

Volume I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Dillon County

J. Michael Baxley, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

SHAHEEN CABBAGESTALK,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-212579

APPENDIX

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STATE OF SOUTH CAROLINA,
PLAINTIFF,
VS.
JAMES CABBAGESTALK,
DEFENDANT.

MAY 31, 2007
DILLON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. MARK HAYES II, JUDGE

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

KERNARD E. REDMOND, ESQ.
ATTORNEY FOR THE STATE

GLENN B. MANNING, ESQ.
ATTORNEY FOR THE DEFENDANT

BONNIE H. KELLY
CIRCUIT COURT REPORTER

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID</u>

- NO EXHIBITS -

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1 MR. REDMOND: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 MR. REDMOND: Before you at this time is James
4 Cabbagestalk. He's before you on 2007-GS-17-364, that
5 being for armed robbery; 363 -- and if the Court would
6 indulge me. I'm looking for the copies of the indictments,
7 so I can accurately read these -- 364 is for armed robbery;
8 363 is for assault and battery with intent to kill; and 362
9 is for petty larceny.

10 Your Honor, he is here before you. Mr. Manning has
11 indicated he wishes to make a motion to reduce his bond. I
12 don't have right in front of me what his current bond is
13 set at, but I can tell the Court at the appropriate time
14 that I have made attempts to comply with the Victim's Bill
15 of Rights. and at the appropriate time, I can give the
16 Court this -- that particular portion of it.

17 I can tell the Court that at this point, as is my
18 policy, I would oppose a reduction in bond at this point.
19 And I think once I give you the brief factual background,
20 hopefully the Court will see why the State takes that
21 position.

22 THE COURT: I didn't hear what the bond is.

23 MR. MANNING: \$30,000 -- 36,000.

24 MR. REDMOND: All right.

25 THE COURT: Mr. Redmond, if you'd tell me --

1 MR. REDMOND: Yes, sir. Yes, sir, Your Honor. If it
2 please the Court, on the first -- January 1st, this
3 occurred in Nichols. The victim in this case had pulled
4 into the driveway. And he -- it looks like the -- he
5 stopped to ask -- somebody -- this defendant was with
6 someone else. The victim stopped. I think they had
7 actually acted as if there was a problem with the car. And
8 so, when they got out -- they were three males that got out
9 with guns and two shotguns; two had shotguns and one had a
10 pistol.

11 He recognized the suspect that didn't have a gun,
12 because there were four people here; three of them had
13 guns. The person that he recognized was the defendant. We
14 don't have the other people in custody at this time.

15 And anyway -- Judge, so he recognized him. They --
16 they actually told him to give up his money and his cell
17 phone. One of the suspects hit him in the face. The gun
18 was also pointed at his son's face. I do not have the age
19 of his son.

20 As they drove off, one of them shot one time. He
21 doesn't know -- according to this -- what direction the
22 bullet went. But he did hear the gunshot as they were
23 leaving.

24 The victim in this case is Russell Dillard. He had
25 given a description of the vehicle that was involved, and

1 he had actually recognized this defendant as being one of
2 the parties involved. But he indicated he did not have a
3 gun.

4 Again, we do not have the other people who were
5 involved in custody at this time. And for the reasons of
6 the nature of the incident, we would ask the Court to
7 consider -- because obviously, it was a premeditated
8 situation in the sense that he was basically lured into the
9 situation and was robbed.

10 I did not tell the Court what amount of money he was
11 robbed of. As I indicated, the cell phone was robbed and
12 looks like about \$235 was taken from the victim.

13 THE COURT: Mr. Cabbagestalk have any record?

14 MR. REDMOND: Yes, sir, Judge. If the Court would
15 indulge me. In 2002, possession of a stolen vehicle. He
16 had two years probation on that. Looks like -- I thought
17 he violated that. Doesn't look like he violated that.

18 And then, Judge, in 2003, he had a distribution of
19 crack charge. He got five years on that.

20 And that is the extent of his -- looks like that was
21 actually two counts as it relates to the drug charges, two
22 counts of distribution. He got five years on that active
23 incarceration.

24 MR. MANNING: Yes, Your Honor. Your Honor, may it
25 please the Court. I was appointed to represent Mr.

1 Cabbagestalk on -- several weeks ago, and I don't have his
2 file in front of me, Your Honor. But I would tell the
3 Court that he has been in jail for certainly more than 30
4 days. And I would ask the Court to consider a reduction in
5 bond.

6 He has not been able to -- to make the \$36,000 bond,
7 and based on the nature of the things that have just been
8 presented to the Court, I see no reason why, Your Honor, he
9 should not be entitled to a bond that would be one that he
10 would be able to make. Certainly he can't make this. If
11 he could, he would have been out by now. And I'd ask the
12 Court to -- to -- to seriously consider reducing the bond
13 for this individual.

14 I don't think that he's a flight risk. I don't think
15 he would be in the position to harm or injure anyone. And
16 I certainly know that that would be one of the conditions
17 of the bond. So, I'd ask if the Court would consider
18 reducing the bond.

19 THE COURT: Based on the alleged facts and the prior -
20 - prior -- Mr. Cabbagestalk's prior record, I'm going to
21 leave the bond at \$36,000.

22 MR. MANNING: Thank you.

23 MR. REDMOND: Thank you, Your Honor.

24 THE COURT: Motion to reduce is denied.

25

1 MR. MANNING: Your Honor, also, make a motion for a
2 speedy trial as well.

3 THE COURT: Well, how -- how long -- when -- how long
4 is -- what was the date of the incident?

5 MR. REDMOND: The date of the incident was New Year's
6 Day, Judge. And he was arrested on the 12th.

7 THE COURT: Of May?

8 MR. REDMOND: Of -- 12th of January. I'm sorry. It's
9 been since January.

10 THE COURT: Well, I'm not going to require the State
11 to try him at any particular time at this point. The case
12 is still fresh. I'll -- just without prejudice, you can
13 make a motion -- you can renew your motion at any time.

14 MR. MANNING: Thank you, Your Honor.

15 MR. REDMOND: We'd actually made a -- I had made an
16 offer in this case that I forgot to give to Mr. Manning.
17 So, I do have an offer sheet as well.

18 THE COURT: All right.

19 MR. REDMOND: And we have complied with Rule 5 up to
20 this point, Judge.

21 THE COURT: (To the defendant) I'd -- I'd be glad to
22 hear from you, but I don't want to be rude. But anything
23 you say can be used against you if you go to trial. You
24 understand that?

25 THE DEFENDANT: Yeah. I understand that.

1 THE COURT: Well, I think it best if you deal through
2 your attorney. Thank you.

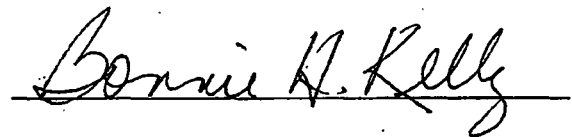
3 MR. REDMOND: Thank you, Your Honor.
4

5 --- END OF TRANSCRIPT OF RECORD ---
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CERTIFICATE

I, THE UNDERSIGNED BONNIE H. KELLY, OFFICIAL
COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE
STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT
OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE
INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE,
RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR DILLON
COUNTY, SOUTH CAROLINA, ON THE 31ST DAY OF MAY, 2007.

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

A handwritten signature in cursive script, reading "Bonnie H. Kelly", is written over a horizontal line.

BONNIE H. KELLY,

COURT REPORTER

COLUMBIA, SOUTH CAROLINA

JUNE 23, 2011

STATE OF SOUTH CAROLINA

COUNTY OF DILLON

IN THE COURT OF GENERAL SESSIONS
07-GS-17-0362/0363/0364

STATE OF SOUTH CAROLINA,)

vs.)

JAMES SHAHEEN CABBAGESTALK.)

TRANSCRIPT OF RECORD

JULY 26, 2007

DILLON, SOUTH CAROLINA

BEFORE:

THE HONORABLE, HOWARD P. KING, JUDGE

APPEARANCES:

BY: KERNARD E. REDMOND, ESQ.
ATTORNEY FOR STATE

BY: GLENN B. MANNING, ESQ.
ATTORNEY FOR JAMES CABBAGESTALK

BRENDA R. BABB
Circuit Court Reporter

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MOTION FOR SPEEDY TRIAL/BOND REDUCTION - JULY 26, 2007

3

1 MR. REDMOND: MAY IT PLEASE THE COURT, YOUR
2 HONOR?

3 THE COURT: YES, SIR, GIVE ME JUST ONE MINUTE.

4 MR. REDMOND: THANK YOU, YOUR HONOR, MAY IT
5 PLEASE THE COURT, BEFORE YOU AT THIS TIME IS JAMES SHAHEEN
6 CABBAGESTALK. HE'S BEFORE YOU UNDER INDICTMENT NUMBERS
7 2007-GS-17-362, THAT BEING PETTY LARCENY;

8 363 ASSAULT AND BATTERY WITH INTENT TO KILL; AND
9 364 THAT BEING ARMED ROBBERY.

10 MR. MANNING HAS A COUPLE MOTIONS HE WOULD LIKE TO
11 MAKE AT THIS TIME SO I'LL YIELD TO HIM AND THE STATE WOULD
12 RESPOND AT THE APPROPRIATE TIME.

13 THE COURT: ALL RIGHT, YES, MR. MANNING?

14 MR. MANNING: YES, YOUR HONOR, MAY IT PLEASE THE
15 COURT, THE FIRST MOTION IS ONE FOR A SPEEDY TRIAL AND THE
16 SECOND MOTION IS ONE FOR BOND REDUCTION.

17 I WAS APPOINTED TO REPRESENT MR. CABBAGESTALK BY
18 JUDGE BURCH, I THINK IT WAS BACK IN, I DON'T HAVE THE FILE
19 WITH ME, APRIL OF THIS YEAR AS I RECALL CORRECTLY, AND HIS
20 BOND WAS SET BY THE MAGISTRATE AT \$36,000 AND HE'S BEEN
21 INCARCERATED EVER SINCE AND WE'D ASK THE COURT FOR A BOND
22 REDUCTION IN THIS MATTER.

23 AND ALSO MOVE THE COURT FOR ORDER FOR SPEEDY
24 TRIAL.

25 THE COURT: MR. REDMOND?

MOTION FOR SPEEDY TRIAL/BOND REDUCTION - JULY 26, 2007

4

1 MR. REDMOND: JUDGE, THIS CASE WAS INITIALLY
2 HANDLED BY MR. WATSON. I BELIEVE THERE WAS A CONFLICT AT
3 SOME POINT. I DON'T KNOW THE NATURE OF IT BECAUSE IF I
4 REMEMBER CORRECTLY I THINK THERE WAS AN IN CAMERA HEARING
5 AT WHICH TIME MR. WATSON WAS RELIEVED AND MR. MANNING WAS
6 APPOINTED SUBSEQUENT TO THAT.

7 JUDGE, I CAN TELL THE COURT THAT AS IT RELATES TO
8 REDUCTION OF BOND I HAD PREVIOUSLY TALKED WITH THE VICTIM,
9 HE'S MOVED AND I HAVEN'T HAD THE OPPORTUNITY TO TALK WITH
10 HIM TODAY, BUT I HAD TALKED WITH HIM PREVIOUSLY IN DETAIL
11 CONCERNING THE ALLEGATIONS IN THIS MATTER; AND WITHOUT
12 GETTING TOO MUCH INTO THE FACTUAL BASIS I CAN TELL THE
13 COURT THAT WE WOULD BE OPPOSED FOR REDUCTION OF BOND.

14 I CAN TELL THE COURT THAT THE DEFENDANT IS KNOWN
15 TO THE VICTIM SO THE STATE FEELS THIS CASE IS STRONG BASED
16 ON THE ALLEGATIONS AND FURTHER, YOUR HONOR, BASED ON THE
17 FACT THE REASON, AND AGAIN BEING BRIEF, BUT TO GIVE THE
18 COURT AN IDEA OF THE FACTUAL BASIS.

19 THIS WAS A SITUATION WHERE THE DEFENDANT WAS IN A
20 CAR WITH THREE OTHER INDIVIDUALS AT WHICH TIME HE PULLED
21 OVER ON THE, THE CAR THAT THE DEFENDANT WAS IN WAS PULLED
22 OVER ON THE SIDE OF THE ROAD. THE VICTIM GOT OUT THE CAR
23 TO HELP. THE DEFENDANT CAME OVER AND THE DEFENDANT, THE
24 VICTIM KNOWS THE DEFENDANT, WELL THE OTHER THREE IN THE CAR
25 THEN GET OUT AND ROB HIM.

MOTION FOR SPEEDY TRIAL/BOND REDUCTION - JULY 26, 2007

5

1 HE DID INDICATE THAT THE DEFENDANT DID NOT HAVE A
2 GUN BUT THE OTHER PARTIES DID. ONE OF THOSE OTHER PARTIES
3 FIRED A GUN IN THE DIRECTION OF THE VICTIM'S TRUCK. HIS,
4 HIS HANDICAPPED CHILD WAS IN THE CAR. THE CHILD WAS STRUCK
5 BY ONE OF THE BULLETS IN THE HAND, THAT'S WHERE THE ASSAULT
6 AND BATTERY CHARGE COMES FROM. AND SO, JUDGE, BECAUSE OF
7 THAT WE REGARD THIS AS A VERY SERIOUS SITUATION AND WE
8 WOULD RESPECTFULLY REQUEST THAT BOND NOT BE SET AT THIS
9 TIME.

10 THE COURT: TELL ME WHEN IT HAPPENED, WHAT WAS
11 THE DATE OF THE INCIDENT?

12 MR. REDMOND: THE DATE OF THE INCIDENT WAS NEW
13 YEARS DAY, JUDGE. HE WAS ARRESTED ON THE 12TH OF JANUARY,
14 BUT THE INCIDENT OCCURRED ON NEW YEARS DAY.

15 THE COURT: AND HE WAS REPRESENTED BY SOMEONE
16 ELSE PRIOR TO MR. MANNING BEING INVOLVED IN IT?

17 MR. REDMOND: THAT'S CORRECT.

18 THE COURT: AND THEN MR. MANNING GOT IN IN APRIL
19 I BELIEVE, YOU WERE APPOINTED IN APRIL, MR. MANNING?

20 MR. MANNING: I THINK, I'M ALMOST SURE, BY JUDGE
21 BURCH.

22 MR. REDMOND: AND, JUDGE, I FORGOT TO MENTION TO
23 FURTHER SUPPORT OUR REQUEST NOT TO HAVE HIS BOND REDUCED,
24 WE'VE GOT INVESTIGATOR JOHN WILLIE BROWN OF THE SHERIFF'S
25 DEPARTMENT WHO ACTUALLY IS INVOLVED IN THE INVESTIGATION OF

1 THIS CASE AND HE ADVISED ME THAT AT THE TIME THEY ARRESTED
2 HIM ON THE 12TH HE ACTUALLY ATTEMPTED TO RUN AWAY AND THEY
3 HAD TO ACTUALLY CATCH HIM. AS A MATTER OF FACT, WHEN THEY
4 ENCOUNTERED HIM HE TRIED TO RUN BUT THEY WERE ABLE TO CATCH
5 HIM.

6 THE COURT: TELL ME WHAT YOUR, WHAT YOUR COURT
7 SCHEDULE IS? HOW OFTEN DO YOU HAVE COURT, MR. REDMOND?

8 MR. REDMOND: WE HAVE COURT ON AVERAGE ONCE A
9 MONTH. NOW THIS TERM WE WENT TWO MONTHS IN BETWEEN BUT
10 NORMALLY IT AVERAGES TO ABOUT ONCE A MONTH, ONCE EVERY
11 MONTH AND A HALF. WE'VE GOT THREE TERMS LEFT AFTER THIS
12 TERM, THE 27TH OF AUGUST, THE 15TH OF OCTOBER, AND THE 26TH
13 OF NOVEMBER.

14 THE COURT: LET ME SEE THAT, MADAM CLERK?

15 MR. REDMOND: AND, JUDGE, I DIDN'T MENTION BUT
16 IT APPEARS IN REVIEWING THE FILE I ACTUALLY MADE AN OFFER
17 BACK IN FEBRUARY WHILE MR. WATSON WAS STILL REPRESENTING
18 HIM AND WE HAD COMPLIED WITH RULE 5 THAT WE HAD AT THAT
19 TIME AND I DON'T SEE WHERE IT HAS BEEN SUPPLEMENTED OR
20 NEEDS TO BE SUPPLEMENTED AT THIS PARTICULAR TIME. WE'VE
21 COMPLIED WITH RULE 5.

22 THE COURT: OKAY, ALL RIGHT. BASED UPON WHAT
23 I'VE HEARD AND THE BASIC FACTS OF THIS CASE I CANNOT SAY
24 THAT THE BOND IS UNREASONABLE AT \$36,000. I'M GOING TO
25 DENY THE MOTION TO REDUCE THE BOND.

MOTION FOR SPEEDY TRIAL/BOND REDUCTION - JULY 26, 2007

7

1 I'LL ALSO NOTE THAT THE MOTION FOR SPEEDY TRIAL
2 HAS BEEN MADE AND I'VE REQUIRED THE STATE TO ADDRESS THIS
3 CASE AND DISPOSE OF IT WITHIN 120 DAYS OF TODAY'S DATE.
4 THAT WILL CARRY IT THROUGH THE THREE TERMS THIS YEAR. IF
5 IT IS NOT TAKEN CARE OF BY THE END OF THOSE TERMS THEN THE
6 COURT WILL ENTERTAIN A MOTION FOR A BOND REDUCTION FOR
7 PERSONAL RECOGNIZANCE AT THAT TIME.

8 MR. REDMOND: THANK YOU, YOUR HONOR.

9 MR. MANNING: THANK YOU, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 END OF REQUESTED TRANSCRIPT - - - -

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED BRENDA R. BABB, OFFICIAL COURT REPORTER THE SOUTH CAROLINA COURT ADMINISTRATION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR DILLON COUNTY, SOUTH CAROLINA.

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

December 3, 2012

Brenda R. Babb
BRENDA R. BABB, CVR

OFFICIAL REPORTER

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF DILLON) INDICTMENT #07-GS-17-0364
3

4 THE STATE OF SOUTH CAROLINA,)
5)
6 PLAINTIFF,)
7)
8 -VS-)
9)
10 JAMES CABBAGESTALK, A/K/A)
11 SHAHEEM RAMEL CABBAGESTALK,)
12)
13 DEFENDANT.)
14

TRANSCRIPT OF RECORD

15 August 27TH & 28TH, 2007
16 Dillon, S. C.

17 B E F O R E:

18 HONORABLE HOWARD P. KING, JUDGE, AND A JURY
19

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

21 KINARD REDMOND, ESQUIRE
22 AND

23 LEE HAYES, ESQUIRE,
24 Assistant Solicitors, Fourteenth Judicial Circuit
25 Attorneys for the State

GLENN MANNING, ESQUIRE
Assistant Public Defender for Dillon County
Attorney for the Defendant

LINDA W. MCCALL
OFFICIAL REPORTER

INDEXMONDAY, AUGUST 27, 2007

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COURT

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EV.</u>
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MOTION AND RULING OF THE COURT

5

1 MONDAY, AUGUST 27, 2007

2 (The Court convenes this matter with the defendant and his
3 counsel along with the counsel for the State present in the
4 courtroom.)

MOTION AND RULING OF THE COURT

6 MR. REDMOND: If it please the Court, we have a matter
7 regarding - - that we had discussed in chambers regarding James
8 Cabbagestalk.

9 For the record that's 07-GS-17-363, that being for assault and
10 battery with intent to kill, and 364 for armed robbery.

11 At the time Mr. Manning had - - had indicated that he might
12 have a motion for a continuance but I understand that his client
13 wishes to proceed with the trial. We were planning on selecting
14 a jury this afternoon.

15 THE COURT: Alright.

16 Is there anything you'd like to put on the record at this
17 time, Mr. Manning?

18 We did discuss this in chambers, and I - - you know, my
19 recollection of this matter is this is the matter that came before
20 me, and Mr. Cabbagestalk came before me last month, and Mr.
21 Cabbagestalk was anxious to go forward with it at that time, and I
22 was willing to hear anything on the record the parties wanted to
23 put on the record but we're staying with it as far as being called
24 for trial this afternoon.

25 MR. MANNING: Your Honor, I, ah, I spoke with Mr.

MOTION AND RULING OF THE COURT

6

1 Cabbagestalk outside. He wants to go forward.

2 I tell the Court, Your Honor, I was not prepared to go forward
3 with this case at all.

4 One thing I do, you know, I pass up - - Ms. Hyatt, would you
5 pass that up to the Judge?

6 CLERK OF COURT: Yes, sir.

7 MR. MANNING: And, ah, and, ah, in talking with him that I
8 found out that - - I requested the Rule 5 once I got to court, I
9 mean, once I got the appointment, and that's the extent of what I
10 received from the State's office. I understand that Mr. Watson
11 had represented him before. I never received that file. I
12 understand that Mr. Cabbagestalk, the information was sent directly
13 to him. So that's the only - - that's the extent of my Rule 5,
14 Your Honor, at this point in time, and, ah, I would like to have
15 this case continued - - -

16 THE COURT: Well, wait a minute, now, Mr. - - you want it
17 continued or your client wants it continued?

18 MR. MANNING: Your Honor, I was the one who was asking for
19 the continuance. If my client wants to go forward, I'm going to
20 accommodate him.

21 THE COURT: Alright.

22 That's the end of it, then. If your client wants to go
23 forward, then we're going forward with this matter.

24 MR. MANNING: You want to say something to the Judge?

25 MR. CABBAGESTALK: He can continue it - - and give him time

MOTION AND RULING OF THE COURT

7

1 to get his paperwork.

2 THE COURT: Sir?

3 MR. CABBAGESTALK: He can continue it and give him time to
4 get his paperwork right.

5 THE COURT: I don't understand what you're asking.

6 MR. CABBAGESTALK: If Your Honor wants to continue it to get
7 his paperwork right, do so, sir.

8 THE COURT: No. I'm not going to continue it. He's moving
9 for a continuance.

10 It's my understanding is the State plans to call the case this
11 afternoon, ah, and, ah, you know. I'm not going to sit up here and
12 listen to the lawyer taking one position and the client taking the
13 other position.

14 MR. MANNING: Your Honor, may - - may I?

15 THE COURT: Yes, sir.

16 MR. MANNING: He just said that he has no problem with it
17 being continued. He's just - - that's what he was telling you
18 just now.

19 THE COURT: Well, I can tell you right now, Mr.
20 Cabbagestalk. This matter came before me a month ago at which time
21 you were complaining about the matter not going forward fast enough
22 and wanted to be let out of jail, and I put the State on a short
23 string on this case and told them they were going to have to try
24 it, I think, within ninety days. I don't remember what I did but
25 I believe I told them within ninety days.

MOTION AND RULING OF THE COURT

8

1 I understand they cannot try it in October because they've
2 already got something scheduled for October, and that means that if
3 it is not called this week, it won't be called in October, and I
4 don't know when the next term is after that, and I'm going to let
5 the State off - - off the hook on that short string that I put them
6 on because if your request for a speedy trial, actually, you
7 requested a bond hearing but I made it a speedy trial motion
8 because you wanted the matter heard. Now, you can't have it both
9 ways. You can't have it put off and then complain about the State
10 not being ready to go forward. You got to have it one way or the
11 other.

12 MR. CABBAGESTALK: I understand that.

13 MR. REDMOND: And, Your Honor, if I may? For the record I
14 complied with Rule 5, actually, back in February when Mr. Watson
15 was appointed but subsequent to that the defendant and I was not a
16 party to that was - - it was in camera and ex parte because of the
17 attorney/client privilege but if memory serves me correct, Mr.
18 Watson made a motion to be relieved. So, subsequently, in May - -
19 the 21st of May, 2007, we complied with Rule 5. That's been three
20 months ago.

21 The only thing that I can tell the Court, Your Honor,
22 involving this case is it is an identification case. It is not
23 going to be one where we got forensics, etc, etc, etc. It is a
24 very - - I anticipate in the most the State calling four witnesses,
25 and that is at the most.

MOTION AND RULING OF THE COURT

9

1 So, I can tell the Court we are prepared to go forward. I've
2 talked with the victim.

3 THE COURT: Alright.

4 I'm going to ask Mr. Cabbagestalk.

5 Mr. Cabbagestalk, I don't know when the State's going to call
6 this case, now, if it's not called this week. It may - - probably
7 won't be in October. It may be later.

8 I'm going to relieve the State from the responsibility of the
9 speedy trial motion if I continue the case at your request. So,
10 the question I'm asking you now is do you wish for the matter to go
11 forward this week if the case calls the case which I think they
12 plan to do this afternoon or you wish to wait until the State can
13 get to it which may be sometime between now and the end of the year
14 but I don't know when that's going to be.

15 MR. CABBAGESTALK: I want to go forward.

16 THE COURT: Alright.

17 Motion to continue is denied.

18 MR. REDMOND: Thank you, Your Honor.

19 MR. MANNING: Your Honor, may I, ah, at this point, this is,
20 ah, this is the extent of what I got from the State for Rule 5.
21 This is what I got, and I don't have all the Rule 5. So, if I can
22 get it, I'm fine.

23 That's why I passed this up.

24 THE COURT: We'll take that up - - we'll take that up when
25 we go forward this afternoon.

MOTION AND RULING OF THE COURT

10

1 MR. MANNING: Okay.

2 Thank you, Your Honor.

3 THE COURT: Alright. Next matter.

4 Step aside. Motion to continue is denied. We're moving
5 forward.

6 MR. MANNING: Thank you, Your Honor.

7 (The Court recesses this matter to address other matters
8 before the Court and thereafter reconvenes the trial of this case
9 after lunch at 3:44 p.m.)

10 THE COURT: Alright, Mr. Solicitor, what's the first
11 matter?

12 MR. REDMOND: Thank you, Your Honor.

13 May it please the court? May it please the Court?

14 May it please the Court, Your Honor?

15 Before you at this time is The State vs. James Cabbagestalk.
16 That's 07-GS-17-363 for assault and battery with the intent to
17 kill, and 07-GS-17-364, that being for armed robbery.

18 He is represented by Mr. Manning, and the State is ready to
19 proceed with the trial of this case.

20 THE COURT: Alright.

21 After thinking about it, counsel, I think maybe the better
22 thing - - this may take us a few minutes. The Jury has been in
23 the courtroom now since, ah, about 2:30. So, it's been about an
24 hour and fifteen or twenty minutes, and this may take us a few
25 minutes. So, I think the better plan would be to, ah, go ahead

REMARKS OF THE COURT

11

1 and let me give the jury a recess at this time.

2 Ah, I am going to give you a brief recess at this time. I ask.
3 you to be back in the courtroom at about 4:00. That's about
4 fifteen minutes, ah, and so if you would, you're welcome to walk
5 outside or whatever but please be back in the courtroom at 4:00,
6 and we'll be ready to draw the case, ah, draw the jury in the first
7 case.

8 Alright.

9 Thank you.

10 (The jury is released for a fifteen minute break. The Court
11 recesses this case and thereafter reconvenes this trial with all
12 parties present in the courtroom.)

REMARKS OF THE COURT

14 THE COURT: Alright.

15 Mr. Cabbagestalk, have a seat with Mr. Manning over there.

16 Alright. Ladies and gentlemen of the jury panel, if you
17 would, give me your attention.

18 You have heard the State call the case of The State vs. James
19 Cabbagestalk. Ah, and what I'm going to tell you now is simply
20 the allegations against Mr. Cabbagestalk, and I will tell you that
21 what I'm telling you now is not evidence of anything. It is not,
22 ah, to be considered by you as evidence against Mr. Cabbagestalk
23 whatsoever. It is simply the charges that have been made by the
24 State; and the State will be charged with the responsibility of
25 proving these charges beyond a reasonable doubt.

REMARKS OF THE COURT

12

1 But I tell you this so that you can determine whether you know
2 anything about the case or anything that would prevent you from
3 serving as a juror in the case.

4 The State charges that Mr. Cabbagestalk did in Dillon County
5 on or about January 1st of this year violate South Carolina law in
6 that he did with malice aforethought commit an assault and battery
7 with the intent to kill on one Wayne Dillard by hitting Mr. Dillard
8 in the face with a gun with the intent to kill Mr. Dillard and the
9 charge is one of assault and battery with the intent to kill.

10 Also, he is charged on that same date with violating South
11 Carolina law that while armed with a deadly weapon, specifically,
12 a hand gun, that he did take from the person and presence of Wayne
13 Dillard by means of force and intimidation goods or monies of Mr.
14 Dillard, ah, specifically, cash and a cell phone, and that charge
15 is one for armed robbery.

16 So, the two charges that are against Mr. Cabbagestalk are that
17 he was - - or is charged with the crime of armed robbery and the
18 charge of assault and battery with the intent to kill.

19 Mr. Cabbagestalk is represented by Mr. Manning of the Dillon
20 County Bar. Mr. Manning, would you stand and introduce yourself to
21 the jury, please? Would you stand and introduce yourself to the
22 jury?

23 This is Mr. Kinard Manning (sic), and he represents the
24 defendant Mr. Cabbagestalk. Mr. Cabbagestalk is seated with him at
25 the counsel table.

VOIR DIRE

13

1 The State in this case is represented by Mr. Kinard Redmond.
2 Mr. Redmond, would you stand and introduce yourself to the jury,
3 please?

4 MR. REDMOND: Ladies and gentlemen, may it please the Court?
5 Thank you, Your Honor.

6 My name is Kinard Redmond. I'm Deputy Solicitor here in
7 Dillon County.

8 During the course of the trial, you'll probably see Mr. Hayes
9 also here at the prosecution table.

10 Thank you.

11 THE COURT: Alright.

12 Thank you.

13 VOIR DIRE

14 THE COURT: Alright.

15 Before we select a jury, I need to ask you some questions in
16 connection with this matter. Please give your attention to these
17 questions and if any of them apply to you, then respond
18 accordingly.

19 Is there any member of the jury panel who is related by blood
20 or connected by marriage to the defendant, James Cabbagestalk? If
21 so, please stand.

22 Alright. Yes, sir. Gentleman in the back, and I don't know
23 what I did with my jury list but, anyhow, go ahead and give me your
24 name.

25 Come up, please, sir.

VOIR DIRE

14

1 Come up, counsel.

2 THE COURT: Yes, sir. What's your name?

3 MR. BROWN (JUROR #19): Ken Brown.

4 THE COURT: Mr. Brown, you're related to the defendant?
5 What's your relationship?

6 MR. BROWN: My mother is his mother's sister.

7 THE COURT: Your mother is his mother's sister.

8 CLERK OF COURT: First cousins.

9 THE COURT: First cousins.

10 Alright.

11 Then that would be a disqualifying relationship. If you'll
12 just have a seat back there in the back.

13 Thank you.

14 THE COURT: Alright.

15 The following individuals may appear as witnesses in this
16 case, and I would ask if the witnesses are present, if they would
17 stand when their name is called.

18 Wayne Dillard, Sir., Wayne Dillard, Jr., Randall Brown,
19 Michael Barfield of the Dillon County Sheriff's Office and R. P.
20 Grimsley of the Dillon County Sheriff's Office.

21 Is any member of the jury panel related by blood or connected
22 by marriage to any of the proposed witnesses? If so, please
23 stand.

24 Is any member of the jury panel close personal friends of any
25 of the parties, the lawyers or any of the witnesses whom I have

VOIR DIRE

15

1 read off to you? If so, please stand.

2 Does any member of the jury panel other than what has already
3 been disclosed to me know anything about the facts of this case as
4 I have briefly recited them to you? If so, please stand.

5 Has any member of the jury panel formed or expressed an
6 opinion as to the guilt or innocence of the defendant, James
7 Cabbagestalk? If so, please stand.

8 Is any member of the jury panel aware of any interest, any
9 bias or any prejudice for or against the defendant, James
10 Cabbagestalk? If so, please stand.

11 Other than what has already been disclosed to me, can each
12 member of the jury panel give to the State and the defendant, James
13 Cabbagestalk, a fair and impartial trial based on the evidence that
14 you hear in this courtroom? If not, please stand.

15 Other than what has been disclosed to me, does any member of
16 the jury panel know of any reason whatsoever why he or she should
17 not serve as a juror in this case? If so, please stand.

18 Are there additional questions on behalf of the State, Mr.
19 Redmond?

20 MR. REDMOND: Yes, Your Honor.

21 I'd like to request if the Court deems necessary there is a
22 question concerning representation since Mr. Manning has been in
23 private practice here for several years.

24 THE COURT: I'll ask it for both sides.

25 Is any member of the jury panel represented now or been

VOIR DIRE

16

1 represented in the last five years by any of the lawyers in this
2 case? That includes Mr. Redmond, Mr. Hayes or Mr. Manning. If
3 so, please stand.

4 Alright.

5 Anything further, Mr. Redmond?

6 MR. REDMOND: Nothing further except, Your Honor, there is
7 one quick matter I need to discuss with you.

8 THE COURT: Wait a minute. Let me see if he's got
9 anything else.

10 Anything else as far as the jury is concerned, Mr. Manning?

11 MR. MANNING: I'm sorry, Your Honor.

12 THE COURT: Any further voir dire requests?

13 MR. MANNING: I have none, Your Honor.

14 THE COURT: Alright.

15 Come on up, counsel.

16 MR. REDMOND: This won't take a moment, Your Honor.

17 (Bench conference held off record and in the presence of the
18 jury panel but outside the hearing of the jury panel.)

19 MR. REDMOND: Thank you, Judge.

20 THE COURT: Madame Clerk.

21 CLERK OF COURT: Yes, Your Honor?

22 THE COURT: Alright.

23 Alright, Madame Clerk, if you'll give us a jury please.

24 And, ladies and gentlemen, I told you earlier that the process
25 for selecting jurors in the Court of General Sessions is that your

JURY SELECTION

17

1 names will be called individually.

2 When your name is called, please come to the front of the
3 courtroom, turn around with your back toward me and face the back
4 of the courtroom.

5 If you are acceptable to the State, the State will indicate,
6 "Present the juror."

7 If you are acceptable to the defense, the defense will state,
8 "Seat the juror," and you would have a seat in the jury box to my
9 right.

10 If either side excuses you, you would have a seat back out
11 with the remainder of the jury panel.

12 We will go through that process until we have selected a jury
13 of twelve, and then we will select one alternate with one and two,
14 counsel, to take care of the alternate situation.

15 Alright. Madame Clerk, if you will give us a jury, please.

16 CLERK OF COURT: Thank you, Your Honor.

JURY SELECTION

18 CLERK OF COURT: Number 93, Bret Landis.

19 THE COURT: If you'll come right up here, please, sir.
20 I'm sorry. I meant for you to come all the way around and come up
21 in front of the rail. I'm sorry.

22 You have to stand in front of the lawyers. That's what the
23 problem is.

24 CLERK OF COURT: What sayeth the State?

25 MR. REDMOND: Please present Mr. Landis.

JURY SELECTION

18

1 CLERK OF COURT: Defendant?

2 MR. MANNING: Strike the juror, please.

3 CLERK OF COURT: You're excused. Thank you.

4 Number 155, Annie Spears.

5 What sayeth the State?

6 MR. REDMOND: Please present Ms. Spears.

7 CLERK OF COURT: Defendant?

8 MR. MANNING: Accept the juror.

9 CLERK OF COURT: Please have a seat in the jury box,
10 please, ma'am.

11 THE COURT: Okay.

12 Have a seat over here, please, ma'am.

13 CLERK OF COURT: She's got to get her bag, Your Honor.

14 THE COURT: Okay.

15 Let me remind everyone. Please, when your name is called,
16 bring your personal belongings with you so that you won't have to
17 go back out.

18 CLERK OF COURT: Number 33, Doris Coward.

19 What sayeth the State?

20 MR. REDMOND: Please present Ms. Coward.

21 CLERK OF COURT: Defendant?

22 MR. MANNING: Excuse the juror for the purposes of this
23 trial.

24 CLERK OF COURT: You're excused, ma'am.

25 Number 109, Terry McColl.

JURY SELECTION

19

1 What sayeth the State?

2 MR. REDMOND: Please present Ms. McColl.

3 CLERK OF COURT: Defendant?

4 MR. MANNING: Seat the juror, please.

5 CLERK OF COURT: Have a seat in the jury box, please,
6 ma'am.

7 Number 96, James Legette.

8 What sayeth the State?

9 MR. REDMOND: Please present Mr. Legette.

10 CLERK OF COURT: Defendant?

11 MR. MANNING: Accept Mr. Legette.

12 CLERK OF COURT: Have a seat in the jury box, please, sir.
13 Number 159, Howard Thompson.

14 What sayeth the State?

15 MR. REDMOND: Please present Mr. Thompson.

16 CLERK OF COURT: Defendant?

17 MR. MANNING: Excuse Mr. Thompson for the purposes of this
18 trial.

19 CLERK OF COURT: You're excused, sir.

20 Number 48, Alice Feagin.

21 What sayeth the State?

22 MR. REDMOND: Please excuse Ms. Feagin from this trial.

23 CLERK OF COURT: You're excused, ma'am.

24 Number 72, Traven Hatchell.

25 What sayeth the State?

JURY SELECTION

20

1 MR. REDMOND: Please present Mr. Hatchell.

2 CLERK OF COURT: Defendant?

3 MR. MANNING: Seat Mr. Hatchell.

4 CLERK OF COURT: Have a seat in the jury box, please, sir.

5 Number 67, Willis Hamilton.

6 What sayeth the State?

7 MR. REDMOND: Please present Ms. Hamilton.

8 CLERK OF COURT: Defendant?

9 MR. MANNING: Excuse Ms. Hamilton for purposes of this trial.

10 CLERK OF COURT: You're excused, ma'am.

11 Number 115, Marilyn McGirt.

12 What sayeth the State?

13 MR. REDMOND: Please present Ms. McGirt.

14 CLERK OF COURT: Defendant?

15 MR. MANNING: Accept the juror.

16 CLERK OF COURT: Have a seat in the jury box, please,

17 ma'am.

18 Number 58, Earl Goins.

19 What sayeth the State?

20 MR. REDMOND: Please present Mr. Goins.

21 CLERK OF COURT: Defendant?

22 MR. MANNING: Excuse the juror for purposes of this trial.

23 CLERK OF COURT: You're excused, sir.

24 Number 46, George Eagle.

25 What sayeth the State?

JURY SELECTION

21

1 MR. REDMOND: Please excuse Mr. Eagle from this trial.

2 CLERK OF COURT: You're excused, sir.

3 Number 37, Williams S. Daniel, Jr.

4 What sayeth the State?

5 MR. REDMOND: Please present Mr. Daniel.

6 CLERK OF COURT: Excuse Mr. Daniel for purposes of this
7 trial.

8 CLERK OF COURT: You're excused, sir.

9 Number 94, Sallie Leach.

10 What sayeth the State?

11 MR. REDMOND: Please present Ms. Leach.

12 CLERK OF COURT: Defendant?

13 MR. MANNING: Accept the juror.

14 CLERK OF COURT: Have a seat in the jury box, please,
15 ma'am.

16 Number 75, Antron Hester.

17 What sayeth the State?

18 MR. REDMOND: Please excuse Mr. Hester from this trial.

19 CLERK OF COURT: You're excused, sir.

20 Number 163, William A. Townsend.

21 What sayeth the State?

22 MR. REDMOND: Please present Mr. Townsend.

23 CLERK OF COURT: Defendant?

24 MR. MANNING: Seat the juror.

25 CLERK OF COURT: Have a seat in the jury box, please, sir.

JURY SELECTION

22

1 Number 8, James M. Bass.

2 What sayeth the State?

3 MR. REDMOND: Please present Mr. Bass.

4 CLERK OF COURT: Defendant?

5 MR. MANNING: Excuse Mr. Bass for purposes of this trial.

6 CLERK OF COURT: You're excused, sir.

7 Number 173, Kenneth Wise.

8 MR. REDMOND: Please present Mr. Wise.

9 CLERK OF COURT: Defendant?

10 MR. MANNING: Seat the juror, please.

11 CLERK OF COURT: Have a seat in the jury box, please, sir.

12 Number 25, Lawrence Campbell.

13 What sayeth the State?

14 MR. REDMOND: Please present Mr. Campbell.

15 CLERK OF COURT: Defendant?

16 MR. MANNING: Seat the juror, please.

17 CLERK OF COURT: Have a seat in the jury box, please, sir.

18 Number 81, Lily Jackson.

19 What sayeth the State?

20 MR. REDMOND: Please present Ms. Jackson.

21 CLERK OF COURT: Defendant?

22 MR. MANNING: Excuse Ms. Jackson for purposes of this trial.

23 CLERK OF COURT: You're excused, ma'am.

24 THE COURT: Madame Clerk, I'm sorry to interrupt you.

25 I have eight and three strikes.

JURY SELECTION

23

1 CLERK OF COURT: I have eight and three. Yes, sir.

2 Number 53, Adrian Fowler.

3 What sayeth the State?

4 MR. REDMOND: Please present Ms. Fowler.

5 CLERK OF COURT: Defendant?

6 MR. MANNING: Seat the juror, please.

7 CLERK OF COURT: Have a seat in the jury box, please,
8 ma'am.

9 Number 156, James Stagg.

10 What sayeth the State?

11 MR. REDMOND: Please present Mr. Stagg.

12 CLERK OF COURT: Defendant?

13 MR. MANNING: Excuse Mr. Stagg for the purposes of this
14 trial.

15 CLERK OF COURT: You're excused, sir.

16 Number 141, Mary H. Ray.

17 What sayeth the State?

18 MR. REDMOND: Please present Ms. Ray.

19 CLERK OF COURT: Defendant?

20 MR. MANNING: Seat the juror, please.

21 CLERK OF COURT: Have a seat in the jury box, please,
22 ma'am.

23 Number 142, Wendy Reaves.

24 What sayeth the State?

25 MR. REDMOND: Please present Ms. Reaves.

JURY SELECTION

24

1 CLERK OF COURT: Defendant?

2 MR. MANNING: Excuse Ms. Reaves for the purposes of this
3 trial.

4 CLERK OF COURT: You're excused, ma'am.

5 Number 89, James Joyce.

6 What sayeth the State?

7 MR. REDMOND: Please present Mr. Joyce.

8 CLERK OF COURT: Defendant?

9 MR. MANNING: Seat the juror, please.

10 CLERK OF COURT: Have a seat in the jury box, please, sir.

11 THE COURT: Alternate, counsel. One and one. I mean, one
12 and two.

13 CLERK OF COURT: Number 82, Barbara Johnson.

14 What sayeth the State?

15 MR. REDMOND: Please present Ms. Johnson.

16 CLERK OF COURT: Defendant?

17 MR. MANNING: Excuse the juror for purposes of this trial.

18 CLERK OF COURT: You're excused, ma'am. Thank you.

19 Number 147, Calvin Rowell.

20 What sayeth the State?

21 MR. REDMOND: Please present Mr. Rowell.

22 CLERK OF COURT: Defendant?

23 MR. MANNING: Please seat the juror.

24 CLERK OF COURT: Have a seat in the jury box, sir, in the
25 alternate's seat.

JURY SELECTION

25

1 THE COURT: Alright.

2 Anything with regard to the selection of the jury on behalf of
3 the State, Mr. Redmond?

4 MR. REDMOND: Yes, sir, Your Honor.

5 THE COURT: Alright.

6 Alright, Mr. Foreman, let me - - I mean, Mr. Bailiff, if
7 you'll ask the jury. Just take them to the jury room, and we'll
8 be with them in just a few minutes.

9 Counsel, let me ask you to come up, please.

10 Alright. If you'll go with the bailiff, please, and we'll
11 send for you in just a few minutes.

12 Counsel, come up.

13 (The jury retires to the jury room at 4:37 p.m.)

14 THE COURT: Counsel, come around a minute.

15 (Bench conference held off the record outside the presence of
16 the jury and in the presence of the remaining jury panel but
17 outside the hearing of any member of the jury or remaining jury
18 panel.)

19 THE COURT: Alright.

20 Anything with regard to the selection of the jury on behalf of
21 the State, Mr. Redmond?

22 MR. REDMOND: Not - - no, Your Honor. The State no longer
23 has any matter in regard to that.

24 THE COURT: Alright.

25 In regard to the defense, Mr. Manning?

JURY SELECTION

26

1 MR. MANNING: No. I have none, Your Honor.

2 THE COURT: Alright.

3 Alright, counsel, Mr. Redmond, let me talk to you just a
4 minute about the scheduling.

5 MR. REDMOND: Yes, sir.

6 (Bench conference held off record and outside the presence of
7 the jury.)

8 THE COURT: Alright.

9 Ladies and gentlemen of the panel not selected in the trial of
10 this case, I was just talking with defense counsel and the State's
11 counsel regarding scheduling, and it appears that this matter will
12 run through tomorrow.

13 So, I'm going to excuse you, now, and allow you to go for the
14 rest of the afternoon. It is not required that you come back
15 tomorrow.

16 What I am going to ask you to do is to call that number that
17 you have after 6:00 tonight -- no, tomorrow night, not tonight but
18 tomorrow night. That is an answering machine. All of the
19 courthouses have gone to this, and on that answering machine will
20 be your instructions for Wednesday.

21 It may be that we will need you hear at 9:30 Wednesday
22 morning. It may be that we will not need you hear at 9:30
23 Wednesday morning, and this is a system that just about all of the
24 courthouses have gone to that allows us not to have to call jurors
25 back and forth or run jurors back and forth the courthouse more

JURY SELECTION

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1 than is absolutely necessary.

2 So, I'm going to excuse you, now, and, also, you'll be free
3 for tomorrow.

4 What I will ask you to do is to call that number that you
5 have, and if you don't have it, be sure and get it from the bailiff
6 before you leave, after 6:00 tonight anytime all night long - -
7 after 6:00 tomorrow night anytime all night long.

8 It's just like the answering machine that you've got at home.
9 So you can call at six, eight, ten, whatever but call it to get
10 your reporting instructions for Wednesday, that is to call that
11 number after six on Tuesday night, and we'll have your reporting
12 instructions for Wednesday.

13 With that, then, you are free to go and are excused for the
14 rest of today and tomorrow.

15 (The remaining jury panel is released to call in after 6:00
16 p.m. on Tuesday.)

17 THE COURT: Incidentally, Mr. Redmond and Mr. Manning, the
18 - - come here a minute.

19 Let me put this on the record, Madame Clerk, while the jury is
20 going out.

21 Mr. Manning - - it doesn't matter as far as this case is
22 concerned but the, ah, probation agent told me that Juror #75, Mr.
23 Hester, who you struck has a criminal record.

24 MR. REDMOND: Oh, he does?

25 THE COURT: In 2005 he was on probation for resisting

JURY SELECTION

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1 arrest and possession of crack cocaine, ah, and was sentence - -
2 was sentenced by Judge Cottingham to a three year active sentence.

3 So - - so, he should be excused, and when he comes back.
4 We'll just wait until he comes back Wednesday. We won't worry
5 about it, and we'll take care of it at that time.

6 MR. REDMOND: It didn't show up on his rap sheet.

7 THE COURT: It didn't show up on his rap sheet?

8 MR. REDMOND: Thank you.

9 THE COURT: Well, he's not on this jury anyhow.

10 CLERK OF COURT: No, sir.

11 THE COURT: He was selected but you had excused him.

12 Alright, counsel, what I have proposed for the rest of the
13 afternoon as far as this case is concerned if it's agreeable with
14 the State is that I'll make my - - we'll bring the jury in and have
15 them sworn. I'll make my opening remarks to the jury and allow
16 counsel to make your opening statements, and then we will recess
17 until tomorrow morning as far as testimony in this matter is
18 concerned.

19 We'll start with testimony until 9:30 in the morning. Go
20 until 10:30 at which time we'll take a break and give the courtroom
21 up to the County or whoever it is that's got a program in here at
22 11:00 and plan to start back sometime after they've vacated the
23 courtroom later tomorrow morning.

24 Is that agreeable with the State?

25 MR. REDMOND: That's fine, Your Honor.

JURY SWORN/REMARKS OF THE COURT

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1 THE COURT: Any problem with that, Mr. Manning?

2 Any problem with that, Mr. Manning?

3 MR. MANNING: No, sir, Your Honor.

4 THE COURT: Alright.

5 If you would, then, bring the jury in, please.

6 (The jury returns to the courtroom at 4:45 p.m.)

7 THE COURT: It doesn't matter. Just go ahead and have a
8 seat. It doesn't matter except for where the alternate's sitting.

9 Alright. Thank you very much, ladies and gentlemen.

10 And we have resolved the matters that we had to resolve, and
11 we are now ready to go forward.

12 Madame Clerk, you may swear the jury.

13 JURY SWORN.

14 (Clerk of Court swears the jury.)

15 CLERK OF COURT: Thank you.

16 REMARKS OF THE COURT

17 THE COURT: Thank you. Be seated.

18 Alright, ladies and gentlemen, before we begin the actual
19 trial of this case, I thought it might be helpful to you if I
20 explain to you basically how a trial proceeds.

21 I know that all of you have seen trials on television but I
22 think you will find it is a great deal different than it is on
23 television.

24 First of all, the State will make an opening statement. An
25 opening statement is not evidence. It is simply an outline to

REMARKS OF THE COURT

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1 help you understand what the State expects the evidence will show.

2 The defendant may, if he wishes to, present an opening
3 statement but he doesn't have to for reasons that I will explain
4 later.

5 Following the opening statements you will hear the testimony
6 and evidence in this case. This will consist of testimony from
7 the State's witnesses as well as any physical exhibits which may be
8 introduced into evidence, and I will tell you that if there are any
9 physical exhibits introduced into evidence, you may hear the
10 lawyers ask for permission to publish those exhibits to the jury.

11 That's simply a legalistic term meaning to show the jury, and that
12 means that they would pass them to you while you're sitting there
13 in the jury box.

14 Do not be concerned if you do not have as long to look at the
15 exhibits while you're sitting in the jury box as you might like to.
16 Anything that is introduced into evidence will go with you to the
17 jury room when you retire to reach your verdict in this case.

18 Following the completion of the testimony, the attorneys will
19 again have the opportunity to make what is called a closing
20 statement or summation to you. This is an opportunity for the
21 attorneys to summarize the case from their respective points of
22 view. Again, these arguments are not evidence.

23 Following the closing statements by the attorneys, I will
24 instruct you on the law in South Carolina as it applies to the or
25 pertains to the issues that have arisen in this case, and when I

REMARKS OF THE COURT

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1 have completed my instructions to you, you will be permitted to
2 begin your deliberations in order to reach a verdict.

3 Now, ladies and gentlemen, you are now the jury in this case,
4 and I want to take a few minutes to tell you something about your
5 duty as jurors and to give you some preliminary instructions.

6 At the end of this trial I will give you some more detailed
7 instructions, and those instructions will control your
8 deliberations.

9 It will be your duty to decide from the evidence what the
10 facts are. You and you alone are the judges of the facts. You
11 will hear the evidence, decide what the facts are and then apply
12 those facts to the law which I will give to you. That is how you
13 reach a verdict.

14 In doing so, you must follow these laws whether you agree with
15 them or not.

16 The evidence will consist of the testimony of witnesses,
17 documents and other things introduced into evidence as exhibits and
18 any facts on which the lawyers agree or which I instruct you to
19 accept.

20 Now, you should not take anything that I may say or do during
21 this trial as indicating what I think of the evidence or what your
22 verdict should be. The same law that makes you the judge of the
23 facts makes me the judge of the law. You must take the law as I
24 give it to you regardless of what you think the law is or what the
25 law ought to be.

REMARKS OF THE COURT

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1 If I'm wrong on the law, there's another time and place for
2 that error to be corrected but for this case you must accept the
3 law as I give it to you.

4 Now, this is a criminal case brought by the State of South
5 Carolina. The State charges the defendant with two charges:
6 That of armed robbery and assault and battery with the intent to
7 kill.

8 The charges against the defendant are contained in these
9 indictments which I hold in my hand. The indictments are not
10 evidence of anything. They are simply the description of the
11 charges made by the State against the defendant.

12 The defendant has pled not guilty to these charges and is
13 presumed innocent unless and until proven guilty beyond a
14 reasonable doubt. A reasonable doubt is the kind of doubt that
15 would cause a reasonable person to hesitate to act.

16 A defendant has the right not to testify and never has to
17 prove innocence or present any evidence. The burden of proof is
18 always on the State of South Carolina.

19 Now, there are certain things that are not evidence, and you
20 must not consider them as evidence in deciding the facts of this
21 case.

22 The statements and arguments of the attorneys are not
23 evidence. Questions and objections of the attorneys are not
24 evidence, and testimony that I instruct you to disregard is not
25 evidence.

REMARKS OF THE COURT

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1 Evidence may be direct or circumstantial. Direct evidence is
2 testimony by a witness about what that witness personally saw or
3 heard or did. Circumstantial evidence is indirect evidence.

4 The law permits you to give equal weight to both but it is for
5 you to decide how much weight to give to any of the evidence.

6 There are rules of evidence which control what can be received
7 in the court. When a lawyer asks a question or offers an exhibit
8 into evidence and the lawyer on the other side thinks that it is
9 not permitted by the rules, that lawyer may object. If I overrule
10 the objection, the question may be answered or the exhibit may be
11 received. If I sustain the objection, the question cannot be
12 answered and the exhibit cannot be received.

13 Whenever I sustain an objection to a question or deny a motion
14 to admit an exhibit into evidence, you must ignore the question or
15 the existence of an exhibit, and you must not guess what the answer
16 would have been or what the exhibit would have shown.

17 Sometimes it may be necessary that I request that you leave
18 the courtroom while I discuss with the attorneys legal issues that
19 come up during the trial. If this occurs, you should not
20 speculate about our discussions or the reasons that you were asked
21 to leave the courtroom. This is simply a procedure that the law
22 requires when certain issues arise.

23 There may also be occasions when I ask the attorneys to
24 approach the bench so that I can discuss a legal issue with them in
25 private. I will do this as often as possible so that you will not

REMARKS OF THE COURT

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1 be required to leave the courtroom more than is absolutely
2 necessary.

3 Again, if I ask the attorneys to step up to the bench or I ask
4 you to leave the courtroom, please don't think that anybody is
5 trying to hide anything from you or keep any evidence from you.
6 This is simply a procedure used by all lawyers and by all courts to
7 determine and decide legal questions.

8 Now, in deciding the facts in this case, you may have to
9 decide which witnesses to believe and which witnesses not to
10 believe. You may believe everything a witness says or only part
11 of it or none of it.

12 In deciding what to believe you may consider a number of
13 factors including the witness' ability to see or hear or know the
14 things the witness testified to.

15 The quality of the witness' memory, the witness' manner while
16 testifying, whether the witness has an interest in the outcome of
17 the case or any motive, bias or prejudice, whether the witness is
18 contradicted by anything the witness said or wrote before the trial
19 or by any other evidence, and how reasonable was the witness'
20 testimony when considering it in the light of other evidence which
21 you do believe.

22 Now, just a few words to you about your conduct as jurors.

23 First of all, do not talk to each other about this case until
24 the end of the case when you have heard all of the testimony, all
25 of the evidence and the arguments of counsel and the instructions

REMARKS OF THE COURT

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1 on the law by the Court.

2 Do not talk to anyone else about the case. When you see your
3 family and friends as you will over the evening recess, do not talk
4 to them about the case.

5 You should not discuss the case with anyone else or anyone at
6 all about this case, either family, friends or anyone else over the
7 evening recess. You may tell them that you are a juror but don't
8 tell them anything about the case until you have been excused or
9 discharged by me.

10 The reasons for this are pretty apparent. You've got to
11 decide the case based on what you hear in this courtroom and not on
12 the basis of what anyone else might say.

13 Do not let anyone talk to you about the case. If anyone
14 should approach you or talk to you about the case, get their name
15 or their description and report it to me, and I will deal with
16 them.

17 Do not read any news stories or any articles or listen to any
18 radio or television reports about the case.

19 You are not to consider as evidence anything that you may see
20 or hear if the court is not in session even if what you see or hear
21 is said or done by one of the parties or one of the witnesses or
22 the lawyers.

23 Do not do any research such as consulting dictionaries or
24 other reference materials including the internet and do not make
25 any investigation about the case on your own.

REMARKS OF THE COURT

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1 If you need to communicate with me, simply give a signed note
2 to the bailiff, and he will give it to me, and then I will try and
3 resolve your question.

4 And, finally, and probably most important, do not make up your
5 mind about what your verdict should be until you have heard all of
6 the testimony and evidence in this case and the instructions on the
7 law by the Court.

8 You will be instructed when to begin your deliberations by
9 either me or the bailiff.

10 Now, just a few house keeping matters.

11 First of all, later on in this case I will appoint one of the
12 twelve members of the principal jury as the foreperson the jury.
13 When I appoint that person as the foreperson, that person should
14 always sit on the first row on the first seat of the first row
15 right down here.

16 The alternate should always sit where he is seated. The rest
17 of the seats in the jury box are not reserved, and it does not
18 matter what order you come and go from the courtroom.

19 I would simply ask that you go all the way down so it wouldn't
20 be a situation of crawling over one another but reserving the first
21 seat on the second row all the time for the alternate and the first
22 seat on the front row for the foreperson when I appoint that
23 foreperson.

24 Are there any objections to my initial opening remarks on
25 behalf of the State, Mr. Redmond?

OPENING STATEMENT BY MR. REDMOND

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1 MR. REDMOND: None, Your Honor.

2 THE COURT: Mr. Manning?

3 MR. MANNING: None, Your Honor.

4 THE COURT: Alright.

5 Alright, ladies and gentlemen, the first thing that we do in
6 connection with any case is the opening statement and for that
7 purpose I will recognize Mr. Redmond on behalf of the State.

8 Mr. Redmond.

9 MR. REDMOND: Thank you, Your Honor.

10 May it please the Court?

11 THE COURT: Yes, sir.

12 OPENING STATEMENT BY MR. REDMOND

13 MR. REDMOND: Mr. Manning, ladies and gentlemen.

14 Again, my name is Kinard Redmond, and as I told you
15 previously, I am Deputy Solicitor here in Dillon County. We serve
16 four counties: Dillon, Darlington, Marlboro and Chesterfield.
17 I am headquartered here in Dillon County.

18 I've been back in the Solicitor's Office now about four years,
19 and it's actually my third stint with the Solicitor's Office. I
20 think I'm in for good this time.

21 But the reason I'm here today in front of you is because of
22 what occurred on New Year's Day of this year, 2007, New Year's Day.
23 That's the time where the victim in this case, Wayne Dillard and
24 his son, were actually returning home.

25 This incident occurred right near their driveway, and you'll

OPENING STATEMENT BY MR. REDMOND

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1 hear this from - - from them on tomorrow.

2 At that time the defendant approached - - well, not really
3 approached. Actually, he was parked on the side of the road. Car
4 trouble, Mr. Dillard stopped thinking - - with the flashers on. So
5 he stops to assist.

6 At that point he gets a gun in his face and then more guns
7 come out and then as they - - after they got robbed of \$160.00, him
8 and his son had a cell phone.

9 As they were leaving someone fired a shotgun shot into the car
10 hitting the younger Dillard in the hand; hence, assault and battery
11 with the intent to kill.

12 Of course, he's charged with armed robbery as well because for
13 being involved what we would submit to you, ladies and gentlemen,
14 the evidence would show is a common operation between these parties
15 to rob Mr. Dillard or, quite frankly, whoever would have happened
16 to stopped that day but, again, we will hear more from the
17 testimony.

18 You'll hear from the officers involved in this case, the
19 officers that took the initial report, the officers that followed
20 up on the case. You'll hear from them as well, and they'll share
21 with you what their findings were pursuant to this particular case.

22 Now, ladies and gentlemen, we all watch tv. We watch CSI,
23 Law and Order. As a matter of fact, Law and Order is the theme on
24 my cell phone but, yet, we understand that's tv. This is real
25 life.

OPENING STATEMENT BY MR. REDMOND

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1 And I'm going to tell you up front. There isn't going to be
2 any fancy scientific do-dads up here, you know, that are going to
3 work some magic formula. In this case you're going to have to rely
4 on the eyewitness testimony from Mr. Dillard, and here's the catch.

5 This wasn't a situation where Mr. Dillard encountered this
6 defendant for the first time. They don't know anybody. It's a
7 random situation.

8 And Mr. Dillard will tell you. He knew the defendant. He
9 knew his nickname. So at the time he had no doubt who this person
10 was.

11 And, in fact, you'll hear more about that as the case
12 progresses.

13 So, when you're talking about relying on eyewitness testimony
14 you have to weigh the totality of the circumstances, and when you
15 hear those circumstances, I believe and submit to you that you will
16 find them, one, credible, and, two, that they are enough - - more
17 than enough to find beyond a reasonable doubt that this defendant
18 is, in fact, guilty of armed robbery and of assault and battery
19 with the intent to kill.

20 Let me talk to you about that briefly.

21 Now, my opening statement is brief, relatively brief compared
22 to my closing because the closing will wrap everything up from the
23 testimony. Here we're just setting the table.

24 Assault and battery with the intent to kill, I can't tell you
25 that this defendant fired the shot that hit younger Mr. Dillard in

OPENING STATEMENT BY MR. REDMOND

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1 the hand. I can't tell you that but what I can tell you is based
2 on the testimony and at the conclusion of the case, there - -
3 there's a principal of law of what we call the hand of one is the
4 hand of all. It's a common operation. These individuals are
5 engaged in a robbery together. Somebody fired off this shot.
6 Somebody hit this poor young man in his hand. As a result, the
7 hand of one is the hand of all. The actions of one of that group
8 are attributable to this defendant.

9 Ladies and gentlemen, as His Honor said appropriately, as
10 Winston Churchill said. In times of war - - other than in times
11 of war jury service is the highest duty that a citizen can perform,
12 and we appreciate your willingness to serve, and in advance, we
13 appreciate your patience with us.

14 It's not a sixty minute tv show, forty-eight minutes or so
15 actual tv time, okay, where the case gets solved and brought to
16 trial and convicted in that time frame. No.

17 There may be times that we have to take up matters outside of
18 your presence. Ladies and gentlemen, that's done to preserve the
19 integrity of the trial because the State's entitled to a fair trial
20 as is the defendant. So, there may be times that that occurs.
21 We would simply ask that you do not hold that against any of the
22 parties involved in this case. It's a necessary evil but,
23 ultimately, it is to preserve the integrity of the case so that
24 everyone involved gets a fair trial. So, I appreciate your
25 indulgence with us in advance.

OPENING STATEMENT BY MR. MANNING

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1 The burden of proof in this case, beyond a reasonable doubt,
2 is a burden that I welcome. It's my job, and as a prosecutor, that
3 is the burden that I must show in trials, and I can tell you,
4 ladies and gentlemen, that with what you will hear from Mr. Dillard
5 and from the officers, I would submit to you that the State in this
6 case will, in fact, meet the burden that this defendant, James
7 Cabbagestalk, is, in fact, guilty of armed robbery and, in fact,
8 remember by the hand of one is the hand of all is, in fact, guilty
9 of assault and battery with the intent to kill.

10 I thank you for your indulgence and patience with me, and as
11 I indicated earlier. I will be much more, ah, if not longer, I
12 will be much more concise and much more detailed in my closing
13 statement to you.

14 Thank you very much, ladies and gentlemen.

15 THE COURT: Mr. Manning, does the defendant care to make an
16 opening statement?

17 MR. MANNING: Your Honor.

18 THE COURT: Yes, sir.

OPENING STATEMENT BY MR. MANNING

20 MR. MANNING: Ladies and gentlemen of the jury, my name is
21 Glenn Manning, and, ah, I have, ah, been appointed to represent my
22 client, Mr. Cabbagestalk in this matter.

23 Mr. Cabbagestalk is known in the legal circles in this
24 courtroom and in this state as the defendant. The term defendant
25 carries with it a person who has been charged only.

OPENING STATEMENT BY MR. MANNING

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1 Now, the State has what we call the burden of proof to prove
2 beyond a reasonable doubt that my client, Mr. Cabbagestalk, is, in
3 fact, guilty of the charges.

4 The defendant does not have to open his mouth, does not have
5 to take the stand, and Your Honor will at the appropriate time tell
6 you that that is a constitutional right that he has.

7 And just because he does not take the stand or does take the
8 stand, you should not draw an inference that he is guilty if he
9 does not take the stand.

10 My client is coming before you because he is innocent of these
11 charged, and I use the term charge because that's exactly what they
12 are, charges, nothing more and nothing less.

13 And you twelve jurors, men and women, citizens of Dillon
14 County, are the only ones in this courtroom who can make that
15 finding that he is guilty or innocent. I can't do it. Your Honor
16 can't do it. The Solicitor's Office can't do it. It's only you.

17 I ask as this trial progresses that you will do like the Judge
18 will tell you. Keep an open mind. Do not as we've heard from a
19 phrase, rush to judgment. Keep an open mind because every person
20 who is a defendant is presumed to be innocent until proven guilty,
21 and that can only be done by you, and that has to be based on the
22 evidence that is produced - - that is presented at trial, and Your
23 Honor will instruct you along those lines.

24 Now, my client has always told me that he is innocent of these
25 charges. I believe him but I'm not one of you.

OPENING STATEMENT BY MR. MANNING

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1 And it's my responsibility, my obligation as a lawyer is to
2 represent my client. That does not mean that I will tell you
3 something that's wrong or try to mislead you because you're
4 intelligent just like everybody else is.

5 You have to take the evidence that's presented in court and
6 testimony that comes from the witness stand and draw your own
7 conclusions.

8 But I ask one thing of you, nothing more and nothing less,
9 keep an open mind and don't assume, please, because my client has
10 been charged that he is, in fact, guilty.

11 Thank you, Your Honor.

12 THE COURT: Alright, ladies and gentlemen, it is already a
13 little after five in the afternoon, and I think this is a good
14 time for us to adjourn for the afternoon, and we'll start the
15 testimony on this case in the morning.

16 So, I am going to excuse you and allow you to go to your homes
17 and families, ah, again, with the admonition that I gave you a few
18 minutes ago. While you are away from the courthouse, do not
19 discuss the case with anyone including your family or your friends.
20 You've got to decide the case based upon what you hear in the
21 courtroom and not on the basis of what anyone else might say.

22 Do not allow anyone to discuss the case with you. If anyone
23 should approach you or try to talk to you about the case, get their
24 name or their description and, ah, report it to the bailiffs in the
25 morning, and I will deal with them.

CHARGE OF THE COURT TO DEFENDANT - RIGHT TO TESTIFY OR NOT 44

1 And, finally, when you are reassembling in the jury room
2 tomorrow morning, do not talk about the case among yourselves. You
3 certainly have not heard the evidence in this case, and it would be
4 inappropriate and improper for you to carry on discussions about
5 this case among yourselves at this time.

6 So, when you're assembled there in the jury room, you can talk
7 about anything you want to talk about: Weather, sports,
8 children, grandchildren, anything at all, but don't talk about this
9 case until I tell you it is appropriate for you to do so.

10 I'm going to allow you to leave now and come back to your jury
11 room tomorrow morning, not to the courtroom. Please be in your
12 jury room tomorrow morning at 9:30, and we'll be ready to begin at
13 that time.

14 Thank you. Have a pleasant evening. I'll see you tomorrow.

15 (The jury is released and departs the courtroom to return at
16 9:30 on Tuesday morning.)

17 THE COURT: Alright.

18 Counsel, while I'm thinking about it, it's just a matter of
19 personal preference, and I - - some judges do it. Some judges
20 don't. My personal preference is that lawyers and clients and
21 parties not stand when the jury comes and leaves the room. I think
22 that's what they're here for. So, y'all may keep your seats
23 whenever the jury is coming and going.

24 CHARGE OF THE COURT TO DEFENDANT - RIGHT TO TESTIFY OR NOT

25 Alright. Mr. Manning, if you'll tell your client to stand.

CHARGE OF THE COURT TO DEFENDANT - RIGHT TO TESTIFY OR NOT 45

1 I think that while I've got a little time right now, I think that
2 it would be a good time so that I can tell him about this, and then
3 you can discuss it with him about his Fifth Amendment Rights.

4 So, Mr. Cabbagestalk, if you'd stand right there.

5 (The defendant stands before the Court.)

6 THE COURT: Mr. Cabbagestalk, we have begun the trial of
7 this case, and you may be called as a witness to testify in your
8 own behalf. I now advise you that you have a right to the -- to
9 invoke the protections given to you by the Fifth Amendment to the
10 Constitution of the United States and the similar counter part
11 provision of the Constitution of the State of South Carolina.

12 The Fifth Amendment to the Constitution of the United States
13 provides in part that no person shall be compelled in any criminal
14 case to be a witness against himself.

15 This provision of constitutional law means that you cannot be
16 compelled or required to testify in this case. This is a right an
17 a privilege which the law extends to you. It is a personal
18 privilege, and no one can waive this right except you.

19 You have a right not to testify but you also have a right to
20 testify. The Court will grant you the right to consult with your
21 lawyer before you make a decision.

22 If you elect not to testify, your failure to testify cannot be
23 considered by the jury in its deliberations, and I would so
24 instruct them.

25 If you elect to testify and waive the privileges given to you

1 by the Constitution, I advise you that you will then assume the
2 role of a witness in this case, and you would then waive or give up
3 any constitutional privilege you have against self-incrimination.

4 This means that if you voluntarily take the witness stand and
5 testify, you will then subject yourself to the same rules that
6 govern other witnesses in this case, and you may be examined and
7 cross examined on any relevant issue in this case, all of which is
8 subject to the rules of law and the rules of evidence.

9 I would further advise you that if you elect to take the
10 witness stand and testify that this decision on your part must be
11 made freely, voluntarily, intelligently and with knowledge of the
12 protections given to you by the Fifth Amendment to the Constitution
13 and with knowledge of the consequences of your election to testify.

14 Now, I'm not going to require that you give me an answer at
15 this time, and I am, of course, going to give you an opportunity to
16 talk with Mr. Manning as to whether you should or should not
17 testify in this but I just want to make sure you understand what I
18 have just explained to you about your Fifth Amendment. Do you
19 understand what I have explained to you?

20 MR. CABBAGESTALK: Yes, sir.

21 THE COURT: Okay.

22 Do you have any questions about what I've explained to you
23 about your Fifth Amendment rights?

24 MR. CABBAGESTALK: No, sir.

25 THE COURT: No, sir?

CHARGE OF THE COURT TO DEFENDANT - RIGHT TO TESTIFY OR NOT

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1 Okay.

2 Alright. With that, then, you may be seated.

3 (The defendant resumes his seat at the defense table.)

4 THE COURT: And you can, ah, talk with your lawyer about
5 whether you should or should not testify. At the appropriate time
6 we will address this matter again.

7 Alright.

8 Mr., ah, Redmond, on this matter, is there anything before we
9 adjourn for the evening?

10 MR. REDMOND: None for the State, Your Honor.

11 THE COURT: Mr. Manning?

12 MR. MANNING: No, Your Honor.

13 THE COURT: Alright.

14 Then we will be in recess in The State vs. Cabbagestalk until
15 9:30 in the morning.

16 (The Court recesses the trial of this case until 9:30 a.m. on
17 Tuesday morning.)

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TUESDAY, AUGUST 28, 2007

(The Court reconvenes the trial of this case at 9:37 a.m. with all parties present in the courtroom.)

THE COURT: Thank you.

Please be seated.

Alright. Back on the record with regard to the matter of The State vs. James Cabbagestalk.

Let the record reflect that the State is present represented by Mr. Redmond and Mr. Hayes.

The defendant is present with his counsel, Mr. Manning.

Counsel, from a scheduling standpoint, just so everybody will know where we are. We've got to give the courtroom up a few minutes before 11:00. So, we'll go for about an hour, and then let the County, ah, have the courtroom for the ceremony that they need to have in here, and we'll adjourn this case, actually, until about 2:00.

Then I'll let the jury go and get them lunch. We may come back before that, ah, like, ah, 11:30 or 12:00 depending on when they get out of the courtroom to do some pleas for an hour or so before take a lunch break but we will take a break from, say, ah, 10:30 - 10:45 until 2:00 to allow the County to take care of the matter that they need to take care and also allow Mr. Manning to take care of the personal matter that he needs to do.

Alright.

Anything before we bring the jury in, Mr. Redmond?

CHARGE OF THE COURT TO DEFENDANT - RIGHT TO TESTIFY OR NOT

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1 MR. REDMOND: Ah, nothing other than I need my rap sheet back
2 from Mr. Manning.

3 Other than that, nothing else.

4 THE COURT: Alright.

5 Mr. Manning, anything before we bring the jury in?

6 MR. MANNING: Sir?

7 THE COURT: Anything before we bring the jury in?

8 MR. MANNING: Nothing, Your Honor.

9 THE COURT: Alright.

10 Bring the jury in, please.

11 (The jury returns to the courtroom at 9:39 a.m.)

12 THE COURT: Alright.

13 Thank you very much, ladies and gentlemen, and thank you for
14 your promptness in being back here, and we are now ready to
15 proceed.

16 Yesterday afternoon we, of course, had my initial remarks to
17 you and the opening statements, and now it is appropriate that we
18 begin with the testimony in this case. Before we do, I do need to
19 ask you if anyone has tried to contact you or talk with you about
20 this case in any manner over the evening recess, I would need to
21 know about it now.

22 No response. I'll take that as a negative, and that is good.

23 Thank you very much.

24 Alright, Mr. Redmond, you may call your first witness.

25 MR. REDMOND: Thank you, Your Honor.

MR. DILLARD, SR. - DIRECT EXAMINATION BY MR. REDMOND

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1 May it please the Court?

2 The State would first call Wayne Dillard, Sr.

3 (The witness takes the witness stand.)

4 RUSSELL WAYNE DILLARD, SR., being duly
5 sworn, testifies as follows:

6 CLERK OF COURT: Be seated in the witness box. State your
7 full name for the Court spelling your last name, sir.

8 RUSSELL WAYNE DILLARD, SR.: Russell Wayne Dillard, D-i-l-l-
9 a-r-d.

10 DIRECT EXAMINATION BY MR. REDMOND:

11 Q. And, Mr. Dillard, if I could, in essence, pretend like I'm in
12 the back of the courtroom and speak up because the acoustics in the
13 courtroom - -

14 A. Okay.

15 Q. - - are a little shaky.

16 And speak up so that everybody on the jury can hear you.

17 Mr. Dillard, where are you from, sir?

18 A. Dillon.

19 Q. Okay, and, ah, you've lived here all of your life?

20 A. Yes, sir.

21 Q. Alright.

22 And where do you live?

23 A. Now.

24 Q. At this time?

25 A. Pleasant Hill Trailer Park. .

MR. DILLARD, SR. - DIRECT EXAMINATION BY MR. REDMOND

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1 Q. Okay.

2 Where did you live on January 1st of this year?

3 A. [REDACTED] Rabbit Island Road.

4 Q. Okay.

5 And where is that located?

6 A. Lake - - well, between Lake View and Nichols.

7 Q. Okay.

8 Is that in Dillon County?

9 A. Dillon County, yes.

10 Q. Now, tell us a little bit about your employment. Are you
11 employed at this time?

12 A. Well, not - - not at this time because I've had open heart
13 surgery.

14 Q. Okay.

15 Um, when did you have that surgery?

16 A. June 4th.

17 Q. And why did you have to have that surgery?

18 A. I had a heart attack.

19 Q. Okay.

20 And - - in June of this year?

21 A. Yes.

22 Q. And what did you do prior to your heart attack?

23 A. Carpenter work.

24 Q. Okay.

25 A. Construction.

MR. DILLARD, SR. - DIRECT EXAMINATION BY MR. REDMOND

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1 Q. Now, tell us a little bit about your family. Are you married?

2 A. Yes, sir.

3 Q. Okay.

4 And do you have any children?

5 A. I've got two kids.

6 Q. Okay.

7 And, ah, how old are your kids?

8 A. My girl is twenty-one. My boy, he'll be nineteen on his
9 birthday.

10 Q. Okay.

11 Again, I'm going to ask you to speak as loudly as you can.

12 A. Oh, I'm sorry.

13 Q. So we can hear you.

14 Now, was your son with you on New Year's Day of this yea? when
15 the incident that causes us to be here in court today occurred?

16 A. Yes, sir.

17 Q. Alright.

18 Before we get into that, tell us a little bit about your son.
19 He's not here today.

20 Could you explain to the jury why he's not here.

21 A. Well, the reason he's not here, he has seizures, and he just
22 a couple of days ago, he had one. So, my wife, she'd rather not
23 him be up here in it to cause any more problems with him.

24 Q. Now, is your son disabled?

25 A. Yes, sir. He's disabled.

MR. DILLARD, SR. - DIRECT EXAMINATION BY MR. REDMOND

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1 Q. Okay.

2 A. He - - -

3 Q. He is - -

4 A. It's a learning disabled.

5 Q. - - Oh, I'm sorry. Could you repeat that?

6 A. It's a learning disabled.

7 Q. Okay.

8 And was he in that condition or situation on January 1st at the
9 time of this occurrence?

10 A. Later on?

11 Q. In other words, was he disabled at the time this happened?

12 A. Yes, sir. He was disabled then, yeah.

13 Q. Now, let's talk about January 1st.

14 Could you tell me about 8:00 that evening what you were doing
15 leading up to the incident for which we are here?

16 A. I had been to one of my friend's house right at the end of my
17 dirt road.

18 Q. Okay.

19 A. And when I was coming out, a young man asked me could I give
20 him a boost off of - - for his car, and I told him I said I figured
21 I could, you know. Just pulled over where he was at. Had my
22 headlights and stuff on, and I got out. Got the jumper cables off
23 the truck.

24 When I raised the hood up, I turned around. I had a gun stuck
25 right there.

MR. DILLARD, SR. - DIRECT EXAMINATION BY MR. REDMOND

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1 Q. Now, but then we'll get into that in more detail but you said
2 that you - - you saw someone.

3 A. Yes, sir.

4 Q. Do you - - do you see the person that was out there that night
5 here in the courtroom today?

6 A. Yes, sir.

7 Q. And could you point out for the jury and the Court who that
8 person is?

9 A. Yeah. Mr. Woody sitting right there.

10 MR. REDMOND: Your Honor, may the record reflect that he has
11 pointed to the defendant seated next to his attorney at the
12 defendant's table?

13 THE COURT: The record will so reflect.

14 MR. REDMOND: Thank you, Your Honor.

15 Q. Now, you called him Woody?

16 A. Yes, sir.

17 Q. Did you recognize him before or at the time you first got to
18 the, ah, to help him with his car?

19 A. Well, I didn't recognize him when I got there but when I got
20 the lights of the headlights of the truck, I recognized but I
21 didn't say no - - I didn't have time.

22 Q. Okay.

23 Now, tell us what happened.

24 You said that you, um, you tried to assist him. Could you
25 tell the jury again what occurred and go ahead and tell us what

MR. DILLARD, SR. - DIRECT EXAMINATION BY MR. REDMOND

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1 happened at that time?

2 A. Well, he had asked me could I give him a jumpstart, and I told
3 him I guess so but when I raised the hood on the truck, when I
4 turned around, he had the gun stuck on me and told me saying, "Give
5 it up. Give it up."

6 And the next thing I know there was two more. There was
7 either two or three more that - - that was out there but I couldn't
8 see them because they had a mask on their face like a bandana like
9 then, and one of them kept hollering, "Shoot him! Shoot him! Get
10 his wallet!"

11 And one of them hollered, "He ain't got no wallet!"

12 Because they were grabbing me by the pants and stuff.

13 And then in what was probably thirty seconds later they was
14 all proceeding to back away towards their car. I jumped in my
15 truck and went to back up. When I went to back up, a gunshot went
16 off.

17 Q. Okay.

18 Now, let me stop you there and ask you about this.

19 You said you had been patted down. Was your son involved in
20 this incident or did they do anything to him?

21 A. Well, he was sitting in the truck, and one - - there was one
22 of them standing on the side of the truck where he was at.

23 He was asking him - - he was asking him did he have any money.

24 "You got any money?"

25 Like I said, my son's disabled, and it - - he wasn't knowing

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1 what was going on. He started crying, and he was all upset but
2 whoever was on that side, he didn't say nothing else to him.

3 And then when they start - - when I started to back up, that's
4 when the gunshot went off.

5 Q. Okay.

6 Now, did - - did they take anything from you?

7 A. Cell phone, ah, a hundred or so. I had about a hundred
8 dollars in my pocket or so. I can't remember exactly how much I
9 had in my pocket but they took what I had in my pocket.

10 Q. Okay.

11 A. I didn't have my wallet with me because I weren't going
12 nowhere. I was right there at the end of my dirt road where I
13 stayed at.

14 Q. So this happened right there literally at your house?

15 A. Yeah!

16 Q. Now, when you heard the gunshot, tell us - - tell the jury
17 what occurred next.

18 A. Well, when I heard that, I - - I really took off. I started
19 trying to get away, and then when we got to the house, my son went
20 to telling me. He was crying.

21 He said, "My hand's bleeding. My hand's bleeding."

22 And that's when my wife told me.

23 She said, "You need to call the law about it."

24 Because they was - - I think it was three pellets hit him in
25 the hand. Dr. Wallace and them was the ones that removed them out

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1 of his hand.

2 Q. Okay.

3 And I was going to ask you.

4 Did you have to take him up to the Emergency Room?

5 A. Yeah, he had - - he had to go to the doctor. Yeah.

6 Q. Okay.

7 Now, you said you called 911. Who was the Deputy that
8 responded?

9 A. I think it was Mr. Barfield.

10 Q. Okay.

11 And at the time that Mr. Barfield came up, did he take a
12 report or, in essence, did he ask you what happened and you told
13 him?

14 A. Yes, sir.

15 Q. And at the time that you told him what happened, did you, ah,
16 did you give him a name that you thought was the person that
17 initiated this whole robbery?

18 A. That's what I - - I was telling Mr. Barfield I thought his
19 name was Woody.

20 Q. Okay.

21 And did you - - -

22 A. I didn't know exactly what his name was but I had seen him
23 around. Been in Dillon all my life. I've seen him everywhere,
24 and I - - I knowed his name was Woody.

25 Q. When you took - - do you remember what last name you might

MR. DILLARD, SR. - DIRECT EXAMINATION BY MR. REDMOND

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1 have given him?

2 A. I couldn't remember if he was a Cabbagestalk or a Stackhouse
3 or what. You know. I couldn't remember exactly what his last name
4 was.

5 Q. But you knew who - - -

6 A. Yeah. I had knowed him, especially his face. That's how I
7 recognized him when the headlights of the car - - when we got in
8 front of the headlights, I recognized him.

9 Q. Now, did you also describe the car that they were driving?

10 A. All I know, it was a little small brown car.

11 Q. Okay.

12 Ah, were you sure whether it was a Celebrity or a Cavalier?

13 A. It was one - - it was a small car like that. It was either a
14 Cavalier or a Celebrity or one of the two.

15 Q. Alright.

16 A. It was a four-door car.

17 Q. Okay.

18 Now, let's talk a little bit - - let's go back and talk about
19 this identification because, obviously, that's an important issue.

20 MR. REDMOND: If I may have permission to approach the
21 witness, Your Honor?

22 THE COURT: Yes, sir.

23 MR. REDMOND: If I could have you step down.

24 Excuse me. I meant to ask permission for him step down.

25 THE COURT: Yes, sir.

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1 That's fine. You may step down.

2 (The witness stands before the jury box.)

3 Q. And let's pretend that I'm you on January 1st at 8:00.

4 Tell me or show me how close when you -- you said I think you
5 had opened up your hood.

6 Tell me how close it was and show me what it was that occurred
7 when you saw the gun stuck in your face.

8 A. Well, when I walked around the front of the truck to raise the
9 hood, when I raised it we were this close.

10 Q. Alright.

11 And so you were less than two feet?

12 A. Yeah.

13 Q. Okay.

14 You can take a seat.

15 (Witness resumes seat on witness stand.)

16 Q. Did you get a chance to see what kind of gun that he had?

17 A. No, sir.

18 Q. Okay.

19 A. I just know it was in my face.

20 Q. Okay.

21 And -- at that time was identifying the type of gun your most
22 important concern?

23 A. No, it wasn't.

24 Q. Okay.

25 And that's understandable, sir.

MR. DILLARD, SR. - DIRECT EXAMINATION BY MR. REDMOND

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1 Now, you talk about Woody, and you talk about the fact that
2 you had seen him around. Had you seen him previously with someone
3 that was in a wheelchair?

4 A. Yeah, a couple of days later - - earlier, earlier.

5 Q. Okay.

6 And do you recall where that was?

7 A. Out at Riverdale.

8 Q. Okay.

9 A. On #9.

10 Q. Alright.

11 And after the incident, after this incident, could you tell
12 the jury if you saw him again?

13 A. Yes.

14 Q. It was just a couple of weeks later?

15 A. No, it wasn't no - -

16 Q. Several days later?

17 A. - - well, several days but, ah, I had called the Sheriff's
18 Department and told them that I seen him standing side the road out
19 there, and that's where he was standing at right side of #9 out
20 there. He even spoke to me.

21 That's when I called the Sheriff's Department and told them.

22 Q. Okay.

23 And at that time did you become aware that he was arrested
24 subsequent to that?

25 A. Right after that probably a day or so later, they called me to

MR. DILLARD, SR. - DIRECT EXAMINATION BY MR. REDMOND

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1 let me know.

2 Q. Okay.

3 What was going through your mind at the time you were being
4 robbed, and I know that's a strange question but what was - -
5 during the robbery what was going through your mind and then if you
6 could tell the ladies and gentlemen of the jury, after the robbery
7 what was going through your mind?

8 A. Well, I was - - I was scared, you know, because they had the
9 gun on me but I was more afraid for my son because I - - I - -
10 that's all I could ask them.

11 I said, "Don't bother my son. Don't bother my son."

12 And that - - that's when they was all - - had his hands all
13 over me trying to feel - - I guess feel if I had any more money and
14 all. They snatched my cell phone away from me.

15 Q. Now, you - - you were talking about - - you were talking about
16 how you felt during.

17 Now, tell me afterwards, immediately afterwards, what was
18 going through your mind? What was the deal?

19 A. Well, after then, it was bad thoughts, you know. I calmed
20 down about it. Especially after I seen my son was bleeding.

21 I - - I said, "Well, we'll do it the legal way."

22 If it was two years ago, it wouldn't have been like that but
23 my son was hurt and I had to - - we had to do it the right way.

24 Q. Okay.

25 And - - and, again, let me just make sure I'm clear.

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1 Is there any doubt whatsoever that the defendant Woody is the
2 person that initiated this robbery, that robbed you?

3 A. Yes, sir. He was the one standing at the truck with me.

4 Q. Okay.

5 And is there any ax to grind or any reason you would have to -
6 to - - to claim it was Woody if it wasn't him?

7 A. No, sir. I - - I would speak to him and stuff now, you
8 know. I don't know - - I don't know why he would have done it, you
9 know.

10 MR. REDMOND: I have nothing further at this time.

11 Oh, yes, I do, Your Honor.

12 I forgot one thing.

13 Q. Now, is the testimony you've given today truthful?

14 A. Yes, sir.

15 Q. Alright.

16 And under the rules, I've got to ask you about this.

17 In 2003, were you convicted of distribution of marijuana?

18 A. Yes, sir.

19 Q. And did you, in fact, plead guilty to that?

20 A. Yes, sir.

21 Q. And, ah, in other words, you admitted you had done it?

22 A. Oh, yes. Yes, sir.

23 Q. And does that in anyway affect the truthfulness of what you
24 are testifying to today?

25 A. No, sir.

MR. DILLARD, SR. CROSS EXAMINATION BY MR. MANNING

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1 Q. Okay.

2 A. He had not one thing to do with what happened to me in 2003.

3 Q. Okay.

4 MR. REDMOND: That's all the questions I have at this time,
5 Your Honor.

6 THE COURT: Cross examination, Mr. Manning?

7 MR. MANNING: Yes, Your Honor.

8 Thank you.

9 Beg the Court's indulgence.

10 CROSS EXAMINATION BY MR. MANNING:

11 Q. I believe you say your first name is Wayne?

12 A. Russell - -

13 Q. Russell?

14 A. Russell Wayne Dillard.

15 Q. Russell Dillard.

16 And where did you say you live, Mr. Dillard?

17 A. Now?

18 Q. Yes.

19 A. In Hamer.

20 Q. In Hamer?

21 That's Dillon County?

22 A. Yes, sir.

23 Q. And where were you living back on January 1st?

24 A. [REDACTED] Rabbit Island Road.

25 Q. Okay.

MR. DILLARD, SR. CROSS EXAMINATION BY MR. MANNING

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1 And is that in - -

2 A. Lake View.

3 Q. - - Dillon? That's in Dillon County?

4 A. Yeah. It's in Dillon County.

5 Q. Okay.

6 And, ah, what time of day or night did you say this incident
7 occurred?

8 A. Um, 7:30 - 8:00, somewhere in that area there.

9 I didn't know - - I don't know exactly what time it was but it
10 was dark.

11 Q. It was dark?

12 A. Yeah.

13 Q. And, ah, you don't wear glasses, do you?

14 A. No, sir.

15 Q. You have very good vision?

16 A. Oh, yeah.

17 Q. Approximately how dark was it?

18 A. That I - - dark, as far as telling you how dark it was, I
19 can't tell you how dark it was but - - -

20 Q. And, ah, you said that you were approached by some men?

21 A. No. He was standing across the street.

22 Q. Uh-huh.

23 A. Hollering, asking me could I give him a jump.

24 Q. Who was standing across the street?

25 A. Mr. Woody.

MR. DILLARD, SR. CROSS EXAMINATION BY MR. MANNING

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1 Q. Huh?

2 A. Mr. Woody.

3 Q. Woody?

4 A. Well, Mr. Cabbagestalk, who ever you want to refer him as. I
5 know him as Woody?

6 Q. How do you know him as Woody?

7 A. Off of the street. I know him off the street.

8 Q. What you mean by "off the street"?

9 A. Like me and you might be friends. I see him on the street and
10 stuff. I would say, "How you doing, Woody."

11 Q. And - - and they called him Woody?

12 A. That's what I had called him.

13 Q. Okay.

14 A. Because I - - I've heard other people call him Woody.

15 Q. And how long have you known, ah, Woody?

16 A. Oh, about - - about four or five years.

17 Q. And how did you first come to know him?

18 A. Out at Riverdale.

19 Q. Huh?

20 A. Out at Riverdale.

21 Q. Out at Riverdale?

22 A. Yeah.

23 Q. What were you doing, um, when this happened?

24 What were you doing? Where were you heading? Where were
25 you going? Where were you?

MR. DILLARD, SR. CROSS EXAMINATION BY MR. MANNING

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1 A. Where was I?

2 Q. Uh-huh.

3 A. At my friend's house at the end of my dirt road.

4 Q. Okay.

5 And you said that you were robbed?

6 A. I would assume it being robbed.

7 Q. Huh?

8 A. I would assume it being robbed.

9 Q. Well, explain to me what you mean you assume that you were
10 being robbed.

11 A. If I pull a gun on you and take your money.

12 Q. Who had the gun?

13 A. Mr. Woody did.

14 But he ain't the only one that had a gun. I seen the -- they
15 was a couple of more that had guns, too.

16 Q. Did you give a statement to the police?

17 A. Yes, I did.

18 Q. Did you tell them that he had a gun and this is the person?

19 A. I told them that he had a gun. He was the only one that
20 didn't have no mask on. All the rest of them had masks on.

21 Q. What police officer did you talk to during this investigation?

22 A. Mr. Barfield.

23 Q. Huh?

24 A. Mr. Barfield.

25 Q. Barfield.

MR. DILLARD, SR. CROSS EXAMINATION BY MR. MANNING

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1 Have you ever seen this before?

2 A. That's what he was writing on that night out there at the
3 house.

4 Q. See what I underlined there?

5 A. Yeah.

6 Q. Okay.

7 A. Yes, sir.

8 Q. Look at the bottom. Who signed this?

9 A. Looks like Barfield.

10 Q. Okay.

11 And you - - and you're telling this Court, this jury, that,
12 ah, the fellow that you call Woody had a gun?

13 A. Yes, sir.

14 Q. What does that report say?

15 A. The report said he didn't have no gun.

16 Q. Okay, then.

17 And who - - where did the person get this information from to
18 make up this particular statement?

19 A. Well, he might have not have made - - he might have made a
20 mistake on writing it.

21 Q. Who investigated it?

22 A. I - - who investigated it?

23 Q. Yeah.

24 Who talked to you about this? Didn't you say Mr. Barfield?

25 A. Well, Barfield come out there.

MR. DILLARD, SR. CROSS EXAMINATION BY MR. MANNING

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1 Q. Who signed that document?

2 A. Mr. Barfield.

3 Q. Okay.

4 Did anyone according to what you say you saw see this person
5 here other than you that night?

6 A. That night, no, sir, not that I know of.

7 Q. Where was your son?

8 A. My son was in the truck.

9 Q. Did your son see anybody?

10 A. Whoever was standing beside the truck over there - -

11 Q. And who was - - -

12 A. - - on his side.

13 Q. And who was standing beside the truck?

14 A. I have no idea who he was.

15 He had - - I'm telling you. They had a mask on, a blue mask
16 on their face. So, you can't - - I can't identify somebody like
17 that.

18 The only one that did not have a mask on his face was Mr.
19 Woody.

20 Q. And what did Mr. - - according to you, what did Mr. Woody do
21 to you?

22 A. After he pulled the gun on me and took the money, he popped me
23 in my jaw with that gun.

24 Q. He popped you in the jaw.

25 A. Yes, he did.

MR. DILLARD, SR. CROSS EXAMINATION BY MR. MANNING

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1 Q. Let me ask you this here.

2 How many people were there, suspects as we call them? How
3 many?

4 A. Suspects?

5 Q. Uh-huh.

6 A. I guess three or - - I don't know if it was three or four.

7 Q. Okay.

8 If I tell you that the statement said - - I mean the police
9 report - - the incident report said there were four, would you
10 disagree with that?

11 A. No, I wouldn't disagree with it.

12 Q. Okay.

13 Now, if - - if four people or two people or three people are
14 going to rob somebody, doesn't it seem strange or would it seem
15 strange or does it seem strange to you that, ah, three of them
16 would have on masks and the person you claim that you know does not
17 have on the mask and he does all of the damage, the robbing and
18 everything yet the other people have masks on? Does that seem
19 strange? If they are together, they are going to do a robbery?
20 Does it seem strange to you?

21 A. He might have been the Ginny pig.

22 Q. My question is does it seem strange to you.

23 A. Well, not really. He might not have wanted to wear one.

24 Q. Let's put - - let's flip a coin.

25 If you are one of the four persons who is going to do a

MR. DILLARD, SR. CROSS EXAMINATION BY MR. MANNING

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1 robbery or do some type of crime, ah, and there's four of you, if
2 somebody is going to pull the gun, hit you side the face or where
3 ever he hit you at, wouldn't it seem - - or doesn't it seem strange
4 that the person who does that does not have a mask but yet the
5 other four have a mask who didn't do anything? Doesn't that seem
6 strange?

7 A. Yeah, but, ah, they don't care.

8 Q. How do you know they don't care?

9 A. Must have didn't.

10 Q. Isn't it true, Mr. Dillard, that you never saw that man that
11 night, and the reason why you never saw him that night was because
12 he was not there? Isn't that true?

13 A. Nope.

14 Q. Well, what is his name?

15 A. I told you what his name was. Woody Stackhouse or
16 Cabbagestalk.

17 Q. Okay.

18 And when did you tell the police that it was a Woody or a
19 Stackhouse or a Cabbagestalk? When did you tell the police that?

20 A. The night he came to my house.

21 Q. The night he came to your house.

22 Did you also tell him that he put a gun to your face that
23 night?

24 A. I sure did.

25 Q. So, is - - the police report is not correct?

MR. DILLARD, SR. - REDIRECT EXAMINATION BY MR. REDMOND

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1 A. I'm telling - - he might have made mistake on it but I'm
2 telling you. I told the man he stuck a gun in my face.

3 Q. Do you think - - do you think you made a mistake?

4 A. Me?

5 Q. Yes.

6 A. No, I didn't make no mistake.

7 Q. Never made a mistake in your life?

8 A. Oh, now, I'm not saying - - I'm not perfect. Yeah, I make
9 mistakes.

10 Q. Oooooohhhhhhhh.

11 A. Ain't nobody perfect.

12 Q. Okay.

13 MR. MANNING: Beg the Court's indulgence, please.

14 Your Honor, I have no further questions.

15 THE COURT: Redirect?

16 MR. REDMOND: Yes, sir.

17 If it please the Court?

18 REDIRECT EXAMINATION BY MR. REDMOND:

19 Q. Mr. Manning used - - but before I get into that, Wayne, let me
20 ask you. Let's say that I was in my car on the side of the road.
21 I had my flashers on. Obviously, had car problems. I have on a
22 mask. If I said, "Would you come help me?", and I got on a mask,
23 would you come and help me?

24 A. Ain't no way.

25 Q. Why not?

MR. DILLARD, SR. - REDIRECT EXAMINATION BY MR. REDMOND

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1 A. Because you covering yourself up. You trying to do something
2 to me.

3 Q. Okay.

4 So, in other - - and didn't you testify - - or did you testify
5 that the defendant actually called you over there to come help him
6 with his car?

7 A. Yes, sir, he did.

8 Q. Would that seem to you to have been a setup to get you there,
9 and then these other guys came out and helped him?

10 A. That's what I would have figured because he was the only one
11 standing there, and then in the next thirty seconds, they was all
12 around me.

13 Q. Now, as it relates to the report, you were asked and Mr.
14 Manning made a big deal about a report.

15 And since it's been mentioned, I think I should at least mark
16 it for State's #1 of I.D. purposes only, Judge.

17 THE COURT: Alright, sir.

18 (The Court Reporter marks the incident report as State's
19 Exhibit #1 for I. D. only.)

20 MR. REDMOND: May I approach the witness, Your Honor?

21 Q. I'm going to approach you with what's been marked as State's
22 Exhibit for I. D. only.

23 Now, is that the statement that Mr. Manning was just asking
24 you about?

25 A. Yes, sir.

MR. DILLARD, SR. - REDIRECT EXAMINATION BY MR. REDMOND

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1 Q. About the police report. Is that the police report - -

2 A. Yes, sir.

3 Q. - - he was just asking you about.

4 A. Yes, sir. Right.

5 Q. Now.

6 I want you to take a good, hard look at that report and answer
7 this question for me.

8 Did you sign that report? Is that your written statement?

9 Is there anywhere on there that you signed that report?

10 A. I don't see it nowhere.

11 Q. Okay.

12 Do you recall ever signing that police report?

13 A. No, sir.

14 Q. Thank you.

15 A. Like I said. All he did was fill everything out for me.

16 Q. Okay.

17 So, the officer is the one that did this report, right?

18 A. Yes, sir.

19 Q. Now, Mr. Manning talked about what wasn't on there. Talked
20 about a report saying he had no gun, and I'll ask you point blank.

21 Was that officer - - a mistake by the officer in the report
22 saying that he didn't have a gun?

23 A. Yes, sir.

24 Q. But he didn't ask you about what else is in there. Since he
25 asked you about the report, I'm going to ask you this.

MR. DILLARD, SR. - REDIRECT EXAMINATION BY MR. REDMOND

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1 What name did you give Michael Barfield from the time that he
2 came to the scene?

3 A. Woody.

4 Q. Woody.

5 And you told him his last name was what?

6 A. It was either Cabbagestalk or Stackhouse.

7 Q. And is that in the report that Mr. Manning asked you about?

8 A. Yes, sir.

9 Q. But he didn't ask you about that, did he?

10 A. No, sir.

11 Q. Bottom line, Mr. Dillard.

12 Is your identification of this defendant made up, a lie,
13 concocted or it was, in fact, the defendant that robbed you that
14 night?

15 A. Yes, sir. That's him.

16 Q. Okay.

17 And his name again?

18 A. Woody.

19 MR. REDMOND: Nothing further, Your Honor.

20 THE COURT: Re-cross?

21 MR. MANNING: Beg the Court's indulgence.

22 I've nothing further at this time.

23 THE COURT: Alright.

24 Thank you, sir.

25 You may step down.

MR. DILLARD, SR. - REDIRECT EXAMINATION BY MR. REDMOND

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1 MR. DILLARD: Thank you, sir.

2 (The witness takes the witness stand.)

3 THE COURT: Yes.

4 We need to have the exhibit back for the Court Reporter.

5 MR. REDMOND: Oh, I'm sorry.

6 THE COURT: State's for I. D. I think Mr. Manning picked
7 it up.

8 (Exhibit is returned to Court Reporter.)

9 THE COURT: Alright.

10 MR. REDMOND: Well, Judge - - -

11 THE COURT: Yes, sir. Go ahead.

12 MR. REDMOND: We, actually, that didn't take quite as long as
13 I thought it would.

14 My other two witnesses worked third shift last night, and, um,
15 ah, so, I'm in a bit of a quandary. That didn't take quite as
16 long - - quite - - -

17 THE COURT: Alright. I understand.

18 Alright. Ladies and gentlemen, let me tell you what the
19 situation was and one reason he had - - both lawyers knew this.

20 I was told before I came over from Sumter last week - - I
21 mean, today, but I was told last week that there was a matter
22 planned for the courtroom at 11:00 today. I had hoped to get a
23 little bit more testimony in but that we were going to have to give
24 up the courtroom in order to enable the County to conduct the
25 function in the courtroom that they have had previously scheduled.

MR. DILLARD, SR. - REDIRECT EXAMINATION BY MR. REDMOND

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1 So, unfortunately, we're going - - I brought you back for a
2 very short amount of testimony this morning but we are going to
3 have to give up the courtroom.

4 I was going to plan to stop about 10:30 or twenty minutes to
5 eleven anyhow to allow them to set up the courtroom for what they
6 needed to do, and then they going to have this ceremony in the
7 courtroom.

8 I don't know exactly how long that's going to take. I think
9 it probably will take around thirty minutes or forty-five minutes
10 but rather than have you come back before lunch, what I'm going to
11 ask you to do is come back at 2:00, and we have some other things
12 we can do. In the meantime, we will do those.

13 But we're going to plan to resume this matter at 2:00. I do
14 apologize to you for that but I don't want to keep you waiting in
15 the jury room while we wait on witnesses or do this, ah, matter
16 that the County has got planned in the courtroom. I don't want to
17 tie you up.

18 So, I'm going to excuse you now and allow you to go about your
19 business and do whatever you need to do for the rest of the morning
20 and ask you to be back in the jury room at 2:00, and please get
21 your lunch before you come back.

22 Ah, and we'll be ready to go, and we'll try to go through all
23 of the testimony at that time.

24 Also, I'm going to ask Mr. Legette if you'll serve as the
25 Foreman of this jury, please, sir. So, when you come back in, if

MR. DILLARD, SR. - REDIRECT EXAMINATION BY MR. REDMOND

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1 you'll take this first seat down here on the front row, and you'll
2 be the Foreman of the jury.

3 And, of course, the alternate will sit where he is seated
4 there.

5 Now, I would also tell you that, again, you have not heard all
6 the testimony in this case, and it would be inappropriate for you
7 to discuss this matter with anyone or to allow anyone to discuss it
8 with you and don't discuss it among yourselves when you're
9 reassembling in the jury room just before 2:00.

10 But go ahead and take care of your business and things that
11 you need to do this morning. Get your lunch and plan to be back in
12 your jury room at 2:00, and I'll see you at that time.

13 Thank you. You may go with the bailiff.

14 (The jury is released to return at 2:00 p.m.)

15 Alright. We will be in recess on this matter on this case
16 until 2:00. Wait until you're sure that the jury has cleared the
17 area, and then the defendant can be remanded to custody until that
18 time.

19 And in the meantime, I understand we have the Forelady of the
20 Grand Jury here, and we can take the Grand Jury report.

21 (The Court recesses the trial of this case to resume at 2:00
22 p.m. today.)

MR. DILLARD, SR. - REDIRECT EXAMINATION BY MR. REDMOND

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1 (The Court reconvenes the trial of this case with all parties
2 accept the defendant present in the courtroom at 2:04 p.m.

3 The Court thereafter has the defendant brought into the
4 courtroom.)

5 THE COURT: Thank you.

6 Please be seated.

7 MR. REDMOND: Before we begin and I guess it's something I
8 need to bring to the Court's attention while they're - - -

9 THE COURT: Alright. Wait just a moment before we get
10 started.

11 Did you find the indictments?

12 CLERK OF COURT: Yes, sir. I have them right here.

13 THE COURT: Okay.

14 Alright.

15 We're on the record with regard to the matter of The State vs.
16 James Cabbagestalk.

17 Let the record reflect that the State is present and
18 represented by Mr. Redmond and Mr. Hayes.

19 The defendant is not present. We need to get the defendant
20 in..

21 (The defendant is brought into the courtroom and sits at the
22 defense table.)

23 THE COURT: Alright.

24 The defendant is present with his counsel, Mr. Manning.

25 Alright, Mr. Redmond?

COURT ADDRESSES THE DEFENDANT - NO CONTACT WITH VICTIM

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1 COURT ADDRESSES DEFENDANT - NO CONTACT WITH VICTIM

2 MR. REDMOND: Yes, sir.

3 And I was not in the courtroom. I was actually in my office
4 talking with the Deputy at which time as I was about to leave, Mr.
5 Dillard, the victim, came up pretty upset, and it appears that
6 according to the victim that the defendant who was sitting in the
7 box over there, the victim was sitting in the courtroom, had
8 started threatening him according to the victim.

9 The officers - - by the time I came down, the officers,
10 Officer Hayes of Dillon Police Department indicated that he
11 couldn't hear what was being said but he did see an exchange taking
12 place between the two.

13 And subsequent to that, we had asked the defendant to calm
14 down and he continued to make comments.

15 I cannot sit here and say they were necessarily of a
16 threatening sort but there were comments that he was still making
17 about him, and his attorney had to walk over there and try to get
18 him to calm down.

19 But in deference to the victim, it is a situation that I felt
20 at least needed to be brought to the Court's attention, and that's
21 what I've done in this particular matter.

22 THE COURT: Alright.

23 Mr. Manning, you want to address that?

24 MR. MANNING: Your Honor, I don't know anything about that.

25 THE COURT: Alright.

COURT ADDRESSES THE DEFENDANT - NO CONTACT WITH VICTIM

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1 Alright, Mr. Cabbagestalk - - -

2 MR. MANNING: I have not had a chance to speak to my client
3 about this.

4 THE COURT: Well, speak to him about what Mr. Redmond has
5 said and tell me what his position is.

6 (Mr. Manning discusses matter with his client.)

7 MR. MANNING: Your Honor, my client denies that he threatened
8 this man at all, and here he is. Put him under oath for
9 questioning. I think that would probably be the better way to do
10 it.

11 THE COURT: Well, I'm going to handle it this way.

12 I want to make it clear to you, Mr. Cabbagestalk, that not
13 only - - I don't know what the conversation was or the threats were
14 or whether there were or were not any threats. There's no way for
15 me to, ah, adjudicate that matter on a he said versus he said basis
16 but I'll tell you right now that from the rest of this case on or
17 from now on forever as far as this Court is concerned, you should
18 have no contact whatsoever with the victim in this case, and that
19 means no conversation with him about anything. Don't even ask him
20 about the weather.

21 Any conversation that you have with the victim in this case
22 will be considered by me as contempt of my order. You understand
23 that?

24 Is that a yes?

25 MR. CABBAGESTALK: Why you telling me - - you telling me

COURT ADDRESSES THE DEFENDANT - NO CONTACT WITH VICTIM

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1 this? I was sitting over there in the box not saying nothing.

2 THE COURT: I'm telling you that if you have any
3 conversation or any contact with the victim whatsoever that that is
4 a violation of my order to you, and that will be contempt of court
5 and I will deal with you accordingly.

6 Do you understand?

7 MR. CABBAGESTALK: I understand.

8 THE COURT: Alright.

9 You almost got yourself in trouble with contempt just by
10 talking back to me just then.

11 MR. REDMOND: Thank you, Your Honor.

12 The State's ready to proceed.

13 THE COURT: Alright.

14 Bring the jury in.

15 (The jury returns to the courtroom at 2:08 p.m.)

16 THE COURT: Alright.

17 Thank you very much, ladies and gentlemen, and thank you for
18 your patience in dealing with us. We did, ah, let the County get
19 the matter that they needed to get taken care of and out of the
20 way, and they did finish around 12:00, and we continued to work
21 until about 1:00 and handled some other matters here in court
22 before we took a brief lunch recess but we are ready to go forward
23 now.

24 I would tell you now or ask you now as I did this morning if
25 anyone has tried to talk to you about this matter or made any

DEPUTY BARFIELD - DIRECT EXAMINATION BY MR. REDMOND

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1 contact with you about this case over this morning recess, I would
2 need to know about it now.

3 Alright. Negative response, and we are ready to go forward.

4 Alright, Mr. Redmond, you may call your next witness.

5 MR. REDMOND: Thank you, Your Honor.

6 May it please the Court?

7 The State would call Deputy Michael Barfield.

8 THE COURT: Alright.

9 Mr. Barfield.

10 (The witness takes the witness stand.)

11 DEPUTY MICHAEL GLEN BARFIELD, JR., being
12 duly sworn, testifies as follows:

13 CLERK OF COURT: Be seated and state your full name for the
14 Court spelling your last.

15 DEPUTY BARFIELD: My name is Michael Glen Barfield, Jr.
16 Last name is B-a-r-f-i-e-l-d.

17 DIRECT EXAMINATION BY MR. REDMOND:

18 Q. Deputy Barfield, where are you employed?

19 A. Dillon County Sheriff's Office.

20 Q. How long have you been so employed?

21 A. Approximately a year and a half.

22 Q. And in what capacity are you employed there?

23 A. As a road deputy.

24 Q. And before that, could you tell the jury your background in
25 law enforcement?

DEPUTY BARFIELD - DIRECT EXAMINATION BY MR. REDMOND

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1 A. I was originally hired at the Lake View Police Department in
2 2002 and employed by them approximately three and a half years.

3 Q. Now, did you at some point go to the South Carolina Criminal
4 Justice Academy?

5 A. I did.

6 Q. And, of course, I'm assuming you received your certification?

7 A. I did.

8 Q. Okay.

9 And as a part of that you went through a rigorous regiment
10 training and, um, and exercise in order to be able to perform your
11 duties as a trooper. Correct?

12 A. I did.

13 Q. Now, do you recall - - or I bring your attention to January 1,
14 2007. Were you on duty at that time?

15 A. Yes, sir, I was.

16 Q. And do you recall receiving a dispatch around 8:00 in the
17 evening on New Year's Day?

18 A. Yes.

19 Q. And would you tell the jury first where did you - - did you
20 respond to the call?

21 A. Yes.

22 Q. And where did you respond to that call?

23 A. The address is - -

24 MR. MANNING: Your Honor.

25 A. - - 2010 - - -

1 THE COURT: Just a moment.

2 Yes, sir.

3 MR. MANNING: May we approach the bench for a second?

4 THE COURT: You have an objection.

5 MR. MANNING: No. I have something I'd like to share with
6 the Court.

7 THE COURT: Alright.

8 (Bench conference held off the record and in the presence of
9 the jury but outside the hearing of the jury.)

10 THE COURT: Proceed, Mr. Redmond.

11 MR. REDMOND: Thank you, Your Honor.

12 May it please the Court?

13 Q. Now, I think we're at the point where you - - you had
14 responded to a call, and I was asking you where you responded. If
15 you would, tell us where you responded?

16 A. Yes. That address was [REDACTED] A Rabbit Island Road in Lake
17 View, South Carolina.

18 Q. Okay.

19 And is that between Nichols and Lake View?

20 A. Yes, it is.

21 Q. Okay.

22 Now, and in Dillon County?

23 A. Yes.

24 Q. Now, when you got to the scene, could you tell the jury what
25 you encountered when you arrived at the scene that night?

DEPUTY BARFIELD - DIRECT EXAMINATION BY MR. REDMOND

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1 A. When I arrived at his residence, the victim, Mr. Dillard, came
2 outside and met me outside in the yard and stated on his arrival
3 coming home he was about to pull in the driveway and saw a vehicle
4 parked beside the road near his driveway which appeared to be a
5 four-door brown in color Cavalier or Celebrity, correction,
6 eighties model possibly, and it had the flashers on, and he pulled
7 up and asked them what was wrong, and they stated they needed a
8 boost.

9 He had got out and attempted to open the hood of his vehicle,
10 and when he turned around from opening the hood of his vehicle he
11 saw three black males with guns. He stated pistols, correction,
12 two shotguns and one pistol.

13 He said he recognized the suspect that didn't have a gun. He
14 give me a name of Cabbagestalk or Stackhouse but he did know that
15 he was known as Woody. At that time he stated he had no gun.

16 He told him to give him his money and his cell phone. One of
17 the suspects unknown which one hit him in the face with one of the
18 weapons.

19 Ah, also, pointed a gun at his son.

20 After getting his money and phone, all of the guys got back in
21 the car and drove off, and at some point there was one shot fired
22 unknown direction what it was aimed at.

23 After speaking with him and getting his information and
24 finding out what happened, I attempted to retrieve any type of
25 fingerprints from the vehicle, if any. I did retrieve some

DEPUTY BARFIELD - DIRECT EXAMINATION BY MR. REDMOND

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1 smudges but there were not any that I could identify, send off to
2 be identified.

3 Q. Now, I want to stop you right there for just a second. I
4 want to talk about the prints, and we'll go back to some other
5 stuff in a minute but when you talk about the prints and smudges,
6 are y'all trained at the Academy about how to collect prints?

7 A. Yes, we are.

8 Q. Okay.

9 And using that experience, did you attempt to get prints off
10 the car?

11 A. Yes, I did.

12 Q. And you indicated that you only got smudges?

13 A. That's correct.

14 Q. And could you explain to the jury smudges and why that was not
15 going to be satisfactory for you to send off to identify?

16 In your own words.

17 A. There are so many points that a fingerprint has to be
18 identified in order to get an identical match, if any that you can
19 get.

20 You take your finger and drag it across some type of object,
21 it's not going to leave a print. It's just going to leave a
22 streak, and that's what I was getting.

23 Q. Is that what the case was here?

24 A. Yes.

25 Q. Okay.

DEPUTY BARFIELD - DIRECT EXAMINATION BY MR. REDMOND

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1 Now, in going back a little further, you had indicated in the
2 report that a suspect - - one of the suspects he recognized did not
3 have a gun. That's what you've indicated in the report.

4 A. Yes.

5 Q. And, ah, when you do the reports, and I'm going actually skip
6 down a minute and ask you about the defendant - - I mean, excuse
7 me, the victim's demeanor. How would you describe his demeanor at
8 the time you arrived?

9 A. He appeared to be highly upset, of course. Ah, in a state of
10 shock due to the trauma and stress of what had just happened.

11 Q. Now, you and I were talking when we were getting ready for
12 court. You actually mentioned something regarding your training,
13 and I'm going to ask you about it now, and that is when you were at
14 the Academy, I guess, in doing reports, are y'all trained as it
15 relates to taking reports from a victim in a traumatic situation?

16 A. Yes. They - - we were - - did - - my - - my training and the
17 amount of time I've spent in law enforcement, I've learned that the
18 probability of getting an incorrect report from a victim after an
19 incident such as this within the first twenty-four hours is going
20 to be higher than average. More than likely going to get some mis-
21 information.

22 Q. And sometimes when you're taking information - - and let me
23 ask you this, and this is important. Were you writing this as he
24 was telling you or did you write your report at the same time he
25 was telling you this or did you write it at some point later?

1 A. I wrote it later.

2 Q. And could you explain to the jury why you actually wrote your
3 report at some point later?

4 A. Because after getting the information I needed and attempting
5 to get the prints off the vehicle, ah, I immediately got the
6 victim's description information and give it to our dispatcher and
7 had the all county-wide law enforcement to be on the look out for
8 this type of vehicle matching this description with the X amount of
9 suspects in it. I believe there were four that would probably be
10 seen in the Riverdale area.

11 Q. So you put out a be on the look-out or as we say a "BOLO".

12 A. Yeah.

13 Q. Okay.

14 And at that point did you also engage in an attempt to locate
15 and find this vehicle?

16 A. Yes, I did.

17 Q. Okay.

18 And were you successful in finding it?

19 A. No, sir.

20 Q. Okay.

21 Now, was it subsequent to your attempts to find the vehicle
22 that you, in fact, sat down and actually wrote out your report.

23 A. That's correct.

24 Q. Okay.

25 At the time you encountered Mr. Dillard, did he tell you or

DEPUTY BARFIELD - DIRECT EXAMINATION BY MR. REDMOND

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1 give you a name, and I think you've already said it but I'll ask
2 just to make sure. Did he tell you who it was? Well, did he
3 tell you that he recognized the person - -

4 A. Yes, he did.

5 Q. - - that he first encountered?

6 A. Yes, he did.

7 Q. Okay.

8 And what name did he give you?

9 A. Woody.

10 Q. Okay, and what last names did he give you?

11 A. He stated to me that his name was either Cabbagestalk or
12 Stackhouse. At that time he wasn't a hundred percent sure on his
13 real name but he was known as Woody.

14 Q. Okay.

15 Now, let me ask you about the - - the rest of the time you
16 were there at the scene. Talking about the scene.

17 Did you have a chance to see, I guess, Wayne, Jr., the son of
18 Mr. Dillard?

19 A. Yes, I did.

20 Q. Okay.

21 And did you notice or see any injury to Mr. - - -

22 A. Yes, I did.

23 Q. And were those injuries on his hand?

24 A. Yes. To the best of my knowledge, they were.

25 Q. Okay.

DEPUTY BARFIELD - DIRECT EXAMINATION BY MR. REDMOND

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1 And do you recall, and, again, I know it's been a while but do
2 you recall, um, the nature or the extent of the injuries?

3 A. Unfortunately, I do not.

4 Q. But do you recall that there was some type of injury?

5 A. Yes. There was an injury.

6 MR. REDMOND: Beg the Court's indulgence, Your Honor.

7 THE COURT: Alright.

8 MR. REDMOND: That's all the questions I have at this time.

9 Thank you so much, Deputy.

10 THE COURT: Alright.

11 Mr. Manning, I believe you indicated there was a matter that
12 you needed to take up with the Court.

13 MR. MANNING: Yes, Your Honor.

14 We have a matter we need to take up out of the presence of the
15 jury.

16 THE COURT: Alright.

17 Alright, ladies and gentlemen of the jury, I hate to do this.
18 We've only been in here a few minutes but a matter has come to the
19 Court's attention that I am going to have to take up outside of
20 your presence and on the record. So, if you'd go to your jury room
21 a few minutes while we take care of this.

22 Please do not discuss this matter among yourselves.

23 (The jury retires to the jury room at 2:20 p.m.)

24 THE COURT: Alright, Mr. Manning, it's my understanding
25 that your client had indicated - - he's given you a note that

DEPUTY BARFIELD - DIRECT EXAMINATION BY MR. REDMOND

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1 indicated he wished to change his plea. Is that correct?

2 MR. MANNING: Yes, Your Honor.

3 THE COURT: Alright.

4 MR. MANNING: May it please the Court?

5 During direct examination of Officer Barfield, my client
6 passed a handwritten note that I will pass up to the Court.

7 THE COURT: Alright.

8 We'll make that a Court's Exhibit, Court's Exhibit #1.

9 (The Court Reporter accepts note as Court's Exhibit #1.)

10 MR. MANNING: In that which states that he's reached a
11 decision to not go forward and he wants to plead, Your Honor.

12 THE COURT: Alright.

13 I will give you and Mr. Redmond about ten minutes to put it
14 together but I don't want to take longer than that because we've
15 got the jury waiting to go.

16 Let me know something in the next ten minutes.

17 MR. MANNING: Yes, sir.

18 THE COURT: You can step down.

19 DEPUTY BARFIELD: Thank you, sir.

20 (The witness leaves the witness stand.)

21 THE COURT: Alright.

22 We'll take a recess for about ten minutes.

23 Thank you.

24 (The Court recesses the trial of this case and thereafter
25 reconvenes this case to accept the guilty plea of the defendant.)

GUILTY PLEA

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1 THE COURT: Thank you.

2 Please be seated.

3 Alright.

4 Back on the record with regard to the matter of The State vs.
5 James Cabbagestalk on two indictments that we are presently in
6 trial on.

7 Let the record reflect that the State is present with Mr.
8 Redmond and Mr. Hayes. The defendant is present with his lawyer
9 Mr. Manning.

10 Mr. Manning and Mr. Redmond, I understand there is a change in
11 the situation, and the defendant now wishes to enter a guilty plea.
12 Is that correct?

13 MR. REDMOND: That's correct, Judge.

14 He's signed the Sentencing Sheet, and as I've indicated to Mr.
15 Manning, we would only proceed on the plea with the armed robbery
16 and since the mandatory minimum of ten years, the State would not
17 have any opposition to should the Court sentence him on the lower
18 end of the ten to thirty spectrum but, of course, as everybody
19 understands, it is, obviously, a recommendation and in the Court's
20 discretion but the State would not have a problem with a lower end
21 sentence.

22 THE COURT: Alright.

23 Mr. Manning, have Mr. Cabbagestalk come on up, please.

24 GUILTY PLEA

25 (The defendant stands before the Court with Mr. Manning.)

GUILTY PLEA

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1 MR. REDMOND: And, Your Honor, while you're looking at that
2 for the record and to preserve the integrity of the record, the
3 Indictment Number on that particular charge is - - -

4 THE COURT: I have it right here. It's 07-GS-17-0364 is
5 the indictment number.

6 MR. REDMOND: Thank you, Judge.

7 THE COURT: Alright.

8 Mr. Cabbagestalk, I know, of course, that you are James
9 Cabbagestalk because we've been involved in the of this matter but
10 I need to tell you before I can accept your plea of guilty, I need
11 to ask you some questions. If you don't understand the questions
12 and the words I use, you tell me. I'll be glad to explain them to
13 you. You may talk with your lawyer at anytime as we go through
14 this process.

15 You understand?

16 MR. CABBAGESTALK: Yes, sir.

17 THE COURT: How old are you?

18 MR. CABBAGESTALK: Twenty-three.

19 THE COURT: Twenty-three?

20 MR. CABBAGESTALK: Twenty-three.

21 How far did you go in school?

22 MR. CABBAGESTALK: Tenth.

23 THE COURT: Tenth?

24 MR. CABBAGESTALK: Yes, sir.

25 THE COURT: What kind of work have you done?

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1 MR. CABBAGESTALK: Outside of jail?

2 THE COURT: Yes, sir.

3 MR. CABBAGESTALK: Construction work.

4 THE COURT: Alright.

5 Have you ever been treated for the use of alcohol or drugs or
6 for mental illness?

7 MR. CABBAGESTALK: No.

8 THE COURT: Have you ever taken -- have you ever taken any
9 medication, drugs or alcohol in the past twenty-four hours?

10 MR. CABBAGESTALK: No.

11 THE COURT: Are you today under the influence of any kind
12 of medication, drugs or alcohol?

13 MR. CABBAGESTALK: No.

14 THE COURT: Are you today aware of any physical or
15 emotional or nervous problems that would keep you from
16 understanding what you're doing here today?

17 MR. CABBAGESTALK: No.

18 THE COURT: You need to speak up a little louder. She's
19 got to be able to take it down, and I can't hear you either.

20 I will ask you again.

21 Are you today aware of any physical or emotional or nervous
22 problems that would keep you from understanding what you're doing
23 here today?

24 MR. CABBAGESTALK: No, sir.

25 THE COURT: Alright.

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1 The indictment in this case with which you are well familiar
2 with, ah, but it has been returned as a true-bill by the Grand Jury
3 of Dillon County and that it charges that on or about January 1st
4 of this year, New Year's Day, that you did violate South Carolina
5 law, specifically, Section 16-11-330(a) of The Code of Laws of
6 South Carolina, ah, which alleges that while armed with a deadly
7 weapon, specifically, a handgun; that you did feloniously take from
8 the person and the presence of Wayne Dillard by means of force or
9 intimidation goods or monies of Mr. Dillard, such goods or monies
10 being described as \$160 in cash and a cell phone valued at \$75.
11 That was the - - those are the allegations of the indictment. Do
12 you understand the allegations of the indictment?

13 MR. CABBAGESTALK: Yes, sir.

14 THE COURT: Do you understand that for this offence and the
15 State has indicated, and, of course, we are in the trial of this
16 matter of this charge and Indictment Number 0364, the State has
17 indicated that they would be willing - - I'm sorry, 0363 which is
18 the assault and battery with the intent to kill. So let me start
19 over again.

20 The - - we are presently in the trial of the charge that
21 charges you with armed robbery and assault and battery with the
22 intent to kill under Indictment Number 363. The State has
23 indicated that in return for your plea of guilty to the armed
24 robbery under 0364 that they would drop or not pross the charge
25 under 0363 of assault and battery with the intent to kill. Is

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1 that what your understanding is of what the State is willing to do?

2 MR. CABBAGESTALK: Yes.

3 THE COURT: Okay.

4 Do you understand that for armed robbery you can get from a
5 minimum of ten years up to thirty years in prison? You understand
6 that?

7 MR. CABBAGESTALK: Yes.

8 THE COURT: You understand that that is a mandatory
9 minimum, and I cannot sentence you to any less than ten years?
10 You understand that?

11 MR. CABBAGESTALK: Yes.

12 THE COURT: Do you also understand that this is considered
13 under our law a most serious offense and that if you were to have
14 two most serious offenses, that is after you got out of prison and
15 you had another most serious offense that you would be facing
16 mandatory life in prison? You understand that?

17 MR. CABBAGESTALK: Yes.

18 THE COURT: You also understand that this is considered a
19 violent offense? That affects your parole eligibility. You
20 understand that?

21 MR. CABBAGESTALK: Yes.

22 THE COURT: You also understand that this is a no parole
23 offense which means that you would have to serve eighty-five
24 percent of whatever amount I sentence you to? You understand
25 that?

GUILTY PLEA

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1 MR. CABBAGESTALK: Yes, sir.

2 THE COURT: Alright.

3 Now, Mr. Cabbagestalk, you give up a number of important
4 constitutional rights, some of which I have already discussed with
5 you yesterday. I discussed with you your Fifth Amendment privilege
6 against self-incrimination. I told you that we would not make a
7 decision on that matter until the appropriate time today but do you
8 understand that when you plead guilty, you waive or give up your
9 right to remain silent, that is, your privilege against self-
10 incrimination, your right to say nothing at all? Do you
11 understand you waive that privilege?

12 MR. CABBAGESTALK: Yes, sir.

13 THE COURT: You also give up your right to have a jury
14 trial.

15 Now, in your case we have a jury impaneled. They have heard
16 some of the testimony but if I accept your plea, do you understand
17 that this jury would be discharged, and they would not be making a
18 decision in connection with this matter in any way whatsoever? Do
19 you understand that?

20 MR. CABBAGESTALK: Yes.

21 THE COURT: Okay.

22 And, third, you give up the right to confront the witnesses
23 against you, and, of course, you have already been confronted by at
24 least one of the witnesses against you. Mr. Dillard testified
25 earlier, and your lawyer did have the right and did cross examine

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1 him but you also give up the right to confront any other witnesses
2 that the State might call against you, and you also give up the
3 right to subpoena and call witnesses on your own behalf. You
4 understand those constitutional rights?

5 MR. CABBAGESTALK: Yes, sir.

6 THE COURT: You understand that all of those constitutional
7 rights will be waived if I accept your plea?

8 You understand that?

9 MR. CABBAGESTALK: Yes, sir.

10 THE COURT: You understand that I will discharge this duty
11 - - this jury, and they will have no further responsibility in that
12 matter - - in this matter?

13 MR. CABBAGESTALK: Yes.

14 THE COURT: . Alright.

15 Mr. Cabbagestalk, understanding then the nature of the charge
16 against you and the consequences of the guilty plea, how do you
17 wish to plead to the charge of armed robbery, guilty or not guilty?

18 MR. CABBAGESTALK: Guilty.

19 THE COURT: You understand that when you plead guilty you
20 are admitting the truth of the charge against you?

21 MR. CABBAGESTALK: Yes, sir.

22 THE COURT: You may have a defense to this charge. I don't
23 know whether you do or not. Of course, we are in the trial, and
24 you would have the right to present any defense that you have but
25 do you understand that if you plead guilty, you waive or give up

GUILTY PLEA

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1 any defense that you might have to this charge?

2 MR. CABBAGESTALK: Yes, sir.

3 THE COURT: You also may have given an incriminating
4 statement in this case. Again, I don't know whether you have or
5 not but do you understand that if you plead guilty, you waive or
6 give up your right to contest or challenge whether or not the
7 statement was freely and voluntarily given?

8 MR. CABBAGESTALK: Yes, sir.

9 THE COURT: I don't think a statement was given or I would
10 have been told about a Jackson vs. Denno issue.

11 MR. REDMOND: There was no Jackson vs. Denno issue, Your
12 Honor.

13 THE COURT: Alright.

14 The only plea negotiations, Mr. Redmond, are what? Just put
15 them on the record.

16 MR. REDMOND: That the State does not oppose a lower-end
17 sentence in this regard. Um, we have not negotiated a specific
18 time, and, of course, I've made sure to make it clear that the
19 court has the final say in any sentence but that the State would
20 not oppose a sentence on the lower end of that spectrum.

21 THE COURT: Okay.

22 And nol prossing the other indictment?

23 MR. REDMOND: And nol prossing the assault and battery with
24 the intent to kill.

25 THE COURT: Alright.

GUILTY PLEA

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1 Mr. Cabbagestalk, is that what you understand the negotiations
2 and recommendations are going to be from the Solicitor's Office?

3 Do you understand that what they're - - what they're saying is
4 all the Solicitor's Office is doing is saying, "First of all, we're
5 going to nol pros the assault and battery with the intent to kill."

6 And, secondly, that they would not oppose or would not object
7 if I gave you a sentence on the lower end of the ten to thirty
8 years.

9 MR. CABBAGESTALK: Yes, sir.

10 THE COURT: Okay.

11 Other than that, has anyone promised you anything or held out
12 any hope or reward to get you to plead guilty?

13 MR. CABBAGESTALK: No, sir.

14 THE COURT: Has anyone threatened you or used force to get
15 you to plead guilty?

16 MR. CABBAGESTALK: No, sir.

17 THE COURT: And are you pleading guilty of your own free
18 will and accord?

19 MR. CABBAGESTALK: Yes, sir.

20 THE COURT: Alright.

21 Speak up.

22 Are you satisfied with the manner in which Mr. Manning has
23 advised you and represented you in this matter?

24 MR. CABBAGESTALK: No, sir.

25 THE COURT: You're not?

GUILTY PLEA

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1 MR. CABBAGESTALK: No.

2 THE COURT: What are your complaints against Mr. Manning?

3 MR. CABBAGESTALK: I mean, a lot of things that I would argue
4 as far as putting on the record like my Miranda rights and all of
5 that, me being locked up it wasn't - - it wasn't arguing this case,
6 I mean, if anyone get locked up before they put the handcuffs on
7 you, they suppose to read you your Miranda rights.

8 You know, the process I went through - - -

9 THE COURT: Well, let me - - let me straighten you out on
10 that first.

11 Mr. Manning is an experienced lawyer, and he knows this but
12 I'll tell you this right now.

13 Miranda rights don't come into affect at all unless you are
14 asked questions. The fact that you get - - this is television law
15 that you've been watching. Television law is that when you - -
16 when they arrest somebody, they give them their Miranda rights.
17 Well, the full purpose of that is so that any statement that that
18 person makes is not admissible unless they have been given their
19 Miranda rights.

20 Mr. Redmond told me you didn't make any statement. So Miranda
21 rights don't even figure into it.

22 Alright. What else - - what other complaints you have
23 against Mr. Manning?

24 MR. CABBAGESTALK: Nothing else.

25 THE COURT: Alright.

GUILTY PLEA

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1 That is a common misconception. Everybody thinks that as
2 soon as they arrested, they suppose to get Miranda rights, and the
3 reason they give them is so that any statement that that defendant
4 makes can be used against them but if the defendant doesn't make
5 any statement, then Miranda rights don't mean anything. There are
6 no Miranda rights.

7 Alright.

8 Have you understood my questions?

9 MR. CABBAGESTALK: Yes, sir.

10 THE COURT: Is there anything you would like to ask me
11 about what we've been over?

12 MR. CABBAGESTALK: Sir?

13 THE COURT: Anything else you'd like to ask me about what
14 we've been over?

15 MR. CABBAGESTALK: No.

16 THE COURT: You understand that you have a right to appeal
17 the guilty plea and sentence of the Court, and you must do so
18 within ten days.

19 You understand that?

20 MR. CABBAGESTALK: Yes.

21 THE COURT: Alright.

22 Mr. Redmond, I don't think any further factual basis is
23 necessary. I heard the victim's testimony in this case, and that
24 alone is sufficient factual basis for the plea.

25 MR. REDMOND: If I could, there is one thing I want to add

GUILTY PLEA

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1 real briefly, not to the factual basis but looking down the road
2 for the integrity of the case.

3 There - - Mr. Cabbagestalk had asked Mr. Manning to subpoena -
4 - I forget her name but it's a girlfriend, an ex-girlfriend.

5 She appeared, and she's actually outside, and we've both had
6 the opportunity to talk to her, and for the record I would simply
7 tell the Court that she indicates that she cannot recall whether or
8 not she was with him on New Year's Eve, the defendant.

9 So, I wanted to make sure the record did reflect that. Mr.
10 Manning did subpoena her. She did come, and we did have the
11 opportunity to talk with her in - - Your Honor, while Mr. Manning
12 was in my presence.

13 THE COURT: Well, I had anticipated the possible defense in
14 this matter based on Mr. Manning's opening statement was going to
15 be alibi. Was the rule followed with regard to alibi?

16 MR. REDMOND: Technically, I could have raised that issue but
17 chose not to.

18 THE COURT: Alright.

19 But it had not - - the alibi witness was this one individual,
20 and from what you understood, she couldn't recall one way or the
21 other?

22 MR. REDMOND: Exactly.

23 THE COURT: Alright.

24 MR. REDMOND: She explained that to us three minutes before
25 we came back in for the plea.

AMENDMENT OF INDICTMENT

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1 THE COURT: Alright.

2 Alright.

3 That being the case, then, the Court does find that there is
4 a substantial basis for the plea.

5 I find the defendant's decision to plead guilty is freely,
6 voluntarily, knowingly and intelligently made after having been
7 advised by counsel with whom he initially said he was not satisfied
8 but then after I explained the source of his dissatisfaction about
9 the Miranda rights to him, he indicated that he was satisfied with
10 his counsel and is entering this plea freely and voluntarily after
11 having heard the testimony against him from the victim. So the
12 Court will accept the plea.

13 Mr. Manning, what would you like to tell me?

14 AMENDMENT OF INDICTMENT

15 MR. MANNING: Yes, Your Honor.

16 May it please the Court?

17 First, Your Honor, I would like to, ah, advise the Court of
18 the fact that this defendant has never been indicted. The person
19 that was indicted was a James Cabbagestalk. His name is not James
20 Cabbagestalk.

21 THE COURT: Well, are you challenging the sufficiency of
22 the - - -

23 MR. MANNING: Your Honor, I'm just pointing out to the Court
24 so that the Court may amend the indictment to the person - - to his
25 real name because that is not his real name. The defendant is not

AMENDMENT OF INDICTMENT

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1 James Cabbagestalk.

2 That's who was indicted, Your Honor.

3 THE COURT: What is his name.

4 MR. MANNING: Shaheem - - -

5 MR. CABBAGESTALK: Shaheem Ramel Cabbagestalk. That's my
6 uncle name. That ain't my name.

7 THE COURT: Well, have you got anything that shows - - any
8 identification on you that shows what your real name is?

9 MR. CABBAGESTALK: My social -- I get you my social --
10 my social security number - - I call my momma baby up here right
11 now. Ask her about it.

12 MR. REDMOND: I've got it right here.

13 THE COURT: Wait a minute. One at a time.

14 MR. REDMOND: - - - - -, and the name with our NCIC request
15 is James Cabbagestalk, and, Your Honor, we did get a return on
16 those - - on that, and, in fact, the name is James Shaheem
17 Cabbagestalk that is listed on his rap sheet, and I don't know if
18 y'all have anything in your system as it relates to his name but he
19 does have a prior record.

20 THE COURT: Alright. Wait just a minute. Let me see.

21 Mr. Cabbagestalk, what is your social security number?

22 MR. CABBAGESTALK: .. -3158.

23 THE COURT: Alright.

24 Mr. Redmond, is that the Cabbage - - is that the social
25 security number you show on the NCIC?

AMENDMENT OF INDICTMENT

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1 MR. REDMOND: Identical.

2 THE COURT: Alright.

3 And the NCIC shows his name as?

4 MR. REDMOND: James Shaheem Cabbagestalk. James -- James as
5 being the first name, Cabbagestalk as being the last.

6 THE COURT: Alright.

7 And is your name James Shaheem Cabbagestalk?

8 MR. CABBAGESTALK: No, sir. Not me.

9 THE COURT: But that is your social security number?

10 MR. CABBAGESTALK: That's my social security number. I
11 don't know how it get here in that name.

12 MR. REDMOND: And, Judge, in 2002, I show he was on
13 probation: Three years suspended to two years probation.

14 THE COURT: Alright. Stop right there.

15 Y'all show him in the probation records?

16 PROBATION AGENT FORE: Yes, sir, as Shaheem Cabbagestalk.

17 THE COURT: As Shaheem Cabbagestalk?

18 PROBATION AGENT FORE: Yes, sir.

19 THE COURT: Alright.

20 MR. REDMOND: And I've got James Shaheem. So the names must
21 be different.

22 And, Your Honor, in 2003, it looks like there was a
23 distribution of crack cocaine. He received a five year sentence
24 of that. Looks like there were two counts concurrent.

25 That's the extent of his record.

AMENDMENT OF INDICTMENT

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1 MR. MANNING: Your Honor?

2 THE COURT: Yes, sir?

3 MR. MANNING: May I point out to the Court that his mother
4 showed me a copy of his birth certificate yesterday, and it is not
5 James Cabbagestalk. It is Shaheem - - -

6 THE COURT: Well, Mr. Manning, why didn't you bring this to
7 the attention to the Court before. I asked you if there was
8 anything before the jury was brought in and the jury was sworn?

9 You know, we've sworn the jury in this case, and I've now
10 accepted his plea, and I'm hearing a day and a half into this trial
11 for the first time that this is not the gentleman's name, and you
12 knew it all along.

13 MR. MANNING: I didn't know it until yesterday, Your Honor.

14 THE COURT: Well, that's twenty-four hours before I knew
15 it.

16 MR. MANNING: Your Honor, what I was telling the Court was
17 that my client does not have an objection to the indictment being
18 amended to reflect his real name.

19 THE COURT: Alright. We will so do so.

20 I'll ask Mr. Cabbagestalk. Let me get the exact spelling of
21 your name, Mr. Cabbagestalk.

22 What is your name - - and what I'm going to do if this is
23 agreeable with everybody. I'm going to amend the indictment to
24 show James Cabbagestalk, a/k/a and then get the name that he wants
25 to be used in connection with this, a/k/a meaning also known as.

AMENDMENT OF INDICTMENT

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1 Alright. What name is that, Mr. Cabbagestalk?

2 MR. CABBAGESTALK: Sir?

3 THE COURT: What name is it that you say is your correct
4 name?

5 MR. CABBAGESTALK: My real name is Shaheem Ramel
6 Cabbagestalk.

7 THE COURT: James?

8 MR. CABBAGESTALK: No. Shaheem Ramel.

9 THE COURT: Alright.

10 How you spell Shaheem.

11 MR. CABBAGESTALK: S-h-a-h-e-e-m.

12 THE COURT: Shaheem.

13 MR. CABBAGESTALK: Yes, sir.

14 THE COURT: Alright. Middle name.

15 MR. CABBAGESTALK: Ramel, R-a-m-e-l.

16 THE COURT: Alright.

17 Mr. Manning, as I understand it, then, there is no objection
18 to amending the indictment to show that it is James Cabbagestalk
19 a/k/a Shaheem Ramel Cabbagestalk. Is that correct?

20 MR. MANNING: That's correct, Your Honor.

21 THE COURT: You agree, Mr. Cabbagestalk?

22 MR. CABBAGESTALK: No, sir.

23 THE COURT: Why don't you agree?

24 MR. CABBAGESTALK: That's not my name.

25 THE COURT: Well, I'm putting your real name on the

AMENDMENT OF INDICTMENT

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1 indictment. I'm trying to give you what you say your real name is.

2 The State - - the State shows that it is James Cabbagestalk.

3 You're saying that it is Shaheem Ramel Cabbagestalk. I'm
4 willing to put that down there as the two names that you have been
5 known by.

6 You have been known by this one to the State and the one that
7 you're telling me, Shaheem Ramel Cabbagestalk.

8 Doesn't that solve the problem?

9 MR. CABBAGESTALK: No. I mean, I don't - - I don't - - I
10 don't agree.

11 THE COURT: Well, when I started going through this process
12 with you and asking you if you pled guilty to these charges - - and
13 you agree that you did and that you did this. So whether it's
14 James Cabbagestalk or Shaheem Ramel Cabbagestalk, that person is
15 one and the same person, are they not?

16 MR. CABBAGESTALK: It can't be. That's my uncle. James
17 Cabbagestalk is my uncle. My grandfather and my uncle name.

18 THE COURT: Alright.

19 Go ahead, Mr. Manning. Let me think about this just a
20 minute.

21 MR. MANNING: Yes, Your Honor.

22 May it please the Court?

23 I, as Your Honor knows, I'm appointed to represent Mr.
24 Cabbagestalk, and I would tell the Court that I've heard the
25 testimony. Read all the documents contained in the record. Rule

AMENDMENT OF INDICTMENT

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1 5 and talked to the officers, and one of the officers, in fact, two
2 of them.

3 I also had the opportunity to look at all of the Rule 5
4 information. I also had the opportunity to talk to Mr.
5 Cabbagestalk on several occasions and as late as last evening, Your
6 Honor. I spent a lot of time going over everything with him, and
7 I will tell the Court. He raised the issue with me about Miranda
8 warnings. I explained to him that it would only come into play if
9 a statement was taken and, ah, from you and it's going to be used
10 against you in court, you must get the Miranda warnings prior to
11 any statement. You must sign a waiver indicating that it was read
12 to you, a statement that it was read to you.

13 He also raised the question about a change of venue, and I
14 told him this case was not a case where the change of venue - -
15 this was done last night, and I want to put all this on the record,
16 Your Honor.

17 I went on to point out to him that I'd been involved in a case
18 with a change of venue which was - - which was a precedent case in
19 this state, Your Honor, The State vs. Manning.

20 As Your Honor very well knows, I was one of the trial counsel
21 in that case which the Supreme Court sent back because of an issue
22 involving the change of venue.

23 So, I pointed out to him all of those things, and every legal
24 question he has asked me, Your Honor, I - - -

25 THE COURT: The State vs. Manning was tried how many times,

AMENDMENT OF INDICTMENT

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1 three, four?

2 CLERK OF COURT: Five times.

3 THE COURT: Five. Okay. Yeah.

4 Go ahead.

5 MR. MANNING: After every legal question that was put to me,
6 I explained it to him. Gave him the legal parameters of each one,
7 and I will further tell the Court that Mr. Cabbagestalk is not a
8 dumb person. He's a very intelligent person, Your Honor, and I
9 also went on to tell him that this is a case that just boils down
10 to who believes who based on all the information I've seen and Rule
11 5 and all my conversations with him, Your Honor.

12 And as you know, in the middle of the trial, when Officer
13 Barfield was on the stand, a note was passed to me by Mr.
14 Cabbagestalk indicating that he wanted to plead guilty. I
15 interrupted the Court, and, Your Honor, Mr. Redmond and I
16 approached the bench, and you asked us to hold that until the
17 direct examination of Mr. Barfield was finished.

18 At that point in time I did that. Your Honor, there is
19 nothing else I could have done in this matter. I certainly would
20 have like to have had more time but time is not the issue in this
21 case. I've tried a lot of cases in my lifetime, and this was not
22 one of the issues.

23 I had talked to the witnesses including the lady that Mr.
24 Redmond just mentioned. I talked to her outside as well.

25 THE COURT: Alright.

AMENDMENT OF INDICTMENT

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1 MR. MANNING: But I would further point out to the Court that
2 I would ask the Court to seriously consider giving Mr. Cabbagestalk
3 - - sentence him to the minimum in this matter, Your Honor.

4 I realize that, ah, normally when a trial begins, the ante is
5 upped. I'm very well aware of that but I would ask the Court to
6 consider that. He's still a young man, twenty-three years of age,
7 and his life is in front of him.

8 Obviously, he has to do eighty-five percent of whatever amount
9 of time the Court deems appropriate for him but I would ask the
10 Court to consider giving him the minimum under the armed robbery
11 charges.

12 THE COURT: Alright.

13 Thank you, sir.

14 Alright.

15 Mr. Cabbagestalk, what would you like to tell me?

16 MR. CABBAGESTALK: No, sir.

17 THE COURT: Anything you'd like to tell me?

18 MR. CABBAGESTALK: No, sir.

19 THE COURT: Alright.

20 First, let me address the matter of the name on the
21 indictment.

22 The Court has amended on the record - - has amended the
23 indictment, ah, after the guilty plea was entered because the
24 defendant contended that his real name was Shaheem Ramel
25 Cabbagestalk, and I have amended the indictment to read James

AMENDMENT OF INDICTMENT

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1 Cabbagestalk, a/k/a Shaheem Ramel Cabbagestalk even though the NCIC
2 and other records including his social security number showed
3 otherwise.

4 However, under Gentry, that is, State vs. Gentry, the citation
5 is 363 SC 93, 610 SE 2nd 614, our Supreme Court has held that the
6 indictment is a notice document and is not a jurisdictional
7 document, and I find that the indictment in this case does apprise
8 this defendant of the charges against him.

9 The fact that he now raises the issue of his name for the
10 first time after he has changed his plea from not guilty to guilty
11 and after the jury was sworn and after approximately one-half of
12 the testimony was heard is too late to affect the validity of the
13 indictment.

14 The law is that defects in the indictment must be raised
15 before the jury is sworn or they are waived, and it is a notice
16 document and does not go to jurisdiction.

17 In fact, the particular language of Gentry, ah, is "the
18 indictment is the charge of the State against the defendant, the
19 pleading by which he is informed of the fact and the nature and
20 scope of the accusation.

21 When the indictment is presented, the accusation made and that
22 pleading filed, the accused has two courses of procedure open to
23 him. He may question the propriety of the accusation, the manner
24 in which it has been presented, the source from which it proceeds
25 and have these matters promptly and properly determined or, waiving

SENTENCE OF THE COURT

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1 them, he may put in issue the truth of the accusation and demand
2 judgment of his peers on the merits of the charge.

3 If he omits the former and chooses the latter, he ought not
4 when defeated on the latter when found guilty of the crime charged
5 be permitted to go back to the former and inquire as to the manner
6 and means by which the charge was presented."

7 So, what Gentry basically stands for is an indictment is
8 needed to give notice to the defendant of the charge against him
9 and is not jurisdictional, and I do not think that there is any
10 problem with the indictment as it was written but, in any event,
11 any challenge to the indictment comes too late.

SENTENCE OF THE COURT

12
13 THE COURT: Also, Mr. Cabbagestalk, I don't think that the
14 sentence at the low end of the range is appropriate for you for a
15 couple of reasons.

16 First of all, I'm not penalizing you for going to trial.
17 That's your absolutely right to require the State to try you on the
18 charges against you.

19 The thing that bothers me about this case is, and I don't know
20 why you would want to do this. You've admitted to the charges,
21 and why you want to protect the people that were in it with you and
22 not giving them statements and not cooperating with the police to
23 that extent, ah, is beyond me but, obviously, you did not do that
24 and are willing to take the entire rap yourself.

25 Secondly is that I've given you every opportunity to say

REMARKS OF THE COURT

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1 anything that you wanted to say, and at no time during this process
2 have you shown any remorse or offered any explanation or apology to
3 the victim in this case.

4 For that reason, I don't think that the sentence at the low
5 end of the range is appropriate.

6 The sentence of the Court is the defendant is committed to the
7 State Department of Corrections for a term of eighteen years.

8 MR. REDMOND: Thank you, Your Honor.

9 THE COURT: Alright.

10 Mr. Bailiff, if you'll bring the jury in for me.

11 Mr. Redmond, when do you want this jury to call back?
12 Tomorrow night?

13 MR. REDMOND: Tomorrow night, Judge.

14 THE COURT: Okay.

15 And the message for tonight will be for that jury to call back
16 tomorrow night.

17 (The jury returns to the courtroom at 3:21 p.m.)

18 REMARKS OF THE COURT

19 THE COURT: Alright, ladies and gentlemen. Thank you for
20 your patience, and I apologize for keeping you waiting in the jury
21 room. I make it a practice to try to never keep a jury waiting
22 unnecessarily, and it really bothers me when I have to do that.

23 However, you have not been waiting unnecessarily because after
24 we excused you and after he had heard the testimony, the defendant
25 in this case decided to plead guilty, and I have already accepted

REMARKS OF THE COURT

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1 his plea and have sentenced, and I'm going to tell you about that
2 in just a minute but he did indicate after hearing the testimony
3 from the victim in this case and from the officer in this case that
4 he decided he would enter a guilty plea.

5 The State allowed him to plead guilty to the armed robbery
6 charge and in return for which they dropped the assault and battery
7 with the intent to kill charge. So he pled guilty to the armed
8 robbery charge, and I have accepted that charge, ah, that plea.

9 Ah, for your information, the crime of armed robbery, ah,
10 carries in this state a minimum of ten and a maximum of thirty
11 years in prison, and I sentenced the defendant in this case to
12 eighteen years in prison for his plea - - his participation in this
13 armed robbery.

14 So, I know jurors always like to know what the outcome from
15 the case is, and that's what the outcome of the case was in this
16 case.

17 So, that's going to relieve you of any further responsibility
18 in connection with this matter, and it's not going to be necessary
19 that you make a decision, and I'm going to excuse you from any
20 further responsibility.

21 I will tell you that once you've been excused as a juror there
22 is nothing illegal about your talking with anyone about your
23 service on this case. There's nothing illegal about anybody
24 talking to you about your service.

25 It is a practice of which I strongly disapprove and which I

REMARKS OF THE COURT

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1 strongly discourage but it's not illegal. Anyone can talk with
2 you or attempt to talk with you but if you don't want to talk to
3 them and they continue to bother you or harass you, you let the
4 court personnel know, and I will deal with them.

5 But it's your call. You can talk with anybody or not talk
6 with anybody but it is strictly up to you.

7 I will also tell you that this is the last matter that we're
8 going to need you for this afternoon, and we're not going to need
9 you tomorrow.

10 The rest of your jury panel will be calling back. They are
11 calling back, ah, this evening. We will have them call back
12 tomorrow evening, and I'm going to ask that you do the same thing.
13 Tomorrow after 6:00 call the number that you were given, and if you
14 don't have it, be sure and get it from the bailiff before you
15 leave, and that is an answering machine just like the one that
16 you've got at home, and it will give you your reporting
17 instructions for Thursday.

18 So, you will not have to come tomorrow but I do ask that you
19 call that number after six anytime all night long and get your
20 reporting instructions for Thursday, and perhaps I'll see you then
21 if I need you again.

22 But with that, you are discharged from any further
23 responsibility in this case, and thank you for your diligence and
24 thank you for your help. Thank you very much.

25 You are free to go. Be sure and get that number.

REMARKS OF THE COURT

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1 (The jury is released from the trial of this case and departs
2 the courtroom with instructions to call again on Wednesday after
3 6:00 p.m.

4 After discussions off the record as to scheduling, the Court
5 adjourns this matter and court for the day to reconvene on
6 Wednesday at 9:30 a.m.)

7 - - - END OF TRANSCRIPT - - -

GENERAL SESSIONS JURY SELECTION

CASE NO: 07CS17-363,364DATE: Aug 27, 2007PLAINTIFF: STATEATTORNEY: Kimber Redmond ASDEFENDANT: JAMES CabbagestalkATTORNEY: Glenn ManningPRESIDING JUDGE: Harold P KingCOURT REPORTER: LINDA W. MCCALL

JUROR #	NAME	STRIKES						ACCEPT
		RACE	SEX	COURT	STATE	DEF.		
93	Bert Landis	C	M			X		
155	Annie Spears	AA	F					✓
33	Doris Coward	C	F			X		
109	Terry McCall	C	F					✓
96	James Leggett	AA	M					✓
159	Howard Thompson	AA	M			X		
48	Alice Feagin	C	F		X			
72	Traven Hatchell	C	M					✓
67	Willis Hamilton	AA	F			X		
115	Marilyn McGirt	AA	F					✓
58	Earl Goins	AA	M			X		
46	George Eagle	AA	M		X			
37	William S. Daniel JR	C	M			X		
94	Sallie Leach	AA	F					✓
75	Antron Hester	AA	M		X			
163	William A Townsend	AA	M					✓
8	James M. Bass	C	M			X		
173	Kenneth Wise	C	M					✓
25	Lawrence Campbell	AA	M					✓
81	Lily Jackson	C	F			X		
53	Adrian Fowler	C	F					✓
156	James Stagg	C	M			X		
141	Mary H. Ray	C	F					✓
142	Wendy Leaves	C	F			X		
89	James Joyce	C	M					✓
	Ally							
82	Barbara Johnson	C	F			X		
147	Calvin Rowell	C	M					✓

CERTIFICATE OF COURT REPORTER

120

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF HORRY)

3
4 I, the undersigned Linda W. McCall, Official Court
5 Reporter for South Carolina Court Administration, do hereby
6 certify that the foregoing is a true, accurate and complete
7 Transcript of Record of all the proceedings had and evidence
8 introduced in the hearing of the captioned case, relative to
9 appeal, in the Court of General Sessions of Dillon County, South
10 Carolina.

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

13 November 6, 2007

14
15 Linda W. McCall

16 Linda W. McCall

17 Official Reporter
18
19

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

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

The State, Respondent,

v.

James Cabbagestalk a/k/a Shaheen R.
Cabbagestalk, Appellant.

Appeal From Dillon County
Howard P. King, Circuit Court Judge

Unpublished Opinion No. 2009-UP-528
Submitted November 2, 2009 – Filed November 19, 2009

APPEAL DISMISSED

Appellate Defender Kathrine H. Hudgins, of
Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief
Deputy Attorney General John W. McIntosh,
Assistant Deputy Attorney General Salley W.
Elliott, all of Columbia; and Solicitor Jay E.
Hodge, Jr., of Cheraw, for Respondent.

PER CURIAM: James Cabbagestalk, also known as Shaheen Ramel Cabbagestalk, appeals his guilty plea and sentence for armed robbery, arguing the plea court erred in amending his indictment.[1] After a thorough review of the record, counsel's brief, and Cabbagestalk's pro se brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.
[2]

APPEAL DISMISSED.

WILLIAMS, PIEPER, and LOCKEMY, JJ., concur.

[1] Cabbagestalk filed a motion to seal the supplemental record which included unredacted sensitive information. The State consented to the motion. After careful consideration, the motion to seal is granted.

[2] We decide this case without oral argument pursuant to Rule 215, SCACR.

A CERTIFIED
TRUE COPY*James T. Hyatt*

STATE OF SOUTH CAROLINA)

In the Court of Common Pleas

County of Dillon)CLERK OF COURT
DILLON COUNTYShaheen Cabbagestalk #295567)
Full name and prison number, if any, of applicant.)

2010-CP-17 091

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
GWEN T. HYATT
2010 MAR -9 PM 4:08
CLERK OF COURT
DILLON COUNTYv.)
State of South)
Name of Respondent)
Carolina)INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention MC Cormick prison
2. Name and location of Court which imposed sentence Dillon County General Sessions Court
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2007-GS-17-00364 Armed Robbery
 - (b) State v. James Cabbagestalk: is the actual case Shaheen Cabbagestalk falsely imprisoned for this case
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 8/28/07 18 yrs. 85 % Judge stated no parole 85% of 18 yrs.
 - (b) _____
 - (c) _____

5. Check whether a finding of guilty was made

(a) after a plea of guilty ☒

(b) after a plea of not guilty

(c) after a plea of nolo contendere

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

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

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

i. S.C. Courts of Appeals

ii.

iii.

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

i. S.C. Courts of Appeals "Dismissed" Appeal

ii.

iii.

(c) the date of each such result:

i. Submitted November 2nd, 2009 - Filed November 19, 2009

ii. petition for rehearing denied Jan. 21st 2010

iii.

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

i. unpublished 2009-up-528

ii.

iii.

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

(a)

(b)

(c)

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: prosecutor misconduct / Judicial misconduct / Lack of notice of Charge /

(a) Never been indicted / never been indicted by 12 legal grand jurors / illegal grand jury proceedings /

South Carolina Rules of Criminal Procedure / unwanted jurors in jury room / No grand jury transcript /

(b) Miranda Warning / Brady v. Maryland Rules / S.C. Code of Laws 14-7-1700, 14-4-1770, 14-7-1120

(c) Preliminary hearing by magistrate judge / No subject matter jurisdiction / No General jurisdiction /

Not indicted within 90 days of the warrant being issued in accordance with Statute § 14-7-1120

from Books requirement violated for electing jurors / Ineffective Assistance of Trial Counsel / Ineffective Assistance of Appellant Counsel § 14-7-110, Jury Commissioners, 22-5-320, Code of Laws of South Carolina 1976

entered a full preliminary hearing; Mere presence charge denied hands of one is hands of all; 16-11-330(A) violated

to to parole eligibility after 11 years Judge said I'm not eligible for parole see Major v. SCDPPS Aug. 28th 2009

Erroneous judgement / Book of Registration Requirements not followed / misidentification

#9, Continued

Constitutional Rights Violated 4th 5th 6th 14th 1st - Hand of one is the hand

of all violated; Violated op-21-09 Inmate records plan policy of SCDC Invalid Commitment orders can't accept person for bedding or house / S.C. Code § 14-17-530 (2) requires the clerk of Court to mark each original indictment with the date it was filed Violated S.C. Rules of Court / Illegible, Property / Violated 72A.C.M. § 874 rights to inconsistent testimony

10. State concisely and in the same order the facts which support each of the grounds set out in (9)
- (a) Constitution Common Law / S.C. rules of court and criminal Procedures, Court Transcript, Exhibits, Facts, ME and prison I.d., witnesses, Cases, S.C. D.C. policy op-21-09 Inmate Records plan, Recent cases over turned and dismissed Do to SA
 - (b) violations in this case that holds me falsely imprisoned.

(c) _____

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

- (a) any petition in a State Court under South Carolina Law?
frivolous Petition for Rehearing Attorney Hudgins of S.C. indigent defense
- (b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7) _____
- (d) any other petitions, motions or applications in this or any other Court?

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

- (a) the specific nature thereof:
 - i. S.C. Courts of Appeals Attorney filed petition for Rehearing aint advise me period and it's frivolous on an dropped charge.
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. S.C. Courts of Appeals
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. Dismissed
 - ii. _____
 - iii. _____
 - iv. _____

(d) the date of each such disposition:

i. Jan. 21st 2010

ii. _____

iii. _____

iv. _____

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

i. unpublished opinion NO. 2009-UP-528 ^{Submitted November 2nd 2009} ^{Filed November 19th 2009}

ii. _____

iii. _____

iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? NO

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) Parole Eligibility major v. SCDPPPS General Counsel Small Budget to produce law books up to date

(b) S.C. Code § 14-17-530(2): General Counsel Small Budget to produce law books up to date

(c) _____

16. Were you represented by an attorney at any time during the course of: J. David Watson / 2nd Glenn B. Manning

(a) your arraignment and plea? My plea Yes! He Told me to PLEA I took his advice

(b) your trial, if any? Yes! I went to trial forced by Judge Howard P. King ^{Made a speedy trial motion} ^{for me without my consent}

(c) your sentencing? Yes! He was very ineffective

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence?

Yes! Ms. Kathrine H. Hudgins very ineffective filed entire brief on dropped charge

(e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? No! only Appeals Court, Now per Court by advice of direct Appeal Attorney.

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

(a) the name and address of each attorney who represented you: P.O. Box 1156 Bennettsville, S.C. 29512

- i. Glenn B. Manning Represented me ineffectively at illegal trial
- ii. Kathrine H. Hudgins Represented me ineffectively filed brief on dropped charge
- iii. Ly: S.C. Commission on indigent defense: P.O. Box 11589 Columbia S.C. 29211-1589

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

- i. Attorney J. David Watson: Bond Processes to Reviewing Rules that's it.
- ii. Attorney Glenn B. Manning: Plea which was coerced by him at illegal trial
- iii. Kathrine Hudgins S.C. Court of Appeals Attorney

18. State clearly the relief you seek in filing this application. Sentence vacated and freed!!

to my family same day/Let out SCD custody do to SC. Rules of Court not followed by government officials,
False imprisonment ended today! / Freed to the world As Common Law speaks of under UCC 1-207 / C.A.
Overturned and vacated

19. Are you now under sentence from any other court that you have not challenged? NO

only this FALSE imprisonment Now at hand

2010-CP-17 091

STATE OF SOUTH CAROLINA)
COUNTY OF Dillon)

VERIFICATION

I, Shaheen Cabbagesta Ik, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Shaheen Cabbagesta Ik without prejudice ucc 1-207

Sworn to and subscribed before me

This 9 day of February, 2010.

Perry G. Mator L.S.

Notary Public for South Carolina

My Commission Expires Feb 28 2012

FILED
GWEN T. HYATT
2010 MAR -9 PM 4:09
CLERK OF COURT
DILLON COUNTY

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

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

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

Shaheen Cabbagesta Ik
without prejudice ucc 1-207

Applicant

Sworn to and subscribed before me

This 9 day of February, 2010.

Perry G. Mator L.S.

Notary Public for South Carolina

My Commission Expires: Feb 28 2012

VERIFIED
JULY 2010

Gwen T. Hyatt
CLERK OF COURT
DILLON COUNTY

①

Ineffective Assistance of Counsel:

2010-CP-17091

Davis v. State (Opinion No. 26608 March 9th 2009: S.C. Supreme Court remanded the case for resentencing, finding that the PCR Court erred in finding that plea Counsel was not ineffective for failing to Communicate a 15-year plea offer, because the petitioner would've accepted the offer he was prejudiced by plea Counsel's perform

In Lounds v. State (Opinion No. 26543 Dec 29th 2008: S.C. Supreme Court reversed and remanded the case for trial. The Supreme Court found that trial Counsel was ineffective for not adequately preparing for trial in this life without parole case. Counsel had not investigated case and had only met with defendant on the morning of the trial. "Sustains Glen B. Manning wasn't adequately prepared for trial in this case James Cabbages stalk v. State and not investigating this case it came before him and went straight to trial. Also see Frank E. Green v. State of South Carolina 2008-CP-46-3463, see Council v. State (Opinion No. 26543) (Dec 29th 2008)

Trial Counsel was ineffective in failing to investigate and present mitigating evidence. Strickland v. Washington: without the procedural error and Attorney Manning not objecting to me never being indicted within 90 days the outcome of this case could've been totally different 16-11-330(n) 2007-GS-17-0364 Doesn't Apprise me of any Crime I've Broken according to the Constitution in which I'm entitled lawfully to be indicted by 12 grand Jury members legally Qualified if Mr. Manning would've Addressed this issue and the dates the grand Jury is supposed to convene March 5th 2007 But the indictment was true billed March 1st 2007 Ashley Hill this indictment would've been quashed or dismissed, Sustains Glenn B. Manning Keneth Brown and Suor #75 weren't objected to being 2 unwanted people in the Jury Room or pool which means the Book of Registration for Jury Affiliates requirements wasn't followed, He never objected to this without this error the outcome would've been totally Different this prejudices me do to ACT I wouldn't be in Prison, lost of Job, and unable to help Educate my Youth kids properly. Also see Major v. SED PPPS (Opinion No. 26672, Aug. 24, 2009) a sentencing court does not determine parole eligibility, SCDPPPS has sole Authority to determine parole Eligibility

Attorney Glenn B. Manning never objected to Judge King stating such dealings of me not being entitled to parole in fact he agreed to but that the Judge said 85% non paroleable offense See Transcript for more support with Glenn B. Manning and Judge Howard P. King, see pg 112 Lines 8-12, and pg 96 Lines 18-19 and Lines 22-23. Hand of one hand of all; under the hand of one the hand of all theory, one who joins with another to accomplish an illegal purpose is liable criminally for everything done by his Confederate incidental to the execution of the common design and purpose. See 515 S.E.2d 98 567 C.E.2d 320,

(2) continued

355 S.E.2d 270, 385 S.E.2d 830, 534 S.E.2d 268, Criminal Lawkey 59C4

277 S.E.2d 696. Criminal Lawkey 427(2): To admit evidence under the hand of one the hand of all theory "The Existence of the Common design and the participation of the accused against whom the evidence is offered should first be shown.

Criminal law key 59 (5): Under the accomplice liability theory a person must personally commit the crime and intentionally or through a common design, aid, abet or assist in the Commission of that crime through some overt act. State v. Tyson E. Langley. "I am the only person falsely imprisoned and kidnapped for the Armed Robbery Charge NO one ELSE So how is it the Hand of one Hand of all? It takes more than one person to meet the hand of one is the hand of all requirement.

Illegal grand jury proceedings: An indictment 2007-GS-17-0364 was pushed forth to trial and was known it wasn't agreed on by 12 legally registered grand jurors as the Constitution states and I as well demand by right of the Constitution. Also the grand jury in 2007-GS-17-0364 Convened 3-5-07 the indictment was ~~file~~ billed 3-1-07, Also there were 2 unwanted jurors #19 Kenneth Brown and (#75 ~~Anthony Hester~~) inside the grand jury proceedings which is prohibited Lawfully there's no telling how many other jurors they're infringing on. Also the 1st Amendment gives the public and press a right to open trials including Jury screening; My Alibi was subpoenaed to come to this illegal trial which holds me falsely imprisoned and is an public trial to all and the press she wasn't allowed to come in by the solicitor and my ineffective Attorney Glenn B. Manning whom both violated my rights to an public trial, open jury selection

See Presley v. Georgia also which the sixth Amendment right extends to jury selection which was violated Douglas Perrell, Glenn Manning, solicitor Kenneth E. Redmond. See pg. 103 lines 3-12 of transcript. Also it was the judges fault for not for not Assuring she had a seat in the Court Room Regardless or not if she was subpoenaed or not. a public trial is a public trial she was a part of this trial and the judge took both Mr. Manning word and crooked solicitor Redmonds word to be goldcocker seeing with his own "2" eyes and Gave what she has to say and what can be contradicted they've said also shows Judicial mis Conduct. (See Supreme Court Jury selection should be open paper)

* Judicial misconduct: The Judge showed misconduct knowing he's without Sole Authority to tell me I'm not entitled to parole See pg. 96 lines 22-23 See Major v. SCDPPPS (2009) Case also Judge King Allowed my Alibi to be exempt from trial as she was subpoenaed also it's my 1st amendment right of the

3
Continued
→

which extends to jury selection. The judge also showed judicial misconduct by telling me he's giving me time cause I didn't cooperate with the police to help them do their job basically and cause I showed this alleged victim no remorse when the only way you can enhance time is from an charge that can be used to enhance your sentence from a previous conviction Not because he/she feels like it this enhancement doesn't fit the lawful term of sentencing Enhancement Requirement see pg. 114 lines 25 - to pg. 115 1-7

Prosecutor Misconduct: The solicitor interfered with my attorney client privilege stopping my attorney presence in the court room of an public trial where the public and press is allowed according to the 1st Amendment, see pg. 103 lines 3-12 see Presley v. Georgia, Solicitor Redmond also withheld Brady material such as (Wayne Dillard Criminal record) which was conveyed to him not submitting 3-1-07 indictment on 14 Ashley Hill signed as an grand jury foreman allegedly and Truebilled it 3-1-07 but the grand jury that the Constitution demands rule to charge one convened MARCH 5th 2007 allegedly and lawfully is to consist of 12 legal jurors qualified electors. If the above is so that means the copy of the judges order of grand jury impaneling documents and a copy of the grand jury transcript which allegedly indicted James Abbagostalk isn't available period according to 14-7-1720, 14-4-12, 14-7-1720 (1), Rule 5 (D) Brady v. Maryland, and Evans v. State is not able to be followed by this prosecutor and impossibly was respected lawfully along with solicitor Redmond with holding the guilty plea offer from my attorney at trial Glenn B. Manning. In order for the solicitor to do anything else other wise would violate my statutory and Constitutional right to demand a properly constituted grand jury. Consider this case never being indicted, warrants not being for me Solicitor Redmond had to NO! pros the warrants which leads me to being indicted within 90 days which never occurred still until this very day and this means the Solicitor violated my 6th Amendment right to a speedy trial I was arrested Jan. 12th

RECEIVED
FILE COPY

2010-CP-17 091

David T. Hyatt

CLERK OF COURT
DILLON COUNTY

FILED
GWENTHYATT
2010 MAR -9 PM 4:09
CLERK OF COURT
DILLON COUNTY

Shaheen Cabbagestalk
#295567
MCCORMICK CORRECTIONAL INSTITUTION
386 Redemption Way
McCormick, SC 29899-0000

It is totally unlawful and violates the constitutional right of one held detained for the prosecutor to violate the rules of Court and procedures. South Carolina Rules of Criminal procedure was totally violated from step #4 Rule 1, Rule 2, preliminary hearings: (A) notice of right violated I never went before any magistrate judge period for nothing No Bond No Nothing (B) Time for hearing violated I personally requested a hearing Jan. 28th 2007 my Attorney J. David Watson Requested a hearing Feb. 6th 2007 still I got no hearing or no reason why I got no hearing. (C) Probable Cause violated Cause how was probable Cause even found to bond the case over to General sessions if I never went before any magistrate judge period this means Judge James F. Rogers played a part in violating my Constitutional rights of due process and the prosecutor had No probable Cause for this case to be bond over to General sessions Court. I went in front all General sessions Judges, Judge Davis set a Bond for James Carmichael and an Jailor later stratched out his name and attempted to forge my name there but I never signed any Bond paper work to prove I ever went in front Judge John Davis or was notified of my rights to a preliminary hearing which I still Demand until this very day and the Constitution Affords me that right. How is it the Warrants were filed with the Clerk of Courts Feb. 7th 2007 10:35 AM) And I filed for my preliminary Hearing Feb. 6th 2007 my Attorney J. David Watson rather I personally filed for mines Jan. 28th 2007 this is totally Back wards as shows the rules of Criminal procedures and Court was not followed as were seriously violated. Also S.C. Code § 14-17-530(2) requires the Clerk of Court to Mark each original indictment with the date it was filed. (Now the indictments were filed with the clerk of Courts Aug. 28th 2007 3:46 PM) which was the same day The judge gave time to James Cabbagestalk Now the sentence was given and the grand Jury returned at (3:21 pm) August 28th 2007. It is impossible to have the indictments filed with the Clerk of Courts and have followed Rule 3(c) which states the the prosecutors must take action on a given arrest Warrant within 90 days after receiving the warrant from the Clerk of Court which the indictment

→ Continued ⑤

- not say August 28th 2007. §14-17-530(2): requires the Clerk of Court to mark each original indictment the date it was filed, Jan. 31st 2007
 Attorney J. David Watson filed for my Rule 5 Brady v. Maryland Materials
 We rather he received it back Feb. 28th 2007 and no action was taken on
No indictment then or No warrants, All of a sudden I goes to S.S. Courts of
 Appeals and the Clerk of Courts forward to my Direct Appeal attorney the filed
 Warrants and indictments (faxed) Warrants date 6-25-2008 and the indictment
 faxed 6/26/2008 At 12:12 the Clerk of Courts fax machine # is (843) 841-3706.
Gwen T. Hyatt She also has violated the rules of Court severely, Rule 3
 of the rules of Court speaks on the Disposition of Arrest warrants (A) was
 violated, (B) was violated, As well (C) was violated of Rule 3, (D) As well
 there was no petition to the Circuit Court by Solicitor Redmund for delaying
 Action on the warrants (E) violated to nothing was properly Recorded or
 done if it's not done properly obviously it's not recorded properly if recorded
 at all. Now in dealings to all this an Indictment and Grand Jury witness
 are clearly Established in State v. Capps 275 S.E.2d 872 (1981), State v. Dawkins
 377 S.E.2d 298 (S.C. 1989), State v. Anderson 439 S.E.2d 835 (S.C. 1993): these
 Cases tell us and the Courts no Solicitor or government official, is able
 to go in front the grand Jury with there 3rd Hand hearsay testimony
 and more there Cases are in support of Indictment and Grand Jury
witnesses. Also August 27th 2007 Judge Howard P. King admits in Court transcript
 pg. 7 Lines 19-20 the case came before him A month Ago (July) Comes before (August)
 that's (7 months) way pass the rules of Court and criminal procedures time
 limits clearly showing violations of my Due process rights 14th Amendment, Rule 3(c): State
 's the prosecutor (must) take action on an given arrest warrant within 90 days after
 receiving the warrant from the clerk of Court, I've been falsely imprisoned since
 Jan. 12th 2007 to Aug. 28th 8 months EXACTLY before I seen A jury or was tried
4@2.(B): SPEAKS OF if your indicted No preliminary has to be Held which the
 record and Transcript can reflect I was never indicted pg. 107 Lines 9-12 Judge
 King Exposes Attorney Glenn B. Manning for his ineffective Assistance of Counseling After a
 lay an a half in to trial he knew the indictment wasn't for me After The jury was sworn,
 I accepted forced, unintelligent, involuntary PLEA. I never waived Any indictment before
 my Preliminary hearing rights were interdicted on Jan. 28th 07 and Feb 12th 07. A. + B. + C. + D. + E. + F. + G. + H. + I. + J. + K. + L. + M. + N. + O. + P. + Q. + R. + S. + T. + U. + V. + W. + X. + Y. + Z. + AA. + AB. + AC. + AD. + AE. + AF. + AG. + AH. + AI. + AJ. + AK. + AL. + AM. + AN. + AO. + AP. + AQ. + AR. + AS. + AT. + AU. + AV. + AW. + AX. + AY. + AZ. + BA. + BB. + BC. + BD. + BE. + BF. + BG. + BH. + BI. + BJ. + BK. + BL. + BM. + BN. + BO. + BP. + BQ. + BR. + BS. + BT. + BU. + BV. + BW. + BX. + BY. + BZ. + CA. + CB. + CC. + CD. + CE. + CF. + CG. + CH. + CI. + CJ. + CK. + CL. + CM. + CN. + CO. + CP. + CQ. + CR. + CS. + CT. + CU. + CV. + CW. + CX. + CY. + CZ. + DA. + DB. + DC. + DD. + DE. + DF. + DG. + DH. + DI. + DJ. + DK. + DL. + DM. + DN. + DO. + DP. + DQ. + DR. + DS. + DT. + DU. + DV. + DW. + DX. + DY. + DZ. + EA. + EB. + EC. + ED. + EE. + EF. + EG. + EH. + EI. + EJ. + EK. + EL. + EM. + EN. + EO. + EP. + EQ. + ER. + ES. + ET. + EU. + EV. + EW. + EX. + EY. + EZ. + FA. + FB. + FC. + FD. + FE. + FF. + FG. + FH. + FI. + FJ. + FK. + FL. + FM. + FN. + FO. + 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→ (Continued Page 6)

This goes to show All parties played a part in this illegal proceedings that have no
 falsely imprisoned Judges, prosecutors and the clerk of courts. They all knew it was
 lack of probable cause so I'd be discharged out of the state and government's
 custody. This is also in form of Entrapment you can't make one from one I'm not,
 and there was no Continuances or Extensions filed by the solicitor as Rule 3 (D)
 speaks of the violation of Rule 2. (A): specifically shows the state/solicitor
 had NO solely sufficient evidence to warrant my Detention or Trial. This is
 why a notice of Right to preliminary hearing is given Judge John Davis and Judge
James F. Rogers play a great Role in violating S.R. Rules of Court and criminal procedure.
 If they are judges on Expect to judge humans with man-made law they need to stop breaking
 the law There selfs. Now The grand Jury duty is to listen to evidence of Criminal allegations
Presented by prosecutors and witnesses and to act on as a screen against Vindictive
Prosecutions and unfounded charges, How can They have evidence or see evidence
 when The police man (John Willie Brown) went before The grand jury foreman lady
Ashley Hill herself to have indictment's true billed 3-1-07. A grand Jury consists
 of 12 legal fair grand jurors or more Not (one) person. It looks like to me the policy
 of reviewing cases to see if they have a basic degree of merit before sending them
 for an indictment has been abandoned and violated. The Grand Jury foreman
Ashley Hill should've on 3-1-07 declined to sign off and true bill the indictment
 until march 5th 2007 all the rest of the jurors would've been around, also If the
 grand jury met on march 5th 2007 they should've objected and said "wait a
 minute, I want to hear some specific evidence why the state thinks this
 person committed a crime." It still turns out I was not the person on the
Warrant James Cabbage stalk or on the indictment's, plus How is it (Feb. 7th 07)
(the police Incident Report was filed) which is the information to file the warrants
 and speaks of elements of a crime which must be met in order to Alleged one
 violated such statute or law (Jan. 10th 07) Bogus Warrants were issued (Jan. 12th 07)
 I was arrested How come the incident Report wasn't processed as (Rule 1)
 speaks of and (Rule 3). This is clear violations and (Show beyond A reasonable
Doubt) I'm not Even James Cabbage stalk As pg. 32 Lines 12-15 states Guilt
must Be proved Beyond a Reasonable Doubt which after Accepting an Coerced, persuaded,
 violated & violated statute. It was found that I was not a person who committed a crime. See pg. 107 Line

A CERTIFIED
TRUE COPY

2010-CP-17 091

Don T. Hight

CLERK OF COURT
DILLON COUNTY

Tyrone Gaithe, Appellant
v.
U.S. of America, Appellee
Charles Tatum, Appellant
v.
United States of America, Appellee

2010 MAR 9 PM 4:05
GWENTH HAIT
CLERK OF COURT
DILLON COUNTY

In This particular case the grand jury presentment of defendants for grand larceny was followed by indictment (which was filed by United States attorney and signed by jury foreman "But was NOT" submitted to body of grand jury defendants were entitled to Dismissal of indictment. This case is relevant to State v. James Cabbagestalk Cause the same happened to Shaheen Cabbagestalk whom is forced to illegal do time, never been charged with a crime to have broken the Laws of South Carolina. The grand jury convened March 5th 2007 But the indictment was true billed by Grand Jury lady "Ashley Hill" 3-1-07

- ② Requirement of criminal rules that every indictment must be found by at least (12) grand jurors is a further specification of Fifth Amendment's Command that no person shall be held to answer for capital or otherwise infamous Crime, unless on presentment or indictment of grand jury Fed. Rules crim. proc. rules 6, 6(c, f), 12(b) (2, 3), 18 U.S.C.A. j
- ③ Fifth Amendment guarantees that prosecutions for serious Crime may only be instituted by indictment. U.S.C.A. Const. Amend. 5.

[3] Indictment and Information key 1 210 K 1 : Indictment has as its chief purposes apprising accused of charges against him, so that he may adequately prepare his defense, and describing crime charged with sufficient specificity to enable him to

- ② Criminal rule concerning motions asserting defenses and objections based on defects in institution of prosecution or indictment or information allows motions after plea in all cases provided they are made within reasonable time after appointment of Counsel. Fed. Rules Crim. Proc. rule 12, 18 U.S.C.A.
- ③ (5) Grand jury key 1 : Grand jury is interposed by fifth Amendment to afford safeguard against oppressive actions of prosecutor or Court. U.S.C.A. Const. Amend. 5.
193 K 1
- ④ (6) Grand jury key 33 : Content of felony charge, as well as decision to charge at all, is entirely up to grand jury and grand jury's decision not to indict at all or not to charge facts alleged by prosecutorial officials, is not subject to review by any other body. U.S.C.A. Const. Amend. 5.
193 K 33
- ⑤ (7) Indictment and Information key 171 : proof at trial of facts different from those charged cannot generally be justified on ground that same facts were before grand jury and that jurors might or even should have charged them. U.S.C.A. Const. Amend. 5.
210 K 171
- ⑥ (11) Indictment and information key 10.1 (6) : Signature of foreman of grand jury on indictment could not itself convert indictments, admittedly not seen by full grand jury, into one properly found by 12 jurors as required by rule. Fed. Rules Crim. Proc. rule 6, 18 U.S.C.A.
210 K 10.1 (6)
- ⑦ (12) Indictment and Information key 10.1 (6) : Grand jury as body must pass on actual terms of indictment. Fed. Rules Crim. Proc. rule 6, 18 U.S.C.A.
210 K 10.1 (6)
- ⑧ (15) Indictment and information key 159 (1) 210 K 159 (1) : Amendment of indictment is bad because it deprives defendant of his right to be tried upon charge in indictment found by grand jury and subjected to its scrutiny. Fed. Rules Crim. Proc. rule 6, 18 U.S.C.A.
- ⑨ (18) Criminal Law key 209 : principal function of a Complaint is as a basis for an application for an arrest Warrant. Fed. Rules Crim. Proc. rule 3, 18 U.S.C.A.; U.S.C.A. Const. Amend. 4; ~~18 U.S.C.A. § 3041~~.
110 K 209
- ⑩ (19) Criminal Law key 211 (2) : Because pre-arrest Complaints are designed to play an important role in protection of fourth Amendment rights, they must be sworn to. Fed. Rules Crim. Proc. rule 3, 18 U.S.C.A.; U.S.C.A. Const. Amend. 4; ~~18 U.S.C.A. § 3041~~.
110 K 211 (2)

Rule 6(f) of the Federal Rules of Criminal procedure provides: An indictment may be found only upon the concurrence of 12 or more jurors. And Rule 6(c) emphasizes the requirement that 12 jurors shall find each indictment by its provision that the foreman 'shall keep a record of the number of jurors concurring in the finding of every indictment'. The requirement of the Criminal Rules that every indictment must be found by at least 12 grand jurors is a further specification of the fifth Amendment's Command that no person shall be held to answer for a capital, or otherwise infamous crime unless on a presentment or indictment of a Grand Jury. Rule 12 Fed. R. Crim. P. allows motions after plea in all cases provided they are made with a reasonable time after appointment of counsel. McGill v. United States, 121 U.S. App. D.C. 179 181-182, 348 F.2d 791, 793-794 (1965). ^① An indictment is a charging instrument has been recognized to have (two) Chief purposes - ^{1st} to apprise the accused of the charges against him so that he may adequately prepare his defense and 'second' to describe the crime with which he is charged with which would sufficiently specificity to enable him to protect against future jeopardy for the same offense. ^② To allow the prosecutor or the court, to make a subsequent guess as to what was in the minds of the grand jury at the time they returned the indictment would deprive the defendant of a basic protection which the guaranty of the intervention of a grand jury was designed to secure. For a defendant could then be convicted on the basis of facts not found by and perhaps not even presented to, the grand jury which indicted him. ^③ In the case hold Mr. Sheheen Gbbages stalk falsely imprisoned only the foreman saw and approved the actual indictment, which set out the facts thought to constitute the essential elements of the alleged crime the indictment was not found by the grand jury but by the prosecutor and Alleged Ashley Hill on 3-1-07. S.C. Rules of Court and Criminal procedure was entirely violated Rule 1, Rule 2, Rule 3, Rule 5 and more S.C. Code § 14-17-530(c2): requires the clerk of court to mark each original indictment with the date it was filed. It all must comply with Rule 4, Rule 2, and Rule 3 and more. 257 S.C. defendant in a criminal proceeding is afforded a preliminary hearing to be apprised of state evidence. ^{(state v. flood, 257 S.C. 191, 184 S.E.2d 549 (1971))}

① Was Attorney Glenn B. Manning ineffective for not Assuring his Client Mr. Shaheen Cabbagestalk (10)
- All that there was an indication the the indictment was received and
filed by the Clerk of Court?

② Was Attorney Manning Defective for knowing Mr. Shaheen Cabbagestalk never been
Indicted and that the indictment was never filed by the Clerk of Court
Armed Robbery ans. S.C. Code § 14-17-530 (2) requires?

③ Was Mr. Manning Ineffective for knowing I didn't Consent to the amendment
of the indictment and did not waive grand jury presentment and not
Asking the Judge to Quash the indictment?

④ Was Mr. Manning Ineffective for not objecting to the states failure to ensure
Compliance with § 14-17-530 (2)?

⑤ Was Mr. Manning Ineffective for Not Assuring he seen that the § 14-7-840 The Clerk of
Court maintain a list of jurors that were Excused and why statute was followed?

⑥ Was Mr. Manning ineffective for not Assuring that statute 14-9-70 Appointing
- + of stenographer; duties were properly done? to Assure grand jury meetings were recorded.

⑦ Was Mr. Manning Ineffective for not Challenging the very inconsistent
Police Incident report which never once mentioned my name, and is written
up seriously wrong also States this guy allegedly know me from prison then
the transcript says he know me from the Riverdale area see pg. 65 transcript lines
6 - 18?

⑧ Was Attorney Manning Ineffective for not moving to suppress the wrongful Incident
Identification when later on in the illegally convened trial the state found out that
Mr. Manning's client wasn't James Cabbagestalk?

⑨ Was Mr. Manning Ineffective for not investigating the placement of his client
4 to 5 years ago to assure where he was 4 or 5 years ago being Mr. Shaheen Cabbage
stalk know's he was in prison since 2003?

⑩ Was Mr. Manning ineffective for not objecting and challenging the statement
of the Alleged victim Wayne Russel Dillard as he alleged that Mr. Manning's
Client Allegedly Named (Woody) had a gun, when the Police Report says not once
out twice the person had NO gun? see pg. 67 lines 11-15 of transcript. and
the courts found out later that Mr. Manning's Client is not the alleged that the state talking about and Admi-
ted isn't him.

⑪ Was Attorney J. David Watson ineffective for not turning over the Entire Rule 6(e)
Brady v. Maryland Discovery with Mr. Manning so he could properly defend Mr. Shaheen Cabbagestalk?

⑫ Was Attorney J. David Watson Ineffective for Allowing his client at the time Mr. Shaheen
Cabbagestalk be interviewed by Judges and Solicitor Redmond knowing he never was indicted to be inside
prison?

IN N Effective Assistance of Counsel

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(11)

- ① Attorney Glenn B. Manning was ineffective for failing to investigate the alleged crime scene or hire an expert to go examine this alleged crime scene to see if it was even a crime committed.
- ② Counsel Manning was ineffective for leading me into Court room and pick a jury when he knows I've never been indicted and told me they can't force me inside of Court room per. the 5th Amendment No person shall be held to answer for a capital or otherwise infamous crime until on presentment of a grand jury indictment, he told me this before Court and said Remember that.
- ③ Mr. Manning never advised me of any plea offer by the state as you can see the record rather transcript clearly shows that.
- ④ Mr. Manning was very ineffective for failing to object to the indictment holds me falsely imprisoned before the jury was sworn in as Judge Howard P. King tells him on pg. 107 lines 9-12.
- ⑤ Mr. Manning was very ineffective for Not objecting to trial going on After Solicitor Redmond Admits the names are different see transcript pg. 106 Lines 20-21 and lines 16-18 Mr. Fire probation Agent verified it to I'm not James Cabbages talk.
- ⑥ Attorney Mr. Manning was ineffective for not objecting to me even being in the Court room not indicted plus held liable for a case boils down to who believes who No factual Evidence as lawfully required pg. 111 Lines 9-10.
- ⑦ Mr. Manning was ineffective for Not objecting to Solicitor Redmond Interrogating my Alibi outside the Court's presence and forcing her not to be present inside the Court room so the Judge, the Court, and I may hear what's said to her Even though I'm not to be in Court period see pg. 111 Lines 23-25 and pg. 103 Lines 3-12 Solicitor very ineffective and show prosecutor misconduct which prejudiced me I have the right to a public trial per. 1st Amendment.
- ⑧ Mr. Manning is very ineffective for allowing me to be forced into Court room and as he said he'd certainly like to have had more time pg. 111 Lines 19-20 then turns around and say time isn't the issue.
- ⑨ Mr. Manning was ineffective for Not Asking the Judge to Allow him to continue to get all the case file from Mr. J. David Watson so he could properly defend me and also he tells the Judge He's not prepared to Represent me see pg. 6 Lines 2-3.
- ⑩ Mr. Manning was very ineffective for Not objecting to the Amendment of the A/B/W/I/K which was dropped and I shouldn't keep in Court period for the bogus indictments to be amended period, plus he allowed me to be sent to prison for an indictment or charge not for me I've never been charged for.
- ⑪ Was Mr. Manning ineffective for failing to check to see if All jurors were Qualified Jurors as the requirements require them to be?
- ⑫ Was Attorney Manning ineffective for not Asking for A Mere Presence Charge on the hand of one is the hand of All?
- ⑬ Was Mr. Manning ineffective for not filing a Motion to Quash the indictments that didn't notify me of a... Two violations in... state?

James Cabbagestalk

V.

State of S.C.

Court of Common Pleas

2010-CP-17091

2007-GS-17-00364
16-11-330 (A)Motion for
Overturning of
Conviction

I Shaheen Cabbagestalk file this motion in regard to
a violation of my 4th amendment right searches and seizures, James Campbell
and my miranda warnings which officer Douglas, officer Robert Bucky, officer Wayne Green, officer John Willie Brown, ATF Agent
West Jackson violated by Questioning me and I asked for a lawyer
to be present and at Dillon County Jail in 2007 West Jackson ATF
Agent and James Campbell Questioned me as I was escorted to
this holding empty room by Jailer Troy Jones at the time when
now is an police officer of Dillon County Sheriff's department. My
6th amendment of the Constitution was also violated / Attorney client
privilege which was totally ignored and denied by all named
there for as the supporting Case of Kevin Dwayne Powell was over
turned Do to this and is utilized within the U. S. Supreme
Court also the miranda warnings was violated by the police and this
Judge whom told me it's T.V. law is also in violation of my miranda warning
rights and they could be used anytime during an police interview
see Court transcript "pg. 101 lines 3-20" Also Solicitor Redmond is one
of the above police officers whom can speak for there selfs so Judge King had
no bussiness taking his word to be truthful I never made a statement. See Adams v.
Williams, 407 U.S. 143 There's no probable cause i fso incourt identification won't be needed

By: Shaheen Cabbagestalk

Without prejudice use 1-207

§ 14-7-1010. Judges shall check qualifications of jurors: clearly violated
if judge would've checked Jurors
#19 and Juror #75 would've
never made it at 8/27/07 illegal trial.

2010-CP-17 091

TUESDAY, DECEMBER 8, 2009

THE STATE, COLUMBIA, SOUTH CAROLINA

FROM PAGE ONE

U.S. SUPREME COURT

Miranda warning could get rewrite

By JESSE J. HOLLAND
The Associated Press

WASHINGTON — The Supreme Court on Monday seemed headed toward telling police they must explicitly advise criminal suspects that their lawyer can be present during any interrogation.

The arguments before the justices were the third this year over how explicit the Miranda warning rights have to be, as justices debated whether the warnings police gave Kevin Dwayne Powell made clear to him he could have a lawyer present while being interrogated by police.

Powell was convicted of illegally possessing a firearm after telling police he bought the weapon "off the street" for \$150 for his protection. Before his confession, Powell signed a Miranda statement that included the state-

ments "You have the right to talk to a lawyer before answering any of our questions. If you cannot afford to hire a lawyer, one will be appointed for you without cost and before any questioning. You have the right to use any of these rights at any time you want during this interview."

The Florida Supreme Court overturned the conviction on grounds the Tampa police didn't adequately convey to Powell that he was allowed to have a lawyer with him during questioning.

Joseph Jacquot, Florida deputy attorney general, argued the warning given Powell "expresses all the rights required under Miranda."

Justice Stephen Breyer disagreed. "Aren't you supposed to tell this person that unlike a grand jury, you have a right to have the lawyer with you during interrogation?" I mean, it isn't as if that was

said in passing in Miranda. They wrote eight paragraphs about it. And I just wonder, where does it say in this warning, you have the right to have the lawyer with you during the interrogation?"

Different courts have come down on different sides on what exactly should be said, Justice Sonia Sotomayor said.

"We've got a split of circuit courts and state courts on whether this reasonably conveys or not. Shouldn't that be enough of an ambiguity for us to conclude it can't reasonably convey if there's this many courts holding that it doesn't?" Sotomayor said.

Powell's lawyer, Deborah K. Brueckheimer, said the warning Powell was given from Tampa police gave him the impression that "once questioning starts, that he has no right to consult with a lawyer anymore, and it certainly

doesn't tell him that he has a right to the presence of an attorney with him in an interrogation room, where the coercion takes a highly new meaning."

Justice Scalia called Brueckheimer's argument "angels dancing on the head of a pin."

"You are saying, 'Oh, if he he only known. Oh, if I knew that could have an attorney present during the interview, well, that would have been a different kettle of fish and I would never have confessed,' Scalia said. "I mean, doesn't that seem to you quite fantastic?"

Earlier this year, the justice heard arguments over whether officers can interrogate a suspect who said he understood his right but didn't invoke them, and whether a request for a lawyer during interrogation can expire after a lengthy period of time.

Decisions are expected in 2010.

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DILLON COUNTY

State of South Carolina
County of Dillon

James Cabbagestalk

V.

The state of South Carolina

IN the Courts of Common pleas

2010-CP-17091

Indictment NO. 07-GS-17-0364

IDENTIFIED Motion to Quash indictment
TRUCOPY Because the judicial Circuit Solicitor
Systematically Employ practices
discouraged by the South Carolina Supreme
Court

The defendant moves before the Court for an order Quashing indictment because the Dillon County Judicial Circuit Solicitor systematically employs practices discouraged by the South Carolina Supreme Court. The following memorandum of law supports this motion. The 4th Circuit solicitor uses a long standing system where each police agency designated a Court officer. The Court officer testify before the grand jury except in rare cases where the Court officer also participated in investigation, the defendant is informed and believes that the Court officer merely provides summaries of the evidence in the form of oral hearsay, often times spending less than 3 minutes per. Case. In almost every Case The Court officers are only witness called before the grand jury, In the above stated matter it is under, when and if the investigation officer in this matter Michael Barfield Sr. testified before the grand jury it is clear that the month of 3-1-07 the matter was not true billed by 12 legal grand jurors as the Constitution demands. produce forth Documentation of the grand jury Bill of particulars pursuant to Evans v. State 611 S.E. 2d 510 (2005): Documentation of this proceedings becomes none secretive after a true bill, No Bill Any decision rendered to Establish a Criminal proceeding. see Evans supra "In order for a Court to Establish A Conviction notice is needed of a Crime that has been Committed see SC Const. Art. I §11 also see S.C. Code Ann §17-19-10. (see state v. HANN 12 S.E. 2d Grand jury Impanelment Document's. failure to review the Constitutional Claim will result in a fundamental mis Carriage of Justice under Coleman, 501 U.S. at 749-50. A Conviction without the presentment of a grand jury will be void on Appeal State v. Beachum, 223 S.C. 325, 342 S.E. 2d 597 (1986) U.S. v. Dynavac INC. 6 F.3d. 1407, State v. Jones, op. No. 92 up. 167 S.C. App. Solicitors and officers Cannot be Sole witnesses At Grand jury Hearings, State v. HANN, 12 S.E. 2d 720 (6) Indictment and information (key 1): A presentment of grand jury is Condition

② precedent "to trial for crime except for certain minor offenses as grand jury is constituent part of court, which has no jurisdiction of cause without such presence. The presence of even one disqualified grand juror renders grand jury's findings of indictment illegal, if objected on such ground is timely made and not waived, but such objection may be waived by defendant's failure to make it in time. State v. Bibbs, 192 S.C. 231, 6 S.E.2d 276, 282; The grand jury which found the indictment upon which the appellant was prosecuted was not a legally qualified one for the reason that at least five of its members who participated in its findings were not legally registered because their certificates of registration were not signed by at least two of the members of the Board of Registration for McCormick County State v. Bibbs supra; The Board of Registration of that County had completely overlooked the mandatory requirements of the statutes with reference to the signing and delivery of certificates of registration. Judge King never asked is there any question or concerns about the issuance of the proper registration certificates of the grand jury who returned the indictment in this case. Issue: ① Should the Court quash the indictment because the 4th Circuit Solicitor systematically employs grand jury practices that the South Carolina Supreme Court prohibits? ② Should the indictment be quashed do to fact Mr. Shaheen Cabbagertalk was never indicted by 12 legal grand jurors as the Constitution states and he demands? ③ Should the indictment be quashed cause there were (2) illegal people unwanted inside the grand jury room as jurors #75 Antron Hester and #19 Kenneth Brown whom could've led others to destructive thoughts not to be fair or etc... ④ Should the indictment be dismissed do to fact Mr. Shaheen Cabbagertalk still hasn't been indicted within 90 days of the warrants which don't address him being issued in accordance to statute Argument: The Court should quash the indictment because the solicitor systematically employs procedures discouraged by the South Carolina Supreme Court because the practices could lead to abuses of the grand jury system. Specifically, the solicitor uses court officers from each police agency to be the sole witness before the grand jury and to provide an oral, hearsay summary of the evidence in each case presented to the grand jury. As will be discussed below the S.C. Supreme Court does not approve of this practice. In order to predict how the South Carolina Supreme Court would treat this motion, it is necessary to review the warning issued by the S.C. Supreme Court regarding an officer of the State appearing as the sole witness before the grand jury to provide hearsay, summary testimony. Second it is necessary to review the Supreme Court's eventual prohibition of the solicitor being the sole witness before the grand jury. Finally using this information, it will be possible to predict how the Supreme Court will address his motion. (1) The South Carolina Supreme Court's warn in State v. Capps, 276 S.C. 59, 62, 275 S.E.2d 872, 273 (1981) that solicitor or other officers of the State should not be sole witness before grand jury, and chief Justice Lewis dissent arguing that the practices should be abandoned altogether. In State v. Capps, 276 S.C. 59 62 275 S.E.2d 875 S.E.2d

James Cabbagestalk

✓

State of S.C.

Court of Common Pleas2007-GS-17-00364

2010-CP-17091

Motion to dismissIndictment #'s 2007-GS-17-00364,
2007-GS-17-00363

I Shaheen Cabbagestalk make this motion and pray the Courts grant this motion upon this case which holds me falsely imprisoned. I Shaheen Cabbagestalk was not indicted within 90 days of the bogus warrant being issued in accordance with statute. I ask this false 2007-GS-17-00364 Be dismissed and this motion granted. See the attached Evidence in support of this motion. Also never did I Ever waive grand jury presentment of 2007-GS-17-00364 or signed any indictment in contract to this dealings, I was never indicted by 12 legal grand jurors which is my right lawfully I ask therefore 2007-GS-17-00364 Be Dismissed.
I Shaheen Cabbagestalk Respectfully Submit this motion and attachments:

By: Shaheen Cabbagestalk

without prejudice ucc 1-

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BILLON COUNTY

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BILLON COUNTY

Indictment procedures
Charges Dismissed



2010-CP-17 09

Star file photo
Former Ware Shoals High School principal Jane Blackwell speaks with television reporters in March after warrant against her on obstruction of justice charges was dismissed by a judge after she was not indicted within 90 days of the warrant being issued, in accordance with statute.

MARCH

March was a month of legal issues in Greenwood.

The warrant against former Ware Shoals principal Jane Blackwell on obstruction of justice charges was dismissed by a judge after she was not indicted within 90 days of the warrant being issued, in accordance with statute.

Blackwell's warrant stemmed from the investigation of an incident in which Jill Moore, Ware Shoals' former cheerleading coach and guidance clerk, allegedly purchased alcohol for two minor cheerleaders and put them in a "highly inappropriate" situation involving a sexual relationship, she was having with a National Guardsman. Moore also was alleged to have entered a pretrial intervention program in March that, if completed, would expunge her record of all charges. Moore had been charged with contributing to the delinquency of a minor and providing alcohol to minors.

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DILLON COUNTY

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DILLON COUNTY

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Nation

Supreme Court: Jury selection should be open

Justices rule it is part of a defendant's right to a public trial

By Joan Biskupic
USA TODAY

* whose uncle had been kept out of the courtroom during jury selection.

Presley's appeal to the justices was not subjected to oral arguments or a full briefing from the parties.

The majority said the ruling flowed from prior decisions regarding a defendant's right to an open trial and also the public's right to open proceedings.

WASHINGTON — The Supreme Court by a 7-2 vote Tuesday ruled that a criminal defendant's right to a public trial covers the process of jury selection.

In an unsigned opinion, the justices said the Sixth Amendment right to a public trial requires the screening of jurors to be open to the public.

The case was brought by Eric Presley, who had been convicted of cocaine trafficking in DeKalb County, Georgia, and

Dissenting Justices Clarence Thomas and Antonin Scalia insisted that the majority was breaking significant ground and faulted it for declining to hold a full airing on the case.

Presley's uncle had wanted to watch the judge's screening of prospective jurors, but according to the court record, the judge said he could not sit in the audience with potential jurors.

When Presley's lawyer objected to "the exclusion of the public," the judge said "there just isn't space" and "the uncle can certainly come back in once the trial starts."

After his conviction, Presley sought a new trial and presented evidence that

there would have been adequate seating in the courtroom for people who were not prospective jurors. Georgia courts rejected his appeal.

* The high court reversed and sent the case back for a new hearing, saying that if there wasn't enough space, the judge should have found alternatives to ensure public attendance.

The justices said some situations may require the closing of jury selection, such as when it would interfere with a defendant's right to a fair trial or the government's interest in keeping sensitive information secret.

The court said it was siding with Presley without a briefing after weighing "whether it is so well settled that the Sixth Amendment right extends to jury (selection)."



TUSCALOOSA NEWS

Thomas Wrote dissenting opinion.

The majority stressed that its conclusion "is clear not only from this court's precedents but also from the premise that the process of jury selection is itself a matter of importance, not simply to the adversaries but to the criminal justice system."

The majority noted the First Amendment gives the public and press a right to open trials, including jury screening, and said there "is no legitimate reason at least in the context of juror selection proceedings, to give one who asserts a First Amendment privilege 'greater rights to insist on public proceedings than the accused has.'"

Thomas, joined by Scalia, wrote a dissenting opinion in *Presley v. Georgia* that the breadth of the Sixth Amendment right was not so clear.

Besides departing from the standards that should govern "the Supreme Court's deciding of cases without a full briefing, Thomas wrote, 'today's decision belittles the efforts of our judicial colleagues who have struggled with these issues.'"

2010-CP-17 091

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DILLON COUNTY

James Cabbagestalk

V.

State

Court of Common Pleas.

2010-CP-17 091

A CERTIFIED Motion For S.L.E.D.
TRUE COPY~~2007-63-17-0364~~

Records and Criminal

Charges filed and Crimescene

CLERK OF COURT
DILLON COUNTY

Investigator

2010 MAR - 9 PM 4:10
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DILLON COUNTY
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I Shaheen Cabbagestalk here by Certify that I also falsely imprisoned pro se litigant and wish to file Criminal Charges § 16-17-722. Filing of false police reports, knowledge; penalties (A)(B) § 16-13-240. Obtaining signature or property by false pretense; (1)(2) false imprisonment is a specific intent crime police officers make unlawful arrests, they can be prosecuted for false imprisonment even if they believed the arrest were lawful whether the error concerning an arrest was reckless, negligent, or merely honest causes problems. Most forcible detentions or confinements are considered false imprisonment under existing law. I ask also select provide me with everything in there data base about Shaheen R. Cabbagestalk to show forth Jan. 1st 2007 I committed A crime and on March 5th 2007 Grand Jury of Dillon County indicted Shaheen Cabbagestalk for 16-11-330(A) Armed Robbery or I was never charged with any above crime under 16-11-330(A). I also like to file criminal charges on John Willi Brown, Wayne Green, Robert Bucy, James Campbell, Solicitor Kernard E. Redman, Judge James F. Rogers, Judge Howard P. King for kidnapping me, entrapping me, an falsely imprisoning me conspiring together to have me unlawfully arrested. Douglas pernet and all others named violated 16-3-920 Conspiracy to commit kidnapping and all stated are crimes and punishable by existing law see other statutes, false imprisonment is defined by: liberty: the right to come and go as we please, sometimes called the right of locomotion privacy; the right to be left alone by the government. These are 2 fundamental rights I have which been violated by all named in this motion.

I Ask A Crimescene Investigator Be funded for me AT STATE COST NOT OF Dillon County to prove to the courts No crime occurred Jan. 1st 2007 AT 2010 Rabbit Island R.D. By Wayne Russel Dillon Drive way.

Shaheen Cabbagestalk
without prejudice ucc 1-207.

James Cabbagestalk
v.
State of S.C.

Court of Common pleas

2010-CP-17 091

Motion for Rule 5

Brady v. Maryland
Materials

2007-63-17-00364

CLERK OF COURT
DILLON COUNTY

FILED
CLERK OF COURT
DILLON COUNTY
2010 MAR - 9 PM
GIVEN TO

I Shaheen Cabbagestalk hereby certify that I am imprisoned Applicant in the above captioned case and Evan Cabbagestalk (S.C.) 363 S.C. 495, 611 S.E. 2d 510 speaks of the grand jury documents which I'm entitled to I ask a copy of the Judges order of grand jury impaneling Documents and a copy of the grand jury Transcript which indicted James Cabbagestalk but have me imprisoned for it pursuant to S.C. Codes of law 14-7-1700, 14-4-1770, 14-7, 1720 (D) per. my Rule 5 (D) Brady v. Maryland right. TO Denie this motion would or rule otherwise would violate my statutory and Constitutional right to demand that a properly constituted grand jury consider this case and decide whether to issue a sufficient indictment. See S.C. Const. Art. I, II and V. 22: one who demands and is refused the right to be tried for crime charged against him only upon an indictment presented by a legal grand jury, in instances where such indictment is required may thereafter justly take the position that he has been deprived of life, liberty or property without due process of law in violation of the state Constitution. I am allowed these documents in preparing a defense and ensuring protection of my due process rights

I hereby certify that S.C. Courts of Administration was served with dealing's in regards to receiving grand jury Transcript and documents, Supreme Court of S.C. with an (mandamus), Dillon County Clerk of courts on April 8th 2009 gave an response back to me on this motion to produce documents and Compel them, which several things were asked of the clerk of courts under my Brady right to produce forth.

By! Shaheen Cabbagestalk

without prejudice ucc1-207

* I ASK THE RULES Disclosure in Criminal Cases: (A), (B), (2) Disclosure - c By Prosecution which was violated (3) Continuing Duty to Disclose (4) Failure to Disclose (The court may exclude the testimony of any witness - closed witness offer by either party.
* I ALSO ASK S.C.D.C. BE MADE TO produce forth A copy of policy op-21.09 inmate records plan in regard to this PCR action

Dillon County ~~Court of Common Pleas~~

State of South Carolina

2010-CP-17 091

James Cabbagestalk

V.

State

Motion to produce

and Compel Documents

I Shaheen Cabbagestalk hereby certify that I am the falsely imprisoned pro se litigant in the above captioned matter requesting the following Documents from the Court's Clerk Solicitor Kernard E. Redmond: (1) Fast and speed trial motion filed by Judge Howard P. King July 2007 Court term. (2) The Alleged note used to say I Shaheen Cabbagestalk pled Guilty (3) Dr. Wallace Medical Report on Russel Dillard in 2007 of 2010 Rabbit Island (4) Nichols S.C. 29581. (5) Grand jury proceedings of the above captioned case. (6) Docket list of the grand jury 3-1-07. (7) All State witnesses Names in the Above Caption matter used on file or list. (8) Affidavit of probable Cause to Arrest which was presented to Judge James F. Rogers Jan. 10th 2007 by DCSD John Willie Brown. (9) Reasons why preliminary hearing wasn't had as requested 2 times once by Mr. Shaheen Cabbagestalk and once by Attorney J. David Watson. (10) July 26th 2007 Court term transcript Dillon County General sessions Judge ~~KING~~ was in seat (11) March 7th 2007 Court term transcript of Dillon County General sessions Judge Burch was in seat. (12) May 31st 2007 Judge Hayes was in seat in Dillon County General sessions Court term Transcript is needed and Requested. (13) It is also Asked that the Clerk of Courts provide forth to Mr. Shaheen Cabbagestalk An Indictment Under (6-11-330(A) 07GS17-0364 say his name and it's stating Shaheen Cabbagestalk and an Sentence Being Commitment for Shaheen Cabbagestalk and on either Document is there an A.K.A. on it if not I ask that the Courts State so and Notarise statement.

2010-CP-17 091

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Landings Apt 25

3431 Greenwood Rd.

Colum, SC 29221

29204-4252

Jan 24, 2009

CLERK OF COURT
DILLOM COUNTYMs. Wanda Blauding,
Inmate Records.

P.O. Box 21787

Colum, SC 29221-1787

FILED
GMENT HYATT
2010 MAR -9 PM 4:10
CLERK OF COURT
DILLOM COUNTY

Dear Ms. Blauding:

In reference to your Inmate transcription
dated Oct. 10, 2008 and sent to Inmate
Shabean Cobbagestall.

There is reason to doubt that Shabean
Cobbagestall was ever legally sentenced to
the state. Certainly the SCDC has some respon-
sibility for ensuring that people incarcerated
therein have been legally sentenced.

Can you please tell me, how and where
I can obtain a copy of Cobbagestall's indictment
and sentencing papers? Shouldn't the SCDC
prisoner records have a copy of these docu-
ments?

If not what identifying documents do you
have on file?

Telling prisoners to hire an attorney in prison,
you know that few prisoners have the funds to
employ a reputable attorney.

Please respond promptly!

Lennie M. Blalock

SC Prisoner Advocacy Net.

James Cabbagestalk

V.

State

Court of Common Pleas

Indictment

2007-GS-17-0364

2010-CP-17 091

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Motion to suppress

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2010 MAR 20 PM 01:10
CLERK OF COURT
DILLON COUNTY

I shakeen Cabbagestalk the falsely imprisoned Appellant file
 suppress: (1) the Incourt Identification do to fact if there was properly there would
 be No need for a Incourt Identification and the Court transcript shows I'm not
 the alleged the state thought I was. (2) I ask the warrants in this
 Case at hand be suppressed for false Information which was filed
 with a magistrate and has infringed on my life, liberty, and property
 and is Information that's forwarded to an Indictment, which Information from
 an indictment is the same on a warrant if the Indictment states an
 wrong / different name then the actual person so does the Warrant(s)
 see pg. 104 lines 17-20. (3) I would ask that the police Incident
 report be suppressed to do to 2 different dates it was allegedly
 written up year of 2007 and 2006, The alleged names are not for me,
 about me, and don't involve me period, also the police report is inconsistent
 with what the Armed Robbery Charge states nor does it state
 an element of armed Robbery for me to be charged with which the record
 shows that. Also this violates the S.C. Rules of Court Rules and time limited
 which a police report must be filed with the Clerk of courts in order for the
 solicitor to take action on the issuance of a warrant within 90 days as Rule 3(c)
 speaks of and this also should be suppressed do to the fact how can the warrants
 be issued and active before the police report which is to be sworn in by the
 officer to a magistrate which shows procedures weren't seriously followed
 as the rules of court state. (4) Also I ask the illegal involuntary
 un intelligent Coerced guilty plea by Mr. Manning the attorney be suppressed
 do to the fact I had no business in the Court Room anyway plus you can't
 accept a plea of a trial or of a person who is never to be a trial
 by tried if charged by a Grand Jury that's legally of 12 members
 & Qualified. By: Shakeen Cabbagestalk

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2010-CP-17-0091
COUNTY OF DILLON	)	
	)	
Shaheen R. Cabbagestalk,	)	
a/k/a James Cabbagestalk,	)	
S.C.D.C. No. 295567,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the post-conviction relief application filed March 9, 2010, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Dillon County Clerk of Court's orders of commitment. The Dillon County Grand Jury indicted the Applicant at the March 2007 term of General Sessions for armed robbery (2007-GS-17-0364). Glenn B. Manning, Esquire represented the Applicant.

The State called the case to trial on August 27, 2007. On August 28, 2007, however, the Applicant pled guilty as indicted. The Honorable Howard P. King sentenced the Applicant to eighteen (18) years imprisonment.

A notice of appeal was filed at the South Carolina Court of Appeals. Kathrine H. Hudgins, Esquire of the South Carolina Office of Appellate Defense perfected the appeal in the form of an Anders¹ brief. The Court of Appeals dismissed the appeal. State v. Cabbagestalk,

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

Op. No. 2009-UP-528 (S.C. Ct. App. filed November 19, 2009). The Court of Appeals denied the petition for rehearing on January 21, 2010 and the remittitur was issued February 25, 2010.

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

II.

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

1. Ineffective assistance of plea counsel.
2. Ineffective assistance of appellate counsel.
3. Involuntary guilty plea.
4. Prosecutorial misconduct.
5. Judicial misconduct.
6. Illegal grand jury proceedings.
7. Brady issue.
8. Lack of a preliminary hearing.
9. Lack of subject matter jurisdiction.
10. Not indicted within ninety (90) days.
11. Sentencing judge does not determine parole eligibility.
12. Erroneous judgment.
13. Numerous constitutional rights violated.

In an amendment filed on April 29, 2010, the Applicant makes the following additional allegations:

1. Double jeopardy.
2. Violation of Fifth Amendment.
3. Not the defendant listed in the indictment (James Cabbagestalk).

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance

well within the standard of "reasonableness within professional norms" for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

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

Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

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

IV.

The Applicant's assertion that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin,

the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeké, 282 S.C. 131, 318 S.E.2d 360 (1984)).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248 (1983).

V.

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

VI.

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

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

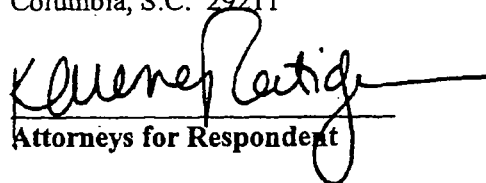
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Columbia, S.C. 29211

By:


Attorneys for Respondent

May 21, 2010

STATE OF SOUTH CAROLINA)

COUNTY OF DILLON)

IN THE COURT OF COMMON PLEAS

2010-CP-17-0091

SHAHEEN R. CABBAGESTALK, 295567)

a/k/a James Cabbagestalk)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

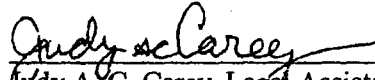
STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** of the Respondent in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

David P. Jordan, Esquire
Post Office Box 50520
Myrtle Beach SC 29579

DATED this 21st day of May, 2010.


 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF DILLON)

Shaheen Cabbagestalk,)
)
)
) PLAINTIFF,)
)
) Post-Conviction
) Relief Hearing
) 2010-CP-17-0091
-VS-)
)
)
) State of South Carolina,)
)
)
) DEFENDANT.)
_____)

BEFORE THE HONORABLE THOMAS A. RUSSO, JUDGE

SEPTEMBER 14, 2010

DARLINGTON, SOUTH CAROLINA

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

Karen C. Ratigan, Esq.
For the State

Heather Cannon, Esq.
For the Defendant

REMA K. GANTT THOMAS
CIRCUIT COURT REPORTER

I N D E X

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E X H I B I T S

THERE WERE NO EXHIBITS INTRODUCED AT THIS HEARING.

1 (The defendant,
2 together with counsel, was personally present in the
3 courtroom.)

4 THE COURT: Yes, ma'am?

5 MS. RATIGAN: Your Honor, may it please
6 the Court. This is the matter of Shaheen
7 Cabbagestalk versus the State of South Carolina.
8 The docket number is 2010-CP-17-0091. Mr.
9 Cabbagestalk was indicted for armed robbery. He was
10 represented on that charge by Mr. Glenn Manning.

11 The case was brought to trial on August of
12 2007. However, partway through the trial, Mr.
13 Cabbagestalk decided to plead guilty to armed
14 robbery. Judge King levied an 18-year sentence on
15 that charge. He did file notice of appeal at the
16 Court of Appeals that was perfected in the nature of
17 an Anders petition, and the matter was dismissed in
18 November of 2009.

19 I've been advised at this point that Mr.
20 Cabbagestalk is unsatisfied with his representation
21 by Ms. Cannon at this time, which if the judge could
22 maybe go into the matter a little bit.

23 THE COURT: All right.

24 Mr. Cabbagestalk, are you ready to proceed
25 today?

5

1 MR. CABBAGESTALK: No, I want to continue
2 it.

3 THE COURT: All right. And what's the
4 basis for that?

5 MR. CABBAGESTALK: The basis for that is
6 because I have --

7 THE COURT: Well -- is that his list of
8 witnesses?

9 MS. RATIGAN: Yes, sir.

10 THE COURT: Well, let me address that list
11 of witnesses first. You have listed here the
12 foreman of the Grand Jury.

13 MR. CABBAGESTALK: Uh-huh.

14 THE COURT: How is that relevant to your
15 PCR?

16 MR. CABBAGESTALK: Okay. How is that
17 relevant?

18 THE COURT: Yes, sir.

19 MR. CABBAGESTALK: This Grand Jury foreman
20 person allegedly signed off on this indictment and
21 true billed on a certain day. And the Grand Jury
22 convened on a certain day.

23 THE COURT: Let me -- I'm glad you raised
24 that issue. I see that here quite often. And I'm
25 not going to have the dates right, but let me guess.

1 It's like on the front of the indictment it says the
2 Grand Jury signed off on like, say, October the
3 14th. But on the other side of the indictment, it
4 says the Grand Jury didn't convene until October the
5 20th, something like that?

6 MR. CABBAGESTALK: Something like that.

7 THE COURT: In other words, the dates are
8 wrong?

9 MR. CABBAGESTALK: No, the Grand -- I'm
10 going to give you the dates. The Grand Jury
11 convened -- allegedly convened -- March the 5th.

12 THE COURT: Okay.

13 MR. CABBAGESTALK: And the Grand Jury
14 foreman, woman, she allegedly true billed this on
15 March the 1st --

16 THE COURT: Right.

17 MR. CABBAGESTALK: -- which is four days
18 too early.

19 THE COURT: Okay. I can tell you now
20 that's not an issue. That's a scrivener's error.

21 MR. CABBAGESTALK: A scrivener's error?

22 THE COURT: Scrivener's error. That's a
23 term that's used that it's just a writing error.
24 The Grand Jury, whether or not the date that they
25 convened -- and we need to look into that, because I

7

1 think what they're doing -- I don't know this. Here
2 I think what they're doing is on one part of the
3 indictment, they're putting the week that they
4 convened. And then the other part, they're actually
5 putting the day.

6 MR. CABBAGESTALK: No, that ain't it.

7 MS. RATIGAN: What they've told me before
8 up here, Judge, is that they convene on "x" date.

9 THE COURT: Thursday.

10 MS. RATIGAN: The report is given on
11 Monday.

12 THE COURT: Right.

13 MS. RATIGAN: They convene on a Thursday
14 or a Friday, but their report is given Monday, and
15 that's why there's a discrepancy. That's something
16 they do.

17 THE COURT: All right. But the point is
18 that's not an issue regarding PCR. That's not an
19 issue regarding your guilty plea. And this is
20 another thing you need to understand, Mr.
21 Cabbagestalk. This case began -- from what I
22 understand, it began as a trial, and then at some
23 point, the trial evolved and became a guilty plea.

24 Now, what occurred prior to that isn't
25 relevant. The issue here is the guilty plea and

1 whether or not your plea was entered into freely,
2 voluntarily, and intelligently with the assistance
3 of counsel, if you had an attorney, and you did
4 obviously, Mr. Manning.

5 You're going down all kind of different
6 roads. On one of your people here you've got
7 listed, the jury commissioner over the book of
8 registration to elect jurors.

9 MR. CABBAGESTALK: Uh-huh. I have the
10 right to have anybody subpoenaed as far --

11 THE COURT: No, you do not. See, this is
12 the problem. You think you know more law than your
13 lawyer. You think you know more law than me.

14 MR. CABBAGESTALK: I ain't never said
15 that.

16 THE COURT: You don't have the right to
17 subpoena anybody you want. You have the right to
18 subpoena witnesses that are relevant to the issues
19 regarding your PCR application.

20 MR. CABBAGESTALK: Uh-huh.

21 THE COURT: I don't have the application
22 in front of me. I'm assuming, because this is in 99
23 percent of them, one of your issues is ineffective
24 assistance of counsel.

25 MR. CABBAGESTALK: Of course.

9

1 THE COURT: Of course. You have the right
2 to subpoena witnesses that can address that issue
3 and any other issue that you list in your
4 application. I don't know even know what a jury
5 commissioner over book of registration to elect
6 jurors even is. I assume that's the person in the
7 county that puts together the jury panel for each
8 term of court?

9 MR. CABBAGESTALK: He would have -- no,
10 you have to have disqualifications for jurors --

11 THE COURT: Yes, sir.

12 MR. CABBAGESTALK: -- to be able to be
13 elected on the jury. They have to have certain
14 qualifications, certain requirements.

15 THE COURT: That's right.

16 MR. CABBAGESTALK: And as I know --

17 THE COURT: There's requirements that the
18 State requires. In every term of court that I have
19 a jury case, I have to go through those list of
20 requirements with the jury panel to determine if
21 they're qualified.

22 MR. CABBAGESTALK: Uh-huh.

23 THE COURT: I do that. The judge does
24 that.

25 MR. CABBAGESTALK: Yes, I know that. But

1 everything that I have on there is relevant to my
2 case. Everybody that I have on there is relevant to
3 my case as far as this PCR application.

4 THE COURT: No, it's not. You might think
5 they're relevant. The issues involving your case --
6 Have you got the application?

7 MS. RATIGAN: Yes, it's in the stack on
8 your left. He may be buried under there, but I've
9 got this one for you.

10 THE COURT: Well, let me ask you this, Mr.
11 Cabbagestalk. Is your need for a continuance you
12 need more time to gather this information?

13 MR. CABBAGESTALK: To gather up all the
14 stuff that I need to prepare to defend myself
15 properly in this PCR application right here and this
16 proceeding, sir.

17 THE COURT: Have you got any problem with
18 Ms. Cannon as your attorney?

19 MR. CABBAGESTALK: Yes, sir.

20 THE COURT: What's the problem with that?

21 MR. CABBAGESTALK: She didn't even --
22 she's not on the job the way she should be
23 effectively to represent me as far as the things
24 that I need, people I need subpoenaed, things that I
25 need as far as to prepare to have to put forth to

11

1 this Court and on the record to help defend myself
2 and to explain my situation as far as why I'm
3 bringing forth this PCR application. She ain't did
4 that. She come and see me two times.

5 THE COURT: But you're telling your lawyer
6 all the things you need to defend yourself on this
7 application.

8 MR. CABBAGESTALK: May I say something?

9 THE COURT: She has reviewed the
10 application. And based on her understanding and
11 knowledge of the law, some of this stuff is not
12 relevant. But you don't seem to accept her view of
13 that. And here's what I'm trying to tell you, Mr.
14 Cabbagestalk, and I don't mean any disrespect. But
15 let me just give you a hypothetical or an example.

16 If you were to collapse right now of a
17 heart attack and they took you to the hospital and
18 they did a check of you and they said, "Mr.
19 Cabbagestalk, if you don't have a heart transplant
20 within the next two weeks, you're going to die. You
21 need to have a heart transplant."

22 And then they tell you, "We've got this
23 thoracic surgeon, this heart surgeon -- we have a
24 heart surgeon who can perform that, or you can get
25 your mechanic down the road who installs engines in

1 cars, and he can do it. So take your pick."

2 I'm guessing you would take the heart
3 surgeon and not the guy who installs engines. Well,
4 in this case, how far did you go in school?

5 MR. CABBAGESTALK: Tenth grade.

6 THE COURT: All right. And I don't say
7 this critically at all. You have a lawyer that has
8 been through high school, through four years of
9 college, through law school, and has been practicing
10 law for some time. To me, it doesn't seem to make a
11 lot of sense that you would think that you know more
12 about your PCR than she does.

13 Now, she can't do her job without your
14 help. Obviously, she needs your help. But when you
15 start telling your lawyer what's relevant, what's
16 not relevant, what matters, what doesn't matter, now
17 you're trying to take over the case, and you're not
18 taking advantage of her expertise. Ms. Cannon is an
19 outstanding lawyer.

20 MR. CABBAGESTALK: I've heard what you
21 said, but I don't need her representation to
22 represent in this procedure.

23 THE COURT: You want to represent
24 yourself?

25 MR. CABBAGESTALK: No, sir. I'm asking --

13

1 THE COURT: Here's your options. Ms.
2 Cannon is your lawyer, or you represent yourself.
3 Those are your options. The law says you have the
4 right to an attorney. You do not have the right to
5 pick and choose who your attorney is.

6 MR. CABBAGESTALK: I'm not doing trying to
7 do that. I'm just asking for a different attorney
8 because I don't feel that she's representing me
9 effectively. All the issues that I have raised, it
10 was never talked about. And every time she comes to
11 see me, the only thing she's doing is reading the
12 transcript. We ain't talking about this case or
13 what's relevant to help me out or any type of
14 defense as far as dealing with this right here.
15 That's all we -- I mean, it's --

16 THE COURT: I can tell you right now.
17 This issue you listed about your case has never been
18 indicted by 12 legal grand jurors --

19 MR. CABBAGESTALK: Uh-huh.

20 THE COURT: -- that's not an issue. It's
21 not an issue. If the basis for your claim there is
22 because the dates are wrong on when they met and
23 when the foreman of the Grand Jury signed it or
24 signed off on it, that's not an issue.

25 MR. CABBAGESTALK: No, that's not the

1 basis for that.

2 THE COURT: Then what is the basis?

3 MR. CABBAGESTALK: I don't want -- I mean,
4 I'm asking for a continuance, Your Honor, as far as
5 my case. You're making me as far as wrong with my
6 case. What I'm asking for an attempt to prepare a
7 defense, to defend myself in this post-conviction
8 relief. That's all I'm asking for. I don't want --

9 THE COURT: No, you're not. You're
10 wanting another lawyer -- aren't you?

11 MR. CABBAGESTALK: I'm asking for -- I let
12 her know that before she even came in here. So I
13 don't know what's going on right now.

14 THE COURT: What's going on is --

15 MR. CABBAGESTALK: I've asked my lawyer to
16 ask for a continuance.

17 THE COURT: -- you're asking for a
18 continuance.

19 MR. CABBAGESTALK: Yes.

20 THE COURT: And what I've been told is you
21 want a continuance, and you want another lawyer.

22 MR. CABBAGESTALK: Yes, I don't need her
23 to represent me. I'm not getting anywhere. I don't
24 --

25 THE COURT: Well, your other option is to

15

1 represent yourself. You don't want to do that. And
2 you may be exactly right on your application. I
3 don't know anything about the case. But you had a
4 lawyer in Mr. Manning. You're not happy with him.

5 MR. CABBAGESTALK: Mr. Manning was a trial
6 lawyer, sir.

7 THE COURT: I know Mr. Manning very well.
8 But apparently you weren't happy with Mr. Manning
9 because you're alleging ineffective assistance of
10 counsel.

11 MR. CABBAGESTALK: Uh-huh.

12 THE COURT: And that's fine. You may be
13 right. I don't know. And now you've got Ms.
14 Cannon, and you're not happy with her. So who do
15 you want to represent you?

16 MR. CABBAGESTALK: It ain't as far as who
17 I want to represent me. It's as far as my -- I
18 mean, this is my life, you know what I'm saying?

19 THE COURT: I understand that, yes, sir.

20 MR. CABBAGESTALK: This is my life.

21 THE COURT: I understand.

22 MR. CABBAGESTALK: I'm human just like
23 you're human, Your Honor.

24 THE COURT: Sure.

25 MR. CABBAGESTALK: And if she's not going

1 to represent me to a normal degree of knowledge and
2 skill and bring forth the proper issues as far as --
3 I mean, it's several things I've shown this lawyer
4 or whatever but --

5 THE COURT: I'm going to give you the
6 continuance, okay? But the problem I've got is
7 you've got -- and I know Ms. Cannon's reputation.
8 She has an outstanding reputation as a very bright,
9 good lawyer. My concern is before I just send the
10 case away, because I'm going to grant you a
11 continuance, is she is only as effective as you
12 allow her to be.

13 But if you're not going to listen to her
14 because in your mind you've already got in your mind
15 these are issues that are important, and if she
16 reviews everything and looks at it and goes, "Mr.
17 Cabbagestalk, that's not an issue," and you say,
18 "Well, I don't care what you say. I say it is,"
19 then if that's the way it's going to be, she's not
20 going to be able to effectively represent you,
21 because you're not going to allow it.

22 Mr. Cabbagestalk, I don't know a thing
23 about medicine. But if I had a doctor assigned to
24 me to help me through a medical procedure, instead
25 of me telling that doctor what ought to be

17

1 happening, I'm going to listen to that doctor.

2 MR. CABBAGESTALK: Uh-huh.

3 THE COURT: Well, instead of you telling
4 Ms. Cannon what she should be doing, maybe you
5 should listen to Ms. Cannon.

6 MR. CABBAGESTALK: I do. I do, sir.

7 THE COURT: I'm going to continue the
8 case. I'm going to grant your continuance. Ms.
9 Cannon is going to remain your attorney, and I'm
10 going to encourage you and Ms. Cannon to listen and
11 understand things that you listed here. They may be
12 relevant. They may not be relevant. I don't know.

13 But my point is let her look at these
14 things. And based on her education, her experience,
15 her working in the legal system, let her get -- you
16 know, the other name for lawyers is counsel. Let
17 her give you her wisdom, her wise counsel, about "I
18 agree with you, Mr. Cabbagestalk, this is relevant,"
19 or "Mr. Cabbagestalk, this isn't relevant. This has
20 nothing to do with" -- because here's the bottom
21 line. You entered a guilty plea.

22 MR. CABBAGESTALK: Uh-huh.

23 THE COURT: It may be that there were
24 problems with that guilty plea. I don't know. But
25 you're wanting to not -- I mean, you do I guess want

1 to go into the facts surrounding that plea, but you
2 also want to go all the way back to the Grand Jury.
3 You're looking for a loophole. You're looking for
4 some way to get this thing thrown back.

5 MR. CABBAGESTALK: No, I'm not looking for
6 a way. I already know what's going on.

7 THE COURT: Well, see, that's the problem,
8 Mr. Cabbagestalk. You think you know what's going
9 on, and you're distrusting, and you think the
10 system's working against you. And so nobody is
11 really going to be able to help you, because right
12 now you don't trust anybody.

13 MR. CABBAGESTALK: I know I got railroaded
14 to be in prison right now.

15 THE COURT: Well, I don't know anything
16 about that. I mean, I don't know the case, okay?
17 I'm not trying to sit here and say I know your case.
18 But my problem is -- not my problem, but what I'm
19 trying to get across to you is to help you with
20 that, a good lawyer has been appointed to help you
21 with that. And she's trying to help focus you on
22 the issues of your PCR.

23 MR. CABBAGESTALK: Uh-huh.

24 THE COURT: And you need to be willing to
25 listen instead of distrusting everybody and trying

19

1 to tell her how to do her job. Let her help you in
2 getting your application heard. That's what I'm
3 encouraging you to do. Whether you do it or not, I
4 don't know. I can't force that.

5 MR. CABBAGESTALK: I understand.

6 THE COURT: But I can tell you if you'll
7 let her, she'll be a big help to you.

8 MR. CABBAGESTALK: May I say something?

9 THE COURT: Yes, sir.

10 MR. CABBAGESTALK: First of all, this
11 lawyer was never appointed to me. David Jordan was
12 appointed to me.

13 THE COURT: Correct.

14 MR. CABBAGESTALK: And that's the name --
15 this is the lawyer I'm looking for. I ain't know
16 nothing about no woman named Ms. Heather or nothing
17 like that.

18 THE COURT: And, Ms. Cannon, how did you
19 get involved in the case?

20 MS. CANNON: Mr. Jordan doesn't practice
21 actively law.

22 MR. CABBAGESTALK: Hmm.

23 MS. CANNON: He's still an active member
24 of the bar anymore.

25 MR. CABBAGESTALK: Hmm.

1 MS. CANNON: And I take his appointments
2 when he's appointed because he doesn't --

3 THE COURT: He doesn't actively practice?

4 MS. CANNON: Right.

5 MR. CABBAGESTALK: Hmm.

6 MS. CANNON: And so that's how the case
7 came to me.

8 MR. CABBAGESTALK: And I had no knowledge
9 of this woman representing me. I'm looking for this
10 guy, David Jordan, to represent me. And she tells
11 me he don't practice law, so what am I supposed to
12 do? Am I supposed to trust somebody like that?

13 THE COURT: That's why you don't have him.
14 That's why you've got her.

15 MR. CABBAGESTALK: I was never advised or
16 put on point this lady would be taking this case or
17 nothing. I'm looking for a guy to come in here and
18 just be whatever. It doesn't matter if it's a guy
19 or a woman. But what I'm saying is that this is
20 what's in black and white in front of me, this guy
21 David Jordan. I don't know nothing about her.

22 THE COURT: Well, was there a change of
23 appointment, an order of changing appointment?

24 MS. CANNON: I have it. We signed it, and
25 I sent it -- we sent it over, and my signature

1 didn't get on it. So we have -- I have the
2 substitution with me right now.

3 THE COURT: You have the order of
4 substitution?

5 MS. CANNON: Yes, sir -- but it hasn't
6 been signed --

7 MR. CABBAGESTALK: Hmm.

8 MS. CANNON: -- by the judge. David
9 signed it, and I signed it, and we sent it. But
10 before it came -- where it came back with my
11 signature was missing. I couldn't get it back and
12 get it back again before we were here today,
13 because, like I said, we got the roster -- or I got
14 the case from Mr. Jordan the first week in August,
15 and the roster came out the next week. And I went
16 to see Mr. Cabbagestalk a week or two after that.
17 So through the mail, that's where the substitution
18 was. And I just decided to keep it with me and
19 bring it here today.

20 THE COURT: Okay.

21 MR. CABBAGESTALK: May I say something,
22 Your Honor?

23 THE COURT: Yes, sir.

24 MR. CABBAGESTALK: So how could she
25 represent me if it's never been officially ordered

1 or signed off by a judge for to do that or for that
2 situation?

3 THE COURT: Okay, all right. I understand
4 your question. But you know what you're hung up on?
5 You're hung up on technicalities and official
6 things. You're hung up on that. Here's the thing.

7 If I'm in a ditch with a flat tire and a
8 tow truck pulls up and I called A-1 Towing and XYZ
9 Towing happens to be riding by and they pull up, I'm
10 not going to tell them, "I don't want you. I didn't
11 call you." "Well, we can help you. It doesn't
12 matter." "I don't want you." That's what you're
13 doing.

14 MR. CABBAGESTALK: No, I mean --

15 THE COURT: Give me the order. I'll sign
16 the order right now, if it will make it official for
17 you.

18 MR. CABBAGESTALK: No, I mean -- but what
19 I'm saying is that is what I'm served with so --

20 THE COURT: I understand.

21 MR. CABBAGESTALK: -- anything coming from
22 there, that came from the Attorney General. But
23 she's telling me -- my thing is how can the Attorney
24 General appoint me a lawyer that don't even practice
25 law, he's not even active?

1 THE COURT: The Attorney General doesn't
2 do it, number one.

3 MR. CABBAGESTALK: But I got it in here
4 from the Attorney General.

5 THE COURT: You got a notice from the
6 Court that Mr. Jordan was appointed to represent
7 you. What she's trying to tell you, Mr. Jordan is
8 still listed as an active lawyer. I don't know Mr.
9 Jordan.

10 Is he either sick or elderly, or what's
11 his status?

12 MS. CANNON: No, sir. Mr. Jordan was
13 behind me about two years in law school. He went to
14 work for his father's company.

15 THE COURT: So he's just --

16 MS. CANNON: So he just doesn't practice
17 law daily.

18 THE COURT: He still -- he doesn't
19 practice law?

20 MS. CANNON: That's right.

21 THE COURT: Okay.

22 MS. CANNON: That's right.

23 THE COURT: All right, now, here's the
24 thing. I practiced law here in South Carolina, and
25 I also practiced law in Georgia.

1 MR. CABBAGESTALK: Uh-huh.

2 THE COURT: Well, when I became a judge, I
3 obviously don't practice law anymore. I don't
4 practice law in Georgia anymore, but I'm still on
5 the roster in Georgia. Now, what I did, because I
6 knew I wasn't going to be practicing, I notified
7 them that I want to be what is called inactive
8 status. So in Georgia, I won't get appointed on any
9 cases because they know I'm still a licensed lawyer
10 in Georgia, but I'm inactive.

11 What Mr. Jordan should have done is he
12 should have notified the South Carolina Bar that he
13 wants to remain a licensed lawyer, but he wants to
14 be inactive status. And then he would have never
15 gotten appointed.

16 But apparently he didn't do that, and so
17 his name came up. It's a simple error. So to
18 correct it, they appointed you a lawyer who is a
19 licensed lawyer, who does practice law.

20 MR. CABBAGESTALK: May I ask, who is
21 "they"? Who is "they appointed"?

22 THE COURT: The way it works is there's
23 two lists with regards to court appointments.
24 There's a criminal list, and there's a civil list.
25 Every lawyer in South Carolina is on either one of

25

1 those lists. You have to be on one. You can choose
2 to be on the criminal list. You can choose to be on
3 the civil list. So everybody's on either one of
4 those lists.

5 And when they do appointments, they don't
6 just find a lawyer. It's like they're numbered one
7 through a thousand. And they start with one, and
8 the first appointment that comes in, somebody
9 applies for a lawyer, when that comes in, they
10 appoint number one. The next one that comes in,
11 they appoint number two, and they just follow the
12 list.

13 MR. CABBAGESTALK: I mean, and another
14 thing, I was told by Ms. Cannon that this guy, he
15 practices revenue or something like that. I mean,
16 this is a civil proceeding and criminal proceeding.

17 THE COURT: Correct.

18 MR. CABBAGESTALK: What would I --

19 THE COURT: Well, he has to be either on
20 the criminal list or the civil list, so he got on
21 the civil list, because he doesn't do any criminal
22 work. And you said tax proceedings or something?

23 MR. CABBAGESTALK: Yes, I mean I was --

24 THE COURT: That's of a civil nature.

25 MR. CABBAGESTALK: I know. I have --

1 THE COURT: So that's why he's on the
2 civil list. The problem is he doesn't actively
3 practice anymore. We're going through a lot. I
4 don't think there's any way I'm ever going make you
5 comfortable with Ms. Cannon being appointed.

6 MR. CABBAGESTALK: It's not about that.
7 I'm just saying I need proper -- I don't know.

8 THE COURT: I don't know what to do other
9 than to tell you she is an excellent attorney. She
10 has an outstanding reputation. She does both civil
11 --

12 You do criminal some?

13 MS. CANNON: Not much.

14 THE COURT: You try to stay -- all right.

15 MS. CANNON: Yes, I try to stay with that.

16 THE COURT: Mainly civil work. I'm
17 getting a little tired of your disrespect.

18 MR. CABBAGESTALK: Disrespect?

19 THE COURT: Yes.

20 MR. CABBAGESTALK: Why you say that?

21 THE COURT: What was so funny about what
22 was just said?

23 MR. CABBAGESTALK: Because she told me she
24 ain't never practiced a criminal case.

25 THE COURT: She just said now that she

27

1 doesn't do criminal law. I thought she did. She
2 told me she didn't.

3 MR. CABBAGESTALK: I know. So what -- I
4 ain't disrespecting --

5 THE COURT: This isn't a criminal case.

6 MR. CABBAGESTALK: I know it's a civil
7 proceeding.

8 THE COURT: Okay.

9 MR. CABBAGESTALK: So when did I
10 disrespect anybody?

11 THE COURT: Well, you've got that little
12 laugh going on. You don't want Ms. Cannon to
13 represent you. You've made that clear. But you
14 don't get to pick and choose. She's your lawyer.
15 Now, she can help you or not, but that's going to be
16 your decision. You'll either work with her, or
17 you'll shut her out. That's your decision.

18 MR. CABBAGESTALK: Uh-huh.

19 THE COURT: Something tells me you're
20 going to shut her out. And so I wish you a lot of
21 luck. I am going to continue the case.

22 MS. RATIGAN: Judge, if I may suggest in
23 the Form 4 that you signed continuing the case, if
24 you could put "The case will be heard during the
25 next term, whether or not Mr. Cabbagestalk chooses

1 to relieve Ms. Cannon," that he'll have to go
2 forward with or without her.

3 THE COURT: He's got an outstanding
4 lawyer. He's either going to go forward with Ms.
5 Cannon, or you can represent yourself. It is your
6 decision. But I'm not going to keep trying to
7 convince you, because you're all hung up on
8 technicalities. And sometimes a technicality does
9 in fact work to invalidate something.

10 But a lot of times a technicality is just
11 that. It's a technicality, and it doesn't have
12 anything to do with the issues. And you may have
13 valid issues that will help you. I don't know. You
14 might. My suggestion is focus on those issues that
15 are real and quit reaching out trying to find some
16 technicality.

17 MR. CABBAGESTALK: Uh-huh.

18 MS. RATIGAN: Thank you, Judge.

19 THE COURT: Good luck to you, sir.

STATE OF SOUTH CAROLINA)

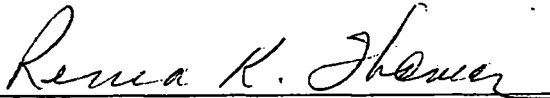
COUNTY OF LEXINGTON)

COURT REPORTER'S CERTIFICATION

I, REMA K. GANTT THOMAS, OFFICIAL COURT REPORTER, AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE ABOVE-CAPTIONED CASE ON SEPTEMBER 14, 2010, IN DARLINGTON, SOUTH CAROLINA.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL NOR KIN TO ANY OF THE PARTIES TO THIS CAUSE OF ACTION, NOR AM I INTERESTED IN ANY MANNER IN ITS OUTCOME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL AT LEXINGTON, SOUTH CAROLINA, THIS THE SEVENTH DAY OF OCTOBER, 2013.



REMA K. GANTT THOMAS
OFFICIAL COURT REPORTER
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES 11/21/2013

FORM 4

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF DILLON)

Case Number: 2010-CP-17-091)

Shaheen Cabbagestalk, #295567)

**ORDER DIRECTING APPLICANT TO
CEASE CONTACTING CLERK'S OFFICE**

Applicant,)

v.)

State of South Carolina,)

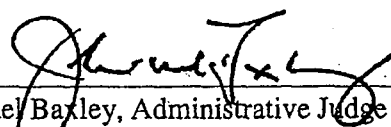
Respondent.)

In this PCR claim, Applicant has been represented by Attorney David Jordan since May 21, 2010. Throughout the pendency of this case, however, Applicant individually has filed numerous letters, writs, motions, documents, and requests for information directly with the Clerk of Court, inundating the Clerk with these various communications. The information sought does not appear to be relevant to Applicant's contentions in the PCR claim. Applicant is directed to stop making such filings.

Henceforth, all filings or communications of any nature whatsoever with the Court or the Clerk shall be through Applicant's counsel. The Clerk of Dillon County is hereby directed to return any future correspondence back to Mr. Cabbagestalk without filing, docketing, or clocking, and shall accept only communications sent by counsel. Counsel for Applicant is ordered to serve a copy of this Order upon Applicant immediately, and file a copy of the service letter with the Clerk of Court.

IT IS SO ORDERED.

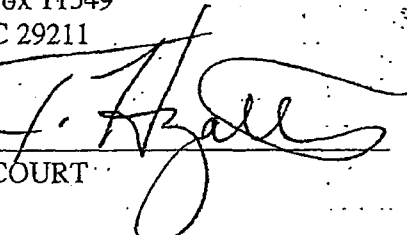
Dated at Hartsville, South Carolina, this 25th day of January, 2011.


J. Michael Baxley, Administrative Judge

This Judgment was entered on the 26 day of January 2011, and a copy mailed first class this 26 day of January 2011 to attorneys of record as follows:

Attorney for Plaintiff
David P. Jordan, Esquire
Post Office Box 50520
Myrtle Beach, SC 29579

Attorney for
Karen C. Ratigan, Esquire
Post Office Box 11549
Dillon County, SC 29211


CLERK OF COURT
JAN 26 AM 10:09
DILLON COUNTY
FILED
CLERK OF COURT
HARTSVILLE

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DILLON	)	FOURTH JUDICIAL CIRCUIT
	)	
Sheheen Cabbagestalk	)	
	)	
Applicant	)	2010-CP-17-0091
	)	
Versus	)	
	)	POST CONVICTION RELIEF
The State of South Carolina	)	
	)	September 12, 2011
Respondent	)	
_____	)	

BEFORE

THE HONORABLE WILLIAM H. SEALS, JR.

APPEARANCES

Heather M. Cannon, Esquire
ATTORNEY FOR THE APPLICANT

Karen C. Ratigan, Esquire
ATTORNEY FOR THE RESPONDENT

Pamela Ozment-Cartee
Circuit Court Reporter

PCR Hearing

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Certificate of reporter

Page 10

SHAHEEN CABBAGESTALK VERSUS THE STATE

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1 (Whereupon, this hearing began at 12:45 p.m.
2 on Monday, September 12, 2011.)

3 THE COURT: Yes, ma'am.

4 MS. RATIGAN: Yes, sir, Your Honor. If I may, just
5 put a couple of things on the record before I turn it over
6 to Ms. Cannon.

7 THE COURT: Sure.

8 MS. RATIGAN: This is the case of Shaheen Cabbagestalk
9 versus The State of South Carolina. The docket number is
10 2010-CP-17-0091. Mr. Cabbagestalk was indicted for armed
11 robbery and assault and battery with intent to kill.
12 However, the state elected to pursue only the armed robbery
13 charges at a jury trial in August 2007. He was represented
14 by Mr. Manning at that time. After the trial commenced
15 however, Mr. Cabbagestalk chose to plead guilty.

16 On August 28, 2007, Judge King sentenced him to
17 eighteen years for the armed robbery charge, and the state
18 agreed to *nolle prose* the assault and battery with intent to
19 kill charge at that time.

20 He did finally appeal, and it was perfected in the
21 nature of an Ander's Brief; however that appeal was
22 dismissed in early 2010.

23 Your Honor, the case has been scheduled before
24 approximately a year ago in this court room before Judge
25 Russo. Mr. Cabbagestalk at that time moved to relieve Ms.

SHAHEEN CABBAGESTALK VERSUS THE STATE

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1 Cannon. He and Judge Russo had a pretty lengthy discussion
2 about it. And Judge Russo found that Ms. Cannon would not
3 be relieved and he needed to proceed with her as his lawyer.
4 However, I have been informed today that perhaps Mr.
5 Cabbagestalk is hoping to renew that motion, and I will turn
6 it over to Ms Cannon at this time.

7 THE COURT: Ms. Cannon.

8 MS. CANNON: That's correct, your Honor. My client
9 informs me that he is not happy with my services, and wishes
10 not to move forward with my representing him. I am not
11 opposed to his motion. I mean, certainly he has a right to
12 make that before the Court, and I'm not going to stand in
13 his way. But I will do as the Court decides. I was
14 prepared to move forward with this case last June at this
15 time. The case was continued. As a result of inclement
16 weather at the beginning of this year, I was prepared to
17 move forward that time, and I am prepared to move forward
18 today. Only I understand that the matter has to be
19 continued, but I let Mr. Cabbagestalk address the Court in
20 regard to his position, Your Honor, but I'm certainly not
21 here to stand in his way if he doesn't want me to represent
22 him. I'll say that my feeling, and from what I've noticed
23 of him today, he doesn't even want me to help him unload his
24 information onto the table. So, you know, I think our
25 relationship is certainly broken down and I think that I

SHAHEEN CABBAGESTALK VERSUS THE STATE

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1 can't help him in the sense that he feels that I should.

2 THE COURT: Did he hire you?

3 MS. CANNON: No sir

4 THE COURT: Mr. Cabbagestalk, have you hired a lawyer
5 to replace Ms. Cannon?

6 MR. CABBAGESTALK: No, sir

7 THE COURT: Why not?

8 MR. CABBAGESTALK: The situation that occurred was,
9 um, I had by the Attorney General's office, I had inside my
10 folder here, I was appointed. I need to pass it up to you?

11 THE COURT: I don't need it.

12 MR. CABBAGESTALK: I didn't know if you would like to
13 see it. But, I was appointed David Paul Jordan by the
14 Attorney General's office and I never seen him. I've been
15 writing, never seen him. He's been passing off letters from
16 me that I wrote to him, to her. I don't even know who she
17 is. I don't even know how she got on my case. But he just
18 completely gave her my stuff about my case over there.

19 THE COURT: She's your lawyer

20 MR. CABBAGESTALK: She's my lawyer.

21 THE COURT: She's your lawyer

22 MR. CABBAGESTALK: A PCR judge has appointed Mr. ---
23 Tommy Russo had appointed her to --- when we was at
24 this hearing to represent me, but if that is the case, I
25 have two lawyers at PCR court.

SHAHEEN CABBAGESTALK VERSUS THE STATE

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1 **THE COURT:** Ms. Cannon would you care to explain what
2 has happened.

3 **MS. CANNON:** I will do that again, Judge. And it was
4 explained to Mr. Cabbagestalk at the hearing with Judge
5 Russo. I take the appointments from Thompson and Henry Law
6 Firm in Conway South Carolina. And at the time that Mr.
7 Jordan was appointed to represent Mr. Cabbagestalk he wasn't
8 working for Thompson and Henry any more. He had gone, and
9 he's not even practicing law anymore. And, so, because he
10 knew I took appointments for Thompson and Henry, he gave me
11 this case to take because he didn't practice law anymore.
12 And, so, I have a substitution of counsel that still does
13 not make Mr. Cabbagestalk happy. He doesn't --- he doesn't
14 want me to represent him. But he, you know, I've explained
15 to him how I got here, as did Judge Russo.

16 **THE COURT:** And why don't you want Ms. Cannon to
17 represent you?

18 **MR. CABBAGESTALK:** Sir I been --- ever since --- this
19 like I said, I don't know where she came from but ever since

20 **THE COURT:** And why don't you talk to her?

21 **MR. CABBAGESTALK:** I've, I've

22 **THE COURT:** She's your lawyer.

23 **MR. CABBAGESTALK:** I've tried to. And I mean, I've
24 been writing her asking to subpoena certain people for me in
25 this case, sir. She's done nothing. I've never seen her

SHAHEEN CABBAGESTALK VERSUS THE STATE

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1 since the day that we've been in here. With Tommy Russo, I
2 wrote several letters, I've got proof of from the mail room
3 people at the institution where I'm at. I've got proof,
4 I've got paperwork notarized, letters that I've written to
5 her. She hasn't responded to me once, period, about
6 nothing. And I mean, there's no way possible that I can
7 actually proceed with this lady. She keeps pushing the
8 issues that I'm talking about off, and she don't respond to
9 me about nothing. I written her I know over ten letters,
10 she ain't responded to me, not one of them.

11 **THE COURT:** Would you like to respond to that Ms.
12 Cannon

13 **MS. CANNON:** I don't have ten letters, your Honor.
14 If he's written them, I've not received them. I do have
15 letters from the first part of the year, as well as two or
16 three weeks ago. He wrote Mr. Jordan asking to have folks
17 subpoena for this hearing today. And, Your Honor, not to
18 get so much into the facts of this case, but Mr.
19 Cabbagestalk had a trial, and he stopped that trail and pled
20 guilty. And, you know, as a lawyer I know that he is
21 limited in the issues that matter on PCR and he --- and I've
22 tried to redirect, and redirect, and redirect, and he
23 doesn't care what I say. And in fact I recall Judge Russo
24 saying to him "You need to listen to your lawyer". What he
25 does is, he tells me what to do in those letters. He tells

SHAHEEN CABBAGESTALK VERSUS THE STATE

8

1 me I need to get this transcript. He tells me I need to get
2 this information. That professionally, I don't think it's
3 going to help him in this PCR. He's limited to the
4 transcript. I've gone over that and nauseam with Mr.
5 Cabbagestalk. In fact, tried to discuss it with him again
6 before this hearing today, and he's not listening to it.
7 And so, you know, my responses to him aren't going to help
8 him. I'm telling him the same information and he doesn't
9 want to hear it. And so, I can't force him to agree with
10 how I ought to represent him in this PCR case, and I cannot
11 ethically, in my opinion, subpoena folks that the testimony
12 would be irrelevant. And so, we have a differing opinion.
13 You know, it's not that I'm intentionally ignoring Mr.
14 Cabbagestalk, it's that he's ignoring me. He's ignoring my
15 advice and preventing me from representing him the way I
16 believe he should be represented. You know, I am at a
17 standstill, and our relationship is so broken down and
18 frustrated. He's not letting me help him.

19 **THE COURT:** It sounds to me like even if I replaced
20 you and relieved you of counsel, he's going to have the same
21 problem with the next lawyer.

22 **MS. CANNON:** I, I certainly --

23 **THE COURT:** He wants to dictate everything, and tell
24 everybody what to do, and not listen to anybody, especially
25 the people who are trying to help him.

SHAHEEN CABBAGESTALK VERSUS THE STATE

9

1 **MS. CANNON:** It's been my experience

2 **THE COURT:** I'm going to deny your motion Mr.

3 Cabbagestalk. You need to get along with your lawyer, talk
4 with your lawyer, consult with your lawyer. She will read
5 your file. She will look at your file. She can't do it if
6 you don't help her. She can only be as good as you are in
7 help to her.

8 **MR. CABBAGESTALK:** Well, that's uh, wrong.

9 **THE COURT:** Really.

10 **MR. CABBAGESTALK:** That's a lie what she just said.
11 What's going on --

12 **THE COURT:** Your motion is denied, you can all head
13 on out of here. Come back another day and we will have this
14 hearing.

15 **MS. CANNON:** Thank you, your honor

16 **THE COURT:** Thank you

17 (Whereupon, this hearing was concluded at
18 12:54 p.m. on Monday, September 12, 2011.)

19 -- END OF TRANSCRIPT --

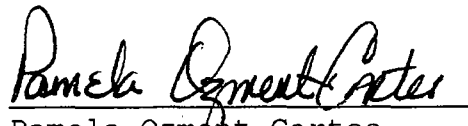
CERTIFICATE OF REPORTER

10

I, the undersigned, Pamela Ozment-Cartee, official Court Reporter for the Fourth Judicial Circuit of South Carolina, do hereby certify, that the foregoing is a true, accurate and complete Transcript of Record in the above captioned case, relative to appeal, in The Court of General Sessions in Dillon County, South Carolina, on the 12th day of September 2011.

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

September 24, 2013

A handwritten signature in cursive script, reading "Pamela Ozment-Cartee", written over a horizontal line.

Pamela Ozment-Cartee
Circuit Court Reporter

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DILLON	)	FOURTH JUDICIAL CIRCUIT
	)	
SHAHEEN CABBAGESTALK	)	
	)	May 15, 2012
APPLICANT,	)	
	)	
VERSUS	)	
	)	2011-CP-17-0091
THE STATE OF SOUTH CAROLINA	)	
	)	
RESPONDENT.	)	

BEFORE

THE HONORABLE J. MICHAEL BAXLEY

APPEARANCES

J. Andrew Johnson, Sr., Esquire
Attorney for The Applicant

Heather M. Cannon, Esquire
Attorneys for the Respondent

Pamela Ozment-Cartee
Circuit Court Reporter

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Allegations by Applicant at PCR	Page 06

WITNESSES

NAME	DIRECT	CROSS	REDIRECT
Shaheen Cabbagestalk	08	28	
James Cabbagestalk	44	None	
Glenn Manning	47	58	

Ruling of the Court	Page 63
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EXHIBITS

Applicant's 1	Plea Agreement	Page 17
Court's 1	Packet of material	Page 47

SHAHEEN CABBAGESTALK V THE STATE OF SOUTH CAROLINA

3

1 (Whereupon, this hearing was called to order at
2 10:14 a.m. on Monday, May 15, 2012.)

3 **THE COURT:** Are we ready?

4 **MS. CANNON:** Yes, Your Honor. Mr. Cabbagestalk informs
5 me that he does not wish to make any motions to have me
6 relieved. And he is ready to go forward, and he will have me
7 ask the questions I have of him. I would appreciate it if you
8 would confirm that with him.

9 **THE COURT:** Will do. We will talk with Mr.
10 Cabbagestalk about that. Mr. Cabbagestalk, good morning.
11 Let's begin this process, if you would please follow our
12 clerk's instructions, we are going to place you under oath,
13 sir.

14 **WHEREUPON, SHAHEEN CABBAGESTALK**

15 **AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS**

16 **MR. CABBAGESTALK:** Yes.

17 **THE COURT:** All right. How are you? I am Judge
18 Baxley, welcome to the courtroom. The reason you are here
19 today is because you have filed an application for post
20 conviction relief and today is the day for the trial. Do you
21 understand that, sir?

22 **MR. CABBAGESTALK:** Yes, sir.

23 **THE COURT:** And of course, part of the process is,
24 whenever anyone files a PCR claim, then the Clerk of Court
25 appoints an attorney, and Ms. Cannon has been appointed as

SHAHEEN CABBAGESTALK V THE STATE OF SOUTH CAROLINA

4

1 your attorney in this case. And she is here with you today,
2 and ready to go forward. And are you ready to go forward, Mr.
3 Cabbagestalk?

4 MR. CABBAGESTALK: Yes and no. I haven't had a chance
5 to speak with her before. I contacted her several times, and
6 didn't get a chance to speak with her probably how I needed
7 to.

8 THE COURT: All right. Well, do you need a few moments
9 now to talk with Ms. Cannon?

10 MR. CABBAGESTALK: Yeah, but she ain't --- I would
11 need to speak with her. But if she ain't help --- She ain't
12 effective as far as me asking her certain paperwork to do over
13 there. But she's not --- she's not effective.

14 THE COURT: Well, let me ask you this way. Ms. Cannon,
15 would there be benefit with you, Ms. Cannon just to have a
16 moment just right there where you are. We could stand down a
17 moment and leave you so you could have some privacy to talk
18 with Mr. Cabbagestalk?

19 MS. CANNON: Well, Your Honor, if Mr. Cabbagestalk
20 would like to speak with me, I would be more than happy to do
21 that. As far as my position and my preparation on this case,
22 it has been since 2010. I was prepared when we came here the
23 first time. I have been prepared every time it has been
24 continued. So, he is correct. I have not spoken to him since
25 the last time we were here. Nothing in this case, in my

SHAHEEN CABBAGESTALK V THE STATE OF SOUTH CAROLINA

5

1 opinion has changed. I have done my job in my opinion, to the
2 best I have to work with him in his application. But
3 absolutely, if he wants time to talk to me, I will be glad to
4 talk to him.

5 **THE COURT:** Let's do this. We are going to stand down
6 and take about a ten minute break, and we will leave the
7 courtroom, so you will have an opportunity to speak right
8 there where you are. And, Mr. Johnson, you may wish to do the
9 same. We will give you a little bit of privacy, and we will
10 be in recess now ten minutes.

11 **MS. CANNON:** Thank you.

12 **THE COURT:** Thank you.

13 (Whereupon, a recess was taken from 10:22 a.m.
14 until 10:27 a.m.)

15 **THE COURT:** All right. Now, having had a few moments
16 for discussion, are you ready to go forward, counsel?

17 **MS. CANNON:** Thank you, Your Honor, I believe so.

18 **THE COURT:** All right. Then what we will do is, we
19 will first of all hear from the Attorney General who will give
20 us the history of this case; its procedural history, Mr.
21 Cabbagestalk, to tell us how it is that we find our self here
22 today. I'll give you an opportunity, Ms. Cannon, to either
23 object or accept that history. And then we will move forward
24 with the Applicant's case going first.

25 All right. Go ahead, Mr. Johnson.

SHAHEEN CABBAGESTALK V THE STATE OF SOUTH CAROLINA

6

PROCEDURAL HISTORY

1
2 **MR. JOHNSON:** If it please the Court? Your Honor,
3 this is the case of Shaheen Cabbagestalk. It is 2010-CP-17-
4 91. Mr. Cabbagestalk was indicted for armed robbery. He was
5 represented below by Mr. Glenn Manning. The case was called
6 for trial on August 27, 2007. And on August 28, 2007 Mr.
7 Cabbagestalk entered a plea before Judge Howard P. King. The
8 sentence was eighteen years. And Mr. Cabbagestalk filed this
9 PCR, March 9, 2010. And he is represented today by Ms.
10 Heather Cannon.

11 **THE COURT:** All right. Is there an objection to the
12 history given to us Ms. Cannon?

13 **MS. CANNON:** No, sir.

14 **THE COURT:** All right. Then if you are ready to
15 proceed, and if you will tell us what allegations are at PCR
16 please?

17 **MS. CANNON:** Your Honor, Mr. Cabbagestalk in his
18 application, he alleged that there was prosecutorial
19 misconduct. He alleged judicial misconduct. He alleged
20 problems with his indictment, which gave him lack of notice of
21 his charge, in his opinion. He alleges issues with the
22 jurors, and violations in their elections. He also alleges
23 issues with the grand jury in regard to his indictments. He
24 alleges ineffective assistance of counsel for Mr. Manning, who
25 represented him in the underlying action. As well as an

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1 appeal was filed in this particular case, and he alleges that
2 appellate counsel was ineffective as well. That is what in
3 his application I hear --- A moment, beg the Court's
4 indulgence.

5 THE COURT: Go ahead.

6 (PAUSE.)

7 MS. CANNON: Your Honor, he alleges ineffective
8 assistance of counsel, ineffective appellate counsel, breach
9 of contract, involuntary guilty plea, violations of the South
10 Carolina Rules of Criminal Procedure, prosecutorial
11 misconduct, Brady Material Rule 5 violations. He alleges that
12 the Court has no subject matter jurisdiction to hear the
13 guilty plea. He alleges violation of South Carolina Code 14-
14 17-530 Section 2. He alleges that his constitutional rights
15 were violated; the fourth, fifth, sixth, fourteenth and first
16 amendment. He alleges that there was illegal grand jury
17 proceedings. He alleges that he has never been indicted by
18 twelve legal grand jurors. He alleges that the hand of one
19 hand of all was violated. He alleges misidentification. He
20 alleges lack of notice of discharge. He has never been
21 indicted. Unwanted jurors in the jury room. No grand jury
22 transcript. No bond hearing. A violation of registration
23 requirements for electing jurors. And judicial misconduct.

24 THE COURT: Very good. Please call your first witness.

25 MS. CANNON: Thank you, Your Honor. I call Mr.

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1 Cabbagestalk to the stand.

2 THE COURT: Please come forward to the witness chair,
3 and please remember that you remain under oath when we first
4 placed you under oath, Mr. Cabbagestalk.

5 MS. CANNON: Can I have these marked, Your Honor/

6 THE COURT: Yes, please do.

7 (PAUSE.)

8 THE COURT: All right. Counsel, you may proceed.

9 MS. CANNON: Thank you, Your Honor.

10 DIRECT EXAMINATION BY MS. CANNON

11 Q. Mr. Cabbagestalk, could you please state your full name,
12 and spell it for this Court?

13 A. My name is Shaheen Ramel Cabbagestalk. S-H-A-H-E-E-N
14 R-A-M-E-L C-A-B-B-A-G-E-S-T-A-L-K.

15 Q. Mr. Cabbagestalk, when is your scheduled release date. I
16 am just trying to give the Court with the current
17 situation --- When is your current release date, or
18 expected release date?

19 A. Like April 2002 --- No, like, 2022.

20 Q. 2022. And what were you convicted of? What did you
21 plead guilty to?

22 A. Well I was advised first of all to plead guilty to armed
23 robbery.

24 Q. That is what you plead guilty to that day --

25 A. -- I was advised to plea to that, because when I went to

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1 court and the Court had no subject matter jurisdiction
2 for me to be in the Court. So, I was told if the case
3 was proceeded to --- if the case was proceeded on to do
4 that and I wouldn't --- I wouldn't --- I wouldn't receive
5 no more than ten years.

6 Q. So, what you thought you were doing that day is pleading
7 guilty, and that you would receive a sentence of no more
8 than ten years. Is that correct?

9 A. Yes, ma'am.

10 Q. Who was the attorney that represented you in that
11 proceeding?

12 A. Mr. Glenn Manning.

13 Q. This man sitting here in this courtroom?

14 A. Yes, ma'am.

15 Q. And how many times did you meet with him? In your
16 application as well as what we announced to the Court
17 today? You are alleging that he was ineffective in
18 representing you in this underlying case. About how many
19 times did you meet with Mr. Manning?

20 A. I would say about two, or three, or two times, or around
21 there.

22 Q. At the time of your guilty plea, did you think you had
23 had enough time to discuss your case with Mr. Manning,
24 and all the aspects involved in it?

25 A. It is totally impossible. He didn't even have my entire

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1 whole Rule 5 to properly defend me, or any of that.

2 Q. Your discovery.

3 A. He didn't have none of that as far as properly of
4 representing me. It is inside of my trial transcript. I
5 have it in there, but.

6 Q. Did he provide you with any discovery?

7 A. No, ma'am.

8 Q. When you went to that trial that day, did the trial
9 actually start?

10 A. Well, I was --- The judge --- The Judge put in for a fast
11 speedy trial motion and put in before we go to trial ---
12 when I went there the other twenty-seven, it was hung up.
13 I didn't know what was going on.

14 Q. My question was. When you went there that day for that
15 trial, did you understand, you know, any defenses you
16 have before you plead guilty? Did you, you know, discuss
17 witnesses, alibis, any of those sorts of things with Mr.
18 Manning?

19 A. Before then, one or two times he came to the county jail
20 to see me as far as --- it wasn't long, as far --- I was
21 just totally quiet and asked a certain amount of
22 questions. Like who was the alibi, and that was it. It
23 wasn't nothing really.

24 Q. You allege that the venue was not proper for that trial
25 that day, and there were some issue with the jury and

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1 judicial misconduct. Would you please tell the Court
2 what your position is as far as, you know, jury
3 misconduct, or judicial misconduct?
4 A. Judicial --- Judicial misconduct. The reason being I put
5 judicial misconduct was because as I was seeing as far as
6 like, the practice of the grand jury proceedings as being
7 the cause of being like, the persons --- that the people
8 that is even over the voter registration department as
9 far as like, what is required of the people and certain
10 things that is required of the people that's jurors or
11 whatever, and you know, we have some people like, one of
12 my cousin and some other people that was on there. If
13 you look at the transcript on page 13 line 22 page 14 ---
14 I meant, page 13 line 22 through page 14, 1 through 12 it
15 speaking about one of my first cousins was there or
16 whatever. But if the Court and all others required to do
17 their job --- if they had did their job and properly went
18 over that to see who was qualified in the jury. And a
19 guy, Anteron Hesler, (phonetic) he was there, he had drug
20 charges or whatever. As far as that, if they would have
21 did their job properly and went through paperwork, then
22 they would have been eliminated at the beginning. And
23 not just that, it is a lot of things as far as like,
24 misleading of the Court by the criminal court of this
25 position, if they did their job and look over paperwork.

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1 Violating my --- violating my constitutional rights. The
2 people that was suppose to have did their job properly as
3 far as making sure the requirements for the registration
4 of the juries.

5 Q. Let me ask you this. Did you discuss this with Mr.
6 Manning? Did you discuss your issues with the jury with
7 Mr. Manning?

8 A. Ah, yes, ma'am. Further as far as that I discussed about
9 Mr. Manning, I do not feel me in Dillon or dealing with
10 that case --- dealing in the case in Dillon would be
11 proper, because I seem like --- I seen like, a lot of
12 underhanded stuff that they were doing and legal stuff
13 they were doing fighting my constitutional rights. And I
14 just felt like I wasn't getting a fair --- a fair trial -
15 -- a fair shake which he told me that. He told me that
16 it shouldn't be no trial, because I had no reason to be
17 in the courtroom period, because there is no subject
18 matter jurisdiction for me to be there.

19 Q. Did Mr. Manning make a motion to change venue? Or make a
20 motion in regard to the jury misconduct?

21 A. He never did. He just mentioned something about it. He
22 just said he felt like it wasn't proper. But I don't
23 understand why he said that. Why wouldn't he tell me
24 from the beginning that I was suppose to be in the
25 courtroom --- the courts didn't have no subject matter

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1 jurisdiction for me being there. Me --- me, I was never
2 Indictment to this very day.

3 Q. Tell me what else, as far as the representation of Mr.
4 Manning and his ineffective assistance of counsel. I
5 know you have other issues, but don't necessarily involve
6 the grand jury. What else did he do? He didn't discuss
7 witnesses, alibi witnesses --- did he adequately --- he
8 did not --- you said he did not adequately prepare you
9 for trial, and discuss discovery; is that correct?

10 A. Yes, ma'am. I had no preliminary hearing. I seen where
11 he said something to the judge about it further on down
12 the line. But, he already tried to bring that up. I had
13 no preliminary hearing. As far as like, by me never
14 being indicted to this very day, that right there could
15 be brought up at a preliminary hearing. So, the effects
16 of me going to trial and being given eighteen years when
17 I could --- the case could have been dismissed at a
18 preliminary hearing or whatever --

19 Q. Because you think the case would have been dismissed at a
20 preliminary hearing, because the Indictment was wrong?

21 A. Yeah. It could have been handled ahead of time. Also
22 before, when the judge --- Judge Howard P. King had told
23 him to bring forth any situation or anything that he have
24 to get off his chest or whatever that goes, and he went
25 down the line after I plead --- he knew that that I was

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1 never indicted --- he went down the line after I plead
2 to this, which I was told to do, he told me to plea, you
3 know. After that he stood up and told the judge, Your
4 Honor, my client has never been indicted. And the judge
5 --- I told you I asked you before --- why didn't you
6 bring this to my attention. It was like, I just found
7 this out twenty-four hours ago. So, the judge was like,
8 well, you should have brought that to my attention.
9 Okay. After that, an indictment was amended, I was going
10 to trial for two charges, assault and battery with intent
11 to kill and armed robbery. Assault and battery with
12 intent to kill was dropped in order for me to plea to the
13 armed robbery, which I thought they were going to run
14 concurrent. That is what I was under the impression, he
15 told me. That was what I was under the impression of.
16 So, the assault and battery with intent to kill was
17 dropped and I plea to the armed robbery. I plea to the
18 armed robbery on his advice, and they dropped it. After
19 that, he found out that I wasn't the person that was
20 never indicted. So, he picked up the indictment, again
21 the judge. This judge picked up the indictment, which
22 the assault and battery with intent to kill, one amended
23 that and dropped it again. Okay, I didn't plead to
24 assault and battery with intent to kill. I was coerced
25 and told to plea to armed robbery. So, if I plead to

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1 armed robbery why would you amend to assault and battery
2 with intent to kill?

3 Q. Now that we are off that. You plead guilty to this
4 charge and are you telling the Court today that your
5 guilty plea was not knowing, that you didn't know what
6 you were pleading to, or that you didn't have information
7 that you were pleading to on that day?

8 A. No, I was just going with what Mr. Manning told me. He
9 tell me --- he tell me to say yes, plead guilty. Plead
10 to it, because you aren't suppose to be in the courtroom,
11 they have no subject matter jurisdiction; you were never
12 indicted.

13 Q. What did you think was going to happen when you plead
14 guilty?

15 A. That I would receive no more than ten years. He said, if
16 that, because I was suppose to be in the courtroom. And
17 I had a plea or the thing there as far as the plea
18 agreement that was -- that was --

19 Q. You are looking at the plea agreement right there and
20 that offered you what?

21 A. To plead to armed robbery, all of the charges will be ran
22 concurrent for ten years, which was negotiated.

23 Q. That was what you were intending to plead guilty to?

24 A. That is what I was looking for --- At any time --- as
25 he told me at any time I would get no more than ten

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1 years, but that didn't happen.

2 Q. It is your position that you would not have plead guilty
3 to that charge had you known that you would have received
4 anything more than ten years?

5 A. Yes, ma'am. If I would have knew I would have received
6 anything more than ten years, I wouldn't have plead
7 guilty to that, because he told me that --- you know ---
8 you aren't suppose to be in the courtroom. If you get
9 any time, it won't be no more than ten years. This plea
10 right here, I've never seen until like, after in one of
11 my transcripts which I presented to the courts, I have a
12 lot of exhibits I would like to present to the Court that
13 Mr. Kernard Redmond had stated that he would tell --- he
14 had a plea offer to give and he would tell it. I've got
15 the transcript in there and all, as far as the exhibit to
16 present to the Court. It will tell it --- and this is a
17 plea agreement right here which was negotiated, that he
18 come in and committed perjury by saying that he never
19 negotiated anything. If you look at the transcript on
20 page 99, line 17, it states that. But here is the plea
21 agreement here which is negotiated for ten years. But I
22 got eighteen years. I was told that I would get no more
23 than ten.

24 Q. Would you like for me to make this an exhibit to the
25 Court? I think that would be appropriate?

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1 A. Yes, ma'am. I have -- yeah.

2 Q. You have extra copies, but I just need this one. This is
3 the same copy?

4 A. Yes, it is the same one.

5 MS. CANNON: Your Honor, if we could enter this as an
6 exhibit into evidence?

7 THE COURT: Is there an objection?

8 MR. JOHNSON: No, sir.

9 THE COURT: Without objection, Applicant's 1 in
10 evidence.

11 MS. CANNON: Thank you, Your Honor.

12 WHEREUPON, APPLICANT'S EXHIBIT

13 NUMBER 1 WAS MARKED AND ADMITTED

14 INTO THE RECORD WITHOUT

15 OBJECTION.

16 Q. Mr. Cabbagestalk, you claim you were coerced by Mr.
17 Manning earlier, and you were saying that you were forced
18 into this plea through the advice from Mr. Manning at
19 that particular time; is that a fair statement?

20 A. Yes, ma'am. As far as me pleading guilty, that's it.

21 Q. Do you have a copy of the indictment that has James
22 Cabbagestalk written on that, rather than Shaheen
23 Cabbagestalk?

24 A. The warrants, the indictment, and the sentencing sheet
25 too.

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1 Q. And is it your position that even though that was amended
2 down the road, that was ineffective and you never had
3 adequate notice of these charges; is that accurate?

4 A. Yes, ma'am. As far as the indictment being amended, I
5 think a judge has no authority as far as amending
6 indictment now. I am only being indicted by the grand
7 jury; twelve legally qualified grand jurors.

8 Q. And tell the Court what is wrong with the grand jury?
9 Are they not legally qualified grand jurors is your
10 position?

11 A. Um, with that indictment --- I was never indicted period.
12 The first I was indicted was James Cabbagestalk. And as
13 far as twelve legally qualified grand jury, only it was
14 true billed on March 5th, or 4th, --- it was true billed
15 on a certain date, but --- no, it was true billed on
16 March the 1st of 2007, but the grand jury was alleged to
17 have met March 5, 2007. My being for saying this right
18 here is because I actually have a order from Chief
19 Justice Jean Toal, where she swiped out all of that. She
20 said there would be no grand jury proceedings from 2006
21 all the way past 2007, which I have as an exhibit. I
22 need to get those out of my folder. I have a number of
23 exhibits that I can present as far as support.

24 MS. CANNON: Your Honor, if I may ask the Court, if he
25 wants to submit this, shall we wait until the end to pull

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1 those out of the file?

2 THE COURT: I think we should. And my recommendation
3 would be that we would just make them all one packet, and that
4 would be Exhibit 2 to the proceedings. And let the state look
5 and see if they have any objection. And that way the record
6 will be complete.

7 MS. CANNON: We will do that. We will introduce those
8 things at the end.

9 Q. Now, you have an issue Mr. Cabbagestalk, regarding your
10 appellate counsel, the lady who filed your appeal for
11 you. What are the issues that you have with her?

12 A. She filed a notice of appeal, but she filed the appeal on
13 the dropped charge. I am not in prison --- I'm not in
14 prison for assault and battery with intent to kill. That
15 was the only indictment that was amended, like I say,
16 which I have the paperwork in there where she admits to
17 that in writing, and signed, and all. Where she sent to
18 me that the only charge that was amended was a dropped
19 charge, which was the assault and battery with intent to
20 kill. I am in prison for armed robbery which has nothing
21 to do with assault and battery with intent to kill.. She
22 stated that in black and white, and I have it here. So,
23 she filed this and that, and I mean, this brief right
24 here on a totally dropped charge. She filed my appellate
25 appeal on a dropped charges.

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1 Q. Did you address those issues when the appeal was denied?

2 A. I addressed the issues when they allowed me to present my
3 personal brief, I addressed those issues, and they were
4 overlooked by those judges, and by Judge Lockemy, and
5 some other judges in there.

6 Q. You did address this with other judges in the past; is
7 that an accurate statement?

8 A. No, ma'am. I addressed it in my brief, and it was
9 overlooked.

10 Q. But you are saying they did not address it, but it was
11 presented to them?

12 A. Yeah, I presented it to the Court, but she presented this
13 to this Courts --- my brief for the dropped charge, but
14 then I contacted her back and told her about it, and she
15 supposedly had did --- she had the supplemental brief
16 that she presented. But instead of her putting the
17 indictment on it, she put the sentencing sheet in beside
18 it, which I have two other exhibits. She put a
19 sentencing sheet on there. So, she just messed up my
20 whole entire brief. She just put --- just filed under
21 bogus charges. I am just sitting in prison for nothing.

22 Q. We announced to the Court that you brought with you today
23 other allegations from --- of why you believe you should
24 be granted a new trial today. Do you have that paper up
25 there with you? Just the one that you brought up there

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1 with you. That one. And it has the issues that you
2 believe are appropriate to present to this Court today,
3 why you should be granted Post Conviction Relief. We
4 have review my notes, we have reviewed the prosecutorial
5 misconduct, and judicial misconduct, the lack of notice
6 of your charges, we have presented information to the
7 Court in regard to the jurors and how you believe the
8 jury selection was inappropriate. We have discussed the
9 venue and how you don't believe the trial should have
10 happened in Dillon.

11 A. Hold on, hold on. As far as that, you are saying the
12 reason why I say that is, is because I didn't feel like I
13 was being given a fair trial, which I was advised that I
14 wasn't suppose to be in trial, that's all.

15 THE COURT: We understand. We follow that. What
16 counsel is doing is going over issues that have been covered.
17 So, what new issues remain?

18 MS. CANNON: Correct.

19 Q. I'm just trying to make sure that I have covered
20 everything in my notes, and you have the opportunity to
21 cover things in yours. So, we have discussed ineffective
22 assistance of Mr. Manning, as well as ineffective
23 assistance of your appellate counsel. Now, you have your
24 list there. Look through it and tell the Court --- this
25 is your opportunity to tell the Court what else you have

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1 issue with. What else you take issue with, and how you
2 should be granted a new trial because those things
3 weren't done properly. This is your opportunity to
4 present whatever is on your piece of paper to this Court.
5 This is your opportunity with this PCR. We have to make
6 sure we cover all issues today, because this is your day
7 in court. Look on that paper that I read to this Court
8 in the beginning, and go through those.

9 A. Yes, ma'am. The issues I seen I filed my PCR is like,
10 ineffective assistance of trial counsel, ineffective
11 assistance of appellate counsel. I have a case against
12 goes with that Ezell v State. The cite is 548 SE2d 852,
13 South Carolina 2001. I have a breech of contract, three
14 pleas ran wild, and one of the pleas I was expecting to
15 get the lower end of the spectrum; from ten to thirty.
16 The lower end of the spectrum ten to thirty would be from
17 like ten to fourteen --- fifteen would be half way. If
18 you take thirty, that's only fifteen --- there is only
19 two parts of that fifteen to fifteen. So, that is how I
20 seen that as far as me having the lower end of the
21 spectrum, I was given eighteen years. Fourteen years
22 would be the lower end of the spectrum of ten to thirty.
23 This --- that --- A voluntary guilty plea I was never
24 indicted. The Court has no --- had no subject matter
25 jurisdiction as far as I was advised by my attorney ---

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1 my trial attorney, to have me in the courtroom would be
2 on the courtroom grounds. And as far as the charges
3 against me, I was never indicted, so I don't understand
4 how I was brought to court for something that doesn't
5 have my name on it. And I have the original warrants,
6 the other warrants that has James Cabbagestalk on there
7 --- I have indictments and everything.

8 **THE COURT:** Mr. Cabbagestalk, are you not aware that
9 that issue went directly up on appeal and was decided against
10 you. That is an appellate issue. And it has been decided
11 against you, sir. I know we are re-plowing old ground, but
12 are you not aware that we have these documents right here
13 before us?

14 **MR. CABBAGESTALK:** No.

15 **THE COURT:** Well, the appellate court heard that
16 issue, and found that it was without merit and dismissed it.
17 Thus, that appeal has been dismissed in your favor. So, the
18 issue about whether you are Shaheen or whether you are James
19 has been decided against you by the appellate court?

20 **MR. CABBAGESTALK:** See, that is why I have the
21 exhibits to show. The charge was on the --- the dropped
22 charges on the --- My appellate lawyer states that. That was
23 the purpose of me --- I don't know --- Can I have my exhibits?

24 **THE COURT:** Well, I hear what you are saying. And you
25 are raising it in the area of ineffective assistance of

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1 counsel, and I understand that. But I also am aware that the
2 Court has considered that issue, the appellate court has, and
3 they decided that issue against you. That was not a
4 meritorious appeal. So, the reason I bring this up is, you
5 are continuing to refer to it. I understand your argument.
6 But if you would move on to another argument. And I will be
7 glad to hear from you on other issues that you wish to raise.
8 And, if you wish to put at the end of this proceeding certain
9 documents in evidence, we will give you an opportunity to do
10 that.

11 **MR. CABBAGESTALK:** I just don't really as far as --- I
12 don't understand exactly what you are saying, Your Honor. I
13 mean, I just want to have it understood that --- What you are
14 saying is that when I went to appellate court, those issues
15 were raised.

16 **THE COURT:** Right.

17 **MR. CABBAGESTALK:** My point of making this point to the
18 Court is, that that was heard, but it was heard on a dropped
19 charge.

20 **THE COURT:** I understand completely what you are
21 saying, Mr. Cabbagestalk. I follow it absolutely and
22 completely. The warrants were mixed, and the paperwork came
23 out wrong. So, I fully understand what you are telling me.
24 So, you can move to your next issue. I understand you.

25 **MR. CABBAGESTALK:** I don't know. South Carolina rules

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1 of criminal procedure, Rule 3(c) which I wasn't indicted.
2 Rule 1 was the warrants. Rule 2 statute §222-5-32, Code of
3 Law, I was denied preliminary hearing, which I have the
4 exhibits to back all of this up. Prosecutorial misconduct,
5 same thing, dealing with the indictment process. The plea ---
6 the plea --- The plea agreement breached was held. The Brady
7 material, Rule 5. Violation of no subject matter to hear
8 South Carolina Code. She has read some of this. South
9 Carolina Code 21417532, which requires the Clerk of Court to
10 mark an original Indictment with the date that it was filed.
11 There is no indication that it was ever received by the clerk
12 of court --- never be processed. South Carolina Code --- No
13 SCDC published --- SCDC has a policy OB21090 correction plan
14 --- if a person is sentencing sheet is invalid --- if the
15 commitment orders is invalid, they are not to accept the
16 person in SCDC. I have that as an exhibit too, as well as
17 paperwork from my appellate attorney saying the sentencing
18 sheet is invalid. You know, that right there goes together,
19 and I want to show the Court that I don't see how I was --- I
20 just feel like I was smuggled to prison, and all the paperwork
21 is invalid. My constitutional rights have been violated, the
22 fourth, fifth, sixth, fourteenth, first, deal with the --

23 MADAME COURT REPORTER: -- Please say that again.

24 MR. CABBAGESTALK: The fourth amendment dealing with
25 the fruit of the poisonous tree --- Wilson v State (phonetic)

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1 --- the warrants case --- warrants, I was arrested with those
2 warrants just like I was beforehand. So, that is a fifth
3 amendment, and fourteenth, my due process. Sixth amendment,
4 my right to confront any accuser or any person who may have
5 made accusation against me. Ineffective --- my counsel being
6 ineffective, fourteenth amendment of due process.

7 THE COURT: Mr. Cabbagestalk, you are quoting a lot of
8 law and a lot of amendments. What we really need from you
9 today are the facts of what you believe happened, that is
10 ineffective assistance of counsel, that is where our focus is.
11 And I am familiar with the amendment issues, the numbers, and
12 what they stand for.

13 But let's go back, counsel, and let you ask the next
14 question, and move to the next issue.

15 Please proceed.

16 Q. (By Ms. Cannon) And, I believe, Your Honor, that the
17 substantive issues we have covered, the issues on what I
18 have pulled from his application. And I think at the end
19 of the day Mr. Cabbagestalk, you know, it is important
20 that the Court understand what are the facts? What did
21 Mr. Manning not do? And how he was ineffective to you?
22 And, your guilty plea --- you plead guilty, so the Court
23 has to hear testimony from you that it wasn't voluntary.
24 That it wasn't knowing. And that you felt coerced into
25 doing it. And if you had a series of other information,

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1 you would not have plead guilty. So, make sure that you
2 tell the Court those things right now, instead of ---
3 Your Honor was saying quoting law and statutes. You have
4 a feeling about this. You don't feel that things
5 happened properly. So, explain to the Court, you know,
6 you didn't explain to the Court that you did stand up and
7 knowingly plead guilty, who tricked you?

8 A. My attorney, Mr. Manning coerced me into pleading guilty
9 to the charge. But he told me at the county jail before
10 I went in there he said, if I am forced to proceed at
11 trial, that to go ahead and plead guilty. You shouldn't
12 get no more than ten years, because you were never
13 indicted, and you shouldn't be in the courtroom. He told
14 me the Court had no subject matter jurisdiction for me to
15 be inside of the courtroom. And if I had knew that, I
16 would have got any more time, more than ten years or any
17 time period, I would have continued on or whatever as far
18 as going to trial. Because I don't feel that he
19 represented me properly as far as like, we went in the
20 courtroom he told the judge he did not have my entire
21 Rule 5 to properly represent me. So, how could he know
22 anything about the case if he did not have the entire
23 Rule 5 evidence.

24 Q. How did the judge respond when he told the judge that he
25 did not have all of the information that he needed?

SHAHEEN CABBAGESTALK - DIRECT EXAMINATION

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1 A. He --- The Judge proceeded with the case. He just
2 proceeded with the case.

3 Q. Do you feel like, but for Mr. Manning's inadequacies in
4 representing you, that you would not have been found
5 guilty had you had a trial on this?

6 A. Yes, ma'am. I feel like --- I felt like I would have
7 --- I would have came out better as far as me pleading
8 guilty, and received eighteen years --- or, I could have
9 took the ten year plea --- I would have took that even
10 though I knowed I wouldn't guilty, but it would have been
11 a better outcome than me receiving eighteen years down
12 the line.

13 Q. Did Mr. Manning explain to you that it was ultimately up
14 to the judge to determine what sentence you received?

15 A. Not as I remember, no.

16 Q. So, did you expect that when you plead guilty you were
17 promised to get ten years? Is that what your testimony
18 is from, Mr. Manning promised you ten years?

19 A. That is what Mr. Manning advised me. He said if I get
20 any time, it wouldn't be over ten years if I get any
21 time.

22 Q. Is there anything wrapping up that you would like to say
23 to the Court, Mr. Cabbagestalk. I believe you have
24 covered the issues. Anything further, Mr. Cabbagestalk?

25 THE COURT: Anything further?

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 A. If it is possible as far as me with the time I have now,
2 if I could have been re-sentenced, I would have rather
3 had --- I would accepted the ten years than the eighteen
4 years, if that is within your powers to do today. If
5 that is possible, do you know what I'm saying, if I could
6 receive the ten years rather than the eighteen years.
7 I'd be better with that as far as that.

8 THE COURT: All right. Well, let's move to cross
9 examination now if there are no further questions.

10 MS. CANNON: Thank you.

11 THE COURT: Is there cross examination Mr. Johnson?

12 MR. JOHNSON: Yes, Your Honor.

13 THE COURT: All right. Please proceed. Please answer
14 questions from opposing counsel.

15 CROSS EXAMINATION BY MR. JOHNSON

16 Q. Good afternoon, Mr. Cabbagestalk.

17 A. All right.

18 Q. In exchange for your plea of guilty, did the State agree
19 to dismiss the other charge against you?

20 A. That's what I was told --- and I was told two different
21 things. I was told from the beginning that they were
22 running concurrent, and I would receive ten years. That
23 is why I thought I was pleading to. Then after that ---
24 after I got in the courtroom and I had signed up --- they
25 took me to sign some paperwork, well I did that as far as

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 like ten years, and then I got in the courtroom and it
2 was switched up, and they was like --- it was a
3 recommendation or something like that.

4 Q. Is it your understanding that they did nolle pros the
5 assault and battery with intent to kill in there?

6 A. I think so.

7 Q. In other words, it was just dismissed that day?

8 A. Yeah.

9 Q. All right. Now, there was a time when the State
10 indicated that they did not oppose a lower end sentence
11 on the robbery charge. Do you remember that? Does that
12 comport with your recollection? When was that exactly,
13 before the jury was selected or after?

14 A. That was after the jury was selected. That was after.

15 Q. Okay. So, before you entered your plea, the State
16 indicted that they did not oppose a lowering sentence on
17 the robber? Sir?

18 A. Did you say before?

19 Q. Before your plea but after the jury was selected. The
20 State indicated that they did not oppose a sentence on
21 the lower end?

22 A. After I plead I --- they told the Judge that towards the
23 end of the dealings of the lower end spectrum of ten to
24 thirty.

25 Q. The important part is, this was before you were

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 sentenced?

2 A. I don't understand.

3 Q. Before the Judge gave you your sentence of eighteen
4 years, this was before that time?

5 A. Yeah.

6 Q. All right. Now, as I read the transcript, there was a
7 time when the Judge offered to amend the indictment to
8 reflect your name?

9 A. Yes, sir.

10 Q. And did you oppose that?

11 A. Of course.

12 Q. If you would, tell us why you opposed it?

13 A. Why did I oppose that?

14 Q. Yes, sir.

15 A. My understanding, and doing, and reading stuff, and me
16 seeing case law or whatever, after this me being in
17 prison or whatever, I have learned that a judge is not
18 suppose to amend indictment. The only people who can
19 amend is the grand jury. Twelve legally qualified grand
20 jurors.

21 Q. What was your reason at the time? I know you have
22 learned that since you have been incarcerated and had
23 some time to study. But, at that time when the Judge
24 offered to amend the indictment, what was your reason
25 then for saying that you did not want him to?

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 A. Because I knew it wasn't me. And as far as him amending
2 the indictment to get me my participation what I wanted
3 to describe or whatever I didn't do anything. I don't
4 know anything about nothing. So, why would I allow him
5 to do that and fix it? And if you fix it, that is just
6 like saying you are not guilty but we are going to accept
7 this anyway or whatever. That is how I felt.

8 Q. Yes, sir. Let's talk about the indictment. Did you know
9 what crime you were being charged in that indictment just
10 by reading it?

11 A. In the indictment as far as the armed robbery or the
12 assault and battery?

13 Q. Yes, sir. Or both.

14 A. Well I didn't have a proper understanding as far as the
15 law and what was going on. I was listening to Mr.
16 Manning as far as what was going on.

17 Q. For the armed robbery indictment, could you tell from
18 reading it that it was an indictment for armed robbery?

19 A. I seen the words armed robbery on there.

20 Q. Yes, sir. So, you knew it was an indictment for armed
21 robbery?

22 A. Yes. I seen the words armed robbery on there. But I
23 realized I see the word indictment on there.

24 Q. How about the other indictment for assault and battery
25 with intent to kill? Could you by reading that

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 indictment tell that that was an indictment for assault
2 and battery with intent to kill?

3 A. Yeah.

4 Q. Sir?

5 A. Yes, sir.

6 Q. When did you --- At what point did you see that there was
7 an issue with the name on the indictment?

8 A. It be way before we even went to trial, Mr. Manning
9 pointed out to me. It was in the county jail and telling
10 me that he would bring it up when we got in the
11 courtroom, because I should not even have to go in the
12 courtroom.

13 Q. What did you tell Mr. Manning at that time?

14 A. I would appreciate you doing that sir if it would help me
15 out as far as doing your job or as far as being attorney
16 to defend me --- public defender defend me. I would
17 appreciate that.

18 Q. It is my understanding that you were claiming that your
19 name is Shaheen Cabbagestalk, but that indictment says
20 James Cabbagestalk. Am I right?

21 A. Yes, sir.

22 Q. At one point did you raise this issue to Mr. Manning?

23 A. When he came to see me at the county jail. When he
24 brought forth that to me a couple of days --- I think it
25 was a day or two --- a couple of days before we even

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 forced to trial.

2 Q. Do you remember if it was a couple of days, or just the
3 day before?

4 A. It was a couple of days before, I think it was a couple
5 of days --- a few days before.

6 Q. You told him what, this isn't me?

7 A. Yeah. Like you see these indictments, and the name on
8 the indictment is not for me, and he looked at it or
9 whatever, and he was like, you know, you're right, I
10 bring this to the Judge when we get in there. And saying
11 as far as you shouldn't have to go. There is no case.
12 You have never been indicted. You are not a defendant of
13 general sessions. You are not a defendant, so why would
14 you be there?

15 Q. Who is James Cabbagestalk?

16 A. As far as I know, I found out that is family members of
17 my name --- my grandfather one of my uncle name.

18 Q. Have you ever gone by any other name beside Shaheen
19 Cabbagestalk?

20 A. No, sir.

21 Q. As far as Dread?

22 A. As far as me having dreadlocks. That's it. I have never
23 gone by James.

24 Q. Are you saying Shaheen Cabbagestalk was your name given
25 by your parents at birth?

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 A. That's right.

2 Q. And that is on your birth certificate?

3 A. Yes, sir.

4 Q. You have never had a name change or anything like that?

5 A. Never --- never had a name change or anything.

6 Q. What is your explanation of why they would have gotten
7 the name wrong on the indictment?

8 A. What is my explanation? I don't know. They got the
9 wrong person. James, that's not me, he picked me up off
10 the street with warrants for James, but that's not me. I
11 mean, I told the police that. I told Wayne Grigg,
12 (phonetic) and John Williams that, and maybe Willie Brown
13 that when they picked me up. I have the original
14 warrants and the yellow copy.

15 Q. There was an issue raised about your sentence not being
16 on the low end of the range. And I am wondering if you
17 know why that is? Or if you have a theory as to why your
18 sentence did not end up being on the low end?

19 A. I remember Mr. Manning and others in the courtroom ---
20 Mr. Kernard, I remember Mr. Manning saying when the trial
21 started they up the ante or something like that or
22 whatever. But as far as me knowing why this is given
23 over to the lower end of the spectrum, I don't see why he
24 would have done that.

25 Q. So, basically your understanding was they upped the ante

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 when the trial starts?

2 A. That's what I was told --- what I heard Mr. Manning say
3 to me.

4 Q. If you had entered the plea before the trial had started,
5 do you still think you would have been given the low end
6 of the range?

7 A. I believe the Court would have accepted the ten years.
8 As far as me receiving eighteen years, I would have plead
9 to ten years. I believe the Court would have gladly had
10 accepted that. That is what I was pleading to was ten
11 years.

12 Q. You had an issue raised about appellate counsel, and I
13 want to make sure that I understand what you are saying.
14 I think you were saying that appellate counsel raised the
15 assault and battery with intent to kill but not the
16 robbery charge. Now it appears --- Do you have the
17 appeal up there in front of you?

18 A. Yes, sir. I have it.

19 Q. If you have it, and if not I can hand you up mine. But
20 it appears and I am trying to understand what your claim
21 is here.

22 A. It appears --- both indictments were covered.

23 Q. Yes, sir; 363 and 364 robbery and assault and battery
24 with intent to kill. And the same issues were raised in
25 the appeal are basically what you are raising here today

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 regarding the issue with your name.

2 **MS. CANNON:** Your Honor, I will be happy to help my
3 client.

4 **THE COURT:** Go ahead, please do.

5 (Whereupon, Ms. Cannon assist her client off
6 the record.)

7 **(PAUSE.)**

8 **MS. CANNON:** He has the appeal. Apparently he is
9 looking for something else. But I will let you do it.

10 A. What was your question again, sir?

11 Q. Yes, sir. I understand that you had a claim about your
12 appellate counsel, and just listening I thought you said
13 that the appellate counsel failed to raise the armed
14 robbery charge; is that right?

15 A. No, I said that she raised --- she filed this appeal on
16 the dropped charge. See, she was thinking that the armed
17 robbery charge was amended. But the only charge that was
18 amended was the dropped charges, which was the assault
19 and battery with intent to kill. And I have a letter
20 right here from her stating it is in black and white with
21 her signature on it.

22 Q. Okay. But both charges were argued in the appeal on your
23 behalf. Is that correct?

24 A. I wouldn't say --- I wouldn't say that, because she ---
25 it was the way it was done --- it was done in a way to

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1 where she raised --- she --- she --- she --- she stated
2 the armed robbery, but after her stating the armed
3 robbery she jumped off the armed robbery and went to the
4 charge that was amended. If she just put the armed
5 robbery as far as like, a veil, then behind the veil she
6 went on to the assault and battery with intent to kill
7 charge, which was a dropped charge, which is the only
8 charge that was amended.

9 Q. Well, okay. I'm having a little trouble, because just
10 looking at it, it does appear that she covered the armed
11 robbery as well. Am I missing something?

12 A. I don't understand the question. You saying that --

13 Q. If you would just tell me your main complaint with the
14 appellate counsel? Help me understand that?

15 A. My --- my --- my main complaint on this right here is
16 that she filed this brief where she states about the
17 armed robbery then left --- just totally left the armed
18 robbery charge and went to a dropped charge of assault
19 and battery with intent to kill, which is the only charge
20 that was amended. I don't know if it please the Court
21 better, but I have the paperwork here that where she
22 wrote and stated what I'm telling you now --- she wrote
23 the same thing here on this paperwork right here.

24 Q. I think I understand. At some point the Judge in the
25 lower court asked you whether you wanted to go forward or

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 not, and I think you told him. And I am referencing page
2 9 of the transcript line 15, I want to go forward. Do
3 you remember that?

4 A. Yes.

5 Q. Basically, this was your opportunity to say, hold up Your
6 Honor, I'm not ready. Something isn't right. Why didn't
7 you stop the process at that point and try to raise some
8 of these issues?

9 A. I did several times, if you will look before that from
10 the beginning, I did several times, as well as my
11 attorney Mr. Manning, told the Judge he is not ready to
12 proceed with this case, because he don't have the entire
13 Rule 5. He said that not one time, he said it more than
14 once. And the Judge then forced you are going proceed --
15 - this is what is going to proceed with this case today.

16 Q. So, at that point you chose to just tell the Judge you
17 wanted to go forward?

18 A. Yeah, because he wasn't going to let me not go forward.
19 He didn't force that either. He made a fast speedy trial
20 motion and forced me --- it tells you that inside the
21 transcript, if you look inside of the transcript, it
22 tells you that he made --- I made a fast speedy trial
23 motion for you to come to trial. This is what the Judge
24 is saying, Mr. Howard P. King, he states that inside the
25 transcript. So, there was no other way --- if I see all

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1 this legal stuff on another way for me to do anything but
2 accept the ten years or go to trial and catch thirty
3 years or whatever else. I'd rather take the ten years
4 than the eighteen or the thirty years.

5 Q. Is it fair to say that the Judge was going to relieve the
6 State from going forward with the speedy trial motion if
7 the case had been continued at your request?

8 A. That is what was said, yes, sir.

9 Q. Okay. So, the Judge was basically was going to relieve
10 them from having to honor that speedy trial request if
11 the case was continued, because you asked for it to be
12 continued? And that is when you said, I want to go
13 forward.

14 A. No, when he said that as far as the situation goes, he
15 was just saying, you will be sitting in the county jail
16 longer and I don't know how long it will take, but that
17 is irrelevant as to what is going on.

18 Q. Now Mr. Manning was not the first lawyer to represent
19 you?

20 A. J. W. Watson.

21 Q. Mr. Watson represented you first; was he appointed?

22 A. Preliminary, yeah. In the pre-dealings in this case.

23 Q. You said preliminary. Did he represent you at a
24 preliminary hearing or just --

25 A. -- He filed for one. I filed for one. Mr. Manning filed

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 for it again. Afterwards, down the line --- I have a
2 piece of paper here that states where he was suppose to
3 had filed for one. Asked about it --- he asked for one,
4 because I filed for it myself.

5 Q. At this point you had already been indicted; right?

6 A. No. I've never been indicted. The person James has been
7 indicted.

8 Q. At the point in time when you say they should have gotten
9 you a preliminary hearing, there was an existing
10 indictment which appeared to be for you?

11 A. Yeah. That's what it was though. That is why I see the
12 Court forcing me to trial. But when you get to trial
13 when you find out that is not me, that the person
14 indicted wasn't me, then that goes to show you that my
15 rights were violated from the beginning. Which if I were
16 to proceed with the preliminary hearing, it would have
17 never end up at trial, and me having to go through this
18 and worry about a plea or anything, because it could have
19 been dismissed at a preliminary hearing.

20 Q. Let me go back and cover something that we covered
21 earlier. Prior names that you have been known by.
22 Dread, I think was some --

23 A. -- That is the only one people call me.

24 Q. No one calls you Woody? Have you ever heard that?

25 A. I've heard that when we went to trial that some guy was

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 saying. I don't know who this person is or who that is.

2 Q. Some guy was calling you Woody?

3 A. Yes, sir.

4 Q. Did that mean anything to you?

5 A. I don't know what that is suppose to mean.

6 Q. And you have never seen this person before?

7 A. No.

8 Q. Would you recognize him again if you saw him today?

9 A. As far as me being in the courtroom, I see him in the
10 courtroom I probably would be able to.

11 **THE COURT:** Anything further?

12 **MR. JOHNSON:** Just briefly, Your Honor.

13 Q. You had a claim, Mr. Cabbagestalk regarding grand jury.

14 And I was listening during your direct testimony.

15 Something about your cousin. I didn't understand the
16 claim and I want to make sure I do understand it. Are
17 you saying that your cousin was on the grand jury panel,
18 or was one of your grand jurors; what is your point?

19 A. Yes, sir. He was juror number 9, scheduled to be heard,
20 and he stood up, and the Judge asked him about was there
21 any people, any persons, anyone have a record; not just
22 them that was my first cousin, he was there,

23 Q. What is your cousin's name?

24 A. Kenneth Brown.

25 Q. Can you spell that for me?

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 A. K-E-N-N-E-T-H.

2 Q. Last name?

3 A. Brown. B-R-O-W-N.

4 Q. And that is a cousin of yours, and he was on your grand
5 jury?

6 A. Yes, sir.

7 MR. JOHNSON: Beg court's indulgence, Your Honor.

8 THE COURT: Yes, sir.

9 (PAUSE.)

10 Q. One other thing that you mentioned regarding your
11 discussions with Mr. Manning is that you say he told you
12 that you would get no more than ten years if that --- I
13 tried to write down what you said, but I may have gotten
14 it wrong. Correct me if I got it wrong. And then you
15 also said, if I get any time at all --- I'm trying to
16 understand what you mean by that.

17 A. Because I was told I should not be in the courtroom.
18 What I was told I should not be in the courtroom, so
19 there is no reason why you should get any time. It
20 wouldn't be over ten years, but I ain't never see this
21 plea --

22 Q. Well, with regard to the language if I get any time at
23 all, were you under the impression that if you plead you
24 might walk away with zero time?

25 A. No, I wasn't under the impression at all --- We were in

SHAHEEN CABBAGESTALK - CROSS EXAMINATION

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1 the courtroom, he would have brought forward as far as me
2 not --- the Judge from the beginning --- before the trial
3 comes up and everything was said and people were examined
4 or whatever, that you know, it could have been an old
5 issue, never been indicted in the first place, that is
6 not him, so the Judge will show us mercy as far as
7 dismissing the case, and it would have never happen.

8 (PAUSE.)

9 THE COURT: Anything further?

10 MR. JOHNSON: I think that is all I have.

11 THE COURT: Very good. I am going to let you return to
12 your counsel's table. And then you all work out among
13 yourself what documents you want to put in evidence, and we
14 will mark them as Applicant's Exhibit 2. Please watch your
15 step as you are going down. We will get someone to get those
16 for you. We will bring them over to you.

17 Officer Wirhousky, do you mind taking those packages over
18 to Mr. Cabbagestalk's table.

19 We will just give you a moment to pull out the documents
20 that you wish.

21 (Whereupon, Ms. Cannon assist her client in
22 preparing the exhibits.)

23 MS. CANNON: Your Honor, we subpoenaed James
24 Cabbagestalk, he is back in the pew there. I will call him to
25 testify that that was his name on the indictment, and not my

JAMES CABBAGESTALK - DIRECT EXAMINATION

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1 clients. That would be the extent of his testimony. I ask if we
2 could stipulate to that, but I think we can't.

3 **THE COURT:** All right. Please call your next witness.

4 **MS. CANNON:** It will be very briefly. I call James
5 Cabbagestalk to the stalk.

6 **THE COURT:** Please come forward and take the oath of a
7 witness.

8 **WHEREUPON, JAMES CABBAGESTALK**

9 **AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS**

10 **MR. CABBAGESTALK:** Yes.

11 **MS. CANNON:** Thank you, Your Honor.

12 **DIRECT EXAMINATION BY MS. CANNON**

13 Q. Mr. Cabbagestalk, would you please state your full name
14 for the record, and spell it for the Court?

15 A. James Cabbagestalk, Jr. J-A-M-E-S C-A-B-B-A-G-E-S-T-A-L-
16 K, JR.

17 Q. Do you have a middle name?

18 A. No, ma'am.

19 Q. Can you tell the Court what your relationship is with Mr.
20 Shaheen Cabbagestalk?

21 A. Ah, that's my nephew. His mother's name is Joyce, and
22 she is my sister.

23 Q. Do you know if Mr. Shaheen Cabbagestalk was James
24 Cabbagestalk?

25 A. No, his name is not James, that is for sure.

JAMES CABBAGESTALK - DIRECT EXAMINATION

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1 Q. Are you familiar with the warrants that were issued in
2 the underlying case that had Mr. Cabbagestalk --- that
3 name --- that affected you; is that accurate?

4 A. Yes ma'am. My boss wife heard it. She called him up and
5 asked him was I locked up. He called me. I'm in Chicago
6 and I told him you got the wrong one, that's not me.

7 Q. No one ever tried to arrest you over those indictments or
8 anything like that?

9 A. No.

10 Q. They got his name wrong as far as you are concerned; is
11 that correct?

12 A. Yes, ma'am.

13 MS. CANNON: I don't have any further questions for
14 you. Please answer any questions that the Attorney General
15 has or the Court may have.

16 THE COURT: Cross examination?

17 MR. JOHNSON: I don't think I have any questions.

18 THE COURT: Very good. Then we will let you step down,
19 and you are released from subpoena, you are free to go if you
20 wish, Mr. Cabbagestalk.

21 MR. CABBAGESTALK: All right. Thank you.

22 THE COURT: You have a good day.

23 MR. CABBAGESTALK: You too.

24 (Whereupon, counsel for the applicant has a
25 discussion with her client off the record.)

JAMES CABBAGESTALK - DIRECT EXAMINATION

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1 (PAUSE.)

2 THE COURT: All right. Counsel, is there an agreement
3 as to what you wish to put into evidence?

4 MS. CANNON: Your Honor, basically it is a packet of --
5 - it is a mixture of transcripts, my client's notes and case
6 law, and he has a plethora of things here. I have just
7 reviewed it just as much as Mr. Johnson did. So, I am sure he
8 has some reservations which he can explain to the Court what
9 they are, and what the Court might --

10 MR. JOHNSON: Well, just in the interest of justice,
11 Your Honor, what Mr. Cabbagestalk would be able to have a
12 voice today, to voice his concerns. The process by which we
13 submit these documents, I just can't agree to the whole
14 collection. But, I see that there are things that are already
15 in the record, which we may be able to agree. And there is
16 case law which occupies somewhat that we could just probably
17 cite instead of submitting them. But some of this is Mr.
18 Cabbagestalk's personal notes. And, to submit it as evidence,
19 I don't think would be proper in this fashion. It is just an
20 exhibit, and I guess I have less concern as to what --

21 MS. CANNON: As an exhibit --

22 MR. JOHNSON: But as evidence I cannot allow it to
23 come into evidence without a thorough examination of the
24 documents. As an exhibit I have less concern. But if we
25 could --

JAMES CABBAGESTALK - DIRECT EXAMINATION

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1 **THE COURT:** Very good. Let's do this. Whether than
2 spend any further time on it, the Court is going to mark it as
3 a Court's Exhibit, without the State making any admission as
4 to its ultimate admissibility at trial. It will be available
5 for our appellate court to review if they wish to do so, and
6 we will mark it as Court's Exhibit 1.

7 **MS. CANNON:** Thank you, Your Honor.

8 **THE COURT:** Very good. Please bring this forward. And
9 this is a group. Mark it as Court's Exhibit Number 1.
10 Is that the group right there?

11 **MS. CANNON:** Yes, sir.

12 **THE COURT:** We will mark it as Court's Exhibit Number
13 1.

14 **WHEREUPON, COURT'S EXHIBIT**

15 **NUMBER 1 WAS ADMITTED INTO**

16 **EVIDENCE.**

17 **THE COURT:** Are there further witnesses for the
18 applicant?

19 **MS. CANNON:** No, Your Honor. That is our showing.

20 **THE COURT:** Applicant rest. Now, are there witnesses
21 for the State?

22 **MR. JOHNSON:** Yes, Your Honor.

23 **THE COURT:** All right. Please call your witness.

24 **MR. JOHNSON:** Your Honor, the State would call Mr.
25 Glenn Manning.

GLENN MANNING - DIRECT EXAMINATION

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1 THE COURT: Please come forward and take the oath of a
2 witness.

3 WHEREUPON, GLENN MANNING

4 AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS

5 MR. MANNING: Yes, sir.

6 THE COURT: All right. Mr. Johnson.

7 CROSS EXAMINATION BY MR. JOHNSON

8 Q. Mr. Manning, would you start by giving us a brief history
9 of your experience, and also tell us how you came to
10 represent Mr. Cabbagestalk?

11 A. Well, I have been practicing law since 1974. I am a
12 graduate of South Carolina Law School. Following, I was
13 awarded a fellowship. I did a internship training
14 program in New York City. Following that I returned to
15 South Carolina where I began practicing law in 1975, in
16 Bennettsville, South Carolina. I worked there until 84,
17 and took a job with South Carolina Human Affairs as Legal
18 Counsel of Human Affairs. And after two years following
19 that, I took a position at the United State's Equal
20 Employment Opportunity Commission in Detroit, Michigan.
21 I was hired by now Associate Justice Clarence Thomas at
22 the time, and I was there for a full year. And I
23 returned to private in Bennettsville and Dillon. I
24 served as a Municipal Court Judge. I also served as a
25 Public Defender for the Dillon County. I have also

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1 served as Assistant Solicitor in Sumter County. I tried
2 a couple of serious hearings. One was the Blair Hearing.
3 I tried that case in Marlboro County in 1978 or 1979, is
4 where the Blair Hearing came from. That was my case.
5 Also, I tried a death penalty case; several of those.
6 But one went to the Supreme Court, which was reversed by
7 the Supreme Court, and that involved a change of venue in
8 a death penalty case. Those cases set parameters which
9 are outstanding law in this case today. Other than that,
10 that is pretty much what I have done as a private
11 practitioner. Before that I taught high school for six
12 years, before I went to law school. But that is the
13 extent of my professional experience.

14 Q. Can you tell us how you came to represent Mr.
15 Cabbagestalk?

16 A. Yes, sir. I was serving as an Assistant Public Defender
17 in Dillon County at the time; maybe 2007, somewhere along
18 in there. I was appointed to represent Mr. Cabbagestalk.
19 David Watson, he was also a lawyer in Dillon, he was
20 appointed before that time. And I don't know if it was a
21 conflict or what, but I was appointed subsequent to Mr.
22 Watson. And I met with Mr. Cabbagestalk on numerous
23 occasions. I do not remember the exact number of times.
24 One thing I did ask him, because I had never heard
25 Shaheen Cabbagestalk before, and I know the Cabbagestalk

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1 family; I grew up down in Dillon, in what we call down
2 there by Maple School. And I asked him if that was his
3 real name, and he said, yes that was his name. I did
4 what most lawyers would typically would do; that is I
5 requested the information under Brady Rule 5, and I went
6 over that with Mr. Cabbagestalk. He always denied that
7 he was a person who committed the crime that was charged
8 with. He has always denied that to me, except during the
9 time of trial. When I forgot this man's name, he was
10 testifying and he referred to him as being Woody. And
11 when he did that, that is when he told me that I plead
12 guilty. I plead guilty. And that is when I informed the
13 Judge that we need to take up a matter with the Court
14 before we got to that point in the trial. I had gone
15 over everything with him, everything that I had. I had
16 talked to him on several occasions. And like I said, he
17 always denied he had done anything. He denied he was
18 even present. He never gave me the name of any alibi
19 witnesses or anything like that. It was as if I was
20 basically talking to a solemn person when I would meet
21 with him. It was always --- I don't know anything about
22 this. I don't know anything about this. The first time
23 I ever knew anything about Woody was when this man
24 testified. Then following that, I talked with several
25 law enforcement and said, this is what everybody calls

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1 him. So, I never knew that at all. I am from Dillon,
2 but I don't know everything about Dillon. But that is
3 the extent of what happened. I did everything what I
4 considered to be a competent trial attorney would have
5 done in representing him. I do not recall ever telling
6 him, and I know I would not have told him that he would
7 not get no more than ten years, because that is something
8 that is left truly in the providence of the Court. And I
9 never remember giving him a range. I do know that in
10 speaking with Mr. Redmond, and Assistant Solicitor Hayes,
11 as I recall something in the neighborhood of eight years
12 that they were recommending. It was passed on to him and
13 he did not want to accept. Another person --- they have
14 the wrong person charged. And it was only after the
15 trial began --- I think it began on one day, and it went
16 over to the next day. It may have been the second
17 witness who testified after he said, sure I know him.
18 I've been knowing him a long time. And after that, that
19 is when he --- I plead guilty. I plead guilty, just like
20 that. And that is what happened following that. But I
21 never told him that he would never get any more than ten
22 years. I would never tell him or any other defendant
23 that. I have been around too long to make that mistake,
24 because I never know what a judge is going to do. That
25 is the extent of what happened. I met with him several

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1 times. I went over all of the information with him that
2 I had. David Watson started off representing him, and
3 there was a couple of things that I was not so sure
4 about, so I raised those issues at trial. Now, whatever
5 I did not have they provided to me, and I provide it to
6 Mr. Cabbagestalk. He reviewed that.

7 Q. Help us understand the issue with the name. Regarding
8 when he told you that his name was not James, that it was
9 Shaheen?

10 A. I did not know anything about that until we were in
11 trial. We were in trial, and that is when the Judge
12 raised a question about that. And that is when he said,
13 yes, yes, yes. But he always said Shaheen -- Shaheen
14 Cabbagestalk. I was always leery about that name. And
15 that is when I began to question other people about it.
16 But I don't know anything about some other things. But
17 when the Judge --- I said, do you have any other name?
18 He said, no, just Shaheen. And when Judge King asked
19 him, that is when he admitted that his name was James
20 Cabbagestalk.

21 Q. Do you feel that you had enough time to prepare Mr.
22 Cabbagestalk's case for trial?

23 A. I had plenty of time to prepare, because he always said
24 he didn't do anything. So, I am running around there,
25 fluttering in the wind, trying to find out something that

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1 is non-existent. It is a straight forward case. Purely
2 a case of identification. When this --- identified him,
3 this is him. I know him. I know him. That is when he
4 said, I will plead guilty. Up until that point in time
5 he always denied he had not done anything, or knew
6 anything about it.

7 Q. Did he claim that he did not know what was going on, on
8 August 27th? Had you spent time preparing him for trial
9 so he would be ready?

10 A. Yes, it was a case, like I say, that involved
11 identification. It was purely an identification case.
12 Nothing else involved. I had gone over everything with
13 him. He never provided me with any alibi witnesses or
14 anything like that. He insisted it was not true. And
15 like I said before, when this man got up on the stand,
16 and identified himself and said, yes, that's him. I know
17 him. I know him. And that is when he reached over to me
18 and say, I plea guilty and that was the end of that. I
19 think it was the second or third witness that testified.
20 I do not recall specifically.

21 Q. One issue in the preliminary hearing --

22 A. -- I don't know anything about that. I came into the
23 picture much later than that. I don't know anything
24 about preliminary hearing.

25 Q. Is there anything that you could have done to get him a

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1 preliminary hearing?

2 A. No. He had already been indicted when I took over the
3 case. Like I said, David Watson, was representing him
4 before me. I don't know anything about that.

5 Q. Was it possible to get him a sentence on the lower end of
6 the spectrum if he plead before?

7 A. If he had plead guilty before the trial began they would
8 offer him something. For some reason, like, eight years
9 sticks in my mind. He said, no, it's not me, I'm not
10 going to plea guilty anything. And that is when Judge
11 King --- He decided to plead guilty then. Judge King
12 jacked the sentence up. He could have gone up to thirty
13 years, but he gave him eighteen years. And, as I recall,
14 I asked the Judge if he would consider a more lenient
15 sentence; something in the line of what we had talked
16 about. But Judge King, he basically said in essence, he
17 had his opportunity to plead earlier and he didn't do it.

18 Q. What are the claims in the application as testified to
19 earlier? The plea was an involuntary guilty plea not
20 knowing that he was just following, Mr. Manning forced
21 and coerced him. If you would, explain the discussions
22 between yourself and Mr. Cabbagestalk which lead up to
23 his plea, and specifically whose decision was it?

24 A. There was no discussion about the plea. He always told
25 me he didn't do it. He wasn't pleading guilty to

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1 anything. It was only after this witness testified and
2 referred to him as Woody, yes, I know him. That is when
3 he said I will plea guilty. There was no discussion
4 about any time frame, or any sentence range, or anything
5 like that. He just told me to tell the Judge, he wanted
6 to plead guilty. And if you will look at the transcript,
7 it is toward the end of the transcript, that is when I
8 advised the Court that my client wanted to enter a plea
9 of guilty. But I will tell you, had he plead guilty
10 before the trial began, the Judge would certainly give
11 him a much lower sentence. And it is my believe, no
12 question in my mind about that.

13 Q. Regarding Brady Rule 5, I think you testified. Did you
14 go over those?

15 A. I went over everything I had with him. I always do that
16 with everyone.

17 Q. Was there any other outstanding request that you felt the
18 State had not provided? Did they give you everything
19 they had?

20 A. No. I am confident that the State had provided me with
21 everything. I will always say this, Your Honor, I will
22 always say that. Just to insure there is nothing out
23 there that I don't know about, because sometimes there is
24 something out there the Solicitor may not know about
25 himself. Particularly when law enforcement investigates

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1 a case, and that happens all the time. But I just want
2 to insure there was nothing out there that I was not
3 privy to.

4 Q. What issues regarding subject matter jurisdiction did you
5 plan on addressing at trial, if any?

6 A. No, that was not an issues as far as I was concerned.
7 The Court had jurisdiction of the matter. That was never
8 an issue that was raised.

9 Q. You did not discuss subject matter jurisdiction?

10 A. Not that I recall.

11 Q. Did he ever talk to you about venue or changing venue?

12 A. No, never. Never. That was never an issue that was ever
13 raised.

14 Q. Is this the kind of case that you would have considered a
15 Motion to Change Venue?

16 A. No. I would not have. And I have done that before over
17 the years, in fact the death penalty case was a change of
18 venue case that I mentioned earlier. Unless there is
19 something there that would dictate a change of venue,
20 because you can not get a good jury; not a good jury, but
21 a jury that was not knowledgeable, does not have enough
22 information, who has more information about something.
23 And I don't think he should have even raised the issue of
24 change of venue unless you can show that the defendant
25 would be prejudiced in some fashion by holding the trial

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1 there. And I did not see any of that. That was never an
2 issue that was raised.

3 Q. Did Mr. Cabbagestalk ever raise any issue regarding the
4 makeup of the grand jury?

5 A. No. The first time I have heard that was today.

6 Q. Did he ask you to make any motions regarding the
7 sentence, or post trial motions in general?

8 A. Repeat that again.

9 Q. Did he ask you to make any post trial motions?

10 A. No, none whatsoever.

11 Q. Was there a discussion of post trial motions?

12 A. No, there was not. When the Judge sentenced him, he
13 basically stormed out. That was the way he was the
14 entire time I had to deal with him.

15 Q. Did he cooperate with you in the defense of the case?

16 A. He cooperated to the extent that what he wanted me to
17 know. Because, he said he didn't know anything at all
18 about this. So, I am having to deal with what he told
19 me. That is what you can go on is what a client tells
20 you. But at the same time I had my suspicions about
21 whether he was telling me the truth or not. And I told
22 him that.

23 Q. Based on everything that you knew, the day of the plea,
24 your investigation, your review of the discovery, your
25 discussions with Mr. Cabbagestalk, were you able to

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1 arrive at an opinion regarding the State's ability to
2 prove Mr. Cabbagestalk's guilty?

3 A. I put it this way. It may not be answering your question
4 directly, but based on what I knew, and what he had told
5 me, I felt that it would be difficult for him to be found
6 not guilty unless a miracle happened, because of how he
7 was not straightforward with me in trying to assist me
8 and preparing this case for him. Because, like I say, I
9 always thought he was not telling me the truth, and I
10 told him that.

11 Q. What did you feel like he was not telling you the truth
12 on?

13 A. The thing that bothered me more than anything else was
14 the name. And I asked him questions, and he would say I
15 don't know anything about that. But at the same time I
16 also talked with other people, to law enforcement people.
17 When I prepare for case I just don't rely on what the
18 client tells me. I don't always rely on what is in the
19 Rule 5 information either. I do my own private
20 investigation as well. I always do that. I have always
21 done that. So, there is certain things that you find out
22 that you can't prove, but it sends up a red flag to you.
23 When a bunch of red flags went up, and I shared those
24 things with Mr. Cabbagestalk from time to time.

25 MR. JOHNSON: Would you please answer any questions

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1 Mr. Cabbagestalk's lawyer may have?

2 MR. MANNING: Of course.

3 THE COURT: Cross examination.

4 MS. CANNON: Thank you, Your Honor. Thank you, Mr.
5 Manning

6 CROSS EXAMINATION BY MS. CANNON:

7 Q. I just have a few questions, just for clarification.

8 There were some negotiations offered for Mr. Cabbagestalk
9 to plead to armed robbery before the trial; is that what
10 you testified to?

11 A. The State, and I don't remember exactly what it was. The
12 State did offer him for some reason eight years sticks in
13 my mind. That they would drop one charge and plea to the
14 other charge. That was the only negotiation that we had.
15 He did not want to plea to anything.

16 Q. What is the spectrum for armed robbery in terms of a
17 sentence?

18 A. Repeat that please?

19 Q. What is the range of armed robbery? What is the minimum
20 in respect to --

21 A. -- I don't remember what it was at that time. Right now
22 it is thirty years. I don't remember what it was then?

23 Q. The minimum was thirty?

24 A. No, no, no. The maximum is thirty. I think it is like
25 ten to thirty, or something like that. I am not really

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1 sure.

2 Q. If it was ten to thirty, would it be strange to have the
3 ability to offer eight on something that carried a
4 minimum of ten?

5 A. That depends upon the Judge. The Judge has some
6 authority to go below that range if the Solicitor's
7 Office does not oppose that, they can do that.

8 Q. Did you feel that might be a possibility in this case?

9 A. Now, you are asking me to speculate, but I will put it
10 this way. In my experience in almost forty years of
11 practicing law, if both sides go in camera with the
12 judge, and if they all agree to something, I have seen
13 miracles happen; so to speak. I will put it that way,
14 and you can take it from there.

15 Q. Thank you for answering my question. In regard to the
16 indictment, I just want to make sure you did or did not
17 know that the names were different on the indictment
18 prior to going to trial that day?

19 A. I did not recall looking at the indictment. I may have,
20 I just don't recall that. Like I say, I rely on my
21 client. He said he was Shaheen Cabbagestalk, and when
22 the Judge got up there, he admits to James as well. So,
23 this is what really blew me out of the water.

24 Q. It just wasn't a big deal brought to your attention for
25 you to remember; is that accurate to say?

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1 A. Say that again, because I don't want you to put words in
2 my mouth, and I want to make sure I am answering the
3 question.

4 Q. What you are saying is, Mr. Cabbagestalk didn't make a
5 ruckus over the names on the indictment prior to the
6 trial, or you would have remembered?

7 A. He did not testify. That was not an issue with him. He
8 knows that.

9 Q. You testified, and it is in this trial transcript that
10 you were not ready to go to court with the trial; is that
11 correct? Can you explain it to me?

12 A. He said, he was ready. But if you look at page nine of
13 that transcript, the Judge --- I want to go forward. It
14 is in there on page 9. Look at page 9. Down near the
15 middle, maybe six percent down the page.

16 Q. Let me ask you about yourself. You testified that you
17 were not prepared to go forward; is that accurate; not
18 Mr. Cabbagestalk, but you?

19 A. Let me put it this here way. I was prepared to go
20 forward. I was prepared to go forward. If I could have
21 had more time, based on what he was saying, and what I
22 might have discovered, I would certainly tell the Judge I
23 would like to have more time. So, I was prepared to go
24 forward based on what he had told me, because nothing
25 changed. If anything, when this guy got on the stand and

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1 testified, that is when he said I know him. That is who
2 he is. And I knew then that he had not told me the
3 truth. I had this suspicion all along.

4 Q. But even though you told the Court I was not prepared to
5 go forward in this case at all, you chose to go forward,
6 because he wanted to go forward?

7 A. I chose to go forward because that was what he was going
8 to do, and I was prepared to go forward if we had to go
9 forward. Sometime we would rather have more time, but if
10 you don't have the time, you don't have the time. You
11 can always have more time and prepare something else just
12 to look at things differently. But I was ready to try
13 that case we had after we had to try the case, yes.

14 Q. Even though you said that you weren't, that is my point.

15 A. Yes, I was prepared to try the case, even if I may have
16 said I am not ready to go forward, I was doing that to
17 try to protect Mr. Cabbagestalk. But, I was glad to go
18 forward, and I would have gone forward, and we did go
19 forward.

20 MS. CANNON: I beg the Court's indulgence, Your Honor.

21 THE COURT: All right, very good.

22 (Whereupon, Ms. Cannon and Mr. Cabbagestalk
23 have a private conversation off the record.)

24 MS. CANNON: Your Honor, I don't have any more
25 questions. Thank you, Mr. Manning.

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1 **THE COURT:** All right. I am going to let you step
2 down, Mr. Manning. Is there any objection to the release from
3 subpoena of Mr. Manning?

4 **MR. JOHNSON:** No, Your Honor.

5 **THE COURT:** Then you are free to go sir, if you wish?

6 **MR. MANNING:** Thank you, Your Honor.

7 **THE COURT:** Have a good day. All right. Are there any
8 further witnesses now from the Respondent?

9 **MR. JOHNSON:** No, sir.

10 **THE COURT:** Very good. Just one moment, please.

11 **(PAUSE.)**

12 **RULING OF THE COURT**

13 **THE COURT:** All right. The Court is prepared to rule
14 at this time. And, Mr. Cabbagestalk, this is the decision of
15 the Court.

16 At post conviction relief you have to prove two things.
17 First, you have to prove that your lawyer's performance below
18 was ineffective. And that means that it fell below the
19 standard --- your lawyer's representation fell below the
20 standard of lawyers practicing criminal law in Schizophrenia.
21 And, you have to prove that you were prejudiced by that. You
22 must prove both of those things by the greater weight or the
23 preponderance of the evidence, and I find that you have failed
24 to meet the burden of proof of either point, Mr. Cabbagestalk.

25 Let me address certain of these points for you.

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1 First of all, this issue about your name has been
2 resolved by our Appellate Courts as being not meritorious.
3 There is no ineffective assistance issue here, because you
4 stood before Judge King, identified yourself as the
5 perpetrator. This of course, occurred after the victim took
6 the stand in the trial, and identified you. That he knew you,
7 and that he recognized you as the person who robbed him. You
8 were offered a plea which would reduce, or take away the
9 charge of assault and battery with intent to kill, which was
10 to your favor. Someone fired from the car, but they didn't
11 know who, so the State dropped that charge and you went
12 forward on the armed robbery.

13 Judge King gave you an opportunity to show remorse, which
14 he said that you failed to do. You also failed to cooperate,
15 by naming any of the other individuals, although you had just
16 admitted that you had done this. So, clearly, you would have
17 known who the other individuals were. And thus, he sentenced
18 you at eighteen years, which was certainly his prerogative to
19 do so.

20 So, I find, that there is no ineffective assistance in
21 any of that occurring. You were in a difficult situation.
22 You found yourself in a tough spot. You did what you felt was
23 best for you. And now, the Court is not moved by your
24 complaints about the process. Again, this confusion or
25 alleged confusion over whose name was on the indictment, and

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1 whether the Court had personal jurisdiction over you, the
2 Court finds that to be completely without merit.

3 I also do not find that there are any procedural, or
4 substantive, or constitutional errors below, and none of your
5 constitutional rights that would be cognizable here at PCR the
6 Court finds were violated.

7 And, I find that Mr. Manning went forward in your
8 representation; was prepared to go to trial and was in trial.

9 I also do not find that you were prejudiced in any way,
10 because you took a plea that was in your best interest. And
11 did that knowingly, voluntarily, admitted your guilt, and for
12 all these reasons, the Court denies your post conviction
13 relief claim.

14 Now, I am going to ask the State to prepare an order.
15 Your right to appeal does not begin from today Mr.
16 Cabbagestalk, but it begins from the day that the formal
17 order, that is signed by the Court. I am asking the Attorney
18 General within thirty days to prepare a formal order, and
19 submit it to me. I will sign it after review, and any changes
20 that need to be made, I will sign it, give it back to the
21 State, who will then file it and serve it on your lawyer. And
22 you have thirty days to appeal, beginning on the date that
23 your lawyer is served a copy of the formal order denying post
24 conviction relief.

25 Do you understand that, Mr. Cabbagestalk?

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1 MR. CABBAGESTALK: Yes.

2 THE COURT: Very good. Then that is the decision of
3 the Court. Good luck to you, sir. I am going to remand you
4 now back to the custody of the Detention Center and the
5 Department of Corrections.

6 MS. CANNON: Thank you, Your Honor.

7 THE COURT: Thank you.

8 (Whereupon, this hearing was concluded at 12:18
9 p.m. on Tuesday, May 15, 2012.)

10 -- END OF TRANSCRIPT --

CERTIFICATE OF REPORTER

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I, the undersigned, Pamela Ozment-Cartee, official Court Reporter for the Fourth Judicial Circuit of South Carolina, do hereby certify, that the foregoing is a true, accurate and complete Transcript of Record in the above captioned case, relative to appeal, in The Court of Common Pleas in Darlington County, South Carolina, on the 15th day of May 2012.

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

September 8, 2012

Pamela Ozment-Cartee
Circuit Court Reporter

PG 99 transcript
Solicitor committed
Jones 17

State of South Carolina
Office of the Solicitor
Fourth Judicial Circuit

Exhibit

Defendant: James Steuben Cabbergetalk

A/K/A "Woody"

Guilty Plea Offer

Don't say my name

never seen until after trial

Mr. J. David
Watson
with held
the attorney
to had before
Attorney
Glen
manning

Solicitor: JH MTJ-L JRJ KH EM KR SB WR NS TL PM

Attorney: Watson

Charge	Indictment Number	Possible Sentence
Armed Robbery		10-30 yrs
ABWIK		~ 20 yrs
Petty Larceny		~ 30 days

negotiated
time
right
here

Offer Date: 2-26-07
Offer By Solicitor: Plea to AR, all other charges concurrent (10 yrs)

Recommended: ☒ Negotiated: ☒ Accepted: ☐ Rejected: ☐

see what
this say

Date: _____
Date: _____
Date: 2-26-07

Attorney's Signature: _____
Solicitor's Signature: [Signature]

Accepted with conditions to trial + certain conditions for time and

SCDC POLICY/PROCEDURE

NUMBER: OP-21.09

TITLE: INMATE RECORDS PLAN

ISSUE DATE: JANUARY 1, 2004

RESPONSIBLE AUTHORITY: DIVISION OF CLASSIFICATION AND INMATE RECORDS

OPERATIONS MANUAL: OPERATIONS

SUPERSEDES: OP-21.09 (June 1, 2002); GA-02.02 (June 2, 2002)

RELEVANT SCDC FORMS/SUPPLIES: 9-3, 9-4A, 9-4B, 9-5, 13-2, 18-11, 18-3, 18-13, 18-16, 18-17, 18-43, 18-68, 19-11, 19-17, 19-48, 19-59, 27-42

ACA/CAC STANDARDS: 3-ACRS-1E-01, 3-ACRS-1E-02, 3-ACRS-1E-04, 3-ACRS-1E-05, 3-ACRS-1E-06, 3-ACRS-1E-07, 3-ACRS-1E-08, 3-ACRS-4A-02, 3-ACRS-4G-06, 3-4092, 3-4093, 3-4094, 3-4095, 3-4096, 3-4272, 3-4291, 3-4393

STATE/FEDERAL STATUTES:

PURPOSE: To provide a general outline of the Agency's inmate records plan and to establish the general criteria for the information that will be maintained and filed in each inmate's record.

POLICY STATEMENT: The South Carolina Department of Corrections will activate, maintain, and review necessary records on all inmates incarcerated in the South Carolina Department of Corrections.

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23. OTHER JURISDICTION INMATES
24. DEFINITIONS

1. INTRODUCTION: The Inmate Records Office in the Division of Classification and Inmate Records is responsible for the development, security, accountability, control, and management of inmate records. The Assistant Division Director for the Inmate Records Office serves as the official "Custodian of the Records" for legal and management purposes and will ensure that procedures for confidentiality and access are maintained. The Inmate Records Office is responsible for processing all court documents related to inmates' sentences, entering related data in the Offender Management System, and authorizing the timely release of inmates from the South Carolina Department of Corrections in accordance with state statutes, regulations, and Agency policy/procedure.

2. ACTIVATING INMATE RECORDS:

2.1 The Inmate Records Office in the Division of Classification and Inmate Records is responsible for administering a uniform process for activating records on inmates admitted into the South Carolina Department of Corrections (SCDC).

2.2 The Reception and Evaluation (R&E) *Inmate* Records Section at Kirkland Correctional Institution has the primary duty to receive, process, and enter sentencing documents for all inmates received into the SCDC.

2.3 Male inmates from those counties in the central part of the state may be received at the Kirkland R&E Center, normally between the hours of 8:00 a.m. and 4:00 p.m., Monday through *Thursday*. Inmates may be received from those counties in the lower and upper parts of the state at Lieber and Perry Correctional Institutions respectively for immediate transfer to the Kirkland R&E Center. *Female inmates from all counties will normally be received at the Kirkland R&E Center on Fridays, excluding holidays. The females will be initially processed at Kirkland R&E and then transported to the Camille Griffin Graham R&E for further processing and housing.*

* **2.4** The R&E Center can accept an inmate into the custody of the SCDC provided the inmate is received with a valid commitment order. The inmate's commitment order will be immediately forwarded to the R&E *Inmate* Records Section as soon as the inmate arrives at the R&E Center or one (1) of the intake locations. Whenever feasible, the county facility will forward the commitment order(s) directly to the R&E *Inmate* Records Section in Columbia prior to transporting the inmate.

* **2.5** The R&E *Inmate* Records Section will make an initial determination based upon the commitment documents received from the county that an inmate has a valid South Carolina sentence to be served within the SCDC. Those documents received from Lieber and Perry Correctional Institutions will be thoroughly reviewed upon arrival at Kirkland R&E.

2.6 If it is determined that required documents have not been received or that they are invalid, the inmate will not be accepted within the SCDC. Those documents received from Lieber and Perry will be rechecked by the Kirkland R&E *Inmate* Records Section when the inmate moves to the R&E Center.

2.7 If the commitment order is valid, the inmate will be processed by the R&E Center personnel for bedspace placement and physical accountability according to the R&E Center's internal procedures for security and housing.

2.8 The R&E Center will compile an on-line intake list on all incoming inmates received on a daily basis by

4th Circuit Courts Common
Pleas

2010-CP-17-00091

① Shaheen Cabbage stalk

v.
StateSUMMONS
for Rule 60(B)

Mistakes; Inadvertence; EXSCU

- Sable Neglect; Newly discovered Evidence;
fraud, etc. /§16-17-735 persons
impersonating officials or law enforcement officers;
Persons falsely asserting authority of law;
offenses; punishment (sham legal process)

This Summons Certifies that the Dillon County
Clerk of Courts been served with a Summons in
the above captioned Case Number and Asked within
60 Days as Rule 12 of SC Rules of Civil proc.
States to Respond back to this filing.

By: Shaheen Cabbage stalkDate: 6 June 2011Notary: Dupe minemy Commission exp: Jan 28, 2018Date: 6 June 11

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GWEN T. HYATT
2011 JUN -8 PM 3:02
CLERK OF COURT
DILLON COUNTY

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DILLON COUNTY

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DILLON COUNTY
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GWEN HYATT

- ② Chewing v. Ford Motor Co. (S.C. 2003) 354 S.C. 705, 579 S.E.2d 605. There is no statute of limitations when a party seeks to set aside a judgment due to fraud upon the court. Like all other types of fraud proving fraud upon the court requires showing that the perpetrator acted with the intent to defraud, for there is no such thing as accidental fraud. "Perry v. Harris" at law of Gadsden (S.C. App. 2003) 357 S.C. 42, 590 S.E. 2d 502 rehearing denied.

A judgment of a court without subject matter jurisdiction is (void) and constitutes grounds for the court to vacate the judgment on motion for relief of judgment. Rules of Civ. proc. Rule 60(b)(4) Guiney v. Gamey (S.C. App. 2009) 382 S.C. 414, 675 S.E. 2d 792 rehearing denied. § 16-17-735 persons impersonating officials or law enforcement officers; persons falsely asserting authority of law; offenses, punishment. It is unlawful for a person to impersonate a state or local official or employee or a law enforcement officer in connection with a sham legal process. A person acting or purporting to act in an official capacity taking advantage of such actual or purporting to act in capacity or taking advantage of such actual or purported capacity commits a misdemeanor if, knowing that his conduct is illegal he: (1) subjects another to arrest, detention, search, seizure, treatment, dispossession, assessment, lien, or other infringement or enjoyment of any right, privilege, or power immunity. A person violating the provision of this subsection

CLERK OF COURT
DILLON COUNTY

is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one

or both. (B): It is unlawful for a person falsely to assert authority of state law in connection a sham legal process. A person violating the provision of this subsection is guilty of a misdemeanor and upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than ~~one~~ year or both. (C): It is unlawful for a person to act without authority

under state law as a Supreme Court justice, a court of appeals judge, a circuit court judge, a magistrate, a clerk of court or register of deeds, a commissioned notary public, or other authorized official in determining a controversy, adjudicating the rights or interests of others or signing a document as though authorized by state law. A person violating the

provision of this subsection is guilty of a misdemeanor and upon conviction must be fined not more than one year, or both. (D): It is unlawful for a person to falsely assert authority of law, in an attempt to intimidate or hinder a state or local or employee or law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of a sham legal process. A person violating this subsection is guilty of a felony and upon conviction, must be fined not more than ten dollars ~~or imprisoned not less than one year and not more than three years or~~

both. (E): (3) Sham legal process "means the issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued whether or not the instrument is produced for inspection or actually exists, which purports to: (a) summons, subpoena, judgment, lien, arrest warrant, search warrant, or other order of a court of this state, a law enforcement officer, or a legislative, executive or administrative agency established by state law; (b) assert jurisdiction or authorize over or determine or

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ODLEON COUNTY

7 or property: or (C) require or authorize the search, seizure, ²⁰¹¹ arrest, trial, or sentencing of a person or property: or (4) ~~lawfully issued~~ ~~adopted~~ issued or rendered in accordance with the applicable statute, rules, regulations, and ordinances of the United States, a state or agency, or political subdivision of a state.

FILED
GWEN T. HYATT
2011 JUN -8 PM 3:02
CLERK OF COURT
DILLON COUNTY

Shakeen Abbagastalk
v.
State

#295567

4th Circuit Common pleas
Court

2010-CP-17-00091

Notice
motion for transportation

FILED
GWEN T. HYATT
2011 JUN -8 PM 8:02
CLERK OF COURT
DILLON COUNTY

This is to certify the Courts have been
served with a motion notice for transportation
and a hearing in the 4th Circuit Court of
Common pleas. I ask the state Arrange transportation
for me from perry Corrections to Dillon County Jail to be
transported to the 4th Circuit Courts of Common pleas at
the states Expense

By: Shakeen Abbagastalk By: Shakeen Abbagastalk
without prejudice ucc 1-207

Date: 6 June 11

Notary: [Signature]

My Commission Expires: Jan 28 2018 COURT
DILLON COUNTY

Date: 6 June 11

Shaheen Gabbagestalk
#295567

V.
State

4th Circuit Common Pleas 293

2010-CP-17-00091

Notice of motion for
hearing

FILED
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CLERK OF COURT
DELOON COUNTY

This is to certify that the Courts have been notified of all within this matter and is asked to convene by having this issue heard at an hearing at which ever time and date the Courts can set for this matter to be heard.

By: Shaheen Gabbagestalk
without prejudice Dec 1-2009

By: Shaheen Gabbagestalk

Date: 6/6/11

Notary: Dana Mena

My Commission Expires: Jan /28/2018

Date: 6th June / 2011 J. Hyatt

CLERK OF COURT
DELOON COUNTY

(1)

Cite as: 566 U. S. ____ (2012)

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SCALIA, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 10-209

BLAINE LAFLER, PETITIONER v. ANTHONY COOPER

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[March 21, 2012]

JUSTICE SCALIA, with whom JUSTICE THOMAS joins, and
with whom THE CHIEF JUSTICE joins as to all but Part IV,
dissenting.

* "If a plea bargain has been offered, a defendant has
the right to effective assistance of counsel in consider-
ing whether to accept it. If that right is denied, preju-
dice can be shown if loss of the plea opportunity led
to a trial resulting in a conviction on more serious
charges or the imposition of a more severe sentence."
Ante, at 9.

Important

"The inquiry then becomes how to define the duty
and responsibilities of defense counsel in the plea bar-
gain process. This is a difficult question. . . . Bargain-
ing is, by its nature, defined to a substantial degree by
personal style. . . . This case presents neither the ne-
cessity nor the occasion to define the duties of defense
counsel in those respects" *Missouri v. Frye*, ante,
at 8.

With those words from this and the companion case, the
Court today opens a whole new field of constitutionalized
criminal procedure: plea-bargaining law. The ordinary
criminal process has become too long, too expensive, and
unpredictable, in no small part as a consequence of an
intricate federal Code of Criminal Procedure imposed on
the States by this Court in pursuit of perfect justice. See

Friendly, *The Bill of Rights as a Code of Criminal Procedure*, 53 Cal. L. Rev. 929 (1965). The Court now moves to bring perfection to the alternative in which prosecutors and defendants have sought relief. Today's opinions deal with only two aspects of counsel's plea-bargaining inadequacy, and leave other aspects (who knows what they might be?) to be worked out in further constitutional litigation that will burden the criminal process. And it would be foolish to think that "constitutional" rules governing counsel's behavior will not be followed by rules governing the prosecution's behavior in the plea-bargaining process that the Court today announces "is the criminal justice system." *Frye, ante*, at 7 (quoting approvingly from Scott & Stuntz, *Plea Bargaining as Contract*, 101 Yale L. J. 1909, 1912 (1992) (hereinafter Scott)). Is it constitutional, for example, for the prosecution to withdraw a plea offer that has already been accepted? Or to withdraw an offer before the defense has had adequate time to consider and accept it? Or to make no plea offer at all, even though its case is weak—thereby excluding the defendant from "the criminal justice system"?

Anthony Cooper received a full and fair trial, was found guilty of all charges by a unanimous jury, and was given the sentence that the law prescribed. The Court nonetheless concludes that Cooper is entitled to some sort of habeas corpus relief (perhaps) because his attorney's allegedly incompetent advice regarding a plea offer caused him to receive a full and fair trial. That conclusion is foreclosed by our precedents. Even if it were not foreclosed, the constitutional right to effective plea-bargainers that it establishes is at least a new rule of law, which does not undermine the Michigan Court of Appeals' decision and therefore cannot serve as the basis for habeas relief. And the remedy the Court announces—namely, whatever the state trial court in its discretion prescribes, down to and including no remedy at all—is unheard-of and quite ab-

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surd for violation of a constitutional right. I respectfully dissent.

I

This case and its companion, *Missouri v. Frye*, ante, p. ____, raise relatively straightforward questions about the scope of the right to effective assistance of counsel. Our case law originally derived that right from the Due Process Clause, and its guarantee of a fair trial, see *United States v. Gonzalez-Lopez*, 548 U. S. 140, 147 (2006), but the seminal case of *Strickland v. Washington*, 466 U. S. 668 (1984), located the right within the Sixth Amendment. As the Court notes, ante, at 6, the right to counsel does not begin at trial. It extends to “any stage of the prosecution, formal or informal, in court or out, where counsel’s absence might derogate from the accused’s right to a fair trial.” *United States v. Wade*, 388 U. S. 218, 226 (1967). Applying that principle, we held that the “entry of a guilty plea, whether to a misdemeanor or a felony charge, ranks as a ‘critical stage’ at which the right to counsel adheres.” *Iowa v. Tovar*, 541 U. S. 77, 81 (2004); see also *Hill v. Lockhart*, 474 U. S. 52, 58 (1985). And it follows from this that acceptance of a plea offer is a critical stage. That, and nothing more, is the point of the Court’s observation in *Padilla v. Kentucky*, 559 U. S. ____ (2010) (slip op., at 16), that “the negotiation of a plea bargain is a critical phase of litigation for purposes of the Sixth Amendment right to effective assistance of counsel.” The defendant in *Padilla* had accepted the plea bargain and pleaded guilty, abandoning his right to a fair trial; he was entitled to advice of competent counsel before he did so. The Court has never held that the rule articulated in *Padilla*, *Tovar*, and *Hill* extends to all aspects of plea negotiations, requiring not just advice of competent counsel before the defendant accepts a plea bargain and pleads guilty, but also the advice of competent counsel before the defendant rejects a

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plea bargain and stands on his constitutional right to a fair trial. The latter is a vast departure from our past cases, protecting not just the constitutionally prescribed right to a fair adjudication of guilt and punishment, but a judicially invented right to effective plea bargaining.

It is also apparent from *Strickland* that bad plea bargaining has nothing to do with ineffective assistance of counsel in the constitutional sense. *Strickland* explained that "[i]n giving meaning to the requirement [of effective assistance], . . . we must take its purpose—to ensure a fair trial—as the guide." 466 U. S., at 686. Since "the right to the effective assistance of counsel is recognized not for its own sake, but because of the effect it has on the ability of the accused to receive a fair trial," *United States v. Cronin*, 466 U. S. 648, 658 (1984), the "benchmark" inquiry in evaluating any claim of ineffective assistance is whether counsel's performance "so undermined the proper functioning of the adversarial process" that it failed to produce a reliably "just result." *Strickland*, 466 U. S., at 686. That is what *Strickland's* requirement of "prejudice" consists of: Because the right to effective assistance has as its purpose the assurance of a fair trial, the right is not infringed unless counsel's mistakes call into question the basic justice of a defendant's conviction or sentence. That has been, until today, entirely clear. A defendant must show "that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." *Id.*, at 687. See also *Gonzalez-Lopez*, *supra*, at 147. Impairment of fair trial is how we distinguish between unfortunate attorney error and error of constitutional significance.¹

¹ Rather than addressing the constitutional origins of the *right to effective counsel*, the Court responds to the broader claim (raised by no one) that "the sole purpose of the *Sixth Amendment* is to protect the right to a fair trial." *Ante*, at 6 (emphasis added). Cf. Brief for United States as *Amicus Curiae* 10–12 (arguing that the "purpose of the Sixth

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To be sure, *Strickland* stated a rule of thumb for measuring prejudice which, applied blindly and out of context, could support the Court's holding today: "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." 466 U. S., at 694. *Strickland* itself cautioned, however, that its test was not to be applied in a mechanical fashion, and that courts were not to divert their "ultimate focus" from "the fundamental fairness of the proceeding whose result is being challenged." *Id.*, at 696. And until today we have followed that course.

In *Lockhart v. Fretwell*, 506 U. S. 364 (1993), the deficient performance at issue was the failure of counsel for a defendant who had been sentenced to death to make an objection that would have produced a sentence of life

Amendment right to counsel is to secure a fair trial" (emphasis added)); Brief for Petitioner 12–21 (same). To destroy that straw man, the Court cites cases in which violations of rights *other* than the right to effective counsel—and, perplexingly, even rights found outside the Sixth Amendment and the Constitution entirely—were not cured by a subsequent trial. *Vasquez v. Hillery*, 474 U. S. 254 (1986) (violation of equal protection in grand jury selection); *Ballard v. United States*, 329 U. S. 187 (1946) (violation of statutory scheme providing that women serve on juries); *Stirone v. United States*, 361 U. S. 212 (1960) (violation ~~X~~ of Fifth Amendment right to indictment by grand jury). Unlike the right to effective counsel, no showing of prejudice is required to make violations of the rights at issue in *Vasquez*, *Ballard*, and *Stirone* complete. See *Vasquez*, *supra*, at 263–264 ("[D]iscrimination in the grand jury undermines the structural integrity of the criminal tribunal itself, and is not amenable to harmless-error review"); *Ballard*, *supra*, at 195 ("[R]everse error does not depend on a showing of prejudice in an individual case"); *Stirone*, *supra*, at 217 ("Deprivation of such a basic right is far too serious to be treated as nothing more than a variance and then dismissed as harmless error"). Those cases are thus irrelevant to the question presented here, which is whether a defendant can establish prejudice under *Strickland v. Washington*, 466 U. S. 668 (1984), while conceding the fairness of his conviction, sentence, and appeal.

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imprisonment instead. The objection was fully supported by then-extant Circuit law, so that the sentencing court would have been compelled to sustain it, producing a life sentence that principles of double jeopardy would likely make final. See *id.*, at 383–385 (Stevens, J., dissenting); *Bullington v. Missouri*, 451 U. S. 430 (1981). By the time Fretwell's claim came before us, however, the Circuit law had been overruled in light of one of our cases. We determined that a prejudice analysis “focusing solely on mere outcome determination, without attention to whether the result of the proceeding was fundamentally unfair or unreliable,” would be defective. *Fretwell*, 506 U. S., at 369. Because counsel's error did not “deprive the defendant of any substantive or procedural right to which the law entitles him,” the defendant's sentencing proceeding was fair and its result was reliable, even though counsel's error may have affected its outcome. *Id.*, at 372. In *Williams v. Taylor*, 529 U. S. 362, 391–393 (2000), we explained that even though *Fretwell* did not mechanically apply an outcome-based test for prejudice, its reasoning was perfectly consistent with *Strickland*. “Fretwell's counsel had not deprived him of any substantive or procedural right to which the law entitled him.” 529 U. S. at 392.²

²*Kimmelman v. Morrison*, 477 U. S. 365 (1986), cited by the Court, *ante*, at 10–11, does not contradict this principle. That case, which predated *Fretwell* and *Williams*, considered whether our holding that Fourth Amendment claims fully litigated in state court cannot be raised in federal habeas “should be extended to Sixth Amendment claims of ineffective assistance of counsel where the principal allegation and manifestation of inadequate representation is counsel's failure to file a timely motion to suppress evidence allegedly obtained in violation of the Fourth Amendment.” 477 U. S., at 368. Our negative answer to that question had nothing to do with the issue here. The parties in *Kimmelman* had not raised the question “whether the admission of illegally seized but reliable evidence can ever constitute ‘prejudice’ under *Strickland*”—a question similar to the one presented here—and

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Those precedents leave no doubt about the answer to the question presented here. As the Court itself observes, a criminal defendant has no right to a plea bargain. *Ante*, at 9. “[T]here is no constitutional right to plea bargain; the prosecutor need not do so if he prefers to go to trial.” *Weatherford v. Bursey*, 429 U. S. 545, 561 (1977). Counsel’s mistakes in this case thus did not “deprive the defendant of a substantive or procedural right to which the law entitles him,” *Williams, supra*, at 393. Far from being “beside the point,” *ante*, at 9, that is critical to correct application of our precedents. Like *Fretwell*, this case “concerns the unusual circumstance where the defendant attempts to demonstrate prejudice based on considerations that, as a matter of law, ought not inform the inquiry,” 506 U. S., at 373 (O’Connor, J., concurring); he claims “that he might have been denied ‘a right the law simply does not recognize,’” *id.*, at 375 (same). *Strickland*, *Fretwell*, and *Williams* all instruct that the pure outcome-based test on which the Court relies is an erroneous measure of cognizable prejudice. In ignoring *Strickland*’s “ultimate focus . . . on the fundamental fairness of the proceeding whose result is being challenged,” 466 U. S., at 696, the Court has lost the forest for the trees, leading it to accept what we have previously rejected, the “novel argument that constitutional rights are infringed by trying the defendant rather than accepting his plea of guilty.” *Weatherford, supra*, at 561.

the Court therefore did not address it. *Id.*, at 391 (Powell, J., concurring in judgment); see also *id.*, at 380. *Kimmelman* made clear, however, how the answer to that question is to be determined: “The essence of an ineffective-assistance claim is that counsel’s unprofessional errors so upset the adversarial balance between defense and prosecution that the trial was rendered unfair and the verdict rendered suspect,” *id.*, at 374 (emphasis added). “Only those habeas petitioners who can prove under *Strickland* that they have been denied a fair trial . . . will be granted the writ,” *id.*, at 382 (emphasis added). In short, *Kimmelman*’s only relevance is to prove the Court’s opinion wrong. *X habeas corpus*

II

Novelty alone is the second, independent reason why the Court's decision is wrong. This case arises on federal habeas, and hence is governed by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Since, as the Court acknowledges, the Michigan Court of Appeals adjudicated Cooper's ineffective-assistance claim on the merits, AEDPA bars federal courts from granting habeas relief unless that court's decision was "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States." 28 U. S. C. §2254(d)(1). Yet the Court concludes that §2254(d)(1) does not bar relief here, because "[b]y failing to apply *Strickland* to assess the ineffective-assistance-of-counsel claim respondent raised, the state court's adjudication was contrary to clearly established federal law." *Ante*, at 15. That is not so.

The relevant portion of the Michigan Court of Appeals decision reads as follows:

"To establish ineffective assistance, the defendant must demonstrate that his counsel's performance fell below an objective standard of reasonableness and that counsel's representation so prejudiced the defendant that he was deprived of a fair trial. With respect to the prejudice aspect of the test, the defendant must demonstrate a reasonable probability that, but for counsel's errors, the result of the proceedings would have been different, and that the attendant proceedings were fundamentally unfair and unreliable.

"Defendant challenges the trial court's finding after a *Ginther* hearing that defense counsel provided effective assistance to defendant during the plea bargaining process. He contends that defense counsel failed to convey the benefits of the plea offer to him and ignored his desire to plead guilty, and that these fail-

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ures led him to reject a plea offer that he now wishes to accept. However, the record shows that defendant knowingly and intelligently rejected two plea offers and chose to go to trial. The record fails to support defendant's contentions that defense counsel's representation was ineffective because he rejected a defense based on [a] claim of self-defense and because he did not obtain a more favorable plea bargain for defendant." *People v. Cooper*, No. 250583 (Mar. 15, 2005)* App. to Pet. for Cert. 45a, 2005 WL 599740, *1 (*per curiam*) (footnote and citations omitted).

The first paragraph above, far from ignoring *Strickland*, recites its standard with a good deal more accuracy than the Court's opinion. The second paragraph, which is presumably an application of the standard recited in the first, says that "defendant knowingly and intelligently rejected two plea offers and chose to go to trial." This can be regarded as a denial that there was anything "fundamentally unfair" about Cooper's conviction and sentence, so that no *Strickland* prejudice had been shown. On the other hand, the entire second paragraph can be regarded as a contention that Cooper's claims of inadequate representation were unsupported by the record. The state court's analysis was admittedly not a model of clarity, but federal habeas corpus is a "guard against extreme malfunctions in the state criminal justice systems," not a license to penalize a state court for its opinion-writing technique. *Harrington v. Richter*, 562 U. S. ____ (2011) (slip op., at 13) (internal quotation marks omitted). The Court's readiness to find error in the Michigan court's opinion is "inconsistent with the presumption that state courts know and follow the law," *Woodford v. Visciotti*, 537 U. S. 19, 24 (2002) (*per curiam*), a presumption borne out here by the state court's recitation of the correct legal standard.

Since it is ambiguous whether the state court's holding

was based on a lack of prejudice or rather the court's factual determination that there had been no deficient performance, to provide relief under AEDPA this Court must conclude that *both* holdings would have been unreasonable applications of clearly established law. See *Premo v. Moore*, 562 U. S. ___, ___ (2011) (slip op., at 7). The first is impossible of doing, since this Court has never held that a defendant in Cooper's position can establish *Strickland* prejudice. The Sixth Circuit thus violated AEDPA in granting habeas relief, and the Court now does the same.

III

It is impossible to conclude discussion of today's extraordinary opinion without commenting upon the remedy it provides for the unconstitutional conviction. It is a remedy unheard-of in American jurisprudence—and, I would be willing to bet, in the jurisprudence of any other country.

The Court requires Michigan to “reoffer the plea agreement” that was rejected because of bad advice from counsel. *Ante*, at 16. That would indeed be a powerful remedy—but for the fact that Cooper's acceptance of that re-offered agreement is not conclusive. Astoundingly, “the state trial court can then *exercise its discretion* in determining whether to vacate the convictions and resentence respondent pursuant to the plea agreement, to vacate only some of the convictions and resentence respondent accordingly, or to leave the convictions and sentence from trial undisturbed.” *Ibid.* (emphasis added).

Why, one might ask, require a “reoffer” of the plea agreement, and its acceptance by the defendant? If the district court finds (as a necessary element, supposedly, of *Strickland* prejudice) that Cooper *would have accepted* the original offer, and would thereby have avoided trial and conviction, why not skip the reoffer-and-reacceptance minuet and simply leave it to the discretion of the state

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trial court what the remedy shall be? The answer, of course, is camouflage. Trial courts, after all, *regularly* accept or reject plea agreements, so there seems to be nothing extraordinary about their accepting or rejecting the new one mandated by today's decision. But the acceptance or rejection of a plea agreement that has no status whatever under the United States Constitution is worlds apart from what this is: "discretionary" specification of a remedy for an unconstitutional criminal conviction.

To be sure, the Court asserts that there are "factors" which bear upon (and presumably limit) exercise of this discretion—factors that it is not prepared to specify in full, much less assign some determinative weight. "Principles elaborated over time in decisions of state and federal courts, and in statutes and rules" will (in the Court's rosy view) sort all that out. *Ante*, at 13. I find it extraordinary that "statutes and rules" can specify the remedy for a criminal defendant's unconstitutional conviction. Or that the remedy for an unconstitutional conviction should *ever* be subject *at all* to a trial judge's discretion. Or, finally, that the remedy could *ever* include no remedy at all.

I suspect that the Court's squeamishness in fashioning a remedy, and the incoherence of what it comes up with, is attributable to its realization, deep down, that there is no real constitutional violation here anyway. The defendant has been fairly tried, lawfully convicted, and properly sentenced, and *any* "remedy" provided for this will do nothing but undo the just results of a fair adversarial process.

IV

In many—perhaps most—countries of the world, American-style plea bargaining is forbidden in cases as serious as this one, even for the purpose of obtaining testimony that enables conviction of a greater malefactor, much less

for the purpose of sparing the expense of trial. See, e.g., World Plea Bargaining 344, 363-366 (S. Thaman ed. 2010). In Europe, many countries adhere to what they aptly call the "legality principle" by requiring prosecutors to charge all prosecutable offenses, which is typically incompatible with the practice of charge-bargaining. See, e.g., *id.*, at xxii; Langbein, Land Without Plea Bargaining: How the Germans Do It, 78 Mich. L. Rev. 204, 210-211 (1979) (describing the "Legalitätsprinzip," or rule of compulsory prosecution, in Germany). Such a system reflects an admirable belief that the law is the law, and those who break it should pay the penalty provided.

In the United States, we have plea bargaining a-plenty, but until today it has been regarded as a necessary evil. It presents grave risks of prosecutorial overcharging that effectively compels an innocent defendant to avoid massive risk by pleading guilty to a lesser offense; and for guilty defendants it often—perhaps usually—results in a sentence well below what the law prescribes for the actual crime. But even so, we accept plea bargaining because many believe that without it our long and expensive process of criminal trial could not sustain the burden imposed on it, and our system of criminal justice would grind to a halt. See, e.g., Alschuler, Plea Bargaining and its History, 79 Colum. L. Rev. 1, 38 (1979).

X Today, however, the Supreme Court of the United States elevates plea bargaining from a necessary evil to a constitutional entitlement. It is no longer a somewhat embarrassing adjunct to our criminal justice system; rather, as the Court announces in the companion case to this one, "it is the criminal justice system." *Frye, ante*, at 7 (quoting approvingly from Scott 1912). Thus, even though there is no doubt that the respondent here is guilty of the offense with which he was charged; even though he has received the exorbitant gold standard of American justice—a full-dress criminal trial with its innumerable

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* constitutional and statutory limitations upon the evidence that the prosecution can bring forward, and (in Michigan as in most States³) the requirement of a unanimous guilty verdict by impartial jurors; the Court says that his conviction is invalid because he was deprived of his constitutional entitlement to plea-bargain. * Important

* I am less saddened by the outcome of this case than I am by what it says about this Court's attitude toward criminal justice. The Court today embraces the sporting-chance theory of criminal law, in which the State functions like a conscientious casino-operator, giving each player a fair chance to beat the house, that is, to serve less time than the law says he deserves. And when a player is excluded from the tables, his constitutional rights have been violated. I do not subscribe to that theory. No one should, least of all the Justices of the Supreme Court. * * *

* Today's decision upends decades of our cases, violates a federal statute, and opens a whole new boutique of constitutional jurisprudence ("plea-bargaining law") without even specifying the remedies the boutique offers. The result in the present case is the undoing of an adjudicatory process that worked *exactly* as it is supposed to. Released felon Anthony Cooper, who shot repeatedly and gravely injured a woman named Kali Mundy, was tried and convicted for his crimes by a jury of his peers, and given a punishment that Michigan's elected representatives have deemed appropriate. Nothing about that result is unfair or unconstitutional. To the contrary, it is wonderfully just, and infinitely superior to the trial-by-bargain that today's opinion affords constitutional status. I respectfully dissent. *

³See *People v. Cooks*, 446 Mich. 503, 510, 521 N. W. 2d 275, 278 (1994); 6 W. LaFare, J. Israel, N. King, & O. Kerr, *Criminal Procedure* §22.1(e) (3d ed. 2007 and Supp. 2011-2012).

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SUPREME COURT OF THE UNITED STATES

No. 10-209

BLAINE LAFLER, PETITIONER *v.* ANTHONY COOPERON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[March 21, 2012]

JUSTICE KENNEDY delivered the opinion of the Court.

In this case, as in *Missouri v. Frye*, ante, p. ___, also decided today, a criminal defendant seeks a remedy when inadequate assistance of counsel caused nonacceptance of a plea offer and further proceedings led to a less favorable outcome. In *Frye*, defense counsel did not inform the defendant of the plea offer; and after the offer lapsed the defendant still pleaded guilty, but on more severe terms. Here, the favorable plea offer was reported to the client but, on advice of counsel, was rejected. In *Frye* there was a later guilty plea. Here, after the plea offer had been rejected, there was a full and fair trial before a jury. After a guilty verdict, the defendant received a sentence harsher than that offered in the rejected plea bargain. The instant case comes to the Court with the concession that counsel's advice with respect to the plea offer fell below the standard of adequate assistance of counsel guaranteed by the Sixth Amendment, applicable to the States through the Fourteenth Amendment.

I

On the evening of March 25, 2003, respondent pointed a gun toward Kali Mundy's head and fired. From the rec-

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ord; it is unclear why respondent did this, and at trial it was suggested that he might have acted either in self-defense or in defense of another person. In any event the shot missed and Mundy fled. Respondent followed in pursuit, firing repeatedly. Mundy was shot in her buttock, hip, and abdomen but survived the assault.

Respondent was charged under Michigan law with assault with intent to murder, possession of a firearm by a felon, possession of a firearm in the commission of a felony, misdemeanor possession of marijuana, and for being a habitual offender. On two occasions, the prosecution offered to dismiss two of the charges and to recommend a sentence of 51 to 85 months for the other two, in exchange for a guilty plea. In a communication with the court respondent admitted guilt and expressed a willingness to accept the offer. Respondent, however, later rejected the offer on both occasions, allegedly after his attorney convinced him that the prosecution would be unable to establish his intent to murder Mundy because she had been shot below the waist. On the first day of trial the prosecution offered a significantly less favorable plea deal, which respondent again rejected. After trial, respondent was convicted on all counts and received a mandatory minimum sentence of 185 to 360 months' imprisonment.

In a so-called *Ginther* hearing before the state trial court, see *People v. Ginther*, 390 Mich. 436, 212 N. W. 2d 922 (1973), respondent argued his attorney's advice to reject the plea constituted ineffective assistance. The trial judge rejected the claim, and the Michigan Court of Appeals affirmed. *People v. Cooper*, No. 250583, 2005 WL 599740 (Mar. 15, 2005) (*per curiam*), App. to Pet. for Cert. 44a. The Michigan Court of Appeals rejected the claim of ineffective assistance of counsel on the ground that respondent knowingly and intelligently rejected two plea offers and chose to go to trial. The Michigan Supreme Court denied respondent's application for leave to file an

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appeal. *People v. Cooper*, 474 Mich. 905, 705 N. W. 2d 118 (2005) (table).

- * Respondent then filed a petition for federal habeas relief under 28 U. S. C. §2254, renewing his ineffective-assistance-of-counsel claim. After finding, as required by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), that the Michigan Court of Appeals had unreasonably applied the constitutional standards for effective assistance of counsel laid out in *Strickland v. Washington*, 466 U. S. 668 (1984), and *Hill v. Lockhart*, 474 U. S. 52 (1985), the District Court granted a conditional writ.
- * *Cooper v. Lafler*, No. 06-11068, 2009 WL 817712, *10 (E.D. Mich., Mar. 26, 2009), App. to Pet. for Cert. 41a-42a. To remedy the violation, the District Court ordered "specific performance of [respondent's] original plea agreement, for a minimum sentence in the range of fifty-one to eighty-five months." *Id.*, at *9, App. to Pet. for Cert. 41a.

The United States Court of Appeals for the Sixth Circuit affirmed, 376 Fed. Appx. 563 (2010), finding "[e]ven full deference under AEDPA cannot salvage the state court's decision," *id.*, at 569. Applying *Strickland*, the Court of Appeals found that respondent's attorney had provided deficient performance by informing respondent of "an incorrect legal rule," 376 Fed. Appx. at 570-571, and that respondent suffered prejudice because he "lost out on an opportunity to plead guilty and receive the lower sentence that was offered to him." *Id.*, at 573. This Court granted certiorari. 562 U. S. ____ (2011).

II
A

- Defendants have a Sixth Amendment right to counsel, a right that extends to the plea-bargaining process. *Frye*, ante, at 8; see also *Padilla v. Kentucky*, 559 U. S. ____ (2010) (slip op., at 16); *Hill*, supra, at 57. During plea negotiations defendants are "entitled to the effective assis-

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tance of competent counsel." McMann v. Richardson, 397 U. S. 759, 771 (1970). In Hill, the Court held "the two-part Strickland v. Washington test applies to challenges to guilty pleas based on ineffective assistance of counsel." 474 U. S., at 58. (The performance prong of Strickland requires a defendant to show "that counsel's representation fell below an objective standard of reasonableness." 474 U. S., at 57 (quoting Strickland, 466 U. S., at 688). In this case all parties agree the performance of respondent's counsel was deficient when he advised respondent to reject the plea offer on the grounds he could not be convicted at trial. In light of this concession, it is unnecessary for this Court to explore the issue.

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The question for this Court is how to apply Strickland's prejudice test where ineffective assistance results in a rejection of the plea offer and the defendant is convicted at the ensuing trial.

B

To establish Strickland prejudice a 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." Id., at 694. In the context of pleas a defendant must show the outcome of the plea process would have been different with competent advice. See Frye, ante, at 12 (noting that Strickland's inquiry, as applied to advice with respect to plea bargains, turns on "whether the result of the proceeding would have been different" (quoting Strickland, supra, at 694)); see also Hill, 474 U. S., at 59 ("The . . . 'prejudice,' requirement . . . focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process"). In Hill, when evaluating the petitioner's claim that ineffective assistance led to the improvident acceptance of a guilty plea, the Court required the petitioner to show "that there is a reasonable probability that, but for counsel's

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errors, [the defendant] would not have pleaded guilty and would have insisted on going to trial." *Ibid.*

In contrast to *Hill*, here the ineffective advice led not to an offer's acceptance but to its rejection. Having to stand trial, not choosing to waive it, is the prejudice alleged. In these circumstances a defendant must show that but for the ineffective advice of counsel there is a reasonable probability that the plea offer would have been presented to the court (i.e., that the defendant would have accepted the plea and the prosecution would not have withdrawn it in light of intervening circumstances), that the court would have accepted its terms, and that the conviction or sentence, or both, under the offer's terms would have been less severe than under the judgment and sentence that in fact were imposed. Here, the Court of Appeals for the Sixth Circuit agreed with that test for *Strickland* prejudice in the context of a rejected plea bargain. This is consistent with the test adopted and applied by other appellate courts without demonstrated difficulties or systemic disruptions. See 376 Fed. Appx., at 571–573; see also, e.g., *United States v. Rodriguez Rodriguez*, 929 F. 2d 747, 753, n. 1 (CA1 1991) (*per curiam*); *United States v. Gordon*, 156 F. 3d 376, 380–381 (CA2 1998) (*per curiam*); *United States v. Day*, 969 F. 2d 39, 43–45 (CA3 1992); *Beckham v. Wainwright*, 639 F. 2d 262, 267 (CA5 1981); *Julian v. Bartley*, 495 F. 3d 487, 498–500 (CA7 2007); *Wanatee v. Ault*, 259 F. 3d 700, 703–704 (CA8 2001); *Nunes v. Mueller*, 350 F. 3d 1045, 1052–1053 (CA9 2003); *Williams v. Jones*, 571 F. 3d 1086, 1094–1095 (CA10 2009) (*per curiam*); *United States v. Gaviria*, 116 F. 3d 1498, 1512–1514 (CA11 1997) (*per curiam*).

Petitioner and the Solicitor General propose a different, far more narrow, view of the Sixth Amendment. They contend there can be no finding of *Strickland* prejudice arising from plea bargaining if the defendant is later convicted at a fair trial. The three reasons petitioner and

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the Solicitor General offer for their approach are unpersuasive.

First, petitioner and the Solicitor General claim that the sole purpose of the Sixth Amendment is to protect the right to a fair trial. Errors before trial, they argue, are not cognizable under the Sixth Amendment unless they affect the fairness of the trial itself. See Brief for Petitioner 12-21; Brief for United States as *Amicus Curiae* 10-12. The Sixth Amendment, however, is not so narrow in its reach. Cf. *Frye, ante*, at 11 (holding that a defendant can show prejudice under *Strickland* even absent a showing that the deficient performance precluded him from going to trial). The Sixth Amendment requires effective assistance of counsel at critical stages of a criminal proceeding. Its protections are not designed simply to protect the trial, even though "counsel's absence [in these stages] may derogate from the accused's right to a fair trial." *United States v. Wade*, 388 U. S. 218, 226 (1967). The constitutional guarantee applies to pretrial critical stages that are part of the whole course of a criminal proceeding, a proceeding in which defendants cannot be presumed to make critical decisions without counsel's advice. This is consistent, too, with the rule that defendants have a right to effective assistance of counsel on appeal, even though that cannot in any way be characterized as part of the trial. See, e.g., *Halbert v. Michigan*, 545 U. S. 605 (2005); *Evitts v. Lucey*, 469 U. S. 387 (1985). The precedents also establish that there exists a right to counsel during sentencing in both noncapital, see *Glover v. United States*, 531 U. S. 198, 203-204 (2001); *Mempa v. Rhay*, 389 U. S. 128 (1967), and capital cases, see *Wiggins v. Smith*, 539 U. S. 510, 538 (2003). Even though sentencing does not concern the defendant's guilt or innocence, ineffective assistance of counsel during a sentencing hearing can result in *Strickland* prejudice because "any amount of [additional] jail time has Sixth Amendment significance." *Glover, supra*,

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at 203.

The Court, moreover, has not followed a rigid rule that an otherwise fair trial remedies errors not occurring at the trial itself. It has inquired instead whether the trial cured the particular error at issue. Thus, in *Vasquez v. Hillery*, 474 U. S. 254 (1986), the deliberate exclusion of all African-Americans from a grand jury was prejudicial because a defendant may have been tried on charges that would not have been brought at all by a properly constituted grand jury. *Id.*, at 263; see *Ballard v. United States*, 329 U. S. 187, 195 (1946) (dismissing an indictment returned by a grand jury from which women were excluded); see also *Stirone v. United States*, 361 U. S. 212, 218–219 (1960) (reversing a defendant's conviction because the jury may have based its verdict on acts not charged in the indictment). By contrast, in *United States v. Mechanik*, 475 U. S. 66 (1986), the complained-of error was a violation of a grand jury rule meant to ensure probable cause existed to believe a defendant was guilty. A subsequent trial, resulting in a verdict of guilt, cured this error. See *id.*, at 72–73.

In the instant case respondent went to trial rather than accept a plea deal, and it is conceded this was the result of ineffective assistance during the plea negotiation process. Respondent received a more severe sentence at trial, one 3½ times more severe than he likely would have received by pleading guilty. Far from curing the error, the trial caused the injury from the error. Even if the trial itself is free from constitutional flaw, the defendant who goes to trial instead of taking a more favorable plea may be prejudiced from either a conviction on more serious counts or the imposition of a more severe sentence.

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Second, petitioner claims this Court refined *Strickland's* prejudice analysis in *Fretwell* to add an additional requirement that the defendant show that ineffective assistance of counsel led to his being denied a substantive or

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procedural right. Brief for Petitioner 12–13. The Court has rejected the argument that *Fretwell* modified *Strickland* before and does so again now. See *Williams v. Taylor*, 529 U. S. 362, 391 (2000) (“The Virginia Supreme Court erred in holding that our decision in *Lockhart v. Fretwell*, 506 U. S. 364 (1993), modified or in some way supplanted the rule set down in *Strickland*”); see also *Glover, supra*, at 203 (“The Court explained last Term [in *Williams*] that our holding in *Lockhart* does not supplant the *Strickland* analysis”).

Fretwell could not show *Strickland* prejudice resulting from his attorney’s failure to object to the use of a sentencing factor the Eighth Circuit had erroneously (and temporarily) found to be impermissible. *Fretwell*, 506 U. S., at 373. Because the objection upon which his ineffective-assistance-of-counsel claim was premised was meritless, Fretwell could not demonstrate an error entitling him to relief. The case presented the “unusual circumstance where the defendant attempts to demonstrate prejudice based on considerations that, as a matter of law, ought not inform the inquiry.” *Ibid.* (O’Connor, J., concurring). See also *ibid.* (recognizing “[t]he determinative question—whether there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different—remains unchanged” (internal quotation marks and citation omitted)). It is for this same reason a defendant cannot show prejudice based on counsel’s refusal to present perjured testimony, even if such testimony might have affected the outcome of the case. See *Nix v. Whiteside*, 475 U. S. 157, 175 (1986) (holding first that counsel’s refusal to present perjured testimony breached no professional duty and second that it cannot establish prejudice under *Strickland*). → most see

Both *Fretwell* and *Nix* are instructive in that they demonstrate “there are also situations in which it would be unjust to characterize the likelihood of a different

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outcome as legitimate 'prejudice,'" *Williams, supra*, at 391–392, because defendants would receive a windfall as a result of the application of an incorrect legal principle or a defense strategy outside the law. Here, however, the injured client seeks relief from counsel's failure to meet a valid legal standard, not from counsel's refusal to violate it. He maintains that, absent ineffective counsel, he would have accepted a plea offer for a sentence the prosecution evidently deemed consistent with the sound administration of criminal justice. The favorable sentence that eluded the defendant in the criminal proceeding appears to be the sentence he or others in his position would have received in the ordinary course, absent the failings of counsel. See *Bibas, Regulating the Plea-Bargaining Market: From Caveat Emptor to Consumer Protection*, 99 Cal. L. Rev. 1117, 1138 (2011) ("The expected post-trial sentence is imposed in only a few percent of cases. It is like the sticker price for cars: only an ignorant, ill-advised consumer would view full price as the norm and anything less a bargain"); see also *Frye, ante*, at 7–8. If a plea bargain has been offered, a defendant has the right to effective assistance of counsel in considering whether to accept it. If that right is denied, prejudice can be shown if loss of the plea opportunity led to a trial resulting in a conviction on more serious charges or the imposition of a more severe sentence. Plea Bargain

It is, of course, true that defendants have "no right to be offered a plea . . . nor a federal right that the judge accept it." *Frye, ante*, at 12. In the circumstances here, that is beside the point. If no plea offer is made, or a plea deal is accepted by the defendant but rejected by the judge, the issue raised here simply does not arise. Much the same reasoning guides cases that find criminal defendants have a right to effective assistance of counsel in direct appeals even though the Constitution does not require States to provide a system of appellate review at all. See *Evitts*, 469

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U. S. 387; see also *Douglas v. California*, 372 U. S. 353 (1963). As in those cases, "[w]hen a State opts to act in a field where its action has significant discretionary elements, it must nonetheless act in accord with the dictates of the Constitution." *Evitts, supra*, at 401.

Third, petitioner seeks to preserve the conviction obtained by the State by arguing that the purpose of the Sixth Amendment is to ensure "the reliability of [a] conviction following trial." Brief for Petitioner 13. This argument, too, fails to comprehend the full scope of the Sixth Amendment's protections; and it is refuted by precedent. *Strickland* recognized "[t]he benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." 466 U. S., at 686. The goal of a just result is not divorced from the reliability of a conviction, see *United States v. Cronin*, 466 U. S. 648, 658 (1984); but here the question is not the fairness or reliability of the trial but the fairness and regularity of the processes that preceded it, which caused the defendant to lose benefits he would have received in the ordinary course but for counsel's ineffective assistance.

There are instances, furthermore, where a reliable trial does not foreclose relief when counsel has failed to assert rights that may have altered the outcome. *In Kimmelman v. Morrison*, 477 U. S. 365 (1986), the Court held that an attorney's failure to timely move to suppress evidence during trial could be grounds for federal habeas relief. The Court rejected the suggestion that the "failure to make a timely request for the exclusion of illegally seized evidence" could not be the basis for a Sixth Amendment violation because the evidence "is 'typically reliable and often the most probative information bearing on the guilt or innocence of the defendant.'" *Id.*, at 379 (quoting *Stone v. Powell*, 428 U. S. 465, 490 (1976)). "The constitutional

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rights of criminal defendants," the Court observed, "are granted to the innocent and the guilty alike. Consequently, we decline to hold either that the guarantee of effective assistance of counsel belongs solely to the innocent or that it attaches only to matters affecting the determination of actual guilt." 477 U.S., at 380. The same logic applies here. The fact that respondent is guilty does not mean he was not entitled by the Sixth Amendment to effective assistance or that he suffered no prejudice from his attorney's deficient performance during plea bargaining.

In the end, petitioner's three arguments amount to one general contention: A fair trial wipes clean any deficient performance by defense counsel during plea bargaining. That position ignores the reality that criminal justice today is for the most part a system of pleas, not a system of trials. Ninety-seven percent of federal convictions and ninety-four percent of state convictions are the result of guilty pleas. See *Frye, ante*, at 7. As explained in *Frye*, the right to adequate assistance of counsel cannot be defined or enforced without taking account of the central role plea bargaining plays in securing convictions and determining sentences. *Ibid.* ("[I]t is insufficient simply to point to the guarantee of a fair trial as a backstop that inoculates any errors in the pretrial process").

C

Even if a defendant shows ineffective assistance of counsel has caused the rejection of a plea leading to a trial and a more severe sentence, there is the question of what constitutes an appropriate remedy. That question must now be addressed.

Sixth Amendment remedies should be "tailored to the injury suffered from the constitutional violation and should not unnecessarily infringe on competing interests." *United States v. Morrison*, 449 U.S. 361, 364 (1981). Thus, a remedy must "neutralize the taint" of a constitu-

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tional violation, *id.*, at 365, while at the same time not grant a windfall to the defendant or needlessly squander the considerable resources the State properly invested in the criminal prosecution. See *Mechanik*, 475 U.S., at 72 ("The reversal of a conviction entails substantial social costs: it forces jurors, witnesses, courts, the prosecution, and the defendants to expend further time, energy, and other resources to repeat a trial that has already once taken place; victims may be asked to relive their disturbing experiences").

The specific injury suffered by defendants who decline a plea offer as a result of ineffective assistance of counsel and then receive a greater sentence as a result of trial can come in at least one of two forms. In some cases, the sole advantage a defendant would have received under the plea is a lesser sentence. This is typically the case when the charges that would have been admitted as part of the plea bargain are the same as the charges the defendant was convicted of after trial. In this situation the court may conduct an evidentiary hearing to determine whether the defendant has shown a reasonable probability that but for counsel's errors he would have accepted the plea. If the showing is made, the court may exercise discretion in determining whether the defendant should receive the term of imprisonment the government offered in the plea, the sentence he received at trial, or something in between.

In some situations it may be that resentencing alone will not be full redress for the constitutional injury. If, for example, an offer was for a guilty plea to a count or counts less serious than the ones for which a defendant was convicted after trial, or if a mandatory sentence confines a judge's sentencing discretion after trial, a resentencing based on the conviction at trial may not suffice. See, e.g., *Williams*, 571 F.3d, at 1088; *Riggs v. Fairman*, 399 F.3d 1179, 1181 (CA9 2005). In these circumstances, the proper exercise of discretion to remedy the constitutional

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injury may be to require the prosecution to reoffer the plea proposal. Once this has occurred, the judge can then exercise discretion in deciding whether to vacate the conviction from trial and accept the plea or leave the conviction undisturbed.

In implementing a remedy in both of these situations, the trial court must weigh various factors; and the boundaries of proper discretion need not be defined here. Principles elaborated over time in decisions of state and federal courts, and in statutes and rules, will serve to give more complete guidance as to the factors that should bear upon the exercise of the judge's discretion. At this point, however, it suffices to note two considerations that are of relevance.

First, a court may take account of a defendant's earlier expressed willingness, or unwillingness, to accept responsibility for his or her actions. Second, it is not necessary here to decide as a constitutional rule that a judge is required to prescind (that is to say disregard) any information concerning the crime that was discovered after the plea offer was made. The time continuum makes it difficult to restore the defendant and the prosecution to the precise positions they occupied prior to the rejection of the plea offer, but that baseline can be consulted in finding a remedy that does not require the prosecution to incur the expense of conducting a new trial.

~~Petitioner argues that implementing a remedy here will open the floodgates to litigation by defendants seeking to unsettle their convictions.~~ See Brief for Petitioner 20. Petitioner's concern is misplaced. Courts have recognized claims of this sort for over 30 years, see *supra*, at 5, and yet there is no indication that the system is overwhelmed by these types of suits or that defendants are receiving windfalls as a result of strategically timed *Strickland* claims. See also *Padilla*, 559 U. S., at ____ (slip op., at 14) ("We confronted a similar 'floodgates' concern in *Hill*," but

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a "flood did not follow in that decision's wake"). In addition, the "prosecution and the trial courts may adopt some measures to help ensure against late, frivolous, or fabricated claims after a later, less advantageous plea offer has been accepted or after a trial leading to conviction." *Frye, ante*, at 10. See also *ibid.* (listing procedures currently used by various States). This, too, will help ensure against meritless claims.

III

The standards for ineffective assistance of counsel when a defendant rejects a plea offer and goes to trial must now be applied to this case. Respondent brings a federal collateral challenge to a state-court conviction. Under AEDPA, a federal court may not grant a petition for a writ of habeas corpus unless the state court's adjudication on the merits was "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States," 28 U.S.C. §2254(d)(1). A decision is contrary to clearly established law if the state court "applies a rule that contradicts the governing law set forth in [Supreme Court] cases." *Williams v. Taylor*, 529 U.S. 362, 405 (2000) (opinion for the Court by O'Connor, J.). The Court of Appeals for the Sixth Circuit could not determine whether the Michigan Court of Appeals addressed respondent's ineffective-assistance-of-counsel claim or, if it did, "what the court decided, or even whether the correct legal rule was identified." 376 Fed. Appx., at 568-569.

The state court's decision may not be quite so opaque as the Court of Appeals for the Sixth Circuit thought, yet the federal court was correct to note that AEDPA does not present a bar to granting respondent relief. That is because the Michigan Court of Appeals identified respondent's ineffective-assistance-of-counsel claim but failed to apply *Strickland* to assess it. Rather than applying

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Strickland, the state court simply found that respondent's rejection of the plea was knowing and voluntary. *Cooper*, 2005 WL 599740, *1, App. to Pet. for Cert. 45a. An inquiry into whether the rejection of a plea is knowing and voluntary, however, is not the correct means by which to address a claim of ineffective assistance of counsel. See *Hill*, 474 U. S., at 370 (applying *Strickland* to assess a claim of ineffective assistance of counsel arising out of the plea negotiation process). After stating the incorrect standard, moreover, the state court then made an irrelevant observation about counsel's performance at trial and mischaracterized respondent's claim as a complaint that his attorney did not obtain a more favorable plea bargain. By failing to apply *Strickland* to assess the ineffective-assistance-of-counsel claim respondent raised, the state court's adjudication was contrary to clearly established federal law. And in that circumstance the federal courts in this habeas action can determine the principles necessary to grant relief. See *Panetti v. Quarterman*, 551 U. S. 930, 948 (2007).

Respondent has satisfied *Strickland*'s two-part test. Regarding performance, perhaps it could be accepted that it is unclear whether respondent's counsel believed respondent could not be convicted for assault with intent to murder as a matter of law because the shots hit Mundy below the waist, or whether he simply thought this would be a persuasive argument to make to the jury to show lack of specific intent. And, as the Court of Appeals for the Sixth Circuit suggested, an erroneous strategic prediction about the outcome of a trial is not necessarily deficient performance. Here, however, the fact of deficient performance has been conceded by all parties. The case comes to us on that assumption, so there is no need to address this question.

As to prejudice, respondent has shown that but for counsel's deficient performance there is a reasonable

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probability he and the trial court would have accepted the guilty plea. See 376 Fed. Appx., at 571-572. In addition, as a result of not accepting the plea and being convicted at trial, respondent received a minimum sentence $3\frac{1}{2}$ times greater than he would have received under the plea. The standard for ineffective assistance under *Strickland* has thus been satisfied.

XX As a remedy, the District Court ordered specific performance of the original plea agreement. The correct remedy in these circumstances, however, is to order the State to reoffer the plea agreement. Presuming respondent accepts the offer, the state trial court can then exercise its discretion in determining whether to vacate the convictions and resentence respondent pursuant to the plea agreement, to vacate only some of the convictions and resentence respondent accordingly, or to leave the convictions and sentence from trial undisturbed. See Mich. Ct. Rule 6.302(C)(3) (2011) ("If there is a plea agreement and its terms provide for the defendant's plea to be made in exchange for a specific sentence disposition or a prosecutorial sentence recommendation, the court may . . . reject the agreement"). Today's decision leaves open to the trial court how best to exercise that discretion in all the circumstances of the case.

The judgment of the Court of Appeals for the Sixth Circuit is vacated, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

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ALITO, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 10-209

BLAINE LAFLER, PETITIONER v. ANTHONY COOPER

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[March 21, 2012]

JUSTICE ALITO, dissenting.

For the reasons set out in Parts I and II of JUSTICE SCALIA's dissent, the Court's holding in this case misapplies our ineffective-assistance-of-counsel case law and violates the requirements of the Antiterrorism and Effective Death Penalty Act of 1996. Respondent received a trial that was free of any identified constitutional error, and, as a result, there is no basis for concluding that respondent suffered prejudice and certainly not for granting habeas relief.

The weakness in the Court's analysis is highlighted by its opaque discussion of the remedy that is appropriate when a plea offer is rejected due to defective legal representation. If a defendant's Sixth Amendment rights are violated when deficient legal advice about a favorable plea offer causes the opportunity for that bargain to be lost, the only logical remedy is to give the defendant the benefit of the favorable deal. But such a remedy would cause serious injustice in many instances, as I believe the Court tacitly recognizes. The Court therefore eschews the only logical remedy and relies on the lower courts to exercise sound discretion in determining what is to be done.

Time will tell how this works out. The Court, for its part, finds it unnecessary to define "the boundaries of proper discretion" in today's opinion. *Ante*, at 13. In my view, requiring the prosecution to renew an old plea offer

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ALITO, J., dissenting

would represent an abuse of discretion in at least two circumstances: first, when important new information about a defendant's culpability comes to light after the offer is rejected, and, second, when the rejection of the plea offer results in a substantial expenditure of scarce prosecutorial or judicial resources.

The lower court judges who must implement today's holding may—and I hope, will—do so in a way that mitigates its potential to produce unjust results. But I would not depend on these judges to come to the rescue. The Court's interpretation of the Sixth Amendment right to counsel is unsound, and I therefore respectfully dissent.

(Slip Opinion)

OCTOBER TERM, 2011

LEGALLY MADE

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

LAFLER v. COOPER

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT

No. 10–209. Argued October 31, 2011—Decided March 21, 2012

Respondent was charged under Michigan law with assault with intent to murder and three other offenses. The prosecution offered to dismiss two of the charges and to recommend a 51-to-85-month sentence on the other two, in exchange for a guilty plea. In a communication with the court, respondent admitted his guilt and expressed a willingness to accept the offer. But he rejected the offer, allegedly after his attorney convinced him that the prosecution would be unable to establish intent to murder because the victim had been shot below the waist. At trial, respondent was convicted on all counts and received a mandatory minimum 185-to-360-month sentence. In a subsequent hearing, the state trial court rejected respondent's claim that his attorney's advice to reject the plea constituted ineffective assistance. The Michigan Court of Appeals affirmed, rejecting the ineffective-assistance claim on the ground that respondent knowingly and intelligently turned down the plea offer and chose to go to trial. Respondent renewed his claim in federal habeas. Finding that the state appellate court had unreasonably applied the constitutional effective-assistance standards laid out in *Strickland v. Washington*, 466 U. S. 668, and *Hill v. Lockhart*, 474 U. S. 52, the District Court granted a conditional writ and ordered specific performance of the original plea offer. The Sixth Circuit affirmed. Applying *Strickland*, it found that counsel had provided deficient performance by advising respondent of an incorrect legal rule, and that respondent suffered prejudice because he lost the opportunity to take the more favorable sentence offered in the plea.

Held:

1. Where counsel's ineffective advice led to an offer's rejection, and where the prejudice alleged is having to stand trial, a defendant must

LEGAN

Syllabus

show that but for the ineffective advice, there is a reasonable probability that the plea offer would have been presented to the court, that the court would have accepted its terms, and that the conviction or sentence, or both, under the offer's terms would have been less severe than under the actual judgment and sentence imposed. Pp. 3–11.

(a) Because the parties agree that counsel's performance was deficient, the only question is how to apply *Strickland's* prejudice test where ineffective assistance results in a rejection of the plea offer and the defendant is convicted at the ensuing trial. Pp. 3–4.

(b) In that context, the *Strickland* prejudice test requires a defendant to show a reasonable possibility that the outcome of the plea process would have been different with competent advice. The Sixth Circuit and other federal appellate courts have agreed with the *Strickland* prejudice test for rejected pleas adopted here by this Court. Petitioner and the Solicitor General propose a narrow view—that *Strickland* prejudice cannot arise from plea bargaining if the defendant is later convicted at a fair trial—but their reasoning is unpersuasive. First, they claim that the Sixth Amendment's sole purpose is to protect the right to a fair trial, but the Amendment actually requires effective assistance at critical stages of a criminal proceeding, including pretrial stages. This is consistent with the right to effective assistance on appeal, see, e.g., *Halbert v. Michigan*, 545 U. S. 605, and the right to counsel during sentencing, see, e.g., *Glover v. United States*, 531 U. S. 198, 203–204. This Court has not followed a rigid rule that an otherwise fair trial remedies errors not occurring at trial, but has instead inquired whether the trial cured the particular error at issue. See, e.g., *Vasquez v. Hillery*, 474 U. S. 254, 263. Second, this Court has previously rejected petitioner's argument that *Lockhart v. Fretwell*, 506 U. S. 364, modified *Strickland* and does so again here. *Fretwell* and *Nix v. Whiteside*, 475 U. S. 157, demonstrate that "it would be unjust to characterize the likelihood of a different outcome as legitimate 'prejudice,'" *Williams v. Taylor*, 529 U. S. 362, 391–392, where defendants would receive a windfall as a result of the application of an incorrect legal principle or a defense strategy outside the law. Here, however, respondent seeks relief from counsel's failure to meet a valid legal standard. Third, petitioner seeks to preserve the conviction by arguing that the Sixth Amendment's purpose is to ensure a conviction's reliability, but this argument fails to comprehend the full scope of the Sixth Amendment and is refuted by precedent. Here, the question is the fairness or reliability not of the trial but of the processes that preceded it, which caused respondent to lose benefits he would have received but for counsel's ineffective assistance. Furthermore, a reliable trial may not foreclose relief when counsel has failed to assert rights that may have

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Cite as: 566 U. S. ____ (2012)

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Syllabus

altered the outcome. See *Kimmelman v. Morrison*, 477 U. S. 365, 379. Petitioner's position that a fair trial wipes clean ineffective assistance during plea bargaining also ignores the reality that criminal justice today is for the most part a system of pleas, not a system of trials. See *Missouri v. Frye*, ante, at ____ Pp. 4–11.

2. Where a defendant shows ineffective assistance has caused the rejection of a plea leading to a more severe sentence at trial, the remedy must "neutralize the taint" of a constitutional violation, *United States v. Morrison*, 449 U. S. 361, 365, but must not grant a windfall to the defendant or needlessly squander the resources the State properly invested in the criminal prosecution, see *United States v. Mechanik*, 475 U. S. 66, 72. If the sole advantage is that the defendant would have received a lesser sentence under the plea, the court should have an evidentiary hearing to determine whether the defendant would have accepted the plea. If so, the court may exercise discretion in determining whether the defendant should receive the term offered in the plea, the sentence received at trial, or something in between. However, resentencing based on the conviction at trial may not suffice, e.g., where the offered guilty plea was for less serious counts than the ones for which a defendant was convicted after trial, or where a mandatory sentence confines a judge's sentencing discretion. In these circumstances, the proper remedy may be to require the prosecution to reoffer the plea. The judge can then exercise discretion in deciding whether to vacate the conviction from trial and accept the plea, or leave the conviction undisturbed. In either situation, a court must weigh various factors. Here, it suffices to give two relevant considerations. First, a court may take account of a defendant's earlier expressed willingness, or unwillingness, to accept responsibility for his or her actions. Second, it is not necessary here to decide as a constitutional rule that a judge is required to disregard any information concerning the crime discovered after the plea offer was made. Petitioner argues that implementing a remedy will open the floodgates to litigation by defendants seeking to unsettle their convictions, but in the 30 years that courts have recognized such claims, there has been no indication that the system is overwhelmed or that defendants are receiving windfalls as a result of strategically timed *Strickland* claims. In addition, the prosecution and trial courts may adopt measures to help ensure against meritless claims. See *Frye*, ante, at ____ Pp. 11–14.

3. This case arises under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), but because the Michigan Court of Appeals' analysis of respondent's ineffective-assistance-of-counsel claim was contrary to clearly established federal law, AEDPA presents no bar to relief. Respondent has satisfied *Strickland*'s two-part test.

LEGAL MAIL

(34)

LEGAL MAIL

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LAFLEW V. COOPER

Syllabus

The parties concede the fact of deficient performance. And respondent has shown that but for that performance there is a reasonable probability he and the trial court would have accepted the guilty plea. In addition, as a result of not accepting the plea and being convicted at trial, he received a minimum sentence $3\frac{1}{2}$ times greater than he would have received under the plea. As a remedy, the District Court ordered specific performance of the plea agreement, but the correct remedy is to order the State to reoffer the plea. If respondent accepts the offer, the state trial court can exercise its discretion in determining whether to vacate respondent's convictions and resentence pursuant to the plea agreement, to vacate only some of the convictions and resentence accordingly, or to leave the conviction and sentence resulting from the trial undisturbed. Pp. 14–16.

376 Fed. Appx. 563, vacated and remanded.

KENNEDY, J., delivered the opinion of the Court, in which GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined, and in which ROBERTS, C. J., joined as to all but Part IV. ALITO, J., filed a dissenting opinion.

Gwen T Hyatt

Clerk of Court
Dillon County
PO Drawer 1220
Dillon, SC 29536
Telephone: 843-774-1425
Facsimile: 843-841-3706

July 7, 2009

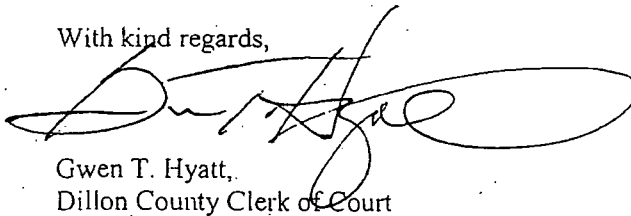
Shaheen Cabbagestalk #295567
386 Redemption Way B-26 SMU
McCormick SC 29899

Re: Notice Of Rights

Dear Mr. Cabbagestalk,

Please be advised we have clocked and filed your letter and Notice Of Rights document. A certified copy has been forwarded to Deputy Solicitor Kernard Redmond. If there is any questions concerning this matter please contact him at the address and phone number listed below.

With kind regards,



Gwen T. Hyatt,
Dillon County Clerk of Court

Deputy Solicitor
Kernard Redmond
P O Box 868
Dillon SC 29536
843-774-1448

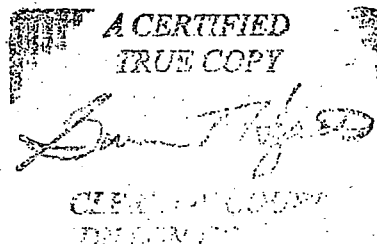
① Dear, Ms. Gwen T. Hyatt

Hi! I'd like to Ask that you
Clearly Clock Stamp and file
this notice letter of Rights and
Send Me A Copy Back Soon
As possible madam I'd Be
Very Appreciative of your
Compliance

7-1-09

By: Shaheen Cabbagestalk
without prejudice vcc 1-267

Please Read Carefully so
Nothing's mis interpreted Above



FILED
GWEN T. HYATT
2009 JUL -7 PM 1:31
CLERK OF COURT
DILLON COUNTY

Notice of Rights

I Mr. Shaheen Cabbagestalk
 Whom is falsely imprisoned under
 the case state v. James Cabbagestalk
 here by without prejudice UCC 1-207
 Reserve all my Rights I'm not an American
 I'm african, also THE LAW DOESN'T
Apply to Me Being it is Early in
 this case in Direct appeal of General
 Sessions Courts decision. I'm under
 No Contract with any Government officials
 period within this case and my Freedom
 life, and liberty has be tampered with
 By Dillon County Sheriffs department and
 the solicitor kernard G. Redmond I ask
 A copy of this is filed in Courts
 in which I am AND SEND ME
 my Copy BACK please thanks
 and have a Blessed Day

By: Shaheen Cabbagestalk
 without prejudice UCC 1-207

7-1-09

FILED
 GWEN T. HYATT
 2009 JUL -7 PM 11:31
 CLERK OF COURT
 DILLON COUNTY

A CERTIFIED
 TRUE COPY
 [Signature]
 CLERK OF COURT

Gwen T Hyatt

Clerk of Court

Dillon County

PO Drawer 1220

Dillon, SC 29536

Telephone: 843-774-1425

Facsimile: 843-841-3706

April 2, 2009

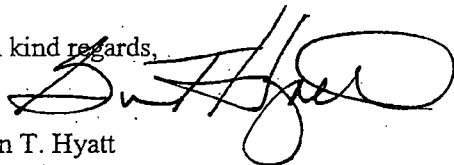
Shaheen Cabbagestalk #295567
386 Redemption Way F-I 185A
McCormick, SC 29899

Re: Motion to Vacate and Release

Dear Mr. Cabbagestalk,

Please note, we have received your letter requesting information on the above referenced matter. However, we do not handle these matters in our office, therefore we have forwarded a certified copy of your letter to Mr. Kernard Redmond Deputy Solicitor. If you have any questions please contact him. His address and phone number have been provided for your convenience.

With kind regards,



Gwen T. Hyatt
Clerk Of Court Dillon County

Kernard Redmond
Deputy Solicitor
P.O. Box 868
Dillon SC 29536
843-774-1448

Dear,

MS. Gwen T. Hyatt this is Mr.
Shaheen Cabbagestalk and I am contacting
you on filing this motion for vacation
of sentencing and immediate Release
Please stamp and file this motion
and send me Back a copy
at the address on this envelope
I'd be very appreciative of your
time and energy

By: Shaheen Cabbagestalk
3-30-09

James Cabbagestalk
v.
State

County of Dillon
General Sessions

K129668

2007-GS-17-364
16-11-330(A)

FILED
GWEN T. HYATT

2009 APR -3 PM 2:03

CLERK OF COURT
DILLON COUNTY

A CERTIFIED
TRUE COPY

Ben T. Hyatt

CLERK OF COURT
DILLON COUNTY

Motion for Vacation
of sentence And immediate
Release

I, Shaheen Cabbagestalk hereby certify that I have never been Indicted by an grand jury of Dillon County on MARCH 5th 2007 for 16-11-330(A) Armed Robbery or Given any time by Judge Howard p. King on 8/28/07 James Cabbagestalk was given 18 year 85% And I Shaheen Cabbagestalk was falsely Imprisoned forced to do the time for James Cabbagestalk. There's no indictment under 16-11-330(A) or sentencing Commitment form States an "A.K.A." or was Amended to say an A.K.A. SCDC has no sentencing Commitment form for Shaheen Cabbagestalk or Armed Robbery Indictment in the above Caption case for Shaheen Cabbagestalk. SCDC has an policy op-21.09 Inmate Records plan which states (2.6) one will not be Accepted into SCDC Custody with Invalid Documents or sentencing/Commitment form. I Shaheen Cabbagestalk remains free of any criminal offense to have broken the laws of South Carolina and Ask to be immediately released out SCDC Custody And that this bogus invalid sentence for James Cabbagestalk be vacated Cause I'm not James Cabbagestalk and lawfully have the rights of a free citizen

(2)

of America free of any criminal offense of 16-11-330(A) on Jan. 1st 2007 there for it is clear that I don't suppose to be in prison in SCDC Custody as there policy op-21.09 Inmate Records plan state. By law I technically have NO prison time to serve in SCDC By NO Judge on 8/28/07 and Ask that Dillon County Clerk of Courts or Whom ever need be contracted to enforce this motion do so and exhaust me my freedom By Law I have right now to my family free as no Charge to have broken any laws of South Carolina. The Chief prosecution Division's Jennifer D. Evans stated that the case wasn't Even an Grand jury case and not only that Dillon County Clerk of court is being requested to let SCDC know they don't have an sentencing sheet for Shaheen Cabbagestalk for Armed Robbery or An Indictment and SCDC Should send me Back to Dillon County Jail or Release me Immediately as asked by this motion I certify I've warned Dillon County Clerk of Courts, SCDC, head Quarters Classifications/Inmate Records in Columbia S.C. And by Law I don't have to answer to an offense not presented by an grand jury and I ask Dillon County Clerk of Courts let SC Courts of Appeals know they have NO right to here an case that's not for me Release me immediately; By: Shaheen Cabbagestalk
3-29-09

CERTIFICATE of Service

I Shaheen Cabbagestalk hereby certify that my SCDC # is 295567 and I have never been known as James Cabbagestalk to S.C.D.C. Ever Since I've been incarcerated in the Department of Corrections as an falsely Imprisoned Citizen I swear under Penalty of perjury that my S.C.D.C. I.D. State Shaheen Cabbagestalk and was processed at Kirkland RE Center which Policy OP-21.09 Inmate Records State: one "will not be accepted into S.C.D.C." With Invalid Documents or sentencing/commitment forms. The responsible Authority for Policy OP-21.09 Inmate Records is: Division of Classification And Inmate Records which is the Head Branch of S.C.D.C. Classification and Records whom have and commitment Order for James Cabbagestalk and under 16-11-330(A) Armed Robbery Gave him 18 years 85% not me. By: Shaheen Cabbagestalk #295567

Notary: *Joyce L. Young*

DATE: 3/23/09

8-28-2011

3/23/09

Certificate of Service

This is to certify that the following has been served with a Change of Venue Motion Notice/new Attorney appointment Request, S.C. Court Administration, Attorney General's office, and Attorney Heather M. Cannon in p.c.r. Action # 2010-CP-17091

By: Shahreen Chhageria/K
 Date: 5/2/11

Notary: [Signature]
 My Commission Expires Jan 128/2018
 Date: May 12/11

Certificate of Service

I hereby certify by proof
 of this that the courts of Dillon
 Clerk ms. Gwen T. Hyatt was served
 with a motion of Default in case
2010-cp-17091 Do to state violations
 of rules of court

By: Shaheen Gibbrestalk
 without prejudice ucc1-207

Notary Name: J C Franklin

my Commission Expires: 12 / 16 / 2019

Date: 19 / may / 2010

Proof

I did serve
 ms. Gwen T. Hyatt
 with motion of Default
 in pcc

*Abatement*Gwen T Hyatt

Clerk of Court
Dillon County
PO Drawer 1220
Dillon, SC 29536
Telephone: 843-774-1425
Facsimile: 843-841-3706

Sept. 29, 2009

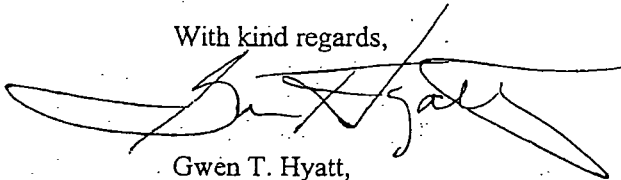
Shaheen Cabbagestalk #295567
386 Redemption Way F-3-165
McCormick SC 29899

Re: letter to Clerk

Dear Mr.Cabbagestalk,

Please note we have clocked, filed and forwarded certified copies of your letter to the Solicitors Office. You may need to contact them concerning this matter. Their address and phone number have been provided.

With kind regards,



Gwen T. Hyatt,
Dillon County Clerk of Court

Solicitors Office
P O Box 868
Dillon SC 29536
843-774-1448

Abatement

For and on the recordFILED
GWEN T. HYATT

2009 SEP 28 AM 9:35

CLERK OF COURT
DILLON COUNTY

My name is ~~Sh~~haheen and my family name is Cabbagestalk. That is spelled Capital S Lower case h-a-h-e-e-n, Capital C Lower case a-b-b-a-g-e-s-t-a-l-k. Not all Capital S-H-A-H-E-E-N, all Capital C-A-B-B-A-G-E-S-T-A-L-K. I AM a RASTAFARIAN Indigenous Native American National. I waive all benefits and privileges and I invoke UCC 1-207 ~~I~~ Whereby all my rights are reserved. I further invoke UCC 1-103 whereby should I be charged with any crime it must be under Common Law. I have responded to this presentment because it attempts to create a colorable person under colorable law by the name of all capitalized SHAHEEN CABBAGESTALK. The artifice being used here to deceive this honorable court must be abated as a public nuisance. For and on the record, Haile ~~Se~~ ~~Asie~~-I and JAH, The merciful Benefactor, The Merciful Redeemer are using the right of a Visitation to exercise the minister power to be heard on this matter. I, Shaheen am a Native South Carolinian and a man on the land in Dillon County, not a resident in the Federal Judicial District in the Central District of South Carolina. My Colors and Authority is the South Carolina green palmetto flag, my law is my Grand Holy Piby and my Status is shown by the Seal of the people. I am who I say I am and not who the District Attorney says I am. Further I sayeth naught and I stand mute.

Dear, Gwen T. Hyatt please do

Clock Stamp and file this
Abatement which coincides
with my Notice of Rights
that's filed in your Court's. please
send me my copy clock stamped
and filed keep (1) for your office and
Records as well.

By Shaeen
Cabbagstalk

without prejudice

UCC-1-207

ASSEVERATION AND DECLARATION OF STATUS

The State of Washington)
) ss
The Spokane county)

Affiant, ^{Shahreen} ~~Abbas~~ ^{Shahrestani} without the Legislative venue and jurisdiction of the UNITED STATES, and of STATE OF WASHINGTON, and or any alleged Federal Territory, and or any alleged commercial, admiralty, maritime, and or some other venue/jurisdiction foreign to Affiant's nature, being first duly sworn accordingly in Law, having firsthand knowledge of the facts contained herein below, being of age to contract, and competent to witness, do Lawfully Declare and Affirm that the following facts are true, correct, complete, certain, and not misleading to the best of Affiant's personal knowledge and belief, and given to the penalty of perjury as articulated to by the Creator, and enumerated in the laws of the united States of America [Title 28 U.S.C., § 1746 (1)]:

Affiant, hereinafter "I, Me, My" am a Natural Born Free, Sui Juris, Inhabitant, an American by birth, of earthly Father's and Mother's appellation; earthly Father and Mother also being naturally Born Free Americans of the several sovereign state Republics of the Grand American Union: known as the united States of America respectively, both of the same Divine decent and Free Americans as were progenity, as also My offspring and their progeny. I am so sojourning in Washington republic, of a transient nature to the UNITED STATES, STATE OF WASHINGTON, and or any 'STATE OF' created and endowed by our Creator: the one supreme Being, with unalienable Rights as articulated in the Constitutions of the United States for the united States of America and The State of Washington for Washington republic, and affirmed in the Declaration of Independence. My jurisdiction is My Sovereign Domain and My Flag is the American Flag of Peace.

I have never knowingly, willfully, intentionally, or voluntarily waived any of these unalienable rights. I freely choose to obey all Constitutional American Law and Pay all Lawful taxes in jurisdictions applicable to Me for thee common good. I stand My self, with Assistance, Special, Sui Juris with Judicial Power, and non-assumpsit to any de facto STATE, State, or state. I am not a member of any body corporate or politic. My Status of American (Citizen) [Article 2:1:5, 1:2:3, 4:2:1, and 3:2:1 U.S. Const.], and My Unalienable Rights are NOT negotiable.

I a creation only of the One Supreme Being: Creator, a Free agent, being a subject, slave or peon to none, have never, knowingly, willfully, intentionally, or voluntarily given My power of attorney, appointment, or sovereign Status to any other party, be it some form of government, person, or organization, or any other entity. Any and all Acts, instruments, paper matter, possessions, some form of and or My personal private property such as: "photographs", fingerprints", "handwritings", voiceprints", "blood samples", "urine samples", and "exemplars" of

That I have read, studied and understand the Constitution of the United States for The united States of America and the Constitution of The State of Washington for Washington republic, and that all alleged governments and their agents, employees, assigns, successors, and their principal actors have taken an oath to protect and defend the above Organic documents from all enemies, both foreign and domestic, prior to taking office and or serving the people of the several sovereign state Republics of the Grand American Union.

That as a member of the Sovereign Republic sojourning in the country of Washington, I am an Elector therein and a member with the responsibility and duty in defense of Self, Family, De Jure state, fellow Americans [Oath of Allegiance, U.S. Const. Amend. Art. 2, 9, 10], and hold My solemn responsibilities equal to My liberties I have never taken an oath of attorney or of public office.

My rights, having been endowed by the Creator of all things in heaven and earth (universe), and declared as unalienable, can NOT be alienated from Me, by My self or any form of government without serious consequences. All who would transgress, usurp, dominate, and violate these rights will be held accountable before The One Supreme Being and Creator of the Universe and Judge of all, by which judgment is reserved to him.

This is in law, LAWFUL PULIC NOTICE of My status, Nunc Pro Tunc, superseding and replacing any and all previous alleged or other such filing of some record.

NOTICE: If within Thirty (30) Days filing of this document out of necessity, as a public record, The State of Washington and any concerned or interested parties having NOT provided verifiable lawful evidence to the contrary of these declarations, on a point-by-point basis, under the penalty of perjury, having firsthand knowledge, as cited; the foregoing facts and TRUTHS declared SHALL stand as prima facie and ultimate, being undisputed, and Failure to respond by silent acquiescence SHALL BE DEEMED The State of Washington and all concerned or interested parties of the world Expressed Affirmation(s) to all that is declared with this document are true, as affirmed, and that I enjoy complete, absolute diplomatic immunity under My Flag of Peace during My special visitation, and I travel through a perpetual neutral zone.

NOTICE: That "Notice to Agent is Notice to Principal" applies to this public notice. Notice: That the "Law of Principal and Agent" specifies that, "The Agent is PERSONALLY liable for acts not authorized by the Principal."

NOTICE: Any process of recording this document SHALL NOT alter or change the Sovereign American Status of this document, nor hinder its eternal perpetuity.

FURTHER SAYETH I NAUGHT

Subscribed and affirmed by the voluntary act of My own hand, in the county of Clallam, within Washington republic on this _____ day of the _____ month, in the year of our Lord, _____.

Sincerely,

Shaheen Cabbagestalk without prejudice ucc 1-207
Shaheen Ramei Cabbagestalk
 A natural free born American Inhabitant,
 Sui Juris, De Jure Soli, Jure Divino.

J. David Watson

Entire PRE-Trial Dealings

⊗ ^{No} Bond hearing

⊗ ^{No} Preliminary hearing

⊗ Didn't file for motion to Quash or Dismiss
Indictment

⊗ Said he'd get all re-served on me
and me stuck on prison

- ① Indictment for Armed Robbery (Not for me) (True Billed) with held not gave to me to form a defense against, which I was illegally detained with them for (James Cabbage stalk) not me
- ② Warrants for me
- ③ Transcripts (July 26th 2007) (May 31st 2007) or (March 17th 2007) Withheld
- ④ Wayne Dillards criminal Record requested with Rule 5 Can't Adequately Address Accuser 6th Amend 14th Be
- ⑤ (Plea Agreement) for (10) yrs negotiated (See May 31st 2007 Judge Hyatt pg. 8 Lines 15-17) (with held by Sol Also 2 others 3 than will deliver an never been any general sessions)
- ⑥ preliminary hearing (March 7th 2007) transcript (Sol who did charges get Band avert)
- ⑦ No Incident Report to Substantiate probable Cause or a Conviction of Armed Robbery or A/B/W/I/K
- ⑧ Solicitor Reelmond Suppressed Wayne Dillard's Criminal Record when requested
- ⑨ (Woody) what ever happened to (Woody) At trial I went to (James Cabbage stalk) (Shakeen Cabbage stalk) But the In Court Identification was proven wrong and Contradicted by Solicitor, Probation Agent, Police Barfield, Even the indictment A/B/W/I/K I illegally amended and was suppose to be made a lesser incl offense bang I was never indicted the Judge illegally Amended the Indictment didn't (submit) it to a grand jury I never waived presentment or gave consent I went from no charge to A/B/W/I/K A Greater offense not lesser and (No Identity) was ever Established cause I was never indicted for Armed Robbery until this very day nor sentenced to any time (see sentencing sheet) by convicted upon indictment not for
- ⑩ No Band Hearing: never went before a magistrate period!!!
- ⑪ Mis Identification (Neill v. Biggers) (Moore At 229 U.S. 434) (See trial transcript pg. 8 Lines 21-22 (I'm on pg. 106 Lines 20-21: names are different Soli Probation Agent Ms. Fore told them it's not a)) (Still until this very day not Indicted) never been in a photo line up period
- ⑫ (Why) is it that (Mr. Watson) filed for all discovery materials and the solicitor put's an Indictment within there (No True Billed) (No Solicitor signature) but later on down the line he got a (March 7th 2007) Court App on ce pg. 14 Lines 8 - pg. 15 1-6: Indictment he got not true billed the same I got) And the clerk of car is keeping the true Billed indictments Instead of producing it within the Rule 5 Clark Givens T. Hy is Withholding it and Subjecting people to Incarceration and denying me the right per. the 5th and 14th and 6th Amendment: to Address the Accusation of the Accuser and Confrontation Clause and the right to assistance of Counsel effectively to Investigate and prepare a defense and against Double Jeopardy as well self incrimination and more. (What is the need to have 2 indictments for the same charge So the Clerk Ms Givens Hyatt) is Interfering with the Indictment process as well the Solicitor. (The Entire Jury selection was illegal proceedings and not for me!!!!)
- ⑬ State witnesses: so I could do criminal Background checks as what ever need be to Defend myself for Formalize a strategy
- ⑭ Never charged for criminal conspiracy dealing with hands of one hands of all this is how the charges came about or Accessory before or after the fact which must be charged more to use hands of one hands of all Mr. Watson And Mr. Manning both In Effective for not raising this issue at the illegal trial I'm not to beat.

① Mr. Watson Why Didn't you file a motion to Quash the Indictments that held Mr. Shaheen Gbagesstak 346 imprisoned as you told him.

② Mr. Shaheen Gbagesstak Advise you of those warrants and Indictments not being for him why didn't you let the judge know the times you all went in front of one instead of getting off the case you could've Dismissed indictment or tried to Dismiss it.

③ You and Mr. Shaheen Gbagesstak filed for a preliminary hearing how come you as an supposedly effective Attorney representing him allow his right be violated (you requested the hearing, he did, ~~at~~ Ern B. Manning to why wasn't his rights defended by you?

④ How is it you as his lawyer files for a preliminary hearing to Judge James F. Rogers but never get an answer but never attempted to Ask Judge James F. Rogers why he ain't have the hearing, this prolonged your clients false imprisonment

⑤ You Received an negotiated plea from Solicitor Bernard Redmond for 10 yrs plea to Armed Robbery all others Concurrent 10 yrs. signed by him (Why you told Mr. Shaheen Gbagesstak (the warrants and indictments not for him so he has no worry's you'll get them thrown out then you turns around and tell him (you'll get them reserved on him and all to keep him in prison or locked up then you asked to be relieved off the case by Judge Paul Burch) you said 1st why would you plea to something Not Addressed to you why didn't you protect my rights?

⑥ Now you told me that this case is actually (the fruit of a poisonous tree) and you can have the charges dismissed what stopped you from putting in the paperwork to do this?

⑦ Mr. Watson you were aware Mr. Shaheen Gbagesstak was never given a Bond or any thing lawfully or proper why didn't you make it well known to Judge Burch Instead of asking to be relieved to protect this mans Rights he's lawfully Entitled.

⑧ Do you think (Mr. Shaheen Gbagesstak) would've took the (10 yrs.) instead of (18 yrs)?

⑨ Mr. Watson you said the Courts have no subject matter Jurisdiction over me do to the fact I'm not a defendant of General Sessions legally by law cause no crime is Alleged I've violated or committed. Didn't you know if you didn't have these charges Dismissed or ~~quit~~ Quashed this would have him doing prison time he lawfully shouldn't be doing this would show your (lack of skill, lack of knowledge, and Carelessness).

At an hearing (Mr. ^{Solicitor} Redmond) told the Judge Mr. Shaheen Gbagesstak had nothing to do with the crime at hand (why didn't you Continue to bring this to the judges Attention or Bring it to the judges Attention period he didn't do this alleged dealing's).

per. Evans v. State (S.C. 2005) 363 S.C. 495, 611 S.E.2d 510: The Grand Jury Impanelment Documents Can be obtained once an Indictment is True Billed the vel. of secrecy is to be uplifted, (Now It's impossible for all or any of the Grand Jury documents to be for (Shaheen Gbagesstak) Cause all is for (James Gbagesstak) not me.

Now Mr. Watson's performance Prejudiced the Cause I could've went to a preliminary hearing and had these false Charges (Dismissed) and (been Discharged Free to my family) his Could've Been taken Care of I Could be home Cause of his failure to advise Judge Burch file for Charges to be Dismissed I'm falsely imprisoned how or failure to mention anything to Judge James F. Rogers about when are we scheduled to go to the preliminary Hearing Charges could've been Dismissed and me freed ~~and~~ also by him not addressing the Courts properly in the indictment issue march 14th 2007 letting the judge know the indictment is signed and dated by a Jury foreman but not submitted to a body of a grand Jury.) which Entitles me to Dismissal of those Charges per. TYNNE GAITHER v. U.S. CHARLESTOWN, v. U.S. CIR. 45: 483 F.2d 1061, 134 U.S. APP. 154

5 months
Before trial
Good enough
time to fix
Indictments

Indictment Issue

Whereas probable cause
has been
No grand
jury indicted
why they indicted 347

See transcript
March 7th 2007

Attorney J. David
Watson

May 31st 2007
Honorable J. Mark Hayes II Judge
July 26th 2007
Honorable P. King

Dillon SC
Honorable Paul M. Burch Judge

- o Pg. 4 Lines 24 - Pg. 5 Lines 5: Not A Fed Solicitor Indictment not for me, requested preliminary hearing Asked for Rule 5 and A notice of A/B/I
 - o Pg. 6 Lines 25 - Pg. 7 1-3: Dismissal of charges if they don't give Rule 5 and preliminary hearing.
 - o Pg. 7 preliminary hearing of Feb. 7th Lines 8-11
 - o Pg. 8 Lines 1-7: Indictments not for me and warrants not for me or my names not on it period.
 - o Pg. 8 Lines 8-13: I was given some one else Bonds never seen magistrate for petit larceny charge
 - o Pg. 13 Lines 23-28: once the Grand Jury presents the indictment with the true bill the issue of preliminary hearing is moot. I never seen indicted trial transcript of August 27-28th 07 proves that the Solicitor, Judge, my Attorney naming, Probation Agent and Fore shows this this is the entire point of of the Judge Amending the A/B/W/I/K Indictment Cause I was never indicted you see the path and pattern as well the Date of when this occurred which leads all the way back to the warrants Being they weren't for me that's a 4th Amendment violation as well 14th (See Pg. 8 Lines 1-7 (warrants) (fruit of the poisonous tree) Wong Sun v. U.S. (proof))
 - o Pg. 14 Lines 8-23: A copy of the indictment wasn't true billed the one I had and my lawyer on March 7th 2007 (he said the clerk keeps them) well Rule 3(b) states the solicitor must immediately file them with the clerk of courts and it must be sent to me ASAP! (Why would the clerk give me a ~ Indictment (Not true billed) and keep the true billed Indictment from me this is misconduct we a ~ Indictment (Not true billed) and keep the true billed Indictment from me this is misconduct damaged and prejudiced my case this could've been addressed March 7th 2007 and could've had me freed this is why the solicitors office was penalized by Chief Justice Tol and Judge John Littlejohn in Spartanburg South Carolina (here it is March 7th 2007: my Attorney: ^{J. David Watson} ~~aim~~ Ever have a true billed indictment But he knows it's true billed (Pg. 14 Lines 14-16) (Also check it out January 12th 2007 I was arrested Lines 22-23))
 - o Pg. 14 Lines 24 - Pg. 15 1-6: Judge Burch said magistrates are slow on the preliminary hearing (this is not my fault) then they say (maybe because supreme Court rules that once you're true billed then they don't have to have a preliminary hearing (Judge said so were checking on that (but it's not Mr. Watson's fault the bottom line is once you're true billed the preliminary hearing is not an issue any more that's been ruled upon) So if I never been indicted to be skipped on preliminary hearing this shows my rights been violated and I was not to be at trial or in court room period to answer to something not for me my Attorney advised the Solicitor the indictment isn't for me. (So that ruling don't apply to me this very day I'm not indicted) See trial transcript (Aug. 27-28th 2007): still Not indicted or given any time.
 - o Pg. 15 Lines 23 - Pg. 16: Kept telling me plea, plea, plea to something guilty plea if you told the Solicitor I'm not indicted? It don't make sense the paper work speaks for itself, self explanatory (Not me) (The indictment was drawn up allegedly by South Carolina Solicitor and signed by a jury foreman was not submitted to body of Grand Jury.)
- No final Ruling on my preliminary hearing Issue
- No True billed Indictment all the way until (Aug. 27-28th 2007) And still until this day I'm not indicted and all from this should've been dismissed it would've been diff + and not made it this far.

Read all underlined

THE STATE, COLUMBIA, SOUTH CAROLINA

WEDNESDAY, SEPTEMBER 27, 2000 B3

METRO/STATE

Chief justice looks at case backlog

The Associated Press

With criminal cases backing up in South Carolina courts, and one prosecutor briefly facing a fine for delays, Chief Justice Jean Toal said Tuesday it was time to look at making changes.

The current system allows prosecutors to determine when a case goes to trial. Toal, who became the state's first woman chief justice earlier this year, has named a 33-member committee to look at potential reforms.

In August, Solicitor Robert Atrial, prosecutor for Greenville and Pick-

ens counties, was fined \$1,000 after admitting that his office often violated a rule limiting the time a suspect can be held without a hearing. The fine later was rescinded.

The state Supreme Court says a defendant must get a preliminary hearing within 10 days of his request and have his case brought to a grand jury within 90 days. Atrial's office left a suspect in jail for five months without a hearing or grand jury appearance.

"There are big backlogs all over the state," Toal said. "It's not any one circuit. In terms of the trial courts, it's very backlogged and that leads to backlogs in county jails."

Toal said the committee will identify practices working well in the state and develop models to more efficiently run the courts.

One is the three-track system used by the prosecutor's office in York and Union counties. Prosecutor Tommy Pope is the only solicitor meeting the state goal of moving 80 percent of cases through the court system within six months.

Pope said that when he took office

in 1993, 27 percent of the cases met the state goal and about 10,000 were backlogged in his circuit alone.

But Pope began looking at the complexity of a case rather than when the crime happened. For example, a recent drunk-driving case gets put in a faster track than a more involved murder case that happened earlier.

"It's not black and white, but it gives us a general means for categorizing," Pope said.

Once backlogged cases are dealt with, a structure needs to be put in place to keep them from backing up again, he said.

* The criminal docketing committee

will be headed by Associate Justice Costa Pleicones of the state Supreme Court and former prosecutor Dudley Saleeby of Florence.

"The committee consists of folks who run the process," Toal said. "We've included solicitors who control the call of cases, judges who, under my direction, have the responsibility for setting the term of court, lawyers, and clerks of courts."

Toal said the committee should look at short-term changes at the local level as well as ideas that might require legislation. She hopes to have preliminary recommendations by the middle of next year, or earlier.



Toal

THE STATE, COLUMBIA, SOUTH CAROLINA

The same exact thing happened to me in my case

5 Months No preliminary hearing
Never Indicted

It's the criminal docketing committee's fault

Everyone involved and judges, clerks, lawyers
Costa Pleicones of the state Supreme Court and former
Prosecutor Dudley Saleeby of Florence
This is judicial misconduct and more

Grand jury sees 1,404- case session

■ **Spartanburg solicitor worries about fines, gives panel less than 22 seconds per indictment**

Associated Press

SPARTANBURG, S.C. — An Upstate prosecutor worried about potential fines rushed 1,404 cases in front of a grand jury Tuesday.

Six weeks ago, Solicitor Holman Gossett's office put 1,800 cases before the Spartanburg County grand jury in a two-day session.

The Tuesday session meant that the grand jury had slightly less than 22 seconds a case for the 1,404 matters during the eight-hour, 30-minute session.

Mr. Gossett is leaving office in January after he lost in the Republican primary this summer to Trey Gowdy. A Gowdy supporter says Mr. Gossett might be targeting Mr. Gowdy and overloading the court docket.

A spokesman for Mr. Gossett said last month the high caseload was necessary to avoid fate similar to that of Greenville prosecutor Bob Ariail, who was fined by Circuit Court Judge John Kittredge for not complying with South Carolina rules saying action on an arrest warrant must be taken within 90 days of receiving it from the clerk of court.

The fine was later dropped.

The mass indictments leave Mr. Gowdy with a large pool of cases he can't be sure to have looked at.

"It looks to me like the policy we used to have of reviewing cases to see if they have a basic degree of merit before sending them for indictment has been abandoned," said Spartanburg attorney Andy Johnston, an assistant solicitor for Mr. Gossett from 1988 to 1990.

Mr. Johnston said it looked as though prosecutors just took every case to the grand jury instead of reviewing and deciding which ones to pursue in court.

Mr. Gowdy takes office Jan. 10. He said it will be difficult for him to see and decide on all the cases from the grand jury.

Eldon D. Wedlock Jr., a criminal law professor and legal ethics expert at the University of South Carolina's School of Law, said the grand jurors share the blame with Mr. Gossett's office.

~~XXXX~~ Their duty is to listen to evidence of criminal allegations presented by prosecutors and witnesses, and to act as a screen against vindictive prosecutions or unfounded charges," Mr. Wedlock said.

"They're not taking that duty as seriously as they should."

EXHIBIT

* Fined

— This what occurred
time in this
case

Send back copy
THANK YOU

* Grand jurors
Share the
Blame 9/11
18 of my
Alleged case

Grand jury
Duties were abandoned
my case would've never
made it to the docket list
they depended on a testimony
that was contradicted the entire way through
by police, solicitor, my attorney naming
No evidence which supports
any of these charges this is a
vindictive prosecution and
unfounded charge

vindictive - holding on to charges

(P.P. Grimsley, Michael Barfield)

This is probable Cause Enough to
take this ~~car~~, Said A TAG stolen, Car fits
Description of Vehicle Involved in Robbery,
The Address were GR was spotted Who's Home?
They spoke to Bryan and his mom they
said they knew nothing about A Robbery.
Then It Goes to speak of KATONYA Renee
WARE When Randal Buying Car from

Got Nothing to do with ME police Took
Tag, got probable Cause, Never Took
Car, Spotted the suspected vehicle,
Never Got finger prints or tested
Alleged Car for gun powder or
Nothing and this Police Report
last page is Dated "1-2-06"

I was in Prison At Kershaw
Prison Maxed out Sept. 1st 2006

⊗ WELL DO I Come In "No one
in report, No photo line up, No line
up period police Report Supplement don't
Support Probable Cause for An Arrest
Warrant of Me period No Informant or
Nothing's stated

AGENCY I.D.
SCO: 170000

SUPPLEMENTARY REPORT

CASE NUMBER

20.07.-00.02

for probable Cause None 351

- ☐ ORIGINAL REPORT
☐ MODIFIES ORIGINAL

- ☒ SUPPLEMENTAL REPORT
☐ CASE STATUS CHANGE

- ☐ ADDITIONAL STOLEN PROPERTY
☐ ADDITIONAL RECOVERED PROPERTY

PAGE _____ of _____ PA

on 1-2-07 suspect vehicle which matched the description of vehicle involved in Robbery was spotted by RP Gimsley at _____ The name of Bryan and Randall Brown. At one point victim had advised he saw suspect and same car hanging around a person in a wheelchair near B+W Auction and Randall is wheelchair bound. Tag was ran by Gimsley and came back stolen. We went to residence and talked to Bryan and his mother but ~~stated~~ state they didn't know anything about tag or robbery but stated that brother in wheelchair, Randall Brown, was buying the car from a Katrina Renee Ware of St. Dillon. Tag was taken off of vehicle by Gimsley and taken out of NCIC. Tag was _____ The VIN number on vehicle came back to a 1988 Chevy Celebrity belonging to the Ware party. Officers then left the scene.

FILED
JAN 11 11 AM
CLERK OF COURT
DILLON COUNTY
2007 FEB - 7 AM 10:06

This enough probable Cause
and no reasonable Doubt I

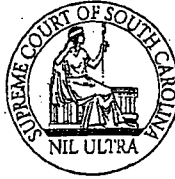
didn't do this crime

look at the Police Careless mind/work

But they just lock's me up
and allegedly find's CA

See DATE 1-1-2007
Crime Allegedly
occured
An entire year
Early than
this date say
and subject is located

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY									
REPORTING OFFICER(S) Rhe D		DATE 1-2-06		UNIT NUMBER .30		APPROVING OFFICER		DATE	
								UNIT NUMBER	



South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

ROSALYN W. FRIERSON
DIRECTOR

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-1355
E-MAIL: rfrierson@sccourts.org

November 16, 2010

Mr. Shaheen Cabbagestalk, #295567
386 Redemption Way, SMU - B#26
McCormick, South Carolina 29899

Dear Mr. Cabbagestalk:

Your correspondence, dated November 8, 2010, requesting a copy of an Affidavit of Probable Cause has been forwarded to this section for response. However, the office of Court Administration is not the custodian of these records. You will need to make your FOI request directly to the official custodian of these records, as we do not maintain any official documents of this nature at the state office of Court Administration.

which was

Sincerely,
Staff Attorney Section

*Judge James F. Rogers
Signed off on warrants
for John Willie Brown police
officer*

EXHIBIT

353

NO
WARRANTS
for me
EXHIBIT #2

GWEN T. HYATT
DILLON COUNTY CLERK OF COURT
P.O. DRAWER 1220
DILLON SOUTH CAROLINA 29536

DATE: 3/31/09

TO: Shahen Cabbagestalk

FROM: GWEN T. HYATT - CLERK OF COURT - DILLON COUNTY

RE: WARRANT(S) FILED IN THE DILLON COUNTY CLERK OF COURT
OFFICE:

YOU HAVE NO PENDING WARRANT(S) IN THE CLERK OF COURT
OFFICE FOR DILLON COUNTY.

WARRANT NUMBERS: _____

THE ABOVE WARRANT NUMBER(S) HAVE NOT BEEN FILED WITH
THE CLERK OF COURT OFFICE FOR DILLON COUNTY. YOU MAY
WANT TO CONTACT CENTRAL COURT AT POST OFFICE BOX 1016
DILLON SOUTH CAROLINA 29536 OR CITY MUNICIPAL COURT
AT POST OFFICE BOX 431 DILLON SOUTH CAROLINA 29536.

GWEN HYATT



CLERK OF COURT
DILLON COUNTY

354r, Gwen T. Hyatt Hi!

this is mr. shakeen Cabbagestalk and I'd Like to know do you have any warrant's for me for an Armed Robbery, Assault and Battery with Intent to Kill?

these alleged crimes occurred Jan. 1st 2007 this is why I'm asking you also I'd like to know do you have any Indictment's for Armed Robbery for Sha heen Cabbagestalk or

Assault and Battery with Intent to Kill. I'd truly be appreciative if you checked and Responded BACK A.S.A.P. This is very important and is very Direct of what I'm looking for So please Don't misinterpret Nothing I Specifically Asked Exactly What's up to p. All I ask is for an Answer yes or NO Which I'm pretty sure the Answer is NO but I'm just asking to be assured so I seriously ask to borrow your precious time to find out an answer on this I'm asking Nothing else about one Name but shakeen Cabbagestalk for above alleged.

FILED
Gwen T. Hyatt
MAR 31 PM 4:17
CLERK OF COURT
DIANE COOPER

355

ARREST WARRANT

K 129608

EXHIBIT #3
Warrants
for 5 pages
to be attachedSTATE OF SOUTH CAROLINA
☒ County/☐ Municipality of
DILLON COUNTY

AFFIDAVIT

Original
copyForm Approved by
S.C. Attorney General
April 21, 2003
SCCA 61a

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of
DILLON COUNTYTHE STATE
againstLAWRENCE E. JONES
Address: DILLON, SC 29536

Phone: SSN: _____

Sex: _____ Race: _____ Height: _____ Weight: _____

DL State: _____ DL #: _____

DOB: _____ Agency ORI#: SC1120000

Prosecuting Agency: DILLON SHERIFF DEPT.

Prosecuting Officer: ARMY LOWELL DEEDER

Offense: ARMED ROBBERY

Offense Code: 330

Code/Ordinance Sec. 16-11-330

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 LAWRENCE E. JONES on 1-12-07

Signature of Constable/Law Enforcement Officer _____

RETURN WARRANT TO:

JAMES F. ROGERS

P.O. BOX 1016

DILLON, SC 29536

STATE OF SOUTH CAROLINA
☐ County/☐ Municipality of
DILLON COUNTYPersonally appeared before me the affiant JAMES F. ROGERSbeing duly sworn deposes and says that defendant LAWRENCE E. JONES
did within this county and state on 01/21/07 violate the criminal laws of thState of South Carolina (or ordinance of ☒ County/☐ Municipality of DILLON)

in the following particulars:

DESCRIPTION OF OFFENSE: ARMED ROBBERY.

16-11-330

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 THE DEFENDANT DID IN DILLON COUNTY ON OR ABOUT 1/11/07

2007

WAYNE DILLARD

WHILE ARMED WITH A DEADLY WEAPON.

WEAPON: _____

HANDGUN, 6 shot kind where it was shot

Signature of Affiant _____

Affiant's Address: DILLON CO SHERIFF'S DEPT

DILLON, SC 29536

Affiant's Telephone: 843 774-1432 0200-0000

STATE OF SOUTH CAROLINA
☒ County/☐ Municipality of
DILLON

ARREST WARRANT

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

If appearing from the above affidavit that there are reasonable grounds to believe: th

on 01/21/07 defendant LAWRENCE E. JONESdid violate the criminal laws of the State of South Carolina (or ordinance of ARMED)☐ County/☐ Municipality of DILLON) as set forth below:

DESCRIPTION OF OFFENSE: ARMED ROBBERY

16-11-330

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
JANUARY 10, 2007

Signature of Issuing Judge _____ (L.S.)

Judge Code: 305

Judge's Address: P.O. BOX 1016

DILLON, SC 29536

Judge's Telephone: 843 774-1406

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

JAMES F. ROGERS

ORIGINAL

356
Balance
Number
Very
important
Number

ee it say
Justification
It say Court
In Court Its
found out
that's Not re
2 different
people

Please:
2010-cp-17091

Not to rrrue
And Crooked
Police (Not Probable
Cause)

CA 111314

QUERY CCH SUMMARY (ICHS)	
AGENCY/STATE DATA	
Original Agency Code (OR)	SC0170000
Police Code (PLIN)	C
Attention or Report (ATTN)	PERNELL, CHEIF DOUGLAS
Justification (JUS)	COURT
PERSON DATA	
Name (NAM)	CABBAGESTALK, JAMES
Sex (SB)	M
Race (RAC)	B
Date of Birth (DOB)	19840214
State ID Number (SID)	
BI Number (BI)	
Social Security Number (SSN)	

He is the Reason I'm
falsely im prisoned now you put James
Cabbagestalk name in a Computer I won't
pop u p! "Chief Douglas Pernell tried to make me
some one I'm not and alot of this stuff, All of it
is made up and false. look at the character and
Crime this guy committed he's suppose to be an Chief of police and
liable to not beat the law. He and Officer John Willie Brown are criminals themselves they made I new
accepted any Bribes or Drugs from them so they get rich off me and have me killed so they set me
with this guy wayne dillard to Get me off the streets

State Law "2011 year Enforcement Division Conducting Preliminary Inquiry Into Pernell Arrest

SLED confirms that the agency is conducting a preliminary inquiry into the arrest of Douglas Pernell on a charge of breach of peace, according to MAJ Richard E. Hunton, Jr., Deputy Director, South Carolina Law Enforcement Division.

Pernell, the former Dillon County Chief Deputy, was arrested by current Chief Deputy Larry Abraham at the courthouse prior to a hearing involving the county council on Tuesday, May 24th.



PERNELL
(Booking Photo)

Pernell told The Herald that the SLED inquiry came about after a request from his attorney.

Douglas Pernell For Sheriff

All citizens of Dillon County are invited to a pig picking to kick off the Douglas Pernell For Sheriff campaign at Newtown Park across from Bartell's Funeral Home at 5 p.m. on Saturday, June 4th.



Paid for by Friends of Douglas "Humbunny" Pernell

Exhibit

Reference: 022N0000HR

Msg Key : ICHS

Date/Time: 20070511153710

Source : SCCH

022N0000HR.SCCH.ICHS.20070511153710.

TO: DILCC004-00226909 20070511 15:37:10 003F3CA14A

FROM: SCCH 20070511 15:37:09

ICHS/QH INQUIRY OF SCLED CCH FILES USING:

ATN-PERNELL, CHEIF DOUGLAS

ORI-SC0170000 PUR-C

NAM-CABBAGESTALK, JAMES

SEX-M RAC-B DOB-19840214

DATE-05/11/2007 TIME-15:39

PAGE-01 OF 01

ORI-SC0170000

SCLED IDENT RESPONSE TO ICHS/QH INQUIRY

THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

Look at + proof
Not person
they looking for Not
me

Guert with Hum Bony
piperite
was
arrested

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

EXHIBIT
EXHIBIT#5
SLED
NO PAPER WORK
FORME

MARK SANFORD
Governor



REGINALD I. LLOYD
Director

September 30, 2010

Shaheen Cabbagestalk, 295567
McCormick CI/F2 183A
386 Redemption Hwy.
McCormick, SC 29899

RE: Freedom of Information Act Request

Dear Mr. Cabbagestalk:

A thorough search of our database using the information provided in your letter revealed nothing found under the name Shaheen Cabbagestalk or James Cabbagestalk in 2007. We advise you to contact the arresting agency for any information they may have concerning this matter.

Sincerely,

FOIA Request Processing
Office of General Counsel

how is
this so
when Douglas
pernell did some
of M.C.I.C.S.L.E.D.
CHECKS S.L.E.D.
Suppose to have
Everything
Some things not
right they
Got no charges
under whether
Name from
two See
EXACTLY what
it say!!!

FOI2010-486



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041

This is why Solicitor changed up his
Story from Police Report ~~and~~ he
said he knew me from prison
This was never explained and ~~showed~~ in prison Record there
Entire Case is a Lie
I never been
Criminal him for
prison or streets

State v. James G. Gage 359

MAIN Alleged witness

Exhibit #6
Contradicts
State main
witness testimony
among missing
Solicitor lied
in trial

And Police
Report
has
2 Different
years
(2006
and
2007)

INMATE RECORDS OFFICE
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
P.O. BOX 21787
COLUMBIA, SOUTH CAROLINA 29221-1787
MAIN TELEPHONE # (803) 896-8531

TO: Barbara

AGENCY: _____

FAX #: () _____ /# OF PAGES INCLUDING COVER: 3

FROM: Lynne Timberlake /DATE: 8-28

SECTION: _____

RETURN FAX #: (803) _____ PHONE #: (803) _____

MESSAGE: INMATES were in SCDC

but not @ same institution
at same time

Shank

WJ

CONFIDENTIALITY NOTICE

This transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, distribution or copying of this information is strictly prohibited. If you have received this transmission in error, please notify us immediately by telephone and return the documents to us at the above address via the United States Postal Service.

Should any of the pages fail to transmit, please contact our office.

360 AGENCY I.D.
SCO 170000

INCIDENT REPORT

K129449 K129449 K129 2007-0002

INC. SYD.

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. Armed Robbery		☒ YES ☐ NO	☐ YES ☒ NO	Roadway	0	☒ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
2. A + B w/ Deadly Weapon		☒ YES ☐ NO	☐ YES ☒ NO	Roadway	0	
3. Petty Larceny		☒ YES ☐ NO	☐ YES ☒ NO	Roadway	0	
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER)				ZIP CODE		WEAPON TYPE
and Rd. Nichols SC 29581				Guns		
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK	
1-1-07	0805				DISP. DATE DISP. TIME TIME ARRIVED DEPART. TIME	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE SEX AGE
Same as Victim				#1 #2 #3	* J S O U	ETH. DAYTIME PHONE H B EVENING PHONE H B
ADDRESS				CITY	STATE	ZIP CODE LOCATION NO.
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE SEX AGE
Dillard, Wayne				"Str2"	O S O U W M	ETH. DAYTIME PHONE H B EVENING PHONE H B
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		
505	210	Brd	Blu			
ADDRESS				CITY	STATE	ZIP CODE LOCATION NO.
Rd. Nichols				SC	29581	
VISIBLE INJURY (MCT. 1) ☐ YES ☒ NO ☐ EXPLAIN				COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☒ NO		
VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK. ☐ DRUGS: ☐ YES ☒ NO ☐ UNK. ☐ TYPE:						
TWO-MAN VEH. ☒ ONE-MAN VEH. ☐ DETECTIVE/PLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED ☒				* J. THIS JURISDICTION. S. STATE. O. OUT OF STATE U. UNKNOWN		
☒ SUSPECT		NAME, LAST, FIRST, MIDDLE		RACE SEX AGE	ETH.	DATE OF BIRTH
☐ RUNAWAY		Cabbagestalk		W M		22
☐ WANTED		SHAHERR JAMES		W M		22
☐ WARRANT		AKA - Woody		W M		22
☐ ARREST		Dillon		W M		22
☐ JAIL		SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK. ☐ ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO ☐		DATE/TIME OF OFFENSE DATE/TIME OF ARREST		
☐ SUMMONS		DRUGS: ☐ YES ☒ NO ☐ UNK. ☐ TYPE:		TOTAL # ARRESTED		
Victim stated was about to pull into his driveway and saw a brown 4-DR either celebrity or cavalier 80's model sitting beside the road with flashers on. He stopped and they asked for a boost. Upon opening his hood he turned around and saw 3 b/m with guns. He stated 2 shotguns and 1 pistol. Stated he recognized the suspect w/ a gun from prison. Suspects name is either cabbagestalk or stockhouse called Woody. He had no gun. There were a total of 4 suspects. Told victim to give his money and cellphone. One suspect hit victim in the face w/ gun. Also had gun pointed at son's face. After getting his money and phone suspects drove off and shot one time. ^{attempted to} lift prints off ^{his vehicle}						
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		
TYPE (GROUP)		TOTAL VALUE				
STOLEN		Cash \$ 6000		Cellphone LG \$ 75.00		
DAMAGED						
BURNED						
RECOVERED						
SEIZED						
SUBJECT IDENTIFIED ☐ YES ☒ NO ☐		SUBJECT LOCATED ☐ YES ☒ NO ☐		ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED ☐		ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER ☐
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH, 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED, 4. ☐ VICTIM DECLINED COOPERATION 5. ☐ JUVENILE - NO CUSTODY						
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE UNIT NUMBER
Barber		1-1-07	33			
FOLLOW-UP INVESTIGATION ☐ YES ☒ NO ☐		OFFICER				

See July 26th 2007 Transcript
page #5
Lines 1-2 no gun

one and a half physical activities
gives money
what victim is doing here from prison
ever if we central transcript
and I had no (is this) said I do a gun
see Tran script w/ 4/26/07
507 page
5 Son was not lines #2-3

FILED
JAN 10 2008
CLERK
JAN 10 2008
CLERK
JAN 10 2008
CLERK

AGENCY I.D.
SCO 170000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

NCIC

361

INQ. BYD.

2007-0002

☒ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL

☐ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 of 1 PAGES.

VICT./SUBJ. I.D. OVERFLOW
☐ COMPLAINANT
☒ VICTIM #2
☐ SUBJECT #
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS
☐

NAME (LAST, FIRST, MIDDLE) DILLARD RUSSEL		VICTIM RELATIONSHIP TO SUBJECT: #1 STR #2 #3		RESIDENT J S O U	RACE W	SEX M	AGE 18	D.O.B.	ETH
HEIGHT 511	WEIGHT 140	HAIR BRN	EYES BRN	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
ADDRESS		CITY NICHOLS	STATE SC	ZIP CODE 29581	LOCATION NO.	DAY PHONE 506 0100	EVENING PHONE H B		
☒ VICTIM NO. 2 VISIBLE INJURY: EXPLAIN:		COMPLAINANT OF NON-VISIBLE INJURIES: ☒ NO ☐ YES		VICTIM USING ALCOHOL: ☒ NO ☐ YES ☐ UNK.		☒ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMIT		☐ ALONE	
☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES		USING DRUGS: ☐ NO ☐ YES		TYPE: ☐ UNK.		☐ ONE-MAN VEHICLE ☐ OTHER		☒ ASSISTED	

VICT./SUBJ. I.D. OVERFLOW
☐ COMPLAINANT
☐ VICTIM #
☐ SUBJECT #
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS
☐

NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT: #1 #2 #3		RESIDENT J S O U	RACE	SEX	AGE	D.O.B.	ETH
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE H B	EVENING PHONE H B		
☐ VICTIM NO. : VISIBLE INJURY: EXPLAIN:		COMPLAINANT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMIT		☐ ALONE	
☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES		USING DRUGS: ☐ NO ☐ YES		TYPE: ☐ UNK.		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED	

NARRATIVE

FILED
GIVEN T. HYATT
2007 FEB -7 AM 10:56
CLERK OF COURT
DILLON COUNTY

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY

STATUS	TYPE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.	
STOLEN	VEHICLE	SERIAL AND/OR OWNER APPLIED NO.	STATE	
☐ RECOVERED	☐ GUN	YEAR OF REGISTRATION	YEAR OF EXPIRATION	YEAR
☐ FOUND	☐ BOAT	MODEL	STYLE	COLOR
☐ TOWED	☐ LICENSE PLATE	NIC NO.	DENOMINATION	ISSUER
☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	SECURITIES DATE		
☐ VICTIM	☐ ARTICLE	MISCELLANEOUS		

TYPE (GROUP)					TOTAL VALUE
STOLEN					
DAMAGED					
BURNED					
RECOVERED					
SEIZED					

SUBJECT IDENTIFIED ☒ YES ☐ NO	SUBJECT LOCATED ☐ YES ☒ NO	☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY				
REPORTING OFFICER BARKER	DATE 1-1-07	UNIT 30	APPROVING OFFICER	DATE
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO OFFICER				

362 AGENCY I.D.
SCO 170000

SUPPLEMENTARY REPORT

Live here

CASE NUMBER

NCIC

2007-0002

INFO. ENTD.

☐ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL

☒ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE _____ of _____ PAGES.

on 1-2-07 suspect vehicle which matched the
discription of vehicle involved in Robbery was spotted
by RP Gimsley at Wetherman Dr. The home
of Bryan and Randall Brown. At one point victim
had advised he saw suspect and same car hanging
around a person in a wheelchair near B+W Auction
and Randall is wheelchair bound. (Tag was ran by
Gimsley) and (came back stolen.) We went to residence
and talked to Bryan and his mother but ~~stated~~ stated
they didn't know anything about tag or robbery, but
stated that brother in wheelchair, Randall Brown, was
the car from a Katrina Renee Ware of
St. Dillon. Tag was taken off of vehicle
by Gimsley and taken out of NCIC. Tag was

The VIN number on vehicle came back
to a 1988 Chevy Celebrity belonging to the Ware party.
Officers then left the scene.

FILED
GWINETT, INVAIT
2007 FEB -7 AM 10:46
CLERK OF COURT
DILLON COUNTY

ADMINISTRATIVE

SUBJECT IDENTIFIED
☒ YES ☐ NO

SUBJECT LOCATED
☒ YES ☐ NO

☐ ACTIVE ☐ ADM. CLOSED
☐ UNFOUNDED

☐ ARRESTED UNDER 18
☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18
☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH.

2. ☐ NO PROSECUTION

3. ☐ EXTRADITION DENIED.

4. ☐ VICTIM DECLINES COOPERATION.

5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)

DATE

UNIT
NUMBER

APPROVING OFFICER(S)

DATE

UNIT
NUMBER

BARBER

1-2-06 30

FOLLOW-UP

OFFICER

See police memo
So if he knew And
found this much
why was I picked up?
My Mom
Can tell
the Court
I didn't
live at
135 Smith
Drive on
1-2-06
I lived
at 638
Freddie Rd.
1000
St. Dillon
SC.

*Prison
Record Transfer
Record*

*Proof All
placed in
Time He
Been to
I. Newell
Been this is
Why solicitor
changed up
his story at
trial which
ofc. Barker
testified that
exactly what
he told him see
trial transcript*

*Alleged victim
Wayne Dillard
S/S*

MOVI220D

SCDC OFFENDER MANAGEMENT SYSTEM
INMATE TRANSFER AND COUNT
TRANSFER HISTORY

06/28/07
FICKEN

SCDC # 294524
DILLARD, WAYNE

OFFENDER TYPE: ADULT-STRAIGHT
OFF TYPE ENTRY DATE:
ASSNMT: 5000 MAINTENANCE

TOBACCO USER: N
CURR DORM: 0000

CURR LOC: DILLON CO
VIC/WIT :
CURR CUST/SEC: MI2

STATUS	LOCATION	CHG DATE	CHANGE REASON
PAROLE	DILLON CO	01/19/06	PAROLE BOARD ACTION
INCARCERATED	EVANS	06/30/05	ADMINISTRATIVE
INCARCERATED	LEE	02/08/05	DRUG ADDICTION UNIT
INCARCERATED	TURBEVILLE	11/03/04	ADMINISTRATIVE
INCARCERATED	LEE	11/03/04	COURT/PAROLE HEARING VIA
INCARCERATED	TURBEVILLE	12/29/03	DISCIPLINARY
INCARCERATED	PALMER	11/04/03	LABOR CREW
INCARCERATED	KIRKLAND	07/07/03	NEW ADMISSION

PAGE. > 0001

SELECT A RECORD AND PRESS <ENTER>...

PF3=> TRANSFER INMATE PF4/PF5=> MODIFY (HQ ONLY) PF7/PF8=> BACK/FORWARD
4-0 1 Sess-1 167.7.50.33 TNET1234 3/9

CERTIFIED TRUE COPY 1

Records Officer, S. C. Dept. of Corr.

Date 8-28-07

364
Process/Sum
Went before A
for For A Bond

STATE OF SOUTH CAROLINA
COUNTY OF Dillon
STATE OF SOUTH CAROLINA

IN THE (X) COURT OF GENERAL SESSIONS
() MAGISTRATE'S COURT
() MUNICIPAL COURT OF _____

Ticket or Warrant No.: K129669-K-129668

Exhibit

forged
fake
Bond paper
work put
my folder
by A Jail tryin
to make me
James J. interview
A Bank Hearing to
Receives Bond on
Contest Charges
or Be I identify
By Alleged

~~STATE OF SOUTH CAROLINA~~
~~COUNTY OF DILLON~~
~~STATE OF SOUTH CAROLINA~~
~~IN THE COURT OF GENERAL SESSIONS~~
~~MAGISTRATE'S COURT~~
~~MUNICIPAL COURT OF~~
~~Ticket or Warrant No. K129669-K-129668~~
~~ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE~~
~~(Bail Proceeding Form 2)~~
~~Offense Charged: Armed Robbery / Assault + Battery WIK~~
~~At a bail proceeding conducted by undersigned judge, for the defendant named above, it was determined by the court (check one or both):~~
~~The release of the defendant on recognizance will not reasonably assure his appearance as required.~~
~~The release of the defendant on recognizance will result in an unreasonable danger to the community.~~
~~This determination was based upon the following findings of fact:~~

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE
(Bail Proceeding Form 2)

Offense Charged: Armed Robbery / Assault + Battery WIK
At a bail proceeding conducted by undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☐ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☐ The release of the defendant on recognizance will result in an unreasonable danger to the community.
This determination was based upon the following findings of fact:

(Considerations: Nature and circumstances of the offense charged, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.)
THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows (check one):

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina, deposits \$ _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant acknowledges himself to be indebted to the State of South Carolina in the sum of \$ _____, his release to be obtained by payment to the court of _____ (%) of this bond in cash, this amount being \$ _____. The defendant will be obligated to the State in the full amount of \$ _____, such sum to be levied on his real and personal property for the use of the State, should he fail to perform the conditions of this Order.

APPEARANCE RECOGNIZANCE WITH SURETY

- ☒ The defendant will provide good and sufficient surety approved in the court, in the form set forth on the reverse side, acknowledging an indebtedness to the State in the amount of \$ 35,000.

Judge, give no court date

3. That the defendant shall appear at (check one):

- ☐ the term of the court of general sessions beginning on [Date: _____] at [Time: _____] o'clock, _____ M., at [Place: _____] and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.
☐ the session of magistrate/municipal (circle one) court beginning on [Date: _____] at [Time: _____] o'clock, _____ M., at [Place: _____]. If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

Initials of Defendant

[Signature]

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described on the reverse side, which are marked.

John Davis
Signature of Judge

1-15-07
Date

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, including any conditions included on the reverse side of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, an additional criminal charge will be instituted against me. If the failure to appear is in connection with a felony charge, or while awaiting sentence, or pending appeal or certiorari after conviction, the penalty is a fine of not more than \$5,000 or imprisonment for not more than five years, or both; if I fail to appear in connection with a misdemeanor charge, the penalty is a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

I acknowledge the receipt of a copy of this Order and understand the conditions of my release and the penalties applicable to me in the event I violate any condition of the Order or fail to appear as required.

Address _____

Signature of Defendant _____

City/State/Zip _____

Date _____

Social Security Number/Telephone No. _____

Attorney Representing Accused (If known) _____

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED.

Original copy for the Trial Court - Copy for the Defendant

SCCA/511 (3/90)

FORM CONTINUES ON BACK

RECEIVED APR 23 2007

STATE OF SOUTH CAROLINA
COUNTY OF DADE
STATE OF SOUTH CAROLINA

IN THE () COURT OF GENERAL SESSIONS
(X) MAGISTRATE'S COURT
() MUNICIPAL COURT OF

Ticket or Warrant No.: K 129670

for 365

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE
(Bail Proceeding Form 2)

Name of Defendant HAILEEN JONES JEFFREY

Offense Charged ATTEMPTED FIRST DEGREE MURDER

At a bail proceeding conducted by undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☐ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☐ The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact:

(Considerations: Nature and circumstances of the offense charged, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.)

THEREFORE, IT IS HEREBY ORDERED:

- That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
- That the above named defendant be released from custody provided as follows (check one)

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina, deposits \$_____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant acknowledges himself to be indebted to the State of South Carolina in the sum of \$_____, his release to be obtained by payment to the court of _____% of this bond in cash, this amount being \$_____. The defendant will be obligated to the State in the full amount of \$_____, such sum to be levied on his real and personal property for the use of the State, should he fail to perform the conditions of this Order.

APPEARANCE RECOGNIZANCE WITH SURETY

- ☒ The defendant will provide good and sufficient surety approved in the court, in the form set forth on the reverse side, acknowledging an indebtedness to the State in the amount of \$ 10000.

3. That the defendant shall appear at (check one):

☐ the term of the court of general sessions beginning on (Date) _____ at (Time) _____ o'clock, _____ M., at (Place) _____

and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

☐ the session of magistrate/municipal (circle one) court beginning on (Date) _____ at (Time) _____ o'clock, _____ M., at (Place) _____ If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

Initials of Defendant

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described on the reverse side, which are marked.

Signature of Judge John H. Harte

Date 1-15-07

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, including any conditions included on the reverse side of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, an additional criminal charge will be instituted against me. If the failure to appear is in connection with a felony charge, or while awaiting sentence, or pending appeal or certiorari after conviction, the penalty is a fine of not more than \$5,000 or imprisonment for not more than five years, or both; if I fail to appear in connection with a misdemeanor charge, the penalty is a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

I acknowledge the receipt of a copy of this Order and understand the conditions of my release and the penalties applicable to me in the event I violate any condition of the Order or fail to appear as required.

Address _____

Signature of Defendant _____

City/State/Zip _____

Date _____

Social Security Number/Telephone No. _____

Attorney Representing Accused (If known) _____

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED.

Original copy for the Trial Court - Copy for the Defendant

SCCA/511 (3/90)

FORM CONTINUES ON BACK

RECEIVED APR 23 2007

*Requested this never got it or
 Got then no response as
 to why from no lawyer or Judge period*

THE STATE, COLUMBIA, SOUTH CAROLINA

METRO/STATE

WEDNESDAY, SEPTEMBER 27, 2000 B3

Chief justice looks at case backlog

By Associated Press

With criminal cases backing up in state and federal courts, and one prosecutor briefly facing a fine for delays, the chief justice Jean Toal said Tuesday it was time to look at making changes.

The current system allows prosecutors to determine when a case goes to trial. Toal, who became the state's first woman chief justice earlier this year, has named a 23-member committee to look at potential reforms.

In August, Solicitor Robert Arail, prosecutor for Greenville and Pick-



Toal

ens counties, was fined \$1,000 after admitting that his office often violated a rule limiting the time a suspect can be held without a hearing. The fine later was rescinded.

The state Supreme Court says a defendant must get a preliminary hearing within 10 days of his request and have his case brought to a grand jury within 90 days. Arail's office left a suspect in jail for five months without a hearing or grand jury appearance.

"There are big backlogs all over the state," Toal said. "It's not any one circuit. In terms of the trial courts, it's very backlogged and that leads to backlogs in county jails."

Toal said the committee will identify practices working well in the state and develop models to more efficiently run the courts.

One is the three-track system used by the prosecutor's office in York and Union counties. Prosecutor Tommy Pope is the only solicitor meeting the state goal of moving 80 percent of cases through the court system within six months.

Pope said that when he took office

in 1993, 27 percent of the cases met the state goal and about 10,000 were backlogged in his circuit alone.

But Pope began looking at the complexity of a case rather than when the crime happened. For example, a recent drunken-driving case gets put in a faster track than a more involved murder case that happened earlier.

"It's not black and white, but it gives us a general means for categorizing," Pope said.

Once backlogged cases are dealt with, a structure needs to be put in place to keep them from backing up again, he said.

The criminal docketing committee

will be headed by Associate Justice Costa Pietrommes of the state Supreme Court and former prosecutor Dudley Saleeby of Florence.

"The committee consists of folks who run the process," Toal said. "We've included solicitors who control the call of cases; judges who, under my direction, have the responsibility for setting the term of court; lawyers and clerks of courts."

Toal said the committee should look at short-term changes at the local level as well as ideas that might require legislation. She hopes to have preliminary recommendations by the middle of next year, or earlier.

TOAL: JIM WATSON/STAFF PHOTOGRAPHER

*plea offer to this one
was plea to Armed Robbery
10 yrs. All Others Concurrent*

*plea offer held
10 yrs. All Others
Concurrent* 867

*Didn't see to after
trial*

**OFFICE OF THE PUBLIC DEFENDER
Dillon County**

*Solicitor
with held
Both plea
Agreements
this one
was
negotiated
in this
Rule 5*

Please reply to:

J. David Watson, Public Defender
200 West Hampton Street
P. O. Drawer 969
Dillon, SC 29536

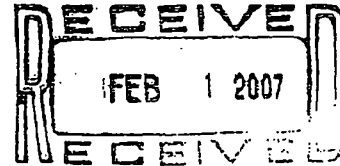
Office: 843-774-5678
Fax: 843-774-4660

January 30, 2007

Mr. Kernard E. Redmond, Deputy Solicitor
Dillon County Solicitor's Office
P. O. Box 868
Dillon, SC 29536

See name

RE: State -vs- Shaheen James Cabbagestalk
Warrant Nos.: K129668 - Armed Robbery
K129669 - ABWIK
My File No.: 07PD-0474



Dear Kernard:

I have been appointed to represent the Defendant in the above captioned matter.

You will find enclosed a Rule 5 and Brady Motion for Discovery and Inspection along with my affidavit of service by mail.

I would appreciate a member of your staff providing me with a copy of any information you may have that is discoverable in this case.

I look forward to hearing from you soon.

With kindest personal regards, I remain

Yours truly,

J. David Watson
Dillon County Public Defender

mb
Encs

J. DAVID WATSON
ATTORNEY AT LAW
200 WEST HAMPTON STREET
P. O. DRAWER 969
DILLON, SOUTH CAROLINA 29536

OFFICE (843) 774-5678
FAX (843) 774-4660

June 17, 2011

E-MAIL
watsonlawfirm@aol.com

Mr. Shaheen Cabbagestalk #295567
430 Oaklawn Road, Q-2A # 213
Pelzer, SC 29669

RE: My File No. 07-PD-0474

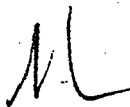
Dear Mr. Cabbagestalk:

I am in receipt of your letter dated June 14, 2011. Please find enclosed copies of the following:

- a. Indictment No. 07GS17-0362;
- b. Arrest Warrant No. K-129670;
- c. Indictment No. 07GS17-0363;
- d. Arrest Warrant No. K-129669;
- e. Indictment No. 07GS17-0364;
- f. Arrest Warrant No. K-129668;
- g. Incident Report;
- h. Indictment No. 07GS17-0362 with handwritten notations dated 03/01/07 & 05/31/07;
- i. Indictment No. 07GS17-0363 with handwritten notation by Honorable Howard P. King dated 08/28/07;
- j. Sentence Sheet dated 08/28/07 signed by Honorable Howard P. King.

With kindest personal regards, I remain

Yours truly,



J. David Watson
Attorney at Law

mb
Encs

*He's lying it was way
more than this in my
Rule 5 When he 1st
got it he's withholding
stuff to help the state out*

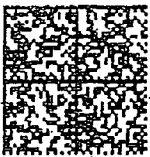
Shaherin Gabbage Stull #295567
 430 Oaklawn Rd. D-246
 Peizer SC 29669

RECEIVED
 AUG 04 2011

P.C.I. MAILROOM

LEGAL MAIL

RECEIVED
 AUG 22 2011
 P.C.I. MAILROOM



UNITED STATES POSTAGE
 02 1M \$00.44
 0008004983 AUG 04 2011
 MAILED FROM ZIP CODE 29669

REFUSED

NIXIE

292 AC 1

08 08/18/11

RETURN TO SENDER
 REFUSED
 UNABLE TO FORWARD

BC: 2966936330

*2934-09892-03-32

293369693633

|||||

J. DAVENPORT
 1-400-222-2222
 11400 1st Street

Dear,

0+ RULED 13thly 11/1/11

Mr. J. David Watson Hi!

I'm contacting you in regards to your file no. 07-PD-0474 I am in need of all documents that file consists of notes and all from front to back the entire time you represent me. I hope its not a problem Brother J. David Watson I seriously need them documents especially that plea offer that was within the Rule 5 you got from solicitor Redmond, I would also like for you to tell me why didn't we never get the pre liminary hearing that you filed for on february 6th 2007 what was the cause? Also I do realise your not a public defender anymore I'm happy for you, you were always power and intelligent enough to be independent with your law firm I really wish you the best and hope as the Good shepherd was you could be nice, Merciful, and help a poor widow's child out to the best of your ability. I stand firm on my square and I'm an innocent man in prison just fighting for my freedom My task is as simple as our ABC's being a brother of truth I strive to receive light from this situation, I ask you provide me with the Requested Above Have a Blessed Day!
I Hope all is well!!!

Please Respond Back with
Document in Above Case

State of South Carolina
Office of the Solicitor
Fourth Judicial Circuit

DILLON COUNTY COURTHOUSE
POST OFFICE BOX 868
DILLON, SOUTH CAROLINA 29536
TELEPHONE (843) 774-1448
FAX (843) 774-4448



JAY HODGE
Solicitor

COUNTIES
CHESTERFIELD / DARLINGTON
DILLON / MARLBORO

Exhibit 371
Exhibit #9
FOR James
Cabbagestullie
Not me

CERTIFICATE OF DELIVERY

Feb 27th, 2006

David Watson, Esquire
Dillon County Public Defender
200 West Hampton St.
Dillon, S.C. 29536

Name

Re: State v. James Cabbagestullie

Dear Mr./s. David Watson:

In response to your request for documents in the above referenced case(s) and pursuant to both Rule 5 of the South Carolina Rules of Criminal Procedure and Brady v. Maryland, I have enclosed copies from my file of all requested materials in this case; that I have. If further investigation reveals any additional information to which you are entitled under Rule 5 of Brady v. Maryland, I will provide this material to you prior to the call of this case.

In addition, I hereby request, pursuant to Rule 5, and with regards to the above mentioned case(s), that you produce any papers, documents or other tangible objects, reports of examinations, tests, or experiments which are in the possession, custody, or control of the defense counsel and which are material to the preparation of this case or any intended use by the defense counsel as evidence in this case.

Additionally, we ask, if you intend to use alibi or insanity as part of your client's defense, that you notify us in writing in accordance with SCRCrP, Rule 5(e)(1) and Rule 5(f).

I would sincerely appreciate it if you would return Page 2 of this letter acknowledging receipt of the enclosed.

Proof the
State knew
I'm not James
Cabbagestalk



Complained about
false charges holding me in
County Jail / they continued
Sham legal process to get money off
of me and knew I'm not James Cabbagestalk

HENRY MCMASTER
ATTORNEY GENERAL

May 8, 2007

Shaheen Cabbagestalk
Dillon County Detention Center
B-Pod
1027 Old Latta Highway
Dillon, South Carolina 29536

RECEIVED

MAY 09 2007

07P00474

Dear Mr. Cabbagestalk,

I am in receipt of your recent letter to the Attorney General about the circumstances surrounding your arrest and detention at the Dillon County Detention Center. Please be advised that, because you are represented by an attorney, I cannot discuss your case with you. Furthermore, if you have concerns about the way your case is being handled, you need to relay those concerns either to your attorney or to the Sheriff's Department. By copy of this letter, I am forwarding a copy of your letter to your attorney, Mr. David Watson.

Sincerely,

Karen C. Ratigan

Karen C. Ratigan
Assistant Attorney General

Attorney
at the time

cc:

J. David Watson, Esquire (with enclosure)

Look whom it's to
so why do she ever lie
showing her face in peer
courts?

RECEIVED JUL 18 2007

EXHIBIT 373

This is all the
Solicitor Remond E
Redmond told
my lawyer
to David Watson
He have

EXHIBIT 11
All the state
Gave David
Watson none
was for me

RULE 5 & BRADY CHECKLIST

- ☒ Incident Report for _____
- ☐ Rap Sheet for _____
- ☒ Indictment(s) Nos: -GS-16- ; -GS-16- ; -GS-16- ; -GS-16-
- ☒ -GS-16- ; -GS-16- ; -GS-16- ; -GS-16- ; GS16-
- ☒ Warrants _____
- ☒ Bond Paperwork _____
- ☐ Voluntary Statement of Defendant _____
- ☐ Voluntary Statement of Co-Defendant _____
- ☐ Voluntary Statement of witness _____
- ☐ Booking Report _____
- ☐ Driving Record _____
- ☐ Search Warrant _____
- ☐ Autopsy _____
- ☐ Miranda Waiver: _____
- ☐ SLED Drug Report _____
- ☐ SLED Report for _____
- ☐ Marijuana Analysis _____
- ☐ Photo copy of evidence _____
- ☐ Photo of Line-up _____

↑ Look No
Photo line up
period were
is probable
Cause Established to
have even picked me up
Off the street Identification
If you got No
But (Woody) who is that?
Then all of a sudden it just
pops up to be this James Gallagher
Guy and when I'm forced to trial you
find out (Fin Not) James Gallagher
But send me to prison with
warrants, indictment, and sentencing/commitment
order for him

04 06/27/06 11:14 NO.855

W h n # up
17:14
DATE
and time

DARLINGTON SOLICITOR

Page 2

Re: State v. James Cabbagestulk

With Kindest regards, I am

Sincerely,

Kernard E. Redmond
Deputy Solicitor
Fourth Judicial Circuit

KER/bw

Enclosures:

I hereby acknowledge receipt of the above referenced Rule 5 and Brady request and request for Notice of Alibi this 28 day of February, 2007.

Missy Berry
Attorney for the Defendant

Enclosures:

1. Rule 5 and Brady Checklist

State of South Carolina
Office of the Solicitor
Fourth Judicial Circuit

EXHIBIT

Defendant: James Shabara Caldwell

AKA (Woody)

Guilty Plea Offer

Solicitor: JH MTJL JRJ KH EM KR SB WR NS TL PM

Attorney: Watson

Don't say my name
never seen until after trial

Charge	Indictment Number	Possible Sentence
Armed Robbery		18-30 yrs
ABULK		< 20 yrs
Petty Larceny		< 30 days

Mr. J. And
Watson
with held
the attorney
I had before
attorney
Glen
manney

Offer Date: 2-26-07

Offer By Solicitor: Plea to AR, all other charges concurrent (10 yrs)

negotiated
time
right
place

Recommended: See what this says

Negotiated: ☒

Accepted: ☐

Rejected: ☐

Date: _____

Defendant's Signature: _____

Date: _____

Attorney's Signature: _____

Date: 2-26-07

Solicitor's Signature: [Signature]

Watson is not the one who held the attorney before

STATE v. JAMES CABBAGESTALK

State Witness List (Potential)

- nothing - 1. Wayne Dillard, Sr.
- nothing - 2. Wayne Dillard, Jr. ←
- nothing - 3. Randall Brown
- nothing - 4. Michael Barfield - DCSO
- nothing - 5. R.P. Grimsley - DCSO

Use An Alleged victim in case Alleged wound to implicate An
 Assault and battery with intent to kill on me by Solicitor and police testimony
 Illegal to do see State v. Johnson Copinion No. 26902, Dec. 13, 2010)
 Supreme Court reversed; Anon testifying codefendant's statement
 was allowed to implicate him.
 * (Statement from Burk Lurette Against

EXHIBIT

377

Goes with
Chief Justice
Sean Toals

ORDER This

term was
Canceled

Also it's
never
DATED.

GWEN T. Hyatt

Clerk of Court Dillon County
PO Drawer 1220
Dillon SC 29536
Telephone# 843-774-1425
Facsimile# 843-841-3706

May 4, 2010

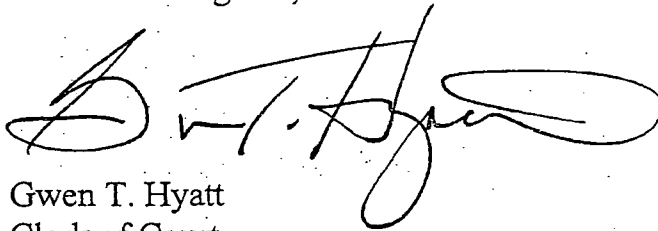
Shaheen Cabbagestalk #295567
386 Redemption Way F-2152B
McCormick, SC 29899

Dear Mr. Cabbagestalk,

Enclosed you will find a copy of the 2007 Grand Jury list, per your request.

If we can be of any further assistance in this matter please do not hesitate to contact us.

With Kind Regards,



Gwen T. Hyatt
Clerk of Court
Dillon County

ssm/gth

Dear,

Ms. Gwen T. Hyatt
I'd like for you according
to Evans v. State I ask
you send me the Grand Jury
impanelment Documents in
reference to my PCR Action in
Courts now. I ask from 2007
please send to me according
to the above captioned case the
Grand Jury impanelment Documents
It would be State v. James Gbbage Talk
Case.

Shaneen Gbbage

FILED
GWEN T. HYATT
2010 APR -7 AM 8:38

CLERK OF COURT
DILLON COUNTY

4-21-10

block stamp and file this
re quest in reference
to my PCR Action

A CERTIFIED
TRUE COPY

Gwen T. Hyatt

CLERK OF COURT
DILLON COUNTY

EXhibit

*Goes with
Chief Justice
Sean T. L. O'Dell*

*See Canceled
Court # for 92-200
Surf from
Dec. 31/92*

List C

*to
June 30/94
200*

1	MOORE, MARVIN S
2	HILL, ASHLEY (FOREPERSON)
3	SHILLINGBURG, DEREK
4	TOWNSEND, JIMMIE FAYE (ALT FOREPERSON)
5	SANDERSON, WALTER
6	HARTLEY, JAMES
7	GILCHRIST, SHARON M (SECRETARY)
8	BETHEA, JACQUELINE
9	FARMER, CELESTE M
10	HUNT, WAYNE A
11	SAMPSON, STEPHANIE N
12	HADDOCK, DECORY S
13	WILSON, JOHN L
14	SMALL, SHANNON N
15	WILLIAMS, KATISHA L
16	HYATT, PAUL W
17	WILLIAMSON, GARRET C
18	MCNEIL, MARY K

South Carolina Legislative Council

Exhibit

ROBERT W. HARRELL, JR.
SPEAKER OF THE HOUSE OF REPRESENTATIVES

GLENN F. McCONNELL
CHAIRMAN, JUDICIARY COMMITTEE
THE SENATE

JAMES H. HARRISON
CHAIRMAN, JUDICIARY COMMITTEE
THE HOUSE OF REPRESENTATIVES

ANDRÉ BAUER
LIEUTENANT GOVERNOR AND
PRESIDENT OF THE SENATE

MARK HAMMOND
SECRETARY OF STATE



STATE HOUSE, FIRST FLOOR
AND
DENNIS BUILDING, SUITE 434
1000 ASSEMBLY STREET
P.O. BOX 11489, COLUMBIA, S.C. 29211-1489
TELEPHONE: (803) 212-4500
FAX: (803) 212-4501

STEPHEN T. DRAFFIN
CODE COMMISSIONER AND DIRECTOR

June 10, 2010

Mr. Shaheen Cabbagestalk #295567
386 Redemption Way F-3147B
McCormick, South Carolina 29899

Dear Mr. Cabbagestalk:

We are in receipt of your letter requesting copies of certain statutes. Enclosed is a copy of Section 16-11-330 of the 1976 Code. We did not forward a copy of Section 14-5-650, relating to terms of court in the Fourth Circuit as these are now set by court rule.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen T. Draffin", with a long horizontal line extending to the right.

Stephen T. Draffin

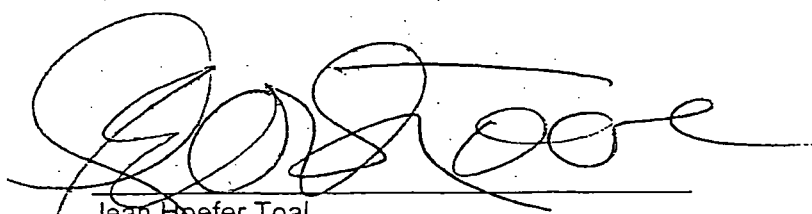
The Supreme Court of South Carolina

ORDER

So there's
no way
End of term
07-GS-17-0364
is Real or the
grand jury convened
March 5th 2007
or it was true
Billed March 1st
20
Whole term w
Canceled

Pursuant to the provisions of S. C. CONST. Art. V, §4, the statutory terms of circuit court set forth in §14-5-620 through §14-5-820, 1976 Code of Laws of South Carolina, as amended, (for the period commencing December 31, 2006 and ending June 30, 2007, are hereby canceled.)

IT IS ORDERED that the terms of circuit court for the period commencing December 31, 2006 and ending June 30, 2007, shall be as set forth on the South Carolina Judicial Department's WEB site at www.judicial.state.sc.us/calendar which schedule is incorporated herein and made a part hereof by reference. Additional terms of court may be scheduled during this period by subsequent orders. Where a circuit-wide nonjury term is indicated, the Chief Circuit Judge for Administrative Purposes for the circuit shall designate the time and location of the term among the counties within the circuit. A term designated as a circuit wide administrative week shall also be held at such times and locations within the circuit as designated by the Chief Circuit Judge for Administrative Purposes assigned to that term. In those circuits with two chief judges for administrative purposes, these responsibilities shall be assumed by the chief judge for administrative purposes for the court of common pleas.



Jean Hofer Toal
Chief Justice

June 21, 2006
Columbia, South Carolina

382 a L
For

Don't even suppose to be in Court Room per 5th Amend. Constitution (misleading grand jury)

James Cabbagestalk Jury Selection

Trikes

1. 92 WM Δ struck
2. 33 WF Δ struck
3. 159 BM Δ struck
4. 67 PF Δ struck
5. 58 BM Δ struck
6. 37 WM Δ struck
7. 109 WF Δ struck
8. 156 WM Δ struck
9. 142 WF Δ struck
10. 159 BM Δ struck
11. 48 WF Δ struck
12. 72 WM Δ struck
13. 67 BF Δ struck
14. 115 BF Δ struck
15. 58 BM Δ struck
16. 46 BM Δ struck
17. 37 WM Δ struck
18. 94 BF Δ struck
19. 75 BM Δ struck
20. 163 BM Δ struck
21. 8 WM Δ struck
22. 173 WM Δ struck
23. 25 BM Δ struck
24. 81 WF Δ struck
25. 53 WF Δ struck
26. 156 WM Δ struck
27. 141 WF Δ struck
28. 142 WF Δ struck
29. 89 WM Δ struck
30. 26
31. 27

A11

1. 82 WF Δ struck
2. 147 WM
3.
4.

A11

1.
2.
3.
4.



Warrants or Indictments not for me

South Carolina Judicial Department

383

I was never indicted until this very day!

What's New
Supreme Court
Court of Appeals
Trial Courts
Calendar
Opinions & Orders
Bar Admissions
Court Rules
Forms
Links
Automation Project
CDR Codes
Annual Reports
Statistical Trends
Search

The Supreme Court of South Carolina

RE: Filing Indictments With the Clerk of Court

ORDER

Rule 3(c), SCRCrimP, requires solicitors to file indictments with the Clerk of Court. In some counties, solicitors are retaining the original indictments which have been returned by the grand jury until the proceedings are concluded. This local practice leads to problems and confusion in some cases. Accordingly, effective the date of this order, all original indictments which have been returned by the grand jury shall immediately be filed with the Clerk of Court.

IT IS SO ORDERED

s/Jean H. Toal
Chief Justice Jean H. Toal

Columbia, South Carolina
October 23, 2002

NOT FOR THE
FALSLEY IMPRISONED
FOR NOW.

EXHIBIT
Original I got in
my Rule 5 from
S. David Watson
attorney.

STATE OF SOUTH CAROLINA)
)
County of Dillon)

INDICTMENT #07GS17-0364

At a Court of General Sessions, convened on March 05, 2007
the Grand Jurors of Dillon County present upon their oath:

COUNT: ARMED ROBBERY
 16-11-330 (A)

That James Cabbagestalk in the County of Dillon on or about January 01, 2007, violate Section 16-11-330 of the Code of Laws of South Carolina (1976), as amended, while armed with a deadly weapon, to wit: a handgun, did feloniously take from the person in the presence of Wayne Dillard, by means of force or intimidation goods or monies of the said Wayne Dillard, such goods or monies being described: ~~in cash~~ and a ~~valued at~~

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

SOLICITOR: _____

EXHIBIT



Asked About
County indictments

385

HENRY MCMASTER
ATTORNEY GENERAL

See Date
March 26, 2008

Requested
Documents

Mr. Shaheen Cabbagestalk #295567
Lieber Correctional Institution - B-133
Post Office Box 205
Ridgeville, South Carolina 29472

Dear Mr. Cabbagestalk:

I am in receipt of your letter to our office regarding your request for documents.
However, this was not a grand jury case therefore our office does not have any documents
regarding your case. Additionally, our office can not give legal advice you should speak to an
attorney.

Sorry I could not be of further assistance with this matter.

Sincerely,

Jennifer D. Evans

Jennifer D. Evans
Chief, Prosecution Division

JDE/mlj

①

Rule 12. Notice of Court Violation

MS. Gwen T. Hyatt Hi! this is mr. shaheen Cabbagestalk and I'm contacting you in regards to the Rule 12. Defenses and Objections When and how presented by pleadings or Motion for Judgement on pleadings motion filed on MAY 24th 2010 10:43 AM. I ask you Notify The Attorney General's office they are at Default According to Rule 12 No response was recieved within (60) days after the service of the application which arose out of a guilty plea. And there for you MS. Gwen T. Hyatt are advised by the state being at Default there time has passed so You Should Not Recieve Response to 2010-CP-17091 Case Civil by the state and Advise me soon as possible you've Notified the state According to the rules of court they can't Give an response And you will not accept there Response

Thanks Have an Blessed Day

By: Shaheen Cabbagestalk

DATE:

Without prejudice ucc 1-207

7/14/10

cc

Clerk of Courts MS. Gwen T. Hyatt you've been notified of the Above Rules of Court violation and the states at Default A Motion for Default was filed since MAY 24th 2010 10:42 AM.

ACERTIFIED
TRUE COPY

CLERK OF COURT
DILLON COUNTY

FILED
GWEN T. HYATT
2010 JUL 15 PM 4:00
CLERK OF COURT
DILLON COUNTY

Certificate of Service

I Shaheen Cabbagestalk notified Dillon County
Clerk of Courts that the state has violated
Rule 12 and a motion for Default was filed
They've passed there 60 days to respond back
in civil Action # 2010-CP-17091 Rule 12.
Notice of violation filed 7-14-10

By: Shaheen Cabbagestalk
without prejudice UCC 1-207

Notary: Joyce L Young
Date: 7-16-10

my Commission EXP: 8 / 28 / 2011

FILED
GWEN T. HYATT
2010 JUL 15 PM 4:36
CLERK OF COURT
DILLON COUNTY

①

Request/Complaint

Continued →

Dear,

Mr. Daniel E. Shearouse This Attachings is in
 reference to Case: 2010-CP-17091, I ask
 you have Attorney David Paul Jordan to please
 Contact me back that he's filed this motion in the
Dillon County Clerk of Courts office in reference to this
 Case above stated: 2010-CP-17091 Also
Ms. Heather M. Cannon I'd Be very thankful
 Both ARE of Myrtle Beach SC. Every time
 I Contact Either one of them I Get's no Response
 I've filed several Complaints on Both Attorneys. Pages 1-3
are on this document, By: Shukera G. B. G. S. 11
Date: 4-18-11

Notary: Stewart Mulanly
 My Commission Expires: 11 / 7 / 2016
 Date: 4 / 19 / 11

sent to Supreme Court

4-18-11 gave to Ms. Merchant
 mail Room lady

Shahen N Cabbagestalk #295567

V.

State

C/A NO: 2010-Cp-17091

Motion for
MENTAL Health
EVALUATION and Compreh
-ension of Due process
rights

This motion is filed in Reference to Comprehension of Mr. Cabbagestalk to see if he Overstood his Due process rights during the time he was Illegally detained by Dillon County Sheriff's department and held Against his own Will. It is very Relevant this test been done to Show forth that his rights were over stood And Back in (2007) the Early part Dillon County Jail owner MADE an Appointment with (Dillon Mental Health Center to see if Mr. Shahen Cabbagestalk was all the way mentally stable then but an (Nurse ms. Cora pouncey) of Dillon County Jail Denied him that right as Owner / Runner of Dillon County Jail (Johnny Sapp) (ORDERED) me to be taken there to be Examined and set up an Appointment. I Ask this EXAMINATION be Done for (2011) or when Case: 2010-Cp-17091 is Called to be heard. See Attached ADDRESS to set up this Appointment Now day.
By: Shahen Cabbagestalk
without prejudice ucc 1-207

McLeod Health

The Choice for Medical Excellence

March 2, 2011

Mr. Shaheen Cabbagestalk #295567
386 Redemption Way SMU B#26
McCormick, SC 29899

Dear Mr. Cabbagestalk:

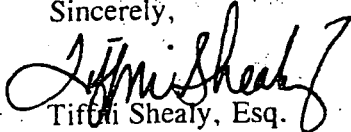
We received your letter dated January 18, 2011 wherein you requested certain medical records from the hospital based on The Federal and/or State Freedom of Information-Act/Privacy Act. The Federal Freedom of Information Act/Privacy Act (FOIA) applies to documents held by agencies of the executive branch of the Federal Government. The executive branch includes cabinet departments, military departments, government corporations, government controlled corporations, independent regulatory agencies, and other establishments in the executive branch. McLeod Health does not fall under any of these categories. Additionally, the South Carolina Freedom of Information Act applies to any "public body" which is defined as any governmental body or political subdivision of the state. McLeod Health is a private corporation and does not fall under the category of a public body for the purposes of the SC Statute. Therefore, we cannot legally release the protected health information you have requested without proper legal requests or authorizations.

You also asked for the address to Dillon County Mental Health. We can provide you with that information as follows:

Dillon County: Mental Health Center
1324 Commerce Drive, Dillon, SC 29536
(843) 774-3351

I hope this information is helpful to you.

Sincerely,


Tiffani Shealy, Esq.
McLeod Health

555 East Cheves Street • PO. Box 100551 • Florence, SC 29502-0551 • Phone (843) 777-2000 • www.mcleodhealth.org

McLeod Regional Medical Center • McLeod Medical Center Darlington • McLeod Medical Center Dillon • McLeod Children's Hospital
McLeod Centers Of Excellence • McLeod Ambulatory Surgery Center • McLeod Diabetes Center • McLeod Physician Associates
McLeod Health & Fitness Center • McLeod Health Foundation • McLeod Center for Advanced Surgery
McLeod Home Health • McLeod Hospice • McLeod Heart & Vascular Institute • McLeod Human Motion Specialists

For Russell
Dillard to
see if Dr. Walker
removed pellets
from him
Cause of A
Gun shot
wound
which police
Report don't
Spec K of

GWEN T. HYATT
DILLON COUNTY
CLERK OF COURT
P.O. DRAWER 1220
DILLON, SOUTH CAROLINA 29536

August 24, 2010

MR. SHAHEEN CABBAGESTALK #295567
386 REDEMPTION WAY F-2 183A
MCCORMICK, SOUTH CAROLINA 29899

DEAR MR. CABBAGESTALK,

THE COURT HAS APPOINTED YOU AN ATTORNEY THEREFORE I AM
SENDING ALL OF YOUR COMMUNICATION LETTERS AND MOTIONS BACK
TO YOU SO YOU CAN SEND THEM TO YOUR ATTORNEY.

PLEASE DIRECT ALL OF YOUR LETTERS AND MOTIONS TO HIM FOR
FUTURE FILINGS.



GWEN HYATT
CLERK OF COURT
DILLON COUNTY

CC: MR. DAVID JORDAN
ATTORNEY AT LAW
P.O. BOX 50520
MYRTLE BEACH, S.C. 29579
843-234-6500

392
Johnny's app
made a request so I
could speak to TRI-County
Mental Health Center
Name: Shakeen Cabbagestalk
I never went
elsewhere tried to die
in this right
Campbell
Dillon

Show
didn't overstate
My due process
rights
Date: 6/22/07
Arresting
Agency:

Unit & Room Number: A-2

General Reason for Request:

- ☐ Inmate Case File
☐ Inmate Worker Status
☐ Other
☒ Public Defender

- ☒ Classification
☐ Inmate Acc
☐ Fica
☐ Warrant or

did overstate Due Process
Rights!
Scheduled to
See TRI-County
Mental Health
Center in Dillon
Never allowed
Sent by Johnny's app

- ☐ Personal Property
☒ Program Service
☐ Solicitor's Office
☐ Ticket Number

Specific Information Concerning The Item Checked:

*seem to
have
been
appointed*

I am a Rastafarian and by
my faith I'm allowed to eat certain things which pertain to my way of life
like fish, pizza, NO "Hot Dogs", "No Burgers", "No chicken", etc. Only seafood, oaks,
nuts, wheat, vegetables, rice, beans, peanut butter sandwiches is what I
eat here in Dillon County Jail. Bread definitely "NO pork"! This pertains to my
way of life eating healthy. Also is my right of freedom of religion I'd like my
property that I deal with my way of life being Rastafarian. I also was scared
when I had to talk to the TRI-County Health Center in Dillon. So contact Johnny's
and not the DDC please. I can't call my family collect from a collect call phone
or would I be able to contact them straight through and I'm indigent! I need to
contact my public defender to make sure he put in form 1 bond reduction and find out
what my name is. Glen Manning I'd like to be a doctor call in please

Referred to:

Date:

Form 0103

Staff Signature:

Printed Name:

Paul L. Wood
62507

Glen Manning my
lawyer then at this time

RECEIVED JUN 26 2007

EXhibit

#10
3/13/99 393

The Supreme Court of South Carolina

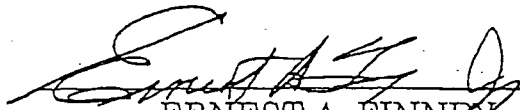
ORDER

Never followed
period in
state v. James
Cabbagestalk
Case 07-GS-17
64 Armed Robbery

Pursuant to Article V, § 4, of the South Carolina Constitution,

IT IS ORDERED that all criminal cases in the State of South Carolina shall be disposed of within 180 days from the date of the defendant's arrest. Provided, however, that the circuit court may continue a criminal case beyond 180 days by written order if the court determines that exceptional circumstances exist in the case. This order does not create or define a right of a defendant to a speedy trial.

IT IS FURTHER ORDERED that the orders of Chief Justice Lewis dated August 17, 1983, and January 13, 1984, which appear at pages CC-ADMIN 12 and 13 of the South Carolina Court Register, are hereby rescinded.


ERNEST A. FINNEY, JR.
CHIEF JUSTICE

Columbia, South Carolina

March 5, 1999

* Attorney Glenn B. Manning *

(180 days
order
on
case
motion)

- * Ineffective Assistance of Counsel : never said any thing about Bogus police Report 2 different years 2006 and 2007
- * Involuntary Guilty plea (Can't accept plea for something I'm not charged for by a grand jury) ^{Judge got on him} After plea accepted found out not JM
- * Indictment situation (Before Jury was sworn) : Judge Howard P. King at trial
- * failed to Communicate (10) yr. plea negotiated
- * Alibi (Alma Jackson)
- * Preliminary Hearing : never got he requested, I requested, J. David Watson Requested
- * Not an Defendant of General sessions
- * Not indicted by 12 legally Qualified Grand Jurors
- * Never Indicted still until this very day
- * Wasn't to be in Court Room Period
- * Sentencing (gave James Cabbage stalk 18 yrs, not me) (See sentencing sheet - ^{Proof / S.C.D.C. Policy 0.P-21.09} letter from Appellate Attorney)
- * motion to Quash or Dismiss Indictment or Suppress (Bogus Police Report and witness that

Impeached himself and testimony and Mr Barfield and solicitor Redmond impeached there and witness for his inconsistent testimony's, Mr Manning didn't even all my Court transcripts to fully effectively represent me

* Never attempted to have alleged false made up crime scene checked out, no pictures, no finger print/smudger sent to SLED which could've freed me from this false made up Robbery which never occurred And I'm willing to take a lie detector/polygraph test right now, No photo lineup's and him and solicitor state case is an Identification Case and we gotta rely on Wayne Dillard's testimony which was proven to be wrong and Contradicted by solicitor Redmond, Police Mr Barfield, Transcripts, Probation agent ms. Fore,

① Indictment process

② In Effectiveness
③ Involuntary Guilty Plea

④ No preliminary hearing still Not Addressed
see March 7th 2007 transcript Honorable Paul M. Burch

⑤ Indictment not seen by a Body of a grand Jury only by Jury foreman which entitles me to Dismissal of these Charges (he never raised this exact issue)

⑥ Mr. Manning didn't even have all my transcripts of my proceedings or appearances of me being in court to properly defend me to a normal skill and degree of knowledge and if so he'd had the (May 31st 2007) transcript Presiding Judge Honorable J. Mark Hayer #7, or (July 26th 2007) Judge King, and March 7th 2007 Honorable Paul M. Burch and would've known from start Indictments not for me and could've had them thrown out. If he'd properly investigated my case and had time and properly did a research of the entire case which would've consisted of all Court appearances etc. Do to lack of this it prejudiced me now I'm in prison falsely imprisoned cause of lack of representative lawyer skills of Mr. Manning which the out come would've been totally different and prejudices me cause I could've been free right now with my family.

⑦ never charged with criminal conspiracy or Accessory before or after the fact that's the way I was forced to be held for then charged this the only way charges get Bound to Gene session

In addition S.C. Code Ann. § 17-27-10(c) (2003) authorizes the Court to grant a motion by either party disposition of [an] application when it appears from the pleadings that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

①

Rule 12. Notice of Court Violation

MS. Gwen T. Hyatt Hil, this is Mr. Shaheen Cabbagestalk and I'm contacting you in regards to the Rule 12. Defenses and Objections When and how presented by pleadings or Motion for Judgement on pleadings motion filed on May 24th 2010 10:43 AM. I ask you Notify The Attorney General's office they are at Default According to Rule 12 No response was recieved within (60) days after the service of the application which arose out of a guilty plea. And there for you Ms. Gwen T. Hyatt are advised by the state being at Default there time has passed so You Should Not Recieve Response to 2010-CP-17091 Case civil by the state and Advise me soon as possible you've notified the state According to the rules of Court they can't Give an response And you will not accept there Response

Thanks Have an Blessed Day

By: Shaheen Cabbagestalk

Without prejudice ucc 1-207

DATE:

7/14/10

CC

Clerk of Courts Ms. Gwen T. Hyatt you've been notified of the Above Rules of Court violation and the states at Default A Motion for Default was filed since MAY 24th 2010 10:42 AM.

ACERTIFIED
TRUE COPY

CLERK OF COURT
DELLON COUNTY

FILED
GWEN T. HYATT
2010 JUL 15 PM 4:06
CLERK OF COURT
DELLON COUNTY

Certificate of Service

I Shaheen Cabbagestalk notified Dillon County Clerk of Courts that the state has violated Rule 12 and a motion for Default was filed. They've passed there 60 days to respond back in civil action # 2010 - CP - 17091 Rule 12. Notice of violation filed 7-14-10

By: Shaheen Cabbagestalk
without prejudice ucc 1-207

Notary: Joyce L Young
 Date: 7-16-10

My Commission Exp! 8 / 28 / 2011

FILED
 GWEN T. HYATT
 2010 JUL 15 PM 4:36
 CLERK OF COURT
 DILLON COUNTY

①

Request/Complaint

Continued →

Dear,

Mr. Daniel E. Shearouse this attaching's is in
 reference to Case: 2010-CP-17091, I ask
 you have Attorney David Paul Jordan to please
 contact me back that he's filed this motion in the
Dillon County Clerk of Courts office in reference to this
 Case above stated: 2010-CP-17091. Also
Ms. Heather M. Cannon I'd be very thankful
 Both ARE of Myrtle Beach S.C. Every time
 I contact either one of them I Get's no Response
 I've filed several Complaints on Both Attorney's. Pages 1-3
are on this document, By: Sharon G. Benge
Date: 4-18-11

Notary: Stewart Mulanley
 My Commission Expires: 11 / 7 / 2016
 Date: 4 / 19 / 11

sent to Supreme Court

4-18-11 gave to Ms. Merchant
 mail Room lady

Continued

(2)

C/A NO: 2010-cp-17091

Shakeen Cabbagestalk #295567

V.

State

Motion for
MENTAL Health
EVALUATION and Compreh
-ension of Due process
rights

This motion is filed in Reference to Comprehension of Mr. Cabbagestalk to see if he Overstood his Due process rights during the time he was Illegally detained by Dillon County Sheriff's department and held Against his own will. It is very Relevant this test been done to show forth that his rights were over stood And Back in (2007) the Early part Dillon County Jail owner MADE an Appointment with (Dillon Mental Health Center to see if Mr. Shakeen Cabbagestalk was all the way mentally stable then but an (Nurse ms. Cora pancey) of Dillon County Jail. Denied him that right as Owner/Runner of Dillon County Jail (Johnny Sapp) (ORDERED) me to be taken there to be Examined and set up an Appointment. I Ask this Examination be Done for (2011) or when Case: 2010-cp-17091 is Called to be heard. See Attached ADDRESS to set up this Appointment Now day.

By: Shakeen Cabbagestalk

without prejudice ucc 1-207

McLeod Health

The Choice for Medical Excellence

March 2, 2011

Mr. Shaheen Cabbagestalk #295567
386 Redemption Way SMU B#26
McCormick, SC 29899

Dear Mr. Cabbagestalk:

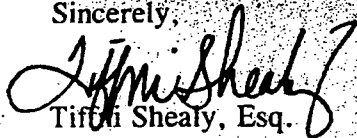
We received your letter dated January 18, 2011 wherein you requested certain medical records from the hospital based on The Federal and/or State Freedom of Information Act/Privacy Act. The Federal Freedom of Information Act/Privacy Act (FOIA) applies to documents held by agencies of the executive branch of the Federal Government. The executive branch includes cabinet departments, military departments, government corporations, government controlled corporations, independent regulatory agencies, and other establishments in the executive branch. McLeod Health does not fall under any of these categories. Additionally, the South Carolina Freedom of Information Act applies to any "public body" which is defined as any governmental body or political subdivision of the state. McLeod Health is a private corporation and does not fall under the category of a public body for the purposes of the SC Statute. Therefore, we cannot legally release the protected health information you have requested without proper legal requests or authorizations.

You also asked for the address to Dillon County Mental Health. We can provide you with that information as follows:

Dillon County Mental Health Center
1324 Commerce Drive, Dillon, SC 29536
(843) 774-3351

I hope this information is helpful to you.

Sincerely,


Tiffni Shealy, Esq.
McLeod Health

555 East Cheves Street • P.O. Box 100551 • Florence, SC 29502-0551 • Phone (843) 777-2000 • www.mcleodhealth.org

McLeod Regional Medical Center • McLeod Medical Center Darlington • McLeod Medical Center Dillon • McLeod Children's Hospital
McLeod Centers Of Excellence • McLeod Ambulatory Surgery Center • McLeod Diabetes Center • McLeod Physician Associates
McLeod Health & Fitness Center • McLeod Health Foundation • McLeod Center for Advanced Surgery
McLeod Home Health • McLeod Hospice • McLeod Heart & Vascular Institute • McLeod Human Motion Specialists

For Russell
Dillard to
see if Dr. Wall
removed pellet
from him
Cause of
Gun shot
wound
which police
Report don't
spec K of

^{under} ~~the~~ Evaluation for Due
Process Rights

GWEN T. HYATT
DILLON COUNTY
CLERK OF COURT
P.O. DRAWER 1220
DILLON, SOUTH CAROLINA 29536

August 24, 2010

MR. SHAHEEN CABBAGESTALK #295567
386 REDEMPTION WAY F-2 183A
MCCORMICK, SOUTH CAROLINA 29899

DEAR MR. CABBAGESTALK,

THE COURT HAS APPOINTED YOU AN ATTORNEY THEREFORE I AM
SENDING ALL OF YOUR COMMUNICATION LETTERS AND MOTIONS BACK
TO YOU SO YOU CAN SEND THEM TO YOUR ATTORNEY.

PLEASE DIRECT ALL OF YOUR LETTERS AND MOTIONS TO HIM FOR
FUTURE FILINGS.



GWEN HYATT
CLERK OF COURT
DILLON COUNTY

CC: MR. DAVID JORDAN
ATTORNEY AT LAW
P.O. BOX 50520
MYRTLE BEACH, S.C. 29579
843-234-6500

06/26/2007 12:33

863-479-5629

MARLBORO CO DET CTR

PAGE 85

403

Portman
X where
Johnny's app
made a request so I
could speak to TRI-County

Name: *Shakeen Cabbagestalk*
I never went
to the Mental Health Center
because I was in jail
and they tried to deny
me this right while in Dillow
County Jail

Inmate Request Form

Shows I
didn't understand
my due process
rights

Date: 6/22/07

Arresting

Agency:

Unit & Room Number: A-2

General Reason for Request:

☐ Inmate Case File☐ Inmate Worker Status☐ Other☒ Public Defender☒ Classification☐ Inmate Acc.☐ Plea☐ Warrant or

did overrule due process
rights!
Scheduled to
See TRI-County
Mental Health
Center in Dillow
Never allowed
Johnny's app

☐ Personal Property☒ Program Services☐ Solicitor's Office☐ Ticket Number:

Specific Information Concerning The Item Checked:

I am a Rastafarian and by
yourself I'm allowed to eat certain things which pertain to my way of life
like fish, pizza, "NO" Hot dogs, "NO" burgers, "NO" chicken, etc. Only seafood, oysters,
vegs, white rice, vegetables, rice, beans, peanut butter sandwiches is what I
eat in Dillow County Jail. Bread definitely "NO pork"!! This pertains to my
way of life eating healthy. Also is my right of freedom of religion. I'd like my
property that I dealt with my way of life being Rastafarian. I also want school
to go back to the TRI-County Health Center in Dillow. So contact Johnny's app
and not the State please.) I can't call my family collect from a collect call phone
and would I be able to contact them straight through and I'm indigent! I need to
contact my public defender to make sure he put in form for reduction and food and
clothing. I'm moving. I'd like to be in a men's cell in Dillow.

is county
ment
health
appoint

Referred to: _____

Date: _____

Form 0103

Staff Signature: Carl L. WoodPrinted Name: 62507

Gibson mentioning my
lawyer then at this time

RECEIVED JUN 26 2007

EXhibit #10
3/13/99

The Supreme Court of South Carolina

ORDER

Never followed
period in
state v. James
Abbott et al
Case 07-GS-17
64 Armed Robber

Pursuant to Article V, § 4, of the South Carolina Constitution,

IT IS ORDERED that all criminal cases in the State of South

Carolina shall be disposed of within 180 days from the date of the

defendant's arrest. Provided, however, that the circuit court may continue a

criminal case beyond 180 days by written order if the court determines that

exceptional circumstances exist in the case. This order does not create or

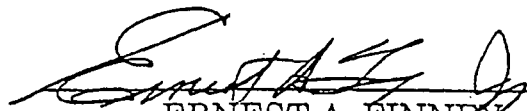
define a right of a defendant to a speedy trial.

IT IS FURTHER ORDERED that the orders of Chief Justice

Lewis dated August 17, 1983, and January 13, 1984, which appear at pages

CC-ADMIN 12 and 13 of the South Carolina Court Register, are hereby

rescinded.


ERNEST A. FINNEY, JR.
CHIEF JUSTICE

Columbia, South Carolina

March 5, 1999

* Attorney Glenn B. Manning *

180 day
order
on
case
mentioned

- * Ineffective Assistance of Counsel : never said any thing about Bogus police Report 2 different years 2006 and 2007
- * Involuntary Guilty plea (Can't accept plea for something I'm not charged for by a grand jury) ^{After plea accepted found not guilty}
- * Indictment situation (^{Judge got on him} Before Jury was sworn); Judge Howard P. King at trial
- * Failed to Communicate (10) yr. plea negotiated
- * Alibi (Alma Jackson)
- * Preliminary Hearing : never set he requested I requested, J. David Watson requested
- * Not an Defendant of General sessions
- * Not indicted by 12 legally Qualified Grand Jurors
- * Never Indicted still until this very day
- * Wasn't to be in Court Room Period
- * Sentencing (gave James Cabbage stalk 18 yrs, not me) (See sentencing sheet - ^{proof / SCDC policy UP-21.09} letter from Appellate Attorney)
- * No motion to Quash or Dismiss Indictment or Suppress (Bogus police Report and witness the
Impeached himself and testimony and Mr Barfield and Solicitor Redmond impeached there own witness
for his inconsistent testimony's, Mr Manning didn't even all my Court transcripts to fully & effectively Represent me
- * Never attempted to have alleged false made up crime scene checked out, no pictures, no finger print/smudges se
to SLED which could've freed me from this false made up Robbery which never occurred And I'm willing to take
lie Detector/polygraph test right now, No photo lineup's and him and Solicitor state case is an Identification case and we
gotta rely on Wayne Dillard's testimony which was proven to be wrong and Contradicted by Solicitor Redmond, Police Mr Barfield, Transcript
Probation agent ms. Fore,

IV. STATEMENT OF CLAIM

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an extra sheet if necessary.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

* NO CRIME SCENE PICS OR NOTHING

Attorney
GLEN B. MANNING 407
In Effectiveness
Involuntary Guilty Plea

① Indictment process

② No preliminary hearing Still Not Addressed
See March 7th 2007 transcript Honorable Paul M. Burch

③ Indictment not seen by a Body of a grand Jury only by Jury foreman which Entitles me to Dismissal of these Charges (he Never raised this exact issue)

④ Mrs Manning didn't even have all my transcripts of my proceedings or appearances of me being in court to properly defend me to a normal skill and degree of knowledge and if so he'd had the (May 31st 2007) transcript Presiding Judge Honorable J. Mark Hayer II, or (July 26th 2007) Judge King, and March 7th 2007 Honorable Paul M. Burch and would've known from start Indictments not for me and could've had them thrown out if he'd properly Investigated my case and had time and properly did a Research of the Entire case which would've consisted of all Court appearances etc. Do to lack of this it prejudiced me Now I'm in prison falsely Imprisoned Cause of lack of Representative lawyer skills of Mrs Manning which the outcome would've been totally Different and prejudices me Cause I could've been free right now with my family

⑤ never charged with criminal Conspiracy or Accessory before or After the fact that's the way I was forced to be held for then charged this the only way charges get Bound to Gen session

United States District Court District of South Carolina

Dear Sir/Madam:

This office has received your letter. There are no forms for appointment of counsel. Hence, you may prepare your own motion and submit it with your case.

Under Article III of the Constitution of the United States, federal district courts, such as the United States District Court for the District of South Carolina, have jurisdiction over cases or controversies. As a result, a case must be filed before a federal district court can act on or consider a matter. Also, a federal district court cannot issue an advisory opinion.

If you wish to file a civil rights case about the matters mentioned in your letter, please complete the enclosed civil rights forms. In order to assure that your complaint is processed without delay, please comply with the following procedures:

- ☐ Please place an original signature on the complaint. **(Copies of the complaint are *not* required.)**
- ☐ Please complete and sign a U.S. Marshal 285 form for each defendant named in the complaint. Blank forms are attached for your use. You must provide the defendant's complete address on each individual form.
- ☐ Please complete one summons and list each defendant named in your complaint, or complete a separate summons form for each defendant sued.
- ☐ Please complete the enclosed Financial Certificate, and send it to your correctional institution's mail room so that the SCDC's finance section can put the needed information on the Financial Certificate and return it to you. Once you have received the Financial Certificate back from the SCDC's finance section, you are responsible for returning the Financial Certificate to the Office of the Clerk of Court for the United States District Court for the District of South Carolina.
- ☐ Please complete and sign the enclosed motion to proceed *in forma pauperis* (Form AO 240), which is now used instead of the old Statement of Assets.

Thank you.

Truly yours,

LARRY W. PROPES, Clerk of Court

Enclosures

Return Completed Forms to:
Clerk, U.S. District Court
District of South Carolina
901 Richland Street
Columbia, South Carolina 29201

Glenn B. Manning; see page 107 of transcript lines 6-12 ^{Trial}

Judge Howard P. King screams on Attorney Manning Cause he knew all along those Indictments and warrants that holds me falsely imprisoned wasn't for me and He allowed the jury to be sworn in and knew I'm not James Cabbages talk a day and a half into this illegal trial Judge King states he knew all along 24 hours before he or the Court did (without this the Entire outcome of this would've been different I wouldn't even be inside the Court Room and would have my freedom now this seriously prejudiced me from my kids, work, family financially, Property etc... My freedom, I wouldn't be in prison the outcome would've been different I wouldn't have made it this far a mistrial occurred Cause of Indictment, Dismissal of the Charges I never moved presentment or Contempt)

Never objected to the Judge Amending the Indictment in the middle of this illegal trial and not sending it back before a grand jury to be heard lawfully. pg 108 lines 17-20 ^{Trial} transcript also see lines 21- pg 109 #1. With this done the indictment isn't of a Grand Jury it's of a Jury

never raising the issue the courts have no jurisdiction over the Person at hand lawfully do to the fact I was never notified by Indictment to be held to answer to a Court I'm not a defendant of General Sessions for any crimes.

~~Letting me to take a plea to the indictment is unconstitutional~~
~~the state can't do that because they don't have~~
~~a power to do that~~

Never bring this before the Court attention Indictment 5th and 14th Amendments of the Constitution before the jury was sworn in and both amended and he knew the time up's!

Change of Venue: I asked my false illegal trial be moved out of

Dillon SC. Cause I know they are crooked and wouldn't give me a fair trial if so I wouldn't be falsely imprisoned now I live here so I know the system here I see it with my own 2-eyes daily How judges, lawyers, Solicitors set people up and

Not Receiving all of Rule 5 from S. David Watson ^{1st} attorn to Represent me and form a Defense or Strategy so He can be

Effective Counsel to Represent me to a normal skill and Degree See pg 1 of the transcript 2-3 also see lines 8-9 pg 7 1-18 Mr Manning heavily argues with Judge for Continuance See pg. 9 lines 19-22 defendant's and

for never putting on the Record that information that's on an warrant is the same in the Indictment and if the indictment is

4) Violate my 14th Amendment of The Constitution Due process of the law and violate my 4th Amendment Searches and seizures I can't be arrested with warrants for some one else. "I have the right to freedom and to be left alone by Government officials" (See warrant and indictment)

1) Mr. Manning never asked for these Bogus Indictments to be Quashed as he should or Dismissed this all violate my due process rights He told me he would.

2) He also never made sure the clerk of court and the judge Assured all Jurors Are Qualified and meet Requirements if so Benneth Brown and Anton Hester #75 Jurors would've never been a part of the

Jury pool, this is also the judges Job to do so to which shows the misconduct and Abuse of the judicial system in Dillon, the clerk of court to (So how am I given an fair and Impartial trial with unwanted people in the jury pool and actually Juror #75 was an juror chosen on this case which proves the judges, clerks, or lawyers not doing their jobs right) He never Assured I was Notified of any Charges charged by 12 legally Qualified Grand Jurors and I until this day in sent that right And Demand.

3) He never objected to the Indictment being true billed March 1st 2007 and the grand Jury allegedly meeting 4 days later when per.

Statute § 14-5-650. Terms of Court in fourth Circuit the Grand Jury is not even scheduled to meet in March period. (See Order 11-1-2007) And was canceled by Sean Pate See Order. This order bears since 2006 trial was 2007

4) Mr. Manning weren't notified of any re-scheduled grand Jury proceedings by an Administrative Judge. (I never nor Mr. Manning weren't notified of any re-scheduled grand Jury proceedings by an Administrative Judge)

5) Mr. Manning never made sure According to S.C. Code § 14-17-530 (2): that the requirement of the clerk of court Mark E. Ech original indictment with the date it was filed (which the fake armed Robbery Indictment

was never filed 07-65-17-0364 Armed Robbery see Indictment Exhibit and it's not for me period, so there's no indication the Clerk of courts ever received this for it to be processed which is required by law.

6) He never Argued the fact if this case is an Identification Case as Solicitor bernard E. Redmond stated and the judge found out that I'm not James Cabbage talk this clearly shows a mis Identification see Transcript page 8 lines 21-25

7) Solicitor Admits Names/people are different (I should've been freed there and there) "No further Nothing still not indicted Now"

8) He never argued the fact our Rule 5 Brady request weren't for filed to contest the witnesses Credibility when (we requested Wayne Dillards

criminal Record (J. David Watson did) we or either attorney never received it other documents the solicitor withheld like plea Agreements, evidence etc. (Rules of Evidence)

9) He never Argued According to Rule 801 Inconsistent Testimony: the Solicitor kerna Redmond once told the courts I had nothing to do with anything now he's putting me

in the Hand of one hand of all and only have 1 person (I'm not a person) I'm a person

My Rights / Contested period... I was given an fair trial when I'm illegally forced to fight by my own...
3 Mr. Manning was Also told by the BAR Association send me Everything out his files on me I'm allowed to have he never Respected the BARS Request whom Certify's him so this shows unprofessionalism and a lack of skill and knowledge. (see Exhibits from BAR Association ^{Lost Cause Sgt. D. Colter (Remy correct) throwing})

4 Mr. Manning never hired or Asked for funds to hire a crime scene Investigator to prove forth this alleged crime never occurred ~~At 9/11~~ and this entire Police report is a lie, No pictures of alleged crime scene which is made up, No Description clothes, Nothing Distinct pointed out About person period And I have a statement by Burke Lovett About Russell Dill

5 Mr. Manning never ~~asked~~ asked for those Alleged smudges to be retested or that we be provided with funds for an finger print Expert As 72 ALR 4th 874 right to finger print Expert. Allows it could've been the police, his wife, or son prints for Abd I and the courts know evidence to a Break in the case

6 Mr. Manning never once stated or Argue d the fact I never recien an preliminary hearing which I request and is the only way Case Get over to General session. (Glenn Manning never received a plea offer/Agreement per Or if you indicted Mother occurred to me) From Kenneth Redmond to present to me it was withheld as he admits in (my 3/1/2007 transcript "seen") I would not wait over 18 yrs. 18.15 - 18.15

WHY
J. DAVID WATSON 7 Never filed motions to Quash Indictments being

they weren't for me, 8 never Pushed the issue I was never given An preliminary hearing to see if there's enough evidence to Bond over to General sessions (my right to Demand Preliminary hearing) (he told kennard I wasn't James Cabbagestalk before trial so Mr. Watson should've filed for charges to be Dis missed before the jury was Sworn in ^(and released from prison) Never addressed the issue I never went before a single magis

ate for a Bond hearing this is why the judges peeks on me wanting a Bond hearing But he forced me to trial illegally. 9.8 lines b - 5 MR. Manning or J. David Watson properly Communicated with Each other to properly defend my rights as an Alleged Case so I can either of them have properly represented me when until this very day I'm charged with a

10 Glenn B. Manning failed to Communicate a plea and the Solicitor failed to present them to him So I ma decide to accept it or a Not which Solicitor Redmond Admits to doing for a tactical purpose that would only leave a Blind plea on the

11 Mr. Manning never objected or did an thorough Investigation he could've seen Solicitor Redmond was Running 3 pleas Wild which is un constitutional this shows he didn't effectively represent me or have Entire Rule 5. Nor did he object was still not charged after Judge letty illegally Amended a Dropped charge and the Solicitor committed perjury (see transcript 13.17 lines)

12 Never subpoenaed previous transcripts of court meetings in this case to thoroughly investigate and know case and proper and effectively defend me against the states false testimony's which are contradicted in other transcripts before trial and is Not asked to Address these issues leaving them still open denying me Equal Due process of the law to a fair and impartial trial which isn't to be had per. 5th Amendment and 14th Amendment of the Const. 7.4 it was done the outcome of the trial would be different I wouldn't have 18 yrs. Now and I would be home, have lesser time if any time By law I'm to have no time I'm not a defendant of A General Sessions Court legal ALSO A the n... attention: What has occurred in mind? All of a sudden they saying James Cabbagestalk.

⑥ Why didn't you make sure Russel Dillard was in Court so you personally Ask him did he get injured personally so that your client have a chance to Contest the statement or Accusations of his Accuser which is his rights which were clearly violated, R.P. Grimsley never showed up he never got to Contest his (statement or investigation report in police report) Allowed to Come in Court's that violates his 6th ^{1st Amendment} amendment Nor was his Alibi this trial so she should've been able to Come in and if No Room as case Presley v. Georgia states unopposed trial and right to a public trial why did you let this be violated or why didn't the Judge make Room for the insert my right my Alibi is subpoenaed and lawfully is to be inside the Court and is a must.

I lost so much behind this, jobs, my life damaged, kids life, financially lost money, Cars, place to live etc. Subjected to fraud of the government being traded out for Debt of them do to (HRR-192 ~~Roosevelt~~ ^{April 5th} ~~Franklin D. Roosevelt~~ in 1933 his Executive Order put out in post offices put Deb on the people). Every man, woman, or child in exchange for the Bank Ruptcy of Ameri

lower end (18) is over the lower end making the plea invalid again. (See pg. 99 of transcript lines 14 to pg. 100: 1-8) now (see lines 6-8 so if I got over the lower end of the spectrum why didn't you object) this is symbolic to upholding one part of the uniform commercial code and also the other. you can't plea to something you never initiated/charged for to have broken law. impossible to do. and for any one there's no time given to me by any one. (Also

All of this prejudiced me Cause ¹¹ It would've never been at trial of a General session since I did his job to defend me properly I wouldn't have forced to be a defendant of General sessions illegally, The charge would've been Quashed or Dismissed me discharged from them at a preliminary hearing which he allege he's attempted, + prejudiced me Cause He actually added the state in violating my due process rights and my right to be indicted by 12 legally qualified jurors he told the judge he has no problem with him amending the indictment But the judge was refused consent from me to do so and he used his authority By Amending that A/B/W, I/K indictment But regardless after he found out I'm not James Cobblestone Mr. Mann told the judge to falsely imprison me with an Armed Robbery indictment not for me and an Invalid sentencing order never objected to it.

things personal now I have 16 yrs. in falsely imprisoned for cause of his lack of skill, knowledge and side choosing and Greedless ness which since is

Manning Law Firm
of

South Carolina, P.A.

Attorneys and Counselors At Law

G. BLUMENTHAL MANNING

March 28, 2007

Kernard Redman, Assistant Solicitor
Fourth Circuit Solicitor's Office
PO Box 868
Dillon, South Carolina 29536

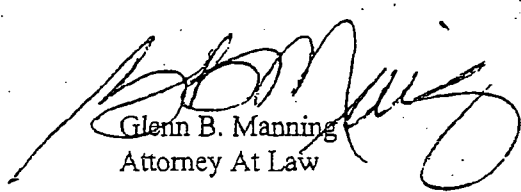
RE: State vs James Cabbagestalk
Warrant No.: K-129668 Arm Robbery
Warrant No.: K-129669 Assault & Battery w/Intent to Kill
Warrant No.: K-129670 Petit Larceny

Dear Mr. Redman:

Please find enclosed request for motion for discovery and inspection in the above matter.

Sincerely,

MANNING LAW FIRM OF S.C., P.A.


Glenn B. Manning
Attorney At Law

GBM/vg
Enclosure

Bennettsville Office
114 Cheraw Street
Post Office Drawer 1156
Bennettsville, South Carolina 29512
(843) 479-9570
Fax: (843) 479-1390

Dillon Office
106 MLK Boulevard
Post Office Box 1427
Dillon, South Carolina 29536
(843) 774-8495
Fax: (843) 774-6808

REPLY TO:
DILLON

Exhibit
never had
Even a +
trial
8/27/07

413

114

Bring this to Court's Attention

SUBPOENA IN A CRIMINAL CASE

her come to court + noon
period! told her she come
to they'd lock her up

SOUTH CAROLINA <u>Gen. Session</u> COURT		COUNTY <u>Dillon</u>
STATE V. <u>JAMES CABBAGES TALK</u>		CASE NO.
TO:		SUBPOENA FOR ☒ PERSON ☐ DOCUMENT(S) OR OBJECT(S)
<u>ALMA JACKSON</u>		
☐ YOU ARE HEREBY COMMANDED to appear in the above named court at the place, date, and time specified below to testify in the above-entitled case.		
PLACE <u>Dillon City Courthouse</u>	COURT ROOM	
	DATE AND TIME <u>8-28-07 3:00 PM</u>	
☐ YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s). <u>8/29/07 9:50 AM</u>		
LIST DOCUMENT(S) OR OBJECT(S)		
This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.		
CLERK OF COURT <u>[Signature]</u>	DATE <u>8/29/07</u>	
(BY) DEPUTY CLERK		
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE ☐ SOLICITOR ☒ DEFENDANT		
ATTORNEY'S NAME AND ADDRESS		

It Bond Paperwork
not for me I never
signed it how can I
get this preliminary
hearing the Bond paperwork
is false and not for me
Just like Charges
Also Judge Rogers never
scheduled this hearing yet
Why? J. David Watson asked for
a hearing to why he can't get it?
G. BLUMENTHAL MANNING

Manning Law Firm
of
South Carolina, P.A.
Attorneys and Counselors At Law

March 23, 2007

Bennettsville Office
114 Cheraw Street
Post Office Drawer 1156
Bennettsville, South Carolina 29512
(843) 479-9570
Fax: (843) 479-1390

Dillon Office
106 MLK Boulevard
Post Office Box 1427
Dillon, South Carolina 29536
(843) 774-8495
Fax: (843) 774-6808

REPLY TO:
DILLON

Honorable James F. Rogers
PO Drawer 1016
Dillon, South Carolina 29536

RE: State vs James Cabbagestalk

Warrant No.: K-129668

Arm Robbery

Warrant No.: K-129669

Assault & Battery w/Intent to Kill

Warrant No.: K-129670

Petit Larceny

Dear Judge Rogers:

This is to inform you that I have been assigned as public defender and hereby
request a preliminary hearing in the above matter.

Sincerely,

MANNING LAW FIRM OF S.C., P.A.

Glenn B. Manning
Glenn B. Manning
Attorney At Law

GBM/wg

cc: Kenard Redman, Assistant Solicitor

*Attorney
At time*

416
Why throw it out?
the person he didn't have to
from Mr. S. David Watson was
either he's to contact him or
Kernard E. Richmond or Clerk
of Courts.

Manning Law Firm of South Carolina, P.A.

Attorneys and Counselors At Law

C. BLUMENTHAL MANNING

See
PAGE
STILL
RULES

April 13, 2007

With Help
Please offer
Bradyville two
other materials
to contest
Courts

Bennettsville Office
114 Cheraw Street
Post Office Drawer 1156
Bennettsville, South Carolina 29512
(843) 479-9570
Fax: (843) 479-1390

Dillon Office
106 M.L.K. Boulevard
Post Office Box 1427
Dillon, South Carolina 29536
(843) 774-8495
Fax: (843) 774-6808

REPLY TO:
DILLON

VIA FAX AND REGULAR MAIL (843) 774-4448
Kernard Redman, Assistant Solicitor
Fourth Circuit Solicitor's Office
PO Box 868
Dillon, South Carolina 29536

RE: Assist Public Defender Cases

Dear Mr. Redman:

These are the individuals who we do not have Rule 5 information. Please forward information to my office by Monday, April 16, 2007.

Raymond B. Tucker

James S. Cabbagestalk

Angela Leslie

Michael F. Clark

Jeffery K. Jones

Javarius D. Ellis

David T. Miller

Frederick E. Jessup

James M. Hunt

Karan F. Charles

Andrew D. Campbell

Antonio Davis

Bentley Collins

Timothy L. Jones

Tammy McNeil

Kenneth W. Berry

Kenny R. Alford

Angela Rippy

April Britt

Prentis R. Sellers, Jr.

James Sowell

Lee Roy Smith

Holly Scarborough

Maurice D. McCallum

Lefon Bruce

Lejarius L. McMillian

Cedrick A. Blakeley

Jason R. Goings

Kelvin D. Monroe

Phillip Jacobs

Shayna Whaley

Barron D. Laviscount

Jacqueline Campbell

Donnelle N. Fields

Shawna M. Chavis

Rebecca A. Key

Stephanie D. Palmer

Gwendolyn Fenton

Shannon D. Lee

Raymond B. Tucker

Darrett Murphy

Ronald Lewis, Jr.

State of South Carolina
Office of the Solicitor
Fourth Judicial Circuit

Defendant:

James Cabbages talk

Guilty Plea Offer

W. H. B. T. 417
With Held
3 pleas Row
10/20

Solicitor:

JH MJLL JRJ KH EM KR SB WR NS TL PM

Attorney:

Watson

Charge	Indictment Number	Possible Sentence
Armed Robbery		10-30 yrs
ABWIK		< 20 years
Petty larceny		30 days

Offer Date:

4-16-07

Offer By Solicitor:

Plea to 10 yrs, "Accessory Before Fact" or "provide
co Δ names for Straight Plea to Common Law Robbery"

Recommended:

Negotiated:

Accepted:

Rejected:

Date:

Defendant's Signature:

Date:

Attorney's Signature:

Date:

4-16-07

Solicitor's Signature:

[Signature]

manuscript page 85
lines 15-16

Withheld by
Solicitor Leonard E. Redmond
Admits he forgot offer

See Date
I never
saw
period
+ don't
know
David Watson
+ know not
Mr. Manning

5 years
discharge
existing for
Armed Robbery
and can't prove it
reasonable doubt

State of South Carolina
Office of the Solicitor
Fourth Judicial Circuit

Defendant: James Shaleen Cabbagstark

A/K/A Woody

Guilty Plea Offer

Solicitor: JH MTLJ JRJ KH EM KR SB WR NS TL PM

Attorney: Watson

Don't say my name
never seen until after trial

Charge	Indictment Number	Possible Sentence
<u>Armed Robbery</u>		<u>18-30 yrs</u>
<u>ABUIC</u>		<u>< 20 yrs</u>
<u>Petty larceny</u>		<u>< 30 days</u>

Mr. J. David Watson
with held the attorney
I had before Attorney
Glen Manning

Offer Date: 2-26-07

Offer By Solicitor: Plea to AB, all other charges concurrent (10 yrs)

← negotiated
I have right here

Recommended: _____
Negotiated: ✓ Accepted: _____ Rejected: _____

see what this say

Date: _____ Defendant's Signature: _____

Date: _____ Attorney's Signature: _____

Date: 2-26-07

Solicitor's Signature: _____

[Signature]

Armed Robbery
Assault and Battery with
Intent to Kill

Writ for James Cabbagestalk
See the Date August 27th 2007
Tate and Perry and John or Kenneth Redmond
GENERAL SESSIONS JURY SELECTION

119419

CASE NO: 07CS17-363, 364

DATE: Aug 27, 2007

PLAINTIFF: STATE

ATTORNEY: Kimberly Redmond AS

DEFENDANT: JAMES Cabbagestalk

ATTORNEY: Glenn Manning

PRESIDING JUDGE: Howard P King

COURT REPORTER: LINDA W. MCCALL

		STRIKES					
JUROR #	NAME	RACE	SEX	COURT	STATE	DEF.	ACCEPT
93		C	M			X	
155		AA	F				✓
33		C	F			X	
109		C	F				✓
96		AA	M				✓
159		AA	M			X	
48		C	F		X		
72		C	M				✓
67		AA	F			X	
115		AA	F				✓
58		AA	M			X	
46		AA	M		X		
37		C	M			X	
94		AA	F				✓
75		AA	M		X		
163		AA	M				✓
8		C	M			X	
173		C	M				✓
25		AA	M				✓
81		C	F			X	
53		C	F				✓
156		C	M			X	
141		C	F				✓
142		C	F			X	
89		C	M				✓
82		C	F			X	
147		C	M				✓

Cabbagestalk

J 6 2007

Exhibit

page ①

PD 67

Dear

Not Found

in over

Glen Manning

Echevarria

lk I am

your client. I'm

right now

cause a Jailer

PD 107

must

have put glass

Betha 22

it up

A Day or 2 After they TRANSFERRED ME TO HARRISBORO

County from Dillon County Jail. Any way I haven't

seen you but once in front the Judge and once

in Dillon County Jail. I were you were ASKING ME

NONE SENSEABLE QUESTIONS. I AM FALSELY IMPRISONED

under James Cabbagestalk's name which is my uncle

James Cabbagestalk is on the warrants, James

Carmichael is on the Bond Paper work and it

was scribbled out by a Jailer and the Bond

Papers were forged and Shaleen James Cabbagestalk

name was put on there By some

Jailer cause the Judge used a certain color

Pen and they used a different pen. I filed for

A preliminary Hearing with "Whitson" who was

my Defender Before you I didn't get it cause

It was said this case is indicted. Well

Guess what I Shaleen R. Cabbagestalk Aint

indicted James Cabbagestalk is. And I was discriminated against because my last name is Cabbagestalk. The police incident report in my rule (5) states the person was (Either) meaning there unsure or is. A Cabbagestalk or Either a sick house. Also they have me falsely imprisoned for Armed Robbery And Don't have no Gun, no photo lineup, never been Gun powder tested, No Evidence period. Also Assault and Battery with Intent to kill - how is that so And the report never said the Person ever Did anything. And the report said the person had NO gun. How can it be A Armed Robbery, or Assault and Battery with intent to kill, and petit larceny. When I was never there, never Did anything. Don't know nothing, and there's no factual Evidence to say I Did anything. no finger print. No nothing. I'd like a Fast and Speedy Trial And or Bond Reduction. This court term. I've been locked up for 7 months only been for 1, Bond Reduction And it was Denied. You Are NOT Representing me right. I want to be in court July 23rd For A Bond Reduction And A fast and Speedy trial put into Motion. OR I will

RECEIVED JUL 06 2007

Page(3)

Be contacting the BAR Association letting them know your not Representing me right and it's unprofessional As A lawyer. How you smacked my folder out my hand in front Judge Hayes Post (May can't term) for NO Reason while you did that and Jammed my thumb. Also you know AS WELL AS I know you need to have gotten that fast and speedy trial paper (in MAY when we went to court Cause Judge has talking about the case to back.) I will get my Court transcripts to which is part of my Rule 6 Brady vs Maryland material it shows every thing. My family needs me home to help them out. I aint James Cagney talk. That's my uncle And do know False Imprisonment and Kidnapping is Against the law AS well As the things you, John Willie Brown, James David Watson, Dillon Sheriff's department, Judges etc... are doing And As I said I'm tired of playing with you All this is my DAMN life. You'll lose your license as A lawyer Cause I do plan to let them

Glenn Manning
Did this!

X Requested
fast and
speedy trial

At BAR Association know and file
 A law suit. Every single thing that's
 took place from way over I want A
 Bond Reduction the Court term And
 to have the paper work for A fast and
 speedy trial. That's why you my Defender
 you never told Judge Hayes that it's against
 the law for him to Denie me putting in
 for A fast and speedy trial that's my
 right wich is Amendment (6) In All criminal
 prosecutions (the Accused shall enjoy the
 right to A speedy and public trial, by an impar-
 -tial Jury of the state and district where in
 the crime shall have been Committed, wich
 district shall have been previously Ascer-
 -tained by law, and to be informed of the
 nature and cause of the accusation; to be
 Confronted with the witnesses against him; to
 have compulsory process for obtaining witnesses
 in his favor and to have the Assistance for
 his defence.

7/3/07

Dear, Glenn Manning this is Mr. Shaheen Cabbagestalk who you represented at trial on 8/27/07 and 8/28/07. I'm ms. Joyce Cabbagestalk son, you had my case and it was said that I was James Cabbagestalk which is my uncle Bootsie Name lives at 139 peedee Church rd. Dillon SC. 29536. This incident occurred on 1/1/07 said that wayne dillard SR. was Robbed and assaulted with intent to kill. I have a few Questions for you which are very Important. "Why did you allow trial to go on and you knew Judge Howard Piking aint have subject Matter jurisdiction to have me in front him Cause I was never the individual indicted by a grand jury. Then why didn't you object to anything that occurred at this trial if you know I wasn't by law suppose to been in front this judge?"

How can you let this judge amend an indictment at trial after the jury was already sworn in and under oath without having the indictment re-submitted to the grand jury for a true bill? and call a mistrial or continuance.

How come you aint object to the judge accepting any type of Plea in which he had no subject matter jurisdiction to do so, I was forced to plea to this armed robbery Cause you aint represent me correctly never objecting to anything also I feared for my life being taken 30 yrs. And Every time I wrote you a letter you never Responded or answered me Back. I need all the letters I Ever wrote you the original

ones you may photo copy them, But I need the original ones. you also Let the judge Give my uncle James Cabbagestalk 18 yrs. 85% not me Shaheen Ramo / Cabbagestalk. you allowed us to be forced to trial I never signed any paperwork Asking for A fast and speedy Motion (which suppose to occur w. him 2 Court first and speedy trial motion 120 days) terms. How can you sit Back Mr. Manning and allow such Misconduct, Prosecutors undictiveness and outrageous Government Conduct to put me in Prison. I'm innocent My Brady Material Shows that, Court transcript Shows that, and sentencing sheet Shows that the judge gave James Cabbagestalk time not me. Why am I in prison and like I said the only reason I plead Guilty is because I feared to get 30 yrs. of my life taken because you was not representing me right. You filed for an appeal of the Guilty plea and I'd like a

copy - the original is in the jury room. See I'm
 asking you to send me this also with the papers
 of the State witnesses against me and all I asked
 you to Supena. I have an good memorie but I'd like this
 because it belong's to me under Brady v. Maryland which I'm
 entitled to. you aint even Supena the state witnesses or
 my alibi. Why wasn't Alma Ray Jackson allowed to come
 into the Court Room were she'd be put on the stand under oath
 to show forth my innocence you denied me Equal Due process
 of law along with the prosecutor Bernard E. Redmond, and
 the judge. Do know I really need all I'm asking you for
 and it's a request to help prepare me for my Appel/Brief
 and PCR Defense, I'm entitled to this and this is my Brady
 discovery right. Do Be Careful and Don't touch your face with
 your hands after touching the envelope on C.O. sprayed my room with
 MACE and it got on my Envelope. But I'd like to know why didn't
 you make sure I had a trial list of all state witnesses, of All you Supenaed?
 You aint do as you should've Glenn Manning if you would've told
 that judge the same as you told me, I wasn't suppose to be in the
 Court Room Cause he had NO Subject matter jurisdiction for me to be
 in thier. Its because of you and J. David Watson I am in prison
 I told the judge at trial I was not satisfied with your
 services which were very unprofessional. As of today I'm
 asking you to send me all inside I've requested. And A
 Copy of the so called TRUE Billed indictment that
 was returned By the Grand jury for women at
 trial after the judge accepted a plea for me to
 Armed Robbery and the plea was Accepted as James
 Cabbagestalk, Not me. DO KNOW I X/EEP A!!
 I've Requested Sir Soon As possible this trial was
 held on 8/27/07 8/28/07 then K. L. W. Cabbagestalk

10-30455

STATE OF SOUTH CAROLINA)
 COUNTY OF Dillon)
 STATE James VS. Cabbage stalk)
 AKA:)
 Race: W Sex: M Age:)
 DOB:)
 Address:)
 City, State, Zip: Dillon, SC 29536)
 OL#:) SID#)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2002-GS-17-364
 AWW#: K129668
 Date of Offense: 11-11-330(A)
 S.C. Code §: 16-11-330(A)
 CDR Code #: 011319
☐ CASE RESTORED
☒ SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
 TO: Arrested 10-30455
 in violation of 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 011319
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
 The plea is: ☐ Without Negotiations of Recommendation, ☐ Negotiated Sentence, ☐ Recommended by the State
 ATTEST: [Signature] [Signature] [Signature]
 Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 18 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 §26-15-15.

SPECIAL CONDITIONS:
☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
 Total: \$_____ plus 20% fee: \$_____
 Payment Terms:
☒ set by SCDPPPS

Recipient: _____
 *Fine:
 \$14-1-206 (Assessments 107.5%) \$_____
 \$14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00
 \$14-1-211(A)(2) (DUI Surcharge) \$100 \$_____
 \$56-5-2995 (DUI Assessment) \$12 \$_____
 \$35.13 (Public Def/Prob) \$500 \$25.00
 \$73.3, 1B TP (Law Enforce. Funding) \$25 \$_____
 \$33.7, 1B TP (Drug Court Surcharge) \$100 \$_____
 \$50-21-114 (DUI Breath Test Fee) \$50 \$_____
 \$56-5-2942(J) (Vehicle Assessment) \$40 \$_____
 3% to County (if paid in installments) \$_____
 TOTAL \$128.00

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: _____

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

Clerk of Court Deputy Clerk
 Court Reporter: [Signature]
 PRESIDING JUDGE [Signature]
 Judge Code: 2111217
 Sentence Date: 8/22/07

SCCA/217 (2/2006)

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendants

*Complaint
to Supreme
Court Cause
No. 2007-01-001*



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
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

July 6, 2007

7-18-07

Glenn B. Manning, Esquire
Manning Law Firm of SC
P.O. Box 1156
Bennettsville, SC 29512

Dear Mr. Manning:

Enclosed is correspondence received from your client, Mr. Shaheen Cabbagestalk. Since you represent him regarding these criminal charges, no action will be taken on this pro se filing. Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

Sincerely,

Daniel E. Shearouse

cc: Mr. Shaheen Cabbagestalk
Marlboro County Detention Center
253 Throop Street
Bennettsville, SC 29512

428 Dear,

(TUG)
Ow

Glen B. Manning Hi! - this is Mr. Shaleen Cabbages talk
I'm contacting you in regards of receiving correspondence from you
finally, I received a package of stuff NONE of it implicates me
as an Robber for the Alleged Armed Robbery charges I'm falsely Imprisoned for 16-11-330(A) 07-GS 17-0364. Why is it "you knew" the
Indictment's you had when I was illegally sent to trial was not
True Billed and not for me But you didn't address it timely before
the jury was sworn in as Judge Howard P. King said to you. Also
How come you never advised me there was "3" please RAN W.
and only one negotiated Binding? you acted as if it was
only a plea for (The state don't appear to me receiving the lower end
of the spectrum which was 10-30) You told me if I got my time it
wouldn't be no more than 10 yrs. and I shouldn't get no time cause
I don't suppose to be in court's period per 5th Amendment of the Consti-
tution No person shall be held to answer for a Capital or otherwise infamous crime
unless on presentment of a grand Jury Indictment. You waited until I was
forced to take an illegal plea to say anything about me never being indicted,
O.K. then the negotiated plea originally was (plea to Armed Robbery 10)
All others Concurrent } this was negotiated and Binding. Then as my trial
Attorney how can you've known on "4-16-07" there was a plea stated
plea to 10 yrs, Accessory Before fact or provide C.O.D Names for straight
plea to Common Law Robbery and you never advised me of this or any of
them? Mr. Manning furtherly ~~it~~ All don't matter I simulated in court per

(2) I could talk about several things you've done in my case. But - 429
Contact you for that I ask you to write down statements to bring the
Courts know your representation was not up to par and I shouldn't be in
the Dallas County Court Room on "8-27-07" As you personally told me At Dallas
County Jail before I went to this illegal trial the Courts had NO Juris-
-diction over the subject matter at hand and you should've brought this matter
before the jury was sworn in as Judge King told you at this illegal trial
you forced me to incriminate myself knowing I was never indicted. Al
I want you to SEND me My Evans v. State (S.C. 2005) Grand
Jury Impanelment documents Although you never showed me or the Court
that any indictment was true billed for Armed Robbery (6-11-3703A) And How
Come on 4-16-07 last minute Kernal E. Richmond states something about
Common Law Robbery Common law Robbery is like Strongy Armed Robbery which
Involves no gun and not a Lesser Included offense of Armed Robbery this
shows me the setup was planned for me and How I was set up by you all
take an Invalid PLEA. Also once the indictment is true billed the veil of secre-
s uplifted so there's no reason you shouldn't send me the Grand Jury ~~and~~
~~impanelment~~ Impanelment Documents and all Im allowed per Evans v. State.

By: Shaheen Cabbage stall

without prejudice till 1-207
Date: 3-24-11

By: Shaheen Cabbage stall

without prejudice till 1-207
Date: 3-24-11

Notary: ~~Shaheen Cabbage stall~~

My Commission Expi: FEBRUARY 21, 2012

Date: MARCH 124TH / 2011

430 Exhibit #13

Inconsistent
Testimony
Proof Contradicts
Witness Testimony
Pg. 5 Lines
8-11 Denied
Speedy trial in
own case old
5 months

pg. 8 Lines

15-17

forgot plea offer

Solicitor Admits

(10 yrs. negotiated)

State
Contradicts
It's more
Witness whom
lies

EX 111371

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF DILLON) FOURTH JUDICIAL CIRCUIT
2007-GS-17-00362, 00363, & 00364

STATE OF SOUTH CAROLINA,

PLAINTIFF,

VS.

TRANSCRIPT OF RECORD

JAMES CABBAGESTALK,

DEFENDANT.

"MAY 31, 2007"

DILLON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. MARK HAYES II, JUDGE

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

KERNARD E. REDMOND, ESQ.
ATTORNEY FOR THE STATE

GLENN B. MANNING, ESQ.
ATTORNEY FOR THE DEFENDANT

BONNIE H. KELLY
CIRCUIT COURT REPORTER

I N D E X

	<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
3	CASE CALLED/MR. REDMOND	4
4	MOTION BY MR. MANNING	6
5	RULING OF THE COURT	7
6	MOTION BY MR. MANNING	8
7	RULING OF THE COURT	8
8	CERTIFICATE PAGE	9

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID</u>

- NO EXHIBITS -

1 MR. REDMOND: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 MR. REDMOND: Before you at this time is James
4 Cabbagestalk. He's before you on 2007-GS-17-364, that
5 being for armed robbery; 363 -- and if the Court would
6 indulge me. I'm looking for the copies of the indictments,
7 so I can accurately read these -- 364 is for armed robbery;
8 363 is for assault and battery with intent to kill; and 362
9 is for petty larceny.

10 Your Honor, he is here before you. Mr. Manning has
11 indicated he wishes to make a motion to reduce his bond. I
12 don't have right in front of me what his current bond is
13 set at, but I can tell the Court at the appropriate time
14 that I have made attempts to comply with the Victim's Bill
15 of Rights. and at the appropriate time, I can give the
16 Court this -- that particular portion of it.

17 I can tell the Court that at this point, as is my
18 policy, I would oppose a reduction in bond at this point.
19 And I think once I give you the brief factual background,
20 hopefully the Court will see why the State takes that
21 position.

22 THE COURT: I didn't hear what the bond is.

23 MR. MANNING: \$30,000 -- 36,000.

24 MR. REDMOND: All right.

25 THE COURT: Mr. Redmond, if you'd tell me --

1 MR. REDMOND: Yes, sir. Yes, sir, Your Honor. If it
 2 please the Court, on the first -- (January 1st, this
 3 occurred in Nichols.) The victim in this case had pulled
 4 into the driveway. And he -- it looks like the -- he
 5 stopped to ask -- somebody -- this defendant was with
 6 someone else. The victim stopped. I think they had
 7 actually acted as if there was a problem with the car. And
 8 so, when they got out -- they were three males that got out
 9 with guns and two shotguns; two had shotguns and one had a
 10 pistol. *Show's alleged person to be we never had Gun (suppose to be conspiracy charge from hands of one hand of all you only got on*
 11 * (He recognized the suspect that didn't have a gun.) *person and I never been indicted until this very day for*
 12 because there were four people here; three of them had *given only time to give to same*
 13 guns. *Saying that person suppose to be me (I never saw him, photo line up how he can't see him before trial)* * (The person that he recognized was the defendant.) *We*
 14 don't have the other people in custody at this time.

15 And anyway -- Judge, so he recognized him. (They --
 16 they actually told him to give up his money and his cell
 17 phone.) *He never said here I hit him with a Gun period or had one anything with the Gun don't involve*
 18 (One of the suspects hit him in the face.) (The gun
 19 was also pointed at his son's face.) I do not have the age
 20 of his son.

20 As they drove off, one of them shot one time. ** Proof assault is like never happened* (He
 21 doesn't know -- according to this -- what direction the *Never say I hit Wayne*
 22 bullet went. But he did hear the gunshot as they were *Dillard period*
 23 leaving.) *and son who never shot*

24 (The victim in this case is Russell Dillard.) He had *Sub of Re and these are any at time*
 25 given a description of the vehicle that was involved, and *sub of Re and these are any at time*

* This is impossible I never been in a photo line up and I only saw this guy, AT
Trial for the 1st time ever

6

1 (he had actually recognized this defendant as being one of
2 the parties involved.) * No gun from Solicitor Martin from alleged
3 victim mouth
gun.) *

4 Again, (we do not have the other people who were
5 involved in custody) at this time. And for the reasons of
6 the nature of the incident, we would ask the Court to
7 consider -- (because obviously, it was a premeditated
8 situation) in the sense that he was basically lured into the
9 situation and was robbed.

10 I did not tell the Court what amount of money he was
11 robbed of. As I indicated, the cell phone was robbed and
12 (looks like about \$235) was taken from the victim.

13 REIGD * THE COURT: Mr. Cabbagestalk have any record?
of me

14 MR. REDMOND: Yes, sir, Judge. If the Court would
15 indulge me. In 2002, possession of a stolen vehicle. He
16 had two years probation on that. Looks like -- I thought
17 he violated that. * (Doesn't look like he violated that.) *

18 * (And then, Judge, in 2003, he had a distribution of
19 crack charge. He got five years on that.) *

20 And that is the extent of his -- looks like that was
21 actually two counts as it relates to the drug charges, two
22 counts of distribution. He got five years on that active
23 incarceration.

24 MR. MANNING: Yes, Your Honor. Your Honor, may it
25 please the Court. I was appointed to represent Mr.

1 Cabbagestalk on -- several weeks ago, and I don't have his
2 file in front of me, Your Honor. But I would tell the
3 Court that he has been in jail for certainly more than 30
4 days. And (I would ask the Court to consider a reduction in
5 bond.) *Bond reduction* *Glenn B. Manning*
lawyer

6 He has not been able to -- to make the \$36,000 bond,
7 and based on the nature of the things that have just been
8 presented to the Court, I see no reason why, Your Honor, he
9 should not be entitled to a bond that would be one that he
10 would be able to make. Certainly he can't make this. If
11 he could, he would have been out by now. And I'd ask the
12 Court to -- to -- to seriously consider reducing the bond
13 for this individual.

14 I don't think that he's a flight risk. I don't think
15 he would be in the position to harm or injure anyone. And
16 I certainly know that that would be one of the conditions
17 of the bond. So, I'd ask if the Court would consider
18 reducing the bond.

19 THE COURT: Based on the alleged facts and the prior -
20 - prior -- Mr. Cabbagestalk's prior record, I'm going to
21 leave the bond at \$36,000.

22 MR. MANNING: Thank you.

23 MR. REDMOND: Thank you, Your Honor.

24 THE COURT: Motion to reduce is denied.

25 *Denied Bond Reduction*

> speedy trial motion

1 MR. MANNING: Your Honor, also, make a motion for a
2 speedy trial as well.

3 THE COURT: Well, how -- how long -- when -- how long
4 is -- what was the date of the incident?

5 MR. REDMOND: The date of the incident was New Year's
6 Day, Judge. And he was arrested on the 12th.

7 THE COURT: Of May?

8 MR. REDMOND: Of -- 12th of January. I'm sorry. It's
9 been since January. *Denied my motion for speedy trial said case is fresh still 2 min.*

10 * THE COURT: Well, I'm not going to require the State
11 to try him at any particular time at this point. *(The case*
12 *is still fresh.)* * I'll -- just without prejudice, you can
13 make a motion -- (you can renew your motion at any time.) *

14 MR. MANNING: Thank you, Your Honor.

15 MR. REDMOND: We'd actually made a -- *I had made an*
16 offer in this case) that (I forgot to give to Mr. Manning.) *pen offer*
17 So, I do have an offer sheet as well.

18 THE COURT: All right.

19 MR. REDMOND: And we have complied with Rule 5 up to
20 this point, Judge. *Abuse of discretion. Indictments could've been addressed here by me.*

21 *** THE COURT: (To the defendant) I'd -- I'd be glad to
22 hear from you, but I don't want to be rude. But anything
23 you say can be used against you if you go to trial. You
24 understand that?

25 THE DEFENDANT: Yeah. I understand that.

*150 days
by Supr
Court 12
Gotta be
disposed
of by
1845*

*Never
got it
from go
period 3
I would've
taken some
shorter the
1845*

*Abuse of discretion
Indictments could've been addressed here by me
I've never been Indicted Same Cabbage stalk was 3rd degree
Mr. Smith
American
lighter
lighter
lighter*

*Very
Important*

1 THE COURT: Well, I think it best if you deal through
2 your attorney. Thank you.

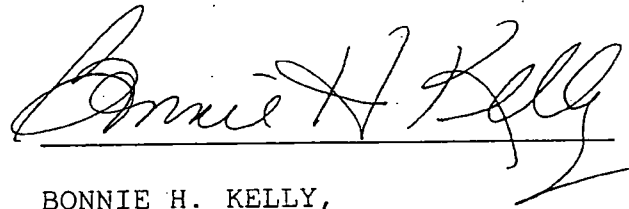
3 MR. REDMOND: Thank you, Your Honor.

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5 --- END OF TRANSCRIPT OF RECORD ---
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CERTIFICATE

I, THE UNDERSIGNED BONNIE H. KELLY, OFFICIAL
COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE
STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT
OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE
INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE,
RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR DILLON
COUNTY, SOUTH CAROLINA, ON THE 31ST DAY OF MAY, 2007.

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



BONNIE H. KELLY,

COURT REPORTER

COLUMBIA, SOUTH CAROLINA

JUNE 23, 2011

EXHIBIT

STATE OF SOUTH CAROLINA

COUNTY OF DILLON

IN THE COURT OF GENERAL SESSIONS
07-GS-17-0362/0363/0364

STATE OF SOUTH CAROLINA,)

vs.)

JAMES SHAHEEN CABBAGESTALK.)

TRANSCRIPT OF RECORD

*See name*JULY 26, 2007¹²
DILLON, SOUTH CAROLINA

BEFORE:

THE HONORABLE, HOWARD P. KING, JUDGE

APPEARANCES:

BY: KERNARD E. REDMOND, ESQ.
ATTORNEY FOR STATEBY: GLENN B. MANNING, ESQ.
ATTORNEY FOR JAMES CABBAGESTALKBRENDA R. BABB
Circuit Court ReporterEXHIBIT #12
Inconsistent Testimony
- on 12/5 of victim and
- solicitor with held
- Brady materials
- 1 month
- old case is to be
- disposed of
- 180 daysmade
plea offer
in February
what happened

for 10 yrs

Conspiracy
Before the
fact see
plea offer
pg. 16
Lines 19-25pg. 5 no 9u
Lines
1-2

Embossed
Trial was held
Aug. 27-28th 07

GUILTY PLEA - JUNE 24, 2008

2

ARGUMENT BY MR. MANNING

3

ARGUMENT BY MR. REDMOND

4

RULING OF COURT

6

CERTIFICATE OF REPORTER

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MOTION FOR SPEEDY TRIAL/BOND REDUCTION - JULY 26, 2007

3

1 MR. REDMOND: MAY IT PLEASE THE COURT, YOUR
2 HONOR?

3 THE COURT: YES, SIR, GIVE ME JUST ONE MINUTE.

4 MR. REDMOND: THANK YOU, YOUR HONOR, MAY IT
5 PLEASE THE COURT, BEFORE YOU AT THIS TIME IS JAMES SHAHEEN
6 CABBAGESTALK. HE'S BEFORE YOU UNDER INDICTMENT NUMBERS
7 2007-GS-17-362, THAT BEING PETTY LARCENY;

8 363 ASSAULT AND BATTERY WITH INTENT TO KILL; AND
9 364 THAT BEING ARMED ROBBERY.

10 MR. MANNING HAS A COUPLE MOTIONS HE WOULD LIKE TO
11 MAKE AT THIS TIME SO I'LL YIELD TO HIM AND THE STATE WOULD
12 RESPOND AT THE APPROPRIATE TIME.

13 THE COURT: ALL RIGHT, YES, MR. MANNING?

14 MR. MANNING: YES, YOUR HONOR, MAY IT PLEASE THE
15 COURT, (THE FIRST MOTION IS ONE FOR A SPEEDY TRIAL AND THE
16 SECOND MOTION IS ONE FOR BOND REDUCTION.)

17 (X) I WAS APPOINTED TO REPRESENT MR. CABBAGESTALK BY
18 JUDGE BURCH, I THINK IT WAS BACK IN, I DON'T HAVE THE FILE
19 WITH ME, APRIL OF THIS YEAR AS I RECALL CORRECTLY, AND (HIS
20 BOND WAS SET BY THE MAGISTRATE AT \$36,000) AND HE'S BEEN
21 INCARCERATED EVER SINCE AND WE'D ASK THE COURT FOR A BOND
22 REDUCTION IN THIS MATTER.

23 AND ALSO MOVE THE COURT FOR ORDER FOR SPEEDY
24 TRIAL.

25 THE COURT: MR. REDMOND?

- JULY 26, 2007

4

MR. REDMOND: JUDGE, THIS CASE WAS INITIALLY
HANDLED BY MR. WATSON. (I BELIEVE THERE WAS A CONFLICT AT
SOME POINT.) I DON'T KNOW THE NATURE OF IT BECAUSE IF I
REMEMBER CORRECTLY I THINK THERE WAS AN IN CAMERA HEARING
AT WHICH TIME MR. WATSON WAS RELIEVED AND MR. MANNING WAS
APPOINTED SUBSEQUENT TO THAT.

Inmate
- Mr. Manning
J. David
Watson

JUDGE, I CAN TELL THE COURT THAT AS IT RELATES TO
REDUCTION OF BOND I HAD PREVIOUSLY TALKED WITH THE VICTIM,
HE'S MOVED AND I HAVEN'T HAD THE OPPORTUNITY TO TALK WITH
HIM TODAY, BUT I HAD TALKED WITH HIM PREVIOUSLY IN DETAIL
CONCERNING THE ALLEGATIONS IN THIS MATTER; AND WITHOUT
GETTING TOO MUCH INTO THE FACTUAL BASIS I CAN TELL THE
COURT THAT WE WOULD BE OPPOSED FOR REDUCTION OF BOND.

I CAN TELL THE COURT THAT THE DEFENDANT IS KNOWN
TO THE VICTIM SO THE STATE FEELS THIS CASE IS STRONG BASED
ON THE ALLEGATIONS AND FURTHER, YOUR HONOR, BASED ON THE
FACT THE REASON, AND AGAIN BEING BRIEF, BUT TO GIVE THE
COURT AN IDEA OF THE FACTUAL BASIS.

THIS WAS A SITUATION WHERE THE DEFENDANT WAS IN A
CAR WITH THREE OTHER INDIVIDUALS (AT WHICH TIME HE PULLED
OVER ON THE, THE CAR THAT THE DEFENDANT WAS IN WAS PULLED
OVER ON THE SIDE OF THE ROAD.) (THE VICTIM GOT OUT THE CAR
TO HELP.) (THE DEFENDANT CAME OVER AND THE DEFENDANT, THE
VICTIM KNOWS THE DEFENDANT, WELL (THE OTHER THREE IN THE CAR
THEN GET OUT AND ROB HIM.)

Important

Don't add
up

That's a Conspiracy to Armed
Robbery they not actual
armed robbery

Conspiracy to Armed Robbery

Solicitor testimony
I had no gun
By Wayne Dillard

5

1 HE DID INDICATE THAT THE DEFENDANT DID NOT HAVE A
 2 GUN BUT THE OTHER PARTIES DID. ONE OF THOSE OTHER PARTIES
 3 FIRED A GUN IN THE DIRECTION OF THE VICTIM'S TRUCK. HIS,
 4 HIS HANDICAPPED CHILD WAS IN THE CAR. THE CHILD WAS STRUCK
 5 BY ONE OF THE BULLETS IN THE HAND, THAT'S WHERE THE ASSAULT
 6 AND BATTERY CHARGE COMES FROM. AND SO, JUDGE, BECAUSE OF
 7 THAT WE REGARD THIS AS A VERY SERIOUS SITUATION AND WE
 8 WOULD RESPECTFULLY REQUEST (THAT BOND NOT BE SET AT THIS
 9 TIME.)

10 THE COURT: TELL ME WHEN IT HAPPENED, WHAT WAS
 11 THE DATE OF THE INCIDENT?

12 MR. REDMOND: THE DATE OF THE INCIDENT WAS NEW
 13 YEARS DAY, JUDGE. HE WAS ARRESTED ON THE 12TH OF JANUARY,
 14 BUT THE INCIDENT OCCURRED ON NEW YEARS DAY.

15 THE COURT: AND HE WAS REPRESENTED BY SOMEONE
 16 ELSE PRIOR TO MR. MANNING BEING INVOLVED IN IT?

17 MR. REDMOND: THAT'S CORRECT.

18 THE COURT: AND THEN MR. MANNING GOT IN IN APRIL
 19 I BELIEVE, YOU WERE APPOINTED IN APRIL, MR. MANNING?

20 MR. MANNING: I THINK, I'M ALMOST SURE, BY JUDGE
 21 BURCH. *Don't know what's going on*

22 MR. REDMOND: AND, JUDGE, I FORGOT TO MENTION TO
 23 FURTHER SUPPORT OUR REQUEST NOT TO HAVE HIS BOND REDUCED,
 24 WE'VE GOT INVESTIGATOR JOHN WILLIE BROWN OF THE SHERIFF'S
 25 DEPARTMENT WHO ACTUALLY IS INVOLVED IN THE INVESTIGATION OF

Never seen
Hand of
one time
of all

Imposing
never
shows
in the
or there
his son
Refused

His is a
see May 3/10
2007
Transcript
Judge's
preliminary

CDV
on his
wife
2007
Cement
CDV
is an
felony
Not liable
to believe

MOTION FOR SPEEDY TRIAL/BOND REDUCTION - JULY 26, 2007 6

1 THIS CASE AND HE ADVISED ME THAT AT THE TIME THEY ARRESTED
2 HIM ON THE 12TH HE ACTUALLY ATTEMPTED TO RUN AWAY AND THEY
3 HAD TO ACTUALLY CATCH HIM. AS A MATTER OF FACT, WHEN THEY
4 ENCOUNTERED HIM HE TRIED TO RUN BUT THEY WERE ABLE TO CATCH
5 HIM.

6 THE COURT: TELL ME WHAT YOUR, WHAT YOUR COURT
7 SCHEDULE IS? HOW OFTEN DO YOU HAVE COURT, MR. REDMOND?

8 MR. REDMOND: WE HAVE COURT ON AVERAGE ONCE A
9 MONTH. NOW THIS TERM WE WENT TWO MONTHS IN BETWEEN BUT
10 NORMALLY IT AVERAGES TO ABOUT ONCE A MONTH, ONCE EVERY
11 MONTH AND A HALF. WE'VE GOT THREE TERMS LEFT AFTER THIS
12 TERM, THE 27TH OF AUGUST, THE 15TH OF OCTOBER, AND THE 26TH
13 OF NOVEMBER.

14 THE COURT: LET ME SEE THAT, MADAM CLERK?

15 MR. REDMOND: AND, JUDGE, I DIDN'T MENTION BUT
16 IT APPEARS IN REVIEWING THE FILE I ACTUALLY MADE AN OFFER
17 BACK IN FEBRUARY WHILE MR. WATSON WAS STILL REPRESENTING
18 HIM AND WE HAD COMPLIED WITH RULE 5 THAT WE HAD AT THAT
19 TIME AND I DON'T SEE WHERE IT HAS BEEN SUPPLEMENTED OR
20 NEEDS TO BE SUPPLEMENTED AT THIS PARTICULAR TIME. WE'VE
21 COMPLIED WITH RULE 5.)*

22 THE COURT: OKAY, ALL RIGHT. BASED UPON WHAT
23 I'VE HEARD AND THE BASIC FACTS OF THIS CASE I CANNOT SAY
24 THAT THE BOND IS UNREASONABLE AT \$36,000. I'M GOING TO
25 DENY THE MOTION TO REDUCE THE BOND.

*what happened
to the offer
Agreement rejected*

*obvious
J. Clerk
see it
By Atto
J. Davi
Wattso
Never
showed
not*

*Motion for Bond
Reduction
Denied*

MOTION FOR SPEEDY TRIAL/BOND REDUCTION - JULY 26, 2007

7

1 I'LL ALSO NOTE THAT THE MOTION FOR SPEEDY TRIAL
2 HAS BEEN MADE AND I'VE REQUIRED THE STATE TO ADDRESS THIS
3 CASE AND DISPOSE OF IT WITHIN 120 DAYS OF TODAY'S DATE. * *Nat'l Disposal*
4 THAT WILL CARRY IT THROUGH THE THREE TERMS THIS YEAR. * *180 days from*
5 IT IS NOT TAKEN CARE OF BY THE END OF THOSE TERMS THEN THE *IF* *next date*
6 COURT WILL ENTERTAIN A MOTION FOR A BOND REDUCTION FOR *SC, Supreme*
7 PERSONAL RECOGNIZANCE AT THAT TIME. * *Con't*
Justice
funney
See CR 12.2

8 MR. REDMOND: THANK YOU, YOUR HONOR.

9 MR. MANNING: THANK YOU, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 END OF REQUESTED TRANSCRIPT - - - -

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED BRENDA R. BABB, OFFICIAL COURT REPORTER THE SOUTH CAROLINA COURT ADMINISTRATION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR DILLON COUNTY, SOUTH CAROLINA.

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

February 27, 2010

Brenda R. Babb

BRENDA R. BABB, CVR

OFFICIAL REPORTER

Manning Law Firm of

South Carolina, P.A.

Attorneys and Counselors At Law

BLUMENTHAL MANNING

September 4, 2007

Honorable Kenneth A. Richstad
South Carolina Court of Appeals
PO Box 11629
Columbia, South Carolina 29211

RE: State vs. James Cabbagestalk
Indictment No.: 2007-GS-17-364

Dear Mr. Richstad:

Please find enclosed Notice of Intent to Appeal in the above matter along with a certificate of service wherein Jay Hodge, Solicitor was served. As public defender, I will not be perfecting the appeal but will forward the documents to the South Carolina Commission on Indigent Defense.

Sincerely,

MANNING LAW FIRM OF S.C., P.A.

Glenn B. Manning
Attorney At Law

GBM/wg

cc: Jay E. Hodge, Solicitor
Gwen T. Hyatt, Clerk of Court
South Carolina Commission on Indigent Defense

Bennettsville Office

114 Cheraw Street
Post Office Drawer 1156
Bennettsville, South Carolina 29812
(843) 479-9570
Fax: (843) 479-1390

Dillon Office

106 MLK Boulevard
Post Office Box 1427
Dillon, South Carolina 29536
(843) 774-3495
Fax: (843) 774-6808

REPLY TO:
DILLON

*Proof he
is effective*

*Just said in
trial I'm not
James Cabbagestalk
He seen my paperwork
told judge Howard P. King
this at trial*

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS)

COUNTY OF DILLON)

Indictment No.: 2007-GS-17-364)

The State,)

Plaintiff,)

vs.)

NOTICE OF INTENT TO APPEAL)

James Cabbagesstalk,)

Defendant.)

PLEASE TAKE NOTICE that the defendant, James Cabbagesstalk hereby intends to appeal and does serve notice of his intent to appeal the above trial held before the Honorable Howard King on August 28, 2007, and the court's order of that date.

Appeal for James Cabbagesstalk

MANNING LAW FIRM OF S.C., P.A.

[Signature]
 Glenn B. Manning
 106 Martin Luther King Boulevard
 Dillon, South Carolina 29536
 (843) 774-8495
 ATTORNEY FOR DEFENDANT

Dillon, South Carolina

September ____, 2007

A CERTIFIED
 TRUE COPY
[Signature]
 CLERK OF COURT
 DILLON COUNTY

FILED
 GWENTHYATT
 2007 SEP -4 AM 11:54
 CLERK OF COURT
 DILLON COUNTY

STATE OF SOUTH CAROLINA)
)
COUNTY OF DILLON)
_____)

IN THE COURT OF GENERAL SESSIONS
FOURTH JUDICIAL CIRCUIT

CERTIFICATE OF SERVICE

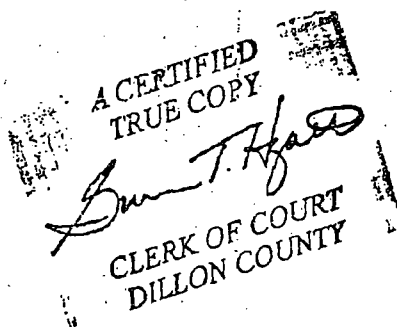
I, the undersigned Wendy Gillespie, of the Manning Law Firm of S.C., P.A. do hereby certify that I have mailed the **Notice of Intent to Appeal and Certificate of Service** in this action on the 4th of September, 2007 by United States mail, postage prepaid, to the following address (es):

Jay E. Hodge, Solicitor
Fourth Circuit Solicitor's Office
121 Market Street
Cheraw, South Carolina 29520

By: Wendy Gillespie

Wendy Gillespie

September 4, 2007



FILED
GWENTHYAIT
2007 SEP -4 AM 11:56
CLERK OF COURT
DILLON COUNTY



The South Carolina Court of Appeals

KENNETH A. RICHSTAD
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 10, 2007

Glenn B. Manning, Esquire
Manning Law Firm of SC
P.O. Box 1156
Bennettsville, SC 29512

Re: The State v. Cabbagestalk, James

Dear Mr. Manning:

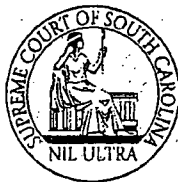
We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. For all filings, please note the requirements of Rule 238(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the firm name of any counsel shown must be included in his or her address.

We suggest that large parcels such as copies of final briefs and the Record On Appeal be sent directly to the Court via the street address: 1015 Sumter Street, Columbia, S.C. 29201. Thank you for your attention to this. Failure to file in the proper court may result in the dismissal of your appeal.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within thirty(30) days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(e), SCACR, also, please advise the Court in writing upon receipt of the transcript.

RECEIVED SEP 12 2007

*filed Appeal
for wrong person
Admitted at trial
I'm not him*



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Sabrina C. Todd
Assistant Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Fax: (803) 734-1964

January 31, 2011

PERSONAL AND CONFIDENTIAL

Shaheen [REDACTED] Cabbagestalk #295567
McCormick Correctional Institution
F-2-183- A
386 Redemption Way
McCormick, SC 29899

RE: Lawyer: Glenn B. Manning, Esquire
Matter Number: 10-DE-L-1527

Dear Mr. Cabbagestalk:

This is to acknowledge receipt of your complaint against Glenn B. Manning, Esquire. This office will conduct an investigation into the matters you have reported in your complaint, specifically that Mr. Manning has failed to give you your file upon request. Within fifteen days of the date of this letter, please provide our office with copies of any letters you sent to Mr. Manning requesting your file. You will not necessarily be contacted by our office prior to a decision regarding your complaint; therefore, if you have any other additional information or documentation to support your allegations, you should submit it at this time.

In the meantime, we want to give you some understanding about what this office and the Commission on Lawyer Conduct can do, and, more importantly, what we cannot do in connection with your complaint. It is important that you understand that neither this office nor the Commission can take any action to protect or promote your personal interests. You should not delay in seeking advice or taking action needed to protect those interests.

The authority of this office and the jurisdiction of the Commission are limited to issues of whether a lawyer has committed misconduct within the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR, adopted by the Supreme Court of South Carolina. Where misconduct is found, sanctions may be imposed upon a lawyer ranging from a confidential letter of caution all the way up to disbarment. If our

Shaheen [REDACTED] Cabbagestalk
January 31, 2011
Page Two

investigation does not reveal evidence of lawyer misconduct, your complaint will be dismissed.

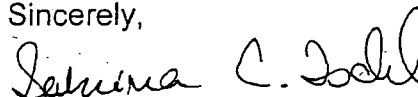
Often, persons filing complaints against lawyers seek advice about their cases or request help in getting a lawyer to take certain action. However, under the applicable rules, the efforts of this office and the Commission must be directed toward promoting institutional values for the benefit of the public as a whole, and not toward obtaining relief for or rendering assistance to any individual complainant.

Neither this office nor the Commission has authority to give advice or to seek to obtain any relief on behalf of an individual complainant. We do not have the authority to make a lawyer take any particular action on your behalf.

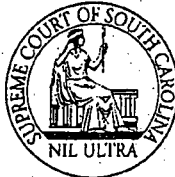
We take this opportunity to advise you of the limited role of this office and the Commission so that you will be aware that we cannot provide you with assistance or advice and that you should promptly seek assistance or advice that you might need from legal counsel or other sources.

You will be notified as to the final disposition of your complaint in this matter. Keep in mind that it is often many months after receipt of a complaint before a final disposition of can be made. Please refer to the case number set out above in any future correspondence or inquiries to this office concerning this matter.

Sincerely,


Sabrina C. Todd

SCT/clg



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Sabrina C. Todd
Assistant Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Fax: (803) 734-1964

April 1, 2011

PERSONAL AND CONFIDENTIAL

Shaheen Ramel Cabbagestalk #295567
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

RE: Lawyer: Glenn B. Manning, Esquire
File Number: 10-DE-L-1527

Dear Mr. Cabbagestalk:

Our office has received your March 15, 2011 letter in the above-referenced matter. We are currently conducting investigating your allegations against Mr. Manning. The authority of this office is limited to issues of whether a lawyer has committed misconduct or incapacitated within the guidelines of the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR. Our office does not have the authority to assist you in retrieving lost records. We also do not have the authority to investigate what happened to your records or to direct any individual or office to take a particular action on your behalf. We are also unable to investigate any officer at your institution or cause any other individual to do the same. We also have no authority to direct anyone to take any action on your behalf.

Regarding your request for additional extension to respond to our request for documentation, we have previously granted you an extension to respond to our request for documentation. Based on the information you have provided, it does not appear that an additional extension would be helpful. Your request is, therefore, respectfully denied.

Sincerely,


Sabrina C. Todd

*Were
Sgt Daniel
Cotter made
we loose Complaint
Against Lawyer Cause
stole 1/2 of my
Legal Bole
all my case
Documents
and Exhibi
all of my
stuff*

Appeal
Kathrine
Hudgins

Appellant

COURTS Documents
Clerk Kenneth A. Richstad

DAMAGED
Entire
Appeal
Without
Authority

- ⊗ June 26, 2008: Clerk Kenneth A. Richstad
telling my Attorney Kathrine Hudgins (Add A.K.A) to All
Correspondences concerning this Appeal.
- ⊗ July 18 2008: Clerk Kenneth A. Richstad (This Court goes by
the indictment sheets) ← [If so I've never been indicted why wasn't case
overturned immediately?]
- ⊗ July 30, 2008: Be advised I only have (one indictment #) but several sheets with
Warrant #'s and the same Indictment # (Clerk Kenneth A. Richstad)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

INFORMATION FOR PRISONERS FILING AN APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT (FORM AO 240) AND A FINANCIAL CERTIFICATE WHICH ARE REQUIRED TO PROCEED *IN FORMA PAUPERIS* IN CIVIL RIGHTS ACTIONS/*BIVENS* ACTIONS

Effective April 9, 2006, the costs for filing a lawsuit is \$350.00 and must be paid when the complaint is filed. If you are unable to pay the filing fee, you may file an Application to Proceed without Prepayment of Fees and Affidavit (Form AO 240) which is a request to proceed *in forma pauperis*. All prisoners, other than pre-trial detainees, also must file a completed Financial Certificate.

A. General Information About Form AO 240:

1. The Form AO 240 (form attached) is a request for the court to determine whether you qualify for proceeding in a case without prepayment of the full filing fee as established in 28 U.S.C. § 1914 (currently \$350.00). Payment of the full filing fee is required by 28 U.S.C. § 1915. In order for your Form AO 240 to be considered by the United States District Court for the District of South Carolina, it must be typewritten or legibly handwritten. All information must be clearly and concisely written in the appropriate space on the form. Your original signature must be on the form you submit to the Court.
2. When your Form AO 240 is completed, you should mail THE ORIGINAL Form AO 240 along with the additional items listed in the Checklist, which is enclosed, to:

Clerk, U.S. District Court
District of South Carolina
901 Richland Street
Columbia, South Carolina 29201

If you are submitting your Form AO 240 and/or Financial Certificate in response to an order of this Court, you must put your case number on the documents and mail the ORIGINAL documents to the address provided in the order.

3. It is important to realize that even though a plaintiff may be permitted to proceed *without prepayment of the* filing fee, if the plaintiff fails to prevail in the case, costs may be taxed against him or her when the case is ended, as specified in 28 U.S.C. §§ 1915(f) and 1920; and *Flint v. Haynes*, 651 F. 2d 970 (4th Cir. 1981).

NOTE TO PRISONER (other than pretrial detainee): Filing the FINANCIAL CERTIFICATE is required under 28 U.S.C. § 1915(a)(2) in order for you to proceed *in forma pauperis*. THE FORM AO 240 IS NOT COMPLETE AND WILL NOT BE CONSIDERED BY THE COURT UNLESS THE FINANCIAL CERTIFICATE HAS BEEN PROPERLY COMPLETED.

B. General Information About the Financial Certificate:

1. A Financial Certificate (form attached) must accompany your Form AO 240. The Financial Certificate must be signed by you and be completed and signed by the appropriate officer having authority to review and calculate financial information in relation to your inmate trust account. *If you are detained*



The South Carolina Court of Appeals

KENNETH A. RICHSTAD
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

June 26, 2008

Appellate Defender Kathrine H. Hudgins
South Carolina Commission
on Indigent Defense
P O Box 11589
Columbia, SC 29211

Re: The State v. Cabbagestalk, James a/ka Shaheem R. Cabbagestalk

Dear Counsel:

Please be advised you will need to add the appellant's a/k/a to all correspondence concerning this appeal. According to the indictment (sheets) his name should be James Cabbagestalk a/k/a Shaheem R. Cabbagestalk.

Very truly yours,

Handwritten signature of Kenneth A. Richstad in cursive script.
CLERK

KAR/nb

cc: James Cabbagestalk # 295567
Assistant Deputy Attorney General Salley W. Elliott



The South Carolina Court of Appeals

KENNETH A. RICHSTAD
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 18, 2008

James Cabbagestalk # 295567
Lieber Correctional
Institution
P. O. Box 205
Ridgeville, SC 29472

Re: The State v. Cabbagestalk, James

Dear Mr. Cabbagestalk:

This will acknowledge receipt of your letters received on July 17, 2008, concerning the above entitled appeal.

Please be advised this Court cannot intervene in matters concerning SCDC unless the issue is presented here by a proper appeal.

Also, as stated in our letter of June 26, 2008 the indictment/sheets have your name listed as James Cabbagestalk a/k/a Shaheem R. Cabbagestalk. (This Court goes by the indictment sheets.) If you have any more concerns you will need to contact your attorney. ★

Very truly yours,

Kenneth A. Richstad
CLERK

KAR/nb

cc: Appellate Defender Kathrine H. Hudgins
Assistant Deputy Attorney General Salley W. Elliott



The South Carolina Court of Appeals

KENNETH A. RICHSTAD
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 30, 2008

James Cabbagestalk # 295567
Lieber Correctional
Institution
P. O. Box 205
Ridgeville, SC 29472

Re: The State v. Cabbagestalk, James

Dear Mr. Cabbagestalk:

This will acknowledge receipt of your letter received on July 25, 2008, concerning the above entitled appeal.

↓
Please be advised you only have (one indictment number) but several sheets with warrant numbers and the same indictment number.

Very truly yours,

Kenneth A. Richstad

CLERK

KAR/nb

Enclosure:

cc: Appellate Defender Kathrine H. Hudgins
Assistant Deputy Attorney General Salley W. Elliott

Please do Be advised appeals Court I have done my home work studying criminal Law on my case. I'm also aware that appeals Court goes by the indictment sheet's to which one is imprisoned for, I am falsely imprisoned with an Invalid commitment/sentencing form and I have never been indicted for this armed Robbery crime I'm in prison for which is for James Cabbagestalk. Since the appeals Court goes by the indictment sheet(s) the only indictment sheet holds me falsely, illegally imprisoned is armed Robbery #07GS17-0364 which has no A.I.C.A.'s listed, isn't amended by no judge. The only indictment was amended was dropped Assault and Battery with intent to Kill, I have legal documentation and standards to what the appeals court goes by there for I present these Correspondence papers which were reviewed by appeals court Dated June 26, 2008, July 18, 2008, July 30, 2008. As you look carefully you'll see any change in what they were saying and an collabing of what I say in my appeal and letters to the courts of appeals being I am correct and there for Deserve Relief of sentence being vacated this procedure going threw Appeals Court violates my 5th, and 14th amendments, my freedom rights, and right to be left alone by government officials, to go and come as I please, these holdings are against my will and prejudices me which is explained in brief. I ask the courts to make the legal Documentations a part of this appeal along with others. And to respect law and realise this could be incriminating, and could be cruel and Unusual punishment having to sit in prison and technically By law suppose to be freed cause I am correct there for I ask conclusion be granted.

By: Shahem Cabbagestalk

Dear, Ms. Jeanette F. Barber this is Mr. Shaheen 461
Cabbagestalk and I'm contacting you in regards
of your July 22nd 2009 Correspondence of the
State v. James Cabbagestalk (2007-GS-17-0364). I've
Contacted you on several occasions (#1) on the dealings of
Kenneth A. Richstad putting in the Courts files to ADD AN
(A.K.A.) to State v. James Cabbagestalk 2007-GS-17-0364 All
Correspondence in S.C. Courts of Appeals (My Question to you is
are there any A.K.A.'s) on the Armed Robbery indictment
2007-GS-17-0364? I specifically need an answer to this
Question. (#2) MAY I ask What is the Lawful statute/pro-
cedural time limit ON A case being held in S.C. Court
of Appeals Cause I've done Research so has private Investig-
ators And I've come up with (1) one year time limit.
How come on AN PCR it's (1) year see State v. Green Also federal
Habeas Corpus (1) year But S.C. Courts of Appeals has
prolonged torcher on me being within prison (2 years and
like 6 months)? That's why this Question is asked? Also
what Does (OVER 200 Cases Pending) has to do with me
being in prison (Since 2007) (Case Appealed Since 2007) And
having this Case heard in an senseable Amount of time
lawfully. So Basically your telling me I'll be waiting a long
time? You said there's no specific time I can be given when
my Case will be placed on Roster, All I'm saying is Lawfully
the Indictment has (no A.K.A.) on it, I'm not James Cabbagestalk
And I'm being (Torched) by the Courts making me wait on
An Decision When Ms. Kathrine Hudgins has FILED AN
DEC 03 2009
SC Court of Appeals

Anders Briet Saying the Case has NO Merit but
 et in an April 27th 2009 Correspondence to me she tells
 me my names not on the sentencing sheet and the
 Only indictment was amended was the A/B/W/I/K
 But I'm falsely imprisoned for Armed Robbery
2007-GS-17-0364 this is crazy I'd like this stamped
 and filed Also I Ask for A Copy Back Cause this
 is an legal Document + that I've advised you
 Mrs. Jeanette F. Barber of what's taking place, And
 As an Clerk of Courts how Can you Neglect answer
 ing to me about an case holds me falsely imprison-
 ed? that's very wrong honorable^{ms} BARBER. I Ask
 All Questions within this letter Be Answered and
 this EXACT Correspondence (Copied) Clock stamped and
 filed and me sent back an Copy, I'd be very
 Appreciative of your Assistance.

Sincerely Mr. Shaheen
 C. Bagatalk

#295367

without prejudice UCC 1-2

11-21-09

* Send Me An Roster or
 Scheduling of all Cases
 to be heard 2010 So far O.K.

This is my Request of
 this! Remember all
 I S Documented!!

Have an Blessed Day!!



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Joseph L. Savitz, III, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

November 7, 2008

Mr. James Cabbagestalk # 295567
Lieber Correctional Institution
PO Box 205
Ridgeville, SC 29472

Re: Your appeal

Dear Mr. Cabbagestalk:

Enclosed is a copy of the Final Anders Brief of Appellant and Record on Appeal in your case, which I have filed with the South Carolina Court of Appeals.

Please contact me if you have any questions.

Sincerely,

Kathrine H. Hudgins

Kathrine H. Hudgins
Appellate Defender

Tried to subpoena Kathrine Hudgins
for my PCR ACTION

NEITHER THE
COURT OR
THE COURT OF
APPEALS CAN
ASSIST YOU
WITH SUBPOENAS
IN YOUR PCR
ACTION.

KHH:lee
Enclosure

*Very Ineffective
Lawyer*

*See Name
Not Me*

*Filed Anders
Brief
Can't find Brief on
Dropped Charge A/B/W/S/L*

Exhibit 463

SENATOR RALPH ANDERSON
 SENATORIAL DISTRICT NO. 7
 GREENVILLE COUNTY

COMMITTEES
 CORRECTIONS & PENITENTIARY
 EDUCATION
 FINANCE
 MEDICAL AFFAIRS
 TRANSPORTATION



SENATE ADDRESS
 P.O. BOX 142
 SUITE 504 GRESSETTE BLDG
 COLUMBIA, SC 29202
 TEL: (803) 212-6032
 FAX: (803) 212-6299
 E-MAIL: RA@SCSENATE.ORG

April 9, 2009

Exhibit

*Asked him to let me go
 cause they have the wrong
 person violating there
 own policy op-21.09
 Inmate Records plan
 #2.4, 2.5, 2.6, 2.7*

Mr. Shaheen Cabbagestalk, 295567
 386 Redemption Way F-1 185 A
 McCormick, Sc 29899

Dear Mr. Cabbagestalk:

I am in receipt of your recent correspondence, and I have sent a copy of your letter to Mr. Jon Ozmint, Director of the Department of Corrections. I have, personally, asked him to consider granting you your request; however the final decision will be left to Mr. Jon Ozmint.

It is my hope that your request will be granted. Once I have received a response from the department, I will send you a copy. Thank you and May God bless you.

With kindest regards, I am,

Sincerely,

Ralph Anderson

Ralph Anderson

RA/dc

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DILLON COUNTY

Howard P. King, Circuit Court Judge

Supplemental
Record on Appeal
Put Sentence
Sheet instead of
Indictment
(See April 27, 2009)
Correspondence to use

THE STATE,

RESPONDENT,

Fixed
Dropped
Charge A/B/W/E/K

V.

JAMES CABBAGESTALK
A/K/A
SHAHEEM R. CABBAGESTALK,

APPELLANT

SUPPLEMENTAL RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

WILLIAM B. ROGERS, JR.
Solicitor, Fourth Judicial Circuit
110 Liberty Street
Bennettsville, SC 29512
(843) 479-6516

Attorneys for Respondent

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF Dillon
STATE VS.Tanner Cabbing Stalk

AKA:

Race: BW Sex: M Age: DOB: 194 SS#:

Address:

City, State, Zip: Dillon, SC 29536

DL#

SID#

INDICTMENT/CASE#:

2007 GS-17 364

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

16-11-330(A)011319☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said Indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADSTO: Arrested 10-304rsin violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 011319☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommended by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 18 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 §16-15-130.

SPECIAL CONDITIONS:

☐ RESTITUTION; ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

Fines:

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

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

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

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

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

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

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

\$56-8-2942(J) (Vehicle Assessment)

3% to Courts (if paid in installments)

TOTAL

\$ 100.00\$ 100.00\$ 12.00\$ 500.00\$ 25.00\$ 100.00\$ 50.00\$ 340.00\$ 322.50\$ 128.13

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:

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

Court Reporter:

SCCA/217 (2/2006)

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11330
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Joseph L. Savitz, III, Chief Attorney
Wanda H. Carter, Deputy Chief Attorney

April 27, 2009

Mr. Shaheem Cabbagestalk, #295567
Lieber Correctional Institution
PO Box 205
Ridgeville, SC 29472

Dear Mr. Cabbagestalk:

In an attempt to address your concerns expressed in numerous phone calls and letters, I have filed a motion to supplement the record on appeal to include the sentencing sheet that reflects the incorrect name of "James Cabbage." The Court will decide if the Judge properly amended both indictments during the hearing and after you entered a guilty plea where the written amendment only appears on the assault indictment which was dismissed as part of the plea negotiations. If the court has concerns about a specific issue, the Court may ask me to submit further briefs. At this point though, we are simply waiting for the Court to make a decision. I ask for your patience in that regard.

Sincerely,

Kathrine H. Hudgins

Kathrine H. Hudgins

X After Judge A. J. ...
He amended the A/B/C/D/E indictment
But it's still the wrong one I'm falsely imprisoned
for ...
and sentencing sheet ...
TO ACCEPT ME ...

not it was
Amended
and
Dropped
Before your
eyes it's
No Good
Dismissed!!

Tell's me this
after the first
Arrest ...
on Bogus ...
Charge A/B/C/D/E

I ...
amendment ...
pro ...

Before ...
Charge ...
Amended ...
...
...
...
...
...

Exhibit

Clerk of Court

in Dillon SC

Gwen T. Hyatt

FAX machine #

ms. Katherine Huggins

STATE OF SOUTH CAROLINA)

County of Dillon)

INDICTMENT #07GS17-0363

At a Court of General Sessions, convened on March 05, 2007
the Grand Jurors of Dillon County present upon their oath:

COUNT: ASSAULT AND BATTERY WITH INTENT TO KILL
(15-3-620)

a/k/a Shabram Rameal Lobbagestalk

That James Cabbagestalk, in the County of Dillon on or about January 01,

2007, violate Section 15-3-620 of the Code of Laws of South Carolina (1976), as
amended, in that he with malice aforethought, committed an assault and battery
upon one Wayne Dillard by hitting the victim in the face with a gun, with intent
to kill the said Wayne Dillard.

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

SOLICITOR:

[Signature]

The only amended
Indictment
Reason why amended

Amended on the record after the Guilty Plea entered
because Defendant contended that was his real name
although NCIC and other records, including social
security Number, showed otherwise.

[Signature]
Presiding Judge

May 28, 2007

Exhibit 469

WITNESSES

John Willie Brown

Dcso

ARREST WARRANT #:

K129669

Arrested on January 12, 2007

ACTION OF GRAND JURY

TRUE BILL

Foreman:

Grand Jury

3-1-07

VERDICT

Foreman:

Petit Jury

Date:

DOCKET #: 07GS17-0363

THE STATE OF SOUTH CAROLINA

County of Dillon

COURT OF GENERAL SESSIONS

Term: March, 2007

THE STATE

vs.

James Cabbag stalk

INDICTMENT

ASSAULT AND BATTERY WITH INTENT TO KILL

(16-3-620)

FILED
GWINNETT COUNTY
CLERK OF COURT
2007 AUG 28 PM 3:45
DILLON COUNTY

N/P pled to
other.

Z. J. R.

8-27-07



DEC 22 2008

SE
file

Appeal
Bond
File it for me.
as he aint

The South Carolina Court of Appeals

KENNETH A. RICHSTAD
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 17, 2008

James Cabbagestalk # 295567
McCormick Correctional
Institution
386 Redemption Way
McCormick, SC 29899

Re: The State v. Cabbagestalk, James

Dear Mr. Cabbagestalk:

We are in receipt of your Pro Se Brief received on December 1, 2006, concerning the above entitled appeal.

By copy of this letter, all interested parties are informed of the filing of this information and are forwarded a copy for their records.

* We are forwarding your motion for appeal bond to your attorney. Since you are represented by the Division of Appellate Defense, any document you wish to be considered by the Court must be submitted through that office. Jones v. State, 348 S.C. 13, 558 S.E.2d, 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989); State v. Stuckey, S.C. Sup.Ct. Order dated Nov. 5, 1998 (Shearouse Adv.Sh.No. 35). You may contact the Division on Indigent Defense, Division of Appellate at Post Office Box 11589, Columbia, South Carolina, 29211. The telephone number for that office is 734-1343.

Very truly yours,

V. Claire Allen, Deputy
CLERK

KAR/nb

cc: Appellate Defender Kathrine H. Hudgins
Assistant Deputy Attorney General Salley W. Elliott

EXhibit 471
of Bogus
Brief By
Kathrine
Hudgins
on Dropped
Charge
A/B/W/I/K
Sham legal
process
Judges and all
apart of it

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dillon County

Howard P. King, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES CABBAGESTALK,

APPELLANT

INITIAL ANDERS BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Appellate Defender

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

ATTORNEY FOR APPELLANT

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TABLE OF AUTHORITIES**Cases**

⊗ <u>Cutner v. State</u> , 354 S.C. 151, 580 S.E.2d 120 (2003).....	6
<u>State v. Gentry</u> , 363 S.C. 93, 103, 610 S.E.2d 494, 500 (2005).....	5, 6

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STATEMENT OF ISSUE ON APPEAL

Did the judge err in amending the indictment by changing the name from James

Cabbagestalk to Shaheem Ramel Cabbagestalk?

Not the
or
my name
or for me and
this is a dropped
charge got nothing
to do with what I'm
falsely imprisoned for now
this for A/B/W/L/K (see indictment)
I'm in prison for Armed Robbery

happened
See?
not
STATEMENT OF THE CASE

Clearly shows not
 In March of 2001, the Dillon county Grand Jury indicted "James Cabbagestalk" for armed robbery and assault and battery with intent to kill, indictments #07-GS-17-363, 364. *See what it says - How can you do this thing*
 On August 27, 2007, Shaheem Ramel Cabbagestalk *was compelled* proceeded to jury trial before the Honorable Howard P. King. *not know the spell in 7th grade* After the victim testified, Cabbagestalk changed his plea and entered a guilty plea to armed robbery. *can't spell* The State agreed to dismiss the assault and battery with intent to kill. Judge King sentenced Cabbagestalk to 18 years. A timely notice of intent to appeal was filed on September 5, 2007. This appeal follows. *Judge King g*

Attorney mmming
appealed

James
Cabbagestalk
18 yrs, not
Shaheem
Cabbagestalk
see sente
sheet
pro

Not in prison for A/B/W/I/K
fairly imprisoned for Armed Robbery

ARGUMENT

The judge erred in amending the indictment by changing the name from James Cabbagestalk to Shaheem Ramel Cabbagestalk.

After Cabbagestalk entered a guilty plea, ^{compelling, forced to} counsel informed the judge that his client's

name was Shaheem Ramel Cabbagestalk, not James Cabbagestalk, as listed on the indictment. (Tr. p. 104, lines 15 – p. 105, lines 1-11). The State responded that the (NCIC)

report with social security number *** - ** -3158 listed the name as James Cabbagestalk.

(Tr. p. 105, lines 12-19). Cabbagestalk ^{what is she doing} admitted that his social security number was *** -

** - 3158. (Tr. p. 105, lines 21-23). The probation agent advised the judge that his name

was listed in their records as (Shaheem Cabbagestalk) (Tr. p. 106, lines 12 – 18). Counsel

advised the judge that he was shown a birth certificate¹ that reflected Shaheem rather than

James Cabbagestalk. (Tr. p. 107, lines 3 – 5). The judge ^{compelled} proposed amending the indictment

to show that it is James Cabbagestalk a/k/a Shaheem Ramel Cabbagestalk. (Tr. p. 108, lines

16 – 20). (Cabbagestalk objected.) (Tr. p. 108, lines 21 – p. 109, lines 1 – 17). The judge,

over objection, amended the indictment. (Tr. p. 112, lines 22 – p. 113, 114, lines 1-11). The

judge erred. *yes! he did Greatly in prison for Armed Robbery not A/B/W/I/K that's a dropped indictment * sentence invalid and indictment*

In State v. Gentry, 363 S.C. 93, 103, 610 S.E.2d 494, 500 (2005), the South Carolina

Supreme Court held that, (The indictment is a notice document.) A challenge to the

indictment on the ground of insufficiency must be made before the jury is sworn as provided

by §17-19-90." Cabbagestalk did not object to the indictment before the jury was sworn.

Cabbagestalk, however, ^{very important} changed his plea, entered a guilty plea and, before sentence was

imposed, objected to the indictment because it listed James Cabbagestalk rather than

Shaheem Ramel Cabbagestalk. ^{very important} (The objection was timely.) A ruling on a timely objection

⊗ A copy of the birth certificate was not made a part of the record.

check on this ↑

Probation
in NCIC

"Objected"
not
my attorney

Attorney
more
I'm not
James
Cabbagestalk
means on
Amended
A/B/W/I/K
NOT
Armed
Robbery
in prison
for

Can be
made on
time
Attorney
did this

★ Very Important

Mr. Manning should've done this
In effective cause he didn't and
never used presentment
Grand Jury
see indict
papers

477

that an indictment is not sufficient will result in the quashing of the indictment unless the

defendant waives presentment and pleads guilty. Cutner v. State, 354 S.C. 151, 155, 580.

S.E.2d 120, 122-23 (2003) overruled on other grounds by Gentry. As Cabbagestalk did not

consent to the amendment of the indictment and did not waive grand jury presentment/the

judge should have quashed the indictment as insufficient because it did not list appellant's

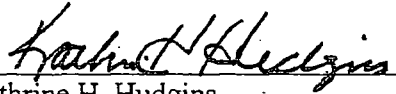
name, Shaheem Ramel Cabbagestalk.

↑ True But I shouldn't been in Court from period
5th Amendment of Constitution: No person shall
be held to answer for a capital or otherwise in-
crime unless on presentment of a grand Jury
-ent & Gentry is in conflict with the 5th A-
ment and 14th Amendment: if Gentry's a
document if I'm not notified How can one be
Accountable the 14th Amendment Equal Due pro-
of the law is violated to all law, rules of court.
has an Due process or procedure which is a pro-
Anderson v. State of S.C., 542 F.Supp. 725 (D.S.C.)
A Court must Apply The law as it EXISTED AT THE TIME
Decision.

CONCLUSION

Based on the above argument, Cabbagestalk's conviction and sentence should be reversed.

Respectfully submitted,



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

submitted to court

This 3rd day of June, 2008.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dillon County

Howard P. King, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

not
me →

JAMES CABBAGESTALK,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for James Cabbagestalk states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

very ineffective
It's impossible
she did this →

2. She has reviewed the record of appellant's trial before Judge Howard P. King, which was held on 8-28-07, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed the arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for James Cabbagestalk.

Respectfully submitted,

Kathrine H. Hudgins
Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 3rd day of June, 2008.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dillon County

Howard P. King, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES CABBAGESTALK,

APPELLANT

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

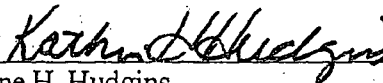
Good
★

not for me
Armed Robbery →
Guilty plea →
Illegal involuntary

- (1) True-billed indictment;
(2) Transcript of trial and guilty plea.

I certify that this designation contains no matter which is irrelevant to this appeal.

June 3rd, 2008



Kathrine H. Hudgins
Appellate Defender

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

Attorney for Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dillon County

Howard P. King, Circuit Court Judge

THE STATE,

RESPONDENT,

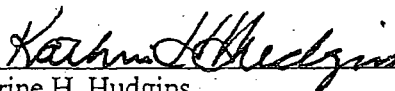
V.

JAMES CABBAGESTALK,

APPELLANT

CERTIFICATE OF SERVICE

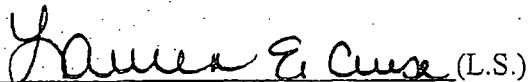
The undersigned attorney hereby certifies that a true copy of the Initial Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon *Salley W. Elliott, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201; and on James Cabbagestalk, # 295567 at Lieber Correctional Institution Post Office Box 205 Ridgeville, South Carolina 29472 this 3rd day of June, 2008. no +
me



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 3rd day of June, 2008.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: August 23, 2014

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

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

James Cabbagestalk a/k/a Shaheen R.
Cabbagestalk, Appellant.

dropped
charge
A/B/W/I/K

Appeal From Dillon County
Howard P. King, Circuit Court Judge

Unpublished Opinion No. 2009-UP-528
Submitted November 2, 2009 – Filed November 19, 2009

APPEAL DISMISSED

Appellate Defender Kathrine H. Hudgins, of
Columbia, for Appellant.

Ineffective
filed on Dropped
Charge

Attorney General Henry Dargan McMaster,
Chief Deputy Attorney General John W.
McIntosh, Assistant Deputy Attorney General
Salley W. Elliott, all of Columbia; and Solicitor
Jay E. Hodge, Jr., of Cheraw, for Respondent.

PER CURIAM: James Cabbagestalk, also known as Shaheen Ramel Cabbagestalk, appeals his guilty plea and sentence for armed robbery, arguing the plea court erred in amending his indictment. [1] After a thorough review of the record, counsel's brief, and Cabbagestalk's pro se brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved. [2]

Show and prove
This is for the
A/B/W/I/K
charge
See Appellate
27th 2009
Letter to
Me
Hudgins
Appellant
Attorney

APPEAL DISMISSED.

WILLIAMS, PIEPER, and LOCKEMY, JJ., concur.

[1] Cabbagestalk filed a motion to seal the supplemental record which included unredacted sensitive information. The State consented to the motion. After careful consideration, the motion to seal is granted.

[2] We decide this case without oral argument pursuant to Rule 215, SCACR.

The South Carolina Court of Appeals

The State,

Respondent,

v.

*Filed on
a dropped charge*

James Cabbagestalk, a/k/a Shaheem R.
Cabbagestalk,

Appellant.

The Honorable Howard P. King
Dillon County
Trial Court Case No. 2007-GS-17-00364

ORDER DENYING PETITION FOR REHEARING

PER CURIAM: After a careful consideration of the Petition for Rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for granting a rehearing.

It is, therefore, ordered that the Petition for Rehearing be denied.

H. B. King J.

Deper J.

James E. King J.

from Dillon

Columbia, South Carolina

January 21, 2010



RECEIVED
FEB 26 2010

Case
485

The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

February 25, 2010

REMITTITUR

The Honorable Gwen T. Hyatt
301 West Main Street
PO Box 1220
Dillon, SC 29536-3350

Re: The State v. Cabbagestalk, James
2007-GS-17-00364

not
me

Dear Ms. Hyatt:

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

Sincerely,

V. Claire Allen

V. Claire Allen
Deputy Clerk of Court

VCA/lm

cc: Appellate Defender Kathrine H. Hudgins
James Cabbagestalk # 295567
Assistant Deputy Attorney General Salley W. Elliott
William Benjamin Rogers, Jr, Esquire

*Violated
By Attorney General's office
And they Admitted (Every)
IS known to all!*

The Supreme Court of South Carolina

O R D E R

RECEIVED

AUG 18 1983

Effective Date: October 1, 1983

S. C. SUPREME COURT

Pursuant to the provisions of Section 4, Article V,
South Carolina Constitution,

IT IS ORDERED that all common pleas cases in the State
of South Carolina shall be disposed within 365 days from the date
of the filing of the initial complaint in each case. (Provided,) however, that the Circuit Court may continue a common pleas case beyond 365 days by written order stating the reasons therefor if the court determines that exceptional circumstances exist in the case.

IT IS FURTHER ORDERED that each circuit court judge is to continue any and all common pleas cases which have been pending for a period of less than 365 days from the date of the initial filing of each complaint until such time as there are no cases exceeding 365 days from the date of the filing of the initial complaint in each case. Cases shall be disposed in chronological order beginning with the oldest case. This shall not include cases which do not require a hearing or cases in which the chief circuit court judge, by written order stating the reasons therefor, determines that exceptional circumstances exist which require the disposition of the case in advance of a case pending for more than 365 days.

IT IS FURTHER ORDERED that the chief circuit court judge
for administrative purposes shall be responsible for coordinating the

preparation of trial rosters for each term of common pleas court
so as to accomplish the timely disposition of cases within the
time period established by this order.

Chief
 So Circuit Court
 Administrative Judge

J. Michael Bailey ~~is~~ *is*

This there was never a reason stated that
 exceeded 365 from its very good enough for the courts to say its exceptional circumstances enough to keep
 Columbia, South Carolina → going on.


 J. Woodrow Lewis
 Chief Justice

August 17, 1983

P C R Dealings

Sept. 14th 2010

No order signed
for her to represent me
in court room

⊗ Never seen David Jordan period

Attorney's
David Paul Jordan
Heather M. Cannon ← Don't know where
she came from

UNITED STATES DISTRICT COURT

District of _____

Plaintiff

V.

Defendant

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

CASE NUMBER: _____

I, _____ declare that I am the (check appropriate box)

☐ petitioner/plaintiff/movant ☐ other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? ☐ Yes ☐ No (If "No," go to Part 2)

If "Yes," state the place of your incarceration _____

Are you employed at the institution? _____ Do you receive any payment from the institution? _____

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? ☐ Yes ☐ No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

a. Business, profession or other self-employment	☐ Yes	☐ No
b. Rent payments, interest or dividends	☐ Yes	☐ No
c. Pensions, annuities or life insurance payments	☐ Yes	☐ No
d. Disability or workers compensation payments	☐ Yes	☐ No
e. Gifts or inheritances	☐ Yes	☐ No
f. Any other sources	☐ Yes	☐ No

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

STATEMENT OF 2007 Incident Keywitness:

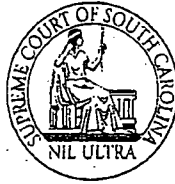
I know Russel Dillard and
he don't have seizures
and ~~he~~ get's out everyday.

Burk H. Lorette

9-11-11

This occurred in Dillon County Jail on

9-11-11



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
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

April 8, 2011

Mr. Shaheen Cabbagestalk #295567
A-2 A #213
430 Oaklawn Road
Pelzer, SC 29669

Dear Mr. Cabbagestalk:

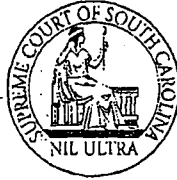
This will acknowledge a letter from you received in this office today. Any (motion to relieve your counsel) should be made in Dillon county where your post conviction relief action is pending. It is noted that David P. Jordan, Esquire, is currently representing you. We are forwarding him a copy of your recent letter so he can be aware of your concerns.

Very truly yours,

CLERK

/bs

CC: David P. Jordan, Esquire (with enclosure)



*Chief Justice
Sean Toal
Instructing
Attorney General
to Appoint me Another
Attorney*

South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

April 15, 2011

*↑ see the
Date*

Shaheen Cabbagestalk #295567
McCormick Correctional Institution
SMU B26
386 Redemption Way
McCormick, SC 29899

Dear Mr. Cabbagestalk:

Your inquiry has been received by this office and has been forwarded to this section for response.

"Chief Justice Toal" has instructed the Attorney General's office to advise the clerk of court when the appointment of counsel is necessary. Therefore, the clerk of court will advise you when counsel has been appointed. Unfortunately, this office cannot provide legal assistance.

Sincerely,

Court Services Section

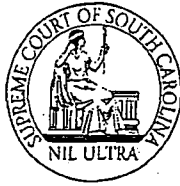


Exhibit 493

South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

June 24, 2011

The Honorable Gwen T. Hyatt
PO Box 1220
Dillon, SC 29536-1220

RE: Shaheen Cabbagestalk #295567
Perry Correctional Institution
Q-2 A #213
430 Oaklawn Road
Pelzer, SC 29669

Dear Clerk Hyatt:

Enclosed is a copy of a letter this office received from Shaheen Cabbagestalk. Mr. Cabbagestalk is attempting to have his court-appointed attorney replaced with another attorney.

Any assistance that you can provide to Mr. Cabbagestalk would be appreciated.

Sincerely,
Court Services Section

cc: SC Commission on Indigent Defense
Shaheen Cabbagestalk

David Paul Jordan Attorney - Can't
Appointed
Ms. Heather M. Cannon
Attorney
She illegally
Got all my
files from
David Paul Jordan
Forced her way
onto my
case

494 Shaheen Cabbagestalk #295567

V.

State

2010-cp-17091

Exhibit

Motion to Relieve

Ms. Heather M. Cannon,

David Paul Jordan As

Counsel / New Appointment
of Counsel

I Mr. Shaheen Cabbagestalk ask the Court's to Relieve Mr. David Paul Jordan as Counsel and Ms. Heather M. Cannon, neither of them have (Subpoenaed, the people and document's I've Asked to proceed in my PCR action and be successful. Neither has filed an proposed order or Advised the Court's that the State is at Default in the above captioned matter which Entitles me to Summary Judgment per S.C. Rules of Court Civ. Proc. for not following the Rules of Court and law. Also An PCR Court Judge is not one to appoint attorneys so there for attempting to do so shows an Abuse of Discretion an Authority, violation of S.C. rules of Court, and Sept. 14th 2010 Act (violation) Do to the fact Judge Thomas A. Russo Don't have 'Authority to Appoint Attorney or force me to keep one) Rule 11(B) S.C. Rules Civ. Proc. etc. By this motion you are both Asked to Remove yourselfs immediately so new Counsel is Appointed

By: Shaheen Cabbagestalk
Date: 5 / 6 / 11

Notary: ~~James~~

my commission exp. February / 21 / 2012

Date: 05 / 06 / 2011

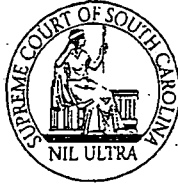


Exhibit 495

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
TELEPHONE: (803) 734-1080
FAX: (803) 734-1495

April 8, 2011

Mr. Shaheen Cabbagestalk #295567
A-2 A #213
430 Oaklawn Road
Pelzer, SC 29669

Dear Mr. Cabbagestalk:

This will acknowledge a letter from you received in this office today. Any (motion to relieve your counsel) should be made in Dillon county where your post conviction relief action is pending. It is noted that David P. Jordan, Esquire, is currently representing you. We are forwarding him a copy of your recent letter so he can be aware of your concerns.

Very truly yours,

CLERK

/bs

CC: David P. Jordan, Esquire (with enclosure)

Heather M. Garrison to
the Court of No Writ



U.S. Department of Justice

Exhibit

United States Attorney

District of South Carolina

Wachovia Building
Suite 500
1441 Main Street
Columbia, SC 29201
(803) 929-3000
FAX (803) 254-2912

151 Meeting Street
Suite 200
Post Office Box 978
Charleston, SC 29402
(843) 727-4381
FAX (843) 727-4443

John L. McMillan Federal
Building, Room 222
401 W. Evans Street
Post Office Box 1567
Florence, SC 29503
(843) 665-6688
FAX (843) 678-8809

105 N. Spring Street
Suite 200
Post Office Box 10067
Greenville, SC 29603
(864) 282-2100
FAX (864) 233-3158

Reply to: Columbia

February 28, 2010

Warden David Michael McCall Jr.
430 Oaklawn Rd.,
Pelzer, S.C. 29669

"Violates"
SCDC
policy op-21.09
Inmate Records
Plan # 2.3, 2.6, 2.7

Dear Warden McCall:

Please find enclosed a letter from Shaheen Cabbagestalk who claims that he is falsely imprisoned instead of James Cabbagestalk. We forward this letter for what follow-up investigation you deem appropriate.

Sincerely,

BILL NETTLES
UNITED STATES ATTORNEY

By:

BETH C. DRAKE

First Assistant United States Attorney

cc: Shaheen Cabbagestalk



Shows ms
Heather m. Gannon
Is in effective
very much

U.S. Department of Justice

497

United States Attorney

District of South Carolina

Wachovia Building
Suite 500
1441 Main Street
Columbia, SC 29201
(803) 929-3000
FAX (803) 254-2912

151 Meeting Street
Suite 200
Post Office Box 978
Charleston, SC 29402
(843) 727-4381
FAX (843) 727-4443

John L. McMillan Federal
Building, Room 222
401 W. Evans Street
Post Office Box 1567
Florence, SC 29503
(843) 665-6688
FAX (843) 678-8809

105 N. Spring Street
Suite 200
Post Office Box 10067
Greenville, SC 29603
(864) 282-2100
FAX (864) 233-3158

Reply to: Columbia

September 7, 2011

Mr. Shaheen Cabbagestalk #295567
D-X#6
430 Oaklawn Road
Pelzer, SC 29669

Dear Mr. Cabbagestalk:

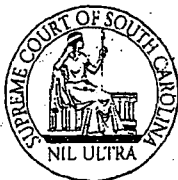
For your information, the United States Attorney's Office is in receipt of your letter dated August 15, 2011. The federal district courts do not supervise the state courts. The U.S. Attorney's Office cannot interject itself into you state post-conviction remedy. You should work through you attorney and the state court system in resolving the identification issues you raise.

In regards to your complaints as to staff conduct and medical treatment, you may want to raise the issues through the administrative remedies program available in your institution.

Sincerely,

BILL NETTLES
UNITED STATES ATTORNEY

By: Beth Drake
First Assistant U.S. Attorney



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

William C. Campbell
Assistant Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Fax: (803) 734-1964

March 14, 2011

PERSONAL & CONFIDENTIAL

Shaheen [REDACTED] Cabbagestalk #295567
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Lawyer: David Paul Jordan, Esquire
Case Number: 10-DE-L-1242

Dear Mr. Cabbagestalk:

This office has conducted an investigation concerning the allegations of lawyer misconduct raised in the complaint you filed in connection with the above-referenced matter. This investigation focused on those grounds for misconduct set out in the Rules for Lawyer Disciplinary Enforcement (RLDE), Rule 413, SCACR, adopted by the Supreme Court of South Carolina.

This office is not authorized to give advice concerning a legal dispute or dealings with a lawyer; nor is it empowered to intervene in a case. We cannot seek to cause things to be done by a lawyer on behalf of a complainant; nor can we seek to change the outcome of a case. Instead, this office deals solely with issues of misconduct or incapacity related to lawyers under these rules. We do so to preserve institutional values of the legal system in South Carolina for the benefit of the public as a whole, not to obtain individual benefit for a complainant.

The provisions of RLDE do not apply to legal matters related to whether or not the outcome of a dispute was fair or to errors of law or judgment that might have been made by a lawyer or judge. These are legal matters, which can only be addressed at trial or on appeal using appropriate procedures.

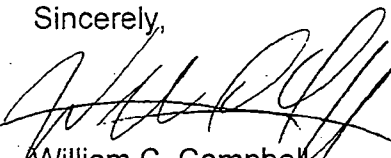
Shaheen [REDACTED] Cabbagestalk
March 14, 2011
Page Two

In your letter of complaint, you allege that David Paul Jordan, Esquire failed to communicate with you about your case and had another attorney substituted on the case without your consent. As a result of your letter, this office conducted an investigation to ascertain if Mr. Jordan's conduct violated the Rules of Professional Conduct and the RLDE.

From our investigation, this office has determined that there is no evidence of any such lawyer misconduct on the part of Mr. Jordan arising out of the events mentioned in your complaint and that further investigation would not likely reveal any such evidence.

Accordingly, you are hereby notified of the intent of this office to dismiss your complaint pursuant to the provisions of Rule 19(d)(1) of RLDE. You may seek a review of this decision by an investigative panel of the Commission on Lawyer Conduct by filing a written request, which must be received in this office no later than April 14, 2011. If you request a panel review, the lawyer will be given an opportunity to respond. Your request and the lawyer's response, if any, will be considered at the next investigative panel meeting. You will then be notified of the panel's decision. Feel free to contact me if you have any questions regarding this process.

Sincerely,


William C. Campbell

WCC/

cc: David Paul Jordan, Esquire

Certificate of Service

EXhibit

Proof I
Requested
Exact materials
She sent the
Motion Not
Documents.

This is to certify I served
Dillon County Clerk of Courts
Gwen T. Hyatt with A.W.
REQUEST to receive the Rule
5 Brady v. Maryland material Attorney
J. David Watson filed for Jan. 31st
2007 in the case State v.
James Cabbagestalk

By: Shaheen Cabbagestalk

Date: 5 / 31 / 11

Notary: ~~_____~~ furmode

My Commission EXP: 02 / 21 / 2012

Date: 05 / 31 / 11