

STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM LAURENS COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

The Honorable B. Alex Hyman, Post-Conviction Relief Court Judge

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Case No. 2025-001566

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State of South Carolina

Petitioner,

v.

Christopher J. Wells, #193588

Respondent.

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AMENDED APPENDIX

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ALAN WILSON  
Attorney General

Molly M. Keegan  
Appellate Defender

D. RUSSELL BARLOW  
Senior Assistant Deputy Attorney General  
SC Bar No. 105228

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
Columbia, SC 29211  
(803) 734-1330

ZACHARY W. JONES  
Assistant Attorney General  
SC Bar No. 104174  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3737

ATTORNEYS FOR PETITIONER

ATTORNEY FOR RESPONDENT

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1 that she could tell colors of cars and things like that  
2 and there is just no way.

3 Q. And ultimately she was claiming that she  
4 identified Mr. Wells from all of this too?

5 A. Right, and that was quite candidly, as long as  
6 my client's name didn't come up it was fine, but it was  
7 clear there is no way she could have seen any of that.  
8 She couldn't have seen Mr. Wells. She couldn't, you  
9 know, have seen Jack the Ripper if he was there.

10 Q. In one of her statements she was inconsistent  
11 with even the skin tone of the person she allegedly saw?

12 A. Yes.

13 Q. And then the second exhibit is exhibit six,  
14 would you describe that for the Court please.

15 A. So this is for visual and so I think with jurors  
16 I just assume that they want to be super visual as well,  
17 or at least I hope they do. It seemed to work out  
18 pretty well. But -- so I had different locations on a  
19 map of where the incident was. So I think it's already  
20 been testified to that the car was searched that evening  
21 because it was at a different location and so there were  
22 different sightings of different people homes and just  
23 where they were that evening. So it was easy to put it  
24 all on a map with different locations and then you can  
25 color code it to help the jurors understand like A, how

1       spaciously how far all of these thing are and how long  
2       it would would take if someone pulled a trigger at 11  
3       how fast they would have to drive to get where they are  
4       going and things like that.

5               So it's just another exhibit that I like to put in  
6       demonstrably for jurors.

7       Q.     So this is -- and then I think there were some  
8       references to in some of these, but the incident  
9       location is up at the top, but the car is allegedly  
10      found?

11      A.     Not only found, but it was some witnesses said  
12      that they followed it or they saw it driving. So -- and  
13      then of course where it was found. It was really far.  
14      In order for that car to have been involved they would  
15      have had to --

16      Q.     It looks like it cross into a different county.

17      A.     Yeah, it would have crossed into I think it was  
18      Greenwood or --

19      Q.     Greenville County.

20      A.     Yeah, Greenville, yes, because it was like close  
21      up to the edge where a lot of the stuff was.

22      Q.     In Spartanburg, so sort of the three counties.  
23      And you made this exhibit, right?

24      A.     I did.

25               MS. MCMAHAN: At this time I would ask for

1 five and six to be entered.

2 MR. JONES: No objection, Your Honor.

3 THE COURT: All right. Applicants five and  
4 six.

5 (WHEREUPON, Applicant's five and six were  
6 received in evidence.)

7 Q. And the body camera footage did you initially  
8 get that from the solicitor or how did that come about?

9 A. I did not. I love body cams. Love them. Love  
10 them. It's my go to because they really helped I think  
11 to give an understanding of what's going on even that  
12 night because it's so chaotic and reports and pictures  
13 really don't do it justice and so I did not see them  
14 that night -- from that night. I had actually seen a  
15 crime scene photos which showed the camera with the  
16 green light on the uniform and so I knew they had them  
17 but they kept telling me they didn't exist, but  
18 eventually we got them before trial.

19 Q. So you were told repeatedly that the body  
20 cameras didn't exist?

21 A. Yes.

22 Q. And eventually suddenly they have them?

23 A. Yes.

24 Q. And they have body cams from Crane, Timmons and  
25 Swett is what you ended up with?

1 A. Yes.

2 Q. And did you end up using these in trial? Well  
3 obviously you used a screen shot from one of them. Did  
4 you use the rest of these?

5 A. I thought I did.

6 Q. And some of these other ones were Kelly Ball  
7 giving statements?

8 A. That's why in addition to her being contradicted  
9 by her own testimony on the 911 call then these were  
10 also available and used for impeachment.

11 MS. MCMAHAN: Your Honor, at this time I  
12 would like to make this Applicant's seven, I  
13 believe.

14 MR. JONES: No objection.

15 THE COURT: All right, Applicant's seven.

16 (WHEREUPON, Applicant's number seven was  
17 marked and received into evidence.)

18 Q. And in the body cams not only did they show  
19 Kelly give a statement, but do they find another gun  
20 laying out in the dirt?

21 A. Yes. One of the things I found in the body  
22 camera and I think it's still hanging in my office the  
23 picture of it -- there was an officer who picked up what  
24 appears to be a gun and it looks like he's wiping it  
25 off. I mean -- so he he puts his hand over his body

1 cam, but you you can still see out the bottom and so it  
2 looks like he's wiping it off. So I was able to cross  
3 examine the officers about how they handled the evidence  
4 because there were some evidentiary issues and -- but he  
5 then tried to explain that he was racking the gun  
6 multiple times. But yeah, I remember using that  
7 specifically at trial.

8 Q. I am going to show you this picture. Is this  
9 the picture of that gun that he's allegedly racking in  
10 the body cam footage?

11 A. Yes.

12 MR. MCMAHAN: Your Honor, I would like to  
13 mark this as Applicant's exhibit eight.

14 MR. JONES: No objection.

15 THE COURT: Applicant's eight is received  
16 into evidence.

17 (WHEREUPON, Applicant's eight was marked and  
18 received into evidence.)

19 Q. So you were able to use the fact that he had  
20 held this gun in his hand on this allegedly non-existent  
21 body camera and racked it and then it was back in the  
22 dirt --

23 A. Yes.

24 Q. Where this photo was taken on?

25 A. Yes. That was done after it had already been

1 handled.

2 Q. Yeah. And do you know what kind of gun that is?

3 A. I do not. I should but I do not. I did at the  
4 time. It fires bullets.

5 Q. And what other evidence was there given to you  
6 that took you quite a bit of time to kind of get?  
7 Anything else?

8 A. I just remember there were the body cams and the  
9 pictures are to me are the most important because they  
10 show exactly what is going on out there and there's  
11 always something to help me determine location etc, and  
12 the body cams were really good at being able to  
13 understand where everything was because it actually  
14 looks like an altercation happened. Somebody came out  
15 from the shed or whatever and I think glasses were  
16 knocked off. The location of guns and things like that  
17 -- and there was also a different dog on a chain to a  
18 tree and to me that was significant because I mean  
19 people who chain trees to dogs usually have them out  
20 there for protection and so to me this was significant  
21 that this must have been somebody that they knew.

22 So a lot of that evidence I had to fight tooth and  
23 nail for it I can tell you. Nothing came easy in this.

24 Q. So at one point you also made a motion to compel  
25 Giglio material?

1 A. Yes

2 Q. What was that specific material what we already  
3 address today?

4 A. Yeah, specifically some of the officers have had  
5 some problems that could effect their credibility by the  
6 time my case went to trial.

7 Q. And one of those was Detective Cheeks's?

8 A. Yes.

9 Q. Because he is no longer a detective is what I  
10 understand?

11 A. No.

12 Q. And you also had made a motion to -- I guess to  
13 exclude some sort of testimony of Investigator's Cheeks  
14 because of a Brady violation. Do you recall that?

15 A. I recall making the motion. I don't recall what  
16 the violation was. He came with a large set of  
17 problems.

18 Q. Okay, and ultimately Mr. Saxton who was not your  
19 most cooperative client that you ever had was found not  
20 guilty?

21 A. Yes. We picked jury. He then refuse to  
22 participate in trial or refused to come to court for the  
23 next six days. So we did the murder, robbery,  
24 conspiracy and weapon trial without him and he was  
25 acquitted on everything except I think they hung on the

1 conspiracy which was ultimately dismissed.

2 MS. MCMAHAN: Answer any questions the  
3 Attorney General may have.

4 CROSS EXAMINATION

5 BY MR. JONES:

6 Q. Good afternoon Miss Zmroczek, do you still have  
7 the text messages before you?

8 A. Yes.

9 Q. These are from someone I believe you said  
10 Theresa?

11 A. So the number -- the phone is actually the  
12 decedent's but the number comes back to Theresa who was  
13 another female in the decedent's life.

14 Q. All right, so were these sent by the decedent or  
15 by Theresa?

16 A. They were received by the decedent.

17 Q. All right, and I believe you described them to  
18 Miss McMahan as evidence of a woman using drugs and  
19 threatening the life of the decedent?

20 A. Yes.

21 Q. And could you point to me exactly where in the  
22 text messages the woman admits or mentions drugs of any  
23 kind?

24 A. Well, so she doesn't mention drugs in the text  
25 messages. That came from the investigation and

1 information I had from the witnesses.

2 Q. Okay, so it wasn't -- these text messages were  
3 not evidence of her -- this is Theresa -- using drugs?

4 A. You going down to me was -- I guess I mean...

5 Q. You're going down on is evidence of drug use?

6 A. No, that's the evidence of a threat.

7 Q. All right, you going down with no punctuation  
8 plausibly could have been a question about is he going  
9 down somewhere?

10 A. Absolutely freakin' could have.

11 Q. In other words, when you say this say threat  
12 you're making a bit of inferential leap, isn't that  
13 true?

14 A. I am making a reasonable inference, but -- you  
15 know, a leap.

16 Q. It's not plain from the --

17 A. Absolutely.

18 Q. Text.

19 A. No, not. It's certainly something I think  
20 reasonable that a jury can consider either way. The  
21 problem is that had I not fought tooth and nail to get  
22 these then I wouldn't have been able then to argue that  
23 the night he was shot he also received a text message  
24 saying you're going down, which to me isn't a leap, but  
25 it's and inference absolutely.

1 Q. So do you dispute that David Walker was the  
2 person who actually shot the victim?

3 A. Honestly, I wasn't there so I have no idea who  
4 shot him.

5 Q. Do you dispute that David Walker was found on  
6 the porch with a gun shot wound in his neck from the  
7 victim's revolver?

8 A. Right, and I believe he even told him so I don't  
9 dispute that.

10 Q. So, did you establish a connection between David  
11 Walker and this Theresa?

12 A. I'm sorry, did I what?

13 Q. Do you have a connection between David Walker  
14 and this Theresa?

15 A. I don't off the top of my head.

16 Q. All right. Do you recall the testimony of  
17 Torris Moore who I believe testified in your client's  
18 case as well as Mr. Well's case?

19 A. I haven't read the transcript in a while, but I  
20 believe so.

21 Q. All right.

22 A. If you just give he me the gist I'll remember.

23 Q. I believe the gist was that she had encountered  
24 Mr. Saxton, Mr. Wells and David Walker prior to the  
25 robbery and that Mr. Walker approached her seeking a gun

1 to use in the robbery. He said he only had one gun that  
2 belongs to Mr. Wells, isn't that correct?

3 A. I believe that is what was testified to, yeah.

4 Q. All right. In this photograph -- and I forget  
5 which defendant's exhibit this is.

6 A. Applicant's five.

7 Q. Yes, I believe so. What is these blue and red  
8 markings on the far right side?

9 A. What are these?

10 Q. Yes, ma'am.

11 A. Those are the lights attached to the police  
12 vehicle.

13 Q. All right. Would it be fair to say you can't  
14 really distinguish any writing or anything else really  
15 about vehicle from these lights based on this  
16 photograph?

17 A. Yes.

18 Q. All right. Have you seen police cars in real  
19 life face to face and not just on a photograph?

20 A. Have I seen police cars in real life, yes.

21 Q. With the lights on?

22 A. Yes.

23 Q. All right. Is it your experience that you  
24 usually can't see any of the car underneath the blinking  
25 police lights when they have them on?

1 A. There is so -- this is a cop-out answer, but  
2 there are so many variables as to what you can and can't  
3 see.

4 Q. Well, one variable would be the quality of the  
5 camera, wouldn't that be correct?

6 A. Absolutely.

7 Q. So a camera wouldn't show impossibly dark  
8 lights?

9 A. Precisely why I like to do jury views and most  
10 importantly go out there by myself and to know, hey, am  
11 I'm going to make this argument based on just what I see  
12 through other people. That's why I go out there myself.

13 Q. Right. So you would not make an argument just  
14 based on this photograph?

15 A. Absolutely not.

16 Q. For those reasons?

17 A. Right.

18 THE COURT: One second. Is the photograph a  
19 still of a body cam?

20 MS. MCMAHAN: It is, and the body cam -- any  
21 time I put stills in generally the body cam is  
22 already in. So they had that for viewing.

23 THE COURT: My apologies. You may proceed.

24 Q. So would it be fair to say that you viewed there  
25 being some rivalry between Theresa and Kelly Ball?

1 A. Yes. I think that was pretty evident, yes.

2 Q. In other words there would be no reason for  
3 Kelly Ball to lie to protect Theresa?

4 A. I honestly have no idea about her motivations to  
5 lie or tell the truth. Sorry.

6 Q. All right. So -- and what exactly would be the  
7 relevance of the rivalry between Kelly Ball and Theresa  
8 to Miss Ball's credibility then?

9 A. Well -- so, I think the whole -- the whole  
10 problem with this case is there were a lot of problems  
11 evidentiary wise, but I just think that the lay  
12 witness's testimony can be very impactful when there's  
13 not that much and so the purpose of attacking the  
14 credibility is just that, when a jury when they are  
15 going to make important decisions -- you know, can  
16 understand.

17 Q. When you said it's not that much, the evidence  
18 is not that much, do you have the transcript of the --  
19 from Mr. Saxton's case of Kelly Ball's testimony with  
20 you?

21 A. Yes, applicant's three.

22 Q. Can you turn to page 94?

23 A. Yes.

24 Q. And I'm looking specifically at lines 12 through  
25 15. That will be where the solicitor on direct

1 examination asks Miss Ball, "Let me just ask you this  
2 again. Did you ever see the defendant in this case,  
3 John Lee Saxton that night?? And Kelly Ball says, "No  
4 sir? Are you reading that?"

5 A. Yes.

6 Q. All right. Do you think that could have had  
7 something to do with the fact that Mr. Saxton was  
8 ultimately acquitted, the fact the only eye-witness to  
9 the crime expressly stated she never saw him that night?

10 A. Absolutely, but that was page 94 of that direct  
11 examination. Had that question been asked on page one I  
12 don't think that question would have been asked, had we  
13 not taken her down that road of challenging her  
14 credibility to be quite honest.

15 Q. Have you read her testimony from Mr. Wells?

16 A. I did read it before the trial.

17 Q. And did she claim that she saw Mr. Saxton and  
18 could identify him that night?

19 A. No, but every time that she opened her mouth a  
20 new story came out so in case she claimed that now I  
21 needed to be prepared.

22 Q. All right.

23 MR. JONES: Thank you. I think that's all  
24 the questions I have for you. Thank you.

25 THE COURT: Redirect.

1 REDIRECT EXAMINATION

2 BY MS. MCMAHAN:

3 Q. So the text, "You're going down" would you  
4 describe that as reasonable doubt?

5 A. Oh, yes.

6 MS. MCMAHAN: Nothing further, Your Honor.

7 THE COURT: You may step down.

8 MS. ZMROCZEK: Thank you. I'm under  
9 subpoena. May be excused?

10 THE COURT: Any objection?

11 MR. JONES: No objection.

12 MS. MCMAHAN: No objection. Thank you.

13 THE COURT: You may call your next witness.

14 MS. MCMAHAN: At this time the Applicant  
15 rests.

16 THE COURT: Mr. Jones.

17 MR. JONES: Thank you, Your Honor. The State  
18 would call Rodney Richey.

19 RODNEY RICHEY, called as a witness, was  
20 sworn by the clerk and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. JONES:

23 Q. Mr. Richey, how long have you been practicing  
24 law?

25 A. Twenty-five years.

1 Q. And about what proportion of that has been  
2 criminal law?

3 A. About 60, 70 percent. It fluctuates from year  
4 to year.

5 Q. Do you remember how you became involved with Mr.  
6 Wells's case?

7 A. I think I was appointed to him as an overflow  
8 client from Greenville. Greenville -- if I'm not  
9 mistaken -- was the overflow county for Laurens at the  
10 time and I got appointed to him down in Laurens. I  
11 think that's how it went down. Something like that. I  
12 know I got appointed to him.

13 Q. And could you just generally describe the nature  
14 of the evidence in this case?

15 A. Well, first, the evidence that is set out is  
16 kind of what it was. The problem in this case is Mr.  
17 Wells is very difficult to represent. Was not very  
18 cooperative at all and that hurt the representation a  
19 great bit because as he testified I went to the jail  
20 several times and talked to him and he was combative.  
21 He was right, at the jail I left. He was so combative  
22 during this whole situation that I actually took him  
23 before Judge Addy some time before this trial to the  
24 trial judge and said, hey, this gentlemen is not  
25 cooperative. There's an offer out there that he needs

1 to consider and I took him in front of the judge because  
2 he was not cooperative and when he wasn't cooperative I  
3 was trying to get his story from him, but I did get  
4 enough from him on the initial visit.

5 Q. Okay. And you mentioned the plea offer. Could  
6 you explain the plea process?

7 A. Well, what happened is when I first went down  
8 and spoke with him the first couple of times we talked  
9 about the the case and Mr. Wells's position was that all  
10 three of them were not guilty. All three of them. And  
11 I told Mr. Wells, I said, look, we already had one  
12 trial. This gentlemen got convicted. Got life. He  
13 said, he's not guilty. He's not guilty, and I was like,  
14 sir, they had a trial. Okay. And what I derived from  
15 my conversations with him was I don't think in my mind  
16 there was any dispute he was out there that night. None  
17 in my mind based on my conversations with him and talk  
18 about this group of guys and they all were innocent and  
19 it didn't really go down like that. It wasn't a murder  
20 and all this stuff.

21 So from my position it wasn't a dispute whether he  
22 was out there. So what I did was this gentlemen I think  
23 he was out like 2007 until the time of this case. He  
24 had some bad significant criminal history before then,  
25 but he was doing great. I mean, I think he was keeping

1 his grandkids. He was doing really, really good. So  
2 based off my conversation with him I went to the  
3 solicitor and I said, hey, the gentlemen who was out  
4 there killed the guy, but I don't think my client was  
5 there. Okay. I just think that it was a bad -- these  
6 guys where up there and he didn't know anything about it  
7 and they came down after all this stuff and he drove  
8 off. And the solicitor -- I talked with him. Talked  
9 with him and I said I think this is what's the story.  
10 So after talking with the prosecutor for several times  
11 about this he came to me and Mr. Wells had been in jail  
12 I want to say two, three years. A long time. And so I  
13 pitched to the solicitor, hey, let's do an accessory  
14 after the fact because I think he might have been there,  
15 but I don't think because how good he was doing. He was  
16 staying out of trouble. He was doing great and I said I  
17 don't think he probably knew that was going to go down.  
18 That's the position I took. So let's get him out of the  
19 case because when the first guy got life it kind of put  
20 me on high alert.

21 So the solicitor came back and he said, hey, I will  
22 let him plead to accessory after the fact, five years.  
23 Basically it will be a turn around. He will go down  
24 there. He will get processed and he will be back home.  
25 Okay. Me and Mr. Wells, he's right, we had some

1 spirited conversations about that because I said, hey,  
2 man, don't give the State of South Carolina your whole  
3 life. Don't do it. Don't do it. So he was like, no,  
4 we're all innocent. All innocent. So at that point I  
5 went down to jail. We went over the evidence  
6 extensively because I said, hey, here's a guy that has  
7 given the State potentially his whole life. His whole  
8 life. And so, I sit down. We talk about the case. I  
9 said, hey, you go get identified. You're wallet is out  
10 there. All this stuff. And I was like this is some  
11 times it becomes a risk reward type of thing and because  
12 you're taking the approach you're taking, one, being  
13 very uncooperative. When you say -- because I would  
14 recall this I believe pretty clearly is, if it didn't  
15 happen like they say it happened tell me what happened.  
16 Okay, if it didn't happen like they say it had happened  
17 what happened? So when you start making those kind of  
18 statements it's not like you're saying I'm a across  
19 town. You know, I'm down in Georgia. You're saying  
20 that the story, you know, what happened is not what they  
21 said happened. I couldn't get that out of him. I just  
22 couldn't get it and any time you try a case and your  
23 defendant is very, very, uncooperative it's a difficult  
24 case to try because from his standpoint he had a  
25 significant -- he had a record and that was implicated

1 him testifying in the trial, but I think every body is  
2 aware that he has right to testify if he wants so.

3 So the case that I had was a very difficult case  
4 because of the client and the facts. Okay. Because I'm  
5 in a mixed bag here where you start talking about was he  
6 there, was he not there. That's a tricky slope for me  
7 in this case.

8 Q. And would that be a tricky foundation to even  
9 mount an investigation in the first place?

10 A. Well, that was really -- see when you start  
11 talking about investigation, Mr. Wells, his cooperation  
12 level would impede any investigation. So when I would  
13 talk to him about the case and say, hey, if we have gone  
14 to trial I would need some witnesses or something and  
15 no, no, no, and similar to today, he says -- I mean,  
16 there was no witnesses that I'm aware of because I would  
17 have called them because it was a very, very significant  
18 case that he went on trial on.

19 Q. Did you -- I believe you testified that you did  
20 go over the evidence in the case with him prior to  
21 trial?

22 A. We went over the evidence. We went over and  
23 that's why I said this type of case, this gentlemen is  
24 basically putting his whole life on the line that --  
25 that I will make sure he knows the evidence that I have

1 in this case.

2 Q. You explained the elements of the charges he was  
3 facing?

4 A. He was fully aware of that LWOP and he made a  
5 statement during the trial that he got offered to plead  
6 to armed robbery. He did, but they also agreed to  
7 remove the LWOP because when I went to them with the  
8 offer I'm not going to go to them with an offer you  
9 plead to LWOP. That's not an offer. So they were going  
10 to allow him to plead in the middle of the trial and --  
11 and I remember I think telling him to plead because I  
12 think I had -- the judge and everybody we had knew that  
13 the offer the gentlemen got that it was such a shame  
14 that this man has to spend all this time in jail. It's  
15 just a shame.

16 Q. And you did explain to him that the LWOP would  
17 be removed if he took the plea?

18 A. Absolutely. Absolutely.

19 Q. You heard Mr. Wells say that he had a  
20 manslaughter conviction. Did you advise him about that  
21 when discussing his right to testify about the  
22 possibility of that coming up?

23 A. He didn't want to testify. I talked to him.  
24 It's his decision. I don't make that decision and  
25 really in this case, I mean, it could have been

1 beneficial for him to testify. I guess he could get up  
2 there and say he wasn't there, but it's always the  
3 client's right to testify regardless less of what the  
4 lawyers say. That's their right and he has right to do  
5 it or not do it.

6 Q. And I realize it has been a long time since the  
7 trial, but do you recall the cross examination you did  
8 of the witness Kelly Wall?

9 A. I don't.

10 Q. Do you recall one of the witnesses mentioning  
11 something about a man named Ty who looked something like  
12 Mr. Wells, but later denied it was Mr. Ty?

13 A. I don't know.

14 Q. Can you explain what kinds of motions you made  
15 prior to the trial for disclosure of evidence?

16 A. I do a discovery motion. I'm pretty sure I did  
17 that. I don't know of any other. The transcript might  
18 reflect it, but I do a basic discovery motion minimum in  
19 every case.

20 MR. JONES: Beg the Court's indulgence.

21 Mr. Richey, I think that may be all the  
22 questions I have for you at this time.

23 THE COURT: Cross examination.

24 CROSS EXAMINATION

25 BY MS. MCMAHAN:

1 Q. Mr. Richey, did you have that those text  
2 messages and stuff from that phone?

3 A. If it came in discovery I'd have it.

4 Q. Did you hear Miss Zmroczek's testimony where she  
5 said she had to fight for it and request it?

6 A. No, I didn't hear that, but I got the discovery  
7 in the case and I was satisfied with the information  
8 that I got.

9 Q. Did you have the body camera footage?

10 A. If it was part of discovery I did.

11 Q. It wasn't used in the trial at all. So would  
12 you have used it in the trial if you had it?

13 A. I don't know. I can't say. I can't say.

14 Q. Would you have tried to use Kelly Ball's  
15 statement as she gave in those body cams against her if  
16 it was useable?

17 A. Well, the problem is that there was no question  
18 in my mind he was there. There was none. I had no  
19 question that he was up there. So, in terms of -- see  
20 this is kind of a slippery slope theme that I'm going to  
21 impeach her on stuff that I know to not to be true. You  
22 know, that's the hard thing to do.

23 Q. And so the defense was really he was there but  
24 he didn't know this was all going down?

25 A. Based on -- based on the little information I

1 got from him and the uncooperativeness that I got from  
2 him, I essentially put together the case myself because  
3 I had no -- no beneficial client's assistance.

4 Q. And I know you said you had some spirited  
5 conversations with him. Do you recall how many times  
6 you might have met with him?

7 A. I would say off the top of of my head I know it  
8 was at least five to six because I had the initial  
9 meeting. My initial meeting generally a client is not  
10 with discovery. Generally I go tell me what happened  
11 and then I get my discovery.

12 That's my initial meeting with 95% of my clients  
13 and the next meeting I'll have the discovery and then  
14 the next we have discovery and then I know we had a  
15 meeting before we went in front of Judge Addy. I know  
16 we had a meeting before trial as he said so. At less  
17 five, six times minimum.

18 Q. And do you recall if you asked for a directed  
19 verdict in the trial?

20 A. What's that?

21 Q. Do you recall if you asked for a directed  
22 verdict?

23 A. If I did?

24 Q. Yes.

25 A. I don't recall. The transcript would reflect

1 that.

2 Q. And did you see any issues with the indictment  
3 that you could have made a motion to quash or anything  
4 like that?

5 A. No.

6 Q. In the limiting instruction that the judge gave  
7 about when the solicitor was insinuating, I guess, the  
8 fact that Walker was found guilty so Mr. Wells should be  
9 found guilty and the Court gave a limiting instruction  
10 on that. Did you see any reason to object to that  
11 limiting instruction?

12 A. I think the transcript would reflect that. I  
13 don't recall specifically, but the transcript would  
14 reflect what I did.

15 MS. MCMAHAN: Court's indulgence. I have no  
16 further questions, Your Honor.

17 THE COURT: Any redirect.

18 MR. JONES: Just briefly Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. JONES:

21 Q. Mr. Richey, so, Miss McMahan asked you about the  
22 portion of the trial where evidence came in that David  
23 Walker, the co-defendant, was ultimately convicted for  
24 the murder of the victim and then the -- it's correct  
25 that Mr. Wells was acquitted for the murder, correct?

1           A.     Yes.   Yes.   And that was a big deal because the  
2 way that trial was going and him getting convicted of  
3 murder there was a real possibility because of the hand  
4 of one, hand of all and that's just signifies how tricky  
5 this case was and the way I had to -- the way that Mr.  
6 Wells had me do the case.   When I say do the case.   It  
7 made the State's evidence better than what it actually  
8 was.   The way his level of participation and the way he  
9 was doing it actually made their case I believe better  
10 than what it really was.

11          Q.     All right.   I think that is all I have for you  
12 Mr.   Richey.

13          A.     Thank you.

14                THE COURT:   All right, you may step down.

15                MR. RICHEY:   Can I be excused Your Honor?

16                THE COURT:   Yes, sir.

17                MR. RICHEY:   Thank you.

18                MR. JONES:   That's the State'S case, Your  
19 Honor.

20                I would ask for the ability to make an  
21 argument to the Court.   I don't know if you want  
22 it by closing statements because of the complexity  
23 of the case.

24                THE COURT:   Well, I got big issues with this  
25 case.   I want some type of exhibits provided by

1           either -- I'm not closing this. I want to know  
2           from the solicitor's office if evidence was  
3           provided or not. If there are body cams and  
4           especially body cams that deal with the firearm  
5           being left on the ground that's after being picked  
6           up, wiped off, being chucked on the ground I have  
7           serious issues, especially if that wasn't  
8           provided. So, I don't know if I need to retain  
9           jurisdiction or if we need to resume and have  
10          another witness brought in in regards to the  
11          solicitor's office, but, I haven't heard  
12          sufficient testimony.

13           MS. MCMAHAN: I think in that situation, one,  
14           I think it would be better for to you retain  
15           jurisdiction. And two, it maybe a situation where  
16           one not only perhaps the attorney general  
17           approaches the solicitor with that set of  
18           questions instead of myself, but also perhaps  
19           maybe see if Mr. Richey still has his file on hand  
20           to see exactly what he was given.

21           THE COURT: Based upon his testimony I think  
22           don't know what he was given.

23           MS. MCMAHAN: I can tell you obviously by  
24           reading the transcript the body cam was not used  
25           at trial at all. I provided the body camera

1           footage so that the Court can view it and so I  
2           think in terms of issues with the solicitor and  
3           what they provided having been a solicitor myself  
4           some times you don't necessarily keep that stuff.  
5           I think that might be better for the attorney  
6           general to talk to them about that.

7           MR. JONES: I'll be happy to talk to them  
8           about that, Your Honor. I was not aware of that  
9           accusation prior to Miss Zmroczek testimony.

10          THE COURT: Well, his appellant rights this  
11          has been appealed and that wasn't brought up  
12          because he didn't know about it. But if discovery  
13          wasn't provided that's an issue.

14          MR. JONES: I will certainly look into that,  
15          and we can work out the scheduling of any  
16          subsequent --

17          THE COURT: What I can do is just do a form  
18          four retaining jurisdiction over this. If we need  
19          to resume via Webex and get the parties to agree  
20          with that if we have to.

21          MS. MCMAHAN: I'm okay with that.

22          MR. JONES: I'm also okay with that.

23          THE COURT: Mr. Wells, I will need for to you  
24          agree to take as well. Do you have any issue with  
25          me retaining jurisdiction on this if we have to we

1           may have to resume via Webex. It's on camera  
2           rather than in person if we have to do that. Is  
3           that okay with you?

4                   THE APPLICANT: Yes, sir.

5                   THE COURT: All right. Thank you.

6                                   (END OF TRANSCRIPT)

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C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for Newberry County, South Carolina, on the 28th day of November, 2023.

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

July 28, 2024

*Aileen Butler*

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	FOR THE 8 <sup>th</sup> JUDICIAL CIRCUIT
COUNTY OF LAURENS	)	Case No.: 2019-CP-30-00134
Christopher J. Wells, #193588,	)	
	)	
Applicant,	)	<b>ORDER GRANTING</b>
	)	<b>POST CONVICTION RELIEF</b>
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

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This matter is before the Court by way of a Post-Conviction Relief Application (PCR) filed by Christopher J. Wells (Applicant) on or about February 19, 2019, and amended on December 4, 2023.

The Court convened an evidentiary hearing on November 28, 2023, at the Newberry County Courthouse. Applicant was present at the hearing and represented by Ashley A. McMahan, Esquire. Assistant Attorney General Zachary W. Jones represented the State. The Applicant, Rodney W. Richey, Esquire, and Aimee J. Zmroczek, Esquire testified at the hearing. On or about February 15, 2024, in lieu of in-person testimony, the Attorney General presented an affidavit of O. Warren Mowry, Jr. via e-mail. After reviewing all the records and evidence presented to the Court, the Court finds that the Applicant has met his burden of proof establishing that he is entitled to post-conviction relief. This Court finds as follows:

**I. PROCEDURAL HISTORY**

Mr. Wells is currently confined in the South Carolina Department of Corrections pursuant to Orders of Commitment of the Laurens County Clerk of Court. During the April 2015, term of the Laurens County Grand Jury, Applicant was indicted for Possession of a Weapon During the Commission of a Violent Crime (2015-GS-30-00503), Armed Robbery (2015-GS-30-00504), and Criminal Conspiracy (2015-GS-30-00505). During the July 2015, term of the Laurens County Grand Jury the Applicant was also indicted for Murder (2015-GS-30-01162).

On April 25-27, 2016, Mr. Wells proceeded to trial before the Honorable Frank R. Addy, Jr. The jury convicted the Applicant on Possession of a Weapon During the Commission of a Violent Crime, Armed Robbery, and Criminal Conspiracy. Mr. Wells was found not guilty of Murder<sup>1</sup>. Applicant was sentenced to life without parole.

A timely Notice of Appeal was filed and an appeal was perfected. Appellate Defender Katherine H. Hudgins represented Mr. Wells. Assistant Attorney General S. Ranee Saunders represented the State. On November 8, 2017, the South Carolina Court of Appeals affirmed the Applicant's conviction and sentence in an unpublished opinion. State v. Wells, 2017-UP-417 (Ct. App. 2017). On January 18, 2018, a Petition for Rehearing was denied. The Remittitur was sent on May 14, 2018.

### **Factual Background<sup>2</sup>**

On October 31, 2013, the Laurens County Sheriff's Department responded to a mobile home on River Hill Road in Enoree, SC and found David Lee Walker slumped over on the porch swing. Deputies went inside the mobile home and found Johnny Lee Cheeks<sup>3</sup> inside with a gunshot wound. Walker indicated he had been attacked by two people he didn't know. However, Cheeks told deputies that Walker shot him. Cheeks later died and Walker survived.

Before deputies arrived, Cheeks was inside the mobile home with Kelly Ball. Cheeks also sold drugs and liquor from his home. Sometime between 10:30PM and 11:00pm, someone knocked on the door. Cheeks went outside, had a verbal altercation with someone, and then Ball heard gunshots. Ball called 911 and then went outside to check on Cheeks. She found him lying on the ground and noticed another person on the ground by Cheeks' Suburban SUV. She identified this person as Walker. Ball also said she saw another person standing in the driveway that night and that that person resembled Ty, a large, dark-skinned black male that she knew. However, she

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<sup>1</sup> Two other charges against Mr. Wells were dismissed after the trial, one was an Accessory Before the Fact to a Felony charge (warrant number 2013A3010101766) and the other was Possession of a Stolen Pistol charge (warrant 2014A3010100012). Neither of these charges was indicted.

<sup>2</sup> These facts are a summary of the facts written in the Final Brief of Appellant and the Final Brief of Respondent.

<sup>3</sup> Not to be confused with the Sheriff's investigator in this case whose last name is Cheek.

ultimately identified the person in the driveway as being Mr. Wells.

Ball pulled Cheeks inside the trailer after the shooting and Cheeks handed her his revolver and she put it under the mattress.

Ball watched the individual in the driveway turn and run up the hill and get into the back passenger seat of a brown, older model box style car and leave. Officer Ashley with the Laurens City Police Department received information that it was an older model, dark blue car that had been involved in the shooting. Based on this, Officer Ashley followed a blue car and found it parked at Mr. Wells' girlfriend's house. Mr. Wells consented to a search of his car and nothing of evidentiary value was found inside.

Toris Moore saw her uncle (David Walker), Wells, and Johnny Lee Saxon together on Halloween when they came to her house. Walker told Moore they needed her gun because they were going to rob an old man who stayed with a white lady and sold liquor and drugs from his house. Moore did not have a gun and sent them away empty handed.

A Lorcin 380 semi-automatic handgun was found outside in the yard. Deputies found three 380 shell casing in the yard and a slug inside the mobile home. SLED was able to confirm that the slug came from the 380 found in the yard. SLED could not however, confirm that the 380 casings came from the 380 found in the yard, but all three casing came from the same gun.

## II. CURRENT APPLICATION

In his initial application for PCR, Applicant alleged the following:

### A. Ineffective Assistance of Counsel

1. Trial counsel provided "erroneous advice on which [Applicant] based his decision not to testify."
2. Trial counsel failed to object to Applicant's indictments and failed to preserve the issue for appellate court.
3. Failure to request a lesser-included offense instruction.
4. "denying Applicant his right to an impartial jury..."
5. Failure to investigate
  - a. Failure to interview "victim's friend."
6. Failure to "object and preserve applicant's constitutional rights, compulsory process right, and hearsay assertions."

7. Failure to communicate plea offer
8. Failure to be “specific in applicant’s directed verdict motion.”
9. Failure to prevent testimony indicating that a co-defendant was found guilty of murder.
10. “[F]ailure to object and preserve a[n] argument regarding the limiting [jury] instruction.”
11. Appellate counsel “failed to raise on direct appeal Applicant’s jurisdictional issue.”

On or about December 4, 2023, Applicant amended his PCR application and added the following allegations:

1. Ineffective Assistance of Counsel of Rodney W. Richey, Esquire:
  - a. Failure to object to the sufficiency of the limiting instruction given during the trial.
  - b. Failure to raise the issue that Theresa Loveless, one of the jurors, goes to church with and knows Detective Cheek and did not disclose this during jury selection.
  - c. Failure to object to the alternate juror being present in the jury room during deliberations. *See* transcript p. 376, line 1 – p. 378, line 19. The record does not reflect that the judge asked the alternate to step out nor does the record reflect that the alternate was excused.
  - d. Failure to adequately relay the plea offer made during the trial. Mr. Mowry offered a plea to armed robbery with a dismissal of the murder charge while the trial was in progress. However, the Applicant had been served with LWOP notice prior to the trial and Applicant was not sure if he took this plea offer that the Solicitor meant for him to get life without parole or to plead straight-up with life taken off the table.
  - e. Failure to challenge or request further discovery from the Solicitor’s office. There was a phone with text messages on it as well as body camera video that was available that Mr. Saxon, the Applicant’s co-defendant, was able to obtain through his attorney, Ms. Aimee Zmroczek, but Mr. Richey never had.
  - f. Failure to move to have the case dismissed against the Applicant because he was never read his Miranda rights when being questioned on video.
  - g. Failure to adequately cross-examine Kelly Ball about her inconsistent statements given to the police and her testimony in trial.

- h. Failure to request a Neil v. Biggers hearing on the photo line-up.
- i. Failure to request that Juror #10 be released after she got a ride home from the sheriff's department.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at hearing, and weighed the testimony accordingly. Before the Court are the Applicant's records from the South Carolina Department of Corrections, the transcript of the Applicant's trial, the records from the Laurens County Clerk of Court regarding his convictions, Applicant's appellate records, and the original and amended applications for post-conviction relief. This Court has reviewed the records submitted to it by the parties, including the affidavit of Mr. Mowry, the legal arguments made by the attorneys, and the pleadings. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Pursuant to SC Code §17-27-80, this Court makes the following findings based upon all the evidence presented:

#### **Ineffective Assistance of Counsel**

In a PCR matter, the Applicant bears the burden of proving the allegations in their application. Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). 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 v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The Applicant must prove their allegations by a preponderance of the evidence. SCRPC Rule 71.1(e).

In determining whether an allegation of ineffective assistance of counsel has merit, the Court uses the two-prong test outlined in Strickland v. Washington, 466 US 668 (1984). First, an applicant must show that counsel's performance was

deficient. Strickland, 466 US at 687; Cherry v. State, 300 SC 115, 117, 386 S.E.2d 624, 625 (1989). 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

#### Issues Raised in the Initial PCR Application

In his initial PCR application, Mr. Wells raised numerous issues. (See Part II, Current Allegations, A, *infra*.) Most of these issues were not even mentioned or discussed at the PCR hearing with the exception of the issue relating to the plea offer that was given during the middle of his trial. The issue regarding the plea offer was also raised in the amended PCR application and will be addressed below.

Mr. Richey did testify that he did not see any issue related to the indictments or any reason to object to them. As to the issue relating to Mr. Richey allowing testimony about Wells' co-defendant being convicted of the murder to come out in Wells' trial, that testimony probably actually helped the Applicant in his trial. There is no evidence that had that testimony not come out the outcome of the trial would have been different.

With the exception of allegations 5, 7, and 10, the Court finds that the Applicant failed to present any substantive evidence regarding the issues written in the initial PCR application at the PCR hearing. Because of this, the Court will not address each of these allegations in this order and finds that the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, these allegations are denied. The remaining issues of 5, 7, and 10 listed in Part A will be addressed below.

#### Issues Raised in the Amended PCR Application

*Failure to object to the sufficiency of the limiting instruction given during the trial.*

Applicant contends in his amended PCR application that Mr. Richey was ineffective in not objecting to the limiting instruction given during Mr. Wells' trial. Wells testified that Mr. Richey did not object to it. Mr. Richey stated that the "transcript will reflect what happened."

At some point during the trial, a reference was made to the fact that Mr. Wells' co-defendant, Mr. Walker, was also convicted of crimes related to the same incident. Because of this, the trial judge gave a limiting instruction to the jury that is located on page 358 of the transcript, lines 8-19. When asked by the trial court, Mr. Richey indicates he did not have any additions or exceptions to the jury instructions. (Transcript page 377, lines 16-18.)

There was no argument presented by the Applicant as to how the outcome of his trial would have changed had this instruction been objected to. Presumably, this issue would have been preserved for appeal and could have been raised on appeal had the instruction been objected to. However, there is nothing to indicate that this jury charge was incorrect or not needed, nor is there anything to indicate that, had this issue been briefed on appeal, the Applicant would have successfully had his conviction overturned. Therefore, this allegation is denied.

*Failure to raise the issue that Theresa Loveless, one of the jurors, goes to church with and knows Detective Cheek and did not disclose this during jury selection.*

Applicant presented no evidence at the PCR hearing regarding this allegation. Ms. Loveless did not appear at the PCR hearing. Therefore, this allegation is denied.

*Failure to object to the alternate juror being present in the jury room during deliberations.*

In support of this allegation, Mr. Wells cited page 376, lines 20-25 from the transcript. Which in summary, is basically Judge Addy telling the jurors not to begin deliberating until they are in receipt of the jury instructions. The record does not

specifically show Judge Addy excusing any alternates. However, Judge Addy is a well-seasoned jurist and it is highly unlikely that any alternate was allowed to stay in the jury room once deliberations began. Proceedings in a court of general jurisdiction will be presumed regular absent evidence to the contrary. State v. Grim, 341 S.C. 63, 533 S.E.2d 329 (2000) *citing* Pringle v. State, 287 S.C. 409, 339 S.E.2d 127 (1986). Here, Applicant presented no testimony or evidence that the alternate did in fact participate in deliberations with the jury and has not met his burden regarding this allegation. Therefore, this allegation is denied.

***Failure to adequately relay the plea offer made during the trial.***

At the PCR hearing, Mr. Wells testified that a plea offer was relayed to him during his trial and that he believes the way it was relayed to him was ineffective because he wasn't sure if it meant that the life without parole notice would be taken off the table if he pleaded guilty. Applicant testified that he was confused about whether the offer meant LWOP was off the table. Mr. Richey testified that throughout his entire representation, Mr. Wells insisted on a trial and did not want to plead guilty. Mr. Richey also noted that the plea offer meant LWOP was off the table and that the State would let Wells plead during the middle of the trial. Mr. Richey advised the Applicant to take the offer but Wells would not take it.

Regardless of Mr. Wells' understanding of the plea offer given during the trial, he did not indicate that he would have taken the offer. Mr. Richey indicated that during his entire representation of Mr. Wells that he did not want to plead guilty, only to have a trial. There was no indication at the PCR hearing that Mr. Wells would have even accepted this offer if he was clear on the parameters of it. Therefore, this allegation is denied.

***Failure to Investigate.***

Mr. Wells has two co-defendants: Johnny Saxon and David Lee Walker. Walker was tried first and found guilty of murder on February 27, 2015. (2014-GS-30-00228) Walker was found not guilty of possession of a weapon during the commission of a violent crime. (2014-GS-30-00229) Wells was tried after Walker. Saxon was tried last.

Saxon's jury ended with a hung jury on the conspiracy charge and was ultimately found not guilty on the remaining charges. Eventually the conspiracy charge was nolle prossed. Saxon was represented by Ms. Zmroczek and John J. Delgado, Esquire.

This Court is interpreting the allegation of "Failure to challenge or request further discovery from the Solicitor's office" as an allegation against Mr. Richey for not adequately investigating Mr. Wells' case or reviewing the Discovery in-depth that was made available to him or requesting further evidence from the State that would have been obvious to request based on the Discovery that was given to Mr. Richey. At the PCR hearing, the Applicant presented the testimony of Ms. Zmroczek in support of this allegation.

It is well established that a criminal defense attorney has a duty to investigate, but that duty is limited to a reasonable investigation. When evaluating the reasonableness of counsel's conduct, the court should keep in mind that counsel's function, as elaborated in prevailing professional norms, is to make the adversarial testing process work in the particular case. Ard v. Catoe, 372 S.C. 318, 642 S.E.2d 590 (2007). Moreover, while the scope of a reasonable investigation depends upon a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case. Id.

In Lounds v. State, 380 S.C. 454, 670 S.E.2d 646 (2008), the South Carolina Supreme reversed the lower court and granted PCR relief when counsel failed to conduct a reasonable investigation. The South Carolina Supreme Court held that a reasonable investigation includes interviewing witnesses and conducting an independent investigation of the facts of the case. Lounds, 380 S.C. at 460, 670 S.E.2d at 649, *See* Ard v. Catoe, 372 S.C. 318, 642 S.E.2d 590 (2007). In McKnight, the South Carolina Supreme Court held: "This Court has recognized that strategic choices made by counsel after an incomplete investigation are reasonable 'only to the extent that reasonable professional judgment supports the limitations on the investigation.'" McKnight v. State, 378 S.C. 33, 45, 661 S.E.2d 354, 360 (2008) (*quoting* Von Dohlen v. State, 360 S.C. 598, 607, 602 S.E.2d 738, 743 (2004)).

Mr. Richey testified that Mr. Wells was a difficult and combative client and that he wouldn't give Mr. Richey any information that would have helped him in his representation of the Applicant. Mr. Richey did not have a case file with him at the PCR hearing. Ms. Zmroczek testified that she represented the co-defendant, Mr. Saxon. Her case file was available during Mr. Wells' PCR hearing. During her representation of Mr. Saxon she was given photos of the crime scene. In those photos she noticed that the officers had on bodycams (BWC), so she requested the bodycam videos. She did not initially receive all the bodycam videos and followed up with the Solicitor to request the remaining missing bodycams. Mr. Mowry's affidavit supports this statement by Ms. Zmroczek.

It was after Ms. Zmroczek requested the remaining BWC and reviewed it, she noticed that at one point a gun was found in the grass. (Applicant's exhibits 7&8.) It was only after she requested the remaining BWC that the issue with the gun in the grass was known.

Ms. Zmroczek also realized there was a cell phone in the custody of law enforcement that had not been reviewed that belonged to the victim. She requested the cell phone and had an expert extract the text messages off of it. (Applicant's exhibits 1&2.) The phone contained some text messages that could be considered threatening in nature to the victim in this case. Along with the issue related to the gun in the grass, these messages are reasonable doubt and could have changed the outcome of Mr. Wells' trial.

Ms. Zmroczek further noted that she had gone out to the scene herself on the same date (but in 2013) and around the time the incident occurred and had taken photos while there. She noted how incredibly dark it was and that in her mind, there was no way Kelly Ball could have seen anyone up on the hill or in the street, let alone the person driving the car. (See Applicant's exhibit 5.) Ms. Zmroczek also made a map that showed the path the car that was there during the crime had taken and the locations of the other people supposedly involved in the crime. This court finds that these exhibits and these efforts of Ms. Zmroczek also show reasonable doubt that Mr. Richey did not explore in the trial of Mr. Wells.

Taking in all the evidence that Ms. Zmroczek had that Mr. Richey likely would have realized was missing had an adequate investigation been conducted, this Court finds that Mr. Wells' PCR should be GRANTED.

***Failure to move to have the case dismissed against the Applicant because he was never read his Miranda<sup>4</sup> rights when being questioned on video.***

Applicant testified that law enforcement called him into an interview room and he was not Mirandized when they started talking to him. Applicant did admit that he talked to Mr. Richey about the issue and that Mr. Richey advised him that the issue "wouldn't amount to much."

Under Miranda the US Supreme Court ruled that under the Fifth Amendment, any statements that a defendant in custody makes during an interrogation are admissible as evidence at a criminal trial only if law enforcement told the defendant of the right to remain silent and the right to speak with an attorney before the interrogation started. Mr. Wells didn't testify at his trial. Since Mr. Wells didn't testify and Mr. Wells statements to the police were not brought up during the trial, Mr. Richey can't be ineffective for not moving to suppress a statement that wasn't even used during Mr. Wells's trial to begin with. Therefore, this allegation is denied.

***Failure to adequately cross-examine Kelly Ball.***

Applicant alleges that Mr. Richey was ineffective in his cross examination of Kelly Ball. Mr. Richey testified that he did not remember his cross examination of Ms. Ball but that there was no question in his mind that Mr. Wells was present at the scene and that trying to impeach Ms. Ball on that point would have been risky.

Ms. Zmroczek testified that Kelly Ball had been in and out of mental hospitals prior to and after the events and that she had gotten her mental health records from the ER and Marshall Pickens. Her impression of Ms. Ball was that Ms. Ball was very mentally ill and self-medicated as well as being bi-polar. Ms. Ball had stated she was using drugs the day of the crime and gave multiple inconsistent statements. Ms.

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<sup>4</sup> Miranda v. Arizona, 384 US 436 (1966).

Zmroczek said it was her goal in cross examining Ms. Ball to show that Ms. Ball was a drug addict and unstable, because her credibility was important to Mr. Saxon's trial. (See Applicant's exhibits 3&4.) Ms. Ball's statements did not conform to the evidence and Ms. Zmroczek noted that she was actually on the phone during the whole ordeal, not just with 911 but with her mother. In the additional BWC footage Ms. Zmroczek obtained, Ms. Ball's statement on it contradicted her statements given later on as well as contradicting what she said she did during the phone call.

This issue also relates to Mr. Richey's failure to investigate. Had Mr. Richey obtained Ms. Ball's mental health records and had her statements given on the BWC, Mr. Richey's cross-examination of Ms. Ball would have been more thorough and possibly changed the outcome of Mr. Wells' trial. Mr. Richey was not able to articulate any strategic decisions on the way he cross-examined Ms. Ball. Because of this, this Court finds that Mr. Well's PCR should be GRANTED.

***Failure to request a Neil v. Biggers<sup>5</sup> hearing on the photo line-up.***

Wells testified at the PCR hearing that he and Mr. Richey did not have a Neil v. Biggers hearing as to whether the line up was adequate. Wells presented no evidence that had a Neil v. Biggers had been held the outcome of his trial would have been different.

The trial transcript indicates that Mr. Richey was not going to be bringing up issues related to the photo line-up of Mr. Wells, and that he was not requesting a hearing regarding whether the photo line-up was suggestive in nature. Transcript page 119, line 21 – page 120, line 5. Applicant presented no evidence that the photo line-up was unduly suggestive requiring Mr. Richey to request a Neil v. Biggers hearing. Therefore, this allegation is denied.

***Failure to request that Juror #10 be released after she got a ride home from the sheriff's department.***

Mr. Wells did testify that at some point during the trial the sheriff gave one of

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<sup>5</sup> 409 US 188 (1972).

the jurors a ride home during his trial. This is not uncommon for jurors who may not have their own form of transportation to get to and from the courthouse during a trial. Applicant presented no other evidence that the juror getting a ride with the sheriff somehow affected the outcome of his trial. Therefore, this allegation is also denied.

**IV. CONCLUSION**

Based on the foregoing, this Court finds and concludes that the Applicant has met his burden establishing that he is entitled to post-conviction relief.

This Court notes that the Respondent must file and service a Notice of Appeal within thirty (30) days from the receipt by the State of written notice of entry of judgment to secure appropriate appellate review. See SC Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED that based on the foregoing the application for Post-Conviction Relief be **GRANTED**.

AND IT IS SO ORDERED!

  
B. ALEX HYMAN  
PRESIDING CIRCUIT COURT JUDGE

7/8 2024  
Cowsey South Carolina

# M<sup>C</sup>MAHAN LAW, LLC

July 12, 2024

Michelle Simmons  
Laurens County Clerk of Court  
Attn: PCRs  
PO Box 287  
Laurens, SC 29360-0287

Re: Christopher J. Wells, #193588 vs. State of South Carolina  
2019-CP-30-00134

Dear Madam Clerk,

Please find the enclosed order granting post-conviction relief and one copy for the above-referenced PCR matter. Kindly clock in this order and send a clocked copy back to me in the enclosed envelope.

Should you have any questions I can be reached at the number listed below or at [ashley@mcmahanlawsc.com](mailto:ashley@mcmahanlawsc.com).

Best regards,



ASHLEY A. MCMAHAN  
ATTORNEY AT LAW

AAM

cc: Christopher J. Wells  
AAG Zachary Jones (via email)

Enclosure

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LAURENS	)	FOR THE EIGHTH JUDICIAL CIRCUIT
	)	
Christopher J. Wells, #193588	)	Case No.: 2019-CP-30-00134
	)	
Applicant,	)	
	)	<b>RESPONDENT'S MOTION TO ALTER OR</b>
v.	)	<b>AMEND THE ORDER GRANTING POST-</b>
	)	<b>CONVICTION RELIEF PURSUANT TO RULE</b>
State of South Carolina,	)	<b>59(e), SCRCP</b>
	)	
Respondent.	)	
	)	
	)	

This matter comes before the Court by way of an application for post-conviction relief ("PCR") filed by Christopher J. Wells ("Applicant") on February 19, 2019. The Court convened an evidentiary hearing into the matter on November 28, 2023, at the Newberry County Courthouse. Applicant was present at the hearing and represented by Ashley A. McMahan, Esq. Zachary W. Jones, of the South Carolina Attorney General's Office, represented Respondent.

By order dated July 8, 2024, this Court granted post-conviction relief to Applicant. The order was filed by the Laurens County Clerk of Court on July 18, 2024. The Court found Applicant's trial counsel, Rodney W. Richey, Esquire, was ineffective for failing to perform an adequate pre-trial investigation and for failing to adequately cross-examine Kelly Ball, one of the State's witnesses. The Court denied all other allegations. As relief, the Court ordered that Applicant receive a new trial.

Respondent respectfully submits that the Court has overlooked or misapprehended material points of law and fact that necessitate the opposite result. Accordingly, pursuant to Rule 59(e), SCRCP, Respondent now makes the following motion to alter or amend the Court's order and asks this Court to issue a revised or amended order denying relief and finding that Mr. Richey was not ineffective.

## L. FAILURE TO INVESTIGATE

The Court found Mr. Richey failed to conduct an adequate pre-trial investigation in the case. This finding was based on the testimony of Aimee J. Zmroczek, Esquire, the attorney who represented Applicant's co-defendant, Johnny Saxon, regarding the investigations she undertook in preparation for Saxon's trial. The Court found four specific instances where Ms. Zmroczek obtained information that Mr. Richey either did not obtain or did not make use of at Applicant's trial: additional body-worn camera videos from the officers who responded to the scene; text messages from the victim's phone; Ms. Zmroczek's own visit to the crime scene at night to gauge how dark it would have been on the night of the murder; and a map purporting to show the route taken by the getaway car and the locations of other people "supposedly involved in the crime." The Court found that Mr. Richey's performance was deficient because, had Mr. Richey more thoroughly investigated the case, he "likely would have realized" the above evidence was "missing." The Court's order appears to accept Applicant's argument that he was prejudiced by the absence of these four pieces of evidence because Ms. Zmroczek's client was ultimately acquitted of the armed robbery charge while Applicant was convicted.

Respondent respectfully contends that there are several serious flaws with the Court's analysis. First of all, it must be noted that Applicant and Johnny Saxon were not similarly situated defendants. The evidence against Applicant was far stronger than the evidence against Saxon:

Within seconds of the shooting, the State's witness Kelly Ball testified she looked out the door of the Victim's trailer and saw Applicant standing "eight to ten feet away" in the yard. (Tr. p.132, line 20). She testified she could see Applicant's face for approximately fifteen seconds because he took several steps backward before turning around and running toward the getaway car. (Tr. p.132, line 24-p.133, line 6). Later, she was able to pick him out of a photographic

lineup. (Tr. pp.144-47; pp.291-92). By contrast, Kelly Ball never claimed to have seen Johnny Saxon at the scene and candidly admitted she could not tell who else may have been inside the getaway car. (Tr. p.136, lines 1-3). At Saxon's trial, Ball expressly testified that she never saw Johnny Saxon at all. (Applicant's Ex. 3, p.58, lines 2-3).

After calling 911, Kelly Ball gave a description of the getaway vehicle. Officer Andrew Ashley testified he was driving north on Highway 101 when he heard a description of the car over the radio. (Tr. p.213-14). He then observed a vehicle that matched the description heading south on Highway 101, and he turned around and began following it. (Tr. p.214). The vehicle eventually turned left from Highway 101 onto Pleasant View Drive. (Tr. p.226; p.229). Along with Deputy Jeremy McMahan, Ashley followed the vehicle to a residence on Jones Hill Road, and McMahan knocked on the door. (Tr. p.218). Applicant was inside. (Tr. pp.218-19). Applicant admitted he had been driving the car, claiming he was coming from a female friend's house in Spartanburg; however, he refused to give the "friend's" name or address and seemed "very vague and reluctant." (Tr. pp.230-31). Neither officer mentioned seeing Johnny Saxon in the car or at the house.

The following day, Antonio Morris was walking at the corner of Highway 101 and Pleasant View drive when he found a discarded wallet lying on the side of the road. (Tr. p.275). Inside the wallet was a single dollar bill and the ID of the victim, Johnny Lee Cheeks. (Tr. p.276). After hearing from his aunt that a man named Cheeks had been killed, Morris alerted law enforcement and led Officer Bryant Check to the wallet, which was collected as evidence. (Tr. p.277-78; p.293). Kelly Ball identified the wallet as belonging to the victim and confirmed that the victim's ID was inside, although she testified that there were thousands of dollars inside the wallet when she last saw the victim using it. (Tr. p.124-25). The wallet was found within a mile of the house

on Jones Hill Road where Applicant was staying, but more than eight miles from the site of the shooting. (Tr. p.290). Nothing connected the location of the wallet with Johnny Saxon, however.

The only evidence implicating Johnny Saxon as a co-conspirator in the murder and armed robbery of the victim was the testimony of Toris Moore, niece of the third co-defendant, David Walker. Moore testified that, on the evening of October 31, 2013, prior to the shooting, Walker, Applicant, and Saxon came to see her in Applicant's car. (Tr. pp.109-10; p.112). Walker spoke to her and told her the three of them were planning to rob a drug dealer who lived with a white woman in Enoree. (Tr. p.110, pp.115-16). Walker stated Applicant already had a gun to use in the robbery, but he asked Moore if she could give them an additional gun. (Tr. pp.110-11; p.116). Moore did not want to get involved, so she told Walker she did not have a gun. (Tr. p.111). Moore identified the car the men arrived in as Applicant's car. (Tr. p.112). Although Walker did the talking and Applicant provided the car and the gun, Moore never testified to Saxon doing anything other than accompanying the other two men in the vehicle.

Clearly, the evidence against Applicant was far stronger than the evidence against Saxon. The sole eyewitness saw Applicant's face for several seconds at the crime scene, picked him out of a lineup, and described his car to the police with enough specificity that Officer Ashley was able to follow a matching car to the house where Applicant was staying. The next day, the victim's wallet, sans cash, was found near Applicant's residence along the very same path that Ashley had followed Applicant's vehicle the night before. Finally, the codefendant Walker told his niece that Applicant had provided the gun they were planning to use in the robbery. In light of all this evidence, Mr. Richey faced a much different and more difficult task in defending Applicant than Ms. Zmroczek faced in defending Saxon. The specific actions taken by Ms. Zmroczek to defend her client, therefore, are totally irrelevant to the question of whether Mr. Richey provided

constitutionally adequate representation for Applicant; her performance should not be treated as a “checklist for judicial evaluation of attorney performance.” *Strickland v. Washington*, 466 U.S. 668, 688 (1984). “There are countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular client in the same way.” *Id.* at 689. Much less, therefore, should different attorneys be expected to defend *different* clients, with materially *different* cases, in the same way.<sup>1</sup>

In addition, *none* of the four additional items of “evidence” Ms. Zmroczek obtained would have made any difference at Applicant’s trial. Therefore, Mr. Richey was not deficient for failing to investigate them, and Applicant was not prejudiced by Mr. Richey’s failure to present them at trial. Taking each item in turn:

#### Body-worn camera videos

The Court’s order chides Mr. Richey for not obtaining body-worn camera footage from additional officers who responded to the crime scene. However, the additional footage was

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<sup>1</sup> The Court’s order cites *Lounds v. State*, 380 S.C. 454, 670 S.E.2d 646 (2008), and *McKnight v. State*, 378 S.C. 33, 661 S.E.2d 354 (2008), in support of its finding that Mr. Richey’s failure to more thoroughly investigate Applicant’s case was deficient. Both of those cases are easily distinguishable.

In *Lounds*, trial counsel had not even spoken to his client until the morning of trial. His client told him of several potential defense witnesses, but at that point it was too late for them to be subpoenaed. Here, on the other hand, there was no dispute that Mr. Richey met with Applicant several times prior to trial. Mr. Richey testified Applicant was completely uncooperative, and the only defense Applicant was willing to give was to insist that *all three* codefendants were innocent, which was not a plausible defense because David Walker was found by police at the crime scene and had already been convicted of murder and armed robbery arising from his participation in the crime. This case is clearly unlike *Lounds*, where the defendant attempted to offer a plausible defense but was thwarted by his attorney’s failure to meet with him in a timely fashion.

In *McKnight*, trial counsel presented the testimony of two expert witnesses. One was very helpful to the defense, but the other was not helpful and even offered some testimony that was inconsistent with the theory of the defense. The first trial ended in a mistrial. At the second trial, counsel *again* put forward the unhelpful witness but *failed* to put forward the favorable witness. Understandably, the Supreme Court held trial counsel’s performance in that case was deficient. Nothing remotely similar happened in Applicant’s case.

essentially duplicative of the footage played at Applicant's trial. Counsel cannot have been deficient, nor can Applicant have been prejudiced, merely by the failure to present totally cumulative evidence at trial.

Ms. Zmroczek claimed the additional body-worn camera footage depicted officers picking up a gun at the scene of the crime, wiping fingerprints off of it, and then placing it back on the ground. Counsel for Respondent has viewed all of the body-worn camera videos that were provided in this case and contends that *none* of them show anything to do with the finding of a gun, much less any purported tampering. It appears that the Court is also unconvinced by Ms. Zmroczek's account of the video's contents: the Court's order does not go as far as to accuse officers of tampering with evidence. Rather, the order vaguely declares that the videos show "at one point a gun was found in the grass," an occurrence which (1) is *also* not shown in the video, and (2) was not even a contested issue in either Applicant's or Saxon's trial, since it is totally undisputed that a gun was found in the yard outside the victim's house. Respondent respectfully argues that the Court's finding of ineffective assistance based on the body-worn camera footage lacks evidentiary support.

#### **Text messages on the victim's phone**

Ms. Zmroczek informed the Court that she arranged for an expert to extract text messages from the Victim's cell phone. The Court's order vaguely states that "some text messages . . . could be considered threatening to the victim in this case," apparently based on Ms. Zmroczek's testimony that she believed the texts were death threats sent to the victim by a jealous lover named Teresa. In effect, Ms. Zmroczek argued that the texts were evidence of third-party guilt. Respondent contends the texts in question could not possibly support that interpretation.

The three texts at issue (Applicant's Ex. 1 and 2) state:

9:22 PM: Hey this is teresa you dont have to lie if you with your lil ho kelly just be a man about it and tell me so dont be sacred love you

9:38 PM: You going down

10:07 PM: The truth will set you free love you and sick of the games your playing with me

[errors in original]. While these texts convey a tone of annoyance, none of them arise to an express or even an implied threat of violence. Two of them even include the words “love you,” which are not words typically included in a death threat. The three-word text “You going down” is, at best, extremely vague, but in the context of the earlier and later texts it cannot possibly be read as threatening physical violence.

In addition, Ms. Zmroczek’s theory of third-party guilt is impossible to reconcile with the facts of this case. David Walker was found at the scene of the crime, bleeding from a gunshot wound inflicted by the victim. The victim himself lived long enough to tell the police that Walker was the man who shot him and that the motive for the shooting was a robbery. Toris Moore testified that Walker was planning to rob the victim earlier that day, along with Applicant. The victim’s wallet was stolen and found several miles away with most of the money removed. Walker was ultimately convicted of murder and armed robbery. The idea that the shooting was actually perpetrated by this “Teresa,” and that the motive was something other than armed robbery, is totally unbelievable, especially when the only evidence in support of that theory are three vaguely worded text messages. *See, e.g., State v. Brown*, 437 S.C. 550, 566–70, 878 S.E.2d 364, 373–75 (Ct. App. 2022) (explaining the history of South Carolina’s rules concerning the admissibility of third-party guilt and holding that “bare suspicions” and “conjectural inferences” that another may have committed the crime are not sufficient).

#### **Personal observations at the crime scene**

The Court further found Mr. Richey was ineffective for failing to go to the crime scene, as Ms. Zmroczek did, and to examine for himself the lack of visibility at night. The Court recites Ms. Zmroczek's testimony that, "in her mind, there was no way Kelly Ball could have seen anyone *up on the hill or in the street*, let alone the person *driving the car*." (emphasis added). This passage suggests that both Ms. Zmroczek and the Court misunderstood the testimony given at Applicant's trial. Ball did not claim that she saw Applicant "up on the hill" or "in the street," and she expressly denied seeing anyone inside the car. However, she clearly testified that Applicant was only "eight to ten feet" away from the porch when she saw him. At that distance, Applicant would certainly have been sufficiently illuminated for Ball to make out his features. Although the videos taken from the responding officers' body-worn cameras are not high-quality, they clearly depict that the area near the porch and immediately in front of the trailer is illuminated by a porch light and two bright floodlights on either side of the trailer. Moreover, Kelly Ball's identification of Applicant was corroborated by Toris Moore's testimony that Applicant was with Walker when the robbery was being planned, by Ashley and McMahan's testimony that they followed a car matching the description given by Kelly Ball and discovered that it was being driven by Applicant, and by Morris and Check's testimony that the stolen wallet was found within a mile of Applicant's house along the route Applicant was driving on the night of the murder. For Kelly Ball to have been mistaken in her identification of Applicant would require all of these other facts to be either complete fabrications or a string of outrageous coincidences: either possibility beggars belief.

#### Map

Finally, the Court notes that Ms. Zmroczek prepared a map that "showed the path the car that was there during the crime had taken and the locations of the other people supposedly involved in the crime," presumably referring to Applicant's exhibit 6. However, there was no testimony

presented at the evidentiary hearing explaining how Ms. Zmroczek came up with this map, how she determined the path supposedly taken by the car, or why her map should be deemed any more accurate or informative than the map used at Applicant's trial. Nor does the Court's order propose any such explanation. On the contrary, Applicant's exhibit 6 inexplicably leaves out the entire Gray Court area, including Highway 101 and the streets leading to Applicant's residence, from the purported "path" of the getaway car. This is totally inconsistent with the detailed testimony by Officer Ashley and Deputy McMahan regarding their pursuit of the suspect vehicle from Highway 101 onto Pleasant View Drive and, ultimately, to the house where Applicant was staying.

The fact that the "path" plotted by Applicant's exhibit 6 appears to culminate in the residence of a "Teresa Butler" strongly suggests Ms. Zmroczek concocted this map, not because it better fit the evidence of the route taken by the getaway car, but merely to lend credibility to her theory that the victim was actually murdered by someone named "Teresa" in a fit of romantic jealousy. The implausibility of this theory has already been discussed.

Ultimately, none of the four items of evidence mentioned by the Court as things Mr. Richey should have developed through pre-trial investigation would have made any difference to the outcome of Applicant's trial.<sup>2</sup> Therefore, Respondent respectfully asks the Court to amend its

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<sup>2</sup> On two occasions, the Court's order states that the evidence could have created a "reasonable doubt." Respondent contends this is not likely; more importantly, however, it is not the proper standard for evaluating prejudice in the context of an ineffective assistance of counsel claim. Rather, the burden is on Applicant to show, by a preponderance of the evidence, that the lack of these four additional items of information amounted to denying him a fair trial. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985); Rule 71.1(e), SCRCP. "It is not enough for the defendant to show that the errors had some conceivable effect upon the outcome of the proceeding." *Strickland*, 466 U.S. at 693. Rather, the "defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.* at 694.

order and to find that Applicant has not met his burden of proving that he is entitled to post-conviction relief as to this issue.

## II. FAILURE TO CROSS-EXAMINE KELLY BALL

In its order, the Court also finds Mr. Richey was ineffective for failing to cross-examine Kelly Ball based on her mental health records and drug use. Respondent respectfully contends the Court has overlooked material points of fact and law in regards to this finding. Again, there is no constitutional requirement that, just because Ms. Zmroczek chose to pursue a certain cross-examination strategy, Mr. Richey had to do so as well.<sup>3</sup> Although Mr. Richey did not focus his questioning of Kelly Ball on her mental health history, he did cross-examine her and successfully elicited testimony from her on several important points, including the fact that she had tried to conceal the victim's gun under the bed before the police arrived; the fact that, according to Ball, the victim went outside willingly to meet Applicant and Walker just before the shooting; the fact that she initially described the man she saw standing in the yard as resembling somebody she knew named "Ty"; the fact that her description of the suspect as a "dark-skinned, large man" more closely describes Ty than it does Applicant; the fact that Ty was involved in the victim's drug dealing business; the fact that drug dealing is an inherently dangerous occupation; the fact that drug dealers often get in arguments and carry weapons; the fact that the victim knew "tons" of dangerous guys to buy "dope" from; the fact that "it's not a mystery" the victim was shot by David Walker; the fact that she did not recall ever being shown a photo lineup with Ty in it; the fact that

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<sup>3</sup> The Court's order itself acknowledges that Mr. Richey testified he thought trying to impeach Kelly Ball concerning Applicant's presence at the scene of the crime would be "risky" because Mr. Richey was personally convinced Applicant had been present. However, the Court's order goes on to state that "Mr. Richey was not able to articulate any strategic decisions on the way he cross-examined Ms. Ball." This finding flatly contradicts the Court's earlier statement regarding Mr. Richey's testimony.

she never mentioned hearing anything about a robbery in her first statement to police; the fact that she told police the car was brown, when the other witnesses described it as gray, silver, or blue; and the fact that she could not see who was in the car or how many people were in the car. (Tr. pp.148-62). In addition, Kelly Ball had already testified on direct examination that she used drugs. (Tr. p.121, lines 19-25). It is not clear that merely bringing up Ball's history of treatment for bipolar disorder would have meaningfully increased the strength of Mr. Richey's cross-examination.

The Court also states that Ball "gave multiple inconsistent statements," that her testimony "did not conform to the evidence," and that her statements on the body-worn camera footage contradicted her later written statements and her testimony at trial. However, the Court does not provide any specific examples of contradictions or inconsistencies. As already shown, Mr. Richey successfully exposed numerous minor inconsistencies and contradictions between Ball's own statements and the other evidence at trial; the Court's order does not explain what other inconsistencies Mr. Richey should have pressed her on or how his failure to do so amounted to a deprivation of Applicant's right to a fair trial.

Finally, as discussed above, Kelly Ball's identification of Applicant is strongly corroborated by the other evidence at trial. In both Saxon's trial and Applicant's trial, Ball was able to explain away the minor inconsistencies pointed out by Mr. Richey and Ms. Zimroczek as resulting from the extreme stress she was experiencing at the time of the crime, as well as the fact that she saw Applicant and his car under a mercury light, which caused colors to appear different than they would appear under natural light. For all of these reasons, Respondent respectfully submits that Applicant has not met his burden of proving that, but for Mr. Richey's failure to more thoroughly cross-examine Kelly Ball, there is a reasonable likelihood that the result of his trial

would have been different. Therefore, Respondent asks that the Court issue an amended order finding that Applicant has not shown he is entitled to post-conviction relief as to this issue.

[conclusion and signature on following page]

### III. CONCLUSION

Based on all the foregoing, Respondent respectfully contends that Applicant has not met his burden of proving ineffective assistance of counsel and that the Court's decision to grant post-conviction relief is based on material errors of fact and law. Accordingly, Respondent respectfully asks this Court to issue a revised or amended order denying and dismissing Applicant's post-conviction relief action with prejudice.

Respectfully submitted,

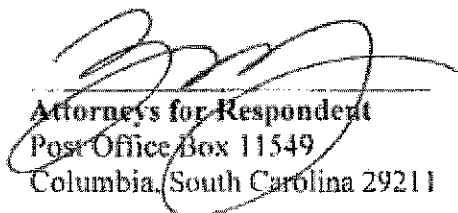
ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

DON J. ZELENKA  
Deputy Attorney General

ZACHARY W. JONES  
Assistant Attorney General

By:

  
Attorneys for Respondent  
Post Office Box 11549  
Columbia, South Carolina 29211

7/29, 2024





ALAN WILSON  
ATTORNEY GENERAL

July 29, 2024

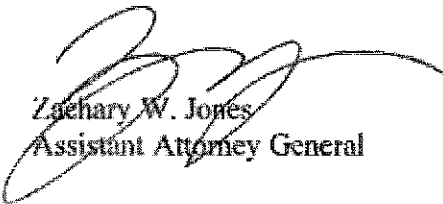
The Honorable Michelle Simmons  
Laurens County Clerk of Court  
PO Box 287  
Laurens, SC 29360-0287

Re: Christopher J. Wells, #193588 v. State of South Carolina  
2019-CP-30-00134

Dear Ms. Simmons:

Enclosed please find the Respondent's Motion to Alter or Amend the Order Granting Post-Conviction Relief Pursuant to Rule 59(e), in the above-captioned case, for filing in your office.

Sincerely,

  
Zachary W. Jones  
Assistant Attorney General

ZWJ/dl  
Enclosure

cc: Ashley A. McMahan, Esquire

K. HARRIS  
2024 AUG -6 A 11:55  
RECEIVED  
CLERK OF COURT

STATE OF SOUTH CAROLINA  
COUNTY OF LAURENS

COURT OF COMMON PLEAS  
FOR THE 8<sup>th</sup> JUDICIAL CIRCUIT  
Case No.: 2019-CP-30-00134

Christopher J. Wells, #193588,

Applicant,

v.

State of South Carolina,

Respondent.

**ORDER DENYING  
SCRCP 59(e) MOTION**

This matter is before the Court by way of a Post-Conviction Relief Application filed by Christopher J. Wells on or about February 19, 2019, and amended on December 4, 2023. On July 8, 2024, the undersigned signed an order granting post-conviction relief in this matter.

On or about August 6, 2024, the State filed a motion to reconsider pursuant to SCRCP 59(e). After careful consideration of the record and evidence presented before the Court, this motion is denied.

AND IT IS SO ORDERED:



B. ALEX HYMAN  
PRESIDING CIRCUIT COURT JUDGE

MICHELLE SIMMONS  
2025 JUL 28 P 12:54  
LAURENS COUNTY  
CLERK OF COURT

7/7 2025  
Gonway South Carolina

# M<sup>C</sup>MAHAN LAW, LLC

July 21, 2025

Michelle Simmons  
 Laurens County Clerk of Court  
 Attn: PCRs  
 PO Box 287  
 Laurens, SC 29360-0287

Re: Christopher J. Wells, #193588 vs. State of South Carolina  
 2019-CP-30-00134

Dear Madam Clerk

Please find enclosed a signed Order Denying the State's 50(a) Motion. Kindly clock in this order and send a clocked copy back to me in the enclosed envelope.

Should you have any questions I can be reached at the number listed below or at [ashley@mcmahanlawsc.com](mailto:ashley@mcmahanlawsc.com).

Best regards,



ASHLEY A. MCMAHAN  
 ATTORNEY AT LAW

AAM

cc: Christopher J. Wells  
 AAG Zachary Jones (via email)

Enclosure

M. MICHELLE SIMMONS  
 2025 JUL 28 P 12 54  
 LAURENS COUNTY  
 CLERK OF COURT

WITNESSES

Bryant Cheek  
Laurens County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

April Term, 2015

Indictment # 15GS30- 0504

WARRANT NUMBER

2014A3010100013

THE STATE

vs.

Christopher Jermaine Weils

*True Bill*

*Marretta Thompson*  
Foreman of the Grand Jury

Date: *4-10-15*

INDICTMENT FOR

Armed Robbery  
16-11-0330(A)

VERDICT

*Guilty*

*Charles Brown*  
Foreman

CDR: 0139

A TRUE COPY OF ORIGINAL  
*Lynn W. Lancaster*  
Lynn W. Lancaster  
Laurens County CCCP & GS

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF LAURENS

Armed Robbery  
16-11-0330(A)

At a Court of General Sessions, convened on the 10th day of April, 2015, the Grand Jurors of Laurens County present upon their oath:

That Christopher Jermaine Wells, in Laurens County, on or about October 31, 2013 willfully and unlawfully while armed with a deadly weapon, or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, or while being present, aiding, abetting, and assisting another so armed, feloniously take from the person or presence of [REDACTED] by means of force or intimidation, goods or monies described as follows: Wallet and contents, and keys, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 of the South Carolina Code of Laws, 1976, as amended.

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

*D. Warner Murray*  
Deputy Solicitor

A TRUE COPY OF ORIGINAL  
Lynn W. Lancaster  
Lynn W. Lancaster  
Laurens County CCFP & GS

ARREST WARRANT

2014A3010100013

STATE OF SOUTH CAROLINA

County/  Municipality of

Laurens

THE STATE

13003508

against

Christopher Jermaine Wells



Issuing Agency: Laurens County Sheriff's Office  
Prosecuting Officer: B Cheeks - 2126  
Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon  
Offense Code: 0139  
Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the  County/  Municipality of Laurens. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Christopher J. Wells on 01-03-14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions  
100 Hillcrest Square  
P.O. Box 287  
Laurens, SC 29360

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA  
 County/  Municipality of  
Laurens

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant B Cheeks who being duly sworn deposes and says that defendant Christopher Jermaine Wells did within this county and state on or about 10/31/2013 violate the criminal laws of the State of South Carolina (or ordinance of  County/  Municipality of Laurens) in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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:

That on October 31, 2013, in the County of Laurens, one Christopher Jermaine Wells did attempt to rob th evictim while armed take from the victim with intent to deprive while armed with a handgun, a deadly weapon.

Signature of Affiant

Signature of Affiant (B Cheeks)

STATE OF SOUTH CAROLINA  
 County/  Municipality of  
Laurens

Affiant's Address: 216 West Main Street  
Laurens, SC 29360  
Affiant's Telephone:

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 or about 10/31/2013 defendant Christopher Jermaine Wells did violate the criminal laws of the State of South Carolina (or ordinance of  County/  Municipality of Laurens) as set forth below.

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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 1/3/2014

Signature of Issuing Judge (Thomas L. Copeland)  
Thomas L. Copeland  
Judge Code: 7023

Judge's Address: P.O. Box 925  
Laurens, SC 29360  
Judge's Telephone: (864)683-4485  
Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

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ORIGINAL

LAURENS COUNTY CLERK  
Lynn W. Tanner  
A TRUE COPY OF ORIGINAL

BAIL set by

WITNESSES



Judge \_\_\_\_\_  
on \_\_\_\_\_  
Type and Amount: \_\_\_\_\_  
Name of Surety: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

PRELIMINARY HEARING held by

Judge \_\_\_\_\_  
on \_\_\_\_\_  
Defendant Attorney: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Decision: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

DISPOSITION before

Judge \_\_\_\_\_  
on \_\_\_\_\_  
by \_\_\_\_\_  
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Disposition: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

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

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

JURORS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

CODEFENDANTS

\_\_\_\_\_  
\_\_\_\_\_

A TRUE COPY OF ORIGINAL  
*Lynn W. Lancaster*  
Lynn W. Lancaster  
Laurens County CCCP & GS

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Laurens  
STATE VS.

Christopher Jermaine Wells

AKA:

Race: Sex: M Age: 42

INDICTMENT/CASE#: 15GS30-0504

A/W#: 2014A3010100013

Date of Offense: 10/31/2013

S.C. Code §: 16-11-0330

CDR Code #: 0139

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No

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

in violation of § 16-11-0330 of the S.C. Code of Laws, bearing CDR Code # 0139  
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

ATTEST: O. Warren Mowry 4124  
Mowry, O. Warren SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 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: 15-65-30-505  
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.  
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5
3% to County (if paid in installments)	\$3.90	\$ 3.90
TOTAL		\$ 133.90

days/hours Public Service Employment  
Obtain GED  
Attend Voc. Rehab. or Job Corp.  
May serve W/E beginning  
Substance Abuse Counseling  
Random Drug/Alcohol testing  
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning  
\$ paid to Public Defender Fund  
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Ryan W Lancaster  
Court Reporter: Tara Scott

Presiding Judge  
Judge Code: 2159  
Sentence Date: 4-27-14

WITNESSES

Bryant Cheek  
Laurens County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

April Term, 2015

Indictment # 15GS30- 0505

WARRANT NUMBER

2015D3000100026

THE STATE

vs.

Christopher Jermaine Wells

*True Bill*

*Maretha Thompson*

Foreman of the Grand Jury

Date: *4-10-15*

INDICTMENT FOR

Criminal Conspiracy  
§16-17-0410

CDR: 0049

VERDICT

*Guilt*

*Charles Thomas*  
Foreman

A TRUE COPY OF ORIGINAL  
*Lynn W. Lancaster*  
Lynn W. Lancaster  
Laurens County CCCP & GS

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR


COUNTY OF LAURENS

Criminal Conspiracy  
§16-17-0410

At a Court of General Sessions, convened on the 10<sup>th</sup> day of April, 2015, the Grand Jurors of Laurens County present upon their oath:

That Christopher Jermaine Wells did, on or about October 31, 2013, in Laurens County, along with another person or persons, willfully and unlawfully unite, combine, conspire, confederate, agree between and among themselves and have tacit understanding with each other or with other persons whose names are unknown to the Grand Jurors, for the purpose of committing the act of Murder, Armed Robbery, Possession of a weapon during the commission of a violent crime, in violation of Section 16-17-410 of the South Carolina Code of Laws, 1976, as amended.

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

  
Deputy Solicitor

A TRUE COPY OF ORIGINAL  
Lynn W. Lancaster  
Lynn W. Lancaster  
Laurens County CACP & GS

STATE OF SOUTH CAROLINA )  
COUNTY OF Laurens )  
STATE VS. )  
Christopher Jermaine Wells )  
AKA: )  
Race: Sex: M Age: 42 )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 15GS30-0505  
A/W#: 2015D3000100026  
Date of Offense: 10/31/2013  
S.C. Code § : 16-17-0410  
CDR Code #: 0049

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
In disposition of the said indictment comes now the Defendant who was  
TO: Conspiracy/Criminal Conspiracy, Common Law conspiracy defined

CONVICTED OF or  PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: O. Warren 4124 Defendant Mowry, O. Warren Attorney for Defendant SC Bar# \_\_\_\_\_

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 5 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: 15-65-30-504  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

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: \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
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§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-14 (DUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.

Clerk of Court/ Deputy Clerk Lynn W. Lancaster  
Court Reporter: Tara Scott

Presiding Judge \_\_\_\_\_  
Judge Code: 2159  
Sentence Date: 4-27-16

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 03/14/19  
OMCOMITA RELEASE DATE SCREEN C056427

SCDC# > 193588 LOC: PERRY

WELLS, CHRISTOPHE JERMAINE SCDC CLASSIFICATION...: VIOLENT

OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: N

SEXUAL PREDATOR...: NOT APP

DNA STATUS...: COMPLETED

GPS REQUIREMENT...: N

PREA DECISION...:

PREA VICTIM...: HIGH VULNERABLE PREA PERP...: NONE

CURRENT SENTENCE: CONSECUTIVE SENTENCE ...

LIFE CURRENT SENT START DATE: 12/13/2013

PROJECTED COMPLETION DATES

MAXOUT DATE .....: 99/99/9999 CURRENT EWC .:

YOA SIX YEAR DATE: CURRENT EEC .:

INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED .....: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999

TOTAL EARNED WORK CREDITS ..: 000000 LABOR CREW DISQ REASON:

TOTAL EDUCATION CREDITS ....: 000000 CATEGORY 4 OR 5 OFFENSE

TOTAL EXTRA EARNED CREDITS .: 000 SUPERVISED REENTRY DATE...: 00/00/00

TOTAL SERVICE TIME EARNED ..: 000000 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

# South Carolina Department of Corrections

Classification Summary Reports

Date: Thursday, March 14, 2019

## Classification Summary Reports

Inmate Number

### Classification Summary Report for WELLS, CHRISTOPHE JERMAINE :

CLASSIFICATION SUMMARY REPORT DATED 03/14/2019

SCDC# 00193588

WELLS, CHRISTOPHE JERMAINE

FBI# 747580PA0

OFFENDER ADULT-STRAIGHT  
TYPE: SENTENCE

INSTITUTION: PERRY


SECURITY/CUST: 3 MINIMUM IN

CURR INCARC 999 YRS 0 MOS  
SENT: 0 DAYS

VICTIM  
WITNESS:  SEPREQ:Y

MED  
CLASS: 

INST  
RESTRICT: NO RESTRICTION

MENTAL  
CLASS: 

CURRENT NO CURRENT  
PROGRAM: PROGRAM

SEX REGISTRY: N

DNA: C

AGE: 45



RESIDENT  
STABILITY: NA

DORMROOMBUNK\_CODE: Q2B 0112 B

PROJ MAXOUT  
DATE: -

PROJ PAROLE  
DATE: -

EWC  
JOB: WARDKEEPER ASSISTANT

ASSIGNMENT: WARD KEEPER WARD #2

EWC  
LEVEL: 3F5 EEC LEVEL:

EDUC  
PGM: NO CURR EDUC PROGRAM

SECURITY THREAT GROUP DESCRIPTION: NONE SECURITY THREAT GROUP STATUS: NONE

PREVIOUS NUMBERS:

00188457



12/15/1999	FIGHTING WITHOUT A WEAPON	NOT GUILTY	MAJOR DISC. HEARING
10/03/1999	REFUSING OR FAILING OBEY ORDERS	CONVICTED	MINOR DISC. HEARING
07/25/1999	REFUSING TO WORK	CLOSED	OTHER ACTION TAKEN/INFORM
07/20/1999	REFUSING TO ATTEND COMPULSORY PROGRAM	CLOSED	OTHER ACTION TAKEN/INFORM
06/22/1999	SEXUAL MISCONDUCT	CONVICTED	MAJOR DISC. HEARING
05/08/1999	THREATENING TO INFLICT HARM ON EMPLOYEE	CONVICTED	MAJOR DISC. HEARING
05/07/1999	REFUSING OR FAILING OBEY ORDERS	CONVICTED	MINOR DISC. HEARING
03/10/1999	OUT OF PLACE	DISMISSED	MAJOR DISC. HEARING
03/10/1999	INCITING/CREATING A DISTURBANCE	CONVICTED	MAJOR DISC. HEARING
11/14/1998	FIGHTING WITHOUT A WEAPON	CONVICTED	MINOR DISC. HEARING
08/12/1998	REFUSING TO WORK	DISMISSED	MINOR DISC. HEARING
06/24/1998	REFUSING OR FAILING OBEY ORDERS	DISMISSED	MINOR DISC. HEARING
05/31/1997	POSSESSION OF CONTRABAND	CONVICTED	MAJOR DISC. HEARING
01/31/1997	THREATENING TO INFLICT HARM,ON INMATE	CONVICTED	MAJOR DISC. HEARING
01/31/1997	THREATENING TO INFLICT HARM,ON INMATE	CONVICTED	MAJOR DISC. HEARING
01/31/1997	USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	CONVICTED	MINOR DISC. HEARING
03/22/1994	REFUSING OR FAILING OBEY ORDERS	CONVICTED	MINOR DISC. HEARING
08/19/1993	INCITING/CREATING A DISTURBANCE	CONVICTED	MINOR DISC. HEARING
07/02/1993	OUT OF PLACE	CONVICTED	MINOR DISC. HEARING
07/02/1993	FIGHTING WITHOUT A WEAPON	CONVICTED	MINOR DISC. HEARING

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

\*NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY\*

HISTORY OF MOVEMENTS:

02/21/2019	PERRY	INCARCERATED	ADMINISTRATIVE
02/21/2019	KIRKLAND	INCARCERATED	MEDICAL
01/14/2019	PERRY	INCARCERATED	ADMINISTRATIVE
01/14/2019	KIRKLAND	INCARCERATED	MEDICAL
01/10/2019	PERRY	INCARCERATED	ADMINISTRATIVE
01/09/2019	PALMETTO RCHLAND	AUTH ABSENCE (AWL)	MEDICAL
05/07/2018	PERRY	INCARCERATED	ADMINISTRATIVE
05/07/2018	KIRKLAND	INCARCERATED	MEDICAL
03/26/2018	PERRY	INCARCERATED	ADMINISTRATIVE
03/26/2018	KIRKLAND	INCARCERATED	MEDICAL
03/14/2018	PERRY	INCARCERATED	ADMINISTRATIVE
03/01/2018	KIRKLAND INFRM	INCARCERATED	MEDICAL
02/28/2018	PALMETTO RCHLAND	AUTH ABSENCE (AWL)	MEDICAL
02/26/2018	PERRY	INCARCERATED	ADMINISTRATIVE
02/26/2018	KIRKLAND	INCARCERATED	MEDICAL
02/02/2018	PERRY	INCARCERATED	ADMINISTRATIVE
02/02/2018	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
01/22/2018	PERRY	INCARCERATED	ADMINISTRATIVE
01/22/2018	KIRKLAND	INCARCERATED	MEDICAL
01/12/2018	PERRY	INCARCERATED	MEDICAL
01/12/2018	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
01/05/2018	PERRY	INCARCERATED	ADMINISTRATIVE
01/05/2018	ANDERSON CO	AUTH ABSENCE (AWL)	MEDICAL
12/18/2017	PERRY	INCARCERATED	ADMINISTRATIVE
12/18/2017	KIRKLAND	INCARCERATED	MEDICAL
10/09/2017	PERRY	INCARCERATED	ADMINISTRATIVE
08/02/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
08/02/2017	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL

04/28/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
04/28/2017	KIRKLAND	INCARCERATED	MEDICAL
03/21/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
03/21/2017	KIRKLAND	INCARCERATED	MEDICAL
06/27/2016	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
04/28/2016	KIRKLAND	INCARCERATED	NEW ADMISSION
08/01/2007	UNK	RELEASE	EXPIRATION OF SENTENCE
05/03/2006	MANNING	INCARCERATED	ADMINISTRATIVE
05/03/2006	BROAD RIVER	INCARCERATED	COURT/PAROLE HEARING VIA
10/13/2005	MANNING	INCARCERATED	ADMINISTRATIVE
03/03/2003	KERSHAW	INCARCERATED	ADMINISTRATIVE
02/05/2003	WATEREE RIVER	INCARCERATED	ADMINISTRATIVE
12/13/2001	MANNING	INCARCERATED	ADMINISTRATIVE
10/21/1998	EVANS	INCARCERATED	RETURN FROM COURT
10/21/1998	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
08/19/1997	EVANS	INCARCERATED	ADMINISTRATIVE
08/11/1997	BROAD RIVER	INCARCERATED	RETURN FROM COURT
08/11/1997	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
06/12/1997	BROAD RIVER	INCARCERATED	RETURN FROM COURT
06/12/1997	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
03/18/1997	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
02/05/1997	BROAD RIVER R&E	INCARCERATED	LOCKUP-INVESTIGATION
12/18/1996	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
11/04/1996	BROAD RIVER R&E	INCARCERATED	LOCKUP-INVESTIGATION
06/18/1996	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
03/26/1996	PERRY R&E	INCARCERATED	ADMINISTRATIVE
03/26/1996	PERRY	INCARCERATED	ADMINISTRATIVE
02/23/1995	LIEBER	INCARCERATED	ADMINISTRATIVE
01/28/1993	KIRKLAND	INCARCERATED	ADMINISTRATIVE
01/13/1993	BROAD RIVER R&E	INCARCERATED	ADMINISTRATIVE
12/21/1992	PERRY R&E	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER ASSISTANT	11/30/2017	-		3F5
FOOD SERVICE AIDE	06/28/2016	09/26/2017	UNSAT JOB PERFORM	3F5
SANITATION WORKER	11/17/2006	08/01/2007	RELEASED/PAROLED	2F5
GENERAL WORKER	10/18/2005	11/02/2006	PLACED IN ST/SP CUSTODY	2F5
WARDKEEPER	04/09/2004	10/13/2005	INSTIT TRANSFER	2F5
WARDKEEPER	04/01/2004	04/08/2004	MI ELIGIBLE FOR LEVEL 2	3F5
WARDKEEPER	10/30/2003	03/31/2004	CUSTODY REVIEW	5F5
WARDKEEPER	08/08/2003	10/29/2003	CUSTODY REVIEW	3F5
WARDKEEPER	07/25/2003	08/07/2003	ASLT/DRUG/MAJOR DISC	2F5
WARDKEEPER	03/12/2003	07/24/2003	MI ELIGIBLE FOR LEVEL 2	3F5
GENERAL WORKER	12/18/2001	01/21/2003	PLACED IN ST/SP CUSTODY	2F5
CUSTODIAL WORKER	10/19/2001	12/13/2001	INSTIT TRANSFER	2F5
CUSTODIAL WORKER	02/16/2001	10/18/2001	MI ELIGIBLE FOR LEVEL 2	3F5
FOOD SERVICE AIDE	06/29/2000	02/15/2001	UNSAT JOB PERFORM	3F5
FOOD SERVICE AIDE	07/16/1999	06/28/2000	CUSTODY REVIEW	7F5
CUSTODIAL WORKER	03/19/1999	05/09/1999	PLACED IN ST/SP CUSTODY	3F5
CUSTODIAL WORKER	12/01/1998	03/10/1999	PLACED IN ST/SP CUSTODY	3F5
FOOD SERVICE AIDE	02/10/1998	11/30/1998	LATERAL TRANSFER	3F5
FOOD SERVICE AIDE	10/22/1997	02/09/1998	CUSTODY REVIEW	5F5

FOOD SERVICE AIDE	04/29/1997	06/26/1997	DISCIPLINARY/LOCK-UP	3F7
FOOD SERVICE AIDE	12/19/1996	02/05/1997	LOCKUP-INVESTIGATION	5F7
SR DINING ROOM OPERATOR	10/05/1996	11/04/1996	LOCKUP-INVESTIGATION	3F7
FOOD SERVICE AIDE	06/26/1996	10/04/1996	PROMOTION	5F7
SR TRAY LINE OPERATOR	05/16/1995	03/26/1996	INSTIT TRANSFER	3F7
WARDKEEPER	05/15/1995	05/15/1995	LATERAL TRANSFER	3F7
FOOD SERVICE AIDE	03/31/1995	05/14/1995	PROMOTION	5F7
FOOD SERVICE AIDE	09/19/1994	11/05/1994	UNSAT JOB PERFORM	5F7
FOOD SERVICE AIDE	04/28/1994	05/18/1994	MEDICAL	5F7
FOOD SERVICE AIDE	12/20/1993	04/03/1994	UNSAT JOB PERFORM	5F7
FOOD SERVICE AIDE	08/26/1993	10/29/1993	LOCKUP-INVESTIGATION	5F7
FOOD SERVICE AIDE	08/09/1993	08/19/1993	LOCKUP-INVESTIGATION	5F7
FOOD SERVICE AIDE	06/29/1993	07/05/1993	LOCKUP-INVESTIGATION	5F7
SR TRAY LINE OPERATOR	06/15/1993	06/28/1993	DEMOTION	3F7
FOOD SERVICE AIDE	02/11/1993	06/14/1993	PROMOTION	5F7

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
LVL 7 - FULL TIME(NO EWC)	06/29/1999	07/15/1999	LATERAL TRANSFER
BONUS 4-7 HRS/WK	04/06/1995	06/14/1995	INMATE REQUEST

\*\*\*\*\* END OF REPORT \*\*\*\*\*

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STATE OF SOUTH CAROLINA )

IN THE COURT OF GENERAL SESSIONS )

COUNTY OF Laurens )  
STATE VS. )

INDICTMENT/CASE#: 15GS30-0504

Christopher Jermaine Wells )

A/W#: 2014A3010100013

AKA: )

Date of Offense: 10/31/2013

Race: Sex: M Age: 42 )

S.C. Code § : 16-11-0330

DOB: SS#: )

CDR Code #: 0139

Address: )

City, State, Zip: )

DL#: SID#: )

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly we

in violation of § 16-11-0330 of the S.C. Code of Laws, bearing CDR Code # 0139  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC w/minor 1st or Lewd Act)  §17-25-45

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

ATTEST: O. Warren Mowry 4124 Defendant SC Bar# Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of life pursuant to Section 17-25-45 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: 15-65-30-505  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
days/hours Public Service Employment

Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_  
Obtain GED   
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_  
§ 14-1-206 (Assessments 107.5 %) \_\_\_\_\_ \$ \_\_\_\_\_  
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \_\_\_\_\_ \$ 100  
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \_\_\_\_\_ \$ \_\_\_\_\_  
§ 56-5-2995 (DUI Assessment) \$12 \_\_\_\_\_ \$ \_\_\_\_\_  
§ 56-1-286 (DUI Breath Test) \$25 \_\_\_\_\_ \$ \_\_\_\_\_  
Proviso 47.9 (Public Def/Prob) \$500 \_\_\_\_\_ \$ \_\_\_\_\_  
§ 14-1-212 (Law Enforce. Funding) \$25 \_\_\_\_\_ \$ 25  
§ 14-1-213 (Drug Court Surcharge) \$150 \_\_\_\_\_ \$ \_\_\_\_\_  
§ 50-21-114(BUI Breath Test Fee) \$50 \_\_\_\_\_ \$ \_\_\_\_\_  
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \_\_\_\_\_ \$ \_\_\_\_\_  
Proviso 90.5 (SCCJA Surcharge) \$5 \_\_\_\_\_ \$ 5  
3% to County (if paid in installments) \_\_\_\_\_ \$ 3.90  
TOTAL \_\_\_\_\_ \$ 133.90

Substance Abuse Counseling   
Random Drug/Alcohol testing   
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_  
Other: \_\_\_\_\_

APPROVED BY PUBLIC DEFENDER

Lynn W. Lancaster  
Lynn W. Lancaster  
Laurens County CCP & GS

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Lynn W. Lancaster  
Court Reporter: Tara Scott

Presiding Judge \_\_\_\_\_  
Judge Code: 2159  
Sentence Date: 4-27-16

STATE OF SOUTH CAROLINA

COUNTY OF Laurens VS. STATE

Christopher Jermaine Wells

AKA:

Race: Sex: M Age: 42

DOB: SS#:

Address: City, State, Zip:

DL#: SID#:

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Conspiracy/Criminal Conspiracy, Common Law conspiracy defined

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 15GS30-0505

A/W#: 2015D3000100026

Date of Offense: 10/31/2013

S.C. Code § : 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: O. Warren Mowry, O. Warren SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 15-65-30-504
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS: RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

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

Payment Terms: Obtain GED

Set by SCDPPPS Attend Voc. Rehab. or Job Corp.

Recipient: May serve W/E beginning

\*Fine: Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) \$

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

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

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

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

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

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk Lynn W. Lancaster

Court Reporter: Tara Scott

SCCA/217 (03/2011)

Random Drug/Alcohol testing

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

pmts. of \$

\$ paid to Public Defender Fund

Other: Lynn W. Lancaster

Lynn W. Lancaster

Laurens County CCCP & GS

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2159

Sentence Date: 4-27-16

A TRUE COPY OF ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Laurens
STATE VS.

INDICTMENT/CASE#: 15GS30-0503

Christopher Jermaine Wells

A/W#: 2014A3010100011

AKA:

Date of Offense: 10/31/2013

Race: Sex: M Age: 42

S.C. Code §: 16-23-0490

DOB: SS#:

CDR Code #: 0549

Address:

City, State, Zip:

DL#: SID#:

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No

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

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: Mowry, O. Warren Defendant Attorney for Defendant SC Bar# 4124

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, 15-65-30-501
for a determinate term of days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 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, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$390, TOTAL \$133.90

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
A TRUE COPY OF ORIGINAL

Other: Lynn W. Lancaster
Lynn W. Lancaster
Laurens County CCCP & GS

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge Judge Code: Sentence Date: 2159 4-27-16

Clerk of Court/ Deputy Clerk Court Reporter: Tara Scott SCCA/217 (03/2011)