junior College and his friends couldn't believe it was him.
3 His girlfriend didn't believe it was him when they came to
4 say that he was the one who done all this stuff. No one
5 around him knew that he was doing this.

6 I wish I had a better explanation for it, other
7 than the fact that -- I can't -- I can't stand here and say
8 in front of you that if he had been on his medications this
9 wouldn't have happened, but I think that it's a reasonable
10 inference that there would have been a better chance that
11 this wouldn't have happened if he had been able to stay on
12 his medication and have these prescriptions refilled.

13 That's the basis for the plea. We ask Your Honor
14 to accept the plea as it is, as guilty but mentally ill.

15 We understand and I discussed with Phillip the
16 fact that Your Honor doesn't have any discretion in imposing
17 the sentence that's associated with the plea. We understand
18 that and thank the court for this opportunity to present
19 this and to do the sentence -- for Phillip to plead wherein
20 he's guilty but mentally ill.

21 THE COURT: Mr. Watts, is there anything that you
22 wish to say to the court?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right, sir.

25 THE DEFENDANT: First I send my apologize out to

1 not only the victims, but their loves ones, as well as mine,
2 you know what I mean?

3 One of the main factors of this case, or these
4 cases that I say, during the times of these crimes I was --
5 I couldn't control it.

6 And as far as the facts that they were just given
7 to you, that's fiction, because when I went to mental
8 health, it wasn't because the doctor wasn't available that
9 day to give me my medication. They didn't give me my
10 medication. They chose not to give me my medication.

11 I'm not using it as an excuse as to why I did what
12 I did, but I know that what I did was terrible. I know I
13 changed the lives of many, many people who weren't involved
14 out here to be changed, but the things I did or the crimes,
15 the person I am or the person -- meaning if it's a
16 possibility that I be the monster I was when I committed the
17 crimes, maybe I don't need to be out, but at the same time I
18 refuse to let anybody paint a picture of me to make it seem
19 as though I'm some evil person, when I'm not. The worst
20 thing I ever did in my life was get on that medication and
21 become dependent of that medication. Because once I became
22 dependent of that medication and I went so long without that
23 medication, I didn't know how to control myself. But nobody
24 seen stuff based on me this.

25 Like I say, I apologize to the victims, their

1 loved ones and my loved ones and the lives I changed because
2 of my actions.

3 THE COURT: Counsel, approach just a minute.

4 (Whereupon, the lawyers approached the bench for
5 an off-the-record discussion)

6 MR. BRACKETT: If it please the court, Ms. Lord
7 just wanted to relate to the court she's been through a
8 terrible storm with all of this and she feels that the
9 sentences are appropriate, his comments notwithstanding.

10 THE COURT: Okay. Thank you.

11 Well, honestly, Mr. Watts, I think for the good of
12 yourself and the general public you would be better if you
13 do not get out of prison for the balance of your natural
14 life.

15 Insofar as case number 2008-GS-46-2090-A and
16 2008-GS-46-2086, those are charges of possession of a weapon
17 during the commission of a violent crime. Since I'm
18 sentencing you to life, I need not sentence on those.

19 In case number 2008-GS-46-2089, Phillip Fleming
20 Watts, Jr., having pled guilty to assault and battery with
21 intent to kill -- excuse me, I beg your pardon, he's pled
22 guilty but mentally ill --

23 Let me say for the record as well the State does
24 not oppose it, but there is no evidence that he is, in fact,
25 mentally ill, as I understand it, and so -- but the State

1 does not oppose that.

2 MR. BRACKETT: Yes, sir, other than the comments
3 made by Mr. Gay from his research into his background and
4 whatever defendant's self-reporting is, but the State takes
5 no exception to anything that --

6 THE COURT: Of course, that would entitle him to
7 receive mental health treatment while he's incarcerated.
8 That's what that would do.

9 MR. BRACKETT: I understand that he's receiving
10 that now as well.

11 THE COURT: All right. Guilty but mentally ill is
12 the plea. The sentence of the court is life without parole.
13 That could be consecutive.

14 Case number 2008-GS-46-2087, Phillip Fleming
15 Watts, Jr., having pled guilty to assault and battery with
16 intent to kill -- I beg your pardon, guilty but mentally
17 ill. Not guilty, but guilty but mentally ill, for that
18 charge the sentence of the court is the same as the previous
19 sentence, to run consecutive.

20 Case number 2008-GS-46-2086, Phillip Fleming
21 Watts, Jr., having pled guilty but mentally ill to the
22 charge of armed robbery, the sentence of the court is the
23 same as the previous sentence, to run consecutive.

24 Case number 2008-GS-46-2088, Phillip Fleming
25 Watts, Jr., having pled guilty but mentally ill to the

1 charge of kidnapping, the sentence of the court is the same
2 as the previous sentence, to run consecutive.

3 Case number 2008-GS-46-2091, Phillip Fleming
4 Watts, Jr., having pled guilty but mentally ill to
5 kidnapping, the sentence of the court is the same as the
6 previous sentence, consecutive.

7 Case number 2008-GS-46-2092, Phillip Fleming
8 Watts, Jr., having pled guilty but mentally ill to the
9 charge of attempted armed robbery, the sentence of the court
10 is the same as the previous sentence, to run consecutive.

11 Case number 2008-GS-46-2090, Phillip Fleming
12 Watts, Jr., having pled guilty but mentally ill to the
13 charge of assault and battery with intent to kill, the
14 sentence of the court is the same as the previous sentence,
15 to run consecutive.

16 He's given credit for time served on all of these
17 charges. Thank you.

18 MR. BRACKETT: Thank you, Your Honor.

19 MR. GAY: Thank you, Your Honor.

20 (END OF REQUESTED TRANSCRIPT OF RECORD)
21
22
23
24
25

CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Sixteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for YORK County, South Carolina, on the 27TH day of APRIL, 2009.

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

September 26, 2011

Michael R. Watts

Michael R. Watts
Circuit Court Reporter

WITNESSES

RHPD / Haire

DOCKET NO. 2008-GS-46- **2083**
- **2083A**
The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

ARREST WARRANT NUMBER

COUNT ONE - K315527
COUNT TWO - K315533

ACTION OF GRAND JURY

TRUE BILL

Catharine B. mens
Foreperson of Grand Jury

Date: 5/15/08

VERDICT

At 1 Guilty

At 2 Guilty

Jenny Williams
Foreperson of Petit Jury
Date: 9-22-08

COUNT 2 - POSSESSION OF A
FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME

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

PHILLIP FLEMING WATTS, JR.

Indictment for

COUNT 1 - ARMED ROBBERY

SC Code: 16-11-0330
CDR Code: 0139

THE STATE

VS.

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

Defendant

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

Defendant

Witness:

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

Should not allowed by court.
[Signature]
9/22/08

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

COUNT ONE – ARMED ROBBERY

Phillip Fleming Watts, Jr. did in York County on or about January 2⁰~~1~~, 2008, feloniously steal United States currency and/or other items of value from the One Stop Exxon Store located at _____ in Rock Hill, South Carolina. Phillip Fleming Watts, Jr. stole said items by means of force or intimidation by holding One Stop Exxon employee Annette Mobley Hicks at gunpoint. Phillip Fleming Watts, Jr. committed this robbery while armed with a deadly weapon in violation of Section 16-11-0330, Code of Laws of South Carolina (1976, as amended).

**COUNT TWO – POSSESSION OF A FIREARM DURING THE
COMMISSION OF A VIOLENT CRIME**

Phillip Fleming Watts, Jr. did in York County on or about January 2⁰~~1~~, 2008, possess a firearm while committing the violent crime of armed robbery at the One Stop Exxon Store located at _____ in Rock Hill, South Carolina, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976), as amended.

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


DEPUTY SOLICITOR

WITNESSES

RHPD / Haire

DOCKET NO. 2008-GS-46-

2084
-2084A

The State of South Carolina

County of York

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

Defendant

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

Phillip Fleming Watts Jr.
hereby appear in my own proper person and plead guilty to the within indictment or to as charged on both counts

ARREST WARRANT NUMBER

COUNT ONE - K315528
COUNT TWO - K315530

Phillip Fleming Watts Jr.
Defendant

THE STATE

VS.

Witness:

Stephanie Nicks, Jr. Supervisor
C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

TRUE BILL

Indictment for

COUNT 1 - ARMED ROBBERY

SC Code: § 16-11-0330
CDR Code: 0139

VERDICT

Gloria J. Moore
Foreperson of Grand Jury
Date: 5/15/08

COUNT 2 - POSSESSION OF A
FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME

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

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

COUNT ONE – ARMED ROBBERY

Phillip Fleming Watts, Jr. did in York County on or about January 28, 2008, feloniously steal United States currency and / or other items of value from the Saltwater Seafood Market located at _____ in Rock Hill, South Carolina. Phillip Fleming Watts, Jr. stole said items by means of force or intimidation by holding Saltwater Seafood Market employee Ping Chen a/k/a Ping Chen Wong at gunpoint. Phillip Fleming Watts, Jr. committed this robbery while armed with a deadly weapon in violation of Section 16-11-0330, *Code of Laws of South Carolina* (1976, as amended).

**COUNT TWO – POSSESSION OF A FIREARM DURING THE
COMMISSION OF A VIOLENT CRIME**

Phillip Fleming Watts, Jr. did in York County on or about January 28, 2008, possess a firearm while committing the violent crime of armed robbery at the Saltwater Seafood Market located on _____ in Rock Hill, South Carolina, all in violation of Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

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


DEPUTY SOLICITOR

WITNESSES

RHPD / Haire

mac

ARREST WARRANT NUMBER

K315529

ACTION OF GRAND JURY

TRUE BILL

Patricia S. Mars
Foreperson of Grand Jury
Date: 5/15/08

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-46- 2085

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

THE STATE

vs.

PHILLIP FLEMING WATTS, JR.

Indictment for

ASSAULT & BATTERY
WITH INTENT TO KILL

SC Code: § 16-03-0620
CDR Code: 0014

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

Defendant

Phillip Fleming Watts, Jr.
I hereby appear in my own proper person and plead guilty to the within indictment or to
as charged

Philip S. Watts, Jr.
Defendant

Witness:
Stephanie Melis, CDRM Surgeon
C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

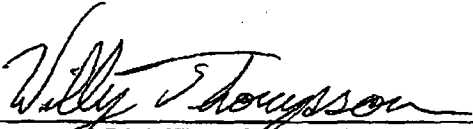
At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

ASSAULT & BATTERY WITH INTENT TO KILL

Phillip Fleming Watts, Jr. did in York County on or about January 28, 2008, willfully, unlawfully, intentionally, and with malice aforethought, commit an assault and battery upon Ping Chen a/k/a Ping Chen Wong, an employee of the Saltwater Seafood Market, by shooting her. The crime occurred at the Saltwater Seafood Market located on

in Rock Hill, South Carolina. All in violation of 16-3-620, *Code of Laws of South Carolina*, (1976, as amended).

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


DEPUTY SOLICITOR

WITNESSES

FMPD / Zachary

mac

ARREST WARRANT NUMBER

COUNT ONE - J215583
COUNT TWO - J215580

ACTION OF GRAND JURY

TRUE BILL

Patricia J. Moss
Foreperson of Grand Jury

Date: 5/15/08

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-46-

2086A

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

THE STATE

VS.

PHILLIP FLEMING WATTS, JR.

Indictment for

COUNT 1 - ARMED ROBBERY

SC Code: § 16-11-0330

CDR Code: 0139

COUNT 2 - POSSESSION OF A
FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME

SC Code: 16-23-0490

CDR Code: 0549

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

Defendant

I, Phillip F. Watts
hereby appear in my own proper person and plead guilty to the within indictment or to*Phillip Watts*
Defendant

Witness:

Andruel Ossa
C.C.C. PLS. AND GS.*Deputy Clerk*

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

COUNT ONE – ARMED ROBBERY

Phillip Fleming Watts, Jr. did in York County on or about February 5, 2008, feloniously steal United States currency and / or other items of value from John Boy's convenience store located at Fort Mill, South Carolina. Phillip Fleming Watts, Jr. stole said items by means of force or intimidation by holding John Boy's convenience store clerk Yen T. Nguyen at gunpoint. Phillip Fleming Watts, Jr. committed this robbery while armed with a deadly weapon in violation of Section 16-11-0330, *Code of Laws of South Carolina* (1976, as amended).

**COUNT TWO – POSSESSION OF A FIREARM DURING THE
COMMISSION OF A VIOLENT CRIME**

Phillip Fleming Watts, Jr. did in York County on or about February 5, 2008, possess a firearm while committing the violent crime of armed robbery at John Boy's convenience store located on in Fort Mill, South Carolina, all in violation of Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

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


DEPUTY SOLICITOR

WITNESSES

FMPD / Zachary

mac

ARREST WARRANT NUMBER

J215581

ACTION OF GRAND JURY

TRUE BILL

Patricia J. Moore
Foreperson of Grand Jury
Date: *5/15/08*

VERDICT

Foreperson of Petit Jury
Date: _____

DOCKET NO. 2008-GS-46-

2087

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

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

Defendant

Philip F. Watts

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

THE STATE

VS.

PHILLIP FLEMING WATTS, JR.

Defendant

Philip Watts

Witness:

James C. C. FLS AND G.S.

Indictment for

ASSAULT & BATTERY
WITH INTENT TO KILL

SC Code: § 16-03-0620
CDR Code: 0014

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

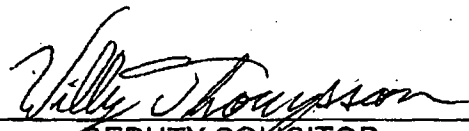
INDICTMENT

At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

ASSAULT & BATTERY WITH INTENT TO KILL

Phillip Fleming Watts, Jr. did in York County on or about February 5, 2008, willfully, unlawfully, intentionally, and with malice aforethought, commit an assault and battery upon Yen T. Nguyen, an employee of John Boy's convenience store, by shooting her. This crime occurred at John Boy's convenience store located on Fort Mill, South Carolina. All in violation of 16-3-620, *Code of Laws of South Carolina*, (1976, as amended).

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


DEPUTY SOLICITOR

WITNESSES

FMPD / Zachary

mac

ARREST WARRANT NUMBER

J215579

ACTION OF GRAND JURY

TRUE BILL

Patricia J. Marx

Foreperson of Grand Jury
Date: 5/15/08

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-46- 2088

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

THE STATE

VS.

PHILLIP FLEMING WATTS, JR.

Indictment for

KIDNAPPING

SC Code: §16-3-910
CDR Code: 0095

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

Defendant

Philip F. Watts
hereby appear in my own proper person and plead guilty to the within indictment or to

Philip Watts
Defendant

Witness:
Heidi Andrews
C.O.S. AND G.S.
Heidi Andrews

50
STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

KIDNAPPING

Phillip Fleming Watts, Jr. did in York County on or about February 5, 2008, commit the crime of Kidnapping in violation of Section 16-3-910, *Code of Laws of South Carolina*, (1976), as amended. Phillip Fleming Watts, Jr. unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted or carried away Yen T. Nguyen without authority of law and against the victim's will and consent. Ms. Nguyen was kidnapped during an armed robbery in John Boy's convenience store located at Fort Mill, South Carolina.

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


DEPUTY SOLICITOR

WITNESSES

FMPD / Zachary

mac

ARREST WARRANT NUMBER

J215582

ACTION OF GRAND JURY

TRUE BILL

Patricia J. Moore

Foreperson of Grand Jury
Date: 5/15/08

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-46- 2089

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

THE STATE

VS.

PHILLIP FLEMING WATTS, JR.

Indictment for

ASSAULT & BATTERY
WITH INTENT TO KILL

SC Code: § 16-03-0620
CDR Code: 0014

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

Defendant

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

Phillip Watts
Defendant

Witness:
Patricia J. Moore
C.D.C. PLS. ANGES
Patricia J. Moore

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

ASSAULT & BATTERY WITH INTENT TO KILL

Phillip Fleming Watts, Jr. did in York County on or about February 5, 2008, willfully, unlawfully, intentionally, and with malice aforethought, commit an assault and battery upon Charles E. Powers by shooting him. This crime occurred at John Boy's convenience store located on Fort Mill, South Carolina. All in violation of 16-3-620, *Code of Laws of South Carolina*, (1976, as amended).

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


DEPUTY SOLICITOR

WITNESSES

YCSO / Hager

mac

ARREST WARRANT NUMBER

COUNT ONE - J165088
COUNT TWO - J152505

ACTION OF GRAND JURY

TRUE BILL

Christina J. Moore
Foreperson of Grand Jury
Date: 5/15/08
VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-46- 2090

-2090A

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

THE STATE

vs.

PHILLIP FLEMING WATTS, JR.

Indictment for

COUNT 1 - ASSAULT & BATTERY
WITH INTENT TO KILL
SC Code: § 16-03-0620
CDR Code: 0014

COUNT 2 - POSSESSION OF A
FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME
SC Code: 16-23-0490
CDR Code: 0549

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

Defendant

Philip F. Watts
hereby appear in my own proper person and plead guilty to the within indictment or to

Philip F. Watts Jr
Defendant

Witness:
Christina J. Moore
C.C.C. PLS AND GS
Deputy Clerk

54
STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

COUNT ONE – ASSAULT & BATTERY WITH INTENT TO KILL

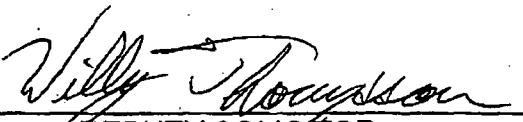
Phillip Fleming Watts, Jr. did in York County on or about February 14, 2008, willfully, unlawfully, intentionally, and with malice aforethought commit an assault and battery upon Ida Lord by shooting her. This crime occurred at Cash on the Spot Check Cashing located at

1 in Rock Hill, South Carolina. All in violation of 16-3-620, *Code of Laws of South Carolina*, (1976, as amended).

**COUNT TWO – POSSESSION OF A FIREARM DURING THE
COMMISSION OF A VIOLENT CRIME**

Phillip Fleming Watts, Jr. did in York County on or about February 14, 2008, possess a firearm while committing the violent crime of assault and battery with intent to kill at Cash on the Spot Check Cashing located on
in Rock Hill, SC, all in violation of Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

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


DEPUTY SOLICITOR

WITNESSES

Y&SO / Hager

mac

ARREST WARRANT NUMBER

J152503

ACTION OF GRAND JURY

TRUE BILL

Patricia J. Mann
Foreperson of Grand Jury
Date: *5/15/08*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-46-

2091

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

THE STATE

VS.

PHILLIP FLEMING WATTS, JR.

Indictment for

KIDNAPPING

SC Code: §16-3-910
CDR Code: 0095

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

Defendant

Philip F. Watts
hereby appear in my own proper person and plead guilty to the within indictment or to

Philip Watts
Defendant

Witness:
Patricia J. Mann
C.C.C. P.D.S. AND G.S.
Patricia J. Mann

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

KIDNAPPING

Phillip Fleming Watts, Jr. did in York County on or about February 14, 2008, commit the crime of Kidnapping in violation of Section 16-3-910, *Code of Laws of South Carolina*, (1976), as amended. Phillip Fleming Watts, Jr. unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted or carried away Ida Lord without authority of law and against the victim's will and consent. Ms. Lord was kidnapped during an attempted armed robbery and/or an assault and battery with intent to kill at Cash on the Spot Check Cashing located at Rock Hill, South Carolina.

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


DEPUTY SOLICITOR

WITNESSES
KCSO / Hager

mac

ARREST WARRANT NUMBER

J152504

ACTION OF GRAND JURY

TRUE BILL

Antonio J. Moore
Foreperson of Grand Jury
Date: 5/15/08

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-46-2092

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

MAY 15, TERM 2008

THE STATE

vs.

PHILLIP FLEMING WATTS, JR.

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: § 16-11-0330(b)
CDR Code: 0026

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

Defendant

Phillip F. Watts
hereby appear in my own proper person and plead guilty to the within indictment or to

Phillip Watts Jr.
Defendant

Witness:
And. But. Assoc
C.C.C. PLS. AND G.S.
Deputy Clerk

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 15, 2008, the Grand Jurors of York County present upon their oath:

ATTEMPTED ARMED ROBBERY

Phillip Fleming Watts, Jr. did in York County on or about February 14, 2008, attempt to feloniously steal United States currency and/or other items of value from Cash on the Spot Check Cashing located

in Rock Hill, South Carolina. Phillip Fleming Watts, Jr. did attempt to steal said items by means of force or intimidation by holding Ida Lord and Cash on the Spot Check Cashing employee Marsha Boyd at gunpoint. Phillip Fleming Watts, Jr. committed this attempted robbery while armed with a deadly weapon in violation of Section 16-11-0330, *Code of Laws of South Carolina* (1976, as amended).

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


DEPUTY SOLICITOR

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

59

COUNTY OF York

VS.
Phillip Fleming Watts, Jr.

AKA:

Race: B Sex: M Age:

DOB: SS#:

Address:

Rock Hill, SC 29732

DL#: SID#:

INDICTMENT/CASE#: 2008-GS46-02083

A/W#: K315527

Date of Offense: 1/20/2008

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: ARMED ROBBERY

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor Brackett, Kevin S.

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§ 56-5-2995 (DUI Assessment)	\$12	\$	
§ 35.13 (Public Def/Prob)	\$500	\$	
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$	25
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$	
§ 50-21-114(BUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)		\$	
§ 90.11 TP (SCCJA Surcharge)	\$5	\$	5
TOTAL		\$	330

David Hamilton
Clerk of Court/ Deputy Clerk

Michael Watts

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

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

\$ _____ paid to Public Defender Fund

Other: _____

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

PRESIDING JUDGE

Judge Code:

Sentence Date:

2111213
9-24-08

SOUTH CAROLINA

OF York

VS.

Phillip Fleming Watts, Jr.

AKA:

Race: B Sex: M Age:

DOB: SS#:

Address:

Rock Hill, SC 29732

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS46-02083A

A/W#: K315533

Date of Offense: 1/20/2008

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: POSSESSION OF A FIREARM DURING A VIOLENT CRIME

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

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

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

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

ATTEST:

Solicitor Brackett, Kevin S.

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: Count One

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %)

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

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

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 35.13 (Public Def/Prob) \$500 \$

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

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

§ 90.11 TP (SCCJA Surcharge) \$5 \$5

TOTAL \$130

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

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

\$ _____ paid to Public Defender Fund

Other:

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

PRESIDING JUDGE

Judge Code:

Sentence Date:

Clerk of Court/ Deputy Clerk

Michael Watts

9-24-08

York

VS.

Phillip Flemming Watts, Jr.

AKA:

Race: B Sex: M Age: —

DOB: — SS#: —

Address: Rock Hill, SC 29732

DL#: — SID#: —

INDICTMENT/CASE#: 2008-GS46-02084

A/W#: K315528

Date of Offense: 1/28/2008

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Robbery / Armed Robbery, robbery while armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

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

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

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Solicitor Brackett, Kevin S.

Defendant

Attorney for Defendant

SC Bar# 2383

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of life without parole days/months/years or ☐ under the Youthful Offender Act not to exceed — years and/or to pay a fine of \$ 3,300; provided that upon the service of — days/months/years and/or payment of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for — months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: —

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

Total: \$ — plus 20% fee: \$ —

Payment Terms: —

☐ set by SCDPPPS —

Recipient: —

*Fine: \$ —

§ 14-1-206 (Assessments 107.5 %) \$ —

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

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

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

§ 35.13 (Public Def/Prob) \$500 \$ —

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ —

§ 50-21-114(BUI Breath Test Fee) \$50 \$ —

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ —

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

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5

TOTAL \$130

David Hamilton
Clerk of Court/ Deputy Clerk

Wanda Nelson

Obtain GED

Attend Voc. Rehab. or Job Corp. —

May serve W/E beginning —

Substance Abuse Counseling —

Random Drug/Alcohol testing —

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

\$ — paid to Public Defender Fund

Other:

Sentencing Taken under advisement -
Recomm. left open for
further evidence on issue of
CBMI

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

Sentencing imposed 3/30/09

PRESIDING JUDGE

Judge Code: 2 0 1 4 0 9

Sentence Date: 12-15-08

SOUTH CAROLINA

York

VS.

Phillip Watts, Jr.

AKA:

Race: B Sex: M Age:

DOB: SS#:

Address:

Rock Hill, SC 29732

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS46-02084A

A/W#: K315530

Date of Offense: 1/28/2008

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET #3

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Weapons / Poss. weapon during violent crime. if not also sentenced to life witho

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

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

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

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Solicitor

Brackett, Kevin S.

Defendant

Attorney for Defendant

SC Bar# 2383

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 0 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 35.13 (Public Def/Prob) \$500 \$

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

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

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ 130.00

David Hammett
Clerk of Court/ Deputy Clerk

Wanda Nelson

Sentencing 3/30/09
John C. Hayes
days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

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

\$ _____ paid to Public Defender Fund

Other: Sentencing Taken Under advisement - Record left open for further evidence on issue of GBMI

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

Sentencing imposed 3/30/09

PRESIDING JUDGE

Judge Code: 21014189

Sentence Date: 12-15-08

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

CITY OF York
 VS.
 Phillip Watts, Jr.
 AKA:
 Race: B Sex: M Age:
 DOB: SS#
 Address: Rock Hill, SC 29732
 DL#: SID#

INDICTMENT/CASE#: 2008-GS46-02085

A/W#: K315529

Date of Offense: 1/28/2008

S.C. Code §: 16-03-0620

CDR Code #: 0014

SENTENCE SHEET #2

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
 TO: Assault / Assault and battery with Intent to Kill (ABWIK)

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014

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

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

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Solicitor Brackett, Kevin S.

Defendant

Attorney for Defendant

SC Bar# 2383

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 180 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 years
 and/or to pay a fine of \$ 3300; provided that upon the service of 3 days/months/years and/or payment
 of \$ 3300; plus costs and assessments as applicable*; the balance is suspended with probation for 3
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

SPECIAL CONDITIONS

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

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$ _____

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

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

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

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

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

1% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5

TOTAL \$ 130

David Hamilton
 Clerk of Court/ Deputy Clerk

wanda Nelson

2 WOT
Sentencing 3/30/09
John C Hayes
 days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

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

\$ _____ paid to Public Defender Fund

Other: sentencing taken under
advisement - Record left open
for further evidence on issue
of GBMI

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

PRESIDING JUDGE

Judge Code: 2014019Sentence Date: 12-15-08

SOUTH CAROLINA

YORK

VS.

Phillip Fleming Watts, Jr.

AKA:

Race: B Sex: M Age:

DOB: SS#:

Address: Rock Hill, SC 29732

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS46-02086

A/W#: J215583

Date of Offense: 2/5/2008

S.C. Code §: 16-11-0330(A)

CDR Code #: 0139

ORIGINAL

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
 TO: Robbery / Armed Robbery, robbery while armed with a deadly weapon

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

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

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

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor Brackett, Kevin S.

SC Bar# 64512

Defendant Phillip Watts

Attorney for Defendant

SC Bar# 2383

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

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

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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

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

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

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

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ 130.00

David Hamel
 Clerk of Court/ Deputy Clerk

CR Mike Watts

PRESIDING JUDGE

Judge Code: 2111813

Sentence Date: 4-27-09

SOUTH CAROLINA

OF

York

VS.

Phillip Fleming Watts, Jr.

AKA:

Race: B

Sex: M

Age: -

DOB:

SS#:

Address:

Rock Hill, SC 29732

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS

65

INDICTMENT/CASE#: 2008-GS46-02086

A/W#: J215580

Date of Offense: 2/5/2008

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life witho

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

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

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

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Brackett, Kevin S.

SC Bar# 64517

Defendant

Attorney for Defendant

SC Bar# 2383

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of _____ days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	
§ 90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00
TOTAL		\$ 130.00

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

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

\$ _____ paid to Public Defender Fund

Other:

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

PRESIDING JUDGE

Judge Code:

Sentence Date:

Clerk of Court/ Deputy Clerk

ce mila watts

4-27-09

66

1/20/18
SOUTH CAROLINA

Jail

IN THE COURT OF GENERAL SESSIONS

COUNTY OF YORK
STATE VS.
Phillip Fleming Watts, Jr.
AKA:
Race: B Sex: M Age:
DOB: SS#:
Address: Rock Hill, SC 29732
DL#: SID#:

INDICTMENT/CASE#: 2008-GS46-02087
A/W#: J215581
Date of Offense: 2/5/2008
S.C. Code § : 16-03-0620
CDR Code #: 0014

ORIGINAL

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Assault / Assault and battery with Intent to Kill (ABWIK) *Guilty 2nd Misdemeanor*

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☒ §17-25-45
w/minor 1st or Lewd Act)

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

ATTEST: *7/3/08* Solicitor Brackett, Kevin S. *64517* SC Bar# *Philly Watts* Defendant *Phillip Fleming* Attorney for Defendant *2383* SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of *1 year* days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

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

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP/(Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$
§ 90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00
TOTAL		\$ 130.00

_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol testing _____
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____
☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

David Hamel
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE *James R. ...*
Judge Code: *211113*
Sentence Date: *4-27-09*

CR - Mike Watts

STATE OF SOUTH CAROLINA
COUNTY OF York
VS.
Phillip Fleming Watts, Jr.
AKA:
Race: B Sex: M Age:
DOB: SS#:
Address: Rock Hill, SC 29732
DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

67

INDICTMENT/CASE#: 2008-GS46-02088
A/W#: J215579
Date of Offense: 2/5/2008
S.C. Code § : 16-03-0910
CDR Code #: 0095

ORIGINAL

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Kidnapping / Kidnapping
in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☒ §17-25-45
w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:
Solicitor Brackett, Kevin S. 64517 SC Bar# Defendant Attorney for Defendant 2383 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 year days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ set by SCDPPPS _____
Recipient: _____
*Fine: \$ _____
§ 14-1-206 (Assessments 107.5 %) \$ _____
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
§ 56-5-2995 (DUI Assessment) \$12 \$ _____
§ 56-1-286 (DUI Breath Test) \$25 \$ _____
§ 35.13 (Public Def/Prob) \$500 \$ _____
§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____
§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
3% to County (if paid in installments) \$ _____
§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00
TOTAL \$ 130.00

_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol testing _____
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____
☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

David Hamel
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE
Judge Code: 21113
Sentence Date: 42709

CR Mike Watts

SOUTH CAROLINA

CITY OF

York

Jail

ATE

VS.

Phillip Fleming Watts, Jr.

AKA:

Race: B

Sex: M

Age: —

DOB: —

SS#: —

Address

Rock Hill, SC 29732

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS46-02089

A/W#: J215582

Date of Offense: 2/5/2008

S.C. Code § : 16-03-0620

CDR Code #: 0014

ORIGINAL

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Assault / Assault and battery with Intent to Kill (ABWIK)

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014

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

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

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Brackett, Kevin S.

SC Bar# 64517

Defendant Phillip Watts

Attorney for Defendant E. H. Hays

SC Bar# 2383

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

\$

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

100.00

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 56-1-286 (DUI Breath Test)

\$25

\$

§ 35.13 (Public Def/Prob)

\$500

\$

§ 73.3, 1B TP (Law Enforce. Funding)

\$25

\$

25.00

§ 33.7, 1B TP (Drug Court Surcharge)

\$100

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

§ 90.11 TP (SCCJA Surcharge)

\$5

\$

5.00

TOTAL

\$130.00

David Hamlet

Clerk of Court/ Deputy Clerk

CR Mike Watts

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 4-27-09

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

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

\$ _____ paid to Public Defender Fund

Other: _____

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

155
SOUTH CAROLINA

OF York

VS.

Phillip Fleming Watts, Jr.

Age: B Sex: M Age:

DOB: SS#:

Address: Rock Hill, SC 29730

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

69

INDICTMENT/CASE#: 2008-GS46-02090

A/W#: J165088

Date of Offense: 2/14/2008

S.C. Code § : 16-03-0620

CDR Code #: 0014

SENTENCE SHEET

ORIGINAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Assault / Assault and battery with Intent to Kill (ABWIK) *Guilty but mentally ill*

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014

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

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

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: *7530th* *64517* *Phillip Watts* *Emile Henry* *2383*

Solicitor Brackett, Kevin S. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of *life* days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: Obtain GED _____

☐ set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: \$ _____ Substance Abuse Counseling _____

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

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly

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

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

§ 56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

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

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ 130.00

PRESIDING JUDGE *For 8*

Judge Code: *21 1 1 3*

Sentence Date: *4-27-09*

David Hamlet
Clerk of Court/ Deputy Clerk

CR Mike Watts

70 STATE OF SOUTH CAROLINA

COUNTY OF York
STATE VS.

Phillip Fleming Watts, Jr.

AKA:

Race: B Sex: M Age: -

DOB: SS#:

Address:

Rock Hill, SC 29732

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS46-02090

A/W#: J152505

Date of Offense: 2/14/2008

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

ORIGINAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life witho

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☒ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor Brackett, Kevin S.

SC Bar# 64517

Defendant Phillip F Watts Jr

Attorney for Defendant David F Lewis

SC Bar# 2383

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of _____ days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 35.13 (Public Def/Prob)

§ 73.3, 1B TP (Law Enforce. Funding)

§ 33.7, 1B TP (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

§ 90.11 TP (SCCJA Surcharge)

TOTAL

\$ 130.00

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

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

\$ _____ paid to Public Defender Fund

Other: _____

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

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 4-27-09

Clerk of Court/ Deputy Clerk

Clerk Mike Watts

SOUTH CAROLINA

OF York

VS.

Phillip Fleming Watts, Jr.

AKA:

Race: B Sex: M Age:

DOB: SS#:

Address: Rock Hill, SC 29732

DL#: SID#:

INDICTMENT/CASE#: 2008-GS46-02091

A/W#: J152503

Date of Offense: 2/14/2008

S.C. Code § : 16-03-0910

CDR Code #: 0095

ORIGINAL

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Kidnapping / Kidnapping

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

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

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

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor Brackett, Kevin S. SC Bar# 64517 Defendant Phillip Watts Attorney for Defendant Phillip Fleming Watts SC Bar# 2383

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED

☐ set by SCDPPPS Attend Voc. Rehab. or Job Corp.

Recipient: May serve W/E beginning

*Fine: Substance Abuse Counseling

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

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly

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

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

§ 56-1-286 (DUI Breath Test) \$25 \$ Other:

§ 35.13 (Public Def/Prob) \$500 \$

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

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

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ 130.00

PRESIDING JUDGE

Judge Code:

Sentence Date: 4-27-09

Clerk of Court/ Deputy Clerk

CR mikewatts

72

SOUTH CAROLINA

CITY OF York

VS.
Phillip Fleming Watts, Jr.

AKA:

Race: B Sex: M Age:

DOB: SS#:

Address: Rock Hill, SC 29732

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS46-02092

A/W#: J152504

Date of Offense: 2/14/2008

S.C. Code §: 16-11-0330(B)

CDR Code #: 0026

ORIGINAL

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Attempted Armed ROBBERY

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☒ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor Brackett, Kevin S.

64517
SC Bar#

Defendant

Attorney for Defendant

2383
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

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

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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

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

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

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

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$ 130.00

David Hamel
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Judge Code: _____

Sentence Date: _____

42709

FORM 5

STATE OF SOUTH CAROLINA)

County of York)

IN THE COURT OF COMMON PLEAS

Philip Fleming Watts Jr. #307234
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

FILED - RECEIVED
2010 SEP 17 PM 4:08
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC**INSTRUCTIONS . READ CAREFULLY**

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

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

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

1. Place of detention Lieber Correctional Institution, P.O. Box 205
Ridgeville, South Carolina 29472
2. Name and location of Court which imposed sentence York County's Court of
General Sessions (York County)
3. Name(s) of co-defendant(s) (if any) Stephanie Dawn Storey
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2008-65-46-2090, 2091, and 2092

- (b) 2008-65-46-2086, 2087, 2088 and 2089
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) (April 2009) 2008-65-46-2090 - Life, 2091 - Life, and 2092 - Life
- (b) 2008-65-46-2086 - Life, 2087 - Life, 2088 - Life and
- (c) 2089 - Life (7 Life Sentence in one proceeding
2 separate incidents)
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?
No. Attorney failed to file an Appeal after I asked him to do so
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. /
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. /
- iii. _____
- (c) the date of each such result:
- i. N/A
- ii. /
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. /
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Attorney failed to file an appeal after I asked him to do so.

- (b) _____
 (c) _____

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

- (a) ineffective assistance of Counsel
 (b) Involuntary Guilty Plea
 (c) Lack of Subject Matter Jurisdiction

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

- (a) (SEE Attachment)
 (b) _____
 (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? No
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 (d) any other petitions, motions or applications in this or any other Court? No

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

- (a) the specific nature thereof:
 i. N/A
 ii. /
 iii. /
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. N/A
 ii. /
 iii. _____

- iv. _____
- (c) the disposition thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (d) the date of each such disposition:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- N/A
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. N/A
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. N/A
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) This is my only avenue for redress
 (b) I Requested upon counsel to file an Appeal to the Court's Decision; He didn't.
 (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? N/A
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A

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

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

i. Douglas F. Gay 1273 -B Ebenezer Road
P.O. Box 10506 Rock Hill, S.C. 29731

ii. _____

iii. _____

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

i. Arraignment, Plea and Sentencing

ii. _____

iii. _____

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

Vacate plea and Remand for a New trial

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

Yes

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Dorchester)

VERIFICATION

I, Phillip Fleming Watts Jr. # 307234, 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.

Phillip F. Watts Jr. # 307234

SWORN to and subscribed before me this 14th day of September, 2018.

Sylvia Jones (L.S.)
Notary Public

My Commission Expires: 1/24/2018

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

I, Phillip Fleming Watts Jr. #307234, 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.

Phillip F. Watts Jr. #307234
Applicant

SWORN or affirmed to and subscribed before me this
14th day of September, 2010.

Sylva Jones
Notary Public

My Commission Expires: 1/24/2018

(P.W.)

(1)
ATTACHMENT To Application For
Post-Conviction Relief

Continued on next pg.

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

- A). Ineffective assistance of Counsel
- B). Involuntary Guilty Plea
- C). Lack of Subject Matter Jurisdiction

(A) Ineffective assistance of Counsel

(1) petitioner's Guilty Plea was entered in strict Reliance upon Counsel's Assertion that he wouldn't Receive the life Sentences in which were the Maximum Sentences that he could Receive. He was also promised by Counsel that after pleading guilty, he would Receive Mental Health treatment through a facility designated by the department of corrections. This facility is Separate from General Population. Counsel told petitioner that this was the only way he could assure him that He could promise him the help he needed, along with the best possible sentence. These assertions are what led the petitioner to enter pleas of Guilt. Had these assertions and broken promises not been Made by counsel, Petitioner would not have pleaded guilty and in fact, would have insisted on Going to trial.

(2) Counsel failed to explore the available Revenues and Resources to have petitioner Mentally evaluated prior to accepting this bargain to plea given by the state. It was made clear on the Record and off that Petitioner wished to Plead Guilty; but Mentally ill. This Reason is Reason enough to explore the possibilities of actual Mental illness being involved.

counsel failed to have Petitioner examined, ⁽²⁾ Even after the Presiding Judge Made it clear that Proof of Mental illness was a burden that Rested on the defense. This not only shows that Counsel was incompetent, but also inadequate. The Representation provided by Counsel did not Meet Constitutional standard and this prejudiced the Petitioner, Violating Petitioner's Right to due process.

(3) Counsel did not Meet Constitutional standard by allowing trial Court to accept a plea of Guilty; but Mentally ill without first establishing (P.W) Proof of Mental illness.

(4) Counsel denied Petitioner his Right to Directly appeal the trial Court's decisions. Petitioner Did inform Counsel that he wished to exercise his right of Direct ~~&~~ appeal. Counsel assured petitioner and petitioner's family that a Direct appeal was being filed. it was later Revealed that Counsel never filed for Petitioner's Direct Appeal. This is clear violation of Petitioner's Constitutional Rights.

(B) Involuntary Guilty Plea

(1) upon Counsel's Assertions, Petitioner agreed to enter a plea bargain claiming Guilty; but Mentally ill. the trial Court accepted this plea, but following the acceptance of the plea the presiding Judge advised Counsel and petitioner that in order for the plea to stand, the defense had to bring forth an expert to prove Mental illness. The plea had already been accepted as a plea of Guilty; but Mentally ill. later, after Counsel informed the trial Court and petitioner that he was unable to find a expert, the trial Court then advised Petitioner that Being that, the initial plea involved admittance of actual Guilt. The plea of Guilt still stands. Being that Mental illness wasn't Proven by defense, it was dismissed from the plea. Even though, trial Judge informed defense what would happen if burden of proving Mental illness wasn't Met by defense. The plea was accepted before such advisement. This clearly shows that plea

continued on next pg...

of Simple Guilt. was not voluntarily entered (3)

(2) The facts and circumstances Surrounding the voluntariness to plea are not supported by the set standard Given in the Constitution.

(C) Lack of Subject Matter Jurisdiction

(1) trial court did not have Jurisdiction of the matter at hand. According to law given in the S.C. code of laws 17-24-20 (b) a court may not accept a plea of Guilty; but Mentally ill unless, after a hearing, the court makes finding upon the Record that the defendant proved by a preponderance of the Evidence that he committed the crime while Suffering from Mental illness. There is no Record showing Such a hearing that will reflect Such findings. this is Supportive to claim of court's lack of Subject Matter Jurisdiction.

P.W.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
Phillip Fleming Watts, Jr., 307234)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLACES
SIXTEENTH JUDICIAL CIRCUIT

2010-CP-46-3969

**RETURN AND MOTION TO DISMISS ALL
CLAIMS EXCEPT FOR BELATED APPEAL**
(Appointment of Counsel Requested)

FILED-RECEIVED
2011 NOV 10 PM 1:57
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, S.C.

The Respondent, making its Return and Motion to Dismiss the current application for post-conviction relief filed September 17, 2010, respectfully submits the following:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. Applicant was indicted at the May 2008 term of the York County Grand Jury for Armed Robbery (2008-GS-46-2086), two counts of Possession of a Weapon During the Commission of a Violent Crime (2008-GS-46-2086(A), 2090(A)), three counts of Assault and Battery with Intent to Kill (2008-46-2087, 2089, 2090), Kidnapping (2008-GS-46-2091), and Attempted Armed Robbery (2008-GS-46-2092). Douglas F. Gay, Esquire, represented him on these charges. On April 27, 2009, the Applicant pled guilty but mentally ill to all charges as indicted.¹ The Honorable Lee S. Alford sentenced the Applicant to a mandatory sentence upon the Applicant for life without parole pursuant to

¹ Relevant for the purposes of a complete procedural history, the Applicant previously pled guilty as indicted on December 15, 2008 before the Honorable John C. Hayes, III, to charges of Armed Robbery and an accompanying weapon charge (2008-GS-46-2084, 2084A) and Assault and Battery With intent to Kill (2008-GS-46-2085). Judge Hayes took sentencing under advisement and left to the record for further evidence on the issue of whether the Applicant was guilty but mentally ill. Subsequently, on March 30, 2009 - prior to his plea to the instant convictions - Judge Hayes imposed a mandatory sentence upon the Applicant for life without parole pursuant to §17-25-45.

§17-25-45. Upon information and belief, the Applicant has not appealed this conviction and sentence.²

Attached herewith and incorporated herein are the records of the York County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the appellate court records including the guilty plea transcript. Any of the above not so attached will be forwarded upon receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel
 - a. "Petitioner's guilty plea was entered in strict reliance upon counsel's assertion that he wouldn't receive life sentences..."
 - b. "...promised by counsel that after guilty plea, he would receive mental health treatment..."
 - c. "Had these assertions and broken promises not been made by counsel, Petitioner would have not pleaded guilty and in fact, would have insisted on going to trial."
 - d. "Counsel failed to explore the available revenues and resources to have petitioner mentally evaluated prior to accepting this bargain to plea..."
 - e. "Counsel [allowed] trial court to accept plea of guilty but mentally ill without first establishing proof of mental illness."
 - f. "Counsel denied Petitioner his right to directly appeal the trial court's decisions."
2. Involuntary guilty plea
 - a. "Judge advised counsel and petitioner that in order for the plea to stand, the defence had to bring forth an expert to prove mental illness... After counsel informed the trial court and petitioner that he was unable to find an expert, the trial court advised petitioner that being that, the initial plea involved admittance of guilt... Being that mental illness wasn't proven by defence, it was

² The Applicant has appealed his other conviction for Indictments 2008-GS-46-2086, 2083, but not the Indictments listed above.

dismissed from plea... This clearly shows that plea of simple guilt was not voluntarily made.”

- b. “The facts and circumstances surrounding the voluntariness to plea were not supported by the set standard given in the constitution”

3. Subject matter jurisdiction

- a. “...a court may not accept a plea of guilty, but mentally ill unless, after a hearing, the court makes a finding upon the record that the defendant proved by a preponderance of the evidence that he committed the crime while suffering from mental illness. There is no record showing such a hearing that will reflect such findings.”

III.

The Respondent submits that all allegations except the allegation regarding a direct appeal be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

S.C. Code Ann. §17-27-45(a) reads as follows:

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

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this application on April 27, 2009. The Remittitur was issued on August 8, 2009. The Applicant was therefore required to file his application before August 8, 2010. This application was filed on September 17, 2010, more than a month after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the

pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

IV.

Applicant claims that he was denied effective assistance of counsel because his trial attorney did not appeal his conviction. The one-year statute of limitations does not apply to a claim that an applicant was denied his direct appeal. Wilson v. State, 348 S.C. 215, 559 S.E.2d 581 (2002).

Respondent submits that trial counsel for the Applicant was diligent in his representation of Applicant and that he performed within the wide range of reasonable professional assistance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984). In Strickland, the United States Supreme Court held that a convicted defendant's claim that counsel's assistance was so defective as to require a reversal of a conviction requires that the defendant show, first, that counsel's performance was deficient and, second, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial. Respondent submits that trial counsel's performance was not deficient nor was the Applicant prejudiced in any way by such performance. The decision of the South Carolina Supreme Court, in White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974), holds that even though the post-conviction relief court finds that the Applicant had never voluntarily and intelligently abandoned his appeal, the court has no jurisdiction to grant a belated appeal. However, where an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme

Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected.

Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000). The Respondent submits that the Applicant cannot satisfy the requirements set forth in the Roe test. However, the allegation of counsel's failure to advise the Applicant regarding the possibility of an appeal probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983); Delaney v. State, 269 S.C. 555, 238 S.E.2d 679 (1977).

V.

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

VI.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Staff Attorney

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

By:


ATTORNEYS FOR RESPONDENTS

November 9, 2011

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

2010-CP-46-3969

PHILLIP F. WATTS, JR.,)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

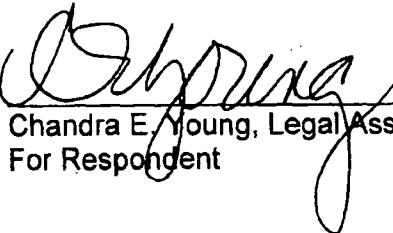
STATE OF SOUTH CAROLINA,)

Respondent.)

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

Sally A. Carver-Young, Esquire
1373 Ebenezer Road
Rock Hill, SC 29732

DATED this 9th day of November, 2011.


Chandra E. Young, Legal Assistant
For Respondent

FILED-RECEIVED
2011 NOV 10 PM 1:57
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

1 STATE OF SOUTH CAROLINA

2 -----x

3 PHILLIP WATTS,

4 Plaintiff,

5 Case No.

6 -against-

2010-CP-46-03969

7 STATE OF SOUTH CAROLINA,

8 Defendant.

9 -----x

10 October 9, 2012

11 York, S.C.

12
13 B E F O R E:

14 HONORABLE EDGAR W. DICKSON

15
16 A P P E A R A N C E S:

17 LEAH MOODY, Esquire

18 Attorney for the Plaintiff

19
20 J. RUTLEDGE JOHNSON, Esquire

21 Attorney for the Defendant

22
23 Aileen Butler

24 Official Court Reporter

25

1 THE COURT: All right. MR. Johnson.

2 MR. JOHNSON: May it please the Court.

3 THE COURT: Yes, sir.

4 MR. JOHNSON: This is the case of Phillip
5 Watts versus State of South Carolina. Case
6 number 2010-CP-46-3969. Mr. Watts was indicted
7 in the May 2008 term in York County Grand Jury
8 for armed robbery, two counts of possession of
9 a weapon during the commission of a violent
10 crime, three counts of assault and battery with
11 intent to kill, one count of kidnapping and a
12 count of attempted armed robbery.

13 On April 27, 2009 Mr. Watts plead guilty to
14 mentally ill to all charges as indicted before
15 the Honorable Lee S. Alford. His concurrent
16 sentence of life without parole for armed
17 robbery, life without parole for each of the
18 ABWIKS, life without parole for kidnapping, life
19 without parole for attempted armed robbery and
20 there is no time for the possession of a weapon
21 charge.

22 There was no appeal filed in this case, but
23 there was untimely a PCR application filed
24 September 17, 2011, and now it is the State's
25 motion that we would like to dismiss this

1 case for filing outside the Statute of
2 Limitations. However, he is represented here
3 today by Miss Leah Moody.

4 THE COURT: And Miss Moody, have you had an
5 opportunity to look at this file?

6 MS. MOODY: I have Your Honor.

7 THE COURT: Okay.

8 MS. MOODY: And based on my conversations
9 with my client he filed his PCR application as
10 soon as he found out that there was no appeal
11 filed on his behalf. As he tells me he asked his
12 counsel to file an appeal. He was told that his
13 counsel was going to file an appeal and based on
14 his writing to the South Carolina Court of
15 Appeals he learned that there was no appeal
16 filed.

17 Your Honor, he filed within a month of the
18 statute running on this particular case, the
19 case that I am handling for him, and we would ask
20 the Court to allow him to proceed. Specifically
21 in light of the fact that there are mental health
22 issues that were not investigated in this matter,
23 and if the Court would like to hear more
24 testimony from my client we would --

25 THE COURT: First of all we got to get

1 around whether or not he is going to be allowed
2 to -- what is the case law on the exceptions to
3 filing within that one year.

4 MR. JOHNSON: Your Honor, the two
5 exceptions are for belated directed appeal and
6 for newly discovered evidence which is not
7 plead in this case.

8 Just to correct Miss Moody it was five
9 months after the Statute of Limitations ran.

10 MS. MOODY: I got several different
11 files here.

12 It is somewhat confusing, Your Honor,
13 because I got all of his PCR applications which I
14 am only representing him on his last set of
15 pleadings.

16 THE COURT: Okay.

17 MR. JOHNSON: Right. This is case
18 2010-CP-46-3969 and the other case is 3968. He
19 filed on the same day. Two different
20 applications.

21 THE COURT: I am on 3969?

22 MR. JOHNSON: Yes, sir.

23 THE COURT: Thank you.

24 MS. MOODY: Well, Your Honor he filed -- I
25 have two stamps on 3969. I have September 17,

1 2010 and then I also have October 7, 2010. In
2 this application states that he is filing against
3 Douglas F. Gay. And the case number I have on
4 this one I have is 3969.

5 MR. JOHNSON: That still would be five
6 months after the Statute of Limitations has run.

7 THE COURT: All right. One moment while I
8 look this over.

9 All right. The case, we are looking at
10 2010-CP-46-3969?

11 MR. JOHNSON: Yes, sir.

12 THE COURT: Is that correct? Okay. The
13 sentencing sheets that I have in my packet
14 indicate that the pleas were done on the
15 December 15, 2008; is that correct?

16 MR. JOHNSON: No, Your Honor. If I may,
17 you may have the wrong ones. This was the
18 confusion I dealt with trying to figure out which
19 cases was where.

20 THE COURT: Okay.

21 MR. JOHNSON: That is actually 3968 for
22 that. Give me two seconds, Your Honor.

23 THE COURT: Okay. I have Miss Moody down
24 for 3969.

25 MR. JOHNSON: Yes, sir.

1 MS. MOODY: That is correct.

2 THE COURT: And the packet I have for 3969
3 indicated that he plead guilty to -- okay, so he
4 did not plead guilty to armed robbery?

5 MS. MOODY: No, he did plead guilty to armed
6 robbery, two counts of possession of a weapon
7 during the commission of a violent crime.

8 MR. JOHNSON: May we approach?

9 THE COURT: Sure. Sure.

10 (Off the record discussion.)

11 THE COURT: It appears the application that
12 I have, one was clocked in September and the same
13 application was apparently clocked in again in
14 October. That is the correct application?

15 MS. MOODY: That is correct.

16 THE COURT: In this package I also have some
17 notes of the Court of Appeals. They do not go
18 with this case?

19 MR. JOHNSON: No, Your Honor, they
20 shouldn't. That may go with the second case.

21 THE COURT: Okay. I will try and match that
22 up with the correct file. Okay.

23 All right. And your motion is to dismiss
24 the entire PCR. The motion I have -- the return
25 says motion to dismiss all except for the related

1 appeal.

2 MR. JOHNSON: Right. And if I can amend
3 that. I learned there was no appeal filed in
4 this case. The appeal was actually filed in Miss
5 Edgecomb's case.

6 THE COURT: Okay.

7 MR. JOHNSON: And so, yes, I would like to
8 amend my return and move to dismiss this for
9 filing outside the Statute of Limitations.

10 THE COURT: Okay. And Miss Moody anything
11 else you want to tell me about this one.

12 MS. MOODY: Well, Your Honor, I guess the
13 issue that I was saying as it relates to both
14 cases with the PCR, Your Honor, my client tells
15 me he requested his attorney to file an appeal of
16 this case as well as he filed an appeal of the
17 second case. He was not allowed to have that
18 right of appeal. He learned of that appeal after
19 I guess the Statute of Limitations would have
20 run.

21 I am not sure whether the State has a copy
22 of that, but he did contact the Court of Appeals
23 and that's how he learned he didn't have an
24 appeal and on this application he states that his
25 attorney did not file an appeal.

1 THE COURT: Miss Moody, do you have anything
2 where he had contacted the Court of Appeals on
3 these?

4 MS. MOODY: On these charges?

5 THE COURT: On these charges.

6 MS. MOODY: I do not, but I would ask the
7 Court for a continuance so I can obtain a letter
8 that he wrote. He has written the Court of
9 Appeals. I know he knows how to right to the
10 Court of Appeals.

11 THE COURT: No, I am sure he does. I am
12 sure he does as well. Okay.

13 Anything else you wants to tell me?

14 MS. MOODY: Well, Your Honor I would ask
15 that he be allowed to go forward based on the
16 fact that -- based on his own testimony at this
17 point in time, Your Honor, there are some issues
18 I think are pertinent as to whether his attorney
19 actually followed his instructions with regard to
20 what was going on with him and his case to help
21 him properly prepare a defense. And I don't know
22 whether I should get into this.

23 THE COURT: Well, right now the motion
24 before me is to dismiss the entire thing for
25 failing to comply with the Statute of

1 Limitations. He has got one year statute. He
2 has cleared filed outside the statute.

3 MS. MOODY: I understand that Your Honor.

4 THE COURT: That's what I want you to
5 address. Anything else?

6 MS. MOODY: Beg the Court indulgence.

7 THE COURT: Yeah, take you time.

8 MS. MOODY: Your Honor, may we approach.

9 THE COURT: You may.

10 (Whereupon, there was an off the record
11 discussion.)

12 THE COURT: All right. Miss Moody, do you
13 need to talk him some more, or are you ready?

14 MS. MOODY: Give me one second.

15 Your Honor, if it please the Court.

16 THE COURT: Yes, ma'am.

17 MS. MOODY: At this time we would like to
18 ask the Court to allow my client to take the
19 stand and give testimony about his request for an
20 appeal understanding that we can not get into
21 the other issues that were alleged in this PCR
22 application.

23 THE COURT: Okay. I will be glad to hear
24 him limited to the appeal. What he told his
25 attorney. Information on that.

1 MS. MOODY: Thank you, Your Honor.

2 THE COURT: Mr. Watts.

3 PHILLIP WATTS, called as a witness, having
4 been duly sworn by The Clerk, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MS MOODY:

8 Q. Mr. Watts, can you please state your name for the
9 record?

10 A. Phillip P. Watts, Jr.

11 Q. And where are you currently being held?

12 A. Perry Correction Institute.

13 Q. And you are being held there for a number of
14 charges, correct?

15 A. Yes, ma'am.

16 Q. And this is related -- what we are getting ready
17 to talk about today is related to your PCR application
18 that was filed after your third plea? With regard to
19 your third plea?

20 A. Second plea.

21 Q. Well, I represented you on your third set of
22 pleas. Well, I am sorry. You had a trial?

23 A. Yes, ma'am.

24 Q. Then you plead and then you had a second plea?

25 A. Yes, ma'am.

1 Q. And I represented you on the second set of
2 charges from April 27, 2009?

3 A. Yes, ma'am.

4 Q. Okay. And those charges -- with regard to those
5 charges your attorney at that time was who?

6 A. Douglas Gay.

7 Q. Okay. And you entered a plea of what to the
8 charges?

9 A. Guilty, but mentally ill.

10 Q. Make sure you speak into the mike so she can get
11 everything that you say. Okay?

12 You plead guilty but mentally ill and at the end
13 of that plea, what if anything did you tell your
14 attorney?

15 A. To file an appeal of the Court's decision.

16 Q. And what was the Court's decision on that day, do
17 you recall?

18 A. I was given like seven life sentences.

19 Q. And so you wanted your attorney to appeal that
20 and did your guilty plea go in as guilty, but mentally
21 ill?

22 A. Yes, ma'am.

23 Q. Okay. And did you hear anything else as it
24 related to that plea of guilty but mentally ill? Did it
25 go in as guilty but mentally ill or did it go in as

1 guilty?

2 A. Guilty but mentally ill.

3 Q. All right. And when did you learn that no appeal
4 was filed in this case?

5 A. 2010. August of 2010.

6 Q. And how did you learn that there was no appeal?

7 A. I wrote to the South Carolina Court of Appeals
8 and asked them why I haven't heard anything about the
9 appeal and they told me that it wasn't filed.

10 Q. And who did you expect to hear from?

11 A. Douglas Gay.

12 Q. And did you receive any letters?

13 A. No, ma'am. I never received any correspondence
14 from him.

15 Q. From the end of the plea you got no other mail
16 from him?

17 A. From the beginning to the end no mail.

18 Q. All right. And then after you learned that there
19 was no appeal what did you do?

20 A. I filed a PCR.

21 Q. And so you learned there was no appeal in August
22 and you filed within a month?

23 A. Yes, ma'am.

24 MS. MOODY: No further questions Your Honor.

25 THE COURT: Thank you, ma'am.

1 Anything on cross?

2 MR. JOHNSON: Just one question.

3 CROSS EXAMINATION

4 BY MR. JOHNSON:

5 Q. So it is your testimony here today Mr. Watts, you
6 waited 16 months after you plead guilty to file a PCR?

7 A. I don't know the amount of months.

8 Q. But you plead in April, April of 2009?

9 A. Yes, sir.

10 Q. And you said you found out in August, but then
11 you filed in September?

12 A. Yes, sir.

13 Q. Okay. That is 16, 17 months?

14 A. Yes, sir.

15 MR. JOHNSON: Thank you.

16 THE COURT: All right. Anything more?

17 MS. MOODY: Yes, sir.

18 REDIRECT EXAMINATION

19 BY MS. MOODY:

20 Q. Did you communicate by phone or anything with
21 anybody else regarding your appeal?

22 A. Right before the plea the solicitor and Mr. Gay
23 came to the holding cell area outside the courtroom with
24 my mother and my father and he stated then that we go
25 ahead and go through and after we will file an appeal

1 and I may have a chance on appeal. He told my mother
2 and my father that.

3 MS. MOODY: No further questions.

4 THE COURT: Okay. Anything on recross.

5 MR. JOHNSON: No, Your Honor.

6 THE COURT: You may step down. Thank you
7 sir. All right, Miss Moody, call your next
8 witness.

9 MS. MOODY: Your Honor, I would like to
10 call Mr. Watt's mother.

11 THE COURT: Okay.

12 VALERIE DENISE DUNHAM, called as a witness,
13 having been duly sworn by The Clerk, was examined
14 and testified as follows:

15 DIRECT EXAMINATION

16 BY MISS MOODY

17 Q. Miss Dunham, you are the mother of Phillip Watts?

18 A. Yes, ma'am.

19 Q. And did you have opportunity to met with Mr. Gay
20 and your son?

21 A. Yes.

22 Q. And on the day of the plea were you -- did you
23 have any conversation with Mr. Gay about appealing your
24 son's plea?

25 A. Well, we talked about it but it never happened.

1 Q. When you say you talked about it?

2 A. That we go ahead through it and then later on we
3 will have an appeal day.

4 Q. And so did you receive any mail?

5 A. No, ma'am.

6 Q. Did you contact Mr. Gay about it?

7 A. Yes, I called several times. Went by the office,
8 but he was never there. Nobody never contact me back.

9 Q. And from that point when did you learn that no
10 appeal -- you just indicated that it wasn't done. When
11 did you learn about that?

12 A. It was a while. I can't remember the day or the
13 month.

14 MS. MOODY: No further questions for this
15 witness.

16 THE COURT: Okay. Anything on cross?

17 MR. JOHNSON: Yes, sir. Just one question.

18 CROSS EXAMINATION.

19 BY MR. JOHNSON:

20 Q. Ma'am, you said you went by and you called Mr.
21 Gay's office and nobody called you back?

22 A. Right.

23 Q. Do you have any proof that you called or any
24 proof?

25 A. Well, my mother took me there and she is not here

1 today, but I don't have any proof on me. No, sir, I
2 don't.

3 MR. JOHNSON: Thank you, ma'am. No further
4 questions Your Honor.

5 THE COURT: Anything on redirect.

6 REDIRECT EXAMINATION

7 BY MS. MOODY:

8 Q. Miss Dunham, you participated throughout the
9 series of the trial, the pleas that were associated with
10 Phillip?

11 A. Yes, ma'am.

12 Q. And were you a part of the process with Phillip
13 in determining what his best course of action was?

14 A. Yes.

15 MR. JOHNSON: Objection. That is outside
16 the scope of cross. I only asked one question as
17 to the proof.

18 THE COURT: I am going to sustain his
19 objection. Any other questions related to this?

20 MS. MOODY: No further questions.

21 THE COURT: Thank you, ma'am. You may step
22 down.

23 Miss Moody any other witnesses?

24 MS. MOODY: No other witnesses Your Honor.

25 All right. Mr. Johnson, any witnesses for the

1 State?

2 MR. JOHNSON: Call Mr. Gay to the stand.

3 DOUGLAS GAY, called as a witness, having
4 been duly sworn by The Clerk, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. JOHNSON:

8 Q. Mr. Gay, good afternoon.

9 A. Good afternoon.

10 Q. I guess we will get right down to it. You
11 represented Mr. Watts in this case?

12 A. Yes, I did.

13 Q. And you were obviously his counsel when he plead
14 guilty but mentally ill in this case?

15 A. Yes, I was.

16 Q. And he received seven life sentences?

17 A. Yes.

18 Q. And do you remember him asking you about an
19 appeal in this case?

20 A. Yes.

21 Q. Did he ask you about an appeal?

22 A. Yes.

23 Q. Did you file that appeal?

24 A. Yes. I filed notice of appeal.

25 Q. In this case?

1 A. Yes. I remember it specifically because I filed
2 -- I called the Court of Appeals to find out whether I
3 needed to list each docket number on the appeal
4 separately and I got the advice that, no, I could list
5 them all on the same one and I filed an appeal from the
6 April 27th at the same time I filed the one from the
7 previous month.

8 Q. But wouldn't you have been out of time to file
9 the one for the previously one?

10 A. Yes.

11 Q. But that was dismissed for lack of proof of
12 service?

13 A. Yes.

14 Q. Not timeliness?

15 A. No, I think it was it was dismissed for -- the
16 first one was dismissed for being out of time.

17 Q. Okay.

18 MR. JOHNSON: No further questions Your
19 Honor.

20 THE COURT: Miss Moody on cross?

21 CROSS EXAMINATION

22 BY MS. MOODY:

23 Q. Good afternoon Mr. Gay. Let me make sure I
24 understand. You are saying that you filed an appeal as
25 it relates to the second?

1 A. Yes.

2 Q. And what happened with that appeal?

3 A. I believe that ultimately it was dismissed for
4 not filing the subsequent documents, that would be
5 required after the Notice of Appeal.

6 Q. So, why was the subsequent documents not ---

7 A. I was appointed to represent Mr. Watts and my
8 understanding was that my responsibility ended with the
9 filing of the Notice of Appeal and that the office of
10 Appellant Defense would take over after that.

11 Q. And to your knowledge did they take over?

12 A. Obviously not.

13 Q. Did they request any documents from your office
14 such as the sentencing sheets?

15 A. Did who request anything?

16 Q. I am sorry, the Appellant Defense?

17 A. No. No. I got letters from the Court of Appeals
18 saying that stuff was necessary and they were addressed
19 to me, but the Office of Appellant Defense was copied in
20 on all of them.

21 Q. Did you, subsequent to receiving any of those
22 documents, did you send anything to South Carolina
23 Appellant Defense?

24 A. No. I was not sure exactly what they would have
25 wanted and didn't hear anything from them about what

1 they would need.

2 Q. So have you filed notices of appeal in the past
3 for PCR cases?

4 A. One other time.

5 Q. And are you aware that when you file those
6 notices of appeals that you serve Sharon Jones at the
7 office of Appellant Defense?

8 A. Am I aware of it, no, and I know the last time I
9 did -- the other time I did one before that, I had
10 received contact from them and I don't remember -- I
11 didn't pull -- I am not exactly sure the process that I
12 went through the one that was handled.

13 Q. Okay. Did you send any of that correspondence to
14 Mr. Watts's family?

15 A. Not to his family, no, and I wasn't sure exactly
16 where he was at the time.

17 Q. But you did attempt to file the appeal. Well, I
18 know what I need to ask you. I apologize.

19 Did you have Mr. Watts further -- I understand
20 you were appointed to represent him, but did you have to
21 go through any other process of making sure that he was
22 found to be indigent to receive Appellant Defense's
23 assistance?

24 A. No.

25 Q. So as far as you know you sent out the Notice of

1 Appeal and that was the end of it?

2 A. I sent them to the Court, served them on the
3 solicitor's office and filed it with the Court. Which I
4 believe is what the rules require under Notice of
5 Appeal.

6 MS. MOODY: No further questions, Your
7 Honor.

8 THE COURT: Thank you, ma'am. Anything
9 else?

10 MR. JOHNSON: No, Your Honor.

11 THE COURT: Thank you. You may step down.
12 Thank you, sir.

13 All right. Anything else Mr. Johnson?

14 MR. JOHNSON: That is it, Your Honor. That
15 is all we have.

16 THE COURT: All right. Let me tell you what
17 I will do in this case. I am dismissing all
18 these PCR claims for failing to file within
19 Statute of Limitations, however, I am going to
20 let him file a belated appeal because of the
21 nature of Mr. Watts's plea. Apparently he
22 had a trial, then one plea and then a second plea
23 and I think Mr. Gay was under the impression that
24 the appeal was done but it appears that perhaps
25 Appellant Defense didn't pick up on it. I can

1 tell just going through the file, my file, that
2 there is probably some confusion in this case
3 because of the number of cases that Mr. Watts has
4 either plead or been found guilty of at trial.
5 They are on appeal. So I am going to allow a
6 belated appeal in this one and Mr. Johnson if you
7 could be so kind as to do the Order I would
8 appreciate it.

9 MR. JOHNSON: Yes, Your Honor.

10 MS. MOODY: Thank you, Your Honor.

11 THE COURT: Thank you.

12 (END OF TRANSCRIPT)

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C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for York County, South Carolina, on the 9th day of October, 2012.

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

May 8, 2013

Aileen Butler

STATE OF SOUTH CAROLINA
COUNTY OF YORK

FILED-RECEIVED

IN THE COURT OF COMMON PLEAS
SIXTENTH JUDICIAL CIRCUIT

Phillip Fleming Watts, Jr., #307234,

2012 NOV -5 PM 1:42

2010-CP-46-3969

Applicant,

DAVID HAMILTON
C.D.C.P. C.G.S.
YORK COUNTY, SC

v.

**ORDER OF DISMISSAL AND
GRANT OF BELATED APPEAL**

State of South Carolina,

Respondent.

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed September 17, 2010. The Respondent made its Return on or about November 9, 2011.

An evidentiary hearing was held on October 9, 2012, at the Moss Justice Center in York, SC. Leah B. Moody, Esquire represented the Applicant. J. Rutledge Johnson, Esquire of the South Carolina Attorney General's Office represented the Respondent.

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. Applicant was indicted at the May 2008 term of the York County Grand Jury for Armed Robbery (2008-GS-46-2086), two counts of Possession of a Weapon During the Commission of a Violent Crime (2008-GS-46-2086(A), 2090(A)), three counts of Assault and Battery with Intent to Kill (2008-46-2087, 2089, 2090), Kidnapping (2008-GS-46-2091), and Attempted Armed Robbery (2008-GS-46-2092). Douglas F. Gay, Esquire, represented him on these charges. On April 27, 2009, the Applicant pled guilty but mentally ill to all charges as indicted. The Honorable Lee S. Alford sentenced the Applicant to a mandatory sentence upon the Applicant for life without parole pursuant to §17-25-45. The Applicant did not appeal his conviction or sentence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

At the hearing, the Applicant alleged that he was denied effective assistance of counsel when plea counsel failed to properly file appeal his guilty plea. Plea Counsel testified he filed a Notice of Appeal on the Applicant's behalf, but failed to timely serve opposing counsel with the Notice of Appeal. The State moved to dismiss all other PCR claims for failure to file within the Statute of Limitations pursuant to S.C. Code Ann. §17-27-45(a). This Court granted the State's motion as the Applicant failed to timely file his PCR application.

This Court agrees that the allegation that the Applicant was denied a direct appeal is meritorious. In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal if requested or comply with the procedure required by Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967). White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). Where the post-conviction relief judge determines that the applicant did not freely and voluntarily waive his appellate rights, the applicant may petition the South Carolina Supreme Court for review of direct appeal issues pursuant to White v. State. See Rule 227(g)(1), SCACR; Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986).¹

The Court affirmatively finds that the Applicant did not knowingly and voluntarily waive his right to a direct appeal. The Court concludes that the Applicant is entitled to a belated review of his conviction(s). A petition for belated review pursuant to White v. State can remedy the Applicant's lack of a direct appeal.

¹ "Even where the post-conviction relief judge makes this finding, he may not grant relief on this basis. Instead, the applicant must petition this Court for a White v. State review." [Emphasis added]. Davis, 288 S.C. at 291; n. 1, 342 S.E.2d at 60.

IT IS THEREFORE ORDERED:

1. That this current Application for Post-Conviction Relief be dismissed with prejudice.
2. That the Applicant is granted a belated direct appeal pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). Within thirty days of service of this Order, counsel for the Applicant must file a Notice of Appeal to secure the appropriate review of the Applicants' convictions. Counsel and the Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986) and South Carolina Appellate Court Rule 227(g) for the appropriate procedure for securing belated appellate review.
3. That Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED!



Edgar W. Dickson
Presiding Circuit Court Judge
Sixteenth Judicial Circuit

October 29, 2012

Orangeburg, South Carolina.