

Illya Salter #270347
Perry Corr. Inst. Q3B-214
430 OAKLAWN Rd.

RECEIVED

FEB 21 2014

S.C. SUPREME COURT

Dear Mr Shearouse please find inclose
my Pro Se response for Writ of Certiorari. In your
letter you said I can raise any and argue all issues
I think the Court should consider in this Appeal.
I did. As you should know I am not versed at law
so im not sure if I did it right, but I did what
I though was in my favor. I just need you to
look at my Case and you will see that I should
be granted Reliefe due to the fact of law.
The purpose of Constitutional guarantee of rights
to Counsel is to protect and accused from
Conviction resulting from his own ignorance
of his legal and Constitutional rights.
Cruz V. U.S. 247, F Supp. 835

Respectfully Submitted,
S/ Illya Salter

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County
D. Garrison Hill, Circuit Court Judge

ILLYA T. SALTER,

V.

PETITIONER,

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001773

PETITION FOR WRIT OF CERTIORARI

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO BOX-11589
Columbia, S.C. 29211-1589

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RECEIVED

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FEB 21 2014

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Victim/Witness Statement _____ Exhibits A,B,C 22

Motion to Amend dated-(2-12-13)

Argument-(3) is (5) pages.

Conclusion / Exhibits-A,B,C,D,E,F

Affidavit by (Ilyasalter) - and Proof of Service Dated feb 14, 2013

Exhibits-(A) Supreme Court order) - (B) Arrest Warrant

(C) - Indictment (D) - letter to Paul B. Wickensimer

(E) - letter from Paul B. Wickensimer Stating No Time Extension was asked for. (F) - Supreme Court Order - filing Indictments.

ISSUE PRESENTED

- 1) Ineffective Assistance of Counsel -
Whether plea Counsel was ineffective in giving petitioner incorrect sentencing advice?
- 2) Involuntary Guilty Plea - Applicant would have insisted on going to trial if he had known that the Bank Robbery charge was not classified as a most serious offense.
- 3) Failure to investigate and Prepare for a Defense at Trial -
Counsel was ineffective for not inspecting video tape of the in store situation to show that Applicant "Didn't" take anything by force.
- 4) Applicant Due process of Law was Violated - 14th Amendment -
In violation of Article V 34 of the South Carolina Constitution that all criminal cases in S.C. must be disposed of within 180 days.
- 5) Violation of Rule (3) of the S.C.R. Crim P. - According to S.C. Rule (3) of Civil Procedure - (C) the solicitor office violated these rules to timely file an Indictment and Didn't write a written request for a Extension of Time.
- 6) Trial Court lack of Jurisdiction due to the use of Fraud Indictment - Thus if in fact these indictments are fraud there has never been a Crime Charged which fail to confer Jurisdiction upon the trial Court.

FEB 21 2014

STATEMENT

S.C. SUPREME COURT

Pg-11 Line 16-21-Original

On January Transcript of record Guilty Plea before the Honorable G. Ed. The Court. I find there is a substantial county and Pled guilty to Armed factual basis for the Plea, that it Iure to stop for a blue light. has been freely, voluntarily and 36 months were imposed knowingly, and intelligently made by was plea Counsel. Jonathan Gr Mr Salter with the Advice of Competent tan + Solicitor.

(App. p. 1 - p. legal Counsel. I will accept
your Plea Sir.

Petitioner filed an application for post-Conviction relief on June 28, 2011. (App. p. 20 - p. 26)

A presentment of PCR issues was also filed on that date. (App. p. 27 - p. 31) Petitioner also filed an amendment to the application on September 2, 2011. (App. p. 42 - p. 44). Respondent filed a return dated November 1, 2011. App. p. 47 - p. 53). A evidentiary hearing was held on June 18, 2013, before the Honorable D. Garrison Hill. Petitioner was present and was represented by Rodney W. Richey, Esquire. Respondent was represented by Karen C. Ratigan, Assistance Attorney General. Petitioner testified at the hearing. (App. p. 54 - p. 70). On August 1, 2013 Judge Hill issued an order denying and dismissing petitioner application for post-Conviction relief. (App. p. 71 - p. 77).

This petition follows.

ARGUMENT

Plea Counsel was ineffective in giving petitioner incorrect Sentencing Advice.

In post-Conviction, a petitioner may be granted relief based on ineffective assistance of Counsel if he show: (1) That Trial Counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by Counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984); Stalk v. State, 383 S.C. 559, 681 S.E. 2d 592 (2009). With respect to a guilty plea the Second prong above looks at whether defense Counsel's deficient performance affected the outcome of the plea process. Stalk v. State, Supra.

This means that there is a reasonable probability that but for Counsel's errors, the defendant would not have pled guilty but would have insisted on going to trial.

In Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

This usually involves Counsel's giving of incorrect Sentencing advice or legal advice about the Charges against his Client. Hinson v. State, 297 S.C. 456, 377 S.E. 2d 338 (1989).

Ray v. State, 303 S.C. 374, 401 S.E. 2d 151 (1991); Pelzer v. State, 381 S.C. 217, 672 S.E. 2d 790

Jackson v. State, 535 S.E. 2d 926 (S.C. 2000)

Alexander v. State, 402 S.E. 2d 484 (S.C. 1991)

(Ct App. 2009); Morris v. State, 371 S.C. 278, 639 S.E. 2d 53 (2006).

Beside attacking a guilty plea based on ineffective assistance of Counsel, a defendant may challenge the guilty plea on other Constitutional grounds. The United States Supreme Court explained in Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969) that "a plea of guilty is more than admission of conduct; it is a conviction. Ignorance, incomprehension, coercion, terror, inducement, subtle or blatant threats might be a perfect cover-up of unconstitutionality." 395 U.S. at 242-243, 89 S.Ct. at 1712. As the Court in Boykin held, due process of law requires that before a guilty plea can be entered voluntarily and intelligently, a defendant must be advised of his privilege against compulsory self-incrimination, the right to trial by jury, and the right to confront one's accusers. A valid waiver of these rights cannot be presumed from a silent record. 395 U.S. at 243, 89 S.Ct. at 1712. In State v. Armstrong, 263 S.C. 594, 211 S.E. 2d 889 (1975), the Court held that the "essence" of Boykin was to make the requirement of Rule 11 of the Federal Rule of Criminal Procedure applicable to the States. In State v. Patterson, 278 S.C. 319, 295 S.E. 2d 264 (1982), the Court held that for there to be a valid waiver under the due process clause of the three Constitutional rights listed in Boykin the record must clearly establish it

In this Case, Petitioner testified at the evidentiary hearing that he only met with Counsel Two times before his guilty Plea. Counsel told him if he did not Plead guilty to the Charges, the State would Seek a life Sentence without parole. (App. p. 60, line 1 - p. 61, line 6). Petitioner said, if Counsel had not told him about a life Sentence, he would not have pled guilty, but would have insisted on going to trial. (App. p. 63 line 20-25). Respondent did not present plea Counsel as a witness. As noted previously, giving incorrect Sentencing advice Constitutes ineffective assistance of Counsel.

Erroneous Advice on Sentencing or Collateral Consequences That Leads to Plea

Turner v. State, 517 S.E. 2d 442 (S.C. 1999).

Alexander v. State, 402 S.E. 2d 484 (S.C. 1991).

Ray v. State, 401 S.E. 2d 151 (S.C. 1991).

Ninson v. State, 377 S.E. 2d 338 (S.C. 1989).

Conclusion

Petitioner's writ should be granted and his guilty plea should be vacated and the sentence should be vacated as well.

Respectfully Submitted

S/ Illya Salter

Illya Salter #270347
Perry Corr. Inst
430 Oaklawn Rd
Pelzer, S.C. 29669

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

ILLYA TRAMELL SALTER,
S.C.D.C. No. 270347,
Applicant,

VS.

STATE OF SOUTH CAROLINA,
Respondent.

IN THE COURT OF COMMON PLEAS

Case No.:

POST-CONVICTION RELIEF
ISSUES' PRESENTMENT

FILED-CO. COURT
PAUL B. WILKINSON
GREENVILLE CO. SC
JUN 28 AM 11:12

The Applicant submits this document to this Honorable Court to address questions #10 and #11 of the post-conviction relief application attached.

I.

- 10) A) Ineffective Assistance of Counsel?
- 11) A) Failure to investigate and prepare for a defense at trial.

DISCUSSION

(A)

To establish counsel was inadequately prepared to go to trial, an Applicant must present evidence of what evidence could have been discovered and what defense could have been pursued had the case proceeded to trial.

In the present case the victim of the carjacking submitted to producing an unsigned statement to be used as probable cause for an arrest warrant. However, after one has read the statement, it will manifest an understanding that at the time this incident took place the victim's mental state was that of confusion and very conflicting.

Due to the fact he stated in his statement that he was loading his groceries in his trunk and started to drive away when a black male heavy set gray sweat shirt came up to him and said give me your fucking keys and get out of the car.

In analyzing the literal meaning of the English language we find that words ending in the suffix -ing concerns a present action. Thus the victim could not have been in his car and loading his trunk at the same time. Moreover, to show that the victim was on the outside of the car one must understand word phrases and utilize logic. A person does not have a need to ask for one's keys for the purpose of carjacking if the car is already in motion. Therefore if this matter had been submitted to a jury the Applicant could not have been convicted beyond a reasonable doubt as required by In Re Vinship, 90 S. Ct. 1048 (1970), for carjacking because the victim must have been inside the vehicle or operating the vehicle not on the outside. And anything less would reject logic, experience, and common sense.

(B)

Applicant was charged with Armed Robbery for a shoplifting incident at Walmart. In utilizing Mr. McKinney's statement he has stated 'While on the phone with dispatch I asked Sutter to return to the store with me.' This sentence alone provides the knowledge that Applicant had moved the merchandise from inside to the outside of the store without presenting or using a weapon. Armed Robbery is defined as presenting a weapon during the commission of a crime of Robbery, however looking to the facts this "crime" was completed after the Applicant gained access to the outside of the store with no altercation

(2)

with anyone. Therefore if this matter had been presented to a jury Applicant if convicted would have been convicted of a lesser offense than Armed Robbery.

II.

10) B) Involuntary Guilty Plea

11) B) Plea was given under duress and misrepresentation of facts and is a fraud

While plea agreements are a matter of criminal jurisprudence, most courts have held they rest on contractual principles. Yet the analysis of the plea agreement must be conducted at a more stringent level than in a commercial contract because the rights involved are generally fundamental and constitutionally based. Reed v. Becka, 511 S.E.2d 394 (1999).

Moreover, under the separation of powers doctrine, which is the basis for our form of government, the Executive Branch is vested with the power to decide when and how to prosecute a case. Therefore the government is held to a greater degree of responsibility than the defendant (or possibly than would be either of the parties to a commercial contract).

In determining the facts of this issue, it would be wise to understand what duress means? It is define as a condition of the mind produced by improper external pressure or influence that practically destroys the free agency of a party and causes him to do an act or form a contract not of his own volition. Holler v. Holler, 1412 S.E.2d 469 (2005).

Applicant contends he was told that a plea of guilty was in his best interest considering his past record, because proceeding to trial by jury he would get a life sentence without the ~~possibility~~ possibility of parole. When in fact if he had proceeded to trial by jury "if" convicted he would have

only received no more than 30 years if convicted as indicted with all sentences to run concurrent. However, after a careful review of Applicant's record, we find he has an unarmed bank robbery.

Thus, pursuant to S.C. Code Ann. § 17-25-45 (A), a defendant convicted of a most serious offense must be sentenced to life imprisonment without the possibility of parole, or the defendant has one or more prior convictions for a most serious offense or two or more prior convictions for a serious offense.

Therefore, keeping with the language of the law and reviewing Applicant's record, it is clear the facts that influence Applicant's plea of guilty was greatly misrepresented.

Furthermore, where untrue conclusions has been induced by representations of one party, made with the knowledge of their untruth and with the intention of deceiving, it is fraud. To constitute fraud in law there must be a false representation of the facts and the falsity must be known. The South Carolina Supreme Court requires that a defendant entering in a guilty plea be made aware of the nature and crucial elements of the offense, the maximum and any minimum penalty and the nature of the constitutional rights being waived. Pittman v. State, 524 S.E.2d 623 (1999). Also, a contract perpetrated by fraud is voidable and not void until the Applicant has presented the matter to the court.

III.

10) C) Prosecutorial Misconduct

11) C) Failed to follow criminal procedures when acquiring indictments

Applicant was arrested on these charges on December 19, 2009 and was indicted by a grand jury December 14, 2010, pursuant to Rule 3(c)(1-2), S.C.R. Crime P. which is as follows:

(C) Action on Warrant: Within ninety (90) days after receipt of an arrest warrant from the Clerk of Court, the Solicitor shall take action on the warrant by (1) preparing an indictment for presentment to the grand jury, which indictment shall be filed with the Clerk of Court, assigned a criminal case number, and presented to the grand jury; (2) formally dismissing the warrant, noting on the face of the warrant the action taken...

After acknowledging the language of the procedures in which an indictment is to be obtained, we are forced to understand the establishment for rules of procedures and statutes, also the effects of any violation of the procedures and statutes.

Becoming the "fiduciary" under misrepresentation of the Presidential Executive Order issued on March 5, 1933, we volunteered to be citizens of the jurisdiction and all of their laws of the assumed ten square miles of Washington, DC. Once we became 14th Amendment citizens, we entered into a contract with the government to abide by all of their rules and regulation, if not one who is in violation would be held to pay the debt of such violation.

However, the solicitor in this case failed to acknowledge the fact that the government created procedures in which must be followed before a "person" can be legally held to pay the debt for such violation and once the government has failed to follow these procedures the contract becomes void for such violation. Because such conduct by the government violates the defendant's rights to "due process and equal protection of law."

Applicant also reserves his rights to amend this application in the future.

This Amendment I
made before I had
STA Counsel Dated Sept 2-2011
C See Clerk of Court
ILLY Stamp, This Amendment was
not address in Order of Dismissal
See my Conclusion of this Amendment

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

Case No. 2011-CP-230-4280

AMENDMENT TO POST-CONVICTION
RELIEF APPLICATION

FILED
CLERK OF COURT
SEP 10 2011
10:59 AM

Applicant, Iillya Trammell Salter, submits this matter to be amendment to the PCR application that's on file, in support of a demand for relief.

ISSUE

Trial Court lack of jurisdiction due to the use of fraud indictment.

DISCUSSION

Fraud upon the Court is "fraud which subverts the integrity of the Court itself, or is a fraud perpetrated by officers of the Court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication."

There is but one Circuit Court in South Carolina, with uniform subject matter jurisdiction "throughout the state." The Circuit Court is made up of the Court of Common Pleas, which hears civil actions, and the Court of General Sessions, which hears criminal cases. Dart v. Gold Kist, Inc., 442 S.E.2d 598 (1994). Therefore, this issue does not have anything to do with the issue of subject matter jurisdiction.

South Carolina Constitution absolutely requires an indictment by a legally qualified Grand Jury. (Art. I, §11 and Art. V, §22) and hence to try a defendant under an indictment not so found would be to jeopardize the life of the defendant without due process of law, and thus deny him his constitutional rights, both under the constitution of this state, Art. I section 3, and the Federal Constitution's 14th Amendment.

Moreover, it has been well-established that a defendant has a constitutional right to demand that his case be considered by a grand jury which is properly established and constituted under the laws of this state. Evans v. State, 411 S.E.2d 510 (2005). Thus if in fact these indictments are fraud there has never been a crime charged which fail to confer jurisdiction upon the trial court.

In acknowledging the fact that South Carolina afford its citizens the process of being held to answer for a crime upon a presentment of an indictment by a grand jury pursuant to the S.C. Const. Art. I, §11, we are forced to look to the laws of this state that governs such procedure.

S.C. Code Ann. §14-9-170, mandates as follows:

... the grand jury as drawn in accordance with law for service upon the Court of General Sessions in each of the counties shall constitute the grand jury for the County Court and shall meet with the County Court at each of its terms...

S.C. Code Ann. §14-9-210, mandates in relevant part:

... the County Solicitor shall prepare and, through the presiding judge of the Court of General Sessions, submit to the grand jury, while in attendance upon the Court of General Sessions, bills of indictments in all cases pending in the County Court, when such

cases have not been previously acted on by the grand jury...

It is clear by utilizing the literal construction of § 14-9-210 and reviewing the Court Term Calendar for December of 2010, we find that the Court of General Sessions did not convene on the day of December 14, 2010, in Greenville County as indicated on Applicant's indictments. In fact this calendar shows that the Court of General Sessions convened in Greenville County on December 17, 2010. Therefore, these indictments were returned by a grand jury that was not legally in session pursuant to § 14-9-210, and operates as a fraud which fail to confer jurisdiction upon the trial court to accept Applicant's plea.

Furthermore, it has been held that if Applicant's conviction is not based on lawfully sworn-to-indictments, which is tantamount to Aggravated Kidnapping; it is a bar to all prosecution, in accordance to the Constitution of the United States. Hamilton v. McGatter, 772 F.2d 171 (5th Cir. 1985).

CONCLUSION

Applicant has amended this issue to insure that relief granted. Therefore if the State fail to answer this issue in its return, then it admits to this issue being truth. Whitcherd v. State, 574 S.E.2d 200 (2002). And if the Court issue an order without specifically addressing this issue point for point, then it agrees to this issue standing as truth in the public record, in which would entitle Applicant to relief.

Respectfully Submitted,

Ellye T. Salter
Ellye Trameil, Salter
Applicant. Ellye T. Salter

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

ILLYA TRAMELL SALTER, #270347,
Applicant,

vs.

STATE OF SOUTH CAROLINA,
Respondent.

IN THE COURT OF COMMON PLEAS

Case No. 2011-CP-230-4281

PROOF OF SERVICE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
2011 SEP 2 AM 10:59

I, ILLYA TRAMELL SALTER, certify that a true copy of the Amendment to Post-Conviction Relief Application has been served S.C. Attorney General Office at P.O. Box 11549, Columbia, S.C. 29211, by way of United States Mail, through Perry Correctional Institution's Mailroom.

Illya T. Salter
Illya Trameell Salter
Applicant *Illya T. Salter*

Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C. 29669

18th day of August 2011

~~Illya Trameell Salter~~ Illya Trameell Salter

February 21, 2012

Terms of Circuit and Family Court December 2010

Holidays:

Fri Dec 24 - Christmas Eve
Mon Dec 27 - Christmas Day (Observed)
Tue Dec 28 - Day after Christmas (Observed)

Circuit Number	12/6/2010	12/13/2010	12/20/2010	12/27/2010
13	General Sessions Greenville Pyle, C. JOHNSON	Common Pleas Greenville Hill, D. JENKINS	Common Pleas Non- Jury 20 Greenville Simmons, Charles DIGIROLAMO 20	Common Pleas Non- Jury 29 Hill, D. JENKINS 29
	General Sessions Greenville Miller, Edward HERRON	Common Pleas Non- Jury Stilwell, Robin DIGIROLAMO	Common Pleas Non- Jury 20 Miller, Edward HERRON 20	
	Common Pleas Greenville Hill, D. JENKINS	General Sessions Pickens Welmaker, G. HANKS	General Sessions 20 Greenville Stilwell, Robin DIGIROLAMO 20	
	General Sessions Greenville Stilwell, Robin MOFFITT 6 HISKELL 7, 8, 9, 10	General Sessions 17 Greenville Simmons, Charles HERRON 17	Common Pleas Non- Jury 20 Hill, D. HISKELL 20	
	Common Pleas Non- Jury Welmaker, G. HANKS		General Sessions 22 Greenville Stilwell, Robin DIGIROLAMO 22	

Law Office of Lawrence W. Crane

101 WHITSETT STREET
GREENVILLE, SOUTH CAROLINA 29601

LAWRENCE W. CRANE, ESQ.
ELIZABETH P. WIYGUL, ESQ.
[CAROLINE M. HORLBECK, ESQ.]

TELEPHONE (864) 235-2900
FAX (864) 467-1916
TOLL FREE (800) 852-0899

December 20, 2011

Mr. Illya T. Salter #270347
Perry Correctional Institute
430 Oaklawn Rd.
Pelzer, SC 29669

Dear Mr. Salter,

I have been appointed to represent you on your PCR case. Please write me within the next two weeks and tell me the issues you believe are important in your case. Please give me the names, telephone numbers and addresses of witnesses you want me to contact.

Your PCR hearing not been scheduled and I don't know when your PCR hearing will be scheduled. I will contact you as soon as the Court contacts me with the date of your hearing.

I look forward to hearing from you and to working with you on your case.

Yours very truly,

Law Office of Lawrence W. Crane

101 WHITSETT STREET
GREENVILLE, SOUTH CAROLINA 29601

LAWRENCE W. CRANE, ESQ.
CAROLINE M. HORLBECK, ESQ.

TELEPHONE (864) 235-2900
FAX (864) 467-1916
TOLL FREE (800) 852-0899

November 20, 2012

Illya T. Saiters #270347
Perry Correctional Institution
Pelzer, SC 29669

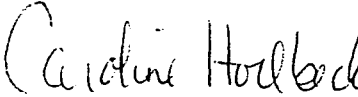
Re: Your Complaint

Dear Mr. Salters:

Thank you for sending me a copy of the complaint you filed against me. I have reviewed it and your letters requesting that I subpoena your witness to court. My normal practice is to subpoena witnesses when the Court notifies me that the case has been scheduled for a definite date and time. After practicing for sixteen years, I've found that there's really no point in serving a subpoena on a witness unless I am able to tell the witness the date and time their appearance is required. Unfortunately, your case has not been scheduled for court. Without that information, I am unable to serve your witness at this time.

Further, I am filing an Order to substitute counsel due to the recent conflict you have created by filing a complaint against me with Disciplinary Counsel. I wish you the best of luck with your PCR case and a happy holiday season.

Yours very truly,


Caroline M. Horlbeck

RICHEY AND RICHEY
ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

RODNEY W. RICHEY
LOLA S. RICHEY

POST OFFICE BOX 10916
GREENVILLE, SOUTH CAROLINA 29603

(864) 467-0503; 1-888-882-4878 Toll Free
(864) 467-0646 FAX

January 15, 2013

Illya Salter SCDC# 270347
Perry Correctional Institute
430 Oaklawn Rd
Pelzer, SC 29669

Re: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

Dear Mr. Salter:

Please find enclosed information I received from the Attorney General's office. This information includes:

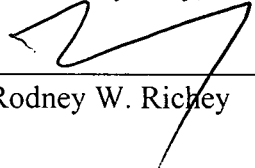
1. Trial transcript. 2. SCDC records 3. PCR Application
4. State's Return 5. Indictments and other info from the Clerk of Court.

Please review this information carefully as it is important to your case. After your review, please contact me with any thoughts you have on this matter. Please note my office does not accept collect calls and I do not complete prison telephone forms.

A hearing is set for your case on February 15, 2013 at 9:30am in Greenville. You will be transported to this hearing. If you want any witnesses to testify on your behalf, please forward their name, address, and telephone number to my office immediately. I will need to notify them about the hearing. Thank you and if you should have any questions, please feel free to write.

RICHEY AND RICHEY, P.A.

Yours very truly,



Rodney W. Richey

RWR/tlg
enclosures

GUILTY PLEA SUMMARY SHEET

DEFENDANT: ILLYA TRAMELL SALTER

LEC: XX

SCDC:

BOND:

JAIL TIME: 19 days (RSG)

0 days (forgery)

8 days (petit larceny)

172 days (as of 6/9/10)

CO-DEFENDANT:

DISPOSITION:

DEF. ATTY: FARNSWORTH, SR,
DANIEL

PH#

INVESTIGATOR: Lesser, Beth

PH #

FACTUAL SUMMARY (ALL ELEMENTS): Forgery – On 3/12/09, this defendant presented a forged check to Palmetto Bank in Simpsonville in GC. The check was made out to this defendant in the amount of \$988.12. The check belonged to Pulpco, Inc. and was drawn on their Palmetto Bank account. The defendant did not have permission to make this check out to himself or cash it.

Petit larceny – On 3/19/09, this defendant was being booked at the Greenville County Detention Center in GC. The defendant reached over the booking counter and stole \$240.00 out of a fellow defendant's personal property bag. This incident was caught on video surveillance.

AR, Shoplifting, FTS, Carjacking, DUS – On 12/19/09, this defendant was seen stealing four pairs of Jeans from Walmart on white Horse Rd. in GC. The defendant left the store without paying for the items, when he was confronted by the LPO. The defendant then pulled out a pair of scissors and swung them at the LPO's head. The defendant then approached Thomas Cox with the scissors and told him to get out of the car. The defendant then left the scene in a high rate of speed causing several car accidents. The arresting officer observed the defendant and blue lighted him to get him to stop. The defendant sped up ran several red lights before wrecking the car. The defendant then attempted to run away on foot before he was apprehended.

IMPORTANT RECORD (CRIMINAL HISTORY ATTACHED):

1995 – Petit larceny

1999 – Fraud check (x7)

2000 – Bank robbery (46 months)

2007 – FTC fraud (x4)

2008 – Shoplifting; Forgery (9 months)

2009 – Shoplifting (x3)

PLEA AGREEMENT:

No recommendation

PER INDICTMENT

CHARGE	CODE	INDICTMENT	SENTENCE
Forgery	16-13-0010	2009GS2305693 (W)	0-5 years
Petit larceny	16-13-0030	2009GS2306746 (W)	0-30 days
Armed Robbery		2010GS2301879 (W)	10-30 years
Carjacking		2010GS2301872 (W)	
Failure to stop for blue light		2010GS2301874 (W)	
Poss of a weapon during the commission of a violent crime		2010GS231807A	0-5 years

OFFICER	DATE NOTIFIED	INPUT	PRESENT
M Kastner			
James Donnelly	6/1/09	Use your discretion	
J. Vandermosten	5/14/09	No recommendation	
C. Palmer	1/26/2010	Use your discretion	
M. Fortner	1/26/2010	Recommends incarceration – repeat offender	
A. Sexton	1/26/2010	Recommends incarceration – prior criminal history and nature of the offense	

Illya Salter #270347

430 OakLawn Rd.

Pelzer, S.C. 29669

Date 1-17-13

Case No: 2011-CP-230-4280

Dear, Attorney at Law: Richey and Richey

Please find enclose the Applicant Motion to Amend to P.C.R. Relief Applaction and, the Applicant has been notified by the Greenville County Clerk Office that you have been Appointed Counsel. Therefore I request for Counsel to motion and Amend my Post-Conviction Relief Application and return to me a Certified Clock Stamp and Wated Copy. The Applicant request for Counsel to request for a motion for Continue showing good Cause in the best intrest wherefore that Client and Counsel hasn't had time to review and discuss Applicant P.C.R. Relief Application. The applicant request for you to Come to Perry Correctional Inst. for a legal Vist, so we may go over Applicant Post-Conviction Relief forms, and view the Video tape of the Shoplifting that took place at Wal-Mart on 12-19-09. Please find a Motion to Subponea the Video Tape as well.

Respect fully Submitted

S/ Illya Salter

Illya Salter #270347

430 OakLawn Rd

Pelzer, S.C. 29668

Illya Salter # 270342
430 OakLawn Rd
Pelzer, S.C. 29669

Case No: 2011-CP-230-4280

Proof of Service

Richey and Richey
Attorney At Law
P.O. Box- 10916
Greenville, S.C. 29603

I Certify that I, Illya Salter has Served
a True Copy upon Counsel by way of U.S. mail
through Perry Corr. Inst mailroom. Certified Copy
Of the Motion to Amend, and Subpoea for Video Tape.

Date: 1-17-13

S/ Illya Salter
Illya Salter
430 OakLawn Rd
Pelzer, S.C. 29669

RECEIVED

JAN 22 2013

P.C.I. MAILROOM

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

Illya Tramell Satter,
Applicant,

CA. No. 2011-CP-23-04280

vs,

Notice And Motion To

State of South Carolina,

Amend Post-Conviction

Respondent.

Relief Application

CLOCK IN TIME CANCELLED

Date

2013 JAN 10 A 1:24

LED-COURT OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER

[Signature]

To Respondent

Now comes the applicant who moves byway of motion before this Honorable Court, Based upon a pending Post-Conviction application, which does require a hearing.

Statement of The Case

On 12-19-2009, the defendant, a black male was observed shoplifting at walmart, identified as Illya Tramell Satter, concealing clothing items into a walmart bag.

The Respondent has false convicted the applicant of Armed Robbery and Carjacking when the Respondent's were only required to charge Applicant with grand larceny of a motor vehicle, and Shoplifting.

Argument I

Trial Counsel prejudiced the Applicant by advice the

Applicant to plead guilty to Armed Robbery and Carjacking, when there is genuine material evidence of Shoplifting and grand larceny of a motor vehicle. Violation of Sixth and Fourteenth amendments.

Legal Advice to plead guilty to Armed Robbery and Carjacking.

Records indicate victim/witness statement given by Mr. Thomas Scott Cox, on 12-19-2009, He was loading his groceries in the trunk, and there is a conflict in this victim statement that is so prejudice and false evidence, that victim could not have been carjacked by the Applicant and trial counsel prejudice the applicant by advice to plead guilty to carjacking. Evidence indicates the victim was putting the keys in the ignition and started car, and Mr. Cox states he gave the applicant keys to the vehicle,

Therefore counsel's advice for the Applicant to plead guilty prejudiced the Applicant by advice to plead guilty to Armed Robbery and Carjacking, carrying Nineteenth years, when there was no evidence in the records showing that the victims were armed robbed by the Applicant. The records does indicate that the victims Anthony Michael McKinney observed a black male Shoplifting and at no point that the Applicant demanded any money from a store cashier at gunpoint inside a Walmart store,

Counsel prejudiced the Applicant by advice to plead guilty to Armed Robbery and Carjacking, see, Exhibits (A), (B), (C). Defendant who pleads guilty on advice of counsel may only attack the voluntary and intelligent character of a Plea by showing that counsel's representation fell below an objective standard of reasonableness demanded of Attorney's in Criminal cases and

there is a reasonable probability that, but for counsel's error, Applicant would not have pled guilty and would have insisted on going to trial, and reasonable probability is "a probability sufficient to undermine confidence in the outcome of the trial". See, Thompson v. State, (S.C. 2000) 340 S.C. 112 S.E. 2d 294.

To establish a claim of ineffective assistance of counsel, a post conviction relief (PCR) Applicant must prove that (1) counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) the deficient performance prejudiced the Applicants case. Thompson v. State, S.C. 2000, 340 S.C. 112, 531 S.E. 2d 294.

The Applicant's alleged ineffective assistance of counsel results from wrongful advice to plead guilty to Armed Robbery and Carjacking. When an ineffectiveness claim is presented the Applicant must show that counsel's representation was deficient. Deficient representation amounts to conduct that is not objectively reasonable under the circumstances Strickland v. Washington, 466 U.S. 668, 688, 104 S.Ct 2052 (1984). In addition, the Applicant must show that the outcome would have been different had counsel's performance not been deficient. Strickland v. Washington At 694. The Applicant submit that trial counsel's degree of skill, knowledge and professional judgement that is expected of an Attorney who practices criminal law. State v. Pendergrass, 270 S.C. 1, 239 S.E. 2d 750 (1977), Strickland Supra, Butler v. State, 286 S.C. 441, 334 S.E. 2d 813 (1985),

Argument 2

Trial Counsel was prejudice, and ineffective for failure to prepare and to conduct a proper pre-trial investigation.

The Applicant submits that he received ineffective assistance of Counsel prior to and during his guilty plea. The Sixth amendment of the United States Constitution guarantees that every Criminal Defendant is entitled to the effective assistance of Counsel in presenting their defense. See also, S.C. Const. Art. I, Section 14. The Supreme Court has stated, "The Right to Counsel is a Fundamental Right of a Criminal Defendant, it assures the fairness of our adversary Process," Kimmelman v. Morrison, 477 U.S., 368 (1986). Furthermore, the Supreme Court has recognized that "The Right to Counsel is the Right to Effective Assistance of Counsel." McMann v. Richardson, 397 U.S. 759, 771 (1970). To see whether Counsel was fallen below the minimum standard needed for effective assistance of Counsel under the Sixth amendment to the Constitution, a two prong test must be met, Strickland v. Washington, 466 U.S. 668, 688-694 (1984). The Supreme Court held that a determination of ineffective assistance of Counsel would be conditioned on two factors:

- 1) Counsel's performance must have fallen below an objective

standard of standard reasonableness, and

- 2) There must be a reasonable probability that but for Counsel's errors, the results of the proceeding would probably have been different.

"First prong ineffective assistance"

Counsel Mr. Fornsworth failed to investigate. If Counsel would have investigated, he would have seen that the so called victim statement clearly states that he observed a subject identified as Mr. Salter concealing clothing items in a Wal-mart bag as he walked towards the doors and walked outside, Mr. Kenny followed the suspect once they went outside to the Wal-mart parking lot, Mr. McKenny asked the suspect Mr. Salter to come back inside the Wal-mart store and Mr. Salter kept walking. If Counsel would have looked at the video tape of suspect in the store it would have clearly shown the defendant concealing clothes.

According to S.C. Code Ann. 16-13-110, Shoplifting, subsection

(A) (1), (2), & (3).

(A) A person is guilty of shoplifting if he:

- (1) takes possession of, carries away, transfers, from one person to another or from one area of a store or other retail merchantile Establishment to another area, or causes to be carried away or transferred any merchandized

displayed, held, stored, or offered for sale by any store or other retail merchantile Establishment with the intention of depriving the merchant of the possession, use, or benefit of the merchandise without paying the full retail value,

(2) Alters, transfers, remove any label price tag markings, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored, or offered for sale in a store or other retail merchantile Establishment and attempts to purchase the merchandise personally or in consort with another at less than the full retail value of the merchandise,

(2) Felony, and upon conviction, must be fined not more than one thousand dollars but less than five thousand dollars.

"Second prong ineffective assistance"

Counsel provided ineffective assistance to Applicant, by violation of the sixth amendment of the United States Const. It is counsel's duty to provide "objectively Reasonable Advice". Counsel prejudice Applicant by getting Applicant to plead guilty to Armed Robbery. If counsel had investigated, counsel would have seen that an Armed Robbery didn't take place at Wal-Mart on Dec. 19, 2009. Therefore Counsel prejudice Applicant to enter a guilty plea of nineteen years.

Counsel's performance was deficient and that there is a reasonable probability that, but for counsel's errors the result at trial would have been different, by S.C. Law the Jury would have "Not" have found the Applicant guilty of Armed Robbery, but Shoplifting.

According to S.C. Code Ann. 16-11-330, subsection (A) Robbery and Attempted Robbery while armed with a deadly weapon.

So prejudice by counsel's failure to investigate and review the statute Law of Armed Robbery S.C. code of Law Ann. 16-11-330, subsection (A) which there was not No evidence that the Applicant presented a deadly weapon demanding the merchandise from a Store clerk at wal-mart Store.

(A) A person who commits robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, 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, is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum term of Not less than ten years or more than thirty years, No part of which may be suspended or probation granted.

South Carolina has adopted the Strickland standard, see Cherry v. State, S.E. 2d 624 (1989). The right to effective assistance of Counsel may be violated by even

an isolated error of counsel if the error is sufficiently Egregious and Prejudicial. Murray v. Carrier, 477 U.S. 478 (1986). It is the client's right to expect that his lawyer will use every skill, Expand Every Energy, and Tap Every Legitimate Resource in the exercise of independent professional Judgment on behalf of the client and in undertaking representation of the client's interest. Frazer v. United States, 18 F.3d 778, 785 (9th Cir. 1994), Defense Counsel must do his utmost to bring his Legal Acumen to bear on behalf of the defendant, Keep the defendant fully informed of Developments in the case and consult with the defendant on all major decisions to be made, Conduct a reasonable Pre-trial investigation, which should include contacting potential witnesses, prepare adequate, and professionally for trial, conduct the trial to the best of his ability and at the bottom, serve as a vigorous and devoted advocate of the defendant's counsel", United States Ex Rel Partee v. Lane, 926 F.2d 694, 702 (7th 1991),

(A) Counsel was ineffective for failing to conduct an adequate pre-trial investigation.

As the Supreme Court also recognized in Strickland, "Counsel has a duty to make a reasonable investigation of the Law and Facts in his case." Strickland, 466 U.S. at 691.

Additionally, the A.B.A. Standards relating to the Admin. of Criminal Justice Provide:

It is the duty of the lawyer to conduct a prompt

investigation of the circumstances of the case and to explore all avenues leading to facts relevant to the merits of the case, and the penalty in the event of conviction. The investigation should always include efforts to secure information in the possession of the prosecutor and Law Enforcement Authorities. The duty to investigate exists regardless of the accused admissions, or statements to the lawyer of facts constituting guilt or the accused stating desire to Plead Guilty.

A defendant's Right to Effective Assistance of Counsel confers a duty on counsel to conduct an adequate Pre-trial investigation into any of his client's plausible lines of defense. The lawyer has failed to render effective assistance of counsel. Cobbs v. State, 408 S.E. 2d 223 (1991), Pre-trial preparation, principally because it provides a basis upon which most of the defense case must rest, is perhaps, the most critical stage of a lawyer's preparation. Id failure to investigate evidence that would be helpful to the defense is also an indication of ineffective assistance of Counsel Id.

Conclusion

Wherefore Applicant's Conviction and Sentences should be vacated, or granted a New Trial.

Date: 12-27-12

S/ Illya Salter

Illya Tramell Salter #270347

430 Oaklawn Rd.

Pelzer, S.C. 29669

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

Illya T. Salters # 270347,
Applicant,
v.

CA No. 2011-CP-23-04280.

State of South Carolina,
Respondent.

Proof of Service

To Respondent:

LOCK IN THE CASE

Date

2013 JAN 16 A 1:24

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENS
CLERK

Jul

I certify that Illya T. Salters # 270347 Hereby served a true copy Notice Motion to Amend Post-Conviction Relief Application upon counsel Caroline M. Hortbeck by placing in the U.S. mail, postage prepaid, this Jan day of 04 2013.

Sworn before me this
27th day of December 2012

Notary

Stuart Melanich

Expires: January 7, 2016

SI *Illya Salters*

Illya T. Salters

270347

430 Oaklawn Rd.

Pelzer, S.C. 29669

Exhibit, (A) - Mr. Cox Statement

There's a conflict in his Statement
he say he was loading groceries in the Trunk
and started to drive away when a black male
Came up, you Can't be in "Two" Places at
once, also his statement is not
Sworn to.

EXHIBITS-(A)

Greenville County Sheriff's Office

4 McGee St.
Greenville, South Carolina 29601

VICTIM/WITNESS STATEMENT

Case Number 09-197353

Date 12/19/2009

I, THOMAS SCOTT COX, do hereby give freely and voluntarily this statement to
RAGAN MARLING # 223/A28 and _____ who have identified themselves to
me to be Deputies of the Greenville County Sheriff's Office, Greenville, South Carolina.

I am 63 years old and I reside at _____
I WAS SHOPPING AT WALMART AND WAS LOADING MY GROCERIES IN THE TRUNK AND
STARTED TO DRIVE AWAY WHEN A BLACK MALE HEAVY SET GRAY SWEAT SHIRT CAME
UP TO ME AND SAID "GIVE ME YOUR FUCKING KEYS AND GET OUT OF THE CAR"
HE ALSO HAD A PAIR OF SCISSORS IN HIS LEFT HAND LIKE HE WAS GOING TO
USE THEM AS A WEAPON. HE WAS ALSO CARRYING A WHITE PLASTIC BAG. I GAVE
HIM THE KEYS AND HE GOT IN MY CAR AND TOOK OFF. I SAW A SHERIFF'S DEPUTY
AND OBeyed TO THE CAR.

HE DID GRAB MY ARM BUT HE DID NOT ASSAULT ME ANY OTHER WAY.
MY CAR THAT WAS STOLEN IS A 2004 SILVER TOYOTA CAMRY LE S.C. TAG DEU591.
I WAS PARKED IN ROW 8 UP NEAR THE GAS STATION IN THE WALMART PARKING
LOT.

END OF STATEMENT

I have read the above statement of 1 pages and it is true and correct as best as I recall.

WITNESS:

Ragan Marling # 223/A28
[Signature] # 285/G-30

X Thomas S Cox

I have received a copy of this statement.

X Thomas S Cox

Sworn before me this _____ day of _____, _____

NOTARY PUBLIC FOR SOUTH CAROLINA

EXHIBITS-(B)
OF AGENCY I.D. Greenville County Sheriff's Office
SC0230000 SUPPLEMENTAL REPORT

CASE NUMBER

09000197353

☐ ORIGINAL REPORT	☐ STATUS CHANGE	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	INCIDENT TYPE	Armed Robbery/Car Jacking
☒ SUPPLEMENTAL REPORT	☐ OTHER	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	PATROL DISTRICT	08
				PAGE	01
				OF	01
PAGES					

Incident Location: 6134 White Horse Rd Walmart Greenville SC 29611

Suspect: Salter, Illya Trammell B/M DOB/06-18-74 Hgt/605 LBS/210
100 Shemwood Ln Apt. 17 A Greenville SC 29605 SSN 251-23-1332 SCDLN 0007735901

Victim #1 Walmart

Victim #2: Cox, Thomas Scott [REDACTED]

I responded to the incident location and spoke to victim #2, Mr. Cox. Mr. Cox stated that he had been shopping at Walmart and had put the merchandise that he purchased in the trunk of his vehicle, 2004 Silver Toyota Camry SC tag DZU591. He stated that he was parked in Row 8 toward the gas station. Mr. Cox stated that when in was in the driver's seat about to put the keys in the ignition and started the car, a black male, heavy set with a gray sweat shirt approached him and told him, "give me the fucking keys and get out of the car." Mr. Cox stated that the man had a pair of scissors in his left hand like he was going to "use them", so he got out of the car and the man jumped in a took off. Mr. Cox stated that he saw a Sheriff's Deputy and pointed toward his car as the man drove off.

Mr. Cox did not have any injuries from this incident.

Mr. Cox's brother came to Walmart and they followed me to the location where the suspect was apprehended and the vehicle was located and recovered. See M.D. M. Magaha's supplemental.

Francis Marion Towing responded and towed the vehicle. A Tow Sheet was completed.

I recovered the from the vehicle the reported stolen property from Walmart and returned the items. Recovered 4 pair of denim jeans total amount \$62.54. A Property and Evidence sheet was completed.

The scissors were also recovered from the vehicle and placed in Property and Evidence.

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADMIN. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEARED UNDER 18	
☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEARED 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: ☐ OFFENDER DEATH ☐ NO PROSECUTION ☐ VICTIM/DECLINES COOPERATION ☐ EXTRADITION DENIED ☐ JUVENILE-NO ARREST									
REPORTING OFFICER(S)		DATE		UNIT NO. / STAR #		APPROVING OFFICER		DATE	
MD Ragan Marling *223		12/20/09		A28		[Signature]		12-20-09 AS	
						FOLLOW-UP INVESTIGATION ☐ YES ☒ NO		(OFFICER)	

MB

45. 12/20/09

20 DEC 2009 18 54

Exhibit(C) Victim/Witness Statement

Anthony Michael McKinnery

Statement Not Sworn To

Greenville County Sheriff's Office

4 McGee St.
Greenville, South Carolina 29601

VICTIM/WITNESS STATEMENT

Case Number 09-197353Date 12-19-09

I, Anthony Michael McKinney, do hereby give freely and voluntarily this statement to
James J. Lucas and Deputy R. Maurice who have identified themselves to
me to be Deputies of the Greenville County Sheriff's Office, Greenville, South Carolina.

I am 31 years old and I ^{work @} reside at [REDACTED], SC 29611 Wal-Mart
On 12-19-09. While working as loss prevention for Wal-Mart I observed a male subject
later identified as Tillye Trammell Salter concealing clothing items into a Wal-
Mart bag. As the subject made his way to the doors, I recognized him as the
same subject that I attempted to stop for shoplifting last night. I immediately called
Greenville County. While on the phone with dispatch I asked Salter to return to the
store with me. Salter refused and kept telling me to "Come On" as I followed
Salter through the parking lot so that I could keep dispatch informed as to where
Salter was; Salter began to come towards me and got within approximately two
feet of me. Salter swung at me with what looked like scissors. I ducked so
that I was not hit. I then gained distance between myself and Salter. Salter
kept going in between cars when he approached a silver car and forced the driver
out and jumped in the vehicle. At this time deputies were pulling up. I pointed
to the vehicle Salter was in and Salter then took off in the car very fast
almost hitting a Deputies vehicle. No Merchandise was recovered. Nothing Follows.

20 DEC 2018 54

I have read the above statement of 1 pages and it is true and correct as best as I recall.

WITNESS

[Signature] 4785/E-SL
[Signature] 4723/478

Anthony Michael McKinney
I have received a copy of this statement.

[Signature]

Sworn before me this _____ day of _____, _____

NOTARY PUBLIC FOR SOUTH CAROLINA

GSO 00019

JB

Ilyia Salter #270347

Date: 2-12- 2013

Q3B-214

430 OAKLAWN Rd.
Pelzer, S.C. 29669

2011-CP-23-4280

Dear Mr. Rodney W. Richey:

Please find my request Motion to Amend my PCR application on the follow ground of; Applicant Due Process Clause of the 14th Amendment Rights was violated in, Violation of article V § 4 of the South Carolina Constitution, that all Criminal Cases in the State of South Carolina Shall be disposed of within 180 days from the date of the defendant arrest. Please find my Request for a Certified Copy Verify that my issues has been filed, under the South Carolina Supreme Court Rule 50(5) and (71.1) make it mandatory that post Conviction attorney make sure that all available grounds are raised in Post Conviction Proceeding.

Respectfully Submitted

Ilyia Salter
Ilyia Salter 270347
430 Oaklawn Rd.
Pelzer, S.C. 29669

STATE OF South Carolina
County of Greenville

In The Court of
Common Pleas

Illya Salter
Applicant

Case: 2011-CP-23-4280

VS.

Motion To Amend
Post-Conviction
Relief Application

STATE OF South Carolina
Respondent

To Respondents

This matter comes by way of a pending PCR filed within the Clerk of Court in Greenville County which was filed on June 28, 2011, The Applicant Motion To Amend PCR on the following ground.

- (1) Applicant Due Process of Law 14th Amendment right was violated in violation of Article V § 4 of the South Carolina Constitution that all Criminal Cases in the State of South Carolina shall be disposed of within 180 days from the date of the arrest

ARGUMENT 3

Applicant Due Process of Law was Violated 14th Amendment rights was violated. Violation of Article V§4 of the South Carolina Constitution, That "All" Criminal Case in the State of South Carolina shall be disposed of within 180 days from the date of the defendant arrest.

Applicant Mr. Salter was arrested on Dec 19, 2009 for committing a Crime of Armed Robbery, and Carjacking in the County of Greenville S.C. at Wal-Mart Shopping Center, and the applicant was indicted in a Court of General Session that convened on Dec 14, 2010; the grand jury of Greenville ~~convened on Dec~~ County presented upon their OATH.

According to South Carolina Rule - 3 (C) of Civil procedure, Action on Warrant within (90) days after receipt of an arrest warrant from the Clerk of Court, the Solicitor shall take action on the warrant by (1) Preparing an Indictment for presentment to the grand Jury, which indictment shall be filed with the Clerk of Court assigned a Criminal case number, and presented to the grand Jury; (2) Formally dismissing the warrant, Noting on the Face of the warrant. The Action Taken; or (3) making other Affirmative disposition in writing and filing such action with the Clerk of Court.

According to S.C. Rule (3) of Civil Procedure-(C) the Solicitor office Violated these Rules to timely file a Indictment and didn't request for a Extension of Time. Rule-3(D) of S.C. Rule of Civil Procedure, which the Solicitor may petition the Court for an Order delaying Action on the Warrant, As set forth above, for Successive Ninety (90) day periods if the Circuit Court Specifically find good cause for such delay for each Seccessive Ninety day period.

See exhibit (A) The Supreme Court of South Carolina (Order) pursuant to Artical V§4 of the South Carolina Constitution, It is Ordered that all Criminal Case in the State of South Carolina shall be disposed of within 180 days From the date of the defendant arrest, Provided however, that the Circuit Court may Continue a Criminal Case beyond 180 days by Written Order if the Court determines that exceptional Circumstance exist in the Case. This order does not Create or define a right of a defendant to a Speedy Trial.

The applicant does have genuine Material Evidence.

A responds from the Clerk of Court office in Greenville County, Dated (Jan 17, 2012) Paul B. Wickersimer, See Exhibit (E) The Applicant Conviction is Unlawfully, on the Charge of Carjacking, Which the Applicant was indicted out of time frame of (180) days Required by law.

Which is so fundamental Miscarriage of Justice to delay a indictment and presentment to a grand Jury.

STATE VS. JANE Blackwell

Indictment: OBSTRUCTION OF JUSTICE
Greenwood County Court of General Session
ORDER of Judge Wyatt T. Saunders

March 3, 2008 Dismissing Charges
because The State fail to Comply
With Rule (3) of S.C.R. Crim P

U.S. V. Hymer (6th Circuit) vacated Sen. failure to comply
with FRCP-32

Due Process - encompasses all rights which are of such fundamental importance as to require Compliance with due process standards of fairness and Justice and include procedural right of Citizen against government action that threaten the denial of Life, liberty or property. Cite at Ogburn-Matthews V. Loblolly Partners (Ricefields Subdivision) (S.C. App 1998) 322 S.C. 551, 505, S.E. 2d 598

(3)

CONSTITUTIONAL VIOLATIONS

My state and Federal constitutional rights have been violated. First my fifth amendant was violated because council failed to squash the improper indictment of carjacking 17-19-90 S.C. CODE OF LAW. I was indicted December 19th 2010, but 14-5-790 title 13-14 states that General sessions for the county of Greenville shall be held for the first Monday in December for one week.

The trial court lack jurisdiction due to the use of fraudulent indictments. South Carolina onstitution absolutely requires an indictment by a legally qualified Grand Jury. Article 1§11 and Art 5§22,"And hence to try a defendant under an indictment not so found would be to jeopardize the life of the defendant without due process of law, and thus deny him his constitutional right both under Art 1§3 of this state and under the fourteenth amendment of the Federal constitution of the United States of America.

It has been well considered that a defendant has a const. right to demand that his case be considered by a Grand Jury which is properly established and constructed under the laws of this state, Evans v. State, 611 S.E.2d 510 (2005).

Thus in fact these indictments are fraud. There has never been a crime charged which fail to confer jurisdiction upon the trial court.

SOUTH CAROLINA affords its citizens the process of being held to answer for a crime upon a presentment, if its an indictment by a Grand Jury pursuant to the S.C. const. Art 1§11. We are forced to look at the laws of this state that govern such procedure.

14-19-170: General sessions in each of the counties shall constitute the Grand Jury for the county court and shall meet with the county's at each of it's terms.

S.C. Code Ann. §14-9-210 mandates in relevant part: The county solicitor shall prepare, and through the judge of the court of Gen. Sess. submit to the Grand Jury while in attendance upon the court of General Sessions bills of indictments in a cases pending in the county court when such cases have not been acted on by the grand jury...By utilizing the literal construction of 14-9-210 and reviewing the court term calendar for Dec. of 2010, 14-5-790 title 13-14 the court of Gen. sess. did not convene on the day of Dec. 19th 2010 in Greenville as indicated on applicant indictment. In fact the calendar shows,"Court of General Sessions convened on Dec. 17th 2010. Therefore these indictments were returned by a grand jury that was not legally in session pursuant to 14-9-210 and operates as fraud and fails to confer jurisdiction upon the trial court to accept applicants plea. Furthermore, it has been held that if applicants conviction is not based on lawfully sworn to indictments which is tantamount to aggravated kidnapping it is a ban to all prosecution in accordance to the constitution of the United States of America

Hamilton v. McCarter

(4)

Hamilton v. McGatter, 772 F.2d 171 (5th Cir, 1985).

Section - 17-27-20 (A)(2) Provides that post conviction relief shall be granted to an Applicant who shows that the trial court was without jurisdiction to impose sentence!!!

Conclusion

Petitioner writ should be granted and his guilty plea should be vacated and the sentence should be vacated as well.

Respectfully Submitted

Date - 2-5-14

S/ ~~Allyn~~ Satter

STATE OF South Carolina
County of Greenville

Illya Salter #270347

Applicant

VS.

STATE of South Carolina
Respondent

In The Court of
Common Pleas

Case: 2011-CP-23-4280

AFFIDAVIT BY
Illya Salter

To Respondent

Applicant Illya Salter, personally
appearing before me, who being duly Sworn
States the following:

1) The Applicant is in the Custody of South Carolina
Department of Correction at Perry Correctional
Inst. 430 OAKLAWN Rd. Pelzer, S.C. 29669

2) The Applicant is making this Affidavit Under
OATH by Illya Salter, that all Exhibits are
True and Certify by the Court.

S/ Illya Salter
Illya Salter
430 Oaklawn Rd
Pelzer, S.C. 29669

STATE OF South Carolina
County of Greenville

In THE Court of Common
Pleas

Illya Salter # 270347
Applicant

Case: 2011-CP-23-4280

Proof of Service

-VS.

STATE OF South Carolina
Respondent

To Respondant

I Certify. that I, Illya Salter #270347 has Serverd
a true Copy of motion to Amend Post-Conviction Relief
application upon ~~Counsel~~ Rodney W. Richey by Placing a
True Copy in the United States mail through the P.C.I.
mail room.

Rodney Richey
Post Office Box-10916
Greenville, S.C. 29603

Sworn before me this
Day of 12th February 2013
Notary Steven T. Mulanthy
Expires November 7, 2016

S/ Illya Salter
Illya Salter # 270347
430 OAKLAWN RD.
Greenville, S.C. 29668

RECEIVED

FEB 14 2013

P.C.I. MAILROOM

I filed this Amendment through Counsel Dated
through "Proof of Service" received by Perry Corr. Inst.
Mailroom Dated 2-14-13.

1) Due Process Clause 14th Amendment- Violation of Article
V § 4 of the S.C. Constitution that all Criminal Cases
in S.C. shall be disposed of within 180 days.

I received a Affidavit of Service Dated (3-6-13)
Stating my Amendment has been filed with
the Clerk of Court, but didn't receive a Copy
Showing that it was filed.

This Amendment wasn't address in the order
of Dismissal and I filed it through Counsel
Rodney Richey.

Exhibit A

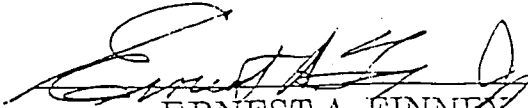
The Supreme Court of South Carolina

ORDER

Pursuant to Article V, § 4, of the South Carolina Constitution,
IT IS ORDERED that all criminal cases in the State of South
Carolina shall be disposed of within 180 days from the date of the
defendant's arrest. Provided, however, that the circuit court may continue a
criminal case beyond 180 days by written order if the court determines that
exceptional circumstances exist in the case. This order does not create or
define a right of a defendant to a speedy trial.

IT IS FURTHER ORDERED that the orders of Chief Justice
Lewis dated August 17, 1983, and January 13, 1984, which appear at pages
CC-ADMIN 12 and 13 of the South Carolina Court Register, are hereby
rescinded.

Exhibit A


ERNEST A. FINNEY, JR.
CHIEF JUSTICE

Columbia, South Carolina

March 5, 1999

ARREST WARRANT

M-177488

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

THE STATE

01-2009-197553

against

Illya Tramell Salter

Address: 1607 E. Washington Ave.

Greenville, SC 29611-

Phone: SSN: 251-23-1332

Sex: M Race: B Height: 6 5 Weight: 275

DL State: SC DL #: 007735901

DOB: 6/18/1974 Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: A C Sexton - 1011

Offense: Carjacking / Take or attempt a vehicle from person
by force without great bodily harm

Offense Code: 2599

Code/Ordinance Sec: 16-03-1075(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Illya T. Salter
on 12-19-09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Greenville General Sessions
305 E. North Street
Greenville County Courthouse
Greenville, SC 29601-2120

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Personally appeared before me the affiant A C Sexton whobeing duly sworn, deposes and says that defendant Illya Tramell Salterdid within this county and state on or about 12/18/2009

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Carjacking / Take or attempt a vehicle from person by force without great bodily harm

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THE AFFIANT HAS A WRITTEN STATEMENT FROM THE VICTIM STATING THAT THE DEFENDANT DID FORCE
HIM FROM HIS VEHICLE, A 2004 SILVER TOYOTA CAMRY LE SC LICENSE PLATE DZU591, AND DRIVE AWAY
WITH THE VEHICLE. THE VICTIM STATED THAT THE DEFENDANT WAS ARMED WITH A PAIR OF SCISSORS
DURING THE INCIDENT. THIS OFFENSE DID OCCUR IN GREENVILLE COUNTY SOUTH CAROLINA.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenville

Affiant's Address 4 Mcgee StreetGreenville 29601-

Affiant's Telephone

ARREST WARRANT

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

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

on or about 12/18/2009 defendant Illya Tramell Salter

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

☒ County/ ☐ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Carjacking / Take or attempt a vehicle from person by force without great bodily harm

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

Sworn to and subscribed before me

on 12/19/2009Signature of Issuing Judge
Vilvin GarrisonJudge Code: 5946

(L.S.)

Judge's Address

Judge's Telephone

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

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

Exhibit-B

WITNESSES

A C Sexton *ENG*

Greenville County Sheriffs Office

12/19/2009

ARREST WARRANT NUMBER

M177488

ACTION OF GRAND JURY

TRUE BILL

Anna S. Swerette
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

Exhibit - C
DOCKET NO. 2010-GS-23-

JMG

001372

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2010

1-31-11

THE STATE

vs.

ILLYA TRAMELL SALTER

Indictment for

✓ 2599

CARJACKING

VIOLATION § 16-03-1075

RECEIVED
MAR 17 2010
Clerk of Court
Greenville County

Exhibit-C

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CARJACKING

At a Court of General Sessions, convened on
County present upon their oath:

DEC 14 2010

the Grand Jurors of Greenville

That ILLYA TRAMELL SALTER did in Greenville County, on or about the 19th day of December, 2009, take or attempt to take a motor vehicle, to wit: a 2004 Toyota Camry from THOMAS SCOTT COX by force, and violence or by intimidation while THOMAS SCOTT COX was operating and/or was in the said vehicle. This is in violation of §16-3-1075 of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

Exhibit-D

Illya Salter # 270347
Perry Correctional Inst
430 OakLawn Rd
Pelzer, S.C. 29668

Date: 12-16-12

Paul B. Wickensimer
Clerk of Court
Greenville County ~~Court House~~
305 E. North St.
Greenville, S.C. 29601

RECEIVED

DEC 17 2012

PCI MAILROOM

RE: This request is made under the
Freedom Information Act. (FOIA) S.C. Code Ann
§ 30-4-10.

I'm ~~am~~ requesting this Information dealing
with the terms of Court. I would like to
know if there was a term of Court in May-2010
and Dec-2010. I also would like to know if
the Solicitor (W. Walter Wilkins) asked for a time
extension in prosecuting my case. Case # M177485,
M177488, 48870FB. If there was a term of Court
for the month of May-2010 - Dec-2010, and if
there was a time extension Please send me
a Certified copy of those Documents.

Respectfully Submitting

Illya Salter
Illya Salter



Exhibit-E
Office of the Clerk of Court
Greenville, South Carolina
Paul B. Wickensimer
Clerk of Court

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

January 17, 2013

Illya Salter #270347
P.C.I.
Q3B-214
430 Oaklawn Rd.
Pelzer, SC 29669

Dear Mr. Salter

Terms of Court (the court schedule) are set by South Carolina Court Administration.
Please contact them for a certified copy of the "Terms of Court".

We are unable to fulfill your request for a certified copy of a request for extension because no such document was filed with the Clerk of Court for M177485, M177488 or 48870FB

Sincerely,
Clerk of Court
Greenville County General Sessions

Exhibit-F

Court News

2002-10-23-01

The Supreme Court of South Carolina

RE: Filing Indictments With the Clerk of Court

ORDER

Rule 3(c), SCRCrimP, requires solicitors to file indictments with the Clerk of Court. In some counties, solicitors are retaining the original indictments which have been returned by the grand jury until the proceedings are concluded. This local practice leads to problems and confusion in some cases. Accordingly, effective the date of this order, all original indictments which have been returned by the grand jury shall immediately be filed with the Clerk of Court.

IT IS SO ORDERED

s/Jean Hoefer Toal

Jean Hoefer Toal, Chief Justice

Columbia, South Carolina
October 23, 2002

INDEX

Letter to Robert Pachak showing that I asked Counsel Rodney Richey to file 59(E) motion + PrePosed Order with Proof of Service. Dated (1-8-14)

Letter to Rodney Richey with 59(E) motion dated 6-19-13
Issue Presented - Ineffective Ass. of Counsel - Involuntary Guilty Plea - Failure to investigate and prepare for a defense at trial. - Applicant Due Process of law - 14th Amendment was Violated
Violation of Rule (3) of the S.C.R. CrimP with Affidavit, and Proof of Service Stamped (6-20-13) - Also Court lacks Jurisdiction due to the use of Fraud Indictment.

Letter from Rodney Richey receiving 59(E) Dated (6-24-13)

Letter to Rodney Richey with PrePosed Order Dated (6-24-13)

Letter from Rodney Richey receiving PrePosed Order Dated (7-9-13)

Affidavit of Service from Rodney Richey stating he amend P.C.R. Dated (3-6-13)

Letter to Daniel Shearouse - To Show Cause To with Hold Notice of Appeal with Affidavit And Proof of Service Dated (8-21-13)

Letter to Robert Dudek followed by Affidavit with Exhibits A, B, C, D with Proof of Service ask to Delay the Writ of Certiorari

Order of Dismissal from State (P.C.R.)

Letter from Daniel Shearouse stating my matter will not be held in Abeyance no action will be taken on this pro'se request because I have been appointed a lawyer from Appellate Defense Dated (Sept 3, 2013) But I didn't receive a letter from Mr Pachak stating he was my appointed lawyer until Dec 3, 2013 or Dec 16, 2013

Next 34 Pages

Illya Salter
430 Oak Lawn Rd.
Pelzer, S.C. 29669

Mr. Robert M. Pachak
Division of Appellate Defense
1330 Lady St. Suite 401
Columbia, S.C. 29201

Dear Mr. Pachak.

Please find my Legal Letter to you, verry important to me. The Contents of this letter contain a Letter from Daniel Shearouse the (Clerk of Court) The letter from Mr. Shearouse is to Mr. Dudek at the Appellate Court, stating that I would like for them to hold this matter in Abeyance, and no action will be taken on my Pro'se request, Dated Sept 3, 2013 the letter I received from Mr. Shearouser, stating you would be my Lawyer on Dec 16, 2013. My P.C.R. hearing was held on 6-18-13 ~~to~~ sent Mr Rodney Richey a letter and Motion 59(E) Dated 6-19-13 to be filed with the Clerk of Court in Greenville County, and Send me a Clock Stamp Copy. I received a Letter from him on 6-24-13 Stating he received my Motion 59(E) and he will take the Necessary action and forward a Copy to me See Exhibit-(A). I also sent him a Letter / Motion, Prepose Order that I wanted him to Serve Judge Garrison Hill dated 6-24-13. I received a Letter from Rodney Richey dated 7-9-13 Stating that he received my Proposed Order to be filed with the Clerk of Court

See Exhibit-(B). I also sent him a Motion to Amend my P.C.R application that was clock stamp and file with the Clerk office in Greenville County dated March 6, 2013 that was not Adjudicated on See Exhibit (C). I also have the order of Dismissal Exhibit-(D) in the Allegation Under ① Ineffective Assistance of Counsel I did have, ② Failure to Investigate and prepare for a defense at trial ③ Involuntary guilty Plea, ④ Due Process of law 14th Amendment. ⑤ Violation of rule (3) of the S.C.R.Crim.P. This is what I wanted, the rest Mr Richey add. In my P.C.R. application 12313. The things I added at the time I didn't have a Lawyer, and It was filed with the Clerk of Court in Greenville, I will send you a Copy as well to show that it hasn't been Adjudicated on. S.C. Code Ann 17-27-80 States that the P.C.R. Judge is required to rule upon all issues Presented in my P.C.R. I have a letter I wrote to Mr. Shearouse, A Notice to Show Cause To With Hold the Notice of Appeal, with a Affidavit and Proof of Service dated 8-26-13. At my P.C.R. Hearing all I needed was the Video Tape of the in store situation that took place, Mr. Richey Subpeona Dan Fairsworth to turn over all files and he "didn't" Mr Fairsworth sent me a letter stating that I would receive a Life Sentence if I went back to Court dated Feb 22, 2011 I sent a letter to Mr Wdelek for Him to Prepare a brief so that theses issues would require

a Second P.C.R. hearing on Delay the
Writ of Certiorari ~~within~~ within the Supreme
Court, with a Affidavit and a Proof of Service
Dated 9-20-13 and didn't get a Answer
Until you was appointed to my case.

Mr Richey Stated at the end of my hearing
that he didn't know what else to do
That Violated my Six Amend, because i'm
entitled to Effective Assistance of Counsel
It should be in my P.C.R. Transcrip as well.

Proof OF Service

I, Illya Salter, Certify that a True Copy of my Legal Letter, with the Content Containing Exhibits, A, B, C, and D. Exhibit (A) A Letter from Counsel Rodney Richey Stating that he received my motion 59(E). Exhibit (B) Letter stating he, Counsel Mr Richey received my Motion/ Proposed Order. Exhibit (C) A Affidavit of Service stating he, Mr Richey Served my Motion to Amend P.C.R. ~~App~~ Application Dated March 6, 2013. Exhibit (D) ~~ORDER OF DISMISSAL~~, has been Served on Mr. Robert M. Pachak at Division of Appellate Defense 1330 Lady St. Suite 401 Columbia, S.C. 29201, by Way of the United States Mail, through Perry Correctional Institution's Mailroom.

SWORN TO and SUBSCRIBED before me
this 8th day of January, 2014

Jamara Amwell
Notary Public of South Carolina

My Commission Expires September 29, 2023

Illya Salter
Illya Salter
S/ Illya Salter

Perry Corr. Inst
430 OAKLAWN Rd
Pelzer, S.C. 29669

IllyA Salter #270347
430 OAKHAWN Rd.
Pelzer, S.C. 29669

Date: 6-19-13

Attorney At Law: (Rodney Richey)

Dear, Rodney Richey please find my motion 59(E) to be filed with the Clerk of Court, and all parties in this matter. Please return to me a copy of this motion after its been filed with the Clerk of Court in the County of Greenville S.C. Paul B. Wickensimmer Clerk of Court.

Date: 6-19-13

Respectfully Submitted
S/ IllyA Salter

STATE OF South Carolina
County of Greenville

Illya Salter
Applicant

V.S.

STATE OF South Carolina
Respondent

In The Court of Common
Pleas

Case No: 2011-CP-23-4280

Motion 59(E)

To Respondent:

This matter Comes before the Honorable
Judge: Garrison Hill.

Where by Post-Conviction-Reiff was held on
June 18, 2013, According to S.C. Code of Law
17-27-80. The Judge is required to rule on each
Issue in the Post-Conviction Reiff grounds
that was presented before the Court.

See grounds which the P.C.R. Judge must and
shall rule upon.

Issue Presented

Motion to Amend Post-Conviction Reilt Application
filed with the Clerk of Court in the County
of Greenville, S.C. Dated (2-14-13)

- 1) Ineffective Ass. of Counsel
- 2) Involuntary Guilty Plea
- 3) Failure to Investigate and Prepare for a defense
at trial.
- 4) Applicant Due Process of Law - 14th Amendment
- 5) Violation of Rule (3) of the S.C.A.Crim.P
- 6) Trial Court lack of Jurisdiction due to the use of fraud Indictment

Dated: 6-19-13

S/ Allen Satter

State of S.C. |
County of Greenville |
Illyna Salter |
vs. |
State of S.C. |
Respondent

In The Court of Common Plea
Case: 2011-CP-23-4280

Proof of Service

I, Illyna Salter Certify that a true copy
of Motion 59 (E) has been served upon
Richey Richey P.O. Box-10916, Greenville
S.C. 29603, by placing a true copy in
the United States mail along with
Affidavit,

RECEIVED

JUN 20 2013

P.C.I. MAILROOM

Date: 6-19-13

Illyna Salter

Exhibit

B

RICHEY AND RICHEY
ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

RODNEY W. RICHEY
LOLA S. RICHEY

POST OFFICE BOX 10916
GREENVILLE, SOUTH CAROLINA 29603

(864) 467-0503; 1-888-882-4878 Toll Free
(864) 467-0646 FAX

June 24, 2013

Illya Salter SCDC# 270347
Perry Correctional Institute
430 Oaklawn Rd
Pelzer, SC 29669

Re: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

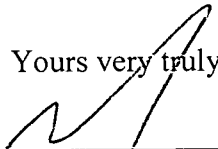
Dear Mr. Salter:

I received your Motion 59 (e) from you. I do not have the order from the judge. Once I have the order, I will take the necessary actions and forward a copy to you.

Thank you and if you should have any questions, please feel free to write.

RICHEY AND RICHEY, P.A.

Yours very truly,


Rodney W. Richey

RWR/tlg

5

VII Post-Hearing Procedure - (A) - In the P.C.R. Court

The (PCA) Act requires the Court's order to "make specific finding of facts, and state expressly its Conclusion of law, relating to each issue presented." In order to preserve all issues for appellate review, Counsel must carefully review the final order and address any insufficiency through a Rule 59(E) motion requesting the P.C.R. Court to specifically address each issue raised in the Application. In several past cases, where

the final lacked specific finding of facts and Conclusion of law, the South Carolina Supreme Court has overlooked the failure to file a Rule 59(E) motion and remanded for specific finding (or, in some cases, a new hearing) in order to address the pervasive problem of inadequate orders. But, recently, the Court made clear that this past practice would not continue, stating that its past practice was a "unique" situation in which "the Court attempted to remind Circuit Court judges and parties that (1) specific finding of facts and Conclusion of law were required; and (2) A Rule 59(E) motion must be filed if issues are not adequately addressed in order to preserve the issue for Appellate review".

See, e.g., McCullough v. State, 464 S.E.2d 340, 341 (S.C. 1995)
Pruitt v. State, 423 S.E.2d 127, 128 (S.C. 1992)

McCray v. State, 408 S.E.2d 241, 241 (S.C. 1991)

Illya Salter #270397
430 OAKLAWN Rd.
Pelzer, S.C. 29669

Date: 6-24-13

Case: 2011-CP-23-4280

Attorney At Law:

Rodney Richey Please find my
letter to you, About This (Proposed Order).
I would like you to Serve it on Judge Hill
and send me a Clock Stamp Copy from the
Clerk of Court.

Respectfully Submitted

/ Illya Salter

Illya Salter #270347
430 OAKLAWN Rd.
Pelzer, S.C. 29669
Q3B-214

Date: 6-24-13

Case: 2011-CP-23-4280

Honorable Judge Garrison Hill:

Wear your Honor Please find a copy of the
Proposed Order; IF this proposed order meet your
Standard, Approval Please Sign and date.

Respectfully Submitted

S/ Illya Salter
ILYA SALTER
430 OakLawn Rd
Pelzer, S.C. 29669

In The State of South Carolina
County of Greenville

Ilyia Salter

VS.

State of South Carolina
Respondent

In the Court of Common
Plea

Case: 2011-CP-23-4280

Proposed Order

To the Respondent:

This matter comes by way which a Post-Conviction-
Reiff was held before Honorable Judge Hill, on June 18, 2013,
the Applicant was represented by Rodney Richey and
the respondents for the Attorney General was represented
by Karen Ratigan, Esq.

During the P.C.R. hearing Counsel Mr. Richey presented
these issues during the (P.C.R.) hearing, which Counsel
addressed grounds from the Applicant Motion to Amend application
for P.C.R. Reiff, based on Ineffective Assistance of Counsel
Involuntary Guilty Plea, Due Process Violation 14th Amer.,
Violation of Rule (3) of the S.C.R. Crim. P.

1) See ground, Trial Counsel prejudiced the Applicant
by advice the Applicant to plead guilty to Arm Robbery
and Carjacking, when there is genuine material evidence
of shoplifting and grand larceny of a motor vehicle. Violation
of the Sixth and Fourteenth Amendment.

- 2) The applicant alleged ineffective assistance of Counsel results from wrongful advice to plead guilty to Arm Robbery and Carjacking. When an Ineffectiveness Claim is presented the applicant must show that Counsel representation was deficient. Deficient representation amounts to conduct that is not objectively, reasonable under the Circumstance Strickland V. Washington 466 U.S. 668, 688, 104 S.Ct 2052 (1984). In addition, the applicant must show that the outcome would have been different had Counsel's performance not been deficient. Strickland V. Washington At 691. The applicant submit that trial Counsel degree of skill, knowledge and professional judgement that is expected of of an attorney who practices Criminal law.
- 3) Trial Counsel was prejudice, and Ineffective for failure to prepare and to conduct a proper pre-trial investigation.

The applicant has proven the Two (2) prong Standard, (Strickland V. Washington), Ineffective Assistance of Counsel.

Conclusion

Therefore This Proposed Order should be granted a New Trial or Vacate Sentence, and bail should be granted.

Date: 6/27/73

Judge: _____
Garrison Hill

State of South Carolina
County of Greenville

Illya Salter
VS.

State of South Carolina
Respondent

In the Court of Common Plea

Case 2011-CP-23-4280

Proof of Service

I, Illya Salter Certify That I served
a True and Correct Copy of Proposed Order on
Counsel Rodney Richey through the U.S. Mail

Date: 6-24-13

S/ Illya Salter

RECEIVED

JUN 25 2013

P.C.I. MAILROOM

Exhibit

B

RICHEY AND RICHEY
ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

RODNEY W. RICHEY
LOLA S. RICHEY

POST OFFICE BOX 10916
GREENVILLE, SOUTH CAROLINA 29603

(864) 467-0503; 1-888-882-4878 Toll Free
(864) 467-0646 FAX

July 9, 2013

Illya Salter SCDC# 270347
Perry Correctional Institute
430 Oaklawn Rd
Pelzer, SC 29669

Re: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

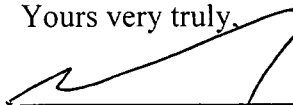
Dear Mr. Salter:

I received your proposed order to file with the court. The judge will instruct one party to prepare the order after he makes a decision on your case. Once I have any information from the judge, I will contact you. Therefore, I will not be able to file your proposed order until the judge makes his decision on what he wants done.

Thank you and if you should have any questions, please feel free to write.

RICHEY AND RICHEY, P.A.

Yours very truly,



Rodney W. Richey

RWR/tlg

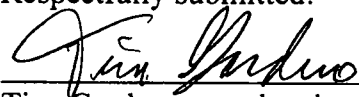
[C]ounsel preparing proposed order should be meticulous in doing so, opposing Counsel should call any omissions to the attention of the PCR judge prior to issuance of the order, and the PCR judge should carefully review the order prior to signing it. Even after an order is filed, Counsel has an obligation to review the order and file a Rule 59(E), SCBCP, motion to alter or amend if the order fails to set forth the finding and the reason for those findings as required by § 17-27-80 and Rule 52(A), SCBCP.

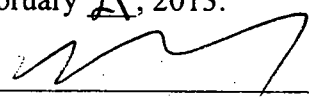
C

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMONS PLEAS
	)	CASE NO: 2011-CP-23-4280
COUNTY OF GREENVILLE	)	
	)	
Illya Salter SCDC# 270347,	)	AFFIDAVIT OF SERVICE
	)	
vs.	)	
	)	
THE STATE OF SOUTH CAROLINA	)	

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSHER
2013 MAR - 6 P 4:16

I certify that I have served the Applicant's Motion to Amend PCR Application and Affidavit on the State of South Carolina by depositing copy of it in the United States Mail, postage prepaid, on February 21, 2013, addressed to their attorney of record, Office of Attorney General State of South Carolina, Post Office Box 11549, Columbia, SC 29211-1549.

Respectfully submitted:

Tina Garduno, paralegal
Richey and Richey, P.A.
Post Office Box 10916
Greenville, South Carolina 29603

Sworn to before me on
February 21, 2013.

Notary Public of South Carolina
My Commission Expires: 3-18-18

Illyia Salter #270347
Perry Corr. Inst. Q3B-214
430 OAKLAWN Rd.

Date 8-21-13

Case No: 2011-CP-23-4280

Daniel Shearouse,

Enclose Please find the Original Copy of my
"Notice to Show Cause To With Hold The Notice of Appeal."

ON 6-19-13 I sent my Lawyer Rodney Richey a 59(e) Motion
to be filed with the Clerk of Court in Greenville County
and ask him to send me a Copy after it was Clock
Stamped. I received a letter from him on 6-24-13
stating that he would take the necessary step and
send me a Copy. ON 8-9-13 I received a Order of Dismissal
from Rodney Richey and a letter stating that he was
going to file a Notice of Appeal, and that's not what
I want him to do. I would like for you to please
take a look at the Exhibits 1, 2, 3, and They will show
that he didn't do what I need him to do. IF this Notice
To Show Cause To With Hold This Notice of Appeal meets your
Standard of Approval please Sign the Original Copy and forward
a Copy to the Circuit Court Judge Garrison Hill, and please
return me a Certified Copy.

(Exhibits)

- 1) Letter from Rodney Richey - 59(e) - Dated - 6-24-13
- 2) Affidavit of Service - Amend PCR - Dated - 3-7-13
- 3) 59(e) Motion I sent Counsel - Dated - 6-19-13
- 4) ORDER OF Dismissal - Dated - 8-7-13

Respectfully Submitted

Illyia Salter

THE STATE OF SOUTH CAROLINA
IN THE Supreme Court

APPEAL FROM GREENVILLE County
Court of Common Pleas

HONORABLE D. GARRISON HILL
2011-CP-23-4280

Illya T. Salter # 270347
Appellant,

against

State of South Carolina
Respondent

Notice: SHOW CAUSE TO
With Hold Notice OF APPEAL

This Matter Come before The South Carolina Supreme Court
Mr. Daniel E. Shearouser. The Appellant is Notifying the South
Carolina Supreme Court that Counsel Rodney Richey represented
the applicant at a (P.C.R.) hearing on June 18, 2013, and the
P.C.R. Judge Garrison Hill didn't rule upon my grounds which
was amended to my original P.C.R. Applicant. The respondent
file a order of dismissal on 8-1-13. The Applicant had
notified P.C.R. Counsel Rodney Richey by way of U.S.
mail and Proof of Service, to Please file my 59(c)

Motion on June 24, 2013. I, Ilyia Salter received a response from Mr. Richey that he would file my 59(E), and this matter hasn't been taken care of by the Circuit Court Judge, Garrison Hill. This Notice should be granted and withheld the Notice of appeal until matter has been handled.

Therefore accordingly, To S.C. Code of Law Ann § 17-27-80. States that the P.C.R. Judge is required to rule upon all issues presented in my P.C.R.

Granted or Denied

Date: _____

S/
Clerk of Supreme Court
Daniel Shearouser

The State of South Carolina
In The Supreme Court

APPEAL From Greenville County
Court of Common Pleas

Honorable N. Garrison Hill
2011-CP-23-4280

Illya T. Salter #270347
Appellant,
against

State of South Carolina
Respondent

AFFIDAVIT

This Affidavit by Illya Salter is True and Correct, which is given upon OATH; That the Applicant is in the Custody of S.C.D.C. and Sworn that the Information is Correct and I, The Applicant Statement is True. I, Illya Salter forward a motion - 59(e) to my lawyer Rodney Richey requesting for Counsel to file within the Clerk of Court, and forward a Copy of the 59(e) motion to the P.C.R. Judge to rule upon all my Issue Presented in the original Application and Amendments. S.C. Code of Law - 17-27-80

Which require the Judge to rule upon all the Issue presented.

- 1) Ineffective Assistance of Counsel
- 2) Involuntary Guilty Plea
- 3) Failure To Investigate and Prepare for a defense at trial
- 4) Applicant Wue Process of Law 14th Amendment
- 5) Violation of Rule (3) of the S.C.R. Crim P.

ON June 24, 2013, I, Illya Salter received Certified Legal mail from Counsel Rodney Richey notifying me That he would file the 59(e) motion and take the necessary step and forward a Copy of the 59(e) after it has been Clock Stamped by the Clerk of Court.

1) These exhibits are True and Correct which the Applicant received a letter Stating he would take the Necessary Steps, in sending me a Clock Stamp Copy filed with the Clerk of Court in Greenville S.C. "Dated- June 24, 2013"

2) I sent Mr Richey a Motion 59(e) on 6-20-13 to be file with the Clerk of Court in Greenville S.C. and he didn't file it.

3) I received a Affidavit of Service from Tina Garduno Paralegal out of Richey & Richey Lawfirm, Stating that he Amend my P.C.R. Application with the Issue I sent him but he didn't. See Exhibits (3) which is Correct and True

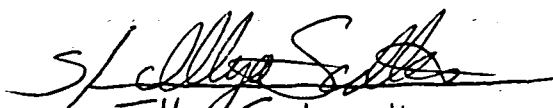
4) All information and Exhibits are True and Correct given by Applicant upon OATH!

Sworn before me

This day 21st of August of 2013

Notary Nancy C. Muchant

Expires 1-23-2023


Ilysa Salter #270347
Perry Corr. Inst-Q3B-214
430 Oaklawn Rd.

The STATE of South Carolina
In The Supreme Court

APPEAL From Greenville County
Court of Common Pleas

Honorable W. Garrison Hill
2011-CP-23-4280

Illya T. Salter #270347
Appellant,

against

State of South Carolina
Respondent

Proof of Service

RECEIVED

AUG 26 2013

P.C.I. MAILROOM

I, Illya Salter Certify that a True and Correct
Copy of Notice: Show Cause to With Hold Notice
of Appeal. Has been Served on Daniel Shearouser
by way of U.S. Mail alone with a Affidavit
Through the Perry Corr. Inst. Mail.

Sworn before me

This day 21st of August 2013

Notary Nancy C. Muehler

EXPIRES 1-23-2023

①

S/ Illya Salter
ILLYA SALTER

Illya Salter # 270347
Perry Corr. Inst. Q3B-214
430 OAKLAWN Rd.

Date: 9-17-13

Appellate Case No: 2013-001773
Lower Court Case No: 2011-CP-23-4280

Mr. Judek,

In close please find the
Original Copy of my Legal Letter, followed
by a "Affidavit" with the Exhibits (A, B, C and D).
I'm requesting that you Prepare a Brief, so
that these Issues would require a Second
P.C.R hearing and Delay the Writ of Certiorari
on Appeal within the Supreme Court
After all Paper work has been filed, Please send
me a Clock Stamp Copy.

Respectfully Submitted

S/ Illya Salter

Division of Appellate Defense
1330 Lady St. Ste. 401 Columbia, S.C. 29201

Ilyia Salter # 270347

Q3B-214

430 OAKLAWN Rd.

Pelzer, S.C. 29669.

Appellate Case # 2013-001773

Lower Court Case # 2011-CP-23-04280

Dear Mr. Judek Appellate Defense Counsel:

~~Please find my legal letter in requiring~~
my case pending with the S.C. Supreme Court. First
the applicant had forward to his P.C.R. Counsel informed
him to file his Motion for 59(E). Requiring all
available issues be address before the P.C.R. Judge.
including all Amended Motions filed Pro-se before
Counsel was Appointed to his P.C.R.; and P.C.R.
Counsel did Notify the Applicant that he would
take All Necessary Action in filing the 59(E).
See Exhibits (A) Letter from P.C.R. Counsel
Rodney Richey. Second the applicant forward
a Copy of the Proposed Order for P.C.R. Counsel
to Submit to the P.C.R. Judge Garrison Hill
and Counsel agree, See Exhibits - (B).

Third applicant toward New Amend to P.C.R. Counsel and P.C.R. Counsel did Amend these New issue to P.C.R. with the Clerk of Court for Greenville County; See Exhibit-(C).

After received the order of Dismissal, it doesn't indicate the New grounds, and these issue Exhibits-(A) was address at the P.C.R. hearing on Record, and the P.C.R. Judge is required to Rule on all available issues in his P.C.R. application and Amend Motion, S.C. Code Ann 17-27-80, and I'm Requesting that you prepare your Brief that these Issues would require a Second P.C.R. hearing, and delay the Writ of Certioraria on Appeal within the Supreme Court" I would like you to Motion the Supreme Court that the P.C.R. Judge is require to make a ruling on all Issues available in the first P.C.R. See McCray V. State S.C. 1991) 305 S.C. 229 409 S.E 2d 241.

Therefore the Applicant has not received a Full Bite AT The Apple, in my first P.C.R.

Respectfully Submitted

Date: 9-12-13

S/ Allya Salter

STATE of South Carolina
County of Greenville

Division of Appellate Defense

Illya Salter

Appellate Case # 2013-001773
Lower Court Case # 2011-CP-23-0428

VS.

Division of Appellate Defense

AFFIDAVIT By
Illya Salter

To Mr. Judek

This Affidavit by Illya Salter is True and Correct, which is given upon OATH; That the Applicant is in the Custody of S.C.D.C. and Sworn that the Information is Correct and True given by the Applicant.

- 1) Inmate Illya Salter submit 59(E) Motion/Letter received from P.C.R. Counsel - Rodney Richey, Exhibit (A)
- 2) Applicant forwarded a Copy of the Proposed Order he wanted forward to the P.C.R. Judge Garrison Hill and Counsel agree, See Exhibit (B)
- 3) Applicant Forward New Amend to P.C.R. Counsel Rodney Richey Counsel did Amen issues to P.C.R. and filed with the Clerk of Court of Greenville County. See Exhibit (C)

4) After receiving the Order of Dismissal, it doesn't indicate the New ground, and these issue Exhibits (R) was address at the P.C.R hearing on Record, and the P.C.R. Judge is required to Rule on all availble issues in his P.C.R. application, and Amend Motion S.C. Code Ann-17-27-80 and I'm Requesting that you prepair your Breit that these Issue would require a Second P.C.R. hearing, and Delay the Writ of Certioraria on Appeal Within the Supreme Court

Therefor the Applicant has not received a Full Bite At the Apple in my First P.C.R.

Date: 9-12-13

S/ Illya Salter

Sworn before me

This day 18th of September of 2013

Notary Nancy C. Muehle

Expires 1-23-2023

S/ Illya Salter
Illya Salter #270347

Perry. Corr. Inst. Q3-B-214
430 OAKLAWN. Rd.

STATE of South Carolina
County of Greenville

Division of Appellate Defense

Illya Salter

Appellate Case # 2013-001773

VS.

Lower Court Case # 2011-CP-23-4280

Division of Appellate Defense

Proof of Service

I, Illya Salter Certify that a true and
Correct Copy of my Legal Letter, followed by
a "Affidavit" With Exhibits A, B, C, and D has
been Served on Counsel, (Appellate) Mr. Dudek
at 1330 Lady St. Ste. 401 Columbia, S.C. 29201
by way of U.S. Mail Through the Perry Corr.
Inst. Mail Room.

Sworn before me

this day 18th of September OF 2013

Notary Nancy C. Murchant

Expires 1-23-2023

RECEIVED

SEP 20 2013

P.C.I. MAILROOM

/ Illya Salter
Illya Salter #270347
Perry Corr. Inst. Q3B-21
430 OAKLAWN Rd.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Illya Tramell Salter,)
S.C.D.C. No. 270347,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
C.A. No. 2011-CP-23-4280

ORDER OF DISMISSAL

FILED - CLERK OF COURT
GREENVILLE CO SC
2013 AUG - 7 PM 3:39
DANIEL W. RICHES

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed June 28, 2011. The Respondent made its return on November 1, 2011. An evidentiary hearing into the matter was convened on June 18, 2013 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Rodney W. Richey, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. The Court had before it the transcript of the guilty plea hearing, the Greenville County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Greenville County Grand Jury indicted the Applicant for carjacking (2010-GS-23-1872), failure to stop for a blue light (2010-GS-23-1874), and armed robbery (2010-GS-23-1879). Daniel J. Farnsworth, Sr.,

[Handwritten signature]

Esquire represented the Applicant.

On January 31, 2011, the Applicant pled guilty as indicted. The Honorable G. Edward Welmaker sentenced the Applicant to concurrent terms of two hundred thirty (230) months for carjacking, thirty-six (36) months for failure to stop for a blue light, and two hundred thirty (230) months for armed robbery. The Applicant did not appeal.

ALLEGATIONS

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

1. Ineffective assistance of counsel:
 - a. Failure to investigate and prepare for a defense at trial.
2. Involuntary guilty plea:
 - a. "Plea was given under duress and misrepresentation of facts and is a fraud."
3. Prosecutorial misconduct:
 - a. "Failed to follow criminal procedures when acquiring indictments."

In an amendment to the PCR application filed September 2, 2011, the Applicant makes the following allegation:

1. "Trial court lack of jurisdiction due to the use of fraud indictment."

The Applicant, through counsel, submitted an amendment to his application dated January 23, 2013, in which he alleged the following:¹

1. Ineffective assistance of counsel:
 - a. Failed to conscientiously discharge professional responsibilities.
 - b. Failed to effectively challenge search and seizure.
 - c. Failed to act as a diligent and conscientious advocate.
 - d. Failed to give complete loyalty.
 - e. Did not have Applicant's best interest in mind.

¹ This Court notes the Applicant filed several pro se amendments to his PCR application. These amendments, however, were filed while the Applicant was represented by counsel. This Court cannot consider these amendments. See Rule 11(a), SCRCP; Jones v. State, 348 S.C. 13, 14, 558 S.E.2d 517, 517 (2002) (holding there is no constitutional right to hybrid representation either at trial or on appeal).

- f. Failed to serve the cause in good faith.
- g. Neglected necessary investigations and preparation.
- h. Did not do necessary factual investigations.
- i. Did not do necessary legal research.
- j. Did not conscientiously gather information to protect rights.
- k. Did not try to have the case settled in a manner that would have been to my best advantage.
- l. Did not advise me of all my rights or take any of the actions that were necessary to protect and preserve them.
- m. Never properly ascertained whether or not I actually understood or comprehended all of the issues involved in the case.
- n. Never properly consulted with me or kept me informed.
- o. Never explained to me or discussed with me any of the elements.
- p. Never made any attempt to ascertain whether or not I actually knew the elements of the crime charged or whether or not I understood exactly what "criminal element" meant.
- q. Never explained or discussed with me how the elements of the crime charged and the evidence that the prosecution planned to introduce into evidence against me related to one another and did not discuss how the sentencing would be done especially as it related to the elements of the crime as in State v. Boyd.
- r. Never informed me of any of the defenses that were available to me.
- s. Never intended to offer any defense to the court on my behalf.
- t. Never explained to me or discussed with me any kind of defense strategy.
- u. Never explained to me or discussed with me any of the tactical choices that were made or planned to be made.
- v. Dictated to me exactly how my case was going to be handled and offered no alternative options.
- w. Failed to properly acquaint herself with the law and facts surrounding my case and, as a result, there was a very serious error in the assessment of both the law and the facts.
- x. No defense at all was put in issue for me during the Court proceedings.
- y. Did not subject the prosecution's case to any adversarial testing.
- z. Failed to oppose the prosecution's case with any adversarial litigation.
- aa. Failed to function as the government's adversary in any sense of the word.
- bb. Failed to pursue any of the legal recourse that was available.
- cc. Failed to function as the counsel that the Constitution's Sixth Amendment guarantees.
- dd. Failed to call alibi witnesses on my behalf.
- ee. Failed to appeal my case.

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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel/Involuntary Guilty Plea

The Applicant alleges his guilty plea was involuntary and that he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct.

1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)).

The Applicant stated he had two meetings with plea counsel before the plea hearing and that they reviewed some of the discovery materials. The Applicant stated they also discussed his version of events and that he told plea counsel he was not guilty of either carjacking or armed robbery. The Applicant stated he took the car in question but that the victim was standing by the trunk of the car at the time. The Applicant stated he pled guilty because plea counsel told him the State would seek a sentence of life imprisonment without parole (LWOP) if he went to trial.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds the Applicant's testimony is not credible.

The Applicant admitted to the plea judge both that he was guilty and that the facts recited by the solicitor were true. (Plea transcript, p.8; p.10). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.8-10). This Court finds the Applicant entered a knowing and voluntary guilty plea. See Boykin v. Alabama, 395 U.S. at 243-44, 89 S. Ct. at 1712.

This Court finds the Applicant failed to meet his burden of proving plea counsel was ineffective. This Court notes the Applicant's allegations are refuted by the guilty plea transcript. See Stalk v. State, 375 S.C. 289, 300, 652 S.E.2d 402, 407 (Ct. App. 2007) (citing Rayford v.

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State, 314 S.C. 46, 48-49, 443 S.E.2d 805, 806 (1994)). While the Applicant argues he only had two meetings with plea counsel and was not able to review some of the discovery materials, he told the plea judge that he was satisfied with counsel and did not object when counsel told the judge he had been given access to the discovery. (Plea transcript, p.9; p.14). While the Applicant stated he was not guilty of carjacking and armed robbery, he told the plea judge he was guilty of these charges and agreed with the State's factual recitation (which noted the victim had been seated in his car at the time of the carjacking). (Plea transcript, p.8; p.10). While the Applicant stated that he only pled guilty because plea counsel said the State would seek an LWOP sentence if he went to trial, he told the plea judge that he had not been threatened into entering a guilty plea. (Plea transcript, pp.9-10).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. This Court also concludes the Applicant has failed to meet his burden of proving his guilty plea was not knowing and voluntary. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to

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present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Furthermore, the Applicant's guilty plea was entered knowingly and voluntarily within the mandates of Boykin. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

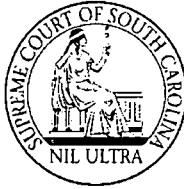
1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 1st day of AUGUST, 2013.



D. Garrison Hill
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

www.sccourts.org

September 03, 2013

Robert Michael Dudek, Esquire
Division of Appellate Defense
1330 Lady St., Ste 401
Columbia SC 29201

Re: Illya Salters v. State
Appellate Case No. 2013-001773
Lower Court Case No. 2011CP2304280

Dear Mr. Dudek:

Enclosed is *pro se* request to hold this matter in abeyance filed by Mr. Slater. Since your office now represents him in this matter, no action will be taken on this *pro se* request. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989). Instead, if it is appropriate to seek any relief from this Court, that relief will have to be sought by your office.

Very truly yours,

CLERK

Enclosure

cc: Karen Christine Ratigan, Esquire
Mr. Illya Salter, #270347



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

December 16, 2013

Mr. Illya T. Salter, #270347
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Your case

Dear Mr. Salter:

I am the lawyer who will be handling your case in the Supreme Court. I will be reviewing the record of the proceedings at the PCR court to see what legal errors to present to the Supreme Court on your behalf. I will submit these in the form of a petition for writ of certiorari.

When I file the petition, I will send you a copy of all relevant hearing transcripts and material in the form of an appendix. Only information that was in front of the PCR judge can be included in the appendix.

You must be patient while the court considers your case. The process is very slow, but there is nothing I can do to speed up the process. It may be a few months before I submit a petition to the Supreme Court and at least a year after that before the Court decides your case. **Some cases take even longer.** You will be notified when the Court makes a decision and letters asking the status of your case do not speed up the process.

Please keep these points in mind. The Supreme Court can only consider the information that was before the PCR court. Any new information cannot be brought to their attention at this point. In addition, the issue must have been addressed in the PCR court's order of dismissal before it can be raised to the Supreme Court.

The court decides the case based on the written material submitted by the attorney general's office and me. It very rarely sets oral arguments, which are an opportunity for me to focus its attention on the information in the petition. If you are in prison, you cannot attend.

Mr. Illya T. Salter, #270347

Page 2

December 16, 2013

In addition, we are not able to visit our clients personally but feel free to call collect.

Be assured that I will try my best to find reversible error. I will submit the best petition I possibly can to the Supreme Court.

I receive a tremendous amount of mail and I may not be able to respond to all letters. However, you are free to telephone me collect. An SCDC Telephone Privilege Request has already been submitted for the following number: (803) 734-1330. This is the preferred method of us communicating. Regardless, rest assured if you write me a letter about your case, I will read it and carefully consider it as I decide which issue or issues to submit to the appellate court. Please note that the decision about which issues to submit is mine. Only if I submit a "no merits" or Johnson petition, stating that I could not find any good issues, will the court let you submit your own legal arguments.

Finally, if you are transferred to another facility or released, you must write and let me know where you are. The Department of Corrections will not notify us of your new address.

I hope this letter answers some of the questions you may have at this time. Again, please do not hesitate to contact me by letter if you have any questions or I may be of further assistance.

Sincerely,


Robert M. Pachak
Appellate Defender

RMP/pcm

Enclosure

All Evidence + Exhibits

Letter to Mr Fornsworth tryin to get the letter he wrote me while at Kiskland Threatening me about a life Sen. because of Pending Charges, but I had none they were drop the day after I went to Court. No reply!!

Motion requesting Client file and the letter he he threatening me with. I requested this under Matter of Haddock, No reply!! with Proof of Service dated-(1-10-13)

General Session Tracking Sheets Charges he threaten me about, it was 13 Charges, that was dismissed the day after I went to Court. Mr Fornsworth was Counsel.

Letter from Rodney Richey for Some Amendments he add
Dated 1-23-13

Letter from Rodney Richey after he came to see
I told him I didn't Commit a Arm Robbery Nor Carjacking
Dated Feb 25, 13

Letter from Mr Richey to Mr Fornsworth with a Subpoena for my files and Video Tape. No reply!! Dated 3-7-13

Letter from Mr. Richey Stating he review my transcript and it doesn't make any refernce to a Video Tape
But IF He Had Read It (Transcript) Pg-12 Line 24 Tells It Does ^{PK}
①

ILLYA TRAMELL SALTER #270347
PERRY Correctional Inst.
Pelzer, S.C. 29669

DATE: 11-26-12

Daniel Farnsworth
Greenville County Public Defender Office
Green County Courthouse,
305 E. North St
Greenville, S.C. 29601

RECEIVED
NOV 26 2012
P.C.I. MAILROOM

RE: To Hold Letter Dated Feb. 22, 2011
Under Rule. 5

Dear Counsel,

At this time I request a Letter you
Wrote to me while a "RE" Dated: Feb-22, 2011
Pertaining to a Belated Appeal. I request this Letter
to Prepare my Case for the next level of Court

c/c
His Counsel
Chief Justice
Daniel Farnsworth

THANK YOU

s/ Illya Trammell Salter
ILLYA TRAMELL SALTER

Ilyia Salter #270347

430 Oak Lawn Rd.
Pelzer, S.C. 29669

RECEIVED

JUN 04 2013

P.C.I. MAILROOM

Date: 6-3-13

Mr. Rodney Richey, I received your letter dated 5-28-13
In response to my request about my Entire Files.
As you should know, by me not having my file, I'm
not ready to appear in Court yet, because of the
Situation with Mr. Farnsworth not Complying with the
S.C.R CrimP. After reading your letter you say you
will let me know what's in it, No I need a copy
of it. I really need the file from his Office
So I can get the letter he Threaten me with
about a Life Sentence. Here is two (2) of the
most important People I need in Court. Once you find
out about the mail I receive while at Kirkland
I need you to Subpoena their record from
Feb 22, 2011 to verify That I did receive legal
mail from Mr. Farnsworth, so the Judge will make
Him produce the letter

Respectfully Submitted.

Ilyia Salter

Tiffany Richardson - Staff Attorney
P.O. Box 12159 - Columbia, S.C. 29211 - (803) 734-2038

Mail Personal at Kirkland R&E
during Feb, 2011

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE SOUTH CAROLINA
Supreme Court

Iliya Salter, PLAINTIFF

VS

DANILE FORNSWORTH,

Defendant

C/A No: 2011-CP-23-4280

Request For Clients File(s)

Applicant moves before this Honorable Court for an order to obtain documents in possession of the Respondent and Trial Counsel, Mr. Fornsworth, related to above Caption matter, as he seeks Due Process of Law in accordance to S.C. Rules of Civil Procedure, Rule (26) et. seq, the State and Federal Constitution, Applicant seeks to obtain a complete copy of his Case file(s) related to indictment No. 2010-GS-23-01879, 1874, 1872 his Conviction, appeal process to include, but not limited to a Correspondence between Attorney Mr. Fornsworth. Mr Fornsworth sent Applicant a Letter On Feb. 22, 2011 that stated, That I, Mr. Fornsworth received your letter, and the time had elapsed to file for a Belated Appeal, and that he wanted to remind Applicant that he was still facing a "Life Sentence" related to the Pending Charges. Applicant asserts that a client's file and all legal Correspondences belong to the Client and should be given to the Client upon Request,

Matter of Haddock. 321 S.E. 2d 601 (S.C. 1984)

Applicant further asserts that Compliance should be made by Respondent and Mr. Fornsworth immediately as such

request is being made in good Faith and in the Interest of Justice As Applicant Seek Due Process and Equal Protection of Law in accordance to Article I, Section 3. of the South Carolina Constitution and the Fourteenth Amendenent of the United States Constitution. This Request should Comply with the Mandate of S.C.R.CrimP, Rule (5); And Brady VS. Maryland, And ITS Progeny.

C.C.

South Carolina Disciplinary
Board (Henry B. Richardson)

I will wait (5) day's
before I make this "Complaint"

Date: 1-8-13

S/ Illya Salter
Illya Salter
430 OakLawn Rd
Pelzer, S.C. 29669

STATE OF SOUTH CAROLINA;
COUNTY OF GREENVILLE

IN THE SOUTH CAROLINA
SUPREME COURT

Ilyya Salter #270347

Plaintiff

VS.

Daniel Fornsworth,

Defendant

C/A No: 2011-CP-23-4280

Proof of Service

TO Respondant:

I Certify that Ilyya Salter #270347
Hereby Served a True Copy of Motion- Request For Client File
Upon all parties by placing in the U.S. mail
Postage prepaid, this 8th day of January 2013.

Sworn before me this
9th day of January 2013

2013

Notary

Hebert M. Watley

Expires:

January 2, 2016

S/ Ilyya Salter

Ilyya Salter

#270347

430 Oak Lawn Rd

Pelzer, S.C. 29669

RECEIVED

JAN 10 2013

P.C.I. MAILROOM



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Tiffany N. Richardson
Staff Attorney

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Facsimile: (803) 734-1964

March 15, 2013

PERSONAL AND CONFIDENTIAL

Illya Tramell Salter
#270347
430 Oaklawn Road
Pelzer, SC 29669

RE: Lawyer: Daniel J. Farnsworth, Sr., Esquire
File Number: 13-DE-L-0115

Dear Mr. Salter:

This will acknowledge your letter received on January 25, 2013. From reading your letter, I need additional information from you. You stated that Mr. Farnsworth, Sr. told you that the time for appeal had passed. However, you never stated that you requested your file from Mr. Farnsworth. If you did request it, what was his response to your request?

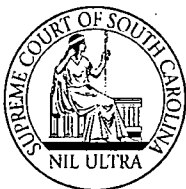
Please keep in mind that the authority of this office is limited to issues of whether a lawyer has committed misconduct or is incapacitated within the guidelines set out in Rules 413, SCACR. This office does not have the authority to determine whether the outcome of a case was fair or to intervene in a legal matter.

Without the requested information, we will be unable to proceed with an investigation. If we do not receive it within twenty days, we will close this matter without further notice to you. Feel free to contact me if you have any questions or concerns.

Sincerely,

Tiffany Richardson
Tiffany N. Richardson

TNR/clg



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Tiffany N. Richardson
Staff Attorney

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Fax: (803) 734-1964

May 21, 2013

PERSONAL AND CONFIDENTIAL

Illya Tramell Salter #270347
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

RE: Lawyer: Daniel J. Farnsworth, Sr., Esquire
Matter Number: 13-DE-L-0115

Dear Mr. Salter:

We have received your complaint against Daniel J. Farnsworth, Sr., Esquire. We will conduct an investigation into the matters you have reported. You will not necessarily be contacted prior to a decision regarding your complaint; therefore, you should submit any additional information or documentation to support your allegations at this time.

The authority of this office and the jurisdiction of the Commission on Lawyer Conduct are limited to issues of whether a lawyer is subject to discipline pursuant to the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR. Where misconduct is found, sanctions may be imposed ranging from a confidential letter of caution or admonition, public reprimand, suspension, or disbarment. If our investigation does not reveal evidence of lawyer misconduct, your complaint will be dismissed.

We take this opportunity to advise you of the limited role of this office and the Commission so that you will be aware that we cannot provide you with assistance or advice. You will be notified of the final disposition of your complaint. It is often many months after receipt of a complaint before a final decision is made. Feel free to contact me if you have any questions or concerns.

Sincerely,

Tiffany Richardson
Tiffany N. Richardson

Exhibits - All these Charges were dropped
the day after I was Sentence Feb 1, 2011
Mr Fornworth Sent me a letter while I was
at Kirkland Dated Feb 22, 2011 Saying I
was facing a Life Sentence with the Pending
Charges, but come to find out, I had no
Pending Charges, I sent him this motion
and he didn't respond.

(motion)

Request For Clients file(s)

General Sessions Tracking Sheet

JA/

Indictment # 0000GS232010-1878

Name: Salters, Illya Tramell

Warrant/Ticket # M177491

AKA:

Date of Arrest: 12/19/2009

Addr: 100 Shemwood Lane
Greenville, SC 29605

Date of Offense: 12/18/2009

Date Rcv by Clerk 12/30/2009

SSN# 251-23-1332

Magistrate: Garrett, C. R.

Sex: M Race: B

Counts: Code: 0065/Traffic / Failure to stop for a blue
light, no injury or death - 1st offense

DOB: 06/18/1974

DL# SC/999999999

Indictment # 2010-1878
0000GS23

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition:

FEB 01 2011

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Disn/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain: DEFENDANT PLED TO ORDER CHANGE

Explain: _____

Explain: _____

Explain: _____

Explain: _____

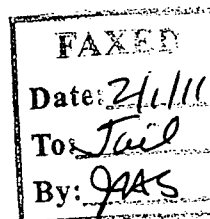
Judge: _____

Court Reporter: _____

Defense Atty: FARGUWORTH, SR.Solicitor: [Signature] (TOL)

Counts: _____ Code: _____

Sentence: _____



General Sessions Tracking Sheet

Indictment # 0000GS23

JAIL

2010-1868

Name: Salter, Illya Tramell

Warrant/Ticket # 48869FB

AKA:

Date of Arrest: 12/19/2009

Addr: 1607 E Washington St
Greenville, SC 29607

Date of Offense: 12/19/2009

Date Rev by Clerk 12/31/2009

Magistrate: Cagle, Diane D.

SSN# 000-00-0000

Counts: Code: 0174/DUS / Driving under suspension,
license not suspended for DUI - 2nd offense

Sex: M Race: B

DOB: 06/18/1974

DL# SC/007735901

Indictment #

2010-1868

0000GS23

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition:

1/21 FEB 01 2011

Disposition

1. Guilty plea
 2. Trial -- guilty
 3. Trial -- not guilty
 4. ☒ Dism/Not Pros/Pros Ended

Explain: DEFENDANT PLED TO OTHER CHARGES

5. Judicial Commitment

Explain:

6. Judicial Dismissal

Explain:

7. Remanded

8. Dismissed at Prelim

8. No Bill

9. Failure to Appear

Explain:

10. Other

Explain:

Judge:

Court Reporter:

Defense Atty:

Farnsworth, SR

Solicitor:

J. (Jail)

Counts:

Code:

Sentence:

FAXED

Date: 2/1/11

To: Jail

By: JRS

General Sessions Tracking Sheet

Indictment # 0000GS23

2010-1876

JA:1

Name: Salter, Illya Tramell

AKA:

Addr: 313 Morgan Street
Greer, SC 29651

SSN# 251-23-1332

Sex: M Race: B

DOB: 06/18/1974

DL# SC/007735901

Warrant/Ticket # M177005

Date of Arrest: 12/19/2009

Date of Offense: 11/17/2009

Date Rcv by Clerk 12/30/2009

Magistrate: Garrett, C. R.

Counts: Code: 0139/Robbery / Armed Robbery,
robbery while armed or allegedly armed with a
deadly weapon

Indictment #

2010-1876
0000GS23

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition:

FEB 01 2011

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain: DEFENDANT pled to other charges

Explain:

Explain:

Explain:

Explain:

Judge:

Defense Atty: FORSWORTH, JR.

Counts: Code:

Sentence:

Court Reporter:

Solicitor:

J. (Jub) (Jub)

FAXED

Date: 2/1/11

To: Jail

By: JMS

General Sessions Tracking Sheet

JA:1

Indictment # 0000GS23

2010-1876

Name: Salter, Illya Tramell

Warrant/Ticket # M177006

AKA:

Date of Arrest: 12/19/2009

Addr: 313 Morgan Street
Greer, SC 29651

Date of Offense: 11/17/2009

Date Rcv by Clerk 12/30/2009

SSN# 251-23-1332

Magistrate: Garrett, C. R.

Sex: M Race: B

Counts: Code: 0549/Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

DOB: 06/18/1974

DL# SC/007735901

Indictment #

2010-1876

0000GS23

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk
3. Date of Disposition: FEB 01 2011

- Disposition
- ___ 1. Guilty plea
 - ___ 2. Trial -- guilty
 - ___ 3. Trial -- not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ___ 5. Judicial Commitment
 - ___ 6. Judicial Dismissal
 - ___ 7. Remanded
 - ___ 8. Dismissed at Prelim
 - ___ 8. No Bill
 - ___ 9. Failure to Appear
 - ___ 10. Other

Explain: DEFENDANT PLED TO OTHER CHARGES

Explain:

Explain:

Explain:

Explain:

Judge:

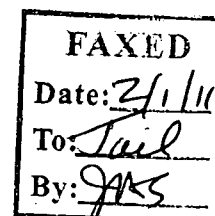
Court Reporter:

Defense Atty: [Signature] SR

Solicitor: [Signature] (JML)

Counts: Code:

Sentence:



General Sessions Tracking Sheet
Indictment # 0000GS23

JAI

Name: Salter, Illya Tramell

AKA:

Addr: 313 Morgan Street
Greer, SC 29651

SSN# 251-23-1332

Sex: M Race: B

DOB: 06/18/1974

DL# SC/007735901

2010-1870

Warrant/Ticket # M177008

Date of Arrest: 12/19/2009

Date of Offense: 11/17/2009

Date Rev by Clerk 12/30/2009

Magistrate: Garrett, C. R.

Counts: Code: 1167/Trespassing / Entering premises
after warning or refusing to leave on request

2010-1870

Indictment # 0000GS23

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk

3. Date of Disposition:

FEB 01 2011

1/31/11

- Disposition
- ___ 1. Guilty plea
 - ___ 2. Trial -- guilty
 - ___ 3. Trial -- not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ___ 5. Judicial Commitment
 - ___ 6. Judicial Dismissal
 - ___ 7. Remanded
 - ___ 8. Dismissed at Prelim
 - ___ 8. No Bill
 - ___ 9. Failure to Appear
 - ___ 10. Other

Explain: DEFENDANT PLED TO OTHER CHARGES

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Judge: _____

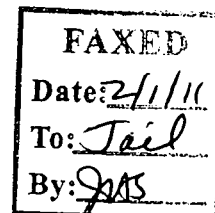
Defense Atty: FORESMITH, SR.

Counts: _____ Code: _____

Sentence: _____

Court Reporter: _____

Solicitor: J. L. Y. (JAL)



General Sessions Tracking Sheet

JA:1

Indictment # 0000GS23
2010 - 1871

Name: Salter, Illya Tramell

Warrant/Ticket # M177007

AKA:

Date of Arrest: 12/19/2009

Addr: 313 Morgan Street
Greer, SC 29651

Date of Offense: 11/17/2009

Date Rev by Clerk 12/30/2009

Magistrate: Garrett, C. R.

SSN# 251-23-1332

Counts: Code: 2877/Shoplifting / Enhancement for 3rd or sub. offense. Value \$1000 or less (see 16-01-0057)

Sex: M Race: B

DOB: 06/18/1974

DL# SC/007735901

Indictment # 0000GS23

Disposition Information

- Transmitted to SOL & SCCA:
- Disp Received by Clerk:
- Date of Disposition: FEB 01/2011

- Disposition
- Guilty plea
 - Trial -- guilty
 - Trial not guilty
 - ☒ Dism/Not Pros/Pros Ended
 - Judicial Commitment
 - Judicial Dismissal
 - Remanded
 - Dismissed at Prelim
 - No Bill
 - Failure to Appear
 - Other

Explain: DEFENDANT PLED TO OTHER CHARGES

Explain:

Explain:

Explain:

Explain:

Judge:

Court Reporter:

Defense Atty: FARSWORTH, SZ

Solicitor: [Signature] (Sub)

Counts: Code:

Sentence:

FAXED
Date: 2/1/11
To: Juel
By: [Signature]

General Sessions Tracking Sheet

Indictment # 0000GS23
2010 1631

JA.1

Name: Salter, Illya Tramell

Warrant/Ticket # M069459

AKA:

Date of Arrest: 12/19/2009

Addr: Shady Rest Motel Room #7
Greenville, SC 29609

Date of Offense: 04/03/2009

Date Rcv by Clerk 01/13/2010

SSN# 251-23-1332

Magistrate: Hawley, Matthew R

Sex: M Race: B

Counts: Code: 2427/Forgery / Forgery, value less than \$5,000

DOB: 06/18/1974

DL# SC/007735901

Indictment # 0000GS23

2010-1631

Court I

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition:

FEB 01 2011

- Disposition
- ___ 1. Guilty plea
 - ___ 2. Trial -- guilty
 - ___ 3. Trial -- not guilty
 - ☒ 4. ~~Dism~~ Not Pros/Pros Ended
 - ___ 5. Judicial Commitment
 - ___ 6. Judicial Dismissal
 - ___ 7. Remanded
 - ___ 8. Dismissed at Prelim
 - ___ 8. No Bill
 - ___ 9. Failure to Appear
 - ___ 10. Other

Explain: DEFENDANT PLED TO OTHER CHARGES

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Judge: _____

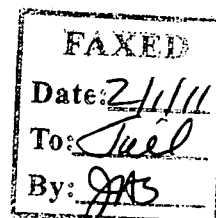
Court Reporter: _____

Defense Atty: Farnsworth, SR

Solicitor: J. G. (JMG)

Counts: _____ Code: _____

Sentence: _____



General Sessions Tracking Sheet

Indictment # 0000GS23
2010-1877

SA:1

Name: Salter, Illya Tramell

Warrant/Ticket # M177496

AKA:

Date of Arrest: 12/19/2009

Addr: 100 Shemwood Ln Apt 17A
Greenville, SC 29605

Date of Offense: 12/18/2009

Date Rcv by Clerk 12/30/2009

Magistrate: Garrett, C. R.

Counts: Code: 0528/Shoplifting / Shoplifting, value
\$1,000 or less

SSN# 251-23-1332

Sex: M Race: B

DOB: 06/18/1974

DL# SC/0007735901

Indictment #

2010-1877
0000GS23

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition:

1/31/FEB 01 2011

Disposition	☐ 1. Guilty plea	Explain:	
	☐ 2. Trial -- guilty	Explain:	
	☐ 3. Trial -- not guilty	Explain:	
	☒ 4. Dism/Not Pros/Pros Ended	Explain:	<u>DEFENDANT PLED TO OTHER CHARGES</u>
	☐ 5. Judicial Commitment	Explain:	
	☐ 6. Judicial Dismissal	Explain:	
	☐ 7. Remanded	Explain:	
	☐ 8. Dismissed at Prelim	Explain:	
	☐ 8. No Bill	Explain:	
	☐ 9. Failure to Appear	Explain:	
	☐ 10. Other	Explain:	

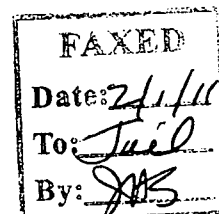
Judge: _____

Court Reporter: _____

Defense Atty: Farrar, Sr.Solicitor: He (Jury)

Counts: _____ Code: _____

Sentence: _____



General Sessions Tracking Sheet

Jail

Indictment # 0000GS23

2010-1869

Name: Salters, Illya Tramell

Warrant/Ticket # M177495

AKA:

Date of Arrest: 12/19/2009

Addr: 100 Shemwood Lane
Greenville, SC 29605

Date of Offense: 12/18/2009

Date Rcv by Clerk 12/30/2009

SSN# 251-23-1332

Magistrate: Garrett, C. R.

Sex: M Race: B

Counts: Code: 0174/DUS / Driving under suspension,
license not suspended for DUI - 2nd offense

DOB: 06/18/1974

DL# SC/999999999

Indictment #

2010-1869

0000GS23

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition: 1/31/11

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain: DEFENDANT PLED TO OTHER CHARGES

Explain:

Explain:

Explain:

Explain:

Judge:

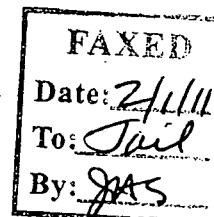
Defense Atty: FAIRBURN, SR.

Counts: Code:

Sentence:

Court Reporter:

Solicitor: J. L. (SOL.)



General Sessions Tracking Sheet

Indictment # ~~0000~~GS23

2010

1631

JA:1

Name: Salter, Illya Tramell

Warrant/Ticket # M069460

AKA:

Date of Arrest: 12/19/2009

Addr: Shady Rest Motel Room #7
Greenville, SC 29609

Date of Offense: 04/09/2009

Date Rcv by Clerk 12/22/2009

Magistrate: Hawley, Matthew R

SSN# 251-23-1332

Counts: Code: 2427/Forgery / Forgery, value less than \$5,000

Sex: M Race: B

DOB: 06/18/1974

DL# SC/007735901

Indictment #

2010-1631

~~0000~~GS23

Court II

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition:

FEB 01 2011

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain: DEFENDANT PLED TO OTHER CHARGES

Explain: _____

Explain: _____

Explain: _____

Explain: _____

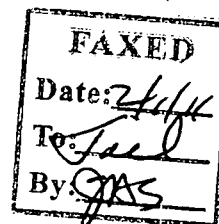
Judge: _____

Court Reporter: _____

Defense Atty: Forsworth, SRSolicitor: [Signature] (JMG)

Counts: _____ Code: _____

Sentence: _____



General Sessions Tracking Sheet

JA:1

Indictment # 0000GS23

2010-1873

Name: Salters, Illya Tramell

Warrant/Ticket # I561570

AKA:

Date of Arrest: 12/19/2009

Addr: 100 Shemwood Lane
Greenville, SC 29605

Date of Offense: 03/12/2009

Date Rcv by Clerk 12/30/2009

Magistrate: Stilwell, Robin

SSN# 251-23-1332

Counts: Code: 2427/Forgery / Forgery, value less than \$5,000

Sex: M Race: B

DOB: 06/18/1974

DL# SC/007735901

Indictment #

2010-1873
0000GS23

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition: FEB 01 2011

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dismiss/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain: DEFENDANT PLED TO OTHER CHARGE

Explain:

Explain:

Explain:

Explain:

Judge:

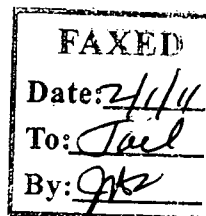
Court Reporter:

Defense Atty: FARNWORTH, SR

Solicitor:

Counts: Code:

Sentence:



General Sessions Tracking Sheet

Indictment # 0000GS23

JA:1

2010-1631

Name: Salter, Illya Tramell

Warrant/Ticket # M069460

AKA:

Date of Arrest: 12/19/2009

Addr: Shady Rest Motel Room #7
Greenville, SC 29609

Date of Offense: 04/09/2009

Date Rcv by Clerk 12/22/2009

Magistrate: Hawley, Matthew R

SSN# 251-23-1332

Counts: Code: 2427/Forgery / Forgery, value less than \$5,000

Sex: M Race: B

DOB: 06/18/1974

DL# SC/007735901

Indictment #

2010-1631

0000GS23

Court II

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition:

FEB 01 2011

1/31/11

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dismiss/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain: DEFENDANT PLED TO OTHER CHARGES

Explain:

Explain:

Explain:

Explain:

Judge:

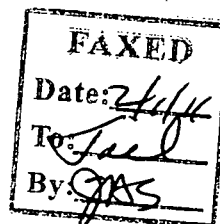
Court Reporter:

Defense Atty: FARRIS, WORTH, JR.

Solicitor:

Counts: Code:

Sentence:



General Sessions Tracking Sheet

Indictment # 0000GS23 2684

JAL

Name: Salter, Illya Tramell

Warrant/Ticket # J990526

AKA:

Date of Arrest: 01/15/2009

Addr: 100 Shemwood Ln Apt 17A
Greenville, SC 29605

Date of Offense: 01/15/2009

Date Rcv by Clerk 01/28/2009

Magistrate: Cagle, Diane D.

SSN# 251-23-1332

Counts: Code: 0430/Vehicle / Poss., conceal, sell., or
dispose of stolen vehicle, value \$5,000 or more

Sex: M Race: B

DOB: 06/18/1973

DL# SC/ 007735901

Indictment # 2009 0000GS23 2634

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition: FEB 01 2011

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain: DEFENDANT PLED TO OTHER CHARGES

Explain:

Explain:

Explain:

Explain:

Judge:

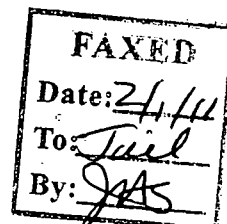
Defense Atty: FORDSWORTH, SR.

Court Reporter:

Solicitor: [Signature] (Trick)

Counts: Code:

Sentence:



RICHEY AND RICHEY

ATTORNEYS AT LAW

COPY

A Professional Association

Rodney W. Richey
Lola S. Richey

24 Vardry Street, Suite 301
Greenville, South Carolina 29601

Mailing Address:
Post Office Box 10916
Greenville, South Carolina 29603

(864) 467-0503
(864) 467-0646 (Fax)

Offices:
Greenville/Spartanburg

Website:
www.richeyandrichey.com

January 23, 2013

Clerk of Court
Greenville County Courthouse
305 East North Street
Greenville, SC 29601

RE: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

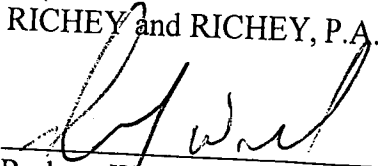
Dear Sir/Madam:

Please find enclosed Amendments for PCR Application and Affidavit of Service for the above referenced matter. After filing, please return the clocked copy in the enclosed return envelope.

If you should have any questions, please do not hesitate to contact our office.

Sincerely,

RICHEY and RICHEY, P.A.


Rodney W. Richey

RWR/tlg
enclosures

cc: Karen Ratigan, Esq.
Illya Salter

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Illya Salter SCDC# 270347,
Applicant,

vs.

THE STATE OF SOUTH CAROLINA,
Respondent.

) IN THE COURT OF COMMONS PLEAS
) CASE NO: 2011-CP-23-4280
)

)
) AMENDMENTS TO
) POST CONVICTION
) RELIEF APPLICATIONS
)
)
)
)
)
)

The applicant hereby amends answers to number 9 and number 10 of his Application for Post-Conviction Relief to state the following:

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

(A) The Applicant was denied effective assistance of counsel in violation of the Sixth Amendment to the United States Constitution and Article I, Section 14 of The South Carolina Constitution.

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

(a) The applicant was provided with deficient representation by his attorney, in that the conduct of his attorney was objectively unreasonable under the circumstances. Strickland v. Washington, 466 U.S. 668 (1984). The outcome of the applicant's proceeding was prejudiced, and it is reasonable probable that the outcome would have been different had counsel's performance not been deficient. Strickland, 466 U.S. at 694. Defense counsel was ineffective based on one or more of the following:

1. My defense attorney failed to conscientiously discharge his professional responsibilities while he was handling my case.
2. My defense attorney failed to effectively challenge the arrest and seizure of Applicant.
- ③ 3. My defense attorney failed to act as my diligent, conscientious advocate.
- ④ 4. My defense attorney failed to give me his complete loyalty.
- ⑤ 5. My defense attorney did not have my best interest in mind while he was supposed to be investigating and preparing my case.
6. My defense attorney failed to serve my cause in good faith.
- ⑦ 7. My defense attorney neglected the necessary investigations and the preparation of my case.
- ⑧ 8. My defense attorney did not do the necessary factual investigations on my behalf.
- ⑨ 9. My defense attorney did not do the necessary legal research.
- ⑩ 10. My defense attorney did not conscientiously gather any information to protect my rights.
- ⑪ 11. My defense attorney did not try to have my case settled in a matter that would have been to my best advantage.
- ⑫ 12. My defense attorney did not advise me of all my rights or take any of the actions that were necessary to protect preserve them; knowing that I was not versed in the law.
- ⑬ 13. My defense attorney, knowing I was illiterate in the law, never properly ascertained whether or not I actually understood or comprehended all of the issues that were involved in my case.
- ⑭ 14. My defense attorney never properly consulted with me or kept me informed with what was going on as far as my case was concerned.
- ⑬ 15. My defense attorney never explained to me or discussed with me any of the elements of the crime charged.
- ⑤ 16. My defense attorney never made any attempt to ascertain whether or not I actually knew what the elements for the crime charged were

or whether or not I understood exactly what the term "criminal" element" actually meant.

6 (7) My defense attorney never explained to me or discussed with me how the elements of the crime charge and the evidence that the prosecution planned to introduce into evidence against me related to one another and did not discuss how the sentencing would be done especially as it related to the elements of the crime as in State V. Boyd.

18. My defense attorney never informed me of any of the defenses that were available to me.

19. My defense attorney never intended to offer any defense to the court on my behalf.

7 (20) My defense attorney never explained to me or discussed with me any kind of defense strategy.

21. My defense attorney never explained to me or discussed with me any of the tactical choices that they either made or were planning to make.

22. My defense attorney dictated to me exactly how my case was going to be handled and offered no alternative options.

8 (23) My defense attorney failed to properly acquaint themselves with the law and the facts surrounding my case and as a direct result of their intentional negligence, there was a very serious error in their assessment of both the law and the facts.

0 (24) Because of my defense attorney's gross neglect and his many legal errors no defense at all was put in issue for me during the Court proceedings.

25. My defense attorney did not subject the prosecution's case to any adversarial testing.

7 (26) My defense attorney failed to oppose the prosecution's case with any adversarial litigation.

27. My defense attorney failed to function as the government's adversary in any sense of the word.

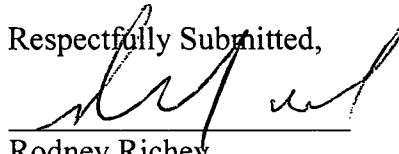
28. My defense attorney failed to pursue any of the legal recourse that were available to him.

29. The attorney that represented me on this charge in Court failed to function as the counsel that the Constitution's Sixth Amendment Guarantees.
30. My defense attorney failed to call alibi witnesses on my behalf which would have proven my innocence.
31. My defense attorney failed to appeal my case after I was convicted when I wanted to appeal.

His counsel's representation was not within the range and scope of competence demanded by Strickland and its progeny.

A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction requires that the defendant show first, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial. Sosebee v. Leeke, S.C. 362, F. 2nd 221 (1987), citing Strickland v. Washington 46 S.E.2D. 813 (1984), See also Butler v. State 286 S.C. 441, 334 S.E. 2d 813 (1985), also, Hill v. Lockhart 474 U.S. 88 (1985).

Respectfully Submitted,



Rodney Richey
Richey and Richey, P.A.
Post Office Box 10916
Greenville, South Carolina 29603
Attorney for the Applicant

January 23, 2013

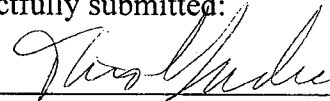
H CAROLINA)
)
EENVILLE)
)
270347,)
)
)
)
SOUTH CAROLINA)

IN THE COURT OF COMMONS PLEAS
CASE NO: 2011-CP-23-4280

AFFIDAVIT OF SERVICE

at I have served the Amendments to PCR Application on the State of South
iting copy of it in the United States Mail, postage prepaid, on January 23, 2013,
attorney of record, Office of Attorney General State of South Carolina, Post
Columbia, SC 29211-1549.

Respectfully submitted:



Tina Garduno, paralegal
Richey and Richey, P.A.
Post Office Box 10916
Greenville, South Carolina 29603

ne on

South Carolina
Expires: 7/15/2013

RICHEY AND RICHEY

ATTORNEYS AT LAW

A Professional Association

Rodney W. Richey
Lola S. Richey

24 Vardry Street, Suite 301
Greenville, South Carolina 29601

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Website:
www.richeyandrichey.com

February 25, 2013

Illya Salter SCDC#270347
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

Dear Mr. Salter:

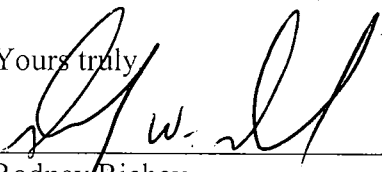
This letter is a follow up to the conversation we had at the jail. We discussed your case and I do not believe you will get to court and get less time. This case revolved around a shoplifting charge at Wal-Mart. The facts were you went to Wal-Mart and attempted to shoplift four pairs of pants. As you left, the loss prevention person came up to you. The controversy is whether you took out scissors and tried to hit the person. Once you left the store, it was alleged you took a car from a gentlemen. You stated you did not carjack the car from the man. You stated you just got in the car and drove off.

There does not appear to be an issue that you did the shoplifting nor whether to took the car. Also, there is no issue as whether you fail to stop for the police. This means that you face over twenty (20) years for these charges. The property offenses above carry up to 10 years because they are third subsequent property offenses. Therefore, if you had a new trial and you were convicted of these offense that you agree you are guilty of you would not receive less time that you already have.

However, it is your choice to pursue your case in the manner that you believe is in your best interest. I will present the case as you wish. Thank you and if you should have any questions please feel free to write me.

RICHEY AND RICHEY, P.A.

Yours truly,


Rodney Richey

RWR/

RICHEY AND RICHEY

ATTORNEYS AT LAW

A Professional Association

RODNEY W. RICHEY
LOLA S. RICHEY

24 Vardry Street, Suite 301
Greenville, South Carolina 29601

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(864) 467-0646 (Fax)

Offices:
Greenville/Spartanburg

Website:
www.richeyandrichey.com

March 7, 2013

Daniel J. Farnsworth, Esquire
PO Box 8719
Greenville, SC 29604

Re: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

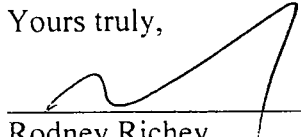
Dear Mr. Farnsworth:

Please be advised that I have been appointed to represent Mr. Salter for his Post Conviction Relief Action. You were appointed to represent him at the trial level. Enclosed is a Subpoena requesting a copy of his file and any videotapes. If you forward the file to me, I will copy the file to save you the expense and time. Please contact me as soon as possible with your position on this issue.

Thank you for your cooperation and if you should have any questions please feel free to call me.

RICHEY AND RICHEY, P.A.

Yours truly,


Rodney Richey

RWR/tlg

Enclosure

STATE OF SOUTH CAROLINA

ISSUED BY COURT OF COMMON PLEAS

IN THE COUNTY OF GREENVILLE

Illya Salter SCDC# 270347,

vs.

THE STATE OF SOUTH CAROLINA.

SUBPOENA IN A CIVIL CASE

Case Numbers: 2011-CP-23-4280

To: Daniel Farnsworth, Esquire.

Pending in Greenville County

[] YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

[] YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

[x] YOU ARE COMMANDED to produce and permit inspection of and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects): Produce the entire case file of **Illya Salter** pursuant to your representation on his criminal cases. This information would include but not limited to police reports, indictments, discovery materials, video tapes, and any all information in your possession.

PLACE Richey & Richey Attorneys at Law
24 Vardry Street, Suite 301
Greenville, South Carolina 29603

DATE AND TIME
3/25/13 2pm

[] YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30 (B) (6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

ISSUING OFFICERS NAME, ADDRESS AND PHONE NUMBER:

Rodney W. Richey, Attorney At Law
Post Office Box 10916, Greenville, South Carolina 29603, (864) 467-0503

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45 (C) (1) AND THAT NOTICE AS REQUIRED BY RULE 45 (B) (1) HAS BEEN GIVEN TO ALL PARTIES.

ISSUING OFFICERS SIGNATURE AND TITLE

, ATTORNEY FOR Plaintiff

DATE

SCAA FORM 254 (7/93)

(SEE RULE 45, SOUTH CAROLINA RULES OF CIVIL PROCEDURE, PARTS (C) & (D) ON REVERSE)

PROOF OF SERVICE

DATE SERVED 3-8-13 FEES AND MILEAGE TENDERED TO WITNESS
YES X NO AMOUNTS
Daniel Farnsworth, Esquire Regular Mail
SERVED ON (PRINT NAME) MANNER OF SERVICE
Tina Garduno Paralegal, Richey and Richey, P.A.
SERVED BY (PRINT NAME) TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 3-8-13
DATE

Tina Garduno
SIGNATURE OF SERVER

Post Office Box 10916, Greenville, South Carolina 29603
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party or an officer, director or managing agent of a party to travel more than 50 miles from the

county where that person resides, is employed or regularly transacts business in person, except that, subject to the provision of clause (c)(3)(B)(III) of this rule, such a person may in order to attend trial be commanded to travel from the county where the subpoena was served to the place within the state where the trial is held; or

- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and

resulting from the expert's study made not at the request of any party, or

- (iii) requires a person who is not a party or an officer, director or managing agent of a party to incur substantial expense to travel from

county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanded party to contest the claim.

STATE OF SOUTH CAROLINA

ISSUED BY COURT OF COMMON PLEAS

IN THE COUNTY OF GREENVILLE

Illya Salter SCDC# 270347,

vs.

THE STATE OF SOUTH CAROLINA.

SUBPOENA IN A CIVIL CASE

Case Numbers: 2011-CP-23-4280

To: Asset Protection Dept., Wal-Mart Supercenter

Pending in Greenville County

[] YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

[] YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

[x] YOU ARE COMMANDED to produce and permit inspection of and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects): **Produce any and all video tape files recorded during the entire day of December 18, 2009 in the Wal-Mart Store and parking lot.**

PLACE Richey & Richey Attorneys at Law

DATE AND TIME

24 Vardry Street, Suite 301

3/29/13

2pm

Greenville, South Carolina 29603

[] YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30 (B) (6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

ISSUING OFFICERS NAME, ADDRESS AND PHONE NUMBER:

Rodney W. Richey, Attorney At Law

Post Office Box 10916, Greenville, South Carolina 29603, (864) 467-0503

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45 (C) (1) AND THAT NOTICE AS REQUIRED BY RULE 45 (B) (1) HAS BEEN GIVEN TO ALL PARTIES.

 , ATTORNEY FOR Plaintiff

ISSUING OFFICERS SIGNATURE AND TITLE

DATE

SCAA FORM 254 (7/93)

(SEE RULE 45, SOUTH CAROLINA RULES OF CIVIL PROCEDURE, PARTS (C) & (D) ON REVERSE)

3-8-13

PROOF OF SERVICE

DATE SERVED 3-8-13 FEES AND MILEAGE TENDERED TO WITNESS
YES X NO AMOUNTS \$
Jade, AP Department Regular Mail
SERVED ON (PRINT NAME) MANNER OF SERVICE
Tina Garduno Paralegal, Richey and Richey, P.A.
SERVED BY (PRINT NAME) TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 3-8-13
DATE


SIGNATURE OF SERVER

Post Office Box 10916, Greenville, South Carolina 29603
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party or an officer, director or managing agent of a party to travel more than 50 miles from the

county where that person resides, is employed or regularly transacts business in person, except that, subject to the provision of clause (c)(3)(B)(III) of this rule, such a person may in order to attend trial be commanded to travel from the county where the subpoena was served to the place within the state where the trial is held; or

- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and

resulting from the expert's study made not at the request of any party, or

- (iii) requires a person who is not a party or an officer, director or managing agent of a party to incur substantial expense to travel from

the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanded party to contest the claim.

Illya Salter #270347
430 Oaklawn Rd.
Pelzer, S.C. 29669

Date 3-5-13

RECEIVED

MAR 05 2013

P.C.I. MAILROOM

Rodney Richey
Attorney At Law
P.O. Box-10916
Greenville, S.C. 29601

Mr. Richey Please find my Legal letter in reply to your concern about my P.C.R. which you informed me that you will present all my issues to the Court on Ineffective Assistance of Counsel. Also when you came to Perry Corr. Inst. for a legal visit to discuss my case I had informed you and "requested" for you to Subpeona the Video Tape which the Respondent had stated that their was evidence to support a conviction that the defendant was Video Taped at Wal-Mart indicating that their was a robbery and Carjacking. "I want to see this tape". I only Pleaded guilty on Advice of Counsel, and he told me I would get a Life Sentence if i didn't. Counsel Prejudice me, the defendant and his Performance was deficient and this deficiency Prejudiced my defense. My issue now is to have you Subpeona that Video Tape befor my hearing, because I want to see it

Respectfully Submitted
S/ Illya Salter
Illya Salter

RICHEY AND RICHEY
ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

RODNEY W. RICHEY
LOLA S. RICHEY

POST OFFICE BOX 10916
GREENVILLE, SOUTH CAROLINA 29603

(864) 467-0503; 1-888-882-4878 Toll Free
(864) 467-0646 FAX

March 7, 2013

Illya Salter SCDC# 270347
Perry Correctional Institute
430 Oaklawn Rd
Pelzer, SC 29669

Re: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

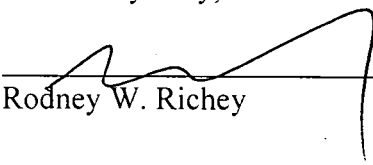
Dear Mr. Salter:

This letter is in response to your March 5, 2013 letter about a videotape. I have reviewed the transcript and it does not make any reference to a video. Daniel Farnsworth is no longer practicing law and/or is on medical leave. I do not believe I can obtain his file. I will send a subpoena requesting his file in hopes of getting the file. You asked me to subpoena a videotape. I will try to subpoena the tape from Wal-Mart to see if they have it. I will let you know the result of the subpoenas.

Thank you and if you should have any questions, please feel free to write.

RICHEY AND RICHEY, P.A.

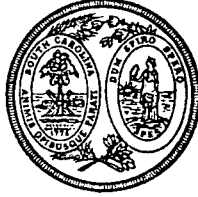
Yours very truly,


Rodney W. Richey

RWR/tlg
enclosures

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

January 25, 2011

Daniel Farnsworth, Sr, Esq.
Post Office Box 10196
Greenville, SC 29601

Re: STATE OF SOUTH CAROLINA vs. ILLYA TRAMELL SALTER
Robbery / Armed Robbery, Robbery While Armed Or Allegedly Armed With A
Deadly Weapon, Carjacking, Failure to Stop
Warrant/Ticket # (s) M177485, M177488, 48870FB

Dear Dan:

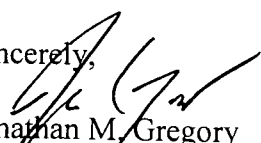
Pursuant to Rule 5 (C) South Carolina Rules of Criminal Procedure, Continuing Duty to Disclose, the State has recently received additional evidence or material previously requested or ordered, which is subject to discovery or inspection under this rule. The additional discovery is as follows:

1. Copy of Indictments
2. 1 DVD
3. 1 CD

Please note that the State may introduce video recording(s) relevant to this case, which are also available for viewing and downloading on the internet, at www.greenvillecounty.org, using the attorney log-in screen in the Solicitor's Department. Instructions for downloading and viewing video(s) can be found at the log-in screen. Please let me know if you have problems accessing this information, and I will assist you. (VIDEO AVAILABLE IN GREENVILLE COUNTY CASES ONLY AT THIS TIME). There may also be a 911 recording available in this case. Please provide a blank CD to receive a copy. Otherwise, you may contact my investigator to make an appointment to listen to the recording.

If you have any questions regarding this defendant's case(s) or need any further assistance, please do not hesitate to contact me.

Sincerely,


Jonathan M. Gregory
Assistant Solicitor

RICHEY AND RICHEY
ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

RODNEY W. RICHEY
LOLA S. RICHEY

POST OFFICE BOX 10916
GREENVILLE, SOUTH CAROLINA 29603

(864) 467-0503; 1-888-882-4878 Toll Free
(864) 467-0646 FAX

April 23, 2013

Illya Salter SCDC# 270347
Perry Correctional Institute
430 Oaklawn Rd
Pelzer, SC 29669

Re: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

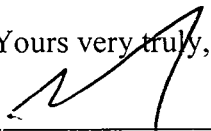
Dear Mr. Salter:

Enclosed is a copy of my letter to the Attorney General regarding the video tape. As I stated in my last letter, Daniel Farnsworth is no longer practicing law and is on medical leave. I do not believe this PCR case will assist you because if you went back to criminal court you could receive more jail time than you have now.

Thank you and if you should have any questions, please feel free to write.

RICHEY AND RICHEY, P.A.

Yours very truly,


Rodney W. Richey

RWR/tlg
enclosure

RICHEY AND RICHEY

ATTORNEYS AT LAW

A Professional Association

Rodney W. Richey
Lola S. Richey

24 Vardry Street, Suite 301
Greenville, South Carolina 29601

CCFY

Mailing Address:
Post Office Box 10916
Greenville, South Carolina 29603

April 23, 2013

(864) 467-0503
(864) 467-0646 (Fax)

Offices:
Greenville/Spartanburg

Website:
www.richeyandrichey.com

Karen Ratigan, Esq.
S.C. Attorney General's Office
Post Office Box 11549
Columbia, South Carolina 29211

Re: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

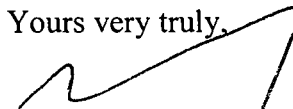
Dear Madam:

This letter is regarding the above case. Mr. Salter wants a copy of the video taken at Wal-Mart during the alleged incident. I subpoenaed Dan's file but I have not received it. If there is any assistance you can give me in getting Dan's file or the video tape, please contact me.

I look forward to working with you and if you should have any questions, please feel free to call.

RICHEY AND RICHEY, P.A.

Yours very truly,



Rodney W. Richey

RWR/tlg

Cc: Illya Salter



ALAN WILSON
ATTORNEY GENERAL

May 5, 2013

Rodney W. Richey, Esquire
Post Office Box 10916
Greenville, SC 29603-0916

RE: Illya Salter v. State
2011-CP-23-4280

Dear Mr. Richey,

I am in receipt of your April 23rd letter regarding the above-captioned PCR case. As you know, I am not in possession of Mr. Farnsworth's defense file. If you have subpoenaed this file, I suggest contacting the Office of the Public Defender to ask for their assistance.

Sincerely,

Karen C. Ratigan
Assistant Deputy Attorney General

cc: ~~Illya Salter~~, #270347

Illya Salter #270347
430 OAKLAWN RD.
Pelzer, S.C. 29669

Date: 5-1-13

RECEIVED

MAY 06 2013

P.C.I. MAILROOM

Tiffany N. Richardson
Staff Attorney
P.O. Box-12159
Columbia, S.C. 29211

"Complaint"

RE: In regard to my Case file.

Mr. Richardson I'm Sending you more evidence on me trying to get my files from Mr. Fornsworth. I've followed all the steps of the law in trying to obtain my files, as of now I'm at the end of the latter. I'm not sure as of what else to do. I'm sure that I'm due in Court soon, but I can't prepare myself because Mr. Fornsworth want follow, or (comply) with S.C. Law, but if I don't look what happens and It aint fair. I really need your help to obtain my files, and That letter, dated Feb-22-11. Thank you
Illya Salter

Illya Salter

430 OAKLAND RD

Pelzer, S.C. 29669

DATE 5-21- 2013

2011-CP-23-4280

Dear Madam Karen C Ristyon

There has been a delay that the Applicant Mr. Salter has not received a copy of the video tape which was subpoenaed by counsel Richey; and the Applicant never review this evidence and took the advise of counsel which Mr. Farnsworth threat the Applicant that he would received a life sentence; Because solicitor office was seeks life without parole; But the Applicant never had a most serious ~~offense~~ offense; and counsel Farnsworth state the Federal ^{Bank Robbery} ~~Admed~~ was a most serious offense; and the Applicant took advise of counsel; and Pled guilty.

Therefore my charge was a shoplifted
charge; and counsel should Request a Pled
of shoplifted Not Armed Robbery. If there is
a video tape which the Respondent's
claimed there was; Then the Respondent's
should Not withhold the material; ^{evidence} and
Release to PCR Counsel Richiey.

I would like all Answers Concerning
~~about~~ this video tape from Wal-Mart
shopping center in Greenville County;

Respectfully Submitted
S. Allen Satter

C.I.S.
C.C. KCR

RECEIVED
MAY 21 2013
P.C.I. MAILROOM

Illya Salter #270347
430 Oaklawn Rd
Petzer, S.C. 29669

Date 5-21 2013

RE. Case 2011-CP-23-4280

Dear Mr. Richey

once Again Please find my letter concerning the Subpoena and I would like to know why we are been delay to received a copy of the material evidence of the video tape; which I never review the video tape; ~~But~~ I took the Advise of Counsel, Mr. Farnsworth telling me it was evidence of a Armed Robbery, ~~and~~ Mr. Farnsworth Advise^{me} to Pled guilty. ~~Because~~ he threat me that the solicitor office of Greenville County would seeks life without parole; Because I had a Federal charge, which was ~~Armed~~ ^{Bank} Robbery, with the ~~Federal~~; and I use A Note IN this Robbery and not A gun or weapon. ^{The} charge I am severing time for now is Not A Robbery only a shoplifted^{ing} charge because I never Pull A weapon on the store clerk At ~~Wal-Mart~~ ^{Wal-Mart} shopping center. If you can shows me evidence that this was A Armed Robbery I will submit to withdraw the PCR Application; and

If you can show me that my Federal sentence which I served my time for was violent I will withdraw the PCR. Therefore I pray that you will get a copy of the video tape; and schedules a legal visitation why you could set down with me why we could review this video tape together; or I want a New trial because counsel prejudice me by informed me that my charge was a Armed Robbery; and if I went to trial the state would seek life without parole.

Therefore I pray to heard from you very soon and let come together as client and Attorney to win this PCR and get the sentences vacate.

CICI I.S.
CICI R.R.

Respectfully Submitted

St. ~~Ally~~ Satta

RECEIVED

MAY 21 2013

P.C.I. MAILROOM

RICHEY AND RICHEY
ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

RODNEY W. RICHEY
LOLA S. RICHEY

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GREENVILLE, SOUTH CAROLINA 29603

(864) 467-0503; 1-888-882-4878 Toll Free
(864) 467-0646 FAX

May 31, 2013

Illya Salter SCDC# 270347
Perry Correctional Institute
430 Oaklawn Rd
Pelzer, SC 29669

Re: Illya Salter SCDC# 270347 vs. State of South Carolina
Case No: 2011-CP-23-4280

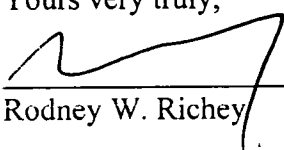
Dear Mr. Salter:

Please be advised I reviewed your file at the Public Defender's office. The file did not have a video tape. Therefore, I do not know if the tape existed. I reviewed the file notes and there was no mention of a video tape. There was very little information about the case in the file.

Thank you and if you should have any questions, please feel free to write.

RICHEY AND RICHEY, P.A.

Yours very truly,



Rodney W. Richey

RWR/tlg

Exhibit.

See ORIGINAL (Transcript)

Pg-12 Line 24.

I + State. There's a video on this

OF AGENCY I.D.
SC0230000

Greenville County Sheriff's Office
SUPPLEMENTAL REPORT

CASE NUMBER

09000197353

☐ ORIGINAL REPORT	☐ STATUS CHANGE	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	INCIDENT TYPE	armed robbery
☒ SUPPLEMENTAL REPORT	☐ OTHER	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	PATROL DISTRICT	08
				PAGE	2
				OF	2
				PAGES	3

Since the suspect was being transported to GMH for additional medical treatment I responded back to the vehicle wrecked in the front yard. I met with the victim of the car jacking, and completed the recovery of the vehicle. Value of vehicle was \$10,000. Francis Marion towing responding to tow the vehicle. MD marling (A28) stood by for the wrecker while I responded to LEC. ID unit 920 Tomlin responded to process the scene.

At LEC I met with Dep. Sexton (A35). I gave him a ticket for the suspect generated from Highway Patrol for reckless driving. I handed Dep. Sexton ticket # 48869FB for DUS 2nd (non-DUI), and 48870FB for failure to stop for blue light. Dep. Sexton was also generating charging documents on the suspect for the carjacking and original case. I then responded to GMH to check on Dep. Fisher and the suspect. Suspect was turned over to the custody of Dep. R. Bayne (E35) for transport to detention after medical treatment.

Victim # 2's vehicle recovery information is as follows:
2000 DZU591 VALIDATION DZU591 TAG EXP 05/2011 DECAL EXP 05/2010
2004 TOYT 4S CAMRY VIN 4T1BE32KX4U288288 EMPT WGT 003 GVW 000000
COX, THOMAS SCOTT
102 EVERGREEN ST
EASLEY SC 296421413 PICK CNTY

Taser S/N P07-018773 was used and taser cartridge s/n T09-2292214 was placed in P&E.

On 12/20/09 we responded to Wal-Mart at 6134 White Horse Rd. and picked up a copy of the in store video surveillance tape. The tape was placed in P&E.

ADMIN	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADMIN. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEARED UNDER 18	
	☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEARED 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: ☐ OFFENDER DEATH ☐ NO PROSECUTION ☐ VICTIM/DECLINES COOPERATION ☐ EXTRADITION DENIED ☐ JUVENILE-NO ARREST									
	REPORTING OFFICER(S)		DATE		UNIT NO. / STAR #		APPROVING OFFICER		DATE	
	M. W. MCGAHA *604		12/19/09		A41		<i>[Signature]</i>		12-19-09 <i>[Signature]</i>	
							FOLLOW-UP INVESTIGATION ☐ YES ☒ NO		(OFFICER)	

20 DEC 2009 18 54

[Handwritten] H.S. 12/20/09

0 9 0 0 0 1 9 7 3 5 3

☐ ORIGINAL REPORT ☐ STATUS CHANGE ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY INCIDENT TYPE ARMED ROBBERY/ CARJACKING
☒ SUPPLEMENTAL REPORT ☐ OTHER REPORT ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY PATROL DISTRICT 08 PAGE 1 OF 2 PAGES

I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			VICTIM RELATIONSHIP TO SUBJECT			RESIDENT.	RACE	SEX	AGE	D.O.B.		
	☐ VICTIM #	COX, THOMAS SCOTT			#1	#2	#3	S						
	☐ SUBJECT #	ADDRESS			CITY	STATE	ZIP CODE	PATROL DISTRICT	DAY PHONE	EVENING PHONE				
	☐ RUNAWAY													
	☐ WANTED	HEIGHT WEIGHT HAIR EYES FACIAL HAIR SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.												
	☐ WARRANT													
	☐ ARREST	☒ VICTIM NO. 2	VISIBLE INJURY: ☐ YES ☒ NO		COMPLAINT OF NON-VISIBLE INJURIES ☒ NO ☐ YES		VICTIM USING ALCOHOL: ☒ NO ☐ YES ☐ UNK.		☐ TWO-MAN VEHICLE ☐ DETECTIVE ☐ ALONE					
	☐ MISSING	EXPLAIN:				DRUGS: ☒ NO ☐ YES TYPE		☐ UNK.		☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED				
	☐ JAIL	SUBJECT NO. _____		USING ALCOHOL ☐ NO ☐ YES ☐ UNK		TYPE:				☐ ARRESTED ON CURRENT OFFENSE				
	☐ Other			USING DRUGS ☐ NO ☐ YES						☐ UNK		☐ CLEARED BY ARREST ON PRIOR OFFENSE		
ARRESTEE ARMED ☐ YES ☐ NO WEAPON TYPE:													☐ ON VIEW ARREST ☐ SUMMONED ☐ CUSTODY	
JUVENILE DISPOSITION: 1. ☐ HANDLED, RELEASED ☐ REFERRED TO OTHER AUTHORITY														
Arrest Location:														

I WAS INFORMED BY DISPATCH THAT THE COMPLAINANT WAS CHASING A BLACK MALE IN THE PARKING LOT ON FOOT IN REFERENCE TO A SHOPLIFTING. I WAS PULLING IN THE PARKING LOT AS DISPATCH WAS GIVING THE DETAILS OF THE CALL OUT OVER THE RADIO AND I SAW SEVERAL SUBJECTS POINTING AT THE LISTED VEHICLE. I SAW A BLACK MALE GETTING INTO THE VEHICLE AND CLOSING THE DOOR. VICTIM #2 WAS STANDING BY THE CAR AND POINTING AT IT YELLING "IN THE CAR". I ATTEMPTED TO BLOCK THE CAR IN BUT THE SUSPECT DROVE RIGHT AT ME AND I STOPPED IN ORDER TO KEEP FROM COLLIDING WITH HIM. AT THAT TIME THE ONLY CRIME I WAS AWARE OF WAS A SHOPLIFTING. MYSELF AND OTHER DEPUTIES ALLOWED THE SUSPECT TO LEAVE THE PARKING LOT AND WATCHED HIM DRIVE AT A HIGH RATE OF SPEED ON W. MARION RD. TOWARD AGNEW RD. DUE TO THE LARGE NUMBER OF SHOPPERS IN THE PARKING LOT IT TOOK ME SEVERAL MINUTES TO GET OUT OF THE PARKING LOT AND AS I HEADED DOWN W. MARION RD. I SAW THAT THE SUSPECT HAD CAUSED SEVERAL CAR ACCIDENTS.

I LATER HEARD THAT A41 (MD MCGAHA) AS WELL AS OTHER DEPUTIES HAD STOPPED THE SUSPECT AND HAD HIM IN CUSTODY.

I THEN WENT BACK TO THE INCIDENT LOCATION WHERE I MET WITH THE COMPLAINANT WHO IS A LOSS PREVENTION WORKER AT THE INCIDENT LOCATION. I ALSO MET WITH VICTIM #2. THE COMPLAINANT STATED THAT HE WAS INFORMED THAT THE SUSPECT WAS LEAVING THE STORE WITH OUT PAYING FOR MERCHANDISE AND ATTEMPTED TO STOP THE SUSPECT AS HE LEFT THE STORE. THE COMPLAINANT STATED AT THAT TIME THE SUSPECT KEPT WALKING OFF AND EVENTUALLY APPROACHED HIM WITHIN ARMS REACH HOLDING A PAIR OF SCISSORS IN HIS HAND. THE COMPLAINANT STATED THAT IN AN ATTEMPT TO FLEE THE SCENE THE SUSPECT SWUNG THE SCISSORS AT HIM NEARLY STRIKING HIM IN THE HEAD.

VEHICLE	☐ STOLEN	TAG NUMBER		STATE	YEAR	V.I.N.			VALUE	
	☐ RECOVERED	YEAR	MAKE		MODEL		STYLE		COLOR	
	☐ SUSPECT	TAG ONLY		ADDITIONAL VEHICLE DESCRIPTION						
	☐ VICTIM									

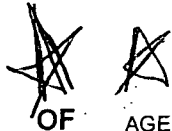
[illegible]

ADMIN	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADMIN. CLOSED ☒ YES ☐ NO ☒ YES ☐ NO		☐ ARRESTED UNDER 15 ☒ ARRESTED 16 AND OVER		☐ EX-CLEARED UNDER 15 ☐ EX-CLEARED 16 AND OVER				
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ VICTIM/DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE/NO ARREST												
	REPORTING OFFICER(S)			DATE		Unit # / Start #		APPROVING OFFICER		DATE		Unit # / Start #	
	A.C. SEXTON *1011			12/19/09		A35		 (OFFICER)		12-19-09		A5	
								FOLLOW-UP INVESTIGATION		☐ YES ☒ NO			

20 DEC 2005 18:54

23

K.S. 12/20/09



OF AGENCY I.D.
SC0230000

Greenville County Sheriff's Office
SUPPLEMENTAL REPORT

CASE NUMBER

09000197353

☐ ORIGINAL REPORT	☐ STATUS CHANGE	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	INCIDENT TYPE	Car Jacking/ Armed Robbery, Failure to Stop for Police, RTA
☒ SUPPLEMENTAL REPORT	☐ OTHER	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	PATROL DISTRICT	08
				PAGE	1
				OF	1
				PAGES	

While enroute to 6134 White Horse Rd (Wal-Mart) in response to a Suspect Fleeing due to a Shoplifting we were notified by Dep. Sexton (A35) and Sergeant Robinson (A05), on scene at Wal-Mart, that while fleeing the scene, the Suspect ran several Vehicles off the road causing accidents. Sergeant Robinson further stated that the Suspect was heading down W. Marion in a silver/gray Toyota Camery (License Plate DZU 519) and that if we saw the Suspect that we should attempt to stop the Suspect.

As we were driving on W. Marion towards Wal-Mart (M.D. McGaha A41 in front of us) we identified the Suspect at the intersection of W. Marion and Agnew in said vehicle. The Suspects vehicle had minor damage to the right front edge and it appeared that the Vehicle's right front tire was also flat. The Suspect had the windshield wipers going (though the weather was partly cloudy and dry) and he was talking on his cell phone. M.D McGaha turned around and attempted to initiate a stop on the Suspects Vehicle and turned on both lights and Sirens. We turned around in order to provide back-up for M.D McGaha and accelerated to maintain visual and turned on lights and Sirens as well to ensure that the Suspect was certain that a stop had been initiated. The Suspect failed to stop for M.D. McGaha, though did not exceed speeds of 35-40 mph, at which time Sergeant Robinson cleared M.D McGaha and our vehicle (A38) to pursue the Suspect.

We continued to drive with lights and sirens and took control of radio traffic (as per regulations as the second car in a pursuit) and maintained visual of M.D. McGaha. We continued down W. Marion, as the Suspect disregarded a stop sign at Crane Ave., drove down W. Marion and crossed over W. Parker St. The Suspect then turned left onto Sumter St. and it was noticed that sparks were coming from underneath the Suspects vehicle. We continued to pursue and keep other units informed of our position. The Suspect ran another stop sign at Sumter St. and Columbia Ave.. As we continued to pursue at a speed of 35-40 mph the Suspect forced a red in color SUV off the road on Sumter St. The Suspect continued down Sumter St. at a speed of 35-40 mph- and attempted to turn left onto Hainsworth Rd.. Due to the flat tire on the Suspects vehicle, the Suspect was unable to make the turn and hit a tree at the intersection of Hainsworth Rd. and Sumter St.

Once the Suspect vehicle hit the tree, the Suspect jumped out of the vehicle and continue to evade authorities on foot. Dep. Fisher, Dep. Burdine, Dep. Anderson and M.D. McGaha continued to pursue on foot. The Suspect jumped several fences while heading towards Jonquil St. Said officers began to catch up to the Suspect and as the Suspect was attempting to climb over a fence M.D. McGaha drew his taser and verbally told the Suspect to stop. The Suspect failed to stop so M.D. McGaha deployed his taser into the lower back of the Suspect. The Suspect remained on the ground as said officers moved forward to secure the Suspect. The Suspect was secured, rolled over to his side and stood up. Meanwhile Dep. Bastoni (recently arrived on scene) maneuvered his patrol car to 11 Jonquil St. so that we could secure the Suspect. As we began to search the Suspect, he informed us that he was going to pass out. Suspect then became limp and we guided him to the ground and put him on his side so that his airway was not impeded and notified ems. The Berea fire department (Ryan Johnson 556, Brandon Purkle 543, Bruce Blakely 536, Bryon Dobbins (Lt.) 530.) arrived on scene and began to treat the Suspect. Ems (Beam and Peeler M13) arrived on scene shortly after. Ems first treated cuts on Dep. Fisher, Dep. Burdine and Dep. Anderson and then rendered further aid to the Suspect. Ems removed the taser from the Suspects lower back and it was decided that he be transported Greenville Memorial Hospital. Sergeant Robinson had arrived on scene and was notified of the current status of the incident.

The Suspect was transported by Ems to Greenville Memorial Hospital. Dep. Burdine rode in the ambulance with the Suspect as to ensure the safety of ems and to ensure that the Suspect did not attempt to flee.

Dep. Bastoni (A42), Dep. Fisher (A41a) and Dep. Anderson (A38a) also traveled to Greenville Memorial Hospital to help maintain control of the Suspect.

Once at GMS, Dep. Burdine, Dep. Fisher and Dep. Anderson met with Sergeant Mcallister (04) in order to document and receive treatment for injuries that incurred while in pursuit of the Suspect. All said Deputies were injured while climbing over an old rusted fence while in pursuit of the Suspect. Listed Deputies received a Tetnus shot, cleansing of the injuries (laceration and puncture wounds to the hands and forearms), and securing of the wounds with medical glue (Dep. Anderson and Dep. Burdine) and 2 stitches (Dep. Fisher.). Said injuries were documented and photographed by Forensics (Investigator Tomlin Unit # 920) whom also photographed and documented injuries of the Suspect that he incurred due to the Vehicle accident. All Deputies received necessary treatment, documentation and were released to full active duty.

Greenville Memorial Hospital performed several examinations of the Suspect and determined that the Suspect was fit to be transported to Greenville County Detention Center. We then transported the Suspect to Dep. Bayne (E35) vehicle via a wheelchair and the Suspect was then transported to Greenville County Detention Center.

Sergeant Robinson was informed of all aspects of the incident.

Suspect

Salter, Illya Tramell B/M 100 Shemwood Ln Apt 17a, Greenville SC 29605 605 260 Dob- 06-18-1974 DL # SC 007735901
SSN# 251-23-1332

ADMIN	SUBJECT IDENTIFIED		SUBJECT LOCATED		☒ ACTIVE ☐ ADMIN. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEARED UNDER 18	
	☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX-CLEARED 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: ☐ OFFENDER DEATH ☐ NO PROSECUTION ☐ VICTIM/DECLINES COOPERATION ☐ EXTRADITION DENIED ☐ JUVENILE-NO ARREST									
	REPORTING OFFICER(S)		DATE		UNIT NO. / STAR #		APPROVING OFFICER		DATE	
	M.P. Anderson *1240 (Adam)		12/19/09		A38a				12-19-09	
	J. BURDINE *819 (Adam)		12/19/09		A38		FOLLOW-UP INVESTIGATION ☐ YES ☒ NO (OFFICER)			

AB

45 12/20/09

20 DEC 2009 18 54

STATE of South Carolina
In The Supreme Court

Certiorari to Greenville County
D. Garrison Hill, Circuit Court Judge

Illya Salter,

Petitioner,

v.

State of South Carolina,

Respondent

Certificate of Service

I Certify that a true copy of my Petition for writ of
Certiorari and a copy of the Appendix in this Case have been
Served on Daniel E. Shearouse, the Clerk of Court (S.C. Supreme Court)
Post Office Box-11330 Columbia, South Carolina 29211

Sworn before me

this day 10th of February 2019

Notary Dary C Muckas

Expires 1-23-2022

S/ Illya Salter

Illya Salter

S/ Illya Salter