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S.C. SUPREME COURT

Explanation for

to show cause

Related Appeal

(1998) GS-42-2304

(2)

LOWNIE GETER #288401
P.C.T. Q-3 B-201
430 OAKLAWN ROAD
PELZIER, S.C. 29669

DECEMBER 11 2013

APPELLATE CASE NO. 2013-002215

DEAR HONORABLE, DANIEL E. SHEAROUSE,

ENCLOSED PLEASE FIND A ORIGINAL COPY
OF MY EXPLANATION TO SHOW CAUSE ALONG
WITH A PROOF OF SERVICE AND AFFIDAVIT
BY LOWNIE GETER

C: C: L. G.

C: C: D. E. S. S: C: S: C.

The State of South Carolina

IN THE SUPREME COURT

Appeal From Spartanburg County

Court of Common Pleas

Roger L. Couch Administrative Judge

Common Pleas Seventh Judicial Circuit

Appellate Case No. 2013-002215

Lonnie Geter #288401..... Appellate

VS

State of South Carolina - - - - Respondent

Affidavit By Lonnie Geter

(1) This Affidavit By Lonnie Geter #288401
is true and correct given upon oath.

(2) Based on all grounds Alleged in this
Explanation to show cause is true and correct
whereby his prior conviction is so
prejudice by - The prosecutor.

(1)

x
Present the applicant First Degree Burglary Indictment NO# 2002-4634 to grand jury and use the Applicant two prior conviction's, indictments NO# 98-GS-42-2304 & 91-GS-42-0359; Third Degree Burglary Nonviolent for Enhancement to his 2002-4634 Indictment.

(3) In the Applicant Indictment 2002-4634 it does list that the applicant has prior conviction for Burglary charges; And the prosecutor use these prior seeks Life without parole.

This Affidavit is true and correct given by Lonnie Geter upon oath,

Sworn before me this

Day 11 of December 2013

Notary Tamara Conwell

My Commission Expires

September 25, 2013

Expires _____

Lonnie Geter

Lonnie Geter #288401

P.C.I. A-3 B-201

430 OAKLAWN ROAD

PEIZER, S.C. 29669

The State of South Carolina

In The Supreme Court

Appeal From Spartanburg County
Court of Common Pleas

Roger L. Couch Administrative Judge

Common Pleas Seventh Judicial Circuit

Appellate Case No. 2013-002215

Lonnie Geter #288401 - - - - Appellate,

VS

State of South Carolina - - - - Respondent.

Proof of Service

I Lonnie Geter #288401, Hereby served A true and original copy of explanation to show cause upon Daniel E. Shearouse AT Post office Box 11330, Columbia S.C. 29211 By placing A true copy in Perry Corr. Inst, mail Box.

Sworn Before me

This Day 11 of December 2013

Notary Tamara Conwell

Expires My Commission Expires September 25, 2023

Lonnie Geter

Lonnie Geter #288401

P.O. Q-3 B-201

430 Oaklawn Road

Pelzer, S.C. 29668

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM SPARTANBURG COUNTY
COURT OF COMMON PLEAS

ROGER L. COUCH ADMINISTRATIVE JUDGE
COMMON PLEA SEVENTH JUDICIAL CIRCUIT

APPELLATE CASE NO. 2013-002215

LONNIE GETER #288401 APPELLATE

VS.

STATE OF SOUTH CAROLINA RESPONDENT

EXPLANATION SHOW CAUSE
RELATED APPEAL

THIS MATTER COMES BEFORE THE SOUTH CAROLINA SUPREME COURT
DANIEL E. SHEAROUSE EXPLANATION TO SHOW CAUSE.

THE APPELLANT LONNIE GETER IS SERVING A LIFE SENTENCE
FOR BURGLARY FIRST DEGREE.

THE APPELLANT ATTACKS TWO SEPARATE CONVICTIONS IN THIS
APPLICATION. THE APPLICANT LONNIE GETER WAS INDICTED
AT THE MAY 1998, TERM OF THE COURT OF GENERAL SESSIONS
SPARTANBURG FOR ONE COUNT OF BURGLARY THIRD DEGREE (1998) GS-42-2304.

APPLICANT WAS REPRESENTED BY JOHN ABDOLLA ESQUIRE ON AUGUST 24 1998 THE APPLICANT PLED NOLO CONTENDER TO THIRD DEGREE BURGLARY (98-2304), PURSUANT TO A NEGOTIATED PLEA. THE HONORABLE DONALD W. BEATTY SENTENCED THE APPLICANT TO CONFINEMENT FOR A PERIOD OF TEN (10) YEARS ~~SUSPENDED~~ UPON THE SERVICE OF FOUR (4) YEARS TO THREE (3) YEARS PROBATION.

ISSUE I

THE RECORDS INDICATE THAT COUNSEL FOR THE APPLICANT SENTENCE JUDGE, AND THE PROSECUTOR MADE A DEAL ON THE PLEA NOLO CONTENDER TO THIRD DEGREE BURGLARY A NEGOTIATED PLEA AND LET APPLICANT PLEA TO THE (MAX) HAD APPLICANT KNOW HE WAS PLEA TO THE (MAX) HE WOULD HAVE WENT TO TRIAL. APPLICANT COUNSEL DID NOT INFORMED APPLICANT THAT HE COULD APPEAL.

APPELLANT CAN PUT FORTH EXPLANATION TO SHOW CAUSE AND PREJUDICE EFFECT WHICH HARM THE APPELLANT 6TH AMENDMENT RIGHT INEFFECTIVE ASSISTANCE OF COUNSEL, FAILURE TO FILE A TIMELY NOTICE OF APPEAL TO CHALLENGE HIS GUILTY PLEA OR SENTENCE CITE, WHITE V. STATE

PETITIONERS CLAIMING DENIAL OF EFFECTIVE COUNSEL, IN THAT COUNSEL FAILED TO ADVISE HIM OF HIS RIGHT TO APPEAL. PATTERSON V. STATE (S.C.) 1977 556 F.2d 1168 UNDER POST-CONVICTION RELIEF STATUTE PETITIONERS WOULD RECEIVE FULL CONSIDERATION OF ALL ASSERTED TRIAL ERRORS SHOULD THEY ESTABLISH THAT THEY WERE NOT INFORMED BY COUNSEL OF THEIR RIGHT TO APPEAL SINCE SOUTH CAROLINA SUPREME COURT WOULD RECOGNIZE INAPPLICABILITY OF GENERAL POLICY OF NOT CONSIDERING QUESTIONS UNDER POST-CONVICTION RELIEF WHICH COULD HAVE BEEN RAISED ON APPEAL PATTERSON V. LEEKE (C.A.4 (S.C.) 1977) 556 F.2d 1168 CERTIORARI DENIED 48 S.Ct. 414, 434 U.S. 929

PETITIONERS MAY ALLEGE CONSTITUTIONAL VIOLATIONS IN POST-CONVICTION RELIEF PROCEEDINGS UNLESS ISSUE COULD HAVE BEEN RAISED BY DIRECT APPEAL GIBSON V. STATE (S.C.) 1988 329 S.C.37, 495 S.E.2d 426.

IN THE APPLICANT CASE PRESENT BEFORE THE SUPREME COURT, COUNSEL WAS REQUIRED TO FILE A TIMELY NOTICE OF APPEAL TO CHALLENGE HIS JUDGEMENT CONVICTION ON RECORD OF APPEAL FOR A BELATED APPEAL PURSUANT TO WHITE V. STATE (S.C.) 110 208 S.E.2d 35 (1974).

DECISIONAL LAW PROVIDING THE RIGHT TO A BELATED APPEAL, WHEN AN APPLICANT FOR POST-CONVICTION RELIEF DID NOT KNOWINGLY AND INTELLIGENTLY WAIVE HIS RIGHT TO A APPEAL, DID NOT APPLY TO PERMIT POST-CONVICTION COURT'S CONSIDERATION OF WHETHER APPELLATE COUNSEL WAS INEFFECTIVE. LEGGE V. STATE (S.C. 2002) 349 S.C. 568 S.E. 2d 618 REHEARING DENIED.

APPLICANT LONNIE GETER BEFORE THE CIRCUIT OF GENERAL SESSIONS DID NOT KNOWINGLY AND INTELLIGENTLY WAIVE HIS RIGHT TO APPEAL. CITE STRICKLAND V. WASHINGTON 466 U.S. 668. 688, 104 S.C.T. 2052 (1984).

CERTIORARI GRANTED TO PETITIONER WHO ALLEGED THAT HE HAD NOT KNOWINGLY AND INTELLIGENTLY WAIVE HIS RIGHT TO A DIRECT APPEAL. DAVIS V. STATE 342 S.E. 2d 60 MILLER V. STATE (S.C.) 1977 236 S.E. 2d 422

PIEA OF NOLO CONTEDER WAS ENTERED KNOWINGLY AND INTELLIGENTLY WHERE COURT THOROUGHLY EXPLAINED THE MEANING CONSEQUENCES OF SUCH A PIEA. APPLICANT COULD NOT CLAIM THAT HE BELIEVED NOLO CONTEDERE TO MEAN NOT GUILTY KIRBY V. STATE (S.C. 1976) 267 S.C. 250 227 S.E. 2d 199

ONE YEAR'S LIMITATION'S PERIOD IN WHICH TO FILE A PETITION FOR POST-CONVICTION RELIEF DID NOT APPLY WHERE THE DEFENDANT WAS DENIED A DIRECT APPEAL OF HIS CONVICTION DUE TO INEFFECTIVE ASSISTANCE OF COUNSEL WILSON V. STATE (S.C. 2002) 348 S.C. 215, 559 S.E. 2d 581 CRIMINAL LAW 1586.

APPLICANT HAS STANDING TO PETITION FOR POST-CONVICTION RELIEF IF HE IS IN CUSTODY OR RESULT OF HIS PRIOR CONVICTION STILL PERSIST. CITE JACKSON V. STATE S.C. 1997) 33 S.C. 486 489 S.E. 2d 915 REHEARING DENIED.

APPLICANT PRIOR CONVICTION WOULD BE SO PREJUDICE TO THE APPLICANT CONVICTION WHICH THE APPLICANT IS SERVING A LIFE SENTENCE WITHOUT PAROLE, FOR FIRST DEGREE BURGLARY AND THE STATE DID USE THESE PRIOR CONVICTION OF THIRD DEGREE BURGLARY FOR ENHANCEMENT.

FOR APPLICANT TO BE SENTENCE UNDER 16-11-311 FOR BURGLARY FIRST AND THE USE OF PRIOR CONVICTION FOR ENHANCEMENT PURPOSE OF SERIOUS OFFENSE OR MOST SERIOUS OFFENSE, FALL UNDER STATUTES 17-25-45.

STATUTES 16-11-311 AND 17-25-45 SHOULD HAVE BEEN DETERMINES TOGETHER BECAUSE, THIRD DEGREE BURGLARY IS NOT LISTED AS SERIOUS OR MOST SERIOUS.
17-25-45

(F) FOR THE PURPOSE OF DETERMINES A PRIOR CONVICTION UNDER THIS SECTION ONLY A PRIOR CONVICTION SHALL MEAN THE DEFENDANT HAS BEEN CONVICTED OF A MOST SERIOUS OR SERIOUS OFFENSE AS MAY BE APPLICABLE ON A SEPARATE OCCASION PRIOR TO THE INSTANT ADJUDICATION.

SEE ATTACHED DOCUMENTS WITH THIS EXPLANATION

- (1) APPLICATION FOR POST-CONVICTION RELIEF PAGE (2) AND 5
- (2) RETURN AND MOTION TO DISMISS TOP OF PAGE (2)
- (3) CONDITIONAL ORDER OF DISMISS TOP OF PAGE (2)
- (4) THE SUPREME COURT OF SOUTH CAROLINA LETTER SECOND PAGE ASK FOR THE EXPLANATION
- (5) PRIOR CONVICTION INDICTMENT 91-GS-42-3059 - 98-GS-42-2304
- (6) FIRST BURGLARY INDICTMENT - 02-GS-42-4634
DEGREE

CONCLUSION

APPLICANT LONNIE GETER HAS SHOW CAUSE EXPLANATION THAT HIS CONVICTION SHOULD BE SET ASIDE AND VACATE HIS CONVICTION AND LIFE SENTENCE.

DATE DECEMBER 11, 2013

S/ Lonnie Geter

LONNIE GETER #288401
P.C.I. Q-3 B-201
430 OAKLAWN ROAD
PEIZER, S.C. 29669

(6)

750

FORM 5

STATE OF SOUTH CAROLINA)
)
 County of Spartanburg)
)
Lonnie Peter # 288401)
 Full name and prison number (if any) of Applicant)
)
 v.)
)
 State of South Carolina)
)
)
)

IN THE COURT OF COMMON PLEAS

2011-03-42-2095

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Perry Correctional Institution
430 Oaklawn Road, Pelzer, S.C. 29669
2. Name and location of Court which imposed sentence Spartanburg County
Courthouse
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 91-GS-42-3059 Burglary 3rd
 - (b) 90-GS-42-2304 Burglary 3rd

M. HOPE BLACKLEY

2011 JUN 21 AM 9:14

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CLERK OF COURT
SPARTANBURG COUNTY

✓

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 7-12-93 5 years
- (b) 4-24-93 10 years
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Yes
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere Yes
7. Did you appeal from the judgment of conviction or the imposition of sentence?
N/A

8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. N/A
- ii. N/A
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. N/A
- iii. N/A

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 SPARTANBURG COUNTY
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 M. HOPE BLACKLEY

9. If you answered "no" to (7), state your reasons for not so appealing:
- X (a) Didn't know that I could appeal
- X (b) Didn't know that I could appeal

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

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

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

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

(a) which grounds have been presented:

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

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

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

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 CLERK OF COURT
 SPARTANBURG COUNTY
 2011 JUN 21 AM 9:14
 M. HOPE BLACKLEY

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

- X (a) Didn't know I could appeal
- X (b) Didn't know I could appeal
- X (c) Didn't know I could appeal

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. Billy Hahs Esq.
Public Defenders Office, Spartanburg, South Carolina
 - ii. John Abdalla Esq.
Public Defenders Office, Spartanburg, South Carolina
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Trial and Sentencing
 - ii. Trial and Sentencing
 - iii. _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 JUN 21 AM 9:14
M. HOPE BLACKLEY

2304). Pursuant to a negotiated plea, the Honorable Donald W. Beatty sentenced the Applicant to confinement for a period of ten (10) years suspended upon the service of four (4) years to three (3) years probation. The Applicant did not appeal either guilty plea or sentence.

II.

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

1. Ineffective assistance of counsel; in that,
 - a. "My attorney failed to devote himself to my cause,"
 - b. "My attorney failed to give me his complete loyalty,"
 - c. "My attorney failed to serve my cause in good faith,"
 - d. "My attorney neglected the necessary investigation and preparation of my cause,"
 - e. "My attorney did not do the necessary factual investigation on my behalf."
2. Lack of subject matter jurisdiction because of a sham legal process,
3. Violation of 5th, 6th, and 14th Amendment rights,
- ✓ 4. Perjury and Prosecutorial Misconduct, and
- ✓ 5. "Applicant contend[s] that his prior convictions and sentences were in violation of the Constitution of the U.S. and laws of this State."
6. Newly discovered evidence of unconstitutional grand jury proceedings.

For the purpose of this Return, Respondent incorporates the records of the Spartanburg County Clerk of Court regarding the subject convictions and the Applicant's records from the South Carolina Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

The Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

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

period of ten (10) years suspended upon the service of four (4) years to three (3) years probation. The Applicant did not appeal either guilty plea or sentence.

Applicant's Current PCR Application

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

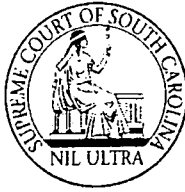
1. Ineffective assistance of counsel; in that.
 - a. "My attorney failed to devote himself to my cause,"
 - b. "My attorney failed to give me his complete loyalty,"
 - c. "My attorney failed to serve my cause in good faith,"
 - d. "My attorney neglected the necessary investigation and preparation of my cause,"
 - e. "My attorney did not do the necessary factual investigation on my behalf."
2. Lack of subject matter jurisdiction because of a sham legal process,
3. Violation of 5th, 6th, and 14th Amendment rights,
- ④ Perjury and Prosecutorial Misconduct, and
- ⑤ "Applicant contend[s] that his prior convictions and sentences were in violation of the Constitution of the U.S. and laws of this State."
6. Newly discovered evidence of unconstitutional grand jury proceedings.

Before this Court are the records of the Spartanburg County Clerk of Court regarding the subject convictions, the records of the South Carolina Department of Corrections, Applicant's PCR application, and Respondent's Return and Motion to Dismiss.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Statute of Limitations

This Court finds that the current application for post-conviction relief must be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160 (2003). S.C. Code Ann. §17-27-45(a) reads as follows:



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

November 14, 2013

Mr. Lonnie Geter, 288401
Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29669

Re: Lonnie Geter v. State
Appellate Case No. 2013-002215

Dear Mr. Geter:

This Court has received your explanation under Rule 243(c) of the South Carolina Appellate Court Rules (SCACR). In this explanation, you assert, in part, that you are entitled to a belated direct appeal from your guilty plea in 1991-GS-42-03059 and from your plea of nolo contendere in 1998-GS-42-02304 under *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). Such a claim is not subject to the post-conviction relief statute of limitations. *Wilson v. State*, 348 S.C. 215, 559 S.E.2d 581 (2002).

I do not, however, see where this issue was ruled on by the PCR judge in either the conditional order of dismissal or the final order. Therefore, I ask that you please provide this Court with a copy of the documents showing that this issue was both raised to and ruled on by the PCR judge.

Further, in an appeal from a guilty plea or nolo plea, you would have to "provide an explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual

basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal." Rule 203(d)(1)(B), SCACR (explanation required when an appeal is taken from a guilty plea, *Alford* plea, or plea of nolo contendere).

* Therefore, I ask that you please provide an explanation for an appeal from your guilty plea and an explanation for an appeal from your plea of nolo contendere. Please provide a separate explanation for each plea.

The requested documents and explanations should be provided to this Court within twenty (20) days of the date of this letter.

Very truly yours,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

CLERK

cc: Suzanne H. White, Esquire

644000

WITNESSES

R. M. McCullough
Spartanburg City Police Dept.
PO Drawer 1749
Spartanburg, SC 29304

1. SENTENCE MADE **Computer**
2. REPORT ENDED

3. CARD PULLED
4. INDEXED

5. CHECKED WARRANTS
ARRESTED WARRANT

7. ASSESSMENT AND FINE CARD MADE

8. TRAFFIC VIOLATIONS COPY

ACTION OF GRAND JURY

Debra Sims

Michelle M. Morgan
Foreman of Grand Jury

VERDICT

Foreman of Petit Jury _____ Date: _____

DOCKET NO. **98-GS-42-2304**
The State of South Carolina,

County of Spartanburg (05)

01/25/98

COURT OF GENERAL SESSIONS

MAY 04 1998 TERM

THE STATE

vs.

Lonnie Geter

**Indictment for Burglary
(Building)**

Holman C. Gossett

Lonnie Geter

I hereby appear in my own proper person and plead not content guilty to Burglary 3rd (second floor)

On the within indictment.

Witness: Lonnie Geter
Harmon

Clerk of Court

10-10 years
John McCullough

FORM 2 (12/87)

STATE OF SOUTH CAROLINA)
)
COUNTY OF Spartanburg)

INDICTMENT FOR BURGLARY
(BUILDING)

At a Court of General Sessions, convened on APR 30 1998,
the Grand Jurors of Spartanburg County present upon their oath:

COUNT ONE — BURGLARY IN THE SECOND DEGREE
(BUILDING)

That Lonnie Geter
did in Spartanburg County on or about January 25, 1998,
willfully and unlawfully enter without consent and with the intent to commit a crime therein, a building,
to wit: The Southside Baptist Church, 316 South Church Street, Spartanburg,
South Carolina,
and the defendant did enter the Southside Baptist Church in the nighttime.

COUNT TWO — BURGLARY IN THE THIRD DEGREE
(BUILDING)

That _____
did in _____ County on or about _____,
willfully and unlawfully enter without consent and with intent to commit a crime therein a building,
to wit: _____

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

Eugene H. Miller
SOLICITOR

SENTENCE

STATE OF SOUTH CAROLINA

SPARTANBURG COUNTY

Computer

CASE NO. 98-GS-42-230

0427

The defendant Bonnie Deter is committed to the State Department of Corrections/County for a term of 10 months/years and/or to pay a fine of \$ _____; provided upon the service of 4 months/years and/or payment of \$ _____, plus pay/waive costs and assessments as applicable*, the balance suspended with probation for 3 months/years

NEGOTIATED PLEA

Restitution

For physical injury \$ _____

Yes/No

property damage \$ 755 ~~1500~~

to be paid _____

to clerk for

Southside Baptist Church

Other conditions _____

Date

August 24, 1998

D. Beatty

Presiding Judge

*Costs and Assessments

Non-waivable \$ _____

Not waived \$ _____

Total \$ _____

[Signature]

Clerk of Court

1-29-98 ARREST Computer

F- 694006

STATE OF SOUTH CAROLINA

X County/ Municipality of SPARTANBURG COUNTY

THE STATE against

ETER, LONNIE

Address: 27 N VERNON STREET

SPARTANBURG, SC 29301

Phone: _____ SSN: _____

Age: _____ Height: 071 Weight: 65

DL State: _____ DL #: _____ Agency ORI #: _____

DOB: 01/60 _____

Prosecuting Agency: _____

Prosecuting Officer: CULLOUGH, S.M

Offense: Burglary-2nd Deg (Non-Violent)

Offense Code: 090

Code/Ordinance Sec: 6-11-0312

This warrant is CERTIFIED FOR SERVICE in the _____ County/ _____ Municipality of _____

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

Signature of Judge _____ (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant ETER, LONNIE

on 01-25-98

Signature of Constable/Law Enforcement Officer _____

RETURN WARRANT TO:

AMES PASLAY
80 MAGNOLIA ST
PARTANBURG, SC 29306

STATE OF SOUTH CAROLINA
X County/ Municipality of SPARTANBURG COUNTY

AFFIDAVIT # 5

Personally appeared before me the affiant CULLOUGH, S.M being duly sworn deposes and says that defendant ETER, LONNIE did within this county and state on 01/25/98 violate the criminal laws of the State of South Carolina (or ordinance of _____ County/ _____ Municipality of SPARTANBURG) in the following particulars: *WAB*

DESCRIPTION OF OFFENSE: Burglary-2nd Deg (Non-Violent)

16-11-0312

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:

THE DEFENDANT DID ENTER SOUTHSIDE BAPTIST CHURCH AT 316 N CHURCH SPARTANBURG, S.C. WITHOUT CONSENT AND INTENDING TO COMMIT A CRIME AND DID ENTER IN THE NIGHTTIME

AFFIANT'S BELIEF IS BASED UPON POLICE INVESTIGATION

Sworn to and subscribed before me

ON JANUARY 25, 1998

Signature of Affiant *M. Hammond*

Affiant's Address 145 BROAD STREET

SPARTANBURG, SC 29301

Affiant's Telephone 000-0000

Signature of Issuing Judge _____ (L.S.)

STATE OF SOUTH CAROLINA

X County/ Municipality of SPARTANBURG

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 01/25/98 defendant ETER, LONNIE did violate the criminal laws of the State of South Carolina (or ordinance of _____ County/ _____ Municipality of SPARTANBURG) as set forth below:

DESCRIPTION OF OFFENSE: Burglary-2nd Deg (Non-Violent)

16-11-0312

Now, therefore, 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.

Signature of Issuing Judge _____ (L.S.)

Judge Code: 83

Judge's Address 130 MAGNOLIA ST

SPARTANBURG, SC 29306

Judge's Telephone 864 596 2228

Issuing Court: X Magistrate Municipal Circuit

JAMES PASLAY

ORIGINAL

Form Appic 3 by S.C. Attorney General July 26, 1990 SCCA 518

A CERTIFIED COPY
M. HAMMOND
CLERK OF COURT
SPARTANBURG COUNTY
BY: *Mack Hammond* D.C.
DATED _____

1998 JAN 22
MARK HAMMOND

0880857

WITNESSES

George Brown
Spartanburg City Police Dept.
145 Broad St.
Spartanburg, SC 29301

1. SENTENCE REPORT

2. REPORT

3. CHARGE

ARREST WARRANT

6. CHARGE

7. ARREST

8. TRAFFIC TELEPHONE COPY

ACTION OF GRAND JURY

Deena Bill

Foreman of Grand Jury
L. S. [Signature]

3. GRAND JURY VERDICT

4. RETURNED

5. RETURNED WARRANTS

6. RETURNED SIGNATURES

7. RETURNED STATE AND MUNICIPAL

8. TRAFFIC VIOLATIONS COPY

Foreman of Petit Jury

Date:

DOCKET NO. 2001

The State of South Carolina,

County of Spartanburg

11/04/90

(06)

COURT OF GENERAL SESSIONS

AUG 05 1991

TERM

THE STATE

vs.

Lonnie Geter

ETRA - BU issued +
active 6/15/92 NW

Computer

Indictment for Burglary
(Building)

Holman C. Gossett, Jr.

I Lonnie (NMN) Geter

hereby appear in my own proper person and plead guilty to Burglary 3RD (~~Non Violent~~)

On the within indictment.

Witness: X Lonnie Geter

K.R. Hecobay

Clerk of Court

STATE OF SOUTH CAROLINA)
)
COUNTY OF Spartanburg)

INDICTMENT FOR BURGLARY
(BUILDING)

AUG 01 1991

At a Court of General Sessions, convened on _____,
the Grand Jurors of Spartanburg County present upon their oath:

**COUNT ONE — BURGLARY IN THE SECOND DEGREE
(BUILDING)**

That Lonnie Geter
did in Spartanburg County on or about November 3, 1990,
willfully and unlawfully enter without consent and with the intent to commit a crime therein, a building,
to wit: Battery Specialists

and the defendant did enter the Battery Specialists in the nighttime.

**COUNT TWO — BURGLARY IN THE THIRD DEGREE
(BUILDING)**

That _____
did in _____ County on or about _____,
willfully and unlawfully enter without consent and with intent to commit a crime therein a building,
to wit: _____

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

Robin C. Dale
SOLICITOR

SPARTANBURG COUNTY

The defendant Lannie (NMN) Getu is committed to the State Department of Corrections/County for a term of 5 months/years and/or to pay a fine of \$ _____; provided upon the service of Time served months/years and/or payment of \$ _____, plus pay waive costs and assessments as applicable*, the balance suspended with probation for 18 months/years. 57 exempt 6 mo.

Restitution For physical injury \$ _____
Yes/No property damage \$ _____
to be paid \$40⁰⁰ w/in 60 days.
also of costs.

to clerk for _____

Other conditions AA

Date 7-12-93 [Signature]
Presiding Judge

*Costs and Assessments
Non-waivable \$ _____
Not waived \$ _____
Total \$ _____

[Signature]
Clerk of Court

**Pay to Victim's Compensation Fund if subrogated.

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF _____

Personally appeared before me, judge of the Court, one GEORGE BROWN, who being duly sworn, deposes and says that LONNIE GETER (name of defendant) did within this County and State on NOV 03 19 90, violate the criminal laws of the State of South Carolina [or ordinance of the municipality of _____] in the following particulars:

DESCRIPTION OF OFFENSE

BURGLARY, SECOND DEGREE
16-11-312

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

THE DEFENDANT DID, WITHOUT CONSENT, ENTER BATTERY SPECIALISTS AT 316 W. MAIN ST. WITH INTENT TO COMMIT A CRIME THEREIN IN THE NIGHTTIME.

AFFIANT'S BELIEF IS BASED UPON POLICE INVESTIGATION AND STATEMENT OF WITNESS.

Sworn to and Subscribed before me,

This 04 day of NOV 1990

George C Brown
Signature of Affiant

Address SPTBG. CITY POLICE DEPT.

Phone: _____

Larry M. Hutkins (L.S.)
Signature of Issuing Judge

Address SPARTANBURG COUNTY COURTHOUSE
SPARTANBURG, SC 29301

Phone: (803) 596-2564

STATE OF SOUTH CAROLINA **ARREST WARRANT**

COUNTY OF SPARTANBURG

[for MUNICIPALITY OF _____]

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

It appearing from the above affidavit that there are reasonable grounds to believe that LONNIE GETER (name of defendant) did on NOV 03 19 90, violate the criminal laws of the State of South Carolina [or ordinance of the municipality of _____] as set forth below:

DESCRIPTION OF OFFENSE

BURGLARY, SECOND DEGREE
16-11-312

Now, therefore, 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.

Done at SPARTANBURG, S.
on NOV 04, 1990

Larry M. Hutkins (L.S.)
Signature of Judge

FORM CONTINUES ON BACK
ORIGINAL

LARRY HUTKINS

11-5-90

ARREST WARRANT

No. C 880897

STATE OF SOUTH CAROLINA

SPARTANBURG County Municipality (Circle one)

THE STATE

against

LONNIE GETER
CITY JAIL

Address:

Phone _____ SSN _____

Sex _____ Race _____ Height _____ Weight _____

DOB _____ DL _____

Offense **BURGLARY, SECOND DEGREE**

Offense Code

Code (or Ordinance) § 16-11-312

Issuing Judge **LARRY HUTCHINS**

Judge Code

Officer _____

Agency

ORI No. _____

Date of Offense **NOV 03 1990**

Date of Disposition _____

Disposition _____

Sentence _____

Co-Defendants _____

RETURN

A copy of this Arrest Warrant was delivered to the following defendant:

LONNIE GETER

on the 4th day of November, 19 90

Jackie S. Reeves

Signature of Constable or Law Enforcement Officer

This warrant is certified for service in _____ County (Circle one) _____ Municipality

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

(L.S.)

Signature of Judge _____

PRELIMINARY HEARING held by _____

Judge _____ on _____, 19 _____

with _____ Attorney for Defendants

Decision: _____

BAIL

Date Set _____, 19 _____

Judge _____

Amount _____

Surety _____

RETURN WARRANT TO: _____

WITNESSES:

Name _____

Address _____ Phone _____

Name _____

Address _____ Phone _____

Name _____

Address _____ Phone _____

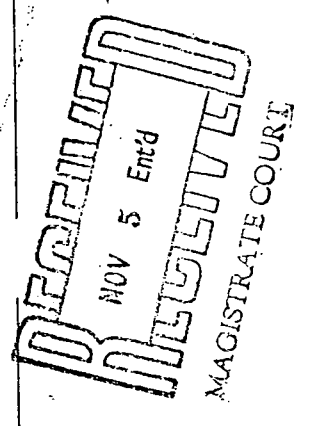
Name _____

Address _____ Phone _____

Name _____

Address _____ Phone _____

JURORS



AFFIDAVIT

REC. Nov. 15, 1990
11/14/90
[Signature]

Personally appeared before me, judge of the Court, one GEORGE BROWN
who being duly sworn, deposes and says that LONNIE GETER (name of defendant) did within this County
and State on NOV 03 19 90, violate the criminal laws of the State of South Carolina [or ordinance of the municipality
of _____] in the following particulars:

DESCRIPTION OF OFFENSE

BURGLARY, SECOND DEGREE
16-11-312

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

THE DEFENDANT DID, WITHOUT CONSENT, ENTER BATTERY SPECIALISTS
AT 316 W. MAIN ST. WITH INTENT TO COMMIT A CRIME THEREIN IN THE
NIGHTTIME.

AFFIANT'S BELIEF IS BASED UPON POLICE INVESTIGATION AND
STATEMENT OF WITNESS.

Sworn to and Subscribed before me,

This 04 day of NOV 1990

[Signature of Issuing Judge] (L.S.)
Signature of Issuing Judge

[Signature of Affiant] George C Brown
Signature of Affiant

Address SPTBG. CITY POLICE DEPT.

Phone: _____

Address SPARTANBURG COUNTY COURTHOUSE
SPARTANBURG, SC 29301
Phone: (803) 596-2564

STATE OF SOUTH CAROLINA **ARREST WARRANT**

COUNTY OF SPARTANBURG

[or MUNICIPALITY OF _____]

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

It appearing from the above affidavit that there are reasonable grounds to believe that LONNIE GETER
(name of defendant) did on NOV 03 19 90, violate the criminal laws of the State of South Carolina [or ordinance
of the municipality of _____] as set forth below:

DESCRIPTION OF OFFENSE

BURGLARY, SECOND DEGREE
16-11-312

Now, therefore, 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.

Done at SPARTANBURG
on NOV 04, 1990

[Signature of Judge] Larry Hutchins
Signature of Judge

FORM CONTINUES ON BACK
ORIGINAL

LARRY HUTCHINS

WITNESSES

T. GARNER

SPTG. CO. SHERIFF'S DEPT.

BOOKET NO. 02-65-42-4634

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

OCT 07 2002

TERM

ARREST WARRANT NUMBER

H-296553

THE STATE

VS.

LONNIE GETER

ACTION OF GRAND JURY

Twee Bill

Foreperson of Grand Jury

Date: 10/3/02

VERDICT

Indictment for

BURGLARY, FIRST DEGREE (Dwelling)

Foreperson of Petit Jury

Date:

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

12/6/02 This indictment was sent to Grand Jury during the October 7, 2002 term.

A subsequent indictment (with same # 02-4634) was resubmitted to Grand Jury during the November 7, 2002 term with a change to the language of the body of the indictment. That indictment was prosecuted on 12/4/02 and resulted in guilty verdict.

Robert Coler
ASST. SOLICITOR.

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

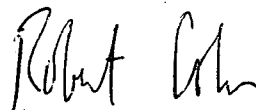
INDICTMENT

At a Court of General Sessions, convened on NOV 07 2002, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE
(DWELLING)

The Defendant, Lonnie Geter, did in Spartanburg County, on or about September 23, 2002, wilfully and unlawfully enter the dwelling of Myrle Miller located at 7632 Lone Oak, Rd, Spartanburg, South Carolina without consent and with the intent to commit a crime therein, and when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime either displays what appears to be a knife or pistol, revolver, rifle, shotgun or other firearm, and/or uses or threatens the use of a dangerous instrument and/or is armed with a deadly weapon or explosive; and/or the entering or remaining occurs in the nighttime; and/or causes physical injury to a person who is not a participant in the crime; and/or the defendant has (2) two or more prior convictions for Burglary and/or housebreaking in violation of Section 16-11-311, Code of Laws of South Carolina (1976, as amended).

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



ASSISTANT SOLICITOR



✓
The state of South Carolina

In the Supreme Court

Appeal From Spartanburg County

Court of Common Pleas

Roger L. Couch Administrative Judge

Common Pleas seventh Judicial Circuit

Appellate Case No. 2013-002215

Lonnie Geter #28840 Appellate

VS

State of South Carolina Respondent

Explanation show cause

This matter comes before the South Carolina Supreme Court Daniel E. Starks, Explanation show cause; the appellant Lonnie Geter is serving a Life sentence for Burglary First degree.

The appellant attack two separate conviction in this application. The applicant Lonnie Geter Pled Guilty to indictment No# 98-GS-42-2304

Nonviolent offense; which is not consider as most serious offense upon South Carolina code Law 17-25-45 (A) The Prosecutor committe perjury and Prosecutorial misconduct, and "applicant contend[S] that his prior conviction and sentences were in violation of the constitution of the U.S laws of this state. The applicant Lonnie Geter does NOT have NO prior conviction because a third Degree Burglary would be list AS Non-violent, which Lonnie Geter Pled guilty to indictment 98-GS-42-2304, S.C, code Law, Ann 17-25-45(A) consider this section, A person must be sentenced to A term of imprisonment for life without the possibility of parole if that person has one or more prior convictions for: (1) A most serious offense, "Record indicate that Lonnie Geter only has Nonviolent offense, therefore the prosecutor should NOT present exhibit

during direct examination by Mr. Coler
at transcript pg 164

Line (1) state would now move what's been
premarked as states

Line (2) exhibit number eighteen, that's a true-
billed indictment

Line (3) indicating that Lonnie Geter has a prior
burglary conviction

Line (4) From May 4th of 1998, signed by him, we
move that into

Line (5) evidence

Line (6) Ms. Johnson without objection Your Honor.

Line (7) (copy of indictment 98-GS-42-2304 marked
states

Line (8) exhibit Number eighteen.)

|| Counsel prejudice the defendant by failure
to object to the prior conviction that was
a nonviolent offense a third degree Burgl-
ary that is so prejudice that counsel did
not object and informed the court of General
sessions that his client does not have any

✓
or Now most serious offense to Burglary
conviction, Strickland standard both amend-
ment.

Applicant has standing to Petition for Post-conviction Relief if he is in custody or Result of his prior conviction still Perisist, Cite At Jackson v state S.C. 1997 33 S.C. 486 489 SE2d 915 rehearing denied

The prosecutor committed perjury and prosecutorial misconduct by use the Third Degree Burglary which or Nonviolent offense; and the prosecutor is hence the Applicant by enhancement his sentence to Life without parole for Burglary first degree, and the prosecutor did use this 98-GS-42-2304 Nonviolent Third Degree Burglary for enhancement in the applicant First Degree Burglary that applicant is served A life sentence in the Department of

✓
Corrections At Perry Corr Inst, Life
Without Parole, indictment 2002-4634.

Conclusion

Applicant Lonnie Geter has show cause
explanation that his conviction should
be set aside; and vacate his conviction
and sentence Life without parole.

Date DECEMBER 11 2013 of Lonnie Geter
Lonnie Geter 288401
430 OAKLAWN RD
Pelzer, S.C. 29669