

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County
Clifton Newman, Circuit Court Judge

RECEIVED

FEB 20 2014

S.C. Supreme Court

CICHEY L. MAYO,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000520

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

MEGAN HARRIGAN
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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Daniel Wimbley

From: Ambroziak, Karen [kambroziak@sccourts.org]
Sent: Friday, December 20, 2013 1:14 PM
To: Daniel Wimbley
Subject: State vs Cichey L. Mayo

Hello Mr. Wimbley,

I received your letter requesting the above-referenced transcript of record from June 4, 2002. These records were destroyed within the time period allowed and have not existed for a number of years. I am unable to produce a transcript from 2002 for that reason.

Thank you.

Karen Ambroziak, RPR
Court Reporter for the Honorable Robert E. Hood

WITNESSED

INV. E. KROGITT - RGSB

INV. J.P. SMITH - CPD

DOCKET NO. 88-1-08-00-0016

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

G83B086

49 SEPTEMBER TERM 2001

THE STATE
vs.

COCHEY L. MAYO

ACTION OF GRAND JURY
TRUE BILL

Colman Handlin
Forfeiture of Grand Jury
Date: 9/19/01

VERDICT

Indictment for

MURDER

SC Code: 16-3-10
CDR Code: 0116
Class FEL/EX(MV)

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

Defendant

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

CERTIFIED TRUE COPY
OF ORIGINAL FILED
G.C.C.R.S. 9.
RICHLAND COUNTY
SOUTH CAROLINA

Defendant

Witness:

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

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

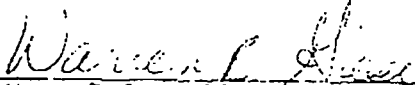
INDICTMENT

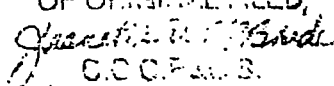
At a Court of General Sessions, convened on September 19, 2001 the Grand Jurors of
Richland County present upon their oath:

MURDER

That Cichey L. Mayo did in Richland County on or about August 20,
2001, feloniously, wilfully and with malice aforethought, kill one Michael
Messer by means of gunshot wound to the back and that the said victim
died as a proximate result thereof.

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


Warren B. Giese, SOLICITOR

CERTIFIED TRUE COPY
OF ORIGINAL FILED,

J. C. C. B. B. B.
RICHLAND COUNTY
SOUTH CAROLINA

WITNESSES

INV. BARRY WRIGHT - ROAD

INV. J.D. SMITH - CPD

ARREST WARRANT NUMBER

0030006

ACTION OF GRAND JURY

TRUE BILL

Barbara C. Anderson
 Foreperson of Grand Jury
 Date: 9/19/01

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 1001-08-00-000

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2001

49

THE STATE

VS.

CICHELY L. MAYO

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: 16-11-0030(B)

CDR Code: 002X

Class FEL-CM

After being duly sworn, the undersigned
 legal rights, I hereby waive presentment
 to the Grand Jury.

Defendant

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

CERTIFICATE OF FINAL JUDGMENT
 OF THE COURT OF GENERAL SESSIONS
 OF THE COUNTY OF RICHLAND
 SOUTH CAROLINA

Defendant

Witness:

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

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on September 19, 2001 the Grand Jurors of Richland County present upon their oath:

ATTEMPTED ARMED ROBBERY

That Cicely L. Mayo did in Richland County on or about August 20, 2001, while armed with a deadly weapon, attempt to feloniously take from the person or presence of Gillum Ferguson, by means of force or intimidation goods or monies of Gillum Ferguson, being described as follows: U.S. Currency, with the intent to deprive the owner permanently of such property, while armed with a handgun or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, all in violation of §16-11-330, Code of Laws of South Carolina. (1976, as amended).

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

CERTIFIED TRUE COPY
OF ORIGINAL FILED
James H. Williams
C.C.C. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

WITNESSES

INV. BARRY WRIGHT - NCSD

INV. J.P. SMITH - CPD

DOCKET NO. 2001-08-40-0000

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2001

49

ARREST WARRANT NUMBER

G836087

THE STATE

vs.

CICHEY L. MAYO

ACTION OF GRAND JURY

TRUE BILL

Barbara Chumbley
Foreperson of Grand Jury

Date:

9/19/01

VERDICT

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: 16-11-030(a)

CDR Code: 0006

Class FEL-CM

Foreperson of Petit Jury
Date:

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

Defendant

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

FILED TRUE ORIGINAL FILE
SEP 20 2001
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

Defendant

Witness:

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

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on September 19, 2001 the Grand Jurors of Richland County present upon their oath:

ATTEMPTED ARMED ROBBERY

That Cichey L. Mayo did in Richland County on or about August 20, 2001, while armed with a deadly weapon, attempt to feloniously take from the person or presence of Michael Messer, by means of force or intimidation goods or monies of Michael Messer, being described as follows: U.S. Currency, with the intent to deprive the owner permanently of such property, while armed with a handgun or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, all in violation of §16-11-330, Code of Laws of South Carolina, (1976, as amended).

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

Warren B. Giese
 WARREN B. GIESE, SOLICITOR

CERTIFIED TRUE COPY
 OF ORIGINAL FILED
[Signature]
 RICHLAND COUNTY
 SOUTH CAROLINA

WITNESSES

INV. B. WRIGHT - RCSD

INV. J.P. SMITH - CPD

DOCKET NO. 2001-08-40-0001

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2001

ARREST WARRANT NUMBER

0830634

49

THE STATE

VS.

ACTION OF GRAND JURY

CICHEY L. MAYO

TRUE BILL

Thomas P. Anderson
Foreperson of Grand Jury

Date:

9/11/01

VERDICT

Indictment for

**ASSAULT AND BATTERY
WITH INTENT TO KILL.**

SC Code: 16-3-620

CDR Code: 014

Class FEL-CM

Foreperson of Petit Jury

Date:

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

Defendant

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

CERTIFIED TRUE COPY
OF ORIGINAL
J. C. C. P. S.
RICHLAND COUNTY
SOUTH CAROLINA

Defendant

Witness:

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

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on September 19, 2001, the Grand Jurors of Richland County present upon their oath:

ASSAULT AND BATTERY WITH INTENT TO KILL

That Cicely L. Mayo did in Richland County on or about August 20, 2001 with malice aforethought commit an assault and battery upon one Gillum Ferguson with intent to kill the said victim. All in violation of §16-03-620 of the Code of Laws of South Carolina, (1976, as amended).

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

Warren B. Giese
Warren B. Giese, SOLICITOR

CERTIFIED TRUE COPY
OF ORIGINAL FILE
James A. Wright
J.A.W.
RICHLAND COUNTY
SOUTH CAROLINA

WITNESSES

INV. BARRY WRIGHT - RCSI

DOCKET NO. 2001-08-40-0000

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2001

49

THE STATE
vs.

CICHEY MAYO

ARREST WARRANT NUMBER

0634061

ACTION OF GRAND JURY

TRUE BILL

Edmond C. London
Foreperson of Grand Jury 9/24/01

VERDICT

Foreperson of Petit Jury
Date:

legal rights, I hereby advise presentment
to the Grand Jury.

Defendant

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

FILED TRUE COPY
DOCKETED
SEP 24 2001
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

Defendant

Witness:

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

Indictment for

ARMED ROBBERY
SC Code: 16-11-0220
CDR Code: 0130
Class FEL-A(V)

After being fully advised as to my

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

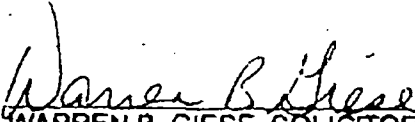
INDICTMENT

At a Court of General Sessions, convened on September 19, 2001 the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Cichey Mayo did in Richland County on or about August 20, 2001 did commit robbery by feloniously taking from the person or presence of Deborah Cornelius by means of force or intimidation goods or monies of the Deborah Cornelius such goods or monies being described as U.S. Currency with the intent to deprive the owner permanently of such property, while armed with a handgun or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon.

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


WARREN B. GIESE, SOLICITOR

CERTIFIED TRUE
OF ORIGINAL FILE

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND
STATE VS.Cichey Mayo

AKA:

Race: Sex: Age:

DOB: SS#:

Address:

DL# SID#:

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:2001-GS-40-6648A W# 6333055Date of Offense: 8/20/01S.C. Code § 16-3-10CDR Code = 0-1-1-6☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Murderin violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 011116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The pleas: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 47 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.

☒ The Defendant is to be given credit for _____ days/months jail time.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20¢ a fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 100%) _____ \$ _____

§14-1-211(A)(1) (Surcharge) _____ \$ _____

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

§56-5-2995 (DUI Assessment) _____ \$ _____

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

TOTAL _____ \$ _____

Barbara DeLoach
Clerk of Court Deputy Clerk
DeLoach
Court Reporter:
Black - Clerk Green - Corrections
County - Probation Pink - Detention

PT/P _____

_____ days hour, Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps _____

May serve WE 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: _____

CERTIFIED TRUE COPY

OF ORIGINAL FILED

PRESIDING JUDGE P. H. McVettaJudge Code: 01/11/03 C.P. & G.O.Sentence Date: 8/30/03 4-02 COUNTY

SOUTH CAROLINA

SCCA-217 (1/2000)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND
STATE VS.Cichey Mayo

AKA:

Race: Sex: Age:

DOB: SS#:

Address:

DL# SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2001-GS-40-6649A/W# 838058Date of Offense: 8/20/01S.C. Code § 16-11-330 (B)CDR Code # 01216☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Attempted Armed Robberyin violation of § 16-11-330 (B) of the S.C. Code of Laws, bearing CDR Code # 01216☐ 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, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 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.

☒ The Defendant is to be given credit for _____ days/months jail time.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 100%) . . . \$ _____

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

§14-1-211(A)(2) (Surcharge) . . . \$ _____

§56-5-2995 (DUI Assessment) . . . \$ _____

2% to County (if paid in installments) . . . \$ _____

TOTAL . . . \$ _____

Clerk of Court Deputy Clerk

Court Reporter: _____

Wiley - Clerk

Greene - Corrections

Cawley - Probation

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 5/30/02

CERTIFIED TRUE COPY

OF ORIGINAL FILED

JUL 23 2002

JUL 23 2002

JUL 23 2002

JUL 23 2002

JUL 23 2002

JUL 23 2002

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND
STATE VS.Cichey Mayo

AKA: _____

Race: _____ Sex: _____ Age: 16

DOB: _____

Address: _____ Rd

DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:2001-GS-46-6650A/W#: 6838057Date of Offense: 8/20/01S.C. Code §: 16-11-330(B)CDR Code #: 01 01 216☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Attempted Armed Robberyin violation of § 16-11-330(B) of the S.C. Code of Laws, bearing CDR Code # 01 01 216☐ 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. ☐ Recommendation by the State.

ATTEST:

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

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

☒ The Defendant is to be given credit for _____ days/months jail time.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: _____ S

§14-1-206 (Assessments 100%) _____ S

§14-1-211(A)(1) (Surcharge) _____ S

§14-1-211(A)(2) (Surcharge) _____ S

§56-5-2995 (DUI Assessment) _____ S

3% to County (if paid in installments) _____ S

TOTAL _____ S

[Signature]
Clerk of Court/Deputy ClerkCourt Reporter: [Signature]

Haley - Clerk

Greene - Courtroom

Casper - Probation

PTUP _____
_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps _____

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: _____

CERTIFIED TRUE CO

OF ORIGINAL FILE

PRESIDING JUDGE P. Henry McKelJudge Code: 11 01 411 3Sentence Date: 8/20/01

SOUTH CAROLINA

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

RICHLAND

VS.

Cichey Mayo

AKA:

Race:

Sex:

Age: 18

DOB:

SS#:

Address:

DL#

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2001-GS-40-6651

A/W#: 6833056

Date of Offense: 8/20/01

S.C. Code §: 16-3-620

CDR Code #: 010114

☐ CASE RESTORED

SENTENCE

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

TO: Assault + Battery With Intent to Kill

in violation of § 16-3-620 of the S.C. Code of Laws, bearing CDR Code # 010114

☐ 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. ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

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

☒ The Defendant is to be given credit for days/months jail time.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard. ☐ Waived. ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$

§14-1-206 (Assessments 100%) \$

§14-1-211(A)(1) (Surcharge) \$

§14-1-211(A)(2) (Surcharge) \$

§56-5-2995 (DUI Assessment) \$

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

TOTAL \$

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc Rehab. or Job Corps

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:

CERTIFIED TRUE COPY

OF ORIGINAL FILED

PRESIDING JUDGE

Judge Code:

Sentence Date:

Court Reporter:

#100 - Clerk

Green - Corrections

#100 - Probation

Pink - Detention

SCSA 217 (10/2001)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND
STATE VS.AKA: Cickey MayoRace: B Sex: M Age: 18DOB: 11-11-330 #:

Address:

DL#

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:2001-GS-40-6696A/W#: 6-634962Date of Offense: 8/20/01S.C. Code §: 16-11-330CDR Code #: 011319☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Armed Robbery
in violation of § 16-11-330 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, ☐ Recommendation by the State.ATTEST: [Signature] Solicitor [Signature] Defendant [Signature] Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 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.☒ The Defendant is to be given credit for _____ days/months jail time.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ set by SCDPPPS _____Recipient: _____
*Fine: _____ \$
§14-1-206 (Assessments 100%) _____ \$
§14-1-211(A)(1) (Surcharge) _____ \$
§14-1-211(A)(2) (Surcharge) _____ \$
§56-5-2995 (DUI Assessment) _____ \$
3% to County (if paid in installments) _____ \$
TOTAL _____ \$PTUP _____
_____ days/hours Public Service Employment
Obtain GFD _____
Attend Voc Rehab. or Job Corps _____
May serve W/F 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: _____[Signature]
Clerk of Court/Deputy Clerk
Court Reporter: [Signature]PRESIDING JUDGE [Signature] OFFICIAL COPY
Judge Code: 01413
Sentence Date: 8/20/01

Wash - Clerk

Green - Corrections

Clemens - Probation

Post - Detention

SOSADIT (1/2001)

2011CP4006548

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Cichey Mayo, 284692*Full name and prison number (if any) of Applicant,*

vs.

State of South Carolina*Name of Respondent.*APPLICATION FOR
POST-CONVICTION RELIEFINSTRUCTIONS — READ CAREFULLY

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

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

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

1. Place of detention Lee Correctional Institution, 990 Wisacky Hwy
Bishopville, SC 29010
2. Name and location of Court which imposed sentence Richland County Court of General
Sessions; Columbia, South Carolina
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2001-GS-40-6648: murder; 2001-GS-40-6649: attempted armed rob-
 - (b) bery; 2001-GS-40-6650: attempted armed robbery; 2001-GS-40-
 - (c) 6651: abvik; 2001-GS-40-6696: armed robbery
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 2001-GS-40-6648: 47 years; 2001-GS-40-6649: 20 yrs concurrent;
 - (b) 2001-GS-40-6650: 20 yrs concurrent; 2001-GS-40-6651: 20 yrs-
 - (c) concurrent; 2001-GS-40-6696: 30 yrs concurrent; all sentences
imposed on June 4, 2002

RECEIVED

CLERK OF COURT'S OFFICE

 RICHLAND COUNTY
 FILED
 2011 OCT -3
 JEANNETTE
 C.C.P.

20113760

Prior CA
Case# 20025559
Box # 37-2
Serial # 50997

ATTORNEY GENERAL'S OFFICE

RECEIVED

10/6/11

ADMINISTRATIVE INSTRUCTIONS

FILE OPEN END

HAVE COPIES MADE

ROUTE TO

ORDER TRANSCRIPT

PEN RECORDS CLERK RECORDS

OTHER

5. Check whether a finding of guilty was made
- (a) after a plea of guilty XX
- (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?
- no
7. If you answered "yes" to (6), list
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
8. If you answered "no" to (6), state your reasons for not so appealing:
- (a) Because of counsel error I was never informed of the right to appeal.
- (b) _____
- (c) _____
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) USCA 6th Amend violation of the right to effective assistance of counsel
- (b) _____
- (c) _____
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
- (a) *** PLEASE SEE ATTACHED PAGE 2(a) ***
- (b) _____
- (c) _____

APPLICATION FOR POST-CONVICTION RELIEF

attachment; Page 2(a)

10.(a)

The record of the proceeding will establish the supporting fact that trial counsel failed to inform me of my right to appeal the plea, conviction, and sentences imposed on me on June 4, 2002. At a date circa August, 2011, it was made known to me by a law clerk at Lee Correctional Institution that my trial counsels' USCA 6th Amendment duty to effectively represent me did not end at the moment I was sentenced, but that their duty extended to counsels' obligation of fully informing me of my right to appeal the sentences imposed on me. Further supporting fact declares that trial counsel was responsible to inform me to the point of determining if I desired to appeal, or, if I would choose to waive my right to appeal proceedings by signing a waiver on the record. Present discovery of counsels' failure to fully inform me of my choice to appeal or waive appeal serves as the motivating factor for the filing of this Application for Post-Conviction Relief. These supporting facts firmly establish my claim that I never made a knowing, intelligent, nor voluntary waiver to abandon my appeal rights. The fact of the record establishes that I did not make any decision at all. Because of trial counsels' failure, I was not aware that I had a choice to make after my plea proceeding and sentencing was completed. I believe, in good faith, that the supporting facts presented herein satisfy the requisite showing for the grant of a belated appeal from my conviction and sentencing.

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

(a) any petition in a State Court under South Carolina Law? no

(b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? no

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? no

(d) any other petitions, motions or applications in this or any other Court?
no

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

(a) the specific nature thereof:

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

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

- i. _____
- 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) Was unaware of any right to appeal due to counsels' failure to inform

(b) _____

(c) _____

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

(a) your arraignment and plea? plea only

(b) your trial, if any? _____

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no

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

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

i. Charlie Jay Johnson, Esquire; address unknown

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

The grant of a belated appeal from my plea and sentencing.

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

no

STATE OF SOUTH CAROLINA

VERIFICATION

County of RICHLAND

I, Cichey Mayo, 284692, 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.

Cichey Mayo

SWORN to and subscribed before me this 29day of Sept, 2014

J. Bruce Dinn (L.S.)
Notary Public

My Commission Expires: 5-16-17

RICHLAND COUNTY
FILED
2011 OCT - 3 AM 11:31
JENNIFER W. MCBRIDE
C.C.P. & G.S.

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

I, Cichey Mayo, 284692, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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

Cichey Mayo
Applicant

SWORN or affirmed to and subscribed before me this

29 day of Sept, 2014
J. Bruce Dinn
Notary Public

My Commission Expires 5-16-17

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
MAYO Cichey L -	)	2011CP4006548
# 00284692,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN AND
	)	MOTION TO DISMISS
State of South Carolina,	)	
	)	
Respondent.	)	

In response to the post-conviction relief application filed October 3, 2011 the Respondent would show the following.¹

I.

The Applicant is presently confined at Lee Correctional Institution. The PCR application is based on orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted and/or convicted of the following: Murder, Attempted Arm Robbery (2 counts), ABWIK and Armed Robbery – 2001-GS-40-6648-51;6696. The Applicant was represented by attorney Charlie J Johnson. The Applicant was sentenced on June 4, 2002 by The Honorable L. Henry McKellar. The

¹
<http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2011CP4006548&CourtType=G&CaseType=Civil&CourtAgency=40002>

Remittitur date for the Applicant's direct appeal was November 15, 2002.²

Attached herewith and/or incorporated via the readily available Clerk of Court records are the records of the Richland County Clerk of Court regarding the subject convictions, and/or the Applicant's records from the South Carolina Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

According to the South Carolina Department of Corrections, the Applicant is serving the following sentence:

Offender Type Adult-straight Sentence Offense Murder Sentence Start Date 08/22/2001 Sentence Length 47 YRS, 0 MOS, 0 DYS Admission Date 06/06/2002
Committing County Richland Location Lee Projected Release Date 08/10/2048
Projected Parole Date Not Eligible Supervised Furlough Eligibility Not Eligible Sex
Offender Registry No

<https://sword.doc.state.sc.us/scdc-public/inmateDetails.do?id=+00284692>

II.

Timeliness – S.C. Code §17-27-45(a)

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

² The Respondent reserves the right to amend the motion if additional relevant procedural history is found, such as more specific direct appeal information.

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

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). It appears that this Application was filed beyond the statutory time period.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary 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." Therefore, the Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act. *See also*, Rule 243(c), SCACR:

(c) Explanation Required. If the lower court has determined that the post-conviction relief action is barred as successive or being untimely under the statute of limitations, the petitioner must, at the time the notice of appeal is filed, provide an explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court

was improper. If the petitioner fails to make a sufficient showing, the notice of appeal may be dismissed.

Belated Appeal

Following a trial, counsel is required to make certain the defendant is made fully aware of the right to appeal. *White v. State, supra*. In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure in *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). *Id.* However, the standard for a guilty plea differs. Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. *Roe v. Flores-Ortega*, 528 U.S. 470, 120 S.Ct. 1029, 145 L.Ed.2d 985 (2000); *Weathers v. State*, 319 S.C. 59, 459 S.E.2d 838 (1995).

Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008).

The Applicant has not claimed that he asked counsel to file an appeal. Any attempt by the Applicant to modify his claim and argue that he did make a timely request to plea counsel to file an appeal will be viewed as a likely sham only created to thwart summary judgment. See Cothran v. Brown, 357 S.C. 210, 218, 592 S.E.2d 629, 633 (2004) (stating under the sham affidavit rule, a court may disregard a subsequent affidavit as a sham—as not creating an issue of fact for purposes of summary judgment—if the subsequent affidavit contradicts a party's own prior sworn statement).

III.

As a general matter, the Respondent notes that a high bar exists to obtain post-conviction relief.

The writ of habeas corpus stands as a safeguard against imprisonment of those held in violation of the law. Judges must be vigilant and independent in reviewing petitions for the writ, a commitment that entails substantial judicial resources. Those resources are diminished and misspent, however, and confidence in the writ and the law it vindicates undermined, if there is judicial disregard for the sound and established principles that inform its proper issuance.

Harrington v. Richter, 09-587, 2011 WL 148587 (U.S. Jan. 19, 2011)

See also, State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). *See also* S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. *See Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005); Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

The State must overcome many hurdles before an accused person is punished:

- (1) the magistrate may refuse to issue a warrant;
- (2) the magistrate may dismiss a case after a preliminary hearing;
- (3) a grand jury may refuse to indict;
- (4) the solicitor may nolle pross;
- (5) the trial judge may direct a verdict;

(6) a petit jury may refuse to convict if only one juror has a reasonable doubt;

(7) the judge may set the verdict aside notwithstanding a verdict of the jury;

(8) the appellate court may reverse the conviction.

If the accused person can prevail at any one of these stages of a proceeding, he goes free and is unpunished. On the other hand, the State must prevail at each of the eight stages before punishment is inflicted.

In addition to these many protections, the accused now has the right of application for post-conviction relief upon a proper showing. In almost any case a convicted person, given time for research, can come up with some sort of theory ostensibly warranting a new trial.

.....

Most of what Mr. Justice Harlan said in his separate opinion in *Mackey v. United States*, 401 U.S. 667, 91 S.Ct. 1160, 1179, 28 L.Ed.2d 404 (1971), with respect to collateral relief from a criminal conviction, is applicable here:

"Finality in the criminal law is an end which must always be kept in plain view. . . . At some point, the criminal process, if it is to function at all, must turn its attention from whether a man ought properly to be incarcerated to how he is to be treated once convicted. If law, criminal or otherwise, is worth having and enforcing, it must at some time provide a definitive answer to the question litigants present or else it never provides an answer at all. Surely it is an unpleasant task to strip a man of his freedom and subject him to institutional restraints. But this does not mean that in so doing, we should always be halting or tentative. No one, not criminal defendants, not the judicial system, not society as a whole is benefited by a judgment providing a man shall tentatively go to

jail today, but tomorrow and every day thereafter his continued incarceration shall be subject to fresh litigation on issues already resolved.

A rule of law that fails to take account of these finality interests would do more than subvert the criminal process itself. It would also seriously distort the very limited resources society has allocated to the criminal process. While men languish in jail, not uncommonly for over a year, awaiting a first trial on their guilt or innocence, it is not easy to justify expending substantial quantities of the time and energies of judges, prosecutors, and defense lawyers litigating the validity under present law of criminal convictions that were perfectly free from error when made final. (citation omitted) This drain on society's resources is compounded by the fact that issuance of the habeas writ compels a State that wishes to continue enforcing its laws against the successful petitioner to relitigate facts buried in the remote past through presentation of witnesses whose memories of the relevant events often have dimmed. This very act of trying stale facts may well, ironically, produce a second trial no more reliable as a matter of getting at the truth than the first."

Anderson v. Leeke, 271 S.C. 435, 440-42, 248 S.E.2d 120, 123 (1978).

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

IV.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired and for any other reasons as explained above.

Respectfully submitted,

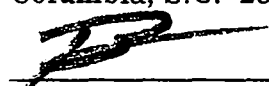
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: 

Attorneys for the Respondents

October 10, 2011

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

MAYO Cichey L -
00284692,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2011CP4006548

CERTIFICATE OF SERVICE

1. I am an employee of the Respondent in the above-captioned action.
1. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
2. I have this day served a copy of the a letter in the above-captioned matter on the following person(s) by routing the same to the United States mail, postage prepaid:

MAYO Cichey L, #284692
 Lee Correctional Institution
 990 Wisacky Highway
 Bishopville, SC 29010

DATED October 10th, 2011.

 Jean R. Indriago
 Legal Assistant

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2011-CP-40-6548

Cichey L. Mayo, #284692,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

CONDITIONAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2012 APR 24 AM 9:45
JEANETTE W. MCBRIDE
CLERK, C.P. & G.S.

This matter comes before this Court by way of an application for post-conviction relief filed October 3, 2011.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was true bill indicted at the September 2001 term of the Richland Grand Jury for Murder, Assault and Battery with Intent to Kill, one (1) count of Armed Robbery and two (2) counts of Attempted Armed Robbery (2001-GS-40-06648/06649/06650/06651/06696). He was represented by attorney Charlie J. Johnson, Jr., Esquire, on the charge(s). On June 4, 2002, Applicant appeared before The Honorable L. Henry McKellar, where he pled guilty to all charges as indicted and was sentenced as follows: forty-seven (47) years imprisonment for Murder, twenty (20) years imprisonment for each count of Attempted Armed Robbery, twenty (20) years imprisonment for Assault and Battery With Intent to Kill, and thirty (30) years imprisonment for Armed Robbery. All sentences were to run

SCANNED

concurrently to each other. A Notice of Appeal was filed untimely by counsel and, do to Applicant's written request to withdraw the appeal, counsel filed no Petition for Reinstatement. The appeal was dismissed by order dated October 28, 2008. The Remittitur was issued November 15, 2002.

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

The record of the proceeding will establish the supporting fact that trial counsel failed to inform me of my right to appeal the plea, conviction, and sentences imposed on me on June 4, 2002. At a date circa August, 2011, it was made known to me by a law clerk at Lee Correctional Institution that my trial counsels' USCA 6th Amendment duty to effectively represent me did not end at the moment I was sentenced, but that their duty extended to counsels' obligation of fully informing me of my right to appeal the sentences imposed on me. Further supporting fact declares that trial counsel was responsible to inform me to the point of determining if I desired to appeal, or, if I would choose to waive my right to appeal proceedings by signing a waiver on the record. Present discovery of counsels' failure to fully inform me of my choice to appeal or waive appeal serves as the motivating factor for the filing of this Application for Past-Conviction Relief. These supporting facts firmly establish my claim that I never made a knowing, intelligent, nor voluntary waiver to abandon my appeal rights. The fact of the record establishes that I did not make any decision at all. Because of trial counsels' failure, I was not aware that I had a choice to make after my plea proceeding and sentencing was completed. I believe, in good faith, that the supporting facts presented herein satisfy the requisite showing for the grant of a belated appeal from my conviction and sentencing.

Applicant also submitted a *pro se* document in response to Respondent's Return and Motion to Dismiss in which he set forth the following objections to the Motion to Dismiss:

now seeks. The foundation for Applicants' redress is anchored in the White ruling, and Applicants' initial discovery of the appeal principle handed down in White, by virtue of a conversation held with a law clerk in the law library at Lee Correctional Institution sometime in August, 2011, and Applicant promptly notified the court of same. In contention to Applicants' claim that he never abandoned his appeal rights, either verbally or by signature, Respondent has made the claim that because of Applicants' plea of guilty, and because Applicant " . . . [d]id not make a timely request to plea counsel to file an appeal", that Applicant is not entitled to the belated appeal. Applicant denies Respondents' claim and makes the declaration under penalty of perjury that he did ask his attorney, Mr. Charlie J. Johnson, Esquire, at the end of his sentencing to appeal, however not in that specific terminology, but, a sincere request nonetheless. Applicant affirms that his trial counsel, Mr. Charlie J. Johnson will attest to the fact that at the immediate moment after Applicant was sentenced Applicant asked him the questions: "Forty seven years?" "What can I do now?" "Where do I go from here?" To these questions attorney Johnson continued staring at his legal papers, as preoccupied, distracted, never looking at Applicant, but responding "I'm not your attorney any more." Applicant states the claim that although he never used the word appeal, his earnest plea for help was actually an urgent supplication to attorney Johnson to appeal the 47 year sentence imposed on Applicant, who at that time was seventeen (17) years old, and stunned that the greater part of his life was going to be spent in prison. Applicant states the valid and meritorious claim that he was, in the only way he knew how, soliciting attorney Johnson to help Applicant in his

distress, but did not have any knowledge, education, or instruction in criminal law sufficient to understand exactly what legal procedure should be pursued after his sentence. HOWEVER, attorney Johnson was well-educated, a veteran attorney at law, and knew, or should have known, that the next correct procedural action available to Applicant was a direct appeal, and Applicant states with hindsight that attorney Johnson should have explained that to Applicant in that moment; the guidelines set down in White strictly requires that attorney Johnson should have taken that last measure of representation after being asked those questions by Applicant. Applicant states the claim that the veracity of his statements will be affirmed as true by attorney Charlie J. Johnson, and that attorney Johnson has personal knowledge that Applicant asked which direction (action) to take immediately after sentencing, but attorney Johnson was neither responsive nor consulting. For these reasons, supported by the attached Affidavit of Applicant, Applicant states that the court should construe Applicants' wounded pleas made to attorney Johnson at the end of Applicants' sentencing as a request for a direct appeal, notwithstanding the fact that Applicant never used the words 'direct appeal'.

In making its decision, the Court had before it the available records of the Richland County Clerk of Court regarding the subject convictions, and/or the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, and the *Respondent's Return and Motion to Dismiss*.

Findings of Fact and Conclusions of Law

Timeliness - S.C. Code §17-27-45(a)

This Court agrees with the Respondent that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the

filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

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

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). For the purposes of this Order, the Applicant's conviction/sentence was "finalized" on the date of his conviction or the date of the Remittitur from any direct appeal, whichever was later, i.e. November 15, 2002. Adding one (1) year per S.C. Code § 17-27-45(a) and one (1) day per Rule 6(a), SCRPC means that this PCR application had to be filed by November 16, 2003. This Application was filed on October 3, 2011, which was well after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary 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." Therefore, this Court shall summarily dismiss the application for post

conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

BELATED DIRECT APPEAL

This Court further finds the allegations set forth in the application regarding counsel's failure to file a direct appeal must be summarily dismissed. Based on the records before this Court, it appears counsel did in fact file a Notice of Appeal on Applicant's behalf following an unsuccessful Motion for Reconsideration in the trial court. While the Court of Appeals order dismissing the appeal cites some uncertainty about the timeliness of the Notice of Appeal being filed as the Notice itself fails to state when counsel received the order denying the post-trial motion, Applicant ultimately requested counsel withdraw his direct appeal as evidenced by the attached "Notice By the Appellant To Withdraw the Appeal Pending". In doing so, Applicant made his wishes clear to counsel that he did not wish to have his plea and/or sentence reviewed on direct appeal.

Further, the attached Notice to Withdraw serves as confirmation that Applicant was well aware of his right to have a direct appeal as far back as 2002, but chose to sit on his rights for nearly a decade before bringing forth this allegation. Under Wilson v. State, 348 S.C. 215, 559 S.E.2d 581 (2002), the one-year statute of limitations under S.C. Code Ann. § 17-27-45(a) does not apply to a claim that a defendant was denied his right to direct appeal; however, this exception to the procedural time bar is not without limits. The ruling set forth in Wilson should not be applied in a situation such as this to grant untimely relief to a defendant who

fails to take reasonable and diligent steps to appeal his convictions and/or sentences despite having full knowledge of such a right. To ensure the finality of litigation, our courts require defendant's exercise reasonable diligence in pursuing relief, a requirement that "guard's the state's legitimate expectation that it will not be called upon without due cause to defend the integrity of convictions that occurred many years ago, where records and witnesses are no longer available." McElrath v. State, 276 S.C. 282, 283, 277 S.E.2d 890 (1981). Applicant filed this application seeking belated appellate review of his pleas over nine (9) years (3,398 days) after the jurisdictionally imposed time to file a direct appeal had lapsed. Applicant fails to set forth any allegation in his PCR application that he did in fact take diligent steps to seek appellate review, or that he otherwise made reasonable efforts to have his plea/sentence reviewed by the courts. In fact, according to the allegations set forth in the application, Applicant merely alleges counsel failed to advise him of his right to appeal, an allegation that is clearly refuted by the attached Notice to Withdraw. Therefore, this Court finds this allegation to be without merit and, accordingly, Applicant is not entitled to a belated White v. State¹ appeal.

Based upon its review of the pleadings in this matter, this Court does not see the need to appoint counsel to represent the Applicant and expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted thirty (30) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any

¹ White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974).

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Cichey L. Mayo, #284692,
Applicant,

2011-CP-40-6548

v.

OBJECTIONS TO CONDITIONAL
ORDER OF DISMISSAL

State of South Carolina
Respondent,

This civil action of an application for Post-Conviction Relief, filed with the Clerk of Court on October 3, 2011, is properly before this court of competent jurisdiction to hear and adjudicate the disputed issues of law contained herein.

Applicant is serving sentence under authority of the South Carolina Department of Corrections in accord with commitment orders filed with the Clerk of Court for Richland County, presently housed at Lee Correctional Institution. Applicant was indicated at the September 2001 term of the Richland County Grand Jury under Indictment No. 2001-GS-40-06648, 2001-GS-40-06649, 2001-GS-40-06650, 2001-GS-40-06651, 2001-GS-40-06696. Applicant pled guilty to the charges indicated and was sentenced to a total term of forty seven (47) years for all charges.

The respondent has stated as material fact that applicant's trial counsel filed an untimely Notice of Appeal against applicant's guilty plea and sentence, which appeal was dismissed October 28, 2008. Applicant filed the present petition seeking a belated White v. State appeal; White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974), on October 3, 2011.

As the respondent has conceded in their proposed conditional order of dismissal, under the prevailing precedent of Wilson v. State, 348 S.C. 215, 559 S.E.2d 581 (2002), "... the one year statute of limitations under S.C. Code Ann. §17-27-45(a) does not apply to a claim that

a defendant was denied his right to a direct appeal;" In this concession respondent is actually supporting with Statute authority, Applicant's litigation in seeking a White belated appeal. The record clearly documents that no timely appeal was taken by applicant's trial counsel, and the appeal was dismissed on October 28, 2008. This established issue of material fact puts a procedural contradiction producing point - counterpoint consequences against the respondent when measured impartially and fairly against the following finding of fact and conclusion of law as enumerated in the conditional order of dismissal; quoting from the order:

"For the purposes of this Order, the applicant's conviction/sentence was "finalized" on the date of his conviction or the date of the Remittitur from any direct appeal, whichever was later, i.e. November 15, 2002. Adding one (1) year per S.C. Code §17-27-45(a) and one (1) day per Rule 6(a), SCRCP means that this PCR application had to be filed by November 16, 2003. This application was filed on October 3, 2011, which was well after the statutory filing period had expired."

Applicant states the claim that it is both procedurally unfounded and illogical for the respondent to declare that applicant's appeal was dismissed on October 28, 2008, and that applicant's statutory filing period for initiating a pcr application expired on November 16, 2003. Under the prevailing authority of White, supra, applicant is entitled to a belated appeal in the present action, and respectfully solicits this court for a determination that: (1) Applicant was never timely and properly informed/advised of his right to appeal his guilty plea and sentence at the end of his guilty plea proceeding, (2) Applicant never waived his right to appeal through any formal or informal manner or mode of waiver, and, (3) Applicant was deprived of his U.S.C.A. 6th

Amendment right to the effective assistance of counsel when applicant erroneously submitted a written request to withdraw the appeal to the Clerk of Court without the benefit of consultation or advice from his trial counsel. Applicant states the claim that, at the stage in his criminal proceeding now being addressed, judicial error was demonstrated by the fact that the clerk accepted and filed the request to withdraw as submitted by applicant, when statutory requirements prohibits such action as hybrid representation. Accepting as true respondent's rendition of facts included in the conditional order of dismissal, the material fact arises that applicant requested to withdraw his appeal outside the purview of his retained counsel's representation. Applicant states this is an issue which summons evidentiary investigation that can best be determined and adjudicated in the venue prescribed for the Uniform Post - Conviction Procedures Act, and seeks this court to agree that genuine issues of material fact sufficient to show a dispute in matters of law exist in the action now before the bar, and that applicant is entitled to a proper and procedural redress in the present forum by and through his Application for Post - Conviction Relief. The PCR evidentiary hearing is designed specifically to provide for inquiry into relevant facts for assessing the merit of claims raised by the applicant. Applicant objects to the Conditional Order of Dismissal as based on Respondent's charge of applicant's failure to file with the applicable statute of limitations. Applicant makes known to this court that at the time of his submission of the request to withdraw the appeal, applicant did so without the effective advice of counsel, and was in fact wrongly advised by incompetent sources to request such. Applicant was young, uneducated in the law, impression-

able, and unfortunately influenced to the point of persuasion that a more severe sentence would result from an effort to appeal. At a later date applicant discovered that in order to waive a direct appeal, a defendant must make a knowing and intelligent decision to not pursue the appeal; Davis v. State, 352 S.E.2d 60; White v. State, 208 S.E.2d 35; Wilson v. State, 559 S.E.2d 581.

In order to determine whether a waiver is valid the court should examine the particular facts and circumstances surrounding the case, including the background, experience, educational ability, and conduct of the accused; Spoone v. State, 665 S.E.2d 605; U.S. v. Broughton Jones, 71 F.3d 1143. A hearing on the previous elements is necessary for a sound determination on matters of law in dispute.

When considering the State's motion for summary dismissal of the present action, the court must assume the facts presented by applicant are true, and must also view those facts in the light most favorable to applicant; Al Shabazz v. State, 527 S.E.2d 742. The court should necessarily decide each case on an individual basis, and it is within the discretionary authority of the Court to either permit or deny, an applicant/defendant to waive their appellate rights; Hughes, 367 S.C. at 397. The Court must first determine whether the applicant was mentally competent to make, and enter, a knowing, intelligent, and voluntary decision to waive their appeal rights in consideration of every circumstance and consequence available.

In the instant situation, every applicant has the procedural right to one fair bite at the apple, that is, every applicant has a right to file a direct appeal and one P.C.R. application. In this case it stands

as material fact that applicant has not received his one bite of the apple; Poston v. State, 528 S.E.2d 422. As addressed in the above cases, including Odom, the Austin Policy would be frustrated if the one (1) year statute of limitations for P.C.R. claims applied where an applicant was denied their entitlement to a direct appeal due to ineffective assistance of counsel, and then further denied their right to a P.C.R. application by reason of the one (1) year statute of limitations.

The standard for determining if an appellant or pcr applicant is mentally competent to waive their right to a direct appeal is set forth in Singleton v. State, 437 S.E.2d 53, which provides, in relevant part:

The first prong is the cognitive prong, which can be defined as: Whether a convicted defendant can understand the nature of the proceeding, what he or she was tried for, the reason for the punishment, or the nature of the punishment.

The second prong is the assistance prong, which is defined as: "Whether the convicted defendant possesses sufficient capacity or ability to rationally communicate with counsel. The failure of either [prong] is sufficient to establish that the waiver was not knowingly, intelligently or voluntarily made."

The S.C. Supreme Court has ruled, in Odom v. State, 523, S.E.2d 753, that the one (1) year statute of limitations required by S.C. Code Ann. §17-27-45(a) does not apply to Austin appeals. Austin appeals do not have to be filed within the one (1) year statute of limitations because they are belated appeals intended to correct unjust procedural defects. An applicant is entitled to an Austin appeal if the P.C.R. judge affirmatively finds either that: (1) the applicant request and

was denied an opportunity to seek appellate review, or (2) the right to appellate review or a previous P.C.R. Order was not knowingly and intelligently waived.

Applicant now states the claim that the waiver referenced by the respondent cannot be deemed voluntary by reason that applicant was never, at any time, properly and timely informed of the direct appeal process, was never consulted, advised, or corresponded with by counsel, which effectively positioned applicant under the erroneous influence and persuasion of inmates presuming jail-house status, much to applicants detriment. The due diligence raised by respondent could not be shown in the absence of being fully informed by counsel of the form and function of the appeal process, and the proper avenue to access should applicant make the decision to appeal. The court has ruled that after a defendant is convicted and sentenced, trial counsel, in all cases, has a duty to make certain that the defendant is fully aware of their right to appeal; In Re Anonymous Member of the Bar, 410 S.E.2d 483; Anders v. California, 386 U.S. 738.

For the reason of the issues of material fact presented in these objections, and in the interest of correcting the unjust denial of applicant's direct appeal, by and through the established remedy at law, applicant requests this court deny and dismiss the Conditional Order of Dismissal and convene an evidentiary hearing into the matters of law now in dispute before this Honorable Court. For this relief does the Applicant pray.

S/ *Richard May*

Cichney Mayo

#284692

#2211

L.C.I. / Dar South

990 Wisacky H.W.Y.

Bishopville, S.C. 29010

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CICHEY MAYO, #284692)
APPLICANT,)

CASE No. 2011-CP-40-6568

Vs.)

CERTIFICATE OF SERVICE

STATE OF SOUTH CAROLINA,)
RESPONDENT.)

I CERTIFY THAT I SERVED A TRUE COPY OF APPLICANT'S
OPPOSITION TO THE RESPONDENT'S COUNSEL CHARLIE JOHNSON, ESQ., BY
WAY OF U.S. MAIL, POSTAGE PREPAID, ADDRESSED TO HIS OFFICE AT:
ASSIST. ATTY. GENERAL, PO BOX 11549, COLUMBIA, S.C. 29211-1549,
BY PERSONALLY DELIVERING IT TO THE PRISON POSTAL DIRECTORS FOR
VERIFICATION AND PROOF OF MAILING LEGAL OUT OF PRISON ON THIS ____
DAY OF MAY 2012.

MAY 15, 2012

s/ Cichey Mayo
CICHEY MAYO, APPLICANT
LEE C.I./DS-
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010

State of South Carolina)
)
 County of Richland)

In the Court of Common Pleas
 Fifth Judicial Circuit
 2011-CP-40-6548

Cichey Mayo,)
)
 Applicant,)
)
 vs.)
)
 State of South Carolina,)
)
 Respondent.)
)
)

Transcript of Record

October 18, 2012
 Columbia, South Carolina

B E F O R E:

The Honorable Clifton B. Newman, Judge

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

Wilson P. Davis, Esquire
 Attorney for the Applicant

Rob A. Corney, Esquire, Assistant Attorney General
 Attorney for the Respondent

Elizabeth B. Harris, CVR-M
 Circuit Court Reporter

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(Copy substituted for original after the close of
hearing.)

1 MR. CORNEY: May it please the court, Your Honor?

2 THE COURT: Yes, sir.

3 MR. CORNEY: Your Honor, this is the post-conviction
4 relief application of Cichey Mayo. It's docket number
5 2011-CP-40-6548. Mr. Mayo was true-bill indicted at the
6 September 1st -- 2001, I apologize, term of Richland County
7 Grand Jury for murder, assault and battery with intent to
8 kill, armed robbery, and two counts of attempted armed
9 robbery. He was represented by Charlie Johnson, Jr., on
10 the charges.

11 Mr. Mayo pled guilty June 4, 2002, before Judge
12 McKellar to all the charges as indicted. He was sentenced
13 at that time to forty-seven years' imprisonment for the
14 murder, twenty years for the attempted armed robbery
15 charge, twenty years for the assault and battery with
16 intent to kill, and thirty years for the armed robbery.

17 A notice of appeal was filed. I believe it was
18 untimely filed and some, there's some, some confusion on my
19 part, but at some point in time it was dismissed by the
20 Court of Appeals, and the remittitur was issued November
21 15, 2002.

22 The current PCR application was filed October 3, 2011.
23 The state issued or submitted a return motion to dismiss,
24 and Judge Barber signed a conditional order of dismissal
25 April 24, 2012, provisionally denying and dismissing the

1 application as untimely filed and for a failure to state a
2 claim.

3 The applicant filed objections in opposition to that
4 conditional order of dismissal, after which Judge Barber,
5 in his capacity as the chief administrative judge, asked
6 that this be set for hearing into his objections to the
7 conditional order of dismissal.

8 He is represented today by Mr. Wilson Davis, and I
9 believe they have a motion to bring before the court.

10 THE COURT: All right, Mr. Davis.

11 MR. DAVIS: Good morning. May it please the court?
12 My client, Cichey Mayo, has requested this morning that I
13 request for continuance.

14 Just to give you a little background, Mr. Mayo was
15 first represented by Mr. Rob Brown. Rob Brown has a
16 conflict today and could not attend court, and Mr. -- I
17 agreed to represent Mr. Mayo on September 18th, about a
18 month ago. We filed a consent order, the consent order
19 substituting counsel. This was signed by Judge Barber, and
20 so I've had this case approximately a little over three
21 weeks, Your Honor.

22 But Mr. Mayo believes this is not sufficient time to
23 prepare for his PCR, and he has requested that we request a
24 continuance today.

25 THE COURT: All right, Mr. Mayo, if you will stand and

1 if you will raise your right hand.

2 (WHEREUPON, APPLICANT IS DULY SWORN.)

3 THE COURT: All right, if you will remain standing and
4 put your hands down. The lawyer says that you don't want
5 him to proceed with the case today.

6 APPLICANT: Yes, sir, Your Honor.

7 THE COURT: And tell me the reason why.

8 APPLICANT: Due to the fact that he just got on my
9 case and switched on me in mid, mid stride, and I haven't
10 had to time, you know, just to deal with him about my case
11 to come with any type strategy, anything of that nature.

12 THE COURT: All right, the attorney general says that
13 the PCR has not been timely filed. Is that the issue
14 before me today?

15 MR. CORNEY: Yes, Your Honor. I believe the reason
16 that Judge Barber wanted it set for hearing is there was
17 some issue as to his entitlement to a belated direct appeal
18 from his plea.

19 THE COURT: A belated ---

20 MR. CORNEY: Which would, which would be able to go
21 outside of the one-year statute of limitations.

22 THE COURT: And did you say something about newly
23 discovered evidence ---

24 MR. CORNEY: I believe there was a ---

25 THE COURT: --- as an issue?

1 MR. CORNEY: I apologize, Your Honor. I believed
2 there was a claim, some sort of claim, newly discovered
3 evidence as well. I believe the majority of his objections
4 that were voiced, and I can double check, were to a belated
5 direct appeal, I believe.

6 MR. DAVIS: Your Honor.

7 THE COURT: Yes, sir.

8 MR. DAVIS: Only the belated direct appeal.

9 THE COURT: What would be the grounds for a belated
10 direct appeal?

11 MR. DAVIS: That, Your Honor, that my client was never
12 informed that he had a right to appeal by his counsel, and
13 that had -- he didn't have knowledge of his appeals right,
14 appeals rights.

15 THE COURT: And you need more time to work on that,
16 Mr. Mayo?

17 APPLICANT: Yes, sir, Your Honor.

18 THE COURT: All right, and what is your position about
19 that, Mr. Smith? Is it Mr.?

20 MR. DAVIS: Mr. Davis, Your Honor.

21 THE COURT: Davis, Mr. Wilson Davis.

22 MR. DAVIS: That's right. Your Honor, I'm prepared to
23 go forward today, but if Mr. Mayo needs more time, I've
24 thoroughly researched it. I've had his case for three
25 months, and I've gone and last week I went to Lee County

1 and discussed the case with Mr. Mayo, and we went through
2 it in detail.

3 THE COURT: What's more time going to do for you, Mr.
4 Mayo?

5 APPLICANT: So I can, so I can fully prepare. See,
6 like last time he came and talked to me, it was Friday.
7 You know, his, his whole demeanor was more or less I don't
8 know why the judge gave you a hearing. You know, things of
9 that nature, and I feel as if you supposed to be helping
10 me. Why would you even care about, you know, why the judge
11 allowed me to come back in the courtroom? So, I feel kind
12 of uncomfortable with him representing me, Your Honor.

13 THE COURT: So, your issue is not an issue where
14 you're trying to get more time to prepare for the case.
15 You're trying to switch to lawyers.

16 APPLICANT: That, that isn't, that isn't all.

17 MR. DAVIS: Your Honor, based on that statement, I
18 guess I do not feel comfortable going forward today. I
19 didn't realize he had a problem with my services in
20 general. That was before -- I feel I guess if he has a
21 problem, then I'll leave it at your discretion.

22 THE COURT: All right. What else do you want to say,
23 Mr. Mayo?

24 APPLICANT: If you, if you could grant me a little
25 time, then I can get my lawyer, make sure I can be ready.

1 I just don't feel.

2 THE COURT: Well, you have a lawyer already.

3 APPLICANT: Yeah. Well, I just don't feel comfortable
4 with him. You know, like when we talk, it was just like
5 everything, you know, I'm bringing forth for -- to him, it
6 was like it was -- it ain't had no merits, anything.

7 THE COURT: He has to give you his opinion as to -- he
8 can't -- if the sky is blue, he can't make it red.

9 APPLICANT: Of course, Your Honor, but it -- but he
10 was trying to talk to me like it was green, like I'm, I'm,
11 you know, like incompetent.

12 THE COURT: So, you went to get -- you want to hire
13 your own lawyer?

14 APPLICANT: To get another one appointed, work on
15 that. I just don't feel comfortable.

16 THE COURT: You don't feel comfortable.

17 APPLICANT: It's not my best interest to have him
18 representing me due to some courses of things, you know?
19 It was like, you know, everything I said ain't had no
20 merit. Like, for example, my co-defendant when he recant
21 his statement, and he was, and he was saying that if it's
22 not new discovered evidence, it's like it won't help.

23 THE COURT: Did you say this was a guilty plea?

24 MR. CORNEY: Yes, Your Honor, it was a guilty plea,
25 and just for the record, it essentially was a murder

1 charge, and he was -- he pled under hand of one is the hand
2 of all, and I believe his recanted statement, recanted
3 statement is that he wasn't the shooter, and he was never,
4 he was never alleged to have been the shooter. So, just
5 for the facts, a little bit of background for the court.

6 And just for the record, the state opposes their
7 motion for a continuance. We're ready to go forward, and
8 we've got everyone here. This is a one-issue case that Mr.
9 Davis and I have -- he's contacted me about several times
10 before. I believe he's very prepared to go forward on
11 that, so.

12 THE COURT: All right. Well, I'm going to deny the
13 motion for a continuance, and I'll give you all some more
14 time to talk before we proceed if you need more time to
15 talk.

16 MR. DAVIS: Thank you, Your Honor. We'll take more
17 time to talk.

18 THE COURT: All right.

19 (OFF THE RECORD.)

20 MR. CORNEY: Your Honor, Cichey Mayo previously came
21 up before you. I believe you have the packet up there for
22 it already. I was saying his name incorrectly before. I
23 said Chichi, and I apologize to him for that. I believe
24 it's Cichey Mayo. And just for the record, it's docket
25 number 2011-CP-40-6548, and he's represented by Wilson

C. JOHNSON - DIRECT EXAMINATION BY MR. DAVIS

10

1 Davis.

2 THE COURT: All right. Ready to proceed, Mr. Davis?

3 MR. DAVIS: We are, Your Honor.

4 THE COURT: You may proceed.

5 MR. DAVIS: Your Honor, we're here today pursuing a
6 PCR on the grounds of ineffective assistance of counsel.
7 We'll be calling two witnesses today. The first witness
8 will be Charlie J. Johnson, Jr., the appellate's counsel,
9 and the other witness would be Cich, Cichey Mayo.

10 CHARLIE J. JOHNSON, JR., HAVING
11 BEEN DULY SWORN DURING AN EARLIER HEARING IN THE DAY,
12 TESTIFIES AS FOLLOWS.

13 DIRECT EXAMINATION BY MR. DAVIS:

14 Q. Mr. Johnson, you were -- were you retained to
15 represent Mr. Mayo?

16 A. Yes, I were retained.

17 Q. And would you explain the circumstances behind how you
18 were retained?

19 A. I'm very close friends with Mr. Mayo's father and
20 mother; they're close family friends. They asked me when
21 he was charged if I would be his attorney.

22 Q. Did you charge a fee for your legal services?

23 A. No.

24 Q. And why did -- did you advise Mr. Mayo to plead guilty
25 to the charges before him?

C. JOHNSON - DIRECT EXAMINATION BY MR. DAVIS

11

1 A. Yes. After -- well, first of all, after we got the
2 evidence and discovery, we went over all the discovery. He
3 was charged with a number of charges. The main concern we
4 had was the charge of murder which involved the death of a
5 U.S. attorney who was here going to school. It was
6 attempted robbery of the U.S. attorney, as well as another
7 victim which was a U.S. attorney down in the Five Points
8 area, and one of the attorneys was shot and killed.

9 After we reviewed the evidence, it indicated that one
10 of Mr. Cichey's co-defendants actually killed the
11 individual. He shot one time, and his gun was identified
12 as the weapon that killed the victim in this case. Mr.,
13 Mr. Mayo was a co-defendant, and from the evidence given by
14 different people giving statements, they had Mr. Mayo being
15 there with the individual at the time that he was killed
16 and also firing his gun.

17 I think it's, it's a little vague. It's been a while,
18 but I think one of the -- the second victim was nicked or
19 something by a shot, and they determined that that shot was
20 made by Mr. Mayo's gun.

21 Q. So, it's your -- is it your testimony that you saw a
22 SLED report, ballistics SLED report?

23 A. Correct.

24 Q. And that SLED report showed that Mr. Mayo did not
25 shoot the fatal shot?

C. JOHNSON - DIRECT EXAMINATION BY MR. DAVIS

12

1 A. That's correct.

2 Q. Okay. Did you explain the hand of one, hand of all
3 theory to Mr. Mayo?

4 A. Yes, I did. I met with him and his father on -- a
5 couple of times, and I explained to him my major concern
6 was there was some question about the U.S. government. It
7 was a -- it made the newspaper. It was nationally
8 televised. There was some -- I had concerns that the U.S.
9 government might take it because the U.S. attorney was here
10 on business. He was going to school. There could be a
11 determination made by the government that it would fall
12 under the death penalty scenario, and I had some concerns
13 about that.

14 I also was concerned that if it went to trial or some
15 nature under hand of one, hand of all, he could have been
16 facing a life sentence as well.

17 Q. So, you, you discussed this with Mr. Mayo, the
18 potential range of sentences, including the death penalty?

19 A. Right.

20 Q. Okay, and the fact that Mr. Mayo could receive the
21 death penalty if charged, this is correct? Is that
22 correct?

23 A. That's correct.

24 Q. Did you know Mr. Mayo's educational background?

25 A. Yes.

1 Q. Can you explain his educational background?

2 A. I think at the time he was in school at Spring Valley
3 High School. Might have been a junior or senior.

4 Q. Right.

5 A. But the rest of it I really don't remember, but we
6 went over it.

7 Q. And I guess you were aware he was in remedial classes?

8 A. That's correct.

9 Q. And he had an eleventh grade education and was in his
10 senior year?

11 A. That's correct.

12 Q. All right, did you file a, did you file a motion for
13 reconsideration after Mr. Mayo received his sentence?

14 A. Yes, I did. What happened was I informed Mr. Mayo and
15 -- that it was my belief that by pleading, he would not get
16 the most severe sentence because the other individual was
17 actually the shooter and the person that killed the U.S.
18 attorney.

19 It turned out at sentencing, however, Mr. Mayo was
20 given more time than the actual shooter. I think some of
21 that was based on the fact that he was charged with some
22 additional charges where he was indicated to be the main
23 perpetrator of, which was one I think they mentioned at
24 sentencing that there was a shooting at a -- some
25 restaurant or something, as well as there was an armed

C. JOHNSON - DIRECT EXAMINATION BY MR. DAVIS

14

1 robbery that occurred after the shooting. I think the
2 judge took that in consideration and gave Mr. Mayo more
3 time than he actually gave the shooter. I felt that wasn't
4 fair, and I filed a motion for reconsideration.

5 Q. Did you try to negotiate Mr. Mayo's guilty plea? Did
6 you try to negotiate a sentence with the solicitor's
7 office?

8 A. I, I tried to, but they wasn't offering anything.
9 Like I said, it was a big uproar about it. It was on T.V.;
10 South Carolina was on the map as not being safe for people
11 to come visit. It was, I mean, it was, it was -- they was
12 out for blood. So, my, my thing was to try to protect him
13 as best I could.

14 Q. Did you, did you ever advise Mr. Mayo of his right to
15 appeal?

16 A. I never advised that he had a right to appeal. I see
17 later on after we'd looked at discovery -- been a while --
18 that I did file an appeal. It appears that the appeal was
19 denied because I did not put on my appeal the date that the
20 motion to reconsider, my motion for reconsideration was
21 denied. I did not put, put on my notice of appeal the date
22 that that -- that I received notice that my motion had been
23 denied.

24 Q. And was this your error?

25 A. Yes, it was a error. Before I could correct it,

C. JOHNSON - DIRECT EXAMINATION BY MR. DAVIS

15

1 though, I think Mr. Cichey might have filed -- there was a
2 motion filed by Mr. Cichey indicating that he waived his
3 appeal, and I never did do anything to correct it after
4 that.

5 Q. Now, it's Mr. Mayo's allegation that he did not know
6 he had the right to appeal.

7 A. I never informed him.

8 Q. Okay, and then you filed the appeal without him
9 knowing. Is that correct?

10 A. That's correct.

11 Q. So, he had no knowledge that you filed an appeal?

12 A. At first I know -- he, he had no knowledge that I was
13 going to file an appeal until after I filed the appeal.
14 Let's put it that way. I don't know if he got a copy of
15 the appeal once I filed it or not.

16 Q. Is it your recollection that Mr. Mayo stated that he
17 indirectly told you to file an appeal in, in a statement
18 that was after the conviction? He said what can I do now?

19 A. Yeah. I mean, I knew he wanted me to file an appeal
20 because we all was kind of shocked about the sentence that
21 he received. But, as I said, the first thing I did was try
22 to file a motion to, to reconsider the sentence.

23 Q. And was that timely filed?

24 A. Yes.

25 Q. Okay, and then as far as whether or not the appeal was

C. JOHNSON - DIRECT EXAMINATION BY MR. DAVIS

16

1 timely filed, is it your understanding it was not?

2 A. It's my belief that appeal was timely filed; however,
3 there was nothing on record to indicate the time that I
4 received the notice of denial.

5 Q. Okay, and it was denied because you did not put in the
6 specific date?

7 A. Right.

8 Q. Right.

9 A. The appeal was denied because I did not put in
10 specific date, but -- and the records showed that the
11 motion was denied, or the date that the motion for
12 reconsideration was denied, that date was placed on the
13 order denying my motion, but it didn't have a certificate
14 of service. So, nobody knew exactly when I received that
15 actual order.

16 Q. When -- it's been ten years, but looking back on it
17 now, would you advise Mr. Mayo, after reviewing the file
18 and all the evidence against him, would you advise him to
19 plead guilty again?

20 A. Probably.

21 Q. Okay. Even though it's clear that a co -- there's
22 three co-defendants. One was a Mr. Murphy who shot the --
23 who fired the fatal gunshot and was sentenced to
24 forty-three years. The other two did not plead guilty to
25 murder. They pled guilty to strong-arm robbery and

C. JOHNSON - DIRECT EXAMINATION BY MR. DAVIS

17

1 received thirty-six years. Even though you -- taking that
2 into consideration, would you tell him to plead guilty?

3 A. I think I still would have. I probably would have
4 tried to put up more to try to mitigate his sentence in
5 that he should have gotten something less than what the
6 shooter got. But as I say, I have no control over the
7 judge and what the judge decide.

8 So, under the circumstances -- I mean, I was given a
9 bad hand. I had no defense, and everybody was out for
10 blood, and it was my attempt to try to save him. I mean,
11 I'm a defense attorney. It doesn't pay me for my clients
12 to get forty, forty-seven years. Who wants to hire a
13 defense attorney that clients gets forty-seven years? So,
14 I did not go in there with that intent and, and I still
15 think that the sentence was a little severe, but at that
16 time I did the best I could.

17 Q. All right, and even though all four pled guilty in
18 front of Henry McKellar, the Honorable Henry McKellar.

19 A. That's correct.

20 Q. You can't really explain the disparity between the,
21 the -- Mr. Murphy fired the fatal shot, which he received
22 forty-three years, and Mr. Mayo. You can't explain the
23 disparity?

24 A. The only the only thing I can under -- only thing I
25 can think of that is, as I said, there was some testimony

C. JOHNSON - CROSS-EXAMINATION BY MR. CORNEY

18

1 at sentencing indicated that Mr. Mayo might have been the
2 shooter at another scene, at another location, discharging
3 firearms at another situation. And then there was some
4 indication that Mr. Mayo, as well as some of the other
5 co-defendants, after the murder went to Wildwood and robbed
6 somebody at gunpoint that same night.

7 MR. DAVIS: Mr. Johnson, I appreciate your time.

8 THE COURT: Yes, sir.

9 MR. CORNEY: Very briefly, Your Honor.

10 CROSS-EXAMINATION BY MR. CORNEY:

11 Q. The sentences that Mr. Mayo received were within the
12 statutory limits, correct?

13 A. Correct.

14 Q. So, after the motion for reconsideration was denied,
15 do you think that that would have been a meretricious issue
16 to raise on appeal?

17 A. Well, I know that it would have been a weak issue to
18 raise on appeal. However, as far as whether it was merit
19 -- I think that there, there was -- the appeal that I
20 applied was basically to check to make sure I didn't miss
21 anything.

22 Q. Okay, and you said that Mr. Mayo never specifically
23 asked you to appeal his pleas?

24 A. No. He didn't specifically ask me, but I knew he
25 wanted me to appeal because he was shocked as to his

C. JOHNSON - REDIRECT EXAMINATION BY MR. DAVIS

19

1 sentence.

2 MR. CORNEY: That's all the questions I have, Your
3 Honor.

4 MR. DAVIS: One additional question, Your Honor.

5 REDIRECT EXAMINATION BY MR. DAVIS:

6 Q. Mr. Johnson, just based on the evidence that you
7 looked at, did you hire a personal investigator to go out
8 and to do -- to research the evidence?

9 MR. CORNEY: Your Honor, I'm going to, I'm going to
10 object to that question. We're here just solely on the
11 belated direct appeal issue, and potentially that's newly
12 discovered issue he's trying to raise and any other
13 allegations of ineffective assistance of trial counsel.

14 MR. DAVIS: And I'll withdraw my question, Your Honor.

15 THE COURT: All right.

16 MR. CORNEY: Thank you.

17 THE COURT: You may step down.

18 WITNESS: Thank you. Your Honor, may I be dismissed?

19 THE COURT: Yes, sir. You're excused.

20 (THE WITNESS EXITS THE STAND.)

21 MR. DAVIS: Your Honor, at this time we'd like to call
22 Cichey Mayo.

23 CICHEY MAYO, BEING DULY SWORN,

24 TESTIFIES AS FOLLOWS:

25 DIRECT EXAMINATION BY MR. DAVIS:

C. MAYO - DIRECT EXAMINATION BY MR. DAVIS

20

1 Q. Mr. Mayo, would you please state your name for the
2 record?

3 A. Cichey Mayo.

4 Q. And, Mr. Mayo, why are you bringing this application
5 today?

6 A. To state the claim of my Sixth Amendment violation of
7 my constitutional right to effective defense of my trial
8 counsel.

9 Q. On what grounds do you base this claim?

10 A. On the material facts supported by the record that my
11 trial attorney failed to inform or advise me after I was
12 sentenced that I had the right to file a direct appeal.

13 MR. CORNEY: Objection, Your Honor. He's reading
14 directly off a piece of paper. This is pre-prepared
15 testimony that he's giving right now. It's not live
16 testimony. I mean, he's reading directly off a piece of
17 paper.

18 WITNESS: I made copies to the law, what I knew. What
19 I write, I can read.

20 MR. CORNEY: I'm not going to answer your question.
21 I'm speaking to the judge, and I'm objecting.

22 MR. DAVIS: That is what's going on here, Your Honor.

23 MR. CORNEY: If he wants to refresh his memory as to
24 case law ---

25 MR. DAVIS: Right.

C. MAYO - DIRECT EXAMINATION BY MR. DAVIS

21

1 MR. CORNEY: --- or something off that piece of paper,
2 I'm fine with it. But to read his answers directly off ---

3 WITNESS: Well, this ---

4 MR. CORNEY: --- a pre-prepared ---

5 THE COURT: Sir, I'm the judge. This is not a
6 conversation between the two of you.

7 Go ahead, sir.

8 MR. DAVIS: Okay.

9 BY MR. DAVIS:

10 Q. And, Mr. Mayo, just put the questions down to the
11 side. We're having a conversation here.

12 Mr. Mayo, why did Mr. Johnson not take the necessary
13 steps to file the direct appeal? Well, excuse me. Did you
14 -- let me rephrase that. In light of Mr. Johnson's
15 testimony, did you know Mr. Johnson ever filed an appeal?

16 A. No, I never knew he filed anything, but after the
17 trial I asked him. You know, forty-seven years, where do I
18 go from here and what's next?

19 Q. Did you know he filed a motion to reconsider?

20 A. No.

21 Q. Did you -- what did you say after the trial to show
22 that you wanted him to file these motions?

23 A. I asked him. I got forty-seven years. What do we do
24 next?

25 Q. And what have you learned since your incarceration

C. MAYO - DIRECT EXAMINATION BY MR. DAVIS

22

1 about the appeals process?

2 A. What I learned about the appeal process?

3 Q. Yes.

4 A. That, that it, it was his duty to inform me about a
5 direct appeal after he was representing me.

6 Q. And it -- under Mr. Johnson's testimony, he did appeal
7 the conviction, but he appealed it late. Is that ---

8 A. It, it, it, it, it wasn't in time.

9 Q. Right.

10 A. And due to the fact that I didn't know anything about
11 law, it's like I'm being punished for a mistake that he
12 caused on my behalf.

13 Q. Right. So, you believe, it's your testimony you were
14 prejudiced by, by Mr. Johnson filing a late appeal.

15 MR. DAVIS: Beg the court's indulgence, Your Honor.

16 (A PAUSE.)

17 Q. What consequence did you have by trial counsel failing
18 to inform you of your right to appeal?

19 A. What you mean?

20 Q. What -- how did, how did it impact you that Mr.
21 Johnson never communicated with you after the trial, and he
22 never told you about the motion to appeal? That he never
23 discussed the trial with you?

24 A. Due to the fact that I, I asked him what did I --
25 where we go from here? Forty-seven years, that's kind of

1 harsh. He -- it was more or less, you know, I'm not your
2 attorney anymore, and that's the last time I heard from
3 him.

4 Q. Mr. Mayo, would you explain your educational
5 background to the court?

6 A. Well, you know, I had psychiatrists and everything
7 come to speak on my behalf because they have me labeled
8 emotionally disabled, unable to control my impulse and have
9 learning disabilities. And I had counsel -- I mean,
10 psychiatrist come to the court on my behalf, and to this
11 day they, they, they still -- failure to give evaluation or
12 anything.

13 Q. Mr. Mayo, how old were you on the August 22, 2001,
14 which is when the alleged incident took place?

15 A. Seventeen.

16 Q. At that time did you -- how far had you gotten in
17 school? How far of an education did you obtain?

18 A. I was, like I said, I was in the eleventh grade, but I
19 was in the learning disability and E.H. and emotionally
20 handicapped classes. So, it took me kind of longer to
21 grasp things than other individuals.

22 Q. Could you comprehend Mr. -- what Mr. Johnson told you
23 about pleading guilty?

24 A. Basically he was afraid that if, if I proceeded, that
25 I was going to get the death penalty, and it was more like

C. MAYO - DIRECT EXAMINATION BY MR. DAVIS

24

1 coercion to plead, to take the little bit of time and try,
2 you know, just run with it.

3 Q. And did Mr. Johnson communicate with you all the
4 evidence the solicitor's office had against you?

5 A. No, because due to the fact that the statement that
6 they had, they convicted me of a co-defendant's statement,
7 and that co-defendant got caught with, you know, guns in
8 his possession with fingerprints.

9 Q. Did you have a gun on you on the day of the alleged
10 incident?

11 A. No, sir.

12 Q. Has Mr. Johnson explained to you the hand of one, the
13 hand of all theory?

14 A. He had went over, but he didn't quite, you know,
15 explain it.

16 Q. Did he discuss that you'll have to serve day for day
17 for a guilty plea to murder?

18 A. No, sir. He was -- because he was trying to more or
19 less get me the lesser time due to the fact that I wasn't
20 -- you know, any type gun or anything. I just been there.

21 Q. And, Mr. Mayo, the attorney general has a form that
22 you signed waiving your appeals right. Do you remember
23 signing this form?

24 A. I, I believe I remember signing something, but it --
25 at the time, it was too late because it already had been,

C. MAYO - DIRECT EXAMINATION BY MR. DAVIS

25

1 you know, denied due to the fact that Mr. Charlie Johnson
2 had failure to put it in with the normal -- on the right
3 time schedule. So, it was really dead anyway.

4 Q. Why did you sign the form? Did you know what you were
5 signing when you signed the form?

6 A. No knowledge because I had -- I wasn't in contact with
7 Mr. Johnson, which was my counsel at the moment. I was
8 just listening to, you know, people that was locked up
9 trying to help me.

10 Q. And, Mr. Mayo, one of the solicitor's -- the attorney
11 general's allegations are it's been ten years since the
12 incident occurred. Did you just have -- how did you know
13 that you had missed your appeals right? Were you recently
14 informed? How did this come to light?

15 A. By going to the law library every chance I get and
16 communicating with elder individuals that know a little
17 more about law than I do.

18 Q. So, when did you find out that you had a legal right
19 to appeal to the claim?

20 A. Approximately, probably not even a year ago.

21 Q. And this was, this process was never communicated with
22 Mr. Johnson?

23 A. No, it wasn't.

24 Q. Would you please state all the other reasons you
25 believe Mr. Johnson was ineffective in providing legal

C. MAYO - DIRECT EXAMINATION BY MR. DAVIS

26

1 services?

2 A. Due to the fact he, he, he never let me know about a
3 co-defendant's statement that could have gotten me
4 forty-seven years if my co-defendant, you know, is the
5 actual shooter in the situation. It's like they dropped
6 the charges on him and pled me with them, and I ain't know
7 anything about the law. And by him telling me to plea so I
8 won't get the death penalty, I listened to my attorney at
9 the time.

10 Q. All right and, Mr. Mayo, as we've discussed back in
11 Lee County and today, today's your day in court. Is it --
12 what else would you like to tell the court?

13 A. I would, I would like the judge to know I feel as if
14 it's prejudice going on dealing with me due to the fact
15 that a federal prosecutor was killed and, and my situation.
16 And they know who did the shooting and the murdering, but
17 they still have me charged with it and gave me the most
18 time out of all, and I ain't even carry a gun, shoot no gun
19 or nothing.

20 MR. DAVIS: Mr. Mayo, I appreciate your testimony.
21 Please answer any questions the attorney general has for
22 you.

23 MR. CORNEY: If I may approach the witness very
24 quickly?

25 THE COURT: Yes, sir.

C. MAYO - CROSS-EXAMINATION BY MR. CORNEY

27

1 CROSS-EXAMINATION BY MR. CORNEY:

2 Q. Mr. Mayo, if you would take a look at this and tell me
3 if you can identify it, and I'll flip it over for you.

4 A. An affidavit.

5 Q. Is that your signature there at the bottom of it?

6 A. Yes. Yes, it is.

7 Q. That is your signature, and if you would just on the
8 first page just read to me what, what this thing is
9 entitled?

10 A. Appeal from Richland County from Judge Henry McKellar,
11 Case 2001.

12 Q. Okay, and just right underneath that right here?

13 A. Notice by Appellant to Withdraw the Appeal Pending in
14 this Case Pending before the Honorable Court.

15 Q. All right. This is an affidavit with your signature
16 on it right there. That's entitled a Notice by the
17 Appellate to Withdraw the Appeal Pending before -- Pending
18 in the Case Pending before This Honorable Court. Correct?

19 A. Okay.

20 MR. CORNEY: All right, at this time, Your Honor, the
21 state would move to introduce this as part of the record as
22 State's Exhibit 1.

23 BY MR. CORNEY:

24 Q. So, that's your signature right there on it saying
25 that you don't want to appeal the guilty plea, correct?

C. MAYO - CROSS-EXAMINATION BY MR. CORNEY

28

1 A. Exactly, but that wasn't due in time enough for me to
2 actually apply for it.

3 MR. CORNEY: I apologize. I moved to introduce it,
4 and I apologize. I don't know if it was introduced as part
5 of the record or not.

6 THE COURT: It's admitted.

7 MR. CORNEY: Admitted as State's 1. Thank you, Your
8 Honor.

9 THE COURT: Any objection?

10 MR. DAVIS: No objection.

11 THE COURT: Admitted without objection.

12 (AFFIDAVIT OF C. MAYO MARKED INTO EVIDENCE AS STATE'S
13 EXHIBIT NUMBER 1.)

14 BY MR. CORNEY:

15 Q. Okay. So, I just to -- I'm sorry, Mr. Mayo, if you
16 would just, just repeat what you said a minute ago. I want
17 to make sure we got that all on the record there. You did
18 sign this saying you wanted to withdraw your right to
19 appeal, correct?

20 A. Exactly, but when it happened, I could -- my time had
21 expired because my lawyer at the time, which was Charlie
22 Johnson, appealed it and it was late anyway, and he can
23 verify that.

24 Q. And this was filled out in 2002? Is that when you
25 signed this? Do you recall?

1 A. I think.

2 Q. All right. So, since 2002, I mean, obviously when you
3 signed this, you knew there was such thing as an appeal. I
4 mean, you signed this document saying you wanted to
5 withdraw your appeal. So, you knew there was such thing as
6 an appeal at that point in time.

7 A. That was with -- that was without counsel and
8 listening to other people that was locked up along with me
9 and had a little more experience. And when I did, did
10 that, my time had ran out already due to the fact that Mr.
11 Charlie didn't do it in time.

12 Q. Okay.

13 MR. CORNEY: And, Your Honor, I don't know. To be
14 honest with you, I don't know how to go about introducing
15 -- I have the original here that was received by our
16 office, and I don't think you can take judicial notice of
17 it or how, how it would work, receiving that notice to
18 withdraw December 16, 2002, which was after the remittitur
19 was submitted, but I don't know. I can go about
20 introducing -- if you take judicial notice of that, or if
21 you want me to, to get a copy of that, this original hand
22 signed withdrawal notice that's part of the record is date
23 stamped.

24 THE COURT: Yes, sir. That would be appropriate.

25 MR. CORNEY: Okay, and that's, that's all in the file.

1 THE COURT: You can use that and then later substitute
2 a copy.

3 MR. CORNEY: All right, and this is the copy of the
4 notice: I, appellant, withdraw the appeal. Date stamped by
5 the Attorney General's Office on December 16, 2002, and we
6 will supplement a copy of it in a minute, but State's
7 Exhibit Number 2. Unfortunately, I don't think I have a
8 filed copy from the court.

9 THE COURT: All right.

10 MR. CORNEY: Thank you, Your Honor.

11 (NOTICE OF WITHDRAWAL MARKED INTO EVIDENCE AS STATE'S
12 EXHIBIT NUMBER 2. ORIGINAL DOCUMENT MARKED AND A COPY
13 SUBSTITUTED FOLLOWING THE HEARING.)

14 MR. CORNEY: All right, I believe that's all the
15 questions I have for the applicant, Your Honor, Thank you.

16 THE COURT: Anything further?

17 MR. DAVIS: Nothing further, Your Honor.

18 THE COURT: All right. Thank you, sir. You may step
19 down.

20 (THE WITNESS EXITS THE STAND.)

21 THE COURT: Next witness.

22 MR. DAVIS: That's all, Your Honor.

23 THE COURT: All right, by the state?

24 MR. CORNEY: No witnesses from the state, Your Honor.
25 Just a brief closing.

1 THE COURT: All right, be happy to hear from you.
2 First by the defense.

3 MR. DAVIS: All right. Your Honor, you, you do have
4 the jurisdiction to hear this motion today. The statute of
5 limitations does not apply. I want to hand up, if it's
6 appropriate for me to approach, a case, *State vs. Wilson*.
7 This case states that if the applicant does not have
8 knowledge of his right to appeal, then the statute of
9 limitations, the one-year statute of limitations does not
10 apply.

11 THE COURT: Say that again, please.

12 MR. DAVIS: The case stands for the proposition that
13 if the applicant does not have knowledge of his right to
14 appeal, then the statute of limitations does not apply.

15 Your Honor, we've put forth evidence today showing
16 that Mr. Mayo has -- who's been in remedial classes, and he
17 is an uneducated -- he's not had any real training. His
18 attorney, Mr. Johnson, filed his right to appeal on his own
19 behalf, but Mr. Mayo was never advised of his appeal and
20 did not have any knowledge of the appeals process. So, Mr.
21 Mayo does not believe that he was ever given a fair chance
22 to appeal his forty-seven year incarceration sentence. But
23 based on that, Your Honor, we move that the court allows
24 the right to file an appeal in this matter.

25 THE COURT: All right. yes, sir

1 MR. CORNEY: Thank you, Your Honor. The state would
2 start by just renewing our motion to dismiss all
3 allegations of ineffectiveness against Mr. Charlie Johnson
4 under 17-27-45(a) on the statute of limitations. He filed
5 this application roughly I believe ten years after the plea
6 was entered. So, on any grounds he raised as to Mr.
7 Johnson not getting evaluation, anything along those lines
8 -- I know he testified to a couple of things that were
9 ineffective assistance of counsel claims outside of a
10 belated direct appeal or newly discovered evidence. And to
11 those regards, just for protection of the record, the state
12 would move to dismiss those allegations as untimely filed.

13 Regarding the belated direct appeal, Your Honor, I
14 think that the state's exhibit introduced with Mr. Mayo's
15 signature on it which he identified as his own and having
16 been received by our office in December of 2002 clearly
17 indicates he knew there was the ability to appeal the plea.
18 He sat on his rights from that day until the PCR
19 application was filed in this current action on October 3,
20 2011. So, we're talking nearly eleven -- nine years,
21 excuse me, from the time he knew he had a right to appeal,
22 at very least, when he made a motion to withdraw his appeal
23 until he filed the current PCR application.

24 Not only is he outside the one-year statute of
25 limitations to bring this action, but the state would also

1 rely on the equitable Doctrine of Laches at this point in
2 time as there will be no -- the state is prejudiced in
3 defending the action at this point as the plea transcript
4 won't exist anymore. It's Court Administration's procedure
5 to destroy all transcripts after five years of storing
6 them. Having been a 2002 plea that hasn't been produced to
7 date for an appeal, 2007 would likely be when Court
8 Administration destroyed copies or any documents relating
9 to his underlying plea, any of those transcripts. So, they
10 don't exist.

11 And Mr. Mayo's knowing, knowingly sitting on his
12 rights for roughly nine years has prejudiced the state in
13 the ability to get the underlying plea transcript at this
14 point in time. And so the state would additionally rely on
15 the equitable Doctrine of Laches, having been prejudiced by
16 Mr. Mayo's sitting on his rights for an unreasonable amount
17 of time and not exercising due diligence in bringing this
18 action forward. Thank you very much, Your Honor.

19 THE COURT: All right. Yes, sir.

20 MR. DAVIS: Your Honor, in response, I think the key
21 question for the court is whether or not Mr. Mayo had
22 knowledge of his right to appeal. A Laches or any
23 equitable doctrine does not apply under *Whitehead vs. State*
24 unless the applicant had knowledge that -- of his right to
25 appeal in this case. And I'm going to submit the case for

1 the court of *Whitehead vs. State* which stands for the --
2 stands for that proposition.

3 And also this -- the state also has to show for
4 Laches, for Laches to apply that the state is prejudiced by
5 the time. They have to show more than the time period has
6 expired. They have to show that it was prejudiced, and I
7 would submit that to the court. Thank you, Your Honor.

8 (A PAUSE.)

9 THE COURT: All right, I'll take it under advisement
10 and review all these things that you all have passed up.

11 MR. CORNEY: Thank you, Your Honor.

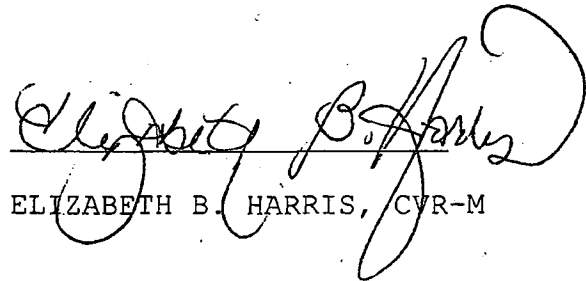
12 MR. DAVIS: Thank you, Your Honor.

13 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 18TH DAY OF OCTOBER, 2012.

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



ELIZABETH B. HARRIS, CVR-M

COLUMBIA, SOUTH CAROLINA

AUGUST 25TH, 2013

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Cichey Mayo, # 284692,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2011-CP-40-06548

ORDER OF DISMISSAL
(White v. State Belated Direct Appeal)

RICHLAND COUNTY
FILED
2013 MAR -4 PM 2:08
JEANETTE W. McBRIDE
CLERK, S.C. & G.S.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 3, 2011. The State filed a Return and Motion to Dismiss requesting the matter be summarily dismissed as untimely filed under S.C. Code § 17-27-45(a). Pursuant to this request, a Conditional Order of Dismissal was issued on April 24, 2012, by the then Chief Administrative Judge for the Fifth Judicial Circuit, the Honorable James R. Barber, III., provisionally dismissing the action while allowing Applicant thirty (30) days to submit his opposition. After receiving Applicant's *pro se* objections, Judge Barber ordered the matter be set for evidentiary hearing solely on the issue of Applicant's entitlement to a belated direct appeal of his plea pursuant to White v. State¹. Counsel was appointed to Applicant thereafter and an evidentiary hearing was convened solely into that issue on Thursday, October 18, 2012, at the Richland County Courthouse. Applicant was present at the hearing with counsel, Wilson Davis, Esquire. The Respondent was represented by Robert D. Corney of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Applicant's former plea counsel, Charlie J. Johnson, Jr., Esquire. Also before this Court were copies of the records of the Richland County Clerk of Court and Applicant's records from the South Carolina

¹ White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

Department of Corrections, as well documents introduced by Respondent during the hearing regarding Applicant's withdrawal of the previous appeal.

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was true bill indicted at the September 2001 term of the Richland County Grand Jury for Murder, Assault and Battery with Intent to Kill, Armed Robbery and two (2) counts of Attempted Armed Robbery (2011-GS-40-06648 through -6651; -6696). He was represented by Charlie J. Johnson, Jr., Esquire, on the charges. On June 4, 2002, Applicant appeared before the Honorable L. Henry McKellar, where he pled guilty to all charges as indicted. He was sentenced to forty-seven (47) years imprisonment for Murder, thirty (30) years imprisonment for Armed Robbery, twenty (20) years imprisonment for Attempted Armed Robbery and twenty (20) years imprisonment for ABWIK. All sentences were set to run concurrently.

A notice of appeal was filed, but dismissed by order of the South Carolina Supreme Court on October 28, 2002, as untimely filed. The remittitur was issued November 15, 2002.

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

The record of the proceeding will establish the supporting fact that trial counsel failed to inform me of my right to appeal the plea, conviction, and sentences imposed on me on June 4, 2002. At a date circa August, 2011, it was made known to me by a law clerk at Lee Correctional Institution that my trial counsel's OSCA 6th Amendment duty to effectively represent me did not end

at the moment I was sentenced, but that their duty extended to counsel's obligation of fully informing me of my right to appeal the sentences imposed on me. Further supporting fact declares that trial counsel was responsible to inform me to the point of determining if I desired to appeal, or, if I would choose to waive my right to appeal proceedings by signing a waiver on the record. Present discovery of counsel's failure to fully inform me of my choice to appeal or waive appeal serves as the motivating factor for the filing of this Application for Post-Conviction Relief. These supporting facts firmly establish my claim that I never made a knowing, intelligent, nor voluntary waiver to abandon my appeal rights. The fact of the record establishes that I did not make any decision at all. Because of trial counsel's failure, I was not aware that I had a choice to make after my plea proceeding and sentencing was completed. I believe, in good faith, that the supporting facts presented herein satisfy the requisite showing for the grant of a belated appeal from my conviction and sentencing.

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) Was unaware of any right to appeal due to counsel's failure to inform
 (b) _____
 (c) _____

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985) and Marlar v. State, 375 S.C. 407, 653 S.E.2d 266 (2007)..

Ineffective Assistance of Counsel

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors,

he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Direct Appeal

The sole allegation before this Court is whether Applicant is entitled to a belated direct appeal of his 2002 guilty plea before Judge McKellar pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). Specifically, Applicant contends he did not know about the right to appeal from his plea and, therefore, did not knowingly and intelligently waive his right to appeal.

Applicant testified at the PCR hearing he was never aware of his ability to file a motion for reconsideration or the right to file a direct appeal after the entry of his guilty plea, but alleged he did ask counsel after the plea hearing "what [to] do next". Applicant said he filed the current PCR application after he learned counsel was required to file an appeal if Applicant said he wanted one. He went on to note counsel filed an *untimely* notice of appeal, but Applicant said that was done without ever discussing such a filing with counsel. Applicant went on to say he remembered signing a form requesting the direct appeal be withdrawn, a copy of which was later introduced to this Court. In conclusion, Applicant said it has been ten (10) years since the entry of his plea, but he filed the current action as he just recently found out about his right to appeal by independently researching the law.

Counsel testified he was retained to represent Applicant on the charges as he was close friends with Applicant's father and mother. He noted he did not charge them any fee for his services. Counsel stated he advised Applicant to plead guilty to the charges after reviewing the discovery file with Applicant, which contained several witness statements identifying Applicant as one of the shooters. Counsel noted the case involved the murder of a U.S. Attorney visiting the Columbia area for a legal conference, making it a high profile case. Counsel said he filed a

motion for reconsideration of the sentence after Applicant's entry of the plea, which he discussed with Applicant prior to filing as there was some risk to the post-trial motion because Applicant had not received the most severe sentence possible. Counsel said he did not advise Applicant of the right to appeal following the denial of the motion to reconsider and said Applicant never requested an appeal be filed. Counsel testified he filed the appeal on Applicant's behalf as he knew Applicant wanted to appeal the sentence imposed. Counsel noted Applicant was never even aware a notice of appeal had been filed until after the appeal was dismissed. He also stated the appeal was dismissed due to his failure to set forth the date on which he received written notice of the court's denial of the motion to reconsider. Counsel finished by stating the sentence imposed was within the statutory limits and he did not believe Applicant had any defense to the charges which could have been presented at trial.

This Court finds Applicant's claim for a belated direct appeal is without merit. As a preliminary note, this Court finds Applicant's testimony to be **not** credible, while conversely finding counsel's testimony to be credible.

First, Applicant's claim that counsel failed to review the right to appeal with him, if taken as true, is insufficient to entitle him to a belated appeal. Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to direct appeal from a guilty plea. Roe v. Flores-Ortega, 528 U.S. 470 (2000). The South Carolina Supreme Court has applied this standard to a guilty plea setting as well, saying:

...absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to appeal

from a guilty plea... The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. Instead, there must be proof that extraordinary circumstances exist such that the defendant should have been advised of the right to appeal.

Weathers v. State, 319 S.C. 59, 459 S.E.2 838 (S.C. 1995). Therefore, even if taken as true, an allegation that counsel did not inform Applicant of the right to direct appeal is not *per se* reason to warrant a belated direct appeal. Applicant's testimony alleging he asked counsel "where to go from here" after the plea is not a request to file a notice of appeal. Such a comment gives rise more so to counsel's duty to file a motion to reconsider, which Applicant then filed as a result of that comment by Applicant. From that point on, counsel's credible testimony reflects Applicant never requested an appeal. Accordingly, Applicant's contention that he was never advised of the right to appeal is insufficient to warrant a grant of belated direct appeal.

Further, the record before this Court is clear in establishing that, even if Applicant was unaware of his right to appeal following the plea, he was aware of such a right by December 16, 2002. According to the evidence before this Court, it was on that date Respondent received and time-stamped Applicant's "Notice by the Appellant to Withdraw the Appeal Pending" with the Court of Appeals. Applicant readily conceded the signature on the document was his own. Therefore, it is clear that regardless of his knowledge about the right to appeal directly following his plea, Applicant was aware of his right to appeal when he submitted the *pro se* notice of withdrawal on December 16, 2002. Therefore, the current allegation is untimely raised by Applicant as the current claim for belated direct appeal would have had to be raised within one year of when he discovered the right to appeal, i.e. December 17, 2003. See S.C. Code § 17-27-45(c). The current action was filed October 3, 2011, nearly eight (8) years after the time to bring

such a claim had expired. Therefore, the current action is untimely filed and raised, as Applicant failed to exercise due diligence in pursuing the requested relief.

Finally, this Court finds the current claim must be denied as it is barred under the equitable doctrine of laches. To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. This requirement "guards the state's legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years ago, where records and witnesses are no longer available." McElrath, 276 S.C. at 283. Rule 9(a) of the Federal Habeas Corpus Act recognizes the doctrine of laches. The Rule states in pertinent part:

A petition may be dismissed if it appears that the state of which the Respondent is an officer has been prejudiced in its ability to respond to the Petition by delay in its filing unless the Petitioner shows that it is based on grounds of which he could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the state occurred.

Furthermore the South Carolina legislature has recognized this problem and instituted a one year statute of limitations.. See S.C. Code Ann. §17-27-45(a).

The Applicant's delay has greatly prejudiced the Respondent's ability to defend the action on direct appeal. A transcript of the Applicant's guilty plea is now likely unavailable. Additionally, it is likely evidence related to the case may have been destroyed and witnesses memories have faded. If Applicant had sought the current relief within a reasonable time after becoming aware of his right to direct appeal, this problem would not exist. Therefore, this Court summarily dismisses the Application based on the Applicant's lack of diligence in processing his claim for relief.

Accordingly, this Court finds Applicant is not entitled to relief and the current application must be denied and dismissed with prejudice.

After a thorough review of the record and testimony presented to this Court, Applicant has failed to carry his burden in this action. Therefore, this Court finds the current application must be denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice. Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 458 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

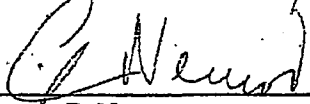
This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your

attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 27th day of February, 2013.


CLIFTON B. NEWMAN
Presiding Judge
Fifth Judicial Circuit

Kingstree, South Carolina.

IN THE SUPREME COURT
FOR THE STATE OF SOUTH CAROLINA

of States
10-18-12

CICHEY L. MAYO,

APPELLANT

V.

STATE OF SOUTH CAROLINA

RESPONDENT

APPEAL FROM RICHLAND COUNTY
FROM JUDGE L. HENRY McKELLAR.
CASE # 2001-GS-40-6648

NOTICE BY THE APPELLANT TO WITHDRAW
THE APPEAL PENDING IN THIS CASE
PENDING BEFORE THIS HONORABLE COURT.

CICHEY L. MAYO
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Lee Correctional Inst.
Richland Dorm-147
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For The Appellant

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P.O. Box 11549
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For The Respondent

Attorney Charlie Johnson Jr.
1338 Main St. Suite # 607
Columbia, S. C. 29201
Court Appointed Attorney

IN THE SUPREME COURT
FOR THE STATE OF SOUTH CAROLINA

CICHEY L. MAYO,

APPELLANT

V.

STATE OF SOUTH CAROLINA

RESPONDENT

CERTIFICATE OF SERVICE BY MAIL.

The Appellant herein affirms to this Honorable Court under the penalty of perjury that he served a copy of the Notice to Withdraw This Appeal on the Attorney for the Respondents and the Court Appointed Attorney this date in the U. S. Mail proper postage affixed addressed as follows;

The Attorney General
P. O. Box 11549
Columbia, S. C. 29211

Attorney Charlie Johnson Jr.
1338 Main St. Suite # 607
Columbia, S. C. 29201


Cichey L. Mayo
Lee Correctional Inst.
Richland Dorm-147
990 Wisacky Hwy.
Bishopville, S.C. 29010

SWORN AND SUBSCRIBED BEFORE ME THIS;

_____ day of _____, 2002

Notary Public of South Carolina

My Commission Expires _____

02-5559
Box 372

IN THE SUPREME COURT
FOR THE STATE OF SOUTH CAROLINA

State's
2
10-18-10

CICHEY L. MAYO,

APPELLANT

v.

STATE OF SOUTH CAROLINA

RESPONDENT

APPEAL FROM RICHLAND COUNTY
FROM JUDGE L. HENRY McKELLAR.
CASE # 2001-GS-40-6648

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ATTORNEY GENERAL'S OFFICE
RECEIVED 12-16-02
ADMINISTRATIVE SERVICES

Attorney Charlie Johnson Jr.
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Columbia, S. C. 29201
Court Appointed Attorney

IN THE SUPREME COURT
FOR THE STATE OF SOUTH CAROLINA

CICHEY L. MAYO,

APPELLANT

V.

STATE OF SOUTH CAROLINA

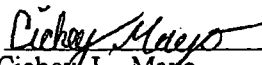
RESPONDENT

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The Attorney General
P. O. Box 11549
Columbia, S. C. 29211

Attorney Charlie Johnson Jr.
1338 Main St. Suite # 607
Columbia, S. C. 29201


Cichey L. Mayo
Lee Correctional Inst.
Richland Dorm-147
990 Wisacky Hwy.
Bishopville, S.C. 29010

SWORN AND SUBSCRIBED BEFORE ME THIS;

_____ day of _____, 2002

Notary Public of South Carolina

My Commission Expires _____

IN THE SUPREME COURT
FOR THE STATE OF SOUTH CAROLINA

CICHEY L. MAYO,

APPELLANT

V.

STATE OF SOUTH CAROLINA

RESPONDENT

APPEAL FROM RICHLAND COUNTY
FROM JUDGE L. HENRY McKELLAR.
CASE # 2001-GS-40-6648

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Court Appointed Attorney

IN THE SUPREME COURT
FOR THE STATE OF SOUTH CAROLINA

CICHEY L. MAYO,

APPELLANT

V.

STATE OF SOUTH CAROLINA

RESPONDENT

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The Attorney General
P. O. Box 11549
Columbia, S. C. 29211

Attorney Charlie Johnson Jr.
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Columbia, S. C. 29201

Cichey Mayo
Cichey L. Mayo
Lee Correctional Inst.
Richland Dorm-147
990 Wisacky Hwy.
Bishopville, S.C. 29010

SWORN AND SUBSCRIBED BEFORE ME THIS;

_____ day of _____, 2002

Notary Public of South Carolina

My Commission Expires _____