

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Pickens County

William Jeffrey Young, Circuit Court Judge

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S.C. Supreme Court

DEWAYNE C. HAGINS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001532

APPENDIX

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF GENERAL SESSIONS

THE STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 CHRISTOPHER DEWAYNE HAGINS,)
)
 DEFENDANT.)
_____)

2010-GS-39-801 and 802

May 17, 2011

TRANSCRIPT OF RECORD

BEFORE:

THE HONORABLE LETITIA VERDIN, JUDGE

APPEARANCES:

BAKER CLEVELAND, ESQUIRE
ATTORNEY FOR THE STATE

SCOTT ROBINSON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DANETTE P. HANKS
CIRCUIT COURT REPORTER

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1 Health. This report goes through an evaluation done --
2 performed of you. And it -- in summary, it concludes that
3 you had the capacity to distinguish right from wrong and to
4 recognize the crime was wrong. And that you're competent
5 to stand trial.

6 Yes, sir, do you want to tell me a little bit about
7 the State's position in regards to this Defendant?

8 MR. CLEVELAND: Yes, Your Honor. The Department
9 of Mental Health, as you mentioned, did evaluate this
10 Defendant pursuant to the Blair case regarding his
11 competency to stand trial, and those findings were that the
12 Defendant was competent. The State, with consent of the
13 Defense, would like to enter that report as a Court's
14 Exhibit for this proceeding and respectfully requests that
15 the State -- that Your Honor find that he is competent
16 based -- consistent with the findings of the doctor from
17 the Department of Mental Health, and go forward with this
18 plea.

19 THE COURT: All right. And my understanding is
20 that today he's here to plead guilty but mentally ill. I
21 understand the burden is not on the State to prove his
22 mental illness, but is there anything you want to add with
23 regard to any mental illness?

24 MR. CLEVELAND: The State is basically not going
25 to produce -- is basically not going to take a position on

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1 the guilty but mentally ill, but I'm not going to put up
2 any opposition or witnesses or anything else like that,
3 Your Honor.

4 THE COURT: All right. Well, I find, based on
5 the report, that the Defendant is competent to stand trial
6 and I'll mark the report as Court's Exhibit Number 1.

7 MR. CLEVELAND: Thank you, Your Honor.

8 (WHEREUPON, Court Exhibit Number 1 was marked for
9 identification.)

10 THE COURT: Mr. Robinson, is there anything you
11 want to add with regard to any mental illness that you
12 would like to deal with at this point?

13 MR. ROBINSON: Yes, Your Honor.

14 THE COURT: All right.

15 MR. ROBINSON: Please the Court. Your Honor, I
16 have with me Dewayne's mother today, Valerie, who is a
17 teacher. Dewayne suffers from a -- it is a pretty deep-
18 seeded illness, mental illness. And what it is, is this.
19 He has this -- it's a, it's a sexual kind of thing in
20 nature almost, you know. It's nothing where he's touching
21 anybody, but it's like he has -- it's a fantasy on his
22 part. He's got this demon he's been holding inside of
23 himself and he's kind of had to go around and had it in his
24 system. And the crimes that he's being -- is up here for
25 today have to do with that. In this case it's a peeping

1 Tom where he entered the residence of the victim in this
2 case and was peeping in her door. No touching took place,
3 nothing like that, and he ran off, in this case.

4 But, Your Honor, his family and I both believe that --
5 and he believes, that he needs help. And it's not
6 something that he can do by going to a facility outside
7 while he's on the street because it keeps happening again
8 and again. And his mother and Dewayne and his family want
9 him to get help so he can live a productive and a life that
10 he should lead in this case.

11 I have his mother here to speak in his behalf. But,
12 Your Honor, we believe he fits very well into the guilty
13 but mentally ill, because he needs to get help at a state
14 hospital that would permit them to figure out and find out
15 how to fix this problem that he has.

16 THE COURT: And I see in the report that he is
17 diagnosed -- they say they best characterize his diagnosis
18 as exhibitionist as in voyeurism. Also, an anxiety
19 disorder. Would you dispute that?

20 MR. ROBINSON: I would not dispute that. I would
21 go along with that.

22 THE COURT: It's my understanding the State is
23 not disputing that either?

24 MR. CLEVELAND: No, Your Honor, we're not.

25 THE COURT: All right. Well, I do find, as I

1 stated earlier, that the Defendant had the mental capacity
2 to distinguish right from wrong and he recognizes his crime
3 as being wrong. However, because of the mental disease or
4 defect, he was unable to conform his conduct to the law.

5 Mr. Hagins, have you discussed these charges with your
6 lawyer?

7 DEFENDANT: Yes, ma'am.

8 THE COURT: Have you discussed what a guilty but
9 mentally ill plea is about?

10 DEFENDANT: Yes, Your Honor, I have.

11 THE COURT: Do you understand that I would be
12 sentencing you just as if you did not have a mental
13 illness; however, some portion of your sentence or all of
14 your sentence would be served in a facility, a mental
15 facility, other than the Department of Corrections. Do you
16 understand that?

17 DEFENDANT: Yes, ma'am.

18 THE COURT: It would be a secure facility. It's
19 going to be just like jail, but you'll be getting mental
20 health treatment. Do you understand that?

21 DEFENDANT: Yes, ma'am.

22 THE COURT: How old are you?

23 DEFENDANT: I'm twenty-five years old.

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

25 DEFENDANT: I finished tenth grade.

1 THE COURT: Where were you last employed?

2 DEFENDANT: At Greenville Columbia Farms on
3 Rutherford Road.

4 THE COURT: How long did you work there?

5 DEFENDANT: I worked there for about three,
6 almost four months.

7 THE COURT: All right. Are you under the
8 influence of drugs or alcohol here today?

9 DEFENDANT: No, ma'am.

10 THE COURT: Do you take any medications for your
11 mental illness?

12 DEFENDANT: I did like while I was actually like
13 on the street, but I haven't since I've been incarcerated.

14 THE COURT: Okay. Let me ask you this. Without
15 your medications, do you feel clearheaded here today?

16 DEFENDANT: Yeah. I mean, like I understand
17 what's going on; like I told him.

18 THE COURT: You feel like you understand
19 everything that's going on?

20 DEFENDANT: Yes, ma'am.

21 THE COURT: I'll note for the record, you seem
22 clearheaded to me and you're answering my questions very
23 well.

24 All right. Eavesdropping or peeping Tom, how much
25 does that carry?

1 MR. CLEVELAND: That carries three years, Your
2 Honor.

3 THE COURT: Okay. And burglary first degree?

4 MR. CLEVELAND: It carries fifteen years to life
5 imprisonment.

6 THE COURT: All right. And sir, you understand
7 that's the possible penalties you could receive?

8 DEFENDANT: Yes, ma'am.

9 THE COURT: All right. When you plead guilty you
10 give up certain Constitutional rights. One of those is
11 your right to remain silent. Do you understand that?

12 DEFENDANT: Yes, ma'am.

13 THE COURT: You also give up your right to a jury
14 trial on these charges. You know that, as well?

15 DEFENDANT: Yes, ma'am.

16 THE COURT: At that jury trial, you could call
17 witnesses on your behalf. Your attorney could cross
18 examine witnesses against you. Do you know that?

19 DEFENDANT: Yes, ma'am.

20 THE COURT: But when you plead guilty, you give
21 up those rights. Do you know that, as well?

22 DEFENDANT: Yes, ma'am.

23 THE COURT: How do you plead to these charges
24 here today, eavesdropping or peeping Tom and burglary first
25 degree?

1 DEFENDANT: I plead guilty.

2 THE COURT: Are there any negotiations in the
3 case?

4 MR. CLEVELAND: There are no negotiations in this
5 case. I would briefly like to be heard at the appropriate
6 time, Your Honor.

7 THE COURT: Has anyone promised you anything to
8 get you to plead guilty today?

9 DEFENDANT: No, ma'am.

10 THE COURT: Has anyone forced you, threatened
11 you, anything like that, to get you to plead guilty today?

12 DEFENDANT: No, ma'am.

13 THE COURT: So you're pleading guilty freely and
14 voluntarily?

15 DEFENDANT: Yes, ma'am. I would just like to be
16 -- like, will I be able to speak?

17 THE COURT: With the permission of your attorney
18 I will allow you to speak.

19 All right. Speaking of your attorney, are you
20 satisfied with the service of your attorney?

21 DEFENDANT: Yes, ma'am.

22 THE COURT: He's done everything you've asked him
23 to do?

24 DEFENDANT: Yes, ma'am.

25 THE COURT: Do you have any complaints to make

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1 against your attorney, the Solicitor's Office or law
2 enforcement, whatsoever?

3 DEFENDANT: No, ma'am.

4 THE COURT: All right. You have ten days from
5 today's date to appeal this plea, but you must do so in
6 writing to this Court. Do you understand that?

7 DEFENDANT: Yes, ma'am.

8 THE COURT: Well, I accept the plea as being
9 freely and voluntarily given, with the advice of extremely
10 confident counsel with whom he's satisfied. Let's hear the
11 factual basis.

12 MR. CLEVELAND: Thank you, Your Honor. This
13 incident happened on the 28th day of November, 2009.
14 During the nighttime hours, the victim in this case, Ms.
15 Kaitlin Chapman, who's standing back here, and her friend
16 Lindsey Smith, had arrived back to her residence to change.
17 They were going out for the evening. Basically what
18 happened is they heard a bump outside of Kaitlin's bedroom
19 door. It was closed, but it -- it's a single-wide mobile
20 home and there's a vent in the bottom of the door that you
21 can see through.

22 At first the victims didn't think anything of it. The
23 washing machine is right outside. She thought it may have
24 been her mother, who was in the house, bumping around the
25 washing machine. Likewise, Kaitlin's mother heard

1 something as well, and thought it might have been her
2 daughter. Shortly thereafter she got a funny feeling and
3 realized something was kind of wrong, opened the door, and
4 saw the Defendant, Mr. Hagins, crouched, peeping at her
5 from inside the residence, inside the hallway there,
6 through the vent at the bottom of the door.

7 Mr. Hagins fled. At that point in time, the victim
8 tried to go after to see who it was. She was able to
9 recognize his clothing. And when she gathered her
10 thoughts, ultimately she was able to pick out that it was
11 the Defendant whom she had went to school with, but, as she
12 tells me, she's not really friends with.

13 When the police arrived, they also found a five gallon
14 bucket, like a paint bucket, that had once been on the back
15 porch of the residence, was moved around to the front of
16 the residence under Ms. Chapman's bedroom window, as if
17 someone had moved it there to stand up and peep in the
18 window. And it's the State's position that that was the
19 Defendant. He did that, realized they were home, then went
20 around back, found the unlocked door, walked in the
21 unlocked door and went in the residence.

22 The victim tells me the door was unlocked because they
23 were only coming in to change; they were only going to be
24 there for a minute. They just ran in for a moment. But
25 normally that door is indeed locked.

1 Ultimately the Defendant gave a statement admitting
2 that he was inside the house peering through the vent. He
3 also was -- turned over the jacket he was wearing, which is
4 what the victim described. Coincidentally, the connection
5 was ultimately made when they realized the jacket was the
6 same jacket the Defendant was wearing in his sex offender
7 registry photo that had been made a few months before.

8 He does have a prior record for sexual offenses, and
9 I'll go into that at the appropriate time, Your Honor.

10 He's apparently been battling this type of sexual
11 desires without being able to constrain himself for quite
12 sometime. In 2003, he was convicted of indecent exposure
13 for the first time, two counts of ABHAN, which were of a
14 sexual nature, which resulted from him touching women in
15 the -- exposing himself and touching women in the Walmart
16 in Easley, if I -- I believe I've correct on that one. And
17 also accessory after the fact to a felony, which he was
18 with some folks who were involved in an armed robbery. He
19 drove the get-away car. He was sentenced to a YOA on that
20 charge.

21 In 2006, he had his YOA parole revoked and he was
22 convicted of three counts of indecent exposure and one
23 additional count of ABHAN. I will add that there was an
24 incident where he did go into another lady's house
25 connected with one of those indecent exposures. It was

1 charged as a burglary second, but it was dropped. He
2 apparently asked if he could use the phone and then when --
3 after some banter, went into the house without permission
4 and exposed himself to the resident in that instance.

5 His latest conviction was for indecent exposure. It
6 was in December of 2009. He was supposed to -- that was an
7 incident that stemmed from March of 2009. He was actually
8 supposed to be in Court shortly before this incident
9 happened up here, did not enter a plea and then this
10 incident happened, was picked up and later pled to that
11 one. He was in the Pickens County jail. He was sentenced
12 to, I believe, a year -- three years suspended to one year
13 on that last indecent exposure. So total, jail-wise, he's
14 been in since December 12, 2009; five hundred twenty-two
15 days.

16 I will also note that he was told to turn himself in
17 on these charges on December 3rd when the warrants were
18 signed, but he did not turn himself in. He ended up having
19 to be tracked down by the warrant division of the Pickens
20 County Sheriff's Office. He was ultimately apprehended on
21 the 12th.

22 As I pointed out, the victim is here and she would
23 like to speak on this incident when the time is
24 appropriate.

25 THE COURT: All right. Mr. Hagins, is that your

1 criminal record?

2 DEFENDANT: Yes, ma'am.

3 THE COURT: You heard the facts as the Solicitor
4 stated them. Is that what happened?

5 DEFENDANT: Yes, ma'am. Some of it's a little --
6 it's not exactly accurate.

7 THE COURT: But substantially what he's saying
8 about you were in that home ---

9 DEFENDANT: Yes, ma'am.

10 THE COURT: --- and ... All right. I'll hear
11 from the victim now. Yes, ma'am, tell me your name.

12 MS. CHAPMAN: It's Kaitlin Chapman.

13 THE COURT: All right. Yes, ma'am, Ms. Chapman.

14 MS. CHAPMAN: We've lived near them for about
15 five years now. And as soon as this started up - I'm
16 twenty-five years old - I didn't want to sleep in my
17 bedroom anymore by myself. I was basically grown. I
18 didn't want to take a shower in my bathroom anymore. I
19 didn't want to do anything like that in any kind of room
20 that had windows. I had to buy Mace. I had to start
21 carrying that with me. Whenever I would come home late at
22 night, I'd have to have somebody at the door waiting on me
23 so they could watch me come in the door. It kind of like
24 really disturbed me.

25 Then I found out I was pregnant at the same time, so I

1 started worrying about that as well, thinking that if I got
2 out of my car or something - it's really dark where I live
3 - that maybe somebody -- he would sneak up on me or
4 something; and I was pregnant with my child.

5 Now I have my child; he's eight months old -- nine
6 months old now. And I'm just -- I don't want nothing like
7 that going on around my house with my child inside,
8 thinking that maybe somebody might hurt him, he might hurt
9 him, or me or whoever else is in the house.

10 I could have been asleep that night. I could have
11 came in and just forgot to lock my door and been asleep in
12 my bed, and don't know what he would have done. He could
13 have crawled up in there with me for all I could think or
14 anything else. I just started doing things differently
15 than I normally did. I was usually my own person and, you
16 know, slept in my own room like I should do, or whatever,
17 and then I had to start sleeping in the livingroom.
18 Couldn't sleep at night. Sitting up trying to wait and
19 make sure I didn't hear anything so that if I did I could
20 call the cops. Just stuff like that.

21 THE COURT: Well, I know that this situation was
22 traumatic for you and difficult for you. And you don't
23 have to go into it with me, but I'll just say to you, I
24 know you know there are counseling services available for
25 you.

1 All right. Thank you, ma'am. I appreciate you being
2 here.

3 MR. CLEVELAND: One more, Your Honor. The other
4 victim, Ms. Lindsey Smith, who was in the room being peeped
5 on, she was here this morning. She had to leave because
6 her ride was only available then. She prepared a statement
7 and the victim's advocate Donna Watkins would like to ---

8 THE COURT: Yes, ma'am.

9 MS. WATKINS: Ms. Smith basically just wanted you
10 to know that because of this incident she's now scared to
11 be at home alone at night, scared to take a shower when no
12 one else is in the house, and she keeps blankets over her
13 windows, and she goes into her closet to change clothes.

14 THE COURT: All right. Thank you, ma'am. Mr.
15 Robinson.

16 MR. ROBINSON: May it please the Court.

17 THE COURT: Yes, sir.

18 MR. ROBINSON: Your Honor, as I said earlier in
19 the opening, Dewayne knows he has a problem. His family
20 knows he has a problem. I would go back to the Solicitor's
21 recitation of his record. You'll note that he's got
22 nothing -- or there's no indication of any time where he
23 touched anyone or did anything like that. He's either an
24 exhibitionist or voyeur, one of the two.

25 Your Honor, this has been a very long road for Dewayne

1 and his family. He seems very, very sorry for what
2 happened and he doesn't -- each time I've spoken to him
3 he's been very sorry. He's always said he just needs help.
4 And we would ask the Court for the minimum sentence in this
5 case because that would be punishment enough. This is a
6 young man who's twenty-five. If he -- if they can fix him,
7 which I think they can, and he can get the help that he
8 needs, that he prays for, we believe that he can come out
9 at a reasonable age and be a good citizen and be productive
10 and not have this demon that kind of has been a part of him
11 for such a long time.

12 I would like to have his mother also speak, as well,
13 Your Honor, and Mr. Hagins would also like to speak, as
14 well.

15 If you would identify yourself.

16 THE COURT: Yes, ma'am.

17 MS. HAGINS: Would I be able to address the
18 Court?

19 THE COURT: Yes, ma'am. And you've got a real
20 soft, sweet voice. If you'll speak up for me, I'd
21 appreciate it. Tell me your name.

22 MS. HAGINS: My married name is Valerie Gambrell.
23 And as Attorney Robinson said, there is a serious problem
24 with Dewayne that he's been going through for several
25 years. And first of all, I'd like to -- as his mother, I

1 want to apologize to the family for that happening. But
2 Dewayne has come from a very good family and he's just been
3 dealing with this mental illness for a long time. We've
4 tried counseling. The counseling didn't work for him. He
5 was on medication for a little bit and he gets
6 incarcerated, doesn't get his medications, and when he
7 comes back out, then these things start to happen again.
8 We don't know why they're happening, but I personally feel
9 that if he could really get into a facility where they
10 could actually look into his brain and see, there might be
11 some brain activity or something that's gone wrong within
12 his brain. He understands that what he's doing is wrong,
13 but I guess these urges, this impulse I guess you could
14 classify it as, that comes over him then he has a difficult
15 time controlling it. So I think that if he gets the proper
16 treatment that he needs, that he could eventually become a
17 productive citizen.

18 THE COURT: Well, I thank you, ma'am, for your
19 words and I appreciate you being here.

20 Anything your client would like to say?

21 MR. ROBINSON: Yes.

22 DEFENDANT: Yes, ma'am. First off to Kaitlin and
23 your mama, you know, I apologize, you know, to them. I
24 mean, I really do. You know, I'm sorry for what I did.
25 But I know it don't matter how much I sit up here and

1 apologize and say I'm sorry, I can't take back what I did.

2 You know, but I really do, I apologize.

3 I understand exactly where she's coming from as far
4 as, you know, by me doing this type of nature, her feeling,
5 you know, any type of way saying -- thinking I was going to
6 climb in bed with her and fearing for her child or anything
7 like that. I just want to say, you know, I'm not no
8 murderer, I'm not no killer, I'm not no rapist. You know,
9 none of that runs through my head. You know, I don't --
10 you know, I don't -- every time that I get in trouble is
11 because of this sex crime, you know. It has nothing to do
12 with touching nobody. You know, it has nothing to do with
13 that, you know.

14 And, you know, I mean, I'm only twenty-five years old.
15 You know, I come from a good family. My mama, she has a
16 master's degree. She's about to get a doctor's degree. My
17 stepdad, he's an architect. My brother, my uncle and my
18 aunt, you know, they're back there. I come from a good
19 family. Not to degrade nobody, I don't come from a low-
20 class family or, if you want to say like from the hood or
21 from the -- I don't come from nothing like that, you know.
22 I've always had it made, you know. I've never been in a
23 position where I had to sell drugs, rob nobody, nothing
24 like that. When I got into the trouble with the accessory
25 after the fact, I was basically hanging out with the wrong

1 crowd.

2 You know, what I did was wrong. I apologize for what
3 I did, was wrong. And I understand I had to accept the
4 consequences as a man, you know. But I'm not -- I just
5 want -- you know, I'm not an animal, you know. I'm really
6 not a bad person, you know, but I do have a problem and I
7 do need help with the problem, you know.

8 And I seriously, you know, ask that you feel -- that
9 you do what you feel is right, you know. I mean, I ask
10 that you don't take me away from my family for fifteen
11 years, you know. I mean, that's a lot time for anybody.
12 Life is not promised, you know, to nobody for the next
13 second, next day, however. But, you know, I have to accept
14 the consequences. I just ask that, you know, you feel
15 you're doing, you know, what's right for this case. That's
16 all I have to say.

17 MR. ROBINSON: Thank you, Your Honor.

18 THE COURT: Thank you.

19 MR. CLEVELAND: Judge, I just would like to
20 protect the record briefly. During the factual recitation,
21 I just want to make it clear that it did occur within
22 Pickens County. And as far as my discussion of that bucket
23 and the way he was prone inside, that would reveal his
24 intent to commit the crime once he went inside, which is
25 that of peeping Tom. I just wanted to make sure that was

1 clear as part of the facts in the case.

2 THE COURT: All right. I mean, this is -- I
3 can't imagine how terrified these women were when they saw
4 what they later found out to be you in there. I can't
5 imagine how completely and totally terrified that they
6 were. It is clear that you do suffer from a mental problem
7 that creates some urge to do this.

8 But you hit the nail on the head when you said you
9 come from a good family. And you said you have gotten --
10 you know, that you've been given everything. You know, you
11 hit the nail on the head. Listen, they deserve better than
12 to be standing here -- than your mama be standing here and
13 your stepdaddy, in this Court today, begging on your behalf
14 and having to apologize to these women on your behalf.
15 They deserve better than that. You've got to commit
16 yourself from your -- when you're in the Department of
17 Corrections, you've got to commit yourself to doing better.
18 You're getting an opportunity to serve at least some
19 portion of this sentence in a mental institution. You have
20 got to find some way to get past this, because you can't
21 live in society -- you can't live out in society and do
22 this. Even if you didn't intend to touch, it don't matter.
23 You can't live in society and do this. It's not right.

24 However, I take into account that you did not -- you
25 were committing a crime, peeping Tom, and I take that into

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Guilty Plea

23

1 account. I also take it into account that you -- I will
2 also take into account that you do -- you are very
3 remorseful for what you did, so I understand that. And I
4 know you wish you could go back and change what you did,
5 but you can't do that. All you can do is try to make up
6 for it. However, you're young and I'm going to give you a
7 chance to do something with your life.

8 The sentence of the Court on the burglary first is
9 twenty years. That's credit for time served of five
10 hundred twenty-two days. Concurrent is three years on the
11 peeping Tom charge. Also credit for time served. Wish you
12 the best of luck, sir.

13 MR. ROBINSON: Thank you, Judge

14 MR. CLEVELAND: Thank you very much, Your Honor.

15

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(END OF REQUESTED TRANSCRIPT OF RECORD)

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CERTIFICATE OF REPORTER

I, the undersigned Danette P. Hanks, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Pickens County, South Carolina, on the 17th day of May, 2011.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

May 11, 2012



Circuit Court Reporter



South Carolina
Department of
Mental Health

Division of Inpatient Services
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Fax: (803) 935-5544

September 20, 2010

Baker Cleveland
Assistant Solicitor
214 E. Main Street, B-120
Pickens, SC 29671

Re: The State of South Carolina vs. Hagins, Dewayne C.
DMH Case #: 1008-3534
Pickens County, Court of General Sessions

Dear Assistant Solicitor Cleveland:

In accordance with the court order issued by the Honorable Edward W. Miller, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 10 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

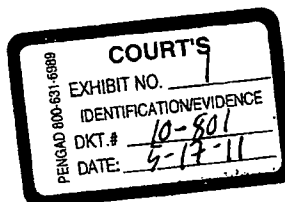
9/20/10
Date

Jeffrey E. Musick Ph.D. ABPP
Jeffrey Musick, Ph.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

cc: Steven Alexander, Attorney at Law, PO Box 618, Pickens, SC 29671


JM/tl

OCT 28 2010



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SCDMH South Carolina Department of Mental Health

 South Carolina Department of Mental Health		DMH Mailing Address - CBSH/Forensic Evaluation Center 7901 Farrow Road Building, #6 Columbia, SC 29203 (803) 935-5600	
HIPAA (PHI) FAX COVERSHEET			
To: Baker Cleveland From: Tamika Lee Date: 09/20/10		TELEPHONE	FAX <i>(via email)</i>
		NO. PAGES INCLUDING THIS PAGE	TIME See Date Stamp
<input type="checkbox"/> Urgent <input checked="" type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle			
SUBJECT: CST Report: D. Hagins			
MESSAGE: Please see attached. Thank you. cc: Steve Alexander, Esq, Fax: (864) 898-3408			
<p style="text-align: center;"> THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US VIA U.S. POSTAL SERVICE. THANK YOU. </p>			

**COMPETENCY TO STAND TRIAL EVALUATION
SCDMH FORENSIC EVALUATION SERVICE**

DATE OF EVALUATION: September 7, 2010

PRESIDING: Jesse A. Raley, M.D., Forensic Psychiatry Fellow,
University of South Carolina School of Medicine

SECOND EXAMINER: Cassandra Sims, LMSW
South Carolina Department of Mental Health

DIAGNOSES: **AXIS I:** Exhibitionism
Voyeurism
Paraphilia, Not Otherwise Specified (Partialism)
Cannabis Dependence in a controlled environment
Anxiety Disorder, Not Otherwise Specified
Intermittent Explosive Disorder, Provisional

AXIS II: No Diagnosis

AXIS III: No Diagnosis

OPINION REGARDING COMPETENCY TO STAND TRIAL: Competent.

DISPOSITION: Mr. Hagins was released to the custody of the Pickens County Sheriff's Office for return to the Pickens County Detention Center.

PERTINENT STATEMENTS: Mr. Hagins is a 24-year-old African-American male seen at the Forensic Evaluation Center pursuant to a court order from the Pickens County Court of General Sessions for competency to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. § 44-23-410 (1976). He is charged with a Peeping Tom, Eavesdropping/Peeping, and Burglary First Degree. The basis for the order is as follows: "The defendant has a history of mental health treatment and evaluation. Last evaluation was by South Carolina Department of Mental Health."

STATEMENT OF NONCONFIDENTIALITY: Prior to participating in the evaluation, Mr. Hagins was informed of the limitations of confidentiality. He was informed that the examination was court ordered, that the examiners worked for the Department of Mental Health, and that a copy of the evaluation report would be provided to his attorney, the solicitor, and the judge. He was informed that the examiners could be called to testify at the hearing about his competency. He verbalized understanding

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of this information and was able to answer questions pertaining to this information accurately. He agreed to participate in the evaluation.

SOURCES OF INFORMATION:

1. Pickens County Court of General Sessions Court Order for competency to stand trial.
2. Arrest Warrant M-385270 for Burglary First Degree on or about November 28, 2009.
3. Arrest Warrant M-385271 for Peeping Tom, Eavesdropping, or Peeping dated on or about November 28, 2009.
4. Pickens County Sheriff's Office Case File for the defendant Case #2009-28330.
5. Pickens County Sheriff's Office Incident Report dated November 29, 2009.
6. South Carolina Sex Offender Information for the defendant with supplemental.
7. Pickens County 9-1-1 Incident Report dated November 20, 2009.
8. Pickens County Sheriff's Office Property Report for Case #09-28330.
9. Voluntary Statement made by the defendant dated December 3, 2009.
10. Voluntary Statement made by KaylInn Chapman dated November 30, 2009.
11. Booking Report for the defendant dated December 12, 2009.
12. The National Crime Information Center (NCIC) Report for the defendant.
13. Barksdale Medical Center Medical Records for the defendant dated from June 2, 2005 to March 31, 2009.
14. Pickens County Sheriff's Office Mental Health Screen dated June 2, 2010.
15. Forensic Evaluation for Competency to Stand Trial, Criminal Responsibility, and Capacity to Conform completed by Michael Cross, M.D. dated December 30, 2004.
16. Medical Records for the defendant from Carl Bodtorf, Psy.D. dated from October 11, 2005 to March 31, 2008.
17. Social History obtained from the defendant's mother, Valerie Gamble, taken by Sandra Bennett, LMSW completed December 28, 2004.
18. Clinical forensic interview with the defendant on September 7, 2010 for approximately three hours.

CLINICAL INFORMATION: Mr. Hagins is a 24-year-old African-American male who reported having been diagnosed with "Exhibitionism." He reported having difficulties thinking about sex "twenty-four-seven" saying that he had difficulty "blocking it out." He reported having received medication for this disorder. He stated that he "feels like [he] can stop [himself] but if [he] gets going [he] won't stop." He reported that he has had multiple legal charges of Indecent Exposure. He stated that he fantasizes about exposing himself to women. He reported that he has acted on this "more than a 100 times." He stated that he has masturbated in public. He acknowledged that he is sexually aroused by victims either being attracted to or repulsed by his exposures. He denied ever having exposed himself to a minor. He has engaged in these behaviors in situations which have a high likelihood of negative consequences. For example, he has exposed himself to female correctional officers in the past.

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Mr. Hagins also acknowledged having had sexual fantasies regarding "peeping" on people. He reported that he has seen women on television that he finds attractive; he will then fantasize either about exposing himself to them or peeping in on them. He acknowledged masturbating to these fantasies. He also reported masturbating while "peeping" on people. He reported that he has "peeped at least twenty times." He acknowledged once in the past having checked a person's doors to see if they were unlocked with a plan of getting in their closet to peep on them from inside the house. He stated that the doors were locked in that case so he did not enter.

Mr. Hagins also acknowledged being sexually aroused by women's feet. He reported having had multiple sexual fantasies involving women masturbating him with their feet or touching his genitals with their feet. He reported he is unsure how long he has had these fantasies.

Mr. Hagins reported having become sexually active when he was 14 years old. By age 16, he had engaged in exposing himself. He reported when he was 20 years old he began "peeping" on people. He denied being attracted to children or animals. He denied being sexually aroused by sadistic or masochistic fantasies. He reported that he is heterosexual and is often attracted to older women. He reported that he is attracted to women of multiple races. Mr. Hagins denied having had fantasies of raping others. He acknowledged having inappropriately touched strangers in crowds or in public places approximately three times. He denied having fantasies about this. Mr. Hagins also denied being aroused by women's clothing or shoes. He denied ever having had dressed like a woman or having fantasized about this.

Mr. Hagins spontaneously discussed having heard voices. He has not reported this previously, according to medical records, but he reported having heard voices for "a long time." He discussed hearing voices multiple times during the evaluation. Initially, he reported that the voice was male and he did not recognize it but later contradicted himself saying that it may be "just [his] own thoughts or [his] voice." Mr. Hagins reported having "seen God" in the form of a "big glowing ball" in the woods. He was unable to provide more information about this and there are no reports of this in prior evaluations. Outside of these isolated reports, he did not report psychotic symptoms and did not appear to suffer from psychotic mental illness.

Mr. Hagins reported that he has had mood swings and anxiety. He stated that his mother has "panic attacks." He reported that he was unsure if he had panic attacks but that he frequently worries or gets anxious. He stated that his anxiety has been much worse during times when he has had legal problems. A social history obtained from his mother and prior medical records make no mention of anxiety or mood difficulties. Mr. Hagins reported having had "mood swings" multiple times a day. He reported that he has had times when his appetite will be decreased during these mood swings. He also reported his sleep has suffered in the past if he has been in a bad mood or if he has been anxious. Mr. Hagins, however, denied ever having struggled with suicidal ideation and denied ever having attempted suicide.

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Mr. Hagins reported having "blacked out" multiple times in his life. He described this as times when he has become very angry. He reported that he has responded in excess of what would have been appropriate for his level of anger. He also reported having been easily angered and was unable to control this. He acknowledged as a result of his anger outburst he has physically assaulted other people. He reported that this has happened multiple times in his life. He reported once it happened directly toward a teacher and he was expelled from high school for this.

Mr. Hagins denies taking medication currently. He reported having taken Zoloft® (sertraline), an antidepressant, in the past to treat his sexual desires and actions. He reported that this medication had helped him. Zoloft has been used for the non-FDA approved indication to decrease compulsive sexual behaviors.

SUBSTANCE USE HISTORY: Mr. Hagins initially reported having used multiple substances in small amounts in the past. When confronted with reports from prior evaluations that he had used excessive amounts of cannabis, he acknowledged prior to going to prison in 2005 he was smoking four to five blunts of cannabis a day. He reported that his cannabis use had decreased since then and that he had "quit smoking" because he "wanted to become a rapper." He reported that his last use of cannabis was October 2009. Mr. Hagins reported having "occasionally" drunk alcohol with his last use being September 2009. He acknowledged having used powder cocaine seven to eight times in his life. He reported his last use was two to three years ago. He acknowledged having used illicit opiates in the form of pills "two to three times" in his life. He also acknowledged having used benzodiazepines obtained illegally "several times" in his life. He denied having used inhalants, PCP, LSD, mushrooms, heroin or crack. He acknowledged having used methamphetamine "once" in his life. He acknowledged having used ecstasy "two to three times" in his life. Mr. Hagins denied having had significant legal problems, social problems, or failures to cutback on substance use in his life. He denied having had developed tolerance or withdrawal to a substance. He denied having attended brief substance treatment in Pickens. He acknowledged this was for cannabis but stated that he had not found it helpful.

PAST PSYCHIATRIC HISTORY: Mr. Hagins has been treated as an outpatient at the Barksdale Clinic in Taylors, South Carolina. He reported they had prescribed Zoloft® to him. He reported having received outpatient treatment from a psychologist in Greenville but had quit because he "did not find it helpful."

FAMILY HISTORY: Mr. Hagins reported that his mother has "panic attacks;" however, she did not report this when giving the social history. Mr. Hagins denied having family members with significant substance use problems.

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Mr. Hagins reported that he has an aunt who is "overweight" secondary to "medical problems with her cells." He denied other medical problems in his family.

Mr. Hagins reported having had multiple family members with minor legal histories. He denied having had family members who had been in prison.

PAST MEDICAL HISTORY: Mr. Hagins denied having been diagnosed with medical disorders. He denied ever having been prescribed medications on a regular basis for medical problems. He denied ever having surgery. He denied having known allergies. Mr. Hagins denied ever having had a head injury or having lost consciousness secondary to injury.

SOCIAL HISTORY: Mr. Hagins was born in Florida and moved to Ohio when he was 2-years-old as a result of his parents' divorce. He reported when he was 12-years-old his mother met his stepfather, and they moved to South Carolina. His mother's name is Valerie Gamble. His biological father is Daniel Hagins and lives in Florida. Mr. Hagins' mother was his primary caregiver. He lived with his stepfather, mother, and an older stepbrother during his adolescence. He reported having a good relationship with his mother as well as good relationships with his stepfather and father. At the time of his arrest, the defendant was living with his mother in Easley, South Carolina.

Mr. Hagins denied having experienced physical or sexual abuse. He denied ever having lived in a group home or foster home. He also denied ever having witnessed domestic violence in his home.

Mr. Hagins reported completing the 11th grade. He stated that he was expelled from Easley High School after assaulting a teacher and did not finish school as a result. He reported that he then went to school in Greenville, South Carolina until he was arrested. He acknowledged having played football and basketball from the 6th grade until the 9th grade but was "kicked off the team for fighting with a teammate." He denied ever having been involved in gangs. Mr. Hagins acknowledged having been placed in resource classes because he was "slower to catch on." He denied ever having repeated or failed grades in school. Mr. Hagins was suspended multiple times for skipping school, fighting at school, and being disrespectful to teachers.

Mr. Hagins has had approximately eight jobs in his life. He reported that most of these were in the fast food industry. He acknowledged having been fired approximately three times for not showing up to work. He stated that he had one job at a "chicken farm." He stated that he was employed at this farm at the time of his arrest. He reported having received food stamps because of having had "low income."

Mr. Hagins is single, never married, and denied having children. He acknowledged being attracted to women and having been sexually active. The last time that he was sexually active was in December of 2009. He reported that he first had sexual intercourse when he was 14-years-old. He reported that he

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has had between 10 and 20 sexual partners. He reported that the oldest of these sexual partners was 38-years-old.

He acknowledged having been arrested multiple times for indecent exposure. He stated that he has been in four different prisons for Indecent Exposure charges. He acknowledged having been charged with Accessory after the Fact, having driven his friends away when they committed a robbery. He acknowledged having had gotten into a fight with someone at a party; this resulted in the charge of Assault and Battery of a High and Aggravated Nature.

MENTAL STATUS EXAM: Mr. Hagins was average height and build. His grooming and hygiene were adequate. He was very calm-appearing and had normal eye contact. His thought processes were intact and coherent. He showed no signs of responding to internal stimuli. His speech was clear and coherent as well. He described his mood as "fine" and his affect appeared happy. He was cooperative throughout the interview.

Mr. Hagins denied experiencing auditory or visual hallucinations during the interview. He denied having experienced suicidal or homicidal ideations during the interview. Mr. Hagins mentioned multiple times during the interview that he has heard voices; he frequently directed the interview towards the discussion of voices. His reports regarding the voices were inconsistent, however.

Cognitively, Mr. Hagins was oriented to person, place, and situation. When asked the date, he said "2010." He could not recall the month and the date initially, guessing "August the 18th". He was informed that it was September 7th and he was able to retain this information later during the evaluation. His memory was intact to registration of three words (ball, five, and honesty). After five minutes, he was able to recall "ball and honesty" and was able to remember "five" when given a prompt. Mr. Hagins performed adequately on a test of concentration. He demonstrated abstract thinking when asked to compare objects and interpret proverbs. Although he initially could not recall the current President's name, he was able to spontaneously state that "Obama, Bush, and Clinton" were the last three Presidents. When asked to name five large cities in the United States, he responded with "Greenville, Columbia, Cleveland, Cincinnati, and Columbus." When asked about a famous celebrity, he was able to respond accurately and appropriately. Mr. Hagins was able to complete several simple mathematical calculations. His judgment was intact regarding a hypothetical scenario.

DIAGNOSTIC IMPRESSION: Based on the available data, it appears Mr. Hagins' symptoms are best characterized by the diagnoses of Exhibitionism; Voyeurism; Paraphilia Not Otherwise Specified (Partialism); Cannabis Dependence, in a controlled environment; Intermittent Explosive Disorder (provisional diagnosis); and Anxiety Disorder Not Otherwise Specified (NOS).

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Paraphilias are sexual disorders that involve sexually arousing behaviors and/or fantasies involving nonhuman objects, suffering or humiliation of oneself or one's partner, or children or non-consenting adults. These behaviors or fantasies have occurred for at least six months and preoccupy a person's thoughts or activities. These disorders include, among others, Exhibitionism, Voyeurism, and Partialism. Exhibitionism refers to behaviors and/or fantasies in which a person exposes himself in an attempt to elicit a response from an unsuspecting victim. Voyeurism refers to behaviors which are arousing to an individual both in fantasy and by carrying out the action of watching victims without the victim's knowledge. Partialism refers to being sexually aroused to an excessive degree by particular parts of the human body. The most common form of Partialism is an attraction to feet; Mr. Hagins acknowledged having had fantasies and sexual arousal to feet. Partialism is included in the DSM-IV under the diagnosis of Paraphilia Not Otherwise Specified. Based on his records, reported behaviors and reported fantasies, his symptoms meet criteria for Exhibitionism, Voyeurism, and Paraphilia NOS (partialism).

Despite Mr. Hagins report that he had "quit using cannabis" prior to being incarcerated, he was incarcerated shortly after deciding to "quit." The length of time was not long enough to meet criteria for remission. For this reason, his symptoms meet criteria for Cannabis Dependence in a controlled environment.

Mr. Hagins has had multiple events that he described as "blackouts." These events involve excessive amount of anger or excessive responses to anger repeatedly throughout his life. His symptoms meet the diagnostic criteria for Intermittent Explosive Disorder, provisional.

Mr. Hagins reported having experienced anxiety. He reported his primary complaint as anxiety. He endorsed symptoms that involve multiple types of anxiety disorders causing social impairment; however, he did not meet criteria for a particular disorder. For that reason, his symptoms best meets diagnostic criteria for Anxiety Disorder Not Otherwise Specified.

Mr. Hagins repeatedly reported having heard voices. His descriptions of the voices were very unclear, and at one point he stated that the voices "may be his own thoughts." His descriptions of hearing voices are inconsistent with descriptions of auditory hallucinations seen in major mental illness. Given his significant past history of substance use it is also possible that he has experienced "voices" secondary to illicit substances. His symptoms are not consistent with psychosis.

INFORMATION RELEVANT TO COMPETENCY TO STAND TRIAL: Pursuant to the S.C. Code Ann. § 44-23-410 (1976), the legal criteria for determining competency to stand trial is as follows: "A person...is not fit to stand trial because the person lacks the capacity and understands the proceeding against him or to assist in his own defense as a result of the lack of mental capacity."

CONCLUSION REGARDING COMPETENCY TO STAND TRIAL: Mr. Hagins reported that his charges are "First Degree Burglary and Peeping Tom." He defined Peeping Tom as "looking through

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a window at somebody, like spying." He initially described First Degree Burglary as "breaking into something." When asked the difference between First Degree Burglary and Trespassing, he responded "he thought they were the same." The defendant was educated on the difference between Burglary and Trespassing. He was able to retain this information throughout the remainder of the evaluation. When asked again at the end of the evaluation about First Degree Burglary, he responded, "breaking into something with the intention of committing a crime."

Mr. Hagins acknowledged that his charges were "felonies;" however, he initially stated that a misdemeanor was more "serious" than a felony. He was educated on this and responded at the end of the evaluation that "a felony is more serious than a misdemeanor."

Mr. Hagins reported that *guilty* and *not guilty* are possible pleas. He was able to state that *guilty* "means someone is saying they did it." He reported that *not guilty* meant that "they didn't do it."

Mr. Hagins described probation as "where you're on paperwork and got to report to a probation officer [sic]." He stated that you could "go back to jail if you break the rules of probation."

Mr. Hagins was able to describe the roles of multiple courtroom personnel. He acknowledged that the "judge" is in charge of the courtroom. He stated that the judge "does the sentencing." He acknowledged the jury "finds you guilty or not guilty." He acknowledged that there are twelve jurors who have to agree unanimously. Mr. Hagins reported that his attorney is "Mr. Alexander" and that Mr. Alexander is "a public defender." He acknowledged that Mr. Alexander is on his side "helping [him] with his legal situation." He reported that the solicitor is "against you" trying to "send you to jail." He acknowledged that both the jury and the judge are supposed to be neutral before hearing evidence.

Mr. Hagins acknowledged that a witness's job is to tell the court what they know about a particular crime. He reported that evidence is "anything they have that is yours or helps with the whole situation." He acknowledged that evidence could "help or hurt" a defendant. He acknowledged that witnesses are the primary source of evidence in his case. He acknowledged that a witness is supposed to tell the truth on the witness stand and could "go to jail" if they are caught lying on the witness stand. When asked what he should do if someone is lying about him in court, he responded, "Tell my lawyer."

Ms. Hagins initially had difficulty explaining the concept of *plea bargaining*. He was educated on this and at the end of the evaluation was able to describe that a *plea bargain* is made between the prosecutor and defendant. He reported that he "agrees to plead guilty in exchange for less time."

Mr. Hagins acknowledged proper courtroom decorum, stating that you speak in a courtroom when "the judge talks to you or asks you to speak."

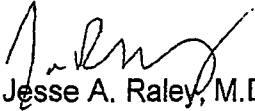
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Mr. Hagins was able to adequately describe working with his attorney. He particularly discussed should he have legal questions throughout his case that his attorney would be able to answer those questions. He acknowledged that he was able to tell his attorney everything pertaining to his case. He acknowledged that he has confidence in his attorney. He also reported that he does know how to get in contact with his attorney when he needs to. When asked if he sees any reason why he might not get a fair trial, he acknowledged that he believed all parties involved in the courtroom would do their job fairly

In summary, based on the above data, it is our opinion that Mr. Hagins is not currently experiencing symptoms of a mental illness or deficits that would significantly compromise his present capacity to understand the proceedings against him or to assist in his own defense. It is opined that Mr. Hagins has sufficient factual knowledge of the legal system and the present rational ability to consult with his attorney regarding a defense. Therefore, it is opined that Mr. Hagins is currently competent to stand trial.



Jesse A. Raley, M.D.

Forensic Psychiatry Fellow

University of South Carolina School of Medicine

JAR/mh

D: 09/07/10

RT/EM: 09/09/10

F/EM:

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FORMS UNIT
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

COUNTY OF Pickens

2011 DEC 22 A 11:35 IN THE COURT OF COMMON PLEAS

2011-CP-39-1894

Dewayne Christopher Hagins 298528
Full name and prison number (if any) of Applicant

v.

State of South Carolina
Attorney General Office

APPLICATION FOR
POST-CONVICTION RELIEF

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.

Mc Cormick Correctional Institution

1. Place of detention 386 Redemption Way Mc Cormick, SC 29899
2. Name and location of Court which imposed sentence Court of General Sessions in Pickens County
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Burglary - 2010 653900801
 - (b) Peeping Tom - 2010 653900802
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 5/19/11
 - (b) 20 YEARS

- (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
NA
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. NA
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. NA
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. NA
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. NA
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Applicant's withdrawn from the appeal
 - (b) _____
 - (c) _____
- 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) 6th Amendment
- (b) 14th Amendment
- (c) _____

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

- (a) see Attachment Memorandum of Law Support
- (b) Post conviction Relief Application!
- (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? NA
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NA
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NA
- (d) any other petitions, motions or applications in this or any other Court? NA

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. NA
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. NA
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. ND
 - ii. _____
 - iii. _____

iv. _____
(d) the date of each such disposition:

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

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

- i. NO
- 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?

NA

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

(a) which grounds have been presented:

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

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

- i. NA
- 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) NA
- (b) _____
- (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? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
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. Scott Robinson member of Pickens Bar.
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Guilty Plea
- ii. _____
- iii. _____
19. State clearly the relief you seek in filing this application:
- Recommendation of 15 years suspended to 10 years.
20. Are you now under sentence from any other court that you have not challenged?
- NA

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STATE OF SOUTH CAROLINA)
)
County of MCCORMICK)

VERIFICATION

I, DCH, 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.

DeLancey Christopher Hagins

SWORN to and subscribed before me this 30th
day of November, 2011.

Stephanie Marshall (L.S.)
Notary Public

My Commission Expires: May 12, 2021

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2011 DEC 22 A 11: 33

2011-CP-30-1894

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

I, DCH, 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.

Stephanie Hagen
Applicant

SWORN or affirmed to and subscribed before me this
30th day of November, 2011.

Stephanie Marshall
Notary Public

My Commission Expires: May 12 2021

CLERK OF COURT
PICKETT'S COUNTY
SOUTH CAROLINA
2011 DEC 22 A 11:33

State of South Carolina
County of Pickens

Dewayne Christopher Hagins #298528
Applicant

VS

State of South Carolina
Respondent.

In The Court of Common
Pleas

CASE NO 2011-CP-39-1894

Summons

To Respondent:

you are hereby summoned and required to service upon the applicant Dewayne Christopher Hagins #298528, whose address is listed below, An answer to the Post-conviction Relief which is here with served upon you, within (60) days After service of this summons upon you, Exclusive of the day of service if you fail to do so a Judgment by default will fail to do so A Judgment by default will be take against you in this cause of action.

Wherefore required by rule of civil Procedure Rule (12)A) and Rule (4)E) South Carolina Rule Civil Procedure.

Date December 19 2011

S Dewayne Christopher Hagins
Dewayne Christopher Hagins #298528
386 Redemption Way
McCormick S.C. 29899

STATE OF SOUTH CAROLINA

County of Pickens

Dewayne Christopher Hagins

Applicant

vs

STATE OF SOUTH CAROLINA

Respondent

In the Case of Common Pleas Case #

Proof of Service

2011-CP-99-1894

To Respondent

I certify that Dewayne Christopher Hagins has served a true copy of the original Post Conviction Relief Application by placing a true copy in the United States mail listed below all parties.

I Clerk of Court Pickens
Harold P. Welborn, Jr.
P.O. Box 215
Pickens, SC 29671

Sworn before me

this day 30th of November 2011

Notary Stephanie Marshall

Expires May 12, 2021

Dewayne Christopher Hagins
Dewayne Christopher Hagins
386 Redemption Way
F38 Room 124
ME Carmick, SC 29899

STATE OF SOUTH CAROLINA,

County of Pickens

Delwayne Christopher Hagins

Applicant

VS

STATE OF SOUTH CAROLINA

Respondent

In the Court of Common Pleas

Case # 2011-CP-99-1894

Memorandum of Law
Support Post-Conviction
Relief Application

To Respondent

This matter does comes before this Honorable Court on the follow matter pursuant to S.C. Code Law and § 17-27-10; And 17-27-90).

STATEMENT OF THE CASE

This case arose whereby the defendant was arrested for Burglary First^{1st} And Sex/Peeping Tom eavesdropping or peeping in the County of Pickens.

Argument. 1

Trial Counsel was ineffective failure to Request for a second opinion to see was the defendant incompetency to enter a guilty PLEA that was offered (15) years suspended to Ten years that was offered by the solicitors office.

Applicant was Mentally incompetent at the time of the Burglary and Peeping Tom in 2009 and at the time of the guilty plea in 2011 and was allowed to plead guilty in violation of the South Carolina Constitution, United States Constitution, and the Federal Constitutions Fourteenth Amendment due process clause. Incorporated into Allegations is that Applicant was denied Effective Assistance of counsel and due process of Law at his 2011 plea hearing for Burglary and Peeping Tom, because he was mentally incompetent at the time of this crime in 2009 and at 2011 guilty plea.

" In the applicants case there are evidence to support his claim that the applicant has a long Mental Health history. "

In the defendant case in 2005 his mother took me to Dr. Barksdale's office in Greenville, South Carolina. While I was there Dr. Barksdale prescribed me to a medication called "Zoloft." This medication was prescribed for stress, Depression,

Mood swings and anxiety. The medication was working fine while I was prescribed and taking it. Although prior to when these crimes took place I was not on my medication. Also, when I entered the Guilty Plea I was not on my medication. I informed my lawyer about me needing my medication when I was first put in Pickens County Jail, but he failed to do anything about it. He was ineffective assistance counsel of failing to investigate my Mental Health Background.

Unfortunately, The defendant does have the medical Records to support his claim based on his Mental Health Background which is genuine material evidence.

Also Applicant informed counsel before hand about his medical records. Counsel was ineffective for failing to investigate and retrieve medical records. And retrieve medical records from South Carolina Department of Mental Health Dr. Jeffrey Musick, Ph.D., ABPP Chief Psychologist, Forensic evaluation services. And Dr. Barksdale of Greenville, South Carolina.

Due process footnote (4) prohibits the conviction of a person who is mentally incompetent. Bishop v. United States, 350 U.S. 961, 76 S. Ct 440. 100 L. Ed 835 (1956) "this constitutional right cannot be waived by the incompetent - by guilty plea or other wise" Carroll V. Betts, 421 F 2d 1065, 1067, (5th Cir 1970)

While a guilty plea may only be attacked on the basis that it was not knowing and voluntary. It is contradictory to argue that a defendant may be incompetent, and yet knowingly or intelligently waive his right [5]. " Pate v. Robinson, 383 U.S. 374, 384, 86 S. Ct 836, Led 2 (1966)

[3] Pate v. Robinson, 383 U.S. 375, 86 S. Ct. 836, 15 L.E 2d 815 (1966) makes it clear that the conviction of an accused person who is not Mentally Competent to stand trial violates due process. This constitutional right cannot be waived by the incompetent - by guilty plea or otherwise - And thus it must be protected by Adequate State procedures.

When a prisoner, either State or Federal, seeking Post-Conviction Relief, asserts with substantial fact to back up his Allegation, that and the time of the trial he was not Mentally Competent to stand trial, and that there was no resolution of that precise issue before he was tried, convicted and sentenced, the protection of the fourteenth Amendment to the Constitution requires that such Conviction and sentence be set aside unless upon Adequate hearing it is shown that he was Mentally competent to stand trial. (386 F 2d At 105)

3 Constitutional Law 268. (2)

As a matter of procedural due process procedures, A criminal defendant is entitled to an evidentiary hearing on claim of Mental Incompetency. If he present clear and convincing evidence to create a real, substantial and legitimate doubt as to his Mental Capacity to Meaningfully participate and cooperate with counsel.

Petitioner's claims of incompetency to stand trial, insanity at time of act, and an unknowing and involuntary guilty plea were not barred by the procedural default rule of Walshwright v. Sykes, At Hobace v. Wainwright 781 F 2d 1558 (11th Cir 1986).

The petitioner argues his Counsel was ineffective for failing to request a Mental Examination which may have formed the basis of an insanity defense or a determination that he was not competent to stand trial, Cite at Jeter v. State, 417 SE 2d 394 (S.C. 1992).

For an applicant to be granted PCR as a result of reasonably effective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington 466 U.S. 668 104 S.C.T 2052, 80 L.E 2d 674 1984):

Under Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 Led 2d 674 (1984) Applicable to guilty pleas under Hill v. Lockhart, 474 U.S. 52, 106 S.Ct 366, both deficient performance and prejudice to prevail on an ineffective Assistance of Counsel claim.

Argument 2

Trial Counsel was ineffective for failing to communicate a proposed plea deal of 15 years suspended to 10 years recommendation offered by the solicitor.

Trial Counsel was ineffective for failing to investigate a plea offer which was offered to defendant by the solicitor to his first counsel and his second counsels failure to communicate a proposal plea deal of 15 years suspended to 10 years recommendation offered by the solicitor. see exhibit A; B attachment from Assistant Solicitor Baker Cleveland dated 10/7/2010 in Pickens County.

Ineffectiveness from failure to communicate proposed plea deal; "Based on the foregoing, we find that counsel was deficient in failing to communicate the State's fifteen-year plea offer to Petitioner. Given that both petitioner and Plea Counsel testified Petitioner would have accepted the fifteen-year offer, An offer that was twelve years less than what petitioner received we conclude Petitioner has proven that he was prejudiced by counsel's deficient performance. see cited at; E.G., Davis v. State opinion No. 26608, S.C. SE 2d _____, 2009 S.C.

For an applicant to be granted PCR as a result of reasonably effective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms and (2) that he was prejudice by his counsels ineffective performance.

Strickland v. Washington 466 U.S. 668 104 S.Ct. 2052, 80 L.E 2d 674 1984):

Under Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 Led 2d 674 (1984) Applicable to guilty pleas under Hill v. Lockhart, 474 U.S. 52, 106 S.Ct 366, both deficient performance and prejudice to prevail on an ineffective Assistance of Counsel claim.

Conclusion

Wherefore the Applicant 6th Amendment Ineffective Assistance of Counsel under standard Strickland v. Washington, And a evidentiary hearing should be held.

Date December 19 2011

S. Delwayne Christopher Hagins

Exhibit (A)
 State of South Carolina
 Solicitor, Thirteenth Judicial Circuit

TELEPHONE 864-898-5906
 FAX 864-898-5798



Solicitor
 ROBERT M. ARIAL

PICKENS COUNTY COURTHOUSE
 214 E. MAIN STREET, 8120
 PICKENS, SOUTH CAROLINA 29671

10/7/2010

STEVEN L ALEXANDER
 PO BOX 618
 PICKENS, SC 29671

RE: Plea Offer for State v. Dewayne Christopher Hagins

Dear Steven L Alexander :

I am willing to make the following proposal to your above-referenced client in order to dispose of these charges by way of a guilty plea:

The Defendant will plead guilty to the following:

<i>Warrant Number:</i>	<i>Charge:</i>
M385271	Sex / Peeping Tom, eavesdropping or peeping
M385270	Burglary / Burglary (After June 20, 1985) - First degree

The State will make the following sentence recommendations/negotiation:

The statutory minimum of 15 years.

-OR-

Plea "Guilty but Mentally III" to a Recommendation of 15 years suspended to 10 years.

Other conditions/comments:

Steven,

For the purposes of a hearing pursuant to §17-24-20(d) I will not object to Mr. Hagins' DMH report dates 9/20/2010 being admitted as a Court's exhibit to establish mental illness. However, this is for the purpose of a plea of GBMI only. If taken to trial, I will object and seek a straight guilty verdict, and I believe Mr. Hagins actions were ever as much calculated as compulsive.

Exhibit (B)

This form

Please contact me as soon as possible with your client's response as plea negotiations must be concluded and the guilty plea entered before ~~10/4/2010~~ or this and any other offers are automatically withdrawn. If your client does not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation.

Yours very truly,


Baker Cleveland
Assistant Solicitor

Cover Letter

Dewayne Christopher Hagins
 386 Redemption Way
 F3-B Room 124
 M.C. Cormick, SC 29899

Date December 19 2011

Re Case 2011-CP-30-1894

Dear your Honorable Harold P. Welborn, Jr. of Pickens County
 Clerk of Court.

Enclosed please find a original copy of my Post-Conviction
 Relief Application along with Proof of Service and Summons which has
 been served upon the Clerk of Court of Pickens County. Enclosed
 please find a stamp envelope self addressed requesting a clocked stamp
 copy of my Post Conviction Relief Application an attachment of
 Memorandum of Law Support Post-Conviction Relief Application. See
 exhibit attachment (A); (B).

C:C D:C:H:
 C:C H:P:W:

Respectfully submitted
 s/Dewayne Christopher Hagins

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2011-CP-39-1894
COUNTY OF PICKENS)	
)	
Dewayne Christopher Hagins,)	
S.C.D.C. No. 298528,)	
)	
Applicant,)	
	)	RETURN
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

In response to the post-conviction relief application filed December 22, 2011, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Pickens County Clerk of Court's orders of commitment. The Applicant was indicted at the September 2010 term of the Pickens County Grand Jury for first-degree burglary (2010-GS-39-0801) and eavesdropping or peeping tom (2010-GS-39-0802). Scott D. Robinson, Esquire represented the Applicant.

On May 17, 2011, the Applicant pled guilty. The Honorable Letitia H. Verdin sentenced the Applicant to concurrent terms of twenty (20) years for first-degree burglary and three (3) years for peeping tom.

A notice of appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. By order dated October 11, 2011, the Court of Appeals dismissed the appeal based on the Applicant's failure to provide a written explanation as to what issues could be reviewed. See Rule 203(d)(1)(B)(iv), SCACR.

Attached herewith and incorporated herein by reference are the records of the Pickens County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, and the appellate records.

II.

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

1. Ineffective assistance of counsel.
 - a. Failed to request a second opinion regarding the Applicant's competency.
 - b. Failed to communicate a plea offer of fifteen (15) years suspended to ten (10) years.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must

overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

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

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)
)
)
)
 DEWAYNE CHRISTOPHER HAGINS, 298528)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

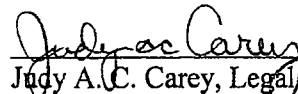
2011-CP-39-1894

AFFIDAVIT OF SERVICE BY MAIL

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** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Dewayne Christopher Hagins, 298528
 McCormick Correctional Institution
 386 Redemption Way
 McCormick SC 29899**

DATED this 31st day of May, 2012.


 Judy A.C. Carey, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS)	
Dewayne C. Hagins,)	
	)	TRANSCRIPT OF RECORD
Applicant,	)	2011-CP-39-1894
-vs-)	
)	
The State,)	
	)	February 11, 2013
Respondent.	)	Pickens, South Carolina

B E F O R E:

HONORABLE W. JEFFREY YOUNG, JUDGE

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

RAYMOND T. WOOTEN, ESQUIRE
Attorney for the Applicant

KAREN C. RATIGAN, ESQUIRE
Attorney for the Respondent

Margaret A. Woods
Circuit Court Reporter

ORIGINAL

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
A-1	Plea offer	27	

1 THE COURT: Alright, this the case of Dewayne Christopher
2 Hagins vs. State of South Carolina under Civil Action Number
3 2011-CP-39-1894, I'll allow the State and the defense attorney
4 to introduce themselves.

5 MS. RATIGAN: Thank Your Honor, may it please the Court.

6 THE COURT: Yes, ma'am.

7 MS. RATIGAN: I'm Karen Ratigan on behalf of the State of
8 South Carolina. Would Your Honor like a a quick procedural
9 history for the record?

10 THE COURT: Please. Well if if the defense attorney
11 would or plaintiff's attorney would introduce himself as well.

12 MR. WOOTEN: Uh, thank Your Honor, Raymond Wooten here on
13 behalf of Dewayne Hagins.

14 THE COURT: Raymond Wood?

15 MR. WOOTEN: Wooten, W-O-O-T-E-N.

16 THE COURT: Alright, thank you. Yes, ma'am.

17 MS. RATIGAN: Thank Your Honor, may it please the Court.
18 Mr. Hagins was indicted for first degree burglary and
19 eavesdropping or peeping tom, he was represented on these
20 charges by Mr. Robinson, who is seated to my right. On May
21 17th of 2011 he pled, uh, guilty but mentally ill before Judge
22 Verdin to these charges. He received concurrent sentences of
23 20 years for burglary first and 3 years for peeping tom. He
24 did file an appeal that was, uh, at the Court of Appeals;
25 however, there's an order issued October 11th of 2011 wherein

DEWAYNE CHRISTOPHER HAGINS - DIRECT EXAMINATION BY MR. WOOTEN

1 the Court of Appeals dismissed the appeal based upon, uh, the
2 Applicant's failure to provide a written explanation as to
3 what issues could be reviewed, uh, that's under the Appellate
4 Court Rule 203. Uh, his application was timely filed and the
5 State is ready to proceed.

6 THE COURT: Alright. Defense ready to proceed?

7 MR. WOOTEN: Yes, sir, Your Honor.

8 THE COURT: Alright, you may call your first witness.

9 MR. WOOTEN: I'd like to call Dewayne Hagins.

10 THE COURT: Alright, come forward be sworn.

11 (Whereupon, the Applicant came forward.)

12 THE CLERK: Place your left hand on the Bible and raise
13 your right hand, please.

14 DEWAYNE CHRISTOPHER HAGINS, having
15 been first duly sworn, testified as follows:

16 THE CLERK: State your full name for the record.

17 THE APPLICANT: Dewayne Christopher Hagins.

18 THE CLERK: Please be seated.

19 (Whereupon, a discussion was held off the record.)

20 THE COURT: Mr. Wooten, you may proceed.

21 MR. WOOTEN: Thank Your Honor.

22 DIRECT EXAMINATION BY MR. WOOTEN:

23 Q. Uh, how old are ya, Dewayne?

24 A. I am 27-years-old.

25 Q. Okay, and what crimes were you charged with?

1 A. I was charged with first degree burglary and peeping tom.

2 Q. Okay, uh, and when did this allegedly occur?

3 A. This occurred on 2009, wanna say November, in November
4 2009, I'm not exactly sure the exact date.

5 Q. Okay. Now after you were arrested did you have a bond?

6 A. No.

7 Q. Okay. One was never set or you never bonded out?

8 A. I was never set, I was never set a bond.

9 Q. Okay. So you were in prison the entire time after you
10 got arrested?

11 A. Yes, but I was in, uh, uh, Pickens County.

12 Q. Okay, but you were incarcerated ---

13 A. Yes.

14 Q. --- up through your day that you pled guilty?

15 A. Yes, sir.

16 Q. Okay. Uh, and now were you appointed an attorney to
17 represent you?

18 A. Yes, I was.

19 Q. And who was that?

20 A. Uh, at the time it was Mr. Steven Alexander.

21 Q. Okay. Uh, now did you meet with Steven to discuss your
22 case?

23 A. Yes, I did.

24 Q. Okay, how many times did you meet with him?

25 A. I say around probly four, about four times.

1 Q. Okay, and he would come see you while you were
2 incarcerated?

3 A. Well, yes, while I was up here in in Pickens County.

4 Q. Okay. Now, uh, do you have any sorta history a mental
5 issues?

6 A. Yes, I do.

7 Q. And what exactly are they?

8 A. Well, uh, I've been diagnosed with exhibitionism, uh,
9 voyeuri -- voyeurism, um, a problems with anxiety, stress, uh,
10 from back since 2004.

11 Q. Okay, and now did you tell, uh, Mr. Alexander about this?

12 A. Yes, I did.

13 Q. Uh, uh, are you prescribed any medications for this?

14 A. Yes, I am as of right now. As of right now I'm
15 prescribed with, uh, Celexa.

16 Q. Okay, were you prescribed anything in 2009?

17 A. Yes, I was. At at at the t -- at the time I wasn't
18 prescribed but I was takin' medication prior to that.

19 Q. Okay, and you weren't prescribed 'cuz you didn't see a
20 doctor or because you couldn't take medications while you were
21 incarcerated?

22 A. I was prescribed while I was incarcerated. While I was
23 incarcerated, um, really I couldn't see a doctor, you know, so
24 that was basically main reason why I couldn't get the proper
25 medication.

1 Q. Okay, they couldn't renew your prescription?

2 A. I'm I'm sorry, could you repeat that.

3 Q. You couldn't get an appointment to get your prescriptions
4 renewed?

5 A. Yes, sir.

6 Q. Okay. Uh, now how do these, uh, mental conditions affect
7 ya?

8 A. Well, um, sometimes like as far as like with, uh,
9 anxiety, you know, and depression, uh, a lotta times when I
10 was takin' the medication it seemed to kinda help to, you
11 know, uh, you know, calm me down and as far as, you know, with
12 the exhibitionism by me takin' my medication it helped me to
13 suppress the urges, you know, and, you know, it seemed like it
14 really helped out lot.

15 Q. Okay, now after you were charged with these crimes did
16 you ever get a mental evaluation to determine if you were
17 competent to stand trial?

18 A. Yes, I did.

19 Q. And who was representing you while you had this
20 evaluation?

21 A. Mr. Steven Alexander.

22 Q. Okay, uh, and what was the result of the evaluation?

23 A. The result of the evaluation was that I was competent to
24 stand trial and that I was diagnosed with exhibitionism, um,
25 voyeurism and I wanna say depression.

1 Q. Okay. Uh, now, uh, while Steven Alexander was
 2 representing you did you ever get any plea offers?
 3 A. Yes, I did.
 4 Q. And do you recall what the plea offer was?
 5 A. Yes, the plea offer was from the Pickens County
 6 Solicitor's Office of a plea of plead guilty but mentally ill
 7 to 15 suspended to 10 years or plead to the statutory minimum
 8 of 15 years.
 9 Q. Okay, and that was for both burglary first and ---
 10 A. And ---
 11 Q. --- peeping tom?
 12 A. Yes, sir.
 13 Q. Okay. Uh, and now did you accept this offer?
 14 A. Well pri -- well after that, after I received their
 15 offer, about a month after I received their offer I hired, uh,
 16 Mr. Robinson as my lawyer.
 17 Q. Okay. Now did you ever discuss that offer -- well step
 18 back a second, did you ever discuss that offer with Steven
 19 Alexander?
 20 A. Well I had discussed it with him and I told him that I
 21 didn't wanna, you know, necessarily keep him as my lawyer, you
 22 know, for certain reasons as far as it didn't really seem like
 23 he was really into the whole case as far as, you know, not
 24 sayin' he wasn't tryin' to help me out but it didn't
 25 necessarily seem like, you know, he really took it serious. I

1 aint feel like he was the right, you know, uh, you know,
2 lawyer, you know, for me at that time.

3 Q. Okay. Now did he recommend that you accept that plea
4 offer?

5 A. He didn't really, he didn't really make any
6 recommendations, he just, you know, came to me and he showed
7 me the plea offer and, you know, I had discussed it with him.

8 Q. Okay, and so then did you say at that point you retained
9 Mr. Robinson?

10 A. No, I just told him that, I I told him that I wanted to,
11 uh, uh, hire another lawyer and from there we went, we -- it
12 was a set date where we came in front of Judge Miller ---

13 Q. Uh-uh.

14 A. --- and, uh, you know, it went from there as far as me
15 gettin' a new lawyer.

16 Q. Okay, and how did you decide to retain Scott?

17 A. Uh, by somebody that I was incarcerated with they had
18 referred him to me or well referred me to him.

19 Q. Okay, so they recommended that you retain him?

20 A. Um-hum, yes, sir.

21 Q. Okay, and then, uh, you did in fact retain him. Now'd
22 your family pay for that or did you?

23 A. Uh, my family paid for that, my mother to be exact.

24 Q. Okay, uh, now how many times did you meet with
25 Mr. Robinson?

1 A. I wanna say about four times, maybe five, but I'm gonna
2 say about four times.

3 Q. Okay, and he would come see you while you're
4 incarcerated?

5 A. Yes, sir.

6 Q. Okay. Uh, now did you make him aware a your mental
7 issues?

8 A. Yes, sir, I did.

9 Q. And now did he ever try and seek a second mental opinion?

10 A. No, sir, not to my knowledge.

11 Q. Uh, did you ever talk with him 'bout that?

12 A. Yes, sir, I did.

13 Q. And what he tell ya?

14 A. Well basically his response on the case was kinda more
15 like, um, he wanted to go about the case, you know, a
16 different way, he he had a plan as far as how he, you know,
17 wanted to handle the case.

18 Q. Okay, did ya let him know that you thought that you
19 weren't mentally competent to stand trial?

20 A. Yes, sir, I did.

21 Q. And what did he tell ya?

22 A. Well basically didn't have, you know, no really
23 explanation, you know, as far as because he didn't initially
24 wanna go about the case in that sense, you know, he had a
25 different way they wanted to handle the case.

1 Q. Now would your family have been willing and able to pay
2 for a second mental evaluation?

3 A. Yes, sir, they would have.

4 Q. Okay. So if you had, if you and Mr. Robinson had decided
5 to get a second mental evaluation, your family would indeed
6 pay for it?

7 A. Yes, sir.

8 Q. Okay. Now, uh, did Mr. Robinson ever tell ya about any
9 plea offers while he was representin' ya?

10 A. No, sir.

11 Q. Okay, so you never got a plea offer while he was
12 representin' ya?

13 A. No, sir.

14 Q. Okay. Um, so what ---

15 A. Oh, well besides the one that, you know, I did plead
16 guilty to.

17 Q. And what was that offer?

18 A. Um, if I'm not mistaken I believe it was a open plea.

19 Q. Okay.

20 A. Uh, yes, I believe it was open plea.

21 Q. So the State wouldn't make any recommendation?

22 A. No, sir, not to my knowledge.

23 Q. Okay. Now, uh, and did you plead to both burglary first
24 and peeping tom, there wasn't any kinda reduced sentence or
25 reduced charge or anything like that?

1 A. No, it it was on a plea offer but it wasn't as far as
 2 when I plead, when I plead it was to plead to both of 'em.
 3 Q. Okay. Now kinda why did you decide to plead guilty
 4 straight up to the two things you're charged with?
 5 A. Well under, you know, circumstances of with, you know, my
 6 lawyer and I didn't really feel confident goin' to trial and
 7 jeopardizin', you know, my life as far as, you know, whether
 8 the case could've been because I was facin' up to life, you
 9 know, so...
 10 Q. Did you think that by pleading guilty get a reduced
 11 sentence?
 12 A. Not necessarily, you know, uh, but I just, I felt that at
 13 the time that that was probly, you know, the right and best
 14 thing for me to do.
 15 Q. Did you have any, uh, idea about what kinda sentence that
 16 you would get?
 17 A. Well I was told that I could face up to life.
 18 Q. Okay. And now did Mr. Robinson ever tell you that you'd
 19 probly get a certain sentence if you pled guilty?
 20 A. Well his, to be exact his exact words was that, you know,
 21 we're we're s -- we're shootin' for 15 years, that that's
 22 what, that's what, you know, that's what we're lookin' at,
 23 that's what we'll try and get.
 24 Q. Okay, but did he ever tell ya that you'd probly get
 25 15 years?

1 A. Yeah, but he never exactly, he never exactly said. He
2 did let me know that, you know, uh, the judge didn't
3 necessarily have to go with the plea but he was sayin' that,
4 you know, we're basically lookin' at 15 years.

5 Q. Okay. Now, did you ever, uh, tell Mr. Robinson about the
6 plea offer that you'd gotten while Mr. Alexander was
7 representin' you?

8 A. Yes, sir, I did.

9 Q. Um, and what did he say about that?

10 A. Well he he basically he wasn't really necessarily worried
11 about it because he had, uh, you know, he he had a different
12 approach of how he wanted to go about the case.

13 Q. Okay, now you've repeatedly mentioned "different
14 approach", did he kinda ---

15 A. Well, uh, he had mentioned, uh, I wanna say he had
16 mentioned about it bein' in Georgia or in Atlanta about, uh,
17 mental health that's about he he knew if he, if it wasn't a
18 mental health facility or he knew, you know, um, a mental
19 health treatment center there and was, you know, requestin'
20 wantin' to look into that, requestin' as far as being able to
21 go in there and bein', uh, as like a in-house treatment for
22 maybe a year or two years.

23 Q. So you get, uh, he was talkin' about you possibly gettin'
24 an in-house treatment for a year or two years as opposed to
25 bein' incarcerated for 15?

1 A. Yes, sir.

2 Q. Okay, and then did he ever tell you what happened to that
3 plan?

4 A. No, sir, I never heard anything about it.

5 Q. Okay, so did you ever ask him to try and get the previous
6 plea offer?

7 A. Yes, sir, I did. Actually when, uh, I first retained him
8 as my lawyer, I mentioned to him about the plea offer and I
9 discussed with him about it, you know, and as far as, uh, it
10 wasn't, you know, speakin' with the prosecutor as far as
11 there's this plea offer, you know, still stand bein' that, you
12 know, he's my lawyer that he bas -- took over my case ---

13 Q. Okay.

14 A. --- and, um, you know, I -- he he failed to communicate
15 with the, you know, solicitor as far as about this plea offer
16 that was, you know, previously, you know, given to me.

17 Q. Okay, and now what finally made you decide to plead
18 guilty?

19 A. Well, um, it was, it came down to either me pleaing
20 guilty or goin' to trial and I didn't wanna risk goin' to
21 trial and facin', you know, basically a life sentence, you
22 know, and, uh, bein' already with the lawyer, with my lawyer
23 that I had, you know, I didn't really feel confident, you
24 know, because it was unless I I asked him, you know, as far as
25 about the mental evaluation and as far as about, you know, to

1 ask the solicitor as far as the plea offer that was offered to
2 me which, you know, he, uh, refused to do so I just, I just
3 went on ahead and, uh, pled guilty.

4 Q. Okay, now did you and Mr. Robinson ever discuss your
5 potential for succeeding if you didn't get -- did in fact get
6 a jury trial?

7 A. Yes, yes, yeah.

8 Q. Uh, and what he tell ya?

9 A. Well just basically that, you know, um, I could be facin'
10 life, that they could give me life, you know. If I was to be
11 found guilty, that could be the worst, you know, we're lookin'
12 at.

13 Q. Did he tell ya that if you went to trial your chances a
14 winnin' wouldn't be very good?

15 A. No, uh-uh.

16 Q. So he never told ya what he thought your chances a bein'
17 successful at trial were, did he?

18 A. No, not really. I mean, he mentioned to me as far as
19 that he's been to trial before a lotta times, that he's plead
20 a lotta cases and this and that but in my my case he didn't
21 really state as far as if he felt he could win or, you know,
22 wins the case.

23 Q. Okay. Now I've already asked you this but, um, it sounds
24 like you keep, you keep sayin' that, uh, if you went to trial
25 you were worried you might get life in prison, are you under

DEWAYNE CHRISTOPHER HAGINS - DIRECT EXAMINATION BY MR. WOOTEN

1 the impression that if you go to trial you might get a harsher
2 sentence than if you just got sentenced by a judge?

3 A. Well, I mean, I understand that, you know, if you do go
4 to trial I understand the whole situation as far as, um, you
5 can get a harsher sentence, you know, if you don't plead
6 guilty whether you're innocent or guilty, so I kinda just went
7 with my best judgment, you know, and just went from there.

8 Q. Okay. Now, uh, did Mr. Robinson tell ya that by pleading
9 guilty you'd be waivin' certain rights?

10 A. Yes, he did.

11 Q. Okay, so you are aware that you were waving some
12 constitutional rights by pleading guilty?

13 A. Yes, sir.

14 Q. Okay. Uh, and did he tell you what the judge -- well I'm
15 sorry. Uh, uh, now did you know that the minimum sentence for
16 a burglary first charge is 15 years?

17 A. Yes, sir.

18 Q. Okay, uh, and you were aware that if you pled guilty you
19 could get sentenced to more than 15 years?

20 A. Yes, sir.

21 Q. Okay. Did you think that you could get a sentence
22 shorter than 15 years by pleadin' guilty?

23 A. No, sir.

24 Q. Did you think that you could get any years suspended?

25 A. I wasn't, on that I wasn't necessarily, I wasn't

1 necessarily sure.

2 Q. Okay. Now lookin' back on it, uh, today if you had known
3 that you would've gotten 20 years havin' pled guilty, would
4 you do the same thing again?

5 A. No, sir, I wouldn't.

6 Q. Alright, now earlier you said that you were prescribed,
7 uh, several drugs for your mental condition, ---

8 A. Yes, sir.

9 Q. --- were you on these drugs at the time a your plea?

10 A. No, sir, I wasn't.

11 Q. Were you on these drugs when you were discussin', uh,
12 your trial and plea with Mr. Robinson?

13 A. No, sir, I wasn't.

14 Q. Okay. And now it looks like an appeal was filed in your
15 case but, uh, it got canceled for I guess lack a prosecution
16 for, uh, usin' an inartful term, uh, what happened with the
17 appeal?

18 A. Well basically when I was filin' for the appeal I didn't
19 have all the right material as far as like, um, you know, law
20 work and, uh, I was just, I had just got incar -- I had just
21 got incarcerated and I wasn't, I didn't really sit down take
22 the time to, you know, put in, you know, for the appeal, that
23 was basically it.

24 Q. Okay, so Mr. Robinson wasn't handlin' the appeal?

25 A. No, sir.

1 Q. Okay, uh, and just to kinda circle back now, uh, so
2 basically you think Mr. Robinson shoulda sought a second
3 mental opinion?

4 A. Yes, I feel Mr. Robinson shoulda sought a second opinion
5 because, uh, bein' that my first mental evaluation was given
6 to me, you know, by of course, you know, experts and
7 professionals at what they do, uh, still I never received a
8 mental evaluation by my lawyer, you know, bein' that he was my
9 trial counsel he was supposed to, uh, seek for a mental
10 evaluation instead a goin' off another lawyer's, you know, what
11 they've already, you know, retrieved.

12 Q. Okay, and now do you think that Mr. Robinson shoulda
13 tried to get that first plea offer that you'd gotten while
14 Mr. Alexander was representin' you?

15 A. Yes, I I feel like, um, if he, you know, if if it woulda
16 even been mentioned, you know, whether or not they had, uh,
17 uh, whether or not they had the opportunity to, you know,
18 accept it or reject it, you know, it's still, uh, it it still
19 stood where if he would have possibly spoke with the
20 prosecutor, you know, as far as about the situation let me
21 know what I had or a converse we didn't have, you know, I
22 wanna know does this plea offer still stand. You know, he he
23 refused to, uh, communicate with.

24 Q. Okay, uh, no further questions. Uh, Ms. Ratigan may have
25 some questions for ya, please answer any one she has.

1 THE COURT: Thank you. Ms. Ratigan.

2 MS. RATIGAN: Thank Your Honor.

3 CROSS-EXAMINATION BY MS. RATIGAN:

4 Q. So when did you, uh, for lack of better term fire
5 Mr. Alexander, do you remember when that was?

6 A. I fired Mr. Alexander to be exact I'm not sure the exact
7 date but I can say it was on I wanna say around late October,
8 beginnin' a November, I'm not sure the exact ---

9 Q. And would ---

10 A. --- date.

11 Q. --- that have been 2010?

12 A. Yes, 2010.

13 Q. And how soon after you, uh, firing Mr. Alexander did you
14 hire Mr. Robinson, is it around the same time?

15 A. Uh, may -- maybe a week after, a week to a week and a
16 half after.

17 Q. And when you and Mr. Alexander had reviewed the plea
18 offer, you knew that the offer had some kind of an expiration
19 date?

20 A. Yes.

21 Q. And do you remember when that expiration date was?

22 A. No, I don't.

23 Q. And once Mr. Robinson was your lawyer I think you
24 testified you had about four meetings with him, is that
25 correct?

1 A. Yes.

2 Q. And did you review the State's evidence with him?

3 A. Yes.

4 Q. And that would've included the statement that you gave to
5 the police?

6 A. Yes.

7 Q. And did you review with Mr. Robinson, uh, the impact that
8 your statement had on your ability to win the case at trial?

9 A. Well we never exactly, went exactly over it like that but
10 yeah, sounds correct.

11 Q. And you understood the conversations you had with
12 Mr. Robinson?

13 A. Yes.

14 Q. But you wanted him to get a second independent
15 psychiatric evaluation?

16 A. Yes.

17 Q. And why is that exactly?

18 A. Well because, uh, bein' that, uh, he was wi -- bein' that
19 him bein' my lawyer, you know, um, I've -- well it was his
20 duty, his responsibility to get a mental evaluation. The
21 mental evaluation was given to me by my first -- well it was
22 court ordered but, you know, my first lawyer was my lawyer at
23 the time of when, you know, when I was evaluated. I feel
24 like, um, had Mr. Robinson got a second mental evaluation, you
25 know, or a second opinion, um, you know, if any -- anything,

1 you know, result may have been different, uh, may -- maybe
2 the, uh, maybe the doctors, you know, may have would've seen
3 somethin' as far as somethin' that may woulda been
4 different ---

5 Q. So so even though you you understood your conversations
6 with Mr. Robinson, you just thought that once he became your
7 lawyer he should have gotten you a new evaluation anyway?

8 A. Yes.

9 Q. Okay. And by the time you pled guilty though you knew it
10 was an open plea with no recommendation from the State?

11 A. Yes.

12 Q. And did Mr. Robinson explain to you the minimum and the
13 maximum charges you could get?

14 A. Yes.

15 Q. But your testimony is that ya'll were -- you're aiming to
16 shoot for that 15 years?

17 A. Yes, ma'am.

18 Q. Did Mr. Robinson ever promise you'd get 15 years or just
19 that you would ask for it?

20 A. Just that he would ask for it.

21 MS. RATIGAN: That's all I have, Your Honor.

22 THE COURT: Thank you. Any redirect?

23 MR. WOOTEN: No, Your Honor.

24 THE COURT: Thank you, you may step down.

25 (Whereupon, the applicant left the stand.)

SCOTT D. ROBINSON - DIRECT EXAMINATION BY MS. RATIGAN

1 THE COURT: Does plaintiff have any more witnesses?

2 (Whereupon, a discussion was held off the record.)

3 MR. WOOTEN: No, Your Honor.

4 MS. RATIGAN: Thank Your Honor, the State would call
5 Mr. Robinson.

6 THE COURT: Alright, come forward and be sworn,
7 Mr. Robinson.

8 THE WITNESS: Yes, sir.

9 THE CLERK: Place your left hand on the Bible and raise
10 your right hand, please.

11 SCOTT D. ROBINSON, having been
12 first duly sworn, testified as follows:

13 THE CLERK: State your full name for the record.

14 THE WITNESS: Scott D. Robinson.

15 THE CLERK: Please be seated.

16 DIRECT EXAMINATION BY MS. RATIGAN:

17 Q. Mr. Robinson, do you recall representing Mr. Hagins on
18 these charges?

19 A. I do.

20 Q. And do you recall, uh, when you were retained?

21 A. Sure, woulda been, uh, December 6, 2010.

22 Q. And were you aware at that point that Mr. Hagins had
23 prior counsel?

24 A. Yes, he had, uh, Steven Alexander.

25 Q. Did Mr. Alexander give you the discovery materials or did

1 you go ahead and file your own set of Brady Rule 5 motions?

2 A. I normally file my own motion, uh, to get that but all
3 discovery was given to me.

4 Q. Did you review those materials with Mr. Hagins?

5 A. Yes.

6 Q. Uh, does that include the statement, uh, the confession
7 that he gave the police?

8 A. Yes.

9 Q. Did you review the impact that statement had on the
10 defense case?

11 A. Yes. Yes, I did.

12 Q. Did you review with him his version of what happened that
13 day?

14 A. Yes.

15 Q. Were you made aware when you were obtained on the case
16 that there had been a prior plea offer?

17 A. Yes.

18 Q. Were you in fact, uh, ever given a copy of that offer, do
19 you have a copy a that offer?

20 A. I do. Uh, the offer came in to Mr. Alexander on, uh,
21 April 12th 2010, it had an expiration date, um, of July 12th
22 2010.

23 Q. So it was already long gone by the time you came on the
24 case?

25 A. Would've been 'bout five months, afterwards he retained

SCOTT D. ROBINSON - DIRECT EXAMINATION BY MS. RATIGAN

1 me.

2 Q. Even though this offer had expired at that point, did you
3 try and renew plea negotiations with the State?

4 A. We coulda probly talked to them. I I would in any case
5 that I have tried to get a better, see what could be done
6 this point, uh, with Mr. Cleveland.

7 Q. Did the State ever make any new offer to you?

8 A. No.

9 Q. Were you aware that Mr. Hagins had, uh, pursuant to court
10 order order undergone a competency evaluation?

11 A. Yes.

12 Q. And, uh, when you received those discovery materials from
13 Mr. Alexander, did you also receive a copy of that evaluation?

14 A. Yes.

15 Q. Were there any red flags in that evaluation that would
16 have triggered in your mind a necessity of a second
17 evaluation?

18 A. No.

19 Q. Did Mr. Hagins appear to understand the conversations
20 that he had with you about the case?

21 A. Yes.

22 Q. And were there any red flags in your conversations with
23 him that would have led you to believe he maybe needed a
24 second evaluation?

25 A. No, he's he's a very articulate guy. He, just like you

SCOTT D. ROBINSON - DIRECT EXAMINATION BY MS. RATIGAN

1 heard him today he's very articulate.

2 Q. So by the time this case went to plead it was a straight
3 up no recommendation plea, is that correct?

4 A. It was at that point with, uh, Judge Verdin.

5 Q. Had you explained to your client the minimum and maximum
6 charges?

7 A. Yes.

8 Q. Did you ever make any kinda promise to him about the
9 sentence he could expect to receive?

10 A. No.

11 Q. Did you ever tell him that you were, uh, gonna shoot for
12 a 15-year sentence?

13 A. It was an open plea, all I could do was, uh, uh, argue
14 for the best. This was a very good judge t -- uh, and she
15 was very, uh, compassionate and, uh, but as far as, uh, tryin'
16 to do that you just do the best you can in terms of of asking
17 for the minimum sentence if you can.

18 Q. And you filed a notice of appeal at the Court of Appeals
19 for Mr. Hagins?

20 A. Yes.

21 Q. And, uh, usually when a notice of appeal is filed from a
22 guilty plea is there anything you have to attach to that
23 notice of appeal?

24 A. Well we send the, uh, as far as, uh, this was a a a a
25 case that, uh, uh, I did not feel that there was any sort of

SCOTT D. ROBINSON - CROSS-EXAMINATION BY MR. WOOTEN

1 meritorious issue in this matter and I filed a a letter
2 pursuant to 203 (d)(1)(B)(iv), uh, in this matter.

3 Q. And the letter basically just stated you did not believe
4 there was any kind of ---

5 A. Yes.

6 Q. --- issue to appeal?

7 A. Yes.

8 Q. Okay.

9 MS. RATIGAN: That's all I have, Your Honor.

10 THE COURT: Alright, any cross-examination, Mr. Wooten?

11 MR. WOOTEN: Yes, sir, Your Honor. Mark this as
12 Exhibit 1.

13 (Plea offer marked Applicant's Exhibit No. 1 for
14 identification.)

15 MR. WOOTEN: Thank ya.

16 CROSS-EXAMINATION BY MR. WOOTEN:

17 Q. Now, Mr. Robinson, I'm gonna pass up what is apparently a
18 plea offer, I believe it's got some handwriting on it that's
19 Mr. Hagins', at the top it says Exhibit A, uh, but I think the
20 rest of it should be original, um, have you ever seen that
21 document before?

22 A. Yeah, this is the, uh, this is the plea offer that was
23 sent to, uh, Mr. Alexander in this case.

24 Q. Okay, and I believe a second ago you were testifying
25 about a July plea offer?

1 A. Thought so. The letter that I have was from April 12th
2 2010, ---

3 Q. Okay.

4 A. --- a letter that tells to Steven Alexander and that was
5 7/12/2010.

6 Q. Okay. Now were you aware of this October 7th 2010
7 renewal of that same plea offer?

8 A. I would have received -- this went to Steven Alexander,
9 not me but, uh, was I aware of it? Uh, let me see if I have
10 it. Yeah, I I have the 4/12/2010. In terms of this one,
11 wasn't sent to me but I would -- this was 'bout two months
12 before I was hired, uh, but I don't, I don't have that one.

13 Q. Okay, so you weren't aware that that plea offer had been
14 renewed that close to the time that you were retained?

15 A. It was two months before I was retained. Uh, what I had
16 was the, uh, April 12th 2010, it expired, uh, 7/12/2010. This
17 appears to be a plea offer on 10/7/2010, before I was hired,
18 to Mr. Alexander.

19 Q. Okay.

20 A. I have, I I don't know why we haven't seen this but but
21 that's to Mr. Alexander, not to me.

22 Q. Okay, and if you could turn it over on the back, uh, when
23 is the expiration date on that?

24 A. It says "this term" which would've been, I don't know
25 when he received this, it looks -- if it was, uh, and again

1 this was sent to Steven Alexander, it says 10/7/2010 at the
 2 top and it looks like it says "this term", I'm not sure which
 3 term that woulda been that we have this. It woulda been while
 4 Mr. Alexander still represented him is probly what "this term"
 5 means.

6 Q. Okay, so you don't know if that plea offer was still, uh,
 7 valid at the time that you were retained?

8 A. I don't because, uh, in any event Mr. Cleveland would
 9 have, if anything was available still he would've, he would've
 10 let me know that but this is what he sent to Steven Alexander,
 11 uh, it may have expired on the October term of, uh, 2010.

12 Q. Okay. Uh, I'd like to move that into evidence as ---

13 THE COURT: Any objection?

14 Q. --- Plaintiff's Exhibit 1.

15 MS. RATIGAN: I would, Your Honor, it hadn't been
 16 properly authenticated. Mr. Robinson has no knowledge of it
 17 or its providence or if it actually even was generated by the
 18 solicitor's office to Mr. Alexander.

19 THE COURT: Sustained and he didn't, he didn't come to
 20 court.

21 MR. WOOTEN: Yes; sir, I'll revoke that.

22 BY MR. WOOTEN:

23 Q. Uh, now now now did, uh, Mr. Hagins ever tell you why he
 24 was retaining you instead of Steven Alexander?

25 A. Did he re -- did he ever tell me he, why he was retained?

1 Q. Yes, sir, did you ever discuss that?

2 A. I mean, people have lots a reasons for retaining lawyers,
3 uh, I don't, I don't know, I -- you know, I I don't know why
4 people come and retain me, I'm not, you know, I I assume that
5 when their family comes and retains me that they want me to
6 represent them, as far as what he was thinking, I don't know,
7 I have no idea. I can only assume that, uh, he wanted
8 different representation and that's all I c -- that's all I
9 can assume.

10 Q. Okay, so ya'll never had a conversation about it one way
11 or the other?

12 A. I just don't know why he -- as far as tryin' to
13 guesstimate what -- why someone does things, I can't do that,
14 all I can tell you is that he changed lawyers in December when
15 he retained me but as far as why he did that, I I can't tell
16 ya, I don't, I don't know.

17 Q. Okay, and were you paid hourly or a flat fee?

18 A. It was a retainer. Plaintiff signs -- well excuse me,
19 uh, he agreed.

20 Q. Okay, and what was the, I mean, how were you ---

21 A. Just charging two thousand (2,000) up front because it
22 was, uh, um, it was sole lead in the case.

23 Q. Okay. Uh, how many times did you meet with
24 Mr. Hagins?

25 A. Well it was actually, it was, uh, it was at least four or

1 five times but he also met with my investigator Paul Silvaggio
 2 in this matter and I can, let let me go back to the last
 3 question you had that would be the reason people retain me, I
 4 don't know why he did it, but I normally prepare cases and I
 5 represent the client and I look at every single case as though
 6 I'm taking it to trial, I don't assume it's going to be a
 7 plea, I don't know but I I take it, investigate it, that's why
 8 investigator and see if I can find any defects in it ---

9 Q. Um-hum.

10 A. --- and, uh, so but I, but I don't know again why he
 11 chose me as an attorney.

12 Q. Okay. Now, uh, were you aware that Mr. Hagins had some
 13 longstanding mental issues?

14 A. He did, yes, I was aware.

15 Q. And did he make you aware of 'em?

16 A. Um, I think there was an evaluation that was done, uh, by
 17 mental as a court ordered evaluation, I would have known about
 18 that, uh, I think it was, uh, the evaluation was something he
 19 had a a lotta different little problems and most of it would
 20 been voyeurism, that was what the issue was, voyeurism and
 21 anxiety is what he had. He liked, he liked voyeurism, I think
 22 that was the defect that he had that the mental thing he had.

23 Q. Okay. Uh, now he testified that he wanted you to seek a
 24 mental, a second mental evaluation, did you ever speak with
 25 him about that?

1 A. I think we we talked about that issue because we we just
2 were concer -- I was concerned in terms of, uh, not to to get
3 another evaluation but I just wanted to see just a second
4 thought of this whole issue. I have a doctor in Greenville
5 that I use a good bit and we just finished a case last week
6 with Judge Nicholson in Anderson but, uh, I'd always look,
7 I've learned to make sure I can eval -- look at that
8 evaluation properly and see if they missed anything, but I I
9 may have now, I may have discussed it some point, uh, to go
10 over the evaluation and so forth but that was specifically to
11 make sure that they did not miss anything in the evaluation
12 'cuz sometimes what they do they miss, in their evaluation
13 they miss some parts of it but in reviewing it and going back
14 through it they did not miss anything.

15 Q. Okay, so you said you may have reviewed it with the
16 doc -- the mental evaluation with the doctor in Greenville.

17 A. I I normally would do that but I don't know if I did that
18 in this case.

19 Q. Okay. Um, now if Mr. Hagins testified that his family
20 was willing to get a second mental evaluation, was there any
21 reason that you didn't get one?

22 A. I I didn't really see the that if they had come to me and
23 said we want a second evaluation, I would've gone out and got
24 one if they insisted on that but there was no reason to get
25 another evaluation because what you're doing is shopping

SCOTT D. ROBINSON - CROSS-EXAMINATION BY MR. WOOTEN

1 around to make sure you get someone that's going to say
2 something but unfortunately in South Carolina we don't follow
3 a diminish capacity, it can be used for sentencing and so
4 forth but it cannot be used as a defense in any sort of case
5 so the only thing that would've done; first, I don't, I did
6 not believe it was necessary and; secondly, it's shopping
7 around to find out if someone's going to say something for you
8 about this, I don't think that was appropriate.

9 Q. Okay, and you don't think it was appropriate for what
10 reason?

11 A. First, the evaluation that was done was proper according
12 to the rules, it was Blair, a Blair Evaluation; secondly, uh,
13 we don't, we in this state they don't, the the Court's don't
14 follow diminished capacity as a defense in this to a burglary
15 first where he went into a house and was watching this lady
16 through a vent and so forth, that's not, there's no defe --
17 that's not a defense to that, it can come in in terms of
18 sentencing and that's why the plea was done as a guilty
19 mentally ill sentence, guilty but mentally ill.

20 Q. Okay. Now do you think if, uh, you had gotten a mental
21 evaluation that maybe it was a little bit more favorable
22 towards Mr. Hagins, he might have gotten a reduced sentence?

23 A. No, I don't because the judge looked through, considered
24 everything in this case. She was very meticulous in what she
25 considered in this matter and if if he had, uh, if he he, it

1 was totally up to him what he wanted to do, I mean, he -- we
2 were prepared to go to trial, whatever he wanted to do but if
3 he went to trial I can't use the fact that he's got diminished
4 capacity in a -- as a defense in this case. I can go after
5 different things as far as defects that I saw but I couldn't,
6 I couldn't present, I would be limited as far as
7 presenting -- I couldn't do it. I could not present the fact
8 that he had a mental defect or mentally or mental challenge as
9 a defense in this case, I could only do it in terms of the
10 sentence.

11 Q. Okay. Uh, now were you aware that Mr. Hagins been
12 prescribed some, uh, medications for his mental issues?

13 A. Was I, was I aware at that time?

14 Q. Um-hum.

15 A. If he had been prescribed anything, I would have known
16 about it. I I I think that, I think he just testified I think
17 that he took every medication he was supposed to take. I
18 don't, I don't, I don't give him the medication but if he's
19 got a a prescription for it, I would assume he would take it.

20 Q. Okay, so you don't know one way or the other whether or
21 not, other than what you just heard Mr. Hagins say today
22 whether or not he was on any medications at the time or
23 shoulda been on any medications?

24 A. As far as independent knowledge of that, I don't know
25 that, but I do know but I, if I look at the, uh, um, it -- I

1 don't know if he was taking what he was prescribed, I assume
2 that that he would tell the truth to a, to a judge when a
3 judge asked him if he was under the influence of anything
4 whatever it would be that he would tell the judge the truth,
5 if he didn't do that, I I I -- that's not somethin' I can, I
6 can address, I don't know. I don't know what he was, as far
7 as specifically what he was taking back in 2010 or '11, I
8 don't know what it was but I'm hoping he did take it and he
9 did answer if he, if a judge asked him a question about it, I
10 hope he answered it truthfully.

11 Q. Okay. Now would you be concerned if you found out that
12 he wasn't on mental, uh, medications that he was supposed to
13 be taking at the time?

14 A. Woulda been concerned when?

15 Q. It, I'm sorry, it was a bad question. Uh, ---

16 A. Okay.

17 Q. --- would you be concerned if you found out that
18 Mr. Hagins wasn't on mental medications at the time he was
19 supposed to take 'em would that give ya any concern about his
20 clarity to plead guilty or his competency?

21 A. Ya -- I don't -- all we can go by is the person, the
22 per -- the defendant telling the truth when he is before a
23 judge and sworn. If he does not tell the truth, I have no
24 ability to determine looking back anything, I I really don't,
25 I I I don't. I am assuming he tells the truth. If he comes

1 later on and says, Well I was not, I -- he's supposed to tell
2 the truth when he's in court and I I can't, I I don't think
3 that's an excuse he was not tellin' the truth when he went
4 before a judge.

5 Q. Well what if he told the judge that he wasn't on his meds
6 at the time?

7 A. He didn't tell the judge that I don't think. I don't, I
8 don't, I don't see the tr -- see it in the transcript where he
9 said that, if he said that -- I don't have the transcript in
10 fronta me but see if the judge, the judge would've stopped it
11 at that point he said that he was taking me -- was not taking
12 medication that day. I don't ---

13 Q. I believe what he testified to is that, and stop me if
14 I'm gettin' outta line here, ---

15 THE COURT: Would you like to look at the transcript?

16 MR. WOOTEN: Yes, sir, I appreciate it.

17 (Whereupon, the Court handed the transcript to
18 Applicant's counsel.)

19 BY MR. WOOTEN:

20 Q. Okay, if you could look startin' at line 10.

21 A. Alright. Okay, again, in response to your question the
22 judge carefully went through this, asked him if he was taking
23 medications, if he took medications, he said, this is line 12,
24 I was act -- "I did like while I was actually like on the
25 street but I haven't since I've been incarcerated."

SCOTT D. ROBINSON - CROSS-EXAMINATION BY MR. WOOTEN

1 Then the judge asked him, "Okay, let me ask you this:
2 without your medication do you feel clear head here today?"

3 He responds, this is under oath, he responds, "Yeah, I
4 mean, like I understand what's going on, I like, like I told."

5 And then she said, then the judge again says, "You feel
6 like you understand everything that's going on?"

7 Under oath he states, "Yes, ma'am."

8 And then she, but then she carefully puts on the record,
9 "I'll note for the record you seem clear head to me," she's
10 standing right in front of him when this case going on so that
11 that's what you have, that's what you have ---

12 Q. Thank you.

13 A. --- in this case.

14 MR. WOOTEN: Thank Your Honor.

15 (Whereupon, counsel handed the transcript to the Court.)

16 THE COURT: Thank you.

17 Q. Uh, now did you receive any plea offers yourself from the
18 solicitor while you were representin' Mr. Hagins?

19 A. Yes.

20 Q. Okay, uh, did you ever speak with, uh, Mr. Cleveland the
21 solicitor about any potential plea offers?

22 A. The plea offers were already over with, he wasn't gonna
23 offer anything more based on the victim 'cuz in this case that
24 this is where he got into a house, hid and was looking through
25 a vent at this person, this victim in this case. They weren't

1 gonna move as far as budging in terms of the, uh, of the, uh,
2 15 years, he'd been offered it twice and he turned it down
3 both times.

4 Q. Okay, and he never was offered 15 again while you
5 represented him?

6 A. No, I I think that the solicitor was very, uh, gracious I
7 believe to offer him another 15 but mentally ill and look
8 once you understand being (cough interruption) before I
9 represented him, uh, but there's no such thing as just because
10 you switch lawyers you get a different plea, it doesn't work
11 that way.

12 Q. Uh-uh (negative), but I mean once you had represented
13 did you ever talk with him about tryin' to get that plea back?

14 A. I woulda ta -- the the thing I I investigate the case,
15 okay, we look at the case, we look at defects and problems in
16 the State's case, okay, and, uh, I would've talked to ju --
17 Baker Cle -- Cleveland, whoever it woulda been, I would assume
18 at some point but because of the victim, I believe the victim
19 was pretty adamant that there would be no negotiations beyond
20 the minimum in this case 'cuz it was, it was a pretty clear
21 burglary first and peeping tom.

22 Q. Okay. Uh, now Mr. Hagins mentioned that you had said you
23 wanna take an alternate route in representing him, uh, do you
24 remember tellin' him that or do you know what he's talkin'
25 about?

1 A. I don't know if I'd characterize an alternate route, I
2 mean, when we take a case, when when I take a case, I take it
3 like in my, like I'm gonna go to trial and that means tryin'
4 to find, I had a full-time investigator, that means going
5 through each and every document in the case and finding out if
6 there were defects. There were some defects in the State's
7 case in terms of identification, things like that but, uh, I
8 don't know if that would've made it, I don't know what, I
9 can't predict what would've happened ---

10 Q. Okay, ---

11 A. --- in this case.

12 Q. --- but you don't know what he's talkin' about when he
13 says that you mentioned some sorta alternate strategy or an
14 alternate approach?

15 A. An alternate strategy or...The only thing I can imagine
16 his thinking was because I was wanting to look at the case
17 fresh after he, after his family retained me, that would mean
18 I again that I would go through the case with my investigator
19 and find out if there were any defects, problems, things like
20 that in the case. We we went through a pretty thorough
21 evaluation of this case and, uh, uh, there were some issues
22 that could have possibly, uh, been helpful I thought in this
23 matter ---

24 Q. Um-hum.

25 A. --- but again, when, uh, the decision, uh, it's a very,

1 uh, uh, lonely thing when you're a defendant to have to make
2 the decision as far as whether to enter a plea or go to trial
3 and that's his, the the defe -- the defendant's or the
4 client's decision only. I can't force them, I can't tell 'em
5 anything, all I can give them the alternatives and if they
6 don't wanna take a risk then that's what they choose to do.

7 Q. Okay. Um, now I guess to get to the guilty plea that
8 Mr. Hagins finally accepted, uh, what exactly was the plea?

9 A. It was an open plea, open plea to burglary first and
10 woulda been the peeping, I don't have the transcript, peeping
11 tom, eavesdropping or peeping.

12 Q. Okay, and were those the charges that he was initially
13 charged with?

14 A. Uh, I don't know what he was initially -- that's the
15 charge that he pled to, was the charge that he pled to.

16 Q. It's -- let me ask you this way: Were any charges
17 dropped, uh, to try to get you to plead to those charges?

18 A. There was no sort of enticement, no sort of tr -- not
19 that I know of.

20 Q. Okay, so you're just pleadin' straight up for what he was
21 charged with?

22 A. This is, this is a straight up plea, yes.

23 Q. Um, I guess to get to the crux of the matter what was the
24 thought process in pleading straight up to these charges?

25 A. Now I can't tell you what Mr. Hagins was thinking, I have

1 no idea, all I know is that he made the decision based on his,
2 what his, what his own thoughts were. I can't tell you what
3 process he went through in his head, I have no idea, I have no
4 idea of that.

5 Q. So did you make any kinda recommendation one way or the
6 other whether he shoulda taken that plea?

7 A. Which plea? There was no, ---

8 Q. The one ---

9 A. --- there was no plea, it was either gonna be we're gonna
10 go to trial, we had the t -- we got all set to go to trial or
11 to plea. Whether he wants to, what he decides to do I have no
12 control over. I can say you can plea or we go to trial, ready
13 either way and then he makes that decision.

14 Q. Okay, so you didn't recommend one way or the other ---

15 A. Uh-uh (negative).

16 Q. --- whether he should one or the ---

17 A. I don't, I I can't. All I can do is just, it's his
18 decision, it's not, as the attorney all I can do is give him
19 the choices he has, uh, open plea or trial.

20 Q. Alright. Did you maybe give him some things to consider,
21 factors that he should consider in making that decision?

22 A. Um, factors. Again, going back to the thought process,
23 here here's what he has in front of him. He has a confession
24 that he gave and, um, and he has basically what all discovery
25 in the case, he's he's making a decision but I don't make a

1 recommendation as far as what to do.

2 Q. Okay, and what do you think his chances were of
3 succeeding at trial, bein' found not guilty?

4 A. I have no idea. I I have no idea. I -- it --
5 everyone -- we have a very, very good system of as far as it
6 goes and you sit twelve citizens to review a case and you
7 prepare your defense to the case but whether or not they chose
8 to find him guilty, guilty but mentally ill or acquit him, it
9 is a jury decision, I have no, I have no idea what would
10 happen, it's always it's can go either way.

11 Q. Okay, so you don't think it's more likely that he
12 would've been found guilty or more likely that he wouldn't
13 have?

14 A. I have no idea. I have no idea. I I don't -- I've tried
15 a case with this judge before and she's she's great but you
16 don't know what's gonna happen as far as anything can happen
17 really, it just de -- it's it's always up to the jury what
18 happens. The ju -- I mean, the judge is the judge of the law,
19 the jury's the judge of facts.

20 Q. And when did the plea occur, was it right before the
21 trial was set to start?

22 A. It's it's not -- okay, okay, it's not really -- you you
23 either ha -- you have two choices: you can go to trial or
24 enter a plea, it's not like it it occurred anytime just it's
25 either, it's an either/or kind of thing, yes or no.

1 Q. Okay.

2 A. So it's no, I can't give you the time 'cuz time that
3 this -- they occur it's just, it's just a choice is what it
4 is, a choice.

5 Q. Okay, but there wasn't a pending trial?

6 A. What?

7 Q. There wasn't a pending trial?

8 A. Yes.

9 Q. Okay. Uh, now I know earlier you'd mentioned that he had
10 a good judge at that time, did you inform Mr. Hagins that
11 Judge Verdin you thought may give him a favorable sentence?

12 A. No, I don't inform anyone that any judge is gonna do
13 anything. All I can tell you is that, um, this is a
14 complete, this is like most judges I've ever dealt with are
15 compassionate, they're objective, they listen to the facts,
16 they listen to the victim, they listen to the family of the
17 defendant. He had an issue, he had issues, he has issues, had
18 voyeurism, anxiety, these are very they're they're issues that
19 he's troubled with in his whole, his whole life and any judge
20 would recognize this, you can't -- I don't know what the judge
21 would do but any -- every judge that you ever go in front is
22 gonna be the same, gonna be objective, compassionate, listen
23 to both sides and they based on their, uh, they they -- that's
24 when they render a decision but as far as what that this judge
25 all I can say is this just, it's just a judge.

1 Q. Okay, and now when Mr. Hagins was gonna plead guilty, did
2 you ever tell him that you thought he'd likely get some sorta
3 sentence?

4 A. Uh-uh (negative), there's no -- I can't, I I can't do it.
5 He's looking at 15 years to life, it's not suspendible and,
6 uh, that's all, that's all there is. Like he would get credit
7 of course for the time he served in jail which I think was
8 over 500 days but I can't predict a sentence because he gave
9 up the two opportunities that he had to plead guilty, uh, I
10 think the first one was back in Apri -- he had an April
11 deadline then you just showed me a document that was given to
12 Mr. Alexander but he turned that down, he gave up the 15
13 mentally or the 15 years and he decided to to go forward and
14 go with different approach.

15 Q. Okay, um, and then you filed the, uh, notice of
16 appeal for him, ---

17 A. Um-hum, ---

18 Q. --- correct, ---

19 A. --- yes.

20 Q. --- but you weren't initially representin' him on the
21 appeal?

22 A. I I think that was -- it was gonna be handled by
23 appellate defense.

24 Q. Okay, uh, that's all the questions I have, thank you.

25 THE COURT: Well thank you. Any redirect?

SCOTT D. ROBINSON - CROSS-EXAMINATION BY MR. WOOTEN

1 MS. RATIGAN: No redirect and the State would rest at
2 this time.

3 THE COURT: Well thank you, Mr. Robinson, you may step
4 down.

5 (Whereupon, a discussion was held off the record.)

6 (Whereupon, the witness left the stand.)

7 THE COURT: Alright, I'm gonna take this matter under
8 advisement, I wanna read the transcript one more time and I'll
9 give ya a ruling toward the end.

10 MR. WOOTEN: Okay.

11 THE COURT: Thank you.

12 MS. RATIGAN: Thank Your Honor.

13 MR. WOOTEN: Thank Your Honor.

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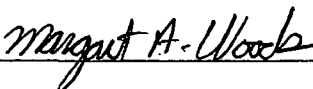
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CERTIFICATE OF REPORTER

1
2
3 I, Margaret A. Woods, Court Reporter in and for the State
4 of South Carolina at Large, hereby certify that I reported the
5 preceding case on February 11, 2013 at the time and place
6 heretofore set forth; and that the foregoing pages numbered
7 from 4 through 45, inclusive, constitute a true and accurate
8 transcription of my stenographic notes of the said proceeding.

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

13 August 29, 2013

14
15 

16 Margaret A. Woods, Court Reporter
17 in and for the State of South Carolina at Large.

STATE OF SOUTH CAROLINA	)	CLEAR OF COURT PICKENS COUNTY SOUTH IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS	)	C.A. No. 2011-CP-39-1894
Dewayne Christopher Hagins,	)	MAR 25 A 03 14
S.C.D.C. No. 298528,)	
Applicant,)	
v.	)	ORDER OF DISMISSAL
State of South Carolina,)	
Respondent.)	

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed December 22, 2011. The Respondent made its return on May 31, 2012. An evidentiary hearing into the matter was convened on February 11, 2013 at the Pickens County Courthouse. The Applicant was present at the hearing and represented by Raymond T. Wooten, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's plea counsel, Scott D. Robinson, Esquire. The Court had before it the transcript of the guilty plea hearing, the records of the Pickens County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the Respondent's return, and the appellate records.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Pickens County Clerk of Court. The Applicant was indicted at the September 2010 term of the Pickens County Grand Jury for first-degree burglary (2010-GS-

39-0801) and eavesdropping or peeping tom (2010-GS-39-0802). He was represented by Scott D. Robinson, Esquire.

On May 17, 2011, the Applicant entered a plea of guilty but mentally ill. The Honorable Letitia H. Verdin sentenced the Applicant to concurrent terms of twenty (20) years for first-degree burglary and three (3) years for peeping tom.

A notice of appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. By order dated October 11, 2011, the Court of Appeals dismissed the appeal based on the Applicant's failure to provide a written explanation as to what issues could be reviewed. See Rule 203(d)(1)(B)(iv), SCACR.

ALLEGATIONS

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

1. Ineffective assistance of counsel:
 - a. Failed to request a second opinion regarding the Applicant's competency.
 - b. Failed to communicate a plea offer of fifteen (15) years suspended to ten (10) years.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel’s ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel’s representation was below the standard of reasonableness and that, but for counsel’s unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

The Applicant stated he had a competency evaluation while represented by his first attorney. The Applicant stated he fired his appointed counsel in October 2010 and hired plea counsel one week later. The Applicant stated he had four meetings with plea counsel. The Applicant stated he and plea counsel reviewed the evidence and the impact his statement had on their case. The Applicant stated he understood his conversations with plea counsel. The Applicant stated plea counsel should have requested he undergo a second competency evaluation. The Applicant stated there was a plea offer from the State while he was represented by his first attorney and that he asked plea counsel if he could get this offer. The Applicant admitted he knew that plea offer had an expiration date. The Applicant also admitted he knew he was pleading guilty without a sentence recommendation but that plea counsel stated he would

“shoot for” fifteen years.

Plea counsel testified he was retained on December 16, 2010 and received the discovery materials from the prior attorney. Plea counsel testified he met with the Applicant four or five times and that the Applicant also met with his investigator. Plea counsel testified he reviewed the discovery materials with the Applicant, the Applicant’s version of events, and the impact the Applicant’s statement had on the case. Plea counsel testified he was aware of the prior plea offer but that it expired on July 12, 2010, which was five months before he was retained. Plea counsel testified he spoke to the State about another possible plea offer but the State would not make one. Plea counsel testified the Applicant had already undergone a competency evaluation and was found competent – but with voyeurism and anxiety issues. Plea counsel testified the Applicant understood their conversations, there were no red flags during his representation, and the Applicant did not need a second evaluation. Plea counsel testified he told the Applicant the sentence ranges for the offenses and that the Applicant was pleading guilty without a sentence recommendation.

Regarding the Applicant’s claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds the Applicant’s testimony is not credible, while also finding plea counsel’s testimony is credible. This Court further finds plea counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation.

The Applicant admitted to the plea judge that the facts recited by the solicitor were substantially true. (Plea transcript, p.15). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.9-10).

This Court finds the Applicant failed to meet his burden of proving plea counsel should have pursued a second competency evaluation for the Applicant. Plea counsel testified he was aware the Applicant had a prior competency evaluation but that he was found competent to stand trial. Plea counsel testified there were no red flags that concerned him during his representation and the Applicant appeared to understand their conversations. This Court finds plea counsel's testimony to be credible. This Court also notes the Applicant failed to present either a second competency evaluation or any expert testimony. As such, this Court cannot speculate about whether a second evaluation would have had any impact on the Applicant's case. See Dempsey v. State, 363 S.C. 365, 370, 610 S.E.2d 812, 815 (2005) (finding that, as the applicant failed to have an expert testify at the evidentiary hearing, "any finding of prejudice is merely speculative"); see also Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (holding applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial).

This Court finds the Applicant failed to meet his burden of proving plea counsel should have pursued plea negotiations with the State. Plea counsel testified he was aware of a prior plea offer but that this offer had expired five months before he was retained in this case. Plea counsel testified he attempted to pursue plea negotiations with the State but that the State would not make any offers. This Court finds plea counsel's testimony is credible. This Court notes plea counsel's testimony is, in large part, corroborated by the Applicants' testimony. The Applicant admitted the State made a plea offer for a plea of guilty but mentally ill to a fifteen year sentence suspended on the service of ten years while he was represented by his first attorney. The Applicant admitted the plea offer had an expiration date. This Court finds the original plea offer had expired well before plea counsel was retained and that this was known by both the Applicant

and plea counsel. This Court finds the Applicant has failed to articulate what more plea counsel should have done in order to secure a favorable plea offer. See Frasier v. State, 351 at 389, 570 S.E.2d at 174. The Applicant knew he was pleading guilty without a sentence recommendation. (Plea transcript, p.10). Regardless, this Court notes plea counsel asked the plea judge to levy the minimum available sentence in this case. (Plea transcript, p.18).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not

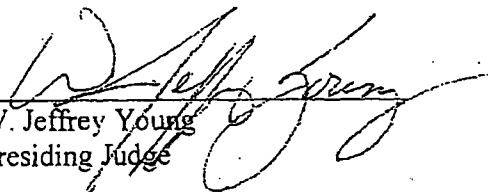
prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 14 day of March, 2013.


W. Jeffrey Young
Presiding Judge

Sumter, South Carolina.

DOCKET NO. 2010-GS-39-080
JBC
The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 14 2010 TERM 2010

THE STATE

vs.

DEWAYNE CHRISTOPHER HAGINS

WITNESSES

Michael Hayes

Pickens County Sheriff's Office

12/12/2009

ARREST WARRANT NUMBER

M385270

TRUE BILL ACTION OF GRAND JURY

SEP 14 2010

[Signature]
Foreperson of Grand Jury

VERDICT

Indictment for

0079

BURGLARY FIRST DEGREE

VIOLATION § 16-11-0311

Foreperson of Petit Jury

Date:

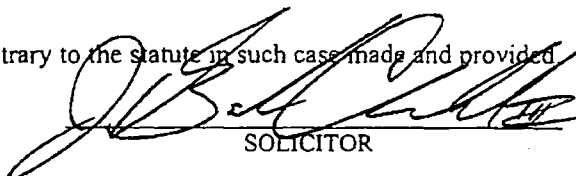
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on SEP 14 2010 the Grand Jurors of Pickens County present upon their oath:

That DEWAYNE CHRISTOPHER HAGINS did in Pickens County, on or about the 28th day of November, 2009, willfully and unlawfully enter the dwelling of KAYLYNN MYCA CHAPMAN located at [REDACTED], Easley, SC, without consent and with the intent to commit a crime therein and said crime did occur in the nighttime. This is in violation of §16-11-311 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

DOCKET NO. 2010-GS-39-0802
JBC

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 14 2010 TERM 2010

THE STATE

vs.

DEWAYNE CHRISTOPHER HAGINS

Indictment for

0120

EAVESDROPPING OR PEEPING TOM

VIOLATION § 16-17-0470

WITNESSES

Michael Hayes

Pickens County Sheriff's Office

12/12/2009

ARREST WARRANT NUMBER

M385271

RUE HALL ACTION OF GRAND JURY

Date SEP 14 2010

[Signature]
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury Date:

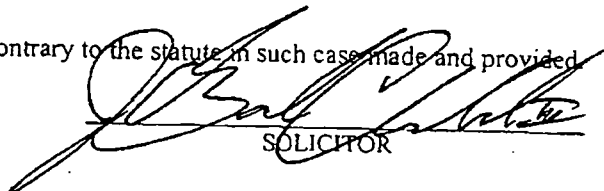
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
EAVESDROPPING OR PEEPING TOM

At a Court of General Sessions, convened on SEP 14 2010 the Grand Jurors of Pickens
County present upon their oath:

That DEWAYNE CHRISTOPHER HAGINS did in Pickens County, on or about the 28th day of November, 2009
unlawfully eavesdrop or peep on or about the premises of KAYLYNN MYCA CHAPMAN, or did go upon th
premises of KAYLYN MYCA CHAPMAN, for the purpose of becoming an eavesdropper or a Peeping Tom invadin
the privacy of others. This is in violation of §16-17-470 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR