

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Richland County

L. Casey Manning, Circuit Court Judge

---

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S.C. Supreme Court

TINA L. SUMTER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

---

APPENDIX

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1

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
COUNTY OF RICHLAND ) FIFTH JUDICIAL CIRCUIT  
2007-GS-40-3026  
2007-GS-40-3027  
2007-GS-40-3028

THE STATE OF SOUTH CAROLINA, )  
PLAINTIFF, )  
VS. )  
TINA LAVERNE SUMTER, )  
DEFENDANT. )

TRANSCRIPT OF RECORD

NOVEMBER 6, 2007  
COLUMBIA, SOUTH CAROLINA

C  
B E F O R E:

THE HONORABLE KENNETH G. GOODE, JUDGE

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

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ATTORNEY FOR THE STATE

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|-------------------------|--------------------|-------------|------------|
| NO EXHIBITS INTRODUCED. |                    |             |            |

NO EXHIBITS INTRODUCED.

## TINA SUMTER - EXAMINATION BY THE COURT

3

1 THE COURT: Ms. Payne, you represent the defendant,  
2 Tina Laverne Sumter?

3 MS. PAYNE: I do, Your Honor.

4 THE COURT: And have you explained to Ms. Sumter the  
5 charge contained in each of her indictments, the possible  
6 punishment and her constitutional rights, including the  
7 right to a jury trial?

8 MS. PAYNE: Yes, Your Honor.

9 THE COURT: Let the record reflect that all the  
10 indictments are true billed indictments. In your opinion,  
11 does Ms. Sumter understand each charge, the punishment, and  
12 her rights?

13 MS. PAYNE: She does.

14 THE COURT: And how does she indicate that she wishes  
15 to plead to each charge, guilty or not guilty?

16 MS. PAYNE: Guilty.

17 THE COURT: And do you agree with her decision to  
18 plead guilty?

19 MS. PAYNE: I do.

20 EXAMINATION BY THE COURT:

21 Q. And you are Tina Laverne Sumter?

22 A. Yes, sir.

23 Q. Ms. Sumter, before I can accept your plea of guilty, I  
24 must first determine your plea is made freely and  
25 voluntary; therefore, I need to ask you a series of

## TINA SUMTER - EXAMINATION BY THE COURT

4

1 questions. If at any time you do not understand the  
2 questions or the words that I use, please stop me and I  
3 will be happy to explain them to you. Additionally, you  
4 may consult with Ms. Payne about any matter during any time  
5 during this questioning. Do you understand?

6 A. Yes, Your Honor.

7 Q. Thank you, ma'am, and how old are you, please?

8 A. Forty-two.

9 Q. Forty-two?

10 A. Yes, sir.

11 Q. And how far did you go in school?

12 A. The twelfth grade.

13 Q. Did you graduate?

14 A. No, sir, I didn't.

15 Q. And what type work do you do?

16 A. I was a manager at McDonald's on Elmwood for ten  
17 years. When I left there, I went to Bojangle's and stayed  
18 there for a year.

19 Q. Have you ever been treated for the abuse of alcohol or  
20 drugs or mental illness?

21 A. No, Your Honor.

22 Q. Have you taken any medication, drugs, or alcohol in  
23 the last twenty-four hours?

24 A. No, Your Honor.

25 Q. Are you today aware of any physical or emotional or

## TINA SUMTER - EXAMINATION BY THE COURT

5

1 nervous problems that might keep you from understanding  
2 what you're doing?

3 A. No, Your Honor.

4 THE COURT: And, Ms. Payne, do you agree with that?

5 MS. PAYNE: Yes, Your Honor.

6 Q. Now, Ms. Sumter, you have heard Ms. Payne tell the  
7 court that she had explained each charge to you, the  
8 possible punishment and your constitutional rights and that  
9 you understand these things. Is that correct?

10 A. Yes, Your Honor.

11 Q. You're charged in three separate bills of indictment  
12 as indicated by the solicitor. Kidnapping, your indictment  
13 states in pertinent part that you did in Richland County on  
14 or about March 20 of '07 unlawfully seize, confine,  
15 inveigle, decoy, kidnap, abduct, or carry away the person  
16 of Mary Harmon by means of whatever without authority of  
17 law, and for this I could sentence you up to thirty years.  
18 Do you understand the charge and the possible punishment?

19 A. Yes, Your Honor.

20 Q. Abuse of a vulnerable person, your indictment states  
21 that you did in Richland County on or about March 27th of  
22 '07 knowingly and willfully abuse a vulnerable adult, and  
23 for this I could sentence you up to five years. You  
24 understand the charge and the possible punishment?

25 A. Yes, Your Honor.

## TINA SUMTER - EXAMINATION BY THE COURT

6

1 Q. Assault and battery with intent to kill, your  
2 indictment states in pertinent part that you did in  
3 Richland County on or about March 27th of '07 with malice  
4 aforethought commit an assault and battery upon one Mary  
5 Harmon with intent to kill the victim, and for this I could  
6 sentence you up to thirty years. Do you understand the  
7 charge and the possible punishment?

8 A. Yes, Your Honor.

9 Q. Understanding the charge and the possible punishment  
10 on each of these indictments, how do you plead, guilty or  
11 not guilty?

12 A. Guilty, Your Honor.

13 Q. Are you on probation or parole at this time?

14 A. No, Your Honor.

15 Q. Ms. Sumter, when you plead guilty, you give up certain  
16 important constitutional rights. First, you give up your  
17 right to remain silent. That is your right against  
18 self-incrimination and your right to say nothing at all.  
19 You cannot be compelled to testify or to provide evidence  
20 against yourself.

21 Second, you give up your right to have a jury trial.  
22 That is your right to have a jury decide whether or not you  
23 are guilty beyond a reasonable doubt. A jury will base  
24 their decision upon evidence which the state presents and  
25 on any evidence you might wish to introduce. In a trial

## TINA SUMTER - EXAMINATION BY THE COURT

7

1 you would be presumed to be innocent and the state would  
2 have to produce evidence that would convince all twelve  
3 members of the jury that you were guilty beyond a  
4 reasonable doubt.

5 Third, you give up your right to confront and be  
6 confronted by the witnesses against you. That is the right  
7 to see, hear, and cross-examine any witness that may be  
8 called against you during the trial and the right to  
9 subpoena and call witnesses in your own behalf. Do you  
10 understand these rights?

11 A. Yes, Your Honor.

12 Q. Do you understand that when you plead guilty, you give  
13 up these important constitutional rights?

14 A. Yes, Your Honor.

15 Q. Is that what you wish to do?

16 A. Yes, Your Honor.

17 Q. Do you understand that you will not get a jury trial  
18 if you plead guilty?

19 A. Yes, Your Honor.

20 Q. Understanding then the nature of each charge against  
21 you and the consequences of a guilty plea, I ask you again:  
22 how do you wish to plead to these charges, guilty or not  
23 guilty?

24 A. Guilty, Your Honor.

25 Q. Do you understand that when you plead guilty, you

## TINA SUMTER - EXAMINATION BY THE COURT

8

1 admit the truth of the charge that is made against you?

2 A. Yes, Your Honor.

3 Q. You may have defenses to the charges against you. I  
4 don't know whether you do or not. Do you understand that  
5 if you plead guilty, you will waive or give up any defenses  
6 to these charges?

7 A. Yes, Your Honor.

8 Q. You may have given an aggravating statement or  
9 statements in these cases. If you plead guilty, do you  
10 understand that you waive or give up the right to contest  
11 or challenge whether such statements were freely and  
12 voluntarily given in accordance with your constitutional  
13 rights?

14 A. Yes, Your Honor.

15 Q. Did you commit these offenses?

16 A. Yes, Your Honor.

17 THE COURT: No plea negotiations?

18 MR. LAKE: Correct, Your Honor.

19 THE COURT: Is that your understanding, Ms. Payne?

20 MS. PAYNE: Yes, Your Honor.

21 BY THE COURT:

22 Q. Ms. Sumter, has anyone promised you anything or held  
23 out any hope of reward to get you to plead guilty?

24 A. No, Your Honor.

25 Q. Has anyone threatened you or used force to get you to

## TINA SUMTER - EXAMINATION BY THE COURT

9

1 plead guilty?

2 A. No, Your Honor.

3 Q. Have you had enough time to make up your mind as to  
4 whether or not you want to plead guilty?

5 A. Yes, Your Honor.

6 Q. Are you pleading guilty of your own free will and  
7 accord?

8 A. Yes, Your Honor.

9 Q. Have you been satisfied and are you satisfied with the  
10 manner in which Ms. Payne has advised and represented you?

11 A. Yes, Your Honor.

12 Q. Have you talked with her as often and for as long as  
13 you feel necessary for her to properly represent you?

14 A. Yes, Your Honor.

15 Q. Do you need more time to talk with your attorney?

16 A. No, Your Honor.

17 Q. Have you understand your talks with her?

18 A. Yes, Your Honor.

19 Q. Has she done everything for you that you feel she  
20 could have or should have done?

21 A. Yes, Your Honor.

22 Q. Are you totally and completely satisfied with her  
23 services as your attorney?

24 A. Yes, Your Honor.

25 Q. Ms. Sumter, have you understood my questions?

## TINA SUMTER - EXAMINATION BY THE COURT

10

1 A. Yes, Your Honor.

2 Q. Is there anything that you would like to ask me about  
3 what we've just been over?

4 A. No, Your Honor.

5 Q. Do you understand that you have a right to appeal your  
6 guilty plea and the sentence of the court, and that you or  
7 your attorney must do this within ten days?

8 A. Yes, Your Honor.

9 THE COURT: Thank you, ma'am, Mr. Solicitor, be happy  
10 to hear a factual basis.

11 MR. LAKE: Thank you, Your Honor. This incident  
12 occurred on March 26, 2007, at 704 Buckingham Road, which  
13 is here in Richland County and was actually the home of the  
14 victim in this case, Mary Harmon, who was eighty-two years  
15 old.

16 I've had the opportunity to meet with her. She advised  
17 me that she has known this particular defendant since she  
18 was a little girl. During this time period, she allowed  
19 the defendant to stay with her, but she indicated that  
20 defendant didn't have anywhere else to live. No one else  
21 would kind of assist her, but she allowed her to basically  
22 stay there not paying any expenses or anything like that.

23 But she tells me is that on March the 26th of 2007,  
24 the victim -- or the defendant actually had approached her  
25 about money or getting money, and she indicated that

1 happened on a number of occasions in terms of her trying to  
2 get money from the victim. The victim indicated no, she  
3 wasn't going to give her any money. She also indicated  
4 that she had talked to the defendant about coming in late  
5 at night and leaving the door open. She indicated that she  
6 made that statement to Ms. Sumter. She turned to walk  
7 away, and at this time she's using a walker to kind of move  
8 around and everything because she indicated she's  
9 eighty-two years old.

10 When she indicated that, Ms. Sumter attacked her from  
11 behind. She struck her several times with a closed fist,  
12 knocking her to the floor. Your Honor, at that time  
13 defendant took a cord from a lamp and another cord. She  
14 tied those two cords together and tied them around the  
15 victim's neck and actually dragged the victim by the neck  
16 with the cord and dragged her into the room. I have  
17 provided defense with a copy of the photographs, but I'll  
18 provide you a copy of the cord which she used to actually  
19 drag the victim into the bedroom. She continued to ---

20 THE COURT: Had it around her neck and drug her?

21 MR. LAKE: Yes, sir. She continued to drag her into  
22 the bedroom, continued to assault her. The victim  
23 described during this time frame while she's in there, she  
24 was begging the, you know, the defendant to essentially  
25 left her go or to not kill her or something to that effect.

1 She indicated the entire time Ms. Sumter said nothing to  
2 her.

3 While she was on the floor, she indicated that Ms.  
4 Sumter placed some type of detergent in her eyes. She  
5 wasn't exactly sure what it was. She thought it might have  
6 been Tide or something like that was placed in her eyes.  
7 Also the defendant took some hot water, poured the hot  
8 water on the, on the victim's head while she was on the  
9 floor. Defendant got hot water and poured it on her entire  
10 body, essentially leaving her there.

11 At that particular point, the defendant stuck around.  
12 She stayed around for a little while, but she actually left  
13 after she, after she completed the assault. But after she  
14 left, Your Honor, she took a chair essentially and placed  
15 it behind the door so that the victim could not get out of  
16 the house and not contact anyone for help or anything like  
17 that. She also took the keys and locked the house up. And  
18 also she wasn't charged with, Your Honor, and even in her  
19 statement she did steal some money from the victim as she  
20 was leaving. I think approximately about \$15.

21 The one thing about this victim, Your Honor, is that  
22 she was a very personable lady and ---

23 THE COURT: We're talking about the victim?

24 MR. LAKE: The victim in this case, Ms. Harmon. Very  
25 friendly. She would typically sit on her porch in the

1 afternoons. And it's because of her friendliness that very  
2 next day -- this, Your Honor, happened on the 26th about 6,  
3 6:30. The victim was actually left on the floor. She  
4 never -- she was not able to get up and hasn't been able to  
5 walk since that time, Your Honor. She was essentially left  
6 on the floor all night wet. Her hair was wet; she was  
7 soaking wet. She was bleeding.

8       Until that very next day, that next afternoon when the  
9 man who she knew as, as Mr. Mack, he knew that something  
10 was wrong when he got to that house because typically she'd  
11 be out on the porch. He went around the back to see her.  
12 He didn't see her. He went up to the door where she would  
13 normally, she may be there from time to time. The door was  
14 locked. He saw, he saw her chair. He didn't see her in  
15 the chair, so he suspected there was something wrong.

16       He knew that Ms. Sumter stayed there. He indicated  
17 that he walked around to her window trying to knock on the  
18 -- her window. Never got any response when she had  
19 actually fled the scene. I mean, had gotten to the  
20 neighbors to take her to another location.

21       Your Honor, at some point while he's trying to figure  
22 out exactly what's going on, he could actually hear the  
23 victim screaming his name for help, for some assistance.  
24 He was able to call 911.

25       THE COURT: Well, let me ask you. I want to keep

1 things in, in line as best I can. The hot water, did it --  
2 was it hot to the extent that it burned her?

3 MR. LAKE: Your Honor, she ---

4 THE COURT: I mean ---

5 MR. LAKE: I don't think it was, I don't think it was  
6 actually burns, but I'll show the you pictures as to what  
7 she looked like right after that, but she indicated to law  
8 enforcement and to police when I spoke with her that it was  
9 hot water. Now, whether it was scalding hot, I'm not  
10 exactly sure. She just indicated that it was hot water  
11 that was poured on her head, then it was hot water that was  
12 poured down her body so that when she was found that next  
13 day, her body was wet and her hair was actually still wet,  
14 and you can see in the photos that her hair was still wet  
15 from her pouring the hot water on her.

16 Your Honor, as indicated law enforcement were  
17 contacted. EMS came to the scene. They noticed when they  
18 got into the, got into the home that there was a -- they  
19 had to essentially force entry into the house. They  
20 observed the chair that was forced up to the door to  
21 prevent her from leaving out of that room where she was  
22 essentially stuck. They were able to get her out and  
23 actually take her to the hospital where she did receive  
24 treatment. And I'll provide you with copies of photographs  
25 as to the nature of her injuries. I'll give you the

1 opportunity to look through them first.

2 THE COURT: Thank you. Do you know if her vision has  
3 been partially damaged?

4 MR. LAKE: Your Honor, when I met with her, the only  
5 permanent damage that she's indicated to me is that since  
6 this time, she's no longer able to walk.

7 (A PAUSE.)

8 THE COURT: It does appear that the water on her head  
9 scalded it. How long was she hospitalized?

10 MR. LAKE: Your Honor, she was hospitalized for a long  
11 period of time. One thing I failed to tell this court I  
12 guess as I went through the facts, that the only -- one of  
13 the good things that came out of this particular incident  
14 is that when she did go to the hospital and she was in  
15 there for a while, they discovered that she had a tumor.  
16 It turned out to be benign, but they were able to remove  
17 the tumor. And since that time, I mean, she is now in a  
18 residential living facility. I mean, she's no longer  
19 capable of living on her own. So, I would say that she's  
20 been hospitalized since that time.

21 Your Honor, just to continue with the facts, I think  
22 one thing I did fail to mention is that I think I did tell  
23 you that she did remove some items from there. You can see  
24 where she had actually went through Ms. Harmon's personal  
25 stuff, paperwork and different things I guess when she

1 rummaged attempting to find money, although she was only  
2 able to find roughly about \$15.

3 Ms. Harmon was able to identify, once she was actually  
4 taken to the hospital, she was able to identify Tina as the  
5 person that did this. She did tell law enforcement who did  
6 this and how it kind of transpired. Law enforcement did  
7 put out a BOLO on Ms. Sumter and did find her, eventually  
8 arrest her. When she was arrested, she did provide a  
9 written confession, admitted to doing all these things  
10 which she did to Ms. Harmon.

11 Your Honor, that's essentially the facts. At the  
12 appropriate time I had an opportunity to meet with Ms.  
13 Harmon. She did want me to relay some things to you from  
14 her. Her cousin, Ms. Coggins, is here; I think she would  
15 like to briefly address the court. Investigator Dowd is  
16 also here and would like to address the court.

17 I will say that Ms. Harmon, this is her really, truly  
18 her only family in terms of Ms. Coggins. She was an only  
19 child, her husband's deceased, so at that time she was  
20 essentially living by herself by her aside from Ms. Sumter.

21 THE COURT: All right, I'll find that there is a  
22 substantial factual basis for the plea. I find the  
23 defendant's decision to plead guilty to each charge is  
24 freely, voluntarily, knowingly and intelligently made, and  
25 that she's had the advice of counsel of a very competent

1 attorney with whom she indicates that she is totally  
2 satisfied. Each plea of guilty is accepted. Ms. Payne,  
3 I'll be happy to hear from you.

4 MS. PAYNE: Thank you, Your Honor. May it please the  
5 court? Standing with Ms. Sumter today is her father,  
6 Roosevelt Sumter, and her mother, Anne Sumter. Also in the  
7 gallery is her sister, Teresa Sumter -- they're right there  
8 in the front -- and her brother, Roosevelt Sumter, Jr. She  
9 also has two sons, Your Honor; they are nineteen and  
10 thirteen. The nineteen year old attends Benedict College  
11 where he is on the honor roll get a teaching degree, and  
12 her other son is thirteen years old, also on the honor roll  
13 doing very well.

14 Your Honor, my client's forty-two years. She has been  
15 a member of the Columbia community and the solicitor,  
16 assistant solicitor has not gone through her prior record,  
17 but it consists mainly of fraudulent checks, Your Honor.  
18 There is absolutely no history of violence in her prior  
19 history. In speaking with her family and getting to know  
20 her, there's no violence in her history at all, Your Honor.

21 On March 26, 2007, Your Honor, there are absolutely no  
22 words that can justify Ms. Sumter's actions on that day to  
23 Ms. Harmon. Ms. Harmon was good to Ms. Sumter, and she  
24 will be the first one to admit that, Your Honor. They did  
25 have a relationship; she was living with her. And, Your

1 Honor, there, there's just absolutely no way to reconcile  
2 Ms. Sumter's past with what happened on this day.

3 Your Honor, she was working at Fort Jackson. For the  
4 past year she was working as a DSA, which was basically  
5 feeding soldiers there. Prior to that she had been a  
6 McDonald's manager for ten years, Your Honor, and it was at  
7 this time on March 26, 2007, that she fell into her  
8 addiction of crack cocaine, and this is where this -- this  
9 is where this stems from. There is absolutely no  
10 justification for it, Your Honor.

11 Ms. Sumter and I met on that, on the 29th or shortly  
12 thereafter. She accepted responsibility on that day and  
13 accepts, accepted responsibly the entire time I've  
14 represented her. It is a pleasure to be standing with her,  
15 Your Honor. Throughout my representation of her, I have  
16 not seen any sign of this.

17 Your Honor, we are very sorry to Ms. Harmon. Ms.  
18 Sumter would also like to address the court, as would her  
19 family. She will tell the court that she is so sorry and  
20 remorseful for what happened to Ms. Harman. Your Honor,  
21 this is a very serious offense, and Ms. Sumter stands here  
22 today begging the court's mercy and asking if the court  
23 would hear her and sentence her accordingly.

24 THE COURT: Well, I want to hear from her cousin and  
25 from the investigator first.

1 MS. COGGINS: My name is Anne Coggins and I'm Mary  
2 Harmon's first cousin. This has been a serious thing in  
3 Ms. Harmon's life, something that she will never, never  
4 overcome. She lives in constant fear that Tina or someone  
5 else will come and harm her. She will never be able to  
6 return, in my opinion, to her home of sixty-something years  
7 which she loved and was determined to stay in until the end  
8 of her time.

9 THE COURT: Sixty-something years.

10 MS. COGGINS: Sixty-something years she lived there.  
11 She took care of her retarded child that lived to be  
12 forty-something years old in her home, and this home has  
13 meant the world to her. She cannot walk on her own; she'd  
14 confined to a wheelchair, and that would be the main reason  
15 I feel like she will not be able to return home because she  
16 will not be able to care for herself any way.

17 Something that I would like for you to consider, Your  
18 Honor, is the fact that this lady had twenty hours to think  
19 about what she had done to this lady that had befriended  
20 her. At any time in that twenty hours, she could have come  
21 back and helped her, or she could have called 911 and had  
22 someone come there and help her and not just leave her  
23 there to die on her own had it not been for a very  
24 observant postman. That's all I can say. It's just  
25 affected our whole life.

1 THE COURT: I can only imagine. Thank you so much for  
2 coming. Yes, sir.

3 INVESTIGATOR DOWD: Thank you, Your Honor, for  
4 allowing me a word to speak. When I saw the victim at the  
5 hospital, she made it known that she was definitely afraid  
6 of Ms. Sumter. I had to reassure her. She did tell me who  
7 did it. It took a while for me to convince her that she  
8 was safe and that no one would harm her.

9 I had the hospital, if someone called to try to find  
10 out if Ms. Harmon was in the hospital, didn't give out no  
11 information at all. Not even her relatives could call and  
12 get information that Ms. Harmon was in the hospital, and I  
13 had that done to make sure that Ms. Harmon wouldn't be  
14 harmed at all. And every time I saw Ms. Harmon, she let me  
15 know that she was definitely afraid of Ms. Sumter. Thank  
16 you, Your Honor.

17 THE COURT: Thank you and just, Mr. Solicitor,  
18 curious. I noticed you mentioned blows to her back but  
19 there are no photographs of bruising. Is that because she  
20 just couldn't ---

21 MR. LAKE: Well, Your Honor ---

22 THE COURT: --- get in the bed?

23 MR. LAKE: Well, Your Honor, she was actually struck  
24 from the back and fell to the floor. At that point is when  
25 she gets the cords, ties it around her neck tight and drags

1 her in there hitting her. I think the majority of the --  
2 if you could look at the photographs, you see her arms are  
3 bruised and see a lot of the bruising comes from her face.  
4 I think that she was hit with a closed fist to the face,  
5 and that's where a lot of the blows were confined to.

6 One thing, Your Honor, I did fail to mention is that I  
7 did talk to Ms. Harmon. She indicated that I think she  
8 even told her that she would even write her a check if she  
9 would just untie the cord around her neck, and she would  
10 never untie the cord. She just kept it around her neck and  
11 she essentially, by the grace of God, was able to survive.

12 THE COURT: So, when she left, the cord was still tied  
13 around her neck?

14 MR. LAKE: Yes, sir. Yes, sir. Your Honor, just in  
15 conclusion as far as the state's case and just on behalf of  
16 Ms. Harmon, we had an opportunity to meet with her last  
17 week. When we went out there, I wasn't exactly sure what  
18 to expect. I really didn't know, but what I found was a  
19 person who was very sharp, someone who really knew what  
20 happened to her, and someone who I think she -- the best  
21 phrase. She said bad things happen to good people. That  
22 was the, that was the phrase she kept saying. She said you  
23 know, Tina is more the loser than she is. She's turned out  
24 a winner because of the fact that she has been now been  
25 able to kind of go out into the facility where she's at now

1 and she, quote unquote, is a witness to people that's in  
2 that community. She still longs to be at home.

3 Even though she was very jovial, very happy, she did  
4 tell me that there were times when she would basically cry.  
5 She would cry herself to sleep because she realizes what  
6 brought her to that particular part where she's in that  
7 facility. She wanted the court to know, when I asked her  
8 is there anything else she wanted to let the court know, I  
9 think she indicated that the record and those photos I  
10 think will speak for themselves.

11 Your Honor, one other thing she indicated, and that  
12 was the worst experience that she's ever had in her life.  
13 I think, and I've told Ms. Payne one thing that really  
14 touched my heart is that she said that she thought that  
15 this defendant loved her and that she never knew that she  
16 had that much animosity to her until she did those things  
17 to her and never said a word. All that time she's allowed  
18 her to stay there and provided her clothes, given her money  
19 from time to time. Nothing substantial but money from time  
20 to time. She thought she loved her and that was the first  
21 realization to her that this defendant had a lot of hate  
22 for her, that she left her there to essentially die. It  
23 was her belief and it's our belief that had the mailman not  
24 had a relationship with her -- because this is the type of  
25 person that you meet her, she's infectious. She has an

1 infectious personality. Everyone there at that facility  
2 knew her. They speak to her and she speaks to everyone.  
3 She waves a kiss to them, calls everybody sweetie, and  
4 that's the personality that she has now, Your Honor. Even  
5 though she's in a very difficult situation, she is upbeat;  
6 she's trying to be as positive as she can be.

7 Your Honor, this plea is a straight-up plea, but I  
8 think the facts speak for themselves. I think, I mean, the  
9 maximum sentence is appropriate or somewhere near the  
10 maximum sentence is appropriate. As Ms. Harmon said to me,  
11 there was nothing that she ever did to Ms. Sumter to  
12 deserve this; she's always been good to her ever since she  
13 was a little girl up until this happened. So, we're just  
14 asking, Your Honor, that you meet out justice in this case.  
15 Give her a very significant sentence. We told her that we  
16 would come out there in person and let her know what the  
17 sentence was, and so we hope that you will fashion a  
18 sentence that will make her happy, Your Honor.

19 THE COURT: Thank you. Anything additionally you  
20 would like to say, Ms. Payne, but I think you had indicated  
21 that Ms. Sumter wished to address the court.

22 MS. PAYNE: I believe her family members wishes to  
23 speak also, and then Ms. Sumter if that would be okay with  
24 the court.

25 MR. SUMTER: My name is Roosevelt Sumter and I'd like

1 for you to please, Judge -- Ms. Harmon, I'm sorry for what  
2 my daughter had did, very, very from the bottom of my heart  
3 I'm sorry. I'm sorry because I know if someone actually  
4 talked to her, get her into treatment, and just, Your  
5 Honor, my daughter need help. She struggling with crack  
6 cocaine and me and my wife, we tried to get help. We tried  
7 to get her in these classes and stuff. Wherever we go,  
8 they say she's not, you know, not -- they wouldn't accept  
9 her in these classes. Well, she need to go to a -- in  
10 these homes and get help. She need help really strong, and  
11 I'm begging for her, mercy for her. She need help. She  
12 wouldn't of --

13 When I talked to her down to Richland County, she said  
14 she didn't know what, she didn't know what happened. She  
15 didn't know. She said Daddy, I didn't know what happened.  
16 But she's been on these drugs bad and we tried all of us,  
17 me and my wife, we go into places trying to get help and  
18 turned down. And I just tell them, tried to tell them,  
19 said my daughter needs help.

20 But during the time she's been coming up, I never had  
21 no problem. During school if I talked to her she never  
22 said -- she always listened to me. She always, and I know  
23 she did wrong, Your Honor, I do know that, but I'm asking  
24 the court please, Judge, because it just -- didn't even  
25 know what she was doing because she didn't know what she

1 was doing and she just needs help. If she didn't need  
2 help, she wouldn't -- we wouldn't be standing here today.  
3 If I was her only person here for her, we wouldn't be  
4 standing in front of you today.

5 This was her stepmother. Her mother died when she was  
6 little and she -- we raise her. We -- she helped me with  
7 her so much. She and I never had no problems. She'd cook.  
8 When I'm going to work, I sent her to school and I never  
9 had no problem with her. I know she did wrong, but we got  
10 to look at -- a lot of time we got to look at good things  
11 what people do and then we, then they turn around and look  
12 at bad things, and I know she did wrong.

13 But I just ask, you know, that she would be placed in  
14 a class or in a drug home or something to get help and  
15 she'll, she'll be fine, and I know and let her get a job  
16 and pay Ms. Harmon for her doctor bills and stuff. That's  
17 what I'm asking for. If she could only do that, and I'm  
18 pleading for her now because that's all she need to do is  
19 pay her doctor bills and then let her go to work. Thank  
20 you.

21 MS. A. SUMTER: My name is Amy Sumter; I'm Tina  
22 Sumter's stepmother. I met Tina about twenty years ago and  
23 this, what had happened it, like he said, there's no word  
24 for it and it's not her character because Tina has been a  
25 loving, normal child.

1 Tina came to me, I knew when she was -- Tina was the  
2 kind of person that shy away from the family. Like the  
3 rest of her sisters and brothers always had contact with me  
4 but when Tina came to me, Tina was like, she was on drugs  
5 real bad and I always tried. I went with her father trying  
6 to get help for her. I even took her to the mental health  
7 place. They told me that she had to be suicidal in order  
8 for them to take her. They couldn't take her, so we tried  
9 to get her into LRADAC. She went there for a while. And  
10 she would come to me. We even went and got her from where  
11 she was staying and bring her to my house.

12 Tina was a -- she didn't have a mother figure coming  
13 up because I learned that her mother got stabbed to death  
14 when they were little children, and they witnessed it. I  
15 don't know whether her drug problems stemmed from something  
16 like this or not. But Tina was the one that seem like she  
17 was just quiet. She's just back off and stay away but she  
18 always would be smiling and stuff.

19 And I said she would always come to me. She would  
20 stay with us, but she would leave and she would come in.  
21 She would come tapping on the door on Monday morning  
22 because I was off because I had got laid off my job and I  
23 would say Tina. I'd say -- she was crying to me and she  
24 was saying I need help. I want help. I said are you sure  
25 you want help? She'd say yes, I want help. I'm tired.

1 And she would literally be crying. I'd take her in my arm.  
2 I hugged her. I cooked for her. I said Tina, go take a  
3 bath. Go get -- I'm going to cook you something to eat,  
4 and I would cook her something to eat. And, you know, I  
5 would just shelter her like she was a child of mine.

6 And I taken them as the children of mine because to  
7 me, they didn't have that mother figure when they were  
8 growing up. They were raised by their father, and I know  
9 he did what he could for them, but I know this is not Tina,  
10 and I still have problems today believing that it was Tina,  
11 that she did it alone. That's my problem, and I knew, I  
12 knew it's bad and I'd like to say Ms. Betty was a nice  
13 lady. I met Ms. Betty and this what happened is kind of  
14 hard for me to believe but like I said, Tina needed the  
15 help. I, I'm sorry it went this far before she could get  
16 some kind of help because sometime it be too late, and what  
17 I'm asking the court today, when you know somebody that's  
18 on drugs or something, some of these places, they turn them  
19 away.

20 If somebody would tell me where a person can go to get  
21 help, I would appreciate it and I could understand Tina's  
22 problem because I have a son that's struggled with alcohol  
23 for a long time. This year he almost commit suicide the  
24 first of the year and from this time on my daughter -- my  
25 sister said I'm glad you didn't give up on his son. Now

1 he's strength. He's back. He's not on alcohol. He hadn't  
2 done it since the first of the year.

3 And that what I was trying to do with Tina. I was  
4 trying to get Tina off of drugs, somebody to find some help  
5 with her. But to be honest with you, I have went and God  
6 in heaven knows I have tried. I tried everywhere we went.  
7 If you don't have the money, there's no help that I knew  
8 of, and I did it. I mean, we did it. How far -- but she  
9 was too far gone. Tina would go and stay and come and  
10 every time she come to that door, I never turned her  
11 around. I always hugged her; Tina, it's going to be all  
12 right. I tried to tell you, you know, repent in sin, turn  
13 back. God would help you. And she comes from all of us.  
14 Her father is a trustee at the church. I'm a bible study  
15 teacher at our church. Her brother is a deacon. Her  
16 sister sang on the choir. But some kind of way, she is  
17 like that lost sheep: she went astray. So, we didn't, we  
18 didn't turn our back on her. We tried to help her, but it  
19 didn't do any -- I mean, she just went on out there and  
20 still out there and -- because there was no help. We  
21 didn't know of any help.

22 And I'm sorry what happened to Ms. Betty and I know  
23 Tina is sorry but looking at her today, she don't look like  
24 the Tina that I know, and I know she is remorseful. The  
25 only thing I'm asking -- it's in your hands and God's hands

1 -- that somebody somewhere get help for her. And if there  
2 is some other children out there like that, try to get help  
3 for them before they go astray.

4 THE COURT: Thank you, ma'am. Ms. Sumter, be happy to  
5 hear from you.

6 DEFENDANT: To the family, Ms. Betty family, I'm very  
7 sorry. I'd gladly change with her. And, Your Honor, look  
8 in your heart and please take mercy on me. I was so  
9 drugged, I was out of my mind. I didn't know what I was  
10 doing.

11 THE COURT: Anything additional, Ms. Payne?

12 MS. PAYNE: Your Honor, we are realistic in this case,  
13 and we understand the seriousness, and we're asking the  
14 court consider a reasonable active sentence and get her,  
15 get her treatment, ATU. Get her the help that she needs,  
16 Your Honor, and we ask for mercy.

17 THE COURT: Have you reviewed these photographs?

18 MS. PAYNE: I have, Your Honor.

19 THE COURT: Looking at these photographs reminds me of  
20 an old adage that my father used to use, and he said no  
21 good deed goes unpunished. She was good to this lady, and  
22 this is what she got for being good to her.

23 This is one of the most disturbing cases that I have  
24 had in my nearly ten years on the bench. And to have left  
25 her there and might have died, but for the grace of a

1 higher being she would have died. And today you want  
2 mercy? This lady's in a bed the rest of her life. She'll  
3 never walk again.

4 SENTENCE OF THE COURT:

5 THE COURT: Sentence of the court, and these sentences  
6 are consecutive. I always give somebody a break if they'll  
7 plead. I never max anybody if they will plead, but I can  
8 come close. Kidnapping, twenty-five years. Assault and  
9 battery with intent to kill, twenty-five years consecutive.  
10 Abuse of a vulnerable person, five years concurrent.

11 MR. LAKE: Your Honor, just, just for the record, on  
12 the ABWIK I think the most on this is twenty.

13 THE COURT: Oh, I thought it was thirty, that's right.  
14 So, twenty on the ABWIK, thirty on the kidnapping, and five  
15 on the abuse of a vulnerable adult.

16 MR. LAKE: Thank you, Your Honor.

17 (A PAUSE.)

18 THE COURT: On the kidnapping, Ms. Payne.

19 MS. PAYNE: Yes, sir.

20 THE COURT: I will not require registering as a sex  
21 offender.

22 MS. PAYNE: Thank you, Your Honor.

23 (A PAUSE.)

24 THE COURT: Ms. Payne.

25 MS. PAYNE: Sir?

1 THE COURT: I hate to interrupt your talking with Ms.  
2 Sumter, but when I was explaining to Ms. Sumter the range  
3 of possible punishments, did I correctly state it during  
4 her plea?

5 MS. PAYNE: Yes, you did.

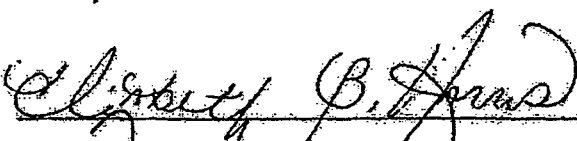
6 THE COURT: Thank you.

7 --- END OF TRANSCRIPT OF RECORD ---

## CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED  
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH  
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO  
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE  
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE  
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING  
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE  
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON  
THE 6TH DAY OF NOVEMBER, 2007.

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

  
ELIZABETH B. HARRIS, CVR

COLUMBIA, SOUTH CAROLINA

FEBRUARY 11TH, 2008

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Richland County

Kenneth G. Goode, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

TINA LEVERNE SUMTER,

APPELLANT

---

FINAL ANDERS BRIEF OF APPELLANT

---

LANELLE C. DURANT  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err in not insuring that appellant's guilty plea complied with the  
mandate of Boykin v. Alabama?

STATEMENT OF THE CASE

On June 20, 2007, the Richland County Grand Jury indicted Tina Laverne Sumter on the charges of kidnapping, assault and battery with intent to kill (ABWIK), and abuse of a vulnerable person. On November 6, 2007, Sumter appeared before the Honorable Kenneth G. Goode and entered a guilty plea to each charge as indicted. She was represented by Danielle F. Payne, Esquire. Judge Goode sentenced Sumter to thirty years on the kidnapping, twenty years on the ABWIK to run consecutively, and five years on the abuse of a vulnerable adult to run concurrently. Sumter's attorney filed a notice of appeal. This appeal follows.

ARGUMENT

The trial court erred in not insuring that appellant's guilty plea complied with the mandate of Boykin v. Alabama.

Emily Harmon, the 82 year old victim, allowed Tina Sumter to live with her as she had known Sumter since she was a child and Sumter had no where to live. ROA p. 10, lines 11 - 22. On March 26, 2007, Sumter allegedly asked Ms. Harmon for money. When Ms. Harmon refused, Sumter began hitting Ms. Harmon with her fists and then dragged her to the bedroom. Sumter poured hot water on Ms. Harmon and left her there. ROA p. 10, lines 23 - 25; p. 11, lines 1 - 25; p. 12, lines 1 - 10.

The next day, the postman who always spoke to Ms. Harmon as she was usually sitting on her porch, began looking for her when she was not on her porch. He found her in her bedroom, called EMS who responded and took her to the hospital. ROA p. 12, lines 24 - 25; p. 13, lines 1 - 25; p. 14, lines 1 - 25. As a result of the injuries, Ms. Harmon is no longer able to walk and must reside in a residential living facility. ROA p. 15, lines 4 - 20.

At the guilty plea, the judge advised Sumter of her constitutional rights in a casual manner and simply asked her if she understood. He did not advise her that kidnapping and ABWIK were most serious offenses and another most serious offense would mean life without parole. He did not advise her that these were violent offenses. ROA p. 6, lines 15 - 25; p. 7, lines 1 - 24.

Sumter's attorney told the court that she had been a manger at McDonald's for ten years but became addicted to crack cocaine. ROA p. 18, lines 3 - 10.

Due process of law requires that before a guilty plea can be entered voluntarily and intelligently, a defendant must be advised of his privilege against compulsory self-incrimination, the right to trial by jury, and the right to confront one's accusers. Boykin v. Alabama, 395 U.S.

238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). In State v. Patterson, 278 S.C. 319, 295 S.E.2d 264 (1982), the Court held that the record must clearly establish a waiver of these three constitutional rights for the waiver to be valid under the due process clause.

Further, the court in State v. Armstrong, 263 S.C. 594, 211 S.E.2d 839 (1975), required judges "give the defendant adequate warning of the consequences of the plea in every case" which "should include an explanation of the defendant's waiver of constitutional rights and a realistic picture of all sentencing possibilities." (Emphasis added).

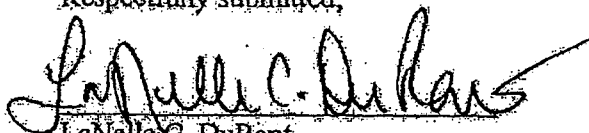
The record in this case indicates the trial court failed to adequately advise appellant of her constitutional rights so that she could waive those rights knowingly and intelligently. A valid waiver of the defendant's constitutional rights cannot be presumed from a silent record. The record must show with certainty that the plea is "an intentional relinquishment or abandonment of a known right or privilege." State v. Patterson, 278 S.C. 319, 295 S.E.2d 264, 265 (1982); citing Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969) (emphasis added).

In this case, the judge advised appellant of these rights in a cursory manner that failed to convey the importance of these rights. Thus, the plea was not voluntarily and intelligently given because the full consequences of the plea were not explained. Therefore, the conviction and sentence should be reversed and the case remanded for sentencing.

CONCLUSION

Based on the foregoing reasons, the conviction and sentence should be reversed and the case remanded for a new trial.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'LaNelle C. DuRant', with a long, sweeping horizontal stroke extending to the right.

LaNelle C. DuRant  
Appellate Defender

ATTORNEY FOR APPELLANT

This 18th day of December, 2008,

## STATE OF SOUTH CAROLINA

## IN THE COURT OF APPEALS

Appeal from Richland County  
Kenneth G. Goode, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

TINA LEVERNE SUMTER,

APPELLANT

---

 PETITION TO BE RELIEVED AS COUNSEL
 

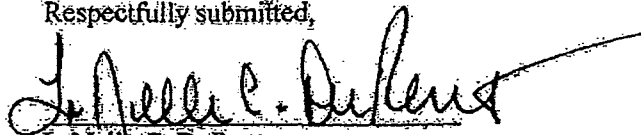
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Counsel for Tina Laverne Sumter states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Kenneth G. Goode, which was held on November 6, 2007, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Tina Laverne Sumter.

Respectfully submitted,

  
 LaNell C. DuRant  
 Appellate Defender

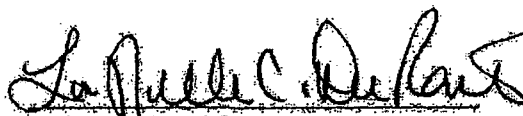
ATTORNEY FOR APPELLANT

This 18th day of December, 2008.

## CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

December 18, 2008



LaNelle E. DuRant  
Appellate Defender

S.C. Commission on Indigent Defense  
Division of Appellate Defense  
1330 Lady Street, Suite 401  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Kenneth G. Gonde, Circuit Court Judge

THE STATE,

RESPONDENT,

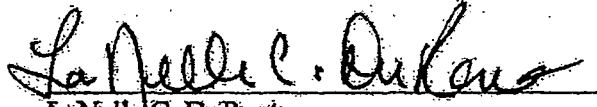
V.

TINA LEVERNE SUMTER,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 18<sup>th</sup> day of December, 2008. A copy of the brief and record on appeal have also been served on Tina Laverne Sumter, #280315 at Graham Correctional Institution, 4450 Broad River Rd., Columbia, SC 29210 this 18th day of December, 2008.



LaNelle C. DuRant  
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 18th day of December, 2008.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: March 19, 2017.



# The South Carolina Court of Appeals

Jan 22

*Indis*  
*SE*  
*per*

JEANETTE F. BARBER  
CLERK

CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 1121  
COLUMBIA, SOUTH CAROLINA 29201  
PO BOX SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
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FAX (803) 734-1834  
WWW.SCCOURTS.ORG

January 21, 2009

Tina Laverne Sumter, #280315  
Camille Graham Correctional Inst.  
4450 Broad River Road  
Columbia, SC 29210

Re: The State v. Sumter, Tina Laverne

Dear Ms. Sumter:

We have received and filed your document, dated January 13, 2009, concerning the above appeal pending in this Court.

By copy of this letter, we are informing all counsel of the filing of this information. We are also providing them with a copy for their records.

Very truly yours,

*JFB*  
CLERK

JFB/ab

cc: Appellate Defender LaNelle C. DuRant  
Assistant Deputy Attorney General Salley W. Elliott

RECEIVED

MAR 15 2009

Ex in Brief

SC Court of Appeals

1. At my guilty plea, the judge advised me of my constitutional rights in a casual manner and asked simply if I understood. He did advise me that Kidnapping and ABWIK were most serious offenses and another most serious offense would mean life without parole. He did not advise me that these were violent offenses.
2. The solicitor did not offer a lesser charge if I took a plea of guilty.
3. My attorney told me if I took a plea of guilty I would probably receive five (5) years or less. She stated that if I took this to trial I would get the maximum of fifty (50) years.
4. My attorney told me that she knew the judge and that I would get less time if I pled guilty.
5. My attorney knew that I was on drugs when my crime happened and that I needed help and was not in my right mind.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

---

The State,

Respondent,

v.

Tina Laverne Sumter,

Appellant.

---

Appeal From Richland County  
Kenneth G. Goode, Circuit Court Judge

---

Unpublished Opinion No. 2009-UP-333  
Submitted May 1, 2009 – Filed June 15, 2009

---

**APPEAL DISMISSED**

---

Appellate Defender LaNelle C. DuRant, of  
Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief  
Deputy Attorney General John W. McIntosh,  
Assistant Deputy Attorney General Salley W. Elliott,

all of Columbia; and Solicitor Warren B. Giese, of Columbia, for Respondent.

**PER CURIAM:** Tina Laverne Sumter appeals from her guilty plea to kidnapping, assault and battery with intent to kill, and abuse of a vulnerable person. She argues the plea court failed to adequately advise her of her constitutional rights. After a thorough review of the record and counsel's brief, pursuant to Anders v. California, 386 U.S. 738 (1967) and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.<sup>1</sup>

**APPEAL DISMISSED.**

**HEARN, C.J., THOMAS, and KONDUROS, JJ., concur.**

---

<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.



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JUL 02 2009

**The South Carolina Court of Appeals**  
ATTORNEY GENERALS  
OFFICE

JEANETTE F. BARBER  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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July 1, 2009

**REMITTITUR**

The Honorable Jeanette W. McBride  
1701 Main Street, Room 205  
PO Box 2766  
Columbia, SC 29202

Re: The State v. Sumter, Tina Laverne  
2007-GS-42-03026; 2007-GS-42-03027; 2007-GS-42-03028

Dear Mrs. McBride:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Sincerely,

Jeanette F. Barber  
Clerk of Court

JFB/lm

cc: Appellate Defender LaNelle C. DuRant  
Tina Laverne Sumter, #280315  
Assistant Deputy Attorney General Salley W. Elliott  
Warren Blair Giese, Esquire

2009 C-12405621 S49

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Tina L. Sumter # 280315

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

vs.

State of South Carolina

Name of Respondent.

APPLICATION FOR  
POST-CONVICTION RELIEF

2009 AUG - 7 AM 10:30  
JANETTE W. McBRIDE  
C.C.P. & G.S.

RICHLAND COUNTY  
FILED

INSTRUCTIONS — READ CAREFULLY

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

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

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

1. Place of detention Camille G. Graham Corr. Inst. - 4450 Broad River Rd. - Columbia, SC 29210
2. Name and location of Court which imposed sentence Richland County General Sessions - 1701 Main St., Columbia, SC 29201
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
  - (a) 01-GS-40-3026 - ABWIK
  - (b) 01-GS-40-3027 - Kidnapping
  - (c) 01-GS-40-3028 - Abuse of a Vulnerable Adult
4. The date upon which sentence was imposed and the terms of the sentence:
  - (a) Nov. 06, 2007 - 20 years consecutive
  - (b) Nov. 06, 2007 - 25 years consecutive
  - (c) Nov. 06, 2007 - 5 years consecutive

5. Check whether a finding of guilt was made

(a) after a plea of guilty ☒

(b) after a plea of not guilty

(c) after a plea of nolo contendere

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

yes

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

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

i. S.C. Court of Appeals

ii.

iii.

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

i. Dismissed

ii.

iii.

(c) the date of each such result:

i. June 15, 2009

ii.

iii.

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

i. Anders v. California 386 U.S. 738 (1967)

ii. State v. Williams 305 S.C. 116, 406 S.E. 2nd 357 (1991)

iii.

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

(a)

(b) N/A

(c)

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

(a) Ineffectiveness of counsel

(b)

(c)

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

(a) Attorney stated that if I did not plead guilty, I would receive the maximum sentence. This attorney has since been disbarred.

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? yes
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

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

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

- i. S.C. Court of Appeals
- ii. P.O. Box 11629
- iii. Columbia, SC 29211
- iv. \_\_\_\_\_

(c) the disposition thereof:

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

(d) the date of each such disposition:

- i. June 15, 2009
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. Anders v. California
- ii. State v. Williams
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

N/A

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

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. N/A
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. N/A
- iii. \_\_\_\_\_

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) Judge Kenneth Goode - Sentence of Court page 30 - Line 5
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

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

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

- i. Danielle F. Payne -  
1701 Main St., Columbia, SC 29201
- ii. LaNelle C. Durant  
P.O. Box 11589, Columbia, SC 29211
- iii. \_\_\_\_\_

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

- i. arraignment, plea, and sentencing
- ii. appeal
- iii. \_\_\_\_\_

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

Sentence Reduction

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

NO

STATE OF SOUTH CAROLINA

County of Richland

VERIFICATION

I, Tina L. Sumter, 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.

Tina L. Sumter

SWORN to and subscribed before me this 3rd

day of August, 192009

Kathy R. Barner (L.S.)  
Notary Public

My Commission Expires: 8-12-15

FILED  
RICHLAND COUNTY  
2009 AUG - 7 AM 10:37  
JEANETTE W. McBRIDE  
C.C.P. & G.S.

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

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

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

Tina L. Sumter  
Applicant

SWORN or affirmed to and subscribed before me this

3rd day of August, 192009

Kathy R. Barner  
Notary Public

My Commission Expires 8/12/15

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

SUMTER Tina L, # 280315,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2009-CP-400-5621

RETURN

FILED  
2010 APR -1 PM 4:28  
JEANETTE W. MCBRIDE  
C.C.P. & G.S.

The Respondent, making its Return to the application for post conviction relief (PCR) filed 8/7/2009, would respectfully show this Court:

## I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was (according to the application) represented by Danielle F Payne, Esquire. On 11/6/2007, the Applicant pled guilty before The Honorable Kenneth G. Goode. The Applicant had been indicted and/or pled guilty to the following: ABWIK, Kidnapping and Abuse of a Vulnerable Person - (2007-GS-40-3026;27;28). According to the South Carolina Department of Corrections, the Applicant is serving a 50 year sentence for Kidnapping.

## II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to

amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

### III.

The Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second,

counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve the issue(s). See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

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

V.

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

Respectfully submitted,

HENRY DARGAN McMASTER  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

BRIAN T. PETRANO  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

March 19, 2010

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS

2009-CP-400-5621

Tina L. Sumter, 280315

Applicant,

vs

State of South Carolina,

Respondent.

) 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(s) by depositing same in the United States mail, postage prepaid:

Tommy Arthur Thomas, Esquire  
P.O. Box 88  
7588 Woodrow Street  
Irmo, SC 29063

DATED this 31<sup>st</sup> day of March, 2010.

  
Jean R. Indriago, Legal Assistant  
For Respondent

JEANETTE N. McBRIDE  
C.C.P. & G.S.

2010 APR -1 PM 4:28

FILED

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF RICHLAND ) 2009-CP-40-05621

Tina L. Sumter, )  
Plaintiff/Applicant, )  
vs. ) TRANSCRIPT OF RECORD  
The State of South Carolina, )  
Defendant. )

---

October 19, 2010  
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE.

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

TOMMY A. THOMAS, ESQUIRE  
Attorney for Plaintiff/Applicant

BRIAN T. PETRANO, ASSISTANT ATTORNEY GENERAL  
Attorney for the State

Crystal Holmes  
Official Court Reporter

E X H I B I T S

| <u>NO.</u> | <u>DESCRIPTION</u>         | <u>I.D.</u> | <u>EVD.</u> |
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| 1          |                            |             |             |
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TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

I N D E X

| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---------|--------|-------|----------|---------|
|---------|--------|-------|----------|---------|

Tina Sumter

By Mr. Thomas 5

By Mr. Petrano 13

Danielle Payne

By Mr. Thomas 14 25

By Mr. Petrano 24 25

Certificate of Reporter 30

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

1 Tuesday, October 19, 2010:

2 THE COURT: This is Ms. Tina Sumter?

3 MR. PETRANO: That's correct, Your Honor,  
4 2009-CP-40-05621, Ms. Tina Sumter. This is a PCR case  
5 filed August the 7th, 2009. It's a Richland County  
6 case. She pled in front of Judge Goode on November  
7 the 6th, 2007. She was represented by Ms. Danielle  
8 Payne, I believe of the PD's Office at the time.

9 Ms. Sumter had been indicted on three counts  
10 of the Richland County Grand Jury in June of '07.  
11 That's 2007-GS-40-03026 with assault and battery with  
12 intent to kill, 3027 kidnapping, and 3028 abuse of a  
13 vulnerable adult. She received 20 years for the  
14 ABWIK, 25 for the kidnapping and five for the abuse of  
15 a vulnerable adult. Judge Goode ran these sentences  
16 consecutively.

17 There was a direct appeal, that was an Anders  
18 Brief, that was dismissed by the Court of Appeals  
19 Opinion Number 2009UP333 with remittitur July 1st,  
20 2009, making his application timely.

21 On that, I will turn it over to Mr. Tommy  
22 Thomas, the Applicant's counsel of record.

23 THE COURT: Hello, Mr. Thomas.

24 MR. THOMAS: Your Honor, may it please the  
25 Court. We're ready to proceed and call Ms. Sumter to

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

TINA SUMTER -- DIRECT BY MR. THOMAS:

5

1 stand.

2 THE COURT: All right. Come around,  
3 Ms. Sumter.

4 (TINA L. SUMTER, having first been duly  
5 sworn, testified as follows:)

6 THE COURT: All right. Please take a seat.  
7 Tell us your full name and spell your last name for  
8 the record.

9 THE DEFENDANT: My name is Tina Sumter and my  
10 last name is S-u-m-t-e-r.

11 MR. THOMAS: May it please the Court.

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION

14 BY MR. THOMAS:

15 Q Ms. Sumter, you're currently incarcerated at the  
16 South Carolina Department of Corrections?

17 A Yes, I am, sir.

18 Q Okay. And you're serving time for what?

19 A I'm serving time for assault and battery with  
20 intent to kill, kidnap of a vulnerable adult.

21 Q All right. And how much time do you have, what's  
22 your sentence?

23 A I did the time for the vulnerable adult so my  
24 sentenced dropped to 38.

25 Q 38 years?

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

TINA SUMTER -- DIRECT BY MR. THOMAS:

6

1 A Yes, sir.

2 Q Okay. And are you 85 percent?

3 A Yes, sir.

4 Q Do you know when you'll max out?

5 A I think it's 52 -- 52.

6 Q 2052?

7 A Yes.

8 Q Okay. And how old are you now?

9 A I'm 45.

10 Q All right. You received basically a life  
11 sentence you think?

12 A Yes, sir.

13 Q Do you know how old you will be when you get out?

14 A I will be like 60.

15 Q Okay. And how old are you now?

16 A 45. I'll be like about 90.

17 Q Okay. All right. Now, Ms. Sumter, you have been  
18 taking classes and programs at the Department of  
19 Corrections?

20 A Yes, sir.

21 Q And I think you're very -- very proud of the ---

22 A Yes, sir.

23 Q And you gave me copies of certificates, is that  
24 correct?

25 A Yes, sir.

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

TINA SUMTER -- DIRECT BY MR. THOMAS:

7

1 Q And you wanted me to provide those for the Court?

2 A Yes, sir.

3 MR. THOMAS: All right. May I approach, Your  
4 Honor?

5 THE COURT: Sure.

6 Q Is this a copy of those certificates that you  
7 received?

8 A Yes, sir.

9 Q All right.

10 MR. THOMAS: Your Honor, we'd like to admit  
11 these as Applicant's 1.

12 MR. PETRANO: No objection.

13 THE COURT: All right, without objection.

14 (Whereupon, Applicant's Exhibit Number 1,  
15 Copies of Certificates, was admitted into  
16 evidence.)

17 Q Ms. Sumter, now, you were arrested when?

18 A March the 27th, 2007.

19 Q And you were charged with the three crimes that  
20 you discussed earlier?

21 A Yes, sir.

22 Q And did you retain counsel or did you -- did you  
23 hire an attorney or was one appointed for you?

24 A One was appointed to me.

25 Q All right. Who was appointed for you?

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

1 A Danielle Payne.

2 Q All right. And did -- were -- did you make bond  
3 or were you ---

4 A No, they denied my bond.

5 Q All right. So you remained in the county jail  
6 until you came up for the plea?

7 A Yes. I stayed in jail for seven months.

8 Q Seven months.

9 A Without bond.

10 Q All right. And did you meet with your attorney?

11 A Yes, she came to see me.

12 Q How many times did you meet with her?

13 A She came to see me like four or five times.

14 Q All right. About when she would come and see  
15 you, what would y'all talk about?

16 A We would talk about -- about my crime and stuff,  
17 how serious it was.

18 Q And did she show you the discovery in your case,  
19 do you know what I mean by discovery?

20 A (Negative response.)

21 Q Did she show you the information that the police  
22 department had or any kind of evidence they had  
23 against you?

24 A They just showed me -- she showed me like about  
25 the court, you know ---

TINA SUMTER -- DIRECT BY MR. THOMAS:

9

1 Q Okay.

2 A --- cord around Ms. Betty's neck.

3 Q All right. And what grade did you go in school?

4 A The 12th.

5 Q Did you graduate from high school?

6 A No, sir.

7 Q Okay. You've been going to school since you've  
8 been in the Department of Corrections?

9 A No, sir.

10 Q You have not. Did you talk about trying your  
11 case or did you talk about pleading your case  
12 with your attorney?

13 A I don't understand what you're saying.

14 Q Okay. What did y'all talk about as far as what  
15 you were going to do? Did y'all talk about how  
16 you were going to handle your case?

17 A Yes, I asked her, you know, how much time I was  
18 gonna get.

19 Q And what ---

20 A She told me, said, Ms. Sumter, you can't get no  
21 probation or no parole ---

22 Q Okay. .

23 A --- for the charges.

24 Q All right. And did you have -- did she give you  
25 an idea of how much time you were looking at?

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

TINA SUMTER -- DIRECT BY MR. THOMAS:

10

1 A She say, these are some serious charges.

2 Q Right.

3 A She told me if I don't plead guilty that I would  
4 get the max. So I did this, so.

5 Q Right.

6 A And she told me say, that if I didn't plead  
7 guilty, that I was going to get the max or I will  
8 get -- the Judge she was taking me in front of  
9 that I'll get lesser than that, I'll get five  
10 years or lesser than that. But it didn't go that  
11 way.

12 Q Okay.

13 A They didn't offer me no plead or nothing.

14 Q You pled straight up, is that correct?

15 A Yes, sir.

16 Q And do you know what the straight up means, do  
17 you understand that? Do you know what straight  
18 up means?

19 A No, sir, I don't understand.

20 Q Well, I want you to answer my questions  
21 truthfully?

22 A Uh-huh.

23 Q You knew that there was no recommendation to the  
24 Court, for the Judge to sentence you to whatever  
25 he wanted to?

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

TINA SUMTER -- DIRECT BY MR. THOMAS:

11

1 A No, sir, I didn't know that because I never been  
2 in bad trouble like this here before, you know.

3 Q All right. Did -- did you know or understand  
4 that you could have gotten 50 years?

5 A No, sir.

6 Q Okay. What did you think you were going to get?

7 A I thought I was going to get like five years or  
8 less, you know, or a less sentence ---

9 Q Yes, ma'am.

10 A --- than 50, you know.

11 Q Now, prior to this you had had a drug problem, is  
12 that correct?

13 A Yes, sir.

14 Q That drug was cocaine?

15 A Yes, sir.

16 Q Crack cocaine?

17 A Yes, sir.

18 Q And I think that was brought to the Judge's  
19 attention that you had a drug habit, a drug  
20 problem?

21 A Yes, sir.

22 Q And I think you also testified or stated to the  
23 Court that you didn't remember what happened, you  
24 didn't remember this crime?

25 A No, sir, that I wasn't in my right state of mind.

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

TINA SUMTER -- DIRECT BY MR. THOMAS:

12

1 Q All right. Now, Tina, you're here asking for a  
2 new trial?

3 A Yes, sir.

4 Q And why are you asking for a new trial?

5 A Because that -- that's a life sentence and in so  
6 that I didn't kill no one. And I have gave my  
7 life to God and God have changed me. And I'm  
8 asking for another chance because I have two  
9 sons. I have a son that's 15 and I have a son  
10 that's 24.

11 Q Right.

12 A And I'm just asking for another chance.

13 Q And you understood that the relief that you can  
14 ask for today is just new trial, is that correct?

15 A Yes, sir.

16 Q All right. And you're telling me that, that --  
17 all right, let me ask it this way. You didn't  
18 understand what you were doing when you went in  
19 to plea in front of the Judge?

20 A No, sir, you know, I did the crime but, you know,  
21 I didn't understand, you know, that I will get  
22 all this time, you know.

23 Q Right. Now the Judge asked you certain questions  
24 about whether or not you had talked with your  
25 attorney about this, whether or not you had --

TINA SUMTER -- DIRECT BY MR. THOMAS:

13

1       were doing this freely and voluntarily. Do you  
2       remember all those questions?

3   A    No.

4   Q    Okay.

5   A    I don't remember.

6   Q    Do you remember anything from your guilty plea?

7   A    No, sir.

8   Q    You don't?

9   A    Huh-uh.

10               MR. THOMAS: Your Honor, if I may beg the  
11 Court's indulgence.

12               (Pause.)

13               THE COURT: Yes, sir. I have no further  
14 questions, Your Honor.

15               THE COURT: All right, Mr. Petrano.

16                       CROSS-EXAMINATION

17 BY MR. PETRANO:

18   Q    I'm sorry, let me see if I wrote this down right,  
19        you're saying you don't remember a lot about the  
20        plea itself?

21   A    No. The only thing I remember he was giving me  
22        like five years, 25, you know.

23   Q    Okay. Just you remember the sentence?

24   A    Yes.

25   Q    Okay. And your complaint here is that you

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

TINA SUMTER -- CROSS BY MR. PETRANO:

14

1 basically got a life sentence, just too much time?

2 A Yes, sir.

3 Q You didn't kill anybody?

4 A Yes, sir.

5 MR. PETRANO: No further questions, thank you.

6 MR. THOMAS: Your Honor, nothing further.

7 THE COURT: All right. You may step down,

8 Ms. Sumter.

9 (The witness leaves the witness stand.)

10 THE COURT: Anything further, Mr. Thomas?

11 MR. THOMAS: Your Honor, if it pleases the  
12 Court, we would call Ms. Payne to the stand.

13 THE COURT: Come around, Ms. Payne.

14 (DANIELLE PAYNE, having first been duly sworn,  
15 testified as follows:)

16 THE COURT: All right. Please tell us your  
17 full name and spell your last name for the record.

18 MS. PAYNE: Danielle Payne, P-a-y-n-e.

19 MR. THOMAS: Please the Court, Your Honor.

20 THE COURT: Yes, sir.

21 DIRECT EXAMINATION

22 BY MR. THOMAS:

23 Q Ms. Payne, you had an opportunity to represent Ms.  
24 Sumter?

25 A I did.

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

DANIELLE PAYNE -- DIRECT BY MR. THOMAS:

15

1 Q All right. And I guess this case was assigned to  
2 you when you were in the PD's office?

3 A Yes, sir.

4 Q All right. What did you do as far as preparing  
5 this case? Just kind of explain to us how you did  
6 that.

7 A Okay. I was assigned the case, let me look back  
8 in my file, on April 3rd of 2007. I went and met  
9 with Ms. Sumter. We filed a Rule 5 and I -- we  
10 sent a letter to Ms. Sumter and the jail letting  
11 her know I had been assigned to her.

12 Q Right.

13 A I went down April 25th, 2007 to meet with her. We  
14 went through her charges, she gave me permission  
15 to speak with her family regarding the matter.  
16 She explained to me the situation that she was in,  
17 what -- where she was working with the victim and  
18 living with her at the time, caring for her. She  
19 told me that she had a drug problem and that she  
20 wanted to get help for it.

21 I then called Mr. Sumter and we scheduled an  
22 appointment for him to come in and meet with me,  
23 Ms. Sumter's father. I sat down with Mr. Sumter  
24 and went over the gravity of the charges and how  
25 serious this was for Ms. Sumter.

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

1 I sent a letter to Ms. Sumter the middle of  
2 June telling her that I would be down to see her  
3 once I received the discovery and that we would go  
4 over all of that and plan our next course.

5 I received this discovery sometime between  
6 June 21st and July 3rd. I went down on July 3rd  
7 and met with her. It was a lengthy meeting, we  
8 went over her discovery. We decided that the best  
9 course of attack was for her to plead guilty at  
10 that time and I was going to come back and try to  
11 speak with the Solicitor who was Dietrich Lake at  
12 that time.

13 Q Okay. That's what I wanted to ask you. Did you  
14 -- I guess this was a difficult case?

15 A It was.

16 Q And your theory of defense or what you could -- in  
17 defending her was it was best to -- to try to  
18 enter into a plea?

19 A Well, we certainly talked about going to trial.

20 Q Uh-huh.

21 A I've never been afraid to try a case and that  
22 wasn't the case in this situation. However, after  
23 reviewing the discovery and the two statements  
24 that Ms. Sumter had given to the police and the  
25 fact that her defense was she was high on crack

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

DANIELLE PAYNE -- DIRECT BY MR. THOMAS:

17

1 cocaine ---

2 Q Right.

3 A --- it was in my opinion her best interest to try  
4 to work out a deal with the Solicitor's office.

5 Q Okay.

6 A Unfortunately, the Solicitor had met with the  
7 victim in the meantime and determined that he was  
8 not going to make an offer. And so we were stuck  
9 pleading straight up or going to trial and that  
10 was always the option. But from the beginning, I  
11 have it in my notes in July, she said she wants to  
12 plead guilty but we need to try to work out a  
13 deal.

14 I then went back and talked to her in  
15 September, told her I had spoken with her father  
16 again and let her know what he had -- what we had  
17 talked about and that we would try to wait to  
18 plead in front of Judge Goode and that we would  
19 attempt to get a sentence between five to 10  
20 years.

21 Q Okay.

22 A I then went back down in October, at the end of  
23 October. I talked with her about the case, what  
24 she wanted to do. She continued to tell me she  
25 wanted to plead and that we were -- I told her

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

1       that I would try to have her come over the week of  
2       November 5th and that is the week that Judge Goode  
3       came to town.

4   Q    That she appeared in front of Judge Goode?

5   A    Yes.

6   Q    Did you plan to tell her her exposure ---

7   A    I ---

8   Q    Did she understand, you think?

9   A    I did.

10   Q   What she was looking at?

11   A   And I also, before every plea, go over a plea  
12       sheet (indicating) with my client and have them  
13       sign it saying all of the penalties, the max that  
14       they -- that she could get, if there's any  
15       recommendation and basically, before we even get  
16       there in front of the Judge, let her know  
17       everything that you're giving up, just so that,  
18       you know, nine times out of 10 a lot of times we  
19       have our client get up there and back out. I want  
20       to make sure that all of my clients, and I'm sure  
21       that I did this, although I don't have it in my  
22       notes and it was a long time ago, I always go  
23       through it charge by charge, how much time it  
24       carries and the penalties.

25   Q   And you did this in this case?

DANIELLE PAYNE -- DIRECT BY MR. THOMAS:

19

1 A I did.

2 Q What was her exposure, do you know?

3 A 55 years.

4 Q 55?

5 A Yes, sir, that's consecutive.

6 Q So she ended up with 50 rather than 55?

7 A That's correct.

8 Q If they had been all run concurrent her exposure  
9 would have been what?

10 A 20 -- well, it would have been 30 with the  
11 kidnapping.

12 Q With the kidnapping. And I don't mean to  
13 embarrass Ms. Sumter, when you spoke with her, and  
14 I've met with her a couple of times, did you ever  
15 get an impression that it was difficult for her to  
16 understand or she was little bit slow?

17 A No, I didn't have that at all.

18 Q Okay.

19 A And I have had clients in the past with that issue  
20 and I didn't have that with Ms. Sumter. I really  
21 enjoyed representing her.

22 Q Right.

23 A And for what happened, I think she's a great  
24 person.

25 Q Okay. And she had no prior history of this type

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

1 thing?

2 A That's correct.

3 Q I mean, I've looked at the transcript and spoke  
4 with the family, it appears that everyone, and  
5 they told Judge Goode ---

6 A Right.

7 Q --- that this was very out of character for her?

8 A That's right and that's what I saw when I  
9 represented her, that this was not of her  
10 character.

11 Q All right. Did -- you did not fill the need for  
12 any type of evaluation?

13 A I did not.

14 Q Okay. I guess in reading the transcript, Judge  
15 Goode was concerned about there was a statement  
16 that the victim in this case was unable to walk  
17 after this ---

18 A (Affirmative response.)

19 Q --- incident and she was an elderly lady?

20 A That's correct.

21 Q And they were living together?

22 A That's correct.

23 Q Did -- did you ever look into the reason as to why  
24 she's unable to walk?

25 A I did not know about any of that until the day of

DANIELLE PAYNE -- DIRECT BY MR. THOMAS:

21

1 trial.

2 Q Okay.

3 A Or the day of the plea. Mr. Lake did not divulge  
4 to me that he had met with the victim and her  
5 condition or the kind of statement that he was  
6 going to give. And of course, you know, with the  
7 limited discovery that we have, I didn't know the  
8 extent of what he was going to say to the Court  
9 and I think it played a huge bearing on the plea  
10 and Judge Goode's ---

11 Q And that's what I was going to ask you because if  
12 you look at the transcript, and just correct me if  
13 I'm wrong, on 30 and 29 the Judge says, this is  
14 one of the most disturbing cases that I've had in  
15 nearly 10 years on the bench. And he's concerned  
16 about the fact that she is -- this lady is in bed  
17 the rest of her life, she will never walk again?

18 A (Affirmative response.)

19 Q And so that had a big impact on the Judge's  
20 decision, do you think?

21 A I think so and I think the Solicitor's  
22 characterization of the victim -- the victim was  
23 not there, of course.

24 Q Okay.

25 A And I think his characterization of the way she

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

1       felt about the crime and stuff like that also  
2       played a huge bearing.

3   Q   And I know we can't really all -- hindsight is  
4       always 20/20 ---

5   A   Sure.

6   Q   Do you feel like the Solicitor's office should  
7       have provided that information for you in regards  
8       to her -- her injuries or any kind of disability  
9       that she may have received as a result?

10  A   I certainly think they should have. I don't know  
11       if they are required to under the law or under the  
12       statues.

13  Q   Right. But had you had that information you would  
14       have been prepared for that?

15  A   Absolutely and I was unprepared for the statement.

16  Q   Right, because we don't know whether or not she  
17       can walk or not as result of injuries received  
18       from Ms. Sumter or whether or not it was just part  
19       of the process that she was an elderly lady?

20  A   That's correct.

21  Q   Okay. Now, what was your impression of the  
22       sentence? Were you shocked with the sentence or?

23  A   Very, I was very disappointed.

24  Q   Right. You just didn't expect 50 years coming?

25  A   No.

DANIELLE PAYNE -- DIRECT BY MR. THOMAS:

23

1 Q Which in essence is a life sentence ---

2 A Yes.

3 Q Based upon that sentence, did you consider or talk  
4 about a motion for reconsideration?

5 A I did. But I had seen -- I sat in Court the rest  
6 of that day and the next day still thinking about  
7 it and I saw similar instances that I knew that it  
8 would be a fruitless venture and that she could  
9 possibly get the max which is only another five  
10 years but I really -- I was in -- I was worried  
11 that she would get that to be honest ---

12 Q Right.

13 A --- because of what I was watching as the week  
14 progressed.

15 Q And I guess we all know about motions for  
16 reconsideration. Did you think about the  
17 possibility that Judge Goode was just kind of  
18 incensed or inflamed by what he heard or what he  
19 saw, that he might have had an ability to kind of  
20 cool down?

21 A And that was -- I did certainly take that into  
22 consideration and I -- I probably should have  
23 filed a motion for reconsideration to preserve  
24 that for Ms. Sumter.

25 Q Right. But you did not?

TINA L. SUMTER V. THE STATE OF SOUTH CAROLINA

1 A I did not.

2 MR. THOMAS: Your Honor, if I may beg the  
3 Court's indulgence.

4 THE COURT: Yes, sir.

5 (Pause.)

6 MR. THOMAS: I have no further questions.

7 THE COURT: All right, Mr. Petrano.

8 CROSS-EXAMINATION

9 BY MR. PETRANO:

10 Q What difference would it have made if the  
11 Solicitor had told you that she was in the  
12 hospital and bedridden, I'm not following your  
13 testimony a few minutes ago?

14 A Well, I don't believe she was in the hospital  
15 bedridden. I believe she just is unable to walk  
16 is my understanding.

17 I think I would have been able to prepare Ms.  
18 Sumter, her family and myself in my presentation  
19 to the Judge in defense of that and maybe look  
20 into the facts a little bit more, or her injures.  
21 But I had no indication that that's what was going  
22 to be presented.

23 Q And -- okay. And you have no indication whether  
24 that's true or false?

25 A That's absolutely true.

DANIELLE PAYNE -- REDIRECT BY MR. THOMAS:

25

1 MR. PETRANO: Nothing further, thank you.

2 THE COURT: Any redirect examination?

3 MR. THOMAS: Your Honor, if I may, just one  
4 question.

5 REDIRECT EXAMINATION

6 BY MR. THOMAS:

7 Q Based upon that, do you think the sentence was  
8 excessive?

9 A Absolutely.

10 MR. THOMAS: I have nothing further, Your  
11 Honor.

12 MR. PETRANO: I've got -- I'm sorry, just to  
13 that.

14 THE COURT: Okay.

15 RECROSS-EXAMINATION

16 BY PETRANO:

17 Q It's within the parameters though, correct, the  
18 sentence?

19 A I mean, it's within the maximum sentence she could  
20 get.

21 Q It's not illegal?

22 A No, it's not illegal.

23 MR. PETRANO: All right.

24 THE COURT: You may come down.

25 MR. THOMAS: Your Honor, may the witness be

1 excused?

2 THE COURT: I want to ask her before she goes  
3 -- you got a minute?

4 MS. PAYNE: Yeah.

5 (The witness leaves the witness stand.)

6 THE COURT: It has nothing to do with the  
7 case.

8 MR. THOMAS: Your Honor, that's our case.

9 THE COURT: All right.

10 MR. PETRANO: I have nothing but a brief  
11 argument but only in rebuttable.

12 THE COURT: Anything, Mr. Thomas, you want to  
13 make an argument ---

14 MR. THOMAS: Your Honor ---

15 THE COURT: --- you're invited to do so, go  
16 ahead.

17 MR. THOMAS: I'll be very very brief.

18 THE COURT: Take your time.

19 MR. THOMAS: In looking at this case and  
20 evaluating it and talking with Ms. Sumter, it did  
21 appear, and in the same demeanor that she has in the  
22 courtroom, I think she is a little slow. She's been  
23 through high school but I think her understanding,  
24 although maybe not rises to any type of mental illness  
25 or anything along those lines, that she is difficult to

1 comprehend. But when I spoke with her she had a hard  
2 time understanding how she got this time.

3           What I would argue is that the plea was  
4 involuntarily given, not knowing and intelligently  
5 given. I think it was ineffective not to file a motion  
6 for reconsideration in this case, that the transcript  
7 kind of streams that, you know, this is a situation  
8 where it looked horrible. We don't know how horrible  
9 it was in regards to whether she would be able to walk.  
10 It probably would have been more proper to file a  
11 motion to come back after kind of a cooling off period  
12 to ask the Judge if he would reconsider basically what  
13 was a life sentence.

14           I think it is, as far as I think she should  
15 have been given the information in regards to being  
16 bedridden or not bedridden but not actually not being  
17 able to walk. I think that kind of struck her -- if  
18 you look at the transcript, the Judge specifically  
19 says, this lady can never walk again as a result of the  
20 actions of Tina Sumter. So I think it's a huge factor  
21 in him making his decision.

22           And I think it was ineffective for counsel not  
23 to have followed through in this case, where there were  
24 actually pictures of her injuries and being prepared to  
25 have something to say in regards to the extent of her

1 injuries and the extent of her treatment as to what  
2 happened to her as a result of Ms. Sumter's actions.

3 Your Honor, we would suggest to the Court, of  
4 course, and I've looked at the cases, the most recent  
5 State versus Hall (phonetic), in that it says that  
6 although the length of the sentence is up to the  
7 discretion of the Court, that in this case the sentence  
8 -- this sentence was so excessive and unusual and  
9 unreasonable and oppressive that it is in violation of  
10 the constitution. It's just excessive.

11 THE COURT: All right, thank you so much. Mr.  
12 Petrano.

13 MR. PETRANO: I hate to be harsh here but  
14 basically the real claim here is that ---

15 THE COURT: She's got too much time.

16 MR. PETRANO: Well, and the Solicitor was a  
17 liar, that's one of the implications of one of the  
18 arguments, that she really wasn't bedridden, he just  
19 made all that up. That's a little harsh and it's  
20 purely speculative, there's no evidence to show that  
21 wasn't true. And if that is harsh and in this case is  
22 harsh, she did torture the elderly victim and left her  
23 to die. I think there were comments that, you're lucky  
24 this isn't even a murderer because the postman just  
25 happened to walk in. I don't mean to be difficult, I

1 understand she was involved with drugs or whatnot. But  
2 that's the case. It was a harsh case and the sentence  
3 is harsh and it's not illegal. It's -- that could have  
4 been made on appeal. The appeal issue was that it was  
5 an involuntary plea in the sense that Boykin versus  
6 Alabama was not complied with. She was rejected.

7 (Pause.)

8 MR. PETRANO: And that's all I have, Judge.  
9 Thank you.

10 THE COURT: All right. Thank you both for  
11 your lively presentation.

12 MR. THOMAS: Thank you.

13 THE COURT: I will consider everything I've  
14 heard here today and consider what's in the file. I  
15 will let you know my decision in due course.

16 MR. THOMAS: Thank you, sir.

17 THE COURT: Thank you both.

18 ----- END OF TRANSCRIPT OF RECORD -----  
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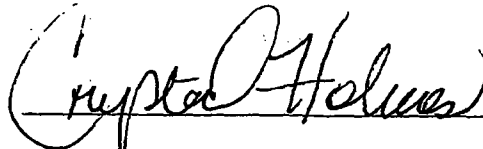
## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF SOUTH CAROLINA )  
4 COUNTY OF RICHLAND )  
5

6 I, Crystal Holmes, Official Court Reporter for  
7 the Fifth Judicial Circuit of the State of South  
8 Carolina, do hereby certify that the foregoing is a  
9 true, accurate and Complete Transcript of Record of  
10 the proceedings had and evidence introduced in the  
11 hearing of the captioned case, relative to appeal,  
12 in the Court of Common Pleas for Richland County,  
13 South Carolina, on the 19th day of October, 2010.

14 I do further certify that I am neither of kin,  
15 counsel nor interest to any party hereto.  
16

17 October 14, 2011

18  
19 

20 Crystal Holmes, Court Reporter  
21  
22  
23  
24  
25

## RECEIPT FOR EXHIBITS

Case No. 2009-CP-40-5021  
 Plaintiff: Tina Sumter  
 Defendant: State of SC  
 Date Trial Started: 10/19/10

Judge: L. Manning  
 Plt's Atty. Johnny Thomas  
 Def's. Atty. Brian Petron  
 Date Trial Ended: \_\_\_\_\_

Received of Crystal Holmes Court Reporter for the above case, these exhibits:

|                                 | Clerk of Court Use                  |
|---------------------------------|-------------------------------------|
| 1 <u>Inmate's Certification</u> | <input checked="" type="checkbox"/> |
| 2                               |                                     |
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This 19<sup>th</sup> day of October 2010.

Page 1 of 1

By: [Signature]

Richland County Clerk of Court

Clerk should retain white copy in Civil cases, yellow copy in Criminal cases.

PEN000 800-531-9388

PLAINTIFF'S  
EXHIBIT  
1

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

## CERTIFICATE OF ACHIEVEMENT

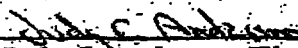
AWARDED TO

*Tina Sumter*

UPON COMPLETION OF

*Substance Abuse Phase I*

AWARDED ON THIS THE 24th day of June, IN THE YEAR, A.D., Two thousand and ten

  
Judy C. Anderson, Warden  
Camille Griffin Graham Institution

  
Barbara A. Brown, HCS I  
Mental Health Services

90  
11/18/2011 13:27 8035761926

RC UC

*Let It Be Known To All*

*Tina Sumter*

*Has completed the prescribed course of study and  
as such is recognized as an honored graduate of the  
Central Church  
Bible Study Series*

*Bestowed this the 20th day of October in the year of OUR LORD 2010*

*[Signature]*  
Minister of Pious Outreach

*[Signature]*  
Minister of Pious Outreach

Central Church

# *Certificate of Completion*

Awarded to:

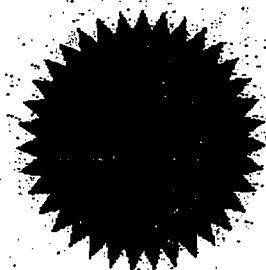
Tina Sumter

For Completing the First Peter Bible Study

Continue to STAND FIRM

11/23/2009

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*Stephanie Cook*  
Stephanie Cook  
*Kathy Perrich*  
Kathy Perrich

# Perfect Attendance

Presented to

Tina Sumter

for

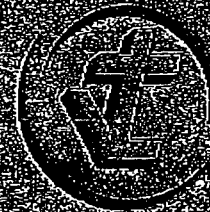
Precept Upon Precept Matthew Bible Study Parts 1 & 2

May 3, 2010

*Belinda & Kathy*  
Belinda & Kathy

Leaders

# VCL Seminar



CERTIFICATE OF COMPLETION

## VICTORIOUS CHRISTIAN LIVING INTERNATIONAL

This is to certify that Sandra A. Lundin

Has satisfactorily completed the VCL S.A.L.P. Seminar in the Spanish Area.

This Seminar gives tools for understanding the biblical principles  
for addressing basic problems of living  
to the building up of the body of Christ.

Edition: 4-12

By God's power and for His glory

This 7<sup>th</sup> day of May, 200 Y

Sandra A. Lundin

Founding Director  
Director VCL Personnel

K. Campbell

Chairman

Chaplain

Institution

# "Certificate of Completion"

*Awarded to:*

TINA SUMTER

*faithfully participating in the  
"Gospel Choir Basic Foundation"  
Camille Griffin Graham Correctional*

4/29/08

Date

Kimberly Campbell

Kimberly Campbell, Chaplain

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Sumter, Tina L., 00280315,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS

) 2009CP4005621

) ORDER OF DISMISSAL

RICHLAND COUNTY  
FILED  
2011 MAY 31 AM 8:54  
JEANETTE W. McBRIDE  
C.C.P. & G.S.

## PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed August 7, 2009. The Respondent made its Return on or about April 1, 2010. An evidentiary hearing into the matter was convened on October 19, 2010 at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Thomas, Tommy A, Esquire. Brian T. Petrano of the South Carolina Attorney General's Office represented the Respondent.

Prior to the PCR hearing, the Applicant submitted an amended Application for PCR dated October 18, 2010. At the hearing, the Applicant testified on his own behalf. The Applicant's trial counsel, Danielle F. Payne, Esquire also testified. This Court had before it the records of the Richland County Clerk of Court, the transcript of the proceedings against the Applicant, and the Applicant's records from the South Carolina Department of Corrections.

On November 6, 2007, the Applicant pled guilty and was sentenced by The Honorable Kenneth G. Goode to the following:

| Grand Jury Term                       | Indictment Number | CDR - S.C. Code §        | Charged Offense:<br>"Potential Sentence" Offense Description | Sentence Received | Sentenced to Lesser Offense |
|---------------------------------------|-------------------|--------------------------|--------------------------------------------------------------|-------------------|-----------------------------|
| 6-07                                  | 2007GS4003026     | 0014 16-03-0620 * 20 *   | Assault / Assault and battery with intent to Kill (ABWIK)    | 20                | No                          |
| 6-07                                  | 2007GS4003027     | 0095 16-03-0910 * 30 *   | Kidnapping / Kidnapping                                      | 25                | No                          |
| 6-07                                  | 2007GS4003028     | 2655 43-35-0085(B) * 5 * | Abuse / Abuse of vulnerable adult                            | 5                 | No                          |
| NOTES: All sentences are consecutive. |                   |                          |                                                              | TOTAL<br>50       | POSSIBLE<br>55              |

The Applicant appealed his plea. Following an Anders brief, the South Carolina Court of Appeals denied the appeal.<sup>1</sup> State v. Sumter, Op. No. 2009-UP-333 (S.C. Ct. App. filed June 15, 2009). The Remittitur was dated July 1, 2009.

In the PCR original application the applicant alleged the following:

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

(a) Ineffectiveness of Counsel

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) Attorney stated that if I did not plead guilty, I would receive the maximum sentence. This attorney has since been disbarred.

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

Sentence Reduction

<sup>1</sup> Anders v. California, 386 U.S. 738 (1967).

Prior to the PCR hearing, the Applicant submitted an amended Application for PCR dated October 18, 2010. The amended application raised the following allegations:

The Applicant would amend her application for post-conviction relief, dated August 3, 2009, to include the following information:

1. Paragraph nine (9) is amended to include involuntary guilty plea.
2. Paragraph eightecn (18) is amended to request that the sentence conviction and plea be set aside and for a new trial.

At the evidentiary hearing, Applicant procceded on the allegations stated in the application for post-conviction relief.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (1985).

Emily Hannon, the 82 year old victim, allowed Tina Sumter to live with her as she had known Sumter since she was a child and Sumter had no where to live. ROA p. 10, lines 11 -22. On March 26, 2007, Sumter asked Ms. Hannon for money. When Ms. Hannon refused, Sumter began hitting Ms. Hannon with her fists and then dragged her to the bedroom. Sumter poured hot water on Ms. Harmon, Sumter also placed detergent into Ms. Harmon's eyes and then left her there. ROA p. 10, lines 23 -25; p. 11, lines 1 -25; p. 12, lines 1 -10.

The next day, the postman who always spoke to Ms. Harmon as she was usually sitting on her porch, began looking for her when she was not on her porch. He found her in her bedroom, called EMS who responded and took her to the hospital. ROA p. 12, lines 24 -25; p. 13, lines 1 -25; p. 14, lines 1 -25. As a result of the injuries, Ms. Harmon is no longer able to walk and must reside in a residential living facility. ROA p. 15, lines 4 -20.

The Applicant alleged in her application that plea counsel was ineffective. However, at the hearing Applicant offered no evidence of plea counsel's deficiency. Applicant testified that she met with plea counsel four (4) to five (5) times, that they discussed the charges, that she was told these were "serious charges," and that if she pled she would probably not get the maximum sentence. The Applicant then testified that she did not know she was facing up to fifty (50) years.

Finally, the Applicant testified that she was seeking Post Conviction Relief on the basis that her sentence of fifty (50) years was effectively a life sentence and she was a "changed person."

Plea counsel testified that she met with Applicant and had Applicant's permission to speak with Applicant's family. Plea counsel stated she met with Applicant for an extended period and that although they spoke about proceeding to trial, Applicant decided to plead. Trial Counsel testified that the only defense Applicant had was voluntary intoxication, and that the Solicitor would not make a plea offer. Trial Counsel then testified that she had discussed the consequences of pleading, including the maximum sentence, with the Applicant and that Applicant knew she was facing up to fifty-five (55) years. Trial Counsel then testified that she had not been aware that the victim could no longer walk, and that the impact on the victim had a powerful effect on sentencing. Plea counsel testified that the Applicant gave two confessions but that by pleading in front of Judge Goode she would ask for something around five (5) to ten (10) years.

Having had the opportunity to observe the witnesses in this case, this Court finds that Trial Counsel was credible while Applicant was not credible.

In addition to the above testimony, Applicant argued that Counsel was Ineffective for failing to disagree with the Solicitor's remarks that the victim could no longer walk. However, Applicant did not present any evidence that this statement was not true. Mere speculation that perhaps Victim can walk will not support an allegation of Ineffective Assistance of Counsel. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). Applicant failed to meet her burden to prove Counsel was deficient in any manner. See Frasier v. State, supra.

Applicant presented no credible evidence that she was unaware of the potential sentence or the rights she was giving up by pleading. Further, the Plea Court questioned her at length concerning her understanding of the maximum sentence, her rights, and voluntariness of the plea. See Wolfe v. State, 326 S.C. 158, 164 485 S.E.2d 367, 370 (1997) ("However, any possible misconceptions on [Applicant]'s part were cured by the colloquy during the actual guilty plea hearing."). Finally, Applicant presented no evidence to support her allegations regarding the Victim. This Court finds that this allegation is without merit and is hereby denied and dismissed.

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). 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 she would not have pled guilty and would have insisted on going

to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms."

Cherry, 300 S.C. at 117, 385 S.E.2d at 625, (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. As discussed above, the Applicant has failed to carry his burden in this action. Therefore, this Court finds that the application must be denied and dismissed.

Beyond his review of the undisputed procedural history, this Court finds Applicant's testimony is not credible. Plea counsel's testimony is credible. Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that counsel failed to render reasonably effective assistance under prevailing professional norms. This Court also finds Applicant has failed to prove the second prong of Strickland – that she was prejudiced by counsel's performance. Finally, the Applicant's only real claim was that she her sentence was too long, that it was virtually a life sentence. The court has broad discretion in imposing criminal sentences. State v. Franklin, 267 S.C. 240, 226 S.E.2d 896 (1976). Absent a showing of partiality, prejudice, oppression or corrupt motive by the sentencing court, or absent a showing that the statutory punishment in and of itself constitutes cruel and unusual punishment, the post-

conviction relief court has no authority or jurisdiction to review or change a sentence falling within statutory limits. State v. Cogdell, 273 S.C. 563, 257 S.E.2d 748 (1979).

### CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

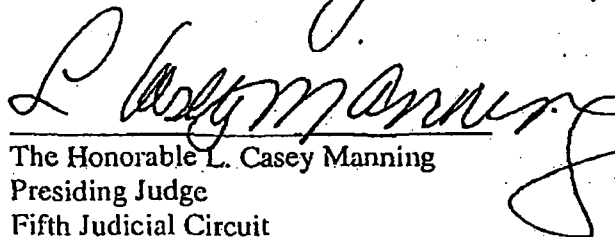
Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this Order, this Court finds Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that Applicant waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are dismissed with prejudice. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court cautions the Applicant that she must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant and counsel are 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 must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 26 day of May, ~~2010~~ 2011

  
 The Honorable L. Casey Manning  
 Presiding Judge  
 Fifth Judicial Circuit

, South Carolina.

## ARREST WARRANT

50  
K-196443 K-196443 879922

## STATE OF SOUTH CAROLINA

☐ County ☒ Municipality of  
COLUMBIA

THE STATE  
against

TINA LAVERNE SUMTER

Address:

Phone: SSN:

Sex: Race: Height: 5'03" Weight: 135

Date: DL#:

DOB: 7/25/1965 Agency ORI: SC0400100

Prosecuting Agency: CITY OF COLUMBIA

Prosecuting Officer: N DOW/WEISS

Offense: KIDNAPPING

Offense Code: MAC

Code/Ordinance Sec. 16-3-910

This warrant is CERTIFIED FOR SERVICE in the

☐ County ☒ Municipality of

COLUMBIA

The accused

is to be arrested and brought before me to be  
dealt with according to law.

Signature of Judge

(L.S.)

Date:

## RETURN

A copy of this arrest warrant was delivered to

defendant TINA L. SUMTER

on 03-29-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CITY OF COLUMBIA  
MUNICIPAL COURT  
P.O. BOX 644  
COLUMBIA, SC 29202

## STATE OF SOUTH CAROLINA

☐ County ☒ Municipality of  
COLUMBIA

## AFFIDAVIT

Personally appeared before me the affiant INV N DOW

being duly sworn deposes and says that defendant TINA LAVERNE SUMTER

did within this county and state on 03/27/2007

violate the State of South Carolina (or ordinance of ☐ County ☒ Municipality of COLUMBIA)

in the following particulars:

DESCRIPTION OF OFFENSE: KIDNAPPING

16-3-910

I further state that there is probable cause to believe that the defendant named above did commit  
the crime set forth and that probable cause is based on the following facts:

ON 3/27/07 @ COLUMBIA SC, THE DEF DID WITH MALICE  
AFORETHOUGHT AND WITH INTENT TO KILL, COMMIT A BATTERY UPON VICTIM  
MARY E. HARMON (84), WHO USES A WALKER TO GET AROUND. THE DEF POURED  
HOT WATER & CLOROX BLEACH OVER THE VICTIM'S HEAD, TOOK A WIRE, WRAP-  
PED IT AROUND VICTIM'S NECK AND DRAGGED HER FROM ROOM TO ROOM, TOOK  
HER FIST AND STRUCK THE VICTIM SEVERAL TIMES ABOUT THE FACE & BODY,  
AND LEFT VICTIM LYING ON THE FLOOR, TRAPPED WITHOUT A WAY TO SUMMON  
HELP. THE DEF WAS A CAREGIVER TO THE VICTIM & LIVED IN THE VICTIM'S  
HOME.

Signature of Affiant

*Nole J. Dow*

## STATE OF SOUTH CAROLINA

☐ County ☒ Municipality of  
COLUMBIA

Affiant's Address #1 JUSTICE SQ

COLUMBIA SC 29201

Affiant's Telephone 5453500

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on 03/27/2007

defendant TINA LAVERNE SUMTER

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County ☒ Municipality of COLUMBIA

) as set forth below:

DESCRIPTION OF OFFENSE: KIDNAPPING

16-3-910

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said  
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to  
the defendant at the time of the execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 03/28/2007

Signature of Issuing Judge

Judge Code: 03003

Judge's Address CITY OF COLUMBIA, SC

MUNICIPAL COURT, P.O. BOX 644 29202

Judge's Telephone

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

Form Approved by  
SC Attorney General  
Adopted 2003  
C.C.P. & G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA

CERTIFIED TRUE COPY  
OF ARREST WARRANT  
FILED  
APR 14 2007  
BARBARA SCOTT  
M 3:35

WITNESSES

(S) INV. N DOW CPD

ARREST WARRANT NUMBER

K196443

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury

Date:

JUN 21 2007

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2007-GS-40-3027

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

JUNE TERM 2007

106

THE STATE

vs.

TINA LAVERNE SUMTER

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code: 0095

Class FEL/A(V)

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA

INDICTMENT

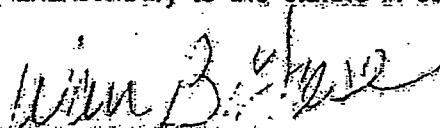
COUNTY OF RICHLAND

At a Court of General Sessions, convened on June 20, 2007 the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That TINA LAVERNE SUMTER did in Richland County on or about March 20, 2007, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any person, to wit: MARY HARMON, by any means whatsoever without authority of law. All in violation of §16-3-910, Code of Laws of South Carolina (1976) as amended.

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

  
Warren B. Glese, SOLICITOR

108

STATE OF SOUTH CAROLINA

COUNTY OF  
STATE

VS.

Tina Laverne Sumter

AKA:

Race: 0

Sex: F

Age:

DOB: 7/25/65

SS#:

Address:

City, State, Zip

DL#

SIU#

IN THE COURT OF GENERAL SESSIONS

07

INDICTMENT/CASE#:

GS - 40

3027

AW#:

K196443

Date of Offense:

3/20/07

S.C. Code §:

16-3-910

CDR Code #:

0101915

☐ CASE RESTORED

SENTENCE SHEET

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

TO:

Kidnapping

in violation of § of the S.C. Code of Laws, bearing CDR Code # 0101915

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

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_, plus costs and assessments as applicable\*, the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: November 6, 2007☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

|                                        |           |
|----------------------------------------|-----------|
| *Fine:                                 | \$        |
| \$14-1-206 (Assessments 107.5%)        | \$        |
| \$14-1-211(A)(1) (Conv. Surcharge)     | \$100     |
| \$14-1-211(A)(2) (DUI Surcharge)       | \$100     |
| \$56-5-2995 (DUI Assessment)           | \$12      |
| \$35.13 (Public Def/Prob)              | \$500     |
| \$73.3, 1B TP (Law Enforce. Funding)   | \$25      |
| \$33.7, 1B TP (Drug Court Surcharge)   | \$100     |
| \$50-21-114(BUI Breath Test Fee)       | \$50      |
| \$56-5-2942(J) (Vehicle Assessment)    | \$40/ea   |
| 3% to County (if paid in installments) | \$ 3.75   |
| TOTAL                                  | \$ 128.75 |

Clerk of Court/ Deputy Clerk

Court Reporter:

PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ beginning

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: -ATV Ordered\*NOT TO BE INCLUDED ON SEX OFFENDER  
REGISTRY \*☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to PROBATION

PRESIDING JUDGE

Judge Code:

Sentence Date:

RICHLAND COUNTY  
SOUTH CAROLINA

## ARREST WARRANT

109 96442 K- 196442 079922

STATE OF SOUTH CAROLINA

☐ County ☒ Municipality of  
COLUMBIATHE STATE  
against

TINA LAVERNE SUMTER

Address \_\_\_\_\_

Phone: \_\_\_\_\_ SSN: \_\_\_\_\_

Sex F Race B Height: 5 03 Weight: 135Date: 3/25/1965 DL #: \_\_\_\_\_DOB: 7/25/1965 Agency ORI: SC0400100Prosecuting Agency: CITY OF COLUMBIAProsecuting Officer: N DOW/WEISSOffense: ABIKOffense Code: ABKCode/Ordinance Sec. 16-3-620

This warrant is CERTIFIED FOR SERVICE in the

☐ County ☒ Municipality of  
COLUMBIAThe accused  
is to be arrested and brought before me to be  
dealt with according to law.

Signature of Judge

(L.S.)

Date: \_\_\_\_\_

## RETURN

A copy of this arrest warrant was delivered to  
defendant TINA L. SUMTER  
on 03-29-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CITY OF COLUMBIA  
MUNICIPAL COURT  
P.O. BOX 644  
COLUMBIA, SC 29202

STATE OF SOUTH CAROLINA

☐ County ☒ Municipality of  
COLUMBIA

## AFFIDAVIT

Personally appeared before me the affiant INV N DOW  
being duly sworn deposes and says that defendant TINA LAVERNE SUMTER  
did within this county and state on 03/27/2007 violate the criminal laws  
State of South Carolina (or ordinance of ☐ County ☒ Municipality of COLUMBIA)

In the following particulars:

DESCRIPTION OF OFFENSE: ABIK

16-3-620

I further state that there is probable cause to believe that the defendant named above did commit  
the crime set forth and that probable cause is based on the following facts:ON 3/27/07 @ COLUMBIA SC, THE DEF DID WITH MALICE  
AFORETHOUGHT AND WITH INTENT TO KILL, COMMIT A BATTERY UPON VICTIM  
MARY E. HARMON (84), WHO USES A WALKER TO GET AROUND. THE DEF POURED  
HOT WATER & CLOROX BLEACH OVER THE VICTIM'S HEAD, TOOK A WIRE, WRAP-  
PED IT AROUND VICTIM'S NECK AND DRAGGED HER FROM ROOM TO ROOM, TOOK  
HER FIST AND STRUCK THE VICTIM SEVERAL TIMES ABOUT THE FACE & BODY,  
AND LEFT VICTIM LYING ON THE FLOOR, TRAPPED WITHOUT A WAY TO SUMMON  
HELP. THE DEF WAS A CAREGIVER TO THE VICTIM & LIVED IN THE VICTIM'S  
HOME.

Signature of Affiant

Affiant's Address #1 JUSTICE SQCOLUMBIA SC 29201Affiant's Telephone 5453500

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that  
on 03/27/2007 defendant TINA LAVERNE SUMTER  
did violate the criminal laws of the State of South Carolina (or ordinance of☐ County ☒ Municipality of COLUMBIA) as set forth below:DESCRIPTION OF OFFENSE: ABIK

16-3-620

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said  
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to  
the defendant at the time of its execution or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 03/28/2007

Signature of Issuing Judge

Judge Code: 403003Judge's Address CITY OF COLUMBIA, SC  
MUNICIPAL COURT, P.O. BOX 644 29202

Judge's Telephone \_\_\_\_\_

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

Folm Approved  
S.C. Attorney General  
April 21, 2004  
SC040161CERTIFIED TRUE COPY  
OF ORIGINAL FILED  
IN THE CLERK'S OFFICE  
C.C.C.P. & G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA

**WITNESSES**

(S) INV. N. DOW CPD

**ARREST WARRANT NUMBER**

K196442

**ACTION OF GRAND JURY**

**TRUE BILL**

Foreperson of Grand Jury

Date:

JUN 21 2007

**VERDICT**

Foreperson of Petit Jury

Date:

DOCKET NO. 2007-GS-40-3026

**The State of South Carolina**

**County of Richland**

**COURT OF GENERAL SESSIONS**

**JUNE TERM 2007**

**T06**

**THE STATE**

**vs.**

**TINA LAVERNE SUMTER**

**Indictment for**

**ASSAULT AND BATTERY  
WITH INTENT TO KILL**

**SC Code: 16-3-620**

**CDR Code: 0014**

**Class FEL-C(V)**

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

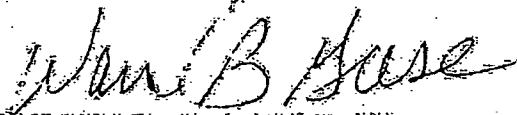
## INDICTMENT

At a Court of General Sessions, convened on June 20, 2007, the Grand Jurors of Richland County present upon their oath:

**ASSAULT AND BATTERY WITH INTENT TO KILL**

That TINA LAVERNE SUMTER did in Richland County on or about March 27, 2007, with malice aforethought commit an assault and battery upon one Mary Harmon, with intent to kill the said victim, all in violation of §16-03-620 of the Code of Laws of South Carolina, (1976, as amended).

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

  
Warren B. Giese, SOLICITOR

COUNTY OF  
STATE

VS.

AKA:

Race: BSex: F

Age: \_\_\_\_\_

DOB: 7/25/65

SS#: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip \_\_\_\_\_

DL# \_\_\_\_\_

SID# \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS

07

INDICTMENT/CASE#:

GS

402026AW#: K196442Date of Offense: 7/20/07S.C. Code §: 16-3-620CDR Code #: 0101114☐ CASE RESTORED

SENTENCE SHEET

☒ PLEA☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: ABWIKin violation of § 16-3-620 of the S.C. Code of Laws, bearing CDR Code # 0101114☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS (CSC☐ §17-25-45w/minor 1<sup>st</sup> or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]  
Solicitor[Signature]  
Defendant[Signature]  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_ plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: November 6, 2007☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

\*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§35.13 (Public Def/Prob)

§73.3, 1B TP (Law Enforce. Funding)

§33.7, 1B TP (Drug Court Surcharge)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

|         |        |
|---------|--------|
| \$      |        |
| \$      |        |
| \$100   |        |
| \$100   |        |
| \$12    |        |
| \$500   |        |
| \$25    |        |
| \$100   |        |
| \$50    |        |
| \$40/ea |        |
| \$      | 3.75   |
| \$      | 128.75 |

PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ beginning

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: -ATU Ordered☐ Appointed PD or appointed other counsel, §35.13 TP

Requires \$500 be paid to Clerk during probation.

CERTIFIED TRUE COPY

PRESIDING JUDGE

Judge Code: \_\_\_\_\_

Sentence Date: \_\_\_\_\_

[Signature]  
 RICHLAND COUNTY  
 SOUTH CAROLINA

## ARREST WARRANT

113

96444 K- 196444 79922

STATE OF SOUTH CAROLINA

☐ County ☒ Municipality of  
COLUMBIA

THE STATE

against

TINA LAVERNE SUMTER

Address: COLUMBIA SC 29204

Phone: SSN:

S-F Race: B Height: 5 03 Weight: 135

Date: DL#:

DOB: 7/25/1965 Agency ORI: SC0400100

Prosecuting Agency: CITY OF COLUMBIA

Prosecuting Officer: N DOW/WEISS

Offense: ABUSE OF VULNERABLE ADULT

Offense Code: MAC

Code/Ordinance Sec. 16-3-1050B

This warrant is CERTIFIED FOR SERVICE in the

☐ County ☒ Municipality of  
COLUMBIA

The accused is to be arrested and brought before me to be dealt with according to law.

(L.S.)

Signature of Judge

## RETURN

A copy of this arrest warrant was delivered to

defendant TINA L. SUMTER

on 03-29-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 CITY OF COLUMBIA  
MUNICIPAL COURT  
P.O. BOX 644  
COLUMBIA, SC 29202

STATE OF SOUTH CAROLINA

☐ County ☒ Municipality of  
COLUMBIA

## AFFIDAVIT

 Personally appeared before me the affiant INV N DOW  
being duly sworn deposes and says that defendant TINA LAVERNE SUMTER  
did within this county and state on 03/27/2007

 State of South Carolina (or ordinance of ☐ County ☒ Municipality of COLUMBIA

In the following particulars:

DESCRIPTION OF OFFENSE: ABUSE OF VULNERABLE ADULT 16-3-1050E

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

 ON 3/27/07 @ 1 RD, COLUMBIA SC, THE DEF DID WITH MALICE  
AFORETHOUGHT AND WITH INTENT TO KILL, COMMIT A BATTERY UPON VICTIM  
MARY E. HARMON (84), WHO USES A WALKER TO GET AROUND. THE DEF POURED  
HOT WATER & CLOROX BLEACH OVER THE VICTIM'S HEAD, TOOK A WIRE, WRAP-  
PED IT AROUND VICTIM'S NECK AND DRAGGED HER FROM ROOM TO ROOM, TOOK  
HER FIST AND STRUCK THE VICTIM SEVERAL TIMES ABOUT THE FACE & BODY,  
AND LEFT VICTIM LYING ON THE FLOOR, TRAPPED WITHOUT A WAY TO SUMMON  
HELP. THE DEF WAS A CAREGIVER TO THE VICTIM & LIVED IN THE VICTIM'S  
HOME.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County ☒ Municipality of  
COLUMBIA

 Affiant's Address #1 JUSTICE SQ  
COLUMBIA SC 29201

Affiant's Telephone 5453500

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that  
on 03/27/2007 defendant TINA LAVERNE SUMTER  
did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County ☒ Municipality of COLUMBIA ) as set forth below:

DESCRIPTION OF OFFENSE: ABUSE OF VULNERABLE ADULT 16-3-1050B

 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said  
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to  
the defendant at the time of his execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 03/28/2007

Signature of Constable/Law Enforcement Officer

Signature of Constable/Law Enforcement Officer

Signature of Constable/Law Enforcement Officer

Signature of Constable/Law Enforcement Officer

Judge Code: 03003

Judge's Address CITY OF COLUMBIA, SC

MUNICIPAL COURT, P.O. BOX 644 29202

Judge's Telephone

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit
 Form Approved  
S.C. Attorney General  
April 21, 2000  
SC04 018

CERTIFIED TRUE

OF ORIGINAL

C.C.P. &amp; S.S.

RICHLAND COUNTY

SOUTH CAROLINA

ORIGINAL

**WITNESSES**

(S) INV. N DOW CPD

**ARREST WARRANT NUMBER**

K196444

**ACTION OF GRAND JURY**

**TRUE BILL**

Foreperson of Grand Jury

Date:

JUN 21 2007

**VERDICT**

Foreperson of Petit Jury

Date:

DOCKET NO. 2007-GS-40-3028

**The State of South Carolina**

**County of Richland**

**COURT OF GENERAL SESSIONS**

**JUNE TERM 2007**

106

**THE STATE**

**vs.**

**TINA LAVERNE SUMTER**

**Indictment for**

**ABUSE OF A  
VULNERABLE PERSON**

**SC Code: 43-35-85 (B)**

**CDR Code: 2655**

**Class F FELONY**

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

## INDICTMENT

At a Court of General Sessions, convened on June 20, 2006, the Grand Jurors of Richland County present upon their oath:

**ABUSE OF A VULNERABLE PERSON**

That TINA LAVERNE SUMTER did in Richland County on or about March 27, 2007, knowingly and willfully abuse a vulnerable adult, as defined in §43-35-85 of the Code of Laws of South Carolina, (1976, as amended), to wit: Mary Harmon.

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

  
Warren B. Giese, SOLICITOR

STATE OF SOUTH CAROLINA  
COUNTY OF Richland  
STATE VS.  
Tina Laverne Sumter  
AKA:  
Race: B Sex: F  
DOB: 7/25/65 SS#: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
DL# \_\_\_\_\_ SID# \_\_\_\_\_

IN THE JRT OF GENERAL SESSIONS

07 INDICTMENT/CASE#:  
- GS - 40 - 7028  
AW#: K196444  
Date of Offense: 3/20/07  
S.C. Code §: 47-35-85(B)  
CDR Code #: 2 1 6 1 5 1 5  
☐ CASE RESTORED  
☒ SENTENCE SHEET  
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS  
TO: Abuse of A Vulnerable Adult  
in violation of § 47-35-85(B) of the S.C. Code of Laws; bearing CDR Code # 2 1 6 1 5 1 5  
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45  
w/minor 1<sup>st</sup> or Lewd Act)  
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (Defendant initial)  
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.  
ATTEST \_\_\_\_\_  
Solicitor \_\_\_\_\_ Defendant Tina Sumter Attorney for Defendant \_\_\_\_\_

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 5 days/months years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of  
\$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years  
and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which  
are incorporated by reference. fel  
☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: November 6, 2007  
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the  
State Department of Corrections.  
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
☐ set by SCDPPPS \_\_\_\_\_  
Recipient: \_\_\_\_\_  
\*Fine: \$ \_\_\_\_\_  
\$14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_  
\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ ✓  
\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ ✓  
\$56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
\$35.13 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ ✓  
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ \_\_\_\_\_  
\$50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
3% to County (if paid in installments) \$ 3.75  
TOTAL \$ 128.75

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

Barbara A. Scott  
Clerk of Court/ Deputy Clerk  
Court Reporter: Passus

PRESIDING JUDGE [Signature]  
Judge Code: 6 1 1 2 1 0  
Sentence Date: November 6, 2007  
RICHLAND COUNTY  
SOUTH CAROLINA